

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

SIX-DAY TO FIVE-DAY CARRIER DELIVERY
AND RELATED SERVICE CHANGES, 2010

Docket No. N2010-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE TO FIRST DISCOVERY
REQUESTS OF MAGAZINE PUBLISHERS OF AMERICA AND DIRECT MARKETING
ASSOCIATION TO THE UNITED STATES POSTAL SERVICE (MPA/USPS-1)
(July 13, 2010)

The United States Postal Service hereby responds to the following interrogatory of the Magazine Publishers of America and Direct Marketing Association, filed on June 24, 2010:

MPA/USPS-1

A partial objection was filed to this interrogatory on July 2, 2010.

The interrogatory is reprinted below, and followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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Docket No. N2010-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF MAGAZINE PUBLISHERS OF AMERICA
AND DIRECT MARKETING ASSOCIATION

MPA/USPS-1. This question refers to your June 17 answer to NNA/USPS-T2-3. The following sentence appears three times in the answer:

Title 39, chapters 10 and 12 contain provisions that can operate to limit the Postal Service's ability to take such actions.

Please identify each section and subsection of chapters 10 and 12 of Title 39 that you contend "can operate to limit the Postal Service's ability to take such actions," and explain why you contend that each such section and subsection can have this effect.

RESPONSE:

As background information, the term "such actions" is in reference to certain personnel actions: (1) reducing the size of the workforce through attrition; (2) layoffs; (3) voluntary buyouts or providing incentives for early retirements; (4) furloughs; (5) pay reductions; and (6) hiring new employees at reduced compensation levels. As this interrogatory uses the word "contend," the Postal Service's response provides its contentions for purposes of this docket only. This answer will address whole sections, but not subsections, as counsel for interveners are fully capable of reviewing the referenced sections.

In Chapter 10, § 1001 includes a provision that the Postal Service's right to take certain enumerated personnel actions -- including transfers, assignments, and relieving officers and employees from duties because of lack of work -- must be consistent with, *inter alia*, collective bargaining agreements. Section 1003 states that it shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for

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comparable levels of work in the private sector of the economy. Section 1004 contains numerous provisions that apply to supervisory and other management personnel, and recognized organizations of supervisory and other management personnel. Section 1005 provides that various laws relating to Federal employees shall apply to officers and employees of the Postal Service, including the provisions of title 5 relating to a preference eligible. One significant ramification involves certain regulations applicable to reduction-in-force actions.

In Chapter 12, section 1002 provides for determinations of units appropriate for collective bargaining, section 1003 provides for recognition of labor organizations, and section 1006 contains provisions governing collective bargaining agreements. Section 1207 contains provisions applicable to labor disputes between the parties to a collective bargaining agreement. Section 1208 governs suits for violations of contracts between the Postal Service and a labor organization representing Postal Service employees. Section 1209 provides that employee-management relations shall be, to the extent not inconsistent with Title 39, subject to subchapter II of chapter 7 of Title 29. One significant ramification involves existing provisions of National Agreements that apply to layoffs or reductions in force, and remain in effect unless and until changed through the chapter 12 processes.

There are many ways in which these statutory provisions can operate to limit the Postal Service's ability to take the specified personnel actions. In addition to the above-mentioned examples, statutory labor law requiring the Postal Service to bargain over

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changes in wages and benefits can limit the Postal Service's ability to provide incentives for early retirements. Furloughs and reductions-in-pay might be covered by applicable RIF laws and/or adverse action laws, as well as labor contracts. The ability to hire new employees at reduced compensation levels can be limited by labor contracts, as well as applicable laws.

Thus, Title 39, chapters 10 and 12 contain provisions that can operate to limit the Postal Service's ability to take such actions.