

Wisconsin Chapter NECA
2200 Kilgust Rd.
Madison WI 53713

Chapter Officers:

Governor : Gerald Schulz
Michels Power, Neenah
President: Bernie Cleppe
Roman Electric, Sturtevant
Vice Pres: Mark Hady
Hady Electric, Watertown
Treasurer: Joel Westphal
QWEST Electric, Green Bay
Executive Vice President:
Loyal D. O'Leary

Chapter Board of Directors:

Darrell Braun, Madison
Bernie Cleppe, Racine
Mark Hady, Janesville-Beloit
Arlan Hanson, Indianhead
Greg Dewitz, Kenosha
Tim Padesky, La Crosse
Larry Navarrete, Fox Valley
Bob Van Ert, Wisconsin Valley
Joel Westphal, Northeastern



Inside this issue:

Happy 50th Hill Electric!	2
Biotech Is the Future	2
Attorney Bob Kay's Letter	3
June 2008 Calendar	3
Tom's Code Corner	4
Manpower Statistics	5,7
Expanded Portability Now Covers Entire Chapter	5

Watts News



May 2008

2008 Summer Meeting

The 2008 Summer Meeting will be held at Eagle Ridge Resort, Galena, Illinois, from Thursday, July 24 through Saturday, July 26.

Just outside the historic community of Galena, Eagle Ridge Resort is located on 6,800 acres of rolling hills and features 63 holes of championship golf. The resort features luxury rooms at the main inn, as well as a spa, tennis courts, horseback riding, boating, fishing, bicycle paths (and rentals), and three dining options for guests.

The village of Galena prides itself on maintaining its important history, and has several historic sites including the former home of President Ulysses S. Grant, the Old Market House (circa 1845), the Washburn House (former U.S. Congressman and Ambassador), and Dowling House, an 1826 trading post and residence. The storefronts of downtown Galena have been restored and feature art galleries, unique boutiques, and wonderful restaurants; a tribute to the bustling riverfront commerce center it once was. The previous meetings at Eagle Ridge Resort were among our most popular locations, due to the fact that there is something for everyone.



Speakers are still being finalized, however, we have confirmed that Joe Hertel will once again be presenting a code seminar on Saturday (4 CEU's).

Registration information will be mailed out soon, but be sure to mark the dates on your calendar now. We hope to see you there!

Drug-Free Wisconsin

As of June 1, 2008, the entire Wisconsin Chapter jurisdiction will be covered under drug testing policies. The last of the policies begins initial testing as of June 1, and within the next two years all IBEW members will be tested. There is also a random testing component in each of the areas to ensure that IBEW projects are drug-free workplaces. The policies are fundamentally similar and test results are valid from one local to another.

The committees who put these policies together worked hard to ensure that the programs would be fair, consistent, and most of all, effective in preventing workplace substance abuse, which accounts for 47% of job site accidents. Our thanks to all for their cooperation.

As previously noted, NECA joined with other construction organizations to create the ConsensusDOCS collection of contract documents, to offer a new way to reduce conflicts among other subs, general contractors and owners. DOCS stands for Designers, Owners, Contractors, Surety, and ConsensusDOCS was created when a group of 21 leading construction associations met to agree on standard contract documents that were acceptable to all parties. Previous to that, many of the associations had their own unique forms, some of which were not compatible with other forms used, creating problems for trades working together.

NECA is pleased to announce that NECA member firms are eligible for a 20 percent discount off the cost of all ConsensusDOCS contract documents.

To order, NECA members should go online to www.ConsensusDOCS.org, create an account, select the items you wish to purchase and then enter your partner code **NECA** and promotion code **200** after selecting your payment method.

Congratulations Hill Electric!

Hill Electric recently celebrated 50 years in business with a reception to commemorate the changes over the years, and especially honoring founder Jerry Hill. Jerry began Hill Electric in 1958 in the garage of his home, and he was both owner and sole employee at the time. He joined NECA shortly after, and was an active member of the Madison Chapter, and was a charter member of the Wisconsin Chapter NECA when it was formed in 1962. Jerry served the Madison Division on the Labor-Management, Pension, Health & Welfare, and Apprenticeship committees for many years, and served the Wisconsin Chapter in many capacities including WEEBF Trustee, ECPAC Team Captain, Building Committee Chair, and Chapter Vice President, Treasurer and Governor positions. In 1984, Jerry was elected Chapter Governor, a title he held until his retirement in July 2001, becoming the longest-serving Chapter Governor in Wisconsin Chapter history. Beginning in 1960, Jerry attended 42 consecutive NECA Conventions and in 1998, Jerry was awarded the prestigious Comstock Award for his outstanding efforts in the Labor-Management arena. He was inducted into the Academy of Electrical Contracting in 1988, and was named District IV Man of the Year in 1994.



Jerry was notorious with NECA members across the country for his love of the Wisconsin Badgers; and many Wisconsin NECA contractors attended Badger games, courtesy of Jerry Hill and his vast network of tickets.

Jerry's son Jay Hill took over the company when Jerry retired, and also proficiently took on the responsibilities of NECA membership, serving on the Madison Division Board of Directors, Labor-Management, Apprenticeship and other committees as well. Today, Hill Electric continues to thrive, the company now employs 35 electricians, and is located near the beltline in Madison, not far from where the company was founded.

Congratulations to Hill Electric and the entire Hill family on 50 years of electrical contracting, and thank you for your exemplary service to NECA.

A Biotech Boom?

Wisconsin is pumping millions into supporting new companies that specialize in the biotech field, an industry that will experience huge growth, and produce good quality jobs for state workers. Many of the start-up companies have grown from research at the University of Wisconsin campus, and some of them are beginning to grow and build or expand their facilities. The UW will be home to the Wisconsin Institutes for Discovery, a \$150 million project which is scheduled to open in 2010, which will provide even more research space for these new products and services. All told, there is \$1 billion worth of new construction in the works for the UW related to the biotech industry.



As these new companies begin to attract investors from the East and West coasts, Wisconsin hopes it will translate into more biotech growth in the state, much as the computer industry once changed the business climate of the Silicon Valley. That will mean more high tech construction projects for the contractors who have seized this unique opportunity.

From the Desk of Attorney Kay

STRAY VOLTAGE AND ELECTRICAL CONTRACTORS

Every now and then cases are decided regarding stray voltage from electrical distribution systems. These cases are generally brought by dairy farmers who experience a loss in milk production attributable in their opinion to stray voltage impairing the health of the dairy herd. Two such cases have recently been reported, Gumz v. Northern States Power Co., and Schmidt v. Northern States Power Co., both decided by the Wisconsin Supreme Court on December 6, 2007.

In Gumz, the dairy farmer recovered, but in Schmidt, the Supreme Court remanded the case to the circuit court for a redetermination of whether the statute of limitations had run. Both cases involved the six-year statute of limitations which requires that a lawsuit be brought within six years after the cause of action accrues in order to recover an injury to property. Case law has established that a cause of action accrues on the date the injury is discovered or with reasonable diligence should be discovered, whichever occurs first. Actions brought based on negligence in stray voltage cases are subject to that law.



Although the reader might think that a six-year statute of limitation should not be difficult to comply with, stray voltage cases are complex because a decrease in dairy herd production may be caused by poor nutrition, inconsistent feeding, disease, and animal discomfort not caused by stray voltage. Arriving at the conclusion that a fall in milk production is due to stray voltage often requires careful investigation, some of which will be performed by the electrical utility or electrical contractors who are asked to inspect the farm for stray voltage, and possibly install a grounding device or take other corrective measures. Six years can pass quickly.

In Gumz, the court held that the six-year statute of limitations begins running when the farm was tested for stray voltage and the test results are communicated to the farmer. In prior cases, the Wisconsin Supreme Court had considered the difficulty of identifying the cause of stray voltage and the need for an investigative process of elimination of possible causes rather than a process of determination of the cause. The court held in the past that as a matter of law, the farmer must actually discover, or with the exercise of reasonable care should have discovered, that stray voltage was the cause of damage to the herd before the statute of limitations begins to run. Therefore, it is obvious that six years of investigation doesn't necessarily mean the six-year statute has run. It begins to run from that point in time where enough is known by the farmer so that in the exercise of reasonable care, action to eliminate the stray voltage would be taken.

(Continued on page 6)

June 2008

June 4

Janesville-Beloit Membership

June 5

La Crosse Membership

June 9

Kenosha Racine Membership

June 11

Northeast-Fox Membership

June 12

Indianhead Membership

June 18

Madison Golf Outing

June 19

Wisconsin Valley Membership

Upcoming Meetings

July 24-26, 2008

Summer Meeting

Eagle Ridge Resort, Galena, IL

October 4-7, 2008

NECA Convention

Chicago, IL

January 23-24, 2009

Winter Meeting

Wisconsin Dells

March 22 - 25, 2009

Midwest Regional Spring Conf.

Kauai, Hawaii

Attorney Robert J. Kay can be reached at

Kay & Andersen, S.C.

One Point Place, Suite 201

Madison, Wisconsin 53719

Phone: 608-833-0077

Fax: 608-833-3901

www.kayandandersen.com

It's time to order the **2007 NEIS Yearbook** CD.

NECA recently released the third annual compilation of National Electrical Installation Standards (NEIS) on CD. The 2007 NEIS Yearbook includes all NEIS publications published through the end of the year, in a convenient digital format. Individual publications may be downloaded from the NECA website as a PDF file, however, the CD gives members access to all the publications in one easy location.

The CD is priced at \$100 for NECA members, \$200 for non-member firms. To order, call the NECA Office (608) 221-4650.



Have you got a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

Legislation to End Misclassification

NECA and other associations are working together to combat the growing trend of employee misclassification. The practice of classifying employees as "independent contractors" not only gives the employer an unfair advantage, it costs the employees the basic employment protections, and costs the federal government an estimate \$4 billion in lost tax revenue every year.

The Taxpayer Responsibility, Accountability and Consistency Act (HR 5804) and the Independent Contractor Proper Classification Act (S 2044) seek to repeal Section 530 of the 1978 Revenue Act so that "safe harbor" provisions cannot be used to misclassify workers. The new legislation would more clearly define who could be classified as an independent contractor, ensuring that employees are classified as such and that unemployment, workers compensation and payroll taxes are paid on their behalf.

The legislation would also greatly increase penalties imposed on taxpayers who file incorrect information with the IRS, and provide whistleblower protection for employees who challenge their misclassification.

In the most recent analysis of the practice, the IRS found that 15 percent of employers misclassified 3.4 million employees as independent contractors.



NECA Goes Green

NECA has teamed up with the U.S. Green Building Council to create a workshop on how electrical contractors can become LEED certified. The workshop will be held in conjunction with the NECA Convention in Chicago in October and the actual course content is being developed specifically for NECA members. The goal is to put NECA contractors in a position to help building owners "go green" in their projects.

As consumers become more educated about alternative energies and energy-efficient systems, the demand for "green building" and sustainable technologies is expected to increase.



Tom's Code Corner

Question: What types of MC Cable must be used for isolated ground receptacles?

Answer: A type where the cable armor is in itself recognized as an equipment grounding conductor in accordance with NEC250.118(10)(b). The cable armor is used to ground the box. It also must provide a fault return path for a ground fault within the cable. The insulated equipment grounding conductor is then used to ground equipment connected to the receptacle.

MANPOWER STATISTICS

For the Month of -- **February 2008**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
Local Contractors: NECA	8	4	2	18	5	6	3	6	52
Non-NECA	40	9	15	19	14	16	8	18	139
Total Local Contractors:	48	13	17	37	19	22	11	24	191
Traveling Contractors: NECA	7	5	7	2	4	5	4	6	40
Non-NECA	5	14	5	5	1	3	0	4	37
Total Traveling Contractors:	12	19	12	7	5	8	4	10	77
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	60	32	29	44	24	30	15	34	268
Contractors More Than Two Months Delinquent in N.E.B.F.	1	1	0	3	2	2	0	2	11
Total Number of Contributing Contractors in Area:	61	33	29	47	26	32	15	36	279
Employees: NECA	227	59	188	731	218	66	186	176	1851
Non-NECA	214	95	216	94	47	62	62	76	866
TOTAL EMPLOYED:	441	154	404	825	265	128	248	252	2717

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Division

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

Portability LOU Now Includes All Locals

The Letter of Understanding on Portability created in October 2005 has now added the final two local unions in the Wisconsin Chapter jurisdiction. With the addition of Locals 14 (Eau Claire & La Crosse) and 159 (Madison), the Letter of Understanding now includes all locals in the Wisconsin Chapter and the Milwaukee Chapter NECA.

The provisions of the Letter of Understanding call for an employer to initially bring up to 4 bargaining unit employees into another signatory local, after the initial 4, the employer may bring in 1 additional employee for every 1 hired from the current referral list of that Local Union (one for one). Reverse Portability rules do not apply. If an employer has offices in more than one of the signatory locals they may move men back and forth (limited to the initial four and then the one to one rule) where you could not previously. An employer may also take an employee back to their home Local under the provisions of the Letter of Understanding.

The LOU has already created additional work opportunities for electricians whose own Local Union has slower employment, and allows contractors to take their key employees from one area to another to man similar projects.

From the Desk of Attorney Kay (continued)

The reported cases of stray voltage frequently note that an electrical contractor is hired to determine whether stray voltage exists on the farm. While I have tried stray voltage cases, I am not an expert in determining what evidence is relevant in determining whether stray voltage exists on a farm. Electrical contractors who have worked in the field are experts on such subjects and it is important for them to understand that the statute of limitations is a six-year statute that begins running from the time that enough information is learned and communicated to the farmer to cause the farmer acting reasonably to take the necessary action to eliminate the stray voltage.

In Schmidt, the court found that the facts were unclear as to when the farmer discovered evidence of stray voltage. The Schmidts began looking at electricity problems early on in their process of elimination. They had the utility check their farm for stray voltage on numerous occasions, install plastic water tanks, attach rubber tires to their feed bunks and had an electrician test their farm. They also installed a device to isolate their herd from stray voltage. The question that was before the court in Schmidt was whether the improvement in herd health that occurred after these steps were taken, which occurred more than six years prior to the suit being filed, constituted an objective basis for a belief that stray voltage was the cause of damage to the Schmidt's herd. Such a question did not arise in the Gumz case because the isolation device installed in the Gumz case was installed less than six years prior to the Gumz filing suit. In the Schmidt case, the circuit court dismissed Schmidt's action on the grounds that the statute of limitations had run, but the Supreme Court remanded it back to the circuit court for a trial so that the jury could determine when Schmidt discovered enough information to trigger the ticking of the six-year clock.



The Schmidt case also involved the tariff filed by Northern States Power with the Wisconsin Public Service Commission. According to that tariff, there were relevant provisions entitled "Stray Voltage Program" with a subheading entitled "Stray Voltage Tariff". Those provisions stated:

(a) Under normal operating conditions, a neutral-to-earth current of voltage may exist on the grounded or grounding conductors or other conductive objects on the customer's premises. The source of the current or voltage may be located on the premises, off the premises, or a combination of both. Upon the customer's request, the Company will investigate inquiries associated with neutral-to-earth current or voltage concerns.

(b) Stray voltage is a 60 Hz steady state AC RMS voltage that can be measured across a 500-ohm shunt resistor that has been connected between two points which livestock may contact simultaneously...

...

(d) Following a determination by the Company that, under normal operating conditions, the contributions to animal contact current from off-farm sources is in excess of 1.0mA, the Company shall implement, at its expense, measures to reduce this contribution to below 1.0mA..."

Northern States argued that the stray voltage on the Schmidt farm, or on any customer's system, may be present as a matter of course and that Northern States was only obligated if the stray voltage exceeded a one milliamperere in the "cow contact" area due to off-farm sources. Northern States asserted that it cannot be liable unless evidence shows a measurement greater than one milliamperere, because otherwise the filed rate tariff of Northern States Power would be violated. The Supreme Court rejected that argument and concluded that the terms of tariff do not alter Northern States' common law duty to exercise ordinary care in preventing stray voltage problems among its customers.

MANPOWER STATISTICS

For the Month of -- **March 2008**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
Local Contractors: NECA	8	4	3	19	5	5	3	6	53
Non-NECA	37	9	15	19	14	16	8	18	136
Total Local Contractors:	45	13	18	38	19	21	11	24	189
Traveling Contractors: NECA	9	4	6	2	4	4	3	6	38
Non-NECA	5	13	7	5	1	3	0	4	38
Total Traveling Contractors:	14	17	13	7	5	7	3	10	76
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	59	30	31	45	24	28	14	34	265
Contractors More Than Two Months Delinquent in N.E.B.F.	1	1	0	1	2	2	0	2	9
Total Number of Contributing Contractors in Area:	60	31	31	46	26	30	14	36	274
Employees: NECA	246	55	203	652	226	52	208	304	1946
Non-NECA	193	108	347	93	45	61	63	76	986
TOTAL EMPLOYED:	439	163	550	745	271	113	271	380	2932

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Division

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

Health Insurance Costs to Increase

We've all heard the reports on the rising cost of health care, and medical costs have continued to climb at a much higher rate than the cost of living increase. At the April 2008 meeting of the W.E.E.B.F. Board of Trustees, the trustees voted to increase the premiums, effective June 1, 2008. Although the trust is in good financial condition, the trend over the last several years has been for the dollar amount of claims to increase year over year. The first quarter of 2008 showed the same trend, and in an attempt to maintain the fund's health, the trustees voted to increase the premium by 10%.

The trustees also formed a search committee to begin seeking a qualified candidate to succeed Administrator Peter Risberg when he retires next year.