

P.E.R.C. NO. 97-68

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF EAST WINDSOR,

Public Employer,

-and-

Docket No. RO-96-98

DISTRICT 1199J, NATIONAL UNION OF
HOSPITAL AND HEALTH CARE EMPLOYEES,
AFSCME, AFL-CIO,

Petitioner,

SYNOPSIS

The Public Employment Relations Commission denies a request for review of the Director of Representation's dismissal of a representation petition. District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO petitioned to represent a unit of EMTs employed by the Township of East Windsor. The Commission finds no compelling reasons to grant review of the Director's determination that the existing unit of civilian employees is the most appropriate unit for the EMTs. No argument was presented to warrant deviating from the Commission's policy in favor of broad-based units.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Petitioner, Balk, Oxfeld, Mandell & Cohen,
attorneys (Randi Doner April, of counsel)

DECISION AND ORDER

On March 6, 1996, District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, petitioned to represent a negotiations unit of four emergency medical technicians ("EMTs") employed by the Township of East Windsor in its police department. The petition was accompanied by an adequate showing of interest.

The Township opposed the petition, maintaining that the Township's 150 employees were already represented by five different unions and the addition of another negotiations unit would create an administrative burden. It asserted that if the EMTs desired representation, the most logical unit for them to join would be the one represented by Teamsters Union Local No. 676 which, in June 1987, was certified as the representative of all civilian employees in the Township's police department. The

titles in this unit are police records clerks, clerk typists, and police radio dispatchers.^{1/}

District 1199J responded that the EMTs share no community of interest with the radio dispatchers, the civilian employees who, 1199J acknowledges, most closely resemble EMTs. It also maintained that the EMTs did not wish to be represented by Local 676 and that Local 676 waived its opportunity to represent the EMTs by failing to seek out employees within the scope of its unit.

On September 10, 1996, after an investigation, the Director of Representation dismissed the petition. D.R. No. 97-2, 22 NJPER 348 (¶27180 1996). He found that the proposed unit was inappropriate in light of the Commission's policy in favor of broad-based units. State v. Professional Ass'n of N.J. Dept. of Ed., 64 N.J. 231, 241 (1974). Accord In re Matters of State, 114 N.J. 316, 323-24 (1989). He concluded that the EMTs and dispatchers shared a community of interest because they both contributed to the employer's mission of providing for public safety and were both supervised by police lieutenants who reported to the police chief. The Director also found that the Township had not waived its right to object to a separate unit of EMTs

^{1/} The EMT title was created in November 1988. The EMTs are supervised by a police lieutenant in charge of emergency management and emergency medical services. They have never been represented by Local No. 676, and the recognition clause in the current agreement between the Township and Local No. 676 excludes EMTs.

since the title did not exist when the civilian employee unit was formed. Finally, the Director found that the most appropriate unit for the petitioned-for employees was the unit of civilian employees. He noted that the Township appeared to have waived any procedural objections to such an accretion, and that Local 676 had represented that it would be willing to represent the EMTs if District 1199J disavowed its interest.

On September 13, 1996, District 1199J requested review of the Director's decision. It repeats its arguments that the EMTs have no community of interest with the police dispatchers and that Local 676 has waived any claim to represent the EMTs. In addition, it maintains that there is no evidence that Local 676 would be willing to represent the EMTs, and it objects to the Director's reliance on hearsay to this effect. The Township did not file a response.

A party may request Commission review of a decision by the Director of Representation. N.J.A.C. 19:11-8.1 et seq. A request for review will be granted only for one or more of these compelling reasons:

1. A substantial question of law is raised concerning the interpretation or administration of the Act or these rules;
2. The Director of Representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;
3. The conduct of the hearing or any ruling made in connection with the proceeding may resulted in prejudicial error; and/or

4. An important Commission rule or policy should be reconsidered. [N.J.A.C. 19:11-8.2]

District 1199J does not reference these standards, and it has offered no compelling reasons to grant its request for review.

No argument has been presented that would warrant deviating from the policy in favor of broad-based units set forth in Professional Ass'n and In re Matters of State. The Director's decision is consistent with prior decisions finding narrowly-defined units of one occupational group to be inappropriate. See, e.g., Warren Cty., D.R. No. 95-14, 21 NJPER 43 (¶26026 1994) (proposed unit of 15 dispatchers inappropriate); Wall Tp., D.R. No. 94-24, 20 NJPER 209 (¶25101 1994) (proposed unit of six or seven dispatchers inappropriate). Accord Borough of Pitman, D.R. No. 94-16, 20 NJPER 115 (¶25060 1994); Borough of Pt. Pleasant, D.R. No. 91-27, 17 NJPER 208 (¶22087 1991). We reject District 1199J's argument that Local 676 has waived its opportunity to represent the EMTs. Cf. Bergen Pines Hosp., D.R. No. 80-20, 6 NJPER 61 (¶11034 1980) (employee representative barred from petitioning for unit clarification where it had not done so by second negotiations agreement, but it could seek to represent employee by filing a certification petition). Accord State of New Jersey, D.R. No. 90-8, 15 NJPER 657 (¶20269 1989). Finally, nothing in the record indicates that Local 676 is unwilling to represent the EMTs. However, should that prove to be the case, District 1199J may file another petition to represent them, consistent with our recognition that the right of employees to

organize may sometimes outweigh the preference for broad-based units. See UMDNJ, P.E.R.C. No. 91-2, 16 NJPER 431 (¶21183 1990); UMDNJ, P.E.R.C. No. 84-28, 9 NJPER 598 (¶14253 1983).

ORDER

The request for review is denied.

BY ORDER OF THE ACTING CHAIR



Millicent A. Wasell
Acting Chair

Acting Chair Wasell, Commissioners Boose, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed. Commissioner Buchanan abstained from consideration.

DATED: December 19, 1996
Trenton, New Jersey
ISSUED: December 20, 1996