



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. 2006-144
	*	
Respondent	*	

**ORDER RE: NOTICE OF INFORMAL PRE-HEARING
CONFERENCE AND ADJUDICATORY HEARING**

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.

In order to conduct an election, the PELRB must determine what bargaining unit or units are involved, what positions are in which unit, and the names of employees in particular units who are eligible to vote. The SEA has pointed out that there are two certifications for the PUC

(an issue that has also come up in the New Hampshire Insurance Department v. SEA matter, Case No. S-0415-1, Decision No. 2006-137). The SEA contends that Jody O'Marra, for example, is a supervisory employee who is in the supervisors' unit. It is noted that neither the 1980 nor the 2004 certifications list any positions, so it is not possible to tell which positions belong with which unit by examining the face of those two certifications. The SEA was involved in proceedings leading to the issuance of both certifications (the 2004 certificate issued after the filing of an agreed upon modification petition submitted by the SEA, Lorri Hayes, Esq. as representative and the State of New Hampshire, Sara Willingham as representative). Presumably the SEA and the State of New Hampshire have documentation showing which positions belong in which unit.

The petition for decertification cannot be frustrated or dismissed at this time because the applicable unit certifications do not identify on their face the positions within each unit, which in turn impairs the PELRB's ability to evaluate showing of interest cards submitted with the petition for decertification. It is the PELRB's intent to effectuate to the extent possible the provisions, spirit and intent of RSA 273-A and PELRB rules. Of relevance to this case is the fact that RSA 273-A and PELRB rules provide and contemplate providing bargaining unit members with the opportunity to periodically seek elections for the purpose of decertifying an existing bargaining agent and having no representative (a decertification proceeding) or for the purpose of having a new certified bargaining agent (a certification proceeding). In this particular case this requires proceedings to, among other things, identify which PUC employees are in the supervisors' unit and which PUC employees are in the non-supervisors' unit.

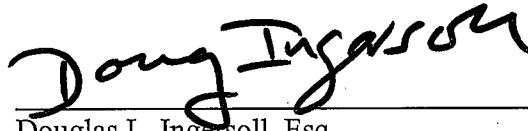
DECISION

Accordingly, this case shall proceed as follows:

- 1) An informal pre-hearing conference will be conducted on September 15, 2006 at 11:00 a.m. The parties shall complete and submit a pre-hearing worksheet on or before 11:00 a.m. on September 15, 2006. The PELRB is ordering the conduct of the informal pre-hearing conference and the preparation and submission of these pre-hearing worksheets within this time frame as allowing the parties 15 days to complete the pre-hearing worksheets and holding the informal pre-hearing conference at the end of that 15 day period would unnecessarily delay these proceedings and also because completion of the pre-hearing worksheet is a relatively simple and straightforward matter.
- 2) On or before September 14, 2006 the parties shall confer and stipulate to the extent possible as to which unit PUC employees belong (by name and position). This stipulation shall be submitted at the September 15, 2006 conference. The parties shall also submit their respective list of unit positions and employees upon which they are in disagreement, if any, and be prepared to discuss the same at the conference.
- 3) A hearing will be held in this matter on September 25, 2006 at 9:00 a.m. The hearing will continue until completed.

- 4) Any motions, including any motions to amend, shall be filed on or before September 18, 2006. All objections to any such motions shall be filed on or before September 25, 2006 at 9:00 a.m., although the parties should be prepared to informally discuss any motions and objections pending at the time of the September 15, 2006 conference.

So Ordered.



Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Date Issued: September 8, 2006

Distribution:

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