UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16

Tyler, Texas

CPC RETAIL PRODUCTS, LLC

Employer

and **Case 16-RC-393156**

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 745

Petitioner

DECISION AND ORDER DISMISSING PETITION

On August 19, 2026,[1] International Brotherhood of Teamsters, Local 745 (Petitioner) filed a representation petition under Section 9(b) of the National Labor Relations Act (the Act) seeking to represent certain employees of CPC Retail Products, LLC[2] (Employer). Petitioner seeks a bargaining unit (the petitioned-for unit) that includes all full-time and part-time Route Drivers employed by the Employer at a facility located at 1008 East Northeast Loop 323, Tyler, Texas 75708 (Tyler Lot), excluding all other employees, office clerical employees, professional employees, all managers, guards and supervisors defined by the Act. There are approximately 11 employees in the petitioned-for unit.

In its Statement of Position, the Employer asserted that it planned to permanently lay off all drivers at the Tyler Lot. However, the Employer failed to timely serve the Statement of Position on the Petitioner. Under the Board's Rules and Regulations Section 102.66(d), a party is precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its Statement of Position, with the exception of raising or presenting evidence relevant to the Board's statutory jurisdiction. See *Williams-Sonoma Direct, Inc.*, 365 NLRB 111, 111 fn. 1 (2017) (regional director correctly precluded employer from litigating appropriateness of petitioned-for unit based on employer's failure to timely serve statement of position on the petitioner); *IKEA Distribution Services, Inc.*, 370 NLRB No. 109 (2021) (noting that the party precluded from litigating the appropriateness of a unit does not divest a regional director of the statutory responsibility to determine the appropriateness of the unit, and that regional director is not free to disregard record evidence indicating petitioned-for unit is inappropriate simply due to preclusion). Section 102.66(d) places no limitation on any person other than the defaulting party. See *Brunswick Bowling Products*, 364 NLRB 1233 (2016).

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[1] All dates herein are in 2026, unless specified otherwise.
[2] The parties stipulated to the Employer's legal name.

As the Employer failed to timely serve its position statement on the Petitioner, pursuant to the Board's Rules and Regulations Sections 102.63(b)(1) and 102.66(d), the Employer was precluded at hearing from raising any issue or presenting any evidence relating to any issue that it failed to raise in a timely position statement. However, it was determined that the Employer's assertion that it plans to permanently lay off all employees in the petitioned-for unit could not be ignored. Accordingly, on August 31, a hearing by videoconference was held before a hearing officer of the Board, at which the Employer and Petitioner appeared. The purpose of the hearing was to gather evidence concerning the Employer's plans to cease operations at the Tyler Lot.[3]

Pursuant to the provisions of Section 3(b) of the Act, the National Labor Relations Board (the Board) has delegated its authority in this proceeding to me. Based upon the entire record in this matter and in accordance with the discussion below, I conclude and find that directing an election would serve no purpose and order dismissal of the Petition.

I. FACTS

The Employer is a Missouri limited liability company with a place of business located at 1008 East Northeast Loop 323, Tyler, Texas 75708. The Employer is engaged in providing freight pickup and delivery services for customers. During the last twelve months, a representative period, the Employer, in conducting its business operations, provided services valued in excess of $50,000 directly to locations outside the State of Texas. Relevant to this case, the Employer handles hiring, planning, and dispatching operations for Proctor and Gamble (P&G) deliveries. The Employer does not own the equipment, tractors, trailers, or properties used to complete the deliveries. Each day, the Employer receives loads from P&G and oversees planning the delivery of said loads, including assigning drivers and ensuring timely delivery.

A. Background

The Tyler Lot started out as a drop lot used by the Employer for a route between Wilmer, Texas and Pineville, Louisiana. A drop lot is a secure facility where a driver may safely leave their trailer so that another driver may pick it up and continue the route. Due to Department of Transportation regulations limiting the number of hours a driver may lawfully operate a truck, the Employer uses strategically mapped out drop lots to ensure efficient deliveries and compliance with driving regulations.

In July 2024, P&G awarded the Employer a freight lane from Ohio to Wilmer, Texas, and the Employer decided to station drivers in Tyler, Texas. Originally, the Tyler drivers completed "live meets" with drivers coming from Cape Girardeau, Missouri with the trailers that originated from Ohio. A live meet occurs when two drivers meet to exchange trailers. At the time, the Employer required live meets because they did not have a secure drop lot along the route where a trailer could be left. However, live meets caused significant logistical and efficiency issues. If one driver got caught in traffic, called off, or a truck broke down, the meeting could be significantly delayed or missed entirely.

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[3] On September 8, the Employer filed a Motion for Further Hearing and to Reopen the Record. In light of this Decision and Order, I find it unnecessary to rule on the Employer's Motion.

In December 2024 and January 2025, the Employer located, with P&G's approval, a drop lot in Little Rock, Arkansas that would allow Tyler drivers to safely leave their trailer and pick up a trailer coming from Cape Girardeau. By utilizing a drop lot in Little Rock, the Employer increased its on-time percentage from low 50 percent to high 60 percent. Although this was an improvement, this remained significantly below the Employer's goal efficiency of around 92 percent.

B. The Tyler Lot

Currently, approximately 11 Tyler drivers operate along routes running from Wilmer, Texas to Ohio and Pineville, Louisiana to Ohio. These routes are still used for P&G deliveries.

In June 2026, P&G raised efficiency issues with several lanes, including the one associated with Tyler. To address P&G's concerns, the Employer set up a strategy meeting with P&G on July 21. The meeting included discussions of optimizing the Employer's Texas and Louisiana to Ohio routes. Specifically, the Employer presented a revised route that would take the freight from Ohio, through Nashville, Tennessee, West Memphis, Arkansas and Texarkana, Arkansas, and then diverge to either Wilmer or Pineville. On the revised route, Texarkana would be used as a drop lot for drivers coming from Memphis, Wilmer, and Pineville. The revised routes are around 150 miles shorter from Ohio to Wilmer and around 350 miles shorter from Ohio to Pineville. As a result, the drivers in Tyler were no longer on the route. At that point, the Employer had made the decision to close the Tyler Lot.

The same day the Employer met with P&G, the Employer emailed a survey to all P&G fleet drivers, including those employed at the Tyler Lot, seeking driver feedback on scheduling.

On July 27, the Employer's Chief Operating Officer and Vice President emailed the Employer's Southeast Division Regional Manager seeking suitable lot locations along the revised route. Specifically, he sought lots near Texarkana, Arkansas; Memphis, Tennessee; and Franklin, Kentucky.

The following day, July 28, the Employer emailed drivers various operations updates. The email included information on: (1) Samsara Workflow training; (2) information on a driver survey and new schedules rolling out in September; (3) "more good things ahead"; (4) a reminder for drivers to reload out of Tyler; and (5) a reminder not to return without an empty trailer.

On August 10, the Employer's Midwest Division Manager emailed the Employer's Chief Operating Officer and Vice President about establishing an interim contract for a lot in Texarkana, Arkansas. The Midwest Division Manager specifically described the need for interim contracts in order for the Employer to test the locations before making long-term commitments. The following day, the Employer approved recruitment ads to hire drivers for West Memphis, Arkansas. The Employer interviewed around 30 applicants in the West Memphis area and is currently completing the hiring process for about 12 of those drivers. On August 13, the Southeast Division Regional Manager emailed the Chief Operating Officer and Vice President and the Midwest Division Manager concerning a new test lot for Texarkana after determining that the previous Texarkana lot did not satisfy P&G's security requirements.

At hearing, the Chief Operating Officer and Vice President testified to running a trial through a Texarkana location on about August 24, having an arrangement to use the lot on a minimal basis, and working on a full long-term lease for that lot to sign around September 15. The Chief Operating Officer and Vice President also clarified that while the Employer locates suitable lots, P&G sets safety specifications and pays for the lots and confirmed that the Employer has secured the lot in West Memphis that was located on July 27.

On August 19, the Petitioner filed the instant RC petition seeking to represent the route drivers at the Tyler Lot.

On August 23, the Employer emailed the Tyler drivers soliciting bids for new schedules to be assigned by September 1. However, three days later, on August 26, the Employer emailed Tyler drivers that the Tyler Lot would be closing "on or around September 15." The Employer further stated that they intended to provide additional information regarding the layoff schedule and other relevant information as soon as possible. At hearing, a Tyler driver testified that he was not aware of the impending closure until he received the Employer's email on August 26.

II. BOARD LAW

When a petition is filed, the Act directs the Board to investigate the petition. If a question of representation exists, the Act mandates that the "Board shall direct an election and certify the results thereof." 29 U.S.C. § 159(c)(1). The Board has recognized a narrow exception to this mandate. The Board will dismiss an election petition, even though a question concerning representation exists, when cessation of the employer's operations is imminent, such as when an employer completely ceases to operate, sells its operations, or fundamentally changes the nature of its business. See, e.g., *Retro Environmental, Inc.*, 364 NLRB No. 70, slip op. at 4 (2016); *Hughes Aircraft Co.*, 308 NLRB 82, 83 (1992); *Martin Marietta Aluminum*, 214 NLRB 646, 646-647 (1974); *Cooper International*, 205 NLRB 1057, 1057 (1973). The party asserting an imminent cessation of operations bears the burden of proving that cessation is both imminent and definite. *Hughes Aircraft Co.*, supra at 83.

Factors considered include the period of time between the representation hearing and the expected date of cessation, steps taken by the employer to effectuate the change, and whether the employees have been notified. *Id.*; *Davey McKee Corp,* 308 NLRB 839, 840 (1992); *Larson Plywood Co.*, 223 NLRB 1161 (1976). In *Hughes Aircraft*, the employer's decision to substantially change its operations had "methodically been carried forward" through the execution of letters of intent with subcontractors and notice of permanent layoffs to employees. Supra at 83. The Board found that the letters of intent were evidence that the action was definite, while the notice of layoffs to employees established imminence. The Board has held that where an employer's operations are scheduled to terminate within three to four months, no useful purpose is served by directing an election. *Davey McKee Corp.*, supra at 840; see also *Martin Marietta Aluminum*, supra at 646 (approximately four-and-a-half months after representation petition filed); *M.B. Kahn Construction Co.*, 210 NLRB 1050 (1974) (three months until significant reduction in force and six months until complete cessation); *General Motors Corp. (GMC Truck & Coach Division)*, 88 NLRB 119 (1950) (two to four months until cessation).

In *Larson Plywood*, the record established that the employer resolved to liquidate its entire business within 90 days and thus, cessation was found to be both imminent and definite. Supra at 1161. However, in *Norfolk Maintenance*, the Board ordered an election where the employer was not expected to cease operations in the petitioned-for unit for at least seven months after the Decision and Direction of Election issued. *Norfolk Maintenance Corp.*, 310 NLRB 527 (1993). In *American Bottling*, the Employer failed to establish that cessation of their operations was imminent and definite, despite informing employees of job eliminations, because the Employer had a history of delaying layoffs. *Am. Bottling Co. v. NLRB*, 992 F.3d 1129, 1138 (D.C. Cir. 2021). In contrast, the Board in *Martin Marietta* found that the employer was "already in the process of closing the plant prior to the filing of the petition" including having already laid off a substantial number of employees with definitive plans to continue layoffs in the coming months. Supra at 646-47.

III. ANALYSIS

The evidence gathered at the hearing establishes that the closure of the Tyler Lot is definite and imminent. Despite being precluded from presenting evidence at the hearing on the issue, the burden remained with the Employer to demonstrate the steps it has taken to cease operations at the Tyler Lot. As discussed in detail below, the Employer has taken substantial steps toward closing the Tyler Lot and re-routing its operations to another location. Therefore, I find that directing a representation election would serve no useful purpose. Accordingly, I order that the Petition be dismissed without prejudice.[4]

In July and prior to the Petition being filed, representatives of the Employer and its client, P&G, met to discuss route efficiency, and the Employer made the decision to implement re-routes that would eliminate the need for drivers at the Tyler Lot. The evidence establishes the Employer's efforts to effectuate the re-routes from late July through August. Email communications explicitly establish that the Employer needed a short-term contract for trial runs before making a long-term commitment. Testimony gathered at the hearing reflects that the Employer has tested a drop lot location in Texarkana and is working toward reaching a long-term lease for that lot. Additionally, the Employer has secured a lot in Memphis and is actively hiring drivers for that location. The steps the Employer has taken to acquire new locations along the revised route and hiring drivers in Memphis establish the certainty of the Employer's decision. *Hughes Aircraft Co.*, 308 NLRB at 83 (finding the Employer "achieved certainty in the execution of letters of intent with subcontractors").

Further, the Employer has already notified employees by email that the Tyler location will be closing on or around September 15. In the email, the Employer states that the announcement is occurring earlier than anticipated and that details regarding layoffs are forthcoming. This announcement to employees further establishes the imminence of the Tyler Lot's closure. *Id.*; *Martin Marietta Aluminum*, 214 NLRB at 646; *M.B. Kahn Construction Co.*, 210 NLRB at 1050; *General Motors Corp.*, 88 NLRB 119. The projected date of closure, September 15, is also well within the typical range of three to four months from the date of hearing that the Board considers when evaluating the imminence of an employer ceasing operations. *Davey McKee Corp.*, 308

[4] This Decision and Order Dismissing the Petition is made without prejudice to the Petitioner's right to file a motion to reinstate the instant petition should the Employer not cease operations at the Tyler Lot on about September 15.

NLRB at 840. Additionally, no evidence gathered at the hearing supports a conclusion that the Employer has a history of announcing and then delaying layoffs. Compare *Am. Bottling Co. v. NLRB*, 992 F.3d at 1138 (finding that the Employer's history of announcing target dates for layoffs and then significantly delaying them supported a finding that the employer failed to meet its burden).

While the Petitioner argues that the Employer's conduct was motivated by Petitioner's organizing efforts, this Decision need not determine the Employer's motivation. Such an allegation is appropriately investigated in unfair labor practice proceedings. Accordingly, I have determined that the Employer has met its burden of showing that closure of the Tyler Lot is definite and imminent. Thus, I find that directing an election in this case would serve no useful purpose and order dismissal of the Petition. To ensure the employees' statutory right to an election, however, if new evidence emerges indicating that the Employer has not ceased operations consistent with evidence it submitted at the hearing, I will entertain a motion by the Petitioner to reinstate the petition. See *NP Texas LLC*, 370 NLRB No. 11, slip op. at 5 (2020); *Davey McKee Corp.*, supra at 840; *Cal-Neva Lodge,* 235 NLRB 1167 (1978).

IV. CONCLUSION AND FINDINGS

Based on the record evidence, as discussed in detail above, and in view of well-established legal precedent, I find that the Employer has met its burden to establish that the cessation of its operations at the Tyler Lot is both imminent and definite. Consequently, I find that directing an election in this case would serve no purpose and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Section 2(6), (7), and (14) of the Act, and is subject to the jurisdiction of the Board.

3. The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

ORDER

IT IS HEREBY ORDERED that the petition in this matter is dismissed, without prejudice.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67(c) of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

DATED at Fort Worth, Texas, this 9th day of September 2026.

Timothy L. Watson
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