

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

SEMINOLE ELECTRIC COOPERATIVE, INC.,

Employer,

AND

Case No. 12-RC-256815

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 108, AFL-CIO,**

Petitioner.

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EMPLOYER’S EMERGENCY MOTION TO STAY THE ELECTION

Employer, Seminole Electric Cooperative, Inc. (“SEC”), by and through undersigned counsel and pursuant to Section 102.67 of the National Labor Relations Board’s (the “NLRB” or “Board”) Rules and Regulations, hereby submits its Emergency Motion to Stay the Election that was ordered by the Regional Director’s Decision and Direction of Election that was issued on May 18, 2020 (the “Regional Director’s Decision”).

SEC seeks an emergency stay of the election ordered by the Regional Director’s Decision for the following two reasons: (1) the Board’s presumption in favoring a manual election should apply in the instant matter because the circumstances are significantly different from the Board’s recent decisions in upholding mail-ballot elections due to COVID-19, one of which the Regional Director relied upon heavily in his Decision; and (2) the instant circumstances present a compelling reason for the Board to reconsider an important Board rule or policy and provide guidance as to when mail-ballot elections are appropriate due to COVID-19.

Pursuant to Section 102.67 of the NLRB’s Rules and Regulations, a party requesting review from the Board may also request that the Board stay some or all of the proceedings, including an election. 29 C.F.R. § 102.67(j)(1)(ii). The Board will grant the relief requested “upon

a clear showing that it is necessary under the particular circumstances of the case.” 29 C.F.R. § 102.67(j)(2).

Here, for the reasons more fully addressed in SEC’s contemporaneously filed Employer’s Request for Review of Regional Director’s Decision and Direction of Election, the Board’s granting a stay of the election is necessary under the facts of this case. Specifically, a stay is necessary because if the mail-ballot election is allowed to proceed on May 28, 2020 as directed by the Regional Director, the Regional Director’s errors in failing to adhere to the Board’s long-standing presumption in favor of manual ballots and failing to consider all of the unique facts of the instant case cannot be remedied. Further, the Board will be deprived of an opportunity to consider the circumstances in which a mail-ballot election is appropriate during COVID-19. Thus, there is a clear showing that extraordinary relief is warranted in this case under Section 102.67(j).

Based upon the foregoing, SEC respectfully requests that the Board issue an immediate stay of the election that was ordered by the Regional Director’s Decision until the Board has had the opportunity to consider SEC’s contemporaneously filed Employer’s Request for Review of Regional Director’s Decision and Direction of Election.

May 22, 2020

Respectfully submitted,

/s/ Mark E. Levitt

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 22, 2020 a true and correct copy of the foregoing Employer's Emergency Motion to Stay the Election was e-filed with the National Labor Relations Board and was served upon the following:

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/s/ Mark E. Levitt _____

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