



# SYSTEM COUNCIL NO. 16

## INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

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**Jeff Allred**      **Brad Carothers**      **Jeff Burk**      **Mike Tschacher**      **Amanda Jacobs**  
General Chairman      Vice Chairman      Sec Treasurer      Asst Gen Chairman      Admin Asst

August 11, 2023

### **Second Quarter, 2023 Report to the Members of System Council 16**

Dear Members,

I want to begin by thanking Local 366 officers and their courageous members for assisting us in the successful removal of a verbally abusive and anti-union shop manager. Without their statements under fear of retaliation, this never would have happened. We attempted to work with this manager for years without any success. I also need to commend CN for listening, investigating, and doing the right thing.

I also need to thank Local 2355, President/Local Chairman, Zachary Trunk for his assistance in Codifying the Agreement with the Northern Indiana Commuter Transportation District (NICTD). This Agreement hadn't been codified after being amended many times, with many rule changes over the years through negotiations. Zach's immense knowledge of his Agreement was instrumental in this success.

CPKC continues to be focused on their merger, so there isn't much happening outside of that. They are moving their headquarters to Kansas City. The difficulty we are fearing is that any telecom work moved to the former KCS will be lost, as Telecom workers on the KCS are exempt employees. We will be attempting to persuade CPKC to bring them under IBEW jurisdiction.

Contract negotiations on the Paducah and Louisville will begin this month.

We are currently in negotiations with CN to bring the former GTW telecom members under a monthly rate by adopting the former IC/WC Agreement. This will benefit our members as their Agreement is from the 1940's and very outdated. This is a slow and meticulous process and will take some time.

BNSF Mechanical continues down its' path of PSR, although they claim they aren't. I could write a book about what has transpired on this property since my last report. To keep this manageable, I will use bullet points as most of the BNSF members are fully aware of what is happening.

- BNSF implemented a hiring freeze in Mechanical for most of the summer.
- Abolished roughly a 3<sup>rd</sup> of our training positions.

**OUR BUSINESS – REPRESENTATION & SERVICE**

## INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

- Abolished many service track jobs giving our inspection work to the Laborers under the guise of Simple Task.
- Forced our members at larger shops to work their first rest day on two occasions.

Normally forcing our members to work is better than contracting out the work, but it is obvious that BNSF has no intention of hiring either. If you recall, in response to our lawsuit and in BNSF's Motion to Dismiss our lawsuit, they kept referencing their robust hiring plan that far exceeded attrition. Not long after the Motion was filed, BNSF enacted the above. These actions resulted in the IBEW, IAMAW, and SMART-MD filing a Motion to file a supplemental declaration informing the Court of what BNSF had done versus what they claimed they were doing. Attached, you will find the Motion as well as my second Declaration.

I also want to thank the Locals that are taking on the mundane task of filing claims for every locomotive that other crafts are inspecting our items on.

Recently BMWED also sued BNSF in Federal Court for allowing their maintenance of way employment numbers to fall to unprecedented low levels.

For the first time in decades, BNSF Telecom now has a construction crew. If it goes well, we hope to see more in the future.

Last but certainly not least, as many of you already know, Assistant General Chairman, Darrell Patterson has retired. Darrell was a huge asset to the Council and will be missed. We hope he has a happy and lengthy retirement.

We are looking forward to seeing all of the delegates at our Convention in Branson, MO in October.

Sincerely,



Jeff Allred  
General Chairman  
System Council 16 – IBEW

Attachments: Motion for Leave  
2<sup>nd</sup> Declaration  
Plaintiffs' Suggestions  
SC16 Financials  
SC16 Travel

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

INTERNATIONAL BROTHERHOOD OF	)	
ELECTRICAL WORKERS, et al.,	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 3:23-cv-5012
	)	
BNSF RAILWAY CO.,	)	
	)	
Defendant.	)	

**PLAINTIFFS’ MOTION FOR LEAVE TO FILE SUPPLEMENTAL DECLARATIONS  
IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS**

Plaintiffs International Brotherhood of Electrical Workers, International Association of Machinists and Aerospace Workers, District 19, and International Association of Sheet Metal, Air, Rail & Transportation Workers – Mechanical and Engineering Department, pursuant to Local Rules 15.1 and 7.0, respectfully move the court for leave to file the attached supplemental declarations of Jeff Allred, Kyle Loos, and Charles Fraley, Jr., in this matter in further opposition to Defendant BNSF Railway Company’s motion to dismiss.

Respectfully submitted,

/s/ Jason R. McClitis

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/s/ Erich H. Lange

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*Attorney for SMART-MD and IAM*

Dated: July 7, 2023

**CERTIFICATE OF SERVICE**

I certify that on July 7, 2023, I filed a copy of the foregoing Motion for Leave with the Court through the Court's CM/ECF system, which serves copies on all attorneys of record.

/s/ Erich H. Lange  
Erich H. Lange

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

INTERNATIONAL BROTHERHOOD OF	)	
ELECTRICAL WORKERS, et al.,	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 3:23-cv-5012
	)	
BNSF RAILWAY CO.,	)	
	)	
Defendant.	)	

**SECOND DECLARATION OF JEFF ALLRED**

1. My name is Jeff Allred. I am of legal age and competent to provide this Declaration. I am the General Chairman of System Council No. 16, International Brotherhood of Electrical Workers (“System Council 16”), which is the exclusive bargaining representative of all Mechanical Electricians employed by BNSF Railway Company (“BNSF”). I previously provided a declaration in this case (Doc. 23-1) in support of Plaintiffs’ opposition to BNSF’s motion to dismiss.

2. Since May 5, 2023 – when BNSF filed its reply brief and the supplemental declaration of General Director of Labor Relations Derek Cargill – I have become aware of certain actions taken by BNSF that are significant to this case.

3. In several of BNSF’s filings, which I have reviewed, BNSF asserted that it “is doing all it can to bolster its existing workforce.” Def.’s Br. in Supp. of its Mot. to Dismiss, at 9 (Doc. 18). But despite its supposed efforts, including purportedly offering hiring incentives, BNSF claimed that it has nevertheless been unable to hire sufficient Mechanical Electricians, Machinists, and Railroad Sheet Metal Workers. *Id.* BNSF also claimed that its 2023 hiring plan is “well above

projected attrition levels,” *id.* at 12, and that BNSF “has [] made substantial efforts to hire new employees and to train them,” *id.* at 17. BNSF reiterated those claims in its reply brief and the supplemental declaration from Derek Cargill.

4. Although BNSF has represented to the Court that it is actively trying to hire and train shop mechanics to adequately staff its maintenance shops, BNSF has implemented a hiring freeze for Mechanical Electricians and other shop mechanics in different crafts. The hiring freeze began sometime in May 2023, and is expected to last at least sixty (60) days. BNSF’s Chief Mechanical Officer Edmundo Rodriguez notified the IBEW verbally of the hiring freeze at a system LAT meeting, which took place May 16 through 18, 2023, in Kansas City, Kansas.

5. Additionally, on May 30, 2023, BNSF announced to the IBEW in a phone call that it is eliminating numerous “trainer positions” across crafts, including five (5) of the sixteen (16) total Mechanical Electrician trainer positions – roughly one-third of all Mechanical Electrician trainers. Trainer positions, as the name suggests, are critically necessary to train newly hired mechanics and craftworkers to ensure they are capable of performing locomotive maintenance and inspections. In its May 30 announcement, BNSF explained that the trainer positions were being eliminated because BNSF does not foresee hiring very many apprentices in the future.

6. BNSF’s mechanical workforce has not significantly increased, and is still far below pre-pandemic levels. As of May 31, 2023, the IBEW has seen a net loss of eight (8) Mechanical Electricians since the beginning of 2023. From 2020 through May 31, 2023, there has been a net loss of 349 Mechanical Electricians at BNSF. Although BNSF has discontinued its outsourcing of routine locomotive inspection and maintenance, it faces the same mechanical staffing shortage as before. Unless BNSF hires and maintains an adequate mechanical workforce, BNSF will almost

certainly encounter the same high out-of-service counts and large maintenance backlogs in the future.

7. BNSF now has so few Mechanical Electricians available that it is abolishing Mechanical Electricians' service track positions and reassigning those Mechanical Electricians to staff shop maintenance positions. The safety sensitive work performed by Mechanical Electricians on service tracks, which includes daily locomotive inspections, has instead been assigned to workers with less experience and training than IBEW-represented Mechanical Electricians.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 6, 2023.



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Jeff Allred



**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

INTERNATIONAL BROTHERHOOD OF	)	
ELECTRICAL WORKERS, et al.,	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 3:23-cv-5012
	)	
BNSF RAILWAY CO.,	)	
	)	
Defendant.	)	

**PLAINTIFFS’ SUGGESTIONS IN SUPPORT OF THEIR MOTION FOR LEAVE TO  
FILE SUPPLEMENTAL DECLARATIONS IN OPPOSITION TO DEFENDANT’S  
MOTION TO DISMISS**

Plaintiffs International Brotherhood of Electrical Workers (“IBEW”), International Association of Machinists and Aerospace Workers, District 19 (“IAM”), and International Association of Sheet Metal, Air, Rail & Transportation Workers – Mechanical and Engineering Department (“SMART-MD”) (collectively “the Unions”) respectfully move the court for leave to file supplemental declarations in this matter in further opposition to Defendant BNSF Railway Company’s (“BNSF”) motion to dismiss (Doc. 17).

Pursuant to Local Rules 15.1 and 7.0, the Unions propose to submit the supplemental declarations attached to their Motion for Leave to File Supplemental Declarations in Opposition to Defendant’s Motion to Dismiss, to address actions taken by BNSF since briefing of Defendant’s motion to dismiss concluded on May 5, 2023. Those actions are contrary to representations made by BNSF in both its brief in support of its motion to dismiss (Doc. 18) and its reply brief (Doc. 27).

In its brief in support of its motion to dismiss (Doc. 18) and its reply brief (Doc. 27), BNSF asserted that it has made substantial efforts to hire and train more Mechanical Electricians, Machinists, and Railroad Sheet Metal Workers. Specifically, BNSF represented to the Court that it has offered hiring bonuses to recruit shop mechanics, that it “has a 2023 hiring plan that is well above projected attrition levels, and that it “has also made substantial efforts to hire new employees and to train them.” Def.’s Br. in Supp. of its Mot. to Dismiss, at 9, 12, 17 (Doc. 18). In its reply brief, BNSF again represented to the Court that it was trying to increase hiring and that it was offering “hiring bonuses and the like.” Def.’s Reply Br., at 2-3 (Doc. 27).

Since briefing of BNSF’s motion to dismiss concluded on May 5, 2023, BNSF implemented a hiring freeze for the mechanical department. BNSF has also announced it plans to abolish a number of “trainer” positions. Those positions are necessary to ensure newly hired shop mechanics can correctly perform locomotive inspections, maintenance, and repairs. The stated reason for abolishing these positions is that BNSF is not planning to hire many apprentices in the future.

This new information is detailed in the declarations of Kyle Loos, Jeff Allred, and Charles Fraley, Jr., attached to the Unions’ motion, for which the Unions seek leave to file. Despite BNSF’s representations to the Court, its hiring freeze and abolishment of numerous trainer positions clearly demonstrates that BNSF has abandoned any intention it may have had to hire and train more mechanics. BNSF’s actions not only contradict its own representations to the Court, but further support the Unions’ claim that BNSF has acted, and continues to act, in bad faith in violation of Section 2, First of the Railway Labor Act, 45 U.S.C. § 152, First.

BNSF’s mechanical workforce remains dramatically below pre-pandemic levels, and even well below 2020 and 2021 levels. Even if BNSF had been making serious efforts to increase its

shop mechanic workforce, it plainly is no longer doing so. By implementing a hiring freeze, BNSF has effectively abandoned efforts to increase staffing. By abolishing many trainer positions, BNSF has effectively disabled itself from increasing staffing since it will not have enough trainers necessary to train a sufficient number of apprentices to actually increase BNSF's workforce.

Unless BNSF actually makes a good-faith effort to hire and maintain an adequate mechanical workforce to conduct inspections and routine maintenance, it is likely that BNSF will again fall behind on locomotive inspections and maintenance work, and will again seek to catch up by outsourcing routine locomotive inspection and maintenance work to the detriment of Machinists, Mechanical Electricians, and Railroad Sheet Metal Workers represented by the Unions.

The Unions submit that this information – which became known to the Unions after briefing of Defendant's motion to dismiss had completed – is relevant to the Court's consideration of BNSF's motion to dismiss and the Unions' opposition thereto. Accordingly, the Unions respectfully request that the Court grant the Unions leave to file the attached second declarations of Messrs. Loos, Allred, and Fraley.

Respectfully submitted,

/s/ Jason R. McClitis

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Dated: July 7, 2023

/s/ Erich H. Lange

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*Attorney for SMART-MD and IAM*

**CERTIFICATE OF SERVICE**

I certify that on July 7, 2023, I filed a copy of the foregoing with the Court through the Court's CM/ECF system, which serves copies on all attorneys of record.

/s/ Erich H. Lange  
Erich H. Lange

**SYSTEM COUNCIL 16, IBEW  
FINANCIAL REPORT - 2nd Quarter 2023**

<b>SAVINGS CERTIFICATE STATEMENT:</b>	<b>BALANCE</b>
Mid Country	\$107,336.36
Freedom Bank of MO CD 1	\$220,000.00
Freedom Bank of MO CD 2	\$220,000.00
Freedom Bank of MO CD 3	\$150,000.00
Guaranty Bank CD 2	<u>\$213,944.78</u>
<b>TOTAL SAVINGS CERTIFICATES</b>	<b>\$911,281.14</b>
<b>GENERAL FUND (SAVINGS ACCOUNTS)</b>	
Freedom Bank of MO	\$252,103.67
<b>CONVENTION FUND (CHECKING ACCOUNT)</b>	
Bank of America	\$243,650.82
<b>MISC. INCOME</b>	
<b>CHECKBOOK ENDING BALANCE - MIDCOUNTRY BANK</b>	\$81,250.80
<b>TOTAL - ALL ACCOUNTS</b>	<b>\$1,488,286.43</b>

**SYSTEM COUNCIL 16, IBEW  
FINANCIAL REPORT - 2nd Quarter 2023**

<u>L.U.</u>	<u>April</u>	<u>May</u>	<u>June</u>
366	\$2,672.73	\$2,656.02	\$2,558.00
418	\$4,017.75	\$4,014.00	\$4,125.50
452	\$2,787.50	\$0.00	\$0.00
506	\$7,454.75	\$0.00	\$0.00
533	\$0.00	\$0.00	\$2,284.74
547	\$0.00	\$17,003.75	\$0.00
708	\$501.75	\$557.50	\$0.00
757	\$7,451.00	\$22,379.00	\$0.00
778	\$4,683.00	\$0.00	\$9,254.50
783	\$6,762.50	\$2,071.25	\$0.00
784	\$1,059.25	\$1,003.50	\$1,059.25
866	\$26,258.25	\$0.00	\$27,068.00
881	\$4,906.00	\$9,209.25	\$0.00
886	\$2,440.00	\$2,620.25	\$2,620.25
906	\$197.00	\$0.00	\$669.00
946	\$0.00	\$4,000.00	\$2,341.50
959	\$9,143.00	\$9,087.25	\$8,920.00
1022	\$0.00	\$19,568.25	\$0.00
1023	\$0.00	\$35,680.00	\$0.00
1146	\$1,728.25	\$1,603.75	\$0.00

**SYSTEM COUNCIL 16, IBEW  
FINANCIAL REPORT - 2nd Quarter 2023**

**PER CAPITA TAX RECEIPTS:**

<u>L.U.</u>	<u>April</u>	<u>May</u>	<u>June</u>
1155	\$3,791.00	\$0.00	\$9,087.41
1199	\$2,341.50	\$2,397.25	\$2,397.25
1517	\$0.00	\$15,833.00	\$0.00
1559	\$1,157.75	\$1,170.75	\$1,170.75
1769	\$0.00	\$4,629.50	\$0.00
1856	\$5,830.50	\$5,401.25	\$5,407.75
2355	\$4,937.75	\$5,105.00	\$2,620.25
<b>TOTAL</b>	<b>\$100,121.23</b>	<b>\$165,990.52</b>	<b>\$81,584.15</b>

**NOTE: \$52.75 Per Capita Tax + \$2.00 deposited to S.C. Convention Fund + \$1.00 to Railroad Legal Fund (RRCC) = \$55.75**



**Jeff Allred's Travel 2<sup>nd</sup> Quarter 2023:**

April 11—14, 2023 – Bend, OR – BNSF Telecom Meetings

May 1—4, 2023 – Memphis, TN – BNSF Meetings – CN Investigation

May 22—26, 2023 – Fort Worth, TX – BNSF Telecom Meetings – LR Meetings

May 30—June 1, 2023 – Charlotte, NC – Arbitration

June 19—22, 2023 – St. Louis, MO – 11<sup>th</sup> District Progress Meeting

June 27—30, 2023 – Oklahoma City, OK – Staff Meetings – Darrell's Retirement

**Darrell Patterson's Travel 2<sup>nd</sup> Quarter 2023**

April 13, 2023 – Roeland Park, KS – Local 866 Meeting

April 17—18, 2023 – Lincoln, NE – Local 1022 Meeting

May 11, 2023 – Roeland Park, KS – Local 866 Meeting

May 16—18, 2023 – Overland Park, KS – BNSF LAT Meetings

June 8, 2023 – Roeland Park, KS – Local 866 Meeting

June 28—30, 2023 – Oklahoma City, OK – SC16 Staff Meetings

**Jeff Burk's Travel 2<sup>nd</sup> Quarter 2023:**

April 11—14, 2023 – Bend, OR – BNSF Telecom Meeting

May 22—25, 2023 – Fort Worth, TX – BNSF Signal/Telecom/LR Meetings

June 5—9, 2023 – Phoenix, AZ – IBEW 7<sup>th</sup> District Progress Meeting

June 27—30, 2023 - Oklahoma City, OK – SC16 Staff Meetings

### **Brad Carothers' Travel 2<sup>nd</sup> Quarter 2023**

May 30—June 1, 2023 – Charlotte, NC – PLB7621

June 5—9, 2023 – Phoenix, AZ – District Progress Meeting and Shop Visit

June 27—30, 2023 – Oklahoma City, OK – Staff Meetings

### **Mike Tschacher's Travel 2<sup>nd</sup> Quarter 2023**

March 8—10, 2023 – Minneapolis, MN – Local 506 Investigation and Meeting

March 15, 2023 – Topeka, KS – Topeka shop visit and Local 959 Union Meeting

March 27—30, 2023 – Kansas City, KS – Telecomm Meetings and CRF Visit

May 1—4, 2023 – Memphis, TN – Local 881 Investigation and Meetings

May 23—25, 2023 – Minneapolis, MN – Local 506 Investigation

June 19—22, 2023 – St. Louis, MO – 11<sup>th</sup> District Progress Meeting

June 27—30, 2023 – Oklahoma City, OK – Staff Meetings and Convention Planning