

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

In the Matter of the Petition of)	MEC Case No. 14-99
WASHINGTON STATE FERRIES)	
for Clarification of an Existing)	
Bargaining)	DECISION NO. 220- MEC
Unit.)	
)	
WASHINGTON STATE FERRIES)	MEC CHAIRMAN'S
)	ORDER OF DISMISSAL
)	
Petitioner,)	
)	
v.)	
)	
INLANDBOATMEN'S UNION OF)	
THE PACIFIC,)	
)	
Labor Organization.)	
_____)	

Christine Gregoire, Attorney General, by David Slown, Assistant Attorney General, appearing for and on behalf of Washington State Ferries (WSF).

Schwerin, Campbell and Barnard, attorneys, by Elizabeth Ford, appearing for and on behalf of the Inlandboatmen's Union of the Pacific (IBU).

This matter came on regularly before the Marine Employees' Commission on October 13, 1999, when WSF filed a Petition for Clarification of an Existing Bargaining Unit. The Petition met the requirements of WAC 316-35-050, Contents of Petition.

WSF essentially wants the MEC to create a separate bargaining unit, within the IBU, of terminal agents. The petition indicated that the terminal agents were supervisors as defined by law.

During the current collective bargaining process, WSF had proposed the new unit of supervisors which was opposed by the IBU.

The existing unit composed of “Deck, Terminal, Information Departments and Shoreside Maintenance” consists of 976 members. The proposed unit of terminal agents would have 33 employees within it.

REVIEW BY CHAIRMAN CHILES

Pursuant to WAC 316-35-090, MEC Chairman Henry L. Chiles, Jr. has reviewed the facts alleged in the Petition for Unit Clarification. Chairman Chiles hereby dismisses the Petition for Unit Clarification for the reasons stated herein.

The WSF and IBU have a bargaining relationship for the employees in the presently recognized unit for over forty years. Since at least 1983, they have bargained for the “wages, hours and working conditions” of the employees in the recognized unit and have embodied their agreement in a written contract almost every two years. It is well established that the party challenging a historical unit bears the burden of showing that the unit is no longer appropriate. Compelling circumstances are required to overcome the significance of bargaining history. See P.L. Dick Contracting, 290 NLRB 150, 151. (1985). The National Labor Relations Board is reluctant to disturb a unit established by collective bargaining. See Washington Post Co., 254 NLRB 168 (1981).

WSF seeks to alter a historical unit that has a long collective bargaining history. A unit of terminal agents, if they were supervisors within the meaning of the National Labor Relations Act, would not be an appropriate unit. Terminal agents may lose their bargaining agent and be unrepresented.

RCW 47.64, administered by the MEC, does not require that supervisors be excluded from the appropriate unit. They are not mentioned in the chapter.

Chairman Chiles concludes that the recognized historical unit “including all unlicensed employees of WSF assigned to the Deck, Terminal, Information Departments and Shoreside Maintenance” is a unit appropriate for collective bargaining. There is no basis to exclude terminal agents from the appropriate unit under RCW 47.64.

It is the duty of both WSF and IBU to bargain in good faith about all of the employees in the appropriate unit. Both parties have no valid basis to be at impasse on the issue. Continue to meet and bargain in good faith.

ORDER

Based on the reasons set forth herein, Chairman Chiles orders that the Petition for Clarification of Existing Bargaining Unit, docketed as MEC Case No. 14-99, be dismissed. WAC 316-35-090, WAC 316-02-620.

RIGHT TO PETITION FOR REVIEW

Pursuant to WAC 316-35-210, WSF has the right to petition for a review of the MEC Chairman's Order of Dismissal to the entire Commission. WSF may file a Petition for Review with the entire MEC within 20 days following the date of the order issued by Chairman Chiles. The original Petition for Review shall be filed with the Commission at its Olympia office. A copy thereof shall be served on IBU. IBU will have 14 days following the date on which it is served with a copy of the Petition for Review to file a responsive brief or written argument. Pursuant to WAC 316-02-620, unless the petitioner files a request for review within 30 days following receipt of the order of dismissal, the dismissal shall be entered as an order which shall be final and binding in accordance with RCW 47.64.280.

DATED this ____ day of November 1999.

MARINE EMPLOYEES' COMMISSION

HENRY L. CHILES, JR., Chairman

