

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BWXT NUCLEAR OPERATIONS  
GROUP, INC. (BWXT NOG)

Employer

and

Case 10-RD-387727

CULLEN WILLIAM FRANK

Petitioner

and

INTERNATIONAL BROTHERHOOD OF  
BOILERMAKERS, IRON SHIP  
BUILDERS, BLACKSMITHS, FORGERS  
AND HELPERS

Union

ORDER

The Employer's Request for Review of the Acting Regional Director's determination to hold the petition in abeyance is denied as it raises no substantial issues warranting review.<sup>1</sup>

JAMES R. MURPHY,           CHAIRMAN

DAVID M. PROUTY,         MEMBER

SCOTT A. MAYER,         MEMBER

Dated, Washington, D.C., September 28, 2026.

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<sup>1</sup> In denying review, we note that the Regional Director acted in accordance with Sec. 103.20 of the Board's Rules and Regulations, which sets out the Board's blocking charge policy. We further observe that a request for review of an abeyance determination is governed by Sec. 102.71(b)—not Sec. 102.67, upon which the Employer relies. We have evaluated the Employer's request for review under Sec. 102.71(b), but in doing so note that several of the grounds for review upon which the Employer has relied (namely Secs. 102.67(d)(2) and (d)(3)) are not directly analogous to any of the grounds listed under Sec. 102.71(b).

For institutional reasons, Chairman Murphy and Member Mayer apply extant law in denying the Employer's Request for Review and express no opinion on whether the extant blocking charge policy was correctly determined.

Member Mayer, concurring:

Section 103.20 of the Board's Rules and Regulations allows regional directors to hold the processing of a representation petition in abeyance when a party has filed unfair labor practice charges alleging conduct that, if proven, would either interfere with employee free choice in an election or would be inherently inconsistent with the petition itself, "absent special circumstances." In *Starbucks Corp.*, 374 NLRB No. 141, slip op. at 1, fn. 5 (2026), the Board explained that the term "special circumstances" in Section 103.20 refers to the long-established exceptions to the blocking charge policy set forth in the Board's Casehandling Manual (CHM). Exception Two of the current CHM states that "[t]here may be situations where, in the presence of a request to block ..., the Regional Director is of the opinion that the employees could, under the circumstances, exercise their free choice in an election and that the R case should proceed notwithstanding the existence of a concurrent Type I or Type II unfair labor practice case." However, it does not provide any guidance on what circumstances might support that determination. I believe that the Board should provide such guidance. The Board's 2024 Representation-Case Procedures rulemaking referred to the August 2007 CHM, which listed seven factors.<sup>2</sup> But the 2007 CHM is not publicly available. Insofar as those factors were incorporated by reference into the 2024 rule, the Board should so state.

Because the Board is not prepared to make those clarifications at this time, I concur in denying review.

SCOTT A. MAYER, MEMBER

Dated, Washington, D.C., September 25, 2026.

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<sup>2</sup> The 2007 CHM listed the following factors:

- (a) The character, scope, and timing of the conduct alleged in the charge, and the conduct's tendency to impair the employees' free choice
- (b) The size of the workforce relative to the number of employees involved in the events or affected by the conduct alleged in the charge
- (c) Whether the employees were bystanders to or the actual targets of the conduct alleged in the charge
- (d) The entitlement and interest of the employees in an expeditious expression of their preference regarding representation
- (e) The relationship of the charging parties to labor organizations involved in the representation case
- (f) The showing of interest, if any, presented in the R case by the charging party
- (g) The timing of the charge.

Also see Sec. 11731.5 [of the 2007 CHM] for the considerations that apply when a charge is filed before a scheduled election.