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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

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Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, DC 20268-0001

In re: Docket No. RM2012-4

Dear Commissioners:

I write to suggest some changes to the Postal Regulatory Commission's procedures for considering Postal Service proposals to change service.

At a time when the Postal Service is reporting losses of \$25 million a day and is doing all it can to head off financial collapse, there is a clear need for postal management to take a number of steps to streamline operations and adjust the Postal Service's network and product offerings to reflect the changing demand for hard-copy mail. This has meant – and will continue to mean – that the Commission will be called upon to examine the Postal Service's proposals and give its thoughts on the advisability of what has been proposed. In the past, the Commission's findings through the advisory opinions it issues have been of great value to the Postal Service, Congress, and postal customers. I have been concerned, however, about the length of time it sometimes takes the Commission to issue advisory opinions. This was especially the case with regard to the advisory opinion on the Postal Service's proposal to eliminate Saturday delivery, which took 12 months to complete. I believe that opinion also suffered from a lack of focus on the key issues that I believe needed examination during the debate about moving to five-day service. Below, I have put forward two recommendations for the Commission to consider as it seeks to improve its operations.

1. Time Limits – As I noted above, I was concerned that it took the Commission 12 months to complete its work on the Postal Service's Saturday delivery proposal. Delays of this length run the risk that the Postal Service could be forced to act on its proposal before the Commission has had a chance to share its thoughts and findings. If this were to happen, it would call into question the legitimacy of the Commission's role in the consideration of significant service changes. It would also run the risk that the Postal Service could make serious mistakes in implementing a service change that might have been avoided had postal managers had the benefit of the Commission's counsel. If the Postal Service were not prohibited by law from eliminating Saturday delivery, it very well may have acted on its original proposal during the year it took for the Commission to examine it given the scale of the financial challenges postal management has been struggling to address. In order to prevent something like this from happening in the future, I recommend that the Commission put time limits on its consideration of Postal Service service change proposals. I recognize that some cases are more complicated than others and may require more time to examine, but setting out a rough timeline for the consideration and completion of the Commission's work would allow the Postal Service to know how long it must wait. It would also give customers some assurance that the Postal Service's proposal will be fully vetted before it is implemented.

Section 208 of S. 1789, the 21st Century Postal Service Act, includes language that I believe could guide the Commission as it considers the issue of time limits. The language would require the Postal Service and the Commission to try and work out a mutually agreeable schedule for the Commission's consideration of proposed service changes. That schedule would be binding on both parties unless there was a mutual agreement to depart from it. The Postal Service would not be able to implement its proposal until the end of the agreed-upon schedule. The Commission would need to issue an advisory opinion by the agreed-upon due date or risk having the Postal Service act alone. In situations where the Postal Service and the Commission are unable to come to agreement on a schedule, a 90-day schedule would be imposed on them. I believe that an approach like this is superior to the current procedures because of the coordination it encourages and the certainty it provides to anyone potentially impacted by the Postal Service's proposal.

2. Non-Adversarial Process – The Commission's current procedures for considering Postal Service service change proposals create, by the Commission's own admission, an adversarial process that would look to most observers like a court trial. It appears to me to work much like the lengthy rate cases that took place before the enactment of the Postal Accountability and Enhancement Act (P.L. 109-435) in 2006. However, unlike pre-2006 rate cases, any recommendations made by the Commission in an advisory opinion are not binding on the Postal Service. In addition, the Commission has no authority that I am aware of to prevent the Postal Service from making any service change it has the statutory authority to make. A lengthy, courtroom-style process, then, may not be necessary or appropriate. Abandoning those parts of the current process that encourage and facilitate often endless interrogatories and rebuttals on sometimes very minor aspects of what the Postal Service is proposing may make the Commission's work more timely. It may also be more appropriate considering the Commission's advisory role .

In the Saturday delivery case, for example, the Commission appeared to have taken a significant amount of time taking testimony on and refereeing an extremely technical debate about the assumptions the Postal Service was making about cost savings and the operational changes that would be necessary to execute a five-day delivery schedule. The advisory opinion ultimately released by the Commission focused on these issues extensively. Much less of the opinion focused on the issues I believe were most important for the Commission to examine – the impact the Postal Service's proposal would have on rural communities and on customers who might be more dependent on Saturday mail or hard-copy mail in general. Removing the need to entertain extended debate on less-pressing concerns could, in this case, have cut the delay in completing the advisory opinion and allowed the Commission to focus more of its time and resources on the key issues that the Postal Service and Congress would need to consider.

Thank you for embarking on this effort and for the opportunity to comment. I look forward to seeing what others have proposed and to working with each of you to improve this process. If you have any questions please do not hesitate to have your staff contact my subcommittee staff director, John Kilvington, at (202) 224-7155 or john_kilvington@hsgac.senate.gov.

With best personal regards, I am



Senator Tom Carper
Chairman
Subcommittee on Federal Financial
Management, Government Information, Federal Services, and
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