STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 280,) CASE NO. 1437-U-78-179
Complainant) PRELIMINARY RULING AND
and) ORDER DENYING
CITY OF KENNEWICK,) MOTION TO DISMISS
•) DECISION NO. 482-PECB
Respondent.)
)

On March 20, 1978, the union filed charges alleging that the City had refused to bargain with it, in violation of RCW 41.56, by unilateral contracting out of janitorial services formerly performed by unit employees.

Subsequently, the parties processed a grievance through contractual grievance and arbitration procedures and an arbitration award was issued. On July 28, 1978 the City forwarded a copy of the arbitration award to PERC under cover of a letter containing a motion for dismissal of the unfair labor practice case.

This matter is before the Executive Director for a preliminary ruling under WAC 391-21-510. That step of the procedure has previously served as the vehicle for deferral in certain circumstances, to established procedures for the resolution of contractual disputes. See: City of Kennewick Decision 334 (PECB, 1977). However, the arbitration award itself precludes deferral of PERC jurisdiction in this circumstance. The union pressed a claim before the arbitration panel that its rights under RCW 41.56 had been violated. The arbitration panel expressly held that it was neither authorized nor qualified to deal with such an interpretation. The arbitration award was limited to the express provisions of the collective bargaining agreement. The facts alleged could constitute an unfair labor practice within the meaning of RCW 41.56. The dispute has not been resolved by alternative procedures.

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NOW, THEREFORE, it is

ORDERED

- 1. The employer's motion for dismissal is denied.
- 2. The matter is referred to Jack T. Cowan of the PERC staff, to act as Examiner.

DATED at Olympia, Washington this 2u day of August, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director