

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)
)
TRACY B. SANDERS AS MEMBER OF LOCAL 51)
OF THE INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS, AFL-CIO)
)
PETITIONER(S),)
)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

STATE FILE NO. 2019-H-PK09-2303

DATE OF NOTICE: 10/2/2018

CERT. MAIL/RETURN RECEIPT:

7017 2620 0001 0467 7055

NOTICE OF HEARING

PLEASE TAKE NOTICE that Joseph Beyer, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from Local 51 International Brotherhood of Electrical Workers, AFL-CIO and Tracy B. Sanders, as member of Local 51 International Brotherhood of Electrical Workers, AFL-CIO, [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on August 15, 2018, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "IPWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE: OCTOBER 25, 2018
TIME: 2:00 P.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

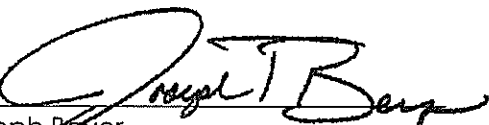
CLAUDIA MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.



Joseph Beyer
Director of Labor

STATE OF ILLINOIS — DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
160 N. LASALLE ST., STE. C-1300
CHICAGO, IL 606011

IN THE MATTER OF:)
)
LOCAL 51 OF THE INTERNATIONAL)
BROTHERHOOD OF ELECTRICAL)
WORKERS, AFL-CIO, and)
TRACY B. SANDERS, as a)
Member of LOCAL 51 OF THE)
INTERNATIONAL)
BROTHERHOOD OF ELECTRICAL)
WORKERS, AFL-CIO,)
)
Petitioners,)
)
)
v.)
)
JOE BEYER, DIRECTOR OF LABOR)
and the ILLINOIS DEPARTMENT OF)
LABOR,)
)
)
Respondents.)

EXHIBIT A

STATE FILE NO.:

2019-H-PK09-2308

OBJECTIONS AND REQUEST FOR SECTION 9 HEARING

Petitioners Local 51 of the International Brotherhood of Electrical Workers, AFL-CIO, and Tracy B. Sanders, as a member of Local 51 of the International Brotherhood of Electrical Workers, by and through their undersigned attorney, hereby object to the Illinois Department of Labor's ("the Department") August 15, 2018 Prevailing Wage Schedule and request the Department to correct the published rates as set forth herein or, alternatively, request a hearing pursuant to Section 9 of the Prevailing Wage Act. 820 ILCS §130/9. In support of this objection, Petitioners state as follows:

1. Local 51 of the International Brotherhood of Electrical Workers, AFL-CIO (hereinafter "Local 51" or the "Union") is an unincorporated association with its principal

office in Springfield, Illinois and is a labor organization representing individuals performing work in outside electrician classifications in counties in central Illinois. Local 51 files these objections on behalf of itself and its members.

2. Local 51's jurisdiction covers the following counties or portions thereof: Adams, Brown, Bureau, Cass, Champaign, Christian, Coles, Dewitt, Douglas, Edgar, Fayette, Ford, Fulton, Hancock, Henderson, Henry, Iroquois, Kankakee, Knox, LaSalle, Livingston, Logan, Macon, Macoupin, Marshall, Mason, McDonough, McLean, Menard, Mercer, Montgomery, Morgan, Moultrie, Peoria, Piatt, Putnam, Sangamon, Schuyler, Scott, Shelby, Stark, Tazewell, Vermillion, Warren, and Woodford.

3. Local 51 represents workers in the following trades subject to prevailing wage: Electric Power Equipment Operator, Electric Power Truck Driver, Electric Power Groundman, and Electric Power Lineman.

4. Local 51 is party to collective bargaining agreements ("CBAs") setting forth terms and conditions of employment, including wages and fringe benefits in all of the classifications and in all of the counties covered in these objections.

5. From time to time, Local 51 refers applicants to perform work on public works jobs in the classifications and counties covered by these objections.

6. Tracy B. Sanders is a member of Local 51 and from time to time performs work on public works projects in outside lineman classifications in a county covered by these objections under Local 51's collective bargaining agreements.

7. For years, in furtherance of the Section 9 process, Local 51 submitted prevailing wage certification forms listing collectively bargained wage rates and fringe

benefits for outside electrician classifications in various Illinois counties to the Department in May or June of each year.

8. Historically, and as recently as last year, the Department has accepted Local 51's submissions and have used the information provided by Local 51, including the wage and fringe benefits paid to Local 51 represented employees in the applicable classifications as set forth in Local 51's CBAs, to set the prevailing rate of wages for those classifications in the counties covered by these objections.

9. On or around May 31, 2018, the Department posted an online survey with links to a "Contractor Survey" and a "Union Survey" by which entities and persons could submit information about wages and fringe benefits on public works jobs.

10. The Contractor Survey includes a field to report the number of workers in a trade and county who performed work on public works jobs from 6/1/2017 to 5/31/2018. It also includes a field to report the total hours worked by all employees in a trade and county on public works jobs from 6/1/2017 to 5/31/2018.

11. The Union survey includes a field to report the number of workers in a trade and county who performed work on public works jobs from 6/1/2017 to 5/31/2018. It does not include a field to report the total hours worked by all employees in a trade and county on public works jobs from 6/1/2017 to 5/31/2018.

12. A representative of Local 51 timely completed and submitted the Union Survey, showing the wage and fringe rates for the classifications and counties covered by this objection. Due to problems with the Department's online system, the Union printed a copy of the submission (totaling hundreds of pages) and sent it to the Union's

District office which then, to the Union's understanding, mailed the submission to the Department for filing.

13. On August 15, 2018, the Department published the Current Prevailing Wage Rates on its website.

14. By e-mail dated August 28, 2018 and later by letter, the Union notified the Department by letter and e-mail of errors in the Current Prevailing Wage Rates.

15. On or around August 21, 2018, the Department posted information on its website, unknown to the Union at the time, providing an explanation of the methodology used by the Department for determining the statewide rates the Department published on August 15, 2018, as well as a spreadsheet listing all survey submissions that were considered in determining the published rates.

16. Among other things, the methodology sets forth criteria upon which the Department based its determination for each "combination," meaning each category of work in each county, stating:

- If the Department received one—and only one—valid response from a contractor for the combination, the Department published the wage and fringe benefit rates contained in that response as the prevailing wage rates for the combination.
- If the Department received more than one valid response from contractors for the combination, the Department published the wage and fringe benefit rates contained in the response submitted by the contractor indicating that it had worked the most hours in the combination between June 1, 2017 and May 31, 2018 as the prevailing wage rates for the combination.
- If the Department received no valid responses from contractors, and a valid response from one—and only one—union, for the combination, the Department published the wage and fringe benefit rates contained in that response as the prevailing wage rates for the combination.
- If the Department received no valid responses from contractors, and a valid response from more than one union, for the combination, the

Department published the wage and fringe benefit rates contained in the response submitted by the union who, Department records indicated, had, in prior years, submitted wage and fringe benefit rates that the Department had published as the prevailing wage rates for the same combination in those years.

- Finally, if the Department received no valid responses at all for the combination, the Department republished the previously published rates for the combination.

17. The methodology changed the process by which the Department investigated and ascertained the prevailing wage rate, and in particular used different criteria than in the past to prioritize responses from contractors and to discount responses from unions and contractor associations.

18. The Department did not notify the Union in advance of this change in methodology.

19. Petitioners object to the prevailing wages rates published on August 15, 2018.

20. Attached hereto as Exhibit 1, and incorporated herein, is a summary of Petitioners' objections, showing the rates of each classification, in each county, to which the Union objects and also showing the correct prevailing wage rate for that classification.

21. Some of the rates to which Petitioners object are incorrect either due to errors made in responses submitted by Local 51 contractors or possibly errors by the Department in transcribing data. These errors include but are not limited to:

- a. Rates do not reflect increases;
- b. Rates include the wrong rate or no rate for foreman;

- c. Rates are for the wrong quadrant or portion of a county, cover an entire county when they should only cover a portion of a county, or the 2017 rates were used because data was ascribed to the wrong quadrant or portion of a county;
- d. Rates for overtime are omitted or incorrect;
- e. Rates show the wrong amount for a fringe benefit, do not include certain fringe benefits, or include amounts that should not be included as a fringe benefit.

22. The Union is in the process of contacting signatory contractors to request that they contact the Department with the appropriate corrections to the extent a contractor submitted incorrect information. But, even if a contractor fails to provide this information, the Department should make the requested corrections.

23. The rates for Iroquois County are incorrect and dated. The Union attempted to provide information on rates during the month of June 2018 for the classifications in this county through the Union survey, but the Department website would not accept the information.

24. There are several counties which do not include entries for Electric Power Truck Driver and use different rates for the Electric Power Equipment Operator, Groundman, and Lineman classifications than Local 51's rates for the portion of the county within Local 51's jurisdiction. It appears that the Department used rates submitted by another IBEW Local to set the prevailing wage in these counties. Petitioners request the Department to use Local 51's classifications and rates in the portions of the county within Local 51's jurisdiction as designated in Exhibit 1.

25. The other rates to which Petitioners object are based on information submitted by non-signatory contractors. Petitioners object to these rates as being the "prevailing rate" for a variety of reasons including but not limited to:

- a. The Department deviated from past practice and the *status quo* by not using the wage and fringe benefits paid to Local 51 represented employees, as set forth in Local 51's CBAs, to determine the prevailing rate of hourly wages for the classifications in the counties.
- b. The Department failed to give notice to Local 51 that it had changed its methodology.
- c. The Department failed to engage in required rule-making to change its methodology.
- d. The Department arbitrarily and unreasonably determined to favor responses from one - and only one - contractor over responses from a union or a contractor association.
- e. The Department apparently relied on rates paid by the non-signatory contractor at the time of the work in question rather than consider any increases since that time.
- f. The Department failed to properly consider or ignored information submitted by Local 51 and a contractor association about the number of workers in a trade and county who performed work on public works jobs.

g. The Department failed to give Local 51 the opportunity to submit information about the total hours worked by all employees in a trade and county on public works jobs.

26. In some instances, the Department accepted wage and fringe data submitted by a single contractor, showing only a few hours of work, to set the prevailing rate of wages for a particular classification in a particular county.

27. In addition, the Department in relying on rates reportedly paid by the contractor at the time of the work in question is effectively freezing the prevailing wage at last year's rate, when the Department should consider any increases as of the month of June 2018.

28. Petitioners also object to all the rates in all the classifications and counties in the Union's jurisdiction if they do not require overtime at time and one-half after eight hours on Monday through Friday. The Union's CBAs require time and one-half after eight hours. (Exhibit 1 does not include this correction for every classification in every county.)

29. Based on the Act, as confirmed by past practice, the wage and fringe benefits paid to Local 51 represented employees, as set forth in Local 51's CBAs, determine the prevailing rate of hourly wages for the classifications in the counties.

30. Furthermore, and in fact, the wage and fringe benefits paid to Local 51 represented employees, as set forth in Local 51's CBA's are the most frequently paid wage and benefit rates to employees on public works in the classifications and counties covered by this objection.

31. Under Section 9 of the Act, “[n]othing prohibits the Department from publishing prevailing wage rates more than once per year.”

32. Under Section 9 of the Act, the Department may correct the rates and publish corrected rates following a hearing.

33. Local 51 signatory contractors are at a competitive disadvantage resulting from the Department's published prevailing wage rates.

34. Local 51 and its members are harmed by the Department's published prevailing wage rates, in that they could lose work opportunities on public works jobs, and in the form of downward pressure placed on their wages and benefits due to the Department's determinations.

35. Petitioners request that the Department correct the existing Prevailing Wage Schedule to reflect the correct prevailing wage rates as set forth herein and Exhibit 1.

36. Alternatively, Petitioners request a hearing on these objections and a ruling that that rates as set forth herein and Exhibit 1 are the prevailing wage rates for the classifications and counties covered by this objection.

For the reasons set forth above, Petitioners object to the prevailing wage rates as described herein, and for the reasons set forth herein. Petitioners request that the Department correct the published rates or, alternatively, request a hearing on these objections pursuant to Section 9 of the Prevailing Wage Act (820 ILCS 130/9).

Respectfully submitted,



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September 14, 2018

cc: John Johnson, via e-mail
Paul Noble, via e-mail

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County	Trade	Geographic Division	Class Type	Class	Organization Name	Hourly Wage	Foreman Hourly	Overtime Type	Monday through	Saturday	Sunday	Holiday	Health Insurance	Pension /	Vacation	Training Hourly	Other Hourly	Local 51's Corrections to Prevailing Wage Rates		
																		IDOL Rate	Correct Rate	Correct Rate
Champaign	ELECTRIC PWR LINEMAN	ALL	ALL		\$50.11	[OMITTED]	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$7.25	\$14.03	\$0.00	\$0.79	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$44.14	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.52	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$45.09	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$7.10	\$12.62	\$0.00	\$0.49	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$40.17	\$56.16	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
Coles	ELECTRIC PWR LINEMAN	ALL	ALL		\$30.81	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.97	\$8.82	\$0.00	\$0.31	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$50.11	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.16	\$0.00	\$0.53	\$0.00	\$0.00		
	ELECTRIC PWR TRK DRV	ALL	ALL		\$32.32	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.72	\$9.05	\$0.00	\$0.32	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$41.14	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$11.52	\$0.00	\$0.41	\$0.00	\$0.00		
Edgar	ELECTRIC PWR GRNDMAN	ALL	ALL		\$30.81	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$45.09	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$11.52	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$30.81	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$30.81	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
Fayette	ELECTRIC PWR LINEMAN	ALL	ALL		\$51.65	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.46	\$0.00	\$0.53	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$41.14	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.46	\$0.00	\$0.53	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$45.09	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$11.52	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$30.81	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
Iroquois	ELECTRIC PWR LINEMAN	ALL	ALL		\$51.65	[OMITTED]	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.46	\$0.00	\$0.53	\$0.00	\$0.00		
	ELECTRIC PWR TRK DRV	ALL	ALL		\$32.32	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.72	\$9.05	\$0.00	\$0.32	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$45.09	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$11.52	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$30.81	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
Madison	ELECTRIC PWR LINEMAN	ALL	ALL		\$50.11	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.72	\$9.05	\$0.00	\$0.32	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$51.65	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.96	\$13.61	\$0.00	\$0.49	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$50.11	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.03	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR EQMT OP	ALL	ALL		\$41.14	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.46	\$0.00	\$0.41	\$0.00	\$0.00		
Madison	ELECTRIC PWR GRNDMAN	ALL	ALL		\$45.09	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$40.17	\$56.16	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$8.45	\$0.00	\$0.30	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$50.11	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.72	\$9.05	\$0.00	\$0.32	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$51.65	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.96	\$13.61	\$0.00	\$0.49	\$0.00	\$0.00		
Shelby	ELECTRIC PWR EQMT OP	ALL	ALL		\$50.11	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.03	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$50.11	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.46	\$0.00	\$0.53	\$0.00	\$0.00		
	ELECTRIC PWR GRNDMAN	ALL	ALL		\$45.09	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$11.52	\$0.00	\$0.41	\$0.00	\$0.00		
	ELECTRIC PWR LINEMAN	ALL	ALL		\$51.65	\$56.52	[OMITTED]	1.5	1.5	2.0	2.0	2.0	\$6.93	\$14.46	\$0.00	\$0.53	\$0.00	\$0.00		



CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I C.Y. Jackson, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Notice of Hearing upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Notice of Hearing in Case No. 2019-H-PK09-2303 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and at 100 W. Randolph Street, Chicago, Illinois on the 2nd day of OCTOBER, 2018 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at www.state.il.us/agency/idol/

Tracy B. Sanders / Local 51 IBEW, AFL-CIO
c/o Christopher N. Gant, Esq.
Schuchat, Cook & Werner
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Via messenger:

Joseph Beyer
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Illinois Department of Labor
c/o Benno Weisberg
General Counsel
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160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

C.Y. Jackson

Subscribed and Sworn to this 1st day of Oct., 2018

Laura Kotelman
Notary Public

