

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Modification of Special Services
Product List

Docket No. MC2022-60

**AMERICAN POSTAL WORKERS UNION, AFL-CIO'S
PUBLIC COMMENT**

(July 7, 2022)

The American Postal Workers Union, AFL-CIO ("APWU") submits the following comments on the Postal Regulatory Commission's initial inquiry regarding modification of the special services product list around Gift Cards. From the APWU's unique vantage point of working with the Postal Service to develop the operational process for clerks to accept customers' pay checks as payment for Gift Cards, the APWU can assure the Commission that the Postal Service's testing of accepting third-party paychecks as payment is fully consistent with the law. As the bargaining representative of the employees whose responsibility it is to handle this new form of payment and as a proponent of improving postal services at a time when the Postal Service's performance is suffering in the eyes of the public we serve, the APWU is particularly interested in this Docket proceeding in a constructive way. To that end, we offer these initial comments on the Commission's "pre-proposal" inquiry whether the Postal Service is offering a new service that deserves further attention from the Commission. Our conclusion, based on observing the Postal Service's testing of this new payment method, is that paying for Gift Cards with a paycheck does not necessitate the Commission's review.

On May 16, 2022, the Commission initiated this Docket to “examine the potential need to make a modification to the Mail Classification Schedule” in reaction to the Postal Service piloting a program of accepting payroll checks as payment for Gift Cards. (Order No. 6174 at 1.) The Commission is undertaking, it explained, information gathering to aid it in deciding whether and how to proceed with determining if accepting payroll and business checks as payment for Gift Cards has fundamentally changed the Gift Card price category into a non-postal product or made “an undefined sub-component” of Gift Cards a non-postal product. (*Id.* at 1-2.) In accordance with its rules at 39 C.F.R. §3040 subpart D, the Commission established Docket No. MC2022-60 to gather information including inviting comment from the public on whether the Postal Service’s paycheck payment pilot program comports with 39 CFR §3035, 39 C.F.R. §3040, 39 C.F.R. 3045, 39 U.S.C. §404, 39 U.S.C. §3632, 39 U.S.C. §3633, and 39 U.S.C. §3641. We understand from the Commission’s Order that the Commission is not presently proposing a modification of the product list on which Gift Cards are included, but is collecting information to determine whether to make such a proposal in the future. (Order No. 6174 at n.1.)

As noted in the Commission’s Order, the APWU is involved in the Postal Service’s pilot program for accepting third party paychecks as payment for Gift Cards. The Union’s role has been to ensure that APWU-represented clerks are trained on the “check handling processes” and “standard work instruction[s]” for processing these types of checks. (Order No. 6174 at n.8.) In this pilot, the Postal Service has consistently stressed its concern for complying with the PAEA and the legal limits on offering financial services. Our understanding is also that the Postal Service intentionally kept the number of

locations accepting paychecks limited in the initial launch in order to test the new processes for accepting third party checks while minimizing risk.

As a proponent of genuine postal banking, the APWU acknowledges that the paycheck payment program is not postal banking or even an expanded postal financial service. The APWU supports the Campaign for Postal Banking, a coalition of consumer, worker, financial reform, economic justice, community, civic, and faith-based organizations building a campaign-based movement to inform and mobilize the public to call on the Postal Service to restore postal banking. The Coalition's research shows that nearly twenty-eight percent of U.S. households (100 million people) do not have access to affordable financial services. The Postal Service is, the Coalition believes, in a unique position to provide basic, affordable, consumer-driven financial services via its existing infrastructure. Non-profit financial services provided by the Postal Service could help struggling families nationwide achieve financial stability while strengthening the Postal Service's mission to serve the public. To that end, the Coalition has pressed for genuine postal banking and the expansion of products like international money transfers and money orders to address the realities of how individual customers, particularly those who are unbanked, transfer money to others.

The APWU is enthusiastic about the Gift Card-paycheck payment initiative because it is a small effort to make the Postal Service more meaningful and useful in individual customers' lives. It is not, however, accurate to describe it as a form of postal banking or an expanded financial service. While it does not rise to the level of the kind of banking and financial services that our Coalition partners press for, in the slowly evolving and conservative efforts of the Postal Service, it is, in the APWU's opinion, a constructive

step in addressing the realities of the postal customer base and how they pay for postal services. But it is only a step in the direction of improving the convenience of buying postal products and not a leap in the direction of postal banking. An individual customer, especially one who is unbanked, being able to skip the step of cashing her paycheck in order to buy a Gift Card is hardly an astonishing improvement to the Gift Card program (and possibly other postal services). But progress that enhances the convenience and accessibility of existing postal products tends to happen slowly within the Postal Service, partly because of the Postal Service's rigid adherence to a narrow view of the law prohibiting non-postal products and services. The APWU can assuredly say that the Gift Card-paycheck payment initiative is a functional service improvement that is within even what the APWU believes to be an overly conservative reading of the law preventing the Postal Service from offering full postal banking and new financial services. Allowing customers to pay for Gift Cards with a third-party paycheck is neither of those things.

1. The “Pilot Program” is not a formal pilot program that requires the Commission’s review.

At the outset, we observe that the language being used in this proceeding appears to be causing unnecessary alarm. Both the Commission and the Postal Service have referred to the paycheck payment method as a “pilot program”, (see CIR Request No. 1, question 1; USPS Response to CIR No. 1), insinuating that this is a large initiative exploring a new service. Our understanding is different, that the Postal Service is incrementally testing a new payment method primarily to see if it is workable rather than if it is popular. The paycheck payment method is not a “Pilot Program” as might be contemplated under the law and regulations, and is not the kind of multi-pronged initiative which could require significantly more data collection and research and possibly

Commission review. (See 39 U.S.C. §3641 (Market tests of experimental products) and 39 C.F.R. Part 3045 (Rules for Market Tests of Experimental Products).) Distinguishing this pilot from larger efforts to launch a new product is important here so the Commission does not begin from the wrong assumption that the Postal Service had launched a new “service” and begun a formal Pilot Program to test that service without notifying the Commission.

In fact, what the Postal Service has represented to the Commission is consistent with what the APWU has seen – that this initiative is to test the technology and security of allowing customers to pay for the already-established product of Gift Cards with a third-party check. There was no need in testing the new payment method to perform market research beyond the limited efforts the Postal Service made to verify there might be some use of the payment method. Nor was there a need to collect utilization data in determining the safeguards for accepting third-party checks as payment. The Postal Service had adequate justification from its limited research to conclude that there are customers who would use this form of payment and to identify what risks the Postal Service should protect against in accepting third-party checks as payment. As noted above, the limited locations where this payment method was accepted were satisfactory for meeting what we understood to be the Postal Service’s goal of testing the security and adequacy of the method rather than its popularity with customers. Despite the external rhetoric surrounding this initiative, the reality is far less ominous. The Postal Service is testing accepting third-party payroll checks as payment for Gift Cards. It is not undertaking a market test of a new product or launching a new financial service that would require the Commission’s review.

2. The Gift Card-paycheck payment pilot program does not create a new service.

Accepting a new form of payment for a previously approved product does not change the nature of the product itself and does not necessitate these proceedings. In MC2014-26, the Commission concluded that “the Postal Service’s sale of gift cards is a postal service and that the proposed sale meets the provisions of 49 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*, as well as 39 U.S.C. § 3633 and 39 C.F.R. § 3015.7.” (Docket No. MC2014-26, Order No. 2145 (Aug. 8, 2014)). The Commission is, of course, familiar with its own ruling, and the similarity it drew between Gift Cards and other postal services as well as the potential for Gift Cards to enhance customer convenience and use of the mails. Importantly, the Commission noted that “[n]o comments were filed that oppose a finding that the sale of gift cards in postal facilities is a postal service.” Including the three years of market testing, Gift Cards have been categorized as a postal service and sold at thousands of postal retail facilities for over a decade.

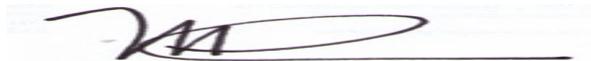
Adding a payment method does not change the nature of the approved Gift Card service. Our understanding is that the core Gift Card program remains the same as it has for over ten years.¹ While the APWU supports a postal banking product, that is not what the Postal Service is testing here. The Postal Service is examining expanding the forms of payment it accepts for Gift Cards while personalizing the Gift Cards to the customer’s needs. If anything, this initiative of adding to the forms of payment for Gift Cards furthers one of the tenants on which the Commission relied in finding that Gift Cards are a postal service – impacting favorably on customer convenience and use of the mails.

¹ This currently includes the fee for the Gift Cards and the \$500 dollar limit on each Gift Card.

The APWU urges the Commission to conclude this Docket without further proceedings. Given the significant changes we anticipate are coming from the Postal Service, this Docket is not the highest use of the Commission's resources. Our understanding is that the Postal Service has not launched a new financial service by accepting paychecks as payment for Gift Cards. Nor, in this instance, does the Postal Service appear to have done anything other than make an operational addition to its payment methods that has not in the past required the Commission's review and approval. The APWU hopes the Postal Service will continue the Gift Card-paycheck payment pilot program and improve features of the existing Gift Card program as well as how customers pay for postal services. We do not, however, anticipate that the Postal Service will make changes in these areas that violate its obligation to seek the Commission's review and approval.

Respectfully Submitted,

MURPHY ANDERSON PLLC

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Melinda Holmes, Esq.
1401 K Street N.W., Suite 300
Washington, D.C. 20005-4126
Tel.: (202) 223-2620
Fax: (202) 296-9600
mholmes@murphypllc.com

*Counsel for the American Postal Workers Union,
AFL-CIO*