



NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

(202) 692-5000

In the Matter of the
Application of

**INTERNATIONAL ASSOCIATION
OF MACHINISTS AND
AEROSPACE WORKERS**

alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended

involving employees of

**LUFTHANSA TECHNIK PUERTO
RICO**

44 NMB No. 42

CASE NO. R-7497

REQUEST FOR DELAY
OF ELECTION --
GRANTED

September 27, 2017

This determination addresses the requests of Lufthansa Technik Puerto Rico (Lufthansa Technik or Carrier) and the International Association of machinists and Aerospace Workers (IAM or Organization) to extend the dates of the ongoing election in R-7497 involving the craft or class of Mechanics and Related Employees. For the reasons discussed below, the extension is granted.

PROCEDURAL BACKGROUND

On August 21, 2017, the National Mediation Board (NMB or Board) authorized an election for the Mechanics and Related Employees at Lufthansa, sought to be represented by the International Association of Machinists & Aerospace Workers (IAM or Organization). The election began on September 6, 2017 and the tally is scheduled to take place at 2 pm, ET, on September 27, 2017. The deadline for duplicate ballot requests was September 20, 2017.

The Carrier filed a letter on September 11, 2017, requesting two additional weeks of voting in R-7497. Lufthansa Technik contended that as a result of Hurricane Irma's disruption to Puerto Rico, including loss of electricity and disruption to mail service, employees may have difficulty voting through the phone or Internet. The Carrier also contended that employees' requests for duplicate Voting Instructions may be delayed because of disruptions to the mail.

In support of its arguments, the Carrier provided news articles and notices of service alerts distributed by the U.S. Postal Service. The Carrier argued that the conditions caused by Hurricane Irma were extraordinary circumstances necessitating an extension of the voting period.

The IAM responded to the Carrier's request for an extension on September 12, 2017. The Organization noted that the West side of Puerto Rico, where Lufthansa Technik is located, was largely spared the worst of the hurricane. The IAM stated that as of September 12, 2017, Lufthansa Technik was open for business and operating as usual. Further, the IAM noted that since the Voting Instructions were mailed from the Board's offices in Washington, DC on September 6, 2017, it was not unusual that not all employees had received their Instructions. The IAM stated that most people who live near Lufthansa Technik have power and there have been no problems with phone service. Further, the Organization notes that most employees have cell phones which they could use to vote with. The IAM also contended that the Carrier wants additional time to "unduly influence voters," and argued there is no legitimate reason to extend the election.

On September 18, 2017 the Carrier submitted a follow-up request for an extension of the voting period, citing the potential disruption due to Hurricane Maria. On September 19, 2017 the Carrier provided an alert from the U.S. Postal Service which stated it had closed all postal facilities in Puerto Rico due to the imminent arrival of Hurricane Maria.

On September 20, 2017 the Carrier provided an article from The Washington Post which reported that "Puerto Rico is entirely without power" due to the impact of Hurricane Maria. The Carrier reiterated its request for a two-week extension of the voting period as well as an extension of the deadline for submitting duplicate ballot requests.

The IAM responded on September 21, 2017, agreeing that there is a need to extend the voting period and the deadline for duplicate ballot requests. The Organization argued that 10 days would be sufficient and that "the Board can review the matter in a week to determine if more time is necessary." The Organization "has been advised that" the Carrier is "holding captive audience meetings" and therefore is "concerned" that the Carrier will use the extended time to "influence the employee's choice of representative." Therefore, the IAM requests that the Board "admonish the carrier to cease taking any steps to hold captive audience meetings or otherwise take steps to coerce the employees in their choice of representative." The Carrier responded on September 22, 2017 and denied that it had held captive audience meetings.

DISCUSSION

In the absence of extraordinary circumstances, the Board has maintained a general policy of not changing election dates in order to avoid voter confusion and to protect the stability of the voting process. *Delta Air Lines, Inc.*, 37 NMB 337 (2010); *Continental Airlines*, 35 NMB 42, 28 (2008); *United Air Lines, Inc.*, 27 NMB 221, 227 (2000); *US Air*, 17 NMB 69 (1989). The Board will proceed with representation elections as scheduled unless the Board itself finds it necessary to delay due to unusual or extraordinary circumstances or is barred by court order. *Tower Air*, 16 NMB 326, 328 (1989); *Air Florida*, 10 NMB 294, 294 (1983).

The Board finds extraordinary circumstances present here. The combination of Hurricane Irma, which hit the day the ballots were mailed and Hurricane Maria, which resulted in no power for the entirety of Puerto Rico, has resulted in disruptions to both mail service and to employees' ability to vote by Telephone or Internet. The Board received several "undeliverable" ballots on September 20 and 21. The Carrier's offices have been closed since September 20 which hampered the Carrier's ability to provide updated addresses. To date, the U.S. Postal Service facilities in Puerto Rico remain closed.

The Board has been monitoring the voting participation and notes that since Hurricane Maria hit, there has been no voting activity. Section 13.201 of the Board's Representation Manual provides that the minimum voting period is three weeks so the storms have essentially shortened the voting period to less than three weeks.

Based on the foregoing, the request to extend the voting period and the deadline for receipt of duplicate ballot requests is granted. The new tally date is October 11, 2017, and duplicate ballot requests received by October 4, 2017 will be processed. The Board will continue to monitor election activity and, should circumstances warrant, the dates may be extended further. Consistent with its statutory obligation under 45 U.S.C. Section 152, Ninth, the Board may also consider other action should it determine that such action is necessary to determine employee choice of representative.

By direction of the NATIONAL MEDIATION BOARD.



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