

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PROSPECT AIRPORT SERVICES, INC.
Employer

and

Case 04-RC-085852

UNITED CONSTRUCTION TRADES AND
INDUSTRIAL EMPLOYEES UNION LOCAL 621
Petitioner

ORDER

We grant Service Employees International Union, Local 32BJ's Request for Special Permission to Appeal the Regional Director's Order Denying Motion for Intervention. The appeal is granted on the merits.¹

MARK GASTON PEARCE, CHAIRMAN

HARRY I. JOHNSON, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., March 16, 2015.

¹ As the Regional Director stated, when a labor organization seeks to intervene after the close of the representation hearing, the Board's longstanding policy is to permit intervention if the labor organization did not have notice of the hearing and can establish "that, as of the time of the hearing, they had such a representative interest in employees affected by the investigation as to have been entitled to notice thereof." United Boat Service Corp., 55 NLRB 671 (1944); see NLRB Casehandling Manual (Part Two) Representation Proceedings Sec. 11026.2(b). We have been administratively advised that Local 32BJ's proffered showing of interest consists of 98 cards (out of 284 petitioned-for employees, as found by the Regional Director in his February 19, 2015 Decision and Direction of Election), but it is undisputed that all such cards were signed after the hearing. It appears that Local 32BJ did not receive notice of the petition until almost two and a half years after the hearing was held. Based on the unique circumstances of this case—including the unusually long delay in scheduling the election occasioned by the Board's referral of this matter to the National Mediation Board for an advisory opinion on whether the Employer is subject to the Railway Labor Act, as well as Local 32BJ's substantial showing of interest—we find that it would best effectuate the purposes of the Act to permit Local 32BJ to intervene. Denying intervention under these circumstances would not serve the purposes of expediting the investigation and certification process underlying the Board's usual policy with respect to post-hearing intervention. See American Woolen Co., 32 NLRB 1, 8 (1941).