



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

New Hampshire Public Utilities Commission	*	
	*	
	*	
Petitioner	*	Case No. S-0419-1
v.	*	
	*	
SEA/SEIU Local 1984, AFL-CIO	*	Decision No. 2006-151
	*	
Respondent	*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The New Hampshire Public Utilities Commission ("PUC") filed a petition for decertification on August 23, 2006. The petitioner is identified as the PUC, which the PELRB understands to refer to the employees identified in the petition, who submitted interest cards, and who are members of the bargaining unit or units at issue.

The SEA/SEIU Local 1984 ("SEA") filed a responsive pleading on September 7, 2006. SEA claims 1) that only a unit member or group of unit members may file a decertification petition; 2) that the employees of the PUC belong to two separate units, consisting of a supervisory employees unit certified by the Board in 1980 and a non-supervisory employee unit certified by the Board in 2004 (Decision No. 2004-041); 3) that Jody O'Marra is a member of the supervisory unit and therefore improperly signed and is identified as the representative in the petition; 4) that the petition fails to establish the 30% requisite showing of interest; 5) that these irregularities and nonconformance with PERLB rules have irreparably harmed the rights of the certified exclusive bargaining representative; 6) that the SEA requests an informal pre-hearing conference to be conducted prior to an adjudicatory hearing to address the SEA's exceptions and objections to the petition; and 7) that a full Board of the PELRB must deem the statutory prerequisites satisfied before any pre-election hearing may be held.

The undersigned hearing officer conducted an informal pre-hearing conference on September 15, 2006 at the PELRB offices in Concord, New Hampshire.

PARTICIPATING REPRESENTATIVES AT PRE-HEARING CONFERENCE

For the Petitioner: Jody O'Marra

For the SEA: John Krupski, Esq.

ISSUES PRESENTED FOR BOARD REVIEW

- (1) The main issue is whether the decertification petition should proceed to election.
- (2) The principal sub-issues are: a) Who is the petitioner and given the petitioner's identity may the petitioner properly request a decertification election? b) What positions make up the May 6, 2004 Amended Certification, Decision No. 2004-041, which states as follows: "Unit: All classified employees with the exception of those classified employees excluded from the definition of public employee under the provisions of RSA 273-A:1, IX."; and c) Related to issue b, is there a separate and currently operative supervisor's unit and if so what positions make up this supervisor's unit?

WITNESSES

For the Petitioner:

The petitioner has indicated, through Ms. O'Marra, that it is currently trying to identify witnesses (and exhibits) and that further petitioner's position is as stated in its original filing, that there is only one bargaining unit and it consists of the listed classified employees.

For the SEA:

- a. Sara Willingham, State Director of Personnel
- b. Lorri Hayes, Esq., SEA Contracts and Field Operations Administrator
- c. Thomas Manning, Asst. Secretary of State
- d. Thomas Getz, Chairman, NHPUC
- e. Cathy Desjardins, SEA business manager.
- f. Richard Molan, Esq., Former SEA Employee and current counsel

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

Joint Exhibits:

1. Collective bargaining agreement

For the Petitioner:

The petitioner has indicated, through Ms. O'Marra, that it is currently trying to identify exhibits and that further petitioner's position is as stated in its original filing, that there is only one bargaining unit and it consists of the classified employees listed in the petition.

For the SEA:

1. Certification and bargaining unit formation history of classified employees within the PUC;
2. Certification and bargaining unit formation history of supervisory employees within the PUC;
3. Job Description of all positions with the bargaining unit;
4. Organization chart;
5. Any and all pleadings in this matter;
6. Any and all documents filed as exhibits to pleadings;

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

DECISION

- 1) Any post-hearing briefs the parties desire to file shall be submitted on or before October 2, 2006.
- 2) On or before September 21, 2006 the SEA shall file a statement of which positions it claims belong to which unit, as outlined in the prior pre-hearing order.
- 3) To the extent they have not already done so, and it has not been covered through the pre-hearing, the parties shall submit and exchange a list of all witnesses and the purpose of their testimony and a list of exhibits per Pub 203.
- 4) To the extent they have not already done so, the parties' representatives shall meet, or otherwise confer, on or before September 25, 2006 in order to compose a mutual statement of agreed facts and stipulate to joint exhibits. The parties' representatives shall memorialize those facts and exhibits upon which they can so stipulate and file that document with the PELRB on or before September 25, 2006.

- 5) Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on:

September 25, 2006 @ 9:00 AM and continuing until completed

at the offices of the Public Employee Labor Relations Board, Concord, New Hampshire.

So Ordered.



Douglas L. Ingersoll, Esc.
Hearing Officer

Date Issued: September 18, 2006

Distribution:

Jody O'Marra, Utility Analyst
John Krupski, Esq.