

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY)	
AND CITY EMPLOYEES, LOCAL 120,)	
Complainant,)	CASE 11727-U-95-2761
vs.)	DECISION 5634-A - PECB
CITY OF TACOMA,)	DECISION OF COMMISSION
Respondent.)	
_____)	

Julia C. Mallowney, Legal Counsel, and Audrey B. Eide, General Counsel, appeared on behalf of the union.

George S. Karavitas, Senior Assistant City Attorney, appeared on behalf the employer.

On August 14, 1996, Examiner William A. Lang issued his findings of fact, conclusions of law and order in the above-captioned unfair labor practice case. Examiner Lang found that the City of Tacoma (employer) unlawfully implemented a unilateral change involving a mandatory subject of collective bargaining, and failed and refused to bargain in good faith in violation of RCW 41.56.140(4) and (1).

On September 4, 1996, the employer filed a petition for review pursuant to WAC 391-45-350, which states, in part:

The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission in its own motion, or at the request of any party **made within twenty days** following the date of the order issued by the examiner.

[Emphasis by **bold** supplied.]

On September 18, 1996, the Washington State Council of County and City Employees, Local 120 (union) filed a motion to dismiss the petition for review, on the basis it was untimely.

Under the rules, the deadline for filing a petition for review was Tuesday, September 3, 1996. WAC 10-08-080 prescribes the computation of time periods, stating:

In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

While Monday, September 2, 1996, was a holiday, September 3 was a normal business day. Under WAC 10-08-080, the time period for serving the petition for review in this case was not extended an extra day. Thus, the employer's petition for review filed on September 4, 1996 was one day late.

The Supreme Court of the State of Washington requires strict compliance with time limits. See, City of Seattle v. Public Employment Relations Commission, 116 Wn.2d 923 (1991).¹ The Commission has routinely dismissed cases for failure to file a

¹ While the Commission has discretion to waive a requirement of the rules, we find no reason to do so in this case. See, WAC 391-08-003, and Mason County, Decision 3108-B (PECB, 1991). Here, the employer's cover letter and its petition for review both were signed by the Senior Assistant City Attorney and dated September 4, 1996, without comment as to the lateness, indicating it neither sought nor attempted to justify a waiver of the Commission's rules.

petition for review on a timely basis.² Consistent with longstanding Commission policy and precedent, the petition for review must be dismissed.

We note two harmless typographical errors in the Examiner's decision. On page four, in the sixth line of the second paragraph, "April 1, 1996" should be "April 1, 1995". In Finding of Fact #11, in the sixth line of page 25, "April 1, 1996" should be "April 1, 1995".

NOW, THEREFORE, it is


ORDERED

1. In the Examiner's decision, in the sixth line of the second paragraph on page four, "April 1, 1996" is corrected to "April 1, 1995". In Finding of Fact Number #11, on the sixth line of page 25, "April 1, 1996" is corrected to "April 1, 1995".
2. The petition for review in the above-captioned matter is dismissed as untimely and the matter is closed.

Issued at Olympia, Washington, the 2nd day of October, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


SAM KINVILLE, Commissioner


JOSEPH W. DUFFY, Commissioner

² See, Puget Sound Educational Service District, Decision 5126-A (PECB, 1996), and cases cited therein.