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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:

National Association of  
Government Employees,  
Service Employees International  
Union, AFL-CIO,

Petitioner,

and

Department of Public Works,  
Water and Sewer Utility  
Administration, Office of the  
Comptroller,

Agency.

PERB Case No. 94-R-02  
Opinion No. 399

**DECISION ON UNIT DETERMINATION  
AND DIRECTION OF ELECTION**

On November 9, 1993, the National Association of Government Employees, Service Employees International Union, AFL-CIO (NAGE) filed a Representation Petition with the Public Employee Relations Board (Board). NAGE seeks to represent, for purposes of collective bargaining, non-supervisory employees of the Department of Public Works, Water and Sewer Utility Administration, Office of Utility Comptroller (DPW). The Petition was accompanied by a showing of interest meeting the requirements of Board Rule 502.2, a Roster of Petitioner's Officers and a copy of Petitioner's Constitution and Bylaws, as required by Rule 501.1(d).

Notices concerning the Petition were issued on January 12, 1994, for conspicuous posting at DPW for 15 consecutive days. There were no requests to intervene in response to the Notice, which the Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DPW, confirmed had been posted as required.

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This matter was heard by a Board-designated Hearing Examiner on May 2, 1994. In a Report and Recommendation (R&R) dated July 6, 1994, a copy of which is appended hereto, the Hearing Examiner thoroughly reviewed the record evidence, the parties' stipulations and contentions and the applicable authority under the Comprehensive Merit Personnel Act (CMPA), D.C. Code Sec. 1-618.9. After completing his assessment of the record evidence, the Hearing Examiner recommended that the following unit be found appropriate:

"All employees of the Department of Public Works, Water and Sewer Utility Administration, Office of the Utility Comptroller, including account technician, operating accountant, operating technician, utility finance specialist, budget analyst DS-560 Grade 11, budget analyst DS-560 Grade 12, clerical assistant DS-0303 Grade 5, clerk DS-0303, and clerk DS-0304 ; 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."

The parties disagreed over the inclusion of three employee classifications sought by NAGE ---budget analyst DS-560, Grade 12; clerical assistant DS-0303, Grade 5; and utility program technician, DS-0303, Grade 8. OLRCB argued that these classifications should be excluded from the proposed unit as confidential.<sup>1/</sup> The Hearing Examiner concluded that the record supported a finding that only the classification of utility program technician, DS-0303, Grade 8, is confidential and, therefore, was not appropriately included in the proposed unit. The Hearing Examiner recommended that the appropriate unit include the classifications of budget analyst DS-560 Grade 12 and clerical assistant DS-0303 Grade 5; and exclude the position classification of utility program technician, DS-0303, Grade 8, in proposed unit.

Neither party filed exceptions to the Hearing Examiner's Report and Recommendation. After reviewing the record, the parties' stipulations, and the Hearing Examiner's independent

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<sup>1/</sup> The parties stipulated that a fourth classification, staff assistant, DS-0301, Grade 11, should be excluded from the proposed unit as a confidential employee. (Tr. at 38.)

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assessment of the evidence, the Board finds the Hearing Examiner's findings and conclusions, as set forth in his Report, to be rational and persuasive. Accordingly, the Board adopts the Hearing Examiner's findings and recommendation that the above-described unit is appropriate for bargaining over terms and conditions of employment. <sup>2/</sup>

Regarding the question concerning representation, the Board orders that an election be held to determine the will of the eligible employees in the unit described above regarding their desire to be represented by NAGE for purposes of collective bargaining with DPW on compensation and other terms and conditions of employment.

ORDER

**IT IS HEREBY ORDERED THAT:**

1. The following unit is an appropriate unit for collective

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<sup>2/</sup> D.C. Code Sec. 1-618.9(a) requires an that a community of interest exist among employees for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations. No explicit finding to this effect was made by the Hearing Examiner in his Report and Recommendation.

Our review of OLRCB's brief to the Hearing Examiner, however, reveals the following concerning the proposed unit. The Water and Sewer Utility Administration (WASUA) is one of the major components of the Department of Public Works. WASUA is divided into several bureaus which includes the Office of the Utility Comptroller. The proposed unit, consisting of the employees in this division, is responsible for providing all financial support for WASUA, including cost accounting, financial reporting, budget preparation and billing.

Employees in the proposed unit are under a common hierarchy, the Office of Utility Comptroller. The skills and duties of included employee positions are either of a financial nature or support such positions. They all serve the same division of DPW, WASUA. In view of the above, sufficient factors exists to find that these employees share a community of interest. Such an integrated unit of employees sharing a common purpose with respect to the operation of DPW would, in our view, promote effective labor relations and efficiency of agency operation.

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bargaining over terms and conditions of employment:

"All employees of the Department of Public Works, Water and Sewer Utility Administration, Office of the Utility Comptroller, including account technician, operating accountant, operating technician, utility finance specialist, budget analyst DS-560 Grade 11, budget analyst DS-560 Grade 12, clerical assistant DS-0303 Grade 5, clerk DS-0303, and clerk DS-0304 ; 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."

2. 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 all eligible employees desire to be represented for bargaining on terms and conditions of employment by the National Association of Government Employees, Service Employees International Union, AFL-CIO (NAGE)

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

August 10, 1994