

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

IN THE MATTER OF:)

PATRICK NOHL, as member of the)
INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS, LOCAL 117,)

PETITIONER(S),)

v.)

JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)

RESPONDENTS.)

STATE FILE NO. 2019-H-PK09-2256

DATE OF NOTICE: September 28, 2018

CERT. MAIL/RETURN RECEIPT:

7017 2620 0001 8467 5723

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 Patrick Nohl, as member of the International Brotherhood of Electrical Workers, Local 117, [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 9, 2018
TIME: 1:00 P.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

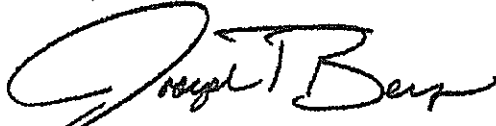
CLAUDIA MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

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.

A handwritten signature in black ink, appearing to read "Joseph T. Beyer". The signature is written in a cursive style with a large initial "J" and "B".

Joseph Beyer
Director of Labor

STATE OF ILLINOIS- DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
160 N. LASALLE ST. STE. C-1300
CHICAGO, IL 60601

IN THE MATTER OF:)
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JOSEPH BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
Respondents.)

RECEIVED

SEP 12 2018

Illinois Department of Labor
CHICAGO OFFICE

2019-H-PK09-2256

EXHIBIT A

IBEW LOCAL 117
OBJECTION AND REQUEST FOR SECTION 9 HEARING

Petitioner, PATRICK NOHL, as a member of INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 117 (known collectively as the "IBEW Local 117"), by and through their attorney, JOHN J. TOOMEY, of the law firm of ARNOLD AND KADJAN, LLP, seek to formally object to the Prevailing Wage determination published by the Illinois Department of Labor ("Department") on its website on August 15, 2018, as required by Illinois HB 3044 signed into law on June 16, 2017, and request a hearing on these objections pursuant to Section 9 of the Illinois Prevailing Wage Act (820 ILCS § 130/9) for the classifications of (1) Communications Technician and (2) Electrician for McHenry and Northern Kane Counties. In support, IBEW Local 117 state further:

1. PATRICK NOHL ("Nohl") is a member of the International Brotherhood of Electrical Workers and its constituent, IBEW Local 117.
2. The IBEW is a national labor organization consisting of the members of Local Electrical and Communications Unions.
3. IBEW Local 117 is a local labor organization and an affiliate of the IBEW which represents electrical and communication workers including the classifications of Electrician and Communication Technician in McHenry and Northern Kane Counties, Illinois.
4. Section 9 of the Illinois Prevailing Wage Act states: "The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State." 820 ILCS § 130/9.
5. Historically, and as part of the Section 9 Wage determination process, IBEW Local 117 submitted Prevailing Wage Certification Forms to the Department in June, 2018 electronically and in an abundance of caution on paper forms as done in 2017, which reflected the identical information as the electronic submission. These materials listed the wage rates and fringe benefits paid to the following Prevailing Wage Classifications: Electrician and Communication Technician in McHenry and Northern Kane Counties, Illinois.
6. Historically, the Department abided by its statutory obligation to ascertain the prevailing rates in the month of June, and would then post the Prevailing Wage rates for each established classification consistent with the materials provided by IBEW Local 117 described above August 15 of each year effective back to the first date of June of the submission year as amended by HB 3044.

7. In 2018 IBEW Local 117 obtained Prevailing Wage Certification Forms from the Department's official website and submitted the appropriate forms on June 22, 2018 for Electrician and Communication Technician electronically as required by the Department of Labor with the collective bargaining agreements effective June 4, 2018 through June 3, 2019.

8. On August 15, 2018, the Department posted on its website the 2018 prevailing wage determinations to be effective September 1, 2018 for Electrician and Communication Technician in McHenry and Northern Kane Counties, Illinois.

9. The Department historically has published the prevailing wage rates with an effective date of June 1 of that corresponding year. However, that effective date has been changed to September 1, 2018 by statute.

10. The information provided by IBEW Local 117 for the 2018 prevailing wage rates for Electrician and Communication Technician in McHenry and Northern Kane Counties, Illinois are applicable to the time period of June 4, 2018 through June 3, 2019 and are in effect on September 1, 2018.

Electrician - Northern Kane and McHenry Counties

11. The Department's August 15 published **Northern Kane County** rates for **Electrician** are correct except the Pension figure should be \$16.69, not \$15.23 as certified and the Training figure should be \$.97, not \$0 as certified. The Department's certified rate adds an additional category of "**Other Fringes**" at \$2.84 per hour which was never submitted by IBEW Local 117 and it should be removed.

12. The Department's August 15 published **McHenry County** rates for **Electrician** are correct except the Pension figure should be \$16.69, not \$15.23 as certified and the Vacation figure should be \$0, not \$4.87 as certified. The published rate **omitted any rate for foreman**, it

should be \$53.04 as submitted rather than blank.

Communication Technician - Northern Kane and McHenry Counties

13. The Department's August 15 published **Northern Kane County** rates for **Communication Technician** are correct except the Pension figure should be \$13.03, not \$11.85 as certified. The Department's certified rate adds an additional category of "**Other Fringes**" at \$1.79 per hour which was never submitted by IBEW Local 117 and it should be removed.

14. The Department's August 15 published **McHenry County** rates for **Communication Technician** are correct except the Pension figure should be \$13.03, not \$11.85 as certified. The Department's certified rate adds an additional category of "**Other Fringes**" at \$1.79 per hour which was never submitted by IBEW Local 117 and it should be removed.

15. The Department's published rate will result in the loss of wages for IBEW Local 117 members as certain collective bargaining agreements between IBEW Local 117 and various employers provide that IBEW Local 117 members will be paid for the period according to the submitted wage and benefit package which is a higher rate than certified by the Department to be effective September 1, 2018.

16. The rates as submitted to the Department of Labor by IBEW Local 117 compared to the certified rate as listed below for **Northern Kane County** for **Electricians** are:

Northern Kane Certified	Base Wage	Foreman Wage	MFOT	OSA	OSH	H/W	Pension	Vacation	Training	Total
	\$48.64	\$53.04	1.5	1.5	2	\$14.94	\$15.23	\$0	\$0	\$78.81
Submitted	\$48.64	\$53.04	1.5	1.5	2	\$14.94	<u>\$16.69</u>	\$0	<u>\$.97</u>	<u>\$81.24</u>
						Difference	+\$1.46		+\$.97	+\$2.43

17. The rates as submitted to the Department of Labor by IBEW Local 117 compared to the certified rate as listed below for McHenry County for Electricians are:

McHenry	Base Wage	Foreman Wage	MFOT	OSA	OSH	H/W	Pension	Vacation	Training	Total
Certified	\$48.64	\$0	1.5	1.5	2	\$14.94	\$15.23	\$4.87	\$.97	\$84.65
Submitted	\$48.64	<u>\$53.04</u>	1.5	1.5	2	\$14.94	<u>\$16.69</u>	<u>\$0</u>	\$.97	<u>\$81.24</u>
Difference		<u>+\$53.04</u>				Difference	<u>+\$1.46</u>	<u>-\$4.87</u>	Difference	<u>-\$3.41</u>

18. The rates as submitted to the Department of Labor by IBEW Local 117 compared to the certified rate as listed below for Northern Kane County for Communication

Technicians are:

Northern Kane	Base Wage	Foreman Wage	MFOT	OSA	OSH	H/W	Pension	Vacation	Training	Total
Certified	\$39.24	\$41.64	1.5	1.5	2	\$12.71	\$11.85	\$0	\$.69	\$64.49
Submitted	\$39.24	\$41.64	1.5	1.5	2	\$12.71	<u>\$13.03</u>	\$0	<u>\$.69</u>	<u>\$65.67</u>
						Difference	<u>+\$1.18</u>		Difference	<u>+\$1.18</u>

19. The rates as submitted to the Department of Labor by IBEW Local 117 compared to the certified rate as listed below for McHenry County for Communication Technicians are:

McHenry	Base Wage	Foreman Wage	MFOT	OSA	OSH	H/W	Pension	Vacation	Training	Total
Certified	\$39.24	\$41.64	1.5	1.5	2	\$12.71	\$11.85	\$0	\$.69	\$64.49
Submitted	\$39.24	\$41.64	1.5	1.5	2	\$12.71	<u>\$13.03</u>	\$0	<u>\$.69</u>	<u>\$65.67</u>
						Difference	<u>+\$1.18</u>		Difference	<u>+\$1.18</u>

WHEREFORE, for the reasons set forth above the Petitioner, PATRICK NOHL, as a member of the INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 117, objects to the Prevailing Wage determination posted on the Department's official website on August 15, 2018 and respectfully request a hearing on these objections pursuant to 820 ILCS § 130/9 as these are the rates in effect since June 4, 2018 and are the rates effective on September 1, 2018 as certified for McHenry and Northern Kane Counties, Illinois.

CONCLUSION

As a remedy, Petitioner seeks that the certified prevailing rates published August 15, 2018 for:

1. **Northern Kane County** rates for **Electrician** Pension figure be corrected and increased to \$16.69, Training figure should be \$.97 and the additional \$2.84 for Other Fringes be removed as never submitted.
2. **McHenry County** rates for **Electrician** Pension figure be corrected and increased to \$16.69, Vacation figure be \$0 and the foreman rate be certified as \$53.04.
3. **Northern Kane County** and **McHenry County** rates for **Communication** Pension figure be corrected and increased to \$13.03, and the additional \$1.79 for Other Fringes be removed as never submitted.

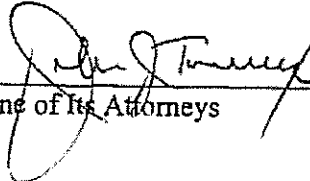
WHEREFORE, Petitioner, PATRICK NOHL, as a member of the INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 117, prays the Illinois Department of Labor August 15, 2018 Prevailing Rate certifications be corrected.

September 12, 2018

Respectfully submitted,

PATRICK NOHL, as a member of the
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 117,

By:



One of Its Attorneys

John J. Toomey
ARNOLD AND KADJAN, LLP
35 E. Wacker Drive, Suite 600
Chicago, Illinois 60601
(312) 236-0415

CERTIFICATE OF SERVICE

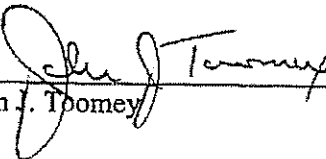
The Undersigned certifies that he caused copies of the foregoing Notice of Filing and Objections and Request for Section 9 Hearing to be served upon the following persons, via hand delivery, this 11th day of September, 2018.

Joseph Beyer
Director of the Illinois Department of Labor
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

Illinois Department of Labor
c/o Joseph Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

and to the following by First Class U.S. Mail, postage prepaid to:

Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62704



John J. Toomey

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Illinois Department of Labor
CHICAGO OFFICE

STATE OF ILLINOIS- DEPARTMENT OF LABOR
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Illinois Department of Labor
CHICAGO OFFICE

NOTICE OF FILING

To: Joseph Beyer
Director of the Illinois Department of Labor
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

Illinois Department of Labor
c/o Joseph Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, Illinois 60601

Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62704

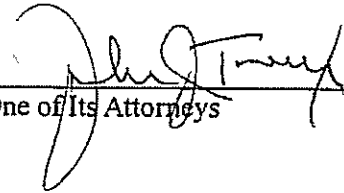
PLEASE TAKE NOTICE that on this 12th day of September, 2018, the undersigned filed the attached Objections and Request for Section 9 Hearing, a copy of which is herewith served upon you.

September 12, 2018

Respectfully submitted,

PATRICK NOHL, as a member of the
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 117,

By:



One of Its Attorneys

John J. Toomey
ARNOLD AND KADJAN, LLP
35 E. Wacker Drive, Suite 600
Chicago, Illinois 60601
(312) 236-0415

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-PK09-2256 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 28th day of September, 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/

IBEW, Local 117
c/o John Toomey, Esq.
Arnold & Kadjan LLP
35 E. Wacker Dr., Ste. 600
Chicago, IL 60601
jtoomey100@hotmail.com

Via messenger:

Joseph Beyer
Director of Labor
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

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

C.Y. Jackson

Subscribed and Sworn to this 26th day of Sept, 2018

Laura Kotelman
Notary Public

