

IN THE MATTER OF ARBITRATION)
)
)
 CLEVELAND-CLIFFS STEEL LLC)
)
)
 and)
)
)
 UNITED STEEL, PAPER AND FORESTRY,)
 RUBBER, MANUFACTURING, ENERGY,)
 ALLIED INDUSTRIAL AND SERVICE)
 WORKERS INTERNATIONAL UNION,)
 LOCAL 6787)

RQB1144168
 RQB1144128
 RQB1148660
 RQB1146444
 RQB1144342

Case 161

Nathan Kilander, for the Employer
 Michael P. Young, for the Union
 Before Matthew M. Franckiewicz, Arbitrator

OPINION AND AWARD

This arbitration case involves whether the Company acted within its rights under Article Two Section F (2) (b) (1) of the Basic Labor Agreement in contracting out work during the 2026 spring outage for the #1 Continuous Caster.

This case was presented under the Expedited Procedure set forth in Article Two Section F (7) of the Basic Labor Agreement. My records indicate that I was contacted initially for this case on April 29, 2026. Due to my schedule, the earliest available date I had for a hearing in the cases was May 28, well beyond the time frame envisioned in Article Two Section F (7) (b).

A hearing was held on May 28, 2026 in Chesterton, Indiana. Both Parties examined and cross examined witnesses and provided documentary evidence. The Parties offered their summations at the close of the hearing. The Parties agreed to waive the requirement for a decision within 48 hours (see Article Two Section F (7) (c) of the Basic Labor Agreement), and agreed that I would have 30 days to issue a decision including a full opinion.

Contract Provisions Involved

ARTICLE TWO - UNION SECURITY

Section F. Bargaining Unit Work

1. Guiding Principle

- a. The Guiding Principle is that the Company will use Employees to perform any and all work which they are or could be capable (in terms of skill and ability) of performing (Bargaining Unit Work), unless the work meets one (1) of the exceptions outlined in Paragraph 2 below.
- b. Any individual or entity other than an Employee who performs Bargaining Unit Work shall be referred to herein as an Outside Entity.

2. Exceptions

In order for work to qualify as an exception to the Guiding Principle, such work must meet all aspects of one (1) of the definitions outlined below and the Company must be in full compliance with all of the requirements of the particular exception as outlined below.

* * *

a. Work Performed In or Around the Plant

(2) Surge Maintenance Work

Surge Maintenance Work is that portion of maintenance and repair work which is required by bona fide operational needs performed on equipment where the Company temporarily uses Outside Entities to supplement bargaining unit forces and where: (a) the use of Outside Entities would materially reduce the downtime of the equipment; and (b) the work cannot reasonably be performed by bargaining unit forces.

The Company may use Outside Entities to perform Surge Maintenance Work provided that the Company has offered all reasonable and appropriate requested overtime to all qualified Employees who, by working such overtime, could reduce the amount of Surge Maintenance Work performed by Outside Entities in an efficient manner.

3. Commitment.

In addition to the understanding described in Paragraphs 1 and 2 above, the Company agrees that:

- a. where total hours worked by employees of Outside Entities in or outside the plant reach or exceed the equivalent of one (1) full time employee, defined as forty (40) hours per week over a period of time sufficient to indicate that the work is full time, the work performed by Outside Entities will be assigned to Employees and the number of Employees will be appropriately increased if necessary, unless the Company is able to clearly demonstrate that the work cannot be performed by the addition of an Employee(s), or that assignment of the work to Employees would not be economically feasible. In determining whether the assignment of the work to Employees is or is not economically feasible, the lower wage rates, if any, of an Outside Entity shall not be a factor.
- b. The parties agree that the Union may at any time enforce the obligations described above, irrespective of the Company's compliance with any other obligation in this Section or any other part of the Agreement, and that an arbitrator shall specifically require the Company to meet the above Commitment, including imposing hiring orders and penalties.
- c. The Company shall supply the Bargaining Unit Work Committee (as defined below) with all requested information regarding compliance with the Commitment.

4. Bargaining unit Work Committee

At each plant, a committee consisting of four (4) individuals, two (2) individuals designated by each of the parties, shall be constituted to serve as the Bargaining Unit Work Committee. The Committee shall meet as required, but not less than monthly to:

- a. review bargaining unit force levels for the plant;
- b. review historical contractor utilization by the plant;
- c. review projections for contractor utilization by the plant;
- d. monitor the implementation of new programs or hiring to reduce contractor utilization;
- e. develop new ideas and implementation plans to effectively reduce contractor usage as per the terms of this Section.

5. Notice and Information

- a. Prior to the Company entering into any agreement or arrangement to use Outside Entities to perform Bargaining Unit Work, the Company will provide written notice to the Bargaining Unit Work Committee in sufficient time to permit a final determination, using the Expedited Procedure, of

whether or not the proposed use of Outside Entities is permitted. Such notice shall include the following:

- (1) location, type, duration and detailed description of the work;
- (2) occupations involved and anticipated utilization of bargaining unit forces;
- (3) effect on operations if the work is not completed in a timely fashion; and
- (4) copies of any bids from Outside Entities and any internal estimating done by or on behalf of the Company regarding the use of the Outside Entities.

- b. Should the Union believe a meeting to be necessary, a written request shall be made within five (5) days (excluding Saturdays, Sundays and holidays) after receipt of such notice. The meeting shall be held within three (3) days (excluding Saturdays, Sundays and holidays) thereafter. At such meeting, the parties shall review in detail the plans for the work to be performed and the reasons for using Outside Entities. The Union shall be provided with all information available to the Company concerning the use of Outside Entities at issue.
- c. Should the Company fail to give notice as provided above, then not later than thirty (30) days from the later of the date of the commencement of the work or when the Union becomes aware of the work, a grievance relating to such matter may be filed.

7. Expedited Procedure

In the event the Union requests an expedited resolution of any dispute arising under this Section, it shall be submitted to the Expedited Procedure in accordance with the following:

- a. Within three (3) days (excluding Saturdays, Sundays and holidays) after the Union determines that the Bargaining Unit Work Committee cannot resolve the dispute, the Union may advise the Company in writing that it is invoking this Expedited Procedure.
- b. An expedited arbitration must be scheduled within three (3) days (excluding Saturdays, Sunday and holidays) of such notice and heard at a hearing commencing within five (5) days (excluding Saturdays, Sundays and holidays) thereafter.

- c. The arbitrator shall render a decision within forty-eight (48) hours (excluding Saturdays, Sundays and holidays) of the conclusion of the hearing.
- d. Notwithstanding any other provision of this Agreement, any case heard in the Expedited Procedure before the work in dispute was performed may be reopened by the Union if such work, as actually performed, varied in any substantial respect from the description presented in arbitration. The request to reopen the case must be submitted within seven (7) days of the date on which the Union knew or should have known of the variance.

9. General Provisions

a. Special Remedies

- (1) Where it is found that the Company (a) engaged in conduct which constitutes willful or repeated violations of this Section or (b) violated a cease and desist order previously issued by an arbitrator, the arbitrator shall fashion a remedy or penalty specifically designed to deter the Company's behavior.
- (2) With respect to any instance of the use of an Outside Entity, where it is found that notice or information was not provided as required under Paragraph 5 above, and that such failure was willful or repeated and deprived the Union of a reasonable opportunity to suggest and discuss practicable alternatives to the use of an Outside Entity, the arbitrator shall fashion a remedy which includes earnings and benefits to Employees who otherwise may have performed the work.

The Facts

This arbitration involves five contracting out notices: Nos.

RQB1144168
RQB1144128
RQB1148660
RQB1146444
RQB1144342

The particulars for each are set forth below:

RQB1144168

Date: February 12, 2026

Description of work: Contractor to re-route and run new cabling for the ICC Lower Turret Load Cells Per Cleveland Cliffs instruction during the ICC Spring Outage 4-13-26 through 4-20-26.

Date work to begin: 4/17/2026

Anticipated completion date: 4/18/2026

No. of men: 4

Type of crafts: Electricians

Duration: 80 hrs.

Division Manager Steel Producing David Haushalter testified that he provided this notice to the Union on roughly March 17.

The notice was acknowledged by signature of Union Assistant Griever Chris Kunst dated March 20, 2026.

RQB1144128

Date: February 12, 2026

Description of work: Contractor was contacted to replace damaged Power Cables & make all terminations for the #1 Caster Tundish Car during the Spring Outage from the dates of 4-13-26 through 4-20-26.

Date work to begin: 4/13/2026

Anticipated completion date: 4/14/2026

No. of men: 5

Type of crafts: Electricians

Duration: 80 hrs.

David Haushalter testified that he provided this notice to the Union on roughly March 17.

The notice was acknowledged by signature of Union Assistant Griever Chris Kunst dated March 20, 2026.

RQB1148660

Date: March 18, 2026

Description of work: ICC Spring Outage (4-13-26 thru 4-20-26) - Contractor will be supporting Secondary Runout Jobs. Replace South Piler Lubrication System, Shimming Piler Table Rolls & Associated Gearboxes, and Replacing the South Piler Wear Skids.

Date work to begin: 4/13/2026

Anticipated completion date: 4/20/2026

No. of men: 10 / 4

Type of crafts: Millwrights / Pipefitters

Duration: 400 hrs. / 160 hrs

David Haushalter testified that he provided this notice to the Union between March 18 and March 25.

The notice was acknowledged by signature of Union Assistant Griever Jonathan Garcia dated March 25, 2026.

RQB1146444

Date: March 18, 2026

Description of work: ICC Spring Outage (4-13-26 thru 4-20-26) - Contractor will be supporting Sand Filters #2, #3, #6, & #7 Piping Repairs.

Date work to begin: 4/13/2026

Anticipated completion date: 4/20/2026

No. of men: 6

Type of crafts: Pipefitters

Duration: 648 hrs.

David Haushalter testified that he provided this notice to the Union between March 18 and March 25.

The notice was acknowledged by signature of Union Assistant Griever Jonathan Garcia dated March 25, 2026.

RQB1144342

Date: March 18, 2026

Description of work: ICC Spring Outage (4-13-26 thru 4-20-26) - Contractor will be supporting Strand Piler Table Lift System Repairs.

Date work to begin: 4/13/2026

Anticipated completion date: 4/20/2026

No. of men: 8

Type of crafts: Millwrights

Duration: 864 hrs.

David Haushalter testified that he provided this notice to the Union between March 18 and March 25.

The notice was acknowledged by signature of Union Assistant Griever Jonathan Garcia dated March 25, 2026.

Each of the five notices specified "Fully Utilized - Bargaining Unit Work Contracted Out Due to Lack of Manpower in Steel Producing" under Anticipated utilization of bargaining unit forces during the period, and "Equipment reliability could be jeopardized" under Effect on operations if work not completed in timely fashion.

Each of the five notices indicated that no special equipment or special skills were involved. Each specified that the work involved was Surge Maintenance.

The Company notified (among others) Union Representatives Christopher Beach, Jonathan Garcia and Christopher Kunst of meetings (both Microsoft Teams and in person) regarding the #1 Continuous Caster spring outage. These meetings were scheduled for March 12, April 1, April 7, April 13 and April 14. These were not the contracting meetings under Article Two Section F (5) (b) of the Basic Labor Agreement. No Union Representative attended these spring outage meetings.

Contracting out meetings under Article Two Section F (5) (b) were conducted for these and other contracting out notices (which are not involved in this arbitration) on March 31, April 7 and April 10 (all before the start of the spring outage).

There is no dispute that bargaining unit employees have the necessary skills to perform the work that was contracted out, and that bargaining unit members have performed work of the type involved here in the past.

The Burns Harbor facility utilizes two continuous casters. Each of these is scheduled annually for a maintenance outage lasting approximately one week. The current case involves the spring 2026 outage for the #1 Continuous Caster. There are also shorter outages of around 8 to 18 hours every three weeks or so.

Union Bargaining Unit Work Committee Chair David Marr testified that the Union asked at least three times for information to corroborate the Company's claims of a surge maintenance exception, that the Company provided information addressing bona fide operational needs, but that the Union received only portions of the information requested with respect to the "materially reduce the downtime," and "cannot reasonably be performed" elements.

As I understand it, the Union's requests were oral rather than written; no written information request was offered in evidence. Marr testified that the Company did not document that the proposed contracting would reduce downtime or that the bargaining unit could not reasonably perform the work. David Marr testified that the information requested included Joint Hazard Assessment Sheets (which are completed as the work is performed, the bid and scope of work, and communications with contractors (which the Union did not receive), although as I understand his testimony, the Union did not make the latter request until after the April 10 meeting.

On cross examination Marr stated that the Union did not feel it had enough information to determine its position, and did not give the Company a position until around April 24 (see Company Exhibit 10), when the Union determined it could not resolve the issue. This was after the three contracting meetings held on March 31, April 7 and April 10. It was also after the work had been completed. According to Marr, the Union waited until the work had been completed in order to "ferret out" all the possibilities for the process.

Contracting out meetings are normally held on Tuesdays. March 31 and April 7 were Tuesdays. The Union walked out of the April 7 meeting in frustration over not receiving requested information, and the Company scheduled a further meeting for April 10. Senior Section Manager Chris Shabi, who attended the April 7 meeting for the Company, stated that at this meeting the Parties discussed about 5 contracting out notices but did not reach another 14 or so, including all of those involved in the current arbitration, prior to the Union's departure. At the April 10 meeting, which Shabi scheduled, the Company agreed to withdraw two

contracting out notices (neither of which is involved in the current arbitration) and instead utilize bargaining unit members.

According to David Haushalter, the Company canceled the work specified in RQB1144168, and this work was not completed because it would interfere with other work being performed.

With respect to RQB1144128, the Tundish Car (one of two) needed to be replaced, and without the Tundish Car the Company loses the ability to cast continuously, but the equipment has to be down for the repairs involved to be performed. He acknowledged that there are similar damage issues with respect to the second Tundish Car. He stated that a shorter outage would not have afforded adequate time to complete the repairs and that the spring outage was the first real opportunity to perform the repair.

As to RQB1148660, Haushalter testified that the rollers are essentially transporting a slab, and that if one roll fails, there will be a cascading or compounding effect on other rolls. He noted that a defective roll can cause indentations on the slab, a quality issue.

RQB1146444 involved items related to the cooling of a slab. According to Haushalter, the equipment has to be down to perform this repair, and if the repair was not performed, a potential breakout of molten metal could occur. He stated that the shorter 18 hour outage would not afford sufficient time to complete the repair.

RQB1144342 involves Crane 319, which supports slab movement on the caster. The table system allows the crane to handle multiple slabs, but without the table working properly each slab had to be handled individually, a much more arduous process for the crane operator. According to Haushalter this was the biggest job performed during the outage, and without it the crane operator would be "imprisoned for hours." The Union objected to Company Exhibit 8, which relates to this crane. At the hearing I overruled the objection, but I do not rely on this Exhibit in reaching my decision.

The Company offered records (Company Exhibits 13 and 14) indicating that about 130 Maintenance Technician Mechanical (MTM) bargaining unit employees were contacted for overtime opportunities each day between Monday April 13 and Friday April 17, some more than once per day, and that 89 bargaining unit employees were contacted for overtime opportunities on Saturday April 18. Of these 56 accepted for April 13, 43 for April 14, 37 for April 15, 31 for April 16, 38 for April 17 and 24 for April 18, but a few of these later reported off. A total of 741 overtime shifts were offered, some for 8 hours and some for 4 hours. Of these 229 were accepted, and 17 of the employees who accepted later reported off. As the contracting out notices indicate, the vast majority of the work at issue was mechanical rather than electrical.

Issue

The issue, as agreed to by the Parties, is did the Company meet the obligation for Surge Maintenance exception to the guiding principle.

Position of the Union

The Union emphasizes the guiding principle of Article Two Section F (1), as protecting bargaining unit work from being diluted. It emphasizes the language that the Company *will* use bargaining unit Employees to perform *any* and *all* work they are capable of performing unless the work meets one of the exceptions.

As to the claimed exception of surge maintenance, the Union identifies three requirements: bona fide operational need, materially reducing downtime of equipment, and that the work cannot reasonably be performed by bargaining unit forces. It insists that the Company has the burden to prove all three of these elements, and that it has not done so.

It faults the Company for failing to provide information the Union requested to analyze whether the work met the surge maintenance requirements, citing Article Two Section F (5) (a). It contends that without the information the Union could not determine whether the exception applied, and that the information that was provided did not demonstrate that a surge maintenance exception existed.

The Union regards the current cases as the “tip of the iceberg” with many others awaiting resolution. It deems the Company’s actions “willful and repeated” and it seeks that a special remedy be fashioned as a deterrent.

The Union maintains that the Company did violate the guiding principle. It considers that the Company has not demonstrated any of the three elements of the surge maintenance exception. It denies that there was an operational need (as distinguished from an operational want). It views the second element as inapplicable since some of the equipment had been down for months and could have been worked on by the bargaining unit in the interim. Finally it insists that the bargaining unit members had the skills to reasonably do the work.

It reasons that the fact that some of the work was not performed disproves that there was a bona fide occupational need to perform it.

The Union did not specifically seek a monetary remedy.

Position of Management

The Company asserts that the claims should be dismissed on procedural grounds, either that they were untimely or filed in bad faith inasmuch as the Union failed to provide a position during the three contracting out meetings, and then invoked the procedure after the work was completed.

It cites a prior arbitration decision in which I chided the Company for failing to act with a sense of urgency in addressing contracting out issues, and it submits that the same principle applies to the Union. It faults the Union for failing to take a position in any of the three contracting out meetings and for walking out of the April 7 meeting. It maintains that the Union never communicated to the Company that it lacked information to determine a position.

The Employer argues that this was the one shot it had for the year to accomplish these repairs on the #1 Continuous Caster, and it points to dozens of jobs that were assigned to bargaining unit members. It insists that these were not repairs that could be accomplished during the shorter 16 - 18 hour outages.

It identifies most of the Union's requested information as after the fact.

The Company contends that it satisfied the surge maintenance exception, and it met all overtime offering requirements. It relies on an arbitration decision by Terry A. Bethel and maintains that the same logic applies here, including the volume of work, the condensed time window, and the limited availability of bargaining unit members during that time frame.

It asks that the claim be denied on the merits.

Analysis and Conclusions

The Company would dismiss the case on the basis that the Union acted in bad faith or as untimely because the Union failed to assert a position during the three contracting out meetings, and invoked the current process after the contracted work had been completed.

According to the Union, it could not determine its position because the Company failed to provide it with requested information, which is also the Union's basis for one of its claims of a violation of the Basic Labor Agreement, addressed below.

Article Two Section F of the Basic Labor Agreement envisions that the Parties will engage in an interactive process. In this regard, the Basic Labor Agreement also requires the Parties to act expeditiously in attempting to resolve contracting out issues. See, e.g., Article Two Section F (5) (b) and Section F (7). As I stated in *Cleveland-Cliffs Steel LLC & USW Local 1010 (2023)*, "The Company must act with the same sense of urgency in arranging for expedited arbitration that it does in accomplishing the repair itself." The same applies to the Union. Indeed, Article Two Section F (7) (d) anticipates that if the expedited arbitration procedure is invoked, it will be completed before the work at issue is performed.

In the current case, that interactive process worked to some extent, but not as well as it should. The Parties did resolve a couple of contracting out notices, and the Company withdrew another one. But with respect to the five contracting out notices at issue in this case, the Union did not even invoke the process until after the work had been completed.

Article Two Section F Section 5 (b) and Section 7 establish a number of deadlines in connection with the processing of contracting out disputes. In particular, Section F (7) (a) provides that in order to invoke the expedited process, the Union is to do so within three days of its determination that the Bargaining Unit Work Committee cannot resolve the dispute. Two aspects of this provision are noteworthy here, one for what it says and the other for what it does not say. Subsection 7 (a) makes clear that the determination of whether the issue cannot be resolved is made unilaterally by the Union. Whether the Company concurs in that determination is immaterial. Subsection 7 (a) does not say when the Union must make this determination. When the Parties chose to set a deadline, they knew how to do so. Section F establishes several deadlines for the process, but not for when the Union must reach its determination whether the Bargaining Unit Work Committee can resolve the contracting issue. The obvious conclusion is that this omission was deliberate.

It was solely for the Union to decide when an impasse had been reached with respect to the contracting notices, but the Basic Labor Agreement does not require that the Union reach this decision before the work begins, before the work ends, or at any other particular time. Accordingly, I conclude that the Company's assertion that the case should be dismissed on the basis of untimeliness is without merit.

As to the Company's further contention that the Union acted in bad faith in invoking the expedited arbitration procedure, the record fails to support the contention.

I therefore conclude that the case is appropriate for determination on the merits.

* * *

The Union raises two contentions: that the Employer failed to provide required and requested information, and that the Employer failed to establish the basis for the surge maintenance exception.

Article Two Section F creates several information mandates. Foremost among these is Subsection 5 (a), which specifies the information to be included on the contracting out notice itself. The five contracting out notices in this case are fairly standard, and to the extent that the Union claims they fail to meet the requirements of Subsection F, the claim is denied.

The other information provisions in Section F do not identify the specific information to be provided. See, e.g., Subsections 3 (c) and 5 (b). The latter is the basis for the Union's information.

Resolution of the Union's information assertions is hampered by the lack of specificity in the record as to exactly what the Union requested. Some of the information requested by the Union did not exist at the time of the request, and would not exist until the work was completed. As to this aspect, the Company's failure to provide the information may have violated some general duty but not the specific provision of Section F (5) (b), which relate to resolution of contracting out issues before, rather than after, the fact.

As to the remainder of the information issue, the evidence for the most part lacked clarity as to exactly what the Union requested. The testimony suggested that it may have simply tracked the elements of Section F (2) (a) (2) without further specifying what it sought. This is consistent with the Company's claim that the Union never communicated what information it lacked.

The Union decided to make its information request orally rather than in writing, and to the extent that there is ambiguity or lack of clarity in the request, the onus is with the Union. This is exactly why collective bargaining agreements are reduced to writing, so that there will be no confusion as to just what the agreement says. Here there is confusion as to just what the Union was requesting, and the Union itself is responsible for that confusion since it could have detailed in writing just what it sought.

One exception to the above is the Union's request for communications between the Company and the Outside Entity. The undisputed evidence is that the Union requested these communications and did not receive them. To that extent the Company did not satisfy its obligation under Section F (5) (b).

While the Company violated this provision, nothing in the record supports the assertion that this was a "willful" failure. Likewise, no evidence of a prior arbitration award or other circumstance that would

indicate that this amounts to a "repeated" dereliction was presented. Accordingly, the Union's request for a special remedy under Section F (9) (a) (2) is denied. The mere fact that there may be other pending cases that raise similar issues does not mean that the first case that reaches arbitration can be said to involve "repeated" derelictions.

The appropriate remedy for the Company's failure to provide the Union with communications between itself and the contractor is a cease and desist directive.

As to the Union's allegation that the Company failed to provide the required information in the contracting out notices under Section F (5) (a), as I have noted earlier, the notices involved in this case are fairly typical and there is no basis for a conclusion that they were insufficient.

Finally, as to the Union's claim that the Company failed to meet its burden of establishing the surge maintenance exception, I conclude that the Company has sustained its burden.

It may be useful to identify some issues that are not involved in this determination. First, there is no dispute that the work involved is maintenance and repair work. There is also no dispute that bargaining unit employees are entirely capable of performing the work at issue. There is likewise no claim that the Company failed to afford bargaining unit members the overtime opportunities under the "provided" language in the second paragraph of Section F (2) (a) (2). Finally in this regard, the Union does not rely on the "Commitment" provision in Section F (3).

The work addressed in contracting out notice RQB1144168 was not performed by an Outside Entity. The Company pulled this notice. It is unclear whether the work was later completed by bargaining unit employees, but in any case this notice is now a moot point and no remedy would apply. I shall not address this notice further.

As to the remaining four contracting out notices, it seems fair to say that the utilization of outside entities materially reduced the equipment downtime. Of the four remaining instances three involved manpower estimates of over 500 man-hours each by outside entities. Given that members of the bargaining unit were already working substantial overtime during the spring outage, allocating these work hours to the bargaining unit members rather than the outside entity would necessarily have lengthened the spring outage. As Arbitrator Terry A. Bethel observed in *U.S. Steel Corp. & USW Local 1938*, USS-43,806, 122 BNA LA 289, 297 "But given the level of overtime refusals by the maintenance techs, it is reasonable to conclude that bargaining unit employees could not have completed all of the work performed by the contractor, even if the Company had offered 8 hours of overtime. The contractor worked about 400 man-hours. Thus, the record supports a conclusion that using outside contractors materially reduced the duration of the work."

The same consideration also relates to the Company's bona fide operational needs. The outage was scheduled to last 8 days. The Company had a bona fide operational need to minimize the length of the outage and to return the #1 Continuous Caster to production as quickly as possible. Assigning additional hundreds of hours to bargaining unit employees would necessarily have caused the outage to last longer.

The remaining question relates to the element of whether the work involved "cannot reasonably be performed by bargaining unit forces." The Union argues strenuously that the work involved could have been deferred or performed earlier by bargaining unit members, rather than being concluded during the spring outage.

As to RQB1144128 and RQB1146444, there was explicit and unrefuted testimony that the work involved could not be performed when the caster was in production and that the shorter outages of 18 hours or so would not afford enough time to complete the work. As to RQB1148660 and RQB1144342 (rollers and crane) the very nature of the work involved supports the same conclusion, that this was work to be performed during the spring outage, rather than at some other time. As Arbitrator Bethel observed in the cited case, at page 295, "The Board agrees with the Company's position that it need not be immediately essential to perform work on a particular day in order for it to qualify as surge maintenance. There is nothing in the surge maintenance clause that suggests it was to be available only for emergencies. The language speaks of work required by bona fide operational needs, not work that must be done immediately. Moreover, the fact that work can be put off does not necessarily mean that it cannot be surge maintenance, although timing can be a factor."

In view of the above considerations, I find that the Company has satisfied its burden of establishing a surge maintenance exception for these four jobs. I shall therefore deny this aspect of the claim.

Award

The Company shall cease and desist from failing to provide information required under Article Two Section F (5) (b). In all other respects, the claim is denied.

Issued June 18, 2026

Matthew M. Franchewicz