

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

EVOLUTIONARY NETWORK DEVELOPMENT
SERVICE CHANGES, 2006

Docket No. N2006-1

REPLY BRIEF OF THE UNITED STATES POSTAL SERVICE

UNITED STATES POSTAL SERVICE

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I. Introduction

In its Initial Brief, the United States Postal Service summarized the evidence of record in this proceeding. In doing so, the Postal Service explained why, in light of that record, the Commission should advise postal management that it considers the types of service changes expected to result from the Evolutionary Network Development initiative, the objectives of that initiative and the processes being employed to implement it all to be consistent with the policies of the Postal Reorganization Act, within the meaning of 39 U.S.C. § 3661(c).

In adopting § 3661, the Congress required the Commission to provide an opportunity for a public hearing when the Postal Service requested the Commission to issue an advisory opinion on a proposed change in the nature of postal services. Having provided the required opportunity for a hearing in this case, the Commission's remaining responsibility under § 3661 is to issue an advisory opinion that it believes conforms to the policies of the Act.¹

The Commission is not tasked by § 3661 to second-guess the judgment of postal management in proposing the service changes in question. Nor is it the Commission's task under § 3661 to determine whether some alternative objectives would be "better" for the Postal Service to pursue. The Briefs of several parties offer a litany of suggestions regarding such matters as alternative timelines and methods by which the Postal Service could solicit public input in relation to Regional Distribution Center activations and Area Mail Processing operational consolidations, whether to consolidate

¹ The opinion is advisory only and is not binding. 39 U.S.C. § 3661; *see also, Buchanan v. United States Postal Service*, 375 F.Supp. 1014, 1018 (N.D. Ala 1974), *aff'd in part, vacated in part*, 508 F2d. 2569, 263, n.6 (5th Cir. 1975).

the publication of various internal administrative procedures in one or more administrative handbooks, and whether formulaic decision rules could be used to evaluate the feasibility of network realignment decisions. In many respects, these are matters that, by operation of the Postal Reorganization Act, are within the sole province of postal management to decide. The Commission's responsibilities under § 3661 are to examine the relevant policies of the Act and determine whether the Postal Service's proposed service changes, the rationale for pursuing them, and the methods being employed to achieve them are consistent with those policies.

Because the major facets of the case were discussed in its Initial Brief, the Postal Service will not attempt to readdress every matter touched upon in that document. In this Reply Brief, the Postal Service demonstrates why the few parties criticizing it have failed to undermine either the factual or the legal bases its actions. The mere fact that the Postal Service has not chosen to respond to every argument presented in each Initial Brief should not be interpreted as agreement by the Postal Service with points it has not addressed.

II. The Commission Is Not Authorized By Section 3661 To Establish Itself As A Management Oversight Board

Section 202(a) of the Postal Reorganization Act makes it unmistakably clear that the exercise of the power of the Postal Service shall be directed by its 11-member Board of Governors. Their broad powers and responsibilities are enumerated throughout the Act. The limited powers of the members of the Presidentially-appointed Postal Rate Commission are specified in chapter 36 of the Postal Reorganization Act.

Beginning at page 71 of its Initial Brief, the Office of the Consumer Advocate (OCA) highlights the fact that implementation of the END initiative is scheduled to be a multi-year undertaking. Unsatisfied with the oversight of the Postal Service that it predicts from the various Committees of the United States Senate and House of Representatives, unimpressed with the audits it expects will be conducted by the Government Accountability Office at the direction of the Congress, and by the independent USPS Office of the Inspector General, unpersuaded that the work of these agencies can have any influence over the Postal Service, the OCA asserts that “[s]ome type of continuing oversight of this nascent program is clearly warranted and apparently necessary.” At page 74, the OCA refers to a need for “continued surveillance” of postal management.²

Conceding that the Commission has no legal authority to do so, the OCA nevertheless invites the Commission to use Docket No. N2006-1 as a pretext for beginning “to monitor the progress of the Postal Service and increase the transparency of the END program.” OCA Brief at 75. The OCA urges the Commission, rather than exercise its very limited advisory authority under § 3661, to go beyond the

transparency sought by . . . Congressional representatives, local public officials, the GAO, the employees and even business mailers and consumers

by

holding open this docket, or by promulgating reporting rules requiring the Postal Service to continually provide information about the status of the END program, including information about consolidations as they are completed.

OCA Brief at 75-76. The Postal Service respectfully cautions the Commission to refrain from taking any action not authorized by § 3661.

² Can postal rendition be far behind?

The OCA's proposal also contradicts the explicit holding of the federal Circuit Court of the District of Columbia that:

It is not the function of the Postal Rate Commission to regulate the management of the Postal Service.

Governors of the United States Postal Service v. United States Postal Rate Commission, 654 F. 2d 108, 115 (D.C. Cir 1981). In establishing the Board of Governors and the Postal Rate Commission, the intention of the Congress was to vest in the Board of Governors exclusive authority to manage the Postal Service. As a "partner" to the Board of Governors, the Commission was assigned the duty and authority, *inter alia*, to offer non-binding advice upon request concerning plans for substantially nationwide changes in service. As the court stated:

There is no indication that Congress contemplated that either "partner" would trench on the functions and prerogatives of the other; on the contrary each was to be guided by its "constitutional and legal responsibilities". Congress did not intend that the Postal Rate Commission regulate the Postal Service; one partner does not regulate the other

654 F. 2d 115. The authority to offer non-binding advice on plans for service changes does not include authority to interfere in management or to act as overseer. The Court further admonished the Commission by affirming that:

[t]he responsibilities of the Postal Rate Commission are strictly confined to relatively passive review of rate, classification and major service changes, unadorned by the overlay of broad FCC-esque responsibility for industry guidance and of wide discretion in choosing the appropriate manner and means of pursuing its statutory mandate.

Id. at 117. The Postal Service emphasizes this holding, not in any way to discourage the Commission from offering the full measure of the substantive non-binding advice contemplated by § 3661. The Postal Service reminds the Commission of this past

blemish on the face of inter-agency relations only to help ensure that the mistakes of the past are not repeated here. The OCA argues that:

the need for increased transparency and accountability outweighs any concern about infringing upon the managerial functions that might weigh in favor of closing the case at this time.

OCA Brief at 76. The OCA is reminded that even the Postal Rate Commission is not above the law.

III. Consolidations Under The Traditional *Ad Hoc* AMP Review Process Pre-Date The Development And Implementation Of The END Initiative

In their Initial Briefs, both the American Postal Workers Union (APWU) and the OCA make arguments that reveal a fundamental misunderstanding of the relationship between the recently inaugurated Evolutionary Network Development initiative and the Postal Service's long-standing Area Mail Processing operational consolidation procedures.

At pages 5-7 of its Initial Brief, the APWU argues that the Postal Service began implementing service changes as a part of its Evolutionary Network Development initiative before filing its February 14, 2006, request for an advisory opinion. In support of its assertion, APWU references the Tr. 2/83 testimony of Postal Service witness Pranab Shah (USPS-T-1) explaining the emergence of the END initiative from the predecessor Network Integration & Alignment (NIA) program, the development of which began in 2001.³ To that, APWU attaches Postal Service witness Williams' acknowledgment that the Postal Service's long-standing Area Mail Processing (AMP)

³ APWU makes no effort to invite the Commission's attention to witness Shah's explanation of the relationship between NIA and END at Tr. 2/298.

Handbook PO-408 procedures⁴ for reviewing locally initiated operational consolidation proposals on an *ad hoc* basis had generated two dozen local proposals by various Area Offices for consideration by Headquarters since 2001, some of which were approved for implementation in 2004-2005.

At page 6 of its Brief, APWU argues that the Postal Service's § 3661 obligation to file a request for an advisory opinion arose in late 2001 or early 2002, when it began the laborious process of designing and constructing the optimization and simulations models that would ultimately be utilized as a part of the END initiative.⁵ APWU appears to argue that the Postal Service was obliged to seek an advisory opinion from the Commission regarding the 2005 service changes a reasonable time before the instant in 2001 that it began to conceive the modeling tools it completed four years later. Alternatively, at pages 6-7, APWU misreads the facts to argue that "in the fall of 2005 the END program was being used to direct network reassignment and the Postal Service was required to seek an advisory opinion by the fall of 2005, at the latest."

Likewise, at page 7 of its Initial Brief, the OCA argues that "some consolidations have started pursuant to the END program without the opportunity for the Commission's advice." At page 20, the OCA asserts that the END program "had been in operation for many months during which time the Postal Service might have filed its proposal with the Commission. Again, at pages 21-22 of its Brief, the OCA claims that:

⁴ Dated 1995. See, USPS Library Reference N2006-1/3.

⁵ APWU highlights the fact that the END initiative originally existed as the Network Integration & Alignment (NIA) program, as if the Postal Service has sought somehow to hide the program's history. The Postal Service filed USPS Library Reference N2006-1/7, the GAO audit report, in part, because it contained a useful, detailed history of the origins of END.

at the time of the filing on February 14, all 10 AMPs were in various stages of implementation. . . . Several AMP consolidations under the END program had been completed sometime prior to May 8, 2006 Clearly, implementation was planned to begin and had begun long before the conclusion of the 90 day period following the filing of the request on February 14, 2006, the minimum period provided for in the Commission's rules.

END or no END, the Postal Service has had in place, through its AMP Handbook PO-408, a process through which District and Area Offices can propose that operations within their responsibility be consolidated in order to improve efficiency. As is clear from the Handbook PO-408, these proposals are not initiated by Headquarters, though they must be approved by Headquarters. The record in this docket demonstrates that, even in the absence of a centrally directed, comprehensive network realignment initiative like END, Postal Service field offices -- doing what they are charged to do as a routine management function -- examine local operations on an *ad hoc* basis, identify potential opportunities to make them more efficient through consolidation, and propose that Handbook PO-408 AMP studies be conducted to examine the feasibility of such consolidations. That the Postal Service would engage in such routine activity, even during the lengthy and complex development of the END models⁶ and while determining whether to proceed with the END initiative, should not be surprising.

As Postal Service witness Williams (USPS-T-2) testifies, in the summer and fall of 2005, while such routine *ad hoc* AMP consolidation reviews were underway, it became apparent that the Postal Service *might* consider launching a comprehensive network realignment initiative of the type that it ultimately requested the Commission to

⁶ Not to mention the Postal Service's participation in the review of the models by the Government Accountability Office and the Postal Service's Office of the Inspector General. See, USPS Library References N2006-1/7 and N2006-1/8. See also, Tr. 2/302-305.

review on February 14, 2006. Accordingly, at Mr. Williams' direction, a number of preliminary steps in relation to the END initiative were taken in the latter part of 2005. A list was drawn up of potential consolidation opportunity targets that might be examined as part of that centrally directed network realignment program. Tr. 3/560-67. A determination was made that the existing AMP Handbook PO-408 process, with some modification, could be utilized as a tool in analyzing consolidation proposals as part of the centrally directed network realignment program. USPS-T-2 at 8-12. A team was put together to develop a standardized communications plan that would be needed, if scores of AMP studies were going to be initiated and implemented in waves in the years ahead as part of that systemwide network realignment program.

Witness Williams explains, at pages 13-16 of USPS-T-2, that his AMP Communications Working took advantage of the ten existing *ad hoc* pre-END AMP studies that were then underway to develop the END-related AMP Communications Plan reflected in USPS Library Reference N2006-1/4. At Tr. 2/351, he makes clear that consideration of seven of these ten pre-END AMP proposals had been suspended for up to several years during the 2001-2005 development of the END models.

He also indicates that the Postal Service took a minor, but prudent step in completing the 10 pre-END *ad hoc* AMP studies that are reflected in USPS Library Reference N2006-1/5. The Postal Service ensured that the operational objectives of each proposed consolidation, many of which initially had been proposed by their respective Area Offices at least several years earlier, were not inconsistent with consolidations that *might* emerge from a decision by senior management in early 2006 to approve and implement the END network realignment initiative. Tr. 2/469. The

obvious alternative in October 2005 would have been to assume the risk of approving these ten *ad hoc* consolidation proposals, implementing them, and later discovering the need to reverse some or all of them because they turned out to be inconsistent with operational roles for those facilities that subsequently emerged from the END realignment program. At the time that these 10 *ad hoc* local AMP consolidations were being approved, it was expected that the emerging END initiative would be reviewed and *possibly* approved by senior management and the Board of Governors in early 2006. But it could not be known in the fall of 2005 whether senior management and the Board would move forward with END.

Assume, hypothetically, that senior management had decided in February 2006 to shelve the END initiative and *not* pursue network realignment in any form. Under that scenario, what would now be the status of the ten locally developed *ad hoc* Handbook PO-408 AMP operational consolidation proposals approved in October 2005 if they had been checked against the goals of END, only to have END wither on the vine without approval or implementation? Would the implementation of these 10 *ad hoc* AMP proposals have then constituted the initiation of a substantially nationwide network realignment plan? The initiation of an abandoned substantially nationwide network realignment plan? The answer to both questions is in the negative.

It cannot seriously be argued that the Postal Service was somehow required by § 3661 to seek an advisory opinion from the Commission regarding those 10 *ad hoc* AMP consolidations. They were not part of any plan to change any postal services on at least a substantially nationwide basis within the meaning of § 3661, notwithstanding

the fact that a plan with such potential consequences was being conceived at the time that they were approved.

From the outset, the Postal Service has candidly acknowledged that, before the *possible* approval of END by senior management and the Board of Governors, before moving forward with the 10 local *ad hoc* AMPs proposals in USPS Library Reference N2006-1/5, it checked to determine whether their operational objectives were consistent with the operational objectives of END. However, that fact does not make those 10 AMPs a part of END any more than the Marina CA P&DC consolidation implemented in 2005 (USPS Library Reference N2006-1/6), or the other six *ad hoc* local consolidation proposals implemented in 2004 while END was being developed (USPS Library Reference N2006-1/11).

The only thing clear from the arguments of the APWU and the OCA is that both parties fail to comprehend or, for purposes of argument, are unwilling to acknowledge the distinction between:

ad hoc local AMP operational consolidation proposals that the Postal Service has implemented over the decades and is free to implement at any time as random proposals surface in the field to improve efficiency on a localized basis

and

consolidations that are the product of a centrally directed, scheduled network realignment program, such as END, under which an overall network realignment objective is devised and operational changes are implemented in pursuit of that objective which could affect service on a substantially nationwide basis.

While each AMP consolidation implemented under END may, on the ground, have the same impact as an *ad hoc* locally-initiated AMP proposal, they are different for purposes of § 3661. The Commission recognized this distinction when it opined that:

adjustments at certain SCFs to correct . . . [such matters as] inefficient service

requirements may go forward without a nationwide realignment of service standards.

PRC Op. N89-1 at 41. The Commission's opinion in that docket recognized that the Postal Service is free to make limited service standard changes to the mail processing network on an "as and where needed" basis to meet local conditions which correct inefficiencies in the Postal Service delivery network. The Commission acknowledged that implementation of such changes is a routine management activity which, when it occurs, does not automatically trigger the requirements of § 3661(b). *Id.* Accordingly, there is no basis for asserting that the service changes produced by the 10 pre-END AMP studies collected in Library Reference N2006-1/5 triggered any postal obligation under § 3661(b).

IV. The Request Was Submitted A Reasonable Time Before The Planned Implementation Of The First Service Changes

The Postal Service regards its February 14, 2006, request to be in compliance with the requirement that such requests be filed a reasonable time before the scheduled implementation of the service changes in question. Section 3661(b) is implemented by the Commission at 39 C.F.R. § 3001.72 to require that such requests "shall be filed not less than 90 days in advance of the date on which the Postal Service proposes to make effective the change in the nature of postal services involved."

In implementing § 3001.72, the Commission established a standard that recognizes that Congress did not intend for the process of the development of its non-binding § 3661 advisory opinion to stand in the way of postal management's exercise of its unilateral authority to make changes to postal services that are timely in relation to

their underlying operational or policy imperatives.⁷ Section 3661 contemplates the possibility that the duration of Commission review may not be in synch with postal management's timely exercise of its unilateral authority to implement its operational and policy objectives. Accordingly, § 3661, after affording a reasonable opportunity for Commission review to be completed, permits the Postal Service to implement the service changes it is contemplating, and to take any non-binding advice the Commission should later offer into account, in determining whether and how to further proceed.

Differently situated and differently motivated parties, who may not agree about what issues are properly within the scope of § 3661 review, may never agree regarding the length of time that is *reasonable* for the review of a request submitted under § 3661. There is no limit on the duration of review under this section. In considering, under § 3001.72, *when* to file a request, the Postal Service must make its best judgment about when it intends to implement its plans, as well as the complexity of the issues it believes are properly within the scope of the Commission's review, based upon the request that it is preparing. That determination is not an easy one. Whether 90 or 120 or 180 is reasonable for the completion of §3661 review in a given circumstance is not a scientific or mathematical exercise. The most accurate mode of analysis will always be the one that employs the greatest degree of hindsight. And no one's

⁷ With all due respect to the Commission, § 3661 of the Act establishes for it a non-binding advisory role regarding substantially nationwide service changes, requiring only that the Postal Service not act to implement service changes before (a) requesting the Commission's advice and (b) a reasonable time has passed since making that request. This is in contrast to §§ 3624(c) and 3625, which govern the relationship between Commission recommendations and Governors' decisions in ratemaking.

judgment on this issue should be regarded as infallible.⁸ While the Postal Service may favor focused and expeditious review of its requests so that it may act as quickly as possible, it has little ability to influence whether all participants in a § 3661 proceeding share and are motivated to assist in the pursuit of those objectives.

To-date, eight months after the filing of the request in this docket, implementation of only one of the Area Mail Processing (AMP) operational consolidation opportunities listed in the Attachment to USPS-T-2 has been initiated. See USPS Library Reference N2006-1/14. While such a circumstance could not have been predicted on February 14, 2006, it does not make the Postal Service's initial implementation target date of May 15, 2006, for the first 41 potential END-related Area Mail Processing consolidation proposals unreasonable, within the meaning of § 3661 or under the circumstances of its request.

The APWU's argument at page 6 of its Brief that the Postal Service's request failed to comply with § 3661, curiously, does not acknowledge the 90-day standard or even the Commission's implementing regulation. At page 20-23 of its Brief, the OCA also argues that request was not filed within a reasonable time prior to the effective date

⁸ After making its judgment and filing its request, the Postal Service is not barred from delaying its initially scheduled implementation date in order to benefit from information that emerges from the § 3661 review process or to improve the opportunity for the non-binding opinion to be used and considered before implementation is underway. It should not be presumed, however, that this is the basis for the current delay in the scheduled mid-May 2006 implementation of the first wave of END-related AMP consolidations. Nor should the delay in the current case be regarded as having been motivated by postal hindsight that the timing of the request in relation to the original scheduled implementation date was not *reasonable* within the meaning of § 3661.

of the proposal.⁹ At page 21 of its Brief, the OCA observes that, in Docket No. N75-2, pending the adoption of rules currently in effect, the Commission requested that any § 3661 requests being contemplated at the time be filed at least six months in advance of the proposed implementation date. Since that time, the Commission has settled upon the rule reflected in 39 C.F.R. § 3001.72, that the Postal Service file § 3661 requests at least 90 days before the scheduled date for any service changes expected to result from its proposal.

At page 21 of its Initial Brief, the OCA offers the benefit of its hindsight that, “[g]iven the complexity of the END program, 90 days was clearly insufficient lead time or obtaining advice prior to the first planned implementations. Although the personal circumstances leading to several weeks of the unavoidable absence of persons critical to the progress of the END initiative and this litigation in March 2006 prevented the Postal Service from adhering to the Docket No, N2006-1 litigation schedule that it initially proposed, the Postal Service disagrees that that schedule, absent those circumstances, was unreasonable.

The OCA argues, at page 20 and again at page 23 that, if the Postal Service’s request had been filed earlier, several “problems” with the program uncovered during the hearings could have been avoided. The OCA identifies the problems as “relating to the transparency of the program, communications and procedures for public input.” But, there is no basis for asserting that the “problems” would have been avoided, if the completion of the design and review of the END models described by Postal Service

⁹ The assertion is based, in part, on the argument at page 20 of the OCA’s Brief that the END program “had been in operation for many months during which time the Postal Service might have filed its proposal with the Commission”. That argument is thoroughly refuted above in Section I.

witness Shah at Tr. 2/298-305 had been completed earlier, or if senior management had put the matter of pursuit of the END initiative to the Board of Governors for a vote earlier than February 2006. It defies logic for the OCA to assert that the decision which emerged *after* the filing of the request, to incorporate a direct public input processes for both END-related RDC activations and AMP consolidations, would have been made any earlier than it was made. The “transparency” and “communications problems” that the OCA is alluding to are not clear. For better or for worse, any flaws or shortcomings in the execution of the ten pre-END *ad hoc* AMP studies were going to occur, irrespective of whether the Postal Service had been in a position to decide before February 2006 to initiate its END program. Contrary to OCA’s argument, only if a decision had been made to *delay* the filing of the request could the Postal Service have had additional time and opportunity to address, resolve and avoid the issues to which the OCA appears to allude. As the record in this case demonstrates, the Postal Service used lessons learned from the execution of pre-END AMP studies to refine the AMP process for purposes of END; and, as the OCA acknowledges at page 56 of its Brief, the Postal Service reviewed past practice and seized the initiative to kick-start the AMP post-implementation review process.

V. A Variety Of Intervenor Criticisms Are Unfounded

In their respective Briefs, several parties offer comments and criticism of the Postal Service’s END initiative. Below, the Postal Service responds to some that are noteworthy.

A. No Evidence Of Unfair Impact In Rural Areas

At page 9 of its Brief, APWU argues that “[i]t is entirely possible that an overwhelming majority of negative service changes will affect rural areas and small towns” APWU cites no record evidence for its concern about the supposed possibility. It should be noted that the END initiative seeks to examine the entire postal network, irrespective of whether a mail processing plant is located in the most or the least densely populated corner of the postal network. Section 403(b)(3) requires that the Postal Service maintain facilities in such locations that postal patrons have ready access to essential postal services -- not on a politically or geographically even basis, but consistent with reasonable economies of postal operations. Instead of requiring that postal management deploy mail processing technology and postal facilities in a manner consistent with contemporary standards of political “earmarking,” the Act requires that, in providing services, the Postal Service shall avoid giving undue preference or engaging in undue discrimination among mail users. § 403(c).

B. No Evidence Of Adverse Impact On Current Availability Of Local Postmarks

At page 12 of its Brief, the APWU raises the specter of “the difficulty of getting a local postmark” and criticizes the END initiative as fatally flawed for its failure to incorporate some analysis of this supposed problem. There is no aspect of First-Class Mail service or any postal policy which guarantees that local collection mail will bear a postmark applied at Plant A vs. Plant B. There is no record evidence of local depositors of collection mail in service areas recently subjected to pre-END AMP consolidations being unable to exercise the option available to them under Postal Operations Manual

§ 443.32 to obtain a local postmark at retail windows. Nor is there any evidence of any aspect of the END initiative being designed to affect or having any potential impact on the ability of customer's to do so in the future. There is no record basis for APWU's red herring.

C. No Evidence of Unfair Impact On Collection Mail

While, at other times emphasizing the non-representative nature of the final 10 *ad hoc* pre-END AMP consolidations,¹⁰ APWU misinterprets witness Williams's summary description of the operational changes implemented in those instances. For instance, at page 9, APWU mischaracterizes witness Williams' testimony (Tr. 2/415) as an indication that bulk mail entry units will be retained at *all* future Destination Processing Centers under END to perform originating processing, while local collection mail from the same service area will be taken to a neighboring Local Processing Center for initial processing. APWU compounds this erroneous interpretation by testifying at page 9 of its Brief that this will result in the overwhelming majority of negative service changes being visited upon collection mail. This assertion ignores the testimony of witness Williams (Tr. 2/546-47) regarding the ability of the Postal Service to leverage available technology to process collection mail at alternate originating facilities within the boundaries of current operating plans, without adversely affecting service for local "turn-around" mail.

D. Management Review Of Service Is Ongoing

At page 12 of its Brief, APWU argues that the Commission should issue an opinion that END is not consistent with the Postal Reorganization Act, because the AMP

¹⁰ For instance, APWU Brief at 10.

operational consolidation analysis and post-implementation review process do not explicitly incorporate every possible measure of operational and service analysis. APWU makes this argument, irrespective of whether such analysis is otherwise routinely performed and already informs postal management's judgment without regard to whether operations in a specific area currently or recently have been subject to realignment.

E. The Public Input Processes Ensure Consideration Of Mailer Impacts

At pages 13-16 of its Brief, the APWU argues the Commission should opine that the END initiative fails to abide by the policies of the Postal Reorganization Act because "it fails to measure the costs and burdens of its customers that may result from consolidations."

In support of this proposition, APWU cites Postal Service witness Williams' confirmation that postal costs are the focus of AMP Handbook PO-408 analysis at page 13 of its Brief. For whatever reason, APWU chooses this moment to avoid acknowledging that the AMP public input process reflected in USPS Library Reference N2006-1/16¹¹ permits postal customers the opportunity to provide information relevant to their costs and burdens for consideration by the Postal Service before it makes any final decision regarding any END-related AMP proposal.¹² The Postal Service has

¹¹ Likewise, the RDC activation process is being designed to permit the submission of similar information in writing. See USPS Library Reference N2006-1/23.

¹² At times, APWU is at war with itself. Despite complaining at page 9 of its Brief about the prospect of collection mail being treated unfairly because END will supposedly result in the universal retention of BMEUs at all plants that remain in the system, APWU argues at page 13 about END-related changes in BMEU, BMC or other dropship locations that can be expected to inconvenience bulk mailers as a result of END.

established processes for customers to provide such information unvarnished and unfiltered. The Postal Service is committed to considering such information before determining whether to move forward with a consolidation proposal or to go back to the drawing board. Accordingly, it is absurd for the APWU to argue, as it does at pages 18-21 of its Brief, that postal END-related RDC activation and AMP consolidation review processes -- which exceed the requirements of the Postal Reorganization Act by including non-mandatory opportunities for public input -- somehow violate the Act. Additionally, there is no basis for the assertion that the Act requires adoption of any of the recommendations of APWU witness Yao (APWU-T-1).

APWU criticizes the public input processes because the Postal Service waits until it has vetted and refined a particular RDC activation or AMP consolidation proposal before submitting it to public scrutiny. The Postal Service has no intention of retreating from the practice of giving the public the benefit of its considered expert judgment about what local option it considers to be best in meeting the objectives of network realignment *before* asking the public what it thinks. APWU cynically speculates that it is unlikely that processes for public input afforded to the public by the Postal Service will result in the examination of alternative solutions. APWU Brief at 20.¹³

Public input can be useful. Procedures have been adopted to incorporate it. But the Postal Reorganization does not require community consensus or politically-appointed local commissars to serve as a shadow postal administration before the

¹³ So jaundiced a view, from a party whose *exclusive* interest in postal network realignment is the well-being of the members of the public who are not members of its collective bargaining unit, surely must dishearten the Commission as much as it does the Postal Service.

Postal Service can make local or national operating decisions that Congress authorized it, and it alone, to make. The Commission should unambiguously so affirm.

F. Publication of Opportunity Lists Is Reserved To Management Judgment

At page 52 of its Brief, the OCA argues that potential operational and service changes should be communicated “as far in advance as possible.” The Postal Service plans to give notice of its AMP study intentions and its AMP study results at reasonable intervals before any changes are implemented. To the extent that the OCA’s proposed standard offers any discernable guidance, it serves as an instruction to build in unnecessarily long gaps in time between determining whether to conduct a study in a particular area and the execution of that study, at a time when current postal economic uncertainties dictate that the Postal Service be able to make operational adjustments without inordinate delay to benefit from improvements in efficiency made more necessary in light of harsh post-1970s economic realities.

Similarly, the OCA suggests, at page 32 of its Brief, that the Postal Service periodically release lists of Possible AMP Opportunity Lists, on the theory that “this would eliminate the stress and hand-wringing currently engendered locally when a the announcement of a forthcoming AMP consolidation analysis appears with a relatively short time for response by stakeholders.” The OCA is wishful at best in assuming that there would not be prolonged stress generated by the publication of a list perceived as threatening that *an AMP may or may not be coming to a town near you in the next year or two.*¹⁴ Decisions about when to release lists of *potential* AMP study candidates or

¹⁴ This observation is based upon the numerous phone calls -- including two this morning -- received by the postal attorney whose name and phone number appear on

potential RDC activation sites are matters that properly belong with the agency which must deal directly with the employee and customer anxiety that such lists generate.

G. APWU's Apples-to-Oranges Comparison Of Optimization Model Data And AMP Data Overlooks A Critical Component Of The Process

Beginning at page 14 of its Brief, the APWU points to differences in facility productivity estimates used for purposes of optimization modeling and AMP analysis. APWU ignores that the processes are designed to accomplish different objectives. Optimization modeling helps management focus on a general network construct and can be used to suggest a variety of potential outcomes worthy of further analysis. In separate processes, postal management uses its judgment in connection with relevant data to determine RDC locations, and it uses its judgment to determine which consolidation opportunities identified by the optimization model to study under the AMP process. As demonstrated by the AMP Handbook PO-408 process, the Postal Service then collects and examines facility-specific data with which to make those decisions. The optimization model is not used to make those decisions. It is used to help focus decision-making AMP analysis. It is not necessary or practical to incorporate the level of facility-specific data used in AMP analysis in optimization. The APWU fails to recall that facility-specific operations data are incorporated into the END *simulation* model, which is used to test the feasibility of whether a selected "gaining" facility can absorb the operations that are proposed to be consolidated from a "losing" facility. See, USPS Library Reference N2006-1/9, Slide 9. Mum on the subject when the opportunity to present record evidence was available, APWU refers to the END optimization modeling

the cover page transmitting the original Opportunity List filed at the Commission and posted on its website.

and the AMP review process and asserts that “it is not clear that . . . [postal costs] are measured in a fair and consistent manner” by the two processes. APWU Brief at 14. APWU overlooks the fact that AMP consolidation decisions are ultimately made on the basis of AMP cost data, not on the basis of optimization outputs. APWU also ignores the role of the simulation model and its use of facility-specific data to guide decision-making. Under these circumstances, APWU’s criticisms are without merit.

H. The OCA’s Misstatements Affect Its Analysis

At page 25 of its Brief, in an apparent reference to the unresolved issue of access to the source codes underlying the END optimization model, the OCA argues that the “actual equations and the operation of . . . [the END optimization model] programs remain hidden within ‘black boxes’ in the custody of the Postal Service. Lest there be any confusion caused by the OCA’s clever, but inaccurate, turn of phrase, the Postal Service has never had control of, possession of, or access to the source codes underlying the optimization model. See, Reply of the Postal Service to Presiding Officer’s Ruling No. N2006-1/32 (August 23, 2006).

Likewise, at pages 7 and 27 of its Brief, the OCA argues that the END simulation model workloads could not be validated for local facilities. The OCA’s reference to USPS Library Reference N2006-1/18 (the IV&V report) overlooks the Postal Service’s response to IV&V Report Assumptions 6, 6(h) and 20. See, response to OCA/USPS-48 (Tr. 3/1067-73) which indicates that the methodology was adjusted to address this IV&V report finding.

At page 32, the OCA argues that the optimization model assumes that larger facilities are necessarily more efficient at mail processing than smaller facilities. To the

contrary, the model does not assume facility size, but rather, operation size. The model does not assume that larger is more efficient. It assumes that it is cheaper to add incremental value to larger operations.

In analyzing the 10 *ad hoc* pre-END AMP consolidations in USPS Library Reference N2006-1/5, the OCA observes at page 15 of its Brief that there are cases where mail is moved from more productive facilities or operations to less productive ones. The OCA fails to mention that net savings were projected in each instance, suggesting that the proposed consolidation would improve overall network efficiency, consistent with the goals of END.

The OCA also criticizes the models for relying on postal costs, as measured by the Postal Service, instead of relying on the 100 percent volume variability assumption favored by the Postal Rate Commission. There is no compelling record evidence that an alternative to the Postal Service's costing approach would inform its models in a superior manner.

I. Decision Rules Are A Matter Reserved To Postal Management Judgment

At pages 16-17 of its Brief, the APWU argues that the Postal Reorganization Act requires that Postal Service to adopt a set of decision rules to apply to each Area Mail Processing consolidation proposal for determining whether any particular consolidation can be implemented. The OCA argues in a similar vein at pages 48-52 of its Initial Brief. Both parties assert that decision rules must be established and applied to each AMP consolidation proposal to reflect adherence to a formulaic relationship between a targeted level efficiency sufficient to offset and justify any negative service impact. The Act imposes no such requirement.

The Postal Service does not object to parties suggesting that it should consider whether it is feasible to adopt such criteria, or suggesting that the existence of such criteria might make the outcome of the AMP review process more predictable. However, in 1970, the Congress deliberately gave postal management independence and wide latitude in determining how to configure the mail processing network, providing only the general policy directives referenced in the Postal Service's request. The Congress did not require postal management to adhere to an empirical statutory equation or to establish one as the only measure of compliance with the policies of the Act. No did it not authorize the Postal Rate Commission to impose any similar criteria for purposes of § 3661. Accordingly, there is no basis for asserting that the Act requires the Postal Service to adopt a specific formulaic approach to determining how much quantifiable efficiency must be achieved in implementing the consolidation of a particular facility's operations, in order, for instance, to permit a certain quantifiable percentage of mail in a given 3-digit ZIP Code to be downgraded from overnight to 2-day service.

The Postal Service is guided by the directive in § 403(c), *inter alia*, that it provide services in a manner that does not *unduly or unreasonably* discriminate among mail users. Nevertheless, the OCA urges the Commission to raise this statutory bar by recommending that the Postal Service avoid "potentially inconsistent" applications of the AMP process. OCA Brief at 52. The OCA goes further and asks the Commission to recommend that the Postal Service "reduce the potential for the appearance that AMP

consolidations discriminate in favor of one geographic area over another geographic area.” *Id.*¹⁵

It is virtually impossible to manage a network as complex as the postal system without the ability to permit exceptions from many operational guidelines for a variety of reasons. As a result, a comprehensive survey and comparison of local operating plans would likely reveal a variety of deviations from standard operating procedure that could be perceived as benefiting the service received by some customers or adversely affecting the service received by others. Could such deviations constitute *inconsistent* and, therefore, either *preferential* or *discriminatory* service? Absolutely. If measured empirically, could these phenomena be more prevalent on one side of the Rocky Mountains or the Key Bridge than the other. Sure. Would it violate the Postal Reorganization Act? Only if it met the more stringent standard of being *unduly* or *unreasonably* discriminatory. The Act does not prohibit justifiably different results for separate AMP proposals that, on the surface, may appear to be similar. There is no reason why the Commission should recommend pursuit of such a standard.

In this regard, the many policies of the Act relevant to nationwide operational consolidation are not unlike the postal ratemaking criteria described by the court in *Association of American Publishers v. Governors of the United States Postal Service*, 485 F. 2d 768, 774-75 (1973):

the factors listed are not analogous to a table of atomic weights, or to a multiplication table. The factors are reminders of relevant considerations, not counters to be placed on scales or weight-watching machines.

¹⁵ The only way to achieve this latter objective would be to ensure, in the spirit of the mythical town of Lake Wobegon, that every region of the country received a below average share of any service downgrades.

To further paraphrase: no one seeking fairly to assess a substantially nationwide network realignment program ought to suppose that there is a correct answer, or even that in the final mix there should be added a specified number of spoonfuls of each of the ingredients. A conscientious, competent Postal Service proceeds by opening its mind to relevant considerations and closing its ears to irrelevant ones. It is governed by policies not politics. A reviewing Commission, acting under the limited authority granted by § 3661, may not reassess the weighs given by postal management to different factors, absent a legislative direction as to precisely what gravity each factor bears. All that a Commission may properly do is to consider whether postal management takes into account all relevant factors and no others. *Compare*, 485 F. 2d at 774.

It is not necessary to know the precise number of RDCs, Destinating Processing Centers, Local Processing Centers, 3-ZIP Code areas, or volumes that will experience upgrades or downgrades, or the percentage of affected mail volume in order for the Commission to offer an opinion regarding whether, given the objectives of END and the retention of current service standard definitions, service changes that would result from END would be consistent with the policies of the Postal Reorganization Act, within the meaning of § 3661.

If the nodes of the postal network were a seamless web of nearly identical facilities serving nearly identical service areas, subject to nearly identical transportation parameters and population densities and delivery variables, the idea of a simple set of decision rules to govern whether to implement individual mail processing plant consolidations would have a certain surface appeal to it. However, whether or not to attempt to establish such rules in the context of the more complicated real-world postal

network is a matter left to the sole discretion of postal management, subject to the broad policy guidelines of the Postal Reorganization Act. The Postal Service has relatively wide discretion in determining what those rules might be and its discretion to determine if and when exceptions are reasonable is limited only by the very broad authority granted to it by the various policies of the Act.

The Commission is authorized to opine about the perceived potential benefits of decision rules and to encourage the Postal Service to consider developing and adopting such rules. In doing so, it is expected that the Commission will acknowledge that there is no basis for concluding that such rules are required by the Act.

J. The Postal Service Is Cognizant Of Its § 3661 Responsibilities

The OCA's Brief devotes considerable discussion (pages 61-70) regarding the RDC activation issue, focusing on several principal areas of concern: the relative lack of current detail regarding a schedule for initiation of the activation of RDCs, measurement of the benefits of RDC activation, uncertainty surrounding the number of RDCs likely to be activated, and the potential impact on service depending on the number activated.

The Postal Service acknowledges that the RDC activation process has yet to begin. As the RDC activation plan is finalized and is utilized to designate and bring RDCs on line, the activation processes and decisions, no doubt, will be the subject of scrutiny by entities such as the GAO and the OIG, which have the statutory authority to conduct such oversight. There is an adequate record basis for concluding that the Postal Service's plans are designed to produce results that comport with the policies of the Act.

If the number of Regional Distribution Center activations is ultimately determined to be at or near the bottom of the 28-100 range expressed in the Docket No. R2006-1, Tr. 18D/6616-22, such that the current number of Bulk Mail Centers and Auxiliary Service Facilities approximates the number of RDCs, it is obvious that there will be very little, if anything, in the way of service changes that would result for mail beyond the potential changes resulting from AMP consolidations. Accordingly, the Postal Service has been very clear since early in this proceeding that, when it determines the parameters of its RDC strategy, it will assess whether the expected number of potential RDCs requires it to take action in accordance with the Commission's Docket No. N75-1 policy statement establishing guidelines for the filing of requests pursuant to § 3661. PRC Op. N75-1 at 65-74.

K. Maximum Degree of Convenience

At page 20 of its Brief, the OCA argues that END does not appear to consider the mandate that in planning facilities, the Postal Service shall emphasize "a maximum degree of convenience for efficient postal services." Without citation, the quoted language is lifted from §101(b) and taken out of context. In that section, the specific focus of the directive is the provision of retail and delivery services in "rural areas, communities and small towns where post offices are not sustaining." This is made even clearer by the next sentence of 101(b), which reads:

No small post office shall be closed solely for operating at a deficit, it being the the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

The likelihood of a small town post office operating at a deficit being proposed for closure as a result of END is most unlikely, given that the objective of END is to

consolidate mail processing capacity among major mail processing facilities that are anything but small town post offices. The OCA points to no evidence in the record that END will or could materially diminish rural customer access to post offices or retail services. The focus on END is mail processing plant operations, not post office retail window and related operations. In the unusual circumstances where END results in a proposal for the complete consolidation of a mail processing plant and the closure of any retail window operations at that location, such that a post office is being closed, the Postal Service is obliged to comply with the policies and procedures outlined in 39 U.S.C. 404(b).

Otherwise, an END-related consolidation proposal could resemble the Marina CA P&DC consolidation, where the retail presence was retained, but where bulk mail entry operations were dispersed among neighboring facilities, after notice and consultation with affected mailers. See, USPS Library Reference N2006-1/6; see *also*, Docket No. C2005-2, Declaration of Robert W. Field, Jr. at 8 (May 17, 2005). There is no basis on the record for concluding that END-related consolidations, whether through RDC activation or AMP consolidation, that also may result in bulk mail entry changes, which will be implemented only after direct notice to mailers and the opportunity for them to provide input before a final decision is made, will reflect a disregard for mailer convenience as the result of a blind pursuit of efficiency.

L. Handbook Revisions Are A Matter Of Management Discretion

At page 47 of its Brief, the OCA recommends modifying the AMP Handbook PO-408 to include references to more recently generated END-related documents. The OCA is reminded that the PO-408 is a document primarily intended for use in

conducting *ad hoc* local AMP consolidation studies. It is being used in conjunction with other tools as a part of the END initiative. As indicated in the Postal Service's October 25, 2006, Reply to the APWU Motion Seeking to Supplement the Record, it is anticipated that the Handbook PO-408 may undergo some revision in early 2007. Nevertheless, matters such as whether certain policy and operating instructions directives related solely to *ad hoc* AMP studies or designed solely for the END initiative are published or cross-referenced in the PO-408, or discussed in the annual Comprehensive Statement or in the Transformation Plan, are internal administrative matters left to the sole discretion of postal management. They are not within the scope of matters intended to be the subject of Commission advice under § 3661.¹⁶

M. Appropriate Service Reviews Will Be Conducted

In his Brief, David Popkin testifies in support of several suggestions. He reminds the Postal Service of the importance of public notice regarding any proposed First-Class Mail overnight service downgrades and suggests that less notice is necessary for downgrades from 2-day to 3-day service. Popkin Brief at 1. His two-tiered suggestion contrasts with the Postal Service's public input processes, which make no distinction between instances where the service changes related to a particular RDC activation or AMP affect overnight/2-day service vs. 2-day/3-day service. Mr. Popkin encourages continued compliance with the Postal Operations Manual policies regarding the

¹⁶ At page 47 of its Brief, the OCA also expresses concern about an apparent citation in the USPS Library Reference N2006-1/27 Marina CA P&DC Consolidation Post-Implementation Review study to a *February* 2006 version of the May 2006 Communications Took Kit contained in USPS Library Reference N2006-1/12. The PIR inadvertently referenced the date on an early draft of Tool Kit.

establishment of final pickup times for collection boxes. *Id.*¹⁷ He also encourages the Postal Service to exercise its discretion, on a case-by-case, basis to include for evaluation in overnight areas all destinating SCF or 3-digit ZIP Code areas that are within three hours drive time dock-to-dock.

He mistakenly asserts that the existing First-Class Mail service standard definitions *require* all intra-state mail to be either overnight or 2-day. *Id.* at 2. However much others may desire it, the Postal Service has never had such a policy. Suggestions to the contrary ignore the factual record in Docket No. C2001-3 and/or misconstrue the language defining the First-Class Mail service 2-day service standard range.¹⁸

Mr. Popkin also encourages the Postal Service, as part of its RDC activation/AMP implementation service standard reviews, to ensure consideration of the criteria for establishing 2-day service for destinations that are beyond the reasonable reach of surface transportation, as required by the First-Class Mail 2-day service standard definition. He points to no record basis for asserting that this is not now being done or will not be done as a part of END-related service standard review. At page 3 of his Brief, Mr. Popkin offers his perception that there have been “cutbacks” in First-Class Mail overnight zones that were established as a result of Docket No. N89-1; but he points to no record evidence of any 3-digit ZIP Code destinations meeting the criteria

¹⁷ This concern is echoed in the Brief filed by Douglas Carlson.

¹⁸ See PRC Op. N89-1 at 5. Only those SCFs within the home state and nearby states *within reasonable reach of surface transportation* are required to be 2-day destinations. The modifier applies to *both* subsets of SCFs.

referenced at page 2 of his Brief having been removed from an origin's overnight
destinating area.

VI. Conclusion

For the foregoing reasons, the Postal Service submits that there is an adequate
record basis for the Commission to opine that that implementation of service changes
resulting from the END program would be consistent with the policies of the Postal
Reorganization Act.

Respectfully submitted,

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