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January 17, 1991

VIA UPS OVERNIGHT

Jerry K. Moffitt
5001 Chicago #208
Lubbock, TX 79414

Jerry McCown
President and Business Manager
IBT Local Union 577
201 N Johnson
Amarillo, TX 79105

Re: Election Office Case No. P-253-LU 577-SOU

Gentlemen:

A pre-election protest has been filed pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Rules") The complainant, Jerry Moffitt contends that the Local did not properly post the Election Rules, the Local Union Election Plan and the Election Plan Summary.

The Local Union Election Plan called for delegate nominations to take place on December 15, 1990 The delegate election is to be a combined mail and walk-in election The ballots for the mail portion of the election were mailed on January 11, 1991, walk-in voting will be conducted on January 31, 1991 and February 1-2, 1991. Mail ballots are due back on February 2, 1991.

The protest alleges that no copy of the Election Rules was posted on the Union bulletin board. Nothing in the Election Rules, however, requires such posting Copies of the Rules can be obtained either by contacting the Regional Coordinator or the Office of the Election Officer. The Complainant states that he availed himself of this opportunity and obtained a copy of the Rules from the Election Officer's Regional Coordinator two weeks prior to the nominations in this Local.

The protest also alleges that copies of the Local Union Election Plan were not posted. The Rules, however, do not require such posting The Rules do require that the summaries of approved Local Union Plans prepared by the Regional Coordinator be posted See Election Rules, Article II, Section 2(d). Copies of the entire Plan are available upon request to the Regional Coordinator. Id. There is no evidence that the Complainant made a request of the Regional Coordinator for his Local Union Election Plan

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Finally, the protest alleges that the Union did not post the summary of the Local Union Election Plan. The evidence shows that the summary was posted on the Local Union bulletin boards on December 11, 1990, four days before the nomination meeting and more than seven days after its approval. The Election Rules require that the summary be posted within seven days of approval by the Election Officer. The investigation revealed that this was not done because the Regional Coordinator forwarded an inaccurate version of the summary to the Local.

The Summary was timely posted by the Local Union after the Local received the corrected copy from the Regional Coordinator. The investigation also revealed, however, that Local members had substantial notice of the nominations meeting. Notice of the meeting was mailed to all Local members on or about November 15, 1990 at their homes. In addition, the notice was mailed to Union stewards for posting at individual work locations. The complainant states that he saw such a notice in the last week in November at his job site.

Since Local members had adequate notice of the nominations meetings and since the Election Plan Summary is now posted and was posted before the nominations meeting, the Election Officer determines that it would not further the purposes of the Rules to find a violation in this case.

For these reasons, the protest is DENIED.

If any person is not satisfied with this determination, he may request a hearing before the Administrator within twenty-four (24) hours of his receipt of this letter. Such request shall be made in writing and shall be served on Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, N.J. 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N W., Washington, D C 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing. The parties are reminded that absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal.

Very truly yours,


Michael H Holland

cc Mr. Frederick B Lacey
Larry Daves, Regional Coordinator