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DECISION

Protest TWUS-19-15
Train Operator A ballot count

By memo dated December 1, 2015, Michael Staton, on behalf of the Transport Workers United Slate, filed a protest alleging that because on four mail pickup dates there were no Train Operator A ballots at the Post Office, members were disenfranchised.

On November 19, 20, 24 and 25, there were no Train Operator A ballots picked up at the Post Office, according to the AAA mail log. The mail log for each day was posted on the website. Therefore, the protest is untimely. The Protester knew or should have known on November 25 that there had been four days on which no ballots were received and yet a protest was not filed until December 1.

Further, even if the protest were timely, I find that there was no violation of the Election Rules. 320 Train Operator A ballots were picked up over the balloting period, a return of 36%. While it is true that that return rate is somewhat lower than the overall return rate of 46% and it is unusual that there were no ballots returned on four days, there is no evidence that there was any violation of procedure or Election Rules that led to that result. All candidates, including the Protester, had the opportunity to accompany the AAA to the Post Office in picking up the mail to ensure that there was no irregularity. There is no allegation of any such irregularity. I also note that the percentage return was identical—36%—for Train Operator A and Train Operator B, and in fact for all of RTO, just the distribution of mail picked up over the days varied.

The protest is denied.

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 V(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

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By email:
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Elections Committee