

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2303]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

November 10, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857-3800. Oppositions to these petitions must be filed by December 3, 1998. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations (MM Docket No. 97-138).

Number of Petitions Filed: 5.

Federal Communications Commission.

Shirley Suggs,

Chief, Publications Branch.

[FR Doc. 98-30809 Filed 11-17-98; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL LABOR RELATIONS AUTHORITY

[FLRA Docket No. DA-RO-60006]

Notice of Opportunity To Submit Amici Curiae Briefs in Representation Proceeding Pending Before the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of the opportunity to file briefs as amici curiae in a proceeding before the Federal Labor Relations Authority in which the Authority is determining the standard for evaluating a union petition for a representation election where an activity has unlawfully assisted the petitioning union.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested persons to file briefs as amici curiae on significant issues arising in a case pending before the Authority. The Authority is considering this case pursuant to its responsibilities under the Federal Service Labor-Management

Relations Statute, 5 U.S.C. 7101-7135 (the Statute) and its Regulations, set forth at 5 CFR part 2422. The issues in this case concern the standard for evaluating a union petition for a representation election where an activity has unlawfully assisted the petitioning union.

DATES: Briefs submitted in response to this notice will be considered if received by mail or personal delivery in the Authority's Office of Case Control by 5 p.m. on or before Friday, December 18, 1998. Placing submissions in the mail by this deadline will not be sufficient. Extensions of time to submit briefs will not be granted.

ADDRESSES: Mail or deliver written comments to Peter J. Constantine, Director, Case Control Office, Federal Labor Relations Authority, 607 14th Street, NW., Suite 415, Washington, DC 20424-0001.

FORMAT: All briefs shall be captioned: *United States Army Air Defense Artillery Center, and Fort Bliss, Fort Bliss, Texas, Case No. DA-RO-60006, Amicus Brief.* Briefs shall also contain separate, numbered headings for each issue discussed. An original and four (4) copies of each amicus brief must be submitted, with any enclosures, on 8½×11 inch paper. Briefs must include a signed and dated statement of service that complies with the Authority's regulations showing service of one copy of the brief on all counsel of record or other designated representatives. 5 CFR 2429.27 (a) and (c). Copies of the Authority's decision granting the application for review in this case and a list of the designated representatives for the case may be obtained by mail or by facsimile by contacting Peter J. Constantine at the Authority's Case Control Office at the address set forth above.

FOR FURTHER INFORMATION CONTACT: Peter J. Constantine, at the address listed above or by telephone: (202) 482-6540.

SUPPLEMENTARY INFORMATION: On November 3, 1998, the Authority granted an application for review of the RD's Decision and Order in *United States Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas, Case No. DA-RO-60006* (54 FLRA No. 127 (1998)). A summary of that case follows.

1. Background

Following organizing efforts, the National Federation of Federal Employees (NFFE) filed a petition pursuant to section 7111 of the Statute and §2422.2 of the Authority's Regulations, 5 CFR 2422.2, (the Regulations in effect prior to March 15,

1996, are applicable in this case), seeking an election to represent a bargaining unit represented by the National Association of Government Employees (NAGE). NAGE filed an unfair labor practice (ULP) charge, claiming that the Activity unfairly aided NFFE in its attempt to collect signatures by allowing a non-employee NFFE organizer onto its premises. The Regional Director (RD) held the representation case in abeyance until the charge was resolved. NAGE contended that the Activity had permitted the non-employee NFFE organizer access to work areas where employees represented by NAGE worked. NAGE and the Activity settled the ULP charge. Without admitting a violation of the Statute, the Activity agreed to post a notice indicating that it would not permit NFFE access to its premises.

After the settlement of the ULP charge, NFFE argued that the RD should schedule an election and that no hearing was required because the ULP charge had been settled. Instead, the RD scheduled a hearing to determine whether the petition should be dismissed because of the Activity's alleged improper conduct. At the hearing, NFFE claimed that a large number of signatures were lawfully obtained by employees who were assisting NFFE in its organizing efforts and were not obtained by its non-employee organizer, and that there was no showing that its organizer unlawfully obtained any signatures supporting the showing of interest petition. NAGE contended that a hearing was appropriate in the circumstances of this case.

2. The Regional Director's Decision

The RD found that the Activity had improperly granted NFFE access to its premises. The RD determined, based on employees' testimony, that the organizer was seen in work areas during duty hours soliciting signatures, but that no one actually saw the organizer obtain signatures during those times. The RD also determined that NFFE obtained approximately 75 percent of the signatures it collected during a time period that roughly corresponded to the organizer's activity.

Relying on *Social Security Administration and National Treasury Employees Union*, 52 FLRA 1159 (1997) (*Social Security*), *rev'd in part sub nom. National Treasury Employees Union v. FLRA*, 139 F.3d 214 (D.C. Cir. 1998), the RD found that the Activity improperly assisted NFFE, in violation of section 7116(a)(3) of the Statute, when it failed to determine whether NFFE had other

means of contacting the employees it was seeking to organize, before permitting the NFFE organizer access to its premises, including common areas. According to the RD, the Activity permitted the NFFE organizer improper access when the only limit it placed on him was to solicit signatures of employees in work areas on their non-duty time.

The RD concluded that, under the totality of the circumstances, the Activity had unlawfully assisted NFFE, because it controlled the premises, it failed to verify whether NFFE had alternative means of contact, and it permitted NFFE access to the premises. The RD concluded that, because the unlawful assistance interfered with the employees' rights under section 7102 of the Statute, any cards signed during the period of the Activity's unlawful assistance were tainted. Therefore, the RD dismissed the petition.

3. The Application for Review

As applicable here, NFFE contends that its non-employee organizer had a right to be on the Activity's premises because NFFE represents employees at that Activity and because NFFE did not do anything illegal in its solicitation of the showing of interest. NFFE contends that the signatures on its showing of interest petition were validly obtained by bargaining unit employees. NFFE asserts that its organizer merely gathered the petition sheets from the employees who had obtained the signatures. NFFE also asserts that there was no showing that any of the signatures was improperly obtained.

NAGE asserts that the facts support the conclusion that the Activity unlawfully assisted NFFE in obtaining signatures.

Addressing NFFE's contentions, the Authority concluded that NFFE did not establish that the RD committed prejudicial procedural error in holding a hearing or that the RD disregarded Authority Regulations, and denied NFFE's application in these and other respects. NFFE did not raise and the Authority did not reach the question of whether the RD properly applied the standards set forth in *Social Security*.

Finding that there is an absence of precedent, the Authority granted the application for review on the issue of what standard should apply to evaluate whether the type of improper conduct alleged in this case warrants dismissal of an otherwise valid election petition.

4. Question on Which Briefs Are Solicited

The Authority has directed the parties in the case to file briefs addressing the

following question: What standard should be used to determine whether an activity's improper conduct should lead to the dismissal of an election petition on the basis that the accompanying showing of interest was tainted?

As this matter is likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amicus briefs addressing these issues.

(Authority: 5 U.S.C. 7105(a)(2) (B) and (I)).

For the authority.

Peter J. Constantine,

Director, Case Control Office, Federal Labor Relations Authority.

[FR Doc. 98-30868 Filed 11-17-98; 8:45 am]

BILLING CODE 6727-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 2, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303-2713:

1. *Philip Bachman & Martha Bachman*, both of Greeneville, Tennessee; to retain voting shares of Greene County Bancshares, Inc., Greeneville, Tennessee, and thereby indirectly retain voting shares of Greene County Bank, Greeneville, Tennessee.

2. *James G. Tanner, III*, Baton Rouge, Louisiana; to acquire voting shares of First National Bancshares of Eunice, Inc., Eunice, Louisiana, and thereby indirectly acquire voting shares of First Bank, Eunice, Louisiana.

Board of Governors of the Federal Reserve System, November 12, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-30774 Filed 11-17-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 11, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *Marlborough Bancorp*, Marlborough, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Marlborough Co-Operative Bank, Marlborough, Massachusetts.

B. Federal Reserve Bank of Philadelphia, (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. *Commerce Bancorp, Inc.*, Cherry Hill, New Jersey; to acquire 100 percent of the voting shares of Prestige Financial