

# The *Electrical* CONTACTOR

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ASSOCIATION OF ELECTRICAL CONTRACTORS

Volume 8  
Number 1

Winter 2012



## INSIDE:

FAEC President's Report

FEAT Report: Construction Career Days

FAEC Committee Reports

Little Things Mean a lot in Fire Prevention



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## INDEX

### TABLE OF CONTENTS

President's Message.....	4
Executive Report .....	5
FAEC Past President's Retrospective 2011 .....	6
Indemnity Provisions In Construction Contracts - What You Need to Know .....	7-8
Apprenticeship Day in Tallahassee .....	10
FEAT Report - Construction Career Days: Orlando .....	11
FAEC - Meet Your President .....	12
FAEC - Membership Committee Report .....	14
Federated Insurance - Little Things Mean a Lot in Fire Prevention .....	15
FAEC Annual BBQ -Central Florida Fair Grounds .....	16
FAEC Annual Golf Tournament - Windermere .....	17

### ADVERTISERS INDEX

Critical Components, Inc. ....	5
Electric Overstock .....	9
FAEC Business Card Page .....	18
Federated Insurance .....	Inside Front Cover
Mike Holt .....	13
NAED.....	9
Rams .....	9
Solar Source Institute .....	Back Outside Cover
Southern Electrical Resources.....	Inside Back Cover

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By Chris Jensen  
Del-Air Electrical Services, Inc.  
Sanford, Florida

It is an honor and a privilege to be your President of the Florida Association of Electrical Contractors for the 2012 year. I gained so much serving as the Vice President of the Central Florida chapter last year and I am excited about the year ahead. We have made several changes that will not only help improve our organization but increase our participation throughout the state. As we move into a new look and an extended front, we need your interaction more than ever. This year holds great golf tournaments, the annual BBQ, State convention, lunch-and-learns, prepared symposium and a well-loved casino night. Let's make this a year of growth in all aspects of life. I look forward to speaking with each and every one of you and extending any help or support that I and our board can give.

Partners Matter,

*~Chris*

## FAEC Calendar of Events 2012

March 15	FAEC Lunch 'n Learn, Tampa, FL
May 3	FAEC 1-Day CE Symposium, DoubleTree Hilton, 60 S. Ivanhoe Blvd., Orlando, FL
May 4	FAEC Annual Golf Tournament, Windermere Country Club, Windermere, FL
May 4	FAEC Annual BBQ, Central Florida Fair Grounds, Orlando, FL
June 21	FAEC Lunch 'n Learn, Jacksonville, FL
August 9	FAEC Lunch 'n Learn, Orlando, FL
Sept. 27-29	FAEC Annual Convention, St. Augustine, FL
October 11	FAEC Lunch 'n Learn, Miami, FL
Nov. TBD	FAEC Edison Award & Casino Night

## FAEC BENEFITS OF MEMBERSHIP INCLUDE:

- A Voice in the Legislative Process through a lobbyist in Tallahassee.
- A General Liability Insurance Program.
- An Annual "Spring Conference" & "Fall Convention" offering Continuing Education classes relative to license renewal.
- An Annual Membership Directory.
- The official publication of FAEC - The "Contractor" bringing you up-to-date on association information and industry news.
- "Legislative Alerts" distributed throughout the session to keep you abreast of industry concerns.
- A Group Major Medical Insurance Program.
- The opportunity to interact with fellow contractors to share industry concerns and discuss industry news.

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# EXECUTIVE REPORT by Cheryl Hardy

To all FAEC Members:

I hope everyone is doing well and that this year will be the turning point for economic activity.

FAEC would like to introduce you to the new association web site. If you have not been there already, it was launched at the 2011 year end. It is still under construction and we will add to the features and content regularly.

Among the changes please note the visibility and recognition to our "FAEC Trustees and Industry Partners". Please join us in thanking them for their continued support to FAEC and its membership.

Please remember to update your bookmarks now if you are used to going to the [www.faecf.org](http://www.faecf.org) web site. For a short time you will be redirected to the [www.faecstate.org](http://www.faecstate.org) location and will now use the [www.faecstate.org](http://www.faecstate.org) location. This updated web site will be used for all FAEC information and your credit card payment portal.

On a second note we sent you a letter along with your dues notices that described the "merge", if you will, of FAEC State and FAEC Central Florida Chapter. The two organizations are joined and now one stronger, more active and vibrant association looking forward to bringing you rich educational programs and exciting social and networking opportunities.

I hope you will all join me in celebrating this effort that your Board of Directors has been working on to better promote the electrical industry and the active role FAEC plays.

Next, please remember to update your records with the new FAEC address information... and please... make sure your accounting departments receive the updated address as well.

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Finally, on a personal note from me. I am very pleased to now represent FAEC as your Executive Director. Many of you know me personally and/or know me as I have been serving the FAEC for over 28 years now.

This is an exciting time and I would like to take a moment to thank the FAEC Board of Directors and all the members who have contacted me with their overwhelming support.

FAEC has a long and excellent reputation in the industry and I look forward to working with your Board of Directors to continue in that spirit working to make FAEC and the electrical industry all that it deserves to be and that is "Second to None".

I look forward to seeing you at upcoming events. Thank you for all the dues payments that have been coming in. If you have not yet renewed please remember to do so soon.

Best Regards to everyone... ~ Cheryl

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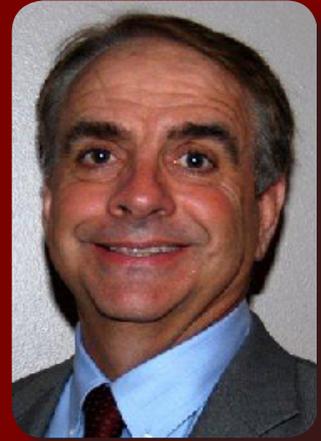


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By Joe Bell,  
Territo Electric, Inc.

**A**s I end my two year term as President of FAEC/CF, it has been an honor to serve alongside a committed board of officers, electrical contractors and associate members. During the sluggish economy, FAEC continued to provide its members with the quality events and first class golf tournaments. During 2011, our membership committee added 21 new members to our FAEC family. As we enter 2012, I am confident our new board members will continue to make FAEC one of the premium associations serving electrical contractors and associate members throughout the state.



## International Association of Electrical Inspectors Monthly Meeting

Have you been to a Central Florida Inspectors meeting lately? It's an opportunity you don't want to miss!

On the 2nd Wednesday of each month, inspectors from several Central Florida jurisdictions meet in Building 1600, Room 228, 2900 W. Oak Ridge Road, Orlando. They discuss IAEI organization business; then a guest speaker does a presentation – often on new products that are available. Code interpretation questions are addressed with input from the many inspectors and contractors in attendance.

Starting in January, a new feature was added. At the end of each meeting a free (to IAEI members) 1 hour CEU class will be held each month.

You don't have to be an IAEI member to attend – everyone in the electrical industry is welcome. For more information, contact Ed Fox (Ed.Fox@ocfl.net) and ask to be put on his email distribution list for IAEI.



## INDEMNITY PROVISIONS IN CONSTRUCTION CONTRACTS – WHAT YOU NEED TO KNOW

By Timothy Moorhead and Collin McLeod of Wright, Fulford, Moorhead & Brown, P.A. in Altamonte Springs, Florida

Whether you are a contractor, subcontractor, or materialman, it is important to understand the provisions in the construction contracts you enter into, and the possible consequence that can arise therefrom. This article will focus on typical indemnity provisions included in construction contracts and the statutory restraints on such contractual indemnity.

### Indemnity –What is it?

First, what is indemnity? Indemnity is generally defined as the duty by a first person (the “indemnitor”) to take financial responsibility for claims made against a second person (the “indemnitee”). Such financial responsibility by the indemnitor may include any principle amounts claimed against the indemnitee (i.e., medical cost from a third-party’s personal injury claim), as well as litigation costs and attorney’s fees necessary to defend against the claim. Indemnity comes in three forms: contractual, common law, and statutory. This discussion focuses on the first, contractual indemnity.

Contractual indemnity, as its name would suggest, arises from an agreement entered into between the parties. The language of the agreement determines the extent or scope of the duty to indemnify, as well as the acts or occurrences that will trigger the duty.

### Indemnity in Construction Contracts – Effect of § 725.06, Florida Statutes

Often, construction contracts will contain a provision whereby one party will require the other to indemnify the first party for certain costs, liability, etc. arising out of the project. For example, a contract drafted by an owner/developer may require the contractor to defend, indemnify, and hold harmless the owner/developer against any and all claims arising out of the contractor’s involvement in the project. Such a clause may require the contractor to indemnify an owner/developer for any claims arising out of the project, even claims arising out of the owner/developer’s own active negligence.

Florida Statutes, section 725.06 applies only to construction contracts (including contracts for alteration, repair, or demolition) and only ap-



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plies in circumstances wherein a party seeks to obtain indemnification from another party for its own active negligence. The statute provides that any portion of a construction contract between an owner and a contractor (or subcontractor, architect, engineer, etc.) that attempts to indemnify one party to the agreement from that party's own negligence "shall be void and unenforceable unless the contract contains a monetary limitation on the extent of the indemnification that bears a reasonable commercial relationship to the contract and is part of the project specifications or bid documents, if any."

The statute states further, "Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided to the owner of real property by any party in privity of contract with such owner shall not be less than \$1 million per occurrence, unless otherwise agreed by the parties." If a party is seeking indemnity for its own negligence, and the contract does not provide a monetary limitation (or otherwise departs from the statute) a court will hold the indemnity provision invalid.

The statute's requirements are specific and courts have interpreted them quite literally. For example, section 725.06 only requires a monetary limitation on indemnification—the statute does not require that the indemnity clause itself contain the required limitation. An indemnity provi-

sion may be applied even where the monetary limitation appears in another provision. For example, some courts suggest parties can draft contracts where a limitation of liability provision contains the monetary limit governing the indemnification provision, within the requirements of section 725.06.

It is also important to note that the limited allowance to indemnify a party for its own active negligence only applies to private contracts. In contrast, section 725.06 provides that contracts with public agencies may not include a provision whereby the public owner is held harmless for its own wrongful acts. Moreover, the indemnity allowed for a party's own negligence in private contracts is limited to ordinary negligence and precludes indemnity for claims resulting from a party's gross negligence, or willful, wanton, or intentional misconduct.

As a practical matter, a party who is agreeing to indemnify another in a contract should strive to limit its exposure. One way to accomplish this is to limit the indemnity exposure to only the proportionate share of the indemnifying party's own negligence or fault. If this cannot be accomplished, the indemnifying party should seek to limit its personal exposure by requiring that the scope of indemnity be limited to the amount of any insurance coverage required under the contract.

Given this analysis, the drafting, negotiation, and invocation of

indemnity provisions requires careful consideration. In litigation, multiple arguments and positions exist which a party can use to urge a court uphold or throw out a specific clause. Thus, a party should strive to be as explicit as possible in its drafting while also being aware of the possible liability issues arising from the application or interpretation of indemnity provisions. If you have any doubts about the provisions of your construction contracts, you should strongly consider consulting a qualified attorney.

Wright, Fulford, Moorhead & Brown concentrates its practice on construction industry claims and litigation, representing clients that include architects, engineers, general contractors, subcontractors, material and equipment suppliers, and both commercial and institutional owners. WFMB's clients range in size from sole proprietorships to multi-national corporations. For their clients, the attorneys of WFMB perform up-front contract review, construction progress monitoring and administration, claims preparation, analysis and presentation, mediation and arbitration of disputes, as well as trial and appellate litigation of construction-related matters. From its offices in Orlando and San Diego, and with affiliated offices throughout the United States, WFMB provides these and other legal services to its clients. For more information call us at (407) 425-0234, or visit our website: [www.wfmblaw.com](http://www.wfmblaw.com).

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## By Jamie Fugate, FEAT Coordinator

Every year since 2003, apprenticeship programs have participated in Apprenticeship Day in Tallahassee during the first two weeks of the legislative session. Why do we do this? To make sure legislators and their staff members are aware of the importance of apprenticeship in training our workforce.

This year on January 19, almost 20 apprenticeship programs set up displays on the first and third floors of the Capitol Rotunda. Participants visited legislative offices and talked about apprenticeship to everyone.

Robin Roundtree, Apprenticeship Training Director and Thompson Taylor, Training Coordinator attended, representing Northeast Florida Builders Association. They train apprentices in Electrical, HVAC, Carpentry and Plumbing. This is the 10th year that NEFBA has been represented in Tallahassee.

When I asked Robin and “Thompy” why they attend each year, they said, “It is important to make our presence known. Although we can’t always meet with our state legislators because they are in session or in committee meetings, we are able to spend time with their staff to make sure our message is heard. We also visit our legislators in their home offices where we are able to spend more time with them.

We are all looking forward to Apprenticeship Day in Tallahassee next year to continue spreading the word about the importance of training in the trades to ensure building a stronger Florida economy.





By Jamie Fugate, FEAT Coordinator

## Construction Career Days – 10th Anniversary

For the last 9 years, the Florida Department of Transportation (DOT) has held Construction Career Days (CCD) at the fairgrounds in Orlando. Two thousand high school sophomores, juniors and seniors from Orange and several surrounding counties attend the event to

learn about the opportunities available in trades associated with the DOT. Careers represented include electrical, masonry, engineering, heavy equipment operators, diesel mechanics and safety specialists. Also represented are construction-related and mechanical vocational programs from public schools and community colleges.



Students who attend have already shown an interest in our careers in high school. Many are vocational, drafting, electronic, or physics students. The students spend the day with us, participating in many hands-on activities, games and informational break-out sessions. At the end of the day, they have been introduced to the many career opportunities that we offer.

This is the 7th year that FEAT has participated in the CCD. This year, we brought our “Wheel of Questions”. Spin the wheel – the higher the number the harder the electrical or construction-related multiple-choice question. Of course, the questions aren’t the same code-based questions we ask at the FAEC annual barbeque...

The kids that attend the event are interested and respectful. If they are an example of our future workforce – I’m impressed!

This year, FAEC is undergoing many changes and improvements. Chris Jensen has been chosen as the first President of the “new” organization. Since FAEC now encompasses a larger area, there may be some members who do not know Chris. Below is an opportunity to get to know Chris and see how his background and beliefs will help move FAEC forward.

### ***How did you get started in the electrical trade?***

CJ – I have been in the electrical trade for 16 years. In 1996 I took an entry-level warehouse position for United World Electric. It was a career move driven by personal circumstances where owner and operator, Bill Rose took a chance with me. Over the 4 years of service, I took on purchasing, warehouse management, fleet, supervision and job scheduling. The abilities learned opened the opportunity to work at Palmer Electric. They hired me in 2001 to work in purchasing and in the warehouse. Nine months later I took the position of residential estimator for new construction. Over the next ten years I was able to develop a large customer base and staff leading the team as Estimating Manager.

### ***Who do you currently work for?***

CJ – In 2011, I was challenged with a new opportunity as the Business Development Consultant with Delair Electrical Services. I have been tasked with sales, managing the estimating department, assisting operations and production. Tasks include streamlining, integrating and developing procedures and partnership both internally and increasing/improving customer relations.

### ***How long have you lived in Florida?***

CJ – I have lived in Florida and the Central Florida area since 1982. I currently reside in Volusia County.

### ***How long have you been a member of FAEC?***

CJ – Although only a member of the FAEC for two years, I have participated in its many activities such as the annual BBQ, lunch-and-learns and golf tournaments.

### ***Why do you think Industry organizations are important?***

CJ – I believe the Industry organizations are important for many reasons. First, and foremost, I believe the ability to communicate with fellow tradespersons is essential to success. Our ability to personalize, share and train others in the integrity of our trade will assure continuance. I believe that partners matter. Membership with organizations like the FAEC make all that possible. In addition, we can stand and make a voice. The ability to be heard after all – isn't that what we all desire in one aspect or another?



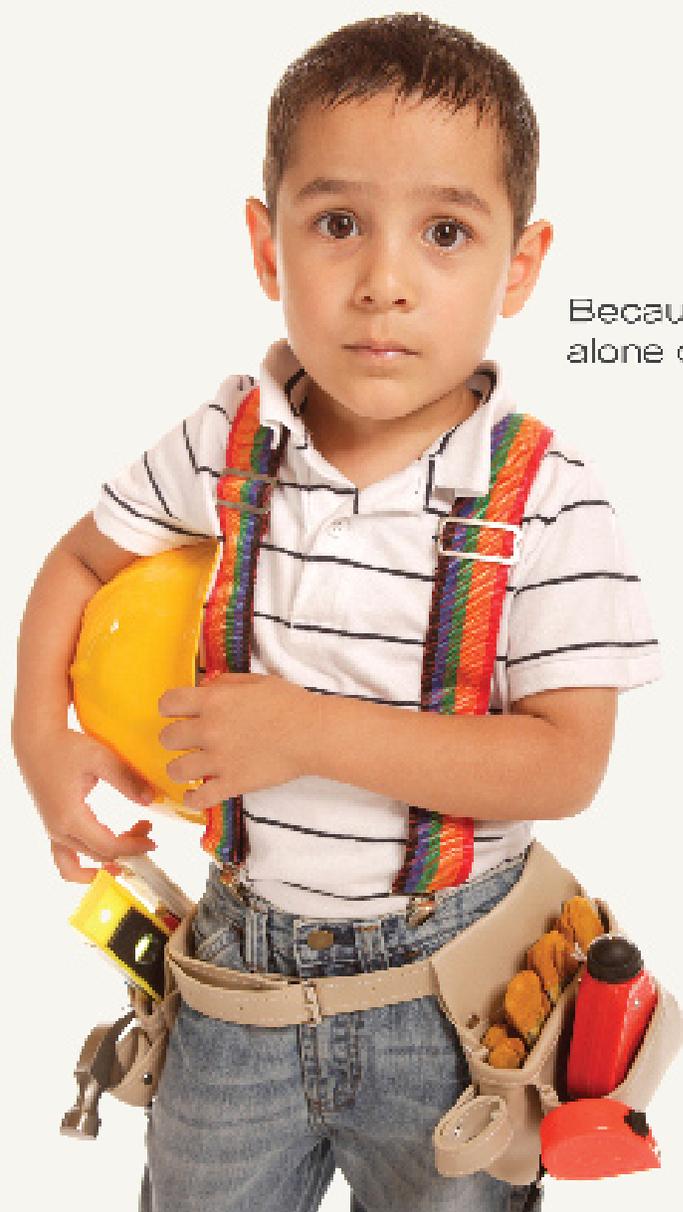
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**By Blake Ferguson, Jr.,  
Royal Electric of Central  
Florida**

**FAEC Membership  
Committee Chairman**

The life blood of any association is the members that are part of the organization. Here at FAEC, we value every one of our members and are excited about the opportunities that are available for current members. We have lined up several events, activities and classes available throughout the year for continuing education, employee development, as well as strengthening our industry as a whole.

In FAEC, we have a great forum to come together and share information, ideas and best practices that when implemented, provide proven positive bottom line results. The key to success in the electrical contracting industry is differentiating your services from those that compete on price alone and building lasting relationships. As an association we achieve that goal and are able to work together to identify and resolve issues that we all are constantly faced with – from licensing issues, to legislative issues, to management concerns. We can be a resource for each other and positively assist one another in this process. As contractors, we can sometimes get so focused on the daily grind and trying to protect our own slice of the pie that we forget that in reaching out and joining forces together, we can increase the entire pie and build a stronger industry. There will always be competition in this business, but as we have seen in the history of FAEC, we can also work together and share information and learn together how to build better companies, develop better employees, and save money through industry alliances.

This year as an association, we will be focusing our efforts to get more members involved in the organization and to reach out to newer and smaller contractors that can benefit from these types of partnerships. We will also be making strides to reach out and offer increased benefits to our existing members and offer more opportunities to maximize the value of FAEC.

I look forward to personally speaking with each of you and seeing you at FAEC events throughout the year.

## Little Things Mean a Lot in Fire Prevention

Each year in the United States, 70,000–80,000 workplaces experience a serious fire.

According to the Maine Municipal Association Risk Management Services the best way to fight fires is to prevent them from happening. Here are several things you can do at your company to lessen the chances of a fire:

- Place fire extinguishers throughout the business—and make sure everyone knows how to use them.
- Consult a fire authority or fire protection dealer concerning specific needs.
- Install smoke detectors throughout the business.

### Consider what could cause a fire to start and eliminate it

Good housekeeping is one of the most important parts of fire prevention. The more your company is clean, neat and organized, the less fire hazard you have. This applies especially to closets, janitorial rooms, and other equipment areas.

Inspect your workplace for fire hazards. Check the electrical system, all appliances, equipment, fuel storage, the heating system, stoves, and portable heaters. Make needed repairs without delay. Remove fire hazards such as trash, clutter, stacks of newspapers, and other unneeded combustible materials.

### Here are some other common-sense tips:

- Don't block exits with waste or other items
- Empty the trash daily
- Keep your equipment clean to prevent residue buildup and fire potential

### Store flammable liquids properly

Follow directions on containers or labels of flammable products. Store them in their original containers. Only store fuel in approved, labeled safety containers. Don't leave paint cans, thinners, or solvents around your work area. Use them, and then return them to a safe storage area. Flammables and combustibles should be kept in safety containers and properly stored when not in use.

### Control oily shop rags

Be sure to put soiled rags into safety waste cans. Safety containers should be UL-approved or approved by another nationally known safety organization. You can create spontaneous combustion by leaving greasy rags sitting in a corner or stored in a container other than a

metal can with a metal lid.

### Enforce smoking policy

A conservative estimate would be that a minimum of 5,000 commercial or industrial fires are caused by smoking in areas where this activity is inherently unsafe, or by improper disposal of cigarette butts or ashes.

A company policy on smoking should be developed and discussed with all new employees as part of their workplace orientation. This should include instructions on when and where this activity is, and is not, permitted.

### “No Smoking” signs should also be posted as a reminder in hazardous areas including where:

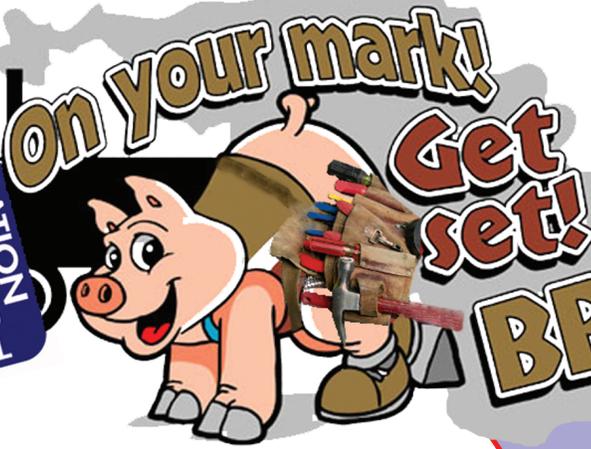
- Flammable or combustible gases and liquids are stored or transferred from one container to another
- Merchandise is displayed (retail stores)
- Parts are unpacked or packaged for shipping, or other areas where paper, cardboard, plastic packing materials, or other easily ignited combustibles are or may be stored
- Paint mixing or spray painting is performed
- Flammable or combustible liquids are heated to temperatures above their flash point
- Organic peroxides are stored or transferred from one container to another
- Cylinders of oxygen are stored
- Lumber or other combustible building materials are stored

Smoking should also be prohibited in any other type of area that is classified as a Class I, II, or III hazardous location in NFPA 70®, National Electric Code®, or in other NFPA pamphlets.

Following these measures can help prevent your company from becoming another fire statistic.

At the heart of a successful risk management culture is a reliable resource that offers you the ability to anticipate potential losses and choose the best prevention solutions. Your local Federated representative would be happy to visit with you about this. Go to our Web site at [www.federatedinsurance.com](http://www.federatedinsurance.com) for information on all of Federated's value-added programs.





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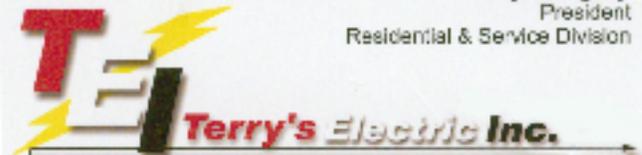
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