

AMENDMENT NO. 3
TO THE EIGHTH DISTRICT ELECTRICAL BENEFIT FUND
SUMMARY PLAN DESCRIPTION /PLAN RULES AND REGULATIONS
For Active Employees, Early (non-Medicare-eligible) Retirees and Medicare-eligible Retirees
effective January 1, 2014

Effective June 4, 2015 the Summary Plan Description/Plan Rules and Regulations is amended as follows:

Article XV, Coordination of Benefits (COB), Section 9 is amended to add the text in italics and delete the text in strike-through:

Section 9: THIRD PARTY LIABILITY/SUBROGATION

1. **Reimbursement for Expenses paid as a result of Acts of Third Parties.** If a Participant or Beneficiary receives benefits from this Trust for an injury or illness sustained from the acts or omissions of any third party, the Trust shall have the right to be reimbursed in the event the Participant or Beneficiary recovers all or any portion of the benefits paid by the Trust by legal action, settlement, or otherwise, regardless of whether such benefits were paid by this Trust prior to or after the date of any such recovery. The Participant or Beneficiary will not be entitled to receive any benefits for such expenses under this Trust unless he executes a Subrogation Agreement and agrees in writing to the following conditions:
 - a. **Reimbursement to Trust.** The Participant or Beneficiary authorizes reimbursement to the Trust upon obtaining any monetary recovery from any party or organization for such injury or illness, whether by action at law, settlement or otherwise by virtue of executing a Subrogation Agreement, with the understanding that any and all monies recovered as a result of the actions of a third party shall be reimbursed to the Trust in accordance with these provisions.
 - b. **Assignment of Rights.** The Participant or Beneficiary irrevocably assigns to the Trust all rights to recover monetary compensation from the third party to the extent of all benefits paid by this Plan and to give notice of this assignment directly to such third parties, their agents or insurance carriers, or to any agent or attorney who may represent the Participant or Beneficiary. The assignment shall entitle the Trust to reimbursement from any sums to be held or received by the following third parties which are due to the Participant or Beneficiary prior to any distribution of funds to the Participant or Beneficiary, and shall provide that such parties shall specifically direct that any and all monies recovered from any third party are to be reimbursed to the Trust in accordance with these provisions. The parties who shall be bound by such assignment are:
 - (1) Any party or its insurance carriers making payments to or on behalf of the Participant or Beneficiary, including pursuant to any uninsured or under-insured motorist provision of any insurance policy; or,
 - (2) Any agent or attorney receiving payments for or on behalf of the Participant or Beneficiary.
 - c. **Notice.** The Participant or Beneficiary agrees to notify the Trust of any claim or legal action asserted against any third party or any insurance carrier(s) for such injuries or illnesses, as well as the name and address of such third parties, insurance carrier(s), any agent or attorney who is representing or acting on behalf of the Participant or Beneficiary or the estate of the Participant or Beneficiary, or any person claiming a right through such Participant or Beneficiary, on a form to be supplied by the Trust.
 - d. **Schedule of Reimbursement.** The Trust shall be reimbursed in accordance with the following schedule based on the net recovery received by the Participant or Beneficiary from all sources, whether from more than one tortfeasor, under any Worker's Compensation law or otherwise:

Net Recovery	Trust Reimbursement
2 times or more of benefits paid by the Trust	100% of benefits paid
1½ times or more of benefits paid by the Trust	75% of benefits paid
Equal or more of benefits paid by the Trust	66 % of benefits paid
½ or more of benefits paid by the Trust	50% of benefits paid
Less than ½ of benefits paid by the Trust	33 % of benefits paid

- (1) For the purpose of this Section "net recovery" means the actual amount to be received by the Participant or Beneficiary from all sources after deducting all attorney's fees and court costs actually incurred.
- (2) In no event will the Trust's recovery exceed the amount of all proceeds received by the Participant or Beneficiary from the third party or its insurers.

d. ***Discretion of the Board of Trustees.*** The Board of Trustees, within its sole discretion, shall determine which of this Plan's rights and remedies is within the best interests of the Plan to pursue. The Trustees may decide to recover less than the full amount of excess payments or to accept less than full reimbursement if:

- (1) This Plan has made, or caused to be made, such reasonable, diligent, and systematic collection efforts as are appropriate under the circumstances; and
- (2) Such decision is reasonable under the circumstances based on the likelihood of collecting such monies in full or the approximate expenses this Plan would incur in an attempt to collect such monies.

e. **Subrogation.** The Plan shall have the independent right to bring suit in the name of the Participant or Beneficiary. The Plan shall also have the right to intervene in any action brought by the Participant or Beneficiary against any third party, to and including the insurance carrier of the Participant or Beneficiary under any uninsured or under-insured motorist provision or policy. The Participant or Beneficiary further agrees to take no action inconsistent with the requirements of this provision.

f. **Cooperation With Trust.** The Participant or Beneficiary agrees to cooperate fully with the Trustees in the exercise of any Assignment or right of Subrogation, and not to take any action or refuse to take any action which would prejudice the rights of the Trust.

g. **Withholding Future Benefits.** The Participant or Beneficiary agrees to acknowledge that this Trust shall have the Right of Recovery against the Participant or Beneficiary, should the Participant or Beneficiary and/or their legal representative fail to execute an Assignment, Subrogation Agreement or any other documents required herein, or fail to reimburse the Trust in accordance with these provisions. In addition, in such event, the Trust may withhold future benefit payments to be made on behalf of the Participant or Beneficiary until such time as the Trust is fully reimbursed as provided for in this Section.

h. **Disclaimer.** If there is any reasonable cause to believe that the injuries or illnesses sustained by a Participant or Beneficiary were in any way the result of the acts or omissions of a third party or parties, but the Participant or Beneficiary disclaims any third party involvement, the Trust shall have the right to require the Participant or Beneficiary to sign a declaration, under penalty of perjury, regarding such disclaimer as a pre-condition to the payment of any benefits.

i. **Separate Rights.** Each of the provisions set forth above relating to the right of this Trust to receive reimbursement for eligible expenses paid to or on behalf of a Participant or Beneficiary because of injuries sustained relating to or resulting from the acts and omissions of any third party is separate and any illegality or invalidity of any one provision shall not affect the legality or validity of any other provision.

j. **Medical Expenses Incurred After Settlement or Final Judgment in Third Party Claim.** In the event a Participant or Beneficiary incurs medical expenses relating to his or her injuries or disabilities which are the subject of a Subrogation Agreement following any settlement or final judgment received from the third party (ies) responsible for the injuries, the Plan shall have no further responsibility to pay for such medical expenses, except as provided below. The Participant or Beneficiary shall agree to release and hold the Trust harmless from any further obligations under the Subrogation Agreement for any future medical expenses incurred following any settlement or final judgment received from the third party(ies) responsible for the injuries, except as provided below. Provision can be made for the continued payment of such medical expenses under the following circumstances:

- (1) Payment by the responsible third party(ies) pursuant to a settlement agreement which is approved by the Fund in writing prior to the execution thereof. In that event, the rights of the Participant or Beneficiary to the continued payment of medical expenses shall also be assigned to the Trust under the Subrogation Agreement and the Participant or Beneficiary shall be required to reimburse the Trust for 100% of all medical expenses paid by the Trust under this provision following execution and payment by the responsible third party(ies) under the settlement agreement or final judgment.
- (2) At the discretion of the Trustees, payment by the Fund following settlement or final judgment a Participant or Beneficiary receives from the third party(ies) responsible for the injuries or responsible for reimbursement of the injuries, to the extent that there are no remaining net settlement proceeds to pay for further medical expenses and all third party insurance policy limits have been exhausted, and the Participant or Beneficiary certifies under penalty of perjury that there are no further sources of third party recovery to pursue.

k. **This Plan does not recognize the Make-Whole Doctrine.** This Plan is entitled to obtain restitution of any amounts owed to it either from third-party funds received by the Participant or the Beneficiary, regardless of whether the Participant or the Beneficiary have been made whole for losses sustained as a result of the act of a third party.

l. **This Plan expressly rejects the Common Fund Doctrine with respect to payment of attorney's fees.** A Plan representative may commence or intervene in any proceeding or take any other necessary action to protect or exercise this plan's equitable (or other) right to obtain full restitution.

- m. **Cooperation with Trust.** The Participant or Beneficiary, as well as their attorney or agent, shall cooperate fully with the Trustees in the exercise of any Assignment or right of Subrogation, and not to take any action or refuse to take any action which would prejudice the rights of the Trust.
- n. **Direction to Agent or Attorney.** The Participant or Beneficiary shall direct that the agent or attorney shall readily comply with the terms of the Subrogation Agreement to reimburse the Trust in accordance with the Reimbursement Schedule as outlined above.

Effective August 1, 2015 the Summary Plan Description/Plan Rules and Regulations is amended as follows:

Article III, Eligibility, Section 1-m Eligibility for Bargained Employees is amended to add the text in italics and delete the text in strike-through:

- m. **Waiver of Initial Eligibility Requirements with Respect to Employees of a Newly Organized Contributing Employer.** The Board of Trustees may waive its Plans initial eligibility requirements to employees of a newly organized Contributing Employer who is currently providing their employees group medical coverage. The effect of this waiver shall be as follows:
 - 1. **The Fund will provide eligibility for the first month of coverage at the current monthly charge-off for each Active Employee.**
 - 2. **The newly organized Contributing Employer will make an initial contribution of one hundred seventy-three (173) hours at the Fund's current contribution rate, on all Bargaining Employees. This initial contribution will provide the second month of coverage. Excess contributions will be allocated to the employee's hour bank.**
 - 3. **After the initial month, for all subsequent months, the newly organized Contributing Employer will make contributions based on the current contribution amount established by the Board of Trustees.**
 - 4. **In addition, the newly organized Contributing Employer shall make contributions on behalf of all such Bargaining Employees based on the actual hours worked during the first month of participation. Such hours shall be used for the purpose of the third month's eligibility and so forth. Excess contributions will be credited to the Bargaining Employee's hour bank.**
 - 5. **In the event the Bargaining Employee fails to receive the minimum monthly contribution in any subsequent month of their employment with a newly organized Contributing Employer, and there are not sufficient contributions to cover the current month's coverage, their eligibility will be terminated and the employee shall be eligible to continue coverage in accordance with the Self-Payment Provisions for COBRA Continuation of Coverage.**
 - 1. ***The Fund will provide two months of coverage at no cost for each Bargaining Employee of a newly organized Contributing Employer. The two months of coverage will begin on the first day of the month following the month in which the newly organized Contributing Employer signs a written agreement that requires contributions to the Fund.***
 - 2. ***Beginning on the effective date of the written agreement, the newly organized Contributing Employer shall make contributions to the Fund for all hours worked by Bargaining Employees. The hours will be credited to the respective Bargaining Employee's hour bank. The banked hours shall be used to determine the Bargaining Employee's continuing eligibility for the months following the initial two months of free coverage.***
 - 3. ***In the event there are not sufficient contributions in a Bargaining Employee's hour bank to provide a month's coverage for any month after the initial two months of coverage, the employee's eligibility will be terminated and the employee shall be eligible to continue coverage in accordance with the Self-Payment Provisions for COBRA Continuation of Coverage.***
 - 4. **This provision shall apply only to those Bargaining Employees who were employed by the newly organized Contributing Employer on the employer's effective date of participation and for whom the employer had previously provided group medical coverage. Employees employed after the employer's initial effective date of participation shall be subject to the initial eligibility requirements described herein.**
 - 5. **Bargaining Employees of a Contributing Employer will have their eligibility terminated at the end of the month following the date such Contributing Employer elects to withdraw from participation in the Fund and/or ceases to maintain with the local union a written agreement requiring contributions. Bargaining Employees who continue to work for the noncontributing employer are not eligible to continue coverage in accordance with the Self-Payment Provisions for COBRA Continuation Coverage.**

CONFIRMATION

The undersigned Chairman and Secretary of the Board of Trustees of the Eighth District Electrical Benefit Fund do hereby certify that the foregoing Amendment #3 to the 2014 Plan was duly adopted and executed at a meeting of the Board of Trustees called and held on September 24, 2015.

By: 
Chairman

By: 
Secretary

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