

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES,	)	
	)	CASE 11796-U-95-2778
Complainant,	)	
	)	DECISION 5229 - PECB
vs.	)	
	)	
CITY OF SPOKANE,	)	
Respondent.	)	PARTIAL ORDER OF DISMISSAL
	)	
	)	

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On May 23, 1995, the Washington State Council of County and City Employees (WSCCCE) filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of Spokane had refused to bargain in good faith in violation of RCW 41.56.140(1) and (4). The statement of facts consisted of 42 numbered paragraphs detailing the employer's conduct in the parties' negotiations for an initial collective bargaining agreement, some dating as far back as 1993.

A preliminary ruling letter sent to the parties on July 18, 1995, pursuant to WAC 391-45-110,<sup>1</sup> noted certain problems with the complaint as filed. The WSCCCE was given 14 days in which to file and serve an amended complaint concerning allegations which appeared to be untimely, or face dismissal of those allegations. Nothing further has been heard or received from the WSCCCE.

RCW 41.56.160 provides that an unfair labor practice complaint cannot be processed for actions occurring more than six months

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<sup>1</sup> At that stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

prior to the filing of the complaint with the Commission. The allegations contained in paragraphs 1 through 27 of the statement of facts concerned events prior to November 23, 1994. Facts from that period can only be considered as background to allegations occurring after that date.

The remainder of the statement of facts details bargaining sessions which were rescheduled or cut short by the employer, a failure by the employer to explain or discuss its own proposals or its positions concerning union proposals, and a lack of preparation for negotiations by employer officials (including failure to review and respond to union proposals, continually reviewing the same proposals, and presenting internally inconsistent proposals). Those allegations state a cause of action for further proceedings.

The complaint also alleges that the employer has engaged in an effort to stall negotiations while exploring contracting out bargaining unit work, in retaliation for employees having exercised their right under the statute to form a union. Those allegations also state a cause of action for further proceedings.

NOW, THEREFORE, it is

ORDERED

1. The allegations contained in paragraphs 1 through 27 of the statement of facts are hereby DISMISSED as untimely.
2. The allegations contained in paragraphs 28 and following of the statement of facts, concerning failure of the employer to bargain in good faith and discrimination in reprisal for the exercise of rights under Chapter 41.56 RCW, state a cause of action for further proceedings under Chapter 391-45 WAC.

PLEASE TAKE NOTICE THAT, the City of Spokane shall:

**File and serve its answer to the complaint within 21 days following the date of this order.**

An answer filed by a respondent shall:

A) Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial.

B) Specify whether "deferral to arbitration" is requested, and include a copy of the collective bargaining agreement and other grievance documents on which a "deferral" request is based.

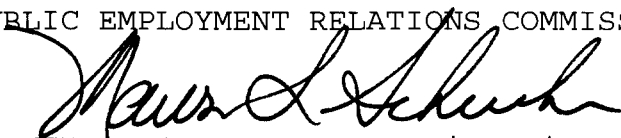
C) Assert any other affirmative defenses that are claimed to exist in the matter.

The original answer and three copies shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or principal representative of the WSCCCE.

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

Issued at Olympia, Washington, on the 17th day of August, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order will be the final order of the agency with respect to the allegations dismissed therein, unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.