

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

RATE AND SERVICE CHANGES TO IMPLEMENT
BASELINE NEGOTIATED SERVICE AGREEMENT
WITH BANK OF AMERICA CORPORATION

Docket No. MC2007-1

**ANSWER OF UNITED STATES POSTAL SERVICE
TO MOTION OF THE AMERICAN POSTAL WORKERS UNION, AFL-CIO, TO
COMPEL A RESPONSE TO INTERROGATORY APWU/USPS-ST3-3(D)
(June 11, 2007)**

The American Postal Workers Union, AFL-CIO (APWU) filed the subject
interrogatory on May 9, 2007, requesting:

Please provide a recent copy of a "Sort Plan Area Summary" End-Of-Run report for a comparable length of time as described on page 2 of LR-K-68. The location and identification of the plant can be redacted but please label and define all the items that show on that report and explain how you would use it to calculate the percentage of mail finalized.

On May 31, 2007, in accordance with Rules 25 and 26 of the Commission's Rules of Practice and Procedure (Rules), the Postal Service objected to responding to the interrogatory on the grounds that the information requested is irrelevant and is commercially sensitive and proprietary. On June 4, 2007, the APWU moved to compel a response. Pursuant to Rule 26(d), the United States Postal Service hereby answers the APWU motion.

Relevance. In its objection, the Postal Service indicated that a "single report from a single facility at a single point in time certainly is not representative of either a baseline number based on averages or any numbers or measurements

derived from a specific customer's mail." The APWU's response is that the purpose of the interrogatory "is to further an understanding of the *type* of data used to determine the baseline measurements in this case" and that the "actual numbers contained in the report are only necessary to understand the information on the form." APWU Motion at 2.

The Postal Service submits that such data can be understood without the use of actual numbers from a single facility at a single point in time. The Postal Service proposes to provide a responsive answer to the interrogatory by listing the nature and type of data, and the relationships among the data elements in a typical EOR report. There are two categories of data on such a report that would be pertinent to APWU's interrogatory. One category is "Piece Counts" and the items shown within that category include such things as "Total Fed," Total Rejects," "Total Sorted," "No Codes," and Unreadable ID Codes." The other category is "Statistics" and it includes such items as "Gross Acceptance Rate," and "Machine Acceptance Rate." The Postal Service would provide a complete listing of all of items with associated explanations, contained under the "Piece Counts" and "Statistics" categories. This approach not only avoids issues of commercial sensitivity, discussed below, but also relieves the APWU of analyzing the numbers in a particular report to understand its data elements and their relationships.

Commercial sensitivity. In its objection, the Postal Service noted that the requested report contains machine throughput information that can be used for budgeting, workhour projections, overtime and other labor-sensitive information,

disadvantaging postal management in any labor disputes or negotiations.

APWU's motion notes "there may be some proprietary information contained in this report...", but alleges that redaction of the location and identification of the plant would limit the danger to the commercial or proprietary interests of the Postal Service. *Id.* Nevertheless, the relationships among the numbers contained in an actual report, and additional relationships that might be established by using those numbers in conjunction with data from other sources, present a distinct possibility of disadvantage in labor disputes or negotiations, and could be of value to some competitors of the Postal Service.

APWU's motion points out that the Postal Service "has failed to articulate any *actual* harm that would result from disclosure of this information." *Id.* The motion provides no citation for the proposition that "actual" harm is the applicable standard by which to evaluate the commercial and proprietary sensitivity of the requested information. Standard dictionary definitions of "actual" are "existing in fact or reality" and "being, existing, or acting at the present moment". There may be no actual harm from mere disclosure of the requested information, but there is potential for actual harm, given the uses to which the information could be put after its disclosure, as indicated above.

The motion concludes by noting that Postal Service business should be conducted in transparent fashion, and that the BAC NSA will form the baseline for all future pay-for-performance NSAs, requiring access to information critical to understanding benchmark measurement data in the NSA. As indicated above, the Postal Service proposes to provide a response that avoids significant issues

of relevancy and commercial sensitivity by listing and explaining the types of data shown on the report that should address APWU's concerns.

In conclusion, the requested information is irrelevant because it is not representative of baseline averages¹ or of specific customer mail, and is commercially sensitive through its potential adverse use in labor and competitive matters. Additionally, the Postal Service will provide alternative information that will respond to APWU's stated objective for its request. For these reasons, the Postal Service respectfully requests that the APWU's motion to compel the requested answer to interrogatory APWU/USPS-ST3-3(d) be denied.

¹ The Postal Service notes that the APWU made no attempt to remedy the irrelevancy of its interrogatory by seeking aggregated information in lieu of that requested.

UNITED STATES POSTAL SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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