Seattle School District, Decision 9355-C (EDUC, 2010)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ROBERT FEMIANO, Complainant, vs. SEATTLE EDUCATION ASSOCIATION, Respondent.	CASE 19944-U-05-5062 DECISION 9355-C – EDUC DECISION OF COMMISSION
ROBERT FEMIANO, Complainant, vs. SEATTLE SCHOOL DISTRICT, Respondent.	CASE 19945-U-05-5063 DECISION 9356-B - EDUC DECISION OF COMMISSION

Robert Femiano, appeared pro se.

Michael Gawley, Attorney at Law, for the union.

This case comes before the Commission on a timely appeal filed by Robert Femiano (Femiano). Femiano alleged that Seattle Education Association (union) induced the Seattle School District (employer) to commit an unfair labor practice when the union revealed to the employer that a previous union request for information was made at the request of Femiano. Femiano's complaint also alleged that the employer discriminated and interfered against him in violation of Chapter 41.59 RCW when it transferred him to another school. Examiner Carlos Carrión Crespo held a hearing where the parties provided testimony and evidence. The parties also submitted

post-hearing briefs. The Examiner held Femiano failed to establish that any unfair labor practice occurred, and dismissed the complaint in its entirety.[1] Femiano now appeals that decision.

ISSUES PRESENTED

1. Does substantial evidence support the Examiner's findings and conclusions that the employer did not discriminate against Femiano for exercising protected rights by transferring him to a different school?

2. Does substantial evidence support the Examiner's findings and conclusion that the employer did not interfere with Femiano's protected rights by transferring him to a different school?

3. Does substantial evidence support the Examiner's findings and conclusions that the union did not inform the employer that a union information request was made on behalf of Femiano in an attempt to induce the employer to retaliate against Femiano by transferring him to a different school?

For the reasons set forth below, we affirm the Examiner's decision in its entirety.[2] This record supports the Examiner's findings and conclusions that Femiano failed to establish a *prima facie* case of discrimination. Accordingly, it was not reversible error for the Examiner to dismiss Femiano's interference allegation stemming from the same set of facts. This record also supports the Examiner's findings and conclusions that Femiano failed to establish that the union attempted to induce the employer to commit an unfair labor practice by revealing that he asked the union to make an information request on his behalf.

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1 *Seattle School District*, Decision 9355-B (PECB, 2007).

2 This Commission reviews conclusions and applications of law, as well as interpretations of statutes, de novo. We review findings of fact to determine if they are supported by substantial evidence and, if so, whether those findings in turn support the Executive Director's conclusions of law. *C-TRAN*, Decision 7088-B (PECB, 2002). Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *Renton Technical College*, Decision 7441-A (CCOL, 2002). Unchallenged findings of fact are accepted as true on appeal. *C-TRAN*, Decision 7088-B. The Commission attaches considerable weight to the factual findings and inferences, including credibility determinations, made by its examiners. *Cowlitz County*, Decision 7210-A (PECB, 2001).

DISCUSSION

This case involves the transfer of a Seattle School District teacher from one school to another without his approval. Femiano worked at Arbor Heights Elementary School. The principal at Arbor Heights, Carol Coram (Coram), also worked as a sports official for the National Collegiate Athletic Alliance (NCAA). Without expressly naming her, Femiano expressed concern to the Seattle School Board about Coram's involvement with the NCAA at a regularly scheduled Seattle School Board meeting. Following that meeting, Femiano contacted his union representative, Ben Ibale (Ibale), and asked Ibale to request certain budget information from the employer. Ibale followed through on Femiano's request and asked for the information. However, sometime during the processing of the request, Coram contacted Ibale about the information request and informed him that she was upset about the request. Ibale responded that the request was a typical union information request. At no time during this conversation did Ibale inform Coram that the union's request was made on behalf of Femiano.

Shortly thereafter, Coram filed a hostile work environment complaint with the employer alleging that Femiano was harassing her. Femiano, in turn, filed a whistleblower complaint alleging that Coram's complaint was in retaliation for his questioning of her conduct. The employer eventually hired an outside investigator to look in the matter. The investigator concluded that Femiano was in fact harassing Coram.[3]

Based upon the investigator's report, the employer decided to initiate the process that would transfer Femiano to another school. The employer contacted the union to discuss a potential transfer. When the employer informed Femiano about the transfer, he filed a Washington Industrial Safety and Health Administration (WISHA) complaint alleging that the employer transferred him for raising workplace health concerns.

When the employer finalized its decision to transfer Femiano, the union filed a grievance over the transfer. An arbitrator ultimately ruled that the employer failed to follow the formal

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[3] Neither Femiano nor the union alleges that any part of the employer's investigation violated the rights protected by Chapter 41.59 RCW.

complaint process set forth in its anti-harassment policy as well as grievance procedure set forth in the parties' collective bargaining agreement. Exhibit 29. However, the arbitrator declined to rescind Femiano's transfer based upon the "overwhelming evidence that [Femiano] violated the District's anti-harassment policy [by] engaging 'in a campaign of harassment, intimidation and bullying[.]'" Femiano then filed these complaints.

Appellate Review

WAC 391-45-350 governs appeals in unfair labor practice cases. Under WAC 391-45-350(3), a party filing a notice of appeal must "identify, in separately numbered paragraphs, the specific rulings, findings of fact, conclusions of law, or order claimed to be in error." This Commission has previously stated that "it is not enough for a party to merely disagree with an examiner's findings of fact as contrary to a version of events proffered by the appealing party, and an appellant must demonstrate how the examiner's findings are not supported by substantial evidence." *Clark County*, Decision 9127-A (PECB, 2007).

Although Femiano's notice of appeal complied with WAC 391-45-350(3) by identifying which rulings he believes are in error, his notice of appeal fails to demonstrate how the record fails to support those findings and conclusions, including identifying specific findings of fact, conclusions of law, and orders that he finds in error. Furthermore, Femiano's arguments on appeal come only from his notice of appeal, and he declined to file a comprehensive appeal brief under WAC 391-45-350(6). A party that does not file a brief with specific citations to the record demonstrating how the decision on appeal is in error does so at its own peril. *See Kitsap Transit*, Decision 10234-A (PECB, 2009). To the extent that Femiano's notice of appeal provides this Commission with insight regarding what findings and conclusions he contends are not supported by the record, we will use his notice of appeal as if it were a brief.[4]

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[4] Femiano filed notices of appeal in both case 19944-U-05-5062 (complaint against the union) and case 19945-U-05-5063 (complaint against the employer). Although his notices of appeal seem to focus upon his allegation that the union induced the employer to transfer him from one school to another, it is not clear from the notice of appeal if Femiano intended to appeal dismissal of case 19945-U-05-5063. However, because Femiano's allegations against the employer and union are so interconnected, we will review the Examiner's decision in its entirety under the appropriate standard of review based upon the assignments of error raised in Femiano's notice of appeal.

ISSUE 1 – Did the Employer Discriminatorily Transfer Femiano?

Applicable Legal Standard

An employer unlawfully discriminates against an employee when it takes action in reprisal for the employee's exercise of rights protected by Chapter 41.56 RCW. *Educational Service District 114*, Decision 4361-A (PECB, 1994). The employee maintains the burden of proof in employer discrimination cases. To prove discrimination, the employee must first set forth a *prima facie* case by establishing the following:

1. The employee participated in an activity protected by the collective bargaining statute, or communicated to the employer an intent to do so;

2. The employer deprived the employee of some ascertainable right, benefit, or status; and

3. A causal connection exists between the employee's exercise of a protected activity and the employer's action.

Ordinarily, an employee may use circumstantial evidence to establish the *prima facie* case because parties do not typically announce a discriminatory motive for their actions. *Clark County*, Decision 9127-A (PECB, 2007).

In response to an employee's *prima facie* case of discrimination, the employer need only articulate its non-discriminatory reasons for acting in such a manner. The employer does not bear the burden of proof to establish those reasons. *Port of Tacoma*, Decision 4626-A (PECB, 1995). Instead, the burden remains on the employee to prove by a preponderance of the evidence that the disputed action was in retaliation for the employee's exercise of statutory rights. *Clark County*, Decision 9127-A. The employee meets this burden by proving either that the employer's reasons were pretextual, or that union animus was a substantial motivating factor behind the employer's actions. *Port of Tacoma*, Decision 4626-A.

To prove discriminatory motivation, the employee must establish that the employer had knowledge of the employee's union activity. An examiner may base such a finding on an inference drawn from circumstantial evidence although such an inference cannot be entirely speculative or improbable. Circumstantial evidence consists of proof of facts or circumstances which according to the common experience gives rise to a reasonable inference of the truth of the fact sought to be proved.

Application of Standard

The Examiner found that Femiano failed to establish a *prima facie* case for discrimination. In reaching this conclusion, the Examiner found that Femiano failed to establish that he engaged in protected union activity. Femiano declined to specifically appeal any of the Examiner's findings of fact related to this issue. Accordingly, the scope of our review is limited to determining whether the Examiner applied the correct standard of law to the findings of facts.

With respect to Femiano's attempt to establish the first element of the *prima facie* case for discrimination, the Examiner found the following:

- Femiano's testimony in front of the Seattle School Board was not activity protected by Chapter 41.59 RCW because the subject matter of testimony (Coram's involvement with the NCAA) is not a matter governed by Chapter 41.59 RCW.

- Femiano's filing of a WISHA complaint is not a matter that falls under the jurisdiction of this Commission and therefore was not protected activity under Chapter 41.59 RCW.

- Femiano's request that the union obtain certain collective bargaining information from the employer on his behalf was an exercise of a collective bargaining right.

Each of these statements represents a proper application of law to the particular facts, and the Examiner's conclusion that Femiano's information request made through the union constituted activity that potentially could be redressed by Chapter 41.59 RCW is correct. Accordingly, the

Examiner committed no error in moving to the second step in the *prima facie* case analysis with respect to this one claim.

The second step in establishing a prima facie case of discrimination is determining whether the employee was denied an ascertainable right, benefit, or status. The Examiner found that Femiano was deprived of his right to teach several grades when the employer transferred him to a different school where he taught only one grade. No party has challenged this finding; therefore we must accept it as verity on appeal. Accordingly, we must now turn to the third step in the analysis.

The third step in the analysis is whether a causal connection exists between the employee's exercise of a protected activity and the employer's action. The Examiner found that Femiano failed to demonstrate that a causal connection existed between Femiano's request (through the union) for information and the decision to transfer him to a different school.

Femiano's notice of appeal asserts that Ibale informed him that Coram was able to "connect the dots" to conclude that Femiano was the one who asked the union to request information about the employer's budget, and therefore the employer moved to transfer him on the basis of the request. We disagree.

Although hearsay evidence is admissible in hearings before this agency, such evidence, standing by itself, has little probative value. *Port of Tacoma*, Decision 4626-A (PECB, 1995). At best, the "connect the dots" statement is hearsay, and Femiano provided no other evidence demonstrating that the employer decided to transfer him because of the information request. The Examiner correctly concluded that Femiano failed to meet his burden demonstrating a causal connection between his transfer and his request for information. Accordingly, the Examiner committed no reversible error in dismissing Femiano's discrimination complaint against the employer.[5]

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[5] Even if Femiano had established a *prima facie* case for discrimination, the Employer provided legitimate non-discriminatory reasons for transferring him to a different school (Femiano had exhibited a pattern of harassment against Coram). Furthermore, Femiano failed to demonstrate that the substantial motivating factor for his transfer was his information request.

ISSUE 2 – Did the Employer Interfere With Femiano's Protected Rights?

Applicable Legal Standard

Generally, the burden of proving unlawful interference with the exercise of rights protected by Chapter 41.56 RCW rests with the complaining party or individual. An interference violation exists when an employee could reasonably perceive the employer's actions as a threat of reprisal or force, or promise of benefit, associated with the union activity of that employee or of other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996). The complainant is not required to demonstrate the employer intended or was motivated to interfere with employees' protected collective bargaining rights. *See City of Tacoma*, Decision 6793-A (PECB, 2000). Nor is it necessary to show that the employee involved was actually coerced by the employer or that the employer had a union animus for an interference charge to prevail. *City of Tacoma*, Decision 6793-A. However, an independent interference violation cannot be found under the same set of facts that failed to constitute a discrimination violation. *See Reardan-Edwall School District*, Decision 6205-A (PECB, 1998).

Application of Standard

Here, the Examiner held that Femiano failed to sustain his burden demonstrating that the employer interfered with his protected rights. Although we agree with the Examiner's conclusion that Femiano failed to demonstrate that the employer interfered with his protected rights, the Examiner could have simply dismissed the interference allegation because the facts that failed to support Femiano's discrimination allegation are the same facts that supported his independent interference claim.

ISSUE 3 – Did the Union Induce the Employer to Commit an Unfair Labor Practice?

Applicable Legal Standard

A union will commit a violation of RCW 41.59.140(2)(b) if it causes or attempts to cause an employer to discriminate against an employee in violation of the rights protected by Chapter 41.59 RCW. It is not necessary for the employer to actually discriminate against employees. A

union's act of simply asking an employer to make a discriminatory action is enough to be a violation. *Shoreline School District*, Decision 5560 (PECB, 1996).

The Examiner found that Femiano failed to establish through direct or circumstantial evidence that the union provided his name to the employer, or that the union provided his name to the employer so that the employer would retaliate against him. The Examiner also concluded that Femiano failed to present any evidence demonstrating that the union attempted to undermine any of his collective bargaining rights.

On appeal, Femiano argues that the Examiner ignored evidence demonstrating that the union and employer colluded to transfer him. He points to Exhibit 38, an e-mail written by the employer's Instructional Education Director, Patricia Sanders, to Steve Wilson. In that e-mail, Sanders referenced a conversation between herself and union official Steve Pulkkinen about "moving [Femiano]". Femiano also points to a meeting between the union and employer, held without Femiano's knowledge, where the union sought to safeguard Femiano's rights during the workplace harassment investigation. Notice of Appeal, paragraph 7, citing Exhibit 25. Femiano claims that these meetings and statements clearly demonstrated that the union and employer colluded to transfer him.[6] We disagree.

The Examiner specifically credited Ibale's testimony which stated that he did not disclose to Coram the fact that Femiano asked the union to make the information request on his behalf. Femiano asserts that an e-mail that he sent to Ibale supports his contention that the union did in fact disclose his name to the employer. Exhibit 30. Femiano's e-mail thanked Ibale "for being honest" in disclosing a conversation between Ibale and Coram regarding the information request. However, that e-mail is Femiano's version of the conversation, and does not demonstrate by a preponderance of the evidence that Ibale actually disclosed Femiano's name as the source of the request.

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[6] The Examiner ruled that Exhibit 38 was admissible against the employer, but not the union. It appears that the Examiner made this ruling because Sanders was able to verify that she in fact wrote the e-mail, but Pulkkinen's statements were not verifiable. Sanders' statement about what Pulkkinan said to her was hearsay, and could have been admitted as an exhibit against the union. However, the Examiner's error was harmless, and even if this e-mail was properly admitted against the union, the statement attributed to Pulkkinan offered very little in the way of probative value.

With respect to the meeting referenced by Sanders in Exhibit 38, we note that this kind of meeting is a typical labor management meeting, and although Femiano assigns nefarious motives to the meeting, the testimony and evidence produced at the hearing does not support a finding that the transfer was the result of collusion between the employer and union. Furthermore, Femiano's assertion that the union failed to demonstrate how his testimony was not credible and that the union failed to raise an affirmative defense as to how the union safeguarded his collective bargaining rights are not valid. A complainant in an unfair labor practice complaint bears the burden of proving by a preponderance of the evidence that the respondent did in fact commit the complained-of acts. The fact that a respondent declines to raise an affirmative defense or attempt to discredit a witness does not, in turn, satisfy a complainant's burden.

NOW, THEREFORE, it is

ORDERED

The Findings of Fact, Conclusions of Law, and Order issued by Examiner Carlos Carrión Crespo in the above-captioned cases are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law, and Order of the Commission.

ISSUED at Olympia, Washington, this 25th day of February, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

PAMELA G. BRADBURN, Commissioner

THOMAS W. McLANE, Commissioner

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

STATE - ECOLOGY, Employer.	)	
KENNETH KOCH, Complainant, vs.	)	CASE 19114-U-05-4859 DECISION 9243-B - PSRA
WASHINGTON FEDERATION OF STATE EMPLOYEES, Respondent.	)	DECISION OF COMMISSION

Kenneth Koch, appeared *pro se*.

Younglove, Lyman & Coker, P.L.L.C., by *Christopher Coker*, Attorney at Law, for the union.

This case comes before the Commission on a timely appeal filed by Kenneth Koch (Koch) seeking review and reversal of certain findings of fact, conclusions of law, and order or dismissal issued by Examiner Karl E. Nagel.[1] The Washington Federation of State Employees (union) supports the Examiner's decision.

ISSUES PRESENTED

The only issue before this Commission is whether the union interfered with Koch's protected rights by failing to adequately inform other bargaining unit employees of their right to vote in the ratification election.

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[1] *State - Ecology*, Decision 9243 (PSRA, 2006).

For the reasons set forth below, we affirm the Examiner's findings and conclusions that, with respect to Koch, the union did not commit an unfair labor practice by failing to adequately inform bargaining unit employees of the ratification election regarding the 2005-2007 collective bargaining agreement. Additionally, Koch's allegations that the union's failure to inform other bargaining unit employees about the ratification election impacted his protected rights also fails to state a cause of action.

ANALYSIS

Standard of Review

In *Clark County*, Decision 9127-A (PECB, 2007), we clarified our standard of review that this Commission applies when reviewing cases on appeal. We reiterate that standard here for our Chapter 41.80 RCW clientele.[2] Generally, appeals to the Commission present mixed questions of law and fact. This Commission reviews an examiner's interpretation of law *de novo* under the error of law standard. *City of Pasco v. Public Employment Relations Commission*, 119 Wn.2d 504, 507 (1992). Thus, an examiner's determination of the present state of the law does not bind the Commission.

With respect to the findings of fact issued by an examiner, the scope of our review is to determine whether those findings are supported by substantial evidence and, if so, whether those findings in turn support the Examiner's conclusions of law. *C-Tran*, Decision 7088-B (PECB, 2002). Substantial evidence exists if

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[2] This Commission is charged with the uniform administration of the state's collective bargaining laws. To that extent, cases interpreting Chapter 41.56 RCW are applicable to cases decided under Chapter 41.80 RCW where similarity exists between the statutes. *See State - Natural Resources*, Decision 8458-B (PSRA, 2005).

the record contains sufficient evidence of quantity to persuade a fair-minded, rational person of the truth of the declared premise. *PERC v. City of Vancouver,* 107 Wn. App. 694 (1991); *Renton Technical College,* Decision 7441-A (CCOL, 2002). The Commission attaches considerable weight to the factual findings and inferences, including credibility determinations, made by its examiners. *Cowlitz County,* Decision 7210-A (PECB, 2001).

However, it is not enough for an appealing party to merely disagree with an examiner's findings of fact as contrary to a version of events proffered by the appealing party. Rather, the party pursuing an appeal must demonstrate how the examiner's findings are not supported by substantial evidence through the evidence presented at hearing.[3] As long as an examiner applies the correct legal standard to facts supported by substantial evidence, that decision should be upheld.

Factual and Legal Framework for Jurisdiction

This case arises out of the contract ratification process regarding the master 2005-2007 collective bargaining agreement negotiated between the union and the State of Washington. This Commission previously upheld three decisions, *Community College District 7 (Washington Federation of State Employees),* Decision 9094-A (PSRA, 2006); *Community College District 19 (Washington Public Employees Association),* Decision 9210-A (PSRA, 2006); and *Western Washington*

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[3] Although Koch's notice of appeal identifies the Findings of Fact and Conclusions of Law he wishes this Commission to review, his appeal brief fails to cite the pertinent part of the record demonstrating how the Examiner's decision is not supported by substantial evidence. To the extent that Koch's brief provides this Commission with insight as to how his challenged findings and conclusions are unsupported by the record, we will utilize his brief.

University (Washington Public Employees Association), Decision 8849-B (PSRA, 2006), where Commission examiners found that unions representing state employees failed to adequately inform bargaining unit employees of the contract ratification elections. In all three cases the union challenged this Commission's jurisdiction, and in all three cases the Commission found that because the unions agreed during collective bargaining negotiations to allow all bargaining members to vote on ratification of the agreement, this Commission had jurisdiction over complaints alleging the unions failed to provide adequate notice of those elections. Although the union in this case has not appealed its original challenge to our exercise of jurisdiction over Koch's complaint, we nevertheless incorporate that discussion by reference as the legal basis for our continued exercise of jurisdiction in these types of cases.[4]

Koch's complaint contains a significant factual twist that did not appear in the three previous contract ratification cases that we reviewed. In the three earlier cases, none of the complainant employees voted in the ratification elections. Furthermore, the evidence established that those respondent unions failed to provide

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[4] The Washington Public Employees Association petitioned the superior courts for review of our decisions in *Community College District 19* and *Western Washington University*. Those petitions, filed under Chapter 34.05 RCW, are still pending before the courts. The Washington Federation of State Employees was the respondent union in *Community College District 7*, and following our decision in that case affirming the examiner's decision that this Commission had jurisdiction and the union committed an unfair labor practice, it did not petition the superior court for review. Until instructed otherwise by an appellate court of this state, our decision to assert jurisdiction in these types of cases stands. *See Bauman v. Turpen*, 139 Wn. App. 78 (2007) (findings of fact and conclusions of law of a superior court have no precedential value).

non-member bargaining unit employees adequate notice that they were permitted to vote in the ratification election.

In the case before us, Koch received notice of the contract ratification vote and in fact voted in that election. Thus, the Examiner applied Commission precedent and found that the union did not commit an unfair labor practice by failing to inform him of the ratification election. Because Koch voted in the ratification election, the Examiner disagreed with Koch's assertion that he suffered actual harm and dismissed Koch's complaint. The Examiner also found that Koch did not have standing to raise an unfair labor practice on behalf other employees. Koch did not appeal the Examiner's legal conclusion that he did not have standing to assert rights on behalf of other employees.

Did the Union Interfere With Koch's Protected Rights?

We apply the same law to this case as we did in *Community College District 7 (Washington Federation of State Employees)*, Decision 9094-A, and incorporate that discussion by reference. Although Koch spends a considerable amount of time focused on the impact that the union security provision negotiated in the collective bargaining agreement has on him, our jurisdiction in these cases is limited to a single issue of whether the union provided the complainant adequate notice of the ratification election. From this record, one fact is clear: Koch received notice of the ratification election for the 2005-2007 collective bargaining agreement and, in fact, voted in that election. Because Koch actually voted, the Examiner correctly concluded that, with respect to Koch, the notice of the ratification election provided by the union did not interfere with his protected rights.

Turning to Koch's claim that the union's lack of notice to other bargaining unit employees impacted his rights, that theory fails to state a cause of action that can be redressed by this Commission. The failure in Koch's legal theory is that he attempts to bootstrap the rights of other bargaining unit employees onto his own rights. In cases such as this, where an exclusive bargaining representative permits all bargaining unit employees to vote in a ratification election, the right of the employee to vote in that election in an individual right. Our jurisdiction in cases such as this is limited to claims that the union's failure to inform an individual employee of the ratification election precluded that employee from voting.

With respect to Koch's claims that the union permitted union members to vote by absentee ballot while forcing non-members to vote on-site at specific locations, we first note that unions, as private organizations, are free to proscribe the method by which bargaining unit members vote in ratifications elections. Second, based upon the timing of the contract negotiations, and the fact that the union and employer reached agreement that permitted all bargaining unit employees the opportunity to vote on September 13, 2004, we find support for the union's assertion that there was simply not enough time for a mail election. The union, as the administrator of the election, was in the best position to know what method of balloting would best fit the circumstances.

NOW, THEREFORE, it is

ORDERED

The Findings of Fact, Conclusions of Law, and Order of Dismissal issued by Examiner Karl E. Nagel are AFFIRMED and adopted as the

Findings of Fact, Conclusions of Law, and Order of Dismissal of the Commission.

Issued at Olympia, Washington, the 21st day of December, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

PAMELA G. BRADBURN, Commissioner

DOUGLAS G. MOONEY, Commissioner