

22 December 2021

Post-election report

**Communications, Electrical, Electronic,
Energy, Information, Postal, Plumbing
and Allied Services Union of Australia**

NSW Telecommunications and Services
Branch

Insufficient Nominations election

E2021/174

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Election(s) Covered in this Report

Organisation: Communications Division
Election: Insufficient Nominations
Election Decision No/s: E2021/174

Rules

Rules used for the election: [128V-COM: - Incorporates alterations of 5 May 2020 certified in matter R2020/21] Replaces 27 September 2018 [R2018/226] version)

Rules difficult to apply/interpret: No

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: www.aec.gov.au/ieb/

Other Matters

Returning Officer actions required (Section 193): Yes
Details:

Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.

Rules specifying the method of lodgement of nominations were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for potential candidates to nominate. Instead nominations were received electronically, via email/the AEC's portal.

Signed

Kathleen Cassar
Returning Officer
Australian Electoral Commission
E: IEEvents@aec.gov.au
P: 08 8237 6555
22 December 2021

Attachments

A. Declaration of Results for Uncontested Offices – NSW

**Communications, Electrical, Electronic, Energy,
Information, Postal, Plumbing and Allied Services Union
of Australia**

Communications Division

DECLARATION OF RESULTS - E2021/174

Uncontested Offices

Insufficient Nominations Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

New South Wales Telecommunications and Services Branch - Operator Industry Section

Branch Committee of Management Member (Operator Industry Section) (1)

Candidates

No Nominations Received

As there were no nominations received for the position to be filled, I declare the above election complete.

Kathleen Cassar
Returning Officer
Telephone: 08 8237 6555
Email: IEEvents@aec.gov.au
09/12/2021





DECISION

Fair Work (Registered Organisations) Act 2009
s.189—Arrangement for conduct of an election

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (E2021/174)

MR STEENSON

SYDNEY, 29 SEPTEMBER 2021

Arrangement for conduct of election.

[1] On 16 September 2021 the New South Wales Telecommunications and Services Branch (**the Branch**) of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (**the organisation**) lodged prescribed information with the Registered Organisations Commission (**the Commission**) for an election to fill the following office, due to insufficient nominations received in a previous election (**E2018/281**):

Branch Committee of Management Member (Operator Industry Section) (1)

[2] I also note that the prescribed information lodged in this matter relates to an office for which insufficient nominations were received in the scheduled election E2018/281 which was declared on 3 May 2019, i.e. more than two years ago.

[3] Relevantly, rule 69(a) of the organisation’s Communications Division rules provides that:

In the event that any Branch Officer or Branch Committee of Management position becomes vacant for any reason and the unexpired part of the term is more than twelve (12) months or three quarters of the term of office before the date of the closing of the ballot for the next election whichever is the greater, the vacancy shall be declared vacant by the Branch Committee of Management at its next scheduled meeting following the occurrence of the vacancy. The election shall be conducted in the same manner and subject to the provisions of Rules 66 and 67.¹

[4] The Branch advised the Commission that the membership from which this particular office is drawn is relatively small and that consequently it was sometimes difficult to achieve nominations, inferring that this was the reason for not seeking an election earlier. The Branch expressed confidence that the office may be filled through the election that it now seeks.

¹ Rules 66 and 67 being those dealing with ‘Branch Nominations’ and ‘Branch Elections’ respectively.

[5] I note that even if there were not a specific rule in either the rules of the organisation or of the relevant Division stipulating a specific process or timeframe for the conduct of an election arising out of earlier insufficient nominations (in this case for a Branch Committee of Management Member from a specific section of the Branch), it is apparent from the objects of the RO Act, particularly the principles of democratic control, that organisations and their branches need to make reasonable attempts to fill all offices, including those where vacancies arise through insufficient nominations being received.

[6] In this regard, I draw attention to the decision in *Geneff v Peterson and Ors* [1986] FCA 432, in particular the comments of Gray J at 129 that:²

If insufficient nominations are received, then further elections must be held and further nominations called for. This process must continue, for as long as vacancies exist on the Executive Committee. In the meantime, however, a branch is not to be paralysed by the inability of its decision-making body to function.

[7] I therefore take this opportunity to remind the Branch that where insufficient nominations are received at future scheduled elections – or indeed if insufficient nominations are received in the election to be arranged for this particular office – it should lodge prescribed information in a more timely manner in an attempt to fill such office(s).

[8] I understand, from communications between the Commission and the organisation, that the national office of the organisation has correspondence with branches about the need to take steps to fill vacant offices. Such action by the national office is commendable and it is hoped that it will reduce instances of long delays in seeking to fill vacant offices.

[9] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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² Cited, for example, in *United Voice* [2016] FWCD 7830



Level 2, 365 Pitt St, Sydney NSW 2000
PO Box A1135, Sydney South, 2000
ABN 69 143 175 060

Administration 0428 942 878
Industrial Help 0428 942 878

reception@cwunion.net
www.cwunion.net

NSW TELECOMMUNICATIONS & SERVICES (T&S) BRANCH

16 September 2021

The Commissioner
Registered Organisations Commission
GPO Box 2983
Melbourne VIC 3001

Via email: regorgs@roc.gov.au

Dear Mr Bielecki,

Request for Election – Insufficient Nominations

I request that an election be conducted to fill the position of a Branch Committee of Management Member. The vacancy arises because of insufficient nominations at the last election.

I have been authorised by the Branch Committee of Management to make this request

I have attached the prescribed Information Form containing the details.

I have also attached the Declaration of the results of the Uncontested Offices in the 2019 election.

Kindly advise if you require any further information

Yours faithfully,

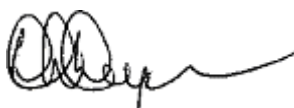
Branch Secretary

PREScribed INFORMATION FOR ELECTIONS

In accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

I, Dan Dwyer, being the Branch Secretary of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, Communications Division, New South Wales Branch, Telecommunications and Services (the Branch) make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Branch.
2. The following information is lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act);
3. The election that is required is set out in the table in Annexure A;
4. Insufficient nominations were received in an earlier election and the declaration of results is attached.
5. No rule alterations are pending that will impact the election.



Dan Dwyer

16 September 2021

ANNEXURE A

Elections that are required for the Communications Division, New South Wales Telecommunications and Services Branch (NSW T&S Branch):

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
NSW T&S Branch	Member of the Branch Committee of Management Operator Industry Section	1	DVS	Insufficient nominations	Financial members of the Branch Operator Industry Section (<i>Communications Divisional rule 67(a)</i>)

IMPORTANT DATES:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	As determined by the Returning Officer.	
Nominations CLOSE	As determined by the Returning Officer.	
Roll of Voters cut-off date	7 days prior to the on which nominations open (<i>Communications Divisional rule 67(b)(i)</i>)	