



Labor Relations Bulletin

FROM THE NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

Subcontracting FAQ

Category I Language:

The Local Union is a part of the International Brotherhood of Electrical Workers and any violation or annulment by an individual Employer of the approved Agreement of this or any other Local Union of the IBEW, other than violations of Paragraph 2 of this Section, will be sufficient cause for the cancellation of his Agreement by the Local Union after a finding has been made by the International President of the Union that such a violation or annulment has occurred.

The subletting, assigning, or transfer by an individual Employer of any work in connection with electrical work to any person, firm or corporation not recognizing the IBEW or one of its Local Unions as the collective bargaining representative of his employees on any electrical work in the jurisdiction of this or any other Local Union to be performed at the site of the construction, alteration, painting or repair of a building, structure or other work, will be deemed a material breach of this Agreement.

All charges of violations of Paragraph 2 of this Section shall be considered as a dispute and shall be processed in accordance with the provision of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

Summary:

When it is alleged an employer has sublet, assigned, or transferred electrical work to anyone not covered by an IBEW collective bargaining agreement, the Union may grieve the action and seek resolution through the dispute resolution procedures outlined in the applicable collective bargaining agreement.

1. What is electrical work?

The IBEW will maintain it is everything falling within their claimed jurisdictions. Excerpt of the IBEW Constitution:

There must be a systematized knowledge of the science of electricity in all of its various applications of electron transfer and electromagnetism. This requires a thorough understanding of the many means of production, transference, control and utilization of electricity and of the foundation or preparatory work to be performed. It is quite necessary, therefore, that the jurisdiction of the I.B.E.W. be recognized as one covering:

- a. The manufacture, assembling, construction, installation, or erection, repair or maintenance of all materials, equipment, apparatus, and appliances required in the production of electricity and its effects.*
- b. The operation, inspection, and supervisors of all electrical equipment, apparatus, appliances, or devices by which the energy known as electricity is generated, utilized amid controlled.*
- c. The manufacture, assembling, construction, installation, or erection, repair, or maintenance of all materials, equipment, apparatus, and appliances required in the transmission of data, voice, sound, video, and other emerging technologies (including fiber optics, high speed data cable, etc.).*

The constitution continues to further define the five jurisdictions it covers. For reference, the full jurisdiction section of the constitution can be viewed by clicking [HERE](#).

This should not be taken to mean employers are bound by the IBEW Constitution. They are not a party to this document. It is referenced to help frame the thinking of our labor counterparts. This is their belief and mission: everything is electrical work. While this is a noble pursuit for the unionized industry, it may not always be practical.

The definition is more nuanced and very dependent on area past practice. There will be circumstances in which an employer may sublet work in one area and not be alleged to have violated this section but may travel to another area and see the practice challenged. A strict reading of the language says this should not be: ...on any electrical work in the jurisdiction of this or any other Local Union... So, if it is not wrong in one, it should be fine across the board; however, the inverse of that statement may also be applied.

2. When may an employer sublet work?

In general, the industry has accepted an employer may sublet work when there are not qualified, signatory employers in the area capable of performing the work. Also, an area may historically allow the subletting of a particular type of work. In this case, the employer may sublet and be deemed compliant with the agreement. It should be noted this is very area dependent, and each case should be evaluated independently to determine if there is a violation.

3. The work requires a special certification/training/equipment the employer does not possess. May the employer sublet this work?

This question speaks to the “qualified” signatory employers in the previous question. If there are no employers in the area that possess the certification/training/equipment, then an argument can be made the employer may sublet.

However, if there is an area past practice in which this work has been historically performed by signatory employers, the employer seeking to sublet work will face a challenge from the Local Union should they attempt to sublet to a non-signatory individual or firm and will most likely not prevail. Any employer traveling into a new jurisdiction should always confirm any and all local area practices before bidding/commencing work.

4. What if there are signatory employers in the area who perform this type of work, but they are known to poach the customer or cause other issues when the work is sublet to them?

This does not remove the applicability of the subcontracting clause. An employer who chooses to assign work to a non-signatory individual or firm in this instance may face a challenge.

5. What if there are signatory employers in the area who perform the work, but their price would cause the potential loss of the entire project should the employer be forced to sublet to them?

This does not remove the applicability of the subcontracting clause. In this case, it is recommended to discuss the issue with the Chapter and the Local Union to seek resolution, so the entirety of the work does not get assigned to a non-signatory firm.

6. The Local Union has alleged the employer may not sublet work to another signatory electrical employer. Is this correct?

No. The employer is free to sublet/assign work to other signatory electrical firms as needed.

7. The customer/owner has assigned work alleged to be electrical work to a non-signatory firm. Is the employer in violation of the subcontracting clause?

No. If the customer has assigned the work elsewhere and not included it as part of the electrical contractor's bid, the employer has no control over this decision and is not in violation.

This document and its contents are not to be used for bidding purposes. All inquiries about Subcontracting or the Collective Bargaining Agreement should be directed to the respective NECA Chapter for the applicable area.

In cases where parties claim they have new and important evidence affecting a case in which decision has been rendered, they may submit this within thirty (30) days to the authority who rendered the first decision, with a request that the case be reopened. Such authority shall decide whether the matter submitted justifies reopening the case.

ARTICLE XXVI

JURISDICTION

Sec. 1. The charter issued this organization by the American Federation of Labor states that it was granted “for the purpose of a thorough organization of the trade.”

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(a) The manufacture, assembling, construction, installation or erection, repair or maintenance of all materials, equipment, apparatus and appliances required in the production of electricity and its effects.

(b) The operation, inspection and supervisors of all electrical equipment, apparatus, appliances, or devices by which the energy known as electricity is generated, utilized amid controlled.

(c) The manufacture, assembling, construction, installation or erection, repair or maintenance of all materials, equipment, apparatus and appliances required in the transmission of data, voice, sound, video and other emerging

technologies (including fiber optics, high speed data cable, etc.).

Sec. 2. Electrical workers shall be organized under five general branches of the I.B.E.W., namely: Outside and Utility Workers; Inside Electrical Workers; Communications Workers; Railroad Electrical Workers; and Electrical Manufacturing Workers.

Sec. 3. Keeping in mind progress for the I.B.E.W., and that all electrical work be done by its members, it is impractical to classify or divide jurisdiction of work in every detail between the various branches in this organization to meet all situations in all localities. Therefore, the classifications and divisions outlined below are necessarily of a general nature, and L.U.'s whose jurisdiction with other L.U.'s of the I.B.E.W., or whose agreements are harmonious and conducive to the progress of the I.B.E.W., shall not be disturbed. But when harmony and progress do not prevail, or when disputes arise, the I.P. shall determine what L.U. will do certain work or jobs, consistent with the progress and best interests of the I.B.E.W. in obtaining and controlling the work in question.

Outside and Utility Workers

Sec. 4. These shall include: Foremen, linemen, electrical rail grinders, groundmen and helpers. Outside electrical inspectors, cable splicers, technicians, trimmers, maintenance men, and clerical workers. Aerial and underground cable men and combination trouble men working for distributing companies. Load dispatchers, metermen, station attendants and switchboard operators in lighting and power stations. Telephone switchboard operators and trouble men working for distributing companies. Fire and police operators, maintenance and battery men, signalmen

and electrical layout men. Operators of electrical apparatus when generating, furnishing or supplying electricity.

All employees of utility employers generating or producing or transmitting or distributing electricity, gas or water.

They are to have jurisdiction over the following:

The operation, maintenance and repair of equipment owned or operated by utility employers. All electrical construction work outside of isolated plants and the property lines of any given property, but not electric signs, and not street electrical decorations, except when messenger or guy wire is necessary for support and when fed and controlled from the street.

Series arc lamps and wiring when fed and controlled from the street. All line work consisting of wood, concrete or metal (or substitutes therefor), poles or towers, including wires, cables or other apparatus supported therefrom. Line work in public, private or amusement parks.

All work necessary to the assembling, installation, erection, operation, maintenance, repair, control, inspection and supervision of all electrical apparatus, devices, wires, cables, supports, insulators, conductors, ducts and race-ways when part of distributing systems outside of buildings, railroads and outside the directly related railroad property and yards. Installing and maintaining the catenary and trolley work on railroad property, and bonding of rails. All underground ducts and cables when they are installed by and are part of the system of a distributing company, except in power stations during new construction, including ducts and cables to adjacent switch racks or substations. All outdoor substations and electrical connections up to and including the setting of transformers and connecting of the secondary buses thereto.

Renewable electrical energy sources such as solar photovoltaic, geothermal, wind, biomass, wave, etc., and other distributed energy installations such as fuel cells, microturbines, etc.

Inside Electrical Workers

Sec. 5. These shall include: Wiremen, technicians, fixture men, crane men, crane repair men, signal men, load dispatchers, trouble men, switchboard operators and erectors, operators of electrical apparatus when generating, supplying or furnishing electricity for other than distributing companies. Inside cable splicers, picture machine operators when the machines are used for educational or advertisement purposes other than theatrical.

Inspectors, shop men, bridge operators, crane operators, meter testers and installers, inside battery men, fire and burglar alarm installers and repair men, marine electrical workers, glass tube benders and pumpers.

They shall have jurisdiction over the following:

All electrical signs, all street electrical decorations when no messenger or guy wire is necessary for support. Installation, construction, inspection, operation, maintenance and repair of all electrical work in isolated plants and within property lines of any given property, and beginning at the secondary side of the transformer, except line work consisting of poles and towers, including wires or cables and other apparatus supported therefrom and except all outdoor substations as defined in Sec. 4 hereof.

When aerial wires or cables are used to provide electric current for buildings or structures within the property lines of any given property, the inside men's jurisdiction shall

start immediately after the first point of attachment of such aerial wires or cables to such buildings or structures.

Renewable electrical energy sources such as solar photovoltaic, geothermal, wind, biomass, wave, etc., and other distributed energy installations such as fuel cells, microturbines, etc.

Communications Workers

Sec. 6. These shall include the following divisions and classifications:

(a) Radio, television and recording engineers, technicians, operators, installers, inspectors, maintenance and repairmen and service men, engaged in the application of electricity to the transmission and transference of voice, sound and vision for commercial, educational and entertainment purposes, excepting employees of common carrier companies.

They shall have jurisdiction over the following work:

The installation, operation, inspection, maintenance, repair and service of radio, television, recording, voice, sound and vision production and reproduction apparatus, equipment and appliances used for domestic, commercial, educational and entertainment purposes.

(b) Telephone and other workers, employed by common carrier communications companies, engaged in the erection, installation, operation, maintenance, repair and service work associated with telephone, and intercommunication electrical apparatus used in the transmission, transference production and reproduction of voice, sound and vision in the public or private communications services supplied by common carriers.

They shall have jurisdiction over the following work:

The erection, installation, operation, maintenance, repair and service of such telephone, and intercommunication facilities, beginning at the first point of distribution or the first terminal inside of building or property lines.

Railroad Electrical Workers

Sec. 7. Railroad electrical workers are those employed by railroad companies, including wiremen, technicians, fixture men, armature winders, meter men, electrical inspectors, switchboard operators, generator, motor and substation attendants, electric crane operators, cable splicers, signal men and signal maintainers, power, telephone linemen and repairmen, ground men, electrical rail grinders, rail bonders, electrical bridge operators, battery men amid all electrical workers employed by railroad companies.

They shall have jurisdiction over all electrical work on the property of the railroad companies.

It is hereby provided, however, that under no circumstances shall they do any construction or reconstruction work where building trades mechanics are doing work in connection with it. Any dispute will be referred to the I.P. for a decision.

Electrical Manufacturing Workers

Sec. 8. These shall include: All employees of companies engaged in the manufacture of products, components, equipment, apparatus, machines, devices and appliances

used in the production, transmission, conversion, control, distribution, measurement and utilization of electricity.

They shall have jurisdiction over the following:

All work performed by such employees in the manufacture, testing, rebuilding and repair of these products on the premises of the company.

Sec. 9. All government workers may be organized under any of the above general branches of the I.B.E.W., as stated in Section 2.

ARTICLE XX VI AMENDMENTS TO THIS CONSTITUTION

Sec. 1. This Constitution and the rules herein can be amended in three ways:

(a) By referendum, on petition of fifteen (15) L.U.'s of which no two (2) L.U.'s may be from the same state or province. Petitions may be submitted at any time, however, in Convention years, all petitions for referendum must be received prior to March 1st. All petitions must be submitted to the I.S.T. Proposed amendments, before being submitted by the I.S.T for vote, must have the approval of the I.E.C. A vote on any proposal taken by referendum shall be returned to the I.S.T by each L.U. voting, within sixty (60) days from the date submitted. A majority of those voting shall be necessary to sustain any proposal. (L.U.'s may cast the vote of their members, if they so decide.) After receiving from the L.U.'s a record of votes cast for or against any proposal, the I.S.T shall prepare for publication in the next issue of the I.B.E.W. official JOURNAL a report of the exact votes for and against the proposed amendment. Amendments adopted by referendum shall become effective thirty (30) days after adoption.