



Date: September 1, 2011

Memo To: Members of the NECA Board of Governors

From: J. Michael Thompson
Secretary-Treasurer

Subject: Proposals for the Board of Governors Meeting

The enclosed proposals were properly submitted in accordance with Section 8.8 of the NECA Bylaws for review and action at the October 21, 2011 meeting of the Board of Governors. The meeting will be held that **afternoon** at the Hilton Bayfront Hotel in San Diego, California.

There is **one proposal to amend the Bylaws and two Ordinary Proposals**. If adopted the proposed changes shall become effective immediately (unless otherwise indicated).

Additional information pertaining to the Board of Governors meeting can be found at:
<http://www.necanet.org/about/about-neca/governance/?fa=meeting>.

Bylaw Amendment - Proposal #1

Amend Section 12.1 (d) ~ Marketing Committee

Submitted by NECA Executive Committee and NECA 3.0 Task Force

WHEREAS, previous consultant studies and modern association governance practices recommend the use of task forces versus standing committees; and,

WHEREAS, using taskforces with limited scopes and timeframes allows for a quicker response as new issues develop and more flexibility than assigning an issue to a committee that is not a good fit; and,

WHEREAS, the NECA 3.0 Taskforce, dated May 2011, recommended sunsetting the Marketing Committee; and,

WHEREAS, NECA’s President has appointed both an Energy Solutions Taskforce and a Business Development Taskforce to further work previously assigned to the Marketing Committee.

THEREFORE, be it resolved that the NECA Bylaws be revised by eliminating item (d) of Section 12.1 and redesignating items (e) (f) and (g).

Current Language

Section 12.1 (d) Marketing Committee.
In addition to the “Executive Committee” which shall also be the “Finance Committee” and the “Labor Relations Committee” there shall be the following Standing Committees (See ARTICLE IX.)

(a) Government Affairs Committee - NECA Government Affairs Committee is charged with bringing to the attention of the industry proposed national legislation that may threaten or enhance the American system of competitive private enterprise or the rights or civil liberties of individuals, minorities or States as may impact the electrical construction industry, and to take such action, subject to the approval of the Executive Committee, as it may see fit for the protection and furtherance of its rights and interests.

(b) Codes and Standards Committee - NECA Codes and Standards Committee is charged with developing codes and standards intended to improve the reliability and performance of installed electrical systems.

Proposed Language

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(b) Codes and Standards Committee - NECA Codes and Standards Committee is charged with developing codes and standards intended to improve the reliability and performance of installed electrical systems.

(c) Workforce Development Committee - NECA Workforce Development Committee is charged with development of programs to ensure an adequate supply of qualified craftsmen in all areas of the country and providing adequate, continuing, and diverse training for technological requirements and the expanding needs of the Industry.

(d) Marketing Committee.

(e) Management Development Committee.

(f) The National Employees Benefit Board for the Electrical Contracting Industry.

(g) Council on Industrial Relations for Electrical Contracting Industry.

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~~(d) Marketing Committee.~~

~~(e)~~ (d) Management Development Committee.

~~(f)~~ (e) The National Employees Benefit Board for the Electrical Contracting Industry.

~~(g)~~ (f) Council on Industrial Relations for Electrical Contracting Industry.

Comment from NECA National Office:

Changes in the marketplace are among the most frequent and significant changes the association must face. New products, new competition for installation services and new strategies for the delivery of electrical construction services are being developed constantly. NECA needs to be able to react quickly to these developments. This change reflects efforts to bring greater flexibility and increased relevance to the activities of related taskforces.

This amendment is recommended **FOR** adoption.

Ordinary Proposal #1

Amend Standing Policy #15 (Electrical Industry Contractor Utility Relations)

Submitted by NECA Marketing Committee

Current Language:

**POLICY 15
Electrical Industry Contractor
Utility Relations**

Throughout most of the twentieth century, the electrical contractor and the utility company were viewed as individual parts of the total, integrated electrical industry. Each performed a unique role. The electric utility company generated, transmitted, and distributed electrical power to its customers, while the electrical contractor supplied the materials, equipment, labor, and expertise to build and maintain electrical facilities that allowed customers to convert electrical power into a wide variety of beneficial uses. Those distinct roles have changed dramatically in recent times. Lines of separation of responsibility and domain have blurred as deregulation, mergers, acquisitions, consolidations, and divestitures have altered the industry. Rapid changes in corporate structure and high turnover at utility companies have interrupted communication channels between utility firms and contractors. The good will that existed between the industry partners has practically evaporated.

Utilities are now engaged in activities traditionally performed by electrical contractors, either through acquisition of contracting firms or by independent development of capabilities. These actions raise concerns among electrical contractors that utilities are unfairly competing: first, by using resources subsidized by regulated electricity rates to lower direct costs; and second, by ignoring codes and standards that electrical contractors must observe.

Proposed Language:

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Utilities are now engaged in activities traditionally performed by electrical contractors, either through acquisition of contracting firms or by independent development of capabilities. These actions raise concerns among electrical contractors that utilities are unfairly competing: first, by using resources subsidized by regulated electricity rates to lower direct costs; and second, by ignoring codes and standards that electrical contractors must observe.

On the first point, NECA opposes the practice of cross-subsidization, whereby electrical utility companies, or the holding companies that own them, use resources obtained through regulated utility rates to enable their contracting subsidiaries to gain competitive advantage in the marketplace over electrical contractors. As a matter of principle and policy, NECA will endeavor to thwart this abusive practice whenever and wherever it occurs. NECA recognizes the legitimate right of businesses to compete in the electrical contracting market through legal and ethical practices, but will not hesitate to use its resources to oppose those practices it sees as illegal or unethical.

On the second point, NECA recognizes that both electrical contractors and utility companies must adapt to meet challenges in the business and regulatory environments where they operate. NECA maintains, however, that all firms engaged in the business of electrical contracting should operate under uniform industry standards that insure fair and open competition. Electrical utilities and contractors alike have a responsibility to their customers and the public-at-large to maintain a high level of quality, ensure effective electrical safety, and provide a high degree of electrical system reliability in the installations they provide. NECA believes that uniform standards like the National Electrical Code® and the *National Electrical Installation Standards™* should be adopted for their appropriate applications by all firms engaged in electrical contracting. NECA will oppose efforts to lower the standards that protect the public and that demand a high level of quality and reliability.

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Even prior to the deregulation of the electric utility industry, the communications industry experienced perhaps a greater transformation through industry

deregulation and the dismantling and restructuring of the corporate giants that comprised the Bell Telephone System. An industry that was almost exclusively voice communications over telephones and text messages sent over telegraph wires has exploded into a world of voice, data, and visual information delivered through vast networks of copper and aluminum conductors, fiber optic cables, microwaves and other wireless transmission. These networks have spawned a much more diverse set of communications utilities with widely varying business models, reaching across the traditional boundary at the service point. With the transformation of the voice-data-video industry have come broad opportunities for electrical contractors for specialty contracting work. As with electric power utilities, the communications utilities have become both customers and competitors for electrical contractors. NECA has responded to the market transformation by developing National Electrical Installation Standards for the emerging communication technologies, and works along with industry associates to develop appropriate codes and safety standards. NECA will continue to use its resources to expand opportunities for electrical contractors and insure that fair and open competition exists among contractors and communications utilities.

NECA advocates positive relations between electric utilities and electrical contractors, and encourages effective channels of communications at all levels. Electrical contractors and utility companies are most productive, and customers are best served, when the industry partners cooperate to deliver the goods. Disputes will arise and the parties will have to “agree to disagree” on some issues, but the industry and the end-users of electrical power will benefit from electric utilities and contractors working

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(Adopted Oct. 20, 2001)
(Revised Sept. 17, 2005)

from electric and communication utilities and contractors working together on common interest and competing fairly when interests diverge.
(Adopted Oct. 20, 2001)
(Revised Sept. 17, 2005)

Comment from NECA Headquarters:

Changes in the telecommunications and electrical utility industries have resulted in significant impacts on electrical contractors. The proposed changes to Standing Policy #15 better reflect the reality of the current marketplace.

The proposal is recommended **FOR** adoption.

Ordinary Proposal #2

Amend policy regarding grievance presentations at Council on Industrial Relations
Submitted by the Arizona Chapter, NECA

WHEREAS, the presentation of a grievance case demands a more orderly, structured, chronological approach to the presentation in order to adequately track the issue at hand; and,

WHEREAS the practice of many local NECA/IBEW Labor Management Committee is to require the grieving party to present its argument first so as to achieve a more orderly flow to the dispute resolution process; and,

WHEREAS, NECA is a sponsoring body to the CIR and continues to promote the effective use of the CIR as the preferred method of adjudication of disputes;

THEREFORE, be it resolved that NECA will work with the IBEW to modify the CIR presentation policy and procedure to reflect that the grieved party (defendant) will be allowed to decide who makes the opening argument before CIR.

Comment from NECA National Office:

It is Council's practice to alternate "who goes first" in presenting cases before it between the labor side and the management side without distinction between the type of case, e.g. a wage case or a grievance case. This practice is of longstanding and was adopted for the purpose and effect of assuring fair and impartial proceedings. Arbitrators are allowed to establish their own procedures as long as they provide due process and fairness to both sides. We do not know when or why the current system, rather than some other equally fair system, was adopted. There are alternatives.

Most commonly, it would seem, the grieving or moving party goes first to explain what happened and why they believe this constitutes a violation of the agreement. While this appears logical, there may be situations where the non-moving party (defendant) would like the opportunity to present first. Inasmuch as this proposal would give the non-moving party the opportunity to decide how best to mount its defense to the charges brought by the other party, by deciding who will make the opening statement, we believe it is a fair and workable arrangement, although changes to Council practices and procedures, of course, require the concurrence of the IBEW.

This proposal is recommended **FOR** adoption.