

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

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**Station and Branch Optimization and  
Consolidation Initiative, 2009**

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**Docket No. N2009-1**

**AMERICAN POSTAL WORKERS UNION, AFL-CIO MOTION TO COMPEL  
THE POSTAL SERVICE TO RESPOND TO APWU/USPS-T2-3(a-c) AND T2-8  
AND TO PRODUCE DOCUMENTS IN RESPONSE  
TO APWU/USPS-DR-1 THROUGH APWU/USPS-DR-3  
(August 21, 2009)**

Pursuant to Rules 21, 26(d) and 27(d) of the Rules of Practice, American Postal Workers Union, AFL-CIO (APWU) hereby moves to compel the Postal Service to respond to APWU/USPS-T2-3(a-c) and T2-8 and to produce documents in response to APWU/USPS-DR-1-3. The Postal Service objections are based on a broad claim of attorney-client privilege, undue burden and relevance. For the reasons explained more fully below, these objections are entirely without merit and the Postal Service should be compelled to respond.

**Relevance and Undue Burden Objections**

The Postal Service objects to Interrogatories APWU/USPS-T2-3(a-c), T2-8 and Document Requests APWU/USPS-DR-1-3 claiming that they are “not reasonably calculated to lead to the production of admissible evidence that has any relevance to the issues raised by the request in this docket”<sup>1</sup> and would create an undue burden on the Postal Service. These objections are meritless.

Interrogatory APWU/USPS-T2-3 seeks information that will enable the parties and the Commission to understand the scope of the proposed Initiative in comparison to the consolidations and closures implemented by the Postal Service outside of the Initiative. This speaks directly to whether what is being proposed is a change in the nature of postal services pursuant to 39 USC § 3661(b). Currently, the Postal Service

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<sup>1</sup> Objections of USPS to APWU/USPS-T2-3(a-c) and T2-8 at p.1, August 7, 2009.

can provide no information as to how many facilities will be studied and of those, how many will ultimately be consolidated or closed. The information sought in this Interrogatory will provide insight and perspective to the Initiative. For example, if only 32 facilities were reviewed in FY 2006 and as stated in Table 1 of Witness Matalik's testimony, 32 facilities were discontinued in FY 2006, this would certainly provide a different perspective of the process and the likely results and would be of great probative value that would far outweigh any burden.

Likewise, Documents Requests APWU/USPS-DR-2-3 seek information about past decisions to better understand the Initiative going forward. There is no information in the record about what may happen in the future, therefore, the *only* way to understand what is possible and why, is to review information about what has happened in the past. The information provided by the Postal Service in Library References N2009-1/1 and N2009-1/2 is, by its own admission, not "representative of the substantive issues faced in a typical discontinuance review, or more importantly, in determining whether to discontinue the operation of stations/branches."<sup>2</sup> These two studies do not contain the same documents; if they did, we might conclude that there was a consistent process in place, but these two studies are not alike. Moreover, the Postal Service has stated that "no standard weights are assigned to the factors each District must consider."<sup>3</sup> Review of the documents used and information relied on in determining whether to close or consolidate a facility greatly informs the process and will enable the Commission to better provide useful advice in its role under § 3661 to ensure that essential postal services are not disrupted and all necessary factors/costs are actually considered and given proper weight.

Interrogatory APWU/USPS-T2-8 seeks information about Contract Postal Units (CPUs). Contrary to the Postal Service assertion, this information is relevant to the consideration of alternatives that the Postal Service undertakes in its pre-screening studies. In fact, USPS Library Reference N2009-1/1 page 2 contains a CPU solicitation. Clearly, the Postal Service considers the existence or possible existence of a CPU in making its determination to close or consolidate a facility. How much weight is given to

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<sup>2</sup> USPS Objections to APWU/USPS-DR-1-3 at p. 3, August 7, 2009.

<sup>3</sup> USPS Witness Matalik Response to Chairman's Information Request No. 1, Question 7, August 13, 2009.

this alternative is important, and we cannot know this unless we know how many facilities had CPUs in the area and the final determination made by the Postal Service. Therefore, the information sought is highly probative.

Furthermore, it is immaterial that the documents requested were sought in another forum. Nothing in Title 39, the National Labor Relations Act or the parties collective bargaining agreement require APWU to pursue only one avenue for the discovery of important information to the exclusion of all others. As explained above, the information sought is highly relevant to this docket pending before the Commission. It is not the intention of the APWU to litigate post hoc before the Commission the discontinuance/consolidation decisions made in previous years. However, it is our intention to gather information needed to best inform the Commission and the public to ensure the SBOC Initiative going forward complies with the policies and requirements of Title 39. It would be patently unfair and contrary to the discovery provided for under the Commissions' rules to exclude relevant and important information simply because the information was also properly asked for in another forum.

The information request in Interrogatories APWU/USPS-T2-3, 8 and Document Requests APWU/USPS-DR-2-3 is in the sole possession of the Postal Service; lack of a proper tracking system or user friendly filing mechanism for the proposals and related information should not disadvantage interested parties and the Commission from obtaining information necessary to fully understand the proposed Initiative and its impact on postal services. To the extent that this information is available to the Postal Service, it must be produced.

### **Attorney-Client Privilege**

The Postal Service objects to APWU/USPS-DR-1 "to the extent that they can be interpreted as including within their scope any attorney-client privileged communications." The Postal Service does not claim that all of the documents responsive to this request are privileged. The Postal Service should be required to state more definitely those documents that it claims as privileged. There being no other objection to this document request, those documents that are not privileged, must be produced.

### **Conclusion**

For the reasons explained above, the APWU respectfully requests that the Commission order the Postal Service to respond to Interrogatories APWU/USPS-T2-3, 8 and Document Requests APWU/USPS-DR-1-3.

Respectfully submitted,

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