

RECEIVED  
CITY OF SEATTLE  
COMMISSION

01 AUG -1 PM 12: 22

CIVIL SERVICE COMMISSION

BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

IN RE THE APPEAL OF:

ALAN BUDMAN and PATRICE LUNDQUIST,

No. 00-04-011

Appellants,

vs.

FINDINGS OF FACT,

CITY OF SEATTLE LIGHT and EXECUTIVE SERVICES DEPARTMENT,

CONCLUSIONS OF LAW,

Respondents.

AND DECISION

Alan Budman and Patrice Lundquist, Energy Management Analyst, Supervisors, for Seattle City Light, appeal the results of a classification and compensation review of their positions. The specific issues identified at a prehearing conference in November of 2000 were as follows:

1. Did the City develop its classification specifications and related compensation survey for these positions in accordance with its usual and customary procedures.
2. Did the job summary used for the compensation survey properly reflect the duties and responsibilities of these positions.
3. Was the reconsideration process conducted in accordance with the Personnel Rules.
4. Did the City make a commitment to the appellants to conduct their classification and compensation reviews in a manner that is different from its usual and ordinary practice and, if so, were their studies in keeping with this commitment.
5. Would the use of the alleged alternative methodology to which the Classification and Compensation Unit committed itself have yielded a different result than that what (sic) is currently being implemented. [Order, Issues, and Schedule, November 3, 2000.]

1 This matter came on for hearing on May 8, 2001, and continued May 9 and 11, 2001.  
2 Appellants represented themselves. Seattle City Light (hereinafter, "City Light") was  
3 represented by Bea Hughes, and the Executive Services Department (now, and at the time of  
4 the hearing, the Personnel Department, and hereinafter, "Personnel"), was represented by John  
5 Pearson, although Pearson appeared to handle the case for both departments at the hearing.

6 Originally, Appellant Budman had filed the appeal on his own. Appellant Lundquist  
7 then joined the appeal, and brought in the additional issue that for some time she and Budman  
8 had performed the same work, but at different rates of pay. This issue was deemed to be  
9 substantially different in character from the appeal originated by Budman, since it was based  
10 not upon a classification and compensation review, but upon work assigned prior to the review.  
11 For this reason, and because City Light representatives believed the matter could be settled  
12 relatively easily, it was severed from the combined appeal and opened as Appeal No. 00-04-  
13 013 by Order dated May 26, 2000. Testimony and evidence relating specifically and/or  
14 exclusively to this severed appeal was excluded from the combined hearing.

15  
16 Departments' Position:

17 The Departments contend that they, and especially Personnel, followed all appropriate  
18 procedures in classifying and determining and establishing compensation for the "new"  
19 position, and that in particular, the salary survey conducted by Personnel was performed in  
20 accordance with appropriate standards in the industry. The City further avers that any alleged  
21 representations made to the Appellants were in the manner of a probable outline of what was to  
22 occur, and had no substantive effect on the result.  
23  
24  
25

1 Appellants' Position:

2 Appellants allege that the salary survey was conducted without including new duties and  
3 responsibilities documented during the process of reconsideration of the original classification,  
4 and as a result, the position has been undervalued. Appellants further contend that Personnel, in  
5 essence, promised them that a certain protocol would be followed, and it was not, and that  
6 failure in itself is a violation of a commitment made to them, and so taints the process that the  
7 results are flawed, and should be redone. Finally, Appellants contend that the salary survey  
8 conducted does not support the conclusions drawn by Personnel, and results in lost current and  
9 potential future earnings.  
10

11 The Hearing Examiner, having heard the testimony and the arguments of the parties and  
12 counsel, and having reviewed the evidence in this case now makes the following:

13 **FINDINGS OF FACT**

14 1. Alan Budman, formerly a Senior Energy Management Analyst Supervisor for City  
15 Light, had held that position since April, 1984; Patrice Lundquist, an Energy Management  
16 Analyst Supervisor for City Light, has held that title since September, 1991. Notices of Appeal  
17 (Budman and Lundquist).

18 2. It is undisputed that City Light implemented a reorganization within the Energy  
19 Management Division (where Appellants worked), effective January 12, 1998.

20 3. It is undisputed that towards the end of 1997, or earlier, managers at City Light became  
21 aware that Appellant Lundquist and Appellant Budman were performing work that was  
22 substantially similar [part of the severed Lundquist appeal alleges that the date that the parties  
23 began performing the same work extends further back in time]. They decided to request the  
24 Executive Services Department (then encompassing Personnel) to perform a classification and  
25

1 compensation review of the positions of Energy Management Analyst, Supervisor (Lundquist's  
2 position, hereinafter, "EMA, Sup.") and Energy Management Analyst, Supervisor, Senior  
3 (Budman's position, hereinafter, "Sr. EMA Sup.>").

4 4. Appellant Lundquist submitted an "updated" PDQ on or about January 23, 1998, which  
5 she had signed on January 16, 1998, and Appellant Budman submitted a virtually identical  
6 PDQ on or about February 19, 1998. Exhibit 12.

7 5. It is undisputed that the initial classification and compensation review resulted in a  
8 recommendation that Budman's position be reduced, and that both positions be maintained at  
9 the level of Lundquist's position of EMA Sup. Exhibits 18-A & B.

10 6. Janis Kawamura, Executive Assistant in Energy Management Services, advised  
11 SharonLee Nicholson in October of 1998, prior to the initial Classification Determination  
12 Reports being issued, that although Appellant Budman was no longer actually supervising  
13 Appellant Lundquist, there was an increase in the breadth and scope of the EMA Sup. duties,  
14 and should be a concomitant increase in salary for that (Lundquist's) position. She expected  
15 that as a result of the review, Appellant Lundquist would receive a higher salary, and that  
16 Appellant Budman would have his salary frozen. Exhibit 23. Testimony of Kawamura.

17 7. The City maintains that the most significant change in the duties of the combined  
18 position is the elimination of the need to supervise a supervisor, thereby eliminating the  
19 necessity of a "senior" sub-classification. An additional "change" that was noted was the  
20 apparent reduction of "final technical review" responsibility of the Senior position to a shared,  
21 team-based approach. Testimony of Pearson, Nicholson, Nancy Schaefer. Exhibit 18-A.

22 8. It is undisputed that the parties requested a reconsideration of the findings of the initial  
23 classification and compensation review. The reconsideration Board met on January 5, 1999,  
24  
25

1 and consisted of Nancy Schaefer, Classification/Compensation Director, and Edie Jorgensen  
2 and John Pearson, Classification/Compensation Supervisors. A reconsideration hearing was  
3 held on March 3, 1999 relating to Appellant Budman's classification. Exhibits 17-A & B, 19.

4 9. It is undisputed that upon reconsideration, the hearing panel reviewed additional  
5 material and duties presented to it by Appellants and City Light management, and determined  
6 to revise the initial recommendations to maintain the title of EMA Sup., but to increase the  
7 salary, based upon the combining of the duties of the two positions, reflecting an increase in the  
8 responsibilities of the EMA Sup., and a decrease in the original duties of the Sr. EMA Sup.  
9 (notably, the lack of supervising a supervisor).

10 10. SharonLee Nicholson conducted a salary review process in March and April of 1999. It  
11 is undisputed that the salary survey was initiated prior to the issuance of the results of the  
12 reconsideration process. It is undisputed that Nicholson used the language from the existing  
13 classification specification for EMA Sup., with the addition of the language, "Senior Energy  
14 Management Analysts," to perform the survey. Testimony of Pearson and Nicholson. Exhibits  
15 8, 11.

16 11. Following the reconsideration hearing, Personnel sent Appellants a memo dated April  
17 14, 1999, outlining the procedure it proposed to follow in conducting the classification and  
18 salary review. Although that memo delineates a process in which the salary survey would be  
19 conducted after the reclassification review, the salary survey had already been commenced.  
20 Testimony of Pearson and Nicholson. Exhibits 2, 19.

21 12. It is undisputed that Personnel did not follow the timeline of specific activities as  
22 outlined in Exhibit 2. The classification review and the salary review were "de-linked" to save  
23 time and expedite the process. Exhibit 4. Testimony of Pearson, Schaefer.  
24  
25

1 13. The minimum qualifications identified by Appellants for their positions on their PDQs  
2 exceed what is actually required to enter the job. The descriptions used by Nicholson in her  
3 salary review of the work performed by Appellants was accurate as to the "core duties"  
4 performed by the parties. The significant "core duty" of the Sr. EMA Sup. position that  
5 distinguished it from the EMA Sup. position was the hierarchy of having EMA Sups. reporting  
6 to that position, which was no longer the case. At the point that the reporting hierarchy ended,  
7 there was no longer any justification for the Senior position, and maintaining the title would  
8 have been anomalous. Typically, salary surveys are not greatly detailed, and follow certain  
9 conventions. The salary survey conducted by Nicholson followed these conventions, although  
10 Nicholson admitted that in the salary survey she "inadequately described the functions [of the  
11 position] that were administrative." Testimony of Pearson, Nicholson, Schaefer, Andrew  
12 Lofton. Exhibits 8, 17-A & B, 22.

14 14. The new classification determination reports were issued June 15, 1999. A draft class  
15 spec was sent to Jean Shaffer on June 30, 1999, although the draft revised class specs were not  
16 distributed to Appellants until July 30, 1999. The classification was passed into ordinance on  
17 September 7, 1999, and signed by the Mayor on September 8, 1999. It was signed by  
18 Personnel Director Norma McKinney on or about December 22, 1999. Testimony of John  
19 Pearson. Exhibits 6, 17-A & B, 30.

21 15. Many suggestions and comments made by and considered significant to staff in the C/I  
22 unit were not incorporated into the final classification report, particularly those related to  
23 technical oversight responsibilities and safety issues. Exhibits 9, 24, 25. Testimony of  
24 Budman, Lundquist, Beverly Little-Strong, Jean Shaffer.

1 16. Salary Report #99-3188 was issued by Nicholson on June 15, 1999. This report  
2 contained at least two significant errors, to wit: the BPA salaries were not adjusted for the  
3 greater Seattle area (they were for the Portland area); and the "match" levels are in error. In  
4 preparing the report, Nicholson considered three issues: ability (of the employer) to pay;  
5 fairness and equity in internal alignment; and the external market. Nicholson testified at one  
6 time that her "ultimate decision" was based on ability to pay (although she stated that she  
7 "might come up with a different conclusion now"), and later that internal equivalents were "the  
8 primary driver" in her recommendation. The compensation report was signed by Norma  
9 McKinney on July 20, 1999. It should be noted that Nicholson's testimony on how she came up  
10 with the salary recommendation was quite troubling. It was ambiguous, evasive, and  
11 inconsistent, she admitted to making several errors, and some of the documentation submitted  
12 in the exhibits was collected significantly after the fact. Some of her testimony was  
13 contradicted by her superiors. See especially Exhibits 16-A, B, & C. Testimony of Pearson,  
14 Nicholson. Exhibits 6-A, 16-A, B, C.

16 17. The compensation report #99-3188 identifies three external matches as "strong"  
17 (Tacoma), "fair" (BPA, which contains a significant salary error), and "fair" (Snohomish  
18 County PUD). Each of the salaries indicated for the matches exceeds the then-current salary  
19 for the EMA Sup. position, and exceed the mid- and maximum range for the proposed (and  
20 ultimately adopted) salary for the new position. The market averages (including the Seattle  
21 adjustment for BPA) exceed the proposed (and adopted) salary for EMA Sup. for 1999 as  
22 follows: 12.7% (min.), 21.13% (mid), and 28.6% (max). Exhibit 13 identifies all three  
23 matches as "fair". Exhibit 20 identifies the levels of match as "strong" (Tacoma), "moderate"  
24 (BPA), and "strong" (Snohomish County PUD). Pearson testified that the matches received  
25

1 were "very good." Exhibits 6-A and 20 were prepared by Nicholson. Testimony of Pearson.  
2 Exhibits 6-A & B, 13, 16-C, 20.

3 18. With regard to internal alignment, the compensation report indicates that the EMA Sup.  
4 position salary is "10% below the average of [the] five similar titles." The comparison titles  
5 are not identified in the report. The recommended increase for the position is 6%. Pearson  
6 testified that internal equity was the most important factor in setting the salaries in this case,  
7 and that ability to pay "didn't enter into it at all." Testimony of Pearson. Exhibit 6-A.

8 19. The compensation report was the result of a combination of the salary survey results,  
9 interviews with survey respondents, an internal alignment review, job audits, and professional  
10 judgment. It is undisputed that Personnel took longer to respond to and/or make a decision on  
11 Appellants' reconsideration requests than is specified in the Rules. Testimony of Nicholson.

12 20. The delay in the reconsideration process may have had a positive result for Appellant  
13 Budman, since, if the process had concluded sooner, his salary would have been frozen sooner.  
14 However, the "expediting" of the salary review may have had a negative impact on Budman,  
15 by freezing his salary as soon as it did. Testimony of Pearson, Budman, Schaefer. The effect  
16 of this process on Lundquist will be addressed in the severed appeal.  
17

18 21. As a result of the classification and salary review, it was determined that Appellant  
19 Budman's position had been somewhat reduced in its responsibilities, largely due to the  
20 "flattening" of the organization, and should be paid at a lower salary. The new classification  
21 was deemed to lie between the Sr. EMA Sup. and the EMA Sup. positions. Budman's salary  
22 was "incumbency-rated" pursuant to Personnel Rules, Chapter 1, § 2, and 3.3.400 C.  
23 Testimony of Pearson, Budman. Exhibit 17-A. Personnel Rules.  
24  
25



1 22. As a result of the classification, Appellant Lundquist was to receive an increase in  
2 salary, effective 30 days after the ordinance was passed. Exhibit 6-A.

3 23. If the classification and compensation review of the positions in question differed from  
4 that of a typical review, it was in allowing more than the usual involvement of the department  
5 and staff under review. Frequently, there is no involvement at all in compensation reviews by  
6 the department under review. The review was within the range of typical practices used by  
7 Personnel. Testimony of Pearson, Kawamura, Schaeffer.

8  
9 Based upon the above Findings of Fact, The Hearing Examiner now makes the  
10 following:

#### 11 **CONCLUSIONS OF LAW**

12 1. Although there were a number of errors in the salary survey conducted by SharonLee  
13 Nicholson, they cannot be considered significant due to the small number of responses  
14 received, and the lack of reliance by Personnel on the results of the salary survey.

15 2. While the job summary sent out in the salary survey was not comprehensive, it was  
16 typical of the kind of summary used in such surveys, and the information relating to the core  
17 duties was essentially accurate, and produced results that were responsive. The accuracy of the  
18 job summary was not critical, since the salary survey was not relied upon in setting the salary  
19 for the position anyway.

20 3. Although there were a number of errors, discrepancies, and contradictions in the  
21 testimony of the classification/compensation analyst who conducted the review, I cannot  
22 conclude from the testimony and the evidence that the procedure followed by Personnel in  
23 conducting the review was so far outside its customary and usual practice, and industry  
24 standards, that it violated the Personnel Rules, City Ordinances, or Charter.  
25

1 4. Without addressing the issues of equitable pay for Appellant Lundquist, and how far  
2 back it should go, which is the subject of the severed appeal, I cannot conclude from the  
3 testimony and the evidence that the result of the classification/compensation review harmed the  
4 Appellants.

5  
6  
7 19 July 2001

8 DATE

9  
10  
11  
12 

13 RHEA J. ROLFE

14 Hearing Examiner

15  
16  
17  
18 **DECISION**

19  
20 A considerable amount of time was spent in this appeal trying to differentiate between  
21 what I call "forest" and "tree" issues. The Appellants focused a great deal on trees, when many  
22 of the individual points raised really did not matter to the end result. Such points included  
23 some duties that they and others in the unit considered important to the job, but were not  
24 important in the preparation of a brief, concise job summary to be used in a salary survey.  
25 Another point was the enormous focus on the salary survey itself, which was not a major factor

1 in establishing the salaries. The Appellants had difficulty discerning the differences between  
2 the job summary, the core duties of the job, and the class specifications.

3 Unfortunately, the testimony of the person conducting the review, SharonLee  
4 Nicholson, was so confusing, contradictory, and evasive that a great deal of it must be  
5 disregarded as unreliable. It would have been advantageous if after the reconsideration hearings  
6 the review had been assigned to someone else, since the first one had evidently been done  
7 poorly.

8  
9 Others in Personnel reviewed and approved the reports, and determined and testified  
10 that the results were within the range of appropriate classification and compensation standards.  
11 Since it is highly probable under these circumstances that the results of another compensation  
12 review would be the same as the prior one, no good would be served in ordering another review  
13 to address the original, relatively minor, irregularities. For the most part it appears that the  
14 classification and compensation reviews were performed in the regular and customary manner,  
15 consistent with accepted industry standards, and that Appellants' issues were largely taken into  
16 consideration.

17 The appeal is, therefore

18 **DISMISSED.**

19  
20  
21 19 July 2001  
DATE

22  
23 Rhea J. Rolfe  
24 RHEA J. ROLFE  
25 Hearing Examiner