

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**CHARTER COMMUNICATIONS (SUCCESSOR
TO TIME WARNER CABLE OF NYC),**

Employer,

-and-

BRUCE CARBERRY,

CASE 02-RD-220036

Petitioner,

-and-

**LOCAL UNION NO. 3, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS,**

Union.

PETITIONER'S RESPONSE TO UNION'S REQUEST TO REVIEW

Bruce Carberry, Petitioner, by his attorney Matthew J. Antonek, hereby submits a response to the Request for Review filed by Local Union No. 3, International Brotherhood of Electrical Workers seeking review and reversal of the Regional Director's Supplemental Decision on Challenges and Objections dated August 5, 2019. Petitioner opposes the Request for Review and the Regional Director's decision to postpone the vote count until the union's Request for Review is resolved.

Petitioner filed the RD Petition on May 10, 2018. In the 15 months since then, a vote count has been scheduled twice and postponed both times. The latest vote count was scheduled to proceed on September 6, 2019, but the Regional Director “indefinitely postpon[ed] the counting of the challenged ballots until the Board has ruled on the union’s Request for Review”. (Email by Paula Gomez on behalf of the Regional Director, August 29, 2019, copy attached).

The indefinite postponement could delay the vote count several more months. Such a delay is grossly unfair to Petitioner and his co-workers who support the petition. Absent a stay by the Board, the vote count should proceed.

The delay is not only unfair, it is unnecessary. No party will be prejudiced if the vote count proceeds while the Board considers the union’s request.

Additionally, holding the vote count as scheduled is the most efficient way to proceed here. In the Regional Director’s Supplemental Decision on August 5, 2019, he ordered ballots to be counted as follows:

- Count 913 valid ballots cast by current employees (returning strikers and replacements) and
- Do not count 666 ballots cast by economic strikers, including 113 who the Company asserts separated from the company during the strike, as they are all ineligible voters.

Counting the ballots as scheduled could reveal that the 666 votes by current and former economic strikers are not sufficient to determine the outcome. If that is the case, it will be unnecessary to proceed with the Request for Review.

Even if the vote count reveals that 666 additional votes could determine the outcome, the Board may decide to sustain the Regional Director's decision to exclude those votes. Alternatively, the Board may decide that some smaller, non determinative number of ballots by present and former economic strikers are eligible to be counted. In either case, it would be unnecessary to schedule another vote and the election would be concluded without further delay.

CONCLUSION:

Based on the foregoing, absent a stay by the Board, the vote count should proceed on September 6, 2019 as originally scheduled.

Accordingly, Petitioner requests that the Board not delay the vote count while it considers the union's Request for Review and:

- (a) Overrule the decision of the Regional Director "indefinitely postponing" the vote count, and,
- (b) Order the Regional Director to proceed, forthwith, to direct the vote count pursuant to his August 5, 2019 Supplemental Decision on Challenges and Objections.

Dated: August 25, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew J. Antonek", written over a horizontal line.

Matthew J. Antonek
Attorney for Petitioner
PO Box 289
Ironia, NJ 07845-0289



Gomez, Paula <Paula.Gomez@nlrb.gov>

Tue 8/20/2019 4:04 PM

Inbox

[Hide recipients](#)

To: Clark, Peter (clark@kmm.com);
Matt Antonek (mantonek@out...
Marty Glennon (mglennon@a...
Paul K. Brown (pbrown@abglla...

Good Afternoon,
I am reaching out on behalf of the Regional Director to inform you that the Region is indefinitely postponing the counting of the challenged ballots until the Board has ruled on the Union's Request for Review.

Cordially,

Paula J. Gomez, Board Agent
National Labor Relations Board, Region 2
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CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

The undersigned, an attorney admitted to practice before the Courts of the State of New Jersey, certifies under penalty of perjury, that on August 24, 2019, he caused a true and correct copy of the attached Petitioner's Response to Union's Request for Review to be served upon the Regional Director for Region 2, the attorney for the Employer and the attorney for the Union, each via electronic mail, addressed to:

Mr. John J. Walsh, Jr.
Regional Director, Region 2
National Labor Relations Board
26 Federal Plaza – Room 3614
New York, NY 10278
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August 25, 2019


Matthew J. Antonek