

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE FERRIES,

Employer.

DAVID LAWTON, TERESA MOORE,
ALLEN DAVIS, AND TODD ZERSEN,

Complainants,

vs.

INTERNATIONAL ORGANIZATION OF
MASTERS, MATES & PILOTS,

Respondent.

CASES 25384-U-13-6499
25430-U-13-6507
25431-U-13-6508
25432-U-13-6509

DECISIONS 11899 - MRNE
11900 - MRNE
11901 - MRNE
11902 - MRNE

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

David W. Lawton, a complainant employee, for the complainants.

Fenrich & Gallagher, P.C., by *Rhonda J. Fenrich*, Attorney at Law, for the union.

On January 8, 2013, David Lawton (Lawton) filed a complaint charging unfair labor practices against the International Organization of Masters, Mates & Pilots (union). Lawton's complaint alleged the union interfered with employee rights in violation of RCW 47.64.130(2)(a) by failing to provide adequate notice to employees and the opportunity to vote on ratification of a negotiated tentative agreement between the union and Lawton's employer, Washington State Ferries.

On January 25, 2013, Teresa Moore (Moore), Allen Davis (Davis), and Todd Zersen (Zersen), also employees of the Washington State Ferries, filed complaints charging unfair labor practices against the union. All three complaints closely mirrored Lawton's complaint and all three asserted that the union interfered with employee rights by failing to provide adequate notice to employees and the opportunity to vote on the contract ratification.

The crux of the complaints is that the union failed to provide adequate notice for the ratification vote causing the complainants to lose their right to vote or vote without a meaningful opportunity to review the negotiated contract. The complainants also argue that the union failed to timely make available the completed Mates and Masters tentative agreements. The distinguishing characteristics among the complaints is that two identified the Mates Tentative Agreement (Moore and Zersen), and the other two identified the Masters Tentative Agreement (Lawton and Davis). The complainants allege that other members of the two bargaining units were also so aggrieved, however none of the other bargaining unit members who testified at the hearing raised such allegations, nor did this agency receive any other complaints raising the same allegations.

The union contends that its ratification process was consistent with its governing documents, statutory obligations, and impasse procedures. Further, the union asserts that the complainants did not provide information to support the allegation of union interference and that this agency does not have jurisdiction over disputes regarding the administration of internal union affairs.

On January 14, 2013, Unfair Labor Practice Manager David Gedrose issued a preliminary ruling for Lawton's complaint. The union was provided 21 days to file an answer to Lawton's complaint. On January 31, 2013, Gedrose issued a preliminary ruling for the three latter complaints (Moore, Davis, Zersen) as well as a consolidation of all four complaints and provided the union with 21 days from the date of the ruling to file an answer to the latter three complaints. The union's counsel, Rhonda Fenrich, filed a notice of appearance for Lawton's complaint on January 16, 2013, an answer to Lawton's complaint on January 28, 2013, and a notice of appearance for the latter three complaints on February 1, 2013. The union did not file an answer for the latter three complaints.

A hearing was conducted for the consolidated complaints on May 20 and 21, 2013, before Examiner Page A. Garcia. At the beginning of the hearing, the Examiner addressed the union's failure to file an answer to the latter three complaints under WAC 391-45-210. The union provided good cause to answer and defend the latter three complaints and the complainants did not raise any objections. Also at the hearing, the complainants withdrew their requested remedies to vacate the voted Masters and Mates tentative agreements. The parties timely filed post-hearing briefs.

ISSUE

Did the union interfere with employee rights guaranteed by Chapter 47.64 RCW by failing to provide adequate notice to employees and the opportunity to vote on a contract ratification?

The union did not interfere with employee rights guaranteed by Chapter 47.64 RCW and under the circumstances at issue here, provided adequate notice to employees and the opportunity to vote on ratification of the negotiated tentative agreements.

APPLICABLE LEGAL STANDARDJurisdiction

As a result of legislative action, the Marine Employees Commission (MEC) became the Marine Division of the Public Employment Relations Commission (Commission) on July 1, 2011. *See* RCW 41.58.065.

The union asserts that this agency does not have jurisdiction over disputes regarding the administration of internal union affairs. However, unlike other statutory provisions under the jurisdiction of the Commission, RCW 47.64.170(1) directs certified bargaining representatives as follows: “Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit *and shall represent all such employees fairly.*” (emphasis added). The union is recognized as a ferry employee organization under RCW 47.64.011(7) and is the exclusive bargaining representative of the two bargaining units in this dispute: 1) Mates, Chief Mates, Second Mates, and Extra Relief Mates,¹ and 2) Masters, Staff Masters, and Relief Masters.²

¹ Rule 3.1 of the 2013-2015 Mates Tentative Agreement, signed by the union and the employer on March 28, 2012, provides employer recognition of the union as the sole collective bargaining agent of all Deck Officers in negotiating and interpreting agreements. Rule 2.1.O includes all “Mates, Chief Mates, Second Mates, and Extra Relief Mates” in the term “Licensed Deck Officer.” Moore and Zersen are members of the Mates bargaining unit.

² The bargaining unit described as “Staff Master, Master and Relief Master, excluding all other employees” was certified by the Executive Director in *State - Transportation*, Decision 11140 (MRNE, 2011). Lawton, Moore, and Davis are members of the Masters bargaining unit. Moore is a Chief Mate who also holds a Masters license. Rule 1.4 of the 2013-2015 Masters Tentative Agreement, signed by the union and the employer on July 20, 2012, provides that the parties recognize the fluid nature of the bargaining unit and as such the terms and conditions apply to any Mate with a Masters license when working as a Staff Master, Master or Relief Master regardless of length of time.

In *Washington State Ferries (Inlandboatmen’s Union of the Pacific) [IBU]*, Decision 381 (MEC, 2003), the MEC looked to the Washington Supreme Court’s decision of *Allen v. Seattle Police Officers Guild*, 100 Wn. 2d 361 (1983) in molding future duty of fair representation cases, stating: “The breadth of this [the *Allen*] ruling echoes the breadth of the responsibility placed on the union by the ferry employee bargaining law to ‘represent all such employees fairly’ (RCW 47.64.170).” The MEC adopted the *Allen* standard that “the duty to fairly represent the bargaining unit applies to all aspects of the Union’s activities on behalf of bargaining unit members.” *Washington State Ferries (IBU)*, Decision 381. Therefore, to violate RCW 47.64.170(1) is to violate the duty of fair representation.

If an employee alleges arbitrary, discriminatory, or bad faith conduct by the union in negotiating a collective bargaining agreement, or in the representation of the complainant or others in collective bargaining, this agency would assert jurisdiction. *City of Seattle (Seattle Police Officers’ Guild)*, Decision 11291-A (PECB, 2012), citing *Mukilteo School District (Public School Employees of Washington)*, Decision 1381 (PECB, 1982).

In this case, the complainants’ assertions of inadequate notice to employees and lack of meaningful opportunity to vote coupled with at least one of their requested remedies, “Order the [union] to cease and desist from interfering with protected employee rights,” are sufficient to glean that they allege arbitrary or bad faith conduct by the union in its representation of the complainants for the purposes of collective bargaining.³ As such, under Chapter 47.64 RCW this agency asserts jurisdiction.

Duty of Fair Representation

RCW 47.64.130(2)(a)(i) establishes that it is an unfair labor practice for an employee organization to restrain or coerce employees in the exercise of the rights guaranteed by Chapter 47.64 RCW. The subsection does not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of union membership therein. The duty of fair representation arises from the rights and privileges held by a union when it is certified or

3 While this Commission permits complainants appearing pro se some leniency with regards to the presentation of their case, the rights of the other parties to the proceeding must also be considered, and pro se complainants still have the ultimate burden of proving their complaint. *Community College District 13 (Lower Columbia)*, Decision 9171-A (PSRA, 2007).

recognized as the exclusive bargaining representative under a collective bargaining statute. *City of Seattle (Seattle Police Officers' Guild)*, Decision 11291-A, citing *C-Tran*, Decision 7088-B (PECB, 2002).

Where there is a statutory duty of fair representation, the union must represent fairly the interests of all bargaining unit members during negotiations, administration, and enforcement of collective bargaining agreements. *City of Port Townsend (Teamsters Local 589)*, Decision 6433-B (PECB, 2000), citing *Castle Rock School District (Castle Rock Education Association)*, Decision 4722 (EDUC, 1994). In *City of Port Townsend (Teamsters Local 589)*, the Commission reiterated the United States Supreme Court's *Vaca v. Sipes*, 386 U.S. 171 (1967) standard for the duty of fair representation requiring that the union deal with all employees without hostility, discrimination, or arbitrary conduct, and in good faith. A union's actions are arbitrary only if, in light of the factual and legal landscape at the time of the union's actions, the union's behavior is so far outside a "wide range of reasonableness" as to be irrational. *Western Washington University (Washington Public Employees Association)*, Decision 8849-B (PSRA, 2006), citing *Airline Pilots Association v. O'Neill*, 499 U.S. 65 (1991).

Weighing against the standards set above, however, is the principle that not every action that displeases some of the members of a bargaining unit is a violation of the duty of fair representation. *Washington State Ferries (IBU)*, Decision 381. Individual dissatisfaction with the outcome of bargaining is to some extent unavoidable and does not necessarily indicate any breach of the duty of fair representation by the union. *Washington State Ferries (Marine Engineers Beneficial Association)[MEBA]*, Decision 191 (MRNE, 1998).

Ratification Votes

The governing statutory scheme, Chapter 47.64 RCW et. seq. does not require that tentative agreements be placed before bargaining unit employees for a contract ratification vote. A statutory bargaining representative must be allowed a wide range of reasonableness in serving the bargaining unit it represents, subject always to complete good faith and honesty of purpose in the exercise of its discretion. *Washington State Ferries (MEBA)*, Decision 191, citing *Ford Motor Co. v. Huffman*, 345 U.S. 330 (1953).

The MEC found a union did not violate its duty of fair representation when its regional director refused to submit a tentative agreement to a ratification vote of bargaining unit members based on the following criteria: he made a thorough and good faith attempt to inform himself of the facts, he sought and received legal counsel, he gave the opposing groups in the bargaining unit an opportunity to discuss the matter both privately and publicly, and he ultimately made his decision considering the interests of all the parties and with motivation based on sincere beliefs. *Washington State Ferries (IBU)*, Decision 381.

In contrast, the MEC denied the union's affirmative defense that its District Executive Committee had final ratification authority for a tentative agreement reached with the employer when that assertion contravened the union's own bylaws. In finding that the union committed an unfair labor practice, the MEC noted that the union's bylaws delineated that the union was responsible for presenting proposed collective bargaining agreement provisions to its members for ratification. *Washington State Ferries (MEBA)*, Decision 114 (MEC,1994).

ANALYSIS

The employer and union were parties to a collective bargaining agreement (CBA) effective from July 1, 2011, through June 30, 2013. The bargaining unit covered by the parties' 2011-2013 CBA included all of the employer's deck officers (Mates and Masters).

As part of new legislation, RCW 47.64.340 mandated that Captains (Masters) be separated from the previous bargaining unit effective July 1, 2013. After separation from the previous bargaining unit, the Masters (Captains) formed another unit and selected the union as their exclusive bargaining representative. Thus, the parties' negotiations for the 2013-2015 biennium covered not one, but two bargaining units: 1) Mates and 2) Masters.

The union and employer faced legislatively mandated time constraints to bargain CBAs, select an interest arbitrator, submit issues at impasse to the Executive Director for certification, and then to the interest arbitrator for resolution of the certified issues. *See* RCW 47.64.170 and .300. Ultimately, an interest arbitration award or CBA is submitted per the statute to the State's Office of Financial Management and the Governor to request implementation funding.

To comply with the deadlines in Chapter 47.64 RCW, the union and the employer selected arbitrators for each 2013-2015 CBA (Mates and Masters) in September 2011, and, in anticipation of interest arbitration, the parties selected arbitration dates in August 2012. The parties' statements of impasse were due to the Executive Director for certification no later than July 18, 2012 (Mates) and July 24, 2012 (Masters). Testimony of union representatives indicates that over 30 negotiation sessions ensued between January and July, 2012. The employer's Labor Relations Office negotiator, Jerry Holder, testified that the employer's economic proposals were tied to release of the State's economic report in mid-June 2012. Around that same time, the parties agreed to participate in mediation with this agency for the remaining unresolved issues. On July 18 and July 24, 2012, the parties requested an extension to submit the statements of impasse to the Executive Director for the Mates and Masters CBAs, respectively. Both requests indicated the parties believed more issues would be resolved in mediation with additional time, thereby reducing the number of issues to review for certification before the interest arbitrator. The Executive Director granted the requests and the fourth and final mediation session began on July 24 and ended in the early morning of July 25, 2012.

The union sent e-mails to its bargaining unit members starting on July 23, 2012, to advise them of an "emergency" special union meeting on July 25, 2012. The first e-mail on July 23, 2012, advised the members of the polling locations and hours for members to vote on the tentative agreements for the two CBAs. Three voting locations were listed: Edmonds (open for nine hours), Poulsbo (open for nine hours), and Anacortes (open for eight hours). The e-mail indicates that at all three locations union negotiation committee members or union staff would be available to explain the tentative agreements and answer questions. The union's second e-mail on July 23, 2012, contained Masters and Mates tentative agreements reached up to that point.

Subsequent union e-mails leading up to the July 25, 2012 ratification votes advised members of a Q&A formulated by the negotiation teams and strongly advised members to attend one of the three meetings. At approximately 10:30 A.M. on July 25, 2012, the union sent out an e-mail to the members titled: "Vote today for Masters and Mates contracts." The e-mail again strongly encouraged members to attend one of the three offered meeting locations (Edmonds, Poulsbo, or Anacortes) and explained that the July 24 mediation session ended at 3:30 A.M. on July 25,

2012. Through this e-mail, the union also offered phone-in voting at any of the three locations and advised that at least two members must be present to hear the caller's voice. The e-mail also advised that the union believed many tentatively agreed Rules were in the union members' favor and would be sent out as soon as they could be scanned and e-mailed. Tim Saffle (Saffle), union regional representative, testified that the union had computer and technical difficulties between the 10:30 A.M. e-mail and the later 1:45 P.M. and 1:46 P.M. e-mails on July 25 which attached copies of the completed Masters and Mates tentative agreements, respectively.

The record indicates that Lawton voted in person and Moore by phone during the available hours of the contract ratification vote. Moore testified that when she called in, she was advised by Saffle that she could vote on both the Mates and Masters tentative agreements. Davis testified that he was out of town at the time of the vote and was not made aware of it until he returned the following week. Zersen testified he was on a day off on July 25, 2012, and was not aware of the contract ratification vote until sometime between 5:00 and 6:00 P.M. on July 25. Neither Davis nor Zersen voted in the July 25, 2012, contract ratification vote. Saffle testified that the July 25, 2012 ratification vote for the two bargaining units was the largest ballot turnout the union had seen in nearly ten years.

The complainants did not introduce evidence that the hours or voting methods at the three locations on July 25, 2012, were any different than those indicated by the union in its July 23, 2012 and subsequent e-mails. As such, based on the record, the Examiner finds that the union's three voting locations (Edmonds, Poulsbo, and Anacortes) were open on July 25, 2012, for the hours indicated in the union's July 23, 2012 initial e-mail, that either phone-in voting or in-person voting was available at any of the three locations, and that union negotiation committee members or union staff were available to explain the Mates and Masters tentative agreements and answer questions.

The parties' 2011-2013 CBA, which was in effect at the time of the July 2012 ratification vote is silent on contract ratification procedures. No evidence was introduced at the hearing that the union and employer had any form of agreement that *all* bargaining unit employees were allowed to vote on the July 2012 contract ratification. See *Western Washington University (Washington Public Employees Association)*, Decision 8849-B (PSRA, 2006), *Community College*

District 7 - Shoreline (Washington Federation of State Employees), Decision 9094-A (PSRA, 2006), and *Community College District 19 - Columbia Basin (Washington Public Employees Association)*, Decision 9210-A (PSRA, 2006) (where a union agrees that all bargaining unit employees are allowed to vote on contract ratification, the union has an obligation to adequately inform all bargaining unit employees of that right with timely and adequate notice).

Rule 3.02 of the parties' 2011-2013 CBA contains a "union shop" provision that all deck officers covered by the CBA shall make application to join the union within 31 days of employment and that deck officers must maintain that membership for the life of the CBA. Rule 3.03 provides that failure of a deck officer to comply with the provision of Rule 3.02 will result in the employer's discharge of the officer, upon written notification from the union.

The union's by-laws⁴ provide:

Article 2.4: To be in good standing, a Member must have paid dues for the current quarter and assessments and other indebtedness due the Organization.

Article 5.4: [A]ny Member who becomes delinquent in the payment of initiation fees, dues, assessments or fines and fails to pay amounts when due shall be considered not in good standing and shall be subjected to the following:

- Your records shall reflect that you are not in good standing.
- Your Employers will be notified that you are not in good standing.
- Exercise the provisions under your Collective Bargaining Agreement with respect to Members not in good standing. . . .

Article 9.2: A Negotiating Committee shall be selected from amongst those working under the scope of the Agreement or proposed Agreement.

The ratification of the Agreements and the calling of any strike action that may become necessary are vested collectively in the Members of this Membership Group working under the Agreement or proposed Agreement in question. They may delegate such authority to the Regional Representative, Negotiating Committee, or such other Officials of the Organization as they may determine. All such actions are subject to the provisions of the International Constitution of the Organization. . . .

⁴ By-Laws of the United Inland Group of the International Organization of Masters, Mates & Pilots, ILA/AFL-CIO, Adopted December 8, 2011.

Article 16.2: Cumulative or proxy⁵ voting shall not be permitted in any election or voting in any part of this Group.

The union's constitution⁶ provides:

Article 3.4.h): Every Member shall have the right to: (4) Vote on the ratification of any Collective Bargaining Agreements under which he or she works, subject to reasonable rules.

The MEC determined it should be exceedingly reluctant to substitute its judgment for that of union officials in the interpretation of the union's governing documents, and only then when the official interpretation is unfair or unreasonable. *Washington State Ferries (MEBA)*, Decision 114, citing *Vestal v. Hoffa*, 451 F. 2d 706 (6th Cir., 1971), cert. denied, 406 U.S. 934 (1972). Like *Washington State Ferries (MEBA)*, Decision 114, other decisions by this agency have treaded cautiously on finding a breach of the duty of fair representation involving a union's internal workings. *Lewis County (Washington State Council of County and City Employees)*, Decision 464-A (PECB, 1978), *King Housing Authority (Office and Professional Employees International Union, Local 8)*, Decision 9573 (PECB, 2007).

In this case, given the union's bargaining of a new and separate Masters CBA combined with bargaining of the Mates CBA within the time constraints established under Chapter 47.64 RCW, the union's interpretation of its governing documents was neither unfair nor unreasonable. Nor did the union restrain or coerce its members in the exercise of their collective bargaining rights. The union selected separate negotiating committees to bargain the Masters and the Mates CBAs. The negotiations for the two CBAs carried on over the course of several months and it was not until the June 2012 release of the State's economic report that the employer could offer financial packages for the union's consideration. The record indicates that both the union and employer engaged in collective bargaining with the assistance of a PERC mediator up until the "eleventh

⁵ Neither the union's by-laws nor its constitution define "proxy." In *Blacks Law Dictionary*, 1241 (7th ed., 1999), "proxy" is defined as: 1. One who is authorized to act as a substitute for another; esp., in corporate law, a person who is authorized to vote another's stock shares. 2. The grant of authority by which a person is so authorized. 3. The document granting this authority.

⁶ International Constitution, International Organization of Masters, Mates & Pilots, International Marine Division of the International Longshoremen's Association, AFL-CIO, 2010.

hour” in order to meet the deadline for statements of impasse to the Executive Director. Union e-mails between July 23 and July 25, 2012, repeated the call for union members to attend contract ratification meetings and invited members to ask questions of the negotiation committee members.

Aside from the timing of the union’s notice to its members starting on July 23, 2012, and the complainants’ contentions of a lack of a meaningful opportunity to vote, testimony at the hearing indicates there were at least two other areas of contention: proxy voting, and whether Zersen and Davis were members in good standing at the time of the July 25, 2012 contract ratification vote.⁷ The union sought and received legal counsel prior to the July 25, 2012 phone-in voting and determined that it was complicit with its governing documents. These matters are internal union affairs and both the union and complainants have internal mechanisms under the union’s by-laws and constitution to remedy these issues.

CONCLUSION

In the totality of the circumstances, similar to *Washington State Ferries (IBU)*, Decision 381, the union sought and received legal counsel, gave bargaining unit members the opportunity to ask questions and discuss the tentative agreements, and made sincere and good faith decisions about the timing of the release of the tentative agreements and how to conduct contract ratification voting considering the legislative time restraints and the interests of the parties. As such, the union did not restrain or coerce employees in the exercise of the rights guaranteed by Chapter 47.64 RCW. Nor did the union in its timing of the release of tentative agreements, its notice of the contract ratification vote, or other actions therein conduct itself in an arbitrary or discriminatory manner or exhibit bad faith. As such, the union did not breach its duty of fair representation to its bargaining unit employees. The union did not interfere with employee rights guaranteed by Chapter 47.64 RCW and under the circumstances at issue here, provided adequate notice to employees and the opportunity to vote on ratification of the negotiated tentative agreements.

⁷ The complainants’ post-hearing brief did not address either topic. The union’s post-hearing brief asserts that phone-in voting is not prohibited by the union’s by-laws or constitution and that neither Davis or Zersen were members in good standing, and therefore were not eligible to vote on July 25, 2012.

FINDINGS OF FACT

1. Washington State Ferries (employer) is an employer within the meaning of RCW 47.64.011(4).
2. David Lawton, Teresa Moore, Allen Davis, and Todd Zersen are ferry employees within the meaning of RCW 47.64.011(6).
3. Lawton, Moore, Davis, and Zersen belong to bargaining units represented by the International Organization of Masters, Mates & Pilots (union), which is a ferry employee organization within the meaning of RCW 47.64.011(7).
4. The union is the exclusive bargaining representative of the two bargaining units in this dispute: 1) Mates, Chief Mates, Second Mates, and Extra Relief Mates (Mates), and 2) Masters, Staff Masters, and Relief Masters (Masters). Moore and Zersen are members of the Mates bargaining unit. Lawton, Moore, and Davis are members of the Masters bargaining unit.
5. The employer and union were parties to a collective bargaining agreement (CBA) effective from July 1, 2011, through June 30, 2013. The bargaining unit covered by the parties' 2011-2013 CBA included all of the employer's deck officers (Mates and Masters).
6. As part of new legislation, RCW 47.64.340 mandated that Captains (Masters) be separated from the previous bargaining unit effective July 1, 2013. After separation from the previous bargaining unit, the Masters (Captains) formed another unit and selected the union as their exclusive bargaining representative. Thus, the parties' negotiations for the 2013-2015 biennium covered not one, but two bargaining units: 1) Mates and 2) Masters.
7. Between January and July, 2012, the employer and the union engaged in over 30 negotiation sessions to bargain CBAs for the 2013-2015 biennium for two bargaining units: 1) Mates and 2) Masters.

8. The union and employer faced legislatively mandated time constraints to bargain CBAs, select an interest arbitrator, submit issues at impasse to the Executive Director for certification, and then to the interest arbitrator for resolution of the certified issues. *See* RCW 47.64.170 and .300. Ultimately, an interest arbitration award or CBA is submitted per the statute to the State’s Office of Financial Management and the Governor to request implementation funding.
9. To comply with the deadlines in Chapter 47.64 RCW, the union and the employer selected arbitrators for each 2013-2015 CBA (Mates and Masters) in September 2011, and, in anticipation of interest arbitration, the parties selected arbitration dates in August 2012. The parties’ statements of impasse were due to the Executive Director for certification no later than July 18, 2012 (Mates) and July 24, 2012 (Masters).
10. The employer’s economic proposals are tied to release of the State’s economic report in mid-June 2012. Around that same time, the parties agreed to participate in mediation with this agency for the remaining unresolved issues. On July 18 and July 24, 2012, the parties requested an extension to submit the statements of impasse to the Executive Director for the Mates and Masters CBAs, respectively. Both requests indicated the parties believed more issues would be resolved in mediation with additional time, thereby reducing the number of issues to review for certification before the interest arbitrator. The Executive Director granted the requests and the fourth and final mediation session began on July 24 and ended in the early morning of July 25, 2012.
11. The union sent e-mails to its bargaining unit members starting on July 23, 2012, to advise them of an “emergency” special union meeting on July 25, 2012. The first e-mail on July 23, 2012, advised the members of the polling locations and hours for members to vote on the tentative agreements for the two CBAs. Three voting locations were listed: Edmonds (open for nine hours), Poulsbo (open for nine hours), and Anacortes (open for eight hours). The record indicates that at all three locations union negotiation committee members or union staff would be available to explain the tentative agreements and answer questions. The union’s second e-mail on July 23, 2012, contained Masters and Mates tentative agreements reached up to that point.

12. Subsequent union e-mails leading up to the July 25, 2012 ratification votes advised members of a Q&A formulated by the negotiation teams and strongly advised members to attend one of the three meetings.
13. At approximately 10:30 A.M. on July 25, 2012, the union sent out an e-mail to the members titled: “Vote today for Masters and Mates contracts.” The e-mail again strongly encouraged members to attend one of the three offered meeting locations (Edmonds, Poulsbo, or Anacortes) and explained that the July 24 mediation session ended at 3:30 A.M. on July 25, 2012. Through this e-mail, the union also offered phone-in voting at any of the three locations and advised that at least two members must be present to hear the caller’s voice. Tim Saffle, union regional representative, testified that the union had computer and technical difficulties between the 10:30 A.M. e-mail and the later 1:45 P.M. and 1:46 P.M. e-mails on July 25 which attached copies of the completed Masters and Mates tentative agreements, respectively.
14. The union sought and received legal counsel prior to the July 25, 2012 phone-in voting and determined that it was complicit with its governing documents.
15. The union’s three voting locations (Edmonds, Poulsbo, and Anacortes) were open on July 25, 2012, for the hours indicated in the union’s July 23, 2012 initial e-mail. Either phone-in voting or in-person voting was available at any of the three locations, and union negotiation committee members or union staff were available to explain the Mates and Masters tentative agreements and answer questions.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in these matters pursuant to Chapter 47.64 RCW and Chapter 391-45 WAC.
2. By the events described in Findings of Fact 6 through 15, the union did not interfere with employee rights under RCW 47.64.130(2)(a), and provided adequate notice to employees and the opportunity to vote on ratification of the negotiated tentative agreements.

ORDER

The complaints charging unfair labor practices filed in the above-captioned matters are dismissed.

ISSUED at Olympia, Washington, this 15th day of October, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink that reads "Page A. Garcia". The signature is written in a cursive style with a large initial "P".

PAGE A. GARCIA, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
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OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 10/15/2013

The attached document identified as: **DECISION 11899 - MRNE** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS
COMMISSION


BUTS/ ROBBIE DUFFIELD

CASE NUMBER: 25384-U-13-06499 FILED: 01/08/2013 FILED BY: PARTY 2
DISPUTE: UN INTERFERENCE
BAR UNIT: MARINE OFFICER
DETAILS: Master
COMMENTS:

EMPLOYER: WASHINGTON STATE FERRIES
ATTN: RICK HALL
210 11TH AVE SW STE 331
PO BOX 43113
OLYMPIA, WA 98504-3113
Ph1: 360-725-5540

PARTY 2: DAVID LAWTON
ATTN:
8756 14TH AVE NW
SEATTLE, WA 98117-3432
Ph1: 206-963-3082

PARTY 3: MASTERS MATES AND PILOTS
ATTN: MIKE MURRAY
144 RAILROAD AVE STE 222
EDMONDS, WA 98020-7207
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REP BY: RHONDA FENRICH
FENRICH & GALLAGHER
245 WEST 5TH AVE
EUGENE, OR 97401
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

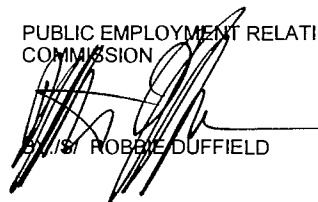
112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 10/15/2013

The attached document identified as: **DECISION 11900 - MRNE** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS
COMMISSION



BY: /s/ ROBBIE DUFFIELD

CASE NUMBER: 25430-U-13-06507 FILED: 01/25/2013 FILED BY: PARTY 2

DISPUTE: UN INTERFERENCE

BAR UNIT: MARINE OFFICER

DETAILS: Mate

COMMENTS:

EMPLOYER: WASHINGTON STATE FERRIES
ATTN: RICK HALL
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REP BY: RHONDA FENRICH
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
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MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 10/15/2013

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: S/ ROBBIE DUFFIELD

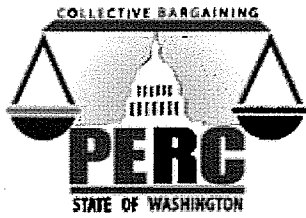
CASE NUMBER: 25431-U-13-06508 FILED: 01/25/2013 FILED BY: PARTY 2
DISPUTE: UN INTERFERENCE
BAR UNIT: MARINE OFFICER
DETAILS: Master
COMMENTS:

EMPLOYER: WASHINGTON STATE FERRIES
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PUBLIC EMPLOYMENT RELATIONS COMMISSION

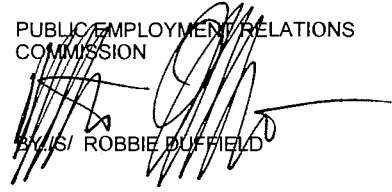
112 HENRY STREET NE SUITE 300
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MARILYN GLENN SAYAN, CHAIRPERSON
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PUBLIC EMPLOYMENT RELATIONS
COMMISSION


BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 25432-U-13-06509 FILED: 01/25/2013 FILED BY: PARTY 2

DISPUTE: UN INTERFERENCE

BAR UNIT: MARINE OFFICER

DETAILS: Mate

COMMENTS:

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PARTY 3: MASTERS MATES AND PILOTS
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