

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

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

In the Matter of:)	
)	
American Federation of State,)	
County, and Municipal,)	
Employees, Local 2401)	PERB Case No. 17-UC-02
Petitioner,)	
)	Opinion No. 1607
v.)	
)	
Public Service Commission)	
Of the District of Columbia)	
)	
Respondent,)	
and)	
)	
American Federation of State,)	
County and Municipal Employees,)	
District Council 20, AFL-CIO,)	
)	
Intervenor.)	

DECISION AND ORDER

I. Statement of the Case

On December 02, 2016, American Federation of State, County, and Municipal Employees, Local 2401 (“Petitioner” or “Local 2401”) filed a unit clarification petition (“Petition”). On December 20, 2016, Public Service Commission of the District of Columbia (“Respondent” or “Agency”) filed a Motion to Dismiss Petitioner’s Request for Unit Clarification. On January 3, 2017, American Federation of State, County, and Municipal Employees, District Council 20 (“District Council 20”) filed a Motion to Intervene and a Motion to Dismiss.

For the reasons stated below, the motion to intervene and the motions to dismiss are both granted.

II. Discussion

Petitioner filed this request for clarification of the bargaining unit currently described as follows:

All professional and non-professional employees employed by the District of Columbia Public Service Commission, excluding all management officials, supervisors, confidential employees, employees who are covered by another union's certification, employees engaged in personnel work other than in a purely clerical capacity and employees engaged in administering the provisions of Title 1, Chapter 6, subchapter XVII of the D.C. Official Code.¹

The Agency and District Council 20 have filed motions to dismiss this petition. Both of these parties argue that Local 2401 lacks standing because it is not the exclusive representative of the unit.² The Agency and District Council 20 state that the Board recognized District Council 20 as the exclusive representative of the unit and Local 2401 was not a party to the certification.³ According to District Council 20, Local 2401 seeks to assert itself as the exclusive representative of the unit, which is already represented by District Council 20, and therefore its intervention is necessary to protect its legal rights and those of its members.

Petitioner filed a motion for leave to oppose pending motions to dismiss and an opposition to Respondent's and District Council 20's motion to dismiss. On March 17, 2016, the Board ruled on a Joint Petition for Compensation Unit Determination which was filed by the Petitioner and the Agency.⁴ Petitioner argues that its inclusion in this prior ruling by the Board establishes that the Petitioner has the proper standing to request a unit clarification.⁵

PERB Rule 506.1 states that a request for clarification of an existing unit may be filed by either "the agency or by the labor organization which is party to the certification." PERB Rule 503.1 states that a petition for compensation unit determination may be filed by "an agency, a labor organization, or a group of labor organizations." Unlike a unit clarification petition, a petition for compensation unit determination does not require the filing party to be a party to the certification. On December 20, 2013, District Council 20 filed a petition for recognition with the Board to represent a unit of professional and non-professional employees of the District of Columbia Public Service Commission.⁶ On June 4, 2014, the Board certified District Council 20 as the exclusive collective bargaining representative for the unit.⁷ Petitioner is now seeking a

¹ Petition at 2.

² Both parties also argue that Local 2401 has failed to meet the filing requirements of PERB Rule 506. The Board will not address whether or not Local 2401 has met the requirements of PERB Rule 506 because the petition will be decided on other grounds.

³ *AFGE, District Council 20, AFL-CIO and District of Columbia Public Service Commission*, 61 DC Reg. 7580, Op. No. 1474, PERB Case No. 14-RC-01 (2014).

⁴ Petitioner's Opposition to Respondent's and District Council 20's Motions to Dismiss at 2.

⁵ *Id.*

⁶ *AFGE, District Council 20, AFL-CIO and District of Columbia Public Service Commission*, 61 DC Reg. 7580, Op. No. 1474, PERB Case No. 14-RC-01 (2014).

⁷ *Id.* at 3.

unit clarification on behalf of the same unit. Based on the Board's previous certification of the unit in question, Petitioner is neither the agency nor a party to the certification and therefore does not have standing to file a petition for unit clarification.

III. Conclusion

Because the Board has previously recognized District Council 20 as the exclusive representative in PERB Opinion No. 1474, the Board finds that District Council 20 is a necessary party and its motion to intervene is granted. The Board also grants Petitioner's motion for leave. The Board further finds that the Petitioner has not met the requirement of PERB Rule 506.1 because it is neither the Agency nor a party to the certification. Therefore, the Respondent's and Intervenor's motions to dismiss are granted.

ORDER

IT IS HEREBY ORDERED THAT:

1. District Council 20's motion to intervene is granted.
2. Petitioner's motion for leave is granted
3. The Respondent's and Intervenor's motions to dismiss are granted. The Petition is dismissed with prejudice.
4. Pursuant to Board Rule 559. 1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, and Members Ann Hoffman, Barbara Somson and Douglas Warshof.

January 12, 2016

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 17-UC-02, Op. No. 1607 was sent by File and ServeXpress to the following parties on this the 17th day of January, 2017.

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PERB