

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
: :  
: Case No. PERA-D-15-101-E  
: (PERA-R-777-C)  
: :  
COMMONWEALTH OF PENNSYLVANIA :

**ORDER DIRECTING REMAND TO SECRETARY FOR FURTHER PROCEEDINGS**

A Petition for Decertification under the Public Employee Relations Act (PERA) was filed with the Pennsylvania Labor Relations Board (Board) on April 16, 2015, by Daniel Angelucci (Petitioner), alleging that thirty percent or more of certain employes of the Commonwealth of Pennsylvania (Commonwealth) no longer desire to be represented by the American Federation of State, County and Municipal Employees Council 13 (AFSCME)<sup>1</sup> and requesting pursuant to Section 607 of PERA that the Board schedule a hearing and order an election. The Petition was accompanied by a showing of interest to support the Petitioner's contention that at least thirty percent of the eligible employes desired to decertify AFSCME as their bargaining representative.

On April 24, 2015, the Commonwealth submitted to the Board an employe list containing the names of 1516 employes in the certified unit. Based on the April 24, 2015 employe list submitted by the Commonwealth, it was determined that the Petitioner had failed to submit a thirty percent showing of interest as required by Section 607 of PERA. On April 28, 2015, the Board Secretary dismissed the Petition for Decertification because the Petitioner lacked the requisite showing of interest.

On May 18, 2015, the Petitioner filed timely exceptions and a supporting brief with the Board challenging the Secretary's dismissal of his Petition for Decertification. On May 20, 2015, the Secretary directed the Petitioner to comply with the service requirements in the Board's Rules and Regulations, 34 Pa. Code § 95.98(a)(4), and provide the Board with proof of service of the exceptions and supporting brief on the Commonwealth and AFSCME. Thereafter, on June 1, 2015, the Petitioner filed the required proof of service with the Board. On June 22, 2015, AFSCME filed a response to the exceptions and a supporting brief.

In the exceptions, the Petitioner contends that he has presented an adequate showing of interest and has attached an employe list containing the names of 1324 employes whom he believes should be included in the certified unit. The Board has consistently held that the adequacy of the showing of interest is an administrative matter that is not subject to collateral attack. **Plains Township Sewer Authority**, 8 PPER 318 (Final Order, 1977), **aff'd**, 9 PPER ¶ 9153 (Court of Common Pleas of Luzerne County, 1978); **Pennsbury School District**, 15 PPER ¶ 15202 (Order and Notice of Election, 1984); **County of Berks**, 4 PPER 8 (Order and Notice of Election, 1974). However, in these cases, either the employer or a rival union contended that the showing of interest itself (*i.e.*, the authorization cards or signature petition) was somehow deficient. In those instances, the Board has rejected the challenge to the showing of interest in favor of the swift resolution of the question of representation, with the full knowledge that the subsequent secret ballot election will fully resolve any alleged deficiency in the showing of interest.

In the present case, the Petitioner is attacking the accuracy of the employe list submitted by the Commonwealth, which formed the basis for the Secretary's determination that the Petitioner lacked the requisite showing of interest. The Board has a long-

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<sup>1</sup> On January 4, 1972, the Board certified AFSCME as the exclusive bargaining representative for all professional Inspection, Investigation and Safety Services employes including Private School Licensing Specialist I, Drug Program Specialist I and II, Institutional Standards Representative I, Parole Agent I, II and III, Institutional Parole Representative, Pardons Case Specialist, Poultry Inspector I, Agricultural Products Inspector, Milk Sanitarian I and II, Nursery Inspector, Agribusiness Trainee, Special Investigator I and II, Safety Instructor, Traffic Safety Representative, Civil Defense Specialist I and II and Special Agent I, II and III.

standing policy of remanding cases where the petitioner files exceptions challenging the accuracy of the employe list submitted by the employer that formed the basis for the determination that the petitioner lacked the requisite showing of interest. **E.g. Pennsylvania Department of Corrections**, 20 PPER ¶ 20148 (Order Directing Remand to Hearing Examiner for Further Proceedings, 1989); **Temple University**, 20 PPER ¶ 20136 (Order Directing Remand to Hearing Examiner for Further Proceedings, 1989); **Bucks County**, 17 PPER ¶ 17081 (Order Directing Remand to Secretary for Further Proceedings, 1986). To fully appraise the adequacy of the showing of interest, further proceedings to address the factual and legal issues regarding the accuracy of the employe list are necessary. In order for the parties to properly investigate and present evidence on the accuracy of the employe list, a copy of that list must be provided to the Petitioner and AFSCME prior to the hearing on remand.

After a thorough review of the exceptions and all matters of record, the Board shall remand this matter to the Secretary with direction to order a hearing. This order directing remand shall not be construed by the parties as a determination that the Secretary's April 28, 2015 decision was in error. We decide only that the Petitioner's exceptions raise factual issues requiring the conduct of a hearing, limited solely to the accuracy of the Commonwealth's list of employes.

**ORDER**

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

**HEREBY ORDERS AND DIRECTS**

that this matter be remanded to the Secretary of the Pennsylvania Labor Relations Board with direction to order a hearing.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Robert H. Shoop, Jr., Member, and Albert Mezzaroba, Member, this eighteenth day of August, 2015. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.