

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

In the Matter of:

American Federation of Government
Employees, Local 631, AFL-CIO,

Petitioner,

and

Department of Public Works,

Agency.

PERB Case No. 93-R-02
Opinion No. 354

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

On October 6, 1992, the American Federation of Government Employees, Local 631, AFL-CIO (AFGE) filed a Recognition Petition with the Public Employee Relations Board (Board). AFGE seeks to represent, for purposes of collective bargaining, employees of the Department of Public Works, Office of Engineering Services, Blue Plains Plant (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 December 4, 1992, for conspicuous posting at DPW for 15 consecutive days. The Notice required that requests to intervene or comments be filed in the Board's office not later than January 5, 1993. The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DPW, confirmed in writing on December 28, 1992, that said Notices had been posted accordingly.

This matter was heard by a Board-designated Hearing Examiner on March 16 and 17, 1993. In a Report and Recommendation (R&R) dated April 21, 1993, a copy of which is appended hereto, the Hearing Examiner thoroughly canvassed 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 concerning the determination of an appropriate bargaining unit. After completing his assessment of

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the record evidence, the Hearing Examiner recommended that the following unit, agreed-to by the parties, be found appropriate. The proposed unit is described as follows:

"All unrepresented professional employees (including civil engineers, mechanical engineers, electrical engineers, hydraulic engineers, general engineers, structural engineers and environmental engineers) and non-professional employees (including civil engineering technician, mechanical engineering technician, electrical engineering technician, engineering draftsman, technical information specialist, specification writer, program analyst, program manager, administrative service coordinator, clerical and other support staff), but excluding all represented professional and non-professional employees, 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."

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 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 his findings and recommendations and finds the above-described unit appropriate for bargaining over terms and conditions of employment.^{1/}

To resolve 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

^{1/} D.C. Code Sec. 1-618.9(a) requires that a community of interest exist for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. Consistent with the statutory criteria, the Hearing Examiner concluded, based upon stipulated facts of the parties, that the proposed unit of employees, as set forth in the text, share a community of interest with each other and will promote effective labor relations. (R&R at 12 -14.) We so affirm.

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desire to be represented by AFGE for purposes of collective bargaining with DPW on compensation and other terms and conditions of employment. 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, two elections, as agreed-to by the parties and recommended by the Hearing Examiner, are not necessary. To meet the statutory requirements and consistent with Board Rule 510.5, eligible professional employees shall indicate their choice on separate ballots as to (1) whether they desire to be represented for bargaining on terms and conditions of employment by AFGE; and (2) whether they wish to be included in the consolidated unit with non-professional employees. Eligible non-professional employees, in the same election shall indicate their choice only as to the former question.^{2/}

ORDER

IT IS HEREBY ORDERED THAT:

1. The following unit is an appropriate unit for collective bargaining over terms and conditions of employment:

"All unrepresented professional employees (including civil engineers, mechanical engineers, electrical engineers, hydraulic engineers, general engineers, structural engineers and environmental engineers) and non-professional employees (including civil engineering technicians, mechanical engineering technicians, electrical engineering technicians, engineering draftsmen, technical information specialists, specification writers, program analysts, program managers, administrative service coordinators, clerical and other support staff), but excluding all represented professional and non-professional employees, management officials, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity

^{2/} Pursuant to D.C. Code Sec. 1-618.9(b)(5), a unit of professional employees will not be included in a unit with non-professional employees unless the majority of the professional employees vote for inclusion in the election as directed above.