

D.R. No. 2006-11

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

CAPE MAY COUNTY  
MUNICIPAL UTILITIES AUTHORITY,

Public Employer,

-and-

Docket No. AC-2006-003

INDEPENDENT UNION OF CAPE MAY,

Petitioner.

SYNOPSIS

The Director of Representation amends the Certification of Representative to reflect an affiliation with Teamsters Local 331. The Director finds that the petitioner has complied with the requirements set forth in N.J.A.C. 19:11-1.6. The Certification of Representative is amended to reflect the majority representative as the Independent Union of Cape May, affiliated with Teamsters Local 331.

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Appearances:

For the Respondent,  
Kathleen J. Guss, Human Resources Director

For the Petitioner,  
Dereck C. Scott, attorney

DECISION

On November 30, 2005, the Independent Union of Cape May (Independent) filed an Amendment of Certification Petition with the Public Employment Relations Commission (Commission) pursuant to N.J.A.C. 19:11-1.6. Independent seeks to amend its Certification of Representative to reflect its affiliation with Teamsters Local 331 (Local 331).

I have conducted an investigation into the matters raised by this petition. N.J.A.C. 19:11-2.2. The public employer, the Cape May County Municipal Utilities Authority (Authority), does not oppose the petition. There are no substantial, material

facts in dispute which would require a hearing. N.J.A.C. 19:11-2.6(c)(5).

I make the following:

Findings of Fact

On May 26, 2005, the Commission certified Independent as the exclusive representative of a unit of all regularly employed full and part-time operations, maintenance, and craft employees employed by the Authority. (Commission Docket No. RO-2005-099).

Independent has submitted an affidavit<sup>1/</sup> of its President, Jon P. Errico, detailing the procedures it followed concerning the affiliation:

1. On January 4, 2006, written notice of a January 30, 2006 meeting and election to determine whether Independent should affiliate with Local 331 was posted on the bulletin boards at each location where unit members are employed.

2. The election was conducted by secret ballot and of the ninety-nine (99) eligible voters, fifty-five (55) voted in favor

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<sup>1/</sup> Independent initially submitted an affidavit and supporting documents indicating that a September 29, 2005 election took place. However, that election erroneously asked unit members whether they wanted to "merge" with Local 331, while neglecting to use the term "affiliate." By letter of December 6, 2005, Staff Agent Jennifer Malinowski informed Independent of the deficiency and held the matter in abeyance. She set a February 1, 2006 deadline for Independent to conduct an affiliation election and submit the supporting materials required by the Act. On January 31, 2006, Independent submitted a new affidavit and supporting documents for its affiliation election held on January 30, 2006.

of affiliation with Local 331, and four (4) voted against affiliation.

3. Independent's officers and unit structure have remained unchanged since the affiliation vote.

On February 1, 2006 after having received the affidavit referenced above, we advised the Authority about the proposed amendment. The Authority responded with no objections to the petition.

#### Analysis

The Commission's rules establish procedures for amending certifications and our case law establishes the standards for granting such petitions. N.J.A.C. 19:11-1.6; County of Union, D.R. No. 2005-7, 30 NJPER 496 (¶169 2004); Parsippany-Troy Hills Twp., D.R. No. 94-20, 20 NJPER 280 (¶25079 1994), req. for rev. denied P.E.R.C. No. 94-119; 20 NJPER 279 (¶25141 1994); Cape May Assignment Judge, et al., P.E.R.C. 85-60, 11 NJPER 91 (¶16039 1985). N.J.A.C. 19:11-1.6(c) requires such a petition be supported by an affidavit attesting that the membership of the certified employee representative voted in favor of the change in name and affiliation. Such affidavit shall specify that:

1. The membership was given advance and adequate notice of the election, as evidenced by an attached copy of a notice of election and a statement of the date of the notice and the manner in which it was provided to members;

2. The election was conducted by secret ballot, as evidenced by an attached copy of the ballot, and was held within six months of the filing of the petition;

3. A majority voted in favor of the change in name and affiliation, as evidenced by a document setting forth the results; and

4. The organization's officers and the unit structure remain unchanged.

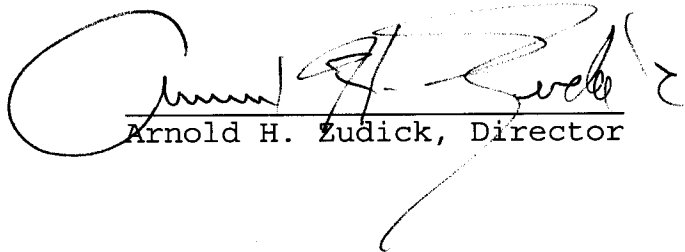
Additionally, to record an affiliation, an employee organization is required to show that its affiliation procedure afforded the membership with a degree of due process. Adequate due process will be found where the affiliation procedures provide the members with advance notice of the affiliation vote, an opportunity to discuss the affiliation prior to the vote, and the chance to participate in the affiliation election. Township of Middletown, et al., P.E.R.C. No. 2000-47, 26 NJPER 59, 60 (¶31020 1999); Parsippany Troy Hills Tp., 20 NJPER at 280; No. Hudson Reg. Fire and Rescue, D.R. No. 2000-13, 26 NJPER 257 (¶31101 2000).

I am satisfied that the Petitioner has met all of the requirements for amendment of certification and has afforded its members adequate due process. There was appropriate advance notice of the election to permit members the opportunity to discuss the issue prior to the vote and, subsequently, members were allowed to participate in a secret ballot election on the proposed affiliation. Further, Independent's officers and the

structure of the negotiations unit have remained unchanged since the affiliation with Local 331.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now the Independent Union of Cape May, affiliated with Teamsters Local 331.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION



Arnold H. Zudick, Director

DATED: March 3, 2006  
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by March 16, 2006.