

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

**EXPERIMENTAL RATE AND SERVICE
CHANGES TO IMPLEMENT
NEGOTIATED SERVICE AGREEMENT
WITH CAPITAL ONE SERVICES, INC.**

Docket No. MC2002-2

**REPLY BRIEF
OF
AMERICAN POSTAL WORKERS UNION, AFL-CIO**

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The American Postal Workers Union, AFL-CIO, shares many of the concerns raised by NAA, Valpak, and GCA in their initial briefs. As we expressed in the APWU initial brief, we support the NSA with serious reservations. APWU believes that the NSA is not crafted such that it should continue beyond three years without substantial changes and the NSA terms should not be widely replicated by extension to others. Because the Settlement agreement allows extension, APWU prefers the original NSA. The Settlement terms for extending similar NSAs to others are sufficiently onerous that we expect few, if any, additional NSAs. Therefore, APWU does not object to the Settlement.

Despite similar concerns to those objecting to the NSA, APWU decided to support the NSA, in large part, to discover whether volume discounts generate new mail or convert Standard A to First Class Mail (FCM) – and whether it is possible to quantify “new” mail with any level of confidence. In this reply brief, APWU addresses two factors that we think recommend this NSA while seemingly driving others to rejection of the NSA.

1. Experiment Rather than Structural Price Change is Appropriate.

Valpak and NAA assert that NSAs cannot substitute for fixing system-wide pricing problems.¹ While APWU agrees with the general proposition, a system-wide

¹ See Valpak initial brief Principle No. 1 at page 9. “Indeed, offering NSAs to the largest mailer(s) affected by systemwide problems could have the adverse effect of delaying necessary systemwide corrections, ...”

pricing fix at this time would be a mistake. The Postal Service does not understand its UAA and forwarding costs and those costs will soon change significantly.² A pricing

See NAA initial brief at page 2. "But rather than fix the problem directly by adjusting the generally available price signals for physical returns and electronic address correction to reflect the relative costs, the Postal Service offers this complicated . . ."

² The Postal Service put Mr. Wilson forward as their expert. (Tr. 3/596.) His direct testimony did not mention PARS. Supposedly PARS will not affect the test year and therefore the Service assumes it is irrelevant, but, Mr. Wilson concedes that PARS will lower UAA costs. See APWU/USPS-T4-3 (Tr.3/540). However, the Postal Service is not sure the cost reductions will impact Mr. Crum's estimated cost savings since both the cost of returns and the cost of electronic notification will be reduced. See response to APWU/USPS-7 on December 12th and its subsequent revisions on February 4-5, 2003. "It would be wrong to assume that PARS will materially decrease the cost savings projected in this case . . . Even if the Commission were to consider the impact of PARS on the cost savings in the second and third year of the agreement, PARS will most likely not materially reduce the per-piece cost savings calculated by witness Crum (see Attachment B, page 2 to USPS-T-3). It is possible that PARS may even increase the cost savings." Finally the Service concedes "At this point, the reduction in costs or the improvement in the ACS success rate cannot be pinpointed. That task must await the development of reliable data . . ."

The Service did no better in describing the current processes – before PARS. Mr. Wilson stated, "I think it indicates that NCOA is capable on average of correcting 4 percent of what would be a 17 percent population, or roughly 25 percent of the potential changes of address." (Tr. 3/ 639.) However, in a February 4, 2003 Errata Mr. Wilson declares, "As stated in my testimony, the 25 percent number was derived from dividing the percent of addresses that an NCOA run captures (4 percent) by the Census-derived rate at which Americans move (17 percent). **At the NCSC we have used the 25 percent number for years** as a conservative measure of the NCOA address correction rate in discussions with customers." (emphasis added) However that assumption was in error. "As such, a system-wide match rate of four percent for all NCOA runs provides no basis for a useful comparison to the 17 percent annual move rate. It is inherently an 'apples to oranges' comparison that lacks any real world meaning. ...Consequently, without an appropriate aggregation of all NCOA mailers that accounts for the frequency of use, one cannot calculate an 'average' annual correction rate and no basis for a comparison to an annual Census number exists." "During oral cross-examination, I testified that NCOA corrects approximately nine billion addresses a year; I then acknowledged one could deduce that the 75 percent of addresses not corrected by NCOA would equal 27 billion. Tr. 3/642, lines 8-18. It was upon review of this part of my testimony in the context of the management challenge to improve NCOA performance

experiment combined with collection of additional and relevant data is more appropriate at this time than a system-wide pricing change.

The proposed NSA will collect helpful data and perhaps spur the Postal Service into a closer examination of costs – including customer specific costs. It is clear that current pricing makes little sense; it is premature to call for wholesale change. The Service should resist calls for quick fixes, such as, de-averaging, free services, or fee for returned FCM. The Postal Service needs to better understand its costs (which are currently a moving target) and its customers' costs; the effect of different hygiene schemes on eliminating UAA; how fast corrections work their way into mailing lists; what prevents a change notice from updating a mailing list; and what effect a separate pricing scheme for bulk mailings might have on the price of the single piece letter. The Postal Service will learn more by collecting data around this NSA than by trying to mine existing data. Without destroying the deal on this NSA, the Commission might recommend that the Postal Service commit to collect even more data on UAA and forwarded mail.

that the invalidity of the 25 percent figure was recognized. We know that the amount of actual move-related UAA mail does not equal 27 billion pieces. In FY2002, the total number of forwards was about two billion and the total number of returns, both move and non-move related, was about one billion."

Mr. Wilson's description of the return to sender process in OCA/USPS-T4-20 [Tr. 3/586] seemed at odds with documentation referred to in Mr. Crum's testimony. Asked to explain [Tr. 3/605] Mr. Wilson said that "... manual processing is required to capture return to sender address information, ...A [REC] operator is manually encoding this." But the Service had another alternate view. "Based on the available information, it is the Postal Service's best estimate that in FY2002 slightly less than half of return to sender pieces received a verified POSTNET barcode and were possibly processed on automation." (Response of United States Postal Service to Oral Request of Chairman Omas. Tr. 5/ 955-956.)

In the context of an experiment – one that should not be replicated or continued beyond the three-year term without substantial change (as APWU suggests in its initial brief) - potential discriminatory effects, if any, are marginalized.

2. The Role of Negotiations.

NAA attacks this NSA, in part, because it results from negotiations.³ Others, including the Commissioners have questioned the wisdom of linking apparently disparate concepts.⁴

The promise of salvaging a mutual benefit can sometimes keep parties bargaining to agreement and overcome their conflicting goals. The original positions of each party may have been sensible, logical, and easily explained and justified. The resulting agreement, containing a mix of modified positions, might only be intelligible as something that got the parties to a presumably mutually beneficial agreement. However short of original positions, each party will defend the agreement as beneficial when examined as a whole agreement whether in a ratification vote, a court challenge, or a PRC docket. In ongoing relationships, neither party can afford candor about their bottom lines or who got the better of a deal. With the possibility of future negotiations, any explanatory comments may also contain necessary posturing for the continuing relationship and precise negotiation goals and bottom lines remain obscure forever.

The Commission will have to assure that any NSA meets statutory criteria. In doing so, NAA's statutory concerns disappear.

³ See NAA initial brief, item 3, pp 11-13.

⁴ See GCA initial brief, item C, pp 14-18. See also Tr. 9/1935-1938.

If NSAs are accepted, the Commission's considerations will have to accept that an NSA may not be structured to anyone's liking. A single party – absent the problems inherent in negotiations – could design rate and service changes less troublesome for the Commission to judge, but less responsive to the very specific goals of the parties. For example, APWU believes that Capital One would benefit financially by implementing ACS without any agreement with the Postal Service, but they will not. Our view of the benefits to Capital One may be wrong. Perhaps we are right and Capital One's position was adopted solely for bargaining. At this point, Capital One cannot abandon its position without losing credibility and with it the loss of future ability to bargain good deals. The address hygiene provisions and the declining block discounts could stand apart – making their merits easier to evaluate, but if forced apart there is no deal to evaluate. The Commission can expect to see such "imperfect" NSAs again. The Commission should not judge NSAs on whether they are well crafted – the negotiation process will sometimes prevent that – but on whether the NSA benefits the Postal Service such that postal customers benefit generally and no postal customer is disadvantaged.

3. Conclusion.

The APWU supports the NSA but with serious reservations as stated in the foregoing comments and in the APWU's initial brief. Because of those many concerns, the APWU supports the NSA as an experiment that should not be continued beyond 3 years without substantial changes and should not be widely replicated in its current form.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice.

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