

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

QUICKWAY TRANSPORTATION, INC
Employer

and

Case 09-RC-257491

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 and of the Regional Director's Decision on Objections and Certification of Representative is denied as it raises no substantial issues warranting review.¹

¹ In denying review, we 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. 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 was warranted in this case, we rely on the extraordinary circumstances resulting from the Covid-19 pandemic that were prevailing in May 2020, when the Acting Regional Director issued the Direction of Election. Those include the extraordinary federal, state, and local government directives then in force, which limited nonessential travel, required the closure of nonessential businesses, and resulted in a determination that the regional office charged with conducting this election should remain on mandatory telework. Mandatory telework in the regional office was 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.

The Employer's Request for Review states that at least eight employees mailed ballots that did not arrive in time for the tally. Based on the facts of this case, we find that the Regional Director acted in accordance with Board precedent in certifying the Union despite the missing

JOHN F. RING,	CHAIRMAN
WILLIAM J. EMANUEL,	MEMBER
LAUREN McFERRAN	MEMBER

Dated, Washington, D.C., October 26 , 2020.

ballots. See *Premier Utility Services, LLC*, 363 NLRB No. 159 (2016); *Classic Valet Parking*, 363 NLRB No. 23 (2015).

Chairman Ring and Member Emanuel note, however, that the facts of this case—namely, the possibility that some ballots may be lost in the mail—illustrate one reason why manual elections are, and should be, preferred. In saying as much, however, they do not mean to suggest that a mail-ballot election was inappropriate here.

Member McFerran notes that the Board has long recognized “that there are instances where the Regional Director, because of circumstances that would tend to make it difficult for eligible employees to vote in a manual election, may reasonably conclude that conducting the election by mail ballot, or a combination of mail and manual ballots, would enhance the opportunities for all to vote.” *San Diego Gas & Electric*, above, at 1144. Moreover, as the Board has previously stated, “mail ballots have been utilized by the Board since the NLRA was enacted... and abuses have rarely occurred.” *Id.* at 1146.

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