

Barbara C. Deinhardt, Esq.
Neutral Monitor
52 Third Street
Brooklyn, NY 11231
917-763-0906
718-855-2933 (fax)
neutralmonitor@gmail.com

October 20, 2015

AMENDED DECISION
(only protest number amended)

Protest I-04-15 (Lont)
Eligibility

By email dated September 30, 2015, Nilda Lont appealed the Elections Committee determination that she was not eligible to run for division chair or delegate from MaBSTOA. The Elections Committee ruled that Ms. Lont is an operator who was hired into TA Surface, but now works out of a MaBSTOA depot. The Elections Committee notes that under the Election Rules, a bus operator must run for office from the division where he or she is paid, not where he or she actually works, if those are different. Supplemental Rules (10)(B) of the Election Rules state, “[Bus operators] may only run in the Division they are hired into.”

The Protester responds that the Rule cited by the Elections Committee is fundamentally unfair in that it directs that operators can **vote** within the division in which they work, but must **run** for office in the division into which they were hired. She quotes other provisions of the Union By-Laws and Constitution that set eligibility meeting attendance requirements to run for division office and she asserts that the Executive Board cannot set new eligibility restrictions that are inconsistent with the Constitution and By-Laws. Further, she argues that the Rule will limit the number of candidates who are eligible to run for office.

According to Counsel for the Elections Committee, this issue was discussed at length at the Executive Board before the adoption of the Election Rules on August 6, 2015. The Rules were mailed out to the membership on August 19, 2015.

I find that under the Election Rules, Ms. Lont, as a bus operator hired into the Transit Authority Surface, is not qualified to run for office in an OA division. As the Protester seeks to challenge the Election Rule, it is untimely. The Rule was adopted by the Executive Board and distributed to the membership in August 2015. Even if the Protest were deemed timely, it must be dismissed. My authority is to enforce the Election Rules, unless they are inconsistent with the Union Constitution or By-Laws or applicable law. Contrary to the Protester's claims, I do not find that the provisions she cited related to meeting attendance are inconsistent with the Transportation Rule in the Election Rules. Those provisions deal with general eligibility to run for office; the Transportation Rule deals with where someone can run for office. I find that the Elections Committee was correct in its conclusion that Ms. Lont is not eligible under the Election Rules to run for office from MaBSTOA.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transport Workers Union of America Committee on Appeals. Any appeal shall be in writing and shall be filed in accordance with the procedure set forth in Article IV(6)(I)(1) of the Election Rules and Articles XV and XXII of the International Constitution for the appeal to the International from decisions of Local Unions.

/s/ Barbara C. Deinhardt

Barbara C. Deinhardt
Neutral Monitor

By email:
Nilda Lont
Arthur Schwartz, Esq.
Elections Committee