



RECORD OF ACTION

The undersigned, being all of the Trustees of the Pension Plan for the Local Union No. 131 International Brotherhood of Electrical Workers (the "Plan"), hereby consent to the adoption of the following recitals and resolutions.

RECITALS

- A. The Plan allows the Trustees to amend the Plan from time to time.
- B. The Trustees desire to amend the Plan to incorporate modifications to applicable nondiscrimination rules.

RESOLUTIONS

1. Effective as of January 1, 2006, the amendments attached as Exhibit A hereto are adopted to the Plan.
2. This Record of Action may be executed in any number of counterparts and in separate counterparts, each of which when so executed shall be deemed an original, but all of such counterparts together shall constitute but one and the same instrument.

_____ Mark Hunt	_____ Date	_____ Patrick Klocke	_____ Date
_____ <i>Gary Yager</i> Gary Yager	_____ 12/15/06 Date	_____ Matthew Mizikar	_____ Date
_____ David Buskirk	_____ Date	_____ Morris Applebey	_____ Date

EXHIBIT A

Amendments to the  
Pension Plan for the Local Union No. 131  
International Brotherhood of Electrical Workers

The following amendments are effective January 1, 2006:

1. Section 10.5 of the Plan is amended and restated to read as follows:

10.5 Actual Deferral Percentage Test.

(a) Applying the Test. The actual deferral percentage (the "ADP") for a Plan Year for Participants who are highly compensated Employees ("HCEs"), as defined herein, may not exceed the greater of:

(1) 1.25 times the ADP for the determination year of Participants who are not HCEs for the determination year; or

(2) The lesser of (A) 2 times the ADP for the determination year of Participants who are not HCEs for the determination year or (B) the ADP for the determination year of Participants who are not HCEs for the determination year plus 2 percentage points.

With respect to (1) and (2) above, the "determination year" shall mean the current Plan Year.

The Trustees shall determine the Participants' deferral percentages consistent with Code section 401(k)(3) and applicable Treasury Regulations, which the Plan incorporates by reference. The Trustees shall maintain records sufficient to demonstrate satisfaction of the ADP test and the amount of qualified nonelective contributions or qualified matching contributions, if any, used in the test.

The ADP test shall be satisfied separately with respect to each of the following groups of Participants:

(1) Collectively bargained Employees covered under each separate collective bargaining agreement (but the Trustees may, on a reasonable and consistent basis, aggregate separate collective bargaining units and treat them as a single collective bargaining unit for purposes of satisfying the ADP test); and

(2) All other Plan Participants.

(b) ADP Defined. For each Plan Year, the Trustees shall determine the "ADP" for the Participants who are HCEs and all other Participants as follows:

(1) The ADP for a specified group of Participants shall equal the average of the ratios, calculated separately for each Participant in the group, of (A) the allocations of Elective Contributions and qualified nonelective contributions or qualified matching contributions (to the extent not taken into account for purposes of the actual contribution percentage test), not including Income, which the Trustees determines for a Plan Year to (B) the Participant's Compensation for that Plan Year. For this purpose, catch-up contributions are not considered. The ADP of a Participant who makes no Elective Contributions is zero. Excess deferrals of Participants who are not HCEs are not taken into account for purposes of ADP testing.

(2) All elective contributions that are made under two or more plans of an Employer, which are aggregated for purposes of Code sections 401(a)(4) or 410(b), shall be treated as made under a single plan for purposes of this section 10.5. Plans may be aggregated in order to satisfy the ADP test only if they have the same Plan Year and use the same ADP testing method. Even if not aggregated for purposes of Code sections 401(a)(4) or 410(b), the deferral

percentage of any Participant who is an HCE and eligible to have elective contributions allocated to his account pursuant to two or more plans or arrangements described in Code section 401(k) and maintained by an Employer shall be determined as if all such contributions were made pursuant to a single arrangement.

(c) Excess Contributions. Excess contributions, plus or minus any Income allocable to excess contributions, shall be distributed no later than the 12 months after a Plan Year to Participants whose Accounts received an allocation of excess contributions for the Plan Year, except to the extent such excess contributions are classified as catch-up contributions." If such excess contributions are distributed more than 2-1/2 months after the last day of the Plan Year to which the excess contributions relate, a 10% excise tax will be imposed with respect to such amounts. Excess contributions shall be distributed to HCEs beginning with the HCE that has the largest dollar amount of Elective Contributions for the Plan Year in which the excess arose and continuing in descending order until all excess contributions have been distributed. To the extent an HCE has not reached his catch-up contributions limit under the Plan, excess contributions allocated to such HCE are catch-up contributions and will not be treated as excess contributions. The amount of excess contributions to be distributed shall be reduced by excess deferrals previously distributed for the taxable year ending in the same Plan Year and the excess deferrals to be distributed for a taxable year will be reduced by excess contributions previously distributed for the Plan Year beginning in such taxable year.

(1) Excess Contribution Defined. Excess contributions shall mean, with respect to any Plan Year, the excess of:

(A) The aggregate amount of Elective Contributions actually taken into account in

computing the ADP of HCEs for such Plan Year,  
over

(B) The maximum amount of such contributions permitted by the ADP test (determined by hypothetically reducing contributions made on behalf of HCEs in order of the ADP's, beginning with the highest of such percentages).

(2) Determination of Income. Income allocable to excess contributions shall be determined up to the date of distribution (A) under any reasonable method used for allocating Income to all Participants' Accounts and as applied consistently to all Participants for the Plan Year or (B) as the sum of (i) the Income determined by multiplying Income allocable to the Participant's Elective Contributions (and qualified nonelective contributions and qualified matching contributions, if any) for the Plan Year by a fraction, the numerator of which equals the Participant's excess contributions for the year and the denominator of which equals the Participant's Account balance attributable to Elective Contributions (and qualified nonelective contributions and qualified matching contributions, if any) without regard to any income or loss occurring during such Plan Year, plus (ii) The Income for the gap period determined in accordance with (i) above but substituting the Income for the Plan Year and the gap period for the Income from the Plan Year, and by substituting the contributions taken into account under this section for the Plan Year and the gap period for the contributions taken into account for the Plan Year in determining the fraction that is multiplied by that Income. "Gap period" shall mean the period beginning on the first day of the Plan Year immediately following the Plan Year in which the excess contributions were allocated and ending on the date of distribution. Instead of determining Income for the gap period under (ii) above, the Trustees may determine that Income for the gap period is equal to 10-percent of the amount determined under (i) above, multiplied by the number of whole calendar months

between the end of the Plan Year and the date of distribution, counting the month of distribution, if distribution occurs after the 15<sup>th</sup> of such month. A Plan will not fail to use a reasonable method for computing the Income allocable to excess contributions merely because such Income is determined on a date that is no more than 7 days before the distribution.

(3) Coordination with Actual Contribution Test. To the extent required by applicable law, any matching contributions relating to an HCE's excess contributions, which the Trustees distributes to the HCE, shall be declared a forfeiture as of the end of the Plan Year in which the excess contribution is distributed (even if the HCE is vested in such matching contribution), except to the extent that the matching contribution is an excess aggregate contribution which is distributed to the HCE in accordance with section 10.6(c).

This section 10.5 shall not apply if the Plan satisfies the safe harbor requirements of Code section 401(k)(12).

2. Section 10.6 of the Plan is amended and restated to read as follows:

10.6 Actual Contribution Percentage Test.

(a) Applying The Test. This section 10.6 shall apply only with respect to, and shall only take into account, those Participants who are not collectively bargained (as defined in Treas. Reg. § 1.410(b)-6(d)). The actual contribution percentage (the "ACP") for Participants for a Plan Year who are highly compensated Employees ("HCEs," as defined herein), may not exceed the greater of:

(1) 1.25 times the ACP for the determination year of Participants who are not HCEs for the determination year; or

(2) The lesser of (A) 2 times the ACP for the determination year of Participants who are not HCEs for the determination year or (B) the ACP for the determination

year of Participants who are not HCEs for the determination year plus 2 percentage points.

With respect to (1) and (2) above, the "determination year" shall mean the current Plan Year.

The Trustees shall determine the Participants' contribution percentages consistent with Code section 401(m)(3) and applicable Treasury regulations, which the Plan incorporates by reference. The Trustees shall maintain records sufficient to demonstrate satisfaction of the ACP test and the amount of qualified nonelective contributions and qualified matching contributions, if any, used in such test.

(b) ACP Defined. For each Plan Year, the Trustees shall determine the "ACP" for Participants as follows:

(1) The "ACP" for a group of Participants shall equal the average of the ratios, calculated separately for each Participant in the group, of (A) the allocations of matching contributions (to the extent not taken into account for purposes of the ADP test), not including Income, which the Administration determines for a Plan Year to (B) the Participant's Compensation for that Plan Year. Qualified nonelective contributions or qualified matching contributions, if any, (to the extent not taken into account for purposes of the ADP test) may be taken into account for purposes of calculating the ACP for Participants. Matching contributions which are forfeited to correct excess aggregate contributions or are forfeited because they relate to excess deferrals or excess contributions are not taken into account for purposes of ACP testing. The ACP of a Participant is zero if the Participant does not receive an allocation of a matching contribution to his Account.

(2) All matching contributions that are made under two or more plans of an Employer, which are aggregated for purposes of Code section 401(a)(4) or 410(b), shall be treated as made under a single plan for purposes of this section 10.6. Even if not aggregated for purposes of Code sections 401(a)(4) or 410(b), the contribution percentage of any Participant who is an HCE

and eligible to have matching contributions, if any, allocated to his Account pursuant to two or more plans or arrangements described in Code section 401(m) and maintained by an Employer shall be determined as if all such matching contributions were made pursuant to a single arrangement.

(c) Excess Aggregate Contributions. Any nonvested excess aggregate contributions allocated to a Participant's Account, plus or minus Income on such amounts, shall be declared a forfeiture as of the end of the Plan Year in which the contributions were allocated to the Account. The vested portion of the excess aggregate contributions, plus or minus any Income on such amounts, shall be distributed no later than the last day of each Plan Year to Participants to whose Accounts excess aggregate contributions were allocated for the preceding Plan Year. If such excess aggregate contributions are distributed more than 2-1/2 months after the last day of the Plan Year to which the excess aggregate contributions relate, a 10% excise tax will be imposed with respect to such amounts. Excess aggregate contributions shall be distributed to HCEs beginning with the HCE with the largest dollar amount of matching contributions for the Plan Year and continuing in descending order until all excess aggregate contributions have been distributed.

(1) Excess Aggregate Contributions Defined. Excess aggregate contributions shall mean, with respect to any Plan Year, the excess of:

(A) The aggregate amount of matching contributions actually taken into account in computing the ACP of HCEs for such Plan Year; over

(B) The maximum amount of such contributions permitted by the ACP test (determined by hypothetically reducing contributions made on behalf of HCEs in order of the ACPs, beginning with the highest of such percentages).

(2) Determination of Income. Excess aggregate contributions shall be adjusted for any Income up to the date of distribution. Income allocable to excess

aggregate contributions shall be determined (A) under any reasonable method used for allocating Income to all Participants' Accounts and as applied consistently to all Participants for the Plan Year or (B) as the sum of (i) Income allocable to the Participant's matching contributions (and qualified matching contributions, if any) for the Plan Year multiplied by a fraction, the numerator of which equals the Participant's excess aggregate contributions for the year and the denominator of which equals the Participant's Account balance attributable to matching contributions (and qualified matching contributions, if any) without regard to any income or loss occurring during such Plan Year, plus (ii) The Income for the gap period determined in accordance with (i) above but substituting the Income for the Plan Year and the gap period for the Income from the Plan Year, and by substituting the contributions taken into account under this section for the Plan Year and the gap period for the contributions taken into account for the Plan Year in determining the fraction that is multiplied by that Income. "Gap period" shall mean the period beginning on the first day of the Plan Year immediately following the Plan Year in which the excess aggregate contributions were allocated and ending on the date of distribution. Instead of determining Income for the gap period under (ii) above, the Trustees may determine that Income for the gap period is equal to 10-percent of the amount determined under (i) above multiplied by the number of whole calendar months between the end of the Plan Year and the date of distribution, counting the month of distribution, if distribution occurs after the 15<sup>th</sup> of such month. A Plan will not fail to use a reasonable method for computing the Income allocable to excess aggregate contributions merely because such Income is determined on a date that is no more than 7 days before the distribution.

This section 10.6 shall not apply if the Plan satisfies the safe harbor requirements of Code section 401(m)(11).