

New section 251.13 *Employer-Filed Petitions under section 705.3 of SERA Raising a Question Concerning Representation.* is added as follows:

(a) A petition for an investigation of a question or controversy concerning representation of employees, when filed by an employer or its representative, shall contain the following:

(1) The name and address of the petitioner, and contact information of the individual who will serve as the representative of the petitioner and accept service of all papers for purposes of the representation proceeding. Contact information shall include, if applicable, the name, title, address, telephone number and email address of the individual who will serve as the representative of the petitioner;

(2) The general nature of the petitioner's business;

(3) A concise statement setting forth the current question or controversy requiring investigation. Such question or controversy may include, but shall not be limited to, allegations that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate or that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in section 705 of SERA;

(4) The approximate number of employees in the unit;

(5) the approximate percentage and volume of sales to and purchases from, points outside New York State and any other facts concerning interstate commerce, if any;

(6) The name or names and addresses of the individuals or labor organizations who have been certified or are being currently recognized by the employer and who claim to

represent any employees in the unit involved, and the expiration date of any contracts covering such employees;

(7) Objective evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about an actual loss of majority support for an existing representative. Good faith uncertainty by an employer about an actual loss of majority support as set forth above shall consist of evidence that the employee organization appears to have abandoned representation of the unit or is otherwise defunct; another employee organization claims majority support; or there exists objective non-speculative evidence that reliably indicates employee opposition to continued representation that has not been solicited by the employer. Such evidence shall be filed together with the petition, but if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party with the petition.

(8) If applicable, the type, date(s), time(s) and location(s) of the election sought.

(9) Any other relevant facts.

(b) If evidence during the investigation indicates that the employer interfered with the rights guaranteed to employees under the Act or otherwise acted to deprive employees of those rights, the petition shall be dismissed.

(c) A petition for an investigation of a question or controversy concerning representation of employees may be filed when a labor organization has made a demand for recognition on the employer. If the petition alleges that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit, such petition may be filed when it would be appropriate for an employee or his

representative to file a petition for decertification. Section 251.13 (d) through (g) of this Part sets forth the circumstances under which such a petition shall be considered.

(d) No more than one such petition may be filed by an employer in a one-year period following the conclusion of an investigation or dismissal of a petition.

263.35 Employer-Filed Petitions under Section 705.3 of SERA Raising a Question

Concerning Representation

(a) A petition for an investigation of a question or controversy concerning representation of employees, when filed by an employer or its representative, shall contain the following:

(1) The name and address of the petitioner, and contact information of the individual who will serve as the representative of the petitioner and accept service of all papers for purposes of the representation proceeding. Contact information shall include, if applicable, the name, title, address, telephone number and email address of the individual who will serve as the representative of the petitioner;

(2) The general nature of the petitioner's business;

(3) A concise statement setting forth the current question or controversy requiring investigation. Such question or controversy may include, but shall not be limited to, allegations that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate or that the individuals or labor organizations who have

been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in Section 705 of SERA;

(4) The approximate number of employees in the unit;

(5) The name or names and addresses of the individuals or labor organizations who have been certified or are being currently recognized by the employer and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees;

(6) Objective evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about an actual loss of majority support for an existing representative. Good faith uncertainty by an employer about an actual loss of majority support as set forth above shall consist of evidence that the employee organization appears to have abandoned representation of the unit or is otherwise defunct; another employee organization claims majority support; or there exists objective non-speculative evidence that reliably indicates employee opposition to continued representation that has not been solicited by the employer. Such evidence shall be filed together with the petition, but if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party with the petition;

(7) If applicable, the type, date(s), time(s) and location(s) of the election sought;

(8) Any other relevant facts.

(b) If evidence during the investigation indicates that the employer interfered with the rights guaranteed to employees under the Act or otherwise acted to deprive employees of those rights, the petition shall be dismissed.

(c) A petition for an investigation of a current question or controversy concerning representation of employees may be filed when a labor organization has made a demand for recognition on the employer. If the petition alleges that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit, such petition may be filed when it would be appropriate for an employee or his representative to file a petition for decertification. Section 263.31 (d) through (h) of this Part sets forth the circumstances under which such a petition shall be considered.

(d) No more than one such petition may be filed by an employer in a one-year period following the conclusion of an investigation or dismissal of a petition.