

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 25

BUNGE MILLING, LLC¹

Employer

and

BCTGM, LOCAL 280, A/W BAKERY,
CONFECTIONARY, TOBACCO WORKERS AND
GRAIN MILLERS INTERNATIONAL UNION, AFL-
CIO, CLC²

Petitioner

Case 25-RC-262150

DECISION AND DIRECTION OF ELECTION

This case is before me pursuant to a stipulated record entered between the parties on July 15, 2020.³ The parties waived their right to a pre-election hearing and stipulated that the sole issue is whether the election should be conducted in person or by mail ballot, which is a non-litigable matter.⁴ The Board has delegated its discretion in determining such arrangements to Regional Directors. *San Diego Gas and Electric*, 325 NLRB 1143, 1144 (1998). Although election arrangements, including the voting method, are not litigable matters at a pre-election hearing, the positions of the parties were solicited for consideration. The parties agree that a manual election is appropriate and that it is possible to conduct a manual election safely notwithstanding the issues related to the COVID-19⁵ pandemic. After carefully considering the arguments made by the parties on this issue, I find that a mail ballot election is appropriate under the extraordinary circumstances currently presented by the COVID-19 pandemic.

CONCLUSION

Based upon the entire record⁶ in this matter, I conclude as follows:

1. The Employer is an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act.⁷

¹ The Employer's name appears as amended by the stipulated record.

² Petitioner's name appears as amended by the stipulated record.

³ All dates are in 2020, unless otherwise noted.

⁴ See *Representation-Case Procedures*, 84 Fed. Reg. 69524, 69544 fn. 82 (Dec. 18, 2019) (citing *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366, 1367 (1954)).

⁵ Throughout this decision, the terms "COVID-19," "COVID," and "Coronavirus" are used interchangeably.

⁶ Per the stipulated record, the Employer submitted a written statement entitled "Brief and Offers of Proof"; Petitioner did not submit any written statement.

⁷ The Employer, a Delaware corporation with corporate headquarters located in Chesterfield, Missouri and places of business throughout North America including in Worthington, Indiana, is engaged in the business of milling corn flour. The parties stipulated that during the 12-month period ending July 15, 2020, a representative period, the

2. 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. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
4. There are no contract bars or any further bars in existence that would preclude the Region from processing the petition.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time production and maintenance employees, including lead, lab, shipping, and receiving employees, employed by the Employer at its Worthington, Indiana facility.

Excluded: All temporary employees, office clerical employees, professional employees, managers, guards and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by BCTGM, LOCAL 280 A/W BAKERY, CONFECTIONARY, TOBACCO WORKERS AND GRAIN MILLERS INTERNATIONAL UNION, AFL-CIO, CLC. For the reasons described below, I have determined that a mail ballot election will be conducted in this matter.

1. Employer Operations

The Employer maintains a facility in Worthington, Indiana, where it is engaged in the business of milling corn flour. The Employer employs approximately 28 employees in the proposed bargaining unit.

Employer purchased and received at its Worthington, Indiana facility goods valued in excess of \$50,000 directly from points located outside the State of Indiana.

2. The Parties' Positions

The parties agree that a manual election is appropriate. In asserting that a manual election would be safe under the circumstances and pose minimal risks to all individuals present, the parties propose that multiple safeguards could be implemented for a manual election to reduce the risk of COVID-19. These safeguards are listed at paragraph 14 of the parties' proposed Stipulated Election Agreement⁸ which is part of the stipulated record. These proposed safeguards are largely in accordance with the suggestions included in General Counsel Memorandum 20-10 entitled "Suggested Manual Election Protocols" (GC 20-10) issued on July 6 and include:

- deep cleaning/sanitization and sterilization of the election site the day before each voting period,⁹ followed by inspection by Board Agent and parties via video conference;
- provision of a conference room at the Worthington facility capable of providing social distancing and separate entrance and exit ways;
- floor markings for social distancing;
- separate shielded tables for Board Agent, observers, voting booth and ballot box;
- single-use disposable writing instruments and glue sticks for voting procedures;
- hand sanitizer and wipes provided throughout election area;
- mandatory mask-wearing with masks and gloves available on-site;
- certification by the Employer 24 to 48 hours preceding election certifying that polling area is clean and the COVID status of individuals at the facility, including those who are COVID-positive or have had contact with a COVID-positive individual; awaiting COVID results; or exhibiting COVID symptoms;
- certification of COVID status at time of election by all party representatives, observers, and anyone seeking to participate in any election proceedings;
- 14-day post-election notification by parties of COVID status of any election participants.

The Employer also argues that manual elections are normally favored by the Board and provide the best opportunity for employees to exercise their right to vote.¹⁰ The Employer points out that none of its employees have tested positive for COVID-19, which it attributes to

⁸ I rejected the parties' proposed Stipulated Election Agreement based on their desire for a manual election.

⁹ In the event of a manual election, the parties agreed to a two-day election with two separate polling periods from 6:30 a.m. to 8:30 a.m. on July 29 and 6:30 p.m. to 8:30 p.m. on July 30.

¹⁰ In specifically arguing that mail ballot elections result in low voter participation, the Employer provides data referencing percentage rates for participation in NLRB mail ballot elections held since March 2020. Notably, the Employer does not provide any source for the data it references. Thus, it is difficult to address the Employer's arguments regarding that data. In any event, I note that given the current state of the pandemic, there is no likelihood voter turn-out would be at a "normal" participation rate even if a manual ballot election were to be conducted. Additionally, post-election procedures remain available to the parties for eligibility concerns.

the safety measures it has implemented at its facility. This includes social distancing, daily employee temperature checks, screening employees for COVID-19 symptoms, mandated use of masks and other personal protective equipment (PPE), and implementation of strict sanitization and disinfection procedures.

3. A Mail Ballot Election Is Appropriate

The Board's decision in *San Diego Gas*, 325 NLRB at 1145, 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. In *San Diego Gas*, 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.*

Consistent with the recognition of the discretion afforded to Regional Directors in extraordinary circumstances in *San Diego Gas*, on April 17, 2020, the Board issued an announcement regarding the COVID-19 pandemic titled, "COVID-19 Operational Status," which states in pertinent part:

Representation petitions and elections are being processed and conducted by the regional offices. Consistent with their traditional authority, Regional Directors have discretion as to when, where, and if an election can be conducted, in accordance with existing NLRB precedent. In doing so, Regional Directors will consider the extraordinary circumstances of the current pandemic, to include safety, staffing, and federal, state and local laws and guidance.

On July 6, General Counsel Peter Robb issued GC 20-10 setting forth suggested election protocols while specifically noting that it is not binding on Regional Directors because the Board not the General Counsel has authority over matters of representation. Among other things, the General Counsel proposes, as agreed to by the parties, self-certification that individuals in proximity to the polling place, including observers and party representatives, have not tested positive for COVID-19, or come into contact with someone who tested positive within the preceding 14 days, and are not awaiting test results, along with identifying the number of individuals exhibiting COVID-19 symptoms. However, the U.S. Center for Disease Control and Prevention's (CDC's) "current best estimate" is that 50% of COVID-19 transmission occurs

while people are pre-symptomatic and 40% of people with COVID-19 are asymptomatic¹¹ and would neither be identified nor have sought testing. Moreover, GC 20-10 does not provide an enforcement mechanism for any of its suggestions other than canceling an election, which would delay resolution of the question concerning representation. A mail-ballot election avoids these concerns.

Recently, the Board has denied review of several mail ballot elections ordered by Regional Directors under the current COVID-19 circumstances, citing the local, state and federal directives and the current pandemic conditions in the local area as evidence that the Regional Director did not abuse his or her discretion. See *TDS Metrocom LLC*, 18-RC-260318 (unpublished June 23, 2020); *Vistar Transportation, LLC*, 09-RC-260125 (unpublished June 12, 2020); and *Roseland Community Hospital*, 13-RC-256995 (unpublished May 26, 2020).¹² Most recently, on July 14, 2020, the Board again affirmed that it will continue to consider whether manual elections should be directed based on the circumstances then prevailing in the Region charged with conducting the election. See *Brink's Global Services USA, Inc.*, 29-RC-260969 (unpublished July 14, 2020).¹³ Accordingly, I find that the COVID-19 pandemic is an extraordinary circumstance based on the current surge of COVID-19 in Indiana, including the local area (election location, location of employees who would travel, and the areas that would be traveled through to get to the election site); local, state and federal guidance; and the ongoing uncertainties presently created by COVID-19.

COVID-19 has created a public health crisis, responsible for upwards of 142,000 deaths in this country.¹⁴ Currently, the number of new COVID-19 cases continues to climb and is surging in several areas of the country. Unfortunately, Indiana is no exception. As of April 17, the date of the Board's Operational Status Update, the average daily number of confirmed positive cases (based on a rolling seven-day average) was 468. It is now 775, continuing its week-long upward trajectory.¹⁵ While COVID cases in Indiana decreased steadily in May to June, since about June 25, the number of confirmed cases continues to climb dramatically.¹⁶

¹¹ "COVID-19 Pandemic Planning Scenarios" (updated July 10, 2020). <https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html> (last accessed July 23).

¹² In these decisions, the Board also cited to the fact that the Regions involved were under mandatory telework. Although Region 25 is not currently under mandatory telework as of the time of this decision, operating practices, safety protocols and telework status of employees is closely monitored based on local conditions and recently, local conditions reflect an increase in the number of COVID cases. In exercising my discretion to order a mail ballot under these circumstances, I rely on the remaining factors identified by the Board in its April 17 announcement and as I describe below.

¹³ The Decision and Direction of Election in *Brinks Global* issued after the NLRB Agency lifted its mandatory telework requirement.

¹⁴ <https://www.cdc.gov/covid-data-tracker/#cases> (accessed July 23).

¹⁵ Indiana Coronavirus Map and Case Count, *New York Times*. Retrieved from <https://www.nytimes.com/interactive/2020/us/indiana-coronavirus-cases.html> (accessed July 23).

¹⁶ <https://covidtracking.com/data/state/indiana> (accessed July 23).

While Indiana Governor Eric Holcomb lifted Indiana's stay-at-home order on May 1 and started easing coronavirus restrictions, on July 15 he announced that the state would not advance to its final stage of its reopening plan until at least July 31 and that current restrictions (75 percent capacity at restaurants, 50 percent at bars, nightclubs and other entertainment venues, etc.) would remain in place.¹⁷ Over the weekend of July 17 to 18, Indiana had its worst two-day surge of COVID-19 cases since records began being kept in early March with almost 1800 Indiana residents being documented with coronavirus; 927 of those cases were reported on July 18, the second-highest amount of reported cases in a single day since the biggest one-day outbreak occurred on April 26 when 946 state residents contracted COVID-19.¹⁸ On July 22, Governor Holcomb announced starting July 27 everyone over the age of 8 will be required to wear a mask both indoors and outside wherever social distancing is not possible.¹⁹ As of July 23, Indiana ranks 21st in the nation in confirmed COVID-19 cases with approximately 58,673 cases and 2,666 confirmed deaths.²⁰ Greene County, where the election is to take place, has not been spared from COVID-19, having recently experienced an uptick in positive cases in the last two weeks.²¹ It is not possible for me to know if these numbers represent an increase in the number of infections, a reflection of more widespread testing or better reporting. However, it is sufficient to establish that there is no seen improvement in COVID conditions and that there continues to be spread of COVID, factors which lead me to conclude there is too much risk to holding a manual election at this time or in the near future.

The CDC explains that COVID-19 is primarily spread from person to person and that a person may become infected when an "infected person coughs, sneezes or talks" or by "touching a surface or object that has the virus on it, and then by touching your mouth, nose or eyes."²² Guidance issued by the CDC recommends "limit[ing] in-person contact as much as possible." This guidance is echoed by the state's recent mandatory mask proclamation as well as the Indiana State Department of Health recommendation to limit large gatherings at this time.²³ To avoid the unlikely possibility of contracting COVID-19 through the mail, the CDC simply advises: "After collecting mail from a post office or home mailbox, wash your hands with soap and water for at least 20 seconds or use a hand sanitizer with at least 60% alcohol."²⁴ Although

¹⁷ <https://www.lakeshorepublicradio.org/post/indiana-keeps-its-reopening-plan-hold-through-july#stream/0> (accessed July 23).

¹⁸ <https://www.localnewsdigital.com/2020/07/20/indiana-has-bad-coronavirus-weekend/> (accessed July 23).

¹⁹ <https://www.indystar.com/story/news/health/2020/07/22/indiana-coronavirus-governor-announces-mandatory-face-masks/5488294002/> (accessed July 23)

²⁰ <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (accessed July 23).

²¹ <https://www.co.greene.in.us/departments/division.php?structureid=85> (accessed July 23).

²² U.S. Center for Disease Control and Prevention, COVID-19 Guidance Documents, Coronavirus disease 2019 (COVID-19) Factsheet – CDC, *What you should know about COVID-19 to protect yourself and others* (available at: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf>) (accessed July 23).

²³ See, Executive Order 20-36, signed by Governor Holcomb on July 16.

²⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/essential-goods-services.html> (accessed July 23).

it has not directly addressed Board elections, the CDC has issued guidance on elections in general. Its “Considerations for Election Polling Locations and Voters” states that officials should consider alternative voting methods where permitted, and that “[v]oting alternatives that limit the number of people you come in contact with or the amount of time you are in contact with others can help reduce the spread of COVID-19....”²⁵ This election would also involve significant two-day overnight travel to the facility by a Board Agent and party representatives for early morning and late evening voting periods. The CDC continues to maintain that “[b]ecause travel increases your chances of getting infected and spreading COVID-19, staying home is the best way to protect yourself and others from getting sick.”²⁶ At this time, sending Board agents to conduct the election would risk the exposure of everyone at the facility. Eligible voters, along with other employees who may come into contact with the Employer’s participants, Board agents, and party representatives, would risk being exposed to the virus and spreading it to participants, the community, and their families. Therefore, the number of people placed at risk for exposure is much greater than just the number of employees eligible to vote.

Manual election procedures inherently require substantial interaction among voters, observers, party representatives and the Board agent, all of whom must be present at the Employer’s facility. The Board Agent, observers and party representatives participate in a pre-election conference in which they must inspect the voting area and check the voter list. The Board Agent and observers must be present in the same space for the duration of the election period. In this regard, the proposed two-day voting period will greatly extend the time period the Board Agent and observers will spend together. In addition, the hours proposed by the parties for the polls to be open would necessitate the Board Agent spending at least one if not two nights at a location close to the Employer’s facility since the polls would open at 6:30 AM on the first day and not close until 8:30 pm on the second day. This would, of course, also increase the danger to the Board Agent. Given the availability of a mail ballot election, ordering a manual election under the current circumstances would be in direct contradiction to the federal, state and local guidance, all of which advise avoiding in-person contact, which a manual election necessitates. This guidance is even more critical now given the resurgence of COVID-19 statewide.

Furthermore, a mail ballot election avoids the uncertainties created by COVID-19. For example, it is now well-established, although the exact percentage is uncertain, that certain individuals infected with COVID-19 will remain asymptomatic and display no symptoms. It may take several days for a person who has been infected to start displaying symptoms, even though they are contagious prior to display of symptoms. As a result, despite the proposed screening measures, infected individuals could participate in the election, unknowingly exposing co-workers,

²⁵ See <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (accessed July 23).

²⁶ U.S. Center for Disease Control and Prevention, Coronavirus in the United States- Considerations for Travelers available at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-in-the-us.html> (accessed July 23).

party representatives, observers, and the Board Agent, who, along with the observers, will be in the voting area for a very long and sustained period of time. A mail ballot election eliminates this risk.

Moreover, if an employee tests positive for COVID-19, suspects they may have COVID-19 due to symptoms, has an elevated temperature, or must be quarantined due to COVID-19 exposure, they will be deprived of their vote in a manual election, as there is no absentee ballot or remote voting options under the Board's manual election rules. A mail ballot election avoids this significant pitfall and ensures all have an opportunity to vote regardless of their exposure to COVID-19 or health status. Furthermore, there is no known date at which the guidance and circumstances I have described above will change. As a result, a mail ballot election in this matter will allow for holding of the election "at the earliest date practicable" consistent with the Board's Rules and Regulations Section 102.67(b).

In the parties' stipulated record and the Employer's written statement, the parties propose various safety measures to mitigate COVID-19, largely in accordance with the suggestions made in GC 20-10. I have carefully considered the Employer's suggestions and the suggestions in GC 20-10. Ultimately, as GC Memo 20-10 recognizes, the decision to conduct the election by mail ballot is within my discretion. In this case, as I have already described, we have not reached a safe enough juncture in the pandemic. I have determined that the most appropriate course of action at this time is to follow accepted guidance to limit in-person contact and travel within the state.

A mail ballot election would also meet the procedure and safeguards necessary to ensure the fair and free choice of bargaining representatives by employees. I note that neither party has argued that the petitioned-for employees would be unable to understand the mail balloting procedure. There is no contention that the addresses of the eligible employees are not known or up to date. Any mail ballot election, held at any time under any circumstances, includes and ensures procedures by which an employee who has not received a ballot in a timely manner may receive a duplicate. There is no evidence that the mail service in Indiana, the state in which the mail ballots will be sent and received, has been disrupted. Mail balloting provides no additional risk to Board Agents, parties, voters, or the public and is consistent with current guidance of limiting in-person contact and travel. Even in the midst of this pandemic, the Region has already successfully conducted a number of mail ballot elections. Although an in-person count may be infeasible, arrangements can be made for a virtual remote count that provides all the safeguards of a traditional count.

For the above reasons, I find that the appropriate and most responsible measure to ensure a safe election is a mail ballot election. A mail ballot election will eliminate the risk of

unnecessarily exposing employees, Board agents, party representatives, and their families to COVID-19, and it will ensure that the Unit employees have the opportunity to vote promptly.

ELECTION DETAILS

I have determined that the election will be conducted through mail ballot. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit by personnel of the National Labor Relations Board, Region 25, on August 10, 2020, at 11:00 a.m. EDT. Voters must return their mail ballots so that they will be received at the National Labor Relations Board, Region 25 office by the close of business on September 3, 2020. The mail ballots will be commingled and counted via electronic means at 11:00 a.m. EDT on Friday, September 11, 2020 with party representatives participating remotely.

To help avoid the untimely return of a ballot, any person who has not received a ballot by August 17, 2020, or otherwise requires a duplicate mail ballot kit, should contact the Region 25 office in order to arrange for another mail ballot kit to be sent to that employee.

VOTING ELIGIBILITY

Eligible to vote are those in the unit who were employed during the bi-weekly payroll period ending July 26, 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 may vote if they appear in person at the polls.

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.

VOTER LIST

As required by Section 102.67(1) 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 cellphone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **July 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.

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 10 business 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.

A request for review must be E-Filed through the Agency's website. 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.²⁷ 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.

Although 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, all ballots will be impounded where a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision, if the Board has not already ruled on the request and therefore the issue under review remains unresolved. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: July 27, 2020



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²⁷ On October 21, 2019, the General Counsel issued GC Memorandum 20-01, informing the public that Section 102.5(c) of the Board's Rules and Regulations mandates the use of the E-filing system for the submission of documents by parties in connection with the unfair labor practice or representation cases processed in Regional offices. The E-Filing requirement went into immediate effect on October 21, 2019, and the 90-day grace period that was put into place expired on January 21, 2020. Parties who do not have necessary access to the Agency's E-Filing system may provide a statement explaining the circumstances, or why requiring them to E-File would impose an undue burden.

