

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**BRIAN T. SCHULTZ**  
Involving Certain Employees of  
**CITY OF WEST BEND**

Case 50  
No. 70855  
ME-4267

**Decision No. 33607**

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In the Matter of the Petition of  
**RICHARD E. THIEMER III**  
Involving Certain Employees of  
**CITY OF WEST BEND**

Case 52  
No. 71186  
ME-4494

**Decision No. 33608**

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**Appearances:**

**Brian T. Schultz**, 150 Edgewood Lane, West Bend, Wisconsin, 53095, appearing on his own behalf.

**Richard E. Thiemer III**, N166 Highway 45, Kewaskum, Wisconsin, 53040, appearing on his own behalf.

**Nancy Pirkey**, Buelow Vetter Buikema Olson & Vliet, LLC, 20855 Watertown Road, Suite 200, Waukesha, Wisconsin, 53186, appearing on behalf of the City of West Bend.

**Kyle McCoy**, Soldon Law Firm, LLC, 3541 North Summit Avenue, P. O. Box 12993, Shorewood, Wisconsin, 53211, appearing on behalf of Teamsters Local Union No. 200.

**ORDER DISMISSING PETITIONS FOR ELECTION**

On July 20, 2011, Brian Schultz filed a petition with the Wisconsin Employment Relations Commission seeking an election among eleven Water Utility Operators employed by the City of West Bend for the purpose of determining whether those employees want to continue to be represented by Teamsters Local Union No. 200 for the purposes of collective bargaining.

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On September 7, 2011, Teamsters filed a motion to dismiss the petition.

On October 18, 2011, Richard E. Thiemer III filed an election petition seeking an election among three maintenance employees employed by the City of West Bend for the purpose of determining whether those three employees want to continue to be represented by Teamsters Local Union No. 200 for the purposes of collective bargaining. On November 3, 2011, the City filed a statement in opposition to the motion asking that both election petitions proceed to hearing. Teamsters filed additional argument on November 14, 2011.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

**ORDER**

The petitions for election are dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 9th day of January, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

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James R. Scott, Chairman

Judith Neumann /s/

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Judith Neumann, Commissioner

Rodney G. Pasch /s/

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Rodney G. Pasch, Commissioner

**City of West Bend**

**MEMORANDUM ACCOMPANYING**  
**ORDER DISMISSING PETITIONS FOR ELECTION**

The eleven Water Utility Operators covered by the Schultz petition and the three maintenance employees covered by the Thiemer petition are currently included in a larger bargaining unit represented by Teamsters. By their respective petitions, Schultz and Thiemer seek to remove the Operators and maintenance employees from the larger unit and have them become unrepresented employees.

In ST. CROIX COUNTY, DEC. NO. 31608 (WERC, 2/06), the Commission held that it will dismiss election petitions filed by individual employees seeking to become unrepresented unless the election sought is among all employees in the bargaining unit. Here, Schultz and Thiemer only seek elections among a portion of the bargaining unit. Therefore, we have dismissed the petitions.

The City asserts that the initial annual certification elections created by 2011 Acts 10 and 32 have changed the election dynamics and warrant processing the petitions. We disagree. The initial annual certification elections are for the purpose of determining whether the employees in the existing bargaining unit want to continue to be represented for the purposes of collective bargaining. Thus, if anything, the “existing unit” framework of the annual certification elections is supportive of dismissal of these petitions.

Dated at Madison, Wisconsin this 9th day of January, 2012.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

James R. Scott /s/

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James R. Scott, Chairman

Judith Neumann /s/

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Judith Neumann, Commissioner

Rodney G. Pasch /s/

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Rodney G. Pasch, Commissioner