

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5

UTILITY LINES CONSTRUCTION  
SERVICES, INC.

Employer

and

Case 5-RC-15561

LOCAL 126, INTERNATIONAL  
BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO

Petitioner

**SUPPLEMENTAL DECISION**  
**AND NOTICE OF HEARING**

Pursuant to a Decision and Direction of Election<sup>1</sup> issued by the undersigned on May 5, 2003,<sup>2</sup> a secret-ballot election was conducted under my supervision on June 4, and on June 6 the Tally of Ballots issued with the following results:

Approximate number of eligible voters	79
Void ballots	0
Votes cast for Petitioner	44
Votes cast against participating labor organization	26
Valid votes counted	70
Votes challenged	1
Valid votes counted plus challenged ballots	71

Challenges were not sufficient in number to affect the results of the election. On June 13, the Employer filed timely objections to the conduct affecting the results of the election.<sup>3</sup>

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<sup>1</sup> The unit is: "All full-time and regular part-time employees performing electrical construction work for Utility Lines Construction Services, Inc., at and out of its Milton, Delaware location, including crew foreman, linemen, apprentices, equipment operators, groundsmen and mechanics, excluding all clerical employees, professional employees, confidential employees, guards, and supervisors as defined by the Act."

<sup>2</sup> All dates are in the year 2003 unless noted otherwise.

## THE OBJECTIONS

1. Within the twenty-four hour period immediately preceding the opening of the polls for the subject election, and continuing through and during the election, the Petitioner, through its officers and agents, continuously used an electrically amplified bullhorn adjacent to the employee parking lot entrance immediately next to the Employer's building in which the election was being conducted, which parking entrance was used by voters coming into the Employer's facility to vote, repeatedly urging voters to vote for Petitioner. This repeated amplified message was broadcast at such a volume as unavoidably to be heard by groups of voters entering and in the facility to vote, before and during paid time, and was augmented by agents of Petitioner shouting the same message to voters entering the facility from the same site as user of the bullhorn.

Statement of reasons in support of objection: The above conduct destroys the laboratory conditions required for holding a fair secret ballot election.

2. Within the twenty four hour period immediately preceding the opening of the polls for the subject election, the Petitioner, through its officers and agents, visited groups of voters on working time on the Employer's job sites and engaged in pro-union electioneering meetings and talks, urging employees to vote for the Union in the next day's Board conducted secret ballot election.

Statement of reasons in support of its objection: By the above conduct, the Union engaged in conduct prohibited by the Board's Peerless Plywood rule and destroyed the laboratory conditions required for conduct of a secret ballot election.

The Employer provided affidavits of employees and supervisors in support of its objections within the time period set forth in Section 102.69(a) of the Board's Rules and Regulations. In the following summary, the individual affidavits will be referred to as A, B, etc.

The June 4<sup>th</sup> election was held during the hours 5:30 a.m. to 7:30 a.m. The Employer provided the affidavits of Employees A, B, C, D, E, and I, as well as an affidavit from the General Manager (hereinafter G.M.) in support of Objection one. Employees A, B, C, E, and I and the G.M. state the election took place in Warehouse Building One, which has an entrance facing Prime Hook Road in Milton, Delaware. The same group of employees state they entered the building through the Prime Hook Road entrance on the morning of the June 4th

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<sup>3</sup> The petition was filed on April 10. The undersigned will consider on its merits only that alleged interference that occurred during the critical period that begins on and includes the date of the filing of the petition and extends through the election. *Goodyear Tire and Rubber Company*, 138 NLRB 453, 455 (1962).

election. A, B, C, E, and I and the G.M. state that on the morning of June 4, each individual entered the Warehouse One parking lot from the Prime Hook Road entrance. These employees state there was a person standing on Prime Hook Road, across the street from the entrance to the Warehouse One building, the location of the voting site, who was shouting “vote yes” into a bullhorn, thus amplifying his voice.

The G.M. identifies the man with the bullhorn as Union representative Fridel. The G.M. states Fridel used the bullhorn to amplify “vote yes” at approximately 5:00 a.m. - 5:30 a.m. on the day of the election, and A, B, C, and I, identify hearing “vote yes,” through the bullhorn at some point between 6:05 a.m. and 6:40 a.m. D states between approximately 6:30 a.m. – 6:45 a.m. on June 4, he saw two groups, each consisting of approximately five men, who were standing on Prime Hook Road, opposite the entrance to Warehouse Building One parking lot entrance. D does not mention a bullhorn, but states that the group of men was shouting so loudly he could hear the noise that they made from inside the building. A, B, C, D, E, and I stated they could hear the shouting of at least one Union representative as each employee walked from the parking lot to the Warehouse One building entrance. D stated he continued to hear the shouting even after he entered the building. G states that Fridel, holding the bullhorn, stood approximately 62 feet from the parking lot entrance, 85 feet away from the Warehouse One building entrance and 340 feet away from the voting place.

In support of Objection two, the Employer supplied the affidavits of two supervisors. One supervisor states on June 3, at approximately 10:30 a.m., he witnessed Union representative Fridel holding a meeting during working time with the crew that was assigned to work at a site on Route 1, in Rehobeth, Delaware. All but two of the employees stopped the work they were performing at the site in order to listen to Fridel.

In addition, the second supervisor states he witnessed Union representative Fridel at an Employer job site in Pearson's Corner, Delaware, on June 3, at approximately 2:30 p.m. While Fridel addressed the workers, none of the crewmembers assigned to this location was working. Though not present during the discussion between Union representative Fridel and the crewmembers assigned to this job site, it was reported to the supervisor that Fridel was discussing the upcoming election.

The Petitioner either denies that the conduct alleged occurred or that the conduct was objectionable. I find that the evidence offered in support of Objection one and Objection two raises material and substantial issues of fact. The issues may best be resolved on the basis of record testimony before a duly designated hearing officer. Accordingly, I direct that a hearing be held with respect to the Employer's Objections.

#### NOTICE OF HEARING

IT IS HEREBY DIRECTED, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, that a hearing be held before a duly designated hearing officer of the National Labor Relations Board at 10:00 a.m., E.D.T., on the 9th day of July 2003, and if necessary, on consecutive days thereafter, in The John A. Penello Memorial Hearing Room, 7th Floor, The Appraisers' Store Building, 103 South Gay Street, Baltimore, Maryland.

Dated at Baltimore, Maryland this 26th day of June 2003.

WAYNE R. GOLD

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Wayne R. Gold, Regional Director  
National Labor Relations Board, Region 5  
Appraiser's Store Building  
103 S. Gay Street, 8<sup>th</sup> Floor  
Baltimore, MD 21202