STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SNOHOMISH COUNTY CLERKS' ASSOCIATION,	)	CASE 19746-U-05-5001
	)	DECISION 9655 - PECB
Complainant,	)	
	)	CASE 19747-U-05-5002
	)	DECISION 9656 - PECB
vs.	)	
	)	CASE 19748-U-05-5003
	)	DECISION 9657 - PECB
SNOHOMISH COUNTY,	)	
	)	FINDINGS OF FACT,
Respondent.	)	CONCLUSIONS OF LAW
	)	AND ORDER
	)	

Cline and Associates, by *James Smith*, Attorney at Law, for the union.

Janice E. Ellis, Snohomish County Prosecuting Attorney, by *Linda Scoccia*, Deputy Prosecuting Attorney, for the employer.

On August 25, 2005, the Snohomish County Clerks Association (union) filed three separate complaints charging unfair labor practices against Snohomish County (employer). Each complaint alleged employer interference, discrimination, and refusal to bargain. A preliminary ruling issued on September 20, 2005, consolidating the cases and stating that a cause of action existed in each of the three complaints. The employer properly filed an answer on October 25, 2005. A pre-hearing conference was held on January 9, 2006, and a hearing was held before Examiner Yoshitomi on September 25, 26, 28, October 31 and November 3.

ISSUES PRESENTED

1. Case 19746-U-05-5001

Did the employer's insistence on the union paying copying fees before providing information:
a) constitute a refusal to bargain?
b) constitute a unilateral change?
c) constitute an interference or discrimination violation?

2. Case 19747-U-05-5002

Did the employer:
a) unilaterally change and refuse to bargain health insurance premiums?
b) discriminate or interfere with employee rights when the medical premiums increased?

3. Case 19748-U-05-5003

Did the employer:
a) unilaterally change and refuse to bargain:
i) the lag payroll system
ii) the use and accrual of leave
b) discriminate or interfere with employee rights by implementing the lag pay system and use of leave?

Based on all the arguments and evidence submitted by the parties, the Examiner rules that the employer maintained the status quo and did not unilaterally change or refuse to bargain fees for requested information, health insurance premiums or the lag payroll system. The employer did, however, unilaterally change employees' leave without providing the union with an opportunity to bargain and therefore a refusal to bargain and derivative interference violation is found. No independent discrimination violations were found.

ISSUE 1 (case 19746-U-05-5001)

Did the employer's insistence on the union paying copying fees before providing information:

a) constitute a refusal to bargain?
b) constitute a unilateral change?
c) constitute an interference or discrimination violation?

a) Refusal to Bargain - Copying Fees

An employer or union that fails or refuses to bargain in good faith on a mandatory subject of bargaining commits an unfair labor practice. RCW 41.56.140(1) and (4). In determining whether an unfair labor practice has occurred, the totality of circumstances must be analyzed. *Walla Walla County*, Decision 2932-A (PECB, 1988). The evidence must support the conclusion that the respondent's total bargaining conduct demonstrates a failure or refusal to bargain in good faith or an intention to frustrate or avoid an agreement. *City of Clarkston*, Decision 3246 (PECB, 1989).

Refusing to provide appropriate information upon request may be found as a refusal to bargain. The factors endorsed by the Commission regarding information requests were affirmed in *City of Bremerton*, Decision 6006-A (PECB, 1998). These factors are:

1. The request must be clear.
2. The information must be requested for use in the collective bargaining context.
3. The information must relate to the union's performance of obligations arising from its status of exclusive bargaining representative.
4. The union must have a genuine need for the requested information.
5. The duty to provide information requires an employer to articulate, and negotiate with the union over any objections it has to producing the requested information.

As the National Labor Relations Board held in *Century Air Freight*, 284 NLRB 730 (1987), an employer and a union should bargain in good

faith regarding conditions under which relevant information is to be furnished. *Food Employer Council, Inc*, 197 NLRB No. 98 (1972), further states that "if there are substantial costs . . . the parties must bargain in good faith as to who shall bear such costs, and, if no agreement can be reached, the union is entitled in any event to access to records from which it can reasonably compile the information."

Access to Information Was Granted

In the case at hand, there was no objection or issue presented here to the first four of five factors held in *City of Bremerton*, and thus only the fifth factor is analyzed. On March 8, 2005, the union made its first request for information. In its letter, the union bargaining representative, William Barrett, requested "copies or access to" fifteen specified pieces of information.[1] In response to the union's request, the employer provided some of the requested information on March 14, 2005, which resulted in 59 pages.[2] In this response, the employer indicated that the "cost of providing copies is twenty five cents a page" and further requested a remittance of $14.75 for the copies provided therein.

It is clear that in negotiation sessions after the request, the union refused to pay the copying fee of $14.75. After the union's

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[1] On March 18, 2005, the union made a second request to the employer, which asked for "copies or access to" two pieces of information. In a third request dated March 28, 2005, the union asked for one additional piece of information to be furnished from the employer.

[2] The employer explained that due to the voluminous request, the rest of the information would be available on or before May 16, 2005. The delay of information is not at issue.

refusal to pay the fee, the employer refused to provide any further copies to the union until the payment was made. The union never requested a reduced fee for the copies and continued throughout negotiations to insist that this request for information be provided to the unit without cost.[3]

However, as mentioned above, the employer did provide the union with access to review the information and offered to copy any material needed for $.25 a page. Therefore, the employer provided and the union accepted the opportunity to review documents. Testimony reflected that upon review, the union did not request that copies be made of all material. In other instances, copies were provided without cost to the union when the request was made at the bargaining table and it involved a minimal amount of material.

From the evidence provided, the union and employer were at impasse as to the amount charged for the requested documents, with the employer insisting $.25 and the union insisting the documents be provided for free. The employer did provide access to the information from which it could compile information and the union never expressed any difficulty with compiling information when it was provided for viewing. Therefore, no refusal to bargain violation can be found.

b) Unilateral Change - Copying Fees

The Public Employees' Collective Bargaining Act imposes a duty to bargain on mandatory subjects of bargaining. RCW 41.56.030(4). It is well established that the duty to bargain imposes a duty to give

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[3] The union did pay the fees under protest over a year later.

notice and provide opportunity for good faith bargaining prior to implementing any change of past practices concerning the wages, hours or working conditions of bargaining unit employees. RCW 41.56.030(4); *Municipality of Metropolitan Seattle*, Decision 2746-B (PECB, 1990).

Past Practice

Generally, past practices of the parties are properly utilized to construe provisions of an agreement that may be rationally considered ambiguous or where the contract is silent as to a material issue. A past practice may also occur where, in a course of the parties' dealings, a practice is acknowledged by the parties over an extended period of time, becoming so well understood that its inclusion in a collective bargaining agreement is deemed superfluous. *Whatcom County*, Decision 7288-A (PECB, 2002).

For a "past practice" to exist, two basic elements are required: (1) a prior course of conduct; and (2) an understanding by the parties that such conduct is the proper response to the circumstances. *Kitsap County*, Decision 8292-B (PECB, 2007). It must also be shown that the conduct was known and mutually accepted by the parties. Where an unfair labor practice is alleged, the complainant has the burden of proof. WAC 391-45-270.

In *City of Bremerton*, Decision 4738 (PECB, 1994), the Examiner concluded that the issue of prepayment for copies made pursuant to a union's request for information has only a remote and indirect impact on employee working conditions. To constitute an unfair labor practice, a change in the status quo must be meaningful. *City of Kalama*, Decision 6773-A (PECB, 2000).

Status Quo

The union and the employer did not have any past practice regarding copying fees as the union was newly elected and had only been certified one month before the first request for information was made.[4] By the time the request for information was made by the union, the parties had not had the opportunity to negotiate and were only in the preparation stage for negotiations.

Prior to its current representation, the union herein, was represented by the American Federation of State, County and Municipal Employees (AFSCME). The union here provided no evidence to show that AFSCME had a past practice with this employer of providing large printing requests of information without charge. The employer admitted that during previous negotiations, it had provided information to AFSCME upon request during the normal exchange of materials at the collective bargaining table. Consistent with that practice, the employer explained that it provided the union with some material across the bargaining table without charge when they began bargaining. However, there was no hard and fast rule as to when a charge was imposed for photocopies, as the employer imposes a charge when it deems it is appropriate to charge for copies.

Conclusion

An organization designated as exclusive bargaining representative under RCW 41.56.080 bears the duty to provide fair representation to all members of the bargaining unit. The costs of negotiations, litigation, and grievance processing are part of the burden that must be assumed by a union. The charge for copies is a charge to

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[4] The union was certified on February 8, 2005.

the union and not to the individual employees. As found in *City of Bremerton*, the requirement to pay copying costs has a remote and indirect impact on employees wages and working conditions. Therefore, it is not a meaningful change and no unilateral change can be found.

c) Discrimination or Interference - Copying Fees

An interference violation is committed where one or more employees could reasonably perceive employer actions as a threat of reprisal or force or promise of benefit associated with the pursuit of rights under Chapter 41.56 RCW. It is not necessary for a complainant to show that the employer intended to interfere, or even that the employees involved actually felt threatened. *City of Omak*, Decision 5579-B (PECB, 1997); *City of Tacoma*, Decision 8031-A (PECB, 2004). The Commission noted in its decision in *King County*, Decision 6994-B and 6995-B (PECB, 2002), that "the legal determination of interference is based not upon the reaction of the particular employee involved, but rather on whether a typical employee in a similar circumstance reasonably could perceive the actions as attempts to discourage protected activity." See also *Grant County Public Hospital District 1*, Decision 8378-A (PECB, 2004).

The complainant has the burden of proof in unfair labor practice claims. WAC 395-45-270(1)(a). A complainant is not required to show intent or motive for interference or that the employee involved was actually coerced, or that the respondent acted with union animus. *King County*, Decision 8630-A (PECB, 2005). The complainant bears the burden of demonstrating that the employer's conduct resulted in harm to protected employee rights. *See City of Wenatchee*, Decision 8802-A (PECB, 2006).

Discrimination

The Commission decides discrimination allegations under standards drawn from decisions of the Supreme Court of the State of Washington in *Wilmot v. Kaiser Aluminum*, 118 Wn.2d 46 (1991) and *Allison v. Seattle Housing Authority*, 118 Wn.2d 79 (1991). In those cases the Court said that the injured party must make a prima facie case showing retaliation. To do this, a complainant must show:

1. The exercise of a statutorily protected right, or communicating to the employer an intent to do so;
2. The employee has been deprived of some ascertainable right, benefit, or status; and
3. That there was a causal connection between the exercise of the legal right and the discriminatory action.

Discrimination and interference claims are interrelated in that both require evidence of protected activities. If a discrimination claim and an interference claim are based on the same set of facts, and a discrimination claim is dismissed for failing to meet the test of protected activities, an independent interference claim will not be found. *Seattle School District*, Decision 5237-B (EDUC, 1996); *Brinnon School District*, Decision 7210-A (PECB, 2001).

No Harm or Deprivation of Employee Rights

The union did not show that any harm came about from the employer requiring $.25 per page for the requested information. As stated above, the union had access to the requested information it needed to perform its bargaining obligations. The union does not allege that the employer withheld any information that could have contributed to an inability to appropriately bargain with the employer.

The union's belief that it deserved to receive the requested information at no cost does not rise to the level of an interference claim. It's belief is based on the fact that a union has a right to information needed to represent its bargaining unit. The information itself is what was needed to carry out the bargaining duties of the union, not the paper. Here, the employer provided the information requested. Therefore, I find that in this case, a person could not reasonably perceive that the employer's persistence on $.25 per page was discouraging to or deprived any employees of their protected activities when the employer provided the union with access to the information.

ISSUE 2 (case 19747-U-05-5002)

> Did the employer:
> a) unilaterally change and refuse to bargain health insurance premiums?
> b) discriminate or interfere with employee rights when health care premiums increased?

a) Unilateral Change - Insurance Premiums

As stated above, it is well established that a party must bargain in good faith before making any change to a mandatory subject of bargaining. RCW 41.56.030(4); *Municipality of Metropolitan Seattle*, Decision 2746-B (PECB, 1990). Once a new bargaining unit is certified, the parties' collective bargaining obligations require that the status quo be maintained regarding all mandatory subjects of bargaining. An employer is prohibited from unilaterally changing mandatory subjects of bargaining except where such changes are made in conformity with the collective bargaining obligation or the terms of a collective bargaining agreement. *City of Yakima*, Decision 3503-A (PECB, 1998), *aff'd*, 117 Wn.2d 655 (1991).

No Unilateral Change to the Status Quo

The bargaining unit here was represented by AFSCME and covered under an agreement until it decertified AFSCME in October 2004. *Article 29 - Insurance Benefits*, of the AFSCME collective bargaining agreement, required the employer to pay the medical insurance on a monthly basis:

A. Beginning April 2002, the employer will pay $451.27.
B. Beginning April 2003, the employer will pay $478.35.
C. Beginning April 2004, the employer will pay $502.26.

AFSCME and the employer agreed to reopen the contract in early 2003 to negotiate the medical rates. Their subsequent agreement changed the medical insurance, requiring the employer to pay medical rates at $540.16 beginning January 2004 while the employees pay the remaining amount of the premium. In October 2004, the bargaining unit decertified AFSCME as their bargaining agent. Thereafter, the employer continued to pay $540.16 for medical. On February 8, 2005, the union was certified by the Commission as the exclusive bargaining agent for this bargaining unit. On March 14, 2005, the employer notified the union that its open enrollment period for medical would be from March 16 to March 21 and that the medical rates would be increasing for employees since the employer's rate was capped at $540.16.

No change in the status quo was made when the employer continued to pay the capped amount for premiums. Had the employer changed the capped amount without bargaining after the union was certified on February 8, 2005, the employer would have been in violation of a unilateral change. According to established Commission precedent, the employer correctly maintained the amount it was contributing in

accordance with the previous collective bargaining agreement. No unilateral change was made when the employer continued to pay $540.16 towards the employees' medical on April 1, 2005, when the medical rates increased. *City of Yakima,* Decision 3503-A (PECB, 1998), *aff'd*, 117 Wn.2d 655 (1991).

However, the union alleges that because the employer is self insured, it had the ability to maintain the same rates from 2004 to 2005 and therefore had control over the medical rate increase. The increase in medical rates increased the employee's premium and is the second part of the union's allegation that the employer unilaterally changed the medical rates. This allegation stems from a belief that while the parties are bargaining for a new contract, both the employer and employees could maintain the rates they were paying before the increase in 2005 since the employer is self insured.

The employer is self insured for two medical plans and it also carries a Group Health plan. The employer uses a third party actuary, Mercer, to establish rates for its self insured plans. It explained that although it has the right to reject the recommended rates from Mercer, it would need a sound basis for doing so. The Washington State Office of Risk Management establishes standards for self insured employers requiring employer's rates be actuarially sound. For this reason, the employer has a practice of accepting Mercer's recommended rates in order to be actuarially sound. It was never shown in the evidence that the employer has deviated from Mercer's recommendation and not increased the medical rates. Had the employer disregarded Mercer's recommendation, it would have changed how the employer establishes its rates from its past practice and changed the status quo.

No Violations Found

As mentioned above, no change in the status quo was made when the employer held consistent with the capped amount it had been contributing since 2004 according to the agreement. Although self insured, the employer did not have an option to not increase its medical as it would not be consistent with its past practice of implementing Mercer's recommendation. For these reasons, I find that the employer did not unilaterally change the medical insurance and thus did not have a duty to bargain the increase in premiums.

b) Discrimination or Interference - Insurance Premiums

The union believes it was discriminated against by the employer increasing its medical premiums because it decertified AFSCME as its bargaining agent. The rates recommended by Mercer and accepted by the employer effect all the employees of the employer in the same manner such that the medical rates cost the same for any employee of the employer.[5] However, each union representing different bargaining units of the employer bargains over the rates the employee or employer will pay. For this reason, one bargaining unit will be paying a much different premium for the same medical coverage as another bargaining unit even though the overall cost for medical is the same for both units per employee. This is all due to the different dynamics of each individual negotiation and the circumstances therein. Because one unit is able to bargain for an extension to maintain the employees medical premiums while the employer picked up the increased cost, another may not.

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[5] The exception are the employees of the Deputy Sheriffs' Association. Their rates are different due to their risk group.

Because this union was unable to bargain a stay in the increase to medical premiums does not automatically assume discrimination since other bargaining units were able to bargain differences in their medical insurance prior to implementation. No deprivation of rights can be found as the employer did not have an obligation to bargain the increase in medical premiums before it occurred. If the union wanted to change the medical rate, it has the ability to negotiate changes in the new contract. However, any issue the union may have with the employer over bargaining medical rates in the new contract is outside the complaint filed in this case.

ISSUE 3 (case 19748-U-05-5003)

Did the employer:
a) unilaterally change and refuse to bargain
I) the lag payroll system
ii) the use and accrual of leave
b) interfere with employee rights by implementing the lag pay system and use and accrual of leave?

a) Unilateral Change - Lag Payroll System and Use and Accrual of Leave

As stated above, an employer is prohibited from unilaterally changing mandatory subjects of bargaining except where such changes are made in conformity with terms of a previous collective bargaining agreement. *City of Yakima*, Decision 3501-A (PECB, 1998), *aff'd*, 117 Wn.2d 655 (1991); *Spokane County Fire District 8*, Decision 3661-A (PECB, 1991). A dynamic status quo exists where actions are taken to follow through with changes that were set in motion prior to the filing of a representation petition. *Lewis County PUD*, Decision 7277-A (PECB, 2002). However, after certification if a change is made to a mandatory subject of bargaining not covered in a previous agreement, the parties must first bargain over the change before a change may be made. RCW 41.56.030(4);

Municipality of Metropolitan Seattle, Decision 2746-B (PECB, 1990). Where a party is not provided adequate notice of a change and the opportunity to meaningfully bargain that change, a fait accompli is found. *Clover Park Technical College*, Decision 8534-A, (PECB, 2004). A long line of Commission cases holds that a union presented with a fait accompli is not required to make a bargaining demand in order to preserve its rights. Where an employer does not provide adequate notice and offer to engage in meaningful bargaining, the union's failure to request bargaining is not a waiver by inaction. *Skagit County*, Decision 8886 (PECB, 2005).

i) No Unilateral Change was Made to the Lag Pay

As explained above, when the members of this bargaining unit were represented by AFSCME, the parties to the contract at that time negotiated medical rates and discussed and agreed to the implementation of a lag pay system as proposed by the employer.[6] In exchange for AFSCME agreeing to the lag pay system, the employer agreed to increase the medical insurance as mentioned above. The parties' agreement on lag pay was very general and broad. The memorandum of understanding between AFSCME and the employer signed in February 2003 regarding lag pay reads as follows:

> Implementation of lag pay no sooner than 12/31/03.

On September 23, 2004, the employer sent a letter to AFSCME stating that the lag pay system would be implemented on April 1, 2005. In this letter, the employer stated its willingness to discuss the impacts of the agreement. AFSCME and the employer met to discuss the impacts of the lag pay system in October 2004. During these

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[6] The lag pay system would change when employees would be paid.

discussions, the parties agreed to the following terms for the implementation of lag pay:

- the days of the month that payroll would occur
- the employer would provide loans at a low interest rate through a credit union
- hardship withdrawals from deferred compensation would be allowed
- the employer would write letters to financial institutions for the employees to change due dates for payments
- the employer would work with the courts on behalf of employees who had child support payments to make
- financial counselors were made available to employees
- human resources would be available on the Saturday after the first Friday of the implementation to answer questions

Although the employer and AFSCME came to agreement on the impacts of the lag pay implementation, they did not reduce their agreement to writing. Nonetheless, AFSCME and the employer agreed to terms which allowed the employer to implement the lag pay system, the union and the employees were notified by the employer in September 2004, that the implementation would occur April 1, 2005, and the effects of implementation had been bargained.

The decision to implement and the effects of the lag pay system were developed and agreed upon between AFSCME and the employer. Therefore, by maintaining this previous agreement no unilateral change was made and the employer did not have a duty to bargain the effects since it had maintained the dynamic status quo.

ii. Use of Leave was Unilaterally Changed by the Employer

With the implementation of the lag pay system on April 1, 2005, not only the date and amount received in employees' checks changed,[7] but also the date at which employees' leave was posted to the employees' account changed. Under the old payroll system, leave would be posted to employees' accounts on the last day of the month. This would allow employees to utilize their leave on the first day of the following month. Beginning April 1, 2005, leave was not posted to employees' accounts until the seventh of the following month. Therefore, employees were receiving leave seven days later than before and were unable to use the leave until it had been posted. This affected employees who had planned to have accrued a certain amount of leave by the end of an upcoming month and had scheduled leave at the beginning of the following month. Because the leave was not posted until the seventh of the month, employees would have to take leave without pay or work during their previously scheduled leave.

The change to the accrual and use of leave was not known until the employees received their first pay check under the new lag pay system on April 7, 2005. The bargaining unit under AFSCME or under its new bargaining agent, was not notified nor did it have the opportunity to bargain the change of leave accrual or use of leave with the employer. The union was presented with a fait accompli.

Although the employer unilaterally changed the date for leave accrual and employees' ability to use leave, on April 17, 2006, the employer returned to the status quo prior to implementation of

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[7] Moving from one to two checks a month reduced the amount received in each check.

the lag pay system. However, this does not eliminate the harm done to those employees affected from April 1, 2005 to April 17, 2006. The employer is in violation of RCW 41.56.140 by unilaterally changing the date leave is accrued and accessible to employees between April 1, 2005, and April 17, 2006.

b) Discrimination or Interference - Lag Payroll System and Use and Accrual of Leave

In this situation, the employer had the right to maintain the dynamic status quo. If the union wanted to change the lag pay system or the effects of that system, it would need to bargain the changes sought for in their new contract. The imposition of the lag payroll system did not take away the rights of the employees to bargain with the employer over any potential changes to the dynamic status quo.

Employees were harmed when the employer unilaterally changed the date that leave was accrued and used by employees. Employees were affected by having to take leave without pay or foregoing their scheduled leave. Also, by presenting the union with a fait accompli, the employer deprived the employees of the ability to engage in their rights to bargain over this unilateral change and interfered with their rights.

FINDINGS OF FACT

1. Snohomish county is a public employer within the meaning of RCW 41.56.030(1).

2. Snohomish County Clerks Association, a bargaining representative within the meaning of RCW 41.56.030(3), is the exclusive

bargaining representative of all full-time and regular part-time employees of the Snohomish County Clerks office.

3. The employees included in the Snohomish County Clerks Association for this case were represented by the American Federation of State, County and Municipal Employees (AFSCME) until October 25, 2004. That union administered a collective bargaining agreement from January 1, 2002, to December 31, 2004.

4. On March 8, 18, and 28, 2005, the union requested information from the employer. The union requested copies or access to documents it believed were needed to negotiate a contract with the employer.

5. On March 14, 2005, the employer provided the information in part and requested a remittence of $.25 per page for the information provided and the information sought. The union refused to pay the quoted price per page and the employer refused to provide further copies until the remittence was paid.

6. The employer provided and the union accepted the opportunity to review the documents requested in finding of fact three above. The employer continued to offer information to be copied at $.25 a page.

7. Under its previous AFSCME agreement in 2004, the employer was required to pay $540.16 and the employees to pay the remainder of the medical insurance premium.

8. On March 14, 2005, the union requested the employer to bargain over all proposed changes to wages, hours and other terms and conditions of employment.

9. On April 1, 2005, medical premiums increased. At this time, the employer continued to pay $540.16 and the employees were required to pay the increased amount.

10. AFSCME and the employer agreed that a lag pay system would be implemented no sooner than December 31, 2003. On September 23, 2004, the employer notified the representative of those in the union for this case that the lag pay would be implemented on April 1, 2005.

11. In early October 2004, AFSCME and the employer negotiated and agreed to impacts of the lag pay system being implemented. On October 25, 2004, AFSCME was decertified as the bargaining agent.

12. On April 1, 2005, the employer implemented the lag pay system.

13. On April 1, 2005, when implementing the new lag pay system, the employer changed the date that employees' leave accrued to employees' accounts and the date that accumulated leave could be used. The employer never notified or discussed this change with AFSCME, when the bargaining unit herein was represented by AFSCME, nor with the subsequently elected certified bargaining representative.

14. On April 17, 2006, the employer returned the employees' accrual and use of leave to the status quo.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-45 WAC.

2. As described through the actions in Finding of Facts 3, 4, and 5, the employer did not refuse to bargain, discriminate or interfere with employee rights in case number 19746-U-05-5001 violating RCW 41.56.140(1) or (4) when requiring the union to pay copying fees before providing documents.

3. As described through the actions in Finding of Facts 6, 7, and 8, the employer did not unilaterally change or discriminate and interfere with employee rights in case 19747-U-05-5002 violating RCW 41.56.140(1) or (4) when it maintained the dynamic status quo for medical insurance premiums.

4. As described through actions in Finding of Facts 9, 10, and 11, the employer did not unilaterally change or discriminate and interfere with employee rights in case 19748-U-05-5003 violating RCW 41.56.140(1) or (4)when it implemented the lag pay system.

5. As described through actions in Finding of Fact 12, the employer unilaterally changed and interfered with employee rights in case 19748-U-05-5003 violating RCW 41.56.140(1)

and (4) when it unilaterally changed the accrual and use of employees' leave.

ORDER

The complaint charging an unfair labor practice by Snohomish County, filed in case 19746-U-05-5001, is DISMISSED as a matter of law.

The complaint charging an unfair labor practice by Snohomish County, filed in case 19747-U-05-5002, is DISMISSED as a matter of law.

In case 19478-U-05-5003, Snohomish County, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:

   a. Unilaterally changing employees' accrual and use of leave.

   b. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights under the laws of the state of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56.140 (4) RCW:

a. Restore the status quo ante by reinstating the wages, hours and working conditions which existed for the employees in the affected bargaining unit prior to the unilateral change to the accrual and use of leave between April 1, 2005, and April 17, 2006, found unlawful in this order.

b. Give notice to and, upon request, negotiate in good faith with the Snohomish County Clerks Association before changing the accrual and use of employees' leave.

c. Post copies of the notice attached to this order in conspicuous places on the employer's premises where notices to all bargaining unit members are usually posted. These notices shall be duly signed by an authorized representative of the respondent, and shall remain posted for 60 consecutive days from the date of initial posting. The respondent shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.

d. Read the notice attached to this order into the record at a regular public meeting of the City Council of the Snohomish County, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.

e. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same

time provide the complainant with a signed copy of the notice attached to this order.

f. Notify the Compliance Officer of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Compliance Officer with a signed copy of the notice attached to this order.

ISSUED at Olympia, Washington, this 1st day of May, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

CHRISTY YOSHITOMI, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING IN WHICH ALL PARTIES HAD THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION RULED THAT WE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF STATE COLLECTIVE BARGAINING LAWS, AND ORDERED US TO POST THIS NOTICE TO EMPLOYEES:

WE UNLAWFULLY refused to bargain with the Snohomish County Clerks Association and interfered with employee rights when we unilaterally changed the use and accrual of employees' leave on April 1, 2005.

TO REMEDY OUR UNFAIR LABOR PRACTICES:

WE WILL restore to the status quo ante employees' accrual and use of leave which was affected between April 1, 2005, and April 17, 2006.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

DATED: _____ Snohomish County

BY: _____
Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days, and must not be altered or covered by any other material. Questions about this notice or compliance with the Commission's order may be directed to the Public Employment Relations Commission (PERC), 112 Henry Street NE, Suite 300, PO Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 570-7300. The full decision will be published on PERC's web site, www.perc.wa.gov.