

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

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POSTAL RATE
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POSTAL RATE AND FEE CHANGES, 2001

Docket No. R2001-1

INITIAL BRIEF OF THE
AMERICAN POSTAL WORKERS UNION, AFL-CIO
TO THE POSTAL RATE COMMISSION

Susan L. Catler
O'Donnell, Schwartz and Anderson, P.C.
1300 L Street NW Suite 1200
Washington, DC 20005-4126
(202) 898-1707

March 4, 2002

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¹ In the Notice of Opposition of the American Postal Workers Union, AFL-CIO, filed January 15, 2002, the APWU stated that it opposed the rate design proposed for First-Class Mail in the Stipulation and Agreement because the proposed discounts exceed cost avoided. As the only party to give notice of opposition to the Stipulation and Agreement, this notice, which is limited to First-Class Mail, sets the parameters of the contested issues in this case. See Presiding Officer's Ruling No. R2001-1/27 at pages 7-8. While other discounts in this case may exceed avoided costs, given the expedited nature of this proceeding, the APWU decided to use its limited time and resources to challenge only the First-Class Mail discounts. In addition, to focus attention on the relationship between the cost avoided and the size of the related discount, the APWU used the same cost avoidance figures as the Postal Service used to support this part of its request, those of USPS witness Miller (USPS-T-22). The APWU chose to use USPS witness Miller's figures as they form part of the basis of the justification of the Stipulation and Agreement, which at paragraph 3

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worksharing discount greater than the costs avoided by that worksharing is appropriate at all times, the APWU considers it especially critical now when the Postal Service is in dire financial straits.

I. THE APWU PROPOSAL – FIRST-CLASS MAIL DISCOUNTS SHOULD BE SET BETWEEN 80 AND 100 PERCENT OF THE COST AVOIDED BY MAILER WORKSHARING

The principle the APWU supports in this case – that discounts to mailers because they prepare their mail in a way that saves the Postal Service money should be no more than what the Postal Service saves and could be set less than cost avoided – was the original basis for giving these discounts and was fundamental to the Commission's decision in MC95-1. As the Commission explained in MC95-1:

[3066] In the first classification case, Docket No. MC73-1, the Postal Service proposed that First-Class rates also be varied to reward mailer worksharing. This was based on the premise that if mailers could prepare their mail so that it required less work by the Postal Service, they should be rewarded with a discount which reflected the costs the Service would avoid as a result of the worksharing. The first discount was accorded to bulk presorted First Class. It was set to pass through to mailer some, but not all, of the costs the Postal Service would avoid by not having to sort that mail. The result was a classic "win/win" situation: mailers that could presort their mail for less than the discount would do so, and benefit from lower total costs; the Service would benefit because its costs would be reduced by more than the discount, which meant more revenue available to offset institutional costs. For example, giving mailers a 1.0-cent discount for worksharing which allows the Service to avoid costs of 1.2 cents, makes the Postal Service better off by 0.2 cents per piece. In this

provides that "the undersigned parties agree that, taken in their entirety, the Request, testimony, and materials filed on behalf of the Postal Service provide substantial evidence for establishing rates and fees, . . ." The APWU's decision to confine its objection to setting discounts above avoided costs to First-Class mail and to use USPS witness Miller's (USPS-T-22) cost avoided calculations as the basis for setting its proposed rates should not be taken as indicative of the APWU's positions in future rate cases.

example, everyone benefits, including mailers that are unable to take advantage of the discount.

[3067] This last point is important. Initially there was some resistance to worksharing from those who thought it might be unfair to offer lower, discounted, rates to large mailers. However, it was recognized that because the discount was less than the costs avoided by the Service, even the small mailer would benefit. In the example above, the Postal Service is better off by 0.2 cents, which means that the institutional burden which must be recovered from all mailers, large and small, is reduced by 0.2 cents.

The Commission went on to conclude in paragraph 3068: . . . “the basic premise that everyone benefits as long as discounts do not exceed the Service’s cost savings remains valid.”

The First-Class discounts proposed by the Postal Service in this case and modified as part of the proposed Stipulation and Agreement go in the opposite direction from the Commission’s example in MC95-1 paragraphs 3066 and 3067. Instead of setting the discount at less than the cost avoided, conferring a benefit on all mailers by lowering “the institutional burden which must be recovered from all mailers, large and small,” the proposed discounts are considerably **greater** than the Postal Service’s calculation of the Postal Service costs these mailers avoid by their actions, requiring all First-Class mailers to pick up an added share of institutional cost due to these overly generous discounts..

The APWU set out the magnitude of the problem of these proposed overly large First-Class discounts in APWU witness Riley’s (APWU-T-1) testimony at Table II. Tr.12/4867 – 4868. That Table shows the USPS avoided cost figures from the library reference sponsored by USPS witness Miller (USPS-LR-J-60), the discount the Postal Service originally proposed for each rate category and

the discount contained in the proposed Stipulation and Agreement when it differs from the originally proposed discount. These portions of APWU witness Riley's Table II, without the footnotes, follow in order to show the huge disparity between the reported avoided costs and the USPS and Stipulation and Agreement proposed discounts:

(From Table II, APWU witness Riley) (Tr. 12/4867-8)			
	USPS Avoided Cost	USPS Proposed Discount from Single Piece Rate	USPS Proposed Discount from Single Piece Rate, Settlement Agreement
Letters and Sealed Parcels			
Regular			
Single-Piece First Ounce		0.0	
QBRM	1.647	2.5	3.0
Nonautomation Presort	0.804	1.8	
Additional Ounce			
Single Piece		0.0	
Presort	0.14	0.5	
Automation Presort			
Letters			
Mixed AADC Presort	5.091	6.1	
AADC Presort	5.966	6.9	
3-Digit Presort	6.282	7.6	7.8
5-Digit Presort	7.419	9.0	9.2
Carrier-Route Presort		9.5	
Flats			
Mixed ADC Presort		2.9	
ADC Presort		3.7	
3-Digit Presort		4.8	
5-Digit Presort		6.8	
Additional Ounce	0.14	0.5	
Cards			
Regular			
Single-Piece		0.0	
Nonautomation Presort	0.804	1.8	
QBRM	1.647	2.5	3.0
Automation-Presort			
Mixed AADC Presort	1.361	3.6	
AADC Presort	1.816	4.3	
3-Digit Presort	1.977	4.7	
5-Digit Presort	2.566	5.4	
Carrier-Route Presort		6.0	

Instead of First-Class Mail discounts that greatly exceed the cost avoided, the APWU proposes rates between 80 and 100 percent of the avoided costs² and has provided testimony of former Postal Service Chief Financial Officer Michael J. Riley (APWU-T-1) in support of a general policy of setting rates in this range and of the specific rates proposed in Tables I and II.

Based on his experience generally and with the Postal Service in particular, witness Riley argues that good business management requires that discounts for worksharing be lower than avoided costs. He asserts that no business, including the Postal Service, should give price discounts to its customers for cost saving worksharing activities even equal to the amount saved, let alone larger than those savings:

As a practical matter the U. S. Postal Service operates a huge business as an independent agency of the U. S. Government. As such, I would be concerned when any business proposes to offer price discounts to its customers for work-sharing activities that are equal to the costs avoided by those activities. In a typical for-profit organization, I would expect there to be a monetary incentive to those customers who are capable of saving costs for the organization. The organization, however, would offer a price concession somewhat smaller than the costs that would be avoided by the efforts of its customers.

² See Tables I and II to APWU witness Riley's testimony (APWU-T-1), Tr. 12/4865-4868, for the APWU proposed rates. Keyspan Energy witness Bentley (KE-SRT-1) correctly points out that the cost avoided figure used to calculate the QBRM rate in the APWU proposal, witness Miller's first of three calculations of this figure, is not in the record and is therefore not an appropriate number to use to calculate a rate. Tr. 13/5343-5344. Accordingly, using the cost avoided figure in the record for QBRM, 1.647 cents, the APWU's proposal for QBRM letters should be 35.7 cents for Table I, the 80% table, and 35.4 cents for Table II, the 100% table. The APWU proposed rates for QBRM cards should be 21.7 cents for Table I, the 80% table, and 21.4 cents for Table II, the 100% table.

Tr. 12/4847.

APWU witness Riley identifies the need of the Postal Service to get an adequate return on its enormous investment in automated equipment as another reason for setting worksharing discounts no greater than the costs avoided by that worksharing. After spending billions of dollars over the years to install automated equipment to sort the mail, it makes no sense for the Postal Service to give incentives to mailers to provide less rather than more mail to run on that equipment.

In the early years of its automation program, the Postal Service needed more ZIP + 4 and later pre-barcoded mail to improve its service and allow more efficient use of its automation equipment. Today, that program is essentially complete and it has received numerous upgrades. For example, the ability of optical character reading technology to accurately read handwritten addresses has improved dramatically in the last few years. Thus, the Postal Service should be more concerned with getting a continuing return on the billions of dollars it has spent on its automation equipment in contrast to granting excessive discounts to entice mailers to enter mail that could be processed by the Postal Service at lower cost.

If the Postal Service suffers a large decline in total volume, it becomes more important to maintain its expected return on its existing investment in automation equipment. This means that there is a reduction in the benefits to the Postal Service of mailer prepared automated mail. To be specific, if the larger discounts drive greater volume into pre-barcoded and pre-sorted mail, then the Postal Service will realize a smaller return on its investment in automation equipment. With an 80 to 100 percent pass through of estimated cost avoided, the Postal Service will have more mail to process and more revenue with which to do it.

Tr. 12/4850-4851.

APWU witness Riley, in keeping with longstanding Commission decisions, argues that setting discounts no greater than the amount the worksharing saves the Postal Service will appropriately have identical pieces of mail making the

same contribution to institutional costs, whether these identical pieces are entered as single piece or as part of a workshared mailing:

Each piece of First-Class discounted mail should contribute at least as much absolute dollar contribution as each piece of comparable non-discounted mail. This is especially true for discounts offered within a subclass once the target coverage has been established. Technically speaking, if the target coverage implies a fixed contribution per piece for all pieces in the subclass, then the discount must equal the "actual" avoided cost realized by the Postal Service, so that the contribution of any piece will be the same regardless of in which rate category in the subclass that piece enters the mail stream. Said differently, in the worst case the Postal Service should have the exact same absolute contribution from the mailing of one First-Class letter, regardless of how it is presented. If the price reduction exceeds the cost avoided, then the remainder of the category is required to pay a price higher than the price that would otherwise have had to be paid. I believe that a price reduction higher than cost avoided is inherently unfair.

Tr. 12/4852.

While this proposition has seemingly caused great confusion to the intervenors in this case, Mr. Riley is only reaffirming the same principle, that identical pieces of workshared mail and nonworkshared mail with the same attributable costs should make the same contribution to institutional costs, that was firmly supported by the Commission in MC95-1:

[3070] A simple numerical example will show why the current practice of offering cost-based worksharing discounts is appropriate. If two pieces of mail with attributable costs of 10 cents each are charged a rate of 15 cents, both pieces make a unit contribution to institutional costs of 5 cents and have an implicit cost coverage of 150 percent. If one of those pieces is barcoded, thereby allowing the Service to avoid 5 cents of attributable costs, and that piece is given a 5-cent worksharing discount, its new implicit cost coverage is 200 percent. (footnote omitted) In this example, because 100 percent of the cost savings is passed on to the mailer, both pieces will continue to contribute 5 cents toward institutional costs. Presumably the worksharing piece is better off, because its total costs

decline (otherwise the mailer would not go to the trouble of worksharing) and neither the Postal Service nor other mailers are worse off.¹⁸

[3071] In this example, the implicit cost coverage of the workshare piece is higher than the implicit cost coverage of the piece which does not workshare. In fact, as a matter of arithmetic, in every situation in which some mail allows the Postal Service to avoid costs, the implicit cost coverage for that mail will be higher than the implicit coverage for otherwise similar mail. The Commission believes this is just.

[3072] Although the implicit cost coverage differs as a result of worksharing, the unit contribution paid by each piece remains the same. If rates were adjusted so that each piece had the same implicit cost coverage, the rates for the piece which is not barcoded would rise in the above example. (footnote omitted) There is no justification for raising the rate for these pieces, which have done nothing to increase Postal Service costs. In particular, there is no reasons to shift institutional burdens from mailers who already benefit from a financially advantageous discount rate to other mailers, many of whom may not be able to take advantage of the discount.

[3073] The mailer who workshares receives a discount because the Service avoids costs due to the worksharing activity. When the Commission passes through 100 percent of these savings, the unit contribution for the workshare and residual categories tend to remain equal. The implicit cost coverage on the workshare mail increase, but this is simply a natural consequence of workshare discounts.

Witness Riley proposes rates that pass-through between 80 percent (Table I) and 100 percent (Table II) of cost avoided. Tr. 12/4865 – 4868. Rates within this range are consistent with the Commission's position on workshare

¹⁸ If less than 100 percent of the cost savings is passed through to the mailer, the Postal Service and all mailers will benefit because the savings not passed through to the mailer will reduce the total pool of institutional costs which must be recovered. Also if the lower workshare rate attracts new, additional mail, that new mail will contribute to offsetting institutional costs, and this too will benefit all mail. Theoretically, if the workshare mail has a sufficiently high own-price elasticity, a worksharing discount of greater than 100 percent might attract enough new volume so that all mailers and the Postal Service would benefit. No type of mail has been identified on this record which has that high an own-price elasticity.

discount rates set forth in MC95-1. Rates within this range truly satisfy the requirements of section 3622(b)(4) as the Commission has determined that setting a discount of no more than the cost avoided to recognize worksharing cost distinctions "is most fair and equitable to all mailers." MC95-1 at [3079].

II. THE URGENCY OF THE APWU'S PROPOSAL -- THE HEALTH OF THE POSTAL SERVICE

As the Chairman pointed out at the prehearing conference in this case:

We are meeting at a time when unique and unprecedented challenges are facing the Postal Service. Its business was disrupted first by the events of September 11 and now, even more critically, by the use of the mail system for spreading disease. None of us can know what impact these events will have on the public's perception of the Postal Service, and none of us can know the impact these events may ultimately have on the health of the Postal Service. In our last case, the Commission took notice of actual costs incurred by the Postal Service that had not been reported when the Postal Service initially submitted its request for a recommended decision. It may happen in this case as well. Important facts may come to light while this case is pending, and the Commission may have to decide whether to take them into account in developing its decision.

The Commission is prepared to consider such issues. That is part of our job. .

Tr. 1/39.

None of us want to be here in May arguing about this case, knowing that the Postal Service is at risk and is preparing to file an additional request to make up for losses incurred while this docket was going forward. I urge all participants to recognize the extraordinary times warranted by extraordinary acts.

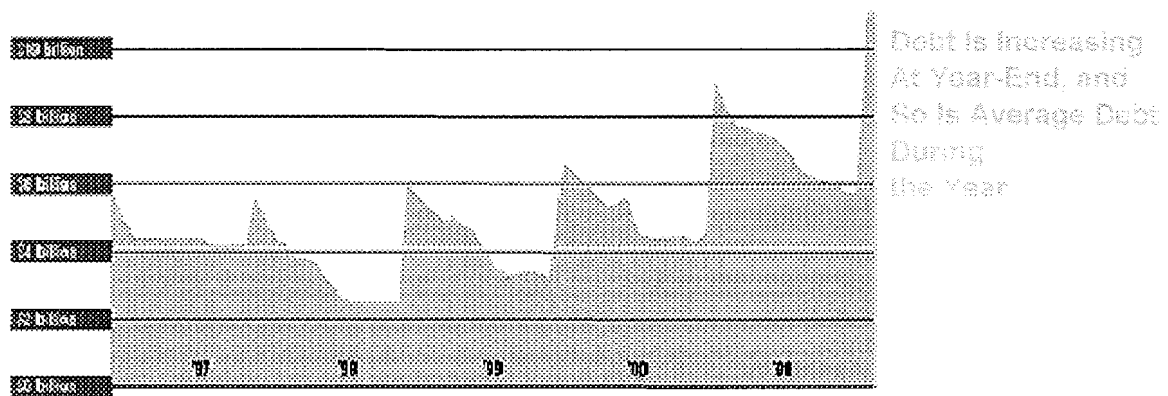
Tr. 1/41.

Given this unprecedented set of circumstances, the Commissioners should consider the current financial situation of the Postal Service. The Postal Service's Annual Report 2001 provides some insights.

According to the Annual Report 2001, since 1997, average debt and year-end debt have steadily risen.

Debt/Average Debt/Interest Expense			
	Year-End Debt \$billions	Average Debt \$billions	Interest Expense \$millions
2001	11.3	6.4	306
2000	9.3	4.7	220
1999	6.9	3.9	158
1998	6.4	3.2	167
1997	5.9	4.4	307

Debt Increase During the Year.



* Plotted by accounting period

(Charts from Annual Report 2001, page 30)

At year-end FY 2002 the Postal Service will likely hit the \$15 billion debt ceiling to make almost \$5 billion in payments due. By choosing the settlement procedure rather than updating the revenue requirement in this case, it seems clear that the Postal Service concluded that it could not borrow enough to meet its FY 2002 obligations given the \$3 billion annual and \$15 billion total ceilings on debt. The settlement may get the Postal Service through FY 2002, however, it

leaves the Service worse off in FY 2003 than it would have been had it selected the option of updating the revenue requirement in this case.

One result of the Postal Service's financial difficulties is starvation of its capital investment program. Eight hundred capital projects were frozen during FY 2001. (See Annual Report 2001, p28) None are coming out of the freezer in FY 2002. Ongoing capital expenditures continue to be reviewed for possible delays to control cash flow. Once the statutory \$15 billion debt ceiling has been reached, the Service will be unable to get capital through borrowing. When this is combined with the potential of a huge deficit based on the settlement rates, FY2003 finances will be precarious. The capital spending freeze cannot end until the Service gets revenues from the next omnibus rate case - probably FY 2004. As the Postal Service states in Annual Report 2001, the capital plan is at extreme risk. Referring to FY 2002 the report states: "... for the second year in a row we will not be able to make the necessary capital investments to meet the growth demands of universal delivery." (Annual Report 2001, page 29)

The effect of failing to make needed capital expenditures will be felt for years to come. With the proposed stipulation and agreement rates, the projects currently frozen will remain frozen for a third year. Capital projects will increase in cost with these delays. Decisions made because of a lack of cash will increase operating expenses for years to come, e.g., not buying cluster boxes. Customer service will be affected as the Postal Service fails to acquire adequate and properly located space to fulfill its mission in new and expanding

neighborhoods. And there will be a huge rate increases in the future to recover losses, pay back debt and reduce discounts to where they need to be.

When compared to the magnitude of the increases that will be needed in the next rate case, the concerns about the 17% to 22% rate increases in the APWU's proposal will seem trifling. The APWU proposed increases in this case would better spread the inevitable increases over time.

Finally, some intervenors have suggested that APWU proposals are designed to create more work for its members - without regard to the costs to the Postal Service or others. APWU members are eager and capable of handling whatever work comes their way. In thirty years of technological improvements, method improvements, mechanization and automation, the APWU has never opposed improvements - even those causing substantial reductions in work and in the size of APWU bargaining units. The APWU recognizes that the Postal Service will not survive unless it is efficient and productive. Survival of the Postal Service is of overriding importance to the APWU's members and to the public. Rising debt and frozen capital projects bode ill for the future of the Postal Service. The APWU's belief that the proposed stipulation and agreement rates will not lead to an efficient and productive Postal Service motivates the APWU's objections to the Settlement.

Anyone who has looked at Postal Service finances has seen that debt has been rising for years and the capital freeze was in place by February/March of 2001 - long before the announcement of a recession, September 11th or October 12th. The Postal Service FY 2001 plan expected a deficit and got an even worse

one after the Service was hit with a recession, September 11th and October 12th. The vague assertions that section 3622(b)(4) dictates that larger percentage increases faced by discount mailers require redress in the rate setting process in this case should be more critically examined. Now is the time when section 3621 of the Postal Reorganization Act should be of paramount importance in determining the rates. The revenues and cost estimates should be evaluated in light of the dire current financial situation of the Postal Service.

III. THE APWU'S RESPONSE TO THE POSTAL SERVICE'S JUSTIFICATION FOR DISCOUNTS EXCEEDING THE COST AVOIDED BY WORKSHARING

USPS witness Robinson (USPS-T-29) and USPS witness Moeller (USPS-SRT-1), the witnesses presented by the Postal Service to support the rate design for First-Class Mail, both acknowledge that the Commission's goal is to set discounts equal to avoided costs (USPS-T-29 pp 9-10, USPS-SRT-1, p 8 (Tr.13/4970, lines 4-6)) and Mr. Moeller acknowledges that it is also the Postal Service's general goal. Tr. 13/4985, lines 9-10. They go on, however, to argue that in some instances other factors, primarily the potentially adverse impact on mailers of appropriately calculated First-Class discounts in this case, justify much higher discounts than the Postal Service costs these mailers avoid by their mail preparation activities. As their arguments for straying from cost avoidance are insufficient even if the Postal Service were not in such a serious financial situation, the Commission should reject them and should set rates no greater than the costs avoided by these mailers.

Once attributable costs are covered, what should matter to the Postal Service in its efforts to generate revenues to cover all its costs plus contingency is the per piece contribution to institutional costs. Ms. Robinson's testimony mistakenly implies that failure to focus on implicit markups resulting from discounted mail ignores the value of this mail to the Postal Service. This illogical statement is a classic mistake of businesses that get into financial trouble. What matters is not the percentage markup; what matters is the total contribution or operating profit.

The Commission should note that the APWU is challenging not only the discounts added by the proposed stipulation and agreement, but also the overly generous First-Class Mail worksharing discounts in the Postal Service's original proposal. While the justification for the discounts in the original proposal is weak, the Postal Service testimony in support of the additional discounts added as part of the settlement process is even weaker. USPS witness Moeller argues that the revenue impact of these additional discounts is minor, only about \$80 million, however, \$80 million dollars is approximately five percent of the Postal Service's FY2001 deficit. Tr. 13/5010. Mr. Moeller also argues that some consideration is due discount mailers because they had their rates increased in 2001 and face early implementation of increases in 2002, Tr. 13/5015, however, all mailers, not just discount mailers, experienced increased rates in 2001 and face possible early implementation of increases in 2002. Tr. 13/5009. Special consideration for discount mailers in the form of a discount in addition to that originally

proposed by the Postal Service, is not justified because the discounts originally proposed already exceeded cost avoided.

The Commission addressed this same Postal Service concern that high implicit cost coverages for workshare mail are unfair to workshare mailers in MC95-1 and forcefully rejected the Postal Service's analysis:

[3074] *Pricing to Promote Productive Efficiency.* The Postal Service complains that high implicit cost coverages for workshare categories are unfair. This issue can be restated: should worksharing categories pay unit or percentage coverages which are equal to their residual counterparts? From the inception of worksharing discounts, the Commission has been concerned with both equity and economic efficiency. It set the first such discount at clearly capturable avoided costs. This provided a rate incentive to mailers which would allow cost-based decisions on whether to engage in the worksharing activity. In effect, the Commission was setting discounts in conformity with what later became known as efficient component pricing. The discount approach led to the lowest cost producer providing the service. This, in turn, minimized the cost of the workshare activity to society as a whole.

[3075] Thus, from the beginning, the Commission has used the discount approach to worksharing even though it understands that this results in higher implicit cost coverages for the worksharing category than for the residual. Lowering the implicit cost coverage for worksharing categories could result in discounts which exceed the costs avoided by the Postal Service. In the numerical example above in footnote 19, if the workshare piece and the residual piece are given the same percentage markup (in the example, 167), then the workshare mail receives a discount of 8.4 cents (16.7 cents – 8.3 cents = 8.4 cents) for work that saves the Postal Service only 5 cents. This results in productive inefficiencies. It sends signals to mailers to engage in inefficient worksharing activities. They would be given incentives to spend up to 8.4 cents to perform functions that the Service can do for 5 cents. Consequently, the total cost of mail would rise for society at large, and postal rates would not achieve the goal of the lowest, joint mailer/Postal Service cost.

[3076] The Commission also has consistently been concerned with equity. From the beginning it has wanted to set the discount no larger than the clearly capturable avoided costs, so that the residual mailers would not experience a rate increase because some other mailers were encouraged to workshare. In so doing, the Commission was moving toward a *Pareto*

optimum, a result making some mailers better off (receiving a worksharing discount), while no mailer is made worse off.

[3077] This approach has important consequences. The general concept of worksharing was widely endorsed by the parties participating in rate and classification proceedings. The Postal Service and the Commission moved rapidly to establish a host of worksharing discounts which, over time, have greatly benefited the mailing industry, the Postal Service and the nation. If, instead of recommending cost-based discounts, the Commission had attempted to equalize the cost coverages for the worksharing categories and the residual categories, residual mailers would have strongly opposed all worksharing discounts, since they would have faced higher rates with the establishment of each new category. The great progress that has been made toward more efficient mailing practices would have faced determined opposition which could have prevented, or at least significantly hampered, the development of worksharing and its consequent reductions in cost to the Service and society at large.

[3078] It is important that the mechanism of workshare discounts remain viable to assist the Postal Service to adapt successfully to an automated mail-processing environment. New worksharing discounts will almost certainly continue to be important in the future, and widespread mailer acceptance of the fairness of such discounts must be preserved. The Commission does not consider it wise to design rates which penalize small volume mailers because other mailers engage in worksharing.

[3079] Consequently, the most important reason for using a discount approach to recognize cost distinctions brought about by worksharing is that the Commission has determined that this is most fair and equitable to all mailers. Worksharing mailers receive a price reduction based on avoided costs while residual mailers are no worse off. To have applied equal cost coverages throughout the Commission's history would have resulted in the inequity of increased rates for residual mailers when the cost of their mail did not rise.

For the reasons the Commission so forcefully articulated in MC95-1, the Commission should continue to recommend rates for workshare mailers by setting discounts based on the costs avoided by worksharing.

Ms. Robinson argues that the discounts for workshare First-Class Mail should be higher than cost avoided because of the value of this mail to the Postal

Service. When the pass through is set at 100 percent, each group in the subclass is of equal value to the Postal Service. Each comparable piece in the subclass contributes the same contribution per piece. Ms. Robinson's testimony proposes a pass through of more than 100 percent. If this were accepted, the discounted mail would be less valuable to the Postal Service than comparable single piece mail. It is only when the pass through is less than 100 percent that the discounted category becomes more valuable to the Postal Service. In short, value is determined by the amount, not the percentage, of the contribution.

The Postal Rate Commission has consistently encouraged rates that pass through no more than the calculated savings within a sub-class. It has correctly stated that this policy allows mailers to make sound choices as to whether they could save more by presorting or using a non-presort rate. This choice leads to the lowest cost producer providing the service (bar-coding, sorting etc), which, in turn, minimizes the cost of the activity to society as a whole. [See MC95-1 §3074] Thus, the opposite of what Ms. Robinson believes is true. When discounts are set greater than cost avoided, the absolute value to the Postal Service of those discounted letters is less than the single piece letters in the subclass. The single piece mailers are required to contribute above and beyond their fair share to the resulting shortfall in institutional cost coverage.

Ms. Robinson goes on to express concern about the apparent trend over time of declining cost avoidance amounts and the impact such decreasing savings will have on the automation program. This concern is misplaced. This is the planned result from the long-term strategic plan of the Postal Service. The

declining cost avoided is to be expected and is a result of the continuing investment made by the Postal Service in improving its automation (USPS-T-22 rev. 11/16/01 pg27). The continuing investment in automation equipment and upgraded software by the Postal Service has achieved its goal of reducing the cost of sorting the mail. USPS Witness Miller confirms the decline in the cost avoided by the Postal Service (USPS-T-22 rev. 11/29/01 pg.5). Because the Postal Service is experiencing a decline in the cost of the sorting and barcoding, the worksharing discounts should be declining.

USPS Witness Robinson's testimony expresses the concern that "...the Postal Service could experience operational difficulties if a large portion of the workshared First-Class Mail pieces reverted to the Postal Service for sorting and bar-coding". (USPS-T-29 pg.21). This concern is unfounded and does not justify artificially high discounts in this case. The added single piece volume from any decrease in discounts is likely to be quite small. USPS Witness Thress states that "In the aggregate, workshared First-Class letters volume is virtually unaffected by Postal rates, ...". (USPS-T-8 pg. 22) He finds that the elasticity of work-share mail is very low. This conclusion, that any reversion would be gradual, is supported by the testimony of National Association of Presort Mailers ("NAPM") witness Gillotte (NAPM-SRT-1) (Tr.13/5068-5070) and Major Mailers Association ("MMA") witness Crider (MMA-SRT-2) (Tr.13/5100, 5104).

Any reversal is highly unlikely and Ms. Robinson has not demonstrated that the mailers would not continue to benefit from discounted rates even with dramatically lower discounts offered by the Postal Service. Further, Ms.

Robinson acknowledged, upon cross examination, that mailers are slow to adjust to price change signals and suggests that it could take many quarters for the increase in volume to occur. (Tr. 7/1602) She has certainly not established that the cost of qualifying for the discounts has remained the same or increased. To the contrary, USPS Witness Tolley describes declining user costs. (USPS-T-7 pg. 41) Finally, since the cost that the Postal Service is avoiding by not having to sort the mail is declining, the cost to handle any new non-presorted or non-barcoded mail will be covered by the appropriate rate.

Ms. Robinson expresses a concern, at page 21 of her testimony, that a change in direction of discounts would be unfair to the mailers who have invested significantly and changed their way of generating or processing mail in response to the past expansion in these incentives. (USPS-T-29 page 21) This should not be a reason to delay using current cost avoided figures to set discounts, even though that results in much lower discounts. Mailers may have already achieved returns on investments made in the past. They may continue to achieve returns, such as saved work hours in their operations, fewer errors and reworks, less spoilage, lower maintenance and operating costs. And they will continue to benefit from whatever discount is provided. APWU witness Riley pointed out that one feature of capital investment in high tech equipment is that these machines are expected to recover their costs in the first year or two. Wise investors accept that rapidly evolving technology can make this equipment outdated quickly. Therefore the speed of recovery of costs becomes more important than the percentage return on investment. Tr. 12/4860. The testimony

of NAPM witness Gillotte and MMA witness Crider bolster the APWU's conclusion that concern about the return on investment of mailers in more efficient equipment should not be used as a basis for deviating from USPS avoided costs for setting worksharing discounts. Both acknowledged that investment in mailing equipment and processes has multiple purposes, such as speeding up preparation and delivery of the mail in order to receive payments more rapidly, not just qualifying for lower discounts. Gillotte at Tr. 13/5073-5074, Crider at Tr. 13/5132-5142. Some investments in mailing technology, such as in state of the art inserters, produce cost savings that have nothing to do with postal discounts. Crider at Tr. 13/5141-5142, MMA witness Bentley at Tr. 13/5256.

It is wrong to maintain erroneous cost avoidance signals that overstate the true cost avoided. This works against achieving economic efficiency for all portions of the subclass. In fact economic efficiency is achieved by reducing discounts to levels at or below actual cost avoided. "Lowering the implicit cost coverage for the worksharing categories could result in discounts which exceed the cost avoided by the Postal Service... This results in productive inefficiencies. It sends signals to mailers to engage in inefficient worksharing activities." (PRC Decision MC-95-1 § 3075). When mailers invest in computer programs and machines to take advantage of work-share discounts, this becomes a fixed cost that is irrelevant to any future decision to switch to single piece. The decision to begin to qualify for discounts is different from the decision to discontinue and switch back. Knowledgeable mailers are well aware of the Postal Service's investment in automation and the trend of cost avoided. They made the decision

to incur the investment to qualify for discounts because their incremental cost is sufficiently less than the discounts or postage saved.

In this case for the first time the Postal Service is seeking differential additional ounce rates for workshare and nonworkshare mailers. Witness Robinson recommends a 0.5 cent discount on the additional ounce rate for automation mail. Ms. Robinson references an additional ounce cost study to support her recommendation and cites a difference of 0.15 cents for the average piece. (USPS-T-29 page 25) Even if this difference of 0.15 cents were correct, it does not justify the extra 0.50 cent discount proposed. Good economic policy requires that the second ounce rate be the same for work-share and single piece mail absent a meaningful showing of a true cost difference. The difference of 0.15 cents is not meaningful. This is not the time to add a new discount.

Ms. Robinson recommends a discount for Qualified Business Reply Mail of 2.5 cents in her testimony. (USPS-T-29 page 15) She argues that in light of the current 3.0 cent discount a further reduction below the 2.5 cents would be unwarranted. She takes this position despite a cost avoidance of 1.647 cents. The proposed Stipulation and Agreement further exacerbates this problem by keeping the QBRM discounts at 3.0 cents. Just as with all the other discount rates in First-Class Mail, the QBRM rate should be set at 80 to 100 percent of the cost avoided.

The Postal Service's witnesses focus on the effect of rates only on discount mailers. This focus makes their testimony in support of deviating from setting discounts based on cost avoided insufficient to justify the overly generous

discounts in either the Postal Service's original proposal or in the proposed stipulation and agreement. Section 3622(b)(4) requires consideration of more than the concerns of discount mailers. As the Postal Service witnesses have ignored the non-discount First-Class mailers in their analysis, their analysis fails to support the rates they endorse. Consequently, there should be no deviation from the Commission's long-standing policy of using cost avoided to set the discount rates for First-Class Mail.

IV. DUE PROCESS ISSUES RAISED BY THE SCHEDULE OF THIS CASE AND THE "SURREBUTTAL TESTIMONY" OF OTHER INTERVENORS

The APWU anticipated that in response to APWU witness Riley's policy and rate design testimony, some intervenors would argue that he was wrong on policy and rate design, but if the Commission agreed with him on policy and design, the Commission should then reject the testimony of USPS witness Miller and other Postal Service witnesses and find that discounted mail avoids more costs than the Postal Service presented. The APWU anticipated an attack on Postal Service witnesses, data and methodology, not unlike what would have been presented had a proposed settlement not emerged. For that reason, the APWU characterized the testimony of the intervenors opposed to the APWU's position to the "case-in-chief" of those intervenors and proposed mechanisms and a schedule to fairly deal with their responses to the APWU's testimony.

The APWU raised due process concerns in its Initial Reply to Motion of the United States Postal Service for the Establishment of a Procedural Mechanism and Schedule Governing Further Proceedings in Light of the

Settlement and Suggestions for Procedural Mechanisms and Schedules, filed on January 24, 2002 (“APWU Suggestions”). As feared by the APWU, the failure to adopt some of the APWU’s suggestions, especially those related to rebuttal testimony, have created serious due process issues.

The APWU proposed a schedule that would permit the APWU and other parties to fully consider the arguments it and other parties would raise in this proceeding. The APWU’s proposed schedule built in time and procedural mechanisms to ensure full and adequate examination of the issues. While as a result of some of the APWU’s suggestions changes were made in the Postal Service’s original proposed schedule, the APWU’s proposals concerning rebuttal testimony and surrebuttal testimony were not adopted. In light of the type of testimony that was filed by other intervenors in the case as “surrebuttal” testimony, the failure of the schedule and procedures to provide sufficient time and mechanisms for the APWU to respond has compromised the APWU’s due process rights in this case.

The APWU opposed the Postal Service’s proposal to have the hearing on the rebuttal testimony six days after that testimony is filed. APWU Suggestions at 3. The APWU argued that this short time frame was unacceptable because it did not provide time for written cross-examination. The APWU acknowledged that while normally there is no written cross-examination of rebuttal witnesses, the APWU asserted that these witnesses of parties other than the Postal Service would not be true rebuttal witnesses. The APWU argued that their testimony would normally have been presented in case-in-chief of intervenors, subject to

written cross-examination, and that delaying their testimony until after the APWU testifies should not deprive the APWU of the right to fully explore their testimony, which would likely require written cross-examination. The APWU suggested, in order to give the APWU a comparable opportunity to cross-examine the other intervenor's case-in-chief witnesses, the APWU should have seven work days to prepare and file written interrogatories and the other parties should have ten days to respond.

The APWU went on to point out that the Commission's rules provide that "There will be an opportunity for participants to rebut presentations of other participants and for the initial proponent to present surrebuttal evidence." 39 CFR §3001.30(e)(1). Because the APWU would be the only party testifying in the initial round of party testimony, the APWU protested that the schedule proposed by the Postal Service did not provide time for the APWU to rebut the presentations of other participants. The APWU argued that usually any other party intervenors who were interested in the issues that concern the APWU would file their testimony at the same time as the APWU, but in this case, those intervenors will be filing testimony after the APWU's testimony, if they file at all. Consequently, in order to provide the APWU an opportunity to rebut presentations of other participants, as required by the Commission's rules, the APWU asserted that time must be included for the APWU to determine whether to file rebuttal testimony to the testimony of other participants and then to file and defend that testimony.

In the Presiding Officer's Ruling Establishing the Procedural Schedule for Consideration of the Proposed Stipulation and Agreement, Presiding Officer's Ruling No. R2001-1/43, issued January 31, 2002, APWU's suggestions concerning the timing and opportunity for cross examination related to rebuttal and surrebuttal testimony were rejected:

Surrebuttal testimony. The proposed stipulation and agreement is offered as a settlement in substitution for the Postal Service request in this case. APWU is the only participant that has chosen to file testimony in opposition to any aspect to the stipulation and agreement. As such, its testimony is in rebuttal to the proposal offered as a settlement in this case. Under Commission practice, and consistent with Administrative Procedures Act, proponents have the opportunity to file surrebuttal testimony. Participants intending to submit surrebuttal testimony are to provide notice to that effect by close of business, February 15, 2002. Surrebuttal testimony will be due on February 20, 2002.

APWU recognizes that normal Commission practice does not provide for written discovery on surrebuttal testimony. However, APWU suggests that the testimony filed in response to its opposition to the proposed settlement should be characterized as the case-in-chief- of intervenors supporting the proposed stipulation and agreement. From this, APWU concludes that it should be allowed written discovery on this testimony, and the opportunity to file an additional round of testimony to rebut contentions made therein. The APWU argument on this point is unpersuasive. The testimony to be filed on February 20, 2002, will be limited to challenging propositions put forward in APWU-T-1. It cannot be characterized fairly as the case-in-chief of any participant.

Presiding Officer's Ruling No. R2001-1/43 at page 4. Thus APWU was provided with only one day of oral cross-examination to question and clarify the testimony of all surrebuttal witnesses.

After testimony was filed on February 20, 2002, the APWU moved to strike portions of the "surrebuttal" testimony filed by parties other than the Postal

Service as not proper “surrebuttal” testimony (“APWU Motions to Strike”).

Specifically, the APWU moved to strike

the written testimony of American Bankers Association (ABA) and National Association of Presort Mailers (NAPM) witness James A. Clifton (ABA&NAPM-SRT-1) that is not surrebuttal testimony, specifically, page 4, line 4 through page 13, line 19; page 14, line 4 through page 15, line 11; page 16, line 1 through page 17, line 7; page 29, line 34 through page 32, line 6 and any library references, exhibits or workpapers filed to support this testimony. The APWU argued that in this testimony, witness Clifton calculates several different methodologies and attempts to have them appear to be appropriate surrebuttal by claiming some tenuous link to what he asserts are APWU witness Riley’s (APWU-T-1) theories, however he admits at page 31, lines 6 through 7, that he is actually using “largely the same, multi-faceted approach to measuring cost avoided as I did in R94-1.”

the written testimony of Keyspan Energy witness Richard E. Bentley that is not surrebuttal testimony, specifically, page 4, last line of Table 1; page 5, line 17 through page 22, line 9 and all library references, exhibits and workpapers filed to support this testimony. In this testimony, the APWU asserted, witness Bentley develops his own methodology for measuring QBRM cost savings.

the written testimony of Major Mailers Association witness Richard E. Bentley that is not surrebuttal testimony, specifically, page 3, lines 2 through 7; page 4, line 13 through page 6, line 12; page 6, line 15 through page 7, Table 3; page 8, lines 3 through 5 and lines 7 through 9; page 8, lines 14 through 16; page 13, line 8 through page 26, line 5; and page 26, lines 16 through 21 and all library references and workpapers filed to support this testimony and exhibits MMA-2A and MMA-4A. In this testimony, APWU pointed out, witness Bentley develops two different methodologies to derive First-Class workshare cost savings.

the written testimony of Major Mailers Association (MMA) witness John D. Crider, CMDSM (MMA-ST-2) that is not surrebuttal testimony, specifically, page 5, line 8 through page 8, line 16. In this testimony, witness Crider argues that the Postal Service fails to give adequate recognition to Sprint’s workshare efforts by not considering even more of its efforts for worksharing discounts.

the written testimony of National Association of Presort Mailers witness Jay Gillotte that is not surrebuttal testimony, specifically, page 1, line 17 through page 2, line 3 and page 2, line 6 through page 9, line 14. In this testimony, witness Gillotte argues that the cost avoidance measures used by APWU witness Riley (APWU-T-1), those sponsored by USPS witness

Miller (USPS-T-22), fail to “reflect substantial cost savings provided by presort mailers.”

The APWU argued that all of this testimony is a direct challenge to the cost avoided methodology relied on to support the proposed stipulation and agreement and thus not proper surrebuttal testimony.

In support of its Motions to Strike, the APWU cited the portion of Presiding Officer’s Ruling No. R2001-1/43 reproduced above. The APWU argued that the testimony in question was inconsistent with the type of testimony anticipated by that Ruling. The APWU suggested that the testimony was also inconsistent with the language in the proposed Stipulation and Agreement, particularly paragraph 3, which provides:

3. For the purposes of this proceeding only, the undersigned parties agree that, taken in their entirety, the Request, testimony, and materials filed on behalf of the Postal Service in this docket provide substantial evidence for establishing rates and fees, as agreed herein and set forth in Attachment B to the Postal Service’s Request as revised, and for establishing the classification changes set forth in Attachment A to the Request, as revised. The undersigned parties stipulate that the Request, the attachments thereto (as revised), and the accompanying testimony and exhibits, to whatever extent not entered into evidence during hearings, be entered into evidence in this proceeding, pursuant to this Stipulation and Agreement. (footnote omitted)

In summary, the APWU argued:

In other words, the Ruling contemplated that the participants who would file testimony on February 20, 2002, would be proponents of the proposed stipulation and agreement, not argue for or support even larger discounts than those included in the proposal. The Ruling contemplated that testimony filed on February 20, 2002, would challenge the APWU’s assertions, not the methodology, data and testimony supporting the proposed stipulation and agreement. The Ruling contemplated that the testimony filed on February 20, 2002, would be true surrebuttal testimony. To the extent it is not, the APWU moves to strike it.

APWU Motions to Strike at page 2.

At the beginning of the hearing on February 26, 2002, the Presiding Officer certified the five APWU motions to strike to the full Commission pursuant to Rule 23(a)(8). Tr.13/4955 Counsel for the APWU then had to cross-examine each witness who submitted “surrebuttal” testimony on his entire testimony, both the part that was the subject of the motion to strike and the part that was not. This included testimony based on numerical changes to Postal Service costing model, assertions about cost trends in the Postal Service, which required numerous worksheets to develop and other types of presentations for which oral cross-examination is not a particularly effective tool to determine the accuracy and reasonableness of the results.

It was clear from cross-examination of ABA&NAPM witness Clifton, KE witness Bentley, and MMA witness Bentley that large parts of the testimony they presented as “surrebuttal” testimony was of a similar nature to testimony they had previously presented as case in chief in prior cases. MMA witness Bentley at Tr.13/5224, KE witness Bentley at Tr. 13/5378, ABA&NAPM witness Clifton at Tr. 13/5324. It was also clear that activities that MMA witness Crider and NAPM witness Gillotte argued should be included among those for which workshare mailers get credit toward discounts in the calculation of cost avoided have been previously included in the case-in-chief of those organizations when they were seeking to increase workshare discounts. See testimony of MMA witness Bentley at Tr.13/5253 – 5256. As all of this testimony challenges the methodology, data and testimony supporting the proposed stipulation and

agreement, instead of being testimony of a proponent of the proposed stipulation and agreement, supporting that document and its underpinnings, the identified testimony should have been removed from the record as improper surrebuttal testimony.

In addition, it was clear from the cross-examination of MMA witness Bentley, ABA&NAPM witness Clifton and KE witness Bentley that the models that they produced as part of their “surrebuttal” testimony were quite complex and required time and written cross-examination to understand. For example, while MMA witness Bentley insisted that one of his models “may have taken him five minutes” to calculate, he admitted that the other took him more than three or four weeks, though not full time, to produce. Tr.13/5236. It is simply not possible for these models to be fully understood and absorbed with the limited tools permitted in this case – oral cross examination six days after the testimony was submitted.

For example, while KE witness Bentley’s QBRM cost analysis may not be considered overly complex, it is not simply understanding Mr. Bentley’s text that is required to assess the validity of his testimony. KE witness Bentley uses two separate CRA adjustment factors in his analysis based on his belief that the Postal Service’s RBCS model and its assumptions are flawed. The use of these two factors increases the cost avoided calculated. Mr. Bentley himself does not seem able to identify the exact source of this purported flaw in the RBCS model, yet the APWU is expected to evaluate his claims about the data and determine the validity of his proposed method of solving the problem within a few days.

Understanding the concept of someone's argument is almost always easier than fully evaluating it. And a full evaluation of both the argument and the data and methods underlying it is necessary to determine the efficacy of testimony for ratemaking purposes.

In conclusion, because of the procedures and schedule adopted in this case to handle the testimony of participants other than the USPS and the APWU, the "surrebuttal" testimony, and the type of testimony actually submitted, which went far beyond surrebuttal and instead provided an opportunity for the witnesses to produce a much broader analysis, challenging the data underpinning the proposed Stipulation and Agreement they were supposedly supporting, the APWU has been deprived of due process with respect to the "surrebuttal" it moved to strike. To permit "surrebuttal" testimony, it is not enough for it to be relevant. "Surrebuttal" witness testimony attacking the Postal Service's numbers may be relevant to undermining APWU witness Riley's testimony because he used the same Postal Service numbers that underlie the proposed Stipulation and Agreement, but it is not fair to permit it with so little opportunity to explore it and no opportunity for the APWU (or the Postal Service) to file rebuttal testimony to support the Postal Service's witnesses and testimony. Reliance on the testimonies identified in the APWU's motions to strike could have the unfortunate effect of tainting the recommended decision ultimately to be issued in this proceeding.

V. ISSUES RAISED BY THE "SURREBUTTAL TESTIMONY" OF OTHER INTERVENORS

NAPM WITNESS GILLOTTE (NAPM-SRT-1)

In response to a pricing question, NAPM witness Gillotte made the following statement:

The presorting business has become very competitive and as such is driven down to a significantly lower level than it was 10 years ago the rates that we can charge to our customers.

The lion's share of the discounts today go to the mailer, go to the owner of the mail piece, not to the bureau during it. Our rates are competitive rates, and that's about all I can say.

Tr. 13/5054. For presort bureaus, such as the one run by Mr. Gillotte, the cost of presorting and prebarcoding is obviously a very small part of the current discount if "the lion's share of the discounts" go to the mailer, not the presort bureau. And for those mailers who produce and prepare their own mailings in house, the cost of mail preparation should be lower than that of presort bureaus. This is evidence that the rates proposed by the APWU are likely to cause no shifts of mail volume or only minor shifts of mail volume from discounted categories to nondiscounted ones.

MMA WITNESS CRIDER (MMA-SRT-2)

MMA witness Crider lists projects his company, Sprint, has engaged in at the behest or requirement of the Postal Service and argues that these projects are grounds for additional worksharing discounts. What is interesting about this list is that Mr. Crider testified that these projects have all helped Sprint, too.

While contending that Sprint has exemplary mailing lists, he admits that Move/update has helped Sprint. Tr. 13/5133. Similarly, Crider concedes that Sprint has saved work hours and gained space (work, storage and transportation space) by palletizing and shrink-wrapping as part of PostalOne!. The purchase of the Whittier taggers, which provide real time labels, appear to have reduced work hours and errors caused by misdirection of the mail. Tr. 13/5138.

Sprint is a good example of what APWU witness Riley described – mailers are willing to go to considerable lengths to prepare accurate automatable mail so the remittances are returned quickly. Discounted postage is only a small part of the consideration dictating mail preparation.

Sprint is attempting to divert presentation of invoices and receipt of remittances to electronic form. He testified that Sprint is already paying customers \$2.00 per month for receiving and paying their bills electronically. Tr. 13/5131. Customer reluctance, not postage costs, is determining the pace of Sprint's diversion of remittance mail to electronic form.

Mr. Crider concedes that, should Sprint management get fed up with postage increases, the response will be a gradual decline in capital commitment to mailing operations. Tr. 13/5143 – 5145. However, the gradual diversion to electronic form is well underway at Sprint and may have a similar result, without regard to postage costs.

ABA&NAPM WITNESS CLIFTON (ABA&NAPM-SRT-1)

The surrebuttal testimony provided by James Clifton on behalf of ABA&NAPM (ABA&NAPM-SRT-1) did not address the issues that Mr. Riley put forward in his testimony. Its focus is instead on Dr. Clifton's misstatement of Mr. Riley's views. In section III of his testimony, Dr. Clifton purports to prove that the costs avoided by pre-barcoding and presorting mail are not declining over time by comparing the unit costs of aggregated single-piece first class mail with aggregated presorted first class mail. Dr. Clifton goes so far as to claim that his Table 3 shows that, "...using APWU witness Riley's preferred 'CRA Approach' method for calculating cost avoidance, the settlement discounts are within the range of 80% of the MP + D cost difference between discounted and non-discounted mail." Tr. 13/5283. Not only is this not how the cost avoided numbers used in Mr. Riley's testimony were calculated, it does not represent Mr. Riley's preferred method of calculating anything. In fact, Mr. Riley quite clearly stated that these data were totally irrelevant to his testimony because they do not report down to the specific rates (Tr. 12/ 4917 at 11 through 14).

If APWU had been given the opportunity to submit rebuttal testimony to Dr. Clifton's assertions, it would prove that there are problems with Dr. Clifton's simplistic analyses and data inconsistencies in his time series. However, a list of several of the reasons why these data should not be considered as a cost avoided estimate for presorted and pre-barcoded mail should be sufficient to prompt wariness when considering their use. It has been the well-established practice in recent rate cases to determine the size of the cost avoided for mail

that has been pre-barcoded and presorted based on cost comparisons to a benchmark type of non-discounted mail. That benchmark for R2000-1³ and the one that Mr. Miller uses for his cost avoided calculations in R2001-1 is bulk metered mail letters. The trend in per unit costs for that benchmark mail cannot be assumed to look like the trend in the costs for aggregated non-discounted first-class mail.

The mixture of mail in the aggregated mail categories that Dr. Clifton uses for his analysis does impact the unit cost trends. The change in the mix of mail in the non-discounted mail stream over time can change the unit cost trend for the aggregate even if the cost trends for very specific types of mail (such as bulk metered mail) happened to be flat or falling. It is no secret that mail has flowed out of single piece mail and into discounted mail over the time period of Dr. Clifton's analysis. The removal of that clean business mail, some of the lowest cost mail in the first class single piece mail mix, will tend to increase the unit cost of the remaining mail. Once the share of clean, machine-printed business mail is reduced, a larger share of first class non-discounted mail is non-machinable, handwritten and of heavier weight than in earlier years. Likewise, the change in the mix of types of presorted mail in the discounted mail stream will tend to reduce the unit costs of the aggregated presort mail category over this time period even if the unit costs associated with specific presort levels are

³ In R2000-1 bulk metered mail letters were used as the benchmark for non-automation presort and for basic presort. The other automation letters were benchmarked to lower levels of presorted mail. However, the principal is the same, the benchmark is a specific mail type not an aggregate of all the mail in the non-discounted first class mail stream.

unchanged or rising. For example the implementation on MC95-1 was intended to reduce the share of the more costly, presorted but non-barcoded mail relative to the automated mail categories. That has happened. Since 1997 the non-automation presort share of total presort has fallen by almost 5 percentage points while the 5-digit pre-barcoded share has risen more than 5 percentage points. That sort of shift in mail mix should not be used to justify higher discounts for presorted and pre-barcoded mail in this case. Dr. Clifton's results provide no information about what the size of the discounts should be and are irrelevant.

Dr. Clifton's convoluted presentation on what he believed APWU witness Riley meant by his equal contribution arguments can also be ignored. Clearly he misunderstood APWU witness Riley's presentation. Mr. Riley's argument that rates should be set so that identical pieces make the same contribution to institutional costs whether they are presented as part of a workshare mailing or are sent single piece is the same argument the Commission made in MC95-1 at [3070] through [3080], when it chose to continue to use the discount approach to set rates for those who workshare.

MMA WITNESS BENTLEY (MMA-SRT-1)

MMA witness Bentley argues that APWU witness Riley's proposals should not be followed because he claims witness Riley has disregarded the Commission's policies on cost coverages and markups and has ignored two sections of the Postal Reorganization Act. As witness Riley has presented rates that are in keeping with the Commission's policies and are consistent with the

Act, they should be implemented rather than the rates in the proposed stipulation and agreement.

Mr. Riley's argument that rates should be set so that identical pieces make the same contribution to institutional costs whether they are presented as part of a workshare mailing or are sent single piece does not disregard the Commission's policies regarding cost coverages and cost markups even if MMA witness Bentley does not have the data to test whether the rates proposed by witness Riley have this effect. Mr. Riley's rates are consistent with his theory. He is instead making the same argument about identical pieces making the same institutional cost contribution that the Commission made in MC95-1 at [3070] through [3080], when it chose to continue to use the discount approach to setting rates for those who workshare. The Commission found that setting discounts at or below the cost avoided by worksharing is the method of setting rates that is "most fair and equitable to all mailers." Docket No. MC95-1 [3079]. It is the proposed stipulation and agreement, with its discounts greater than avoided costs, that disregards Commission policy.

With respect to the Postal Reorganization Act, APWU witness Riley deals with the considerations in both section 3622(b)(4) and section 3621. Section 3622(b)(4) requires the Commission to take into account the effect of rate increases on more than the discount mailers. It requires the Commission to take into account the effect of rate increases "upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters." With respect to First-Class Mail,

section 3622(b)(4) requires consideration of single piece mailers in the general public and in the business community as well as business discount mailers, the concern of MMA witness Bentley. Mr. Riley addresses the effect of the proposed stipulation and agreement rates and his own proposed First-Class rates on all these groups, especially when he discusses the effect on non-workshare mailers of the overly generous discounts to businesses in the proposed stipulation and agreement. See Tr. 12/4853. He argues that rates that are set at no more than cost avoided strike the appropriate the balance between these groups. This is the appropriate balance under 3622(b)(4) and should be adopted by the Commission.

With respect to section 3621 of the PRA, Mr. Bentley argues that APWU witness Riley is ignoring the “breakeven” requirement when he suggests that the Commission provide more revenue to the Postal Service at this particular time when choices are to be made. First, Mr. Riley articulated his own interpretation of what “breakeven” means in section 3621. See Tr. 12/4892. Second, while Mr. Bentley argues that his figures, which are full of assumptions that need to be explored, show that the Postal Service will reap a “windfall” if the rates proposed by witness Riley were implemented, he concedes that there can be no windfall if the Postal Service still suffers a net loss despite implementing the rates proposed by witness Riley. Tr. 13/5239. As Mr. Riley has effectively argued that the Postal Service is in dire financial straits and can ill afford to give away more than the costs they avoid to workshare mailers, Tr. 12/4848, Mr. Bentley’s assertion

that the rates proposed by APWU witness Riley would create a windfall is highly questionable.

CONCLUSION

For the reasons set forth above, the Postal Rate Commission should recommend rates for First-Class Mail with worksharing discounts set between eighty and one hundred percent of the costs avoided by the Postal Service by mailer worksharing.

Respectfully submitted,

AMERICAN POSTAL WORKERS UNION, AFL-CIO

By its attorneys:

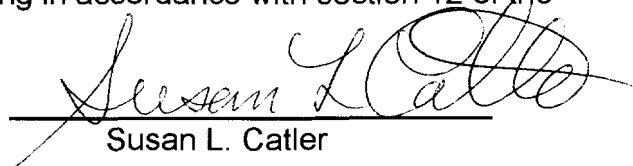


Susan L. Catler
O'Donnell, Schwartz and Anderson, P.C.
1300 L Street NW, Suite 1200
Washington, DC 20005-4126
(202) 898-1707/FAX (202) 682-9276
Email: scatler@odsalaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

Date: March 4, 2002



Susan L. Catler