

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**ROCHESTER GAS & ELECTRIC CORPORATION**

**and**

**Cases 03-CA-075635  
03-CA-081230**

**LOCAL UNION 36, INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO**

**MOTION TO REMAND CASES TO THE REGIONAL DIRECTOR FOR  
APPROVAL OF NON-BOARD SETTLEMENT AGREEMENT**

The undersigned, pursuant to Section 102.47 of the Board's Rules and Regulations, as amended, hereby files this motion requesting that the Board remand the above-captioned cases to the Regional Director for Region Three for the purpose of approving the parties' settlement agreement.

1. On September 28, 2012, the Acting Regional Director for Region Three issued an Order Consolidating Cases, Amended Consolidated Complaint and Notice of Hearing in the above matter. The Amended Consolidated Complaint alleged that Respondent violated Section 8(a)(1) and (5) of the Act by failing to bargain over the effects of subcontracting bargaining unit work to several contractors during various times from about August 11, 2010 to December 5, 2011, and again on or about August 30, 2011. The Amended Consolidated Complaint further alleged that Respondent violated Section 8(a)(1) and (5) by unreasonably delaying production of relevant information for the period from April 29, 2011 to March 20, 2012. As part of the remedy, the

Consolidated Complaint required Respondent to make whole affected Unit employees in a manner set forth in Transmarine Navigation Corp., 170 NLRB 389 (1968).

2. Administrative Law Judge Steven Davis (ALJ Davis) heard this matter on March 6 to 8, April 17 to 19, and May 13, 2013.

3. On January 8, 2014, ALJ Davis issued a Decision finding that Respondent violated Section 8(a)(1) and (5) of the Act, as alleged.

4. On January 23, 2015, the parties reached a non-Board settlement resolving the issues in the above matter. By letter dated February 19, 2015, the parties jointly requested that the Region file the instant motion with the Board requesting that the above matter be remanded to the Regional Director for the purpose of approving the parties' settlement agreement. A copy of the letter dated February 19, 2015 and the parties' settlement agreement are attached as Exhibit 1. Specifically, the Respondent and Charging Party Union agreed to the following terms, effective three weeks from the date of the Regional Director's approval until December 31, 2019:

(a) Respondent shall pay \$650,000 in gross pay, less applicable withholdings, to be allocated on a pro rata basis to full-time bargaining Unit employees on the Respondent's payroll during the period from August 1, 2010 to December 30, 2012;

(b) Respondent shall maintain minimum staffing levels of full-time bargaining Unit employees as set forth in the parties' non-Board settlement;

(c) At the Union's request, Respondent shall provide the Union with information about subcontracted Unit work, including the names of the subcontractors, scope of work and work location;

(d) The Union agrees not to challenge the Respondent's decision to subcontract bargaining Unit work or demand bargaining over the decision and the effects of such a decision with limited exceptions delineated in the parties' non-Board settlement; and

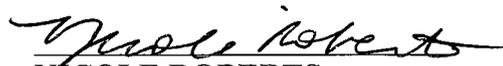
(e) Disputes regarding compliance with the terms of the non-Board settlement shall be resolved through final and binding arbitration.

5. This settlement effectuates the purposes and policies of the Act in that it remedies the Amended Consolidated Complaint allegations consistent with the remedial provisions of Board orders in cases involving such violations. Moreover, it meets the requirements of Independent Stave Co., 287 NLRB 740 (1987).

6. Based on the above, Counsel for the General Counsel respectfully requests that the Board remand the above-captioned cases to the Regional Director for Region Three for the purpose of approving the settlement agreement.

**DATED** at Buffalo, New York, this 2nd day of March, 2015.

Respectfully submitted,



**MICOLE ROBERTS**

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**Certificate of Service**

I certify that on this 2<sup>nd</sup> day of March, 2015, I electronically filed the General Counsel's Motion to Remand Cases to the Regional Director for Approval of Non-Board Settlement Agreement in Cases 03-CA-075635 and 03-CA-081230 to the Executive Secretary of the National Labor Relations Board using the National Labor Relations Board E-Filing System, and I hereby certify that I provided copies of the same document via electronic mail (e-mail) on the following:

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The Office of the Executive Secretary  
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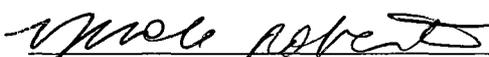
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