

**STATE OF ILLINOIS DEPARTMENT OF LABOR
LAW DIVISION – HEARINGS SECTION
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601**

In the Matter of:)

LOCAL 51 OF THE INT'L BROTHERHOOD)
OF ELECTRICAL WORKERS, AFL-CLO)
AND ROBERT WEDELL AS BUSINESS)
MANAGER OF LOCAL 51 OF THE INT'L)
BROTHERHOOD OF ELECTRICAL)
WORKERS, AFL-CLO)

Petitioners,)

IDOL FILE NO.: 2022-H-RP08-2334

Michael D. Kleinik, Director of)
The Illinois Department of Labor, and)
The Illinois Department of Labor,)

Respondents.)

ORDER

IDOL File No.: 2022-H-RP08-2334 coming on December 3, 2021 to be heard under the Prevailing Wage Act, 820 ILCS 130/0.01 – 12 ("the Act" or "PWA"), and in accordance with the procedures stated in the Department of Labor's Rules at 56 Ill Admin Code 120.100, *et seq.*, and International Union of Operating Engineers, Local 841, and International Union Operating Engineers, Local 965, AFL-CIO's Petition to Intervene, all parties having been duly advised on the premises, issues this order *sua sponte*:

PETITION TO INTERVENE

a) Permission to Intervene

1) Upon timely written application, the ALJ may, in his or her discretion, permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when:

A) The party is so situated that he or she may be adversely affected by a final order arising from the hearing;

B) The party requesting intervention is a necessary party to the hearing proceeding; or

- C) A party's claim or defense and the main action have a question of law or fact in common.
- 2) In exercising discretion under this subsection (a), the ALJ shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.
 - b) Two copies of a petition for intervention shall be filed with the ALJ, and one copy shall be served on each party.
 - c) An intervenor shall have all the rights of an original party subject to the order of the ALJ, except that the ALJ may, in his or her order allowing intervention, provide that the party shall not raise issues that might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay may require.

ARGUMENTS

Local 841 and Local 965 seeks status as an intervenor in 2022 H-RP08 2334 because should the changes proposed by the objector go into effect, some of Local 841 and 965's members will be adversely affected. Petitioners argue that some members of Local 841 and 965 may be encompassed by the proposed changes classifying them to a lower rate of pay.

Objector Local 51 IBEW opposes the intervention arguing that proposed changes are not contained within the IDOL's class descriptions and not reflected in the rates set. As a result, Local 841 and 965's membership would not be affected by the proposed changes and Local 841 and 965 should not be allowed to intervene.

The Department does not take a position on the petition to intervene.

FINDINGS

It is found that Local 841 and 965 has successfully demonstrated that its members may be adversely affected by the establishment of differing rates and classifications. Any change in the rates and or classifications may adversely affect its membership.

Additionally, it is found that the Local 841 and Local 965 are necessary parties with the necessary information to enable the undersigned the ability to properly hold a full and fair hearing. Thus, Local 841 and 965 have successfully proven under the regulation that they may be both adversely affected and are necessary parties to this dispute. Local 841 and Local 965 are allowed to intervene in this matter.

IT IS HEREBY ORDERED:

1. **Local 841 and Local 965's Petition to intervene is granted.** Intervenors take the case as it is found and are not allowed to introduce new issues as provided under 56 Ill. Admin. Code 120.320@.

2. The parties and intervenor agree to accept service of pleadings via email.
3. General discovery (e.g. depositions, interrogatories, or request for production or admit) is not allowed pursuant to 56 Ill. Admin. Code 120.410a.
4. All parties have consented in writing (or email) to waive the 45-day hearing provision of Section 9.
5. **The parties and intervenor shall file motions for third party subpoenas**, along with a draft copy of a subpoena (the subpoena shall show on its face the name and address of the party) at whose request the subpoena was issued with the undersigned **on or before December 23, 2021**.
6. **Subpoenas for the attendance and testimony of witnesses shall be filed on or before February 9, 2022**. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.
7. **Each party and intervenor shall provide all parties with a copy of any document that it may offer into evidence. The parties and intervenor shall exchange documents on or before February 4, 2022.**
8. **Each party and intervenor shall provide all parties and the undersigned with a witness list containing the names/professional address/phone numbers for hearing of any witnesses who may be called to testify at hearing on or before February 9, 2022**. The disclosure must provide subjects/topics on which the witness will testify. the disclosure must sufficiently give reasonable notice of the testimony. The purpose of this disclosure is to prevent unfair surprise at hearing with creating an undue burden on the parties before the hearing.
9. All parties/intervenors shall have a duty to seasonably supplement all disclosures.
10. Any disclosure dispute is to be added with the opposing party/intervenor prior to filing any motion. Evidence demonstrating said outreach will be required before a motion will be entertained regarding the same.
11. **This matter is scheduled for telephonic hearing on March 9 & 10, 2022 at 9:00 a.m.**

DATE: December 6, 2021

/s/ John A. O'Meara

John A. O'Meara
Administrative Law Judge
Illinois Department of Labor
160 N. LaSalle St., Ste C-1300
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DOL.Hearings@Illinois.gov

STATE OF ILLINOIS)
)
COUNTY OF COOK)

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Karen Lewis, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Order or Decision upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Order or Decision in Case No. 2022-H-RP08-2334 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address having caused each envelope to be served by U.S. mail certified mail return receipt requested or regular mail at 100 W. Randolph Street, Chicago, Illinois or via email addressed to each party or party's agent at the respective email address shown on the Certificate of Service, on **December 6, 2021** prior to 4:30 p.m.

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/s/Karen Lewis

Karen Lewis, Office Specialist
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