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Peter Tirschwell | Oct 27, 2022 10:05AM EDT



Contract talks between the ILWU and PMA, which began in May, have been suspended pending the resolution of a jobs jurisdictional dispute at the Port of Seattle. Photo credit: Shutterstock.com.

The core issue that has stalled West Coast longshore labor negotiations for months and now threatens to extend them into next year boils down to a simple question: Which of two unions — dockworkers or machinists — gets to represent certain waterfront workers and — importantly — how will that be determined?

It amounts to a showdown between two parallel regimes for determining who gets what work at US West Coast ports. On one hand, there's the collective bargaining process between dockworkers and their employers; on the other, there's the National Labor Relations Board (NLRB) hearing disputes between different unions.

Their



irreconcilable nature has led to no solution being found thus far within the framework of the collective bargaining process. Further options remain unclear, and some parties are increasingly of the belief that the federal government may be the only viable party able to find a solution. The longer it takes to get resolved, the more cargo will be diverted to East and Gulf coast ports and to Canada, some of it permanently, and the greater the risk that port disruption tied to the negotiations will grow.

"This really is the heart of the matter," Willie Adams, president of the International Longshore and Warehouse Union (ILWU), said in a Sept. 27 press release. "Since our ground-breaking 2008 agreement, our employers have been using the NLRB as an escape hatch to avoid their obligations under our collective bargaining agreement. What we need right now is for the employers to ... honor the agreements we make at the bargaining table."

ILWU opposes NLRB involvement

In asserting jurisdiction over the disputed jobs, dockworkers represented by the ILWU have turned to the collective bargaining process with the Pacific Maritime Association (PMA), seeing that as their maximum point of leverage given their monopoly over cargo handling along the US West Coast. That leverage is manifested in the now-expired collective bargaining agreement that obligates employers to support the ILWU in jurisdictional disputes with other unions.

That obligation, contained in the 2008 contract, was enough for dockworkers to agree that year to allow automation, seeing employers' support for their jurisdiction as offsetting the loss of cargo handling jobs expected due to the installation of automated cargo-handling technology.

The ILWU thus opposes disputes being brought before the neutral NLRB, which considers arguments from both sides when resolving jurisdictional claims among competing unions.

Indeed, it was a 2020 ruling by an NLRB administrative law judge awarding maintenance and repair jobs at Terminal 5 (T5) in the Port of Seattle to workers represented by the International Association of Machinists and Aerospace Workers (IAM) that dockworkers saw as evidence of employers reneging on their 2008 contract obligation and, by extension, invalidating employers' contractual right to automate.

In September, a new dispute flared up at that same terminal, this one regarding jurisdiction over the task of plugging ships into shore-side power, which the IAM sees as an extension of the maintenance and repair work they secured via the 2020 NLRB ruling. The ILWU accused terminal operator SSA of turning to the NLRB "to circumvent the assignment of work to International Longshore and Warehouse Union (ILWU) dockworkers under the ILWU-PMA collective bargaining agreement."

Some waterfront employers view the dispute fundamentally as a conflict between the two unions that the PMA should have no part of, rather than as a collective bargaining matter. Not surprisingly, the IAM shares this view.

In a late September letter to President Joe Biden, the IAM pointed to its longstanding jurisdiction over maintenance and repair jobs at West Coast ports, noting it represents 800 mechanics and has done so for 70 years.

The IAM specifically criticized the ILWU's efforts to leverage the collective bargaining process with the PMA to gain the upper hand at T5, alleging that dockworkers in negotiations with the PMA had specifically proposed a transfer of jurisdiction at T5 to the ILWU. The machinist union noted the NLRB ruling in favor of its representation of maintenance workers at T5 and an associated Unfair Labor Practice case involving the same issue.

"The ILWU is attempting to use their current negotiation with the PMA to circumvent these NLRB decisions and force the PMA to use ILWU mechanics at Terminal 5," the IAM said in its letter. "It is our understanding that the ILWU is using this proposal as a sticking point and is holding up progress at the negotiating table."

Contact Peter Tirschwell at peter.tirschwell@ihsmarkit.com and follow him on Twitter: [@petertirschwell](https://twitter.com/petertirschwell).

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