

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

**THE MCCLATCHY COMPANY, LLC
d/b/a THE NEWS TRIBUNE**

**THE MCCLATCHY COMPANY, LLC
d/b/a THE OLYMPIAN**

**THE MCCLATCHY COMPANY, LLC
d/b/a THE BELLINGHAM HERALD**

Case 19-RC-270395

**THE MCCLATCHY COMPANY, LLC
d/b/a THE TRI-CITY HERALD¹**

Employer

and

**PACIFIC NORTHWEST NEWSPAPER GUILD,
COMMUNICATIONS WORKERS OF AMERICA
LOCAL 37082**

Petitioner

DECISION AND DIRECTION OF ELECTION

On December 17, 2020,² Pacific Northwest Newspaper Guild, Communications Workers of America, Local 37082 (Petitioner) filed a representation petition (the Petition) under §9(c) of the National Labor Relations Act (the Act) seeking to represent a bargaining unit of newsroom employees employed by The McClatchy Company, LLC, d/b/a The Tacoma News Tribune; The McClatchy Company, LLC, d/b/a The Olympian; The McClatchy Company, LLC, d/b/a The Bellingham Herald; and The McClatchy Company, LLC, d/b/a The Tri-City Herald (the Employer) at the named publications in Washington State. There are approximately 39 employees in the petitioned-for bargaining unit (the Unit).

By the Petition, Petitioner maintains the Unit is an appropriate multi-facility unit. The Employer did not file a timely statement of position contesting the appropriateness of the Unit, and accordingly is precluded from raising this issue pursuant to §102.66(d) of the Rules and Regulations of the National Labor Relations Board (Rules and Regulations).

¹ The names of the parties appear as amended at hearing.

² All dates 2020 unless otherwise indicated.

A hearing officer of the National Labor Relations Board (the Board) held a videoconference hearing on January 12-14, 2021, to collect evidence regarding whether the Unit is an appropriate unit. Petitioner filed a brief with me after the conclusion of the hearing. As explained below, based on the record, Petitioner's brief, and relevant Board law, I find the record establishes the petitioned-for multi-facility bargaining unit is an appropriate unit. Accordingly, I have directed the petitioned-for election in this case. Because of the ongoing COVID-19 pandemic, and in agreement with the parties, I have directed that the election be conducted by mail.³

RECORD EVIDENCE

A. The Employer's Operation

The Employer operates a nationwide network of print and online media publications. This network that includes the four publications at issue in the instant case: the News Tribune in Tacoma, Washington (the Tacoma News Tribune), the Olympian in Olympia, Washington (the Olympian), the Bellingham Herald in Bellingham, Washington (the Bellingham Herald), and the Tri-Cities Herald, covering Kennewick, Pasco, and Richland, Washington (the Tri-Cities Herald). Each publication is focused primarily on local news and produces a printed newspaper as well as an online version for their respective communities.

The Employer's Northwest region consists of the four publications at issue and the Idaho Statesman in Boise, Idaho. The senior manager at the Tacoma News Tribune is both the regional editor (regional editor) for the Northwest region and the senior manager at that publication. The other publications senior manager is an executive editor (executive editor), who in turn report to the regional editor.⁴ The current regional editor was appointed to the position recently, in November of 2020, as part of a restructuring of the Employer's management and organizational hierarchy.

Each executive editor has duties related to the content of the publication, such as selecting stories for publication and making assignments to the newsroom employees, but the executive editor also serves as the on-site manager for departments outside the newsroom, such as sales and circulation. The Employer has several centralized departments, such as finance and human resources, that are based outside the Northwest Region. Employees in these departments located in Washington State report both to the executive editor of the publication and a supervisor within their department, located at various points outside Washington State.

³ In ordering a mail ballot election I note the employees at issue are potentially considered "scattered" over a wide geographic area, consistent with the Board's determination in *San Diego Gas and Elec.*, 325 NLRB 1143, 1145 (1998). However, because the stipulation regarding a mail ballot election only addresses the circumstances created by the Covid-19 pandemic, I accept the stipulation and order a mail ballot election only on this basis.

⁴ The titles at each publication differ slightly, but the senior manager at each publication is referred to in this Decision as executive editor for the sake of clarity.

The petitioned-for employees are employed in the newsrooms of each publication. Each newsroom is a department that employs the reporters, visual journalists, and columnists that create each publications' content.⁵ Approximately 21 newsroom employees are employed by the Tacoma News Tribune, 6 by the Olympian, 6 by the Bellingham Herald, and 6 by the Tri-Cities Herald.

Newsroom employees of the Tacoma News Tribune were represented at one time, but that representation has not been in place for at least 20 years. There is no other history of representation at any of the other publications at issue. Petitioner represents a bargaining unit of newsroom employees at the Idaho Statesman in a separate, standalone bargaining unit.

B. Community of Interest Factors

(1) Skills, duties, and working conditions

The employees in the petitioned-for unit include reporters, who primarily write, visual journalists, who take pictures and video, and columnists, whose work includes opinion. The primary skill of reporters and columnists is the ability to investigate and write stories on topics that engage readers, while operating on a deadline. Visual journalists have the same goal of engagement and use their skills with photography and video production to create compelling stories. Newsroom employees are required to have a college degree and the skills necessary to perform their job duties but are not required to have any sort of specific occupational license or certification.

Reporters typically have a beat, job responsibilities defined by a topic, such as criminal justice or local government, or defined by a time, such as breaking news. Reporters and visual journalists move from assignment to assignment as needed, in coordination with their editors. The smaller publications at issue have a single executive editor that performs this role, while the Tacoma News Tribune has specific news editor and sports editor that coordinate work on their respective subjects.

The reporting process begins with a story idea, and while this process will vary by beat, newsroom employees are generally expected to generate and pitch story ideas to their editors. Newsroom employees then collect the information needed, often outside the office and at hours dictated by the story, not specifically scheduled hours of work. Collecting information for a story often includes interviewing people and performing research, and drafting a story requires presenting that information in a clear and engaging way. Reporters and video journalists edit their own work, in conjunction with their editors

⁵ The parties stipulated that the petitioned-for unit seeks all "newsroom employees." The record contains job descriptions that include a variety of titles for these employees, and some vary between publications. For clarity, and consistent with usage at hearing, I have used the terms "reporter," "visual journalist," and "columnist" in describing the newsroom employees where distinctions are relevant. I have used the term "newsroom employees" to refer to them collectively. In referring to the petitioned-for unit this way I recognize the parties have agreed to vote some of the newsroom employees, whose supervisory status has not been determined, subject to challenge. The specific classifications voting subject to challenge are addressed in a later section.

and the Employer's centralized copy-editing staff. In addition to copy-editing, the Employer has also centralized some tasks that were previously done at the local level, such as page layout. After publication, newsroom employees are expected to be proficient in social media to promote their stories.

Regarding working conditions, all unrepresented employees of the Employer, including the petitioned-for employees, are covered by the same fringe benefit plans, including benefits such as health insurance and the Employer's 401(k) plan. The Employer recently standardized policies regarding benefits such as holidays and sick leave, and accordingly these are consistent among all the employees involved. Each publication has its own policy handbook, but these largely incorporate McClatchy corporate policies. There is no evidence these policies contradict or supersede McClatchy policies, but they may add a minor policy or benefit that differs from other publications. Training provided to newsroom employees is distributed by the Employer from its centralized human resources department.

Wages in the newsroom are generally equivalent across the publications at issue. The median hourly wage at the Tacoma News-Tribune is \$20.51 an hour, \$21.25 an hour at the Bellingham Herald, \$22.43 at the Olympian, and \$21.33 at the Tri-Cities Herald. Among salaried employees, the median salary at the Tacoma News-Tribune is \$59,599.18. Only three other newsroom employees are salaried at the other publications, and these salaries range from \$49,831 to \$55,473.60.

(2) Functional Integration

Each publication is primarily focused on local content of interest to local residents. Accordingly, a significant portion of the stories reported will not be of interest to the readers of the other publications and it will only appear in the publication that created the content. However, some topics, and in particular the current pandemic, are of interest to all readers in Washington State, and these articles are carried by some or all the publications. Further, when the opportunity exists to pool resources the Employer will do so in the interest of efficiency. For example, during the current pandemic the publications at issue have arranged for statewide press conferences to be covered by a rotation of reporters, who produce a single story that can be used by all the publications. The regional editor and the executive editors in the Northwest region have a brief daily call each weekday morning where this type of coordination can be discussed.

In addition to discrete stories, the Employer also has two reporters assigned to cover state government in Olympia, and these reporters produce shared content. One reporter was hired by the Tacoma News Tribune and is included in that publication's budget but works primarily in Olympia covering breaking news at the state level and reports to the executive editor of the Olympian. The other employee is an employee of the Olympian, covering the state legislature, but regularly produces content that runs in the other publications. At hearing, this reporter described contacting the executive editors of the other publications to coordinate what state government issues are important to their local readers.

(3) Employee Contact and Interchange

Within the newsroom of a publication employees are in regular and frequent contact. In addition to in-person communication and e-mail, employees also use Slack and other online messaging platforms. Contact between employees in the separate newsrooms is less common, although the same forms of communication, email and dedicated Slack channels, exist. Estimates on the frequency of this inter-newsroom contact at hearing ranged from none to a few times a month. The record contains several examples of what newsroom employees at different publication may communicate about, including a question about a source, asking where a reporter obtained a document, or sending a specific question to the reporter covering the pandemic news conference as part of the Employer's rotation.

Some of the inter-newsroom contact is routine, and some is very specific to the employee involved. A Bellingham Herald reporter receives a Department of Health situation report by email daily that they forward to a reporter at the Tacoma News Tribune. Another reporter described tweeting after being threatened by an armed demonstrator while covering a protest at the Capitol in Olympia. In response, numerous colleagues from publications other than her own contacted her to indicate their support.

The record contains minimal evidence of temporary or permanent interchange. As described earlier, the publications do share resources when applicable, such as the pandemic press conference rotation, but there is no evidence these situations involve a temporary transfer of any kind. The evidence of permanent transfers is likewise minimal, an intern at the Bellingham Herald was hired as a full-time employee at the Olympian, but this was a new hire, not a transfer in the strict sense. As mentioned previously, one of the state government reporters is employed by the Tacoma News Tribune but reports to the editor of the Olympian. However, it does not appear the employee has transferred so much as has been moved into a hybrid role, as the employee continues to be included in the budget of the Tacoma News Tribune.

(4) Centralized Control of Management and Supervision

The Employer establishes a budget for each newsroom, covering items from salaries to office supplies. The budget is set by the Employer's finance department and the executive editor of each publication. Within that budget executive editors have some discretion regarding how to keep expenses in line, but the evidence regarding the extent of this discretion is mixed. Executive editors testified regarding their ability to hire and fire employees, but the record also contains statements that they would not make these decisions without consulting the regional editor and the human resources department. The record also contains evidence the regional editor hired an employee for the Olympian, although this was one of the state government reporters who provides shared content. Executive editors can approve expenses, but again the testimony from the executive editors highlighted that for significant or unusual expenditures a decision would only be made after consulting the regional editor. Regarding non-monetary managerial and supervisory decisions, such as discipline, the dynamic is the same. The executive

editor makes the decision, but a final decision would only be made after consulting or informing the regional editor and human resources department.

In late 2019 the Employer implemented a centralized review platform, replacing what had previously been a local decision regarding how to evaluate employees. The review system has metrics for page views and online engagement set by the Employer at the corporate level outside of Washington State. These metrics factor into the Employer's review process, although precisely how this occurs as a practical matter is not entirely clear from the record.

(5) Geographic Proximity

Bellingham, Tacoma, and Olympia are in Western Washington, west of the Cascade Mountains. Bellingham is the northernmost, located near the Canadian border. Tacoma is approximately 120 miles south of Bellingham, and Olympia is 30 miles south of Tacoma. Kennewick, Washington, where the office of the Tri-Cities Herald is located, is in Eastern Washington, east of the Cascade Mountains, approximately 230 miles from Tacoma.

ANALYSIS

A. Board's Multi-location Standard

The appropriateness of a multi-facility unit is determined by whether the employees in question share a community of interest, considering the following factors: (1) similarity in skills, duties, and working conditions; (2) functional integration; (3) employee contact and interchange; (4) centralized control of management and supervision; (5) geographic proximity; and (6) bargaining history. *See, e.g., Exemplar, Inc.*, 363 NLRB No. 157 (2016); *Clarian Health Partners, Inc.*, 344 NLRB 332, 334 (2005); *Bashas', Inc.*, 337 NLRB 710, 711 (2002); *Alamo Rent-A-Car*, 330 NLRB 897, 897 (2002). In the multi-facility unit context, the question is simply whether the petitioned-for unit is an appropriate one; the Board's single-facility presumption does not apply and does not need to be overcome. *Hazard Express, Inc.*, 324 NLRB 989, 989 (1997) (citing *NLRB v. Carson Cable TC*, 795 F.2d 879, 886-87 (9th Cir. 1986); *Capital Coors Co.*, 309 NLRB 322, 325 (1992)).

The Board has repeatedly emphasized that multi-facility units should correspond to employers' administrative groupings. *See, e.g., Exemplar, Inc.*, 363 NLRB No. 157, slip op. at 3 (2016). In addition, the Board will find a petitioned-for multifacility unit inappropriate if the petitioned-for group does not share a community of interest distinct from that shared with employees at other, excluded locations. *Laboratory Corp. of America Holdings*, 341 NLRB 1079, 1082 (2004); *see also Acme Markets, Inc.*, 328 NLRB 1208 (1999).

Petitioner seeks to represent a unit of newsroom employees at the Tacoma News Tribune, the Olympian, the Bellingham Herald, and the Tri-Cities Herald.

Accordingly, the question before me is whether the newsroom employees employed at these publications share a community of interest sufficient to make a multi-facility bargaining unit appropriate.

Before turning to the specific community of interest factors I note the petitioned-for employees constitute all the unrepresented newsroom employees in the Employer's Northwest Region, and accordingly the unit sought corresponds to an administrative grouping of the Employer. Because the publications at issue do not have a history of collective bargaining relevant to the question before me, I have not addressed this factor as a separate consideration.

B. Community of Interest Factors

(1) Skills, Duties, and Working Conditions

The record does not reflect any discernable differences in the skills and duties of the petitioned-for newsroom employees between publications within classification. For example, a reporter at the Tacoma News Tribune utilizes the same skills to perform the same duties as a reporter at the Tri-Cities Herald; both are collecting information through interviews and research and using that information to craft a timely story that engages readers. While a visual journalist will have skills that differ from the reporters in their newsroom, such as video editing, this skill is also held by the visual journalists in the newsrooms of the other publications at issue.

Working conditions are also similar. The employees at the various publications have equivalent wages, the same fringe benefits, and often have their work schedule dictated by their story, not a set schedule. Some minor differences may exist in some policies, but the record makes clear that the Employer has, in the last several years, put in place uniform policies on topics such as holidays and sick leave where previously local variation was the norm.

The evidence of similar skills and duties within classifications and working conditions across classifications strongly supports finding a community of interest exists between the petitioned-for employees.

(2) Functional Integration

The publications at issue here cover four unique areas, with unique local issues of interest to their readers. I recognize that much of the content produced is local content. Further, each publication can publish without the direct involvement of the others. An executive editor may choose to include shared stories or a story from another publication, but they are under no obligation. However, I do find this independence is balanced to a degree by the practical realities of operating smaller publications within a nationwide network of publications. The regional editors and executive editors speak daily, even if relatively briefly, to share information and find efficiencies. The rotation covering state pandemic press conferences provides a recent example. I also find the hybrid situation

developed to cover state government demonstrates a long-term interest in merging functions where possible in the interest of efficiency.

While the focus on local news is reflected in the separate nature of the newsrooms, I find the Employer's repeated merging of functions where possible reflects a degree of functional integration that supports finding a community of interest within the Unit.

(3) Employee Contact and Interchange

The evidence regarding contact and interchange is mixed. Regarding contact, from the record it appears some newsroom employees are in contact with their colleagues at other publications while others are not. Further, while some of this contact is regular, such as the Bellingham Herald reporter forwarding the Department of Health report to the Tacoma News Tribune reporter daily, the contact has minimal substance. The record references more substantive contact such as shared bylines and discussions between reporters regarding sources and documents, but the record does not quantify these more in-depth occurrences. Some contact, such as the statements of support for the reporter threatened, are clearly one-time occurrences.

The record contains little to no evidence of temporary or permanent interchange. The intern hired by the Olympian is properly viewed as a hire, not a transfer. Although the individuals involved in the employee moving from supervision at the Tacoma News Tribune to the Olympian refer to the change as a transfer I find it to be more of a hybrid role than a transfer because the reporter remains on the Tacoma News Tribune budget. Ultimately, the record lacks evidence of temporary or permanent interchange.

Given that the record contains some evidence of contact, but no evidence of interchange I find this factor to be essentially neutral regarding the community of interest that exists between the employees in the Unit.

(4) Centralized Control of Management and Supervision

The regional editor position represents a significant degree of centralized management. The exact degree to which the regional editor has control over decisions ostensibly made at the local level, such as hiring or discipline, cannot be determined from the record. While the regional editor described their role as advisory, executive editors consistently stated they would not make a final decision without consulting the regional editor. While some of this uncertainty is likely due to the reorganization and change in regional editors occurring recently, it is also likely an indication of shared decision-making authority.

Ultimately, I do not find it necessary to reach conclusions regarding the exact nature of the regional editor and executive editor relationship to find a high degree of centralization is present in the Employer's management and supervision structure. The two positions clearly work together on important issues and decision making is shared either informally or formally. This shared decision-making structure is similarly reflected

in other areas of the executive editors' role, such as setting a budget with the finance department or consulting with the human resources department prior to issuing discipline.

I have previously noted the Employer's increasing centralization of fringe benefits, such as implementing a uniform sick leave and holiday policy. I also find that some of this centralization, specifically the implementation of the 2019 standardized review platform and the correlated removal of the ability for each publication to set their own criteria, reflect increasing centralized control.

Based on the above I find the degree of centralized control of management and supervision supports the conclusion that the petitioned-for employees share a community of interest.

(5) Geographic Proximity

Spread throughout Washington State, the distances involved in this case are more significant than the Board has typically addressed in making multi-facility determinations. See *Bashas', Inc.*, 337 NLRB 710, 711 (2002) (facilities within a 30-mile area); *Alamo Rent-A-Car*, 330 NLRB 897, 897 (2002) (facilities separated by 10 miles). However, I find the level of functional integration and centralized control present, even when the publications are physically separated, underscores the nature of the work being somewhat independent of geography. The regional editor and an executive editor can review a story, or newsroom employees can discuss a source over Slack, without regard to physical distance. Under these circumstances I do not find that the geographic distances involved diminish the community of interest present between the petitioned-for employees.

C. Conclusion Regarding Community of Interest

Based on the above, and particularly the strong evidence of similar skills, duties and working conditions between the employees, the functional integration of the publications, and the level of centralized management and supervision shared by the publications, I agree with Petitioner regarding the petitioned-for unit. I recognize the significant distance between the publications, but for the reasons stated I do not find this consideration prevents finding a community of interest exists among employees in the petitioned-for unit. On balance, I find that the evidence supports finding the employees at issue share a community of interest sufficient to make the petitioned-for multi-location unit appropriate.

CONCLUSION

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

1. The rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁶

3. 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.

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 following employees of the Employer constitute a 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 newsroom employees employed by The Tacoma News Tribune, The Olympian, The Bellingham Herald, and The Tri-City Herald;

Excluded: All other employees, managers and guards and supervisors as defined by the Act.

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 **Pacific Northwest Newspaper Guild, Communications Workers of America Local 37082**.

A. Election Details

The election will be conducted by mail. On **Wednesday, March 3, 2021**, the ballots will be mailed to voters by a designated official from the National Labor Relations Board, Region 19. 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 **Wednesday, March 10, 2021**, should communicate immediately

⁶ During the hearing the parties stipulated to the following commerce facts:

The Employer, The McClatchy Company, LLC, a state of Delaware corporation with offices and places of business located in various locations throughout Washington State, is engaged in the publication of four daily newspapers: The Tacoma News Tribune, The Olympian, The Bellingham Herald, and The Tri-City Herald. During the past 12 months, a representative period, the Employer had gross revenues in excess of \$200,000, held membership in or subscribed to an interstate news service, the Associated Press, and advertised nationally sold products and services, such as Amazon. During the same period, the Employer purchased and received at its facilities in the state of Washington goods, supplies, and materials valued in excess of \$5,000 directly from suppliers located outside the State of Washington.

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 **3:00 p.m. PST on Monday, March 29, 2021**. Pursuant to the parties' Stipulation, no ballots will be counted that are received after the due date. All ballots will be commingled and counted by an agent of Region 19 of the National Labor Relations Board on **Wednesday, March 31, 2021, at 1:00 p.m.** with participants being present via electronic means. No party may make a video or audio recording or save any image of the ballot count. If, at a later date, it is determined that a ballot count can be safely held in the Regional Office, the Region will inform the parties with sufficient notice so that they may attend.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **immediately prior to the issuance of this Decision**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. The parties stipulated, and I accept, that employees in the following classifications will vote subject to challenge due to their disputed supervisory status: **Assistant Team Lead, News Editor, Editorial Writer, and the Senior Editor/Sports & Feature Breaking News Reporter**. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the Unit.

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.

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, February 26, 2021**. 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 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 and may not be filed by facsimile. 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 the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. 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. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. 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 at Seattle, Washington on the 24th day of February, 2021.

Ronald K. Hooks

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