

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

**Six to Five Day Street Delivery)
And Related Service Changes)**

Docket No. N2010-1

**INITIAL BRIEF
OF THE NATIONAL NEWSPAPER ASSOCIATION
(October 15, 2010)**

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Summary

The question before the Commission is whether the Postal Service should address its critical financial gaps by trimming its universal service obligation in ways that may have grave impact on its most vulnerable stakeholders as well as its own future. That reducing residential delivery service from 6 days to 5 days would result in some savings is uncontested. That the savings would not close the Service's financial gap is obvious from the record, even if the Service's optimistic projections are accepted. But the savings may be much less than projected. Weighing whether the amount USPS might save is worth the risk to the USPS franchise—possibly leading to longer term losses—and the harm to its stakeholders is the critical issue in this docket.

If the savings are significantly less than the Service believes, and the loss of franchise and faith in the Service are the serious threats that NNA's witnesses and others believe, recommending a reduction in service levels puts the Service on a course from which it and some of its stakeholders may never recover. National Newspaper Association (NNA) argues that the savings may indeed be less than the Service believes if new local newspaper delivery operations are forced into being, because new competition for local advertising would affect direct mail volumes. Economic harm to vulnerable postal customers also hangs in the balance. NNA's witnesses and field hearing witnesses argue strongly that the threat of financial damage to community newspapers from the loss of a profitable publishing day is grave. Other intervenors make a similar case from the viewpoint of their rural constituents, who are likely more dependent upon the mail than urban counterparts. The Service admits that if it eliminates Saturday delivery and discovers it has made a fatal error, it has no

contingency plans for reversing course. Although acknowledging the Service's precarious financial status, NNA believes a fix that further weakens the franchise is no fix at all. NNA urges the Commission to strongly recommend against changing the USO requirement for 6-day service and urge the Service instead continue to pursue solutions in operational savings that do not put the institution and its stakeholders at such risk.

I. Background.

On March 30, 2010, the United States Postal Service (USPS) asked the Postal Regulatory Commission (PRC) to recommend to Congress that it lift a statutory prohibition on reducing mail delivery to levels below those in existence in 1983. The prohibition has appeared annually in postal appropriations bills since 1984. Lifting the prohibition would permit the Service to end Saturday mail delivery, as well as stop Saturday collection from blue postal mailboxes and Express Mail boxes. The Service also would plan to end Pickup Service on Saturdays. Request of the United States Postal Service For An Advisory Opinion on Changes in the Nature of Postal Services (Request), March 30, 2010.

The termination of most Saturday services would affect the way USPS measures its success in mail delivery by changing the "start-the-clock" and "stop-the-clock" times. Most mail would not be counted in the system as entered on Saturdays—even if a postal patron dropped it in a blue box that day—and mail in the system from earlier entries could not experience a "stop clock" because it would not be delivered. Request at 3. For purposes of service measurement. USPS proposes essentially to pretend that Saturdays have been dropped from the calendar.

USPS has asked the Commission to agree that 6-day mail is no longer affordable, in light of the Service's drop in mail volume from 212 billion to 177 billion mail pieces since 2005. The Service also argues that the United States public no longer needs Saturday mail because of the public's increased reliance upon digital communications. Request at 8. The Commission's inquiry is designed to determine whether the USPS is correct.

National Newspaper Association and other intervenors have concluded that USPS is not correct. NNA finds that a significant segment of the nation—including rural America, newspaper readers and recipients of mail-order prescriptions, among others—remain heavily dependent upon Saturday residential mail delivery. The record demonstrates that USPS has not sufficiently measured or taken into account those impacts. The record also demonstrates that in its analysis of affordability, USPS has likely underestimated the impact of mail volume losses that would result from competitors' abilities to take advantage of the abandoned field of Saturday mail. If that is true, the net savings from loss of Saturday mail would be less than the \$3.1 billion suggested by USPS, and may even be less than the \$1.9 billion previously estimated by the Commission. It may not be significant enough to justify the deterioration in the universal service obligation that presently includes Saturday residential delivery. NNA therefore urges the Commission to *decline to recommend* an end to 6-day residential mail delivery and that it urge the Service instead to complete an analysis of the effects on vulnerable stakeholders as well as a more thorough examination of potential competitive erosion, and then to tailor a solution that would less dramatically affect these stakeholders.

II. Saturday mail service has traditionally formed a part of the Universal Service Obligation (USO), and it continues to be critical to many communities.

A. Commission in 2008 assumed Saturday delivery to be a traditional part of the Universal Service Obligation, although concluding that its status might require another look.

In 2008, the Commission undertook an examination of universal service. Although it found the concept of a USO to be unprescribed with great specificity in the law, it identified seven attributes that have come to form the obligation. Among them was delivery frequency. Report on Universal Postal Service and the Postal Monopoly, Postal Regulatory Commission, Dec. 19, 2008 at 19-20 (USO Report). The Commission noted that the Service traditionally has been given the discretion to define its scope of service to meet the nation's needs while balancing service against budget constraints, but it concluded that in several areas Congress had established minimum service levels. One was the 1984 enactment of a rider in USPS appropriations legislation that sets delivery levels at 1983 levels. Even in 2008, before the Service's present financial plight developed, the Commission noted that the Service would prefer to shed that limitation. USO Report at 3.

Although the Commission recommended that Congress should re-examine all attributes of the USO, it paid special attention to the 6-day mail requirement. It noted that the Postal Service is the only "federal presence in many urban and rural areas of the United States and this presence helps to bind the Nation together. USO Report at 5.

It thus concluded that before any decisions to adjust or eliminate the USO were made, the impact on societal benefits of USPS should be assessed. USO Report at 6. This proceeding has taken the Service and the Commission some distance down that road, though not far enough to reach a suitable destination. The proceeding has permitted intervenors to highlight the effect upon publishers' finances and readers' community, civic and political life of a loss of Saturday delivery upon community newspapers. The resources to quantify such an impact are beyond the abilities of the NNA witnesses—and indeed would require a valid survey of readers of these newspapers. The Service did not engage in any such analysis, although it admits it knew from the start of its contemporary pursuit of freedom to redefine the delivery service that newspapers would be harmed. Nowhere in the record is there evidence—either qualitative or quantitative—that would enable the Commission to evaluate that impact. But anecdotal evidence of the publishers' fears is ample. Given the long history of newspaper delivery by the Service, the neglect in the Service's analysis is surprising.

B. The presence of newspapers in the mail system has been a traditional and essential element of the postal mission.

The common history of newspapers and the postal system is well recognized. The Commission has had occasion to revisit this past most recently in its USO report, noting the presence of newspapers as the earliest non-letter component of the postal system in the early republic. In the late 18th Century, the Postmaster General authorized the carriage of newspapers by post riders even though the papers were formally

excluded from the mail. USO report at 39. Congress afforded official status for newspapers in the mail in the Postal Act of 1792, recognizing their critical role in the development of the nation by setting at a maximum rate of 1.5 cents, while the lowest rate for letters was 25 cents. USO report at 40.

The Post Office's practice of carrying newspapers at a preferred rate facilitated the ability of publishers to distribute the news across America during the development of the Western and Southern frontiers. Through the pre-Civil War period, the rates of newspapers remained a fraction of the rates for letters. Until 1845, newspapers paid one cent postage for circulation up to 100 miles or anywhere within their states and only 1.5 cents to destinations beyond. Richard B. Kielbowicz, "The Press, Post Office and Flow of News in the Early Republic," *Journal of the Early Republic*, 2 (Fall 1983), summarized in *Report to the Congress: Preferred Rate Study*, Postal Rate Commission June 18, 1986 at 21. (Preferred Rate Study). Then Congress recognized the challenges the long-distance national newspapers posed to local newspapers, which had higher production costs because of their smaller sizes. To enhance the competitive position of local news, Congress granted the right to circulate postage-free within 30 miles of the office of publication. Preferred Rate Study at 23. Except for a short period in 1873 when Congress interrupted all preferred mailings, (Preferred Rate Study at 28), Congress continued to emphasize the importance of local community newspapers by continuing the free postage privilege for at least a portion of the newspaper mailstream through 1962. At that point the Post Office was handling 351 million postage-free in-county newspapers a year. See Preferred Rate Study, p.35-46. After the free carriage was

abolished, the Post Office still heavily subsidized the local newspapers, delivering at .7 cents per piece when the cost to the post office was 5.3 cents. *Id.*

Congress continued into modern times its solicitude for the community newspaper. The Postal Reorganization Act re-examined the postal privileges of the local newspaper and expressly carried them into the new era of the United States Postal Service. It set out to trim the subsidy by phasing in cost-covering rates, but limiting the eventual postage price to the direct and indirect cost to the system (P.L.91-375 §3626) and then further stretching out the phase-in over a 16-year period. P.L. 93-328, §3626 (1)-(3). The Postal Accountability and Enhancement Act (PAEA) of 2006 reaffirmed the concern of Congress for local newspapers by re-enacting old §4358, once again granting newspaper mail preferred status. P.L.109-435, §1003.

The long history of partnership between publishers and the Postal Service is relevant to this proceeding. It raises questions about the short shrift given these traditional mailing customers in the Service's analysis. The record demonstrates again and again that postal management went into its project on 5-day mail knowing it would receive objections from newspapers, continued its work as if by design to avoid any analytical result that might quantify or even describe the potential harms and then brought this matter to the Commission having given no further consideration to the impact or potential solutions other than to extend the Service's "sensitivity." Direct Testimony of Samuel Pulcrano on Behalf of the Postal Service, Docket N2010-1, March 30 at Tr.2/193.

Although Congress has not specifically required the Service to deliver newspapers on Saturdays, it certainly has given ample indication over 150 years that it considers the newspaper delivery mission to be an important element of universal service. That the privilege was extended after the establishment of the telegraph, the radio, the television and, in our own millennium, the Internet, presents more than a hint of a mandate that the Service should take local newspaper delivery into account when it considers policy changes as sweeping as the one presently before the Commission.

But today it is apparent that the Service considers the impact of its plans on newspapers to be a mere footnote in its importance to the service mandate. Whether this neglect results from the Service's belief that Periodicals mail does not cover its costs despite its denial that it considered such a factor (NNA/USPS T1-8, Tr.2/108); or whether it is because there is no single "customer" to consult, or because the Service considers itself now to be an advertising medium, (NNA/USPS T1-9, Tr.2/110) that might compete with newspapers or some other unidentified reason, remains obscure. But with more than 200 years of history with newspapers, one might think the tradition would be given more than the passing glance USPS has afforded it in this matter.

Witness Pulcrano asserts that there is no "practical or fair way" to make exceptions and provide Saturday delivery for customers solely because of the value, importance or time sensitivity of mail pieces. (Pulcrano at 11). He glosses over the obvious exception that the Service did decide to make for value, importance and time sensitivity: the delivery of Express Mail. At 10, lines 19-21. Obviously, the Service is capable of sorting out the practicalities for exceptions when the incentive is strong enough.

C. The viability of many local newspapers will be threatened by an end of Saturday mail delivery.

The outpouring of concern from community newspaper publishers in this proceeding has been perhaps greater than that from any other mailing community. Fear of substantial harm to the publishers' ability to continue to gather and distribute the news motivated newspaper witnesses to appear at four of the Commission's seven field hearings. Commissioner Blair noted the outcry in his opening statement in the first evidentiary hearing, calling the publishers' description of impact "devastating." Tr.2 at 59.

In Dallas, Phil Major of the Wise County (TX) Messenger explained why the loss of Saturday mail would affect his twice-weekly newspaper. He publishes a weekend edition that he considers essential to his community.

"We work with the schools; we cover local politics. We are the center for community news, the births, deaths, marriages and graduations. No other medium can serve the role of local news providers that we do....The weekend paper provides people with a lot of material that we could not replicate if we published on a Friday or a Monday. It gives our advertisers the opportunity to offer late-breaking sales updates...." at 15.

He goes on to explain why the newspaper is the essential medium in Wise County.

"First, nearly 32 percent of the households in our state have no Internet access at all and only about 57 percent have broadband. In rural areas, more than 18 percent of households still use dial-up links, which means they certainly aren't going to see our videos and probably not using the computer for much more than basic text e-mail. Second, although we have a very popular and progressive web site, people want a printed newspaper. Our readers prefer to read the news that way....Third, even for those who do prefer Internet news, a local news site is not financially sustainable. If we didn't have our newspaper, we could not have a Web site....We cannot simply shift publication dates. We do not own a printing press. Even if we wanted to go to press on Thursday night for Friday delivery, we

would be at the mercy of the press owners for an earlier time slot. We could not expect our small staff to be able to gear (up) for another issue on Friday as they've just completed a Wednesday paper. We would wear them out. It is unthinkable to publish a weekend paper on Monday. That is not a newspaper; it is a history book." Six Day to Five Day Street Delivery and Related Service Changes 2010, Docket No N2010-1, Dallas Field Hearing, Dallas City Hall Council Chambers May 17, 2010, 15-16. (Dallas Hearing)

Another Texas publisher, Roy Robinson, publisher of the Graham Leader, presented data from the Texas Press Association, representing 503 newspapers. He reported that 45 semiweeklies publish a Saturday paper, and that they rely upon USPS for 48 percent of their distribution. 51 weekly newspapers publish a Friday issue that depends upon USPS for 75 percent of their distribution and 38 dailies publish Friday issues that rely upon USPS for 16 percent of their distribution. His own newspaper group, Graham Newspapers, Inc, relies totally upon USPS for subscriber distribution, about 1.85 million pieces per year. He called his weekend edition "integral to the success of the newspaper and to the community." In addition to the newspaper's importance to Graham and surrounding towns, the newspaper revenue provides the largest revenue account for local post offices, he said. Dallas Hearing at 19.

Robinson testified:

"Clearly proposed reduction of delivery service to five days would impact smaller and rural communities more severely than metropolitan and suburban cities. It is common across vast rural areas of Texas for a community newspaper to serve as the primary informational and advertising source for neighboring communities in adjacent counties. Same-day delivery is generally not available for outlying readers. The loss of Saturday delivery in those areas would delay delivery of Friday issues until Monday of the following week or Tuesday in holiday weeks....the impact could have incalculable consequences." Dallas Hearing at 20.

Christopher Huckle, a fourth generation publisher of the Cadillac (MI) News, traveled to Chicago to provide his views. He feared the end of Saturday mail would be

“immediate and irreparably harmful” to his newspaper, a harm that he would be ill-equipped to avert. His Saturday newspaper cannot be shifted to a Friday or a Monday because he already publishes issues on those days. He would expect to lose most of his revenue from the Saturday newspaper, which is the largest of his publishing week. The local post office would lose more than \$500,000 a year in Periodicals postage, and more if his Standard Mail shopper were taken out of the mails. The net result, he said, would be “fewer postal jobs, fewer newspaper jobs, disappointed and under-informed readers and challenged advertisers who counted on Saturday’s mail to bring in customers.” The United States Postal Service’s Six-Day to Five-Day Street Delivery and Related Service Docket No. 2010-1, Field Hearings, Council Chambers, Chicago, IL, June 21, 2010 at 141-146.

Joseph Adams, publisher of the Lebanon (TN) Democrat, publishes a daily newspaper with a circulation of around 7, 500, of which 6,000 are delivered in the mail. His newspaper is at risk of losing \$280,000 per year in circulation and advertising revenues if he cannot deliver on Saturdays, Saturday being the largest advertising day, he would lose more than 20 percent of his newspaper’s revenues if his Saturday edition could not be delivered. If he were to suspend the Saturday newspaper, USPS would lose \$37,000 in Periodicals revenues. But if he were forced to establish a private carrier force, the Service would lose the Democrat’s full publications’ mailings, including \$180,000 per year in Periodicals postage and \$180,000 in saturation rate (Standard) mail publication. He reported discussions with six other newspapers in a similar predicament: they all have Saturday editions that must be delivered on Saturday and would require private delivery if Saturday mail service were suspended. He does not

address whether the newspapers have the capacity to create home delivery. Six-Day to Five-Day Street Delivery and Related Service Changes, Docket No. N2010-1, Memphis Field Hearing, Memphis City Hall Council Chambers, May 19, 2010. At 37-38.

Others conscious of the newspaper/postal delivery partnership also expressed their concern.

Rural Letter Carrier Jeanne Anne Landi, testifying at the Sacramento hearing, worried about her rural newspaper readers. Regulatory Commission Sacramento Field Hearing, Docket #N2010-1; USPS Six-Day to Five-Day Delivery Proposal, May 12, 2010, At 75. Another rural carrier lamented the impact on the mail recipients on his 106-mile route, where he delivers both newspapers and medicine. Dallas at 118. Yet another, a 30-year veteran of the city letter carriers association, expressed the belief of Nevada State Association of Letter Carriers that the needs of Saturday mail recipients, including newspaper readers, are closely intertwined with the future of the Service itself:

“Saturday delivery is very important to everyday Nevadans, whether they are seniors who depend on mail-order prescriptions or their Social Security checks, veterans who depend on those things, also customers who purchase fresh fruit or other goods online, for example Netflix, or the readers of church bulletins and newspapers. If Saturday delivery is eliminated, each and every one of them will be affected. If that day or any other day is eliminated, our customers will look for alternate methods of delivery. And once that happens, you can hear the death knell of the Postal Service. Case: Las Vegas Postal Regulatory Commission Field Hearing; Transcript testimony of the Postal regulatory Commission field Hearing, May 10, 2010 at 66.

NNA expert witness Max Heath, the industry’s liaison to the Postal Service’s Mailer’s Technical Advisory Committee since 1989, finds that affected newspapers would have three elements in common:

1. They cannot eliminate their Saturday newspapers and shoppers without serious harm to the business.
2. They are the only newspapers in their towns.
3. They have developed their own business plans in reliance on 6-day mail service. Rebuttal Testimony of Max Heath, NNA T-1, on Behalf of National Newspaper Association, (Aug 2, 2010) at 5.

He discussed the predicament of the 6-day daily newspaper, such as that published by Huckle, and notes that there are no good alternatives. Reporting his belief that Huckle would lose much more than one-sixth of his revenue from the loss of one-sixth of his publication days, Heath examined whether simply trying to shift advertisers to the Friday issue instead would avoid the impact, with higher rates to compensate the publisher for the lost Saturday revenue. But such a strategy is not likely to succeed, he said.

The negative consequences of a missing delivery day reach beyond the Saturday newspaper publishers, Heath testified. From personal publishing experience, he found frequent delays in delivery within a newspaper's trade area on regular mailing weeks, and "greatly exacerbated" problems when one of the Monday holidays occurs. His beliefs are supported by the Postal Service's work hour data, showing that even as late as a Thursday or a Friday after a Monday holiday, office hours, street time and mail volume are inflated over a normal Thursday or Friday. NALC/USPS T3-3, Tr.2/370; NALC/USPS T3-4, Tr. 2/371.

Thus, Heath reaffirms Robinson's belief that a Thursday or Friday edition still in the mailstream over the weekend is at risk of non-delivery before the weekend even with Saturday delivery. Without it, weekend newspapers would arrive too late, resulting in cancellations and costing publishers thousands of dollars in lost business. Heath at 8.

NNA witness Al Cross, executive director of the Institute for Rural Journalism and Community Life, cited other publishers responding to his informal survey of the industry. Some reported fear of harm to their newspapers if Saturday mail were to be lost. The news is supported by advertising, and advertisers want the weekend newspaper, he reported. He quoted Sullivan County Democrat publisher Fred Stabbert, who participated in the Institute's informal survey of publishers, on the potential effect on delivery of his Friday issue:

“...we do have readers who live some distance away and do not get the newspaper until Saturday. This concerns us. If the paper doesn't arrive until Monday, it would probably be null and void for a lot of our advertisers.”
Rebuttal Testimony of Al Cross, NNA T-2, on Behalf of the National Newspaper Association, quoting Stabbert, at 9.

The Columbian-Progress in Columbia, MS, delivers to its Saturday subscribers entirely by mail, Cross reports. It has another issue on Thursday, so moving the Saturday newspaper to Friday is not feasible, and publishing on Mondays would not attract advertisers. Publisher Julie Johnson lamented to the Institute, “I do not know what we would do,” if Saturday delivery were stopped. Cross at 8.

The Service recognized at the outset of the docket that certain mailers will be unhappy with the 5-day proposal because of the need for Saturday delivery, and that among them are community newspaper publishers. Postmaster General John E. Potter admitted as much in testimony before Congress. NNA/USPS T1-7, Tr.2/107. But it has

done scant analysis of the impact of the decision upon these publishers: it did not examine whether publishers were able to change their production schedules (APWU/USPS T1-6, Tr.2/77), nor the impact on their news-gathering or other resources, (Tr.2/78). In fact, it did no research whatever into the impact upon newspapers. Tr.2/189.

The policy witness, Mr.Pulcrano, insists he had discussions with some newspaper publishers on the topic, but the only person he could remember talking with about it was NNA's counsel. He cited the Service's previous studies to support his memory, Tr.2/196, but a search of the record produces some feedback from national accounts, and witness Elmore-Yalch's says simply that there were no community newspaper publishers within the groups she surveyed. NNA/USPS T8-4. Community newspaper readers were not in the mix in the qualitative research of Opinion Research Service, because the surveyor believed that mail delivery of newspapers was too insignificant to include. Revised Response to NNA/USPS T8-8. The best the study could do was to assume that participants understood that no residential mail would arrive on Saturdays, so delivery of their newspapers would be encompassed in that service change. But it evidently did not attempt to understand how the newspaper readers felt about that particular loss. NNA/USPS T802.

USPS believes some recipients "could live with" the absence of a Saturday newspaper, Tr. 2/185, but its market research is devoid of any serious measurement of community newspaper recipients' views. The lead policy witness is unaware that within county newspapers provided volume increases to the Service during a time when all

other mail volume was falling. Tr.2/198. So the potential importance of these publications in the mail mix was overlooked at least by the policy witness.

The Service was not always so neglectful as it built its plan. It cites its efforts to work with other mailing industries on their concerns, including pharmaceuticals mailers, (APWU/USPS T1-6, Tr.2/78), whose concerns drew a considerable amount of time from the USPS Five-Day Team, (Tr.2/139), election officials, (Tr.2/142) or the “periodical or magazine industry.” Tr.2/163. Witness Pulcrano cites discussions with “individual mailers, mailer associations, including MTAC, and consumers,” (DFC/USPS T1-1, Tr.2/88), but NNA Witness Heath asserts his own position as lead representative of NNA on MTAC and insists his association was never approached for discussion of possible impact solutions. Heath testimony at 14. It is evident that precious little of the Service’s resources or consideration went into truly considering the impact upon its 200-year-old partner in the mailing industry. Beyond the Service’s being “sensitive,” as Pulcrano placidly asserted, Tr. 2/195-7, it would appear the decision was made early on to throw the small newspapers under the proverbial bus. Any other interpretation is difficult to find.

**D. Other significant stakeholders continue to need Saturday delivery:
the Postal Service has unique importance in rural America.**

The Postal Service has the statutory obligation to provide service without undue discrimination. 39 U.S.C. §403(c).

It also is required to provide a maximum degree of effective and regular postal services *to rural areas, communities, and small towns where post offices are not self*

sustaining.” 39 U.S.C. §101(b). Read together, the law suggests that giving an extra measure of consideration to rural areas and small towns does not amount to undue discrimination, but in fact enables the Service to perform the universal service mandate expected by Congress.

In this docket, it abandons that extra measure of consideration for rural America and instead suggests that its purportedly even-handed treatment amounts to non-discrimination. It will, after all, end residential service in rural and urban areas alike. Pulcrano at 6, line 20. But the law does not require it to be so even that its actions disproportionately harm rural areas and small towns. The law pushes the Service in the opposite direction.

Several witnesses urge the Service to observe its rural mandate. They strongly aver that rural America needs the mail more than its urban counterpart.

The National Grange of the Order of the Patrons of Husbandry believes 6-day delivery is essential. Testifying for the Grange, Edward Luttrell says the loss of Saturday mail will create a disproportionate hardship for rural America. Testimony of Edward Luttrell, President, National Grange of the Order of the Patrons of Husbandry, sponsored by the Public Representative of the Postal Regulatory Commission, August 3, 2010 at 1. He cites the “digital divide” that bars many rural Americans from easy access to the Internet saying that fewer than 5 percent of residents in towns with fewer than 10,000 residents have broadband access. *Id.* at 2. For rural households in general only 39 percent have broadband service. *Id.* at 3.

He believes that rural America has the highest percentage of self-employed individuals, which are heavily reliant upon mail service. Many of these are small farmers, who cannot afford the time investment of driving to post offices for mail service. Delays in payments or product deliveries disproportionately affect these micro-businesses, the Grange believes. While some critical items may adjust to a 5-day delivery scheme, some are critical Saturday deliveries, such as pharmaceuticals and farm animal products, such as live poultry chicks. There is no suitable alternative to Saturday delivery in some cases, Luttrell told the Commission, at 4-6.

The possibility that rural residents could not receive even Express Mail on Saturdays, despite its availability in urban areas, arose as a part of the Commission's Rapid City field hearing, and was later pursued by Commissioner Acton during cross examination. Commissioner Acton's concern was that without general Saturday delivery, there would be no avenue for moving the Express Mail from city processing centers to the rural post offices. Tr. 2/237. All the Service could say in response was that it would figure out something, in the process rhetorically casting the unserved areas into the "very remote areas" bin. Tr.2/238.

Mr. Pulcrano, the policy witness, says the Service is "well aware of the differences in the rural communities and urban communities, Tr.2/201, but its awareness looks like the awareness of an urbanite, whose view of the bucolic countryside simply means a resident has to think about buying milk before going home from the city. Tr..2/203. If that is the extent of the Service's understanding of rural America, it is not surprising that its qualitative research into rural life consisted of surveying Gwinnett County, GA., and Snohomish, WA, two nominally-rural but largely

suburban counties. NNA/USPS T8-4. No research into west Texas, southern Montana, northern Arizona, northwest Iowa, western Kansas, Michigan's Upper Peninsula, upstate Maine, coal-mine towns in Kentucky, small Hawai'ian islands, or Talkeetna, Alaska, or any other sparsely populated area appears on this record. The Service's insights into rural America are pitiable. The Commission would do better to listen to the views of the various letter carriers who testified in the field hearings or the still-surviving baby chick shippers if it wants a sense of rural America.

The impact of the loss of Saturday mail on states with Saturday elections has become a part of the record, indicating that there are such ballots in Louisiana, Delaware and Texas. Response of Witness Pulcrano to Chairman's Information Request No. 5, Tr.2/130. Possible diversion of voters from Oregon's famed vote-by-mail experience raises the possibility that the voting franchise in that state will be affected. Testimony of Oregon Secretary of State Kate Brown. But nowhere will the impact on vote-by-mail be as great as in rural America, where travel distances are the greatest and mail balloting provides an opportunity to encourage voting. Grange witness Luttrell cites a proliferation of small governing bodies, such as rural electric cooperatives, rural water cooperatives, rural telephone cooperatives, credit unions, and farm supply cooperatives, for which mail ballots are an essential component for elections. A slowing of mail delivery will risk disenfranchising those voters. Luttrell at 6. States operating under the oversight of the Voting Rights Act of 1964 may be at risk for penalties if delayed delivery affects elections in those jurisdictions, he says. Id.at 7.

E. Service standards will indeed change if there is no Saturday mail delivery.

The Service tautologically insists that there will be no diminution of service standards if residential mail ceases on Saturdays. It is just that the mail will be delayed by a day. Tr.2/192. It does intend to cease most mail processing operations on Saturdays, and it will neither pick up from blue boxes—most of which now have Saturday pickup (DBP/USPS-14. Tr. 7/1646)—nor transport mail from mail processing units to local post offices. Presumably the mail in the pipelines—whether in a blue box or sitting in a plant—will go into a state of suspended animation. Tr. 2/148. But since the service will not use its start-the-clock or stop-the-clock measurements while that mail sits, it proposes to simply ignore Saturdays as if they did not exist. Then, in its own peculiar logic, it can insist, “we’re not changing our service standards.” Tr.2/147. The fact that mail caught in the pipeline on Saturdays will simply stop moving, and thus will presumably arrive later than it would in a 6-day processing environment seems to be simply an inconvenient contradiction. In fact, as Pulcrano admits, the service intends to protect its “standards” by stopping its clock. But the service itself will be dramatically diminished. One suspects the American public will pay scant attention to the postal clock, but will note that its mail is arriving later. What public reaction will ensue a year after 5-day service begins when the Service touts its on-time deliveries can only be imagined.

F. The Service has indeed at times presented its 5-day scheme as *fait accompli*.

On rebuttal, the Service tries to recover from its public spin on the inevitability of 5-day mail by cataloging out the times it has recognized the role of the Commission and Congress. Surrebuttal Testimony of Samuel Pulcrano on Behalf of the United States Postal Service, Docket N2010-1, at 2. But the passing mention of Congress and the Commission in the witness's presentations does not remediate the Service's ill-disguised intention to present 5-day service as inevitable and the Service's plans as fixed. Mr. Pulcrano in his direct testimony states that "the Service intends to implement the service changes described summarized above ... during fiscal year 2011. The centerpiece of those changes is the elimination of routine mail delivery to street addresses on Saturday." Pulcrano at 3. He goes on to say blue box collection **will** be discontinued. Saturday post office box service and Express Mail delivery **will** continue. (at 4). Accordingly, the Postal Service **intends to implement** the service changes...during fiscal year 2011. Pulcrano at 5. (emphasis added). The statements are declarative and emphatic, not conditional. The 2011 implementation date appears again and again, APWU/USPS T1-2, Tr.2/71, as does the evident conclusory nature of USPS's decision. USPS tells intervenor Carlson that "the operating concept was not finalized until February 2010, at which time it could be said that **any consideration of preserving Saturday Collection and processing of outgoing mail ceased.**" DFC/USPS-T1-3, Tr.2/92.

Pulcrano goes so far as to insist that it will be the Postal Service's sole decision whether exceptions to its preferences would be granted. NNA/USPS T1-7, Tr.2/107,

and that 5-day service is “inevitable.” Tr.2/255. Only when pressed during cross-examination does the witness concede that Congress and the Commission have an important role in the discussion. Tr.2/189.

These are hardly the statements of an administration seeking the input of its stakeholders through the Commission’s docket. Rather they are the determined declarations by management that its mind is made up, and its research has supported its predetermined end. That it has made no contingency plans for reversing course in the event it goes to 5-day delivery and discovers it has committed a franchise-killing error is telling evidence. Tr. 2/272.

Perhaps its approach is best explained by the Service’s belief that the decisions on scope of service should belong to management alone, best set out by this perplexing sentence: “Postal management is charged with the responsibility of determining the extent to which cost-cutting will be of such a nature as to affect a change in service.” NNA/USPS T-11, Tr.2/113.

It may be true that it is management’s responsibility to determine the most efficient way to provide service, but the multiple mandates that constitute the USO provide irrefutable evidence that it does not alone decide on its scope of service: it is the Congress, with the Commission’s counsel, that has the final word on universal service.

G. Analysis of mail recipient views must be read in context.

The expense to which USPS went to demonstrate that Americans do not care whether they receive their mail is only one ironic aspect of this case—although the

Service would no doubt protest that people care deeply about getting their mail, just not on Saturday. The Service is put into a contortionist position in this docket, trying to demonstrate that there is no need for its service, all the while protesting the importance of allowing USPS to radically cut delivery standards so that it can preserve its service. The position it is forced to take in order to justify the claim that Saturday mail is no longer needed is probably unavoidable, given the unenviable financial morass in which the Service finds itself.

But the Commission must not take the stakeholder research at face value. First, as noted, little research if any into the needs of truly rural America appears on this record. Second, as Commissioners occasionally pointed out during oral cross-examination, people asked to choose whether to give up Saturday service were provided Hobson's choices: either lose the mail or have a local post office closed. Either lose the mail or experience a rate increase above inflation.

In fact, as Commissioner Blair pointed out in the first hearing, USPS is seeking both to close post offices and to raise rates above inflation. Tr. 2/186.

Reliable market research would provide the stakeholders a set of realistic alternatives. Closing post offices and hiking rates far beyond inflation are only a few of those available to the Service. Until such a list is developed and undertaken in good faith, the Commission would be wise to take consumer reaction with a grain of salt. But if the research is, indeed, a fair read-out of consumer reaction to the mail, the fears of letter carrier Griffin noted above may be closer to reality than the Service thinks.

III. Cost savings estimated by the Postal Service depend upon inadequate assessments of competitive erosion in the Standard ECR mail markets.

The testimony of witness Elmore-Yalch lays out the basis of the Service's belief that its potential exposure to major volume losses is manageable, within the scope of trade-offs it feels compelled to make. The extent to which its research is viable is beyond the scope of NNA's rebuttal in this docket, resources of the organization being limited. But several obvious omissions should be cause for concern by the Commission.

First, the testimony by NNA and newspaper witnesses at field hearings repeatedly asserts that Saturday publishers capable of doing so will be forced to set up private delivery forces if residential mail delivery ceases on Saturdays. Witness Huckle makes it clear that if forced to such an extreme, he will be looking for additional eligible advertising now in the mailstream for his delivery force, to help share the cost burden. Heath points out that the fixed cost sharing economics of USPS delivery systems would be the same for newspaper carriers. Once a carrier force is on the street, it will have incentives to seek additional volumes to carry. In a local community environment, those volumes could be advertising mail that would otherwise be in the mailstream. Heath at 11.

Keith Judkins, president of the National Association of Advertising Distributors, testified in the Dallas hearing that the 25 letter shops in his association oppose the loss of Saturday delivery precisely because of the opportunity it would present for USPS competitors. His group has a unique understanding of the competitive forces because many members began their businesses as alternate delivery carriers. Dallas at 109. He

cited but did not identify the plans of one large newspaper to roll out a new private delivery force if USPS abandons the field of Saturday mail. Dallas at 110.

But remarkably, USPS says it has not tried to estimate the value of its competitive position as a deliverer of mail on Saturdays. PR/USPS T3-5, Tr.2/115. It believes its only competitive advantage from being in the delivery field on Saturdays is in the package industry. Tr.2/154.

The correct estimate of cost savings in a Saturday mail environment has to include business lost as well as direct and indirect costs averted. If new local carrier forces siphon mail out of the mailstream –mail in addition to the host newspaper piece that requires the service—the Postal Service will assuredly lose volume. But that risk is not factored into its estimates, because USPS chose not to study it.

IV. Alternatives have not been fully examined or considered.

The Service presents its request as an unavoidable but regrettable necessity. But it offers little indication that it has given alternatives any serious consideration.

1. Dropping any day but Saturday was never considered.

Witness Pulcrano, who headed the Service's Five-Day Team, is explicit in his response to a question of the American Postal Workers Union that the selection of Saturday was made before his team began work, and reiterates many times that no other day was considered. E.g. APWU/USPS T1-9, Tr.2/86; NNA/USPS T1-1,Tr.2/101; Tr.2/177. His response to APWU/USPS T1-1 Tr.2/70 explains the advantages in the choice of Saturdays in his direct testimony: it has the lowest average daily volume and businesses are closed that day being the primary bases.

But he cites “operational efficiencies” as the reason Saturday was selected (DFC/USPS T1-1, Tr. 2/87) referring again to the impact on businesses and the light mail volume, but without explaining any “efficiency” but one: Saturday is adjacent to Sunday. Pulcrano at 10; NNA/USPS T1-1, Tr.2/100. A choice of any weekday for non-delivery would require additional stops and starts, though Pulcrano admits USPS did no actual cost analysis of such an option. Tr.2/179.

However, Monday is also adjacent to a non-delivery day. Its selection as a non-delivery day would avoid the dual start/stop actions that Pulcrano says USPS wishes to avoid. The start-stop operational impact that Pulcrano discusses at 10 would presumably be just as avoidable on Mondays, and Monday operations even have the advantage of receiving little destinating volume NNA/USPS T1-1 Tr.2/101. Yet, the Service exhibits a certain duality in views about Mondays. In one iteration, it is a “significant heavy day,” Tr.2/181, and in another it has sufficient capacity to absorb the mail that will build up over a two-day weekend. Possibly both statements are true. But the absence of analysis of a Monday non-delivery leaves the Commission without the tools to evaluate the statements.

The reasoning behind the choice of Saturdays as the dropped day appears to have rested primarily upon a presumed preference of businesses. NNA/USPS T1-2, Tr. 2/102. (That and the fact that employees presumably would prefer weekends off. NNA/USPS T13, Tr. 2/103) But it is not clear on the record that businesses would have a strong aversion to non-delivery Mondays, because they were never asked to assess the impact of non-delivery Monday. While a Monday non-delivery might disadvantage some businesses that are open on Monday but closed on Saturdays, some businesses

have the obverse schedule. Barbershops, beauty salons, churches and small restaurants might be in the population of “closed-Monday” businesses, but the record shows no consideration of such a phenomenon.

There is a reasonable possibility that the service of greatest need to vulnerable stakeholders is Saturday, and the impact on businesses from nondelivery on Monday would be minor, and affect less vulnerable stakeholders. Mondays are admittedly high volume days, according to recent years’ day-by-day breakdowns but the Service liberally assumes that if Saturday mail were abandoned, mailers would shift their patterns to avoid swamping the Monday mail service. Whether opening Saturday and closing Mondays would swamp Tuesday mail service is unknown. The Service chose not to study such an option. Similarly, if low volume were the primary consideration for a non-delivery day, the volumes on Wednesdays have been almost indistinguishable from those on Saturdays in recent years. NALC/USPS T3-9, Tr. 2/376. Why the Service has not seriously considered a Wednesday non-delivery is not adequately explained because it threw the option out before examining it. It is conceivable that mail service would be more reliable, and mail volumes would be better protected if the mail were not allowed to sit on hold for two consecutive days. But that possibility was not studied either.

NNA has not proposed a Monday-non-delivery day nor any other week day for non-delivery as an alternative. Its witnesses made clear that 6 day delivery is the primary concern of its members in this docket. No one has asked them whether, if 5-day mail were essential, which day could be lost with least harm to their own franchise.

The point is the fact that no serious consideration was given to any other day but Saturday, so the record cannot support even an exploration of alternatives. USPS has not delved into the array of reasonable possibilities. Neither NNA nor any other participant in the docket knows how a 5 day scheme might look if mail were still delivered on Saturdays. At the least before a serious change in the USO were to occur, the Commission should have that answer.

2. Most importantly, seeking out any creative solution that would have permitted delivery to rural areas has obviously never been on the table.

Given the Service's sensitivity to the needs of community newspapers and the multiple concerns about impact on rural America that have been expressed, one would expect at least some testimony from the Service about its attempts to devise a solution to providing mail service to the most vulnerable of its stakeholders. It did secure, after all, a commitment from its workers' organizations that no union holds the franchise on Express Mail delivery. Any postal employee can deliver Express Mail. Tr.2/205. It should not be beyond imagination that a similar accommodation could be reached for newspaper delivery, particularly in rural areas. The Service does have a unique compensation relationship with rural carriers, who are compensated in part on a mail volume basis. If the Service numbers are accurate, leaving rural carriers on the streets on Saturdays should create only a \$.5 billion cost consequence. NNA/USPS T2-11 redirected from Pulcrano to the Postal Service. Tr.7/2261. Possibly a solution that provides some service to rural America from these carriers could be considered if the

Service were to accept that serving customers who need more than others isn't necessarily an act of discrimination, but simply good service. The Commission may take notice that the Service is presently in negotiation with its rural letter carriers association, a group that chose not to intervene in this docket. Perhaps the Service is raising with that organization the possibility of creating an affordable option for continuing Saturday mail delivery in the most-impacted areas. After all, the record shows that the National Association of Letter Carriers, representing the urban cohort, has at least attempted to have such discussions. Direct Testimony of William H. Young on behalf of the National Association of Letter Carriers at 1.

The Postal Service does not seem to consider that the starting point for creative solutions would lie within the scope of labor discussions, despite the evident conclusion that such a solution would have to be devised jointly by the Service and its letter carriers. Rather, Pulcrano rejects an option to create a rural delivery for newspapers with the conclusion that any solution be "fairly expensive" Tr. 2/210, even though he agrees that the cost of rural delivery is less expensive than that of urban delivery. Tr. 2/211.

The ultimate price of a solution would depend upon the cost of service, obviously, and the cost upon the agreed solutions between labor and management. Has the Service contemplated trying to craft such an alternative for rural mail—an alternative that arguably could lay to rest the most vigorous opposition to its proposal? If so, the record shows no indication of it. NNA's attempt to raise the nature of the discussions for the record met with the Service's objection on a point of privilege for the labor talks, and NNA withdrew the question rather than engage in costly motion practice. NNA would

encourage the Commission to conduct such an inquiry. A Postal Service creative enough to come up with a Summer Sale for advertising can surely stretch itself to consider once again whether it can deliver newspapers on Saturdays.

3. Deeper reforms than cutting service are needed.

The Commission has just concluded an exhaustive examination of the Postal Service's financial situation in its denial of relief in the form of exigency rates. It has had the opportunity to thoroughly examine the roots and causes of the financial distress that caused the Service to petition for the 6 day mail change. It has also received analysis from mailers of products that are considered by the Service to be "under water."

The discussion in this docket is not intended to revisit the questions opened in that case. But one piece of evidence in this case illustrates the intractability of cost containing: a cross-examination exhibit introduced during Chief Financial Officer Corbett's testimony. The piece is a table produced by USPS showing the compensation increases in 2008-09 for its four major labor union groups. It indicates multiple raises in a single year. In fact, in 2008, the very year when the Service insisted to the Commission that it should be freed from an unaffordable 6 day mail requirement, multiple compensation increases were granted through the labor agreements. Tr. 3/656-659.

The Service has been watching the effects of electronic diversion since 1984 when Dr. George Tolley first factored the phenomenon into his forecasts, GCA/USPS T2-2, Tr. 7/1763. It has repeatedly cited its excess capacity as a way to justify volume discounts, Summer Sales and the like. Yet it affirms that it had no layoffs in 2009 and intend none in 2010. MPA/USPS T2-10/11, redirected from Witness Corbett to the

Postal Service. Tr. 7/1799-1800. Layoffs, wage freezes and furloughs are painful evils of recessions, but they are essential tools that businesses must sometimes use to protect themselves from insolvency and their workers from even more massive losses of employment.

The Service insists it should be left to make critical business decisions like levels of service as a private business would. Perhaps the zeal it employs in persuading the Commission to recommend a loosening of the 6 day delivery rule could have been devoted to finding voice for petitions to Congress for the management tools it truly does need, if the Service and its dependent customers are to survive. Encouraging it to do so is only one of the good reasons why the Commission should deny the Service's petition here.

V. Conclusion.

This docket represents an invitation to the Commission to agree with the Service's preconceived conclusions about the scope of service. Continuing years of resistance to one of the few Congressional prescriptions for service, USPS brings this case in as part of its plan to achieve solvency. That it has desired a 5 day service plan for years is no secret, nor is it remarkable that it would study the effects of its plan only to the extent that conclusions would support its ends. But it is disappointing that the Service so completely disregards vulnerable mail users and recipients, and that it does not even go through the motions of devising solutions, except for its costly Express Mail service, which it proposes to continue at today's levels. This is the profile of the old Postal Service, the inflexible, cost-of-service driven government agency that is unable to

look beyond its old strictures, costs and operating models to find better answers for those most affected by its financial reversals. The Commission could provide USPS and the stakeholders in this venerated national postal system no greater service than to send it back to the drawing board to complete the analysis and consider whether a more finely-tuned solution is available.

Respectfully submitted,

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