

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

STATION AND BRANCH OPTIMIZATION AND
CONSOLIDATION INITIATIVE, 2009

Docket No. N2009-1

REPLY OF THE UNITED STATES POSTAL SERVICE
TO THE MOTION OF THE AMERICAN POSTAL WORKERS UNION
TO EXTEND THE DEADLINE FOR THE FILING OF REBUTTAL TESTIMONY
(October 8, 2009)

The United States Postal Service hereby files its reply to the October 2, 2009 Motion of the American Postal Workers Union requesting a two-week extension of the October 14th deadline for the filing of rebuttal testimony.

At page 2 of its motion, APWU argues that it has identified seven possible topics for such testimony, but that “[u]nfortunately, many of these areas of interest only recently came to light in the testimony presented . . . [at the September 30th] hearings and in Library References filed by the Postal Service.”

Putting aside the first topic enumerated on page 2 of APWU's motion, the Postal Service submits that if enumerated rebuttal topics (2) through (7) did not come to APWU's attention until some *Eureka* moment during the September 30th hearing, this was a direct consequence of APWU's lack of diligence in examining the testimony filed on July 2nd, as well as the trove of materials filed thereafter in response to discovery by parties who took their responsibilities as intervenors seriously.¹ APWU has had ample time and opportunity since its intervention on July 8th to explore the discontinuance review process described in USPS-T-2 and

¹ See the Attachment to the USPS Opposition to the Motion of APWU Seeking Production of Documents (October 8, 2009).

to make judgments about how it might be improved. Nothing of a material nature about the current discontinuance review process was revealed during oral cross-examination on September 30th that was not apparent on July 2nd or easily discernable or discoverable soon thereafter.

Symptomatic of APWU's approach to litigation in this docket is the claim at page 3 of its motion for extension that "the Postal Service *recently* revised its lists of stations and branches eligible for discontinuance study from roughly 750 to approximately 410." (Emphasis added.) APWU argues that "parties should be afforded an opportunity to examine and provide testimony on the most up-to-date list." In response, the Postal Service need only highlight two facts known to the Commission: (1) the list to which APWU refers does not identify the much larger universe of such facilities *eligible* for discontinuance review as part of the SBOC Initiative, but the limited number of stations and branches still under consideration for discontinuance review as of the date of the list; and (2) more importantly, that list of "approximately 410" to which APWU refers was *recently* filed in this docket on September 2nd in the update to USPS Library Reference N2009-1/4 -- fully 30 days before the APWU motion.

APWU overplays its hand again at page 3 by arguing that:

only [on September 30th] 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.

The discontinuance review process about which APWU inquired on September 30th has been an open book in the form of USPS-T-2 and ripe for discovery in this docket since July 2nd. To further illuminate that process, the Postal Service

filed a pair of facility-specific discontinuance studies with its request, in the form of Library References N2009-1/1 and N2009-1/2. Additional interrogatory responses and Library References have followed. APWU asked questions about Library References N2009-1/1 and N2009-1/2 but did not follow-up. See Tr. 2/392-97.

The above-referenced confirmation by Postal Service witness Matalik was made in response to an oral question about a matter in which APWU was insufficiently interested until it asked its question on September 30th. Since witness Matalik instantly answered, it is absurd for APWU to imply that it has anyone other than itself to blame for strategically waiting and waiting until September 30th to ask the question. If, in APWU's view, such matters *only recently* came to light, it is clearly because APWU inexplicably *until only recently* kept itself in the dark. Accordingly, the Postal Service opposes APWU's motion, insofar as it relates to enumerated rebuttal topics (2) through (7) on page 2 of that motion. APWU has presented no compelling basis for delay in the presentation of its testimony on those topics.

On the other hand, the Postal Service concedes that APWU should be permitted some relief insofar as it relates to enumerated rebuttal topic (1) on page 2 of its motion: alleged "inconsistencies and problems" with the FY 2005-08 discontinuance studies reflected in USPS Library References N2009-1/14 through N2009-1/17.

Copies of those documents were filed between September 25th and September 29th. In requiring disclosure of these documents, the Commission

emphasized that such disclosure was for the limited purpose of providing “a more complete sketch of the discontinuance review process.” than might emerge solely on the basis of a prospective examination of the Postal Service’s plans for the use of that process. Presiding Officer’s Ruling No. N2009-1/4 at 9. (September 15, 2009).

Having borne the burden of compiling and reviewing the 3300 pages provided in those Library References for purposes of disclosure, the Postal Service appreciates that task involved in systematically sifting through the documents. Putting aside APWU’s approach to litigation in this docket to-date, it is presumed that in the 8 to 13 days since these Library References were filed, interested parties have been diligently analyzing them for purposes of discussion in rebuttal testimony due presently due to be filed on October 14th.

Notwithstanding the very limited purpose that the documents serve in this docket -- to provide a more complete sketch of the discontinuance study process, the Postal Service agrees that the voluminous nature of Library References N2009-1/14 through N2009-1/17 may present a challenge to even the most diligent and heavily-resourced intervenor. Accordingly, the Commission should permit testimony based exclusively on these particular Library References to be filed a reasonable time after October 14.

Thus, the Postal Service considers that APWU should be held to its obligation to file those portions of its testimony pertinent to enumerated topics (2) through (7) listed on page 2 of its motion on October 14th, but should be permitted to file supplemental or separately designated testimony pertinent to

enumerated rebuttal topic (1) and based on Library References N2009-1/14 through N2009-1/17 on some later date, October 21st, for instance.

For the foregoing reasons, the motion should be granted, but only to the extent proposed above.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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