

STATE OF ILLINOIS, DEPARTMENT OF LABOR
160 N. LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60616

IN THE MATTER OF:)
)
ILLINOIS CHAPTER, NATIONAL)
ELECTRICAL CONTRACTORS)
ASSOCIATION, WEBER ELECTRIC, INC.,)
WILCOX ELECTRIC & SERVICE, INC., F.W.) STATE FILE: 2027-H-CC08-2368
ELECTRIC, INC., GLESCO ELECTRIC,)
INC., REMCO ELECTRICAL CORP., CAMP)
ELECTRIC AND ENGINEERING SERVICES,)
P.C., PALS ELECTRIC, INC. and PYRAMID)
ELECTRICAL CONTRACTORS, INC.,)
)
OBJECTORS,)
)
v.)
)
JANE R. FLANAGAN, DIRECTOR of the)
ILLINOIS DEPARTMENT OF LABOR, THE)
ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)
)

**RESPONSE TO OBJECTORS' OPPOSITION TO INTERVENTION BY IBEW LOCALS
16, 34, 146, 193, 309, 538, 601, 649, 702, and 725**

Intervenors IBEW Locals 16, 34, 146, 193, 309, 538, 601, 649, 702, and 725, and their respective business managers Ryan McRoberts, Tim Sprout, Justin Martin, David Wells, Chris Hankins, Aaron Goodrum, Brian Anderson, Ryan Mouser, Steve Hughart, and Jim Fellows (collectively "Intervenors" or the "southern IBEW Locals") submit this combined response to Objectors Illinois Chapter, National Electrical Contractors Association, Inc., Weber Electric, Inc., REMCO Electrical Corp., Camp Electric and Engineering Services, P.C., PALS Electric, Inc., and Pyramid Electrical Contractors, Inc. (collectively "Objectors") opposition to their intervention by stating:

As a preliminary matter, the ALJ has the discretion to permit Intervenor's intervention. Objectors identify no delay nor prejudice that will result by Intervenor's inclusion in this matter at this early stage. Furthermore, Intervenor should be granted intervention because they may be adversely affected by a final order arising from the hearing and because they are necessary parties to any determination made in the instant proceeding. They are party to labor agreements on which Objectors rely and represent the apprentices at issue. Pursuant to 56 Ill. Adm. Code § 120.320, Intervenor's petition should be granted.

PROCEDURAL BACKGROUND

Objectors filed their Objection to Prevailing Wage Rates published July 15, 2026 on August 14, 2026. Objectors argue the Department is obligated to post apprentice wage and fringe rates, in addition to journey person rates, for Electrician and Electronic Systems Tech and Telecommunications in prevailing wage schedules for certain counties in southern and central Illinois. In doing so, Objectors seek license to pay apprentices less than "full journeyman annualized fringe benefits" as required by the Prevailing Wage Act. *See* 820 ILCS 130/2.

By Order dated August 21, 2026, ALJ O'Meara scheduled a prehearing conference via videoconference for September 8. The Order states that Petitions to Intervene shall be filed by September 2, 2026.

On August 31, Objectors mailed a First Amended Objection and Request for Hearing to the Department. It is marked as received by the Department on September 2. The Amended Objection adds a challenge to prevailing wage schedules published on August 15, 2026, claiming they also omit registered apprentice rates.

On September 2, Intervenor e-mailed Petitions to Intervene, Entries of Appearance, and Notices of Filing to Judge O'Meara (at dol.hearings@illinois.gov) and representatives of all

parties then involved in the case, including counsel for Objectors (Mr. Martone) and counsel for the Illinois Department of Labor (Ms. Barton). (Ex. 1.) Intervenors also mailed, via UPS 2nd day air, hard copies of the filings to the Department's Chicago office. They were delivered on September 4, (Ex. 2), but were not marked as received by the Department until September 8.

Counsel for Objectors, the Department, Intervenors, and several employer associations and other unions seeking intervention participated in the September 8 pre-hearing conference. The parties agreed to strike the September 28 hearing date and to waive the 45-day deadline for a hearing. Also, for the first time, Objectors objected to IBEW Locals intervening in the matter. Conversely, IBEW Local 197 objected to several employer associations intervening.

By Order dated September 9, ALJ O'Meara ordered the 45-day deadline for decision to be waived. He set a briefing schedule on the Petitions to Intervene. The Order also granted certain petitions to intervene, including for Great Plains & Laborers District Council, Plumbing Contractors of Greater Chicago, Operating Engineers Local 150, and "IBEW Locals 16, 34, 146, 193, 309, 538, 601, 649, 702, 725."

As of the date of this filing, the parties including Intervenors are discussing possible settlement. They have also recognized the possibility of consolidating this case with other pending objections raising the same issue. No trial date has been set.

ARGUMENT

a. By the Order dated September 9, the southern IBEW Locals have been granted intervention.

While the ALJ stated during the September 8 pre-hearing conference that he would consider oppositions to various Petitions to Intervene, the Order dated September 9 expressly grants Intervenors' Petitions to Intervene. It is unclear whether the entry in this Order is a clerical error or a ruling made after further consideration. The latter makes sense. As noted, the

southern IBEW Locals are party to the labor agreements on which Objectors rely. Accordingly, they have a direct interest in this matter under Objectors' legal theory, and should be allowed to participate. Along these lines, ALJs regularly grant intervention to signatory unions in Section 9 objections filed by employers. *See, e.g., National Electrical Contractors Association, Inc., Norther Illinois Chapter*, 2027-H-CC08-2358 (granting intervention to IBEW Locals); *Skilled Computer Resources Corp.*, 2023-H-RP03-2342 (same).

b. Intervenor provided timely notice of their Petitions to Intervene by September 2, and the ALJ has discretionary authority to allow the Intervenor to intervene.

There is no dispute that Intervenor e-mailed their Petitions to Intervene to the ALJ, Objectors, and the Department on September 2, 2026. Intervenor does not claim they mailed hard copies to the Department in time for them to arrive on September 2.

Objectors contend that a petition to intervene that is e-mailed by a deadline is not a "timely written application." But, even if so, Objectors have pointed to no provision of the law that divests the ALJ from the discretionary authority to allow for late applications to intervene. Neither the state Prevailing Wage Act nor the state Administrative Code set a limitation on a party's time to intervene in an objection proceeding. The Act is silent as to intervention. The Administrative Code simply states that "[u]pon timely written application, the ALJ may, in his or her discretion, permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing." 56 Ill. Admin. Code § 120.320(a)(1). This is in contrast to Act's express requirement that objections be filed within 30 days after the Department has published on its website a prevailing wage schedule. 820 ILCS 130/9. Neither the Act nor the Code set an express deadline for intervention. The only factor noted in the Code is whether "intervention will unduly delay or prejudice the adjudication of the rights of the original parties." 56 Ill. Admin. Code § 120.320(a)(2). That is not an issue here. For one, on August 31, Objectors

sent a First Amended Objection to the Department, received on September 2. This new filing should extend the time for intervention past September 2, so others may consider and respond to the new allegations. Second, Objectors have already agreed to waive the 45-day hearing requirement. Allowing the southern Illinois IBEW Locals to intervene at this early point in this case will not alter the timeline which Objectors have already agreed to and will not prevent the orderly or expeditious resolution of this matter.

The ALJ may extend the time for intervention and/or provide relief from a procedural defect. Other statutory schemes provide a broad construction of the right to intervene. Under the Code of Civil Procedure, the “right to intervene is to be liberally construed to allow a nonparty to protect interests jeopardized by a pending suit.” *Freesen Inc. v. Bobst*, 277 Ill. App. 3d 68, 72 (Ill. Ct. App. 4th Dist. 1995). Courts also provide leeway: “[u]nless it can be demonstrated that the opposing party was prejudiced by the late filing of the motion to dismiss, the trial court does not abuse its discretion by allowing tardy pleadings.” *People v. Cortez*, 338 Ill. App. 3d 122, 128 (Ill. Ct. App. 1st Dist. 2003).

Allowing Intervenors to intervene is appropriate. At worst, the Department’s office received paper copies of Intervenors’ Petitions a few days late. Intervenors did not delay in seeking to intervene. Moreover, Objectors identify no witnesses lost, evidence compromised, or substantive harm that would result from Intervenors inclusion in this matter.

c. The Intervenors may be adversely affected by a final order and are necessary parties and further have an interest that Objectors will not adequately protect.

Objectors attempt to dictate what Intervenors might consider being ‘adversely affected’ to shut down Intervenors’ ability to protect their interests. Objectors cannot determine Intervenors’ interests.

The administrative code establishes a broad set of circumstances permitting intervention.

An ALJ may permit intervention when:

- A)** The party is so situated that he or she may be adversely affected by a final order arising from the hearing;
- B)** The party requesting intervention is a necessary party to the hearing proceeding;
or
- C)** A party's claim or defense and the main action have a question of law or fact in common.

56 Ill. Admin Code § 120.320. The Intervenors meet any of these criteria.

All Intervenors represent Electrician and Electronic System Tech employees in southern and central Illinois. Locals 146, 193, 309, 538, 601, 649, and 702 are directly at issue, and have been named by Objectors in their objection. (Objection at ¶ 1.) Local 34 is signatory to the South-Central Illinois Telecommunication Agreement, one of the collective bargaining agreements which Objectors have cited in this proceeding. (Objection at ¶ 1; Local 34 Pet. Intervene at ¶ 3.) Local 16 has a collective bargaining agreement with Objector PALS Electric, Inc. (Local 16 Pet. Intervene at ¶ 7.) And, Local 725 has collective bargaining agreements with Objectors PALS Electric, Inc. and Glesco Electric, Inc. (Local 725 Pet. Intervene at ¶ 7.)

A final order in this hearing will affect Intervenors, especially if, as Objectors seek to do, a new, lower classification is created for Electrician Apprentice and Electric System Tech Apprentice. Such a determination will affect any representative of Electrician or Electric System Tech employees. It will reduce the total compensation which these apprentices receive on public works projects from that required by the Prevailing Wage Act. This reduction harms these apprentices and by extension Intervenors, who are their collective bargaining representatives. If Objectors prevail, they will undermine a minimum labor standard set by law, which harms

represented apprentices, undermines Intervenor, and also changes the backdrop for future contract negotiations.

Intervenor are also necessary parties to the proceeding. As noted Locals 34, 146, 193, 197, 309, 538, 601, 649, and 702 are parties to the very labor agreements cited by Objectors in their pleadings. Objectors argue they should get the benefit of bargained-for apprentice rates in the labor agreements. Even accepting that for the sake of argument, Intervenor have an unquestioned interest in the matter as parties to the labor agreements. *Franks v. North Shore Farms, Inc.*, 115 Ill. App. 2d 57, 63 (Ill. App. 1st Dist. 1969) (“the other party to [a] contract is a necessary party to the litigation.”) (citing *Hilyard v. Krisolofsky*, 337 Ill 584 (Ill. 1929)).

Finally, Intervenor’s defense and the main action have a question of law or fact in common. Objectors claim the labor agreements prevail. Intervenor claim the law prevails. Regardless, both parties look at a common question of law – how to interpret the state Prevailing Wage Act – and a common fact – the labor agreements.

Objectors assert that Intervenor should not be included because they claim they will “adequately represent their interests.” That is non-sensical. Employers do not regularly represent the interests of labor in matters involving wages and benefits. In fact, it is usually the opposite. For that matter, if Objectors really thought that Intervenor shared their interests, then Objectors would not object to their participation and would want their support (like the other employer associations that seek to intervene in this matter). Instead, Intervenor have made clear in their Petitions that they have different interests and will oppose Objectors’ objection. That is precisely why Objectors want to keep all the unions out of this matter.

At any rate, the standard governing intervention in this matter does not depend on whether Intervenor’s interests are adequately represented by Objectors. The standard is whether

Intervenors “may be adversely affected by a final order arising from the hearing” or if Intervenors are a necessary party or if Intervenors’ claim or defense and Objectors’ objection have a question of law or fact in common. 56 Ill. Admin Code § 120.320. As explained above, Intervenors meet all these criteria. So do the other unions seeking to intervene.

Finally, courts have held that intervention is appropriate when an applicant “presents a unique interest” in a matter. *City of Chicago v. John Hancock Mut. Life Ins. Co.*, 127 Ill. App. 3d 140, 145 (Ill. App. 1st Dist. 1984). Such is the case here. Intervenors seek to protect the compensation of apprentices on prevailing wage jobs. Objectors certainly do not share that interest and cannot be relied upon to protect that interest. While the Department may have an interest in upholding the law, the Department does not share the same interest in representing employees. Intervenors have a particular interest in the compensation of represented apprentices covered by the labor agreements at issue, by virtue of their status as collective bargaining representatives. *John Hancock Mut. Life Ins. Co.*, 127 Ill. App. 3d at 146 (condo owner has interest in action for building code violation brought by city against building owner; intervenor’s interest in a safe building far exceeds the city’s interest in public health).

CONCLUSION

For the foregoing reasons, Intervenor request the ALJ to grant their Petitions to Intervene and permit them to participate in this matter with the same rights as other parties.

Respectfully submitted,

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