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POSTAL RATE AND FEE CHANGES, 2001

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: Docket No. R2001-1
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OPPOSITION OF AMERICAN BANKERS ASSOCIATION AND NATIONAL ASSOCIATION OF
PRESORT MAILERS TO APWU MOTION TO STRIKE PORTIONS OF ABA&NAPM WITNESS
CLIFTON'S TESTIMONY AND PORTIONS OF NAPM WITNESS GILLOTTE'S TESTIMONY

(February 26, 2002)

The American Postal Workers Union, AFL-CIO ("APWU") filed on February 25, 2002 a motion to strike essentially three portions of ABA&NAPM witness Clifton's surrebuttal testimony:

1. That portion of Dr. Clifton's testimony which demonstrates that CRA cost differences between single piece and automated FCM have increased since 1997.

2. That portion of Dr. Clifton's testimony which demonstrates that taken to its logical conclusion APWU witness Riley's "absolute dollar contribution" markup theory would result in a 38 cents FCM single piece rate and lower FCM automated rates than would result from the Settlement Proposal; and

3. That portion of Dr. Clifton's testimony identifying shortcomings in USPS witness Miller's methodology of measuring cost avoidance.

None of the reasons given by APWU to strike such portions of the Clifton testimony have any merit. Therefore, the APWU motion should be denied.

The first justification given by APWU for striking portions of Dr. Clifton's testimony is that the testimony constitutes a "case-in-chief" and is not surrebuttal to Dr. Riley's testimony. Nothing could

be further from the truth. The portions of the Clifton testimony which APWU moves to strike are directly responsive to the very core of the testimony provided by APWU witness Riley. In particular:

- (i) Dr. Clifton's testimony on the increasing CRA costs gap between FCM single piece and FCM automated is directly responsive to Mr. Riley's assertion that cost avoidance for FCM automated is overstated and is declining (Testimony of Riley (APWU-T-1) at 12 Tr. page 4849, lines 9-24; page 4851, lines 22-24 and page 4857, lines 20-25);
- (ii) Dr. Clifton's testimony concerning the results of Mr. Riley's "absolute dollar contribution" markup is directly responsive to Mr. Riley's testimony advocating equal absolute dollar contribution (12 Tr. page 4852, line 1- page 4853, line 2); and
- (iii) Dr. Clifton's testimony criticizing USPS witness Miller's methods of calculating cost avoidance are directly responsive to the fact that the rates proposed by Mr. Riley are directly in reliance upon the cost avoidance measurements of Mr. Miller (12 Tr. page 4864, lines 9-11).

Next in its motion to strike, APWU argues that Dr. Clifton is proposing higher discounts than are contained in the Settlement Proposal. This is simply incorrect. While the cost avoidance measured by Dr. Clifton might support higher discounts, ABA and NAPM, and their witness Dr. Clifton, unequivocally support the FCM automated discounts included in the Settlement Proposal. Clifton Surrebuttal Testimony (ABA&NAPM-SRT-1) at page 2, lines 11-20.

The third argument which APWU puts forth in support of its motion to strike appears to be that settlement parties are somehow precluded from criticizing any aspect of the Postal Service's proposal. The simple fact of the matter is that Dr. Clifton is rebutting the very core of APWU witness Riley's testimony; and the fact that Dr. Clifton's testimony may be critical of a Postal Service witness does

not in any way change the fact that Dr. Clifton's testimony is directly responsive to Mr. Riley's testimony and is therefore unquestionably within the proper bounds for surrebutal testimony.¹

Lastly, the APWU suggests that the Clifton surrebuttal testimony is somehow "late" and therefore subject to being stricken. This suggestion is patently unreasonable in light of the fact that such testimony was filed strictly in accordance with the procedural order issued by the Commission in this case.

For all of the foregoing reasons, the APWU motion to strike portions of Dr. Clifton's testimony should be denied.

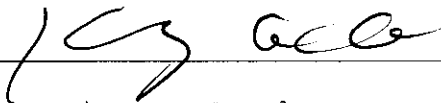
The APWU Motion to Strike Portions of NAPM Witness Gillotte's Testimony (NAPM-SRT-1) is equally without merit. The portions of the Gillotte testimony which APWU seeks to strike consist of Mr. Gillotte's description of numerous costs avoided by workshare mail which are not recognized by USPS witness Miller's methodology of measuring cost avoidance. Mr. Riley opened the door to this testimony when he testified that his discounts were based upon Mr. Miller's measure of cost avoidance (12 Tr., page 4864, lines 9-11), and that the Postal Service's measure of cost avoidance was overstated (12 Tr., page 4849, lines 9-24). Mr. Gillotte's testimony is directly responsive to these portions of Mr. Riley's testimony and is therefore well within the proper bounds for surrebuttal testimony.

For all of the foregoing reasons, the APWU motion to strike portions of Mr. Gillotte's testimony should be denied.

1 The APWU assumption that Mr. Miller's cost avoidance measurement is the only evidence in the case to support the proposed settlement FCM automated discounts is simply mistaken. The Postal Service has provided Institutional responses to, inter alia, interrogatories MMA/USPS -T22-76 (10A Tr. Page 2620) and ABA&NAPM/USPS-T22-4 (designated January 31, 2002). Both responses are in the record in this case and both demonstrate that by use of the PRC methodology utilized in R2000-1, FCM automated cost avoidance measurements can be derived which fully support the settlement FCM automated discounts.

Respectfully submitted,

AMERICAN BANKERS ASSOCIATION
NATIONAL ASSOCIATION OF PRESORT MAILERS

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Date: February 26, 2002

Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.


Henry A. Hart

February 26, 2002