STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

C-TRAN, Employer.	)	
DANIEL DURINGER, Complainant,	)	CASE 14872-U-99-3746
vs.	)	DECISION 7087 - PECB
AMALGAMATED TRANSIT UNION, LOCAL 757, Respondent.	)	ORDER DENYING MOTION FOR MORE DEFINITE AND CERTAIN AND MOTION TO STRIKE
BARBARA DE JEAN, Complainant,	)	CASE 14873-U-99-3747
vs.	)	DECISION 7088 - PECB
AMALGAMATED TRANSIT UNION, LOCAL 757, Respondent.	)	ORDER DENYING MOTION FOR MORE DEFINITE AND CERTAIN AND MOTION TO STRIKE

On November 2, 1999, Daniel Duringer and Barbara DeJean filed identical complaints with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that Amalgamated Transit Union, Local 757 (union), had committed unfair labor practices in violation of RCW 41.56.150(1), in connection with their employment by C-TRAN (employer).

A preliminary ruling was issued on January 24, 2000, under WAC 391-45-110, finding causes of action to exist for allegations summarized as follows:

> Union Breach of its duty of fair representation on and after July 1, 1999, in violation of RCW 41.56.150(1), by making proposals which benefit bargaining unit employees working full-time while discriminating against bargaining unit employees working part-time.

A deadline was set for the union to file and serve its answer to the complaints.

On February 4, 2000, the union filed two motions: (1) A motion to strike various portions of the statements of facts, exhibits 1 through 11, and the remedies requested; and (2) a motion to make the complaints more definite and certain, citing provisions in WAC 391-45-050 that require indication of the times, dates, places, and participants in occurrences alleged to be statutory violations.

The motions are DENIED for the reasons set forth below, and a new deadline is established for the union to file its answer.

The Motion to Strike

One purpose of administrative adjudication under Chapter 34.05 RCW is to resolve disputes in specialized areas without all of the formalities used in the courts. The Public Employment Relations Commission has recognized expertise in the administration of state collective bargaining laws. See, most recently, Pasco Housing Authority v. PERC, ___ Wn.App. ____ (Division 3, January 11, 2000). The Commission adopted Chapter 391-45 WAC to regulate the processing of unfair labor practice cases. These cases are not novel or unusual, as their case numbers indicate they are the 3746th and 3747th unfair labor practice cases filed with the agency since 1976.

RCW 41.58.005 directs the Commission to provide "uniform and impartial ... efficient and expert" administration of state

collective bargaining laws. The agency staff does not "investigate" unfair labor practice allegations in a manner which would be familiar to those who practice before the National Labor Relations Board (NLRB), and does not engage in a prosecutory role. WAC 391-45-110 calls for review of each complaint filed with the agency; an "assuming all of the facts alleged to be true and provable" standard is used in reviewing complaints under WAC 391-45-110. That having been done, these complaints were found sufficient to state a cause of action.

In these cases, the complaints were accompanied by numerous exhibits which identified various representatives of the union, as well as specific contract provisions which were alleged to have a discriminatory impact. With respect to the union's contention that the Commission lacks jurisdiction, it would be premature to rule on that matter prior to permitting the complainants the evidentiary hearing to which they are entitled under Chapter 34.05 RCW. With respect to the union's contention that the remedies sought are unavailable, it would be premature to rule on that matter prior to deciding whether one or more unfair labor practices have been committed. Where a violation is found, the Commission has wide discretion in fashioning remedies if and when an unfair labor practice violation is found. Municipality of Metropolitan Seattle, Decision 2845-A (PECB, 1988); affirmed 118 Wn.2d 621 (1992).

The Motion for More Definite and Certain Complaint

The clear purpose of a complaint and answer under Chapter 391-45 WAC is to put the agency and parties on notice of the ***issues*** to be presented at a hearing.

The union asserts that the proposals referred to in the preliminary ruling have not been identified, that dates have not been provided,

and that participants are unidentified, so as to preclude it from answering the complaints. However, since these individual complainants were not privy to the actions of the union's representatives in negotiation of the disputed provisions with the employer, they cannot be expected (or required) to provide the specifics demanded by the union's motion. The union should be able to identify any and all persons who participated on its behalf in discussions or negotiations relating to the status of full-time and part-time employees, and the proposals initiated by the union on that subject in contract negotiations.

NOW, THEREFORE, it is

ORDERED

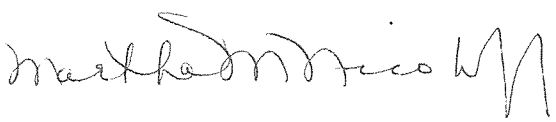
1. The motion of Amalgamated Transit Union, Local 757, to strike portions of the statements of facts and attachments to the complaints in these cases is DENIED.

2. The motion of Amalgamated Transit Union, Local 757, for more definite and certain complaints is DENIED.

3. The due date for filing an answer by Amalgamated Transit Union, Local 757, is extended to 21 days following the date of this order.

Issued at Olympia, Washington, the 6th of June, 2000.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARTHA M. NICOLOFF, Examiner