

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

EVOLUTIONARY NETWORK DEVELOPMENT
SERVICE CHANGES, 2006

Docket No. N2006-1

REPLY OF THE UNITED STATES POSTAL SERVICE
TO COMMENTS REGARDING PROPOSED PROCEDURAL SCHEDULE
AND SPECIAL RULES OF PRACTICE
(March 23, 2006)

In accordance with Postal Rate Commission Order No. 1453 (February 17, 2006), the parties were invited by to submit comments to the Commission by March 17, 2006, regarding the procedural schedule proposed by the Postal Service.¹ Three parties responded to the Commission's invitation: the American Postal Workers Union, the Office of the Consumer Advocate, and David Popkin. The Postal Service hereby submits these comments in reply.

The procedural schedule proposed by the Postal Service on February 14th was offered for the purpose of creating an opportunity for the Postal Service to benefit from an advisory opinion from the Commission before implementing the first operational and service changes expected to result from the initial phase of the national roll-out of its Evolutionary Network Development strategy. PRC Order No. 1453 reflects a preference on the part of the Commission not to attempt to proceed on so expedited a basis.

In one regard, the Commission's February 17th decision has proven to be

¹ See USPS Motion for the Adoption of Proposed Procedural Schedule and Special Rules of Practice (February 14, 2006).

fortuitous. A pair of postal personnel indispensable to the implementation of the END initiative and the completion of this litigation have found it necessary to be away from the office for the last several weeks in order to tend to urgent family matters.² One returned to the office late last week and is working mightily to catch up on all matters, especially those related to this litigation. The other is expected back in the office next week. Unavoidably, circumstances have not permitted either employee to make material and necessary contributions to the production and/or review of interrogatory responses that have been due in the past few weeks. Accordingly, a number of responses have been delayed beyond the Postal Service's proposed expedited seven-day deadline and even the standard 14-day deadline. The Postal Service expects to have any such responses filed by close of business next week. The Postal Service regrets the delay to this litigation that these circumstances have created, but the vital business of the Postal Service and the Postal Rate Commission must sometimes give way to matters of at least equal importance.

The prospect of hearings in mid-March having been negated by Order No. 1453 and the circumstances described above, the question before the Commission remains: on what schedule should this docket proceed? The opportunity for the Postal Service to benefit from an advisory opinion from the Commission before implementing the first of the planned operational and service changes in mid-May is apparently gone. Still, the Postal Service has a strong preference for receipt of the Commission's advice as

² One is a witness in the proceeding and the other is one of his principal deputies. One situation involved the need to spend several weeks in India managing a seriously ill parent's access to medical treatment. On a brighter note, the other involved a commitment to be away from work for several weeks to care for a spouse who gave birth nearly two weeks ago, and to keep two of the newborn's toddler siblings in check.

early as is practicable during the multi-phased implementation of the changes that can be expected to result from its Evolutionary Network Development initiative.

An important consideration in determining a schedule for Docket No. N2006-1 is the very high probability that the Postal Service will be filing an omnibus rate request in the next several months. Such a rate case is likely to command the attention and resources of all who have intervened in or who must manage the current docket. Accordingly, it is the Postal Service's view that every opportunity should be taken to advance the progress of Docket No. N2006-1, in order to minimize the possibility that the looming rate case could ultimately divert resources away and lead to requests for delay of the current docket.

The Postal Service does not disagree with the March 17th comments filed by the APWU, insofar as they emphasize that that parties should have sufficient time for discovery. To date, the parties have had the benefit of five weeks of discovery, more or less. Taking into account the Postal Service's expectation that the production of discovery responses will not be back on track until the end of next week, it seems reasonable to permit discovery on the Postal Service's testimony to continue through as late as the end of April, as proposed by the OCA at page 2 of its Comments, subject to follow-up questions as appropriate.

At page 3 of its comments, the OCA expresses some uncertainty regarding the proposed date for the implementation of the first operational and service changes to result from the roll-out of the Evolutionary Network Development initiative. The Postal had assumed that it was clear that it had no intention to implement any operational and

service changes that would result from a national roll-out of its Evolutionary Network Development initiative before the mandatory 90-day waiting period specified in 39 C.F.R. § 3001.72. Having filed its request on February 14, 2006, with the intention of complying with Rule 72, the Postal Service will implement no changes that may result from any of currently pending Area Mail Processing feasibility studies before May 15, 2006. Accordingly, the request in this docket is premised upon a proposal to implement the first changes no earlier than that date.

Further, at page 4, the OCA argues that it is uncertain “about which programs or changes in postal services the Postal Service is requesting that Commission to advise and issue a report on – all or some of the methodology, the process, or the implementation of the results.” It is the Postal Service’s view that the purpose of § 3661 is to provide an opportunity for the Commission to review plans that the Postal Service has for making changes in postal services and to opine as to whether the types of service changes implied by those plans, and the underlying rationale for those changes are consistent with the policies of the Postal Reorganization Act. Changes in service are expected to result from operational consolidations implemented as part of the Evolutionary Network Development initiative. These changes could be at least substantially nationwide in scope. The procedures through which the service changes will be implemented are the Area Mail Processing Guidelines reflected in the Handbook PO-408. Accordingly, a review of the goals of the Evolutionary Network Development initiative is appropriate.

Likewise, the Postal Service considers it appropriate for the Commission to opine

on the process by which the Postal Service intends to implement the service changes. The ultimate objective of this proceeding is for the Commission to offer an opinion regarding whether the types of service changes that are likely to result from the AMP review process being applied in pursuit of END are (1) at least substantially nationwide in scope and (2) consistent with the policies of the Postal Reorganization Act.

It is the view of the Postal Service that the Commission's role under § 3661 is to opine whether the Act permits the Postal Service to make service changes in pursuit of the goals it has identified, using the methods it has selected. With all due respect, the Postal Service does not regard § 3661 as a license for the Commission to step into the shoes of postal management and declare that, if given the opportunity, it would exercise postal management's discretion differently and pursue other service and operational objectives.

Application of the AMP review procedures to the postal network and the implementation of resulting service changes are expected to take place in phases over several years. It is the view of the Postal Service that § 3661 does not contemplate Commission oversight and judgment of each operational consolidation at every facility or a ZIP Code-by-ZIP Code review of service upgrades and downgrades for each mail class. Rather, the Act requires that proceedings be conducted which provide a basis for understanding the types of service changes to be implemented, the reasons for those changes, and the processes by which the changes will be implemented.

The Postal Service agrees with the OCA at page 5 of its Comments and with Mr. Popkin's Comments at pages 1-2 that the Postal Service's proposed shortening of

response periods otherwise provided by the Commission's rules is no longer viable under the current circumstances.

In pages 9-11 of its comments, the APWU points to questions it has regarding several of the Area Mail Processing decision packages in USPS Library Reference N2006-1/5 as part of the basis for its expectation that this docket should take a year to litigate. However, other parties with specific questions seeking clarification of the contents of that Library Reference have taken the approach of propounding interrogatories. There is no basis for presuming that if APWU has similar material questions, and asks them, that answers will not be forthcoming. But the questions have to be asked in order for the Postal Service to answer them.

APWU takes the occasion of its reply to Order No. 1453 to supplement its arguments regarding currently pending discovery disputes. In doing so, APWU confuses service changes resulting from isolated operational changes implemented during the development of the nationwide END initiative with the service changes now being planned as part of the nationwide END initiative. The Postal Service regards those earlier changes as irrelevant to this proceeding for the simple reason that they were not part the current nationwide program that triggers the current § 3661 obligation.

A perfect example is the Marina AMP decision reflected in USPS Library Reference N2006-1/6.³ The January 2005 decision to proceed with the Marina consolidation was not made as part of the current nationwide END strategy. The determination to

³ The Marina decision package was provided, as explained in USPS-T-2 at 10, n.4, to emphasize that operational consolidations of the type at issue in this docket could lead to service *downgrades* as well as upgrades. See *also* the Docket No. N2006-1 USPS Request at 3. Thus, it is puzzling that APWU would argue at page 9 of its Comments that the Postal Service is "reluctan[t] to reveal the fact that END will have negative service impacts."

proceed with Marina was made while the Postal Service was formulating its nationwide END strategy and determining if and when to proceed with it. The fact that the Marina consolidation – or any other isolate local consolidation in 2002 or 2003 or 2004 occurred during the development of END -- does not make it a part of the current END strategy or relevant to this proceeding.

APWU argues at page 7 of its Comments that:

the Postal Service is trying to skirt or ignore the fact that END is nothing more than a slower version of NIA that was promised for delivery in December 2002. This denial of continuity of the two programs is a primary basis of the Postal Service resistance to permitting the Commission to consider events that preceded the “roll-out” in 2005.

The Postal Service's arguments in opposition to APWU's outstanding motion to compel answers to questions regarding isolated operational consolidations that pre-date the implementation of END speak for themselves. APWU's characterization of the relationship between END and its predecessor concept, NIA (Network Integration and Realignment), show nothing more than a preference for insinuation over interrogation. Fortunately for the record in this proceeding, the OCA has propounded interrogatories seeking to explore the development of END and its relationship to NIA, and the Postal Service will respond accordingly.

Respectfully submitted,

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