

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

VISTAR TRANSPORTATION, LLC
Employer

and

09-RC-260125

GENERAL DRIVERS, WAREHOUSEMEN AND
HELPERS, LOCAL UNION NO. 89, AFFILIATED WITH
THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS
Petitioner

ORDER

The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹ The Employer's request for extraordinary relief is denied as moot.

JOHN F. RING,

CHAIRMAN

¹ In denying review, we further note that the Board's decision in *San Diego Gas & Electric*, 325 NLRB 1143, 1145 (1998), recognizes that Board elections should, as a general rule, be conducted manually and specifies well-settled guidelines for determining whether a mail-ballot election would normally be appropriate. Under normal circumstances, this would almost certainly not be an election where a mail ballot would be considered. But in *San Diego Gas & Electric*, the Board also recognized that "there may be other relevant factors that the Regional Director may consider in making this decision" and that "extraordinary circumstances" could permit a Regional Director to exercise his or her discretion outside of the guidelines set forth in that decision. *Id.*

In finding that a mail-ballot election is warranted in this case, we rely on the extraordinary federal, state, and local government directives regarding the Covid-19 pandemic, which have resulted in a determination that the regional office charged with conducting this election should remain on mandatory telework at the time the Acting Regional Director issued her Decision and Direction of Election. Mandatory telework in the regional office is based on the Agency's assessment of current Covid-19 pandemic conditions in the local area. Under all of the foregoing circumstances, we are satisfied that the Acting Regional Director did not abuse her discretion in ordering a mail-ballot election here.

Furthermore, we note that the Employer's request for review raises concerns about potential disenfranchisement of voters if the ballots are delayed in the mail. While such concerns could be relevant to whether a mail-ballot election is appropriate, the circumstances presented here fail to establish that the Acting Regional Director abused her discretion. Any party is free to present evidence of any actual disenfranchisement of voters, if applicable, in post-election objections.

The Board is open to addressing the normal criteria for mail balloting in a future appropriate proceeding.

MARVIN E. KAPLAN,

MEMBER

WILLIAM J. EMANUEL,

MEMBER

Dated, Washington, D.C., June 12, 2020.