



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. 43

CASE NO. R-7497

ELECTION CANCELED

October 6, 2017

This determination addresses the impact of Hurricane Maria on the ongoing representation election involving the craft or class of Mechanics and Related Employees of Lufthansa Technik Puerto Rico (Lufthansa Technik or Carrier). The Carrier has requested to indefinitely stay the ongoing election and the International Association of Machinists and Aerospace Workers (IAM or Organization) has requested that the representation of the employees be determined by card check in the event that the National Mediation Board (NMB or Board) decides not to proceed with a tally on October 11, 2017. For the reasons discussed below, the October 11, 2017 tally is cancelled. In view of the extraordinary circumstances discussed below, the Board will continue to monitor the situation in Puerto Rico to ascertain the timing and the appropriate means of determining the representation of the affected employees.

PROCEDURAL BACKGROUND

On August 21, 2017, the NMB authorized an election for the Mechanics and Related Employees at Lufthansa, sought to be represented by the IAM. The election began on September 6, 2017 and the tally was scheduled to take place at 2 pm, ET, on September 27, 2017. The deadline for duplicate ballot requests was September 20, 2017.

As a result of Hurricane Irma's disruption to Puerto Rico, the Carrier filed a letter on September 11, 2017 requesting two additional weeks of voting in R-7497. The IAM responded to the Carrier's request for an extension on September 12, 2017, opposing an extension.

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, Hurricane Maria, the strongest storm to make landfall in Puerto Rico in 85 years, came ashore with sustained winds of 155 m.p.h. Hurricane Maria devastated Puerto Rico, knocking out power to the entire island, destroying homes, and causing widespread flooding. Also 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 was a need to extend the voting period and the deadline for duplicate ballot requests. The Organization asserted 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 also stated that it "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 employees' choice of representative." Therefore, the IAM requested 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.

On September 27, 2017, based on the destruction caused by Hurricane Maria, the Board extended the voting period and the deadline for receipt of duplicate ballot requests to, respectively, October 11, 2017, and October 4, 2017. *Lufthansa Technik Puerto Rico*, 44 NMB 200 (2017).

On September 28, 2017, the Carrier requested that the Board indefinitely stay the election, expressing concern that eligible employees will be unable to vote because nearly 100 percent of the island is without electricity and about 91 percent of cell sites are out of service. On October 2, 2017, the IAM opposed Lufthansa Technik's request, arguing that the Carrier is trying to gain an advantage in the election by postponing the election. The IAM contends that a second delay could confuse voters, some of whom may not even be aware of the first postponement and some of whom may have discarded their voting materials

without casting a ballot. The IAM requests that in the event the Board decides not to proceed with the tally, the NMB should conduct a certification by card check. On October 2, 2017, the Carrier responded to the IAM's request by stating its opposition to certification by card check and restating its request for an indefinite stay.

DISCUSSION

As noted in the determination of September 27, 2017, 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. *Lufthansa Technik Puerto Rico*, 44 NMB 200 (2017); *Delta Air Lines, Inc.*, 37 NMB 337 (2010); *Continental Airlines*, 35 NMB 42 (2008); *United Air Lines, Inc.*, 27 NMB 221 (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 that the situation in Puerto Rico has not improved significantly since its September 27, 2017 decision. Given the timing of the hurricanes, it is likely that many eligible employees did not vote before the storms hit Puerto Rico and have been unable to vote since the impact of Hurricane Maria. To conduct a tally at this point in time would, in the Board's view, disenfranchise a sizable portion of the eligible voters. And, as the IAM itself notes, some voters may not have been aware of the extension of the voting period and may have discarded their voter access codes. There is already sufficient confusion among and disenfranchisement of voters that the Board cannot simply tally the votes already cast and declare the results to represent the will of the majority of eligible employees. Accordingly, the Board hereby cancels the election begun on September 6, 2017. The Board will continue to monitor the situation in Puerto Rico and will determine when and how it is best able to ascertain the representation wishes of the affected employees. To the extent that the IAM believes the Carrier has been interfering with the election, it can raise that issue after the Board makes its representation determination.

By direction of the NATIONAL MEDIATION BOARD.



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