D.R. No. 2010-9

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

In the Matter of

STATE OF NEW JERSEY,
(DEPARTMENT OF LAW AND PUBLIC
SAFETY, DIVISION OF STATE POLICE),

Public Employer,

-and-

Docket No. RO-2006-087

NEW JERSEY STATE TROOPERS
CAPTAINS ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation orders that the New Jersey State Troopers Captains Association (STCA) be certified as the exclusive representative of State Police captains employed by the State of New Jersey, Division of State Police, based upon a card check, despite the State's refusal to sign a Stipulation of Appropriate Unit form. The State appealed the Commission's decision in P.E.R.C. No. 2010-013, approving with modifications a unit of captains. The State's request for a stay of the processing of the petition was denied. Since the New Jersey Employer-Employee Relations Act provides for certification by card check, and the Petitioner complied with the card check rules, the Director certified the STCA as the majority representative of the unit determined to be appropriate by the Commission.

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NEW JERSEY STATE TROOPERS
CAPTAINS ASSOCIATION,

Petitioner.

Appearances:

For the Public Employer,
Genova, Burns & Vernoia, attorneys
(Doug Solomon, of counsel)

For the Petitioner,
Loccke, Correia, Schlager, Limsky & Bukosky, attorneys
(Merick H. Limsky, of counsel

DECISION

On September 24, 2009, the Commission issued State of New Jersey (Div. of State Police), P.E.R.C. No. 2010-13, 35 NJPER 335 (¶114 2009), remanding to me a representation petition filed by the New Jersey State Troopers captains Association (STCA or Association) to determine whether a majority of employees in the appropriate unit wish to be represented for purposes of collective negotiations.

On June 2, 2006, the Association filed a petition for card check certification seeking to represent a unit of all captains

employed by the State of New Jersey, Department of Law and Public Safety, Division of State Police (State). The petition was accompanied by authorization cards from a majority of the petitioned-for employees.[1/]

The State objects to the petition, alleging that all of the captains are either managerial executives or confidential employees within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (Act). After a brief administrative investigation, a Hearing Officer conducted a hearing and issued a report recommending that the petition be processed, excluding some of the captains as confidential or managerial executives. The State filed exceptions to the Hearing Officer's Recommendations. The Commission modified the recommendation and ordered that the petition be processed (P.E.R.C. No. 2010-13). The State has appealed the Commission's decision and requested a stay of the processing of the petition, which was denied. The State refuses to sign a Stipulation of Appropriate Unit form allowing continued processing of the petition.

On November 30, 2009 and December 16, 2009, at our request, the State submitted a list of the employees sought by the STCA.[2/]

1/ Both the State and STCA were permitted to submit an updated employee list and updated authorization cards, respectively, in December 2009.

2/ The STCA argues that the list should include the names of lieutenants that the Superintendent of State Police

(continued...)

We have compared the names submitted on authorization cards with those provided on the State's list and determine that a majority of unit employees have signed authorization cards for the STCA.

On January 13, 2010, the assigned Commission staff agent issued to each party's representative a proposed Stipulation of Appropriate Unit form setting forth the petitioned-for unit description with spaces allotted for the signatures of the parties' designated representatives. On January 14, 2010, the State's representative informed us that the State continues to dispute the appropriateness of the unit and refuses to sign the form.

ANALYSIS

On July 19, 2005, our Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, authorizing the Commission to certify a majority representative when: (a) a majority of employees in an appropriate unit have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee

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2/ (...continued)
submitted for promotion to captain effective September 12, 2009 (Superintendent's Order # 09-652). The State disagrees, arguing that those are tentative promotions, pending the Civil Service Commission's formal approval. We are advancing the certification process without resolving the dispute because the resolution of it will not affect the card check certification. Having checked the cards against the State's list and the list which the STCA contends is correct, we find that the STCA has sufficient authorization cards to support its petition. We assume that in due course, the civil service process will resolve the exact number and names of captains in the unit.

representative seeks to represent those employees. N.J.A.C. 19:11-2.6(b). The Legislature has determined that a check of an organization's authorization cards signed by a majority of employees in an appropriate unit is a lawful method to determine a majority representative. Our review of the STCA's authorization cards shows that it has submitted cards from a majority of the petitioned-for employees. The employees' signatures on the cards meets the intent of the statute and the rules. Accordingly, the STCA is entitled to a certification based upon a card check (N.J.S.A. 34:3A-5.3), regardless of the State's failure to submit a signed Stipulation of Appropriate Unit form. See Glen Rock Public Library, D.R. No. 2010-007, __ NJPER ___ (¶_____ 2009), Atlantic County Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006), Passaic County Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006).

I find that the following unit is appropriate:

> Included: All captains employed by the Division of State Police, including but not limited to the captains in the Identification and Information Technology Section (Administration Branch); Intelligence Services Section (Investigations Branch), Investigations Section (Investigations Branch); Field Operations Section, Troops A, B, C, D and E; Homeland Security Branch and executive officers in the Identification and Information Technology Section, the Intelligence Section, Special Investigations Section, Field Operations Section, Emergency Management Section, and the Special Operations Section.
>
> Excluded: Managerial executives, confidential employees, non-supervisory

employees, non-police civilian employees, captains in the following offices and bureaus: Office of State Police Affairs, Regional Operations and Intelligence Center Task Force, Office of Strategic Initiatives, Office of Public Information, Office of Recruiting and EEO, Internal Affairs Investigation Bureau (OPS), Internal Affairs Intake and Adjudication Bureau (OPS), Fiscal Control Bureau, Budget Operations Bureau, Grants Administration Bureau, Logistics Bureau; Human Resources Management Bureau, Employee Services Bureau, Office of Operation Cease Fire, executive officers in the following sections: OPS, Administration and Human Resources; all personnel represented in other negotiations units, lieutenants, sergeants first class, sergeants, detectives, and all troopers.

ORDER

I certify the State Troopers Captains Association based upon its authorization cards, as the exclusive representative of the negotiations unit described above[3/].

Arnold H. Zudick
Director of Representation

DATED: January 22, 2010
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 February 2, 2010.

3/ The formal certification is attached.

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of NJ/STATE (STATE POLICE), Public Employer, -and- STATE TROOPERS CAPTAINS ASSOCIATION, Petitioner.	DOCKET NO. RO-2006-087

CERTIFICATION OF REPRESENTATIVE
BASED UPON AUTHORIZATION CARDS

In accordance with the New Jersey Employer-Employee Relations Act, as amended, and the Rules of the Public Employment Relations Commission, we have conducted an investigation into the Petition for Certification filed by the above-named Petitioner. The Petitioner has demonstrated by card check that a majority of the unit employees described below have designated the Petitioner as their exclusive representative for purposes of collective negotiations, and, no other employee organization has expressed a valid interest in representing these employees.

Accordingly, **IT IS HEREBY CERTIFIED** that

NEW JERSEY STATE TROOPERS CAPTAINS ASSOCIATION

is now the exclusive representative of all the employees included below for the purposes of collective negotiations with respect to terms and conditions of employment. The representative is responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership. The representative and the above-named Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment as required by the Act.

UNIT: Included: All captains employed by the Division of State Police, including but not limited to the captains in the Identification and Information Technology Section (Administration Branch); Intelligence Services Section (Investigations Branch), Investigations Section (Investigations Branch); Field Operations Section, Troops A, B, C, D and E; Homeland Security Branch and executive officers in the Identification and Information Technology Section, the Intelligence Section, Special Investigations Section, Field Operations Section, Emergency Management Section, and the Special Operations Section.

Excluded: Managerial executives, confidential employees, non-supervisory employees, non-police civilian employees, captains in the following offices and bureaus: Office of State Police Affairs, Regional Operations and Intelligence Center Task Force, Office of Strategic Initiatives, Office of Public Information, Office of Recruiting and EEO, Internal Affairs Investigation Bureau (OPS), Internal Affairs Intake and Adjudication Bureau (OPS), Fiscal Control Bureau, Budget Operations Bureau, Grants Administration Bureau, Logistics Bureau; Human Resources Management Bureau, Employee Services Bureau, Office of Operation Cease Fire, executive officers in the following sections: OPS, Administration and Human Resources; all personnel represented in other negotiations units, lieutenants, sergeants first class, sergeants, detectives, and all troopers.

DATED: January 22, 2010
Trenton, New Jersey

Arnold H. Zudick, Director of Representation

Attachment:

Certification of Representative dated: January 22, 2010

In the Matter of

NJ/STATE (STATE POLICE)

-and-

STATE TROOPERS CAPTAINS ASSOCIATION

Docket No. RO-2006-087

Service on the following:

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