SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
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GEORGETOWN, DE 19947
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January 22, 2013

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RE: MacDougall v. Mahaffy & Associates, Inc.,
C.A. No. S10C-06-010

On Defendant Mahaffy & Associates, Inc.'s Motion for Summary Judgment: GRANTED
On Defendant Schneider Electric USA's Motion for Summary Judgment: GRANTED

Date Submitted: December 19, 2012
Date Decided: January 22, 2013

Dear Counsel:

In 2006 major electrical improvements and upgrades began at the Delaware Hospital for the Chronically Ill ("DHCI") in Smyrna, Delaware. On June 14, 2008, Rodney MacDougall, ("Plaintiff"), was seriously injured from electrical burns when a breaker he was working on became energized.

Litigation was filed against a number of defendants. Mr. MacDougall's employer, Tudor Electric, Inc. ("Tudor") was not sued directly, because his claims against his employer would be resolved pursuant to his worker's compensation claims, but Tudor was drawn into the litigation as a third-party defendant on indemnification claims of another defendant.

As Plaintiff's counsel has noted, the litigation involved a number of defendants, some of which were voluntarily dismissed early in the life of this case. The State of Delaware ("State") was dismissed as a defendant by court order. Cummins Power Generation and Cummins Power Systems have settled with the Plaintiff.

At present there are two defendants: Mahaffy Associates, Inc. ("Mahaffy") and Schneider Electric USA, Inc. ("Schneider"). Tudor remains as a third-party defendant arising from Mahaffy's indemnification claim against Tudor.

Applicable Standard of Law for Summary Judgment

In order for the court to enter summary judgment the moving party must establish there is no genuine issue of material fact. *Moore v. Sizemore*, 405 A. 2d 679 (Del. 1979). The non-moving party gets the benefit of all reasonable inferences. *Di Ossi v. Muroney*, 548 A. 2d 1361 (Del. 1988). If there is any reasonable theory on which Plaintiff might recover, then the matter should move forward to trial. *Vanaman v. Milford Memorial Hospital, Inc.*, 272 A. 2d 718 (Del. 1970).

Background and Accident

The State hired Mahaffy to be the engineer of the project responsible for designing the new electrical system at DHCI. This was a very large project. A part of the project included a new generator to ensure that, in the event of a power failure, the critical life support systems for the patients would still receive power. Mahaffy had Schneider perform some of the design work. Schneider authorized a Short Circuit and Protective Device Coordination Study ("Study") to be used in the design of the system. Schneider also manufactured some equipment installed at DCHI, including the breaker that Plaintiff was attempting to replace at the time of his injury.

Basically, Mahaffy and Schneider worked together to come up with a design plan, including the equipment to be installed. The State hired Tudor as the contractor to perform the electrical upgrade at the facility and prepare the medical buildings so they could be connected to the new electrical equipment, including the new generator.

The particular breaker at issue in this case was a part of the system that included the backup generator. After the designed system actually was installed, there were problems with this breaker "nuisance tripping." Like a circuit breaker in a house, it protected critical core equipment and would "trip" and shut off power. It was determined that in the initial plan, the "in rush current" through the breaker was erroneously calculated, determined, or assumed to be at a lower level. The actual "in rush current" was higher than the breaker was designed to handle, hence the "nuisance tripping." Schneider determined it had made the mistake and agreed to absorb the costs of a new breaker to replace the "nuisance tripping" breaker that was previously installed in the upgrade.

Relevant to Plaintiff's claims is an e-mail chain between Mahaffy, Schneider, Tudor and the hospital staff. This e-mail chain is attached as Exhibit "A" hereto.

The e-mail informs "Bobby" (Robert Tudor, Tudor's representative) of the problems, the solution, and that Tudor was to install the replacement breaker.

Also included, specific to the DHCI team, was information about how to start the generator and a notice to make sure life safety transfer switches will serve the life safety equipment. The main power switch was to be de-energized. Mahaffy informs DHCI that Tudor would be better able to give them a better understanding of how long the main power would be down. Mahaffy estimated one to two hours, tops. Finally, there is the hospital staff e-mail to everyone concerning the need for temporary power for critical care oxygen generators.

Consequently, as of June 14, 2008, Tudor was tasked with replacing the breaker. Plaintiff was and had been Tudor's foreman on this project and was familiar with the project. Plaintiff is a master electrician with 30-plus years experience. This job was not an assignment to deal with the unknown. Tudor and Plaintiff built the system. Robert Tudor expected Plaintiff knew how to perform the job. Plaintiff acknowledged he had done similar work, including "racking out" similar electrical equipment for safety purposes (about 20 times), but had not "racked out" this particular brand or model.

Wesley Wolfe was the master electrician employed by the State, who was

responsible for overseeing and maintaining the electrical system at DHCI. He had worked with Tudor and Plaintiff during the overhaul and upgrade work.

On June 14, 2008, Plaintiff, Wolfe, and another DHCI employee met, planned their work, and then began the work to replace the breaker. Plaintiff reports that Wolfe directed Plaintiff to make sure the life support systems were going to be properly served by the generator when the main power was cut.

At the substation where the generator and breaker were located, Wolfe started the generator.

Wolfe then told Plaintiff he had shut off the electricity to the breaker Plaintiff was to replace. Plaintiff used his electrical testing equipment to confirm no electricity was present at the breaker he was replacing. He began his work and was electrocuted. The Cummins Power automatic transfer switch had re-energized after a standard 15-minute delay. Everyone agrees
that, had this equipment been physically "locked out and tagged," it could not have recycled and re-energized and, thus, the accident would not have occurred.

Plaintiff's recollection is that he relied on Wolfe to make sure power was off. Both the Occupational Safety and Health Administration and the National Fire Protection Association regulations, as well as Tudor's own work safety policy, require the power be turned off and also that the electrical equipment or device be "locked out and tagged." "Locking out" means physically locking the unit so it can not be re-energized until the lock is removed. "Tagged" means affixing a tag that informs others of what is being done.

Neither Wolfe nor Plaintiff locked and tagged the power source equipment (transfer switch) and, had that been done, the breaker would not have re-energized back on and Plaintiff would not have been electrocuted. A basic safety rule was not followed by Wolfe. Likewise, Plaintiff had a personal duty to ensure that this electrical system he was about to work on was physically locked out. He did not. Plaintiff failed in his duty to protect himself when he relied on Wolfe instead of his "eyes on" making sure the equipment was locked out.

Why Wolfe did not lock out the system is unknown as he has since died and his one-page incident report provides no answers. But, in Wolfe's post-accident conversations with others, he reported he could not find the specific tool required to physically lock out the power source breaker. This raises the reasonable inference that Wolfe thought about locking out the equipment, but because he could not find the correct tool he did not, and

he also did not inform Plaintiff. Discovery indicates that tool was found on the unit itself and used later that day to properly lock out the equipment so that the replacement work could be completed. Whether this inference is in fact what happened is not a basis for this decision.

Plaintiff argues that the negligent design of Mahaffy and Schneider and the erroneous selection of the under capacity breaker was the proximate cause of Plaintiff's injury. But for the design error and selection of the wrong-sized capacity breaker, it would not have needed replacing and, if it did not need replacing, no injury could have occurred.

The Court fully appreciates Plaintiff's counsel's effort to find liability on the part of as many defendants as possible. The Court has reviewed Plaintiff's positions carefully, but has concluded those positions are simply a bridge too far. Plaintiff fails to establish any duty owed to Plaintiff by either defendant that was breached and proximately caused Plaintiff's injuries.

Everyone acknowledges that Mahaffy and Schneider incorporated an improperly selected breaker into the total design package and that breaker needed to be replaced.

Plaintiff did not receive his workplace injury because of the design flaw. "Proximate cause" exists if a "natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury and without which the result would not have occurred." *Wilmington Country Club v. Cowee*, 747 A. 2d 1087, 1097 (Del. 2000). This legal principle is known as the "but for" rule: but for defendant's negligence, plaintiff would not have been injured.

A "prior and remote cause can not form the basis of liability" if the remote cause "did nothing more than furnish the condition by which the injury was made possible." *McKeon v. Goldstein*, 164 A. 2d. 260, 262 (Del. 1960). Theoretically, one can argue a whole series of events fall into the "but for" category; but when the nexus from the alleged cause to the injury becomes so remote and tenuous, it becomes totally unforeseeable and cannot trigger liability.

An example with similar facts may be appropriate. A design flaw in an automobile requires a part to be replaced. There is a recall by the auto manufacturer so that the unsafe part can be replaced. A mechanic is injured while working on the auto because he did not put the emergency brake on and the car rolled over his foot. Under Plaintiff's theory, "but for" the design flaw by the automobile engineer, the car would not have

rolled over the mechanic's foot. Plaintiff's theory fails as the theoretical cause is remote and not proximate. The proximate cause of this accident was not that the work had to be done but how it was done.

Hence, summary judgment must be granted to both Mahaffy and Schneider as to this issue.

As to the remaining theories of liability for recovery against the defendants, it is necessary to review the contractual relationships of the parties. I review the roles of each party: Mahaffy was the project engineer. The State, through Facilities Management, was the owner. Schneider was tasked by Mahaffy to work on the design and generally assist Mahaffy. Tudor was the contractor responsible for building, installing, and/or overhauling the actual work. Finally, the plaintiff, Mr. MacDougall, was the master electrician employed by Tudor as foreman and electrician for the project.

Plaintiff argues Mahaffy was contractually obligated to ensure that there was sufficient training for State employees to operate and maintain the electrical equipment.

The contract language relied upon as to Mahaffy's duty to train states as follows at 3.4.17:

> Providing assistance in the utilization of equipment of systems such as testing, adjusting, and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

The training obligation was for operating and maintenance. The focus of the training was primarily that the State employees knew how to operate and maintain the equipment. The training was done by a representative of Cummins Power Service. The training involved the operation of the equipment and the proper care of the equipment, such as checking on the fluid levels. Based on the contract language, Plaintiff argues Mahaffy should have been involved in the Cummins training and, if the engineer on the project, Fayda, had been involved in the Cummins training, he would have known Wolfe could not have performed the "lockout and tag" procedure. Therefore, he would not have assigned this work to DHCI.

This argument fails because of several reasons. It is inaccurate. On Page Four of Plaintiff's answering brief at Footnote Three, Plaintiff notes that Cummins' trainer

testified Ed Fayda, Mahaffy's chief engineer, was at the training session along with Wolfe on behalf of DHCI and MacDougall on behalf of Tudor.

Plaintiff, Wolfe, and Mahaffy were present at the training session provided by Cummins, the manufacturer of the equipment. At that training session general maintenance of the unit was the primary focus, but the trainer made it clear that, in order to protect the five-year warranty, a trained person from Cummins should be present before opening the doors to change out any equipment. For any repairs other than to the generator equipment, the Cummins trainer testified those would be left to the hospital or Tudor to do because they built the project.

Plaintiff's argument is also inaccurate because the work on installing the replacement breaker was not tasked to DHCI personnel. Tudor was assigned to do the replacement work. Whether Tudor and Plaintiff, its electrician, had the necessary expertise to safely complete the job was the responsibility of Tudor to determine. The contract specifically puts safety and the manner in which the job was conducted upon Tudor as the contractor.

> Paragraph 3.3.1:
>
> The Contractor shall supervise and direct the Work . . . The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract....
>
> Paragraph 3.3.2:
>
> The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees . . .
>
> Paragraph 10.2.1:
>
> The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
>
> .1 employees on the Work and other persons who may be affected thereby; ....

The contract specifically states the engineer shall not be responsible for how the job is done nor for safety precautions taken in connection with the work. (In the contract the word "engineer" is substituted for "architect.")

> Paragraph 2.6.5:
>
> The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.
>
> Paragraph 2.6.6:
>
> ... However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.
>
> Paragraph 4.2.3:
>
> The [Engineer] will not have control over or charge of an [sic] will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

It is not disputed that the contract language is the standard language in the industry. In fact, these standard contracts may be found on the State of Delaware website.

Finally, post-contract but pre-construction, the minutes of the February 13, 2006, pre-construction meeting state that the contractor was advised that safety is the

responsibility of each contractor and that the owner (State) and engineer do not share the responsibility for safety at the work site.

Therefore, the Paragraph 3.4.17 duty to train was fulfilled by the Cummins' training session. All relevant parties to this litigation participated. Warnings about loss of warranty coverage were made if Cummins personnel were not used in repairs.

Under the contract language in Paragraph 3.4.17 and the evidence as to the training session, there is no basis to claim that Mahaffy failed to meet its contractual obligation to train and that failure proximately caused the accident. Training did take place. The accident occurred because of a failure to comply with safety protocol, which was the responsibility of Tudor. Plaintiff cannot rely on Wolfe to do what Plaintiff was required by all safety codes to do – protect his own safety by personally ensuring the equipment was locked out. If Tudor's employee was injured because of the failure of Tudor, that does not translate to liability upon the engineer. Tudor and no other entity was responsible for doing this work and doing it safely.[1]

The defendants did not have a duty to anticipate that Plaintiff would negligently and possibly recklessly begin to work on a major piece of the electrical system without following standard work rules and protecting himself by making sure the equipment was locked out.

Nor can Mahaffy and Schneider be held responsible for directing the means and methods of the work.

"Generally, an owner or general contractor does not have a duty to protect the employees of an independent contractor from the hazards of completing the contract." *Hawthorne v. Edis Co.*, 2003 WL 23009254, at * 9. An exception to this general lack of duty is when a general contractor retains "active control" over the manner in which the work is carried out and the methods used to do so. *Id*.

---

[1]If it is assumed that Fayda was not at the Cummins training session, that does not change the end result, because the training included the people involved in maintaining and working on the system, including Wolfe and Plaintiff. The aforementioned analysis is likewise applicable to Schneider. Plaintiff has not established a duty owed by Schneider to Plaintiff that was breached and which proximately caused Plaintiff's injuries. Plaintiff's injuries were a result of Plaintiff's failure to follow known safety protocol based on Plaintiff being a master electrician, having been the foreman in charge of this project for Tudor, and having attended the Cummins training.

Plaintiff argues that Mahaffy, as the engineer, actively controlled the manner and method of performing the contract work and/or retained sufficient control over part of the work. *Handler Corporation, Inc. v. Tlapechco*, 901 A.2d 737 (Del. 2006); *Bryant v. Delmarva Power & Light Co.*, 1995 WL 653987 (Del. Super.). In support thereof, the Plaintiff relies on the e-mail of April 29, 2008, sent by Mahaffy (Fayda) to Schneider, Tudor and the State personnel. That e-mail does not dictate the means and direct the methods of the work. See Exhibit "A" to this decision.

In this e-mail, Mahaffy (Fayda) informs Tudor (Bobby) that the problem of the nuisance tripping has been diagnosed. The breaker will have to be replaced. Bobby was advised of the shipping date for the replacement breaker and a request that "you", i.e. Tudor/Bobby, install it.

This direction is nothing more than a work order explaining that the new breaker will need to be installed by Tudor. There is absolutely no direction as to the means and method of installation from Mahaffy to Tudor. The remaining part of this e-mail is from Mahaffy to the hospital team reminding them of life safety issues when the breaker is replaced, i.e. the generator will need to be started. Informing the hospital team about this, as well as the de-energizing of equipment, will allow the breaker to be replaced. This communication does not constitute direction and control. The reference is to Bobby, i.e., "check with Bobby about this." Bobby is Tudor.

To reiterate, this e-mail does not tell Tudor how to do its job. It just tells Tudor to do the job and informs the hospital that life safety equipment will need to be powered while the other equipment is de-energized to complete the work.

This directive by the engineer was solely within its contractual obligations and may be more accurately characterized as exercising "general superintendence" than controlling means and methods. *See Bryant*, at *4 ("Active control over the method and manner is not inferred from the mere retention by the owner or general contractor of a right to inspect the work of an independent contractor or to exercise general superintendence over such work in order to assure complicity with the contract terms.") (internal quotation marks and citation omitted). Tudor's failure to safely perform the job does not create a duty on behalf of Mahaffy where one did not previously exist.

Nor is liability established by the fact that Tudor was not included in the conference call, mentioned in the e-mail from Mahaffy. The conference call concerned the reason for the nuisance tripping and the need for the breaker to be replaced. The e-mail attached as Exhibit "A" includes a summary of this communication and directs Tudor to replace the breaker with a ship date of May 6, 2008. No facts presented by

Plaintiff create any liability on Mahaffy's part because Tudor was not included in this conference call. Tudor received a summary of the call. Had Tudor been on the conference call, the unfortunate injury to Plaintiff still would have occurred due to the failure to follow safety protocol, not because the breaker had to be replaced. The absence of Tudor on the conference call has nothing whatsoever to do with the causation of Plaintiff's injuries.

The next argument is that because Mahaffy "broke it" they "owned it." Because Mahaffy acknowledged that the wrong breaker was initially in the design plan and installed, Plaintiff argues it was incumbent upon Mahaffy to be present and supervise/coordinate the installation of the new breaker. This position is the polar opposite of the above argument that Mahaffy did control and direct the means of the work. Ironically, had Mahaffy been present to direct the replacement work, that fact would have helped Plaintiff's argument that Mahaffy directed the means and methods of the repair. But Mahaffy had no staff on site at the time of the accident, so this argument is that they should have. The contract required Mahaffy to do the following:

> Paragraph 3.4.8:
>
> Providing coordination of construction performed by separate contractor or by the Owner's own forces and coordination of services required in connection with construction performed and equipment shipped by the Owner.

Because of Mahaffy's negligent design (by incorporating Schneider's work product), a duty was created upon Mahaffy to coordinate and direct the breaker replacement. This much the Court agrees with. Mahaffy was required to fix its error. Schneider supplied the faulty information on which the wrong breaker was installed. Therefore, Schneider agreed to be responsible for the cost of the breaker replacement.

Mahaffy coordinated the replacement, per its obligation, by directing Tudor, the contractor, to replace the faulty breaker with the new one being shipped. A shutdown was necessary so Mahaffy coordinated with Tudor and DHCI to make certain life-supporting portable oxygen generators would be powered by the generator when the main utility was shut down and the equipment de-energized.

There is nothing whatsoever offered to support Plaintiff's expert's opinion that Mahaffy and Schneider should have been physically present at the time of the replacement on June 14, 2008. The Plaintiff's expert only offers his opinion that because Mahaffy

admitted the error, Mahaffy "should have been there to make sure the error was taken care of." This opinion appears to be nothing more than a "because I say so" statement. The conclusion is not based on any trade industry standards or codes. Moreover, the opinion is directly contrary to what the contract dictates, i.e., the contractor (Tudor) is responsible. Paragraph 3.3.1 states it is the contractor's responsibility to supervise and direct the work, including "the contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the contract." The contractor (again, Tudor) was responsible for doing the work safely. (Paragraph 10.2.1).

Plaintiff's expert cannot create a question of fact by opining that the contract should be ignored or that it should be interpreted contrary to its plain meaning. A "because I say so" statement by an expert does not change the relationship between the parties.

The inescapable fact is that Tudor was the contractor that built and overhauled the electrical system. Neither Tudor nor its employee was a stranger to the system. On June 14,

2008, Tudor was tasked with replacing a part of the as-built system. There is nothing in the record to suggest or infer that Tudor did not know what it was doing as the contractor.

Summary

Plaintiff cannot prevail against Mahaffy and Schneider because:

- The parties' responsibilities and duties are clearly set forth in the contract. Everything in the contract places how the work is to be performed and responsibility for safety upon Tudor, not the defendants. Plaintiff's expert cannot change the clear meaning of the contract as to the relationship of the parties.

- The undisputed fact that there was a design error, which required a part of the as-built system to be replaced, but the design error was not the proximate cause of the Plaintiff's injuries.

- Neither defendant had any duty to direct the specific manner of how the breaker was replaced. Neither the contract nor the fact that the initial design was flawed can be a springboard to place this responsibility on the defendants. Tudor was the contractor, the hands-on builder and installer who had sole responsibility for how work was to be done.

- Nothing defendants did in this can establish that the defendants' voluntarily assumed the responsibility of Plaintiff's work place safety.

For the aforementioned reasons Plaintiff has failed to establish a viable theory that a jury could find Mahaffy and Schneider responsible and thus liable for the injuries Plaintiff suffered. Because no liability can be established against these defendants, the third-party claim against Tudor by Mahaffy is moot.

Summary judgment is granted in favor of Mahaffy and Schneider.

IT IS SO ORDERED.

Very truly yours,

/s/ T. Henley Graves

oc: Prothonotary

EXHIBIT A

Glazeski Richard (OMB)

From: Edward Fayda, P.E. [efayda@mahaffyengineers.com]
Sent: Wednesday, November 19, 2008 3:21 AM
To: Glazeski Richard (OMB)
Cc: Edward Fayda
Subject: Fw: Del Hospice 21801133 #6

forwarding email #6

---- Original Message ----
From: Henry Ike (DHSS)
To: Edward Fayda, P.E. ; Sean.Walsh@us.schneider-electric.com ; tudorelectric@verizon.net
Cc: Holderbaum Rodney (DHSS) ; Smith Wayne A (DHSS) ; Oman Charles (DHSS) ; Glazeski Richard (OMB)
Sent: Wednesday, June 04, 2008 2:36 PM
Subject: RE: Del Hospice 21801133

Hello ED,

Mr. Wolf has planned to replace the breaker in the transformer Saturday,June 14, 2008 @ 8:30AM after the residents are finished their breakfast. Bobby there are at least six rooms that will need temporary electrical drops for oxygen concentrators.

Thank you,

Isaac W. Henry Jr.
Physical Plant Maintenance Supervisor
Division of Management Services
Facilities Operations @ DHCI
Phone(302)-223-1584
Fax (302)-223-1581
"DMS-Serving Those Who Serve Delaware"

From: Edward Fayda, P.E. [mailto:efayda@mahaffyengineers.com]
Sent: Tuesday, April 29, 2008 10:58 PM
To: Sean.Walsh@us.schneider-electric.com; tudorelectric@verizon.net; Henry Ike (DHSS)
Cc: Holderbaum Rodney (DHSS); Smith Wayne A (DHSS); Edward Fayda
Subject: Re: Del Hospice 21801133

Bobby, early last week, Ike Henry, Wes Wolf, Rich Glazeski, Sean Walsh & Drew Showers and I had a conference call to discuss the problem with the breaker tripping at DHCI. It turns out that when the short circuit & coordination study was prepared, data for a transformer that was different than the one that was delivered to the site was used. As a result, the inrush of the transformer is causing the breaker that feeds it to trip. Square D has determined that the solution to the problem is to replace this breaker with another. The email that Ike forwarded to you earlier today indicates the ship date of 5/6/08. We will need you to install this breaker as soon as you can schedule a shutdown with the facility.

DHCI team: When this breaker is replaced, the generator will need to be started. The life safety transfer switches will transfer to emergency and they will then serve all equipment connected to them. This will leave the main

transfer switch to be de energized so that this breaker can be replaced. Since this is a 480vac breaker, the service to the heat pumps *and* the 208vac switchboard (and medical building switchboard) will be de-energized. Bobby can probably give you a better understanding of how long this should take, but since this is an I-Line switchboard, it is just a plug-on unit and should not take more than an hour or two at the top end to complete the work. I would also suggest that we defer the routine protocol of transferring power during a scheduled exercise until this breaker can be replaced.

It is funny how often we speak how much a waste of money it is to have two transfer switches for every building, but it is clear now, just how important they really are!!!

Sean, I received your voice mail the other day to give me an update on the status of this breaker issue and I apologize for not returning your call. I have received your subsequent email regarding this issue and appreciate your prompt attention to this matter. I'm glad we have the A team on this one.

Thanks to all who contributed to resolving this issue. Hopefully we're half way home.
Ed

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To: Sean.Walsh@us.schneider-electric.com
Cc: Edward Fayda, P.E. ; tudorelectric@verizon.net ; Holderbaum Rodney (DHSS) ; Smith Wayne A (DHSS)
Sent: Tuesday, April 29, 2008 3:56 PM
Subject: RE: Del Hospice 21801133

Hello Sean,

As you can see I have forwarded the email I asked you to send me.

Thank you,

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Facilities Operations @ DHCI
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"DMS-Serving Those Who Serve Delaware"

From: Sean.Walsh@us.schneider-electric.com [mailto:Sean.Walsh@us.schneider-electric.com]
Sent: Tuesday, April 29, 2008 3:22 PM
To: Henry Ike (DHSS)
Subject: Del Hospice 21801133

Ike,

The PJ circuit breaker has been ordered and has a scheduled ship date of 5/6.

Sean P. Walsh
Project Manager

Square D/ Schneider Electric
Phone: 410-847-1325
Fax: 859-372-9075
E-mail : Sean.Walsh@US.Schneider-Electric.com

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Bobby, early last week, Ike Henry, Wes Wolf, Rich Glazeski, Sean Walsh & Drew Showers and I had a conference call to discuss the problem with the breaker tripping at DHCI. It turns out that when the short circuit & coordination study was prepared, data for a transformer that was different than the one that was delivered to the site was used. As a result, the inrush of the transformer is causing the breaker that feeds it to trip. Square D has determined that the solution to the problem is to replace this breaker with another. The email that Ike forwarded to you earlier today indicates the ship date of 5/6/08. We will need you to install this breaker as soon as you can schedule a shutdown with the facility.

DHCI team: When this breaker is replaced, the generator will need to be started. The life safety transfer switches will transfer to emergency and they will then serve all equipment connected to them. This will leave the main

transfer switch to be de energized so that this breaker can be replaced. Since this is a 480vac breaker, the service to the heat pumps *and* the 208vac switchboard (and medical building switchboard) will be de-energized. Bobby can probably give you a better understanding of how long this should take, but since this is an I-Line switchboard, it is just a plug-on unit and should not take more than an hour or two at the top end to complete the work. I would also suggest that we defer the routine protocol of transferring power during a scheduled exercise until this breaker can be replaced.

It is funny how often we speak how much a waste of money it is to have two transfer switches for every building, but it is clear now, just how important they really are!!!

Sean, I received your voice mail the other day to give me an update on the status of this breaker issue and I apologize for not returning your call. I have received your subsequent email regarding this issue and appreciate your prompt attention to this matter. I'm glad we have the A team on this one.

Thanks to all who contributed to resolving this issue. Hopefully we're half way home.
Ed

---- Original Message ----
From: Henry Ike (DHSS)
To: Sean.Walsh@us.schneider-electric.com
Cc: Edward Fayda, P.E. ; tudorelectric@verizon.net ; Holderbaum Rodney (DHSS) ; Smith Wayne A (DHSS)
Sent: Tuesday, April 29, 2008 3:56 PM
Subject: RE: Del Hospice 21801133

Hello Sean,

As you can see I have forwarded the email I asked you to send me.

Thank you,

Isaac W. Henry Jr.
Physical Plant Maintenance Supervisor
Division of Management Services
Facilities Operations @ DHCI
Phone(302)-223-1584
Fax (302)-223-1581
"DMS-Serving Those Who Serve Delaware"

From: Sean.Walsh@us.schneider-electric.com [mailto:Sean.Walsh@us.schneider-electric.com]
Sent: Tuesday, April 29, 2008 3:22 PM
To: Henry Ike (DHSS)
Subject: Del Hospice 21801133

Ike,

The PJ circuit breaker has been ordered and has a scheduled ship date of 5/6.

Sean P. Walsh
Project Manager

Square D/ Schneider Electric
Phone: 410-847-1325
Fax: 859-372-9075
E-mail : Sean.Walsh@US.Schneider-Electric.com