

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SNOHOMISH COUNTY CLERKS')	
ASSOCIATION,)	
)	
Complainant,)	CASE 20074-U-06-5105
)	
vs.)	DECISION 9834-A - PECB
)	
SNOHOMISH COUNTY,)	ORDER DENYING MOTION
)	
Respondent.)	
)	
)	

Audrey Eide, Attorney at Law, for the union.

On August 22, 2007, Washington State Council of City and County Employees (WSCCCE) filed a motion with Examiner Starr Knutson seeking status as an intervener in the above-entitled case. WSCCCE argued that the remedy ordered in *Snohomish County*, Decision 9834 (PECB, 2007), a case filed by the Snohomish County Clerks' Association, precluded processing of Case 20896-E-07-3220, a representation case filed by WSCCCE. Examiner Knutson denied that motion by letter.

On September 11, 2007, WSCCCE filed a second request for intervention with Executive Director Cathleen Callahan. Executive Director Callahan also issued a letter denying WSCCCE's motion, and informed WSCCCE that processing of its representation petition would continue only after any remedial order issued in Case 20074-U-06-5105 was fully complied with. On October 8, 2007, WSCCCE filed an appeal to this Commission seeking review of the Executive Director's decision.

We have reviewed WSCCCE's filing, and deny WSCCCE's motion. WSCCCE is not a named party to the instant unfair labor practice proceeding.

Furthermore, it is inappropriate for WSCCCE to comment on the legitimacy of the Examiner's remedial order. While we recognize that application of the Commission's blocking charge rule, WAC 391-25-370, in conjunction with the Examiner's remedial order appear to preclude processing of WSCCCE's representation petition, it is actually the unfair labor practice complaint against Snohomish County that precludes processing of the representation petition. Until a final order is issued in the Clerks' Association's unfair labor practice complaint, processing of Case 20896-E-07-3220 shall be suspended.

Support for our conclusion exists in federal case law. Unlike Commission practice, the National Labor Relations Board (NLRB) may *dismiss* a representation petition filed where an incumbent union filed an unfair labor practice complaint alleging the employer refused to bargain in good faith.¹ For example, in *Big Three Industries, Inc.*, 201 NLRB 197 (1973), the NLRB certified a new representative for a bargaining unit of employees. The union filed charges alleging the employer refused to bargain in good faith. During the pendency of those charges, some employees filed a second representation petition to remove the incumbent union. The regional director dismissed the representation petition and held that "no question concerning representation exists, inasmuch as [he had] issued a complaint alleging [refusal to bargain] violations by

¹ However, nothing precludes this Commission from adopting the NLRB's practice of dismissing representation petitions if the proper factual situation exists.

the employer." The NLRB affirmed this decision, and held that if the allegations in the complaint could be proved, the appropriate remedy would be a bargaining order, and an extension of the certification bar would be appropriate.

Without commenting on the merits of Snohomish County's current appeal, we find the situation in this case almost identical to the situation described above. Snohomish County, as the named respondent, is responsible for its own defense, and any intervention at this stage in the proceeding would only cause unwarranted delay in the processing of Snohomish County's appeal.

NOW, THEREFORE, it is


ORDERED


The motion for intervention filed by the Washington State Council of City and County Employees in the above-entitled appeal is DENIED.

Issued at Olympia, Washington, the 24th day of October, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


DOUGLAS G. MOONEY, Commissioner