

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
TIME WARNER CABLE NORTH EAST LLC

Employer

and

Case 3-RC-103749

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS LOCAL UNION 320, AFL-CIO

Petitioner

SPECIAL APPEAL OF REGION'S DENIAL OF MOTION TO
CORRECT ORDER DIRECTING HEARING CHALLENGED BALLOTS

NOW COMES, the Employer in the above entitled case and requests special permission to appeal Region 3's denial of the Employer's Motion to Correct the Order Directing Hearing Challenged Ballots that issued on June 19, 2013. The Employer's Motion was filed by e-filing on June 22, 2013 and orally denied by the Region on June 24, 2013. The hearing on the challenges is scheduled for June 27, 2013.

The Order states that the ballots of headend techs David Krom, Chris North, and Ben Simon and business service technical operations employees Daniel Eakins, Michael Goodrich Justin Myers, and Erick Spader were challenged by the Employer on the grounds that the above-named employees do not share a community of interest with the petitioned for unit. While the Employer took the position that the individuals should not be included, this issue was raised prior to entry of the Stipulated Election Agreement that was approved by the Regional Director on May 20, 2013. The parties mutually agreed that these employees would vote subject to challenge and the parties entered into the Stipulation only on that basis. The Director approved the Stipulation with the agreement on the challenges and, in fact, the Board Agent at the Election challenged the above ballots pursuant to the Decision of the Regional Director, not the Employer.

Thus, while the unit set forth in the Order is facially correct as stated, it must include the Agreement that the resolution of the inclusion or exclusion of the above employees was not resolved by the Stipulation. There is a critical distinction between interpreting a unit description to determine whether certain individuals should be included or excluded which is the issue framed by the Order issued by the Region and determining the unit place of the individuals in the first instance, the actual circumstances herein. The Region's Order is factually incorrect on a significant distinction and the record should accurately reflect the current situation.

Respectfully submitted,

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I have today served copy of the above Motion and Notice of Joint Appearance
on:

NLRB, Region 3

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