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

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In the Matter of: )

District of Columbia Office of Unified )  
Communications, )

Agency, )

and )

National Association of Government )  
Employees/SEIU, AFL-CIO, )

and. )

Communication Workers of )  
America, Local 2336, )

Labor Organizations. )  
\_\_\_\_\_ )

PERB Case No. 05-UM-01

Opinion No. 786

**DECISION AND ORDER ON UNIT MODIFICATION,  
COMPENSATION UNIT DETERMINATION  
AND DIRECTION OF ELECTION**<sup>1</sup>

**I. Statement of the Case:**

On December 3, 2004, the District of Columbia Office of Labor Relations and Collective Bargaining ("OLRCB"), pursuant to section 504 of the Rules of the Public Employee Relations Board ("Board"), filed a Petition for Unit Modification ("Petition"), on behalf of the District of Columbia Office of Unified Communications. In addition, on April 12, 2005 OLRCB filed an Amended Unit Modification Petition. OLRCB is seeking to change the identity of the employing agency of two collective bargaining units which currently consist of employees previously employed by the District of Columbia Metropolitan Police Department ("MPD") and the District of Columbia Fire and Emergency Medical Services Department ("FEMS") due to the transfer of these employees to the new Office of Unified Communications. OLRCB is also seeking to consolidate the two units into one.

Notices were posted and comments were received from the two labor organizations which currently represent the transferred employees. The Petition is before the Board for disposition.

<sup>1</sup>Board Member Walter Kamiat recused himself from this case. As a result, he did not participate when the Board considered this matter.

## II. Discussion:

The Office of Unified Communications Establishment Act of 2004 ("Act"), D.C. Law 15-205 as codified under D.C. Code § 1-327.51 et seq.,<sup>2</sup> created the District of Columbia Office of Unified Communications ("OUC"). OUC "is a subordinate agency under the Mayor in the executive branch of the government of the District of Columbia. . . . [The purpose of the OUC is to] centralize the customer service functions and activities of the District government's 911, 311, and 727-1000 systems, and other facilities for emergency, non-emergency, and citizen service calls, and be responsible for the operation and maintenance of the District government's radio technology and call center technology." D.C. Code § 1-327.52.

The Act requires that "[a]ll of the authority, responsibilities, duties, and functions of the agencies' call centers and radio technology shall be transferred from the agencies to the Office of Unified Communications within such reasonable period of time as the Mayor may designate.<sup>3</sup> The transfer shall include all 911, 311 and 727-1000 call center authority, responsibilities, duties functions, and infrastructure." D.C. Code § 1-327.53. Consistent with the language in D.C. Code § 1-327.53, all call center operators are to be transferred from MPD, FEMS and the Customer Service Operations Unit to the newly created OUC.<sup>4</sup> However, OLRCB claims that the non-emergency operators assigned to the Customer Service Operations Unit have not been integrated into OUC's Operations. (See Amended Petition at p. 4, n. 2.) As a result, in their Amended Unit Modification Petition, OLRCB claims that it is not seeking to merge the operators at the Customer Service Operations Unit with the emergency operators from MPD and FEMS because they do not share a community of interest. (See OUC's Attachment 1). In light of the above, OLRCB contends that they are seeking the modification "[t]o reflect a change in the identity or statutory authority of the employing agency, as required by PERB Rule 504.1(a)." (Amended Petition at p. 2) OLRCB claims that the modification "is made necessary by the transfer of employment positions formerly under the authority of the [District of

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<sup>2</sup> D.C. Law 15-205, the "Fiscal Year 2005 Budget Support Act of 2004", was introduced in the Council of the District of Columbia and assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

<sup>3</sup> The Act provides that "[a]gencies means the Metropolitan Police Department, the Fire and Emergency Medical Services Department, and the Customer Service Operations Unit." D.C. Code § 1-327.51 (a).

<sup>4</sup> The Customer Service Operations Unit is also commonly referred to as the Mayor's City Wide Call Center.

Columbia] Metropolitan Police Department (MPD) and the [District of Columbia] Fire and Emergency Medical Services Department (FEMS) to the new Office of Unified Communications." (Petition at p. 1.).

The employees who were previously employed by MPD and transferred to OUC, are currently in a non-compensation bargaining unit for which the National Association of Government Employees/International Brotherhood of Police Officers (NAGE) has been certified as the exclusive bargaining representative. This bargaining unit is described as follows:

All non-professional employees of the Metropolitan Police Department excluding wage grade employees of the Property Division and the Fleet Management Division, management executives, confidential employees, supervisors or any employees engaged in personnel work in other than in a purely clerical capacity.

BLR Case No. 0R002 (December 14, 1979).

The employees who were previously employed by FEMS and transferred to OUC, are currently in a non-compensation bargaining unit for which the Communications Workers of America, Local 2336 (CWA) has been certified as the exclusive bargaining representative. The bargaining unit description for this group of employees is as follows:

All civilian employees of the Fire Department's Communications Division, excluding management executives, confidential employees, supervisors or any employees engaged in personnel work other than in a purely clerical capacity.

BLR Case No. 7R011 (October 28, 1977).

OLRCB claims that the above-referenced unit descriptions no longer apply to the employees transferred from MPD and FEMS to OUC. (Amended Petition at p. 4) As a result, OLRCB is requesting that pursuant to Board Rule 504.1(a), these two units be merged and modified in order to reflect the change in the identity of the employing agency.

In their Petition and Amended Petition, OLRCB is requesting that the above-referenced units be consolidated into the following proposed unit:

All telephone operators, dispatchers, trainers, radio shop employees, communications technicians and clerical staff

of the Office of Unified Communications excluding managers, supervisors, confidential employees, 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.

(See Petition at p. 3 and Amended Petition at pgs. 4-5)

OLRCB claims that the proposed consolidated unit will contain approximately 325 positions and the employees in the consolidated unit would be under the personnel authority of the Mayor. In addition, OLRCB asserts that the proposed consolidated unit "is appropriate because the indicated employees share a demonstrable community of interest as required by PERB rules." (Amended Petition at p. 5). Also, OLRCB is requesting that the employees in the proposed consolidated unit be included in Compensation Unit 1. (See Amended Petition at p. 5).

OLRCB indicates that the employees in the proposed consolidated unit are currently represented by NAGE and CWA. As a result, OLRCB is requesting that the Board direct an election in order to allow employees in the proposed consolidated unit to select an exclusive bargaining representative. (See Petition at p. 4 and Amended Petition at p. 5).

Consistent with Board Rule 504.3, the Board's Executive Director prepared Notices concerning the Petition. These Notices were forwarded to the agency and were posted at the job sites. Both NAGE and CWA submitted comments regarding the Petition. CWA did not object to the Petition. However, NAGE objected to the Petition by asserting that the agency had failed to demonstrate that the consolidated unit is an appropriate unit. (See NAGE's Comments at p. 3). As a result, a hearing was scheduled to address the issue raised by NAGE. Subsequently, NAGE withdrew their objection. Therefore, the hearing was cancelled. Both unions are requesting that the Board order an election.

After reviewing the Petition, the Board's Executive Director contacted OLRCB and requested clarification regarding their Petition. Specifically, the Executive Director requested information concerning, among other things, the transfer of employees from the Customer Service Operations Unit to OUC. In order to address the Executive Director's concerns, on April 12, 2005 OLRCB filed an Amended Petition for Unit Modification.<sup>5</sup> In their Amended Petition, OLRCB indicated that the employees assigned to the Customer Service Operations Unit were not being transferred to OUC. As

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<sup>5</sup> The Amended Petition did not contain any new information concerning the proposed consolidated unit. Instead, it clarified why the proposed unit did not include employees from the Customer Service Operations Unit. As a result, it was not necessary to post new Notices.

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a result, OLRCB is not requesting that these employees be placed in the proposed consolidated unit. The Board's Executive Director contacted both labor organizations and solicited comments regarding OUC's Amended Petition. NAGE objected to the unit description noted in the Amended Petition. However, NAGE withdrew their objection. In light of the above, the issue before the Board is whether to grant OUC's Petition.

An appropriate unit under the Comprehensive Merit Personnel Act is a unit that: (1) possesses a 'community of interest' among the employees and (2) promotes effective labor relations and efficiency of agency operations. The Board has held that under D.C. Code § 1-617.09(a), "petitioning parties need only propose an appropriate unit, not necessarily the most appropriate unit, in order to meet the Comprehensive Merit Personnel Act's requirement for appropriate unit." Health and Hospital Public Benefit Corporation and All Unions Representing Units in Compensation Units 12, 20, 21, 22, 23 and 24 and employees employed by the Health and Hospital Public Benefit Corporation, 45 DCR 6743, Slip Op. No. 559 at p. 7, PERB Case Nos. 97-UM-05 and 97-CU-02 (1998). Also see, AFSCME, D.C. Council 20, AFL-CIO, and DHS, CMHS, 38 DCR 5039, Slip Op. No. 278, PERB Case No. 90-R-01 (1991). In the present case, the employees in the proposed consolidated unit were transferred from two different agencies; however, they share common working conditions, organizational structure, pay schedule and supervision. The Board has held that common overall supervision is probative of community of interest and some dissimilarity among positions need not preclude a finding of appropriateness where under the total circumstances, a general community of interest prevails. See, District Council 20, American Federation of State, County and Municipal Employeesocal and District of Columbia School of Law, 36 DCR 8203, Slip Op. No. 235, PERB Case No. 89-RC-03 (1989). After reviewing the pleadings, we conclude that sufficient factors exist for the Board to find that the employees in the proposed consolidated unit share a community of interest. Also, there is no collective bargaining agreement in effect covering the proposed consolidated unit. In view of the above, we find that the proposed consolidated unit would promote effective labor relations and the efficiency of agency operations.

Regarding the question of representation, we believe that the proposed consolidated unit is an appropriate unit for a representation election. The election will determine who will represent employees in a combined unit formed by the consolidation of two existing units that are currently represented by two different labor organizations. The establishment of this new consolidated unit from two represented bargaining units of employees, does not give rise to a question concerning whether OUC employees want to be represented or not; but, rather whether they desire to be represented by either CWA or NAGE. Therefore, consistent with D.C. Code § 1-617.10 and Board Rules 510-515, we are directing a mail ballot election in order to determine whether or not all eligible employees in the proposed consolidated unit desire to be represented by either NAGE or CWA.

The employees in the two existing bargaining units are currently in Compensation Unit 1. As a result, OLRCB is requesting that the proposed consolidated unit be placed in Compensation Unit 1. The standard under D.C. Code § 1-617.16 (2001 ed.) for determining the appropriate compensation unit expresses a strong preference for "broad units of occupational groups". Specifically, D.C. Code

§1-617.16 (b) (2001 ed.) provides as follows:

In determining an appropriate bargaining unit for negotiations concerning compensation, **the Board shall authorize broad units of occupational groups so as to minimize the number of different pay systems or schemes.** The Board may authorize bargaining by multiple employers or employee groups as may be appropriate. (Emphasis added.)

In the present case, the two existing units are currently in Compensation Unit 1. Furthermore, OLRCB's request concerning the placement of the consolidated unit into Compensation Unit 1, reflects a: (1) change in the name of the personnel authority from MPD and FEMS to OUC and (2) consolidation of the two existing units into one. In addition, the number of compensation units would remain the same because OLRCB is not requesting that the consolidated unit be placed in a new compensation unit; but, rather that the existing compensation unit be modified to reflect a change in the personnel authority from MPD and FEMS to OUC. Consistent with D.C. Code §1-617.16 (b) (2001 ed.), we find that it is appropriate to place the proposed consolidated unit into Compensation Unit 1. Therefore, we grant OUC's Petition requesting that the proposed consolidated unit be placed in Compensation Unit 1.

### ORDER

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

1. The District of Columbia Office of Unified Communications' Petition for Unit Modification of A Compensation and Non-Compensation Unit, is granted.
2. The employees previously employed by the Metropolitan Police Department and the Fire and Emergency Medical Services Department who were transferred to the District of Columbia Office of Unified Communications are consolidated into the following unit.

All telephone operators, dispatchers, trainers, radio shop employees, communications technicians and clerical staff of the Office of Unified Communications excluding managers, supervisors, confidential employees, 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.

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3. A mail ballot election will be held to determine whether eligible employees in the District of Columbia Office of Unified Communications *desire to be represented by either the National Association of Government Employees/SEIU or the Communication Workers of America, Local 2336.*
4. Compensation Unit 1 is modified to reflect a change in the identity of the statutory authority of the employing agency of the consolidated unit established under paragraph 2 of this Decision and Order, from the District of Columbia Metropolitan Police Department and the District of Columbia Fire and Emergency Medical Services Department to the District of Columbia Office of Unified Communications. Therefore, the consolidated unit established under paragraph 2 of this Decision and Order, is placed in Compensation Unit 1.
5. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

May 3, 2005

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 05-UM-01 was transmitted via Fax and U.S. Mail to the following parties on this the 3<sup>rd</sup> day of May 2005.

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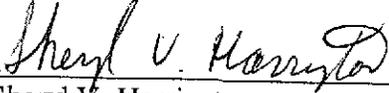
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