

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 17,)	CASE NO. 5382-U-84-977
)	
Complainant,)	DECISION NO. 2045 - PECB
)	
vs.)	
)	
PUBLIC UTILITY DISTRICT NO. 1 OF CLARK COUNTY,)	PRELIMINARY RULING
)	
Respondent.)	

The International Federation of Professional and Technical Engineers, Local 17 (IFPTE), filed a complaint charging unfair labor practices against the Public Utility District No. 1 of Clark County (PUD) on August 1, 1984. The complaint alleges a course of conduct which demonstrates a refusal to bargain and an interference with the rights of the exclusive bargaining representative. Additionally, there are allegations that the employer circumvented the exclusive bargaining representative by direct communications with members of the bargaining unit, constituting interference and coercion of the bargaining unit employees. The allegations are currently before the Executive Director for a preliminary ruling under WAC 391-45-110. The employer has previously contested the jurisdiction of the Commission over it. See: Public Utility District No. 1 of Clark County, Decision 1884 (PECB, 1984), and Public Utility District No. 1 of Clark County, Decision 1991 (PECB, 1984).

Two questions of jurisdiction arise in any case: Whether the parties are subject to the jurisdiction of the forum; and whether the forum has jurisdiction over the subject matter involved. The jurisdiction of the Commission over the employer in this case is the more controversial question.

Chapter 54.04 RCW contains two brief provisions, RCW 54.04.170 and 54.04.180, which deal with collective bargaining between public utility districts and their employees. Public utility districts are municipal corporations of the State of Washington, created pursuant to RCW 54.04.020. The Public Employees Collective Bargaining Act, Chapter 41.56 RCW, applies generally to municipal corporations of the State of Washington, "except as otherwise provided by ... RCW 54.04.170, 54.04.180...." RCW 41.56.020.

In 1981 and 1982, another union filed unfair labor practice charges with the Public Employment Relations Commission, seeking to invoke the jurisdiction of the Commission under Chapter 41.56 RCW to resolve disputes between the same parties involved herein. The employer, as respondent in the first of those proceedings, asserted that the Commission was without jurisdiction over it. The union nevertheless persisted, and filed the second case. The preliminary ruling issued in those matters on March 16, 1984 contains an extensive review of the statutes, Commission decisions and judicial decisions bearing on the question of the Commission's jurisdiction over public utility districts. Public Utility District No. 1 of Clark County, Decision 1884 (PECB, 1984) is incorporated herein by reference. Nothing has been presented by the employer or discovered by the undersigned which requires a different conclusion at this time. As noted in Decision 1884, supra, the Public Employment Relations Commission had not had occasion to directly consider and rule on the question of its jurisdiction over public utility districts. No such opportunity evolved in the cases in which Decision 1884 was issued, as the union withdrew those complaints shortly after they were assigned to an Examiner. This formal order will serve to explicate the reasoning behind the preliminary ruling which will be under consideration by the Commission on any petition for review which the employer might file.

If the employer and union are subject to Chapter 41.56 RCW, it is clear that the Commission also has jurisdiction over the subject matter of these complaints. Assuming for the purposes of this preliminary ruling that all of the facts alleged are true and provable, it appears that unfair labor practice violations could be found.


NOW, THEREFORE, it is

ORDERED

The allegations are assigned to Examiner Katrina I. Boedecker of the Commission staff to conduct further proceedings in the matter pursuant to Chapter 391-45 WAC.

DATED at Olympia, Washington, this 12th day of September, 1984.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director