

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

ALL TRUCK

Employer

and

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL UNION NO. 710

Petitioner

Case 13-RC-20653

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record¹ in this proceeding, the undersigned finds:

1. The hearing officer's 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.²

3. The labor organization(s) involved claim(s) 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 purpose of collective bargaining within the meaning of Section 9(b) of the Act:³

All full time and regular part time hourly truck drivers and spotters employed by the Employer at its facility currently located at 4924 South Austin Avenue, Chicago, Illinois; but excluding all owner-operators, office clerical employees, dispatchers, shop department employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION*

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations⁴. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL UNION NO. 710.

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of the full names of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359, fn. 17 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all of the eligible voters, shall be filed by the Employer with the undersigned Regional Director who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in **Suite 800, 200 West Adams Street, Chicago, Illinois 60606** on or before **September 26, 2001**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court Building, 1099-14th Street, N.W., Washington, D.C. 20570**. This request must be received by the Board in Washington by **October 3, 2001**.

DATED September 19, 2001 at Chicago, Illinois.

/s/ Elizabeth Kinney
Regional Director, Region 13

*/ The National Labor Relations Board provides the following rule with respect to the posting of election notices:

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Director in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objection to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Director at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

- 1/ The arguments advanced by the parties at the hearing have been carefully considered.
- 2/ The Employer is a corporation engaged in transportation of goods by truck.
- 3/ The unit found appropriate herein is in keeping with the stipulation of the parties.
- 4/ At the hearing, the only issue raised by the parties was the manner in which the election should be conducted. The Petitioner takes the position that the election should be conducted by mail balloting. The Employer, on the other hand, takes the position that the election can, and should, be done manually at its facility. In an offer of proof in support of its position, the Employer, while acknowledging that most of its drivers were stationed at customer premises away from its Austin Avenue facility, asserted that a manual election is possible and was successfully done five years ago. The Employer asserts that almost 60 percent of its drivers are stationed at locations within five miles of its Austin facility, that 95 out of 121 drivers are stationed within 20 miles of its Austin Avenue facility, and that there are numerous reasons for the drivers to come to the Austin Avenue facility. In an offer of proof in support of its position, the Petitioner asserted that a manual election will disenfranchise a number of voters as the bulk of the drivers do not come into the Austin Avenue facility every day. The Petitioner asserted that at the time the manual election was conducted five years ago, most of the drivers came to the Austin Avenue facility to pick up their paychecks, but today fifty percent of the drivers are on direct deposit and do not come into the Austin Avenue facility for that reason.

The time, place, and manner of conducting an election is an administrative matter left to the discretion of the undersigned to determine after having directed an election. *Odebrecht Contractors of Florida, Inc.*, 326 NLRB 33 (1998); *North American Plastics Corporation*, 326 NLRB 835 (1998). “The Board has held that a Regional Director has broad discretion in arranging the details of the election, including, in appropriate instances, determination as to whether to conduct the election in whole or in part by mail ballot” *Harold F. Gross d/b/a Southwestern Michigan Broadcasting Company*, 94 NLRB 30, 31 (1951). See also, *Halliburton Services*, 265 NLRB 1154 (1982).

Accordingly, after the issuance of the instant Decision and Direction of Election, the undersigned will administratively determine the manner of conducting the election, taking into consideration the positions of the parties and the guidelines of the Board as set forth in *San Diego Gas & Electric*, 325 NLRB 1143 (1998).

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