

**ALBANY NECA CHAPTER  
LABOR MANAGEMENT COMMITTEE  
DECISION**

Wednesday, December 2, 2015

A meeting of the Labor Management Committee (LMC) was held on Wednesday, December 2, 2015 at 9:50 a.m. at the offices of the Albany Chapter of the National Electrical Contractors Association, 16 Wade Road, Latham, New York, for the purpose of addressing a Petition for Grievance filed by IBEW Local 236 against M. Scher & Son, Inc. (see attached Notice of Grievance Hearing).

Present at the Hearing:

**Committee Members**

**IBEW Local 236**

Don Rahm, Chair  
Michael Torres  
Paul Fitzmaurice

**Albany NECA Chapter**

Jerrald Cherrier, Chair  
Kevin Haggerty  
Eileen LaCorte

Executive Director/Secretary

Stephen Chamberlain

Business Manager IBEW Local 236

Mark Lajeunesse

**For Grievants**

Mark Tibbits, Bob Sloboda and Mark Lajeunesse on behalf of IBEW Local 236

**For Respondent**

Bill Whiteman, M. Scher & Son, Inc. and  
Stephen Chamberlain on behalf of the Employer

After careful consideration of the evidence submitted, the committee ruled as follows:

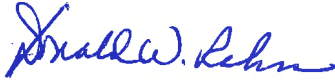
- Regarding the alleged violation of Article II, Sections 2.04 of the Inside Agreement – There was no clear cut violation of the agreement as the work subject to the grievance was subcontracted out to a contractor required by the customer who then subcontracted the work to another contractor.
- Regarding the alleged violation of Article II, Sections 2.09 of the Inside Agreement – The Committee found sufficient evidence that a member of your firm worked with tools on a contract in excess of \$25,000 in violation of the agreement.

The committee estimated that the time worked amounted to eight hours of work (seven hours of straight time and one hour of overtime). M. Scher is ordered to pay \$252 (the equivalent of seven hours straight time pay) to the General Fund of the Local and \$59.40 plus benefits (the equivalent of 1 hour of overtime pay and benefits) to Mark Tibbits for work he would have performed had no work been done in violation of Section 2.09 of the agreement.

- Regarding the alleged violation of Article II, Section 2.22 of the Inside Agreement – There was no clear cut violation of the agreement as the work subject to the grievance was subcontracted out to a contractor required by the customer who then subcontracted the work to another contractor.

- Regarding the alleged violation of Article III, Section 3.20 of the Inside Agreement –There was no violation of the agreement as Mark Tibbits a member of Local 236 was a foreman on the job.

Respectfully Submitted,



Donald W. Rahm  
LMC Chairman  
IBEW Local 236



Stephen Chamberlain  
Executive Director/Secretary  
Albany NECA Chapter

cc: Bill Whiteman, M. Scher & Son, Inc.  
Mr. Mark Lajeunesse, Business Manager IBEW Local 236  
Contractor LMC members

**ALBANY NECA CHAPTER  
LABOR MANAGEMENT COMMITTEE  
NOTICE OF GRIEVANCE HEARING (2 of 2)**

November 20, 2015

Please be advised that notice of a Petition for Grievance is being filed by IBEW Local 236 against M. Scher & Son, Inc. with a request that this matter be heard before the Labor Management Committee (LMC) on **Wednesday December 2, at 9:30 A.M.** at the Albany NECA Chapter Office, 16 Wade Road, Latham, NY.

The grievance scheduled to be heard stems from a charge filed by the Local against Contractor as follows:

**Charge:**

- a. IBEW Local 236 alleges M. Scher & Son violated Article II, Sections 2.04, 2.09, 2.22 and 3.20 of the Agreement between IBEW Local No. 236 and the Albany Electrical Contractors Association NECA Albany Chapter (CBA).

**Background:**

Grievant alleges that M. Scher & Son used a non union worker from Mohawk Valley Utility Construction Corporation (David Whiteman) and M. Scher's Manager Willard Whiteman to work on the Regeneron site during the shutdown on September 22, 2015.

**Remedy Sought By Grievant:**

Scher & Son to pay 16 hours of straight time and 12 hours of overtime pay and benefits to be paid at an hourly rate to be divided by the Local 236 members working on the job that day.

**Respondent's Contention:**

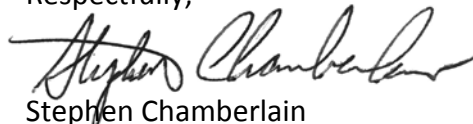
--See Attached Letter to IBEW Local 236 dated September 28, 2015--

**Attendees:** Local 236 Committee Members: **To be determined by Local.**

Contractor Committee Members: Jerald Cherrier - Chairman  
Kevin Haggerty  
Eileen LaCorte

Mr. Mark Lajeunesse to represent Local 236  
Mr. Willard H. Whiteman for M. Scher & Son, Inc.

Respectfully,



Stephen Chamberlain  
Executive Director /Secretary  
Albany NECA Chapter

cc: John Mosher, President IBEW Local 236  
Willard H. Whiteman, M. Scher & Son, Inc.  
Mr. Mark Lajeunesse, Business Manager IBEW Local 236  
Contractor LMC members



<b>IBEW FAX</b>	<b>SUPPORT UNION LABOR</b>
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IBEW Local 236  
 3000 Troy Schenectady Rd.  
 Schenectady NY 12309

(518) 783-9967 Main Office  
 (518) 783-5336 Fax

To: <i>Stewe</i>	From: Mark Lajeunesse, Business Manager
Fax:	Pages (including cover): <i>2</i>
Phone:	Date: <i>9/25/15</i>
Re:	CC:

If you do not receive entire transmittal, please call 518-783-9957.

Urgent  For Review  Please Comment  Please Reply  Please Recycle

• Comments:

*Will be faxed to Scher*

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# INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS Grievance Form and Record of Proceedings

Local 236

Company M. Scher and Son

Grievance No. 2

Name \_\_\_\_\_

Date 09/25/2015

State Grievance Violations of the Working Agreement 2.04, 2.09, 2.22, 3.20. Scher Electric used non union worker from Mohawk Valley Electric Days Whiteman and Scher's Manager Billy Whiteman to work on the Regeneration site during the shutdown on 09/22/15.

Settlement Requested 16 hours of straight time and 12 hours of overtime pay and benefits to be paid at a hourly rate divided for the local 236 members working on the job that day.

Signed IBEW 236  
AGGRIEVED EMPLOYEE

Signed Mark D'Agnesse  
UNION REPRESENTATIVE

Company's Reply to Grievance \_\_\_\_\_

Signed \_\_\_\_\_  
COMPANY REPRESENTATIVE DATE

Is Decision Satisfactory? Yes  No

Has Case Been Appealed? Yes  No

Signed \_\_\_\_\_  
UNION REPRESENTATIVE DATE

Union's Reply \_\_\_\_\_

Signed \_\_\_\_\_  
UNION REPRESENTATIVE DATE

Company's Reply \_\_\_\_\_

Signed \_\_\_\_\_  
COMPANY REPRESENTATIVE DATE

Is Decision Satisfactory? Yes  No

Has Case Been Appealed? Yes  No

Signed \_\_\_\_\_  
UNION REPRESENTATIVE DATE

Union's Reply \_\_\_\_\_

Signed \_\_\_\_\_  
UNION REPRESENTATIVE DATE

Company's Reply \_\_\_\_\_

Signed \_\_\_\_\_  
COMPANY REPRESENTATIVE DATE

Is Decision Satisfactory? Yes  No

Signed \_\_\_\_\_  
UNION REPRESENTATIVE DATE

Case Appealed By: Union \_\_\_\_\_

Company \_\_\_\_\_

Date \_\_\_\_\_

# M. SCHER & SON, INC.

MEDIUM & HIGH VOLTAGE ELECTRIC POWER SYSTEMS  
136 North Lake Avenue  
Albany, New York 12206

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September 28, 2015

IBEW Local 236  
3000 Troy Schenectady Rd.  
Schenectady NY 12309

Attn: Mark Lajeunesse, Business Manager

Dear Mr. Lajeunesse,

In response to your fax dated 9/25/15 to our office regarding the charges implemented by Local 236, I am appalled that such charges or accusations are even put into writing by your office. As discussed at our meeting with yourself and Mr. Don Rahm on 9/24/15 at 10:00 AM, the work violation as stated was questionable whether it was even the jurisdiction of Local 236, with confirmation at our meeting from Mr. Don Rahm that it was in fact not your work. Even if the work was that claimed by Local 236, there were no qualified personnel available to perform the required medium voltage splicing.

Let's back up to the events leading to the accusations from Mr. Mark Tibbits, our Foreman on the project from day one. Mr. Tibbits was doing an adequate job performing his duties until he submitted to me the cable measurements for a run of 350MCM 5kv cable inaccurately costing M. Scher & Son, Inc. well over \$10,000.00 to remove the short cable, purchase new longer cable, and reinstall the correct length cable. A 1" underground conduit installed by Mr. Tibbits is impassable to this day, please indicate when Mr. Tibbits will be on site to perform corrective action, on his own time as per the Agreement. Next was the 5kv termination installation on the cables that were as confirmed by our meeting and Mr. Don Rahm, out of Local 236's scope of work. As you are aware, High Voltage Electric Service, Inc. (HVES) is the designated Contractor by the Owner (mandatory for all Contractors) to perform medium and high voltage splicing and terminating at Regeneron. HVES contracted Mohawk Valley Utility Construction Corp. to perform the terminations on 9/03/15 as the testing was being done on 9/04/15 and the 18 - 5kv terminations had to be accomplished on 9/03/15, easily accomplished by the staff of HVES/Mohawk Valley Utility. Mr. Tibbits was not on site that day but seemed to be able to tell me the story in his opinion of exactly what happened and who was there that day, might that have been hearsay?

I spoke to Mr. Paul Fitzmaurice from your office requesting splicers that could perform the work necessary for the completion of the shutdown on 9/22/15 as discussed during our meeting with you and Mr. Don Rahm on Thursday 9/24/15. Mr. Fitzmaurice assured me that we would have splicers that could perform hand taped lead splices as required. In phone conversations on Friday 9/18/15 with those two men assigned by Local 236 for the task at hand, neither one of them was familiar nor qualified nor experienced to perform the work. Even knowing their inability to accomplish the task, I agreed to hire the two men under the direction and assistance of David

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Phone: (518) 462-5544

Fax: (518) 462-6758

Whiteman, whom is an expert at these particular splices with many years of experience to maintain a good relationship with Local 236, a relationship obviously only being sought by M. Scher & Son, Inc. I explained my dilemma to Mr. Fitzmaurice via a phone conversation Friday 9/18/15 and he agreed that this arrangement with David Whiteman was acceptable and to proceed with the work as planned. To further our embarrassment with Local 236, the Customer threatened to terminate our Contract with them 9/22/15, the night of the shutdown, due to the "slacking" of the 236 hires throughout the day and not meeting the 7:00PM shutdown deadline as discussed and confirmed accomplishable with the hires from 236 that morning.

Did Mr. Tibbits mention in his complaint that on Monday 9/21/15 his vehicle broke down at the site and after 11:30 AM was on site but unavailable to perform the tasks required? I had asked him (with the 5 other men that came that day for orientation) to complete the As-Built Drawings for turnover. A very simple task with 6 men. This never happened as the men complained that they were there for orientation and were not aware that they had to work for their pay of which they were all paid for a full 8 hours. The As-Built were never completed.

Did Mr. Tibbits also mention that on the day of the shutdown (9/22/15) he spent considerable time arranging the pickup of his vehicle which remained at the site from the day before, and left with the tow truck at 9:00 PM, prior to the completion of the shutdown without telling me? Did Mr. Tibbits explain to you that after all of the men had left the site the night of the shutdown that there was still a generator, lights, extension cords and garbage not picked up and put away?

Please explain how you arrived at the number of hours being accessed as the men were only on the site a total of 13 hours for some and 13.5 hours for others. David and I performed the testing, LOTO and grounding of the 4.8kv circuits as the 236 men were not familiar, trained or to my comfort level capable of safely performing this task at that voltage. David and I also rigged the old switchgear from the existing pad, a job not in your scope of work. Once the rigging was accomplished I left the site at 8:30AM and didn't return until 3:00 after a disturbing phone call from the Owner regarding the unacceptable performance being set forth by the 236 Employees.

I look forward to a productive and long lasting relationship with Local 236, but no compensation will be offered or is due to Local 236 or its men regarding your fax request for compensation dated 9/25/15. It is actually appalling that knowing the history of the project as discussed at our meeting, and that prior approval from your office was given to me to proceed with the work as explained above, that such accusations or charges would come from your office.

Please contact me with any questions.



Willard H. Whiteman  
Vice President  
M. Scher & Son, Inc.



Martin H. Scher  
President  
M. Scher & Son, Inc.