UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 7

INDIANA MICHIGAN POWER COMPANY

Employer

and

SARAH H. LUND

Case 07-RD-293425

Petitioner

and

LOCAL 1392, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, AFL-CIO

Union

UNION’S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR’S MAY 11, 2022,
DECISION AND DIRECTION OF ELECTION

Pursuant to Board Rule 102.67(c), the Union, Local 1392, International Brotherhood of
Electrical Workers, AFL-CIO (the “Union”), files its Request for Review of the Regional
Director’s May 11, 2022, Decision and Direction of Election in this matter.

A. Procedural History and Regional Director’s Decision and Direction of Election.

The Union and the Employer, Indiana Michigan Power Company, were parties to a
collective bargaining agreement, consisting of a master and a local agreement, in effect “through
March 31, 2021.” (PP. 052, 065, 072). On October 28, 2020, the Union and the Employer,
entered into an “Agreement to Extend Collective Bargaining Agreements” (hereafter,
“Contract”). (PP. 098-112). The Contract reaffirmed the Master and Local contracts, with
amendments, and extended the duration of the Master and Local contracts as follows:

The Companies, the IBEW System Council U-9 and the above named IBEW
Local Unions having entered into a Master Collective Bargaining Agreement and
Local Collective Bargaining Agreements effective April 1, 2018, through March 31, 2021 (the “Agreements”), and desiring to extend those Agreements, hereby agree:

1. **One-Year Extension** – The terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021 will be extended for a twelve-month period and through this Contract, shall remain in full force and effect through Midnight March 31, 2022.

(P.098).

The Petition in this matter was filed on March 31, 2022. (P. 027). The only issue for hearing was whether the collective bargaining agreement was in effect when the petition was filed. The Petitioner took the position that the agreement expired at the very beginning of the day on March 31, 2022. The Union took the position that the agreement expired at the very end of the day on March 31, 2022. The Regional Director found that the expiration date of the Contract was “ambiguous” and that the ambiguities “preclude a finding that the contract serves as a bar under the Board’s contract-bar doctrine.”

B. **The Board Should Grant Review Because The Regional Director’s Decision and Direction of Election Raises a Substantial Question of Law or Policy.**

The Regional Director went out of her way to find ambiguity when there is none. Other than the Petitioner’s attorney’s argument, not a single employee, employer-representative, or union-representative expressed any confusion about when the Contract expired. Which makes sense, because there is no plausible way to interpret the Contract as being expired when the petition was filed. (See PP. 130-134). The Petitioner’s attorney’s position, if accepted, would mean that the Contract extended the collective bargaining agreement for one day less than one year, contrary to the Contract’s explicit language stating that it was a “One-Year Extension”; and

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1 The entire record is appended hereto. It consists of the transcript (001-019), board exhibits (020-052), joint exhibits (051-112), petitioner’s brief (113-121), union’s brief (122-139), and the decision and direction of election (140-152).
would also mean that the parties negotiated successive multi-year contracts with a 24-hour hiatus period between them, contrary to common sense.

Though cited to the Regional Director in the Union’s post-hearing brief, the Regional Director did not attempt to reconcile her decision with the Board’s decisions in *Rio Grande Motor Way, Inc.,* 210 NLRB 73 (1974) and *Brown Co.,* 178 NLRB 57 (1969). *Rio Grande Motor Way, Inc.,* 210 NLRB 73 (1974) establishes that when the facts clearly show that the parties intended to enter into an agreement for a certain term, the durational language of the contract must be interpreted to reflect that intention in the event of a dispute. The parties in *Rio Grande Motor Way* entered into a three-year contract from July 1, 1970 “until July 1, 1973.” The intervenor argued that July 1, 1973, was included in the contract’s duration. *Id.* at 74. The Board disagreed because to accept the intervenor’s argument would mean that the contract would have a duration of three years and one day. *Id.*

*Brown Co.,* 178 NLRB 57 (1969) establishes that the Contract’s duration must be interpreted to include rather than exclude March 31, 2022. In *Brown Co.,* there were two petitions and two contracts at issue. One of the contracts was in effect “to and including the 23rd day of July, 1969.” The other contract was “in full force and effect until midnight, July 23, 1969.” The Board interpreted both of these contracts’ effective dates to include the day of July 23, 1969. We know this because the Board said that the petitions, which were both filed on May 26, 1969, were filed 59 days before the contracts’ expiration dates. Fifty-nine (59) days before July 23, 1969, when July 23, 1969, is included, is, in fact, May 26, 1969. If the contract that was in effect “until midnight, July 23, 1969” did not include the day of July 23, 1969, then the petition corresponding to the bargaining unit covered by that contract would have been filed 58 days before that contract’s expiration date.
Rio Grande Motor Way, supra, and Brown Co., supra, are dispositive on the essential issue here. Under Rio Grande Motor Way, the Contract must be interpreted to be in effect for one year, since that is what the Contract clearly says. The only interpretation of “midnight, March 31, 2022” that results in a one-year extension is the one that includes rather than excludes March 31, 2022. Under Brown Co., the Contract clearly shows that “midnight” means the day is included. There is no way to reconcile the Regional Director’s conclusion with Rio Grande Motor Way and Brown Co. Accordingly, the Board should grant review under Board Rule 102.67(d)(1).

C. Conclusion

For the foregoing reasons, the Union respectfully requests the Board to grant the instant Request for Review of the Regional Director’s Decision and Direction of Election. Pursuant to Board Rule 102.67(c), the ballots should be impounded if this Request for Review has not been ruled upon before the ballot count is conducted.

Dated: May 24, 2022

Respectfully submitted,

/s/ David T. Vlink
David T. Vlink
Attorney for the Union

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 24, 2022, I e-filed this Request for Review with the NLRB Executive Secretary and the Regional Director using the NLRB e-filing system, and served the following parties by email at or before close of business on May 24, 2022:

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/s/ David T. Vlink
David T. Vlink
OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of: Case No.: 07-RD-293425

INDIANA MICHIGAN POWER COMPANY
Employer

And

SARAH H. LUND, an Individual
Petitioner

And

LOCAL 1392, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, AFL-CIO

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 7

In The Matter of:

INDIANA MICHIGAN POWER COMPANY
Employer

And

SARAH R. LUND
Petitioner

AND

LOCAL 1392 INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO,
Union

Case 07-RD-293425

The above-entitled matter came on for
hearing remotely pursuant to notice, via
videoconference, before BARBARA KUBIK, Hearing
Officer, on Friday, April 22, 2022, at 9:30 a.m.
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PROCEEDINGS

(Time noted 9:35 a.m.)

HEARING OFFICER: The hearing will be in order. This is the formal hearing in the matter of Indiana Michigan Power Company, case number 07-RD-293425 before the National Labor Relations Board. The Hearing Officer appearing for the National Labor Relations Board is Barbara Kubik. All parties have been informed of the procedure at formal hearings before the Board by service of a description of procedures in certification decertification case with notice of hearing. And I have additional copies of this document for distribution if anyone needs that. It was distributed at the time of the docketing of the petition.

So will counsel please state their appearances for the record? First one I have is the employer and that's Thomas Dawson.


HEARING OFFICER: Okay. And she has your contact information as well. That is on our records. Is there something different you would prefer it be done?

MR. DAWSON: No, ma'am.
HEARING OFFICER: Thank you. And for the petitioner I have Christian Wilson, Christian C. Wilson.

MR. WILSON: Yes. Christian Wilson for Sarah Lund, the petitioner, and my colleague Matt Gilliam as well.

HEARING OFFICER: Okay. Thank you, both. We have Matt and Christian's information, notice of appearance, so we're all set there, I think. And last, but not least is the union. And that is --

MR. VLINK: David Vlink.

HEARING OFFICER: Okay. And that is spelled V-l-i-n-k, correct?

MR. VLINK: Yes. V as in Victor.

HEARING OFFICER: Okay. Are there any other appearances? Let the record show no further response. Are there any other persons or parties or labor organizations in the hearing who claimed an interest in this proceeding? Let the record show no further response. So now I'd like to propose to receive the formal papers. They have been marked for identification as Board Exhibit 1A through 1D inclusive with Exhibit 1D being an index and description of the entire exhibit. The exhibit has been shown to all parties at this point, I believe.

MR. DAWSON: Yes.

MR. WILSON: Yes.

MR. VLINK: Yes.

HEARING OFFICER: Thank you. If there are no objections to the receipt of these exhibits into the record. Hearing no objection, formal papers are received into evidence as of now. Okay. And Board Exhibit 2 was also sent out, but it was very late. Again, I don't know if it's been received by the court reporter at this time. It is received then. Are there any pre-hearing motions made by anyone at this time? If not, let the record show no further response. With Board Exhibit 2, the exhibit contains a series of stipulations including other items and such as that the petition -- that the union is a labor organization within the meaning of the act, the employer meets jurisdictional standards of the Board and there are no objections to Exhibit 2; is that correct?

MR. DAWSON: Correct.

MR. WILSON: Correct.

MR. VLINK: Correct.

HEARING OFFICER: Hearing no objection,

Board Exhibit 2 is received into the record. Now I had just mentioned that I had just sent out Board Exhibit 3, 4 and 5. Board Exhibit 3 is statement of position of the employer and there is attachment to that with the list of employees that Mr. Dawson submitted. And Board Exhibit 4 is statement of position of the union and Board Exhibit 5 is the petitioner's responsive statement of position. And I would like to include those in the record. Is there any objection to Board Exhibit 3, 4 and 5 being included in the record today?

MR. DAWSON: No objection.

MR. WILSON: No.

MR. VLINK: No.

HEARING OFFICER: Thank you. Hearing no objection, Board Exhibits 3, 4, 5 are now included in the record. One thing I sent out with Board Exhibit 2, I had sent out the -- I'm sorry. There are joint exhibits that I would like to have included. They were sent to you -- to each party late yesterday.

Joint Exhibit 1 is operator collective bargaining. Exhibit -- joint Exhibit 2 is master exhibit, and joint Exhibit 3 is the agreement to extend the contracts. Have you all received those documents?

MR. DAWSON: Yes.

MR. WILSON: Yes.

MR. VLINK: Yes.

HEARING OFFICER: Do you have any objection to including them into the record?

MR. DAWSON: No.

MR. WILSON: No.

MR. VLINK: No.

HEARING OFFICER: So let the record show there was no objection and Board exhibits or joint Exhibits 1, 2, and 3 are now received into the record. Okay. The subject of the hearing today is the bar to the election and the union is the party that has determined that there is a bar. So it is the responsibility of the union to present its information. So -- I'm sorry -- there is couple more things I just have to remind you of. There is a question of whether or not there are any cases pending in other regions for Indiana Michigan Power Company or American Power Company. And there are none that I'm aware of with petitions that are pending. However, there is an open unfair labor practice charge in our region. It's case 07-CA-290786. It has no bearing on anything. I just wanted to alert you that case is open in the region and to have it on the record that that is so. I just want to remind you of a
MR. DAWSON: Correct.

MR. WILSON: Yeah. So petitioner's position is that there is no bar to the election because petitioner timely filed and served the petition at 11:49 a.m. on March 31st, 2022, after the old contract expired and before the new contract was signed by both parties.

HEARING OFFICER: Okay. Mr. Vlink, I have you now. You must present specific, detailed evidence in support of your position. General conclusionary statements by witnesses will not be sufficient. So the presumption is under board law that the burden lies with the party seeking to rebut the presumption. So I ask you now if you can present any evidence or your first witness.

MR. VLINK: Did you not want any kind of opening statement from the union?

HEARING OFFICER: I'm sorry.

MR. VLINK: Or position? I don't have to, but I didn't know.

HEARING OFFICER: That is fine. Everyone else gave one. It's only fair that you do, too.

MR. VLINK: Okay. I'll be as brief as they were. There is a contract bar and it's important, I think, to recognize which contract we're talking about because of the company's position that the contract was not signed in time. The contract is not barred by the new or current collective bargaining agreement, or the petition -- I'm sorry -- is not barred by the new or current collective bargaining agreement. It's barred by the collective bargaining agreement that was in effect at the time the petition was filed, which was the prior contract, which expired at the very end of the day on March 31, 2022. So the petition filed at 11:30 that morning was filed during the time where the contract was in effect and at a time that no petitions could be filed because it's not filed during the open period of 60 to 90 days prior to the expiration of that contract. There was also another open period a year earlier during which no petitions were filed. So at the end of the day, this contract was filed or this petition was filed during the insulated period during a period during which no petitions may be filed, so it is barred and should be dismissed.

HEARING OFFICER: Okay. Thank you. The document that Mr. Vlink was talking about is joint Exhibit 3, which is the agreement to extend the contract. So I just want to make you all aware of that. Okay. Is anyone going to present witnesses or just Mr. Vlink?

MR. DAWSON: I am not.

HEARING OFFICER: Christian?

MR. WILSON: No witness for the petitioner.
MR. VLINK: This should be pretty quick.

Bill Scally will be our first and only witness.

HEARING OFFICER: Okay. Mr. Scally, can you please raise your right hand? And do you solemnly swear that the testimony you're about to give today is the truth, the whole truth, and nothing but the truth to the best of your ability?

THE WITNESS: I do.

HEARING OFFICER: Okay. I'm sorry. Do you solemnly affirm you will testify truthfully today?

THE WITNESS: Yes, I do.

HEARING OFFICER: Okay. Go ahead please.

EXAMINATION

QUESTIONS BY MR. VLINK:

Q. Hi, Bill, will you please state your name and spell it for the court reporter?

A. Bill Scally, Scally.

Q. Bill, are you employed by IBEW Local 1392?

A. Yes, sir.

Q. What is your position?

A. I'm the business manager.

Q. Is that the highest ranking position in the local?

A. Yes.

Q. When did you become the business manager of IBEW Local 1329.

A. In 2008.

Q. And have you stayed in that position to the present day?

A. Yes, sir.

Q. Where did you work before you became the union business manager?

A. Cook Nuclear Plant in the maintenance department.

Q. Does the union represent certain employees at Cook Nuclear Plant?

A. Yes.

Q. And is the employer that operates the Cook Nuclear Plant known as Indiana Michigan Power Company?

A. Yes.

Q. Is Indiana Michigan Power Company a subsidiary of American Electric Power?

A. Yes.

Q. Is American Electric Power sometimes referred as AEP?

A. Yes.

Q. So for purposes of the employer of the employees that the union represents at Cook Nuclear Plant, including the employees subject to this petition, are Indiana Michigan Power and American Electric Power one in the same?

A. Yes.

Q. Okay. Does the union represent the employees that are the subject of this petition?

A. Yes.

Q. And do those employees work at Cook Nuclear Plant?

A. Yes.

Q. Are those employees or is that group of employees commonly referred to as the nonlicensed operators bargaining unit?

A. Yes.

Q. Does the union -- is the union certified as the collective bargaining representative of the nonlicensed operator bargaining unit through an election conducted by the National Labor Relations Board?

A. Yes.

Q. And was that election conducted by Region 7 of the National Labor Relations Board?

A. Yes.

Q. And when was that?

A. October of 2018.

Q. Okay. Is there more than one bargaining unit that the union represents at the Cook Nuclear Plant?

A. Yes.

Q. Okay. How many bargaining units are there including the nonlicensed operators bargaining unit?

A. At Cook Plant there is five.

Q. Can you tell us for the record what they are?

A. We have planning, maintenance, radiation protection, environmental, and chemistry. Those three are one. Store room and unlicensed operators.

Q. Okay. Do each of those bargaining units have or are they covered by the exact same collective bargaining agreement?

A. Yes and no.

Q. Okay. So let's -- we'll get to what you mean by that. Do the union and the company have a contract that does apply to each of those bargaining units?

A. Yes.

Q. Okay. And is that what the parties refer to as the master contract?

A. Yes.

Q. Okay. Does the master contract apply to the company's operations across the country through
various city areas which are represented by various IBEW local unions?
A. Yes.
Q. And those operations include the Cook Nuclear Plant?
A. Yes, sir.
Q. I'm going to put on my screen a document that has been put in the record as Joint Exhibit 2. If you give me a minute, I'll do that. Can everybody see my screen? Bill, most importantly, can you see my screen?
A. Yes.
Q. I put Joint Exhibit 2 up on my screen before you. Are you familiar with this document?
A. Yes.
Q. And what is it?
A. It's a master agreement between AEP and the -- it's what we call our master contract.
Q. Thank you.
A. Between the company and International Brotherhood of Electrical Workers.
Q. Okay. And is this the master contract that the union contract was in effect when the petition was filed?
A. Yes.
Q. Did you sign the master contract on behalf of IBEW Local 1392?
A. Yes.
Q. I'm going to scroll down now to page -- it's not 49 of the exhibit, but it's 49 according to the numbers on the contract. Bill, do you see that page 49?
A. Yes, sir.
Q. Do we see your signature on page 49?
A. Yes.
Q. All right. And for the record, can you tell the hearing officer where it is?
A. Bottom left hand corner of the right hand page.
Q. So page 49 in the left column?
A. Right where your cursor is.
Q. I know, but the transcript won't be able to say where my cursor is. So I'm just trying to make it clear for the record. I'll just ask it again, is this your signature on page 49 of the master contract on the very bottom of the left column?
A. Yes.
Q. And that's where it says for IBEW Local Union RFR 007.
A. That's correct.
Q. Okay. So just thinking of it, would it be most accurate to say that the entire collective bargaining agreement for each bargaining unit consists of master contract and their own local contract?
A. Yes.
Q. Okay. I'm going to put up on my screen a document that's been put in the record as Joint Exhibit 1, if you will give me a moment. For the record, I have shared Joint Exhibit 1 on my screen. Can everybody see it?
A. Yes.
Q. (By Mr. Vlink) Thank you. Are you familiar with this document, Bill?
A. Yes.
Q. What is it?
A. This is our initial nonlicensed operators agreement, local agreement.
Q. The local agreement. Okay. Thanks. And you said initial, that was going to be my next question. Is this the first local contract for nonlicensed operator bargaining unit?
A. Yes.
Q. Is that why the effective date on the cover...
Q. Okay. And so this would have been a few months after the operators, unlicensed operator bargaining unit was certified by Region 7. Would that be correct?
A. That's correct.
Q. Okay. And is it the first signature under union signature block on page 16?
A. Yes, it is.
Q. I can take this off the screen now. Were the master and local contract for the nonlicensed operator group originally set to expire at the same time?
A. Yes. 
Q. And were both of those contract extended?
A. Yes.
Q. Okay. Was the extension agreement reduced to writing?
A. Yes.
Q. Did the extension agreement contain substantive changes other than to the expiration date?
A. Yes.
Q. And can you just tell us what those were?
A. One was a substantive increase to their pay, I believe, for the two years, it was like 14 percent. And the second one was change to ICP.
Q. Okay. So I'm going to unwind that little bit. You said increase. Let me ask this way. Did the extension agreement contain provision for raises?
A. Yes, it did. I'm sorry I was thinking of a different contract. It did change -- it did have a wage increase, but it wasn't what I just mentioned. That was a previous one.
Q. Okay. And you talked about the ICP, can you tell us what that means please?
A. That is the company's incentive compensation plan or bonus plan they have in place for employees.
Q. Okay. And you said there was a change in the extension agreement with regard to that?
A. Yes.
Q. Can you kind of -- I mean we can all read it when we get there, but I would really like to just explain it please for the Hearing Officer, what the extension agreement did with regard to the bonus program.
A. The company asked us to take two percent off of our bonus plan, put it on our wage so that they have easier time getting through some of the rate cases that we had. We agreed to that. So that was part of it, and then I believe there was an increase on April 1st and then there was increase on January 1st due to the ICP change.
Q. So when you said increase, were you referring to raises, hourly rate raises?
A. Yes. Yes.
Q. And you said one on April 1 and one on January 1. And I should be more clear, one on April 1, 2021 and another one on January 1st, 2022, is that correct?
A. That's correct.
Q. And the one on January 1st, 2022, the raise that is what's in connection with the change to the bonus plan?
A. Yes.
Q. Okay. So now I'm going to put up on my screen which has been put into the record as Joint Exhibit 3. Can everybody see what's on my screen?
Hearing Officer: I can.
Q. (By Mr. Vlink) Including you, Bill.
A. Yes.
Q. I've got Joint Exhibit 3 on my screen. And are you familiar with this --
A. Yes.
Q. -- document, Bill. Let me ask it this way. Is this the extension agreement that we were just talking about?
A. Yes, it is.
Q. All right. And was this agreement signed by both the company and the union?
A. Yes.
Q. I'm going to scroll down to the second to last page of the exhibit which has number 4 at the bottom. Does this page contain your signature?
A. Yes, it does.
Q. So do you notice how there is a bunch of pages with number 4 at the bottom with different local union signatures on them?
A. Yes.
Q. Is that because this was signed and executed in counterparts, if you know what that means?
A. No, I do not, but it was signed individually and all different locations and all of the signature were put together in one document.
Q. There you go. That's good enough. And did the company also sign the extension?
A. Yes, they did.
Q. So I'm scrolling up in the exhibit to page 3. Is this where we would find the company's list on the extension agreement?
A. Yes.
Q. Does the extension agreement provide that all of the terms of the master and local contracts that weren't changed in the extension agreement would remain in effect through its new expiration date?
A. Yes.
Q. And would that be contained in paragraph one on page 1 of the agreement?
A. Yes.
Q. Okay. And then do paragraph 2 and 3 on page 2 contain the raises and the extra raise and change to the bonus program that we were just testifying about?
A. Yes, it does.
Q. With regard to paragraph 4 that starts on page 2 and goes into page 3, we can all read it but I'm going to ask you, does this basically say that the signatures must be obtained by a certain date for the 2021 raises to go into effect on time?
A. Yes.
Q. So if I'm understanding it correctly, paragraph 4 essentially says that if the agreement is returned to the company fully executed by midnight on March 31st, 2021, the 2021 raises will go into effect on April 1, but if the agreement is returned at some later date and time that the raises would go into effect at that later time?
A. Yes.

Q. Okay. Does the company contract offers typically contain language like that?
A. Yes, they do.
Q. And when that's been the case, does that mean that the fully executed agreement must be returned by the very beginning of the day or the end of the day?
A. By the very end of the day.
MR. WILSON: Madam Hearing Officer, the petitioner would object. The document speaks for itself and this is parale evidence. We object on that grounds.
Q. (By Mr. Vlink) Well, he answered the question. I don't have a response. I don't have a response to that. It's just -- it's actually not -- it's evidence not to the critical language as to when it expires. It's just when the signatures need to be obtained for the raises to go into effect on time. So I think for that reason it is admissible. For what it's worth that will be up to the Regional Director.
HEARING OFFICER: I agree. I think it should be in there.
MR. VLINK: I do not have any other questions for the witness.
HEARING OFFICER: And you have no additional witness to present?
MR. VLINK: I do not.
HEARING OFFICER: Does anyone -- does Mr. Wilson have a witness to present?
MR. WILSON: I do not.
HEARING OFFICER: Mr. Dawson?
MR. DAWSON: No, ma'am.
HEARING OFFICER: Let the record show no additional witnesses will be forthcoming. Thank you, Mr. Scally, for your testimony. Okay. So the document that the Region has looked at that felt was very important was the last document that was up. It was Joint Exhibit 3, which was the extension. And there was concern over the actual language of that document in the one year extension. It states that the local master and local collective bargaining agreement, it's Item 1 on that document, that terms and conditions of current master and local collective bargaining agreement that remain in effect until midnight March 31 will be extended for 12 months period through this extension agreement shall remain in full force and effect through midnight, March 31, 2022. And that is the contract that the Region is looking to for a decision as to whether or not there is a contract bar. So I just wanted to bring that to
MR. VLINK: Yes, I understand that. I understand that. Of course, we've already stated what our position is with regard to when it expired. I didn't ask Bill that.

HEARING OFFICER: Okay. Thank you very much. Okay. Now, I'd like to explore election details in the event an election is directed. I have spoken with each party regarding the possibility of having to go to a mail ballot election given the COVID rate in the region -- excuse me -- in the county of Barion. The current rate is 11.89 percent, and Region 13 uses the 5.0 percent as determining rate when we will go to mail or manual election. Now, it could be that the time the decision is written, if they determine an election is to be conducted, that the rate could drop and it could go through as manual election. But in the event that it remains 11.89, the Region more than likely would direct a mail ballot election. I know there are pros and cons and our choice is manual election as well, if that is to be, but I just want to explore this. On the position statement everyone and I have to ask has anyone changed their position on the election details from the statement of position or responsive statement of position? Is everyone still in favor of a manual election?

MR. WILSON: Yes.

MR. DAWSON: Yes.

MR. VLINK: Yes.

HEARING OFFICER: Let the record show all three parties prefer a manual election. Now, the date that was listed on the SOP and RSOP for employer, the employer requested May 25th and 26th. On the 25th from 17:00 to 19:00 hours and on the 26th from 11 to 19:00 hours. To be held at Cook plant. And I have to ask you Mr. Dawson, I know that we discussed this outside already that the past election was held at the warehouse in the warehouse one at Employer's DC Cook Nuclear power plant at One Cook Place in Bridgeman. And I just want to make sure that it's not a problem to access that facility if we go with the manual election. I know you mentioned a concern about whether it would be available on those dates or not because that's possible they could change, you know.

MR. DAWSON: Yeah. It wasn't a concern.

MR. VLINK: That I expressed. I hadn't checked those particular dates out yet.

HEARING OFFICER: Okay.

MR. DAWSON: I assume if someone is in there we would work to kick them out. That's perfect to hold it. That's where we held it before.

HEARING OFFICER: I know, yes. Also I had asked for an on site representative. And you had said the best thing to do is you would be the person to be on site representative; is that correct? Did I understand that correct?

MR. DAWSON: Yes, ma'am. Because of remote people working remotely and people being hybrid, sending mail and in receiving mail may be difficult where it would be much easier for me.

HEARING OFFICER: Okay. Does anyone have any objection to on site facility that we've discussed, the one warehouse which is where the original certification election took place?

MR. WILSON: No.

MR. VLINK: No.

HEARING OFFICER: Would that be acceptable then to all the parties? Let the record show there is no objection to that. What about dates? The union -- excuse me -- the employer and the petitioner have both stated dates of the 25th and 26th are acceptable. What is the union's position on that? You had written a different date.

MR. VLINK: Yeah. I think I did and I tried to estimate about when the election could first possibly be if one was directed, which we don't think one should be directed. And so what I will say is that we're going to file briefs and we have a certain amount of time, and then after -- once the election is directed if one is directed, the union is entitled to a certain amount of time, and then after once the election is directed if one is directed, the union is entitled to the Excelsior list. We don't want to waive any of those days, but we would be amenable to an election as soon as those days have elapsed.

HEARING OFFICER: Okay. So right now we're looking at manual election then on the 25th and 26th is what we're looking at. It may be changed depending upon when the decision order issues. So we'll just keep that in mind, but we'll look at having the election at the facility in warehouse one and there will be no issue with access to the agency or anyone coming in to vote to warehouse one, would there be, Mr. Dawson?

MR. DAWSON: No.

HEARING OFFICER: Thank you.

MR. VLINK: Barb, this is Dave again. I want to be clear with regard to the day, we don't want to waive any of the days with the Excelsior list, if I wasn't -- so if it turns out the day you put on the
used during the election the font size of the list must be equivalent of Times New Roman 10 or larger. That font does not need to be used, but the font must be that size or larger. A sample optional form for the list is provided on NLRB website at www.NLRB.gov. The Board stated that it's presumptively appropriate for employer to produce multiple versions of the list where the data required is kept in separate data bases or files so long as all the list link the same information to same employees using same names and same order and are provided within the allotted time. If the employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses. The list must include full names, work locations, shift, job classifications and contact information including home addresses if available, available personal e-mail address, and available home and personal cellular telephone number of all eligible voters. The employer must also include separate section of that list with the same information for those individuals the parties have agreed they will be permitted to vote subject to challenge or those individuals who according to the decision and direction of election will be permitted to vote subject to challenge. Does anyone wish to offer an oral argument at this time?

MR. DAWSON: No, ma'am.
MR. VLINK: No. Because I would like to file a brief.
HEARING OFFICER: Okay. How about you, Mr. Wilson, nothing at this time?
MR. WILSON: No.
HEARING OFFICER: Thank you. The Regional Director has concluded that briefs may be filed on this particular issue of the contract bar or may be limited to legal analysis of a particular issues. The Regional Director has determined recently due by close of business, 4:45 p.m. on Friday, April 29th, 2022. They may be filed by e-filing on the board's website, by mail, or by hand delivery, but may not be filed by fax.

MR. VLINK: Are we going to get transcript today then?
HEARING OFFICER: The parties should be reminded that they should request an expedited copy of the transcript from the court reporter. Late receipt of the transcript will not be grounds for extension of time to file briefs if the Regional Director has allowed post-hearing briefs. So the transcript should be delivered by Monday. I have nothing more. I just immediately transmit the document to the parties and their designated representative by e-mail, facsimile or by overnight mail if neither e-mail or facsimile number is not provided. If an election is directed the employer must provide the voter list. To be timely filed and served the voter list must be received by the Regional Director and the parties in the direction within two business days after issuance of the direction unless a longer period is required based on extraordinary circumstances. As specific in the decision and direction, a certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The Region will no longer serve the voters list. The employer must submit voter list in electronic formal approved by General Counsel unless the employer certifies it does not have the capacity to produce the list in the required format. The list must be filed in common, everyday electronic file format that can be searched accordingly unless otherwise agreed to by the parties. A list must be provided in table in Microsoft Word like .doc or .dox or file compatible with Microsoft Word. The first column must begin with each employee's last name and list must be alphabetized overall or by department by last name. Because the list will be for the election the font size of the list must be equivalent of Times New Roman 10 or larger. That font does not need to be used, but the font must be that size or larger. A sample optional form for the list is provided on NLRB website at www.NLRB.gov. The Board stated that it's presumptively appropriate for employer to produce multiple versions of the list where the data required is kept in separate data bases or files so long as all the list link the same information to same employees using same names and same order and are provided within the allotted time. If the employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses. The list must include full names, work locations, shift, job classifications and contact information including home addresses if available, available personal e-mail address, and available home and personal cellular telephone number of all eligible voters. The employer must also include separate section of that list with the same information for those individuals the parties have agreed they will be permitted to vote subject to challenge or those individuals who according to the decision and direction of election will be permitted to vote subject to challenge. Does anyone wish to offer an oral argument at this time?
want to make sure that the court reporter has all the exhibits. Do you have estimate on the number of pages that you expect this will be?

(Whereupon, a short break was taken.)

HEARING OFFICER: If there is nothing further -- is there any other issues that need to be raised at this time?

MR. VLINK: No issues, just housekeeping and it's more for Jeanne. Do I need to sent you anything in order to get the transcript or will you just sent it to me as soon --

(Whereupon, a short break was taken.)

HEARING OFFICER: If there is nothing further, the hearing will be closed.

(Whereupon, the hearing in the above-entitled cause was adjourned on April 22, 2022 at 9:25 a.m.)

CERTIFICATION

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 7, in the matter of INDIANA MICHIGAN POWER COMPANY and IBEW, Case No. 07-RD-293425 held remotely, on April 22nd, 2022, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording, at the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected exhibit files are missing.

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(MO), CSR (IL)
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VERITEXT NATIONAL COURT REPORTING COMPANY
1801 Market Street, 18th floor, Phila PA 215- 241-1000

Union RFR 018
BOARD EXHIBITS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of: Case No.: 07-RD-293425

INDIANA MICHIGAN POWER COMPANY
Employer

And

SARAH H. LUND, an Individual
Petitioner

And

LOCAL 1392, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, AFL-CIO

Place: Via Teleconference
Date: 04/22/22

OFFICIAL REPORTERS

Veritext
Mid-Atlantic Region
1801 Market Street, Suite 1800
Philadelphia, PA 19103
215-241-1000
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

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Case 07-RD-293425

AFFIDAVIT OF SERVICE OF: Petition dated March 31, 2022, Notice of Representation Hearing dated April 4, 2022, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on April 4, 2022, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Thomas Dawson, Labor Relations Manager
Indiana Michigan Power Company
PO Box 60
Fort Wayne, IN 46801
thdawson@aep.com

Christian C. Wilson, Staff Attorney
National Right To Work Legal Defense Foundation, Inc.
8001 Braddock Road
Springfield, VA 22151
ccw@nrtw.org
Fax: (703)321-9319

Sarah R. Lund, c/o National Right to Work Legal Foundation, Inc.
8001 Braddock Rd, Ste 600
Springfield, VA 22160
ccw@nrtw.org

Board Exhibit 1(c)
Bill Scally, Business Manager
Local 1392, International Brotherhood of Electrical Workers, AFL-CIO
56436 Strasser Ln
South Bend, IN 46619-2212
ibew1392@aol.com
bm@ibew1392.com
Fax: (574)204-2314

April 4, 2022

Date

Ann O’Neal-Jones, Designated Agent of NLRB

Name

/s/

Signature
NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 9:30 a.m. on Friday, April 22, 2022 and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at , Grand Rapids Resident Office, Gerald R. Ford Federal Bldg, 110 Michigan Street, NW, Room 299, Grand Rapids, Michigan via Zoom Video Conferencing, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board’s Rules and Regulations, Indiana Michigan Power Company and Local 1392, International Brotherhood of Electrical Workers, AFL-CIO must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that it is received by them by no later than noon Eastern time on Thursday, April 14, 2022.

Following timely filing and service of a Statement of Position by Indiana Michigan Power Company and Local 1392, International Brotherhood of Electrical Workers, AFL-CIO, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer’s and/or Union’s Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than noon Eastern on Tuesday, April 19, 2022.

Board Exhibit 1(b)
Pursuant to Section 102.5 of the Board’s Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency’s website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB’s E-Filing system can be found in the E-Filing System User Guide.

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional Office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: April 4, 2022

Elizabeth Kerwin, Regional Director
National Labor Relations Board, Region 07
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, MI 48226
INSTRUCTIONS: Unless e-filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 7 below) and a certificate of service showing service on the employer and all other parties named in the petition of (1) the Petition; (2) Statement of Position form (Form NLRB-595); and (3) Description of Representation Case Procedures (Form NLRB-4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION. RD. DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer
Indiana Michigan Power Company

3a. Employer Representative - Name and Title
Thomas H. Dawson, Labor Relations Mgr.

4a. Type of Establishment (Factory, mine, wholesaler, etc.)
Nuclear Plant

5a. Description of Unit Involved

6. No. of Employees in Unit - 71

8a. Name of Recognized or Certified Bargaining Agent
International Brotherhood of Electrical Workers, Local 1392

9. Date of Recognition or Certification
N/A

10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
March 31, 2021

11a. Is there now a strike or picketing at the Employer's establishment(s) involved?  No

11b. If so, approximately how many employees are participating?

12. Organizations or individuals other than those named in Items 8 and 11c, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in Item 5 above. (If none, so state)

13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election
Decertification

14. Full Name of Petitioner
Sarah Rachel Lund

c/o National Right to Work Legal Defense Foundation, Inc.,
8001 Braddock Road, Suite 600, Springfield, VA 22160

15a. Name
Christian C. Wilson

c/o National Right to Work Legal Defense Foundation, Inc.,
8001 Braddock Road, Suite 600, Springfield, VA 22160

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)
Christian C. Wilson

Date Filed 03/31/22

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Submission of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings of litigation. The routine uses for the information are fully set forth in the Federal Registry, 71 Fed. Reg. 64243 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.
Attachment A

Section 5a. Description of the Unit Involved includes the following:

INCLUDED: All full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators and make-up plant/identification specialists employed at its facility located in Bridgman, Michigan;

EXCLUDED: All clerical employees, managerial employees, guards, professional employees and supervisors as defined in the Act.
STIPULATION

The parties in this matter stipulate and agree that:

1. We have been informed of the procedures at formal hearings before the National Labor Relations Board by service of a Description of Procedures in Certification and Decertification Cases. The Hearing Officer has offered to us additional copies of the Description of Procedures.

2. To the extent the formal documents in this proceeding do not correctly reflect the names of the parties, the parties hereby make a joint motion to the Regional Director to amend the petition and other formal documents to correctly reflect the names as set forth above.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.

4. The collective-bargaining agreement covering the employees in the unit sought to be decertified in the petition herein, was in effect for the period of February 28, 2019 to March 31, 2021. Per that contract, the appropriate bargaining unit is:

   All full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators and make-up plant/identification specialists employed by the Employer at its facility located at Bridgman, Michigan; but excluding
all electrical employees, managerial employees, guards, professional employees, and supervisors as defined in the Act. (Joint Exhibit No. 1)

5. There is also a Master Agreement between the Employer and the International brotherhood of Electrical Workers Locals in effect for the time period of April 1, 2018 to March 31, 2021. (Joint Exhibit No. 2)

6. An Agreement to Extend Collective Bargaining Agreements of October 28, 2020 was finalized on December 4, 2020. (Joint Exhibit No. 3)

7. The only substantive issue that remains outstanding is whether there exists a contract bar to the election.

8. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is subject to the jurisdiction of the Board.

Commerce facts are as follows:

The Employer, Indiana Michigan Power Company, a corporation with offices and facilities located at One Cook Place, Bridgman, Michigan, is engaged in the operation of a nuclear electric power generating plant. During the calendar year ending December 31, 2021, the Employer purchased and received at its Bridgman, Michigan facility goods valued in excess of $50,000 directly from points outside the State of Michigan.

9. The most recent payroll period is April 17, 2022 and it is a bi/weekly payroll period.

10. There are no petitions pending in other NLRB offices involving other facilities of the Employer.

11. The parties in this matter stipulate and agree that, should a manual election be directed they will adhere to requirements set forth in GC 20-10.
Upon receipt of this Stipulation by the Hearing Officer it may be admitted, without objection, as a Board exhibit in this proceeding.

/s/ Thomas H. Dawson
For the Employer

/s/ David T. Vlink
For the Union

/s/ Christian C. Wilson
For the Petitioner

RECEIVED:

/s/ Barbara Kubik  4/22/2022
Hearing Officer  Date

Board Exhibit No. 2
BOARD EXHIBIT 2
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION

Indiana Michigan Power Company
Employer

and

Sarah H. Lund
Petitioner

and

Local 1392, International Brotherhood of
Electrical Workers, AFL-CIO
Union

Case 07-RD-293425

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11. The parties in this matter stipulate and agree that, should a manual election be directed they will adhere to requirements set forth in GC 20-10.
Upon receipt of this Stipulation by the Hearing Officer it may be admitted, without objection, as a Board exhibit in this proceeding.

For the Employer

For the Union

For the Petitioner

RECEIVED:

Hearing Officer

Board Exhibit No. 2

Date
STIPULATION

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1. We have been informed of the procedures at formal hearings before the National Labor Relations Board by service of a Description of Procedures in Certification and Decertification Cases. The Hearing Officer has offered to us additional copies of the Description of Procedures.

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3. The Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.

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10. There are no petitions pending in other NLRB offices involving other facilities of the Employer.

11. The parties in this matter stipulate and agree that, should a manual election be directed they will adhere to requirements set forth in GC 20-10.
Upon receipt of this Stipulation by the Hearing Officer it may be admitted, without objection, as a Board exhibit in this proceeding.

David J. Vlank
For the Union

For the Employer

For the Petitioner

RECEIVED:

Hearing Officer

Date 1-32-2022

Board Exhibit No. 2

STIPULATION

The parties in this matter stipulate and agree that:

1. We have been informed of the procedures at formal hearingsbefore the National Labor Relations Board by serving of a Description of Procedures in Certification and Determination Cases. The Hearing Officer has offered to us additional copies of the Description of Procedures.

2. To the extent the formal documents in this proceeding do not correctly reflect the names of the parties, the parties hereby make a joint motion to the Regional Director to correct the names and other formal documents to correctly reflect the names as not factually shown.

3. The Petitioner is a labor organization within the meaning of Section 2 of the National Labor Relations Act.

4. The collective-bargaining agreement covering the work force described in this matter was entered into and is in effect for the period of January 1, 2011. For that reason, the appropriate bargaining unit is

All full-time and regular part-time employees represented by the employer at the plant herein and employed as

Union RFR 038
STIPULATION

The parties in this matter stipulate and agree that:

1. We have been informed of the procedures at formal hearings before the National Labor Relations Board by service of a Description of Procedures in Certification and Decertification Cases. The Hearing Officer has offered to us additional copies of the Description of Procedures.

2. To the extent the formal documents in this proceeding do not correctly reflect the names of the parties, the parties hereby make a joint motion to the Regional Director to amend the petition and other formal documents to correctly reflect the names as set forth above.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.

4. The collective-bargaining agreement covering the employees in the unit sought to be decertified in the petition herein, was in effect for the period of February 28, 2019 to March 31, 2021. Per that contract, the appropriate bargaining unit is:

   All full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators and make-up plant/identification specialists employed by the Employer at its facility located at Bridgman, Michigan; but excluding

Union RFR 039
all electrical employees, managerial employees, guards, professional employees, and supervisors as defined in the Act. (Joint Exhibit No. 1)

5. There is also a Master Agreement between the Employer and the International brotherhood of Electrical Workers Locals in effect for the time period of April 1, 2018 to March 31, 2021. (Joint Exhibit No. 2)

6. An Agreement to Extend Collective Bargaining Agreements of October 28, 2020 was finalized on December 4, 2020. (Joint Exhibit No. 3)

7. The only substantive issue that remains outstanding is whether there exists a contract bar to the election.

8. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is subject to the jurisdiction of the Board.

Commerce facts are as follows:

The Employer, Indiana Michigan Power Company, a corporation with offices and facilities located at One Cook Place, Bridgman, Michigan, is engaged in the operation of a nuclear electric power generating plant. During the calendar year ending December 31, 2021, the Employer purchased and received at its Bridgman, Michigan facility goods valued in excess of $50,000 directly from points outside the State of Michigan.

9. The most recent payroll period is April 17, 2022 and it is a bi/weekly payroll period.

10. There are no petitions pending in other NLRB offices involving other facilities of the Employer.

11. The parties in this matter stipulate and agree that, should a manual election be directed they will adhere to requirements set forth in GC 20-10.
Upon receipt of this Stipulation by the Hearing Officer it may be admitted, without objection, as a Board exhibit in this proceeding.

For the Employer

For the Union

RECEIVED:

Hearing Officer

Board Exhibit No. 2

Date
**Union RFR 042**

### UNITED STATES OF AMERICA

**STATEMENT OF POSITION**

<table>
<thead>
<tr>
<th>Field</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case No.</td>
<td>07-RD-293425</td>
</tr>
<tr>
<td>Date Filed</td>
<td>March 31, 2022</td>
</tr>
</tbody>
</table>

### INSTRUCTIONS:
- Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.
- **Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position:

*Indiana Michigan Power Company*

1b. Address (Street and number, city, state, and ZIP code):

P. O. Box 60, Indiana Michigan Power Center, Fort Wayne, IN 46801

1c. Business Phone:

260.408.3544

1d. Cell No.:

263.314.2145

1f. e-Mail Address:

thdawson@aep.com

### 2. Do you agree that the NLRB has jurisdiction over the Employer in this case?  
☐ Yes  ☐ No  
(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

### 3. Do you agree that the proposed unit is appropriate?  
☐ Yes  ☐ No  
(If not, answer 3a and 3b.)

a. State the basis for your contention that the proposed unit is not appropriate. *(If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)*

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

*Added:*

*Excluded:*

### 4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

### 5. Is there a bar to conducting an election in this case?  
☐ Yes  ☐ No  
*If yes, state the basis for your position.*

### 6. Describe all other issues you intend to raise at the pre-election hearing.

**Bar**

Date, time and method of election

### 7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at [http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015)

(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be included to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of all individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D).

### 8a. State your position with respect to the details of any election that may be conducted in this matter. Type:

- ☐ Manual
- ☐ Mail
- ☐ Mixed Manual/Mail

8b. Date(s):

May 25 and May 26, 2022

8c. Time(s):

1700-1900, 5/25 and 1600-1900, 5/26

8d. Location(s):

Cook Plant

8e. Eligibility Period (e.g. special eligibility formula):

8f. Last Payroll Period Ending Date:

March 20, 2022

8g. Length of payroll period

☐ Weekly  ☐ Biweekly  ☐ Other (specify length)

### 9a. Full name and title of authorized representative

Thomas H. Dawson, Labor Relations Manager

9b. Signature of authorized representative

[Signature]

9c. Date

April 14, 2022

9d. Address (Street and number, city, state, and ZIP code)

P. O. Box 60  
Indiana Michigan Power Center  
Fort Wayne, IN 46801

9f. Business Phone No.:

260.408.3544

9g. Fax No.:

260.408.3081

9h. Cell No.:

260.341.2145

### WILFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

**PRIVACY ACT STATEMENT**

Solictation of the information on this form is authorized by the National Labor Relations Act (NLRA) 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.
EXHIBIT PLACEHOLDER

INDIANA MICHIGAN POWER

07-RD-293425

04/22/22

*BOARD EXHIBIT 3 ATTACHMENT

EXCEL SPREADSHEET
FORM NLRB-505

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

<table>
<thead>
<tr>
<th>Case No.</th>
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INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position
International Brotherhood of Electrical Workers, Local 1392

1b. Address (Street and number, city, state, and ZIP code)
56436 Strasser Lane, South Bend, IN 46619

1c. Business Phone: 574-287-0636
1d. Cell No.: 
1e. Fax No.: 
1f. e-Mail Address ibew1392@aol.com

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? [ ] Yes [ ] No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? [ ] Yes [ ] No (If not, answer 3a and 3b.)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added Excluded

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility. Any individual not included in the bargaining unit

5. Is there a bar to conducting an election in this case? [ ] Yes [ ] No If yes, state the basis for your position.

Contract Bar

6. Describe all other issues you intend to raise at the pre-election hearing.

Date, Time, and Method of Election

7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx.

(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)

8a. State your position with respect to the details of any election that may be conducted in this matter. Type: [ ] Manual [ ] Mail [ ] Mixed Manual/Mail

8b. Date(s) May 27, 2022
8c. Time(s) 1 hr. pre- and post-shift.
8d. Location(s) Cook Plant
8e. Eligibility Period (e.g. special eligibility formula) 
8f. Last Payroll Period Ending Date
8g. Length of payroll period [ ] Weekly [ ] Biweekly [ ] Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative
David T. Vlink, Attorney

9b. Signature of authorized representative

9c. Date 4-12-2022

9d. Address (Street and number, city, state, and ZIP code)
429 N. Pennsylvania St., Ste. 411, Indianapolis, IN 46204

9e. e-Mail Address dvlink@fdgtlaborlaw.com

9f. Business Phone No.: 317-353-9363
9g. Fax No. 
9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Union RFR 045
The Employer
An Intervenor/Union
International Brotherhood of Electrical Workers, Local 1392

Sarah Rachael Lund

1a. Full Name of Party Filing Responsive Statement of Position:

1b. Address (Street and Number, City, State and ZIP Code):

c/o National Right to Work Legal Defense Foundation, Inc., 8001 Braddock Road, Suite 600, Springfield, VA 22160

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)
Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)
Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)
Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)
Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☒ Dispute (response required below)
Response to Statement of Position:

There is no Bar to the election because Petitioner filed the petition after the expiration of the prior CBA and before the execution of the new CBA.

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☒ Dispute (response required below)
Response to Statement of Position:

Evidence should be presented at hearing for contract bar claims. The union bears the burden of proof to establish any bar.

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☒ Dispute (response required below)
Response to Statement of Position:

Election should be held manually at the Cook Plant on May 25 and May 26, 2022.

Full Name and Title of Authorized Representative
Christian C. Wilson, Staff Attorney

Signature of Authorized Representative

Date 4/19/22

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

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UNION MICHIGAN POWER COMPANY

1c. Business Phone: 703-321-8510
1d. Cell No.: 
1e. Fax No.: 
1f. E-Mail Address: ccw@turtle.org

1b. Address (Street and Number, City, State and ZIP Code)
c/o National Right to Work Legal Defense Foundation, Inc., 8001 Braddock Road, Suite 600, Springfield, VA 22160

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]
   - No Dispute (no further response required)   - Dispute (response required below)
   Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]
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   Response to Statement of Position:

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   Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]
   - No Dispute (no further response required)   - Dispute (response required below)
   Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]
   - No Dispute (no further response required)   - Dispute (response required below)
   Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]
   - No Dispute (no further response required)   - Dispute (response required below)
   Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]
   - No Dispute (no further response required)   - Dispute (response required below)
   Response to Statement of Position:

Full Name and Title of Authorized Representative:
Christian C. Wilson, Staff Attorney

Signature of Authorized Representative:

Date:
4/19/22

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT
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INDIANA MICHIGAN POWER COMPANY,
    Employer
    and
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 1392,
    Union,
    and
SARAH LUND, AN INDIVIDUAL
    Petitioner.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petitioner’s Responsive Statement of Position was e-filed with NLRB Region 07 using the NLRB’s e-filing system, and was served via email on the following parties or counsel this 19th day of April, 2022:

Thomas Dawson, Labor Relations Manager
Indiana Michigan Power Company
thdawson@aep.com

Billy Scally, Business Manager
IBEW, Local 1392
bm@ibew1392.com

David Vlink, Esq.
Vlink Law Firm
dvlink@fdgtlabor.com
Counsel for IBEW, Local 1392

Respectfully Submitted,

/s/Christian C. Wilson
Christian C. Wilson

Case No. 07-RD-293425
JOINT EXHIBITS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of: Case No.: 07-RD-293425

INDIANA MICHIGAN POWER COMPANY
Employer

And

SARAH H. LUND, an Individual
Petitioner

And

LOCAL 1392, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, AFL-CIO

Place: Via Teleconference
Date: 04/22/22

OFFICIAL REPORTERS

Veritext
Mid-Atlantic Region
1801 Market Street, Suite 1800
Philadelphia, PA 19103
215-241-1000
AGREEMENT

Between

INDIANA MICHIGAN POWER COMPANY
D. C. COOK NUCLEAR PLANT

NON-LICENSED OPERATORS
OPERATIONS DEPARTMENT

And

LOCAL UNION 1392
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
AFL-CIO

EFFECTIVE

February 28, 2019 through March 31, 2021
ARTICLE I
UNION REPRESENTATION

Section I. Bargaining Unit Description

(a) Indiana Michigan Power Company's D. C. Cook Nuclear Plant (hereinafter referred to as the "Company") recognizes Local Union 1392, International Brotherhood of Electrical Workers (hereinafter referred to as the "Union") as the exclusive collective bargaining representative, within the meaning of the Labor Management Relations Act, for all full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators and make-up plant identification specialists employed at its facility located in Bridgman, Michigan, but excluding all clerical employees, managerial employees, guards, professional employees and supervisors as defined in the Act.

(b) The Company and the Union acknowledge that the American Electric Power Companies and the IBEW System Council U-9 have negotiated a "Master" Collective Bargaining Agreement that went into effect April 1, 2018 and remains in effect through March 31, 2021. The Company and Union have agreed to recognize the terms and conditions of employment in the "Master" Collective Bargaining Agreement and have negotiated this Collective Bargaining Agreement to address terms and conditions of employment not addressed in the AEP/IBEW System Council U-9 Master Collective Bargaining Agreement. However, the parties agree that Article V, Section 4, Shift, Sunday Premiums and Article IX, Section 3, Reinstatement of Employees shall not apply to employees represented in this bargaining unit. The parties also agree that should any of the provisions of the Master Agreement and this Agreement overlap or be in conflict, that the terms and conditions of employment of the Master Agreement shall prevail.

(c) The Company and the Union acknowledge that the description of the bargaining unit in Section I(a) above includes "regular part-time" employees and there are no such employees currently employed by the Company. Should the Company decide to employ such employees during the duration of this Agreement, the Company will notify the Union at least sixty (60) calendar days before doing so, so that the terms of this Agreement may be amended to reflect the employment of part-time employees in the bargaining unit.
In the event that the parties fail to agree on amended terms of this Agreement by the date such a part-time employee is actually employed, Article IV of the AEP/IBEW Master Agreement, Mutual Responsibilities, shall become inoperable with respect to any strikes, work stoppages, picketing or lockouts which commence within sixty (60) calendar days after such an employee commences his employment.

(d) Employees who are covered by this Agreement may be allowed to participate in the Company's Legacy of Knowledge (LOK) program. Participation in the LOK program is not an entitlement or right automatically available to any eligible represented employee. The Company, at its sole discretion, shall determine when and if LOK positions exist and the selection of employees to participate in the LOK program.

The Union and Company recognize that the terms and conditions of employment for LOK participants are covered in the LOK program. Employees selected to participate in the LOK program will continue to be covered by the terms of the IBEW Master Agreement and this Agreement during the period of the LOK assignment with the exception of those terms and conditions of employment covered in the LOK program.

The parties further agree that the provisions of this Section 1(d) shall not be subject to the Grievance and Arbitration Procedure.

Section 2. Classes Of Employees

(a) The word "employee" or "employees" wherever used in this Agreement shall mean and refer only to those full-time probationary and regular employees now or hereafter in the employment of the Company in job classifications covered by this Agreement.

(b) As the bargaining unit excludes supervisors and other jobs, should a covered employee move to a supervisory or other job not covered by this Agreement on a regular basis, he shall cease to be covered by this Agreement. However, an employee who voluntarily performs as a supervisor on a temporary basis or who temporarily performs the duties of another job not covered by this Agreement shall continue to be covered by the terms of this Agreement during any such period(s) of temporary assignment.

ARTICLE II

COVERAGE, DURATION OF AGREEMENT

Section 1. Coverage of Contract

This Agreement means the IBEW Master Agreement and this Agreement supercede any and all prior understandings, customs, practices or agreements, oral or written, expressed or implied and that no such prior written or oral agreements, practices, customs or understandings will be recognized in the future.

The parties further agree that this Agreement incorporates their full and complete understandings and shall govern their entire relationship and shall be the sole source of any and all rights or claims that may be asserted in arbitration hereunder or otherwise.

Therefore, the parties, for the life of this Agreement, waive the right to request to negotiate or the right to negotiate or bargain with respect to any matters or subjects referred to or covered in this Agreement.

Section 2. DURATION OF CONTRACT

This Agreement shall be in full force and effect beginning (on the day the Agreement is signed and returned) and shall continue in full force and effect until midnight, March 31, 2021, and thereafter for successive one (1) year periods unless either party hereby notifies the other party in writing at least sixty (60) days prior to March 31, 2021 or not less than sixty (60) days prior to the annual anniversary of the expiration date in any year thereafter, of its desire to modify or terminate this Agreement.

In accordance with Article IV, Section (e)(2) of the IBEW Master Agreement that following the expiration of this Agreement, the right to strike by bargaining unit employees shall occur at 12:01 a.m. on the day following the expiration date plus 12 months.

ARTICLE III

Seniority

Section 1. Acquisition of Seniority

The seniority of a regular employee shall be determined by the
Section 2. Types of Seniority

Length of continuous service within the Nuclear Generation Group in any job classification(s) covered by this Agreement shall be deemed seniority.

If two or more employees have the same seniority, then the “birthday rule” will be used to break the tie, meaning that the person with the earliest birthday during the calendar year will be considered the most senior.

When an employee covered by this Agreement is promoted or permanently transferred to a supervisory or other position within Nuclear Generation that is not covered by this Agreement, he shall continue to accumulate seniority for one year, after which he shall accumulate no further seniority but will retain what he has. He may exercise this seniority, before or after the one year, only if he is returned by the Company to a job covered by this Agreement. After the (1) year, an employee covered by this Agreement who leaves Nuclear Generation for any job outside of Nuclear Generation loses all seniority.

Section 3. Promotions

(a) In determining an employee's suitability for promotion the Company shall consider the following factors: skill, efficiency, experience, ability, knowledge, training and physical fitness. In order to determine an employee's qualifications, the Company may require the employee to satisfactorily pass reasonable examinations.

(b) An employee in the Utility Operator job classification must acquire within such time frames as determined by the Company, the qualifications necessary to perform the duties of the of the Auxiliary Equipment Operator classification. In the event of a failure to do so, the Company will remove the employee from the Operations Department. Failure to find a vacancy for which the employee is qualified will result in termination.

(c) Promotions to the Auxiliary Equipment Operator Senior job classification shall be based on merit/performance from among those employees qualified. If the merit/performance factors of two employees considered for promotion are equal, then seniority shall prevail.

(d) When a vacancy is to be filled in a covered job classification, except a promotion in accordance with Section 3(b) immediately above, a notice thereof will be posted electronically for ten (10) calendar days. Any employee may make application therefore during the ten (10) day posting period.

The Company will fill the vacancy within a reasonable period after the completion of the posting period, provided a qualified employee has made application and provided the need to fill the vacancy still exists.

(e) When an employee is promoted to a job classification with a higher maximum hourly pay rate there exists an overlap in pay rate schedules, the employee will be promoted to the higher job classification and be placed in the time step rate that provides for a pay increase over the employees pay rate in the lower job classification before being promoted.

Section 4. Layoffs and Displacements

If it is necessary to reduce the number of regular employees or to layoff regular employees, the following shall apply:

1. Starting with the Utility Operator job classification, the employee with the least seniority shall be removed. He shall have the right to exercise his seniority to “bump” an incumbent in the make-up plant/identification specialist job classification, if qualified.

2. After all Utility Operators are laid off and the need for additional layoffs exists, layoffs will occur in the Auxiliary Equipment Operator job classification and the employee with the least seniority shall be removed. An employee displaced in this manner shall have the right to exercise his seniority to “bump” an incumbent in the make-up plant/identification specialist job classification, if qualified.

3. Layoffs from in the Auxiliary Equipment Operator Senior job classification shall be based on seniority with the employee having the least seniority being the first to be removed.

Union RFR 056
An employee transferred to another job classification in accordance with this provision shall receive the rate of pay of the classification to which he is transferred.

Section 5. Seniority After Layoff

If a regular employee is laid off, he shall retain his seniority and recall rights for two (2) years or for a period equal to his seniority at the time he was laid off, whichever is less, unless he sustains a complete loss of seniority as provided elsewhere in this Agreement.

Section 6. Recall

When adding to the forces, those most recently released within a period of two (2) years, on account of the curtailment of work, shall on the basis of seniority be the first to be reemployed, if available, qualifications being sufficient and if they have retained seniority in accordance with Section 5, immediately above.

If an employee who has been laid off fails to report within ten (10) calendar days after notice is sent by United States Certified Mail, without giving a satisfactory reason therefore, within a reasonable time after such notice, he shall be considered dismissed from the employ of the Company, and the next qualified employee shall be called.

In sending such notices to an employee, the Company will rely on the last address provided by the employee to the Company in writing. The employee shall give the Company notice of any changes of address and obtain from the Company a written receipt of such notice.

Section 7. Loss of Seniority

A complete loss of seniority and employment shall be suffered by an employee who:

1. Voluntarily terminates his employment.
2. Is discharged for just cause.
3. Fails to return to work as provided for under the recall provisions of this Agreement.
4. Is absent from work without reasonable excuse or justification for three (3) consecutive work days, including an intervening holiday if such holiday was within his regular schedule.
5. Is absent from work due to layoff in excess of the applicable time specified in this Agreement.
6. Is absent from work other than for reasons of layoff for a period of one (1) year or more or for a period equal to the employee's length of Company service when such absence begins, whichever is less, unless in an exceptional case of illness or disability such time is extended by leaves of absence.
7. Overstays a leave of absence or violates any of the terms or conditions of a leave of absence.

ARTICLE IV

WORK HOURS, SCHEDULES, SHIFTS, OVERTIME

Section 1. Schedule and/or Shift Changes

(a) For purposes of this Agreement, the following definitions shall apply:

"Schedule change" is a change in the employee's regularly scheduled days of the work week.

"Shift change" is a change in the employee's regularly scheduled hours within a work day which results in the majority of an employee's newly scheduled hours to be within a shift other than his previous scheduled shift.

Assignments of overtime shall not constitute a schedule or shift change.

(b) If an employee has his regular shift and/or schedule changed with twenty-four (24) hours or more advance notice before the beginning of the new shift and/or schedule, he shall be considered as having been given adequate notice and shall receive no extra pay because of the change.

However, if he has his shift and/or schedule changed with less than twenty-four (24) hours advance notice, he shall be considered as having been given inadequate notice and shall be paid one and
one-half (1/2) times his regular straight-time rate, including any applicable shift premiums, for all hours worked on the first day of the new shift and/or schedule.

This same extra pay provision applies if he is off work for less than eight (8) hours between his old and new shift and/or schedule.

An employee shall receive the above one and one-half (1 1/2) times extra pay because of either inadequate notice or because of a change but not for both.

The above one and one-half (1 1/2) times extra pay provisions apply only to the first day, not to any succeeding days.

Section 2. Overtime Payments

(a) Unless a higher rate is applicable, an employee shall be paid at one and one-half (1 1/2) times his regular straight-time rate of pay for hours worked on his scheduled days off within the workweek.

However, an employee shall be paid two (2) times his regular straight-time rate of pay for hours worked on his second scheduled day off within the workweek or on one of his scheduled days off within the workweek as designated by the Company.

(b) If an employee works more than sixteen (16) hours continuously, he shall be paid two (2) times his regular straight-time rate of pay for all hours worked after the sixteen (16) hours. If an employee has received two (2) times his regular straight-time rate of pay under this provision, is released from work, and then is called back within four (4) hours, this two (2) times rate provision shall again apply and will remain effective for all continuous hours worked.

(c) Under emergency/adverse conditions, employees may be required to remain on plant premises. Those employees required to stay shall be paid one and one-half (1 1/2) times their regular straight-time rate when they are relieved from duty and provided with non-work time during which they may sleep and/or relax while on plant premises.

Section 3. Overtime Obligation, Distribution

(a) The Company will endeavor, to the extent that it is reasonable and practicable to do so, to distribute overtime work equitably over reasonable periods of time among employees who perform the same or similar services.

(b) The Company will seek the collaborative input of the Union to establish guidelines for such assignments. The purpose of this effort is to provide the Union an advisory role in such assignments. Guidelines established for such assignments shall be otherwise in compliance with the terms and conditions of this Agreement and are subject to change at the determination of the Company.

In no event shall the remedy for a violation of this Section 3(b) be pay for time not worked.

Section 4. Call-Out

An employee called out to work outside his regular scheduled hours between 6:00 a.m. and midnight will receive two (2) hours pay at the applicable overtime rate or pay for actual hours worked, at the applicable overtime rate, whichever is greater.

An employee called out to work outside his regular scheduled hours between midnight and 6:00 a.m. will receive three (3) hours pay at the applicable overtime rate or pay for actual hours worked, at the applicable overtime rate, whichever is greater.

In case more than one call-out occurs within the minimum period, the employee will receive pay at the applicable rate for the applicable minimum period, or actual hours worked, whichever is greater.

If the minimum period overlaps into the employee's regular scheduled hours, he will be paid at the applicable rate only for the time worked prior to his scheduled starting time.

Call-out pay shall not apply in cases where an employee has not left the Company property for the day.

Section 5. Working Hour Limitations

Employees with covered status in accordance with NRC Work Hour Rules Regulations who are required to take time off during regularly scheduled work hours due to limitations in the number of work hours per day and per week permitted in accordance with the NRC Work Hour Rules Regulations, shall be paid their regular straight-time rate for regularly scheduled straight-time hours they were required to be off.
Section 6. Shift, Sunday Premium

(a) A shift premium will be paid to employees who are regularly scheduled for work on Second or Third Shift. For the purpose of applying shift premiums, shifts shall be identified as follows:

First Shift - When the majority of scheduled working hours are between 7:00 a.m. and 3:30 p.m.

Second Shift - When the majority of scheduled working hours are between 3:00 pm and 11:30 p.m.
Premium = $1.10 per hour

Third Shift - When the majority of scheduled working hours are between 11:00 p.m. and 7:30 a.m.
Premium = $1.50 per hour

No premium will be paid for employees scheduled to work on a First Shift schedule.

Employees who have a shift change will be paid shift premium on the basis of the rate applicable to the shift to which the employee is changed.

Any employee whose regular schedule entitles him to a shift premium shall, when he works outside such regular schedule, receive the shift premium applicable to his regular assigned shift schedule.

(b) Any employee whose schedule includes calendar Sundays shall receive a $2.50 per-hour premium for all straight-time hours worked on such calendar Sundays. This $2.50 premium is in addition to the employee's regular straight-time rate and any applicable shift premium, but does not apply to any hours for which the employee is paid one and one-half (1½) times his regular straight-time rate or more.

(c) The provisions of this Article IV, Sections 6(a) and 6(b) shall not be applicable to employees who are paid at a 12-hour shift wage rate.

ARTICLE V
HOLIDAYS

Section 1. Days Observed

The days to be observed as holidays are addressed in the AEP/IBEW Master Collective Bargaining Agreement including the observance of the Christmas holidays and holidays that fall on Saturday and Sunday. Employees who work rotating shifts that include Saturday and Sunday shall observe all holidays on the calendar days on which they actually fall.

Section 2. Pay for Holidays Not Worked

All full-time employees who do not work on a recognized holiday will be paid holiday pay on the following basis:

(a) When a holiday falls within the normal work schedule of the employee and is not worked, the employee will be paid for eight (8) hours at his regular straight-time rate; however, an employee temporarily assigned to a job classification having a higher maximum rate than his regular straight-time rate for the full day before and after a holiday will be paid such temporary rate for the holiday.

(b) When a holiday falls on an employee's scheduled day off, the Company will either:

1. Pay such employee for eight (8) hours at his regular straight-time rate for such holiday, or;

2. Give such employee an additional day off in the current or the next two (2) succeeding work weeks and pay him for eight (8) hours at the regular straight-time rate for such day.

(c) No employee shall receive holiday pay (or a day off with eight (8) hours pay in lieu thereof) if, on any one of said holidays, he:

1. Was unable to work because of illness or injury; or,

2. Was on a leave of absence; or,

3. Did not work at least eight (8) hours during the work week during which the holiday occurred, unless paid
vacation; or,

4. Was absent from work due to a labor dispute.

Section 3. Pay for Holidays Worked

An employee who works on a holiday shall be paid eight (8) hours at his regular straight-time rate of pay as holiday pay and, in addition, shall receive pay for work performed on that day on the following basis:

1. Hours worked by an employee after his scheduled starting time and/or before his scheduled quitting time, in accordance with his work schedule for that day, shall be paid at one and one-half (1½) times his regular straight-time rate of pay.

2. Hours worked by an employee after his scheduled quitting time and/or prior to his scheduled starting time, in accordance with his work schedule for that day, shall be paid at two (2) times his regular straight-time rate of pay.

3. Hours worked by an employee on his regular day off, when a holiday falls on such regular day off, shall be paid at two (2) times his regular straight-time rate of pay.

Section 4. Personal Days Off

1. An employee observing a Personal Day Off will be paid for eight (8) hours at his regular straight-time rate for each day in accordance with the above section entitled “Pay for Holidays Not Worked.”

2. An employee required to work on a day scheduled to be observed as a Personal Day Off may elect to either reschedule the Personal Day Off or to keep it as a Personal Day Off. If he keeps it as a Personal Day Off, he shall be paid eight (8) hours at his regular straight-time rate of pay and, in addition, shall receive pay for work performed on that day in accordance with the above section entitled “Pay for Holidays Worked.”

ARTICLE VI
VACATIONS

Section 1. Vacation Scheduling

(a) Insofar as it is practical to do so, each regular employee may select desired vacation periods; however, number of employees off duty at one time, work load and service shall be taken into account in scheduling vacations and the Company shall make the final decision as to vacation scheduling.

(b) A senior employee within each job classification shall have first choice of one vacation period and then go to the bottom of the list until other employees in the job classification, in the order of service, have had one choice. An employee shall be allowed to divide his vacation into more than one period, but then he shall repeat the above selection process for second, third and subsequent choices.

(c) An employee who submits his vacation selection request before January 1 shall have preference over any request submitted after January 1. Any requests received after January 1 shall be considered in the order received.

Not later than February 1st thereafter, the Company shall take action on such designation and make available to such employee the vacation time awarded to him by the Company. Thereafter, such employee shall not have the right to change such vacation time on a seniority basis, and the Company shall not change such vacation time except when it is necessary that work be performed in order that the Company can fulfill its obligations to render adequate and continuous service to its internal and external customers, prevent injury, save life, prevent damage to property, or avoid danger to the public health or safety. If an employee is required to cancel or return from his vacation prior to its expiration date, the Company shall reimburse an affected employee for out-of-pocket expenses that cannot be reasonably avoided in connection with such change.

(d) If an employee has not scheduled his vacation by January 1, the Company can assign his vacation for him.
ARTICLE VII
COMPENSATION AND WAGES

Section 1. Wage Agreement

The parties hereto have agreed upon wage rate schedules apart from this Agreement which are in writing.

Section 2. Rate of Pay for New or Changed Job Classifications

(a) If new job classifications are created or if the duties of any job classifications are substantially changed, the wage rates for such new or changed job classifications shall be established by the Company in proper relationship to other existing job rates.

(b) If the Company and the Union cannot agree on the wage rates for the new or changed job classifications, the final determination of such wage rates shall be deferred until the next negotiation in which all wage rates are open for negotiations.

Section 3. Rate Progression

When time-step increases within the rate ranges of covered job classifications are given they shall be given in accordance with the intervals shown on the wage rate schedules. Each time-step increase shall be made effective on the beginning of the work week next following the completion of the applicable interval as shown on the wage rate schedules, unless the employee is unable to work due to illness or injury on the effective date.

Section 4. Temporary Work Assignments

An employee temporarily assigned to work in a job classification having a higher maximum rate than his regular rate of pay shall, when he works consecutively one (1) hour or more in such higher job classification, be paid the start wage rate of the higher classification, provided he performs all of the duties assigned of such higher classification. In the event the employee's present rate already falls within the rate range of the higher job classification, the employee will receive the wage rate for the time-step of the higher classification which is next above his present wage rate.

ARTICLE VIII
MISCELLANEOUS

Section 1. Meal Allowance

An employee is responsible for providing his own meals during his regularly scheduled hours of work and during prearranged overtime (including work assigned on a scheduled Regular Day Off). Two (2) hours or more notice of an overtime assignment will be considered prearranged overtime and no meal allowance will be due.

An employee shall be entitled to a meal or meals during a "call- out" or "holdover" overtime assignment only to the extent specifically provided below:

(a) "Call-out" overtime meals.

An employee has insufficient notice of a "call-out" overtime assignment where he has been given less than two (2) hours notice before the start of such "call-out" overtime.

When an employee works such "call-out" overtime outside of, but not immediately prior to his regularly scheduled shift, a meal entitlement will arise after each continuous four (4) hours of such overtime work.

When an employee works such "call-out" overtime immediately prior to his regularly scheduled shift, a meal entitlement will arise after working two (2) hours. If the employee continues to work such overtime, an additional meal entitlement will arise for each continuous four (4) hours of such overtime work.

(b) "Holdover" overtime meals.

An employee has insufficient notice of a "holdover" overtime assignment where he has been given less than two (2) hours notice before the start of the regularly scheduled shift from which he is held over.

When an employee works such "holdover" overtime, a meal entitlement will arise after working two (2) hours immediately after his regularly scheduled shift. If the employee continues to
### COOK GENERATING PLANT
#### INDIANA MICHIGAN POWER COMPANY
#### AEO/OPS Wage Schedule
#### 2018 - 2020 WAGE STRUCTURE

Effective 4/1/2018

Wage Rates at Intervals of Months Worked

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WAGE STRUCTURE ...................................................... | 17-19 |
Agreement

By and Between

American Electric Power


And

International Brotherhood of Electrical Workers

Locals: 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466

Effective:

April 1, 2018 – March 31, 2021

Joint EXH 2
PURPOSE

The Companies and the Unions have common mutual interests in the electric utility industry. Stabilized conditions of employment improve the relationship between the Companies and the Unions and the Public. All will benefit by harmonious relations and by adjusting any differences through rational, common sense methods.

NOW, THEREFORE, to these ends and on consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

Article I
UNION REPRESENTATION

Section 1. Recognition

(a) American Electric Power Service Corporation, AEP Generation Resources, Inc., Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company, jointly referred to as "the Companies"), the International Brotherhood of Electrical Workers, Local Unions 329, 386, 696, 738, 876, 934, 978, 1002, 1392, and 1466 (jointly referred to as "the Local Unions"), and System Council U-9 ("System Council" and, with the Companies and Local Unions, sometimes collectively referred to as the "Parties") entered into a revised Memorandum of Understanding on June 21, 2011 ("MOU", a copy of which is attached as an addendum), the terms and conditions of which are attached hereto and incorporated herein by reference.

(b) Through System Council U-9, the Local Unions have expressed their desire to negotiate with the Companies for a single Master Agreement (the "Agreement"), the terms and conditions of which shall apply to all of the employees
who are represented by the Local Unions, while reserving certain issues to be negotiated locally in the bargaining process that heretofore has occurred at the local level and resulted in separate collective bargaining agreements (the "Local Agreements"). The Parties recognize that the change in approach to the collective bargaining process is a "permissive" subject of bargaining, as that term is used and understood by the National Labor Relations Board and the courts of the United States in construing the National Labor Relations Act, 29 U.S.C. § 151, et seq., and the Local Unions and System Council U-9 acknowledge that the Companies have voluntarily agreed to engage in the process of negotiating this Agreement and Local Agreements as an accommodation to them.

Section 2. Union Security – OH,

(a) Maintenance of Membership Provision
In order that employees do their part in assisting a respective Local Union to meet its obligations as a party to this Agreement, an employee hired before June 15, 2000, who on or after June 15, 2000, personally pays Union dues or authorizes Union dues deduction, may only discontinue such payments or revoke a prior authorization within the ten (10) calendar day calendar period preceding the expiration date of this Agreement. Such revocation must be in writing and must be delivered to the respective Local Union and the respective Company.

(b) Agency Fee Provision
In order that employees do their part in assisting a Local Union to meet its obligations as a party to this Agreement, an employee hired on or after June 15, 2000, shall either personally pay Union dues or authorize Union dues deductions.

(c) Failure to Pay Required Union Fees or Dues
Should any employee covered under Section (a) or (b) above fail to pay the dues or fees required as a condition of employment, the employee shall be terminated.

(d) Dues Membership
The Company agrees to deduct from the pay of each employee who executes a written authorization, an amount equal to the current respective Local Union dues as set forth in the respective Local Union By-Laws and the Constitution of the International Brotherhood of Electrical Workers. The amount of these deductions will be paid by Electronic Funds Transfer (EFT) to the Financial Secretary of the Local Union. The respective Local Unions shall notify the respective Companies of any changes in the dues amounts to be deducted.

(e) The Companies shall have no obligation to collect Union dues for any pay period in which the employee received (after all other deductions) pay less than the amount of such dues.

(f) The respective Local Unions shall indemnify and save the Companies harmless against any and all claims, demands, lawsuits or other forms of liability that may arise out of or by reason of action taken by a Company in making payroll deductions of Union membership dues as hereinabove defined.

(g) A Local Union will not (a) interfere with employees not belonging to the Union (b) use threats, intimidation, or coercion to influence employees to join the Union or (c) discriminate against any employee because of his non-membership in the Union or (d) solicit memberships during working hours.

Section 3. Union Security – AR, IN, KY, LA, MI, OK, TN, TX, VA, WV

(a) Dues Membership
The Company agrees to deduct from the pay of each employee who executes a written authorization, an amount equal to the current Local Union dues as set forth in the Local Union By-Laws and the Constitution of the International Brotherhood of Electrical Workers. The amount of these
deductions will be paid to the Financial Secretary of the Local Union. The deductions will be renewed for successive periods of one year unless revoked by written notice to the Union within ten (10) days prior to the anniversary date of the authorization or the expiration of the Agreement. The Union shall notify the Company of any changes in the dues amounts to be deducted and any changes in dues authorization for any employee.

(b) The Companies shall have no obligation to collect Union dues for any pay period in which the employee received (after all other deductions) pay less than the amount of such dues.

(c) The respective Local Unions shall indemnify and save the Companies harmless against any and all claims, demands, lawsuits or other forms of liability that may arise out of or by reason of action taken by a Company in making payroll deductions of Union membership dues as hereinabove defined.

(d) A Local Union will not (a) interfere with employees not belonging to the Union (b) use threats, intimidation, or coercion to influence employees to join the Union or (c) discriminate against any employee because of his non-membership in the Union or (d) solicit memberships during working hours.

Section 4. Employees Off For Union Business

(a) Union officers or representatives shall be granted permission to be absent with or without pay for Union conventions, and/or conferences above the Local Union level; or may be granted permission to be absent with or without pay for other specific Union activities, upon written request for such absence.

Should the Union request more than two (2) employees to be absent at the same time, the Company will consider such request and may permit more than two (2) employees to be absent for Union Business. However, the Company reserves the right to limit the number of employees permitted to be absent for Union Business at any one time.

(b) Reimbursement For Time Off For Union Business

Regular full-time employees appointed or elected by the Union to represent the Union in its business with the Company, will suffer no loss of regular straight-time pay at the employee’s regular base rate or benefits when conducting official authorized Union business.

The Unions agree to reimburse the Company, on a timely basis, for all wages paid at a premium of 140% of Union Business paid-wages to reimburse the Company’s cost of base pay plus benefits.

The provisions of this Section 4(b) do not apply to any employee on leave of absence or any employee who is off to conduct official authorized Union Business in excess of 200 regularly scheduled work hours in a calendar year. In addition, these provisions do not apply when the Collective Bargaining Agreement calls for the continuation of regular straight-time pay for grievance meetings or safety meetings.

Employees conducting such Union business are expected to properly code their time records using a designated Union Pay code (PUB) and to notify the Union of reported Union Business hours.

The Company will send an invoice on a periodic basis to each applicable designated IBEW Local Union Representative notifying each Local Union of the amount owed to the Company. Each Local Union accepts the responsibility to promptly reimburse the Company upon receiving their invoice. Frequency of invoicing will be determined by the Company.
Article I cont'd.

Failure of any Local Union to reimburse the Company on a timely basis, according to the payment terms stated on the invoice, will nullify the use of this provision for that particular Local Union for the remainder of the term of the Collective Bargaining Agreement.

Should this program become administratively burdensome or unforeseen problems arise that cannot be effectively resolved, the Company reserves the right to eliminate this provision with thirty calendar (30) days written notice to the Unions.

Section 5. Leave Of Absence For Union Officials

(a) A maximum of two (2) employees elected or appointed to full-time union positions from each Local Union shall be granted leaves of absence for a period of such election or appointment. The employees shall continue to accrue seniority during such leaves, and upon termination of the leaves of absence, shall be reinstated to their former positions (or the equivalent if such former positions no longer exist) provided the employees are qualified to return to work.

(b) Employees appointed pursuant to Section 5(a) above, shall be permitted to extend their medical and dental coverages for the duration of their Union leave of absence by paying 102% of plan cost.

Section 6. Organizing Conduct

The parties agree that in the event that the Union engages in organizing efforts among AEP unrepresented employees, neither party shall coerce or intimidate employees during the course of an organizing campaign. The Companies agree to refrain from negative public statements concerning the IBEW or any IBEW officer, representative or member. The Unions, its officers, representatives and employees agree not to publicly express negative comments concerning the Companies' integrity or motives including the integrity or motives of the Companies' officers, directors, agents or employees. The parties agree that all oral or written statements made during the course of an organizing campaign shall be factual.

The parties further agree that the provisions of this Section 6, shall not be subject to the Grievance and Arbitration Procedure.

Section 7. P.A.C.

Subject to applicable laws and upon receipt of a written authorization from an employee, the Company shall deduct from the pay due such an employee Political Action Committee (P.A.C.) donations and transmit such, separately from Union dues deductions, to the Financial Secretary of each Local Union. An employee's written authorization for the Company to deduct P.A.C. donations shall continue in effect for the duration of this Agreement, or until receipt by the Company of a written notice of revocation, or when the employee ceases to be represented by the Union, whichever occurs earlier.

The Company shall have no obligation to deduct P.A.C. donations for any period in which the employee received (after all other deductions) pay less than the amount of such donation. The Union shall indemnify and save the Company harmless against any and all claims, demands, lawsuits, or other forms of liability that may arise out of or by any reason of action taken by the Company in making payroll deductions of P.A.C. donations as hereinabove defined.

Section 8. Classes Of Employees

(a) Probationary employees are those employees who have not satisfactorily completed six (6) consecutive months from the date of employment and who are not hired for specific temporary jobs of limited duration. Probationary employees may be discharged, at the discretion of the Company, at any time during the probationary period; and
such discharge shall not be subject to arbitration.

(b) Regular employees are those employees hired for full time employment who have satisfactorily completed six (6) consecutive months from the date of employment and who are not hired for specific jobs of limited duration.

(c) The word “employee” or “employees” wherever used in this Agreement shall mean and refer only to those regular full time and probationary employees who are now or hereafter in the employment of a Company and represented by a Local Union.

(d) It is agreed that a Local Union will be notified when a new employee is hired, giving the name, telephone number, address and status of the new employee. The giving of this information must not, however, be construed as binding the Company against later changing the status of such an employee. The Local Union will also be notified of any change in an employee's status or classification.

Section 9. List Of Eligible Employees

A list will be furnished monthly to the Union showing employees in job classifications represented by the Union who have a changed address or who have been hired, reclassified, or whose employment has terminated. Such list will show the employee's classification, starting date in present classification, and date his last continuous employment with the Company commenced.

Section 10. Successorship

The Company agrees that the adoption of this Agreement will be a condition of the sale, divestiture or transfer of any facility covered by this Agreement. When the sale, divestiture, or transfer is publicly disclosed, the Company will provide the Union with relevant information concerning such transaction upon request.

Section 11. Printing Of Agreements

The Companies will furnish each Local Union with printed copies of this Memorandum of Agreement (1½ times the number of bargaining unit employees). The Union will thereafter be responsible for all distribution to employees.

Section 12. Union Orientation

When new employees are hired or employee are transferred into union represented positions, the Company will allow up to thirty (30) minutes for a Union representative to discuss Union activities and sign the appropriate Union membership forms.

This thirty (30) minute Union orientation will normally take place during new employee orientation and the designated Union representative will not lose regular straight-time pay for this orientation. Each Local Union will designate a readily available Union representative from each location (building or service center) and provide that list to the applicable Company.

ARTICLE II
MANAGEMENT AND UNION RELATIONSHIP

(a) Except as otherwise specifically limited in this Agreement, the Company has the right to exercise the regular and customary functions of management, subject, however, to the employee's privilege of bringing a grievance as provided for in this Agreement.

(b) The rights, powers, and authorities mentioned in (a) above shall include but shall not be confined to the following:

1. The right to determine equipment to be used,
the process, techniques, methods and means of operation, production, transmission and distribution, the schedules of production, schedules of working hours, standards of quality and workmanship; the right to establish, maintain and amend reasonable working rules and regulations [including safety rules, programs and regulations] and job classifications and job descriptions and the necessary qualifications for all job classifications including reasonable residency requirements of employees required to perform the work.

(2) The right to create, eliminate, modify or combine jobs; the right to assign work and contract work; the right to determine manning needs, including the number and classifications of employees to be used on specific jobs and in the general operation of the Company's business; the right to lay off employees due to lack of work or for other reasons.

(3) The authority to hire, promote, demote or transfer, assign to shifts, maintain discipline and efficiency; and the right to warn, suspend, discharge or otherwise discipline employees for justifiable reasons.

(4) The Company shall also have the right to assign or contract work to persons or organizations not represented by a Local Union. This right is limited only to the extent that it shall not be exercised when such actions directly result in the layoff or discharge of any employee covered by this Agreement. In the event of arbitration over the Company's exercise of the right set forth herein, the sole question for the arbitrator shall be whether the Company has violated the foregoing limitation.

(c) Where the rights, powers, and authorities itemized in (b) above are modified or limited by the terms and provisions of this Agreement they shall only be modified or limited to the extent specifically provided therein.

ARTICLE III
COVERAGE, DURATION OF AGREEMENT

Section 1. Duration of Agreement

This Agreement, effective 12:01 a.m., April 1, 2018, except as specifically noted otherwise herein, will continue in full force and effect through March 31, 2021, and for yearly periods thereafter unless either party shall notify the other party in writing not less than sixty (60) days before any termination date of such party's desire to commence negotiations for a new contract.

Section 2. Coverage of Agreement

It is the intent of the parties that the provisions of this Agreement (meaning Master Agreement and respective Local Agreement for each individual Bargaining Unit) will supersede all prior agreements and understandings, oral or written, expressed or implied, between such parties and shall govern their entire relationship and shall be the sole source of any and all rights or claims which may be asserted in arbitration hereunder or otherwise.

The parties for the life of this Agreement hereby waive any rights to request to negotiate or to negotiate or to bargain with respect to any matters contained in this Agreement.

Section 3. Separability

If any state or federal legislation, court decision or government regulation invalidates any article or section of the Agreement, all other articles and sections not invalidated
shall remain in full force and effect. Within thirty calendar days, the Company and Union shall meet to negotiate new contract language to replace the article or sections, which have been invalidated.

ARTICLE IV
MUTUAL RESPONSIBILITIES

(a) There shall be no strikes, work stoppages, slowdowns, sit-downs, sympathy strikes, picketing, failures to cross any picket line or other forms of interference with production or interruption of production for any reason during the life of this Agreement or extension thereof. This prohibition shall apply to each Local Union, and their subordinate bodies, and to each employee. The Companies shall not engage in a lockout of its employees during the life of this Agreement.

(b) Each Local Union, and their subordinate bodies, shall not sanction, aid or abet, encourage or continue any strike, work stoppage, picketing, failure to cross any picket line or other interference or interruption of production during the life of this Agreement or extension thereof, and shall undertake by all possible means to prevent or to terminate any such activity. Any employee who participates in or encourages any activities which interfere with production or interrupt production during the life of this Agreement or extension thereof shall be subject to disciplinary action, including discharge. In the event of any interference with or interruption of production, the Local Union will immediately instruct, order and use its best efforts to cause the Union and their subordinate bodies and the employees to cease violating this Article. In the event that either party believes that a violation of this Article has occurred, that party shall notify the Director of the Federal Mediation and Conciliation Service (FMCS) of its belief. Upon receipt of such notification, the FMCS will immediately designate an arbitrator, who shall hold a hearing as soon as practicable. This hearing shall begin within seventy-two (72) hours after receipt of such notification by the FMCS. The sole issue at the hearing shall be whether a violation of this Article has occurred. The arbitrator in holding such hearing shall have no authority to consider any factor in justification, explanation or mitigation of a violation of this Article. There shall be no adjournment or continuance of the hearing, and the arbitrator shall issue his award at the conclusion of the hearing. The award of the arbitrator pursuant to this Article may be enforced by either party, if necessary, in a court proceeding and the Parties hereby waive any rights inconsistent with this procedure.

(c) Any employee disciplined under this Article shall have the right to grieve such discipline under Article XI and if such grievance is taken to arbitration under Article XI, to have the arbitrator determine if such discipline is appropriate.

(d) Provided that the Company reserves the right not to invoke the procedures of this Article if the crossing of a specific picket line would expose an employee to injury.

(e) The right to strike by employees represented by the Local Unions shall be governed by the following schedule and under the following circumstances:

1. For purposes of this provision, the Expiration Date shall be defined as the occurrence of any one of the following three events:

   i. the date upon which the Agreement has expired because either the Companies or the System Council has served written notice of their/its intent to not renew the Agreement; or

   ii. the Parties attempt to renew the Agreement but, having satisfied the notice requirements set forth in Section 8(d) of the National Labor Relations Act, are unable to reach agreement on
Article IV con’t.

2. In the event that the Parties reach the Expiration Date of the Agreement, the right to strike by bargaining unit employees shall occur at 12:01 a.m. on the day following the date reflected below:

<table>
<thead>
<tr>
<th>Strike Date</th>
<th>Local Union</th>
<th>Bargaining Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>1002 PSO</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Beckley</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Charleston</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Fieldale</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Huntington</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Logan</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Lynchburg</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Point Pleasant - Ripley</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Roanoke</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Roanoke ROC</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Clinch River</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Hydro - South</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 3 months</td>
<td>978 Big Sandy</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 6 months</td>
<td>1392 Cook RPEC Techs</td>
<td></td>
</tr>
<tr>
<td>Expiration Date + 6 months</td>
<td>329, 386, 738 SWEPCO</td>
<td></td>
</tr>
</tbody>
</table>

3. In the event that, pursuant to Article IV, Section (e)(1)(i) of this Agreement, either the Companies or the System Council serves written notice of their/its intent to not renew the Agreement, representatives from the Companies and the Local Unions shall begin to conduct negotiations for each of the bargaining units in the manner described in Paragraph 7 of the MOU. The negotiations shall begin, where practicable, prior to the Expiration Date.
ARTICLE V
WORK HOURS, SCHEDULES, 
SHIFTS, OVERTIME

Section 1. Work Day and Work Week

For payroll accounting and record purposes only:

(a) The workweek shall consist of seven (7) consecutive calendar days starting and ending at midnight on a day designated by the Company, or the starting or quitting time of a shift that overlaps the day so designated as determined by the Company.

The Company shall give fourteen (14) calendar days advance notice of any change in the designated payroll week.

(b) The workday shall be the period of twenty-four (24) hours starting and ending at midnight, or the starting or quitting time of a shift that overlaps midnight as determined by the Company.

Section 2. Work Schedules

The scheduling of employees' daily and weekly working hours, including the scheduling of employees to work more or less than eight (8) hours in a workday or forty (40) hours in a workweek, shall be determined solely by the Company. However, to the extent practicable, work schedules shall include consecutive workdays of between eight (8) and twelve (12) consecutive hours (exclusive of an unpaid lunch period where provided by the Company) and workweeks of between thirty-two (32) and forty-eight (48) hours. This Section 2 shall not be construed as a guarantee of hours of work or pay.

Section 3. Overtime

(a) The Company shall be the sole judge as to the necessity for overtime work. Employees shall make themselves reasonably available for overtime assignments and overtime work as a condition of employment.

(b) One and one half (1½) times an employee's regular straight time rate shall be paid for all time worked outside of his assigned schedule, or for all hours worked in excess of forty (40) hours per workweek except as otherwise herein provided.

(c) An employee shall be paid at one and one half (1 ½) times his regular straight time rate of pay for hours worked on his scheduled days off within the workweek except as provided in a Local Agreement.

(d) In all work locations, the Company agrees to make overtime records available to the Union upon request.

(e) Employees who are normally subject to overtime shall have a telephone or a telephone contact.

Section 4. Shift, Sunday Premiums

(a) Premiums shall be paid on scheduled shifts of classified jobs in accordance with the following schedule in addition to the regular straight time hourly rates.

<table>
<thead>
<tr>
<th>Premium</th>
<th>Definition of</th>
<th>Cents Per Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day Shift</td>
<td>Where the majority of the scheduled hours worked are as designated in Local Agreements.</td>
<td>0.06</td>
</tr>
</tbody>
</table>
Article V cont.

<table>
<thead>
<tr>
<th>Premium</th>
<th>Definition of</th>
<th>Cents Per Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afternoon Shift</td>
<td>Where the majority of the scheduled hours worked are as designated in Local Agreements</td>
<td>80.0¢</td>
</tr>
<tr>
<td>Night Shift</td>
<td>Where the majority of the scheduled hours worked are as designated in Local Agreements</td>
<td>85.0¢</td>
</tr>
<tr>
<td>Sunday</td>
<td>Where the majority of the scheduled hours worked are as designated in Local Agreements</td>
<td>$1.10</td>
</tr>
</tbody>
</table>

(b) Where a shift overlaps from one day into another the shift shall be paid for at the rate pertaining to the day in which the majority of its hours fall.

c) The Sunday premium is in addition to the employee's straight time rate and any applicable shift premium, but this Sunday premium will not apply to any hours for which an employee is paid at a rate equal to or in excess of one and one half (1½) times his regular straight time rate.

d) If during the course of a regularly scheduled workweek, an employee is paid Afternoon or Night Shift premium in addition to his regular straight time hourly rate and such employee also works overtime, the hourly rate for the overtime work shall include the following increments:

- Where the majority of the employee's shift premium hours during the work week were paid at the Afternoon Shift rate - 80.0¢
- Where the majority of the employee's shift premium hours during the work week were paid at the Night Shift rate - 85.0¢

(e) Shift differentials shall be added to employee's rate of pay prior to application of overtime rates.

Section 5. Shift Trades

Subject to the approval of the Company, employees in the same job classification may be permitted to interchange work days or hours within a workweek, if the employees making the exchange are both qualified and agreeable and such exchanges shall not require the Company to pay either employee involved overtime or other premium rates of pay for hours worked.

Section 6. Non-Pyramiding Of Premiums Or Benefits

When two or more types of overtime or premium pay provisions of this Agreement are applicable to the same hours worked, the single provision which results in the greater benefit to the employee shall apply. When two or more pay provisions for time not worked are applicable to the same hours not worked, the single provision which results in the greater benefit to the employee shall apply.

Section 7. Major Service Restoration

(a) The Company, at its sole discretion, may invoke the following "major service restoration" provisions:

1) When an employee is assigned to service restoration work he shall be paid one and one-half (1-1/2) times his regular straight-time rate for all hours worked.
(For employees in the district affected, the MSR pay provisions become effective with the end of the 24th hour. For employees sent in from
outside the affected district for a declared or anticipated MSR declaration, the MSR pay provisions become effective when they depart in a vehicle to travel to the affected district.)

(2) When an employee is assigned to service restoration work assisting other utilities outside of the AEP System properties, he shall be paid two (2) times his regular straight-time rate for all hours worked. (For employees sent to assist other utilities, the MSR pay provisions in this Section 7(a)(2) become effective when they depart in a vehicle to travel to the affected utility.)

(3) When an employee is released from work he shall have eight (8) hours off duty time prior to being required to return to work.

(4) When the Company assigns an employee to return to his regular work and/or schedule the above "major service restoration" provisions shall no longer apply.

(b) In the event of arbitration over the Company’s rights set forth in the “major service restoration” provisions, the sole question for the arbitrator shall be whether (a) (1), (2), (3) and (4) above have been properly applied.

(c) The provisions of this Article V, Section 7, shall not be applicable to employees in the Fossil/Hydro or Nuclear Generation Groups.

(d) In the event that an employee is called between Midnight and the start of the employee’s regularly scheduled shift and asked to pack clothing for an MSR out-of-town assignment and the out-of-town assignment is subsequently cancelled, the employee shall receive the applicable minimum callout pay.

ARTICLE VI
HOLIDAYS and PAID PERSONAL HOLIDAYS

Section 1. Holidays

The following days shall be recognized as holidays:

- New Year’s Day
- Good Friday
- Memorial Day (last Monday in May)
- Independence Day
- Labor Day
- Thanksgiving Day
- The Day after Thanksgiving
- Christmas Eve
- Christmas Day
- Three (3) Personal Days Off

The Christmas Eve and Christmas Day holidays will be observed as follows:

<table>
<thead>
<tr>
<th>Christmas is on:</th>
<th>Holidays observed on:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunday</td>
<td>Friday, Monday</td>
</tr>
<tr>
<td>Monday</td>
<td>Friday, Monday</td>
</tr>
<tr>
<td>Tuesday</td>
<td>Monday, Tuesday</td>
</tr>
<tr>
<td>Wednesday</td>
<td>Tuesday, Wednesday</td>
</tr>
<tr>
<td>Thursday</td>
<td>Thursday, Friday</td>
</tr>
<tr>
<td>Friday</td>
<td>Thursday, Friday</td>
</tr>
<tr>
<td>Saturday</td>
<td>Thursday, Friday</td>
</tr>
</tbody>
</table>

With the above exception of the Christmas holidays, when a holiday falls on a Saturday it will be observed on the preceding Friday, and when it falls on a Sunday, it will be observed on the following Monday.

When an employee who has been notified to work on
a holiday does not work, he shall receive no pay for such holiday unless excused from work by the Company.

When an employee is absent from work on scheduled days immediately before or after a holiday, he shall receive no pay for such holiday unless excused from work by the Company.

If one of the days observed as one of the recognized holidays listed above falls during the vacation period of any employee, the holiday will be observed in accordance with the provisions of this Article VI, and the amount of his vacation entitlement shall not be reduced thereby.

Section 2. Personal Days Off

Each regular employee will be granted three (3) Personal Days Off [eight (8) hours each, twenty-four (24) hours total] during each calendar year on the following basis:

1. The days to be observed as the Personal Days Off must not be Company-recognized holidays and must be regularly scheduled work days for the employee.

2. Requests for a Personal Day Off are subject to the approval of the employee's immediate supervisor.

3. If an employee does not observe his Personal Days Off prior to December 31, they shall be forfeited and no additional compensation will be paid in lieu thereof.

4. If an employee terminates his employment with the Company before he has observed his Personal Days Off, he shall be deemed to have forfeited such Personal Days Off, and no additional compensation will be paid in lieu thereof.

Section 2. Vacation Entitlement

(a) Vacation entitlement shall be as set forth in the following table:

<table>
<thead>
<tr>
<th>Service Requirement</th>
<th>Hours of Vacation</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the calendar year of hire:</td>
<td></td>
</tr>
<tr>
<td>8 hours for each full month of service with a maximum of 80 hours.</td>
<td></td>
</tr>
<tr>
<td>On January 1st of the calendar year in which the following service will be obtained:</td>
<td></td>
</tr>
<tr>
<td>1 year of service</td>
<td>80 hours</td>
</tr>
<tr>
<td>2 years of service</td>
<td>88 hours</td>
</tr>
<tr>
<td>3 years of service</td>
<td>96 hours</td>
</tr>
<tr>
<td>4 years of service</td>
<td>104 hours</td>
</tr>
<tr>
<td>5-6 years of service</td>
<td>120 hours</td>
</tr>
<tr>
<td>7-8 years of service</td>
<td>128 hours</td>
</tr>
<tr>
<td>9-10 years of service</td>
<td>136 hours</td>
</tr>
<tr>
<td>11-12 years of service</td>
<td>144 hours</td>
</tr>
<tr>
<td>13-14 years of service</td>
<td>152 hours</td>
</tr>
<tr>
<td>15-23 years of service</td>
<td>160 hours</td>
</tr>
<tr>
<td>24 years of service</td>
<td>200 hours</td>
</tr>
</tbody>
</table>
(b) Vacation for employees rehired and credited with prior employment as set forth in Section 1(a) above shall be in accordance with the table in Section 2(a) above, except that entitlement in the year of rehire will be pro-rated for the remaining months of the year rounded up to the next whole hour. However, the pro-rated vacation allowance for a rehired employee shall not be less than that of a new employee hired on the same date.

(c) In the calendar year of hire, rehire or return from leave of absence, if an employee is employed or returns from leave on or before the 15th of a month, the month will be counted as a full month for determining vacation entitlement in the following month. If an employee is hired or returns from leave on or after the 16th of a month, the month would not be counted.

Section 3. Vacation Pay

Vacation pay is at the employee’s regular straight-time rate.

Section 4. Vacation Entitlement Upon Returning From Leave

Vacation entitlement for an employee returning from a Leave of Absence shall be based on the total years of service in the year of return from leave in accordance with the table in Section 2(a) above. However, the entitlement for vacation in the year of return will be pro-rated for the remaining months of the year rounded up to the next whole hour. In no case will the pro-rated vacation entitlement for an employee returning from leave be less than that of a new employee hired on the same date.

The provisions of this Section 4 will not apply to an employee returning from Military Leave, paid FMLA Leave or Sick Pay. Such returning employees will receive the full entitlement in accordance with the table in Section 2(a) above.

Section 5. Vacation Pay Upon Termination or Layoff

(a) When an employee retires, is removed from the payroll, terminates his employment, or is laid off, the Company will either give the employee his vacation that he would be entitled to take during that year prior to the termination of his employment or, in lieu of vacation, pay to the employee as of the date of termination of his employment, the amount of vacation pay that the employee would have received if he had taken his vacation during the period of his employment with the Company.

(b) When an employee dies or retires from the Company, the Company will pay the employee or the employee’s designated beneficiary, the pro rata part of the vacation he has earned during the year in which he dies or retires. The provisions of this Section 5(b) only apply to employees who were AEP employees prior to January 1, 2000, and are not applicable to any employee who became an AEP employee or was hired or rehired after January 1, 2000.

(c) In case an employee is laid off and later is recalled, the following shall apply:

(1) If he is recalled during the same calendar year as that in which he was laid off, he will be entitled to receive in the next calendar year the full vacation entitlement in accordance with the table in Section 2(a) above.

(2) If he is recalled after the calendar year in which he was laid off, he will be entitled to receive in the calendar year in which he is recalled, pro-rated vacation for the remaining months of the year rounded up to the next whole hour. In no case will the pro-rated vacation entitlement for an employee returning from layoff be less than that
of a new employee hired on the same date and in the following calendar year he shall receive vacation in accordance with the applicable provisions of this Article VII.

Section 6. Vacation Deferral

An employee with 23 years of service or less may defer from eight (8) to eighty (80) hours of vacation entitlement from year to year into a "deferral bank"; however, the "deferral bank" cannot exceed a maximum of eighty (80) hours. An employee with 24 years of service or more may defer up to one-half (½) of his vacation entitlement from year-to-year; however, the "deferral bank" cannot exceed a maximum of one hundred (100) hours. Such "deferral bank" vacation entitlement is subject to the same scheduling criteria as the regular vacation entitlement.

Section 7. Vacation Pay – Converting Unpaid Time Off

(a) An employee may elect to utilize hours of vacation entitlement by requesting that they be applied toward converting unpaid time off on a holiday to paid time off. This Section 7 shall be applicable only to employees regularly scheduled to work in excess of eight (8) hours per day.

Section 8. Vacation Buy Program

(a) Effective January 1, 2015, employees will be allowed to purchase up to five (5) additional vacation days (40 hours maximum) per calendar year. Vacation purchased must be in whole day increments up to a maximum of 40 hours total. Any vacation purchased shall be in addition to the employee's vacation entitlement in accordance with the table in Section 2(a) above and any deferred vacation carried over in accordance with Section 6 above.

(b) The cost of any purchased vacation hours shall be calculated based on the employee's January 1st pay rate and such cost will be deducted from each paycheck on a before-tax basis over the calendar year.

(c) Such "purchased" vacation entitlement is subject to the same scheduling criteria as the employee's regular and deferred vacation entitlement except that the employee's regular annual vacation entitlement and any deferred vacation entitlement must be utilized prior to using any purchased vacation. Any purchased vacation entitlement shall be used in the year in which it was purchased and no deferral of "purchased" vacation entitlement shall be allowed.

(d) Employees who terminate employment prior to using purchased vacation will be issued a refund for the amount already paid.

Employees who terminate employment who have taken "purchased" vacation but not fully paid for the "purchased" vacation shall reimburse the Company.

Employees who have their "purchased" vacation canceled for business reasons and are unable to reschedule such vacation will be reimbursed for the amount paid.

Employees who have purchased vacation and have not had the opportunity to utilize the "purchased" vacation will, in December, be offered the opportunity to be reimbursed for the amount paid in during the calendar year.

ARTICLE VIII
COMPENSATION AND WAGES

Section 1. Wage Agreements

The parties hereto have agreed upon wage rate schedules apart from this Agreement (which are in writing and bear their signatures), which wage rate schedules shall remain in effect for the duration of this Agreement.
Article VIII con’t.

For purposes of this Article VIII, the annual general wage increase effective dates of the respective Wage Agreement for each Local Bargaining Unit are:

<table>
<thead>
<tr>
<th>Local Union</th>
<th>Bargaining Unit</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>978</td>
<td>Beckley, Charleston, Fieldale, Huntington, Logan, Lynchburg, Point Pleasant-Ripley, Roanoke, Roanoke RDC, Clinch River, Hydro -South</td>
<td>April 1</td>
</tr>
<tr>
<td>1392</td>
<td>Cook - Maintenance, Cook - Stores, Cook RPEC Techs</td>
<td>April 1</td>
</tr>
<tr>
<td>934</td>
<td>Kingsport</td>
<td>April 1</td>
</tr>
<tr>
<td>978</td>
<td>Ashland, Hazard, Pikeville - Revenue, Big Sandy</td>
<td>May 1</td>
</tr>
<tr>
<td>696</td>
<td>Steubenville</td>
<td>July 1</td>
</tr>
<tr>
<td>1466-2</td>
<td>Newark, Lancaster, Zanesville</td>
<td>July 1</td>
</tr>
<tr>
<td>1466-1</td>
<td>Transmission - OH</td>
<td>July 1</td>
</tr>
<tr>
<td>1466</td>
<td>Unit 3A</td>
<td>July 15</td>
</tr>
<tr>
<td>1466</td>
<td>Unit 3B</td>
<td>July 15</td>
</tr>
<tr>
<td>329, 386</td>
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<td></td>
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<tr>
<td>738</td>
<td>SWEPCO</td>
<td>September 1</td>
</tr>
<tr>
<td>1002</td>
<td>PSO</td>
<td>October 1</td>
</tr>
<tr>
<td>876</td>
<td>Three Rivers</td>
<td>November 1</td>
</tr>
</tbody>
</table>

Article VIII con’t. - Article IX

1392 Ft. Wayne, Muncie, Michiana/MHG, Transmission - IN, SMG Station - IN

Section 2. Job Descriptions

The nature of the work involved under each job classification shall be defined by the Companies. Job descriptions for all job classifications covered by this Agreement may be prepared by a Company and when such descriptions are prepared, they shall be made available to the respective Local Union.

Section 3. Pay Period

All employees covered by this Agreement shall be paid bi-weekly.

ARTICLE IX

MISCELLANEOUS

Section 1. Jury Duty

An employee serving on jury duty shall be paid his regular straight time rate of pay for time necessarily lost from his regular scheduled workweek as a result of such jury duty. An employee will not be required to report to work prior to reporting for jury duty on any day on which he serves as a juror, but if he is relieved from jury duty during his regular scheduled hours he may be required to report to work when so released in order to be entitled to pay under this Section.

If an employee’s regular schedule includes a shift or shifts other than a day shift, his shift may, at the Company’s discretion, be changed to a day shift effective with the first day of jury duty. When an employee is relieved from
Article IX continues.

jury duty, he may be returned to the shift and/or schedule to which he was assigned before he was changed to a day shift. Shift changes for the purposes of this paragraph shall not be subject to the shift and/or schedule modification provisions in the respective Local Agreements.

During workweeks regularly scheduled to exceed forty (40) hours, hours of absence under this Section shall be regarded as hours worked for the purpose of computing an employee's entitlement to weekly overtime.

Section 2. Funeral Leave

(a) In the event of death of the father or stepfather, mother or stepmother, brother, sister, husband, wife, domestic partner, child, father in law, mother in law, son in law, daughter in law, a stepchild who is or has been a member of the employee’s immediate household, or a member of the employee’s immediate household, he shall receive, by notifying his supervisor, up to a maximum of three (3) regular scheduled days off without loss in regular straight-time pay during the period beginning with the day of death, and up to and including the day following the funeral.

(b) In the event of death of an employee’s sister in law, brother in law, grandchild, or his grandparents, the employee, by notifying his supervisor, will be given one (1) day off without loss of regular straight time pay on the day of the funeral to attend the services.

(c) If an employee serves as an active pallbearer for a deceased active employee or retired employee, he will be given reasonable time off from work without loss of regular straight-time pay on the day of the funeral.

(d) The intent of the above provisions is to permit an employee to take time off from work to make arrangements for the funeral and/or attend the service without loss in regular straight-time pay as outlined above. Additional time off without pay will be granted whenever such additional time is reasonably required by the employee.

(e) The provisions of these sections covering absence for death in immediate family will apply within the time limits of an employee’s scheduled vacation or Personal Day(s)

...
Article IX

1. provided his former rate is less than the beginning rate of the new classification.

If such an employee has fifteen (15) or more years of service, he will receive the maximum rate of pay for the job classification in which he is placed, plus a percentage of the difference between his former rate of pay and such maximum for the new job classification. Such percentage will be twenty (20) percent for fifteen (15) years of service and increased by three and three fourths (3 3/4) percent for each additional year of service, but not to exceed in total seventy six (76) percent of such difference.

An employee with fifteen (15) or more years of service who is retrogressed due to disability resulting from occupational illness or injury arising out of the course of his employment with the Company shall receive the maximum rate of the job classification in which he is placed plus twenty (20) percent of the difference between his former and new rates. Further, such retrogressed employee shall receive an additional five (5) percent of the difference between his former and new rates for each additional year of service over fifteen (15), up to a maximum equaling his former rate.

As long as such employee is paid more than the maximum rate for the job classification in which he is placed, he shall receive only fifty (50) percent of any general wage increase, such fifty (50) percent to be calculated on his personal rate.

(b) Applies to employees retrogressed to a job classification included in the salary plan for nonexempt salaried employees:

If the disabled employee has less than fifteen (15) years of service, his initial rate of pay upon retrogression will be: [1] the midpoint of the salary range for the job classification in which he is placed, provided his former rate of pay is equal to or is more than the midpoint of the salary range for his new classification, or [2] his former rate of pay provided such former rate is less than the midpoint of the salary range for his new classification, or [3] the minimum of the salary range for his new job classification, provided his former rate of pay is less than the minimum of the salary range for his new job classification.

If such an employee has fifteen (15) or more years of service, he will receive the midpoint of the salary range for the job classification in which he is placed, plus a percentage of the difference between his former rate of pay and such midpoint for the new job classification. Such percentage will be twenty (20) percent for fifteen (15) years of service and increased by three and three fourths (3 3/4) percent for each additional year of service, but not to exceed in total seventy six (76) percent of such difference.

An employee with fifteen (15) or more years of service who is retrogressed due to disability resulting from occupational illness or injury arising out of the course of his employment with the Company shall receive the midpoint of the salary range for the job in which he is placed plus twenty (20) percent of the difference between his former and new rates. Further, such retrogressed employee shall receive an additional five (5) percent of the difference between his former and new rates for each additional year of service over fifteen (15), up to a maximum equaling his former rate.

Salary adjustments after retrogression shall be in accordance with the salary plan, except that as long as such employee is paid more than the maximum of the salary range for the job classification in which he is placed, he shall receive only fifty (50) percent of any salary range structure movement, such fifty (50) percent shall be calculated on his personal rate.

(c) Such an employee may be provided the above opportunity only with approval of Company management in
respect to his ability to perform the job in question.

(d) Where an employee was receiving an Alternate Straight Time Rate immediately prior to his retrogression, his former rate of pay will be determined by reference to such Alternate Straight Time Rate only in the event his new job is paid at an Alternate Straight Time Rate.

(e) Employees incapacitated due to willfully self inflicted injury, self employment or employment by others for remuneration, or injured in the commission of a felony shall not be eligible for a position under this section. The Human Resources Department will notify the Local Union when an employee is placed on retrogression.

(f) An employee retrogressed under this Section 3 shall retain his seniority in the classification from which he was retrogressed for a period of two (2) years or a period equal to his Company seniority at the time of his retrogression, whichever is less.

(g) Should a retrogressed employee recover from the disability during the period in which he has retained seniority (as provided in paragraph (f) above) to the extent that he is considered by the Company to be qualified to perform the normal duties of the job classification from which retrogressed, he shall be returned to such job provided his retained seniority is sufficient to displace an employee in the job classification from which retrogressed. The Company may require medical evidence on which to make its consideration.

Section 4. Non-Discrimination

There shall be no discrimination, interferences, restraint or coercion by the Company or its agents or the Union or its agents against any employee because of such employee’s race, religion, color, sex, age, national origin, disability, or status as a Military Veteran. Whenever the masculine gender is used in this Agreement, it shall be deemed to include the masculine and feminine gender.

Section 5. Union Bulletin Boards

The Company agrees to permit the Union to erect bulletin boards in conspicuous locations to be agreed upon by the parties hereto, and the Union shall make no postings elsewhere on Company property. Only the following types of notices, provided they are not of a political, commercial, or inflammatory nature, may be posted after they are signed by an authorized officer of the Union: (a) notices of recreational or social affairs of the Union, or (b) notices of Union elections and appointments, or (c) notices of business meetings of the Union.

Section 6. Fire Retardant Clothing

Employees who are required to wear fire retardant (“FR”) clothing in the performance of their job duties will be allowed to participate in the Company’s Fire Retardant Clothing Allowance Program. The Company, at its sole discretion, may choose to provide FR protective clothing to employees whose job assignment requires the use of FR clothing for specific jobs.

Section 7. Training

The Company will be responsible for training all newly hired employees in the operations and safety issues of their jobs. Employees accept the responsibility to actively participate in the training and learn the skills required to operate efficiently and safely.

In an effort to enhance Line Mechanic training through the collaborative input of the Union(s), the parties agree to actively explore the establishment of Apprenticeship Program(s) that may be registered with the applicable Federal or State Bureau of Apprenticeship and Training.
The purpose of this effort is to provide the Union(s) an advisory role in the development of Line Mechanic training. Such program(s) shall not involve the creation of required numeric ratios of apprentices to journeymen and shall be otherwise in compliance with the terms and conditions of this Agreement or any associated local Agreement.

Section 8. Safety

(a) In such organizational units as the Company determines, the management of the Company shall meet with a Union safety committee, consisting of three members (upon mutual agreement of the parties additional employees may be added), for that unit for the express purpose of receiving suggestions and comments from the Union regarding the Company's safety program. Upon receipt of a written request from the Union, along with an agenda, a meeting shall be scheduled by the Company at quarterly intervals, as needed. The meetings shall be held during normal working hours, and the members of the Union safety committee shall not suffer a loss of their regular straight time earnings while attending the meetings.

(b) In the event of a serious accident involving an employee within the bargaining unit, the Company will notify the Business Manager of such and when the Company's Accident Investigation Committee investigates an accident involving an employee within the bargaining unit, at the employee's request, a Union representative or another employee of his choosing who is readily available from the employee's regular headquarters may be present during such interview without loss of regular straight time earnings.

Section 9. Medical Examinations

The Company reserves the right to require at its own expense, medical examinations and/or tests, including random and/or other drug tests, of any employee. The examined employee, upon his request, shall be furnished with a copy of the medical report.

Section 10. Personal Vehicle Use

When an employee is not furnished transportation by the Company and, at the request of management, furnishes his own transportation in the performance of his assigned duties, he shall be paid according to the applicable job site reporting or travel pay provisions of his applicable Local Agreement. However, at the option of the employee, provided the employee submits the required proof of insurance, an employee furnishing his own transportation for trips over 30 miles from his regular headquarters may be paid the authorized mileage amount in lieu of any job site reporting or travel pay provisions provided in his applicable Local Agreement.

Section 11. Licenses And Certifications

(a) Each employee who may be required to operate a motor vehicle which requires a Commercial Driver's License (CDL) shall maintain a valid CDL.

(b) The Company shall pay the cost of the Department of Transportation CDL physical examination and reimburse the employee for the difference between the full cost of the CDL and the cost of a regular State driver's license.

(c) If the Company deems it necessary to require any new license or certification as a condition of employment, the Company will meet with the Union to discuss the certification or licensing requirements and consider the Union's request for grandfathering an employee who holds the classification that requires the license or certification. This provision does not apply to licenses or certifications required by any governmental agencies or industry oversight groups.

(d) An employee in a position which requires the main-
Article IX continues.

Section 13. Moving Expense

When it is deemed necessary by the Company and the employee agrees to move to a new residence, the Company shall furnish an insured carrier in the moving business to transport the employee’s household articles, furniture and such personal effects as may be necessary to be packed with the household articles and furniture to the new address.

In the event that such employee cannot immediately find a suitable location to which to move his/her family, the Company will pay only the employee’s individual reasonable living expenses at his/her new headquarters for a period not to exceed fourteen (14) calendar days.

The section above will only apply when an employee’s headquarters is changed at the request of the Company. That is, when an employee initiates a change of headquarters under the provisions of an applicable Local Agreement, the Company will not be required to pay either moving or living expenses.

ARTICLE X

BENEFITS

Section 1. Employees shall be permitted to participate in the American Electric Power System Comprehensive Dental Plan, Comprehensive Medical Plan [or alternate medical coverage such as a Health Maintenance Organization (HMO) or Preferred Provider Organization (PPO) should such be made available by the Company], Spending Accounts, Group Accidental Death and Dismemberment Insurance Plan, Group Life Insurance Plan, Dependent Life Insurance Plan, Critical Insurance Plan, Dependent Care Plan, Long Term Care Plan, Long Term Disability Plan, Retirement Plan, Retirement Savings Plan and Sick Pay Plan.
(b) As set forth in the above-named Plans or the Summary Plan Description (SPD) with respect thereto, the Company reserves the right to change or end any of the Plans, in whole or in part, at any time or for any reason, which could result in modification or termination of the benefits available to employees, former employees, retirees or other participants. The Company's decision to amend, replace or terminate any Benefit Plan may be due to changes in Federal or State law or for any other reason. If the Company does make a change or decides to terminate a Plan, it may decide to set up a different Plan for similar-type benefits. If a Benefit Plan is terminated, no further benefits will be available except for losses or expenses incurred before the Plan was terminated. Any changes made to the above-named Plans will apply to all Company employees participating in the Plans, including not only IBEW-represented employees of the Company, but also employees represented by other Unions, and all unrepresented employees.

(c) With respect to any individual hired on or after January 1, 2014 who is covered by this Agreement, it is agreed and understood that such employees will not be eligible for retiree medical insurance coverage under any plans now in effect and offered by American Electric Power.

Section 2. (a) Employees shall be permitted to participate in the American Electric Power Company wide Incentive Plan (CIP).

(b) Employees shall be permitted to participate in the American Electric Power Paid Parental Leave Plan.

Section 3. An IBEW represented employee on the payroll on February 17, 2009, will have a one-time Layoff Allowance Bank (up to a maximum of 1040 hours) as of February 17, 2009.

The Layoff Allowance Bank entitlement shall be as set forth in the following table:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>One Time Layoff Allowance Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 5 years</td>
<td>816 hours</td>
</tr>
<tr>
<td>5 through 7 years</td>
<td>928 hours</td>
</tr>
<tr>
<td>8 or more years</td>
<td>1040 hours</td>
</tr>
</tbody>
</table>

Should an employee be laid off, this bank will be payable in bi-weekly installments equal to the employee's regular straight-time rate for eighty (80) hours per two-week period less any unemployment compensation entitlement and by any other income earned in the course of other employment, including self-employment. The Layoff Allowance Bank will be reduced by forty (40) hours per week of layoff regardless of the unemployment compensation offset or other earnings offset. This one-time Layoff Allowance Bank will be available to the employee regardless of the number of times the individual is laid off. However, the total number of Layoff Allowance hours available shall not exceed the original Layoff Allowance Bank established on February 17, 2009 and such Bank shall not be renewable.

The parties further agree that the provisions of this Section 3 shall not be subject to the Grievance and Arbitration Procedure.

Section 4. VEBA

Should the Company fund medical and health care benefits for employees and retirees by establishing a tax-exempt trust in compliance with the provisions of any federal law or regulation, upon request, the Company shall provide to the Unions:

1) a yearly financial report of the status of VEBA:

2) A financial update limited to two times during a calendar year, January 1 to January 1
ARTICLE XI
ADJUSTMENT OF DIFFERENCES

Section 1. Grievance Procedure

Should any dispute or disagreement arise between an employee or a Local Union and the Company, except disputes or disagreements arising under the Mutual Responsibilities (Article IV, above) or disputes or disagreements relating to the Benefit Plans or the Companywide Incentive Plan specified in Article X, such dispute or disagreement shall constitute a grievance and be disposed of in the following manner:

First Step - The grievance shall be presented by the employee or his Local Union to his immediate supervisor within fourteen (14) calendar days after the incident or occurrence. It is recognized that a grievance involving compensation may not become known to an employee until he receives his paycheck for the work period during which the difference actually occurred. In such instances, an employee may present his grievance within fourteen (14) calendar days of the day he receives his paycheck. The immediate supervisor and/or appropriate Manager shall meet with the aggrieved employee within ten (10) calendar days after receipt of the grievance and shall give an answer in writing within ten (10) calendar days after the grievance meeting.

Second Step - If the grievance is not settled in the First Step, the aggrieved employee or his Local Union may, within ten (10) calendar days after the First Step answer is sent, submit the grievance in writing, including the provisions, if any, of the Agreements alleged to be violated, to the Department Manager. The Department Manager (or a designated representative) shall meet with the aggrieved employee within ten (10) calendar days after receipt of the grievance and answer shall be given in writing within ten (10) calendar days after the grievance meeting.

Third Step - If the grievance is not settled in the Second Step, the aggrieved employee or his Local Union may, within ten (10) calendar days after the Second Step answer is sent, submit the written grievance, including the provisions, if any, of the Agreements alleged to be violated, to the Labor Relations Manager. Within ten (10) calendar days after receipt of the grievance, the Labor Relations Manager (or his designee) shall schedule a mutually agreeable date for meeting with the aggrieved employee. The Labor Relations Manager (or his designee) shall give an answer in writing within ten (10) calendar days following the meeting.

In each step of the grievance procedure, a Local Union designated representative who is reasonably available shall be present with an aggrieved employee at any of the meetings provided for above in the three steps of this grievance procedure.

The aggrieved employee or aggrieved employees (maximum of three) and one Local Union representative (an employee who is reasonably available) shall not lose their regular straight-time pay for the time spent at such grievance meetings if held during their regularly scheduled hours of employment.

If the Company fails to render a decision within the time allotted in any step of the foregoing procedure, the grievance shall be deemed denied as of the last day of such allotted time. The aggrieved employee shall have the right to continue with the next step in accordance with the procedure for advancing grievances as defined in each step. If the aggrieved employee fails to meet any of the time deadlines set forth in the foregoing procedure, the grievance shall be deemed withdrawn.

Grievance investigations by employee Local Union representatives will normally be made during other than
working hours. However, if such investigations can only be conducted during working hours, permission from the Company must be obtained before proceeding with such investigations. If permission is granted, the employee or employees involved will not lose their regular straight-time rate of pay therefor.

Copies of written answers to all grievances shall be furnished to designated Local Union representatives.

Section 2. Appeal From Suspension Or Discharge

Any regular employee who considers himself improperly suspended or discharged may bypass the first two steps of the grievance procedure and submit a grievance in writing to the Third Step of the grievance procedure. Such grievance must be submitted within fourteen (14) calendar days following the first day of a suspension or the date of discharge and will otherwise be handled in accordance with the grievance procedure as heretofore defined.

Section 3. Arbitration Procedure

(a) In the event of failure to satisfactorily settle or adjust any grievance involving an allegation of a violation of a provision or provisions of the Agreements according to the foregoing grievance procedure, then within thirty (30) calendar days after the answer has been given in the Third Step, such arbitrable grievance may be submitted to arbitration in the following manner:

1. The Local Union shall within said thirty (30) calendar day period give written notice to the Company of its desire to arbitrate the grievance. Such written notice shall include, at a minimum, a statement of the remedy to be sought in arbitration, and the specific term(s) or provision(s) of this Agreement alleged to have been violated.

2. The Company shall then request a panel of seven arbitrators from the FMCS.

3. The Company and the Local Union then shall select an arbitrator from the panel or panels submitted by the FMCS. Both the Union and the Company have the right to reject one entire panel.

4. The arbitrator shall hold a hearing on a date satisfactory to the Company and the Local Union, for the purpose of receiving such evidence as the Parties may have to present with respect to the grievance.

5. If a stenographic recording of the hearing is requested by either party, the cost of the original transcript shall be borne by the requesting party and a copy of the transcript shall be made available to the Arbitrator for his sole use. If the other party wants a copy of the transcript, it shall make such desire known before the close of the hearing and shall equally share the cost of the original transcript. No other electronic recordings of the hearing other than the above shall be permitted.

6. Within sixty (60) calendar days after the receipt of the arguments, documents and records pertaining to the grievance, the arbitrator shall render his decision. Such decision shall be final and binding on both Parties.

(b) The arbitrator shall have no authority to:

1. add to, detract from, or in any way modify the terms of the Agreements, or

2. pass upon any question involving wage rate
3. pass upon any question arising from incidents occurring after the right to strike date established in Article IV, (e)(2), or

4. pass upon any question involving the re-employment rights of a former employee discharged from military service; or the job classification to which an employee on leave of absence for military service is entitled upon discharge from military service; or

5. pass upon any question involving whether or not a disability of an employee is a result of an injury or occupational disease occurring in the course of employment with the Company; or

6. pass upon any questions which do not involve interpretation or applications of a specific term or terms of the Agreements; or

7. pass upon any question relating to benefits under the American Electric Power System Comprehensive Dental Plan, Spending Accounts, Group Life Insurance Plan, Long Term Care Plan, Long Term Disability Plan, Comprehensive Medical Plan (or alternative medical coverage such as a Health Maintenance Organization (HMO) or Preferred Provider Organization (PPO) should such be made available by the Company), Group Accidental Death and Dismemberment Insurance Plan, Retirement Plan, Retirement Savings Plan and Sick Pay Plan; or

8. pass upon any question relating to the Company wide Incentive Plan or Paid Parental Leave; or

9. pass upon any question relating to the MOU, or to the subject matter contained therein.

(c) The Company and the Union shall each bear their own expenses and shall equally bear all compensation and expenses of the arbitration.

(d) If the Local Union, in submitting a grievance to arbitration, fails to meet any time deadline set forth in the foregoing arbitration procedure (unless the time is extended by mutual consent in writing), the grievance shall be deemed withdrawn.

(e) In all time steps stated in this Article XI, the date of the event which begins the time limit (answer sent, meeting held, etc.) shall not be included in counting the days of the time limit.

Section 4. The System Council will furnish the Company with the names of its duly elected officers and the names of its duly authorized representatives.

Each affiliated Local Union will furnish the Company with the names of its duly elected officers and representatives.
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 27 day of March 27, 2018.

For The Companies
By: ______________
By: ______________
By: ______________
By: ______________

For System Council U-9
By: Jeff Brown
By: ______________
By: ______________
By: ______________

2018 IBEW Radio Offer for a Collective Bargaining Agreement
For IBEW Local Union 328
By: ______________
Date: 3-21-18

For IBEW Local Union 466
By: ______________
Date: 5-21-18

For IBEW Local Union 876
By: ______________
Date: 8-18-18

For IBEW Local Union 1392
By: ______________
Date: 3-26-18

For IBEW Local Union 738
By: ______________
Date: 3-27-18

For IBEW Local Union 326
By: ______________
Date: 3-28-18

For IBEW Local Union 934
For IBEW Local Union 1002
By: ______________
Date: 3-29-18

For IBEW Local Union 1466
By: ______________
Date: 3-29-18
MEMORANDUM OF UNDERSTANDING REGARDING NEGOTIATIONS FOR A NEW MASTER IBEW AND LOCAL IBEW AGREEMENTS


The System Council, The Local Unions and The Companies ("the Parties") agree as follows:

1. System Council
The Local Unions represent certain employees who are employed by the Companies in separate bargaining units that have been certified by the National Labor Relations Board. (The parties recognize that the number of bargaining units has increased from thirty-three to thirty-four since 2006. Nothing in this MOU prevents changes in the number of bargaining units during the period that a successor Master Agreement would be in effect) The Local Unions have established the System Council for the purpose of, among other things, engaging in collective bargaining to establish the terms and conditions of employment for the employees represented by the Local Unions.

2. Approval of the MOU
This MOU will be effective upon the date that the last Local Union signs and dates the MOU. This date shall hereafter be referred to as the "Effective Date" of the MOU. This MOU replaces the 2006 MOU used to establish the bargaining process for the initial Master Agreement and Local Agreements that became effective February 17, 2009.

3. Collective Bargaining - Prior to the Initial Master Agreement
The collective bargaining process between the Companies and the Unions had historically occurred at the local level and resulted in separate collective bargaining agreements. Many of the collective bargaining agreements that have been negotiated by the Companies and the Unions had different beginning and ending dates.

4. Collective Bargaining Process- The Initial Master and Local Agreements
Through the System Council, the Local Unions expressed their desire to negotiate with the Companies for a single Master Agreement, the terms and conditions of which applied to all of the employees who are represented by the Local Unions, while reserving certain issues to be negotiated locally in the traditional manner (hereafter referred to as "Local Agreements").

a. The scope of the negotiations for the initial Master Agreement encompassed terms and conditions of employment recognizing, however, that the Parties could by mutual consent reserve certain issues to be negotiated and contained in the Local Agreements. Local negotiations commenced only after negotiations for a Master Agreement were successfully concluded.

b. As each of the initial thirty-three bargaining units separately concluded negotiations for its Local Agreement, represented employees in each of the bargaining units were provided with the opportunity to ratify both the Master Agreement and the Local Agreement that was applicable to that bargaining unit.
The initial Master and Local Agreements had common expiration dates and became effective only after all of the thirty-three collective bargaining units had ratified both the Master Agreement and the applicable Local Agreement. The effective date of the initial Master and Local Agreements was at 12:01 a.m. on the day following the date upon which the last of the thirty-three bargaining units ratified the Master Agreement and the applicable Local Agreement. At that time, the terms and conditions of employment contained in the Master and Local Agreements superseded and replaced any existing collective bargaining agreement that has been previously negotiated by the Companies and the Local Unions. Until the Master and Local Agreements were successfully ratified effective February 17, 2009, the existing IBEW collective bargaining agreements remained in effect.

5. Expiration of the Initial Master Agreement and the Right To Strike

a. Once the Master and Local Agreements were successfully negotiated and ratified by employees within each of the bargaining units (and, as a consequence of which, a unified expiration date was established - Midnight, February 16, 2012), the right to strike by employees represented by the Local Unions shall be governed by the following schedule.

b. In the event that the Parties reach the Expiration Date of a subsequent Master and Local Agreements, the right to strike by IBEW-represented bargaining unit employees shall occur at 12:01 a.m. on the day following the date reflected in the following schedule.

<table>
<thead>
<tr>
<th>Strike Date</th>
<th>Local Union</th>
<th>Bargaining Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date</td>
<td>1002</td>
<td>PSO</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>876</td>
<td>Three Rivers</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>1392</td>
<td>Ft. Wayne</td>
</tr>
<tr>
<td>Expiration Date</td>
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<td>Muncie</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>1392</td>
<td>South Bend</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>1392</td>
<td>Transmission-IN</td>
</tr>
<tr>
<td>Expiration Date</td>
<td>1392</td>
<td>Station - IN</td>
</tr>
<tr>
<td>Expiration Date + 3 Months</td>
<td>978</td>
<td>Beckley</td>
</tr>
<tr>
<td>Expiration Date + 3 Months</td>
<td>973</td>
<td>Charleston</td>
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<td>973</td>
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<td>978</td>
<td>Lynchburg</td>
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<td>978</td>
<td>Glen Lyn</td>
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<td>Expiration Date + 3 Months</td>
<td>978</td>
<td>Hydro - South</td>
</tr>
<tr>
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<td>Cook-RPEC</td>
</tr>
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<td>Expiration Date + 3 Months</td>
<td>1392</td>
<td>Tech Group</td>
</tr>
<tr>
<td>Expiration Date + 6 Months</td>
<td>329, 386, 738</td>
<td>SWEPCO</td>
</tr>
<tr>
<td>Expiration Date + 6 Months</td>
<td>1466</td>
<td>CSP</td>
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<tr>
<td>Expiration Date + 6 Months</td>
<td>1466</td>
<td>Dolan Lab</td>
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<tr>
<td>Expiration Date + 9 Months</td>
<td>978</td>
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<td>Expiration Date + 9 Months</td>
<td>978</td>
<td>Hazard</td>
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<td>973</td>
<td>Pikeville-Revenue</td>
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<td>Expiration Date + 9 Months</td>
<td>1392</td>
<td>Cook-Maintenance</td>
</tr>
<tr>
<td>Expiration Date + 12 Months</td>
<td>934</td>
<td>Kingsport</td>
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<td>Expiration Date + 12 Months</td>
<td>696</td>
<td>Steubenville</td>
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<td>1392</td>
<td>Cook - Stores</td>
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<td>Expiration Date + 12 Months</td>
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<td>Newark, Lancaster</td>
</tr>
<tr>
<td>Expiration Date + 12 Months</td>
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<td>Zanesville</td>
</tr>
<tr>
<td>Expiration Date + 12 Months</td>
<td>1466-1</td>
<td>Transmission-OH</td>
</tr>
</tbody>
</table>
c. The Parties agree that this Paragraph 5 of this MOU shall be incorporated into, and made a part, of the Master Agreement.

6. Collective Bargaining Process- Future Master and Local Agreements

Following the expiration of the Initial Master and Local Agreements, for all renewal Master and Local Agreements negotiated by the Parties thereafter, the Master and Local Agreements shall become effective for each of the collective bargaining units only after all of the bargaining units have ratified the Master Agreement, and then as each bargaining unit then ratifies its applicable Local Agreement.


a. Single Bargaining Unit Opt-Out

If any single Bargaining Unit chooses to opt out of the bargaining process for a new Master and Local Agreements as described in Paragraph 6 above, that Bargaining Unit must notify the Company in writing of its decision. Such single bargaining unit choosing to opt out agrees that to provide the necessary time to negotiate a successor individual collective bargaining agreement that the provisions of the then-current (or recently expired) Master and Local Agreement will remain in effect and that Local Bargaining Unit cannot go on strike until the later of:

- 60 calendar days from the date of its written notification, or
- the date during the year that its Collective Bargaining Agreement expired in accordance with Paragraph 3 above - the Collective Bargaining Process prior to the Initial Master Collective Bargaining Agreement.

b. Master Negotiations Process Opt-Out

Either the Companies or the System Council shall have the right to unilaterally terminate the process of negotiating a Successor Master and Local Agreements described in Paragraph 6 of this MOU and revert back to conducting negotiations for each of the bargaining units as described in Paragraph 3 of this MOU, by serving written notice of its intent to terminate upon its counter party during the period beginning sixty calendar days before and ending sixty calendar days after the Expiration Date of the then current (or recently expired) Master and Local Agreements. Following notification, the Parties shall immediately cease any negotiations that may then be ongoing with respect to the Master and/or Local Agreements; and begin negotiations for separate collective bargaining agreements for each of the bargaining units. Should the process of negotiations a Master Agreement and Local Agreements be terminated by either party, the parties agree that to provide the necessary time to negotiate successor individual collective bargaining agreements that the provisions of the then-current Master and Local Agreement will remain in effect and the Local Bargaining Units cannot go on strike until the later of:

- 60 calendar days from the date of its written notification, or
- the date during the year that its Collective Bargaining Agreement expired in accordance with Paragraph 3 above - the Collective Bargaining Process prior to the Initial Master Collective Bargaining Agreement.

8. Miscellaneous

a. The Parties expressly agree that they are not under any obligation to negotiate a Master Agreement or participate in the process associated with negotiating
a. Master and Local Agreements since this constitutes a
upmissive subject of collective bargaining.

b. The Companies voluntarily agree to participate in
this process as an accommodation to the Local Unions
and the System Council. The Parties agree that noth-
ing (i) in this MOU or (ii) associated with the process of
attempting to bargain for the Master and Local
Agreements, or (iii) associated with entering into a
Master and/or Local Agreements, shall be construed as
indicating the desire of the Parties to change or modify
the underlying bargaining unit certifications.

For the Company:

By: __________________________
Title: __________________________

For IBEW Local 279

By: __________________________
Date: __________________________

For IBEW Local 99

By: __________________________
Date: __________________________

For IBEW Local 172

By: __________________________
Date: __________________________

For IBEW Local 95

By: __________________________
Date: __________________________

For IBEW Local 1292

By: __________________________
Date: __________________________

For IBEW Local 105

By: __________________________
Date: __________________________
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<td>Section 3 Arbitration Procedure</td>
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Memorandum of Understanding Regarding Negotiations
For a New Master IBEW & Local IBEW Agreements 50-56

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And

System Council U-9, International Brotherhood of Electrical Workers

Along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466

Agreement to Extend Collective Bargaining Agreements

October 28, 2020

The Companies, the IBEW System Council U-9 and the above named IBEW Local Unions having entered into a Master Collective Bargaining Agreement and Local Collective Bargaining Agreements effective April 1, 2018, through March 31, 2021 (the “Agreements”), and desiring to extend those Agreements, hereby agree:

1. **One-year Extension** - The terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021 will be extended for a twelve-month period and through this Extension Agreement, shall remain in full force and effect through Midnight, March 31, 2022.
2. **General Wage Increase** – Wage rate schedules that are effective in 2020 will be increased by 2.5% on the separate and distinct date of each bargaining unit’s current Wage Rate Schedule Effective Date (April 1; May 1; July 1; July 15; September 1; October 1; and November 1, respectively) as provided in Article VIII of the AEP/IBEW Master Collective Bargaining Agreement. For those bargaining units that have a Wage Rate Schedule effective date after April 1, 2021, the current 2020 wage rate schedules will remain in effect until each bargaining unit’s respective 2021 effective date.

3. **ICP Conversion Wage Increase** – The wage rate schedules for each respective bargaining unit that are effective through 2021 as provided in Section 2, immediately above, will be increased by 2.0%, effective January 1, 2022. Represented salaried employees will have their annual salaries increased by 3.0% effective January 1, 2022. The wage rate schedule increases and the salary increases provided in this Section 3 will only be effective if the Company has received a fully executed copy of this Extension Agreement by Midnight, December 4, 2020.

IBEW represented employees will continue to participate in the Incentive Compensation Plan as provided in Article X, Section 2(a) of the IBEW Master Agreement. However, effective January 1, 2022, the respective incentive compensation targets for each classification will be reduced by the respective percentage of this ICP Conversion Wage Increase, regardless of whether the Unions ratify the ICP Conversion Wage Increase in a timely manner as provided immediately above.

4. **Acceptance** - Acceptance of this Extension Agreement shall consist of delivery to the Company of a copy of this Extension Agreement signed by representatives of the System Council U-9 and each Local Union.
If the fully-executed Extension Agreement is received by Midnight, March 31, 2021, the Wage Agreements with an April 1, 2021 wage increase effective date will go into effect on that date. If the fully executed Extension Agreement has not been received by Midnight, March 31st, 2021, this Extension Agreement and each respective Wage Schedule will go into effect upon the date on which the System Council U-9 delivers the fully executed Extension Agreement to the Companies or the respective General Wage Increase effective date, whichever is later.

It is not necessary for all signatures to appear on the same document, and a faxed copy with a signature will be considered the same as an original.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this _______ day of _________ 2020.

For The Companies
By: T.P. Housholder
By: J.B.
By: __________________________
By: __________________________
By: __________________________
By: __________________________

For System Council U-9
By: Rodney Congressional
By: __________________________
By: __________________________
By: __________________________
By: __________________________
By: __________________________
If the fully-executed Extension Agreement is received by Midnight, March 31, 2021, the Wage Agreements with an April 1, 2021 wage increase effective date will go into effect on that date. If the fully executed Extension Agreement has not been received by Midnight, March 31st, 2021, this Extension Agreement and each respective Wage Schedule will go into effect upon the date on which the System Council U-9 delivers the fully executed Extension Agreement to the Companies or the respective General Wage Increase effective date, whichever is later.

It is not necessary for all signatures to appear on the same document, and a faxed copy with a signature will be considered the same as an original.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this _______ day of ______________________ 2020.

For The Companies

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]

For System Council U-9

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]
2021 IBEW Master and Local Agreements Extension Agreement

For IBEW Local Union 329

By:  

Date: 12/1/20

For IBEW Local Union 386

By:  

Date: 

For IBEW Local Union 696

By:  

Date:  

For IBEW Local Union 738

By:  

Date: 

For IBEW Local Union 876

By:  

Date: 

For IBEW Local Union 934

By:  

Date: 

For IBEW Local Union 978

By:  

Date: 

For IBEW Local Union 1002

By:  

Date: 

For IBEW Local Union 1392

By:  

Date: 

For IBEW Local Union 1466

By:  

Date: 

4

Union RFR 103
2021 IBEW Master and Local Agreements Extension Agreement
For IBEW Local Union 329
By:  
Date:  
For IBEW Local Union 696
By:  
Date:  
For IBEW Local Union 876
By:  
Date:  
For IBEW Local Union 978
By:  
Date:  
For IBEW Local Union 1392
By:  
Date:  
For IBEW Local Union 386
By:  
Date:  12-3-20
For IBEW Local Union 738
By:  
Date:  
For IBEW Local Union 934
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For IBEW Local Union 1466

By: __________________________

Date: 11/30/2020

Union RFR 112
Pursuant to NLRB Rules & Regulations Section 102.66, Petitioner Sarah Lund (“Petitioner” or “Lund”), by and through her undersigned counsel, hereby submits this Post-Hearing Brief in support of her petition to decertify International Brotherhood of Electrical Workers, Local 1392 (the “Union”). The sole issue before the Region is whether the Region should interpret the collective bargaining agreement in accordance with its plain meaning and process Lund’s petition, or should it give credence to internal union interpretations that would bar an election under the contract bar doctrine. The Region should interpret the contract in accordance with its plain meaning and consistent with the Act’s requirement that employees get to choose their representative, and the Board’s preference for elections.

RELEVANT FACTS

Petitioner is employed by Indiana Michigan Power Company (“Employer”) in a bargaining unit of 71 employees represented by the Union. The Employer and Union were parties to a master
collective bargaining agreement (“Master Agreement”) with the effective dates of April 1, 2018 through March 31, 2021. Joint Ex. 2 at 11.

On February 28, 2019, the Employer and the Union executed a local collective bargaining agreement (“CBA”) covering the petitioner’s bargaining unit that was “in full force and effect until midnight, March 31, 2021.” Joint Ex. 1 at 3.

In December 2020, the Employer and Union executed an agreement (“Extension Agreement”) to extend the terms of its Master Agreement and local collective bargaining agreements with a new expiration date of midnight March 31, 2022, which is the beginning of March 31, 2022. Subheading 1 of the Extension Agreement, entitled “One-year Extension,” states “[t]he terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021 will be extended for a twelve-month period and through this Extension Agreement, shall remain in full force and effect through Midnight, March 31, 2022.” Joint Ex. 3 at 1.

On March 31, 2022, Petitioner filed her decertification petition with Region 7.

On April 22, 2022, Region 7 held a hearing to discuss outstanding issues prior to the procession of the decertification election. During the hearing, the only evidence offered was testimony from the Union’s business agent, Bill Scally, who answered questions about the various agreements in the Joint Exhibits. TR at 14-29. The Union provided no direct evidence as to the interpretation of the Extension Agreement’s duration language.

**LEGAL ARGUMENT**

The Region should find that the CBA does not bar Lund’s timely petition. Under the Board’s contract bar doctrine, a representation petition is timely if filed during an “open period,” or after a collective bargaining agreement’s expiration. *Leonard Wholesale Meats, Inc.*, 136 NLRB

Here, Lund timely filed her petition after the expiration of the CBA, March 31, 2022. The Union argues for a particular reading of the CBA\(^1\) that would result in the petition’s dismissal under the contract bar. The Region should not accept this interpretation because it is against the plain language of the Extension Agreement and in direct conflict with its Decision and Order in *Sinai Grace Hospital*, Case No. 07-RD-290351 (2022) (finding that the word “midnight” in a contract’s duration clause does not place the contract’s termination at the end of the stated expiration date). Moreover, if the Region accepts the Union’s interpretation as correct, it necessarily follows that the CBA’s duration is ambiguous and should not serve as a bar to the petition.

**A. The Contract Does Not Bar the Petition.**

The Extension Agreement, which established the fixed term of the CBA in this case, does not bar Lund’s petition because it expired at 12:01 a.m. midnight the morning of March 31, 2022. To determine whether a contract bars a petition, the Board looks to the plain language of the contract’s fixed term or duration. *Union Fish Co.*, 156 NLRB 187, 190 (1965); *Benjamin Franklin Paint & Varnish Co.*, 124 NLRB 54, 55 (1959) (“The term of a contract technically embraces the effective term provided in the instrument, and it is this term on the face of the contract to which the employees and outside unions look to predict the appropriate time for the filing of a representation petition.”). The plain language of the contract’s duration is paramount because employees are not privy to the Union’s and Employer’s negotiations or their subjective understanding of a

\(^1\) During the hearing, the Union concedes that it is not arguing that the petition is barred by “the new or current CBA. It’s barred by the CBA that was in effect at the time the petition was filed, which was the prior contract, which expired at the very end of the day on March 31, 2022…” TR. 12:20-13:10.
contract. Instead, employees must rely on the text alone to anticipate the appropriate time to file an election petition. See Pac. Coast Ass’n of Pulp & Paper Mfrs., 121 NLRB 990, 993 (1958).

Here, the Extension Agreement states “[t]he terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021 will be extended for a twelve-month period and through this Extension Agreement, shall remain in full force and effect through Midnight, March 31, 2022.” Joint Ex. 3, at 1. The Extension Agreement’s plain language shows that the “twelve-month period” of extension commenced at 12:01 a.m., the morning of March 31, 2021, because the prior agreement was in effect “until Midnight, March 31, 2021.” See Williams Laundry Co., 97 NLRB 995, 996 n.3 (1952) (holding that a contract in effect until a day certain is to be construed as not including the date named after the word ‘until’); Carter Machine and Tool Co., 133 NLRB 247, 248 n.2 (2008); Sinai Grace Hospital, Case No. 07-RD-290351 (2022). Further, Region 7 recently held in Sinai Grace Hospital that termination language stating “in effect until midnight of the Eighth (8th) day of May 8, 2022” placed the terminal moment of the contract at the beginning of May 8. Sinai Grace Hospital, at 6.

The Extension Agreement expired at 12:01 a.m., the morning of March 31, 2022, because it only remained in effect through 12:00 a.m. Midnight. According to the Merriam-Webster Online Dictionary, the word “through” is “used as a function word to indicate movement into at one side or point and out at another and especially the opposite side of.” As such, a contract term that is effective “through midnight” of a day, is plainly read as indicating from the moment before midnight to the moment immediately after, which in this case is 12:01 a.m. on March 31. To resolve

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2 https://www.merriam-webster.com/dictionary/through
all doubts, the plain language expressly states that the CBA is extended “for a twelve-month period.” Joint Ex. 3, at 1. The Expiration Agreement’s duration from 12:00 a.m. midnight March 31, 2021 through 12:00 a.m. midnight March 31, 2022, is precisely twelve months.

The Union advocates for an interpretation that places the CBA’s moment of termination at 11:59 p.m. on March 31. TR. at 13:1-5. However, the Expiration Agreement’s plain language does not support that interpretation. The Region should reject the Union’s interpretation because it would extend the duration to “12 months and 1 day,” which contravenes the express language in the Expiration Agreement.

In short, the Extension Agreement clearly identifies its expiration date as March 31, and the term “through midnight” does not mean that the expiration date should be extended to April 1. Hence, the Region should find Lund timely filed her petition, and immediately process the petition.

**B. The Union cannot establish that a contract bar exists because it failed to present any evidence of the plain meaning of the contract’s fixed term or duration at the hearing.**

The Regional Director should disregard the Union’s witness testimony to explain the Union’s understanding of the CBA’s meaning.

The Board does not consider extrinsic evidence to determine whether a contract bars a decertification petition. *Union Fish*, 156 NLRB at 190. “[T]he Board requires that the term . . . of a contract, must be sufficient on its face, with no resort to parole evidence necessary, before the contract can serve as a bar.” *Id.* (emphasis added); see also Doubletree Guest Suites Santa Monica, 347 NLRB 782, 784 (2006) (holding that parole evidence may not be offered “for the purpose of varying or contradicting the terms of a contract”); *Mountaire Farms, Inc.*, 2021 WL 1599287 (April 21, 2021) (quoting *Jet-Pak Corp.*, 231 NLRB 552, 552–53 (1977)).
Specifically, the Board will not use parole evidence to change the meaning of a duration clause for purposes of the contract bar:

[In determining whether an existing contract constitutes a bar, the Board looks to the contract’s fixed term or duration, because it is this term on the face of the contract to which employees and outside unions look to predict the appropriate time for the filing of a representation petition. The desired predictability would be lost if reliance were to be placed on factors other than the fixed term of the contract. Accordingly, the Board requires that the term, as well as the adequacy of a contract, must be sufficient on its face, with no resort to parol[e] evidence necessary, before the contract can serve as a bar.

Union Fish, 156 NLRB at 192; see also Sansla Inc., 323 NLRB 107, 109 (1997) (citing Gollin Block & Supply Co., 243 NLRB 350, 352 (1979); NDK Corp., 278 NLRB 1035, 1035 (1986) (“National labor policy requires that evidence of oral agreements be unavailing to vary the provisions of a written collective-bargaining agreement valid on its face.”)).

Here, the Union proffered testimony from its business agent, Bill Scally, who testified that he believed the Extension Agreement, paragraph 4’s use of the word “midnight” to indicate when the signatures are to be returned meant “the very end of the day” mentioned for purposes of when the agreement’s signature pages are to be returned for wage increases to become effective. TR 27:12-28:8. Although the Union’s stated purpose in offering this statement as evidence was not to establish the meaning of the “critical language as to when [the contract] expires,” it is clear by the Union’s prior line of questioning—i.e. “does the company contract offers typically contain language like that?” and “When that’s been the case, does that mean that the fully executed agreement must be returned by the very beginning of the day or the end of the day?”—that the Union asked its witness to give his subjective interpretation of a provision other than the Extension Agreement’s fixed term and duration provision in Paragraph 1. See TR at 28:1-20; Joint Ex. 3, at 1.

However, this evidence is not only irrelevant to the Extension Agreement’s duration language, but it is also inadmissible under the parole evidence rule and the contract speaks for itself.
Accordingly, the Region should find that this testimony is inadmissible under the parole evidence rule, as it did in Sinai Grace Hospital. Case No. 07-RD-290351 at 3, footnote 5.

Moreover, the Region should not look outside the Extension Agreement’s duration provision in Paragraph 1 unless it deems its language ambiguous, which it is not. In Bob’s Big Boy Family Restaurants, 235 NLRB 1227, 1228 (1978), the Board rejected a contract bar defense where a union and employer created the ambiguity in the window period dates. The employees relied upon the effective dates on the cover page of the contract for purposes of calculating the open period, and timely filed a petition based on those dates. Id. at 1228. The employer argued that a contract bar existed based on certain terms in the contract, irrespective of the cover page. Id. The Board declined to apply the contract bar because the employer and union “created a situation which precluded a clear determination by a potential petitioner of the proper time for filing a new petition.” Id.

If the Union’s interpretation of the CBA’s duration language is accepted, then the Employer and Union have created a situation that precluded Petitioner from making a clear determination of the proper time for filing her petition. Petitioner and the employees who signed the showing of interest relied on the Extension Agreement’s duration language in determining the time for which they believed proper for filing the election petition. Thus, the Regional Director should interpret the CBA’s term according to its plain language and immediately schedule an election in order to promote employee free choice, which is the seminal policy of the Act.

CONCLUSION

For the aforementioned reasons, the Region should process Petitioner’s election petition and schedule an election without delay.

Respectfully Submitted,
/s/Christian C. Wilson
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Springfield, VA 22160
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ccw@nrtw.org

Counsel for Petitioner
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petitioner’s Post-Hearing Brief was e-filed with NLRB Region 07 using the NLRB’s e-filing system, and was served via email on the following parties or counsel this 29th day of April, 2022:

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National Labor Relations Board, Region 07
elizabeth.kerwin@nlrb.gov.

David Vlink, Attorney at Law
Vlink Law Firm LLC
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Respectfully Submitted,

/s/Christian C. Wilson
Christian C. Wilson
I. INTRODUCTION

The Petitioner filed the Petition on March 31, 2022. (Board Exhibit (“Bd. Exh.”) 1(a)). The Petitioner seeks a decertification election among a certified bargaining unit that includes “all full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators, and make-up plant/identification specialists employed by the Employer at its facility located in Bridgman, Michigan,” which is known as the Donald C. Cook Nuclear Plant. The Union and the Employer timely filed and served Statements of Position on,
respectively, April 12, 2022, and April 14, 2022. (Bd. Exhs. 3 and 4). The Statements of Position
discovered that there is no dispute that the NLRB has jurisdiction over the Employer and that the
proposed unit is appropriate. (Id.). The Union raised the contract-bar as a bar to conducting an
election. (Bd. Exh. 4).

The hearing in this matter was conducted via Zoom on Friday, April 22, 2022, before a
Hearing Officer of Region 7 of the National Labor Relations Board. At the hearing, the parties
stipulated that the proposed unit was appropriate and co-extensive with the contractual
bargaining unit; and that the only issue to be litigated at the hearing was whether there exists a
contract-bar to the election. (Bd. Exh. 2). The parties also stipulated to the admission of five
Board Exhibits and three Joint Exhibits, as follows:

**Board Exhibits**

1(a)-(d):
1(a) Original Petition dated March 31, 2022
1(b) Notice of Representation Hearing dated April 4, 2022
1(c) Affidavit of Service of 1(a) and (b) dated April 4, 2022
1(d) Index and Description of Formal Documents
2: Stipulation
3: Employer’s Statement of Position and List of Employees
4: Union’s Statement of Position
5: Petitioner’s Responsive Statement of Position

**Joint Exhibits**

1: Non-Licensed Operators Operations Department Local Contract
2: Master Contract
3: Agreement to Extend Collective Bargaining Agreements

The Union presented testimony from one witness, its Business Manager and highest-
ranking officer, Bill Scally. Neither the Employer nor the Petitioner presented any witness
testimony or additional evidence. The parties waived oral closing arguments and elected to file
post-hearing briefs, which are due by the close of business—4:45 pm—on Friday, April 29, 2022.

The dispositive issue in determining whether the Petition is barred by the contract-bar is whether the collective bargaining agreement covering the bargaining unit employees, which was “in full force and effect though Midnight, March 31, 2022,” expired at the very beginning of the day on March 31, 2022, as the Petitioner claims; or whether it expired at the very end of the day on March 31, 2022, as the Union claims. In other words, the issue is whether the Petition was filed during the insulated period of the contract, or after the contract had expired.

The Employer did not take a position on whether the contract was in effect when the Petition was filed. Instead, the Employer took the position that the successor collective bargaining agreement, which became effective at 12:01 a.m. on April 1, 2022, was not signed before the Petition was filed.

Based on the relevant facts, contract language, and Board law, the Union’s position is that the contract expired at the very end of the day on March 31, 2022, such that the Petition was filed during the insulated period during which no petitions may be filed.

II. FACTS

The facts relevant to the lone disputed issue in this case are simple and undisputed. The Employer owns and operates the Cook Nuclear Plant in Bridgman, Michigan, where the bargaining unit employees who are the subject of the Petition work in the Operations department. (Tr. 15-16). The Employer is a subsidiary of American Electric Power (“AEP”). (Tr. 15). For purposes of the employer of the bargaining unit employees, Indiana Michigan Power and AEP are synonymous. (Tr. 15-16).
The Union and the Employer refer to the bargaining unit that is the subject of the Petition as the “non-licensed operators” bargaining unit. (Tr. 16). The Union was certified by Region 7 of the NLRB as the collective bargaining representative of the non-licensed operators bargaining unit on October 2018. (Id.). In addition to the non-licensed operators bargaining unit, the Union also represents four (4) other bargaining units at the Cook Nuclear Plant: planners; maintenance; stores; and radiation protection, environmental, and chemistry. (Tr. 17).

The non-licensed operators bargaining unit, like the other bargaining units at the Cook Plant, is covered by two contracts, which together represent the entire “collective bargaining agreement” applicable to the bargaining unit employees. (Tr. 17, 20-21). The first contract is what the parties refer to as the “Master” contract. (Tr. 18; Joint Exhibit (“Jt. Exh.”) 2). The Master contract is between AEP and its various subsidiaries, including Indiana Michigan Power, on the one hand; and a group of IBEW local unions, including Local 1392, bargaining together as IBEW System Council U-9, on the other hand. (Id.).

Article III, Section 1 of the Master contract, titled “Duration of Agreement,” provides as follows:

**ARTICLE III**

**COVERAGE, DURATION OF AGREEMENT**

**Section 1. Duration of Agreement**

This Agreement, effective 12:01 a.m., April 1, 2018, except as specifically noted otherwise herein, will continue in full force and effect through March 31, 2021, and for yearly periods thereafter unless either party shall notify the other party in writing not less than sixty (60) days before any termination date of such party’s desire to commence negotiations for a new contract.

(Jt. Exh. 2, p. 11).

In addition to the Master contract, the non-licensed operators bargaining unit—like the other bargaining units at the Cook Plant—is also covered by what the parties refer to as a
“Local” contract applicable only to the non-licensed operators bargaining unit. (Jt. Exh. 1). The non-licensed operators Local contract became effective on February 28, 2019—the date it was signed by both parties. (Jt. Exh. 1, pp. 3, 16; Tr. 22). The start date for the Local contract is different than the Master contract because the bargaining unit was not certified until after the Master contract became effective on April 1, 2018. (Tr. 22). Section 1(b) of the Local contract specifically provides that the bargaining unit is also covered by the Master contract. (Jt. Exh. 1, p. 1; Tr. 22). The cover page of the Local contract provides that it is “EFFECTIVE February 28, 2019, through March 31, 2021.” Article II, Section 1 of the Local contract provides that it “shall continue in full force and effect until midnight March 31, 2021. . . .” (Jt. Exh. 1, p. 3).

On October 28, 2020, the Employer and IBEW System Council U-9, including Local 1392, entered into an “Agreement to Extend Collective Bargaining Agreements” (hereafter, “Contract”). (Tr. 25; Jt. Exh. 3). The Contract reaffirmed the Master and Local contracts, with amendments, and extended the duration of the Master and Local contracts as follows:

The Companies, the IBEW System Council U-9 and the above named IBEW Local Unions having entered into a Master Collective Bargaining Agreement and Local Collective Bargaining Agreements effective April 1, 2018, through March 31, 2021 (the “Agreements”), and desiring to extend those Agreements, hereby agree:

1. **One-Year Extension** – The terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021 will be extended for a twelve-month period and through this Contract, shall remain in full force and effect through Midnight March 31, 2022.

(Jt. Exh. 3, p. 1).

In addition to extending the duration of the Master and Local contracts for one year, the Contract also provided for two wage increases and a change to a bonus plan called the “Incentive Compensation Plan.” (Jt. Exh. 3, p. 2, ¶¶ 2-3; Tr. 23-25). Paragraph 2 of the Contract provided
for a “general wage increase” of 2.5% “on the separate and distinct date of each bargaining unit’s current Wage Rate Schedule Effective Date (April 1; May 1; July 1; July 15; September 1; October 1; and November 1, respectively)” (Jt. Exh. 3, p. 2, ¶ 2). Since the non-licensed operators bargaining unit’s “Wage Rate Schedule Effective Date” was April 1 (Jt. Exh. 1, p. 17), paragraph 2 of the Contract meant that the bargaining unit employees’ wages would be increased by 2.5% on April 1, 2021; provided, however, pursuant to paragraph 4 of the Contract, that the fully executed Contract was received “by Midnight, March 31st, 2021.” (Tr. 27; Jt. Exh. 3, pp. 2-3, ¶ 4). If the Contract was not returned fully executed by Midnight on March 31, 2021, then the raises would “go into effect upon the date on which the System Council U-9 delivers the fully executed Contract to the Companies. …” (Tr. 27; Jt. Exh. 3, p. 3, ¶ 4). For purposes of paragraph 4 of the Contract related to the commencement of the raises, “Midnight” meant the very end of the day on March 31, 2021. (Tr. 28). The Contract was fully executed by the Employer, System Council U-9, and Local 1392 on December 4, 2020, with Local 1392 signing it on December 1, 2020. (Jt. Exh. 3, pp. 3-4). In addition to the general wage increase of 2.5%, the Contract also provided for an additional 2% raise effective January 1, 2022, which coincided with a change to a bonus program called the “Incentive Compensation Plan.” (Jt. Exh. 3, p. 2).

The Petitioner originally filed an identical decertification petition on March 8, 2022, in Case Number 07-RD-291881. The Regional Director approved the Petitioner’s request to withdraw that petition without prejudice to its re-filing on March 28, 2022. The Petitioner re-filed the Petition on March 31, 2022. (Bd. Exh. 1(a)). On that same day, the Employer and the Union signed a new collective bargaining agreement to be effective at 12:01 a.m. on April 1, 2022.
III. ARGUMENT

A. Overview of the Board’s Contract-bar Doctrine

The contract-bar is a product of the Board’s authority under Section 9 of the Act, 29 U.S.C. 159, to determine questions of representation. The contract-bar provides that “an existing bargaining agreement will normally bar a petition for redetermination of representatives.” *NLRB v. Libbey-Owens-Ford Glass Co.*, 241 F.2d 831, 836 (4th Cir. 1957) (emphasis added). The contract-bar doctrine represents a balancing of interests:

The Board has always held to the view, we think correctly, that its discretion with respect to the effect to be given to a collective bargaining contract in a representation case is limited by the necessity of balancing two separate interests of employees and society which the Act was clearly designed to foster and protect: namely, the interest in such stability as is essential to encourage ‘the practice and procedure of collective bargaining,’ and the sometimes conflicting interest in the freedom of employees to select and change their representatives at will.

*Trailer Co. of America*, 51 NLRB 1106, 1109 (1943); see also *Appalachian Shale Products Co.*, 121 NLRB 1160, (1958) (noting that the policies underlying the contract-bar doctrine are “stability in labor relations and the exercise of free choice in the selection or change of bargaining representatives.”).

To serve as a bar, the contract must be in writing, signed before the filing of the petition, and contain substantial terms and conditions of employment. *Appalachian Shale, supra*, 121 NLRB at 1161, 1163. Once activated, the contract-bar bars the processing of employee and rival union election petitions for the duration of the contract, up to three years. *General Cable Co.*, 139 NLRB 1123, 1125 (1962). Nevertheless, employee and rival union petitions are permitted, and will be processed, if they are filed during the “open period,” which is defined as the 60-to-

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1 Employer petitions—RM petitions—are barred for the entire duration of the contract, even if the duration of the contract is more than 3 years. *Montgomery Ward & Co.*, 137 NLRB 346 (1962).
90-day period prior to the expiration of the contract (or the third year of the contract in the event of a contract of more than three years). *Leonard Wholesale Meats, Inc.*, 136 NLRB 1000, 1001 (1962). The period between the expiration of the contract and 60 days prior to the expiration of the contract is known as the “insulated period.” *Deluxe Metal Furniture Co.*, 121 NLRB 995, 1000 (1958). “A petition filed during the 60-day insulated period will be dismissed as untimely, regardless of any conduct of the parties during that 60-day period.” *Id.* The expiration date of a contract is included in the insulated period. *See Mountaire Farms, Inc.*, 370 NLRB No. 110, 2021 NLRB LEXIS 149, at *4-5 (Apr. 21, 2021) (reaffirming that, under *Deluxe Metal Furniture, supra*, the “insulated period” is the “60-day period immediately preceding and including the expiration date. …”).

An extension of a contract that is entered into prior to the open period is considered a “premature extension,” and is ineffectual to alter the open period or to bar petitions filed during the open period. *Deluxe Metal Furniture, supra*, 121 NLRB at 1001-02. However, a prematurely extended contract does not affect the bar quality of an extended contract where the petition is filed outside of the open period. *Union Carbide Corporation*, 190 NLRB 191 (1971); *see also Shen-Valley Meat Packers*, 261 NLRB 958 (1982) (holding that while a prematurely extended contract cannot prevent the processing of petitions filed during the open period before the third anniversary date, the extension governs the timeliness of petitions filed after the third anniversary date of the contract).

**B. Application of the Law to the Facts of This Case**

There is no dispute in this case that the Contract meets the Board’s basic contract-bar requirements in that it is in writing, covers an appropriate bargaining unit, was signed by the parties before the Petition was filed, and contains substantial terms and conditions of
employment sufficient to stabilize the parties’ bargaining relationship. Under the Contract, the comprehensive “terms and conditions” of the Master and Local contracts unaltered by the Contract were expressly carried forward throughout the expiration date of the Contract; and the Contract contained amendments to the Master and Local contracts for general wage increases, additional raises, and a change to the ICP bonus program.

There is also no dispute that under *Deluxe Metal Furniture*, *Union Carbide*, and *Shen-Valley Meat Packers*, supra, the Contract could not have prevented the processing of a petition filed during the 60–90-day open period prior to the original expiration date of the Master and Local contracts, or during the 60-90-day open period prior to the new expiration date of the Contract. There is no dispute, however, that the Petition was not filed during either of those open periods. The only dispute is whether the Contract was expired when the Petition was filed, as the Petitioner contends; or, whether it was in effect when the Petition was filed, such that the Petition was filed during the 60-day insulated period prior to the expiration of the Contract, as the Union contends. As explained below, the language of the Contract, the Master and Local contracts, and controlling Board law establishes that the Contract was still in effect when the Petition was filed, and therefore the Petition is barred.

1. **The Contract Clearly and Unambiguously Provided That the Contract Was In Effect Until The End of the Day on March 31, 2022.**

The Petitioner argues that the language in the Contract providing that it “shall remain in full force and effect through Midnight, March 31, 2022” means that the contract expired at the very beginning of the day on March 31, 2022, meaning that a petition filed during the day on March 31, 2022, such as the Petition was, is not barred because it was filed at a time when no contract was in effect.
The Petitioner’s argument is contrary to the clear and unambiguous language of the Contract. The Contract expressly recognizes that the Master and the Local contracts were “effective April 1, 2018, though March 31, 2021.” (Jt. Exh. 3, p. 1). This language—“through March 31, 2021”—is the exact language used in the original Master contract at Article III, Section 1. (Jt. Exh. 2, p. 11). The original Local contract, on the other hand, stated on the cover page that it was “effective” from “February 28, 2019, through March 31, 2021,” and in Article II, Section 2 that it was in “full force and effect until midnight, March 31, 2021.” (Jt. Exh. 1). The Contract’s use of the phrase “through March 31, 2021” to refer to the expiration date of both the Master and the Local contracts demonstrates that “through” a certain date is synonymous with “midnight” on that date. In other words, “midnight” and “through” mean throughout the entirety of the identified date. In this case, that means that the Local and Master contracts were both originally in effect until the very end of the day, that is, throughout the entirety of the day, on March 31, 2021. This makes sense because the end of the day on March 31, 2021, is three full years from the very beginning of the day on April 1, 2018 when the Master first became effective, making the original contract a standard three-year contract.

The durational language of the Contract, in isolation, establishes that, for purposes of duration, the term “midnight” means the end of the day; in other words, that the entire referenced day is included within the effective range of the contract. In the introductory paragraph, the Contract uses the phrase “through March 31, 2021” to refer to the expiration date of the Master and Local contracts (Jt. Exh. 3, p. 1); yet paragraph 1 of the Contract uses the phrase “until Midnight, March 31, 2021” to refer to the expiration date of the same contracts. There is no question that the term “through” means that the referenced day is included. Therefore, the only
plausible interpretation of the word “midnight” is that it means the end of the referenced day, such that the referenced day is included.

Moreover, if the phrase “through Midnight, March 31, 2022” means that the contract expired at the beginning of the day on March 31, 2022, then we would be left with irreconcilably inconsistent durational language in the Contract. The Contract, by its terms, expressly extended the Master and the Local contracts for “one-year,” that is, “a twelve-month period.” (Jt. Exh. 3, p. 1). If “midnight” meant the beginning of the day on March 31, 2022, the contract would not be extended for “one-year”; it would be extended for one day less than one year. Interpreting “Midnight, March 31, 2022” as referring to the very end of the day harmonizes the durational language of the Contract because it results in a “One-year Extension,” which is what the parties expressly said they were doing in the Contract. The Petitioner’s interpretation, on the other hand, nullifies the “One-year” language of the Contract and turns the extension into one day less than one year, or twelve months minus one day.

The Contract is not ambiguous simply because the Petitioner interprets its duration differently than the Union. It is black letter contract law that ambiguity is determined by the four corners of the instrument itself and does not turn on whether one party’s attorneys can concoct an alternative interpretation. Here, regardless of what the Petitioner argues to support its tortured interpretation of the Contract, the Board must determine what a reasonable employee would think by reading the Contract’s durational language. No reasonable employee could read the Contract’s durational language, as a whole, to mean that the Contract was expired/not in effect on March 31, 2022. Even if the phrase “midnight,” in isolation, could mean the beginning of the day, it could just as easily mean the end of the day; and the surrounding language makes it plain to any reasonable person that, in the Contract, “midnight” means the end of the day. The entire
day of March 31, 2022 is thus included within the insulated period, and the Petition must be
dismissed under controlling Board law.

2. The Terms of the Master and Local Contracts Support the Union’s Position.

While the Contract is the agreement that governs the timeliness of the Petition, and the
Contract in isolation refutes the Petitioner’s argument and unambiguously provides that the
contract was in effect when the Petition was filed, the Master and Local contracts that the
Contract extended cannot be ignored. When those agreements are analyzed, they further establish
the conclusion that the term “Midnight” in the Contract’s durational language means that the day
is included rather than excluded. Article III, Section 1 of the Master contract (Jt. Exh. 2, p. 11)
demonstrates that when the parties want to identify the very beginning of a day for durational
purposes, they use the phrase “12:01 a.m.” On the other hand, Article II, Section 2 of the Local
contract (Jt. Exh. 1, p. 3) establishes when the parties want to identify the very end of the day,
they use the term “midnight.” The cover page and Article II, Section 2 of the Local contract also
establish that “until midnight” is the same as “through” the identified date. (Id.). Therefore,
interpreting the Contract’s language of “through Midnight” as the very beginning of the day is
entirely inconsistent with the durational language of the contracts that the Contract extended.
“Midnight” clearly means the end of the day such that “Midnight, March 31, 2022” includes the
entirety day of March 31, 2022.

Other non-durational language in the Master contract also refutes the Petitioner’s
contention that the term “midnight” must be interpreted to mean the beginning of the day. Article
V, Section 1 of the Master contract (Jt. Exh. 2, p. 16) defines a “workday” as “the period of
twenty four (24) hours starting and ending at midnight.” This language shows that the phrase
“midnight,” for purposes of the collective bargaining agreement, does not have to mean the
beginning of the day; it can either mean the beginning or the end of the day, or both, as in Article V, Section 1. “Midnight” therefore cannot be interpreted to mean only the very beginning of the day. If “midnight” had to mean the beginning of the day, as the Petitioner claims, then Article V, Section 1 would say, “the period of twenty four (24) hours starting at midnight and ending at 11:59 p.m.”

3. **Board Law Compels the Conclusion that the Contract Was Still in Effect When the Petition Was Filed.**

   The Board’s decision in *Rio Grande Motor Way, Inc.*, 210 NLRB 73 (1974) establishes that when the facts clearly show that the parties intended to enter into an agreement for a certain term, the durational language of the contract must be interpreted to reflect that intention in the event of a dispute. The parties in *Rio Grande Motor Way* entered into a three-year contract from July 1, 1970 “until July 1, 1973.” The intervenor argued that July 1, 1973, was included in the contract’s duration. *Id.* at 74. The Board disagreed because to accept the intervenor’s argument would mean that the contract would have a duration of three years and one day. *Id.*

   The Board’s decision in *Brown Co.*, 178 NLRB 57 (1969) establishes that the Contract’s duration must be interpreted to include rather than exclude March 31, 2022. In *Brown Co.*, there were two petitions and two contracts at issue. One of the contracts was in effect “to and including the 23rd day of July, 1969.” The other contract was “in full force and effect until midnight, July 23, 1969.” The Board interpreted both of these contracts’ effective dates to include the day of July 23, 1969. We know this because the Board said that the petitions, which were both filed on May 26, 1969, were filed 59 days before the contracts’ expiration dates. Fifty-nine (59) days before July 23, 1969, when July 23, 1969, is included, is, in fact, May 26, 1969. If the contract that was in effect “until midnight, July 23, 1969” did not include the day of July 23,
1969, then the petition corresponding to the bargaining unit covered by that contract would have been filed 58 days before that contract’s expiration date.

Even if the Region were to conclude, as it did in *VHS Sinai-Grace Hospital, Inc.*, 07-RD-290351 (March 29, 2022), distinguished *infra*, that the contract in *Brown Co.*, *supra*, that was in effect “to and including July 23, 1969” clarified that “until midnight July 23, 1969” meant that the day of July 23, 1969 was included, the same situation is present here. While the Contract says, “through Midnight, March 31, 2022,” we know by the Contract’s interchangeable use of the phrases “through” and “until midnight” to mean the same thing, that “midnight,” for purposes of the durational language of the Contract, means the end of the day, such that the day following the word “midnight” is included.

*Rio Grande Motor Way, supra,* and *Brown Co.*, *supra*, are dispositive on the essential issue here. Under *Rio Grande Motor Way*, the Contract must be interpreted to be in effect for one year, since that is what the Contract clearly says. The only interpretation of “midnight, March 31, 2022” that results in a one-year extension is the one that includes rather than excludes March 31, 2022. Under *Brown Co.*, even aside from the “one-year language,” the Contract clearly shows that “midnight” means the day is included.

4. **The Region’s Recent Decision in VHS-Sinai Grace is Distinguishable and Actually Supports the Union’s Position Here.**

The Region’s decision in *VHS Sinai-Grace Hospital, supra*, 07-RD-290351 (March 29, 2022), is materially distinguishable and, if anything, supports the Union’s position in this case. The operative language there was “until,” not “through,” midnight; and, unlike here, there was no other language clarifying what “until midnight” meant. The Region’s decision was thus based on the “general rule of construction, that in the absence of specific expression to the contrary, a contract in effect until a day certain is construed as not including the date named after the word
‘until’.” (P. 5). The Region’s conclusion was buttressed by the fact that the petitioner’s argument, if accepted, would result in “exactly” the same outcome that the Board rejected in *Rio Grande Motor Way*: a contract in effect for three years and one day. (P. 6).

The latter reason is why *VHS-Sinai Grace*, if anything, supports the Union’s position in this case: If a contract’s durational language should not, in the absence of specific expression to the contrary, result in a contract of three years and one day, then the Contract’s durational language cannot be interpreted to result in an extension of one day less than one year. There is no inconsistency between the outcome of *VHS Sinai-Grace* and the Union’s position here.

5. **C Cases Support the Conclusion that Contracts in Effect “Through Midnight” on a Particular Day Include that Day.**

While not as on point as R cases, C case precedent also defeats the Petitioner’s argument. In C case precedent we find at least two cases with the exact same language under consideration here—“through midnight”—holding that the contract was in effect until the end of the day identified after the “through midnight” language. In *Cavalier Corporation (Teamsters Local 515)*, Case 10-CA-26369, 1993 NLRB LEXIS 832, at *1, 24 (ALJ, Sep. 21, 1993), the Administrative Law Judge recognized that a contract in effect from “September 18, 1990 through midnight September 17, 1993” was a “3 year” contract. If “through midnight” meant that the contract expired at the beginning of the day on September 17, 1993, that would mean the contract was for a duration of one day less than three years.

Similarly, in *Sheet Metal Workers Local 85 (Price Industries)*, Case 10-CB-8770; JD (ATL)-03-09, 2009 NLRB LEXIS 45, at *15 (ALJ Feb. 18, 2009), the Administrative Law Judge noted that a contract in effect from “March 1, 2006 through midnight February 28, 2009” was a “three-year agreement.” Again, if “through midnight” is defined as excluding the identified day.
from the contract’s duration, then the contract would have been in effect for one day less than three years.

Under the foregoing C case precedent, which is the most on point precedent because it contains the same “through midnight” language, a one-year contract in effect from a particular date during a calendar year “through midnight” on the day prior to that date in the next calendar year includes the entirety of the day identified after the “through midnight” language of the expiration date. Applying that rule here means that the Contract extended the contract for one year through the end of the day on March 31, 2022.

6. The Petitioner’s Position is Absurd.

The Petitioner’s argument would result in there being a one-day hiatus period between contracts. That is, the Contract would expire at the beginning of the day on March 31, 2022, but the successor contract would not become effective until twenty-four hours later at 12:01 a.m. on April 1, 2022. Common sense dictates that parties to successive collective bargaining agreements do not purposely negotiate two multi-year contracts with a one-day hiatus period between them. The Employer has not taken the position that the Contract was expired when the Petition was filed, and no bargaining unit employee testified that they thought the agreement was expired or were confused about when it expired. Under these circumstances, it would be absurd to conclude that the Contract was expired.

7. The Policies Underlying the Board’s Contract-bar Rules are Served by Dismissing the Petition.

The Petitioner will argue that the policy of employee free choice dictates that the Petition must be processed. The Petitioner is wrong. There were two 30-day open periods within the operative collective bargaining agreement during which petitions could have been, but were not, filed—the first being the 60–90-day open period before the original expiration of the Master and
Local contracts, and the second being the 60-90-day open period before the expiration of the Contract. Since there were two lengthy opportunities for the Petitioner to file a decertification petition while the contract was in effect, but neither she nor any other employee filed a petition during those periods of time, the policy of allowing employees a reasonable opportunity to change their collective bargaining representative has thus already been well served. Therefore, the balance between employee free choice and the stability of collective bargaining relationships weighs in favor of applying the contract-bar to the Petition.

IV. CONCLUSION

For the foregoing reasons, the Union respectfully requests that the Regional Director issue a Decision and Order dismissing the Petition as barred by the Contract.

Dated: April 28, 2022

Respectfully submitted,

/s/ David T. Vlink

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I e-filed this post-hearing brief and served the following parties by email at or before close of business on April 29, 2022:

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SEVEN

INDIANA MICHIGAN POWER COMPANY
Employer

and

SARA H. LUND, an Individual
Petitioner

Case 07-RD-293425

and

LOCAL 1392, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO
1
Union

DECISION AND DIRECTION OF ELECTION

Sarah H. Lund ("Petitioner") filed the original petition in this case with National Labor Relations Board ("Board") under Section 9(c) of the National Labor Relations Act ("Act"), on March 31, 2022, seeking to decertify Local 1392, International Brotherhood of Electrical Workers, AFL-CIO ("Union") as the exclusive collective-bargaining representative of approximately 71 employees employed by Indiana Michigan Power Company ("Employer") at its facility in Bridgman, Michigan. The parties stipulated to the following unit of current employees ("Unit"): 2

All full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators and make-up plant/identification specialists employed by the Employer at its facility located at Bridgman, Michigan; but excluding all electrical employees, managerial employees, guards, professional employees, and supervisors as defined in the Act.

A hearing was held on April 22, 2022, by videoconference before a hearing officer of the Board. The sole issue in this proceeding is whether a collective-bargaining agreement existed that bars the instant petition. The Employer, Petitioner and Union were provided with an opportunity to call, examine, and cross-examine witnesses, to introduce into the record evidence of the significant facts that support their contentions, and to orally argue their respective

1 The parties stipulated, and I find, that the petition and other formal documents in this matter should be amended to reflect the correct legal names of the Employer and Union.

2 The parties stipulated, and I find, that the stipulated Unit is coextensive with the existing bargaining unit as described in the extended local collective-bargaining agreement between the Employer and Union, despite superficial differences in the language. See Mo’s West, 283 NLRB 130, 130 (1987) (citing Campbell Soup Co., 111 NLRB 234 (1955)).
positions and submit post-hearing briefs. The Petitioner and Union submitted post-hearing briefs which were carefully considered.³

As explained below, based on the record, and having reviewed the submitted briefs and carefully considered the arguments and relevant Board law, I find that the collective-bargaining agreement in question does not bar processing the instant petition. I also find that the current circumstances of the Covid-19 pandemic in Berrien County, Michigan, where a manual election would be held, exceed the thresholds established by the Board in Aspirus Keweenaw, 370 NLRB No. 45 (2020). Accordingly, I am directing a prompt mail-ballot election.

I. FACTS

The Union was certified as the Unit’s exclusive bargaining representative on October 15, 2018. The Employer and Union were parties to two multiemployer collective bargaining agreements covering the unit in question. The first is the Master Agreement.⁴ Article III of the Master Agreement states:

“ARTICLE III, COVERAGE, DURATION OF AGREEMENT
Section 1. Duration of Agreement

This Agreement, effective 12:01 a.m., April 1, 2018, except as specifically noted otherwise herein, will continue in full force and effect through March 31, 2021, and for yearly periods thereafter unless either party shall notify the other party in writing not less than sixty (60) days before any termination date of such party's desire to commence negotiations for a new contract.” (emphasis added)

The second agreement is the Local Agreement.⁵ Article II of the Local Agreement states:

“ARTICLE II, COVERAGE DURATION OF AGREEMENT

Section 2. DURATION OF CONTRACT

This Agreement shall be in full force and effect beginning (on the day the Agreement is signed and returned) and shall continue in full force and effect until midnight, March 31, 2021, and hereafter for successive one (1) year periods unless either party hereto notifies the other party in writing at least sixty (60) days prior to March 31, 2021 or not less than sixty (60) days prior to the anniversary of

³ The Employer did not submit a post hearing brief.
the expiration date in any year thereafter, of its desire to modify or terminate this Agreement.” (emphasis added)

On December 4, 2020, the Employer and Union signed an Extension Agreement\(^6\) to the then existing Master and Local Agreements. The Extension Agreement states:

“The Companies, the IBEW System Council U-9 and the above named IBEW Local Unions having entered into a Master Collective Bargaining Agreement and Local Collective Bargaining Agreements effective April 1, 2018, through March 31, 2021 (the "Agreements"), and desiring to extend those Agreements, hereby agree:

1. One-year Extension - The terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021, will be extended for a twelve-month period and through this Extension Agreement, shall remain in full force and effect through Midnight, March 31, 2022.” (emphasis added)

The instant petition was filed on March 31, 2022, at 11:47 a.m.\(^7\)

The Union’s Position

The Union makes several arguments to support its argument that the Extension Agreement was effective through March 31, 2022, and as such, the petition was untimely filed and should be dismissed.

The Union’s primary argument is that the expiration date of the Extension Agreement, particularly when read in context, is not ambiguous. The Union cites Rio Grande Motor Way, Inc., 210 NLRB 73 (1974) for the proposition that when the facts clearly show that the parties intended to enter into an agreement for a certain term, the durational language of the contract must be interpreted to reflect that intention in the event of a dispute. It argues that the duration of the Extension Agreement, when read in context with the other agreements, shows that the parties clearly intended for the Extension Agreement to remain in effect throughout March 31, 2022.

The Union specifically argues that the language contained within the Master, Local and Extension Agreements demonstrates that the use of the word “midnight” was specifically intended by the parties to mean the end of the day in question. To support this contention, the Union notes that Article III, Section 1 of the Master Agreement indicates that when the parties


\(^7\) The Union asserts that a new collective bargaining agreement was ratified on March 31, 2022, after the filing of the instant petition, but it is unclear when that agreement was signed. No party asserts, and I do not find, that the newly-negotiated agreement bars the petition.
want to identify the very beginning of a day for durational purposes, they use the phrase “12:01 a.m.” Conversely, Article II, Section 2 of the Local Agreement establishes when the parties want to identify the very end of the day, they use the term “midnight.” Further, Article V, Section 1 of the Master Agreement defines a “workday” as “the period of twenty-four (24) hours starting and ending at midnight.”

Further, the Union argues that the totality of the language used in all the agreements clearly demonstrates that the Extension Agreement was intended to extend the Master and Local Agreements for 12 months, which, when read in conjunction with the other two, would result in the contract remaining effective through March 31, 2022. The Union argues that the Master Agreement clearly states that the agreement is effective through March 31, 2021, and that both the Local and the Extension Agreement all refer specifically to the Master as the governing document upon which those two documents rely. Further, the Union argues that if the Board found that the Extension agreement expired at 12:00 a.m. on March 31, the extension would be in effect for one day less than a year, which was clearly not the intention of the parties.

Finally, the Union argues that the Petitioner’s argument that the policy of employee free choice should outweigh what it believes is the clear intent of the parties is misplaced. It asserts that there were two 30-day open periods within the operative collective bargaining agreement during which petitions could have been, but were not, filed—the first being the 60–90-day open period before the original expiration of the Master and Local contracts, and the second being the 60-90-day open period before the expiration of the Extension Agreement. Accordingly, employees had a reasonable opportunity to change their collective bargaining representative and failed to do so. The Union argues that the balance between employee free choice and the stability of collective bargaining relationships weighs in favor of applying the contract-bar to the petition.

The Petitioner’s Position

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8 The Union cited several administrative law judge’s decisions to support its interpretation of the term “through midnight:” *Cavalier Corporation (Teamsters Local 515)*, Case 10-CA-26369, 1993 NLRB LEXIS 832, at *1, 24 (ALJ, Sep. 21, 1993) and *Sheet Metal Workers Local 85 (Price Industries)*, Case 10-CB-8770; JD (ATL)-03-09, 2009 NLRB LEXIS 45, at *15 (ALJ Feb. 18, 2009). While I have considered the holdings in these cases, they are not binding Board precedent and do not provide any definitive guidance on the issue before me.

9 The Union presented parole evidence on the record regarding the parties’ intent as to the meaning of the term midnight by March 31, 2021, to which the Petitioner objects. I do not rely on that parole evidence in making my determination. The Board has consistently held the legality of a contract asserted as a bar is to be determined from the face of the contract itself, including any terms and conditions incorporated by reference, but parole and extrinsic evidence will not be admitted. *Waste Management of Maryland, Inc.*, 338 NLRB 1002, 1003 (2003) (citing *United Health Care Services*, 326 NLRB 1379 (1998)); *Jet-Pak Corp.*, 231 NLRB 552 (1977); *Loree Footwear Corp.*, 197 NLRB 360 (1972) (citing *St. Louis Cordage Mills*, 168 NLRB 981 (1967)); *Paragon Products Corp.*, 134 NLRB 662 (1961) and *Union Fish*, 156 NLRB 187, 191 (1965.) The Board’s rationale for limiting extrinsic or parole evidence is that the terms of the agreement must be clear from its face so employees and outside labor organizations may look to it to determine the appropriate time to file a representation petition. *South Mountain Healthcare & Rehabilitation Center*, 344 NLRB 375 (2005) (citing *Cooper Tire & Rubber Co.*, 181 NLRB 509 (1970)).
The Petitioner argues that the Union did not sustain its burden of demonstrating there is a contract bar in place, and that the petition was timely filed. The Petitioner specifically argues that the clear and plain words of the contract demonstrate that the contract expired at 12:01 a.m. on March 31, 2022. The Petitioner argues that the Board has long held that “the term of a contract technically embraces the effective term provided in the instrument, and it is this term on the face of the contract to which the employees and outside unions look to predict the appropriate time for the filing of a representation petition.” Union Fish Co., 156 NLRB 187, 190 (1965); Benjamin Franklin Paint & Varnish Co., 124 NLRB 54, 55 (1959.) The plain language of the contract’s duration is paramount because employees are not privy to the Union’s and Employer’s negotiations or their subjective understanding of a contract. Instead, employees must rely on the text alone to anticipate the appropriate time to file an election petition. See Pacific Coast Association of Pulp & Paper Mfrs., 121 NLRB 990, 993 (1958).10

Here, the Extension Agreement states “[t]he terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021, will be extended for a twelve-month period and through this Extension Agreement, shall remain in full force and effect through Midnight, March 31, 2022.” The Extension Agreement’s plain language shows that the “twelve-month period” of extension commenced at 12:01 a.m., the morning of March 31, 2021, because the prior agreement was in effect “until Midnight, March 31, 2021.” See Williams Laundry Co., 97 NLRB 995, 996 n.3 (1952) (holding that a contract in effect until a day certain is to be construed as not including the date named after the word ‘until’); Carter Machine and Tool Co., 133 NLRB 247, 248 n.2 (1961).

Finally, the Petitioner argues that to the extent the language is ambiguous, such ambiguity should be construed against the Employer and Union, and the petition should be honored. Bob’s Big Boy Family Restaurants, 235 NLRB 1227, 1228 (1978) (Board rejected a contract bar defense where a union and employer “created a situation which precluded a clear determination by a potential petitioner of the proper time for filing a new petition.”)

II. CONTRACT BAR PRINCIPLES

The Board’s contract-bar doctrine provides that once a collective-bargaining agreement is executed, no representation elections are permitted in the unit covered until the contract expires, up to a three-year limit. Representation petitions may be timely filed following the expiration of such contracts, or after the three-year limit if the contract’s duration exceeds three years, or during a 30-day period that begins 90 days and ends 60 days before such a contract expires. Leonard Wholesale Meats, Inc., 136 NLRB 1000, 1001 (1962). This 30-day period is commonly known as the “window period” or “open period.” The subsequent 60-day period preceding and including the expiration date is known as the “insulated period,” and no petition can be timely filed during that span. Id.; Deluxe Metal Furniture Co., 121 NLRB 995, 1000 (1958). The purpose behind the Board’s contract-bar policy is to achieve “a finer balance between the statutory policies of stability in labor relations and the exercise of free choice in the selection or change of bargaining representatives.” Direct Press Modern Litho, Inc., 328 NLRB 860, 860 (1999) (quoting Appalachian Shale, 121 NLRB 1160, 1161 (1958)). See also

10 The Petitioner cites a recent Decision and Order that I issued in VHS Sinai Grace Hospital, Case 07-RD-290351 (2022), where I applied contract-bar principles involving the interpretation of the word “midnight.” That case has not been decided by the Board. Further, while I apply similar principles in both cases, I note that the two are factually distinguishable.
Corporacion de Servicios Legales de Puerto Rico, 289 NLRB 612, 613–614 (1988) (“the contract-bar doctrine is but another instance of the Board’s striking an accommodation among three competing interests: the freedom of an employer and a union to enter into a collective-bargaining relationship, the stability of bargaining relations once established, and employee freedom of choice—all of which underlie the Act’s ultimate goal of fostering industrial peace”).

There is no dispute by any party that the Extension Agreement meets the substantive criteria for serving as a bar. It is: (1) reduced to writing; (2) signed by all parties prior to the filing of the petition; (3) contains substantial terms and conditions of employment deemed sufficient to stabilize the bargaining relationship; (4) clearly encompasses the employees involved in the petition; and (5) covers an appropriate bargaining unit. Appalachian Shale Products Co., supra.

III. ANALYSIS AND CONCLUSION

I find that the expiration date of the Extension Agreement is ambiguous and fails to appropriately provide clear notice to individuals or other parties of the effective expiration date of that agreement. This is demonstrated by the fact that different terms are used in describing the expiration dates not only in the various agreements, but also within the terms of the Extension Agreement itself.

For example, the Master Agreement, which is the clearest and most consistent of the agreements at issue, clearly states that the agreement is effective 12:01 a.m., April 1, 2018, [and]… will continue in full force and effect through March 31, 2021.” Those dates are clearly reflected in the cover page and denote that the contract was in effect throughout the duration of March 31, 2021. The Local Agreement, however, which is meant to cover the same unit for ostensibly the same time period, indicates that the Agreement “shall continue in full force and effect until midnight, March 31, 2021...” (emphasis added)

The Board has consistently held that in conformity with the general rule of construction, in the absence of specific expression to the contrary, a contract in effect until a day certain is to be construed as not including the date named after the word “until.” Williams Laundry Company, 97 NLRB 995, 996 fn. 3 (1952). See also, Carter Machine and Tool Co.133 NLRB 247, 248 fn. 2 (1961), citing Hemisphere Steel Products, Inc., 131 NLRB 56 (1961) (a contract running until a certain date means “exclusive of the day named.”) Thus, the Local Agreement, by its terms, would not be in effect throughout March 31, which is in direct contradiction to the terms of the Master Agreement. Further complicating matters, the Local Agreement cover page indicates that this agreement “shall continue in full force and effect until midnight, March 31, 2021...” (emphasis added)

The Extension Agreement not only combines the ambiguity of the terms contained in the Local Agreement but adds an additional layer of confusion. In the introductory paragraph, it references both the Master and Local agreements as being effective through March 31, 2021, which is not an accurate description of the expiration language in the Local Agreement. Further, in paragraph 1, it states:
One-year Extension - The terms and conditions of the current Master and Local Collective Bargaining Agreements that remain in effect until Midnight, March 31, 2021, will be extended for a twelve-month period and through this Extension Agreement, shall remain in full force and effect through Midnight, March 31, 2022.” (emphasis added).

Thus, not only does the document misstate the expiration date of the Local Agreement, it further states contradictory expiration dates for the Extension agreement within the same sentence. As noted by the Petitioner, the use of the word “until” has specific meaning under Board precedent. *Carter Machine and Tool Co.*, *supra* (a contract running until a certain date means “exclusive of the day named.”) The use of that term in the Extension Agreement, in conjunction with the contradictory language indicating the agreements remain effective through March 31, appears to indicate that the Master and Local Agreements that it is extending were both effective through and until midnight on March 31, 2021. Furthermore, the addition of “through midnight March 31, 2022,” in the Extension Agreement, which did not appear in either the Master or the Local Agreements, adds more confusion. It is unclear whether the language indicates that the contract expires at midnight, the minute after midnight, or at some other time on March 31, 2022. The terms are inconsistent and create ambiguity that cannot be reconciled by the terms of the various agreements.

Accordingly, such ambiguities regarding the expiration date of the contract preclude a finding that the contract serves as a bar under the Board’s contract-bar doctrine and I order an election as further described below.

IV. CONCLUSION

For the reasons stated above, I have concluded that there is no contract bar to processing this petition.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the Board. Based on the entire record in this proceeding, I find and conclude as follows:

1. The hearing officer’s rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.\(^{11}\)

3. The Union is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

\(^{11}\) The Employer, Indiana Michigan Power Company, a corporation with offices and facilities located at One Cook Place, Bridgman, Michigan, is engaged in the operation of a nuclear electric power generating plant. During the calendar year ending December 31, 2021, the Employer purchased and received at its Bridgman, Michigan facility goods valued in excess of $50,000 directly from points outside the State of Michigan.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

**Included:** All full-time and regular part-time auxiliary equipment operator seniors, auxiliary equipment operators, utility operators and make-up plant/identification specialists employed by the Employer at its facility located at Bridgman, Michigan.

**Excluded:** All electrical employees, managerial employees, guards, professional employees, and supervisors as defined in the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret-ballot election among the employees in the voting group found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Local 1392, International Brotherhood of Electrical Workers, AFL-CIO.

A. The Method of Election during the Covid-19 Pandemic

The Board has delegated its discretion in determining election arrangements to Regional Directors. *San Diego Gas & Electric*, 325 NLRB 1143, 1144 (1998). On November 9, 2020, the Board set forth “six situations that suggest the propriety of mail ballots due to the Covid-19 pandemic,” noting that “[w]hen one or more of these situations is present, a Regional Director should consider directing a mail-ballot election.” *Aspirus Keweenaw*, 370 NLRB No. 45, slip op. at 1 (2020). Those six situations are:

1) The Agency office tasked with conducting the election is operating under “mandatory telework” status;

2) Either the 14-day trend in the number of new confirmed cases of Covid-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;

3) The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;

4) The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols;

5) There is a current Covid-19 outbreak at the facility or the employer refuses to disclose and certify its current status; and,

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12 Although the Board has occasionally referred to the *Aspirus* situations as “factors,” the *Aspirus* decision makes clear that the six situations are not part of a multifactor analysis and, as stated above, if even one of the situations is present it is not an abuse of discretion to direct a mail-ballot election.

13 For situation 5, the Board has clarified that Regional Directors “should determine whether the Covid-19 cases at the facility would reasonably be expected to affect the conduct of a manual election. Relevant considerations in this regard include whether (1) the number or physical location of such Covid-19 cases, or the likelihood that those cases will result in unit employees being exposed to Covid-19, indicates that a manual election would pose a threat to
6) Other similarly compelling considerations. *Id.*

The Board further held that a Regional Director who exercises discretion to direct a mail-ballot election when one or more of these situations exists will not have abused that discretion. *Id.*, slip op. at 8 and 9.

All parties requested a manual election in this matter. While I normally endeavor to adhere to the intent of the parties on the method of election, the facts on the record do not support directing an in-person election. Several of the *Aspirus* factors are not relevant to my determination in this case. The Region tasked with conducting the election is not operating under mandatory telework status and mandatory state or local health orders relating to maximum gathering size are not at issue. However, the Covid-positivity rate in the county where the Employer is located is well above the five percent set as a guideline by the Board in *Aspirus.*

When assessing Covid positivity rates, the Board instructed Regional Directors to “generally focus their consideration on recent statistics that reflect the severity of the outbreak in the specific locality where the election will be conducted” and stated that “a mail-ballot election will normally be appropriate if either (a) the 14-day trend in the number of new confirmed Covid-19 cases in the county where the facility is located is increasing, or (b) the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher.” *Id.* slip op. at 5 (italics added). For the former, the *Aspirus* Board did not specifically detail how the 14-day trend in the number of new cases should be evaluated, but it did direct that “the 14-day period should be measured from the date of the Regional Director’s determination, or as close to that date as available data allow” and that county-level data for the potential polling place should be accessed through the “Coronavirus Resource Center” website maintained by Johns Hopkins University. *Aspirus*, 370 NLRB No. 45, slip op. at 5, fn. 20 & 22.

Currently, the Johns Hopkins website does not provide positivity rates as it has in the past and appears to aggregate the data posted on State of Michigan’s Coronavirus website, which currently only updates its Covid-19 data on Mondays, Wednesdays and Fridays. However, those databases, in conjunction with the Michigan Safe Start Map, which aggregates Michigan Department of Health and Human Services and CDC data, indicate that at the date of this

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health or safety; or (2) current Covid-19 cases among unit employees would result in their disenfranchisement by a manual election.” *Rush University Medical Center*, 370 NLRB No. 115, slip op. at 2 (2021).

14 In addition, while the parties agreed to abide by the standards in GC Memorandum 20-10 during the hearing, the Employer failed to provide specific answers to questions regarding safety protocols in the event of a manual election that are necessary for me to determine whether doing so would jeopardize the safety of the parties, the employees or Board personnel.
decision the Covid positivity rate in Berrien County is 18.2% and has been rising steadily for the past 14 days.16,17

Accordingly, I find a sufficient basis to order a mail ballot election consistent with Aspirus.18

B. Election Details

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit by personnel of the National Labor Relations Board, Region 7, on Tuesday, May 24, 2022, at 4:15 p.m., ET. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote by mail and do not receive a ballot in the mail by May 31, 2022, should communicate immediately with the National Labor Relations Board by calling Board Agent Barbara Kubik at (616) 930-9163, Elections Specialist Callie Clyburn at (313) 335-8049 or (202) 600-1483, the Region 7 Regional Office at (313) 226-3200, or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Voters should return their mail ballots so that they will be received in the National Labor Relations Board, Region 7 Regional Office by the close of business, 4:45 p.m. ET on June 7, 2022. All ballots will be commingled and counted at 11:00 a.m. ET on June 8, 2022. In order to be valid and counted, the returned ballots must be received in the Regional Office prior to the counting of the ballots. The method for the count will be determined by the Regional Director and will require video participation. No party may make a video or audio recording or save any image of the ballot count.


16 For the 14-day testing positivity rate, the Board noted that many locales do not report this specific statistic. Rather, experience has shown a 7-day average is more often available from federal, state, county, and municipal health agencies, and the Board has found such metrics to be sufficient. See, for example Stericycle, Inc., 04-RC-260581 (February 22, 2021) (unpublished) (denying review of mail-ballot election where 7-day testing positivity rate was 8.01% in county where employer’s facility was located). See also, Sysco Central California, supra at fn. 1 (using 7-day percent positive data from CDC’s “COVID-19 Integrated County View” and finding 7-day percent positivity in excess of 5% for county where employer’s facility is located “as justifying the direction of a mail-ballot election”).

17 See also the Berrien County Health Department’s Covid Dashboard, which shows 107 new Covid cases from 4/22 through 4/28/22 and 184 new Covid cases from 4/29 through 5/5/22, which shows that the 14-day trend in the number of new confirmed cases in the county where the Employer’s facility is located is increasing. http://www.bchdmi.org/1689/COVID-19-Cases-and-Data and click on, “Please see the latest epidemiological data report and interpretation here.”

18 While the Employer provided a generalized willingness to adhere to the protocols set forth in GC 20-10, the record lacks specific information from the Employer with respect to the information sought by GC Memorandum 20-10.
C. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, May 1, 2022**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board’s designated office.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board’s designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

D. Voter List

As required by Section 102.67(l) of the Board’s Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be received by the Regional Director and the parties by **May 13, 2022**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee’s last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

The list must be filed electronically with the Subregion and served electronically on the other parties named in this decision. The list must be electronically filed with the Subregion by using the E-filing system on the Agency’s website at [www.nlrb.gov](http://www.nlrb.gov). Once the website is
Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

E. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board’s Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board’s Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board’s Rules and Regulations.

Pursuant to Section 102.5(c) of the Board’s Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency’s web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the
request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Although neither the filing of a request for review nor the Board’s granting a request for review will stay the election in this matter unless specifically ordered by the Board, all ballots will be impounded where a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision, if the Board has not already ruled on the request and therefore the issue under review remains unresolved. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: **May 11, 2022**

Elizabeth Kerwin, Regional Director  
National Labor Relations Board, Region 7  
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Detroit, Michigan 48226