

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SOUTHERN ELECTRIC CORPORATION OF MISSISSIPPI,
Employer

and

Case 12-RC-360889

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 222, AFL-CIO
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Order Approving the Withdrawal of Objection 1 and Portions of Objections 2, 6, and 8, Overruling Objections 3 and 4, Directing Hearing on Remaining Objections, Consolidating Cases, and Notice of Hearing is denied as it raises no substantial issues warranting review.¹ Accordingly, the Employer's request for extraordinary relief is denied as moot.

JAMES R. MURPHY, CHAIRMAN

DAVID M. PROUTY, MEMBER

¹ The Employer's Request for Review only contests the Regional Director's determination that Objection 7 and the remaining portions of Objections 2 and 6 warrant a hearing. Sec. 102.69(c)(1)(ii) of the Board's Rules and Regulations permits Regional Directors to direct a hearing on objections if they determine that "the evidence described in the accompanying offer of proof could be grounds for setting aside the election if introduced at a hearing. . . ." Although our dissenting colleague cites Board cases that may support overruling the Union's Objection 7 and the remaining portion of Objection 6, we are not privy to the Union's offer of proof and, accordingly, Regional Directors are afforded the discretion to determine what issues should be set for a hearing. In denying review, we are only finding that the Regional Director did not abuse his discretion under Sec. 102.69(c)(1)(ii) in sending the relevant objections to a hearing. Moreover, an imminent hearing in the unfair labor practice case involving the Employer's conduct, which is now consolidated with this representation case, has been scheduled for more than two months, and there is no justification to delay or prolong the hearing for the Regional Director to issue a supplemental decision on his direction of a hearing on these two objections. Nonetheless, the Employer remains free to raise its substantive legal arguments, if otherwise appropriate, in subsequent proceedings, including in Cases 12-CA-361311 et. al.

MEMBER MAYER, DISSENTING IN PART:

Contrary to the majority, I would grant review of the Regional Director's order setting for hearing Objections 6 and 7 insofar as they allege that the election should be set aside because General Foremen Vasquez and Hayden served as election observers.¹ General Foremen are included in the stipulated unit, and "the Board has generally refused to hold an employer responsible for the antiunion conduct of a supervisor included in the unit, in the absence of evidence that the employer encouraged, authorized, or ratified the supervisor's activities or acted in such a manner as to lead employees reasonably to believe that the supervisor was acting for and on behalf of management." *Craft Maid Kitchens*, 284 NLRB 1042, 1043 (1987) (internal quotation omitted). No such conduct is alleged in the objections at issue here, or identified in the Regional Director's Order.

The Board has also held that parties are not permitted to assert an objection premised on the supervisory status of an individual where that individual was included in a stipulated unit and cast an unchallenged ballot in an election, which appears to be exactly what happened here. See *Alpha Baking Co.*, 344 NLRB 262, 262 (2005); *Poplar Living Center*, 300 NLRB 888, 888 fn. 2 (1990). And the Board has held that a party seeking to object to an individual's ability to serve as an observer must do so at the preelection conference. See *Liquid Transporters, Inc.*, 336 NLRB 420, 420 (2001). There is no indication that the Union did so here, even though the Employer identified them as its observers on April 4, 2025, prior to the election.

The Regional Director's decision does not mention this precedent, much less explain why, consistent with the principles stated above, the portion of Objections 6 and 7 set for hearing allege conduct that, if proven at a hearing, could be grounds for setting aside the election. See Section 102.69(c)(1)(ii). In these circumstances, I would grant review and remand those objections to the Regional Director for the purpose of preparing a supplemental decision addressing these issues. The Board has frequently rejected arguments that a hearing is warranted on the grounds that the objections and offer of proof fail to allege objectionable conduct with sufficient specificity. See, e.g., *AIDS Healthcare Foundation d/b/a Out of the Closet Thrift Stores*, Case 13-RC-385861 (review denied 8/13/26). I see no valid basis for applying a different standard to the objections at issue here.

SCOTT A. MAYER, MEMBER

Dated, Washington, D.C., August 14, 2026.

¹ I concur in denying review as to the Regional Director's decision to set for a hearing the portion of Objection 2 alleging that General Foreman Diesnel Gonzalez asked employee Castillo if he supported the Union's efforts solely on the grounds that it overlaps with allegations in a complaint issued by the General Counsel in Case 12-CA-361311 et al. and that a hearing on that objection is warranted to ensure that the Board does not reach inconsistent results in the representation and unfair labor practice cases.