

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CALPORTLAND COMPANY,  
d/b/a CALPORTLAND ARIZONA  
MATERIALS DIVISION  
Employer

and

TIM V. MAGUIRE  
Petitioner

Case 28-RD-206696

and

GENERAL TEAMSTERS (EXCLUDING MAILERS),  
STATE OF ARIZONA, LOCAL NO. 104,  
AN AFFILIATE OF THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
Union

ORDER

The Petitioner's Request for Review of the Regional Director's determination to hold the petition in abeyance is denied as it raises no substantial issues warranting review.<sup>1</sup>

MARVIN E. KAPLAN,           CHAIRMAN

MARK GASTON PEARCE       MEMBER

WILLIAM J. EMANUEL,       MEMBER

Dated, Washington, D.C., January 24, 2018.

---

<sup>1</sup> The Regional Director decided on September 27, 2017, to hold the petition in abeyance based on a then-pending settlement of an unfair labor practice charge in Case 28-CA-193540 and on the pending investigation and disposition of a charge in Case 28-CA-205100. Since then, the Type I violations alleged in Case 28-CA-193540 appear to have been resolved by the parties' settlement agreement, including the posting of a Notice to Employees for 60 days. Accordingly, the charge in Case 28-CA-193540 may no longer serve to block the petition at this time. However, the charge in Case 28-CA-205100, including a Type II allegation that the Employer refused to meet at reasonable times for purposes of bargaining with the Union, is still pending. The Board has long held that a determination of merit in such a charge may preclude a question concerning representation from being raised at that time. *Big Three Industries, Inc.*, 201 NLRB 197 (1973).

Chairman Kaplan agrees with the decision to deny review here. He notes, however, that consistent with the Petitioner's suggestion, he would consider revisiting the Board's blocking charge policy in a future appropriate case. Member Emanuel agrees that the determination to hold the petition in abeyance in this case was permissible under the Board's current blocking-charge policy, but he believes that the policy should be reconsidered. Specifically, he believes that an employee's petition for an election should generally not be dismissed or held in abeyance based on contested and unproven allegations of unfair labor practices.