

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

FOLEY ELECTRIC, INC.

and

**Cases 20-CA-177144
20-CA-186770
20-CA-189970**

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL
UNION 332, AFL-CIO**

DECISION AND ORDER

Statement of the Cases

On February 16, 2017, Foley Electric, Inc. (the Respondent), International Brotherhood of Electrical Workers, Local Union 332, AFL-CIO (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

(a) The Respondent is a corporation with an office and place of business in Redwood City, California (the Respondent's facility), and has been engaged in the business of providing electrical contracting services.

(b) During the twelve-month period ending November 30, 2016, the Respondent, in conducting its operations described above, derived gross revenues in excess of \$500,000 and purchased and received goods valued in excess of \$5,000 from points outside the State of California.

(c) At all material times, the Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The labor organization involved

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

3. The bargaining unit

(a) The following employees of the Respondent (the unit) constitute a unit appropriate for the purpose of collective bargaining under the meaning of Section 9(b) of the Act:

All regular full-time and part-time persons employed by the Employer, engaged in or assisting in the performance of commercial, low voltage service, and/or residential electrical work, including but not limited to the general foreperson for residential work, forepersons, lead persons, journeypersons, electricians, trainee electricians, apprentice electricians, service technicians, and material handlers; excluding all other employees, office clericals, guards, the general foreperson for commercial work and other supervisors as defined in the Act.

(b) On May 20, 2014, a representation election was conducted among the employees in the unit and, on May 12, 2015, the Union was certified as the exclusive collective-bargaining representative of the unit. At all times since May 12, 2015, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, Foley Electric, Inc., Redwood City, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from

(a) Refusing to recognize and bargain in good faith with the Union in the following appropriate unit (the unit):

All regular full-time and part-time persons employed by the Employer, engaged in or assisting in the performance of commercial, low voltage service, and/or residential electrical work, including but not limited to the general foreperson for residential work, forepersons, lead persons, journeypersons, electricians, trainee electricians, apprentice electricians, service technicians, and material handlers; excluding all other

employees, office clericals, guards, the general foreperson for commercial work and other supervisors as defined in the Act.

(b) Making changes to terms and conditions of employment of unit employees without first notifying the Union and affording it in good faith an opportunity to bargain over them, including, but not limited to, changing wages and increasing the use of temporary employees.

(c) Engaging in conduct intended to avoid its obligation to recognize and bargain with the Union, including, but not limited to, increasing its use of temporary workers, and bargaining in bad faith.

(d) Refusing to provide and/or delaying in providing the Union with requested relevant information related to bargaining and/or its role as the employees' exclusive collective-bargaining representative.

(e) Engaging in bad-faith bargaining by conduct including, but not limited to, starting meetings unreasonably late, ending meetings unreasonably early, canceling meetings without good cause, refusing to establish a regular meeting schedule, bargaining without a representative with actual authority to negotiate and reach agreement, delaying in providing proposals/counterproposals, and refusing to discuss certain topics of bargaining.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their Section 7 rights.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Upon the Union's request, recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the unit with respect to rates of pay, wages, hours of employment, and other conditions of employment, and, if an understanding is reached, reduce it to writing and sign it.

(b) Bargain in good faith with the Union on request as the recognized bargaining representative of the unit for the period of time required by *Mar-Jac Poultry Co.*, 136 NLRB 785, 786-87 (1962), or as otherwise provided in part 2(c) below.

(c) Establish a bargaining schedule with the Union of not less than 24 hours per month for at least six hours per session, or another mutually agreeable schedule, until a complete collective-bargaining agreement or a good-faith impasse is reached.

(d) Within 14 days of the Board's Order and upon request of the Union, rescind any and all unilateral changes to terms and conditions of employment implemented after May 12, 2015, for bargaining unit employees (including any newly hired employees), including, but not limited to, those relating to wage rates.

(e) Provide the Union with the following information that it requested from the Respondent: list of job locations including job numbers, job descriptions, and job addresses.

(f) Within 14 days of service by the Region, post at its Redwood City facility copies of the attached Notice marked "Appendix A." Copies of the Notice, on forms provided by Region 20, after being signed by the Respondent's authorized representative, shall be posted for a period of sixty (60) days in conspicuous places, including all places where notices to its employees are normally posted. In addition to physical posting of paper notices, the Respondent shall distribute notices electronically, by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with their employees by such means. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or ceased operations at its Redwood City facility for the season or any other reason, the Respondent shall duplicate and mail, at its own expense, a copy of the Notice to all current employees and former employees employed by the Respondent at any time since May 12, 2015.

(g) At a mandatory meeting or meetings scheduled during working time to ensure the widest possible employee attendance, the Respondent's representatives Scott Zeltmann and/or John Philpott shall read the Notice to employees during work time in the presence of a Board agent. Alternatively, the Respondent shall promptly have a Board agent read the Notice to employees during work time in the presence of the Respondent's owners Scott Zeltmann and John Philpott.

(h) Within twenty (20) days of the issuance of the Board's Order, file with the Regional Director of Region 20 of the Board, a sworn affidavit from a responsible official describing with specificity the manner in which the Respondent has complied with the terms of the Board's Order, including the locations of the posted documents.

Dated, Washington, D.C., April 11, 2017

Philip A. Miscimarra, Acting Chairman

Mark Gaston Pearce, Member

Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT OF ANY APPROPRIATE
UNITED STATES COURT OF APPEALS**

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT refuse to bargain in good faith with International Brotherhood of Electrical Workers Local Union 332 as the exclusive collective bargaining representative of our employees in the following appropriate unit:

All regular full-time and part-time persons employed by the Employer, engaged in or assisting in the performance of commercial, low voltage service, and/or residential electrical work, including but not limited to the general foreperson for residential work, forepersons, lead persons, journeypersons, electricians, trainee electricians, apprentice electricians, service technicians, and material handlers; excluding all other employees, office clericals, guards, the general foreperson for commercial work and other supervisors as defined in the Act.

WE WILL NOT refuse to meet and bargain in good faith with the Union regarding any proposed changes in wages, hours and working conditions including increasing our use of temporary employees, before putting such changes into effect.

WE WILL NOT fail or refuse to bargain in good faith with the Union for a collective-bargaining agreement covering employees in the unit described above.

WE WILL NOT withdraw recognition from the Union or refuse to recognize and bargain with the Union as your bargaining representative.

WE WILL NOT refuse to provide the Union with information or unreasonably delay in providing the Union with information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL provide the Union with the information it requested on May 26, 2016 and clarified on June 6, 2016, regarding a list of job locations including job numbers, job descriptions, and job addresses.

WE WILL, if requested by the Union, rescind any or all changes to your terms and conditions of employment that we made without bargaining with the Union.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the unit described above.

WE WILL, upon request, bargain in good faith with International Brotherhood of Electrical Workers Local Union 332 as the exclusive collective-bargaining representative of our unit employees.

FOLEY ELECTRIC, INC.

The Board's decision can be found at www.nlr.gov/case/20-CA-177144 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

