

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

FERRELLGAS, INC.

Employer

and

Case 19-RC-259640

**TEAMSTERS LOCAL UNION NO. 839,
AFFILIATED WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

Petitioner

DECISION AND DIRECTION OF ELECTION

I. SUMMARY

The petition in this matter was filed by Teamsters Local Union No. 839, affiliated with the International Brotherhood of Teamsters (Petitioner) on April 24, 2020,¹ under Section 9(c) of the National Labor Relations Act, as amended (Act), seeking an election to represent a unit of maintenance employees employed by Ferrellgas, Inc. (Employer) at its propane gas facility located in Kennewick, Washington (Employer's facility). There are approximately six employees in the unit sought.

On April 24, Region 19 (the Region or Region 19) of the National Labor Relations Board (the Board) served the petition on the parties and issued a Notice of Hearing in this matter. On May 13, the parties executed a Stipulation of Record for Pre-Election Hearing (Stipulation), agreeing that they are not in dispute about any other issues and that the sole issue precluding them from reaching a stipulated election agreement in this case is the manner of election, specifically, whether the election should be conducted by manual election or by mail ballot election, and the date(s) of the election. The parties also agreed that their Stipulation, its exhibits, and each party's position statements regarding the manner of the election due on May 26 constitutes the entire record for this matter (stipulated record) and that I will make a determination solely on the basis of the parties' stipulated record.

Further, the parties agreed in their Stipulation that they retain the right to file, **limited to the method, date, time, and place of election ordered**, a request for review of my decision with the Board. (emphasis in original) Additionally, the parties agreed in their Stipulation that if I order a mail ballot election, and if I set a due date for returning ballots different than the date of the ballot count, the parties understand that no ballot will be counted that Region 19 receives after the due date I established. The parties further waived their right to file objections based upon any untimely received ballots.

¹ All dates hereafter are in 2020 unless otherwise indicated.

Based on the parties' Stipulation and the stipulated record, the only issue I must determine is the manner of the election, whether to conduct a manual election or a mail ballot election given the reality of the COVID-19 pandemic.

II. FACTUAL OVERVIEW AND POSITIONS OF THE PARTIES

A. The COVID-19 Pandemic

The impact of the COVID-19 pandemic on daily life has been profound. As of May 25, 1,637,456 people in the United States have been infected with COVID-19 and 97,669 people have died from it.² The Centers for Disease Control and Prevention (CDC) has determined that the best way to prevent the illness is to avoid being exposed to the virus. *How to Protect Yourself and Others*.³ Many of the measures recommended by CDC to prevent the spread of the virus are well-known at this point: maintain a six-foot distance between individuals, work or engage in schooling from home, avoid social gatherings, avoid discretionary travel, and practice good hygiene. *Id.*

The CDC has also recently issued COVID-19 guidance for businesses, *Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19), May 2020, (Interim Guidance)*⁴ containing recommendations to establish policies and practices for social distancing to reduce the transmission of COVID-19, including: increasing physical space between employees at the worksite by modifying the workspace; using signs, tape marks, or other visual cues such as decals or colored tape on the floor, placed six feet apart, to indicate where to stand when physical barriers are not possible; implementing flexible meeting and travel options (e.g., postpone non-essential meetings or events in accordance with state and local regulations and guidance); closing or limiting access to common areas where employees are likely to congregate and interact; and delivering services remotely (e.g., phone, video, or web).

With respect to travel, the Interim Guidance also suggests that employers limit non-essential travel and consider resuming non-essential travel in accordance with state and local regulations and guidance. As for meetings and gatherings, the Interim Guidance suggests that employers minimize risks to their employees by using videoconferencing or teleconferencing when possible for work-related meetings and gatherings; canceling, adjusting, or postponing large work-related meetings or gatherings that can only occur in-person in accordance with state and local regulations and guidance; and when videoconferencing or teleconferencing is not possible, hold meetings in open, well-ventilated spaces continuing to maintain a distance of six feet apart and wear cloth face coverings.

Further, although not directly addressing Board elections, I note that the CDC has specifically issued guidance on elections, *Recommendations for Election Polling Locations*⁵

² See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

³ See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>.

⁵ See <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

(CDC Election Guidance), stating that officials should encourage mail-in voting. This CDC guidance provides as follows:

Actions for elections officials in advance of election day

Encourage voters to use voting methods that minimize direct contact with other people and reduce crowd size at polling stations.

- Encourage mail-in methods of voting if allowed in the jurisdiction.

The CDC has also issued publications regarding presymptomatic transmission of COVID-19, including a Morbidity and Mortality Weekly Report Early Release posted online on April 1, *Presymptomatic Transmission of SARS-CoV-2 — Singapore, January 23–March 16, 2020*⁶ (CDC Weekly Report). The CDC Weekly Report emphasizes, “The potential for presymptomatic transmission underscores the importance of social distancing, including the avoidance of congregate settings, to reduce COVID-19 spread.” A recent report published by the CDC, *COVID-19 Pandemic Planning Scenarios* (CDC Planning Report), contains a best estimate that 35% of individuals infected with COVID-19 are asymptomatic, meaning that they never exhibit symptoms during the course of their COVID-19 infection, yet they are just as infectious as symptomatic individuals.⁷ This CDC Planning Report further estimates that the mean time from exposure to symptom onset of COVID-19 is approximately six days.

In addition, many state and local governments have issued restrictions tailored to the situation in specific communities. On February 29, Washington State Governor Jay Inslee (Governor) issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the COVID-19 outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State. On March 23, the Governor announced a “Stay Home, Stay Healthy Order” (Stay Home, Stay Healthy),⁸ requiring every Washingtonian to stay home unless they need to pursue an essential activity; banning all social, spiritual or recreational gatherings; and closing all businesses except for essential businesses, within certain limitations.

On May 4, the Governor extended all Stay Home, Stay Healthy prohibitions until May 31, and announced the “Safe Start Washington: A Phased Approach To Recovery”⁹ (Safe Start), providing a four-phased approach to re-opening Washington State’s economy. The duration of each phase is a minimum of three weeks, based on certain benchmarks necessary to move to the next phase. Washington State has been under Phase 1 since May 5, and Phase 1 will last at least until May 26. Phase 1 prohibits all nonessential gatherings.

⁶ See https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e1.htm?s_cid=mm6914e1_w.

⁷ See <https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html>.

⁸ See <https://medium.com/wagovernor/inslee-announces-stay-home-stay-healthy-order-4891a7511f5e>.

⁹ See <https://medium.com/wagovernor/inslee-signs-new-covid-19-order-for-phased-re-opening-of-washingtons-economy-ad5ea919ab56>.

Washington State will not transition to Phase 2 of its Safe Start plan until May 26 at the earliest. During Phase 2, gatherings of more than five people are prohibited. The earliest date Washington State could transition to Phase 3, where gatherings up to fifty people are permitted, is on June 16. The earliest date Washington State could transition to Phase 4, where gatherings of more than fifty people are permitted, is not until July 7. The Safe Start plan also indicates that the Governor will reinstate social and physical distancing restrictions if COVID-19 outbreaks recur.

Additionally, the Governor's Safe Start plan allows for counties with a population of less than 75,000 that have not had a new case of COVID-19 in the past three weeks to apply to the Washington State Department of Health (Health Department) with a plan to reopen more sectors of public life. On May 19, the Governor announced new criteria for additional counties to apply for variances to move to Phase 2 of the state's Safe Start plan.¹⁰ With these new criteria, 10 smaller counties in Washington State can apply for a variance which would allow each eligible county to open even more businesses than allowed statewide. These counties are now eligible to apply if they have less than 10 new COVID-19 cases per 100,000 residents over a 14-day span.

At the local level, the Employer's facility is in Kennewick, Washington, located in Benton County in Washington State. Benton County is required to follow the Washington State Safe Start plan referenced above, and is still currently at Phase 1.¹¹ Benton County is not one of the 10 counties in Washington State eligible to apply for a variance to enter Phase 2.¹²

Although communities nationwide have taken steps to prevent or slow the spread of COVID-19, the virus has continued to have a devastating impact in Washington State and throughout the United States. The Health Department reports that as of May 24, there were 704 confirmed cases of COVID-19 in Benton County and 59 Benton County residents have died from COVID-19.¹³

B. The Employer's Ongoing Operations

The Employer, which is engaged in the retail and non-retail sale and delivery of propane gas, is an essential business that has remained operational during the COVID-19 pandemic. As a result, its employees continue to report for work and perform their regular duties, albeit with at least some changes in regular operations to incorporate social distancing and sanitizing to the extent possible at the Employer's facility.

¹⁰ See <https://www.governor.wa.gov/news-media/inslee-announces-expanded-county-variance-criteria-and-working-wa-small-business-grants>.

¹¹ See <https://coronavirus.wa.gov/what-you-need-know/covid-19-county-variance-application-process>.

¹² See <https://www.governor.wa.gov/news-media/inslee-announces-expanded-county-variance-criteria-and-working-wa-small-business-grants>.

¹³ See <https://www.doh.wa.gov/Emergencies/Coronavirus>.

III. POSITION OF THE PARTIES

A. Petitioner's Position – Mail Ballot Election is Necessary due to COVID-19

Petitioner maintains that a mail ballot election is necessary because of the extraordinary circumstances of the current COVID-19 pandemic and its associated restrictions. Petitioner recognizes that with such a small petitioned-for unit, a manual election is preferable under normal circumstances. However, considering the uncertain and challenging times at present, with the risks associated with COVID-19, Petitioner sees no good reason to unnecessarily risk the health of any eligible voters, observers, or Board Agents. Therefore, Petitioner contends that a mail ballot election appears to be the most appropriate choice in this matter.

B. Employer's Position – Manual Election at the Employer's Facility

The Employer argues that voting should be conducted entirely by manual election, based on the Board's longstanding policy favoring manual elections. First, the Employer estimates that there are approximately six eligible voters, and therefore it would be possible to limit the gathering size during the manual election to ensure that there would never be more than five people gathered at one time and that the total number of people involved in the manual election would be approximately nine or fewer people. According to the Employer, all manual election participants could remain appropriately physically distanced and with appropriate personal protective equipment (PPE).

Second, the Employer proposes to take certain precautions to ensure that this manual election can be conducted without any health risks to participants, including:

- Conducting the vote in the employer's shop, an area of approximately 54 feet by 66 feet with a 30 foot ceiling, and large garage doors that could be opened, allowing the voting area to be well ventilated;
- Providing all participants in the manual election with PPE, including unspecified types of masks, gloves, hand sanitizer, and cleaning wipes;
- Limiting the polling times to one hour, to minimize the interaction time between election participants;
- Setting up the voting area to allow for physical distancing but still enabling both observers and the Board agent to view the voter list and voting area at all times, including during the ballot count;
- Providing each voter with an individual pencil or pen to limit the objects touched by more than one person; and
- Providing a dedicated restroom area that would be sanitized immediately before the election, for all election participants' restroom and hand washing needs.

In conclusion, the Employer asserts that there are currently no public health concerns associated with holding a manual election in mid to late June at the Employer's facility. According to the Employer, a manual election will ensure the preservation of the laboratory conditions and avoid the unnecessary risk of miscommunication, misinformation, and undue peer pressure that the Board has long associated with mail ballot elections. Therefore, the Employer requests a manual election at the Employer's facility from 1:00 p.m. to 2:00 p.m. on June 25 or 26.

IV. ANALYSIS

The Board is charged, under Section 9 of the Act, with the duty to conduct secret ballot elections to determine employees' union representation preference and to certify the results of such elections. The Board's obligation to perform the function of conducting secret ballot elections must be taken very seriously, particularly at this time when the nation and the local community are facing public health and economic crises. I also am mindful of my obligation to appropriately exercise my discretion concerning the timing and manner of the election with due consideration to safety considerations in the context of a pandemic.¹⁴ Thus, it is my obligation to conduct an election in this matter at the earliest practicable time and in the most responsible and appropriate manner possible under the circumstances.¹⁵

Although the Board prefers to conduct manual elections over conducting mail ballot elections, the Board has made it clear that mail ballot elections need not be reserved only for the most extraordinary circumstances, reasoning that "neither our precedent nor common sense supports such a stringent approach to the use of mail ballots." *Sutter Bay West Hospitals*, 357 NLRB 197, 198 (2011). Indeed, the Board has always acknowledged that circumstance may necessitate adaptations on the Board's part to facilitate an election. In *National Van Lines*, 120 NLRB 1343 (1956), the Board asserted that "circumstances surrounding working conditions in various industries require an adaptation of established election standards to those peculiar conditions." 120 NLRB at 1346, citing *Shipowners' Association of the Pacific Coast, et al.*, 110 NLRB 479, 480 (1954). The Board noted that, "[b]ecause of these circumstances, the Board has invested Regional Directors with broad discretion in determining the method by which elections should be conducted." *Id.*

The Board has determined that there are some instances in which a mail ballot election is appropriate because "of circumstances that would tend to make it difficult for eligible employees to vote in a manual election." *San Diego Gas and Electric*, 325 NLRB 1143, 1144 (1998). The Board has clarified that Regional Directors should consider, at a minimum, where employees are located geographically, if employees are temporarily scattered, whether there is an ongoing

¹⁴ In its April 17, 2020 press release, the Board stated that Regional Directors have discretion with respect to when, where and if an election can be conducted in accordance with existing Board precedent and the Board specifically noted that Regional Directors will consider the extraordinary circumstances of the current pandemic, to include safety, staffing, and federal, state, and local laws and guidance. See <https://www.nlr.gov/news-outreach/news-story/covid-19-operational-status-update>.

¹⁵ See *Atlas Pacific Engineering Company*, 27-RC-258742 (Order Denying Request for Review, May 8, 2020); *Touchpoint Support Services, LLC*, 07-RC-258867 (Order Denying Request for Review, May 18, 2020); *Johnson Controls, Inc.*, 16-RC-256972 (Order Denying Request for Review, May 18, 2020).

strike, lockout, or picketing, and the ability of voters to read and understand a mail ballot. *Id.* at 1145. The Board went on to say that there may be other relevant factors to consider and that extraordinary circumstances may warrant a departure from the specific guidelines articulated in that case. *Id.*

I acknowledge that absent public health concerns, I would not order a mail ballot election in this case. However, for the reasons articulated earlier, this election will not be held under normal circumstances. As noted above, current Federal and State public health guidance strongly recommends discouraging gatherings, and a mail ballot election minimizes such risk. As of May 24, there were 704 confirmed cases of COVID-19 in Benton County and 59 Benton County residents have died from COVID-19. The Employer's employees remain working at the Employer's facility because they provide essential propane gas services, and because of the nature of the work, no alternative exists to perform their work remotely. However, the Board does have an alternative to conducting a manual election.

I find that the COVID-19 pandemic presents an extraordinary circumstance that makes conducting a mail ballot election the most responsible and appropriate method for conducting a secret ballot election to determine the unit employees' union representation preferences at this time. The safety of the voters, the observers, the party representatives, and the Board agent conducting the election must be considered in determining the appropriate method for conducting the election.

Although the Employer has offered certain accommodations in an effort to allow for some degree of social distancing and protection during the election, manual election procedures inherently require substantial interaction. Voters, observers, and party representatives would all need to appear at the Employer's facility to participate in the election. Party representatives, the observers, and the Board agent would have to gather for approximately 15 to 30 minutes for the pre-election conference, including the check of the voter list and the parties' inspection of the voting area. The Board agent and observers would need to share a voting area in the Employer's approximately 3,564 foot shop at its facility for the duration of the proposed manual election spanning one hour. The observers would need to check in voters on the voter list, in a process intended to allow for visibility of the checked list to both observers and the Board agent. The Board agent must provide a ballot to each voter, which each voter must then mark in a voting booth and then place into one shared ballot box. Board agents often need to assist voters with placing their ballots in challenged ballot envelopes and completing the necessary information on the envelopes. The Board agent and observers might need to use a restroom at the Employer's facility, typically before and after the closing of the polls. The Board agent must also count the ballots cast by all voters at the end of the election, typically held in the same voting area, with the observers, party representatives, and other employees who wish to attend.

In these circumstances, the substantial interaction inherent in conducting a manual election presents a significant risk for all election participants despite the social distancing and protective measures proposed by the Employer. Although the Employer directs that employees abide by certain protective measures while at work, it cannot police employees' adherence to those measures in the polling area and the Board agent cannot also police employees' adherence

to those measures at the locations outside the polling area. Despite the Employer's precautions to minimize the transmission and spread of COVID-19 at the Employer's facility, any election participant could be an asymptomatic carrier of the virus.

Further, it is reasonable to conclude that conducting a manual election would only increase the possibility of greater interaction among the Employer's employees. This increased interaction may be minimal, such as an employee standing in a line that would not normally be necessary if the employee were performing work duties, or may be major, such as an employee infected with COVID-19, perhaps even unknowingly, reporting to work to vote in the election. The Board's manual election procedures do not contain an absentee or remote voting option; an employee must appear in person at the polls to vote. Additionally, conducting manual elections under the current circumstances could disenfranchise voters, as employees may be wary of participating in an election process involving the degree of interaction required to conduct a manual election and may therefore refrain from participation.

Since the Employer prefers a manual election, I do not take my determination to conduct a mail ballot election lightly. I do not find that a manual election is impossible, or that a mail ballot election is the only appropriate option. However, I have determined that, under the current circumstances, conducting a mail ballot election is the most responsible and appropriate method of holding an election without undue delay. In fact, directing a mail ballot election is consistent with current CDC guidance on elections, which acknowledges the inherent risk of in-person elections and, thus, encourages mail-in methods of voting if allowed during this extraordinary COVID-19 pandemic.

In sum, in accordance with the Board's duty under Section 9(a) of the Act to conduct secret ballot elections to determine employees' union representation preference, I am directing an election in this matter as soon as practicable. To ensure the safety of all participants, to avoid the potential for disenfranchisement of employees, and to ensure compliance with this Agency's obligations and responsibilities, I am directing a mail ballot election. A mail ballot election will provide the certainty of process and procedure to conduct an election within a reasonably prompt period and in a safe, responsible, and effective manner.

V. CONCLUSION

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The parties stipulated and I find that the Employer is an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹⁶

¹⁶ The Employer, a State of Delaware corporation with an office and place of business in Kennewick, Washington, is engaged in the retail and non-retail sale and delivery of propane gas. Within the last 12 months, a representative period, the Employer derived gross revenue in excess of \$500,000, and purchased and received goods valued in excess of \$50,000 from points directly outside the State of Washington.

2. The parties stipulated and I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
3. The parties stipulated and I find that there is no history of collective bargaining between these parties in the proposed bargaining unit identified above and there is no contract or other bar in existence to an election in this case.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The parties stipulated and I find the following employees of the Employer constitute a unit (the Unit) appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time drivers, dock employees, and service technicians employed by the Employer at or out of its facility located at 306 N. Fruitland St., Kennewick, Washington.

Excluded: Office employees, managers, and guards and supervisors as defined in the Act.

Thus, for the reasons detailed above, I will direct a mail ballot election in the Unit above, which includes approximately six employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **TEAMSTERS LOCAL UNION NO. 839, AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS.**

A. Election Details

I have determined that a mail ballot election will be held for the reasons I have explained above.

The ballots will be mailed by U.S. Mail to eligible voters employed in the appropriate collective-bargaining unit. On **Wednesday, June 10, 2020**, ballots will be mailed to voters by an agent of Region 19 of the National Labor Relations Board. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Friday, June 19, 2020**, should communicate immediately with the National Labor Relations Board by either calling the Region 19 Office at (206) 220-6300 or our national toll-free line at 1-866-667-NLRB (1-866-667-6572).

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 19 office by **12:00 p.m. (noon) PDT on Wednesday July 8, 2020**. All ballots will be commingled and counted by an agent of Region 19 of the National Labor Relations Board on **Tuesday, July 14, at 1:00 p.m.**, likely via a videoconference to be arranged by Region 19. In order to be valid and counted, the returned ballots must be received at the Region 19 Office by **12:00 p.m. (noon) PDT Wednesday, July 8, 2020**. Pursuant to the parties' Stipulation, no ballots will be counted that are received after the due date. The parties will be permitted to participate in the ballot count, which may be held by videoconference. If the ballot count is held by videoconference, a meeting invitation for the videoconference will be sent to the parties' representatives prior to the count. No party may make a video or audio recording or save any image of the ballot count.

B. Voting Eligibility

Eligible to vote are those in the Unit who were employed during the payroll period ending **Friday, May 15, 2020**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States who are present in the United States may vote.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this Decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Friday, May 29, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this Decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. **The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election.** For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this Decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Pursuant to Section 102.5(c) of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlr.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules and Regulations does not permit a request for review to be filed by facsimile transmission. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Seattle, Washington this 27th day of May 2020.

RONALD K. HOOKS

Ronald K. Hooks, Regional Director
National Labor Relations Board, Region 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006