

**OFFICE OF COMPLIANCE  
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**INTERNATIONAL BROTHERHOOD OF )  
TEAMSTERS LOCAL UNION )  
NOS. 246 AND 639, AFL-CIO )  
 )  
                                  **Petitioner,** )  
 )  
                                  **and** )  
 )  
**OFFICE OF THE U.S. CAPITOL POLICE BOARD,** )  
 )  
                                  **Employing Office.** )**

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**Case No. 03-LM(AC)-02  
Date: January 14, 2004**

**Before the Board of Directors: Susan S. Robfogel, Chair. Alan V. Friedman;  
Roberta L. Holzwarth; Barbara Childs Wallace, Members.<sup>1</sup>**

**DECISION AND ORDER AMENDING CERTIFICATION OF REPRESENTATIVE**

**I. INTRODUCTION**

The Petitioner labor organization seeks to amend the April 11, 2000 collective bargaining agent certification<sup>2</sup> to substitute Teamsters Local 639 for Teamsters Local 246 as the certified exclusive bargaining representative. The Petitioner asserts that as a consequence of a special

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<sup>1</sup>Member Camens did not participate in the deciding of this case.

<sup>2</sup> Office of Compliance Case Nos. 99-LM-7,-9,-10,-11 covering a unit of the Employing Office's non-sworn (civilian employees) employed by the U.S. Capitol Police Board as security aides, CCTV operators, or freight handlers, and all non-sworn (civilian) clerical and administrative employees by the U.S. Capitol Police Board.

membership election Local 246 merged into Local 639 in January 2003.

## II. PARTIES' POSITIONS

Petitioner submits that the merger election complied with guiding case law precedent, afforded due process, and provided full continuity of representation by the merged Teamsters Local 639 retaining the same constitution, dues structure, and servicing union business agents that this bargaining unit previously enjoyed through Teamsters Local 246. Petitioner states that because Teamsters Local 246 was under International trusteeship at the time of the merger election, the Local's membership would not lose their elective officers because there were none

The Employing Office does not oppose the amendment of certification petition and has asked the Board to determine whether it complies with controlling law.

## III. DISCUSSION

The Federal Labor Relations Authority ("Authority"), in also applying Title V, U.S.C. Chapter 71 of the Federal Service Labor-Management Relations Statute, has well settled case law in the area of amendment to certification petitions involving labor organization affiliations or mergers. In either situation, two conditions must be met: due process and continuity of representation. These two conditions were first described by the Assistant Secretary of Labor for Labor Management Relations, under the Executive Order 11491 Program, in *Veterans Administration Hospital*, Montrose, New York ("Montrose"), 4 A/SLMR 858 (1974). The Authority specifically adopted *Montrose* in *Florida National Guard, St. Augustine, Florida*, 25 FLRA 728 (1987).<sup>3</sup>

*Montrose* sets out specific procedures to ensure that union members have an adequate opportunity to vote on mergers or changes in affiliation. These due process standards encompass adequate advance notice, special and convenient meetings for fair discussion of the proposed change, and a secret ballot vote among the union bargaining unit members clearly stating the proposed change and the choices inherent therein.

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<sup>3</sup>*Montrose* cases are distinguishable from cases in which the union merely seeks a technical or nominal change in its certification due to a clerical or administrative error. Union mergers plainly do not fall within that category.

Any change in affiliation may not affect the continuity of the union employees' representation and nor may it leave open questions concerning such representation. The Authority has identified elements to weigh, including: continuity of officers or representatives; local autonomy and control of day-to-day operations, and whether the gaining union has agreed to administer the existing contract. *U.S. Department of the Army, Rock Island Arsenal, Rock Island Illinois ("Rock Island")*, 46 FLRA 76 (1992) citing *NLRB v. Financial Institution of Employees of America, Local 1183*, 475 U.S. 192 (1986).

According to the Authority, any petitions that seek to amend a recognition or certification as a result of a reaffiliation or merger must follow the procedures established in *Montrose*. These procedures were designed to ensure that an amendment to certification of an "exclusive representative in an existing unit" conforms to the desires of the membership of that unit. *U.S. Department of the Interior, Bureau of Land Management, Phoenix, Arizona ("BLM")*, 56 FLRA 202 (2000) citing *Rock Island*, 46 FLRA at 79.

A change in affiliation vote must be open to all union members in the affected unit but not to all members of the bargaining unit. *Bureau of Indian Affairs, Gallup, New Mexico*, 34 FLRA 428 (1990); *Financial Institution*, 475 U.S. 192 (1986). There is no requirement that any specific number or percentage of members must cast ballots in order for an affiliation change to be effective, *See Rock Island*, 46 FLRA 76 (1992). However, there must be union members in the unit and proof that the members were sent notice of the meeting. *See Union of Federal Employees*, 41 FLRA 562 at 574 (1991). Where there are no members of the union in the bargaining unit, *Montrose* does not permit the amendment of a certification because the *Montrose* requirements were designed to ensure that the sought amendment conforms to the desires of the bargaining unit's members. *See BLM*, 56 FLRA at 207.

The Petitioner has presented uncontroverted evidence establishing the following. The Petitioner provided advance written notice to the membership of Teamsters Local 246 in the Employing Office's bargaining unit that a secret ballot election over the proposed merger of Teamsters Local 246 into Teamsters Local 639 would be conducted on January 14, 2003, from 7:00 a.m. - 7:00 p.m., at the Union Hall, 2120 Bladensburg Road, NE, Washington, D.C. The election was conducted under the auspices of TLB Solutions, an independent elections supervisor; and in accord with the Teamsters International Constitution, which covered both members of Locals 246 and 639. The tally of that secret ballot vote established that the members of Local 246 voted "overwhelmingly" in favor of the merger. The merger was effected on January 31, 2003. Since that time Local 639 has been the "successor bargaining representative" on behalf of the employees in the Employing Office's bargaining unit. Local 639 adopted and is administering Local 246's bargaining agreement with the Employing Office. Moreover, the bargaining unit members' dues obligation, union constitutional obligations, and the union employee in charge of servicing the bargaining unit has remained unchanged.

Based upon the foregoing, we find that the merger election and the subject petition satisfies the *Montrose Factors* discussed above. Accordingly, we shall grant the petition.

#### **IV. ORDER**

The petition to amend the certification in Case Nos. 99-LM-7,-9,-10,-11 is hereby allowed. The Certification of Representative is amended to substitute **Teamsters Local Union 639, IBT, AFL-CIO** for *International Brotherhood of Teamsters Local Union No. 246*.

**IT IS SO ORDERED.**

Issued, at Washington, D.C.: January 14, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of January, 2004, I delivered a copy of this Decision and Order Amending Certification of Representative of the Board of Directors to the following parties by the below identified means:

First-Class Mail Postage-Prepaid  
& Facsimile Mail

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