

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

**Station and Branch Optimization and
Consolidation Initiative, 2009**

Docket No. N2009-1

**MOTION OF AMERICAN POSTAL WORKERS UNION, AFL-CIO, TO
EXTEND DEADLINE FOR FILING REBUTTAL TESTIMONY
(October 2, 2009)**

Pursuant to Rule 16 of the Commission's Rules of Practice, the American Postal Workers Union, AFL-CIO (APWU), hereby respectfully requests a two week extension to file rebuttal testimony. On August 14, 2009, the Presiding Officer issued Ruling No. N2009-1/1 establishing the procedural schedule in this docket. Pursuant to that schedule, parties are to submit rebuttal testimony by Wednesday, October 14, 2009.¹ While this initial deadline may have been reasonable when originally determined, the course of this docket, particularly responses to discovery, has dramatically impacted APWU's ability to file informative and useful rebuttal testimony in what is now a very short timeframe. We believe that a modest two week extension, until October 28, 2009, will greatly improve the quality and breadth of the testimony provided, thereby enhancing its utility to the Commission. Because time is of the essence, APWU requests that the Commission exercise its discretion under Rule 16 and act upon this motion forthwith, "without waiting for answers thereto."

APWU appreciates the immediate need for Commission guidance on the Postal Service SBOC Initiative. We also know that the Commission's Advisory Opinion on this Initiative will be invaluable and will hopefully result in great improvements to the current process of identifying and ultimately determining which facilities will be closed or consolidated. However, discovery in this case and evidence revealed at the September 30, 2009 hearing show that there is a lot of room for improvement in the process. As a

¹ Pursuant to this Ruling, participants are required to file Notice of Intent to File Rebuttal Testimony by today, October 2, 2009. Accordingly, concurrently with the filing of this motion, APWU has filed with the Commission its Notice of Intent to File Rebuttal Testimony.

result, the Commission's advice could, and should, address how to improve upon a wide range of deficiencies in the process. Rebuttal testimony exploring these areas and offering reasons for and ways to improve the SBOC Initiative can only benefit the advice provided by the Commission.

For example, APWU has identified at least seven possible areas for rebuttal testimony, including: 1) the inconsistencies and problems with the current studies (e.g. notices provided, or not, as the case may be; problems obtaining community input); 2) demographic/income analysis of targeted stations and branches compared with non-targeted states and branches and wider areas; 3) improvements to cost and savings analysis; 4) consideration of costs to customers; 5) need for post-implementation review or study; 6) the need for better metrics on the effects of closings/consolidations; and 7) ways to quantify the value of a station/branch to the community. Any and all of these areas are worthy of further exploration in the form of rebuttal testimony. Unfortunately, many of these areas of interest only recently came to light in the testimony presented in this week's hearing and in Library References filed by the Postal Service.

At the September 30, 2009 hearings, Chairman Goldway identified a tension present in the Commission's responsibilities under Section 3661 of the PAEA – on the one hand, the Commission must provide advice in a timely manner so that the Postal Service and ultimately the public, can benefit from it, but on the other hand, the Commission must ensure that participants are afforded proper due process. In making this motion, APWU does not intend to detract from the timeliness of the advice, but feels that without an extension, it will not be afforded appropriate due process. Within the last five business days, the Postal Service filed four library references (USPS-LR-N2009-1/14 -17) totaling over **3300 pages**, the bulk of which were filed **this week!** These documents are in response to document requests filed by APWU on July 28, 2009, over two months ago!² APWU asked for the discontinuance decision packages for FY2005-FY2008 to provide insight into the Postal Service's current SBOC Initiative. The Commission agreed, noting that “[t]hese documents will give the public a more complete sketch of the Postal Service's discontinuance process and will likely lead to the

² Document Requests APWU/USPS-DR-1-3, July 28, 2009.

discovery of admissible evidence relevant to this docket.”³ Because of the delay in producing these documents, APWU was unable to explore them in oral cross-examination. We should now be given a full opportunity to examine these documents and provide rebuttal testimony on them and other issues that have only recently come to full light. For example, only two days ago at the hearing did the Postal Service confirm that included in the calculation of “savings” were the salaries of reassigned, not simply removed, Postal Service employees. This is noteworthy, since postal savings is one of the factors used to evaluate whether to close or consolidate a facility. Also, the Postal Service recently revised its lists of stations and branches eligible for discontinuance study from roughly 750 to approximately 410. The Postal Service indicated at the hearing, it intends to file another revised list next Friday, October 9, 2009. The Postal Service is prohibited from engaging in “undue or unreasonable discrimination among users of the mail.” 39 USC § 403(c). The list of the targeted facilities is clearly relevant to this inquiry and parties should be afforded an opportunity to examine and provide testimony on the most up-to-date list.

Accordingly, we request a two week extension. This modest extension should not impact the timeliness of the advice provided by the Commission, especially since Postal Service counsel indicated at the September 30th hearing that it was currently possible that closings might happen before the Commission has issued its Advisory Opinion. With that, the quality and breadth of the opinion should take preeminence over the timing. In any event, a two week delay is hardly a detrimental setback in time and we believe the positive return of this two week investment to the record before the Commission will greatly outweigh any negative consequence of this minimal delay.

For the forgoing reasons, APWU respectfully requests a two-week extension of time to file rebuttal testimony, from October 14, 2009 to October 28, 2009.

Respectfully submitted,

Jennifer L. Wood
Counsel for American Postal Workers Union, AFL-CIO

³ Presiding Officer’s Ruling Concerning Motion to Compel Responses to APWU/USPS-T2-3(a-c), T2-8 and APWU/USPS-DR-1 through DR-3, September 15, 2009.