

In accordance with Board Rule 504.3, Notices concerning the Petition were posted. The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DPW, filed comments to the Petition. No objections or other comments to the Petition were received by the Board.^{1/} A request to intervene filed by the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2091, was subsequently withdrawn. No other requests to intervene were filed.

Pursuant to Board Rule 504.1(a) and (d), respectively, the Petitioner seeks to (1) reflect a change in the identity of the employing agency and (2) consolidate the bargaining units it represents within WASA. (Petition at 1.) The consolidated unit will consist of approximately 250 employees.

Petitioner and OLRCB concur that as a result of a reorganization of DPW in 1996, the Water and Sewer Authority (WASA) was established as a separate entity distinct from DPW.^{2/} The bargaining units set forth in the AFGE Certifications listed above continued to exist under WASA. Petitioner requests that the consolidated unit description be amended to reflect this change in the identity of the employing agency. OLRCB states it has no objection to the consolidation or amendment of the employing agency's identity sought by AFGE.

In view of the fact that pursuant to D.C. Code § 1-618.9(c), we find the units, as consolidated, to share a sufficient community of interest, the Petition meets the objectives of Board Rule 504.1(a) and (d) and no objection has been made by OLRCB, we find that no question concerning representation exists that would

^{1/} OLRCB no longer represents WASA. As a result, on October 25, 1996, counsel for WASA filed a "Motion For Extension of Time In Which To File Comment", in this matter. Board Rule 501.2 requires that a request for an extension of time should be made at least three days in advance. Exceptions to this requirement may be granted for good cause. We find the reasons provided by WASA do not support making an exception to this requirement.

As a result, the motion is untimely and is therefore denied. However, the agency is not prohibited from filing its own "Petition for Unit Modification, which it has already done.

^{2/} See, D.C. Act 1-111, "Water and Sewer Authority Establishment Act and Department of Public Works Reorganization Act of 1996".

render inappropriate the proposed modification.^{3/}

To conform with the requirements of D.C. Code Sec. 1-618.9(b)(5), concerning the inclusion of professional employees and non-professional employees in the same unit, and consistent with Board Rule 510.5, an election shall be held among eligible professional employees set forth in the unit description contained in Certification No. 70.^{4/} These employees will be provided an opportunity to indicate their choice as to whether they wish to be included in the consolidated unit with non-professional employees. All other professional employees in these existing units have been previously provided this opportunity and have elected to be in their existing consolidated

^{3/} D.C. Code § 1-618.9(c) provides:

Two or more units for which the labor organization holds exclusive recognition within an agency may be consolidated into a single larger unit if the Board determines the larger unit to be appropriate. The Board shall certify the labor organization as the exclusive representative in the new unit when the unit is found appropriate.

Board Rules 504.1(a) and (d) provides for the modification of existing bargaining units under the following conditions:

(a) To reflect a change in the identity or statutory authority of the employing agency;

(d) To consolidate two (2) or more bargaining units within an agency that are represented by the same labor organization.

^{4/} D.C. Code § 1-618.9(b)(5) provides: "[a] unit shall not be established if it includes the following: ... Both professional and nonprofessional employees, unless a majority of the professional employees vote or petition for inclusion in the unit". A petition supported by a majority of the employees in the bargaining unit described in Certification No. 70 may be submitted to the Board in lieu of an election. The petition to consolidate the professional employees in Certification No. 70 with nonprofessional employees in the other established units must meet the requirements of Board Rule 502.2(d).

unit of professional and nonprofessional employees.

We conclude for the foregoing reasons that the requested modification to the existing unit is appropriate. Accordingly, we grant the Petition for modification of the non-compensation unit described below in the Order.

ORDER

IT IS HEREBY ORDERED THAT:

1. The non-compensation unit for which the American Federation of Government Employees, Local 631, AFL-CIO (AFGE) is certified as the exclusive representative in BLR Case No. 5R006, PERB Case No. 93-R-02, Certification No. 70; PERB Case No. 95-RC-11, Certification No. 83; PERB Case No. 95-RC-12, Certification No. 84; and PERB Case No. 94-R-07, Certification No. 88, are modified to one collective bargaining unit. Nothing in this Order is to be construed as altering the scope of the bargaining unit except in the manner discussed in this Decision.

Unit Description:

All professional and nonprofessional employees of the District of Columbia Water and Sewer Authority, Office of Engineering Services and Bureau of Wastewater Treatment, Laboratory Division; and all nonprofessional and professional employees in the Bureau of Wastewater Treatment, Solid Processing Division and Wastewater Division; and the Office of Administrative Services, Water Conservation Division and the Procurement and Facilities Division, Good and Services Branch; 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.

2. Furthermore, an election shall be held in accordance with the provisions of D.C. Code Sec. 1-618.10 and Sections 510-515 of the Rules of the Board to determine whether or not eligible professional employees who are members of the bargaining unit set forth in Certification No. 70 wish to be included in the consolidated unit with the non-professional employees.

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3. Certification(s) of representative will be issued following the certification of the results of the election set forth in paragraph 2.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

November 5, 1996