UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

OS-DB-JV-2 LLC
Employer

and

Case 12-RC-294302

SINDICATO PUERTORRIQUENO DE
TRABAJADORES Y TRABAJADORAS,
LOCAL 1996, SERVICE EMPLOYEES
INTERNATIONAL UNION
Petitioner

ORDER

The Employer’s Request for Review of the Regional Director’s Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

LAUREN McFERRAN, CHAIRMAN

JOHN F. RING, MEMBER

DAVID M. PROUTY, MEMBER


¹ In denying review, we acknowledge that the Employer has raised concerns about the accuracy of the Spanish-language documents circulated by the Region prior to the election. These concerns, however, should be raised via the post-election objections process. 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 Regional Director abused his discretion. Any party is free to present evidence of any actual disenfranchisement of voters, if applicable, in post-election objections.

Chairman McFerran observes that the Regional Director did not abuse his discretion by ordering a mail ballot election, for the reasons given in her separate opinion in Aspirus Keweenaw, 370 NLRB No. 45, slip op. 13-15 (2020). She agrees, however, that even under the majority opinion in Aspirus, the Regional Director's decision should be affirmed based on the Covid-19 positivity rate in the relevant localities where the Employer’s facilities are located.

Member Prouty agrees that, under the majority opinion in Aspirus Keweenaw, the Regional Director did not abuse his discretion in ordering a mail ballot election. 370 NLRB No. 45 (2020). He further notes that, while he was not a member of the Board when Aspirus Keweenaw was decided, he is open to considering arguments regarding modernizing the Board's election methods in a future appropriate proceeding.