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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 State,	)
County and Municipal	)
Employees	)
Petitioner,	)
	)
and	)
	)
American Federation of State,	)
County and Municipal	)
Employees, Local 1033	)
and 2097	)
Intervenors,	)
	)
and	)
	)
District of Columbia	)
Health and Hospital	)
Public Benefit Corporation	)
	)
Respondent.	)
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PERB Case No.99-AC-01  
Opinion No.632  
MOTION FOR RECONSIDERATION

**DECISION AND ORDER**

This matter involves a Motion for Reconsideration filed by the Intervenors.<sup>1/</sup> The Intervenors are requesting that the Board reconsider our Decision and Order of April 7, 2000 (Slip Op. No. 620), which granted the American Federation of State, County and Municipal Employees (AFSCME) petition to amend Certification Nos. 71 and 72. As a result of the Amended Certification, the Metropolitan District 1199 DC, National Union of Hospital and Health Care Employees (NUHHCE), replaced District Council 20. The Intervenors argue principally that the Hearing Examiner,

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<sup>1/</sup> This motion was filed by Mary Horne, President Metropolitan District 1199DC. Ms. Horne is acting as the representative for the Intervenors (AFSCME, Local 1033 and 2097).

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erred in finding that AFSCME's decision to change the affiliation of Local Nos. 1033 and 2097, from District Council 20 to NUHHCE, did not violate AFSCME's constitutional procedures.<sup>2/</sup>

AFSCME, Local Nos. 1033 and 2097, represent employees of the District of Columbia Health and Hospitals Public Benefit Corporation (PBC). Both the original certification and the amended certification (reflecting the reorganization of D. C. General Hospital into the PBC), recognized the affiliation of these locals with District Council 20.

On December 11, 1998, AFSCME petitioned the Board to amend Certifications Nos. 71 and 72, by changing their affiliation from District Council 20 to NUHHCE. Board Rule 516.1 allows an exclusive representative to file a petition to amend certification "whenever there is a change in the identity of the exclusive representative that does not raise a question concerning representation...."

The Intervenors objected to AFSCME's petition, arguing that there was a question concerning representation. Specifically, the Intervenors asserted that NUHHCE is not a subordinate body of AFSCME but rather a separate entity. In addition, they raised issues of due process with respect to the manner in which AFSCME effected the change from District Council 20 to NUHHCE. These objections raised material issues of fact concerning the criteria contained in Board Rule 516. As a result, the petition was referred to a Hearing Examiner.

The Hearing Examiner found that AFSCME is a national organization with three tiers. She concluded that the middle tier consist of "councils". This middle tier is regional. The Hearing Examiner determined that District Council 20 and NUHHCE are in the middle tier, between AFSCME national and its locals. In addition, the Hearing Examiner concluded that District Council 20 and NUHHCE, primarily provide services, such as contract negotiations and grievance processing, to the locals. Applying NLRB and case law precedent, the Hearing Examiner determined that this change in servicing organization within AFSCME, did not disturb the "continuity of representation" of the affected unions. Therefore, she determined that the change did not raise a question concerning representation within the Board's Rules.

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<sup>2/</sup> The Board adopted all of the Hearing Examiner's findings and recommendations.

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Furthermore, the Hearing Examiner concluded that AFSCME's constitution authorizes its International President to modify the affiliations of subordinate bodies without a vote by members of the local affiliates. She also determined that if a local affiliate is dissatisfied with an affiliation/merger decision of the International President, it may appeal the action to the International Executive Board. However, she found that Local Nos. 1033 and 2097, failed to exercise this right.

Based on her findings, the Hearing Examiner recommended that the Board grant AFSCME's petition to amend the certifications of Local Nos. 1033 and 2097. No exceptions to the Hearing Examiner's Report and Recommendations (R&R) were filed. The Board adopted the Hearing Examiner's recommendations in our April 7, 2000 Decision and Order Amending Certification (Slip Op. No. 620). The Intervenors are now asking the Board to reconsider the April 7<sup>th</sup> Decision and Order and dismiss AFSCME's petition.

Although styled as a motion for reconsideration, the instant motion actually constitutes the Intervenors' exceptions to the Hearing Examiner's Report and Recommendation. Specifically, unnumbered pages 4 through 6 of the motion are in fact captioned "Re: Hearing Examiner's Report and Recommendation". The first three pages of the motion set forth arguments concerning the interpretation of AFSCME's procedures that either were, or should have been, presented to the Hearing Examiner during the hearing.

We find that, none of the arguments set forth by the Intervenors raise any issues with respect to Board precedent or relevant case law, which mandate that the Board arrive at a different result.<sup>3/</sup> The instant motion, is nothing more than the Intervenors' disagreement with the factual conclusions reached by the Hearing Examiner and adopted by the Board.

After reviewing the motion and the other pleadings, we find that all the arguments raised in the motion, were previously considered and rejected by the Hearing Examiner and the Board.

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<sup>3/</sup> In its answer to the motion, AFSCME asserts that the instant motion is untimely. However, the Intervenors' were granted an extension until May 9, 2000. Therefore, the Intervenors' motion was timely.

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In short, the Intervenors fail to raise any new issues. Therefore, based on the above discussion, the Intervenors' Motion for Reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT:

The Motion for Reconsideration is denied.

By order of the Public Employee Relations Board  
Washington, D.C.

July 14, 2000

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 99-AC-01 was transmitted via Fax and /or U.S. Mail to the following parties on this 14<sup>th</sup> day of July, 2000.

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