

PREHEARING ORDER OF COMMISSION

In the matter of Objection Nos. 038-121 filed by BAC Local Union No. 15 (Objectors) on April 9, 2014, to Annual Wage Order No. 21 issued by the Division of Labor Standards, Department of Labor and Industrial Relations, filed with the Secretary of State on March 10, 2014, seeking to add the occupational titles of Marble Finisher, Terrazzo Finisher, and Tile Finisher in the counties of Adair – Section 001, Andrew – Section 002, Atchison – Section 003, Audrain – Section 004, Barry – Section 005, Barton – Section 006, Bates – Section 007, Benton – Section 008, Boone – Section 010, Buchanan – Section 011, Caldwell – Section 013, Callaway – Section 014, Camden – Section 015, Carroll – Section 017, Cass – Section 019, Cedar – Section 020, Chariton – Section 021, Christian – Section 022, Clay – Section 024, Clinton – Section 025, Cole – Section 026, Cooper – Section 027, Dade – Section 029, Dallas – Section 030, Daviess – Section 031, DeKalb – Section 032, Dent – Section 033, Douglas – Section 034, Gasconade – Section 037, Gentry – Section 038, Greene – Section 039, Grundy – Section 040, Harrison – Section 041, Henry – Section 042, Hickory – Section 043, Holt – Section 044, Howard – Section 045, Howell – Section 046, Jackson – Section 048, Jasper – Section 049, Johnson – Section 051, Knox – Section 052, Laclede – Section 053, Lafayette – Section 054, Lawrence – Section 055, Linn – Section 058, Livingston – Section 059, McDonald – Section 060, Macon – Section 061, Maries – Section 063, Mercer – Section 065, Miller – Section 066, Moniteau – Section 068, Monroe – Section 069, Montgomery – Section 070, Morgan – Section 071, Newton – Section 073, Nodaway – Section 074, Oregon – Section 075, Osage – Section 076, Ozark – Section 077, Pettis – Section 080, Phelps – Section 081, Platte – Section 083, Polk – Section 084, Pulaski – Section 085, Putnam – Section 086, Randolph – Section 088, Ray – Section 089, St. Clair – Section 093, Saline – Section 101, Schuyler – Section 102, Scotland – Section 103, Shannon – Section 105, Shelby – Section 106, Stone – Section 108, Sullivan – Section 109, Taney – Section 110, Texas – Section 111, Vernon – Section 112, Webster – Section 116, Worth – Section 117 and Wright – Section 118.

I. Prehearing Conference

On May 6, 2014, pursuant to 8 CSR 20-5.010(3), a prehearing conference was convened on the above-referenced Objections for the purpose of aiding in the disposition of the hearing. Present at the prehearing conference were:

Assistant Attorney General Jonathan Hensley, counsel for the Division of Labor Standards (Division);
Jeff Edmondson, for the Division;
Brenda Hentges, for the Division; and
Bradley Sollars, counsel for BAC Local Union No. 15 (Objectors).

David Talley and Jessica Carter, staff counsel for the Labor and Industrial Relations Commission (Commission), acted as the Commission's designated representatives and presided over the prehearing conference.

II. Prefiled Testimony and Exhibits

In accordance with the procedure to be followed at the hearing, as set out in 8 CSR 20-5.010(4), the following evidence was submitted:

For Objectors:

The prepared direct testimony of Edward Wehrle, business agent of BAC Local Union No. 15, and referenced exhibits.

A poster entitled "Best Terrazzo Projects" providing photographs of what appear to be various terrazzo projects.

A poster entitled "Outstanding BAC Craftsmanship" providing photographs of what appear to be various marble projects.

For the Division:

The prepared direct testimony of Jeff Edmondson, Program Director for the Division, and referenced exhibits.

The parties indicated they wished to reserve all evidentiary objections, owing to a need to review the materials submitted.

III. Issue for the Hearing

Objectors propose that Annual Wage Order No. 21 provide for three additional occupational titles of work, specifically, those of Marble Finisher, Terrazzo Finisher, and Tile Finisher, in the counties identified above. Objector advances proposed language for the occupational title of work descriptions, as well as basic hourly rates, fringe benefits, and overtime and holiday schedules for each proposed classification. Objector's primary concern is that the proposed occupational titles have been recognized in collective bargaining agreements, and that the existing occupational titles are not sufficient to account for the work performed under the proposed definitions.

The Division takes the position that the existing occupational titles are sufficient, and indicated it generally opposes changes to the occupational titles. The Division also indicated, however, that it neither supports nor opposes the additions sought by objector, so long as the additions do not create overlap among the specific work duties encapsulated by existing occupational titles. The Division indicated its primary concern is the efficient enforcement of the law. The Division also requested specific direction on how to set rates for the proposed titles in the event the Commission sustains the objection.

Given the foregoing, it appears the only issues for hearing are whether objectors can provide descriptions of work for the proposed additional titles that will not overlap with specific work duties encapsulated within existing occupational titles, and whether objectors can provide evidence sufficient to permit the Division to set the applicable rates and schedules for the proposed additional titles for the counties identified by objector.

IV. Hearing

The hearing before the Commission is scheduled for Monday, June 2, 2014, at 8:30 a.m., and Tuesday, June 3, 2014 (if necessary), in Jefferson City, Missouri. The hearing will take place at the Department of Labor and Industrial Relations Building, 3315 West Truman Boulevard, in the second floor conference room.

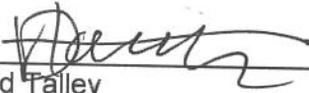
If, in advance of the hearing date, objector is able to satisfy the concerns of the Division as set forth above, the Commission will entertain a joint request to add the proposed occupational titles to Annual Wage Order No. 21. Such request should be accompanied by a written stipulation executed by all parties, as well as replacement pages for the affected counties.

"No direct evidence, other than the testimony and documents filed at the prehearing conference, will be allowed at the hearing, except at the discretion of the Commission." 8 CSR 20-5.010(4)(B)4.

This Order is prepared in accordance with 8 CSR 20-5.010(3)(B) and is hereby executed by the Commission's designated representative.

Given at the City of Jefferson, State of Missouri, this 7th day of May 2014.

LABOR AND INDUSTRIAL RELATIONS COMMISSION



David Talley
Designated Representative