

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE  
ENGINEERS BENEFICIAL  
ASSOCIATION  
and  
INLANDBOATMEN'S UNION  
OF THE PACIFIC,

Complainants,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC Case No. 11-02

MEC Case No. 15-02

DECISION NO. 314 - MEC

ORDER DISMISSING  
ADJUSTED COMPLAINTS

Davies, Roberts and Reid, attorneys, by *Michael McCarthy*, appearing for and on behalf of District No. 1, Marine Engineers Beneficial Association.

Schwerin, Campbell and Barnard, attorneys, by *Dmitri Iglitzin*, appearing for and on behalf of the Inlandboatmen's Union of the Pacific.

Christine Gregoire, Attorney General, by *David Slown*, Assistant Attorney General, appearing for and on behalf of Washington State Ferries.

THESE MATTERS came on regularly before the Marine Employees' Commission as follows:

MEBA Unfair Labor Practice Complaint:

On November 20, 2001, District No. 1, Marine Engineers Beneficial Association (MEBA) filed an unfair labor practice complaint, MEC Case No. 11-02, against WSF. Following initial review of the complaint, the MEC issued an Order Requiring Compliance with WAC 316-45-050 (to provide a clear and concise statement of alleged facts). MEBA responded to the Order on December 20, 2001. The Commission reviewed the complaint, as amended, and determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable.

In its complaint, MEBA charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights; and refusing to bargain collectively with representatives of employees.

Specifically, MEBA alleged that WSF changed its Reasonable Accommodation Policy without notice to or bargaining with the Union.

IBU Unfair Labor Practice Complaint:

December 28, 2001, IBU filed an unfair labor practice complaint, MEC Case No. 15-02, against WSF. Following review, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable.

In its complaint, IBU charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130 by refusing to bargain collectively with representatives of employees.

Specifically, IBU alleged that WSF unilaterally altered working conditions without bargaining with the Union. On July 28, 2001, IBU received a draft copy of reasonable accommodation procedures from WSF. WSF asked IBU to respond regarding any provisions the Union believed were mandatory subjects for bargaining. IBU reviewed the draft and advised WSF that the Union found every provision and procedure to be a mandatory subject for bargaining. IBU asserted that it requested bargaining immediately. IBU maintained that on August 1, 2001, WSF implemented its new reasonable accommodation procedures without bargaining with the Union.

Upon review of the facts and principles of law involved in MEC Cases 11-02 and 15-02, the Commission ordered them consolidated for the purpose of conducting a settlement conference and hearing.

Chairman John Nelson was designated to act as Hearing Examiner. A settlement conference was scheduled for March 18, 2002 and a hearing for April 17, 2002. On February 22, 2002, MEBA requested a continuance of the settlement conference because of a conflict with a national union meeting. The settlement conference was continued to April 5, 2002.

During the conference on April 5, with Commissioner John Byrne acting as Mediator, the parties reached an agreement. Commissioner Byrne forwarded the signed settlement agreement, which constitutes withdrawal of the two complaints, to the MEC office (received April 9). The parties' agreement is appended to and becomes a part of this Order by reference.

ORDER

It is hereby ordered that

1. The unfair labor practice complaint, filed by District No. 1 MEBA against WSF and docketed as MEC Case No. 11-02, be dismissed.
2. The unfair labor practice complaint, filed by the IBU against WSF and docketed as MEC Case No. 15-02, be dismissed.

DATED this 22nd day of April 2002.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN NELSON, Chairman

/s/ JOHN SULLIVAN, Commissioner

/s/ JOHN BYRNE, Commissioner

## SETTLEMENT AGREEMENT

MEBA, the IBU, and the Ferries wish to settle the unions' unfair labor practice charges, 11-02 and 15-02. The parties therefore agree as follows:

1. The parties will begin good faith negotiations on a complete reasonable accommodation procedure at a mutually convenient time. The unions will negotiate together. The unions acknowledge that these negotiations constitute their final opportunity to bargain all issues related to disability accommodation; they will not raise such issues in the next biennial negotiations, except with respect to new issues that have arisen between conclusion of the negotiations called for in this Settlement Agreement and the next biennial negotiations;
2. The unions will withdraw their unfair labor practice charges;
3. The Ferries may continue to observe the previously-issued Reasonable Accommodation Procedures pending negotiations;
4. Provided, however, that the Ferries' observance of the policy pending negotiations will not prejudice the unions or their members in any way, including:
  - a. The Ferries will not claim in any forum that this Settlement Agreement or management's observance of the Procedures constitutes evidence of those Procedures' reasonableness;
  - b. The Ferries will not claim in any forum that this Settlement Agreement or management's observance of the Procedures constitutes evidence of the unions' agreement to the Procedures or any of its parts;
  - c. The Ferries acknowledge that by signing this Agreement the unions are not waiving any rights to file grievances on behalf of their members, or to raise any issue at any future proceeding;
  - d. Observance of the Procedures will be without prejudice in that discipline of an employee will be decided under the traditional just cause principles and not on the issue of failure to follow the specifics of the Procedures.

/s/ Dennis Conklin  
IBU

/s/ Mario Micomonaco  
WSF

/s/ David J. Slown  
MEBA

Dated 4/5/02