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**Peco Foods, Inc. and United Food & Commercial Workers Union, Local 1529 AFL-CIO, CLC, Cordova, Tennessee.** Case 15-RC-343034

April 1, 2026

ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY  
AND MAYER

The Employer's Requests for Review of the Regional Director's Decision and Direction of Election and Supplemental Decision and Direction of Election are denied as they raise no substantial issues warranting review.<sup>1</sup>

<sup>1</sup> In denying review, we reject the Employer's argument that the Regional Director abused her discretion by directing an off-site election under the circumstances presented. Specifically, although the Regional Director initially, and properly, scheduled an election at the unit facility, the Employer thereafter refused to allow the election to take place on its premises in the manner set forth in the Decision and Direction of Election. In light of the Employer's refusal, the Regional Director's decision to direct an off-site election was within her discretion.

We do not rely on the Regional Director's application of *Austal USA, LLC*, 357 NLRB 329 (2011), in the Supplemental Decision and Direction of Election, nor do we rely on the Regional Director's related discussion of unproven allegations made against the Employer by the General Counsel in a complaint issued in Case 15-CA-303888 and by the Petitioner in election objections filed in Case 15-RC-304092.

In denying review, Member Prouty agrees that the Regional Director properly acted within her discretion in directing an off-site election. Contrary to his colleagues, however, Member Prouty would find that the Regional Director appropriately applied *Austal USA, LLC*, 357 NLRB 329 (2011), to the facts here. In his view, the Board should reconsider its practice of conducting elections on the employer's premises absent good cause to the contrary. See *Omnisource, LLC*, 373 NLRB No. 134, slip op. at 1 (2024) (Member Prouty, dissenting) ("The Board's historic practice of conducting elections on the employer's premises . . . reflects a failure to adequately weigh the implications of '[t]he fact that employers are parties to representation proceedings, not uninterested and, in many cases, not neutral parties.'") (quoting *2 Sisters Food Group, Inc.*, 357 NLRB 1816, 1820 (2011)). Instead, he believes that Regional Directors, who are in the best position to evaluate parties' respective arguments regarding election location, should consider and give appropriate weight to the *Austal* factors in every type of representation election when determining the location at which they are to be held. See *Omnisource,*

Dated, Washington, D.C. April 1, 2026

James R. Murphy, Chairman

David M. Prouty, Member

Scott A. Mayer, Member

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*LLC*, above, slip op. at 1 (Member Prouty, dissenting). He also believes that in using their discretion, Regional Directors should strongly consider mail ballot elections, which increase accessibility while minimizing cost and mitigate "concerns that an employer's unilateral control of the election premises may tend to taint the laboratory conditions." *Id.* Finally, Member Prouty would find that the issue of whether the petitioned-for unit is appropriate was fully litigated in Case 15-RC-304092, and the Employer has not offered evidence to demonstrate that any material changes have occurred since the prior decision. See *Wolf Creek Nuclear Operating Co.*, 365 NLRB 574 (2017).

To the extent the Employer's requests for review purport to incorporate some of the Employer's prior filings by reference, we observe that this runs counter to Sec. 102.67(e) of the Board's Rules. See *id.* ("A request for review must be a self-contained document enabling the Board to rule on the basis of its contents without the necessity of recourse to the record."). We further observe that the Employer's third request for review, which was filed on October 15, 2024, and purports to request review of the Regional Director's Decision and Election and Supplemental Decision and Direction of Election, runs afoul of Sec. 102.67(i)(1) of the Board's Rules, which states that "[a] party may not . . . file more than one request for review of a particular action or decision by the Regional Director."

Even assuming *arguendo* that this third request for review is not foreclosed by Sec. 102.67(i)(1), we deny it on the merits. In this regard, we agree with the Regional Director that the Employer has not proffered evidence of disenfranchisement that would warrant a hearing. However, we do not rely on *Patient Care*, 360 NLRB 637 (2014), or *Polymex, Inc.*, 174 NLRB 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970). Both cases concern Board agent conduct during an election and are therefore inapposite.