

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

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POSTAL RATE AND FEE CHANGES

Docket No. R2001-1

**Initial Brief Of
Major Mailers Association
In Support Of Stipulation And Agreement**

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Dated: Round Hill, Virginia
March 4, 2002

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Major Mailers Association ("MMA") hereby submits its initial brief in support of the First-Class workshare rates contained in the January 17, 2002 Revised Stipulation and Agreement¹ ("S&A"). MMA is a signatory to and strong supporter of the S&A.

The S&A enjoys overwhelming support among the active participants in this proceeding. Indeed, the American Postal Workers Union, AFL-CIO ("APWU") is the only party that opposes the S&A.

The First-Class workshare discounts proposed in the S&A are identical to those proposed by the USPS in its initial filing except that the 3-digit and 5-digit discounts are 0.2 cents higher and the carrier route discount is 0.2 cents lower. Those modest changes help mitigate somewhat the disproportionately large increases proposed by the USPS in its filing.

APWU witness Michael J. Riley recommends drastic cuts ranging from 14% to 21% in the First-Class automation workshare discounts proposed in the S&A. Mr. Riley also proposes to eliminate completely the carrier route discount. Tr 13/5161 (Table 1, reproduced infra). To refute APWU's claims, MMA has presented the surrebuttal testimony and exhibits of two witnesses:

¹ See Motion of the United States Postal Service Submitting Second Revised Stipulation and Agreement, dated January 17, 2002.

- ♦ Richard E. Bentley, an expert witness who has testified before this Commission in numerous rate and mail classification proceedings for over twenty-five years. Tr 13/ 5156-5183.²
- ♦ John D. Crider, a Certified Mail Distribution Manager, is the Manager of Postal Affairs for Sprint Mailing Services (“Sprint”). Sprint Mailing Services processes about 32 million mailpieces per month and spends approximately \$150 million plus in postage annually. Tr 13/5096-5105.³

Based on the testimony of its witnesses and the other record evidence discussed below, MMA requests that the Commission (1) reject APWU’s proposal to slash workshare discounts and (2) recommend the S&A, including the workshare discounts no later than March 25, 2002.⁴

Statement Regarding MMA’s Interest In This Proceeding

MMA is an association of quality First-Class Mailers, organized for the purpose of promoting fair and equitable postal rates, classifications, and rules. MMA has participated actively in all major rate and classification proceedings considered by the Commission over the past decade. MMA members are among the largest mailers of “workshare” First-Class Mail that is presorted, prebarcoded and properly prepared.

Argument

I. The S&A Is A Reasonable Response To Extraordinary Events

The S&A presently before the Commission is the product of extraordinary efforts and good faith compromises by the Postal Service, the Office Of Consumer Advocate and all segments of the mailing industry. For the successful conclusion of often difficult settlement negotiations, MMA credits the Commission for the leadership role it played at the outset. As Presiding Officer Omas stated at the October 25, 2001 prehearing conference:

² Mr. Bentley also sponsors Exhibits MMA-1A, MMA-2A, MMA-3A, and MMA-4A and Library References MMA-LR-J-1, MMA-LR-J-2, and MMA-LR-J-3.

³ Surrebuttal testimony in support of the S&A was also submitted by witnesses for the Postal Service, American Banker’s Association, and the National Association Of Presort Mailers. In the interests of judicial economy, MMA will rely upon those parties to describe and explain the significance of their witnesses’ testimony in the briefs they will file.

⁴ The Presiding Officer has noted the importance of acting on the S&A by March 25. See POR 43, issued January 31, 2002, at 2.

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. I wonder whether recent events make it appropriate to think about alternative ways for us to do our job.

* * *

I have often heard it said that there could never be a settlement in an omnibus rate case. There are too many conflicting interests and too much money at stake. It seems to me that if there was ever a time when business as usual was not the attractive course of action and when cooperative efforts to promptly resolve issues through a settlement might be the right course of action at this time.

* * *

I urge everyone connected with this process -- those of you here today, those at L'Enfant Plaza and those in the board rooms around the nation -- to be statesman-like and to work together proactively to meet the serious challenges facing the postal system.⁵

Chairman Omas' wise counsel, echoed by Commissioner Goldway (Tr 1/44-45) galvanized the parties to action. Beginning immediately, MMA worked diligently to develop a settlement proposal that would meet the broad policy objectives outlined by the Chairman. On November 2, when the parties first met to discuss settlement, MMA and other representatives of First-Class workshare mailers presented their first comprehensive settlement proposal to the USPS. After many more meetings and discussions, the parties finally produced the S&A that is now before the Commission for its consideration and action.

In the end, the parties accomplished what prior experience and accepted wisdom dictated could not be done: they settled an omnibus postal rate proceeding. Moreover, they did so in a very short timeframe, thereby sparing **most** parties the substantial time and expense involved in actively pursuing the litigation alternative.

As noted, the S&A enjoys support from all sectors of the mailing industry, the Office Of Consumer Advocate, and the Postal Service. APWU is the only party that

actively opposes the S&A. APWU's opposition to the S&A and its call for drastic reductions in existing First-Class workshare discounts exhibit an absence of judgment, no sense of balance, and incredibly poor timing.

The S&A is structured to provide the Postal Service with additional revenues of approximately \$1.2 billion, about one-half from First-Class.⁶ Under the S&A, the burden of providing greater financial security to the USPS is shared by all segments of the mailing industry. At the same time, the S&A provides the Postal Service and all affected parties with rate certainty and an end to litigation, important benefits during these uncertain times. For First-Class workshare mailers like MMA's members, the S&A also mitigated somewhat the disproportionately high rate increase (9.3%) proposed in the Postal Service's initial filing. Tr 13/5159. It did so by making the very modest adjustments to the workshare discounts proposed by the USPS in its filing. For these reasons, the S&A is a very reasonable response to the extraordinary circumstances facing the Postal Service and the Nation.

APWU's proposal to slash First-Class workshare discounts is the antithesis of the extraordinary spirit of cooperation and good will that infused the parties settlement negotiations and is reflected in the balanced terms and conditions of the S&A. Where the S&A exhibits reasoned compromise, APWU's proposal engenders only division, unnecessary controversy, and inconsistent, discriminatory rate treatment.⁷ Moreover, if there were ever a time when it might be appropriate for APWU to make such a radical proposal, that time certainly is not now, when the Postal Service is facing such unprecedented challenges.

MMA considers it extremely unfortunate that APWU could not join in a settlement that provides such obvious financial benefits to the Postal Service and indirectly to

⁵ Tr 1/39-42.

⁶ These revenues are above those that the Postal Service could expect to receive through the end of fiscal 2003 under its initially filed rates, assuming an October 1, 2002 effective date. Tr 13/5159.

⁷ APWU's single-minded focus on First-Class workshare discounts ignored a similar situation within Standard Mail where a workshare discount was higher than the cost savings, as derived by the USPS. When this fact was brought to the attention of APWU witness Riley, he attempted to dodge the question. Tr 12/4877. However, during cross-examination he belatedly volunteered, over the objection of APWU counsel, his personal opinion that his position that discounts should be set at 80%-100% of accurately measured cost savings applied to all classes. Tr 12/4920-21. MMA is *not* suggesting that APWU's misguided rate design theories should be inflicted on users of Standard Mail or any other mailers. The

APWU members. While MMA is confident that the Commission will provide the judgment and balance lacking in APWU's approach to the issues, MMA has taken APWU's challenge to the S&A very seriously. As demonstrated below, there is no legitimate evidentiary foundation for APWU's opposition.

II. The Workshare Discounts Proposed By APWU Are Not Reasonable

APWU has condemned the workshare discounts contained in the S&A on the ground that they pass through to mailers more than the costs saved by the Postal Service. APWU reaches that conclusion because the yardstick against which it is measuring the S&A discounts – the cost savings calculated by USPS witness Miller -- is not reasonable. Measured against the last approved method used by the Commission in Docket R2000-1, the S&A discounts are significantly lower than the associated cost savings. Thus, they satisfy the Commission's criteria and even satisfy APWU witness Riley's 80% -100% test.

A. APWU Improperly Disregarded Record Evidence Regarding The Appropriate Cost Savings Measurements

APWU's case for sharply lower First-Class discounts is based on the proposition that, as a matter of policy, the Commission should always set workshare discounts at between 80% and 100% of avoided costs. Tr 12/4846,4854-55,4864,4865-69. And in this case, APWU witness Riley has urged the Commission to set the discounts at the lower (80%) end of that range. Table 1 compares the discounts proposed by APWU with the current discounts, those proposed by the USPS and by the parties in the S&A.

Table 1
Comparison of Current and Proposed First-Class Workshare Discounts
(Cents)

First-Class Workshare Rate Category	Current Discount	USPS Originally Proposed Discount	S&A Proposed Discount	APWU Proposed Discount
Basic	6.0	NA	NA	NA
Mixed AADC	NA	6.1	6.1	5.0

point is that it is unfair to single out one group of mailers to apply any ratemaking formula to and doubly unfair where, as here, that group of mailers is already the most profitable for the USPS.

AADC	NA	6.9	6.9	5.9
3-Digit	7.1	7.6	7.8	6.2
5-Digit	8.5	9.0	9.2	7.4
Carrier Route*	1.0	0.5	0.3	0.0

*Measured from 5-Digit

As Table 1 shows, the discounts proposed by APWU are not just lower than those proposed in the S&A and those originally proposed by the USPS, they are also significantly lower than the currently effective discounts.⁸

MMA does not necessarily agree that setting workshare discounts according to such a rigid formula is appropriate.⁹ However, the fatal flaw in APWU witness Riley's workshare discount theory lies in the derived cost savings to which he applied his preferred 80% passthrough. He merely "**assume[d]** that the cost avoided are as reported by [USPS] witness Miller." Tr 12/4864 (emphasis added). Mr. Riley's assumption was wrong. His related claim that Mr. Miller's cost avoided estimate was the only evidence in the record was just incorrect.

Mr. Riley totally ignored two other estimates of workshare cost savings that were already in the record when he testified. The first estimate, provided by ABA & NAPM and confirmed by the USPS, used the Commission's cost attribution methodology and its assumptions regarding delivery workshare savings. Tr 10A/2620. The second cost savings (Tr 10A/2862), provided by MMA and also affirmed by the USPS, utilized the **exact** methodology used by the Commission in Docket No. R2000-1. Tr 13/5161.¹⁰

Mr. Riley's failure to even acknowledge that these other cost savings estimates existed might be attributable to the fact that he wasn't approached by APWU until

⁸ APWU witness Riley has proposed to **eliminate** the carrier route discount entirely but he never even discussed, much less attempted to justify, this aspect of his proposal. Accordingly, for the reasons given by MMA witness Bentley, the Commission should reject this recommendation out-of-hand. Tr 13/5164 (including footnote 8).

⁹ MMA witness Bentley pointed out situations where it would make sense to set discounts above the level of avoided costs. Tr 13/5160, footnote 3. MMA respectfully suggests that the current exigent circumstances in which the USPS and mailers find themselves might also provide reason enough, **if any were needed**, to set discounts higher than avoided costs.

¹⁰ The two cost savings estimates are very close. The difference between the MMA and the ABA&NAPM cost savings figures is only 0.16 cents. This difference reflects inclusion in MMA's cost savings estimate of two cost pools, "1SUPP_F1" and "1SUPP_F4," that the Commission had included in its analysis but which USPS witness Miller eliminated from consideration in his analysis in this case.

January 14, 2002 and, prior to that time, had not been actively monitoring the case for any client. Tr 12/4921. As he testified:

I take a general interest in what goes on in the Postal Service and from that point I was generally aware of what was happening.¹¹

These facts may explain why Mr. Riley was unaware of the state of the record when he testified but they certainly do not constitute a valid excuse for APWU's ignorance of the relevant facts. APWU has caused the Commission, the USPS, and First-Class workshare mailers to expend a great deal of additional time and effort and created unnecessary uncertainty about approval of the S&A in the bargain.

Much of that time, expense and uncertainty might have been spared if APWU witness Riley had known about the other cost savings estimates in the record. Table 2 compares the First-Class workshare discounts to the various cost savings estimates now in the record.¹²

¹¹ Tr 12/4922.

¹² The far right column in Table 2, entitled "MMA Methodology," shows the results of using the Commission's method of calculating workshare cost savings **and** corrects two conceptual errors in the USPS methodology as it relates to delivery cost savings that surfaced for the first time on this record. See Section IV *infra*.

Table 2
Comparison of the S&A Proposed Discounts to
Record Derived Workshare Cost Savings
(Cents)

First-Class Workshare Rate Category	S&A Proposed Discounts	Derived Workshare Cost Savings		
		USPS Presentation	PRC R2000-1 Methodology	MMA Methodology
Mixed AADC	6.1	5.4	8.0	8.1
AADC	6.9	6.3	9.1	9.1
3-Digit	7.8	6.6	9.4	9.5
5-Digit	9.2	7.8	10.7	11.1
Carrier Route*	0.3	2.0	2.0	2.0

*Measured from 5-Digit

As Table 2 shows and MMA witness Bentley testified, the discounts proposed in the S&A are **significantly** lower than the derived cost savings using the Commission's R2000-1 methodology. Tr 12/5163.

Table 3 develops the percentage passthroughs inherent in the First-Class workshare discounts contained in the S&A using the cost savings derived under the PRC Methodology and the MMA Methodology.

Table 3
Percent Passthrough of the S&A Proposed First-Class Workshare Discounts

First-Class Workshare Rate Category	Percent Passthrough	
	PRC R2000-1 Methodology	MMA Methodology
Mixed AADC	76%	75%
AADC	76%	76%
3-Digit	83%	82%
5-Digit	86%	83%
Carrier Route	15%	15%

As Mr. Bentley testified:

[T]he discounts proposed in the S&A meet or exceed the 80% - 100% standard [Mr. Riley] advocates if the Commission measures the discounts proposed in the S&A against either its own methodology established in the last case or the MMA Methodology. ***In other words, based on the derived cost savings that I present in my testimony, APWU witness Riley's complaints regarding the relationship between the proposed discounts and cost savings no longer apply and his testimony is essentially moot.***¹³

At the very least, APWU or its witness, Mr. Riley, should have known what methodology the Commission used in the last case, should have known that the methodology USPS witness Miller employed in this case was significantly different and produced much lower cost savings than the Commission's method¹⁴, and should have known that some of the more significant departures Mr. Miller proposed, such as a change in the cost attribution method, have been ***consistently*** rejected by the Commission. Tr 13/5163-64.

In view of the extraordinary challenges facing the Postal Service and mailers at this time, it would make no sense for the Commission to make radical changes in its firmly held views regarding the appropriate methodology for measuring workshare cost savings, especially where, as here, it is judging the reasonableness of the workshare discounts proposed in a S&A that provides financial benefits on the order of magnitude of \$1.2 billion to the Postal Service. For these reasons alone, the discounts proposed by APWU are unreasonable.

B. APWU's Proposals Disregard Important Ratemaking Principles

APWU witness Riley's testimony is long on generalizations regarding public policy but glaringly short of any analysis regarding the ratemaking criteria that inform this Commission's decisions. For example, Mr. Riley proposes drastically higher First-Class workshare rates without any concern or regard for the adverse impact such rates will have on mailers. In contrast, the Commission must take the impacts of rate

¹³ Tr 13/5164 (emphasis added).

¹⁴ Indeed, Mr. Riley should have known that the Postal Service consistently understates workshare cost savings and that the Commission, in case after case, consistently finds it necessary to adjust upward the Postal Service's derivation of workshare cost savings.

proposals on mailers into account when making its decisions. See 39 U.S.C. § 3622 (b) (4). Similarly, Mr. Riley did not even try to explain how the additional revenues generated by his much higher proposed workshare rates could be squared with the concept of breakeven.

1. The Adverse Impacts On Mailers And the USPS

On this record, there can be no doubt that adopting APWU's proposed workshare discounts would destroy the finely balanced relationship between the USPS and workshare mailers that has developed over many years. MMA witness Crider testified to the extraordinary, expensive lengths to which very large workshare mailers like Sprint go in order to give the USPS the highest quality mail. For example, Sprint has invested in very expensive laser printers to ensure that the USPS' automation equipment has no problems reading them. Similarly, very tight processing windows have prompted Sprint to invest in state-of-the-art inserters. Tr 13/5103, 5141-42. As Mr. Crider explained,

We have a very short window that the post office gives us to make our mail acceptable to them. They also have very stringent guidelines as far as what that envelope has to look like finished once we insert an invoice in there. You can buy cheap equipment, and you can get it halfway done, and there is no telling what you're going to have, what problems you're going to have.

To be able to do it the way the post office wants it done right the first time, you should try to invest in the best piece of equipment that will do that at the best speed possible to meet the windows that we have to get our mail to the post office.¹⁵

¹⁵ Tr 13/5142. Mr. Crider emphasized that Sprint and other Major Mailers engage in a variety of activities that benefit the USPS but do not necessarily benefit them. One example would be the tray tags that Sprint was forced to purchase from a private vendor because the Postal Service, whose responsibility it was to supply the tags, simply could not provide accurate tags on a timely basis. As he stated, "we used to use what the post office gave us, but that turned into a nightmare many, many times because a lot of times we couldn't get the tags we needed and/or the tags were incorrect." Tr 13/5139. Sprint's purchase of tags from a private concern obviously saves money for the USPS while it costs Sprint money. Tr 13/5140-41. This is simply one of many worksharing considerations that indirectly benefit the Postal Service with no monetary incentive offered to large First-Class mailers.

APWU apparently is of the opinion that the Postal Service can slash workshare discounts with impunity, i.e. without there being any effect on the behavior of workshare mailers.¹⁶ APWU's opinion is both misinformed and dangerous.

MMA witnesses Crider and Bentley and NAPM witness Jay Gillotte all stressed the importance that workshare mailers place on receiving meaningful discounts for the work they do **and their belief that the existing discounts do not take into account all of the work they do.**¹⁷ Moreover, MMA witness Crider made it clear that it would take far less than the 2-cent reductions proposed by APWU to turn workshare mailers from the postal system. As he stated in response to APWU counsel's question regarding what he considered to be "significant" reduction in discounts that could put the USPS into a virtual death spiral,

I'm talking about first-class mail only. I'm talking about **tenths of a cent because a tenth of a cent can mean millions of dollars to Sprint in savings.** If those discounts are taken away from us, there is no need for us to continually 100 percent try to do hard copy. We want to do hard copy. I want to keep 218 people employed. I really do. I want to do that, and I want to see the post office grow and be successful. At the same time, there is a bottom line that corporations can or can't do, and once we cross that line and we start seeing that we're not getting any discounts continually in our mail, I feel very strongly that our higher management will say that's enough of it.

Now this isn't going to happen, like, tomorrow or anything like that, but this is something that could start meaning less mail that goes to the post office, and basically that would mean less jobs, that would mean less print senders, and I, for one, don't want to see that.

The Commission should note especially that Mr. Crider repeatedly tempered his remarks about the adverse impacts of reducing discounts on workshare mailers and ultimately all users of the postal system with assurances that MMA members like Sprint see their relationship with the USPS as a true partnership and something that they want to maintain and nurture, as they have done for many years:

¹⁶ Mr. Riley made no attempt to measure the financial impact on the Postal Service of his proposal to radically reduce First-Class workshare discounts. Tr 12/4880. Since the Postal Service has been consistently processing about 50 billion "raw" First-Class single piece letters for 30 years (Tr 13/5168), there is a high probability that a shift of significant volumes from workshare to single piece would cause major disruptions in the Postal Service's ability to meet its service standards. Tr 13/5160, footnote 3.

¹⁷ See Tr 13/5029-36; 5101-04;

We don't want to see our jobs go away. We don't want to see our people not have jobs. We feel that it's a good way to get the invoices to the customer. There's a lot of studies out that show that mail is an excellent way for advertising and stuff.

We are for this. We are not against this, but at the same time we feel that we should have our discounts because of the investments that we have, because of the amount of time we spend preparing the mail. We go to the razor's edge. We have laserjet printers. We have eliminated problems with the post office -- I'm taking Sprint now -- because we try to stay that one step ahead, and we try to work with the post office on anything that we possibly can that's coming down the pike that will benefit us both.

So we don't want to say to our higher management, okay, let's take all of our energy and turn it around, and let's go to the Internet. Let's go another way. We personally don't want to do that, but there is going to be a time that if we can't go to our higher management and say, we're not getting anymore discounts reduction because of our work sharing that we believe is more and more worth it, I honestly feel, and so do many, many people in major mailers, and there is going to come a time that they are going to say, enough is enough. We're not going to renew that \$36 million contract. We're not going to buy these laserjet printers. We're not going to buy the state-of-the-art stuff. It's going to come to that, ma'am, and we don't want it to.¹⁸

The relevant point here is that MMA and other First-Class workshare mailers entered into the S&A as a way to help the Postal Service weather difficult times. Approval of the S&A will give the USPS an additional \$1.2 billion in financial support. In contrast, APWU's proposal for radically lower workshare discounts is an invitation for the Commission to engage in counter productive regulatory brinksmanship with workshare mailers. That course cannot possibly benefit the USPS or users of the postal system.

2. Unjustified Windfall For The Postal Service

APWU witness Riley should have determined the impact that adopting the sharply higher First-Class workshare rates he proposed would have on the Postal

¹⁸ Tr 13/5144-45.

Service's finances but he did not even attempt to do so.¹⁹ The impact is substantial, as Mr. Bentley discovered.

The rates originally filed by the Postal Service were expected to generate an additional \$2.8 billion in revenues from First Class. Implementation of APWU's proposed rates could increase postal revenues by as much as \$1.4 billion, for a total of \$4.2 billion during the test year.²⁰ There is no way to justify such a windfall. As Mr. Bentley testified:

The resulting \$1.4 billion of extra revenue generated in the test year by APWU's proposed rates cannot be reconciled with the concept of breakeven, as I understand it. Nor does it seem fair and equitable to generate these revenues from one rate category that already makes by far the largest contribution to institutional costs. Accordingly, I urge the Commission to reject outright the rate recommendations made by APWU witness Riley.²¹

Under the S&A, the Postal Service gives up *potential* First-Class revenues of \$82 million in the test year in order to gain *virtually guaranteed* revenues of \$600 million because the S&A rates can be implemented by June 30, 2002, about three months early.²² Not a bad deal by anybody's definition of the term.

Another benefit of the S&A is that it does not require the Commission to jump through any illogical ratemaking hoops like APWU's proposal does. In this regard, APWU witness Riley recommends that the Commission provide the Postal Service with

¹⁹ Mr. Riley was the Chief Financial Officer of the Postal Service and had supervisory responsibility for at least one omnibus rate case filed with the Commission. As such, he should appreciate the need for this Commission to rely on factual information and soundly grounded estimates of costs, volumes, and revenues. Instead of supporting his claims with facts, however, Mr. Riley has only offered unhelpful generalizations about the "dire financial straits" (Tr 12/4847-48, 4864) that the USPS is in. This Commission needs to base its decision on something more substantial than mere speculation.

²⁰ Tr 13/5169.

²¹ Tr 13/5170.

²² Under **APWU's proposed rates**, the Service could gain \$1.4 billion from First-Class workshare mailers in the test year, and another \$1.1 billion from early implementation. Of course, this is the proverbial pie in the sky. It is highly unlikely that pursuing the course preferred by APWU would actually result in **any** appreciable additional revenues for the Postal Service. First, if the Commission were to find, **contrary to the record evidence before it**, that it could not recommend the S&A as it is, then workshare mailers, the USPS, and possibly other parties would be forced to pursue their rights to litigate all issues. In that event, MMA believes it much more likely that, among other things, workshare discounts would be even higher than those contained in the S&A. Second, MMA sees no possibility that the Commission could complete the further litigation procedures required to afford parties their due process rights and issue its decision much sooner than the time period contemplated under the Act.

the highest possible test year surplus. Tr 12/4848-49.²³ He also attempted to justify this surplus, coming from one, and only one, rate category – First-Class workshare mailers, as a contingency allowance. Tr 12/4892. MMA witness Bentley easily debunked such sleight of hand. Tr 13/5165. As Mr. Bentley observed:

Never before has the Commission “backed into” the contingency allowance based on an alleged need to raise rates from one rate category as Mr. Riley has. Normally, the contingency is based on a percentage of total projected costs to account for unexpected events.

III. The Cost Savings Derived By USPS Witness Miller Do Not Provide A Reasonable Yardstick For Judging The Workshare Discounts

As noted above, APWU witness Riley merely merely “*assume[d]*” that the cost avoided are as reported by [USPS] witness Miller.” Tr 12/4864 (emphasis added). He may have made this assumption out of a combination of ignorance regarding details of the Commission’s methodology, lack of time to adequately review the existing record after APWU hired him on or about January 14, or other reasons. Whatever the cause, however, his assumption was not a good one.

First, as discussed above, Mr. Riley’s assumption and his insistence that Mr. Miller’s cost savings estimate was the *only* cost savings estimate on the record were just plain wrong. Second, the USPS used the very same cost savings results to justify the almost identical discounts in its initial filing and USPS witness Maura Robinson testified during cross-examination by counsel for APWU that adoption of the *slightly* higher discounts contained in the S&A were still consistent with the criteria she applied in her testimony.²⁴ Third, as discussed below, the changes that Mr. Miller made in the

²³ Mr. Riley has suggested that such an unprecedented high surplus might be justified because, although the USPS has not provided updated costs showing the effects of the September 11 attacks and the anthrax attacks, “no reasonable person can ignore [those] effects.” That is nonsense. The Commission must deal with reality not pure speculation. The S&A incorporates the USPS’ actual cost estimates as reflected in the record evidence. Moreover, the USPS has traded the possibility of updating its costs for the certainty of earlier implementation of the rates agreed upon in the S&A. Mr. Riley and APWU may not respect the Postal Service’s informed choice in this matter but the signatories to the S&A all did and the Commission should as well.

²⁴ Tr. 7/1608-09, 1612-15. Mr. Crider subsequently confirmed Ms. Robinson’s view that “if the discounts were significantly reduced or changed they would look at other alternatives, including electronic provision of things such as bills and invoices.” Tr 7/1596. Ms Robinson also testified as to the importance of the USPS partnership with large workshare mailers, another theme of Mr. Crider’s testimony. Tr 7/1604.

Commission's accepted methods for measuring workshare cost savings make his resulting cost savings an inappropriate yardstick against which to judge the S&A discounts. Finally, other record evidence disregarded by witness Riley revealed for the first time in this case significant errors in the USPS' accepted method for determining delivery cost savings.

A. Mr. Miller's Methodological Changes Render His Workshare Cost Savings Estimates A Poor Gauge Against Which To Measure The S&A Discounts

USPS witness Miller's derivation of workshare cost savings in this case was similar to the one he presented in Docket No. R2000-1. As Mr. Bentley pointed out, a fundamental problem with Mr. Miller's approach is that the Commission rejected significant portions of his analysis and recommended discounts to the Governors based on its own methodology for deriving workshare cost savings. MMA is not saying that Mr. Miller did anything wrong *per se*. When he presented his analysis it was for the purpose of presenting the Postal Service's litigation position on workshare rates.

However, it is not necessarily appropriate to use Mr. Miller's litigation position for the purposes of determining whether the workshare rates contained in the S&A should be recommended to the Governors. As Mr. Bentley explained,

Mr. Miller's failure to accept the Commission's methodology reduced estimated workshare cost savings by an average of 3.17 cents or 49% (as shown in Table 6), an extraordinary reduction given that the USPS derived cost savings average just 6.47 cents. The failure to follow the Commission's established methodology explains why the First-Class workshare discounts proposed in the S&A *appear* to be greater than the cost savings.²⁵

To make the record clear, Mr. Bentley isolated and discussed each of the major changes Mr. Miller made in the Commission's methodology, as shown in Table 4.

²⁵ Tr 13/5170. Details regarding the impact of the changes Mr. Miller made in the Commission's approved methodology are shown in Table 6 of Mr. Bentley's testimony. Tr 13/5171.

Table 4
Specific Cost Impacts of USPS Witness Miller's Revisions to the
Commission's Methodology for Deriving First-Class Workshare Cost Savings
(Cents)

First-Class Workshare Rate Category	PRC R2000-1 Methodology Cost Savings	Impact of Using USPS Cost Method	Impact of Eliminating Cost Pools	USPS Assumption on Delivery Costs	USPS Cost Savings
Mixed AADC	7.99	-0.89	-0.16	-1.86	5.09
AADC	9.08	-1.09	-0.16	-1.86	5.97
3-Digit	9.44	-1.14	-0.16	-1.86	6.28
5-Digit	10.71	-1.27	-0.16	-1.86	7.42
Weighted Average	9.64	-1.15	-0.16	-1.86	6.47

As Mr. Bentley elaborated:

[A]dherence to the Commission's R2000-1 methodology for deriving First-Class workshare cost savings would have resulted in an average automation cost savings of 9.64 cents. Mr. Miller purported to find that the average savings should be only 6.47 cents. The difference of 3.17 cents worth of cost savings has been lost as a result of Mr. Miller's three revisions. On average, 1.15 cents worth of savings was "lost" because Mr. Miller rejected the Commission's cost attribution methodology in favor of the Postal Service's preferred cost attribution methodology; another .16 cents was "lost" because he eliminated two cost pools, even though the two cost pools clearly show that workshare letters cost less than metered letters; and 1.86 cents was "lost" when Mr. Miller decided to use the delivery costs for Non-automation Machinable Mixed AADC (NAMMA) letters as a proxy for BMM letters.

It is apparent that had Mr. Miller refrained from making revisions to the Commission's R2000-1 methodology, APWU's complaint – that the discounts are higher than the cost savings – would be moot.²⁶

²⁶

Tr 13/5172 (emphasis added).

Nevertheless, because Mr. Miller had made such changes,²⁷ Mr. Bentley acted cautiously in explaining why the Commission's method provided a more reasonable barometer of how fair the S&A workshare discounts are.

1. Change In Cost Attribution Method

First, he explained that Mr. Miller's rejection of the Commission's longstanding cost attribution method, which assumes that labor costs vary directly with changes in volume, should not be adopted. As he pointed out, there are at least two important policy reasons this change, which by itself reduced workshare cost savings by an average of 18%:

First, the Postal Service's methodology reduces the pot of postal costs that are attributed, either directly or indirectly, to the subclasses and services of mail. In this case, the Commission's method attributes \$3.7 billion more than the Postal Service's methodology. Reducing attributable costs increases the proportion of total costs that are institutional and opens the door for cross subsidization among subclasses. I am particularly concerned that if the USPS' restrictive views on cost attribution were to prevail, the Postal Service would impose a disproportionately large share of institutional costs on First-Class letters in future rate cases.

Second, the concept of labor costs varying less than 100% with volume tends to reduce the measurement of workshare cost savings. Since the Commission has consistently rejected this concept, I am confident that the Commission will again utilize its own 100% volume variability cost attribution method.²⁸

2. Elimination Of Relevant Cost Pools

Mr. Bentley pointed out that, without an adequate explanation, Mr. Miller eliminated from consideration two cost pools that the Commission had included in the last case. These cost pools consistently exhibited higher costs for metered letters (the benchmark) than for workshare letters. Mr. Bentley found the USPS' reasons for eliminating these cost pools lacked any reasonable burden-of-proof standard. Without

²⁷ MMA does note that the USPS and signatory parties did stipulate that the evidence in its case-in-chief supports the rates set forth in the S&A. See S&A, Section II, Paragraph 3, which provides in pertinent part “

²⁸ Tr 13/5173-74.

proof that worksharing did not cause workshare letters to cost less in these cost pools, Mr. Bentley urged the Commission to leave the cost pools in.²⁹

3. Delivery Cost Savings

This one change accounted for 1.86 cents or 59% of the total cost savings “lost” by the methodological changes made by USPS witness Miller. There was no good reason for the change Mr. Miller made.

First, as Mr. Bentley cogently pointed out, Mr. Miller abandoned his own prior position that BMM and non-automation presorted delivery costs are similar. That assumption was first introduced by USPS witness Hatfield in Docket No. R97-1. It is an assumption that Mr. Miller himself considered and adopted in Docket No. R2000-1 and one that the Commission accepted in both proceedings. Tr 13/5176.

Second, Mr. Miller failed to justify his use of non-automation machinable mixed AADC (“NAMMA”) letter delivery costs as a proxy for BMM letter costs, ***despite the fact that this one methodological change reduced BMM estimated delivery costs by over 25%, from 5.479 cents in Docket No. R2000-1 to 4.083 cents in this case. Id.***

Third, Mr. Miller used delivery costs, derived by USPS witness Schenk, that the record shows to be seriously flawed. Tr. 13/5177; Tr 13/5211-18. As Mr. Bentley summarized the problems with witness Schenk’s study of delivery costs,

Dr. Schenk’s derivation of de-averaged delivery costs relied upon ***total*** originating letters processed and delivered by the Postal Service. The basic problem with using total volumes is that they included volumes, such as letters delivered to post office boxes, that did not incur delivery costs. Therefore, Dr. Schenk’s use of total volumes diluted and distorted the results she showed and provided to USPS witness Miller.

In other words, “Dr. Schenk computed the average delivery cost for all originating letters when she wanted to know the average delivery cost incurred to deliver a letter. The distinction is significant.” Tr 13/5177.

²⁹ Tr 13/5174-75. As Mr. Bentley reasoned, if there are no cost differences due to worksharing, then leaving the cost pools in the analysis should have little impact on derived cost savings. On the other hand, if there cost differences due to worksharing, leaving out the cost pools will understate worksharing related cost savings.

IV. The MMA Methodology -- Correcting Problems With The USPS' Delivery Cost Savings

Table 2 above shows the workshare cost savings that are derived using what is called the "MMA Methodology." It is important to understand what the differences are between the Commission's methodology (called the "PRC Methodology" in Table 2) and the MMA Methodology. The PRC Methodology is **exactly** the same as the methodology that the Commission employed barely more than a year ago in setting the First-Class workshare discounts it recommended to the Governors in its Opinion and Recommended Decision in Docket No. R2000-1.³⁰ The PRC Methodology does not make any correction for the flaws discovered in Dr. Schenk's delivery cost study since it was essentially the same as the study that USPS witness Daniel's generated and the Commission relied upon in the last case.

In contrast, the MMA Methodology makes the adjustments necessary to correct the errors in Dr. Schenk's method of determining unit delivery costs. See Tr 13/5218-19 and Library Reference MMA-LR-J-1.³¹ The MMA Methodology also uses single piece metered letter delivery costs as the proxy for BMM delivery costs rather than NAMMA letters. The reasons supporting use of single piece metered letters as the proxy were succinctly stated by Mr. Bentley:

(1) single piece metered letters are used as a proxy for BMM mail processing costs, (2) there is no reason to expect that single piece and bulk metered letters should have different delivery costs, and (3) it makes sense to use a non-workshare rate category as the benchmark from which to measure workshare cost savings. The unsupported assumption that NAMMA letters provide a reasonable proxy for BMM should be rejected because that assumption fails to reflect the specific impact that worksharing has on delivery costs.³²

Mr. Bentley also suggested the Commission request that, before the next case is filed, the Postal Service examine delivery costs, for both DPS and non-DPS letters, to find out exactly why the delivery of workshare letters cost so much less than non-workshare

³⁰ See Tr 13/5162; Library Reference MMA-LR-J-3.

³¹ The specific changes to Dr. Schenk's study are shown in Library Reference MMA-LR-J-2, which is based upon Library Reference USPS-LR-J-117 that Dr. Schenk sponsored. More specifically, Mr. Bentley made the necessary corrections using data furnished to MMA by the USPS in response to interrogatory MMA/USPS-3. See Tr 14/____.

³² Tr 13/5219-20.

letters. The impact that worksharing has on delivery costs was able to be quantified only because of Mr. Bentley's corrections to Dr. Schenk's delivery cost analysis. He measured delivery costs per letter delivered. Consequently, his derived unit costs for each First-Class rate category were comparable such that the differences represented true cost savings.

Prior to Mr. Bentley's corrections, neither Dr. Schenk nor Mr. Miller could isolate the precise impact that worksharing has on delivery costs. Dr. Schenk simply did not focus on delivery costs' specific cost-causing attributes. She measured costs across all originating letters, including those delivered to post office boxes, which did not incur delivery costs. Ultimately, she ended up with derived unit delivery costs for separate First-Class categories that engulfed varying implicit assumptions about the mode of delivery and were non-comparable. Dr. Schenk's flawed results showed that worksharing had little impact on delivery costs, a glaring weakness that she and Mr. Miller seemed to feel was unimportant to the issue of workshare delivery cost savings.³³

For the foregoing reasons, MMA believes that the MMA Methodology is the best, most accurate yardstick against which to measure the S&A workshare discounts. It has the advantage of correcting a serious methodological flaw in the method of measuring delivery cost savings that has just come to light in this case. It also provides a more consistent method for measuring workshare cost savings since it uses single piece metered mail letters as a proxy to measure both mail processing and delivery cost savings. Finally, it avoids the obvious problems of understating cost savings when using the costs for two workshare letter categories, as the Postal Service did, to isolate cost savings that are supposed to be attributable to worksharing. Nevertheless, MMA recognizes that no matter whether the Commission uses the PRC Methodology or the MMA Methodology, the cost savings are still significantly higher than the S&A discounts.

³³ TR 13/5177-79, 5211-20.

V. There Is No Merit In APWU's Opposition To Additional Ounce Rate

In this case, the Postal Service's proposed to set the additional ounce rate for workshare letters at 22.5 cents.³⁴ APWU witness Riley opposed what he characterized as a "new discount." Tr 12/4862. APWU's opposition is way off the mark.

The USPS' proposal to reduce the additional ounce rate for automation letters is not a discount. It is a long overdue, first step in recognizing what the Commission and affected mailers have realized for years: for letters weighing between 1 and 3 ounces, weight does not affect automation processing costs. In other words, it does not cost the Postal Service any more to process a two ounce letter than it does to process a letter weighing up to an ounce. Accordingly, it is hardly fair for APWU to characterize the USPS's proposal as a "new discount."

The relationship between weight and cost for 2-ounce letters has a long, controversial history. The Commission established the first degressive rate in Docket No. R74-1 because "it reflects the characteristic that the cost of handling the first ounce is greater than that for succeeding ounces."³⁵ Since that time, the degression amount has increased from 1 cent in 1975 to the current 11 cents.

The controversy surrounding the specific cost of the second ounce seemed to hit a dead end in Docket No. R87-1. In that case, the Commission reiterated that its "ultimate goal is to set the degressive rate at a level to reflect cost incurrence."³⁶ Due to the lack of any reliable evidence regarding the costs associated with the second and subsequent ounces, the Commission issued "a directive to the Postal Service that the provision of definitive empirical information on the effect of additional ounces on costs remains a desirable goal." *Id.* at 443. The Commission also concluded that "letters up to two ounces for the most part can be processed on the new automation [equipment] at a cost no higher than a one-ounce letter."³⁷ This view was reiterated in Docket No.

³⁴ For single piece letters, the Postal Service proposed to leave the additional ounce rate unchanged at 23 cents.

³⁵ See *Postal Rate And Fee Changes, 1974*, Opinion and Recommended Decision, issued August 28, 1975, at 195.

³⁶ See *Postal Rate And Fee Changes, 1987*, Opinion and Recommended Decision, issued March 4, 1988 ("PRC Op. R87-1") at 439.

³⁷ See *PRC Op. R87-1* at 448.

R94-1 when the Commission stated "letters processed with automation incur minimal or possibly no extra cost for letters weighing up to three ounces."³⁸

The Postal Service failed to provide the empirical evidence requested by the Commission in subsequent proceedings. As the Commission noted in Docket No. R97-1:

In repeated Opinions, the Commission has urged the Postal Service and other parties to address the cost of processing additional ounces of First-Class Mail. Regrettably, the Service has again failed to respond to this request.³⁹

It strengthened this view by stating,

Notwithstanding the extensive supporting material the Service has filed, a glaring omission is information addressing the cost support for the First-Class mail additional-ounce rate. The Service's failure to devote attention to this long-requested review has hindered the Commission's ability to review the additional-ounce issue.⁴⁰

In the last case, the Commission actually reduced the additional ounce rate for all First-Class mail, from 22 to 21 cents. However, the Governors subsequently increased it to the current 23 cent level when it modified the Commission's recommendation by unanimous vote. Accordingly, First-Class mailers were forced to absorb a unilateral 9.5% increase that goes against the very grain that underlies additional ounce rates.

It appears to be overly obvious that the second and third additional ounce rate is extremely high compared to the cost. As Mr. Bentley testified:

We believe that weight has no or very little impact on processing the letter, whether it is machinable or nonmachinable. And I have testified on that very subject before, trying to ask the Commission to reduce the additional ounce rate for that very reason, particularly between 2 ounces and 1 ounce. The Postal Service uses the same productivities independent of weight. So there is another reason why weight has a very low impact on the cost of handling those letters.⁴¹

³⁸ See *Postal Rate And Fee Changes, 1994*, Opinion and Recommended Decision, issued November 30, 1994, at V-9.

³⁹ See *Postal Rate And Fee Changes, 1997*, Opinion and Recommended Decision, issued May 11, 1998 ("PRC Op. R97-1"), at 301 (citations omitted).

⁴⁰ See *PRC Op. R97-1* at 271.

⁴¹ Tr 13/5250

The Commission's past attempts to address this problem have been hindered by the current rate structure constraints, particularly as they relate to First-Class single piece. That is, the rate for each additional ounce within First-Class must be the same, even though the costs for the first three ounces of a letter appear to be much lower than succeeding ounces. Under these circumstances, the Commission's past recommendations that the additional ounce rate should be reduced for all ounces is understandable. MMA sympathizes with the Commission even though the problem, as we see it, affects only the lower weight increments (up to three ounces) where letters can be processed by automation.

Adopting a more equitable additional ounce rate for workshare letters that are not subject to the full cent requirement (as Single Piece is), makes a lot of sense. Accordingly, MMA recommends that the Commission accept the S&A's proposal to slightly reduce the additional ounce rate for workshare letters by .5 cents.

Conclusion

For the foregoing reasons, the Commission should reject APWU's proposals to change the workshare rates incorporated in the S&A and approve the S&A as filed before March 25, 2002..

Respectfully submitted,

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Dated: Round Hill, VA
March 4, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties to this proceeding, in compliance with Rule 12 of the Commission's Rules of Practice.

Dated this 4th day of March 2002

Michael W. Hall