

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

STATION AND BRANCH OPTIMIZATION AND
CONSOLIDATION INITIATIVE, 2009

Docket No. N2009-1

OBJECTIONS OF THE UNITED STATES POSTAL SERVICE TO
AMERICAN POSTAL WORKERS UNION DOCUMENT REQUESTS
APWU/USPS-DR-1 THROUGH APWU/USPS DR-3
(August 7, 2009)

In accordance with Rule 26(c) of the Postal Regulatory Commission's Rules of Practice and Procedure, the United States Postal Service hereby files the following objections to the document requests below submitted by the American Postal Workers Union on July 28, 2009.

APWU/USPS-DR-1

Please provide copies of all written guidance provided to managers at any level of the Postal Service about how to carry out the Stations and Branches Optimization Initiative, including without limitation all handbooks, manuals, documents similar to handbooks and manuals however denoted, memorandums, emails, letters, power point presentations, forms, and instructions.

APWU/USPS-DR-2

With reference to the stations and branch closures FY2005-FY2008 reported to the PRC in this docket, please provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.

APWU/USPS-DR-3

List all Station and Branch closure proposals or requests submitted to postal headquarters during FY2005-FY2008 that were not carried out and provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.

The Postal Service objects to all three document requests to the extent that they can be interpreted as including within their scope any attorney-client privileged

communications. The Postal Service also objects to the latter two document requests because: (1) they seek records irrelevant to the substantive issues raised by the request in this proceeding; and (2) production of the requested records would impose an undue burden on the Postal Service, far in excess of any probative value such records have in relation to those issues.

Background

For reasons stated in its Docket No. N2009-1 request, the Postal Service has initiated the Station and Branch Optimization and Consolidation (SBOC) Initiative, a centrally-directed plan to affect changes in postal services that would result from the discontinuation of the operation of retail stations and branches that report to Postmasters at the EAS-24 and above pay grade. As indicated at page 6 of that request, for purposes of the Initiative, the Postal Service is directing its 74 administrative District offices to accelerate the application of its existing station/branch discontinuance review process to a universe of approximately 3200 stations and branches. The number of stations/branches to which that review process will ultimately be applied is unknown, but is taking shape as the result of a pre-screening process. As of July 28, 2009, nearly 680 candidate facilities had been tentatively identified for study as the result of pre-screening. See USPS Library Reference N2009-1/4 (July 30, 2009). This pre-screening, described at pages 8-9 of USPS-T-2, is expected to identify fewer than 1000 EAS-24 and above stations/branches that then will be subjected to the discontinuance review process. It is unknown how many of these resulting discontinuance studies will lead to proposals for station/branch discontinuance, or how many such proposals will be approved.

As a threshold matter, the Commission must determine whether it considers the service changes that could result from implementation of the SBOC Initiative to be substantially nationwide in scope, within the scope of 39 U.S.C. § 3661. At the time that it filed its request, the Postal Service sought to ensure that the Commission understood that the service changes likely to be generated by the SBOC Initiative would result from a unknown number of discontinuance decisions that would be made on the basis of a then (and still) unknown number of facility-specific discontinuance studies. Request at 6. Solely to provide some frame of reference, the Postal Service indicated that the facility-specific station/branch discontinuation determinations implemented as a result of the SBOC Initiative were likely to greatly exceed the number of such proposals routinely implemented each year in response to locally-initiated, isolated discontinuance proposals that are not part of any centrally-directed systemwide review program. Accordingly, Table 1 in USPS-T-2 indicates the annual number of station/branch consolidations implemented for each of the past four fiscal years.

To further generally illustrate the form of the facility-specific station/branch discontinuance review process to be used in the SBOC Initiative, the Postal Service filed two Library References, N2009-1/1 and N2009-2, which reflect the types of data and documents submitted by the field to Headquarters in support of discontinuation proposals. Neither file was offered as representative of the substantive issues faced in a typical discontinuance review or, more importantly, in determining whether to discontinue the operation of stations/branches that meet the criteria of the SBOC Initiative.

The Document Requests In Context

In response to a briefing on the SBOC Initiative before the filing of the request in this docket, representatives of the American Postal Workers Union expressed the belief to the Postal Service that the SBOC Initiative was part of a covert plan by postal management to replace stations and branches staffed by members of that union with privately operated postal contract units staffed by non-postal personnel. However, this allegation does not state a claim within the jurisdiction of the Postal Regulatory Commission.

Asserting its right to do so under the National Labor Relations Act and its collective bargaining agreement with the Postal Service, the APWU submitted information requests to the Postal Service reflected in the Attachment to these objections dated July 17, 2008. As the Commission will observe, three of these collective bargaining information requests are repeated almost *verbatim* in APWU/USPS-DR-1 through 3.¹ Thus, the documents are the subject of an earlier submitted and currently pending request for records submitted to the Postal Service by APWU under the terms of their collective bargaining agreement. For the reasons explained below, APWU should not be permitted to use the discovery process in Docket No. N2009-1 to pursue access to information that has no nexus to the substance of the SBOC Initiative and the Commission's review jurisdiction under section 3661 of title 39, United States Code.

APWU/USPS-DR-2 and APWU/USPS-DR-3

Neither APWU/USPS-DR-2 nor APWU/USPS-DR-3 seeks evidence even arguably related to the SBOC Initiative, or to stations/branches that may be

¹ APWU/USPS-DR-1 seeks documents relevant to the SBOC Initiative. Accordingly, the Postal Service

discontinued as a result of that Initiative. Both requests seek any and all postal documents related to the discontinuance of any stations/branches of every description that occurred as many as four years ago -- as part of APWU's quest to establish that there have been "violations of the rights of APWU represented employees." The pretext for repeating the July 17th information requests in the form of Docket No. N2009-1 document requests would appear to be the mere fact that the annual historical numbers of locally-initiated discontinuation decisions was referenced in USPS-T-2 at Table 1. As is self-evident, those annual discontinuance approval totals were provided to the Commission solely for the purpose of providing a baseline for assessing the substantiality of the scope of the SBOC Initiative – to affirm that it is expected to generate service changes resulting from significantly more than the approximately average annual station/branch discontinuation decisions.

None of the 96 discontinuation approvals made between the years 2005 and 2008 was part of any similar or other centrally-directed discontinuation initiative. The substance of those isolated, unrelated locally-initiated decisions would shed no light on the purposes of the SBOC Initiative or whether any substantially nationwide service changes resulting from that initiative would conform to the policies of the title 39, U.S.C.

These information requests are not reasonably calculated to lead to evidence admissible in this docket that is relevant to the issues raised by the request.

Accordingly, the Postal Service objects to providing the requested documents in the context of this docket.

In addition, both APWU/USPS-DR2 and DR-3 seek any and all documents in any

form reflecting any communications pertaining any of these historical station/branch consolidation proposals transmitted between and among any local, District, Area and Headquarters managers. In this regard, these requests are not reasonably calculated to lead to any admissible evidence. It would be the epitome of understatement to characterize this portion of each document request as overly broad. The burden associated with attempting to track down every hard copy or electronic record of every such communication by the thousands of managers who are likely to have discussed any of the approximately 100 unrelated discontinuance decisions over the course of the past four years, to sort through the documents, and to identify all information that may be privileged or otherwise protected from disclosure is presently unquantifiable. Such a burden, if even it could be measured, would greatly outweigh any probative value that any such information could even theoretically have in relation to the issues raised by the SBOC Initiative.

APWU is obliged to pay the reasonable costs of obtaining information to which it is entitled under the contract and the labor act, and has been reminded of that obligation in the Attachment to this pleading dated July 21, 2009. APWU began its quest for information responsive to DR-2 and DR-3 pursuant to its roles as collective bargaining representative. A separate body of law applies to an information request submitted by a collective bargaining representative than that which applies to a discovery request in the Commission proceeding. The Commission should not intrude on that process. This is particularly true, where the discovery requests would impede the progress of the Commission's review of the non-labor issues presented by the request filed in this docket.

DR-2: Discontinuance Approval Decisions and Supporting Files

The final agency approval files within the scope of this document request exist in hard copy only and, in form, are similar to the decision packages contained in USPS Library References N2009-/1 and N2009-1/2, which average several hundred pages apiece. Decision packages generated in support of *approved* station/branch discontinuation proposals are stored at a postal facility near Headquarters. Files for Post Office/station/branch discontinuance approval decisions are maintained there together, and are not separated by facility type. There are many more approved Post Office closing files than there are for stations/branches, requiring that station/branch files be manually segregated. Unfortunately, the files are not all systematically separated by fiscal year. There is presently no systematic method for determining the contents of any particular file (Post Office vs. station vs. branch) than by manual/visual examination of the contents of individual file folders.

In addition, before the SBOC Initiative, there was no requirement that a discontinuance review file submitted to Headquarters identify a station/branch on the basis of the pay grade of the Postmaster to which it reported. Accordingly, not all such requested approved discontinuance files for the years 2005-08 would be expected to contain information identifying whether the subject stations/branches reported to EAS-24 and above Postmasters. The collection of such information would then depend upon the recollections of personnel in the 74 District offices and other local personnel, plus their examination of any local records that might shed light on the status of the discontinued station/branch. Such an undertaking could involve several hundred workhours. Without waiving its objection based on the irrelevance of the substance of

the requested historical station/branch approval files to its request in Docket No. N2009-1, the Postal Service is obliged to report that a copy of each Post Office, station or branch discontinuance approval decision (*sans* the supporting documents otherwise presumed to be at the aforementioned storage location) is available for inspection and copying at the USPS Headquarters Library, which operates as a public reading room. See 39 C.F.R. § 265.5. The facility-specific (Post Office, station, branch) approval decisions on file at the Library are sorted by reference to the state in which the facility was located.

DR-3: Disapproval Decisions and Supporting Files

The Postal Service objects to providing copies of historical final agency decisions disapproving station/branch discontinuance proposals on the same grounds as are stated above in reference to APWU/USPS-DR-2. Nevertheless, the Postal Service observes that such final decisions (*sans* the aforementioned decision packages that were returned to their originating District offices) are available for public inspection at the USPS Headquarters Library on the same terms as are described above in reference to DR-2. The Postal Service is also obliged to report that, in contrast to decision packages supporting DR-2 *approval* decisions, the hard copy files generated in support of discontinuance proposals that ultimately are *not approved* by Headquarters are returned to their respective District offices and have a two-year retention period. Thus, the search for irrelevant decision packages responsive to APWU/USPS-DR-3 would require an examination of files at each of the Postal Service's 74 administrative District offices and would only be expected to result in the retrieval of records not more than two years old.

For the foregoing reasons, the Postal Service objects to document requests APWU/USPS-DR-1 through DR-3.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux
Chief Counsel, Pricing and Product Support

Michael T. Tidwell

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(202) 268-2998; Fax -5402
August 7, 2009



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

July 17, 2009

William Burrus
President
(202) 842-4246

By Facsimile and First Class Mail

Douglas A. Tulino
Vice President, Labor Relations
United States Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-4100

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APWU

National Executive Board

William Burrus
President

Cliff Guffey
Executive Vice President

Terry R. Stapleton
Secretary-Treasurer

Greg Bell
Director, Industrial Relations

James "Jim" McCarthy
Director, Clerk Division

Steven G. Raymer
Director, Maintenance Division

Robert C. "Bob" Pritchard
Director, MVS Division

Bill Manley
Director, Support Services Division

Sharyn M. Stone
Coordinator, Central Region

Mike Gallagher
Coordinator, Eastern Region

Elizabeth "Liz" Powell
Coordinator, Northeast Region

William E. "Bill" Sullivan
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

Re: Request for Information Related to Stations and
Branches Optimization Initiative

Dear Mr. Tulino:

In accordance with Articles 5 and 31.3 of the National Agreement and the National Labor Relations Act, the APWU requests that the Postal Service provide the following information related to the Postal Service's Stations and Branches Optimization Initiative.

- Copies of all written guidance provided to managers at any level of the Postal Service about how to carry out the Stations and Branches Optimization Initiative, including without limitation all handbooks, manuals, documents similar to handbooks and manuals however denoted, memorandums, e-mails, letters, power point presentations, forms, and instructions.
- With reference to the stations and branch closures FY2005-FY2008 reported to the Postal Regulatory Commission in Case No. N2009-1 provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.
- For each of the station and branch closures FY2005-FY2008 reported to the Postal Regulatory Commission in Case No. N2009-1 state whether or not a Contract Postal Unit (CPU) existed in the area served by the station or branch and, where such a CPU did exist, provide a copy of the contract for the period in which the station or branch closed.

Letter to John Dockins
July 17, 2009
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- List all Station and Branch closure proposals or requests submitted to postal headquarters during FY2005-FY2008 that were not carried out and provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.

Because the Stations and Branches Closure Initiative is ongoing and threatens irreparable harm due to violations of the rights of APWU represented employees. We request that the responses to these information requests be expedited as much as possible. Please provide all information as it becomes available rather than waiting to provide all requested information at once.

Information should be provided to Executive Vice President Cliff Guffey.

Thank you for your prompt attention to these requests.

Sincerely,



William Burrus
President

WB/lbb
opeiu#2, afl-cio

cc: Cliff Guffey
Greg Bell

LABOR RELATIONS



July 21, 2009

Mr. William Burrus
President
American Postal Workers Union,
AFL-CIO
1300 L Street NW
Washington, DC 20005-4128

Transmitted by email upon request

Dear Bill:

Re: IR09-73, Stations and Branches Optimization Initiative

This letter is to acknowledge receipt of your July 17 request for information regarding the above subject which was received in this office on July 20. This request has been assigned information request tracking number IR09-73 and shall be processed in accordance with the applicable rules, regulations, and the USPS/APWU Collective Bargaining Agreement. In order to facilitate the timely processing of this request, please refer to the above-referenced tracking number in any future, related correspondence.

The requested information, if it exists at all, is not within direct control of this office. Therefore, inquiries will be made into the existence and location of such information. The amount of time needed to accomplish this is unknown and will depend on a myriad of practical factors including the availability of the requested data, the scope and volume of the requested data, and other important tasks being undertaken by those seeking to fulfill the information request. The search may be expensive, and the union is responsible for reasonable costs per Article 31, Section 3 of the Collective Bargaining Agreement and Handbook AS-353, Guide to Privacy of the Freedom of Information Act, and Records Management, Section 4-6.5, How to Assess Fees, which sets out the applicable costs for fees incurred in processing information requests. You shall be notified if this request requires remittance on the part of the APWU for photocopies and/or time spent processing the information.

If you feel this request is of an urgent nature and lack of the requested information may adversely affect the union's time limits in the grievance procedure, please do not hesitate to contact me immediately to seek an extension of contractual time limits.

In the interim, if there are any questions, please contact Jacqueline Adona of my staff at (202) 268-3800.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Dockins".

John W. Dockins
Manager
Contract Administration (APWU)

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-4100

(CA2009-456, IR09-73, VPLR2009-198)