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**Government of the District of Columbia  
Public Employee Relations Board**

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In the Matter of	)	
	)	
American Federation of Government Employees, Local 872	)	
	)	PERB Case No. 22-UM-01
Petitioner	)	
	)	Opinion No. 1851
and	)	
	)	
District of Columbia Water and Sewer Authority	)	
	)	
Respondent	)	
	)	

**DECISION AND ORDER**

**I. Statement of the Case**

On September 15, 2022, the American Federation of Government Employees, Local 872 (AFGE) filed a Petition for Unit Modification (Petition). Pursuant to Board Rule 505.1(b), AFGE requests that the Board modify the bargaining unit to add three positions which were created since the initial certification and one position which has been revised since the initial certification.<sup>1</sup> Pursuant to Board Rule 505.1(d), AFGE also requests that the Board amend Certification No. 95 and Certification No. 106 to consolidate the two bargaining units represented by AFGE at the District of Columbia Water and Sewer Authority (WASA) into one unit under the exclusive representation of AFGE.<sup>2</sup> Additionally, AFGE requests that the Board modify the names of some divisions within the bargaining unit to conform to WASA’s current organizational structure.<sup>3</sup>

On September 30, 2022, WASA filed a Response to the Motion, opposing the proposed modifications to the bargaining unit.<sup>4</sup> WASA argues that AFGE seeks to move professional job classifications into a non-professional bargaining unit without consent from the potentially affected professional employees, in violation of D.C. Official Code § 1-617.09.<sup>5</sup> WASA also argues that the proposed additions to the bargaining unit do not share a “community of interest”

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<sup>1</sup> See Petition at 1, 4-5.

<sup>2</sup> See Petition at 1, 4-5.

<sup>3</sup> Petition at 1, 4-5.

<sup>4</sup> Response at 1-3.

<sup>5</sup> Response at 1-2.

with the existing members, as required under D.C. Official Code § 1-617.09.<sup>6</sup> WASA posted a notice on October 4, 2022.<sup>7</sup>

PERB held a hearing on June 5, 2023.<sup>8</sup> On October 6, 2023, the Hearing Examiner issued a Report and Recommendations (Report), finding that, aside from the role of “Specialist, Compliance Water Quality,” the positions AFGE seeks to add to the bargaining unit are ineligible for inclusion because they are management positions.<sup>9</sup> The Hearing Examiner also determined that AFGE has failed to establish a sufficient community of interest to combine Certification No. 95 and Certification No. 106 over WASA’s objection.<sup>10</sup> Additionally, the Hearing Examiner declined to update the division names included in the certifications.<sup>11</sup> Neither party filed exceptions.

For the reasons stated herein, the Board adopts the Hearing Examiner’s Report and Recommendations.

## **II. Hearing Examiner’s Report and Recommendations**

### **A. Hearing Examiner’s Factual Findings**

On March 14, 1997, the Board issued Certification No. 95, designating AFGE as the exclusive representative of:

All non-professional employees employed by the District of Columbia Water and Sewer Authority, Bureau of Water Measurement and Billing, Meter Measurement and Credit Collection Divisions, and all employees of the Bureau of Water Services Distribution Division; but excluding all management officials, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.<sup>12</sup>

On October 25, 1999, the Board issued Certification No. 106, designating AFGE as the exclusive representative of:

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<sup>6</sup> Response at 1-2.

<sup>7</sup> Board Rule 505.3 states that “the Executive Director must prepare an official notice to be posted by the agency in conspicuous places on employee bulletin boards at work sites of employees in the proposed unit and to be distributed in a manner by which notices are normally distributed. The agency must post the notice no later than seven (7) days after the Board’s service of the notice and keep it posted for fourteen (14) days thereafter.” Here, WASA posted the Notice on October 4, 2022, and distributed it electronically to the bargaining unit employees on October 7, 2022.

<sup>8</sup> The Hearing was initially scheduled for February 14 and 15, 2023. However, the Hearing was postponed several times at the request of the parties.

<sup>9</sup> Report at 21-32.

<sup>10</sup> Report at 32.

<sup>11</sup> Report at 32.

<sup>12</sup> Report at 2 (quoting *AFGE, Local 872 v. WASA*, Certification No. 95 at 2, 46 D.C. Reg. 122, PERB Case No. 96-UM-07 (1999)).

All District Service (DS) and Wage Grade (WG) employees employed by the D.C. Water and Sewer Authority in the Water Quality Division; excluding management officials, supervisors, confidential employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.<sup>13</sup>

Since the Board issued those certifications, WASA has created three additional positions which are relevant to this case: Specialist, Compliance Water Quality; Specialist, Water Quality Instrumentation<sup>14</sup>; and Specialist, Water Quality.<sup>15</sup> Also relevant, WASA has revised the position description for the role of Analyst, Compliance Water Quality.<sup>16</sup> The job descriptions for these four roles define them as professional, Grade 15 positions and state “N/A” in reference to supervisory responsibilities.<sup>17</sup>

The position of “Specialist, Compliance Water Quality” was established in 2005, and was last revised on September 23, 2019.<sup>18</sup> The position description requires “a bachelor’s degree in environmental science, environmental engineering or [a] related field and two years of progressive experience associated with water, wastewater, or cross connection field work, or the equivalent combination of education and experience.”<sup>19</sup> The position description states that the Specialist, Compliance Water Quality is responsible for the “development, implementation, and monitoring of the compliance programs” and for ensuring water, wastewater, and industrial waste systems comply with District statutes and regulations.<sup>20</sup> The description provides that the role involves “developing enforcement codes, monitoring industry trends, and educating stakeholders” as well as “developing, implementing, [and] coordinating technical administrative procedures and budget analysis to support the compliance programs.”<sup>21</sup> The description lists additional responsibilities including “provid[ing] recommendations to the supervisor regarding the development and monitoring the compliance” as well as “representing the authority at public meetings.”<sup>22</sup> WASA currently employs five Specialists, Water Quality.<sup>23</sup>

The position of “Analyst, Compliance Water Quality” was created prior to the issuance of Certification No. 95 and Certification No. 106 and was last revised on September 23, 2019.<sup>24</sup> The position description requires “a bachelor’s degree in business administration or [a] related field, and two years of experience in the services industry or the equivalent combination of education

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<sup>13</sup> Report at 2 (quoting *AFGE, Local 872 v. WASA*, 46 D.C. Reg. 10379, Certification No. 106 at 1, PERB Case No. 99-RC-01 (1999)).

<sup>14</sup> The Hearing Examiner also refers to this position as “Instrumentation Specialist, Water Quality.” Report at 27-29. Context reveals that both terms describe the same position.

<sup>15</sup> Report at 2-16.

<sup>16</sup> Report at 5-6.

<sup>17</sup> Report at 4.

<sup>18</sup> Report at 5.

<sup>19</sup> Report at 5-6.

<sup>20</sup> Report at 5.

<sup>21</sup> Report at 5.

<sup>22</sup> Report at 5.

<sup>23</sup> Report at 21.

<sup>24</sup> Report at 5. WASA did not present further information concerning the history of the “Analyst, Compliance Water Quality” position.

and experience.”<sup>25</sup> The position description states that the responsibilities of the Analyst, Compliance Water Quality include “defin[ing], recommend[ing], and implement[ing] approved records management policies, procedures, and best practices” as well as “communicating with external stakeholders on compliance regulation, policies, and directives.”<sup>26</sup> Additionally, the description provides that the Analyst, Compliance Water Quality “communicates with customers and with other representatives to explain required actions to obtain compliance, schedule cite inspections [*sic*], and obtain reports.”<sup>27</sup> The description also states that duties include “presenting[ing] program and business processes to both internal and external stakeholders.”<sup>28</sup> The Analyst, Compliance Water Quality position was vacant at the time of the Hearing.<sup>29</sup>

The position of “Specialist, Water Quality Instrumentation” was established on March 5, 2021.<sup>30</sup> The position description requires “a bachelor’s degree in chemistry or [a] related field and a minimum of two years [of] progressive experience related to water/wastewater industry involving instrumentation/measurement, or an equivalent combination of education and experience.”<sup>31</sup> The position description states that the Specialist, Water Quality Instrumentation is responsible for “the development of SOPs for maintenance, protocols, and the development of management reports” as well as “the oversight of maintenance contractors.”<sup>32</sup> The description also provides that the Specialist, Water Quality Instrumentation “serves as system control and technical liaison for [WASA] staff, consultants, and contractors” and “train[s] staff to conduct standard routine maintenance.”<sup>33</sup> WASA currently employs one Specialist, Water Quality Instrumentation.<sup>34</sup>

The position of “Specialist, Water Quality” was created in 2004 and last revised on September 23, 2019.<sup>35</sup> The position description requires “a bachelor’s degree in chemistry or a related field and a minimum of two years of progressive experience in review and analysis of water and water quality programs, or the equivalent combination of education and experience.”<sup>36</sup> The position description states that the Specialist, Water Quality “provides technical support to federal agencies, private plumbers, and contractors” and “develops and prepares recommendations for revisions to flushing plans based on new construction.”<sup>37</sup> The description also states that the Specialist, Water Quality “provides recommendations to the manager regarding [the] development and formulation of policies and procedures that impact the water quality program” and, during emergencies, “coordinates responses or actions to mitigate water quality issues.”<sup>38</sup> Additionally, the description provides that the Specialist, Water Quality is responsible for coordinating with

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<sup>25</sup> Report at 5.

<sup>26</sup> Report at 5.

<sup>27</sup> Report at 5.

<sup>28</sup> Report at 5.

<sup>29</sup> See Report at 27.

<sup>30</sup> Report at 4.

<sup>31</sup> Report at 4-5.

<sup>32</sup> Report at 4.

<sup>33</sup> Report at 4.

<sup>34</sup> Report at 21.

<sup>35</sup> Report at 3.

<sup>36</sup> Report at 3.

<sup>37</sup> Report at 4.

<sup>38</sup> Report at 4.

external District agencies on the analysis, sampling and trending of water quality program data.<sup>39</sup> WASA currently employs three Specialists, Water Quality.<sup>40</sup>

## **B. Hearing Examiner's Recommendations**

### **1. Eligibility for Inclusion in the Bargaining Unit**

#### **a. Conditions for Inclusion in a Bargaining Unit**

The Hearing Examiner stated that under Board Rule 505.1(b), a labor organization—either individually or jointly with an agency—may file a petition for modification of a bargaining unit “[t]o add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative.”<sup>41</sup> The Hearing Examiner noted that, pursuant to D.C. Official Code § 1-617.09(b)(1) and (5), a bargaining unit may not include any management officials and may not contain “[b]oth professional and nonprofessional employees, unless a majority of professional employees vote or petition for inclusion in the unit...”<sup>42</sup> Additionally, D.C. Official Code § 1-617.09(a) provides that the employees in a bargaining unit must share a community of interest, “such as skills, working conditions, common supervision, physical location, organization structure, distinctiveness of functions performed, and the existence of integrated work processes.” The Hearing Examiner discussed the distinction between professional and nonprofessional employees; the definition of “management official”; and the criteria for a community of interest.

Regarding professional versus nonprofessional employees, the Hearing Examiner observed that the Federal Labor Relations Authority (FLRA) and the National Labor Relations Board (NLRB) define “professional employee” as one who is engaged in the performance of work which requires advanced knowledge typically acquired through prolonged study in an institution of higher learning; which demands consistent exercise of intellectual and varied discretion and judgment; and which yields results that cannot be standardized in relation to a given timeframe.<sup>43</sup> The Hearing Examiner discussed the NLRB’s holding that “it is the work performed and the ‘consistent exercise of discretion and judgment in its performance,’ rather than the employee’s qualifications, which is controlling in determining whether an individual is a professional employee.”<sup>44</sup> The Hearing Examiner also discussed *AFGE, Local 383 v. DHS, Mental Health Administration, South Community Mental Health Center*, in which the Board found that DHS Mental Health Specialists were required to hold a post-graduate degree and exercise independent

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<sup>39</sup> Report at 4.

<sup>40</sup> Report at 21.

<sup>41</sup> Report at 16.

<sup>42</sup> Report at 16.

<sup>43</sup> Report at 17-18 (citing *United States Dep’t of the Navy Naval Air Station Joint Rsr. Base New Orleans, Louisiana and Nat’l Ass’n of Indep. Lab.*, 67 F.L.R.A. 422, 423 (2014); *A.A. Mathews Assocs and Int’l Union of Operating Engineers, Local 77*, 200 NLRB 250, 251 (1972)).

<sup>44</sup> Report at 19 (quoting *A.A. Mathews Assocs* 200 NLRB at 251).

judgment while interviewing and diagnosing patients and thus, were professional employees ineligible for membership in a nonprofessional bargaining unit.<sup>45</sup>

Concerning the matter of whether an employee is a management official, the Hearing Examiner discussed several U.S. Supreme Court cases which have established the standard the Board uses to evaluate whether an employee is a management official.<sup>46</sup> The Hearing Examiner stated that in *NLRB v. Bell Aerospace Co.*, the Court held that a management official is “one who formulates and effectuates management policies by expressing and making operative the decisions of their employers.”<sup>47</sup> The Court clarified that it is not the job title or description which dictates whether an employee qualifies as a management official.<sup>48</sup> Rather, it is the individual’s “actual job responsibilities, authority and relationship to management” which affect that determination.<sup>49</sup> The Hearing Examiner observed that in *NLRB v. Yeshiva University*, the Court defined “management officials” as employees “who formulate, determine and effectuate an employer’s policies” and those who are “aligned with management.”<sup>50</sup> The Hearing Examiner discussed the Court’s finding that “Although the...[NLRB] has established no firm criteria for determining when an employee is so aligned, normally an employee may be excluded as managerial only if he represents management’s interests by taking or recommending discretionary action that effectively control[s] or implement[s] employer policy.”<sup>51</sup>

The Hearing Examiner reviewed cases in which the Board has used the Court’s criteria for determining whether an employee is a management official. The Hearing Examiner discussed *AFGE, Local 2725 and DHCD*, in which the Board found that Home Purchase Assistance Program Specialists were management officials who were ineligible for union membership because they “operat[ed] with virtual autonomy with respect to analyzing, evaluating, and effectively recommending action to be taken concerning broad agency policy objectives and program goals.”<sup>52</sup> The Hearing Examiner also discussed the Board’s decision in *NAGE, Local R3-06 v. WASA*, which held that Senior Financial Analysts were aligned with management and, thus, were management officials who must be excluded from the bargaining unit.<sup>53</sup>

Regarding the community of interest requirement, the Hearing Examiner discussed the Board’s recent decision in *NAGE, Local R3-06 v. DFS*, which established the standard for determining whether there is a community of interest.<sup>54</sup> In *NAGE, Local R3-06*, the Board granted a joint request for combination of two units because the “[e]mployees in the proposed new unit [we]re subject to the same organization structure, working conditions, pay schedule, and senior

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<sup>45</sup> Report at 16-17 (citing *AFGE, Local 383 v. DHS, Mental Health Administration, South Community Mental Health Center*, 32 D.C. Reg. 1563, Slip Op. No. 101, PERB Case No. 85-U-02 (1985)).

<sup>46</sup> Report at 19-20.

<sup>47</sup> Report at 19-20 (quoting *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 288 (1974)).

<sup>48</sup> Report at 20 (citing *NLRB*, 416 U.S. at 290, n 19).

<sup>49</sup> Report at 20 (quoting *NLRB*, 416 U.S. at 290, n 19).

<sup>50</sup> Report at 20 (quoting *NLRB v. Yeshiva University*, 444 U.S. 672, 682 (1979)).

<sup>51</sup> Report at 20 (quoting *NLRB*, 444 U.S. at 683).

<sup>52</sup> Report at 19 (quoting *AFGE, Local 2725 and DHCD*, 45 D.C. Reg. 2049, Slip Op. No. 532 at 4, PERB Case No. 97-UC-01 (1998)).

<sup>53</sup> See Report at 19-20 (quoting *NAGE, Local R3-06 v. WASA*, 47 D.C. Reg. 7551, Slip Op. No. 635 at 10, PERB Case No. 99-U-04 (2000)).

<sup>54</sup> Report at 20 (citing *NAGE, Local R3-06 v. DFS*, 68 D.C. Reg. 43, Slip Op. No. 1794, PERB Case No. 21-UM-01(2021)).

management” and, as such, “share[d] a community of interest.”<sup>55</sup> In that case, the Board found that the requested consolidation would promote “effective labor relations, as the unit w[ould] communicate with one Agency and chain of command in negotiating working conditions and resolving labor disputes.”<sup>56</sup>

#### **b. Eligibility of the Positions at Issue**

The Hearing Examiner addressed the four positions presently in dispute, reviewing position descriptions and evaluating testimony from employees in those positions, as well as testimony from their supervisors.<sup>57</sup>

The Hearing Examiner determined that Specialists, Compliance Water Quality are nonprofessional employees, eligible for inclusion in the bargaining unit.<sup>58</sup> The Hearing Examiner found that employees in the position of “Specialist, Compliance Water Quality” perform repetitive inspections in specific areas to ensure compliance with District statutes and regulations.<sup>59</sup> The Hearing Examiner also determined that Specialists, Compliance Water Quality use manager-approved templates to record the results of those inspections and draft compliance letters, which are subsequently reviewed by a supervisor.<sup>60</sup> The Hearing Examiner found that many tasks performed by Specialists, Compliance Water Quality are routine and consistent from day-to-day.<sup>61</sup> The Hearing Examiner determined that while some Specialists, Compliance Water Quality have authority to recommend changes to the D.C. Plumbing Code or regulations, they must obtain approval from their supervisors before implementing those changes.<sup>62</sup> The Hearing Examiner also found that while Specialists, Compliance Water Quality are occasionally responsible for drafting WASA’s SOPs, those SOPs must be approved by supervisors.<sup>63</sup> Additionally, the Hearing Examiner determined that, although the position description requires a “a bachelor’s degree in environmental science, environmental engineering or [a] related field,” at least one Specialist, Compliance Water Quality does not hold a degree in those fields, and at least one other Specialist, Compliance Water Quality does not hold any college degree.<sup>64</sup> Based on these findings, the Hearing Examiner determined that Specialists, Compliance Water Quality are nonprofessional employees.<sup>65</sup>

The Hearing Examiner also found that Specialists, Compliance Water Quality are not management officials because “they do not formulate and effectuate management policies by expressing and making operative the decisions of their employer, they are not aligned with

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<sup>55</sup> Report at 20 (quoting *NAGE, Local R3-06*, Slip Op. No. 1794 at 2).

<sup>56</sup> Report at 20 (quoting *NAGE, Local R3-06*, Slip Op. No. 1794 at 3).

<sup>57</sup> Report at 2-16, 21-31.

<sup>58</sup> Report at 25.

<sup>59</sup> Report at 25.

<sup>60</sup> Report at 25.

<sup>61</sup> See Report at 21-26.

<sup>62</sup> Report at 22-24.

<sup>63</sup> See Report at 24.

<sup>64</sup> Report at 5-6, 23, 25.

<sup>65</sup> Report at 25.

management, and the record fails to establish [that they] effectively recommend policy decisions to management as a significant part of their job.”<sup>66</sup>

The Hearing Examiner further found that Specialists, Compliance Water Quality “share a sufficient community of interest with the bargaining unit employees in [Certification No. 106] to be included in the bargaining unit.”<sup>67</sup> The Hearing Examiner determined that although Specialists, Compliance Water Quality are paid at non-Union Grade 15, that rate was unilaterally determined by WASA and is equivalent to Union Grade DS 11.<sup>68</sup> Additionally, the Hearing Examiner found that Specialists, Compliance Water Quality share a management stream with the employees already covered under Certification No. 106.<sup>69</sup>

The Hearing Examiner held that an employee in the role of Analyst, Compliance Water Quality is a management official. The Hearing Examiner determined that, when there is an employee in the role of “Analyst, Compliance Water Quality,”<sup>70</sup> that employee does not receive daily work assignments.<sup>71</sup> The Hearing Examiner found that the position has a broad range of responsibilities including writing or reviewing SOPs; reviewing data to determine inspection sites and produce performance metrics; designing WASA’s web compliance portal; and interacting with other District agencies and organizations, as well as the public.<sup>72</sup> Based on these findings, the Hearing Examiner determined that “Analyst, Compliance Water Quality” is a professional position.<sup>73</sup> The Hearing Examiner also determined that the Analyst, Compliance Water Quality formulates and effectuates management policies and communicates those policies to external stakeholders, meaning the position is closely aligned with management.<sup>74</sup> Thus, the Hearing Examiner found that an employee in the position of Analyst, Compliance Water Quality is a management official and is ineligible for membership in the bargaining unit.<sup>75</sup>

The Hearing Examiner held that an employee in the role of Specialist, Water Quality Instrumentation is a management official. The Hearing Examiner found that the employee in the position of “Specialist, Water Quality Instrumentation” has specialized knowledge of WASA’s water quality instruments and is responsible for overseeing the water quality panels, as well as WASA’s maintenance contract.<sup>76</sup> The Hearing Examiner found that the Specialist, Water Quality Instrumentation acts as the liaison between WASA and its maintenance contractor, monitoring the contractor’s use of the water panels, their use and replacement of employees, the number of site visits they perform, and their installation of uniform equipment.<sup>77</sup> Additionally, the Hearing Examiner determined that the Specialist, Water Quality Instrumentation “effectively recommends

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<sup>66</sup> Report at 26.

<sup>67</sup> Report at 26.

<sup>68</sup> See Report at 26.

<sup>69</sup> See Report at 26 (citing *NAGE, Local R3-06*, Slip Op. No. 1794 at 3).

<sup>70</sup> Although the position of Analyst, Compliance Water Quality is currently vacant, the Hearing Examiner relied on testimony from the individual who supervised the previous Analyst, Compliance Water Quality to determine that the position description accurately represents the responsibilities of the role. Report at 27.

<sup>71</sup> Report at 27.

<sup>72</sup> Report at 27.

<sup>73</sup> Report at 27.

<sup>74</sup> Report at 27.

<sup>75</sup> Report at 27.

<sup>76</sup> Report at 27-29.

<sup>77</sup> Report at 28-29.



policy decisions to management.”<sup>78</sup> The Hearing Examiner found that the Specialist, Water Quality Instrumentation is closely aligned with management, and thus, is a management official who is ineligible for membership in the bargaining unit.<sup>79</sup>

The Hearing Examiner held that an employee in the role of Specialist, Water Quality is a management official.<sup>80</sup> The Hearing Examiner found that employees in the role of “Specialist, Water Quality” are responsible for water quality analysis, analytical and wet chemistry, and “communicating water quality information to outside agencies, as well as internal departments within [WASA].”<sup>81</sup> The Hearing Examiner determined that these employees perform a broad range of tasks including field work; customer communication; research; coordination of technical and administrative procedures; and providing technical support to federal agencies, private plumbers, and contractors.<sup>82</sup> The Hearing Examiner found that Specialists, Water Quality possess “independent authority to formulate responses in dealing with the public, Union represented employees, and external agencies.”<sup>83</sup> Thus, the Hearing Examiner determined that Specialists, Water Quality are management officials who are ineligible for bargaining unit membership.<sup>84</sup>

## **2. Appropriateness of Certification Consolidation**

The Hearing Examiner established that pursuant to Board Rule 505.1(d), a labor organization—either individually or jointly with an agency—may file a petition for modification of a bargaining unit “[t]o consolidate two...or more bargaining units within an agency that are represented by the same labor organization.”<sup>85</sup> The Hearing Examiner determined that Certification No. 95 and Certification No. 106 are not suitable for consolidation because they are in disparate management streams and lack “a sufficient community of interest in terms of contact and job functions to combine the units over [WASA’s] objection.”<sup>86</sup>

## **3. Appropriateness of Updating Division Names**

The Hearing Examiner requested that the parties’ post-hearing briefs include any updated division names they wanted to appear in the certifications.<sup>87</sup> The parties submitted division names, but the Hearing Examiner found that those names were inconsistent with the factual findings in the Report.<sup>88</sup> Accordingly, the Hearing Examiner declined to change the division names in the certifications.<sup>89</sup> However, the Hearing Examiner noted that AFGE “should have sufficient information on th[e] record if it cares to pursue this matter” in a future appeal.<sup>90</sup>

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<sup>78</sup> Report at 29.

<sup>79</sup> See Report at 29.

<sup>80</sup> Report at 31.

<sup>81</sup> Report at 29.

<sup>82</sup> Report at 29.

<sup>83</sup> Report at 31.

<sup>84</sup> See Report at 31.

<sup>85</sup> Report at 16.

<sup>86</sup> Report at 32.

<sup>87</sup> Report at 32.

<sup>88</sup> Report at 32.

<sup>89</sup> See Report at 32.

<sup>90</sup> Report at 32.

### **III. Discussion**

Upon reviewing the record and applicable case law, the Board finds that the Hearing Examiner's recommendations are reasonable, supported by the record, and consistent with Board precedent. Neither party filed exceptions.

For these reasons, the Board adopts the recommendations. Accordingly, Certification No. 106 shall be modified to include WASA employees in the position of "Specialist, Compliance Water Quality." The remainder of the Petition is denied.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. Certification No. 106 is modified to include WASA employees in the position of "Specialist, Compliance Water Quality," as set forth in Certification No. 173.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

#### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By vote of Board Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons, and Peter Winkler.

November 29, 2023

**Washington, D.C.**