The Detroit Edison Company *and* Local Union No. 223, Utility Workers of America, AFL–CIO. Case 7–CA–31623

September 26, 1994

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS AND DEVANEY

On March 31, 1992, Administrative Law Judge John H. West issued the attached decision. The Respondent filed exceptions and a supporting brief. The General Counsel filed an answering brief to the Respondent's exceptions.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions only to the extent consistent with this Decision and Order.

The sole issue in this case is whether the Respondent violated Section 8(a)(5) and (1) of the Act by refusing to provide specified information requested by the Union dealing with the cost of the Respondent's use of outside contractors. The judge found that the Respondent violated the Act and ordered it to promptly furnish the information. For reasons described below, we disagree with the judge and dismiss the complaint in its entirety.

Background

The following facts, more fully described in the judge's decision, are not substantially in dispute. The Respondent and the Union have had collective-bargaining agreements since the 1940s. Article VIII, section 5 of the relevant collective-bargaining agreement[2] reads:

> Section 5. Outside contractors.
>
> a. If Management proposes to contract work which is regularly and customarily done by the employees in a bargaining unit, and such contracting appears to threaten their security of employment, the chairman or chief steward of the division will be given prior notice thereof.
>
> b. Work will not be contracted out for the purpose of laying off or reducing in classification employees who regularly and customarily do such work. (Reference: Letter by William G. Meese dated June 19, 1969.)[3]

Over the years, the Union has sought by various means to limit the Respondent's contractual use of outside contractors, including by the filing of grievances. In 1988 the parties entered into a settlement agreement which provided that the Respondent would give quarterly reports to the Union on all agreements with outside contractors that exceeded more than $1000. The Respondent began providing these reports in the third quarter of 1988.

During the 1989 contract negotiations, the Union and the Respondent entered into two side-bar agreements covering outside contractors. One agreement created a joint union-management committee to meet on a semiannual basis to review the use of outside contractors. The other provided, inter alia, that the Respondent ''will maintain employment levels in Local 223 represented jobs at no less than a total of 3,000 employees for the period beginning June 5, 1989 and expiring on May 31, 1992.''

The joint committee met three times before the request for information here was made.[4] According to the minutes of these meetings, management pointed out at the first meeting that requesting information as an extension of contract negotiations is different from requesting information as a subcommittee. Management also indicated its concern that information provided in response to numerous requests had never been used by the Union and asked why the Union wanted the information and how it would be used. A union representative stated at that same first meeting that the Union did not ask for information until management claimed that union members were too expensive to use and also expressed concern about management's bookkeeping practices. The parties continued, at subsequent meetings, to discuss the need to know the true costs of using outside contractors.

[1] The Respondent requested oral argument. This request is denied as the record, the exceptions, and the briefs adequately present the positions of the parties.

[2] The agreement was effective from June 12, 1989, through June 1, 1992.

[3] The Meese letter sets forth the existing policy of management on the use of outside contractors. It ends with:

> Within the framework of . . . [specified] factors, the work should be performed by our own employees or by an outside contractor on the basis of least cost. In each case we must exercise prudent judgment before reaching a decision to utilize [contractors].

The parties disagree about whether the Meese letter, dated June 19, 1969, is in fact part of the contract. The Respondent introduced an arbitrator's ruling, dated July 2, 1976, to support its contention that it is not part of the contract, i.e., that it is part of the Respondent's policy but not a contractual commitment. The General Counsel has submitted the letter but no specific testimony or document that establishes that it is part of the contract. The judge described the document but made no specific finding that it is part of the contract. In view of our finding below, we find it unnecessary to pass on this issue.

[4] These meetings were held in December 1989 and in June and September 1990. A fourth meeting was held on March 5, 1991, the day before the charge was filed.

In late December 1990, the Union forwarded a letter, dated December 13, 1990, to the Respondent requesting the information at issue. In essence, the Union's letter, noting remarks by the Respondent that union members were going to have to compete with outside contractors, stated that the Union needed the 19 items of information related to cost analysis, specified in the letter, in order to assess its ability to compete and to represent its members.[5]

By letter dated February 13, 1991, the Respondent denied the Union's request. The Respondent's reply, inter alia, cited the information on contracting that had been supplied to the Union on a timely basis since 1988, claimed that the 19 categories of information requested related to nonarbitrable nonbargaining unit activity, and stated that management had no obligation to justify its business decisions to the Union, particularly since the Union's letter acknowledged that management had not used cost as a justification to contract.

The Judge's Decision

In concluding that the Respondent violated the Act by failing to provide the requested information, the judge acknowledged that the information was not presumptively relevant because it related to the cost of outside contractors but nevertheless found that the Union has demonstrated that the information is of probable or potential relevance.[6] In arriving at this conclusion, he found that the Respondent itself made the cost of using outside contractors an issue, citing the Meese letter, the Respondent's agreement to make quarterly reports in 1988, and the side-bar agreement of 1989 that established a joint committee to review the use of outside contractors.

The judge also found that the Respondent made the union members' wages and benefits a midterm collective-bargaining agreement issue by telling union members that they had to get more competitive with outside contractors and that they could be replaced by $10-an-hour contractors. Thus, he found that the information is relevant because it relates to the preservation of unit work, citing testimony by employee John Breen, the union chairman of the substation division of the unit and a union trustee, that if the Respondent could demonstrate that the Union's costs were higher, the Union would have to reassess its position on wages and benefits, including a possible midterm modification of the collective-bargaining agreement.

Discussion

We disagree with the judge's ultimate conclusion, because in our view, he failed to take adequate account of admissions by Union Representative John Breen, in his testimony at the hearing. Those admissions negate the judge's finding that the requested information was relevant to administration of the current contract, bargaining for possible contract modifications, or any other representative function.

As an initial matter, Breen essentially conceded that the contractual provisions on subcontracting—read in the light of the parties' dealings on the subject over a number of years—permitted the Respondent freely to contract out unit work subject only to the conditions stated in article VIII, section 5 of the agreement. Those were that the Respondent would not contract out unit work ''for the purpose of laying off or reducing in classification'' any unit employees and that if the Respondent proposed any instance of contracting out that even ''appear[ed] to threaten'' the unit employees' ''security of employment,'' it would give ''prior notice'' of that proposed subcontracting to the Union. The subcontractor cost data that the Union sought had no apparent connection to either of those provisions, and Breen conceded that the Union was not in the process of formulating any ''particular grievance'' when it made the information request. He further conceded, under cross-examination, that even if the Union obtained data suggesting that the Respondent was paying more to its subcontractors than it would cost to keep the work in-house, the Union would have no basis for claiming a contract breach. Finally, Breen conceded that the Respondent had not breached either the 1988 agreement settling an unfair labor practice charge alleging unlawful refusal to furnish subcontracting information[7] or the 1989 side-bar agreements pertaining to the subcontracting, and he did not claim that the Union even suspected the Respondent of breaching those agreements. Thus, the cost data lacked even *po-*

[5] The Union's letter is reproduced in App. F of the judge's decision. In addition to requesting data for various categories of costs relating to subcontracting, it also requested any in-house studies of costs of subcontracting and disclosure of which corporate groups were paying for such studies.

[6] The judge's view of the standard was quoted from *Westinghouse Electric Corp*., 239 NLRB 106, 107 (1978).

The Respondent points out that *Westinghouse*, supra at 109, also provides, in addition to the language quoted by the judge, that:

> With respect to the information requested in items 1 through 6, insofar as it covers nonunit personnel, we agree with the Administrative Law Judge that the Union is not entitled to such information. We note that an employer is not relieved of its obligation to supply information to the exclusive bargaining agent merely because the information relates to nonunit employees. However, although a union need not make a special showing of relevance to obtain information about employment of employees within the bargaining unit, *where the request for information concerns matters outside the bargaining unit the union must ordinarily demonstrate more precisely the relevance of the date requested*. [Emphasis added.]

[7] In settlement of that charge, the Respondent agreed to provide quarterly reports on the use of outside contractors for any contract that exceeded $1000 in value. Breen conceded that all of the reports required by the 1988 settlement agreement were furnished and that if the Union had any ''problems'' with any of the reports, those had been taken care of to its satisfaction ''so far.''

tential relevance to grievances over breach of any of the written agreements between the parties.[8]

Breen's testimony is also fatal to the judge's finding that the requested information was relevant to possible modifications of the subcontracting provisions of the collective-bargaining agreement. No midterm reopener provision was in evidence; neither party had announced any intention of asking for midterm negotiations; negotiations for a successor agreement were not due to occur soon, since the contract did not expire until 18 months later—in June 1992. It is therefore understandable why Breen conceded at the hearing that it was ''correct'' to say that the information request had ''nothing to do with contract negotiations.''[9] In sum, the timing of the request and Breen's testimony makes the finding of relevance on the basis of possible contract modifications insupportable.[10]

Finally, we disagree with the judge's finding that the Respondent's conduct in connection with the two 1989 side-bar agreements pertaining to the use of outside subcontractors effectively made the Union's information requests relevant to ''preservation of unit work.'' As noted above, in 1989 the Respondent agreed to ''maintain employment levels of employees in Local 223 represented jobs at no less than a total of 3000 employees'' until expiration of the 1989–1992 collective-bargaining agreement, and it also agreed to establish a joint labor-management committee to review the use of outside contractors, with twice-yearly meetings for this purpose. Breen testified that, during meetings of that committee, representatives of the Respondent commented that it cost less to use outside contractors than to use unit employees and that unit employees needed to ''get competitive with the contractors.'' It is understandable that these remarks stimulated a desire on the part of the union representatives to attempt to prove that unit employees were ''competitive,'' and contractor cost data would be relevant to such an attempt. The fact remains, however, that, given the agreements on maintenance of unit employment levels and the Respondent's acknowledged freedom to make unilateral subcontracting decisions—subject only to the contractual conditions mentioned above—the requested subcontractor cost data simply had no potential linkage to any bargaining which the Union could demand on behalf of the unit employees at or near the time of its information request. Thus, even though Breen testified that the requests were motivated by ''our concern'' for ''the threat to our members' employment security,'' he conceded that no unit member had been laid off or reduced in classification; and he did not identify any basis for suspecting either that the Respondent might be in breach of the 3000-job-level requirement or that any unit employee might suffer a job loss.

In sum, we do not disagree with our dissenting colleague's view that a union's representational responsibilities go beyond the formulation of contract proposals; they also encompass, among other things, administration of the current contract and continual monitoring of any threatened incursions on the work being performed by bargaining unit members. But, as shown above, the testimony of Breen, cited by our colleague, concerning fears about reduction of unit employment through attrition and the introduction of subcontracting into ''new areas'' was shown to have no substance by Breen's own admissions on cross-examination. By conceding that he had no basis for even suspecting that the Respondent might be in breach of any of the various agreements related to subcontracting—including the agreement to maintain union-represented employment at the 3000-job level—the Union's agent essentially admitted that his alleged concerns had no objective basis beyond the management representative's baiting about ''cost-competitiveness.'' The union representatives were legitimately annoyed by the implication that the employees they represented were overpaid, but a ground for annoyance does not necessarily meet the relevancy standard by which the Board judges a bargaining representative's requests for information.

For all the foregoing reasons, we find that the Respondent did not violate Section 8(a)(5) and (1) through its refusal to furnish the requested information, and we shall dismiss the complaint in its entirety.

Accordingly, we shall dismiss the complaint in its entirety.

ORDER

The complaint is dismissed in its entirety.

MEMBER DEVANEY, dissenting.

Contrary to my colleagues, I would affirm the judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing the Union's re-

[8] The General Counsel cites *Colgate-Palmolive Co.*, 261 NLRB 90, 92 fn. 12, 100–101 (1982), for the proposition that a union's right to information need not be premised on a particular controversy. There, the information sought by the Union was related to a health and safety clause in the effective contract. The Board specifically found that the contract ''commits the parties to, inter alia, mutual cooperation 'in eliminating unsafe conditions and unhealthy practices.''' Id. at fn. 11.

The record here does not show that the parties have committed themselves to a comparable broad ''mutual cooperation'' in connection with the Respondent's right to subcontract.

[9] These facts distinguish this case from the situation in *General Electric Co.*, 294 NLRB 146 (1989), enf. denied 916 F.2d 1163 (7th Cir. 1990). In that case, the Board found that the respondent violated Sec. 8(a)(5) and (1) of the Act by refusing to furnish the union with requested information concerning the costs of maintenance work subcontracts, because the information was relevant to the negotiation of a successor agreement and the union had specifically referred to this use of the information in its request.

[10] Our holding does not foreclose the Union from establishing the relevance of the subcontractor cost data on some future occastion, if timing and circumstances link it to the formulation of contract proposals.

quest for information about the costs of the Respondent's use of outside contractors.

The Respondent's use of outside contractors has long been a subject of controversy between the parties. The Respondent's policy of assigning work to be performed by its own employees or to an outside contractor ''on the basis of least cost'' was first set forth in a 1969 letter signed by a management official. This letter was specifically cited in the parties' collective-bargaining agreement effective June 12, 1989, through June 1, 1992. The collective-bargaining agreement also provided that the Respondent would give the Union notice prior to contracting out work if unit employees' job security was threatened and that work would not be contracted out for the purpose of laying off employees.[1] In settlement of a charge over the Respondent's refusal to provide information to the Union about use of outside contractors, the Respondent in 1989 agreed to provide the Union quarterly reports concerning the Respondent's agreements with outside contractors.

In 1989 the parties established a joint committee to review the use of contractors semiannually. At committee meetings, in response to the Respondent's objections to the Union's information requests about outside contracting, the Union stated that it sought such information only after the Respondent claimed it was too expensive to use the Union's members. The Union stated that it was interested in the information simply to prove that it was more economical to use unit employees than contractors.

In various employee meetings during 1989–1991, the Respondent's supervisors stated that the employees had to get competitive with contractors; that contractors cost less; and that the Respondent would contract out its employees' work if their productivity did not increase. In November 1990, the Respondent informed the Union that it was going to contract out the inspection of certain circuit breakers, and in February 1991 an outside contractor performed circuit breaker inspections. In July or August 1991, the Union was informed that the Respondent expected to contract out inspection of certain transformers.

In December 1990, the Union made the information request at issue here. Citing the Respondent's statements that its employees would have to compete with outside contractors and the Respondent's plans to have outside contractors do work that the Respondent's employees had always performed, the Union stated its need for information had increased and broadened since the settlement agreement of the last NLRB complaint, as ''cost analysis is the linchpin of the Union's ability to compete.'' The Union's request sought information concerning the costs of having work performed by employees and by outside contractors, including indirect costs, and the way in which the Respondent calculated and allocated these costs. The letters stated that the Union's concern was to provide the most cost effective in-house work force possible. Employee Breen, who was chairman of a substation division of the bargaining unit, testified that the Respondent's increase in use of outside contracting had reduced the number of unit employees through attrition and that the Respondent's contracting had moved into new areas.

I agree with the judge that the information the Union sought was relevant to the Union's role as collective-bargaining representative. The Respondent itself had made the cost of unit employees versus outside contractors an issue. The only means for the Union to rebut the Respondent's contentions that using outside contractors was less costly was to have the information showing actual costs. If the information showed that the cost of using unit employees was no greater than that of using outside contractors, the Union would be able to refute the Respondent's persistent claims that unit employees were more costly than outside contractors. Given the Respondent's statements in committee meetings that it would not use contractors if it was more economical to use its own employees, the Union's effective demonstration that use of unit employees is less costly would affect the Respondent's decisions regarding use of outside contractors. On the other hand, if the information showed that the unit employees' cost were out of line, the Union could decide whether to propose contract changes, either at that time or during bargaining over a successor contract, to reduce costs associated with utilization of unit employees. Employee Breen's statement, on which my colleagues rely, that the information requested was not related to formulation of a bargaining position, conceives of bargaining only in the narrowest sense of the term and does not dispose of the Respondent's obligation to provide the information. Contrary to my colleagues, I do not view Breen's statement as negating the obvious relevance of the requested information.

Moreover, my colleagues' assertion that there was no substance to Breen's fears about reduction of unit employment through attrition and the introduction of subcontracting into new areas is not supported in the record. In fact, the Respondent continually browbeat the Union with threats to contract out additional work and in late 1990 and early 1991 carried out its threats to contract out additional work. Although the Respondent had agreed to retain a specified minimum number of unit employees, it was still possible that there would be an attrition of unit positions above that minimum. Further, the Respondent's agreement to maintain this minimum number of positions was not permanent but rather was to expire May 31, 1992.

The entire course of the parties' dealings reflects an ongoing debate between the parties over whether it

[1] The Respondent separately agreed to retain no fewer than 3000 unit employees until May 31, 1992.

was more economical to have work performed by the Respondent's own employees or by outside contractors. Both parties understood that the Respondent's decisions as to whether to contract out unit work were largely governed by this determination.[2] In attempting to retain work for the employees that it represented, the Union had an enormous stake in this debate. I agree with the judge that the information sought was highly relevant, as it related to preservation of unit work. Accordingly, I would adopt his conclusion that the Respondent's refusal to provide this information violated Section 8(a)(5) and (1) of the Act.

[2] The message of the Respondent's statements to the Union was not merely that the unit employees were overpaid, as my colleagues state, but, more importantly, that the unit employees were in danger of losing their work. By characterizing the Respondent's conduct merely as ''baiting'' which was cause for annoyance but nothing more, my colleagues trivialize the parties' dispute.

Richard Whiteman, Esq., of Detroit, Michigan, for the General Counsel.
Alex J. McLeod, Esq., of Detroit, Michigan, for the Respondent.
John Breen, of Detroit, Michigan, for the Charging Party.

DECISION

STATEMENT OF THE CASE

JOHN H. WEST, Administrative Law Judge. Upon a charge and amended charge filed March 6 and 13, 1991, respectively, by Local Union No. 223, Utility Workers Union of America, AFL–CIO (Union), a complaint was issued April 4, 1991, alleging that Detroit Edison Company (Respondent or Edison) violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act), by refusing to provide specified information requested by the Union dealing with the cost of Respondent's use of outside contractors. Respondent denies that it violated the Act.

A hearing was held in Detroit, Michigan, on September 9 and 10, 1991. Upon the entire record in this case,[1] including my observation of the demeanor of the witnesses and consideration of the briefs filed by General Counsel and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent, a Michigan corporation, is a public utility engaged in the production and sale of electrical power. The complaint alleges, the Respondent admits, and I find that at all times material, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union has been a labor organization within the meaning of Section 2(5) of the Act.

[1] General Counsel's unopposed motion to correct the official record is granted. The corrections are attached as App. A (omitted from publication). Also, pursuant to an agreement of the parties and with my expressed permission, General Counsel forwarded an exhibit for filing after the record was closed. The late-filed exhibit is received as G.C. Exh. 28.

II. THE ALLEGED UNFAIR LABOR PRACTICE

A. *The Facts*

The Respondent is headquartered in Detroit and it serves southeastern Michigan. The Union represents about 3100 of Respondent's employees. Respondent and the Union have had collective-bargaining agreements since the 1940s. The current collective-bargaining agreement (CBA) is effective from June 12, 1989, through June 1, 1992. General Counsel's Exhibit 2. Article VIII, section 5, reads:

> Section 5. *Outside Contractors*. a. If management proposes to contract work which is regularly and customarily done by the employees in a bargaining unit, and such contracting appears to threaten their security of employment, the chairman or chief steward of the division will be given prior notice thereof.
>
> b. Work will not be contracted out for the purpose of laying off or reducing in classification employees who regularly and customarily do such work. (Reference: Letter by William G. Meese dated June 19, 1969.)

The Meese letter, General Counsel's Exhibit 3, sets forth the existing policy of management regarding the use of outside contractors. The letter is set forth in Appendix B hereto. It ends with:

> Within the framework of . . . [specified] factors, the work should be performed by our own employees or by an outside contractor on the basis of the least cost. In each case we must exercise prudent judgment before reaching a decision to utilize outside contracting.

Over the years, the Union has sought to limit Respondent's contractual right to use outside contractors. And a number of grievances have ben filed by the Union regarding Respondent's use of outside contractors.

In 1987, the Union requested information from the Respondent with respect to the use of outside contractors. The Union filed charges with the National Labor Relations Board (Board) when the Respondent refused to provide the information. General Counsel's Exhibit 4(a). In 1989 the proceeding was terminated after the parties entered into a settlement agreement which provided that Respondent would give quarterly reports to the Union setting forth certain of the specifics of all agreements with outside contractors involving more than $1000.[2] Respondent provided quarterly reports beginning with the third quarter of 1988. General Counsel's Exhibit 5.

During the 1989 contract negotiations, the Union and the Respondent entered into two side-bar agreements. General Counsel's Exhibit 6. One, in response to a union proposal,[3]

[2] The quarterly reports list the name of the contractor, the work or function, the quarterly amount paid, the total man-hours, and the geographic area involved.

[3] The proposal was made because, as indicated by the Union, it believed that there was a way to make more use of the Union's per-

Continued

created a joint union and management committee to meet on a semiannual basis to review the use of contractors. The other, as here pertinent, reads as follows:

> Throughout these negotiations, a major element of discussion has been the Union's concern that some Local 223 represented jobs are being eliminated and, thus, employment levels of Union represented employees are in decline.
>
> The Company maintains that genuine job security depends on the Company's ability to produce and sell quality electric power at a profit.
>
> At the same time, the company and the Union recognize that existing utility industry economic and competitive realities demonstrate the continuing need for improved efficiency and increased productivity to control costs if a high level of customer service is to be maintained and shareholder value preserved.
>
> Long term job security requires that the Company become a low cost quality producer. Failure to meet the competitive challenge can only result in reduced job security and thus, fewer jobs.
>
> Although the level of employment (i.e., numbers of 223 represented employees employed) is otherwise a subject matter covered by the Management Rights Clause of Article III of the Agreement, the parties agree that the Company will maintain employment levels of employees in Local 223 represented jobs at no less than a total of 3,000 employees for the period beginning June 5, 1989 and expiring 11:59 p.m. May 31, 1992.

At the time of the hearing, the joint subcommittee on outside contracting had met four times, namely, December 8, 1989, June 26 and September 13, 1990, and March 5, 1991. The Respondent was represented by up to three of its officials at these meetings and the Union was represented by up to three of its officials. The Company kept minutes of the meetings, General Counsel's Exhibits 7 through 10, respectively. At the first meeting a management representative stated:

> The Union's request for information as an extension of contract negotiations is different than requesting information as a Subcommittee. In this regard, during the terms of the Agreement, there has been numerous requests for information regarding outside contracting which when supplied, the Union has not ever utilized. We need to know why the Union is asking for this information and what will be accomplished as a result of the Union being provided this information. Management is concerned about these numerous requests for such information which the Union has never utilized. There are some individuals in Management who view the Union's request for information as a form of harassment. Therefore, we need to know why the Union wants this information and how it will be utilized.
>
> We would prefer to provide contractor information after the fact although it appears that the Union would prefer the information before the fact. For example, in Maintenance contracts for services, the Union has requested the information prior to the start of the involved work.

A union representative subsequently stated:

> In this regard, we did not ask for the information until our area came under attack by Management claiming that our members were too expensive to utilize. We strongly feel that it is more economical to utilize our members than outside contractors. Furthermore, the Union is not interested in what the Company is paying for materials but is interested in what the Company is paying for contract labor. Our interest only resulted as a matter of proving that we are more economical to utilize than contractors.
>
> It is our belief that Management does not maintain good work records. In this regard, there have been times when the Bricklayers have been sent out for four hours to do a job which shorts the entire day. Then there are cases where employees are sent out to do a job without the proper materials and, therefore, must wait one or two days. We understand that under Article III of the Agreement Management has the right to make the determination of the materials and equipment needed for work. However, we are concerned about Management's bookkeeping practices and wastes.
>
> The Union is not interested in grieving the use of contractors through arbitration. In this regard, we would like to discuss Management's utilization of our members versus outside contractors.
>
> In Underground Lines, there are stacks of go-backs involving the work done by contractors. In other words, our members have been sent out to go over work performed by the contractors. We have an agreement with the Management of Macomb Division to maintain separate work orders.
>
> The Union would like to know Management's long range plans on utilizing outside contractors.

And subsequently a management representative stated:

> If [Respondent's] Monroe Power Plant is paying more for a job by using a contractor, then shame on them. In the Company, there probably exists a few cases where it costs more to utilize outside contractors. The Company should be getting the most for its money.
>
> Management as a whole should be looking at these cost wastes. In Power Generation, Management is looking to reduce costs as well as incurring no increases in operations and maintenance.

The minutes of the second, third, and fourth subcommittee meetings are set forth in Appendices C, D, and E, respectively.[4] As can be seen, the union and management representatives continued to discuss the need to know the true costs of using outside contractors, with management specifically indicating at least once that Respondent should not utilize contractors if it is more economical and efficient to use its own employees. The Respondent did share certain information with the Union regarding costs of the unit employees

sonnel, minimize the use of contracting, and save money for the Respondent.

[4] As used therein ''M'' refers to management representatives and ''U'' refers to union representatives.

and outside contractors. General Counsel's Exhibits 11 and 12.

In late 1989 and in 1990 Respondent's supervisors told members of the Union at employee meetings that they had to get competitive with contractors; that it cost less to use contractors than Respondent's own employees; and that if their employees did not increase productivity, Respondent would contract their work.

On May 29, 1990, at a division meeting a union representative told management representatives that Respondent's bookkeeping practices were questionable in that union members performed work on behalf of contractors and yet costs were not allocated to the contractor. General Counsel's Exhibit 13.

In November 1990, Respondent informed the Union that it was going to contract out the inspection of specified circuit breakers. It is asserted that this was the first time outside contractors were used to do this work. A management representative told a union representative that Respondent was using an outside contractor to see how it would do the inspection.

In late December 1990, the Union forwarded a three-page letter, which letter was dated December 13, 1990, to the Respondent. General Counsel's Exhibit 19. It is set forth as Appendix F. Basically, the letter indicates that Respondent has told union members that they are going to have to compete with outside contractors; and that since cost analysis is the linchpin of the Union's ability to compete, the union needs specified information to discharge its responsibility to represent its membership. The information sought is listed in 19 separately numbered paragraphs. In the concluding paragraph of the letter, the Union indicates that it will accept the requested information in any convenient form that will serve the needs of the Union.

By letter dated January 25, 1991, Respondent indicated that the Union's request was being reviewed.[5] General Counsel's Exhibit 23.

By letter dated February 13, 1991, General Counsel's Exhibit 24, Respondent advised the Union, as here pertinent, as follows:

> Since . . . [1988], Management has honored its committment and agreement to provide the agreed to [contracting] information to the Union on a timely basis. I feel . . . [the Union's December 13, 1990] request is bad faith bargaining on the Union's part and a breach of the agreement reached between the Company and the Union regarding contracting information.
>
> If the Union formally pursues the issue, Management will review the information currently supplied and determine our obligation, if any, to continue to do so.
>
> . . . .
>
> The 19 categories of information and all the subparts in the . . . letter dated December 13, 1990, are related to non-arbitrable, non-bargaining unit activity.
>
> Management has no obligation to justify its business decisions to the Union. [The Union] . . . acknowledges in . . . [its] letter that Management has not used cost as a justification to contract. Management simply has the right and will continue to do so.
>
> I am denying . . . [the Union's] unreasonable request and hope this ends the matter.

On February 20 and 21, 1991, Respondent did use an outside contractor to do circuit breaker routine inspections. The Union filed a grievance on March 11, 1991, General Counsel's Exhibit 26, alleging that the inspections were a violation of article VIII, sections 5 and 6 of the involved CBA and that the inspections conducted by the outside contractor do not meet the standards required of unit members and, therefore, the equipment was left in questionable condition.

On or about March 20, 1991, management informed union members at a safety meeting that Respondent could replace all the union members with $10-an-hour contractors.

On May 10, 1991, Respondent filed a first step answer to the March 11, 1991 grievance, General Counsel's Exhibit 27, asserting that there was no violation of the CBA and denying the grievance. The matter was still pending at the time of the hearing.

In either July or August 1991, the Union was informed that Respondent expects to contract out the inspection of some load tap changing transformers.

John Breen, an employee of the Respondent who is also chairman of the substation division of the bargaining unit and the trustee of the Local Union, testified that Respondent's use of outside contracting had increased which, in turn, had reduced, through attrition, the number of unit employees;[6] that contracting had moved into new areas, such as inspection; that the information sought was relevant to determine how Respondent is calculating costs and whether it is properly allocating costs;[7] that Edison agreed to provide most of the information that the Union sought back in 1988; that pursuant to the aforementioned side-bar agreements and the subcommittee meetings, the Respondent has provided additional information to the Union on occassion; and that if it is demonstrated that the Union's costs are higher then the Union probably would have to go back and reassess its position. On cross-examination, Breen testified that the information requested in the above-described December 13, 1990 letter is not connected to any particular grievance; and that the information requested was not in any way related to the formulation of a bargaining position by the Union.

B. *Contentions*

General Counsel contends that the information provided to the Union in the aforementioned quarterly reports is most of the information that has been sought by the substation division unit; that the examples cited by General Counsel's witnesses evidenced extensive hidden costs of subcontracting, i.e., use of Respondent's tools, materials, and facilities, hav-

[5] Respondent's letter referred to the Union's January 17, 1991 letter which was the cover letter for the alleged second mailing of the above-described December 13, 1990 letter. G.C. Exh. 20 assertedly is a copy of a receipt, dated January 2, 1991, for the December 13, 1990 letter.

[6] Breen testified that the Union received 8 or 9 notices of subcontracting from Respondent in 1987, about the same number in 1988, about 55 in 1989, and about 60 in 1990.

[7] Breen and three other of Respondent's employees who are union members testified, collectively, that Edison employees deliver Edison tools, equipment, and materials to contractors; that Edison employees repair contractors work which is not done to standards; and that Edison supervisors monitor the outside contractors work for extended periods.

ing union members deliver tools and materials to contractors, having Respondent's supervisors monitor the contractors work, and having union members repair and modify contractor's work; that when a union seeks nonunit information it has the burden to prove that the information is relevant but that burden is not exceptionally heavy; that here the Union has clearly established the relevancy of the subcontracting information sought; that as evidenced by the Meese letter, cost is an important factor in subcontracting decisions; that statements made by Respondent's officials at the above-described subcommittee meetings and at other meetings with the union members confirm the importance of cost; that the Union in its December 13, 1990 request did not acknowledge that Respondent had not used cost as a justification to contract work but rather the Union merely noted that while Respondent had stated that per hour labor costs for union employees was less than contractors, Respondent was also telling the employees they had to compete with contractors and was subcontracting bargaining unit work; that it is well established that the relevance of an information request can be demonstrated at the hearing and it was here; that in the *Southwestern Bell Telephone Co*. cases, 173 NLRB 172 (1968), and 262 NLRB 928 (1982), where the Board held that the employer did not have to provide certain information relating to the costs of contracting, (1) the employer, unlike here, had never claimed to subcontract work on the basis of cost, (2) the subcontracted work, unlike here, was not recurring, and (3) the union, unlike here, had not expressed concerns regarding the loss of unit jobs through attrition; that in the second *Southwestern Bell* case, it was specifically noted that if cost had been asserted as a reason for the subcontracting action, it was clear that the union would have been entitled to the information; that in *General Electric Co*., 294 NLRB 146 (1989), enf. denied 916 F.2d 1163 (7th Cir. 1990), it was noted that the employer had informed the union that cost was a factor in subcontracting, the union had informed the employer of the relevancy of the information, the subcontracted work was not shown to be nonrecurring, and the union expressed concern that subcontracting could cost unit jobs through attrition; that all the above-described factors in *General Electric Co*. are present in this case; that here cost, as a factor, has been stressed even more than there; that here the contracting recurred more than there; that while there the company was permitted by the involved collective-bargaining agreement to subcontract without restriction, here there are contractual and side-bar restrictions, including cost factors, on subcontracting; that the Seventh Circuit in *General Electric* stated that if the evidence had established a set of reasons relied upon for subcontracting and the Board had picked cost as an operative reason, the court would have deferred to the Board's decision; that here cost is obviously an operative reason for Respondent's subcontracting;[8] that while Respondent appears to stress that the information was not sought in connection with a particular grievance or the formulation of contract demands, the Board has held that a union's right to information need not be premised on a particular controversy, e.g., *Colgate-Palmolive Co*., 261 NLRB 90, 92, fn. 12, 100–101 (1982); and that the Union has established the relevance of all the requested cost information and is entitled to it.

Respondent, on brief, argues that while information which is directly related to the employees in the bargaining unit is presumptively relevant, the relevance of information which pertains to nonunit employees such as outside contractors is not assumed and the Union has the burden to show why the information is necessary; that as pointed out by the Supreme Court in *Detroit Edison Co. v. NLRB*, 440 U.S. 301, 314 (1979), ''[a] Union's bare assertion that it needs information . . . does not automatically oblige the employer to supply all the information in the manner requested''; that

> [a]ny argument brought forth by the general counsel's office regarding comments made during the course of these informal [subcommittee] meetings should not and cannot be the basis for granting . . . [the Union's] informational request which was made in December, 1989 . . . [and] [a]ll but one of these meetings took place after . . . [the Union] demanded . . . 19 categories of information . . . [;][9]

the isolated comments regarding costs, productivity, and generally the use of subcontractors were on their face generic, harmless, and in no way intended to bind the entire Company to any specific position or course of action; that as pointed out in *San Diego Newspaper Guild v. NLRB*, 548 F.2d 863 (9th Cir. 1977), if a union is not engaged in any contract negotiations at the time of the informational request, the information could only be relevant to the union for purposes of determining if the company has violated the collective-bargaining agreement; that here no contract negotiations were in progress or scheduled at the time of the informational request and the current CBA does not expire until June 1992; that Breen admitted the request was not related to any contract negotiations; that the costs associated with Edison subcontractors no matter what they are or how they are allocated could never constitute the basis of an alleged breach of contract between Respondent and the Union; that the Seventh Circuit in *General Electric*, supra, held that the information sought must be relevant to the Union's performance of its duties to administer and police the CBA or to negotiate a new CBA; that here the Union never claimed the requested information was necessary to process or administer any pending grievance or to determine if a contract violation has occurred so that a grievance could be filed; and that under *General Electric*, supra at 1173, even if an employer makes statements that cost plays a part or is a factor in its decision to employ outside contractors this does not require an employer to provide subcontracting costs to a union.

Analysis

As pointed out by the Board in *Westinghouse Electric Corp.*, 239 NLRB 106, 107 (1978):

> It is well established that a labor organization, obligated to represent employees in a bargaining unit with

[8] General Counsel also points out that in *General Electric* the Board did not conclude that the employer could refuse to provide the information because the union there had been largely unsuccessful in negotiations in its attempts to further limit contracting and that contracting had caused the layoff of unit employees.

[9] Respondent's Br. at p. 12. The involved information request was dated December 13, 1990. This means that all but one of the aforementioned subcommittee meetings took place before the informational request was made.

respect to their terms and conditions of employment, is entitled to such information from the employer as may be relevant and reasonably necessary to the proper execution of that obligation.[6] The right to such information exists not only for the purpose of negotiating a contract, but also for the purpose of administering a collective-bargaining agreement. The employer's obligation, in either instance, is predicated upon the need of the union for such information in order to provide intelligent representation of the employees.[7] The test of the union's need for such information is simply a showing of ''probability that the desired information was relevant, and that it would be of use to the union in carrying out its statutory duties and responsibilities.''[8] The union need not demonstrate that the information sought is certainly relevant or clearly dispositive of the basic negotiating or arbitration issues between the parties. The fact that the information is of probable or potential relevance is sufficient to give rise to an obligation on the part of an employer to provide it.[9] The appropriate standard in determining the relevance of the information sought in aid of the bargaining agent's responsibility is a liberal discovery-type standard.[10]

[6] *Vertol Division, Boeing Company*, 182 NLRB 421 (1970); *N.L.R.B. v. Whitin Machine Works*, 217 F.2d 593 (4th Cir. 1954), cert. denied 349 U.S. 905 (1955).

[7] *F. W. Woolworth Co.*, 109 NLRB 196, 197 (1954), enfd. 352 U.S. 398 (1956).

[8] *N.L.R.B. v. Acme Industrial Co.*, 385 U.S. 432, 437 1967).

[9] *The Brooklyn Union Gas Company*, 220 NLRB 189 (1975).

[10] *Acme Industrial Co.*, supra.

In my opinion the information sought is relevant to the Union's role as collective-bargaining representative. While the information sought is not presumptively relevant because it relates to the costs of outside contractors, the Union, which has the burden of showing relevance, has demonstrated that the information is of probable or potential relevance.

Respondent itself has made the cost of using outside contractors an issue. It began with the above-described Meese letter. Then to settle an unfair labor practice charge in 1988 Edison agreed to provide to the Union quarterly reports which, among other things, spoke to some of the costs of outside contractors. As noted above, General Counsel submits that most of the involved information is already provided by the Respondent to the Union. Subsequently, Edison entered into a side-bar agreement with the Union during the 1989 CBA negotiations, pursuant to which Edison agreed to hold joint subcommittee meetings with the Union to review the use of outside contractors. As noted above, the Union's need to know actual costs of using outside contractors was discussed extensively at these subcommittee meetings and a management representative in attendance stated that Edison should not utilize contractors if it is more economical and efficient to use its own employees. Additionally, Edison gave the Union information regarding costs of outside contractors over and above what it previously agreed to provide. All the while Edison increased its use of outside contractors and it began to use them in new classification areas. The use has become a recurring and increasing use. And all the while Edison made the union members' wages and benefits a midterm CBA issue by telling union members that they had to get more competitive with outside contractors and they could be replaced by $10-an-hour contractors. As indicated above, a grievance was filed over the use of outside contractors to inspect circuit breakers. Since the outside contractor did not meet Edison's inspection standards, it was alleged that the equipment is questionable. Notwithstanding Breen's testimony that the requested information was not connected to any particular grievance and was not related to the formulation of a bargaining position, it is my opinion that the information is relevant because it relates to the preservation of unit work and Breen indicated that if Edison could demonstrate that the Union's costs are higher then it probably would have to go back and reassess its position. Clearly there were no negotiations of midterm modifications of the CBA pending when the involved information was requested. Nonetheless, and notwithstanding the fact that Edison entered into a side-bar agreement not to reduce the level of the involved units below 3000 employees during the term of the CBA in effect, the information sought has been shown to be relevant because Edison made the cost of unit employees versus outside contractors an issue, and the only way for the Union to rebut the position Edison has taken is for the Union to have the information showing actual costs or, in the words of a management representative at one of the subcommittee meetings, be in a position to compare apples to apples. At that point if union members costs are out of line, then the Union would have to decide whether to indicate to Edison that the Union wanted to investigate the possibility of having a midterm modification of the CBA.

In my opinion, Edison is playing a game. On the one hand, it is, in effect, telling the Union ''you better compete,'' knowing that the Union would need all of the involved information in order to know what it would take to compete. On the other hand, while urging the Union by telling union members they had better compete and they could be replaced by $10-an-hour contractors, Edison refuses to give the Union the information it needs. Does Edison expect that the Union, to preserve unit jobs, would take action which would result in a reduction of pay and/or benefits of union members without knowing all the particulars? Edison knew exactly why the Union needed this information. And Edison knew that the information sought was relevant. Edison had made it relevant. Edison created this situation. Now, as evidenced by Respondent's assertions on brief that the comments of management representatives at the subcommittee meetings were not intended to bind the entire Company to any specific position or course of action, Respondent apparently wants to take the position that it should be allowed to walk away from the results of a situation it created. The situation, for obvious reasons, is quite different than those which existed in the *Southwestern Bell Telephone Co.* and *General Electric Co.* cases, supra. All the information sought by the Union has been shown to be relevant. Accordingly, I find that Respondent, by not providing the requested information, has violated the Act as alleged.

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. All employees employed by Respondent in its electrical systems substation department; but excluding all student en-

gineers, training personnel, technical employees, clerical employees, part-time employees, temporary employees, seasonal employees, guards, assistant foremen, foremen, and all other supervisors as defined in the Act (the unit), constitute a unit of employees appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to furnish the Union with certain information which is relevant to the Union's performance of its representative responsibilities on behalf of unit employees.

THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom, that it furnish the Union with the requested information specified above, and that it post an appropriate notice to employees.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[10]

ORDER

The Respondent, Detroit Edison Company, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with Local Union No. 223, Utility Workers Union of America, AFL–CIO by refusing to provide it with the information it requested in the letter set forth in Appendix F to this decision.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Promptly furnish the Union the information requested in its letter set forth in Appendix F.

(b) Post at its facility at Detroit, Michigan, copies of the attached notice marked ''Appendix G.''[11] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by a representative of the Respondent, shall be maintained by the Respondent for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[10] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[11] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX B

THE DETROIT EDISON COMPANY

INTERDEPARTMENT CORRESPONDENCE

June 19, 1969

It is the policy of the Management to operate the Company in an efficient and economic manner. Since this applies to work which may be given to outside contractors, I wish to point out some of the factors to be considered.

It is usually more desirable to use our own employees than to employ outside contractors. However, the use of outside contractors is necessary in the following situations:

1. At times of heavy construction and maintenance requirements.
2. When the necessary skills are not available among Detroit Edison employees.
3. When Detroit Edison does not have the special equipment for the work.
4. When Detroit Edison Company does not have a sufficient number of qualified employees available to finish the work on time.
5. When certain specialized work, such as car washing, window cleaning, carburetor cleaning, janitorial services, painting, etc., where a specialized contractor can perform the services demonstrably cheaper than can be done by the Company with its own employees.
6. On major construction projects.

In all other situations, before a decision is made to contract out work, either on a fixed-price or a time-and-material basis, a careful analysis should be made, taking into consideration:

A. The availability of present or additional Edison employees to perform the work.
B. The availability of Edison equipment.
C. The availability of contract forces, both men and equipment.
D. The cost of performing the work with Edison people and equipment (including the cost of reasonable overtime) compared to the cost of outside contracting.
E. The unfavorable effects that result from working excessive overtime by our own employees or contractors' employees.

Within the framework of the above factors, the work should be performed by our own employees or by an outside contractor on the basis of least cost. In each case we must exercise prudent judgment before reaching a decision to utilize outside contracting.

/s/W. G. Meese
W. G. Meese
Executive Vice President
for Production

WGM/erh
cc: Mr. L. Franklin
Mr. H. A. Wagner

APPENDIX C

Second Meeting Minutes of Subcommittee on Outside Contracting Between the Company and Local Union No. 223, UWUA, AFL–CIO

Tuesday, June 26, 1990

Representing Electrical Systems
Substations Bargaining Unit—Mr. Breen
Representing Local Union 223—Mr. Manoogian
Representing Maintenance
Bargaining Unit—Mr. Renick
Representing Underground Lines
Bargaining Unit—Mr. Kulik
Representing Power Generation—Mr. Smolinski
Representing Stores
and Transportation—Mr. Bintinger
Representing Union Relations—Mr. Martin and Ms. Milton

M – The President of Local Union 223—Mr. Manoogian is present today for some reason. It is our understanding that he would 1ike to address the committee. Is that correct?

U – Yes, after the first minutes were published Mr. Manoogian was very upset. In this regard, on page 2 of the first meeting minutes Management states:

> ''The Union's request for information as an extension of contract negotiations is different than requesting information as a Subcommittee. In this regard, during the terms of the Agreement, there has been numerous requests for information regarding outside contracting which when supplied, the Union has not ever utilized.''
>
> ''Therefore, we need to know why the Union wants this information and how it will be utilized.''

This Subcommittee was established to work out problems in the area of contractors. It appears that Management is unwilling to provide the Union with contracting information especially when considering that the NLRB has required the Company to do so.

The Union requests information which is needed to properly represent its membership. It is not necessary for Management to know the reasons why we request certain information regarding contractors. Once we receive the information, if it substantiates Management's claim it may not be necessary to use the information in a complaint.

However, if it does not substantiate Management's claim, the information may be utilized to air a complaint. Management cannot state that the Union does not utilize the information which it is provided.

M – We have made a concerted effort to provide the Union with the information which we are required to provide by the NLR Act. There is considerable effort and manpower which goes into segregating out this information for the Union.

U – We are not requesting information which we do not plan to utilize. Because we request information which we believe may have merit or may be intertwined with a case does not mean that the information will not be utilized.

M – During the first meeting of the Subcommittee, our discussion and intent was to minimize the amount of work involved in providing the Union with information on contractors.

U – We have no problems with that.

M – Your thoughts are well taken and received. However, we have been concerned about divulging specialty type information and firm price bids.

U – Although there could be times when the Union may need this type of information, we do not want to get into wage wars with the contractors. Our interest is to only show in facts and figures that it is more economical to utilize our members rather than contractors. On numerous occasions we have stated that our members can perform a job more efficiently and economically. However, many Supervisors still show a preference toward contractors.

In the past, Management has supplied the Local Union Presidents with reports specifying the work which has been performed by contractors.

M – We have no knowledge of that being done. It could have been that certain contractor information sent to the Bargaining Unit Chairmen was also forwarded to the President of the Union.

U – Previously on a quarterly basis, Management has provided the Union with information on contractors such as the type of work which has been performed and the dollar costs.

Nevertheless, this Subcommittee has not been established for determining how information will be furnished to the Union. Additionally, this Subcommittee should not be looking for new ways of requesting and disseminating information. In System Maintenance at the end of each month following a quarter, the Union is provided notification of the work the contractors are to perform. This is in accordance with Article VIII, Section 5 of the Agreement.

M – The Senior Vice President of Power Supply—Mr. Agosti is very concerned about the contractor information being supplied to the Union.

U – The General Director of Union Relations—Mr. Mulrenin needs to advise Mr. Agosti that the contractor information being supplied to System Maintenance was a result of a NLRB charge. It should be further stated that contractor information which we are supplied does not leave our office.

M – Although Power Generation can produce a report listing all the contractors, it would only detail the blanket information on the dollars spent per week.

Providing the Union with information regarding contractor bids does not address the Union's concerns about its members performing work instead of contractors. Receiving quarterly reports is after the fact. What does this accomplish?

U – It is true that this would be after the fact information but it could be useful in making the Union's point that it is more economical to utilize our members rather than contractors. It should be noted that in the Maintenance Division, there are pre-outage meetings prior to the contractors working on the property.

M – Once you are provided this information, what would you do with it?

U – Who knows, maybe we would utilize it in our archives, or to show that historically it is more economical to utilize our members.

M – In Stores and Transportation, Management compares the wage rates of Edison employees with that of the contractors.

U – It is understood that there will be peaks and valleys. However, under Article VIII, Sections 4 and 5 of the Agreement, Management must give prior notification before utilizing contractors.

M – Only Article VIII, Section 5 of the Agreement addresses outside contractors. That notwithstanding, Management would be receptive to a Bargaining Unit Chairman showing that it would be cheaper for his members to perform work than a contractor.

U – How could we show that our members can do a job cheaper if the parties do not sit down and discuss allocations of work prior to the work being performed?

We must reaffirm that by no stretch of the imagination are we arguing contractor issues but only a better way of utilizing Edison employees. The Union is not arguing about true peaks and specialty areas. We are only talking about the day to day workload. It is the Union's belief that the quarterly statements will show that Management has a higher reliance on contractors than its own employes. We believe that Management is increasingly utilizing contractors.

M – By supplying the Union with contractor information, how would you show us that it is cheaper to utilize Edison employees?

U – By the number of contractors, the jobs, and the costs. However, we would need the loaded values which Management utilizes. Furthermore, the Union is concerned about the Supervisors who are making the decisions to utilize contractors. There needs to be discussions and informational meetings with these Supervisors.

M – Are you asking to be a part of the decision making process?

U – No, but we would like to give you input.

M – Are you stating that the Union would like the opportunity to show Management that its members are more competitive?

U – Yes, there are many ways which we could show that it would be more economical to utilize our members. One way would be to show that our benefits remain constant whether or not we work overtime.

M – Benefits are fine but do not contain the costs associated with tools, supervision, and etc. We are trying to identify the true costs.

U – When will this be done?

M – We do not know but believe that the cost figures are decreasing. Right now it is hard to get a handle on the costs because of the spread of all these costs. No one has decided which costs to allocate for items such as facilities, taxes, and etc.

U – It is our understanding that the dollar costs per person ranges from $28, $33, and $38 per hour. We wonder why the dollar costs are more in one area than in another?

M – In Central Motor Transportation, Management has figured that the dollar cost for a Mechanic is $35 per hour. This is a loaded rate which includes the basic wage rates, fringes, and departmental overhead.

U – Is this loaded rate built into the contractors' rates?

M – Yes, this would be the same as including loaded rates in the cost of operating a business or a Union hall. Although we could, we do not include such items as heating and lighting.

U – We feel that Management has a problem in properly administering jobs. In this regard, many times our crews are sent out to jobs without having available the proper tools and materials necessary for the jobs. As a matter of fact, Management has been using EMJs (Grade T-16) to deliver tools to the contractors.

M – Are you stating that you want to be on equal footing with the contractors?

U – Yes because we have found that many times the Supervisors make equipment and materials more accessible to the contractors. By not having the required materials and equipment at the onset of a job, this causes delays and unnecessarily lengthens the job. As a result, our members look like a bunch of smucks.

We have suggested ways to more economically utilize our members. For example, when the Construction Field Bargaining Unit merged with Electrical System Substations, the Union brought to Management's attention that the Carpenters were being stepped-up to Foremen. As a result of our discussions with Management, the Carpenters are now being stepped-up to Leaders instead of Foremen. This has been very positive and beneficial to all. We also proposed that the Handymen (Grade T-7) should be stepped-up to Grade T-9 for operating the backhoe. This would be a cost of about 63 per hour thereby eliminating the need to utilize the contractor at a cost of $450 per day. At one time, the Equipment Operator classification (Grade T-8) performed this job which Management has not filled. However, Management has been reluctant to agree to this Union proposal.

Like Management, we have a vested interest in making this Company more efficient. The Union has a real concern about Management allowing contractors to perform shoddy work. In Underground Lines, a committee was formed to discuss the Union's concern regarding the shoddy work being performed by contractors. Accordingly, Management agreed to assign work orders on jobs which our members had to go back and correct the work done by contractors. However, nothing has been resolved.

At Belle River Power Plant, Management believed that it would be more economical to utilize the contractor—Metro Boiler instead of Edison employees. However, the Company ended up paying for Metro Boiler workers to take their boiler certification.

What we are saying is that there needs to be better communication prior to a job being given to a contractor.

M – In Central Motor Transportation for our Mechanics, we bid Company-wide on jobs. In our bids, we show our loaded rate versus an outside contractor's loaded rate. Since our rates are very competitive, we almost always get the job.

U – We are referring to the other organizations which do not properly evaluate the costs in utilizing Edison employees versus contractors.
M – In Power Generation, at Monroe Power Plant there has been a $3.6 million cut in the budget. Therefore, we are looking to have work performed at the best price possible. In terms of the loaded rates, no one has established clear cut values.

U – Is there anyone in the Company who could sit down and talk about this with the Union?

M – Well in talking with the accountants, you would become just as confused as we are with them. Nonetheless, on July 6, 1990 we will reconvene the negotiating committee from the 1989 contract negotiations. We are going to review the costs of the different items which were negotiated with the Union, the good ones and bad ones. Management is interested in determining if the costs are being charged to the proper areas and whether the charges are correct.

U – Are you doing all of this for Fermi 2?

M – It is recognized that next year there will be a very large and expensive outage at Fermi 2. That notwithstanding, the Company is moving toward being more cost efficient. The Management Control System will be placing us in a better position economically by forcing us to be more cost efficient. On June 28 and 29, 1990, the CEO and President—Mr. Lobbia will be informing top Management employees of the plan and where this Company is heading in being more cost effective and efficient. Management is tightening its belt.

U – We want our members to be utilized in the best possible manner. However, Management utilizes contractors without evaluating the costs in utilizing its own employees. Tightening the belt will be the key for the Company.

M – It should be noted that the Monroe Power Plant, the hours of overtime worked by the Maintenance group has increased. At Fermi 2, employees have been forced to work overtime. Overtime is only one factor in all of these costs.

To digress for a moment, are you stating that you feel the Management in Energy Marketing and Distribution is shooting itself in the foot by preventing the bargaining unit from being cost effective?

U – We feel that Management could better utilize its employees.

M – We believe that Management's goals should be to utilize employees to the fullest.

U – We agree.

M – We should not utilize contractors if it is more economical and efficient to utilize our own employees.

U – Our members are concerned that their work is being assigned away to the contractors. Nevertheless, can anyone explain the loaded values?

M – Mr. Defauw does the loaded values for Stores and Transportation while Mr. Adler does the loaded values for Power Generation. We need to find out what are the loaded values.

U – We need to know the components of the loaded values.

M – Management will do some work on these values and discuss the Union's request for information.

U – If we can discuss these jobs in advance, we would also like to have the opportunity to expound on the jobs. Additionally, we would like to see workload projections for periods of at least one year.

M – We are interested in making this Company a success just as we believe you are. Things are changing in this Company and Management is having a hard time defining where everything is at.

In Central Motor Transportation, Management has a zero dollar budget. Therefore, we bid Company-wide in order to bring in dollars.

Management's ranks are continually shrinking in the Company's effort to get leaner and leaner. All departments are being set up like little companies and will have to compete for work.

U – Our members have the cheapest hands with the most skills.

M – We have listened to the Union. We will discuss your concerns at the July 6, 1990 meeting.

U – Can you have someone talk to us about these loaded values within the next three to four weeks?

M – Within three to four weeks, we will have someone explain these costs to you as well as their components.

We believe that this Subcommittee is making some progress. We will take a look at providing the Union with some information. However, we are unsure as to the power of this Subcommittee.

U – We want to find out where we stand and stack up to the contractors. The Union wants to be as competitive as possible. This especially holds true for all bargaining units where contractors are being utilized.

M – Mr. Lobbia has stated that the Company will be doing business with only a few good contractors. This is due to the fact that we have been burned by a number of contractors. As a result, the Purchasing Department has established a Contractor Review Board.

/s/Angela L. Milton
Angela L. Milton
Union Relations Coordinator

APPENDIX D

Third Meeting Minutes of Subcommittee on Outside Contracting Between The Company and Local Union No. 223, UWUA, AFL–CIO

Thursday, September 13, 1990

Representing Electrical Systems Substations Bargaining Unit—Mr. Breen
Representing Maintenance Bargaining Unit—Mr. Renick
Representing Underground Lines Bargaining Unit–Mr. Kulik
Representing Power Generation—Mr. Smolinski
Representing Union Relations—Mr. Martin and Ms. Milton

M – On July 6, 1990, a meeting was held at which Management reviewed the changes to the 1989 Agreement and the impact of these changes on the Company, for example, rocking chair money. There was discussion regarding this Subcommittee and afterwards, a group was formed which discussed the issue of contractors. Namely, the kind of information that should be provided to the Union either corporately or by bargaining unit. Everyone left the meeting feeling satisfied with the information which Management has been providing the Union on outside contractors. However, there was still concern that a lot of information provided to the Union is never utilized.

In Underground Lines, Management provides the dollars paid to the contractors on a quarterly basis.

U – The Underground Lines Bargaining Unit does not receive this information anymore.

M – Somewhere you are receiving this information.

U – You will find that there is a difference between what we are receiving and what you are being told that we are receiving. We have not received any information on contractors within the last two years. At one time, Mr. Ellero in Operations Resources provided us with this information.

M – It is still our understanding that your Management has been supplying the Underground Lines Bargaining Unit with the dollars paid to the contractors on a quarterly basis. Nevertheless, in Power Supply, Management supplies the Union with information on contractors by each job, who, where, when, and what, but dollar summary reports are not provided.

In Buildings & Properties, Management supplies the Union with the who, where, when, and what for dollar amounts greater than $1,000.

U – In Power Generation Maintenance we are living within the Step 3 Answer to Grievance No. MD-699 and have no problems with the information provided to us. However, we are finding in Electrical Systems Substations that the information we are provided is not a true picture of the costs of the contracts. In this regard, we believe there exists ample room for the parties to get the work done much cheaper by utilizing our members especially when considering man hours, location, and et cetera. We truly do not feel that we are being provided the true costs. The Local is concerned that Management has not honored a request for information on contractors as requested in Grievance Nos. MT-574 and MT-577. We do not want to get into the habit of requesting contractor information through the grievance procedure.

M – We will respond to your request for this information in writing.

In regards to the estimate of the overhead costs associated with Maintenance T-grade (GMJs) dated September 9, 1990, Mr. Smolinski will go back and discuss these figures in detail with Mr. Jenkins.

U – But let's briefly discuss these figures in order that you will know our comments, questions, and concerns.

According to your data, the costs during the first 40 hour week for a Maintenance T-grade is $44.56 per hour while we have figures showing the cost for a contract Boilermaker to be at $51.87 per hour. Additionally, our cost figure for a Pipefitter is $38.96 per hour, a Millwright is $41.95 per hour, and a Boilermaker is $37.19 per hour. In regards to your Edison manpower totals, we believe that the figures do not include such items as Contract Coordinators, Foremen, and full-time Edison Supervisors overseeing contractors' work.

M – The Chairman of the Board, President, and Chief Executive Officer of the Detroit Edison Company—Mr. Lobbia wanted us to be as economically efficient as possible. Mr. Renick asked us for an estimate of the costs per hour for the GMJs. That is what we are providing here.

U – Management should be aware that in many instances, we have to go back and correct the work done by contractors.

M – This committee cannot resolve this type of problem because it must be addressed by the particular department. There are also times when work done by represented employees must also be corrected. There will always be a small percentage of re-work.

U – At Tuscola Substation, we had to redo the work done by contractors. This caused a problem because the Electrical Maintenance Journeymen were needed to do work elsewhere.

M – Mr. Smolinski will discuss these figures in detail with Mr. Jenkins. We want to know where Management stands.

U – Can the Union get in touch with Mr. Jenkins also?

M – We do not know what benefit it would serve. Once Mr. Smolinski speaks with Mr. Jenkins, he will talk with the Union.

We have not talked about the issue of productivity. Many people in Management believe that contractors are frequently more productive than Edison employees.

U – You must realize that in such areas as Underground Lines, the General Foremen do not want any lost time to be reported. That could be the reason why some people prefer to use contractors.

M – We are glad that you shared this with us. This is something that the MIT process (Maintenance Improvement Team) has been studying. For the average job, it takes 22% of the time for actual execution of the job.

U – In Power Generation, we have preventive maintenance fifty-two weeks per year. During an outage, a contractor performs a certain job. If the job is performed early, the contractor is compensate for doing so. It should be further noted that the contractors bid a firm price bid. However, Edison employees are dependent upon supervision to order the materials and many times we have to wait for the materials to be delivered before starting a job.

In regards to the estimate of the overhead costs associated with Maintenance T-grades, we have nothing to do with the costs which are beyond our control, namely, such as the costs for clubs and recreation, telephone expense, supervision, and et cetera.

M – These items will never be under the Union's control. That notwithstanding, they are still costs.

Although the figures are not 100% correct, we know that they are in the ballpark.

U – We still maintain that it is cheaper and more economical to utilize Edison employees.

In Power Generation, there is a unique situation in that all of our jobs are performed under the same roof. In this regard, if we cannot perform a particular job, then we can go and perform another job. Additionally, the majority of our supplies and equipment are under the same roof.

In Underground Lines, Management has utilized Journeymen from the Motor City Electric Company at a cost of $34.31 per hour along with a Foreman, Contract Coordinator, Service Planner, and Stores personnel. However, these associated costs for Edison personnel are not included in the contractor's cost for labor.

M – Probably not, someone would have to study your area. That is a good point which is well taken.

U – As a result, in Underground Lines we add on another 2% to the contractor's cost.

There is another problem in that occasionally when our members go to a job, the materials and equipment are not readily available which are necessary for performing the job. This adds to our costs instead of the contractors' costs. We find that materials and equipment are readily available to the contractors.

M – These are the items that the Company is trying to improve as well as productivity.

U – Across the board, we feel that the day-to-day costs to utilize contractors do not adequately reflect the true costs.

M – What we have here is a parody. In this regard, when a contractor is utilized, they have able bodied people, whereas we carry a number of restricted duty or incapacitated employees.

U – We have also found problems with productivity. In this regard, the contractors do not pay the same attention to detail as our members. When we have to go back and perform work which has been done by a contractor, this doubles the cost for a job. Furthermore, the Company wastes money on projects which are never done. If productivity is the issue, we know that we have the most skilled people.

M – We have listened to your concerns and have been open to your ideas. For example, Mr. Renick has suggested shift work by seniority.

In the end, if the employees are happy performing a job, then they will be more productive.

U – There are people in supervision who are distracting our members from performing their jobs in a timely manner, especially in the Electrical Systems Substations and Underground Lines Bargaining Units.

M – We have selection tests for different skilled trade jobs. It is our belief that the caliber of people we are getting into these jobs are better with these tests which, in turn, helps productivity. However, anytime we implement a validated test, the Union files a grievance.

U – Our members can bid on any job although the Company states that because of their failure on a test they cannot perform the job. As a Union, we have a responsibility to represent our members in all regards.

M – We understand the Union's concerns in the area of costs and will get back to you. We believe that we have enough information now. In keeping with Mr. Lobbia, we are not here just to cut costs but to be innovative.

/s/ Angela L. Milton
Angela L. Milton
Union Relations Coordinator

APPENDIX E

Fourth Meeting Minutes of Subcommittee on Outside Contracting Between The Company and Local Union No. 223, UWUA, AFL–CIO

Tuesday, March 5, 1991

Representing the Union—Messrs. Breen, Kulik, and Westaway
Representing Management—Messrs. Bintinger, Martin, Smolinski, and Ms. Milton

M – We do not have a lot to discuss today but would like to listen to the Union's concerns regarding outside contractors. We will discuss how we view what is going on in the Company as well as how it affects us.

On September 13, 1990, the previous Chairman of the Maintenance Bargaining Unit Chairman—Mr. Renick was given the estimate of the overhead costs associated with Maintenance T-Grades. The cost during the first 40 hour week for a Maintenance T-Grade is approximately $44.56 per hour. Mr. Renick asked about the overhead costs charged to the contractors. Mr. Smolinski stated that he would go back and discuss these figures in detail with Mr. Jenkins. However, since that point in time there has not been much movement in this regard. The reason being is that the overhead costs are continuously shrinking. Everyone in the Company is under budget constraints and we do not know where the leveling off will be in regards to overhead costs. The right-sizing in the Company is happening at a fast pace which is affecting all jobs in the Company. It is an ever changing situation. For example, at Monroe Power Plant the budget has been cut five million dollars for this year. Additionally, in 1990, there were 711 employees, now there is only 680 employees. It should be noted that the Voluntary Separation Bonus which has been offered to employees will cease on April 12, 1991.

U – We feel that you are talking apples and oranges. In this regard, the costs to utilize contractors has increased the O&M budgets.

M – There has not been an increase in Power Generation. We are doing the work for less dollars and with less contractors.

U – In System Maintenance we have discovered that there is an increase in the hours billed by the contractors; their work standards are less than as for our members; and there is an overstaffing on projects. For example, the Electrical Maintenance Journeymen were performing the asbestos sealing. However, Management chose to utilize a contractor to perform this function at a cost of $54 per hour. Management is paying too much money to the contractors to perform work which can and should be performed by our members an at lesser costs.

There are many places where Management could utilize our members for significantly less dollars than the contractors. Management is not making a coherent effort to assess the costs involved in utilizing our members versus the contractors. It appears that Management is not aware of what it is doing.

M – Management is aware of what it is doing in Power Generation. In this regard, we have all the cost comparisons that we need.

U – We are also seeing more and more violations of Article VIII, Section 4 of the Agreement.

M – As we look around the Company for ways to become more efficient, we are also looking at ways to more efficiently utilize all manpower. Management is looking to assure that the right people are performing the proper work. There will be an increase in discussions regarding Article VIII, Section 4 of the Agreement. Management is looking to work sharing for improving the efficiency in completing jobs.

U –The problem as we view it is that Management never comes to the Union with their plans until the 12th hour. Management should sit down and discuss work allocations with the Union. We believe that the workers should have more input in this regard.

As a matter of fact, in System Maintenance we tried to meet with the Management on four different occasions. However, Management has not been interested in what we have to say. We have six projects with a cost savings of at least $100,000 to the Company. However, we can never get past the opening stages with the Management of System Maintenance.

M – We should note that as with the nonrepresented population, there will be a decrease in the T-Grade population.

U – During the September 13, 1990 meeting of this Subcommittee, Mr. Smolinski stated he would go back and discuss with Mr. Jenkins the overhead figures in detail.

M – That is what we were saying earlier in regards the overhead costs. The overhead is continuously shrinking and we believe that it is to your advantage.

U – We are looking for the overhead costs in order to make true comparisons. There are some hidden costs which are missing in your overhead costs. Therefore, we are looking at inflated costs in regards to T-Grade labor. For our labor costs you throw in everything but the kitchen sink.

M – If you would take off your Union shoes and put on the Supervisor's or Foreman's shoes for a minute in regards to getting the job done, you would realize that we have budget constraints.

Would you look at costs?

U – Yes, and we hope that you would look at costs.

M – What do you think motivates supervisors to utilize contractors?

U – The Supervisors probably utilize outside contractors because they do not have the required equipment and the available manpower. However, the Supervisors do not have the real costs involved in utilizing outside contractors.

M – We can go back and revisit Mr. Jenkins in regards to the overhead costs associated with the Maintenance T-Grades for last year as well as for this year to compare any differences between the two.

U – As previously stated, we need the hidden costs involved in utilizing contractors. One of the hidden costs would be Edison supervision monitoring the contractors' work. If Mr. Jenkins does an estimate of the overhead costs associated with the Maintenance T-Grades in the same manner which he did last year, the numbers will be the same.

M – You must look at each job individually.

You are saying that it costs more to utilize contractors than your members. Why do you think so?

U – We have examples of where Management could have utilized our members to perform work at lesser costs than charged by the contractors.

M – Daily we hear about the lack of employe productivity from Supervisors throughout the Company. Many times it is felt by supervision that is more productive and cost efficient to utilize contractors to perform certain work, even if the hourly wage rates may be higher.

U – Can you prove that?

M – We must reiterate that you must look at the jobs on an individual basis. For a long time throughout the Company, Departments have charged whatever they wanted but may not have needed. Now there is a right-sizing in all ranks throughout the Company.

U – If we could show in actual costs that our members can perform jobs more quickly and at lesser costs would you stop utilizing contractors?

M – What we are saying is that our employees will continue to perform the base line work. However, there will be times when we must utilize the contractors to perform other work.

U – We recognize that the peak work is sometimes performed by contractors. However, the base line and valley work should be performed by our members.

M – First you must establish a base line. Outside of that base line, we utilize contractors to come in and perform work and then they are gone. However, the base line floats thereby making it difficult to say when there are true peaks and valleys.

U – Management continues to utilize contractors to perform base line work. For example, in Underground Lines, contractors are performing the Conduit Workers' base line work. It appears that Management does not want to layoff the contractors because it feels that there is difficulty in getting them back. As a result, our guys are stuck between a rock and a hard place.

M – That notwithstanding, during 1991 we have a decrease in revenues. How do you expect the Company to address this decrease in revenues?

U – By not paying the exorbitant rates which you are paying the contractors. As stated earlier, in System Maintenance the Management is utilizing the contractors to perform asbestos sealing at a cost of $54 per hour. It would be more cost efficient to utilize the Electrical Maintenance Journeymen.

M – Are you saying that Management is utilizing contractors to perform work which falls within the base line area?

U – Yes.

M – So you want our base line costs as well as the contractors' base line costs.

U – Yes. If you realistically look at the contractors' loaded wages and include the hidden costs, you will find that we are more economical.

M – We have to look at the productivity as well as the dollars.

U – That is not to say there is a problem of productivity with all of our members.

M – We feel that fixed bids will be the equalizer because of the changing times in the Company. As a matter of fact, we are preplanning jobs.

U – You do not hold us to the same standards by which you hold the contractors. Furthermore, supervision does not give the clear parameters of a job to our members. We do not see Management coming to the table and sitting down with the Union. If Management only would, we could talk about the overlapping work between the various bargaining units. As long as we can have input, there can be discussions about trading work between the bargaining units.

M – Management is looking for the best and least expensive way to perform the work. As a matter of fact at Monroe Power Plant, Management no longer utilizes outside contractors to perform carpentry work. Our Carpenters along with Handymen are performing this work.

U – We like the idea of getting the Union more involved in these jobs.

M – We think you are looking in the right direction and are on the right track.

U – All we want to do is to work together for the betterment of the Company. If it is in the Company's best interest to trade work between the bargaining units, then Management needs to talk about this with the Union. However, Management remains unwilling to talk to us.

M – Throughout the Company, we are asking employees to be more productive. Additionally, we are looking at ways to motivate everyone.

U – We need an honest to goodness accounting for the dollars spent.

M – Once again, we must look at jobs on an individual basis. You cannot really draw a distinguisher. In regards to the contractors' rates, it is true that we provide the facility, heat, electricity, and et cetera without charging them.

U – Could you look at charging the contractors for all of these hidden costs?

M – Yes, we could look at these hidden costs. You are saying that you want the comparison to be like an apple to apple?

U – Yes, we think when Management provides the true accounting figures, the figures will show that it is more economical to utilize our members versus the contractors.

M – We recognize that there are some hidden costs which are not charged to the contractors but are charged in the costs to utilize your members.

How can we motivate your members?

U – If we get the same type of support which is given to the contractors, you will not have to motivate our members.

M – We are willing to look at the involved hidden costs although they are probably far less than 10% of the total costs. Additionally, we are willing to look at (on an hourly basis) the costs for your members and the contractors to perform the same job.

Mr. Bintinger will talk to Energy Marketing Distribution in regards to utilizing the Union in the planning stages. Power Generation has been utilizing the Union in the planning stages.

U – It cannot hurt if you get the people involved.

M – The people must be involved in a job especially when considering safety.

U – We should all be sharing and on-line together. However, we do not know how to get to that point. Things are happening very fast in the Company.

M – Why don't you come up with some proposals?

Do you have anything else which you would like to discuss?

U – Only that our members are ready to be involved in the process.

M – You made a good point in that things are happening quickly in the Company. We are trying to keep up with these fast changes. Every area of the Company is striving to be more efficient.

Would you be interested in broad feedback from Supervisors on why they prefer to utilize contractors instead of your members?

U – If you come up with your list and we come up with our list, the results of both lists probably would be within 95%. We believe the Supervisors feel that it is easier to utilize contractors. Since you are paying our members to work, you might as well utilize them.

Would you explain to us the blanket contracts and how they are utilized in Power Generation?

M – Purchasing has been pushing for three year blanket contracts. In a blanket contract there is the pricing, terms, and conditions. There is a total amount for each blanket contract. As the contractors perform work, suborders are written on the blanket order. When the work goes over the blanket order amount, Management must request supplemental dollars. Normally the contractor does not know the blanket contract amount.

U – We are convinced that we can beat the prices charged by the contractors. However, we must be given the real costs instead of conflicting information. The total involvement of everyone is necessary in order for us all to perform good work.

M – Do you feel you are working at full productivity?

U – No. However, with better planning we find that our members would be more productive.

/s/Angela L. Milton
Angela L. Milton
Union Relations Coordinator

ALM/lgd

APPENDIX F

LOCAL NO. 223

UTILITY WORKERS UNION OF AMERICA, AFL–CIO

SUBSTATION DIVISION

December 13, 1990

Mr. H. Leon Ellis
Superintendent
System Maintenance & Modification
A-300
Warren Service Center

Re: SM&M Contractor usage and costs.

Recently System Maintenance and Modification has begun to stress the competitiveness of Substation Division members. Management has stated that even though the cost-per-hour labor expense of Edison Electrical Maintenance Journeymen is less than outside contractors, management still intends to contract some bargaining unit work. Field supervisors have told Edison personnel that they are now going to have to compete with outside contractors.

Outside contractors, to my knowledge (1968 to present), have never performed maintenance work on high-voltage, high current, electrical distribution equipment in substations or power plants. Management has stated on a number of occasions that the wage cost per hour for contractors is about 30% higher than Edison workers. Maintenance of electrical distribution equipment has an enormous variation of operations essential to ensure proper inspection and repair. Tasks performed from one project to another may vary making cost analysis extremely difficult. Since cost analysis is the lynchpin of the Union's ability to compete, the needs of the Union for information have been increased and broadened since our settlement agreement of the last NLRB complaint issued regarding information on System Maintenance contracting costs.

In order for the Union to discharge it's responsibility to represent its membership, please provide the following information:

1. Any in-house cost studies of SM&M operations; including any SM&M/contractor cost analysis comparisons.
2. Overhead costs for SM&M including supervision, clerical services, rent, facilities costs, equipment costs and maintenance costs allocated to SM&M operations.
3. Total training costs for all SM&M employees, including all items in #2 of this request.
4. Total costs for training outside contractors, including all items in #2 of this request.
5. Annual costs and amounts of supplies, services, maintenance and equipment.
6. Capital costs: equipment, facilities and other long term investments required to do the work by SM&M and any and all costs of providing outside contractors with any items necessary for the contractor to perform work for SM&M.
7. Incidental costs: equipment, facilities and other investments or expenditures incurred by SM&M, including all in-house labor hours and equipment usage expenditures used in supplying outside contractors working for SM&M.
8. Labor costs: the number of employees in SM&M; titles and classifications; wage and fringe benefits, pay grade by pay grade.
9. Contractor contract administration costs: contract preparation, negotiation, and activity monitoring, including all travel and other expenses involved for the year 1990.
10. Any contracting cost studies done by Detroit Edison for SM&M or by SM&M.
11. Total contracting costs for SM&M for the year 1990.
12. Projected contracting costs of Substation Division Bargaining Unit work for the year 1991 by any of the Detroit Edison groups served by the Bargaining Unit.
13. Projected contract administration costs of any Substation Division Bargaining Unit work for the year 1991 by Detroit Edison.
14. Copies of all 1990 contractor evaluations.
15. Specifications and performance requirements given to outside contractors regarding Bargaining Unit work; including any engineering studies or other associated studies.
16. Disclosure of which corporate groups are paying fo engineering or other necessary studies for SM&M projects. Are these studies included in SM&M overhead? Do these studies impact on the Substation Division Bargaining Unit cost-per-hour analysis? Do outside contractors perform any of these studies and if so who pays for the studies?
17. Copies of any and all pertinent documents which will disclose the costs to SM&M or the Detroit Edison Company of the individual contracts to be done in 1991 or done in 1990, such as purchase agreements, equipment requisitions, copies of the contract . . . etc.
18. Costs of repairs and modifications that were necessary subsequent to completion of work by contractors and paid for by Detroit Edison; including which occupational groups were used for this follow-up work; the work order number used, the materials and equipment used; and the total man hours consumed, including travel time, in order to complete the repair or modification.
19. The total price of the contract as accepted by SM&M; the actual contract cost paid by SM&M at completion of work or the difference between the price bid accepted by SM&M and the total amount of money paid to the contractor throughout the term of the contract to bring the Work to completion.

The Union will accept the requested information in any convenient form that will serve the needs of the Union. We are aware that some alterations might be necessary where this request is concerned. It is the concern of the Union to provide the most cost effective in-house work force possible, commensurate with our obligation to maintain a good standard of living for our membership. Without the requested information we cannot discharge our responsibilities under the collective bargaining agreement.

This request is not all inclusive.

Yours Truly

/s/Hal Nixon

Hal Nixon
Vice-Chairman
Substation Division
Local 223, UWUA, AFL–CIO

cc: G. Manoogian
Union Relations
File

APPENDIX G

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively with Local Union No. 223, Utility Workers Union of America, AFL–CIO as the exclusive representative of our employees in the appropriate unit, by failing and refusing, upon request, to timely furnish the information Local Union No. 223, Utility Workers Union of America, AFL–CIO requested in its December 13, 1990 letter.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed by Section 7 of the Act.

WE WILL, promptly furnish Local Union No. 223, Utility Workers Union of America, AFL–CIO, on request, the previously requested information.

DETROIT EDISON COMPANY