

**Seattle-First National Bank and Financial Institution
Employees of America, Local 1182, Chartered by
Retail Clerks International Union, AFL-CIO, Petitioner.** Case 19-AC-23

April 5, 1979

**DECISION AND AMENDMENT OF
CERTIFICATION**

**BY CHAIRMAN FANNING AND MEMBERS MURPHY
AND TRUESDALE**

On November 30, 1970, the Board, in Cases 19-RM-816 and 19-RC-5301, certified the Firstbank Independent Employees Association (herein FIEA or Petitioner) as the collective-bargaining representative in an appropriate unit of all the Employer's employees within the State of Washington, excluding professional employees, confidential employees, management trainees, and supervisors and guards as defined in the Act. On June 19, 1978, the Petitioner filed this petition to amend the certification to change the name of the certified bargaining agent from "Firstbank Independent Employees Association" to "Financial Institution Employees of America, Local 1182, chartered by Retail Clerks International Union, AFL-CIO."

A hearing was held on the petition on July 26 and 27, 1978, before Hearing Officer Lynne C. Litwiller at Seattle, Washington. All parties appeared at the hearing and were given full opportunity to participate therein. After the hearing, the Petitioner and the Employer filed briefs with the Regional Director. Thereafter, the Regional Director transferred the case to the Board for decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The rulings of the Hearing Officer are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the Board finds:¹

FIEA has had a collective-bargaining agreement with the Employer since 1971. The current collective-

bargaining agreement was terminated by the Employer on October 30, 1977.

During 1977, the executive council of FIEA authorized its bargaining committee to explore affiliation with other unions. The committee, after contacting several unions, voted unanimously to seek affiliation with the Retail Clerks International Union. The affiliation agreement was unanimously approved by the executive council of FIEA. A notice was mailed to all unit representatives (the equivalent of shop stewards) informing them of meetings to be held throughout the State on January 6, 7, and 8, 1978.² At these meetings the unit representatives were informed of the terms of affiliation, the election procedure, and the standards for voter eligibility. In order to vote an individual had to be either a current member of FIEA or join by January 19 and pay 1 month's dues of \$4. The unit representatives were instructed to contact all unit employees and inform them of the pending affiliation vote and specifically to contact nonmembers and explain to them the eligibility standards. Concurrently a letter was sent to all unit employees informing them of the pending election and the eligibility requirements. After this initial meeting other meetings were held at all work locations. These meetings were attended by officials of both FIEA and the Retail Clerks International Union and were open to all unit employees. On or about January 17 another letter was sent to all unit employees reiterating the eligibility standards.

On January 20 a notice was sent to all FIEA members informing them that a affiliation secret-ballot election would be conducted by the Washington State Public Employment Relations Commission (PERC). The ballots were to be mailed by February 5 and had to be back to PERC by February 21. The notice stated the ballot question and contained additional information regarding the locations of meetings being held throughout the State on February 4 and 5. These meetings were again attended by representatives of both Unions who spoke about the affiliation and answered questions. Two other informational letters were sent to FIEA members before the meetings.

PERC mailed the ballots on February 4 to 2,624 members; there were approximately 4,800 employees in the unit. The results were 1,206 votes for affiliation and 774 against. FIEA applied for, and on April 1 was granted, a charter by the Retail Clerks International Union.

The Employer attacks the affiliation on the grounds that: (1) the substitution of the Petitioner for FIEA is a substantial change in the bargaining representative and thus raises a "question concerning representation" requiring a Board-conducted election:

¹ The Petitioner filed a brief, differing slightly from that filed with the Regional Director, with the Board. The Employer has moved to strike this brief as not being in compliance with Sec. 102.67(i) of the Board's Rules and Regulations, Series 8, as amended. We agree and grant the Employer's motion to strike. The Petitioner has moved to consolidate this case with Cases 19-CA-9835 and 19-CA-9916, also issued this day at 241 NLRB No. 117. The Employer filed a memorandum in opposition. We find that the cases are not similar enough in law or fact to warrant consolidation, and the Petitioner's motion is hereby denied. The Employer has requested oral argument. This request is hereby denied as the record, the exceptions, and the briefs adequately present the issues and the positions of the parties.

² Hereinafter all dates are in 1978.

(2) only members of FIEA were allowed to vote; and (3) FIEA did not follow its own constitution in establishing voter eligibility standards.

This case is controlled by our recent second Supplemental Decision and Order in *Amoco Production Company*.³ Regarding the Employer's first argument, as we said in *Amoco (Id.)*

[a]n affiliation does not create a new organization, nor does it result in the dissolution of an already existing organization. The organizations participating in the affiliation determine whether any administrative or organizational changes are necessary in the affiliating organization.⁴

⁴[O]nly union members will be affected by any change in the constitution and internal union rules and regulations, as they have voluntarily agreed to do by virtue of the majority within their ranks having chosen to affiliate.

Similarly, the Employer's second argument is also lacking in merit.

Since we view an affiliation vote as basically concerned with the organization and structure of the union and not the representational status of employees, it is the sort of internal union matter into which the Board does not ordinarily intrude. The Board determines whether the vote was conducted with adequate due process: including, for example, proper notice to all members, an orderly vote, and some reasonable precautions to maintain the secrecy of the ballot.⁴

The Employer is not contending that there was any irregularity or impropriety in PERC's administration of the election, and it is readily apparent from the facts that "[a]dequate notice, discussion and time for reflection were provided all members before the election."⁵

The Employer argues that the election was deficient because the voter eligibility requirements were not in accordance with the FIEA constitutional requirement that only members in good standing as of

the last day of the month preceding the notice of election shall be allowed to vote (here December 30). But FIEA permitted members to vote who were on the last dues-checkoff list submitted by the Employer for October 1977 as well as employees joining as late as January 19.

The Petitioner contends that its actions were reasonable in the circumstances. The Petitioner alleges that the Employer put it in this dilemma by terminating dues checkoff. The Petitioner was consequently faced with the difficult, if not impossible, task of determining who, in this sizable unit spread over the State of Washington in approximately 171 locations, was a current dues-paying member. It therefore decided that anyone who joined and paid 1 month's dues before January 19 would be eligible to vote. The Petitioner also argues that its conduct was intended to, and in fact did, enfranchise unit members. Moreover, the Petitioner submits that there is no evidence that FIEA's actions were intended to undermine, or result in the undermining of, the electoral process.

We agree with the Petitioner. In the circumstances the broadening of the franchise does not support denial of the petition under our decision in *Amoco, supra*. We therefore find that the Employer's arguments are without merit.

In view of the foregoing, we shall amend the certification in Cases 19-RM-816 and 19-RC-5301 to reflect the current name and affiliation of the certified Union. This amendment is not to be considered as a new certification or recertification.

ORDER

It is hereby ordered that the petition to amend the certification filed by the Financial Institution Employees of America, Local 1182, chartered by Retail Clerks International Union, AFL-CIO, be, and it hereby is, granted, and that the decision and Certification of Representative in Cases 19-RM-816 and 19-RC-5301 be amended by substituting "Financial Institution Employees of America, Local 1182, chartered by Retail Clerks International Union, AFL-CIO" for "Firstbank Independent Employees Association."

³ 239 NLRB 1195 (1979). Member Truesdale concurring. Members Jenkins and Penello dissenting separately.

⁴ *Id.* 3-4.

⁵ *Id.*