

Before the
POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Six-Day to Five-Day Street Delivery :
and Related Service Changes : Docket No. N2010-1

NOTICE OF ERRATA – INITIAL BRIEF
OF THE GREETING CARD ASSOCIATION

At pp. 5-6 of the Initial Brief of the Greeting Card Association (GCA) filed on October 15, 2010, a paragraph was erroneously indented and single-spaced, suggesting that it was entirely a quotation. In the attached emended copy, the paragraph has been correctly formatted, and the quoted material forming part of it set off in quotation marks. There are no changes to wording, except that one cross-reference (fn. 36, on p. 17) also has had to be corrected as a result of the reformatting.

October 18, 2010

Respectfully submitted,

GREETING CARD ASSOCIATION

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INITIAL BRIEF OF THE GREETING CARD ASSOCIATION (ERRATA)

The Greeting Card Association (GCA), a full intervenor in this Docket, files this Initial Brief pursuant to Order No. 436 and Presiding Officer's Ruling No. 1. Although GCA has on previous occasions expressed opposition to the project of reducing delivery days from six to five, we recognize that the present Docket has provided a unique opportunity to examine the pros and cons of the five-day proposal on the basis of a fully-developed record. Consequently, GCA has treated the Commission's proceedings as an opportunity to re-examine the question – and particularly the new materials brought forward to elucidate it – critically, and not simply as a chance to restate our earlier arguments in a new forum.

Briefly, GCA's conclusions are two:

- that fundamental errors and omissions in the case presented to justify the elimination of Saturday street delivery make it impossible for the Commission to recommend it; and
- that even if this were not, or not so clearly, true, the five-day service project should be rejected, for at least two reasons: first, it would grievously harm the Postal Service's fundamental public service mission (both absolutely and in comparison to the small and problematic financial benefit); and, second, the same reasoning leading to disapproval of an exigent rate increase in light of

the structural issues surrounding Postal Service costs also apply to the service reduction. .

I. SUMMARY OF ARGUMENT

A. *The Postal Service's methodology is fundamentally wrong.* First, GCA submits that the basic methodology reflected in the Postal Service's case for the five-day proposal is misguided. The object of the proposal is, simply put, to improve substantially the Postal Service's financial position. The Postal Service recognizes, correctly, that it cannot do this instantaneously; capturing the savings it is said to promise will take a fairly substantial time. Nonetheless, the Service has based one whole branch of its analysis – that concerned with quantifying cost savings – on a single past year. That past year, moreover, was an abnormal one in terms of postal volumes and revenues – coming, as it did, at the bottom of the most severe postwar recession. Yet the Service has made no attempt to project the calculated savings forward, to ascertain if they will really materialize or, if they do, at the quantitative level the project assumes.

As a consequence, the Postal Service has failed to provide the Commission with the information it needs to judge whether the five-day proposal can be expected – during the time it is being put in effect – to produce the claimed savings. But without substantiation of those claims, the only securely predictable result will be a significant degradation of service to the public.

B. *Both the flawed basic methodology and some important assumptions underlying the estimates of cost savings make those estimates unreliable.* The limitation of analysis to FY 2009, discussed above, means that any significant change in the patterns of mail volume, cost incurrence, and the like, occurring in FY 2010 and subsequent years, will substantially affect the accuracy of the Service's cost saving estimates. This is a practical problem, since the largest share of the projected sav-

ings are said to come from using largely recession-induced excess capacity to absorb, during the week, volumes previously delivered on Saturday. But FY 2009 was characterized by a precipitous decline in volume, largely due to the recession. Any recovery in volume as economic conditions improve would affect the level of unused capacity, and hence the possible savings.

Similarly, the Service's case rests on a "full-up savings" assumption. This leads to specific assumptions regarding the cost effects of components of the five-day plan which, as we discuss in section II.C. below, are not realistic.

C. The survey research undertaken to estimate volume effects from the five-day project is seriously deficient. The Postal Service – appropriately, in view of the novelty of the proposed change in service – sought to estimate its volume effects through opinion research, both qualitative and quantitative. Unfortunately, the research contains numerous flaws which render the volume-loss estimates based on it unreliable. In some respects, the research had become obsolete before it was presented to the Commission. It omits certain potentially important subgroups of postal customers. By both asking customers their anticipated reaction – in mail-volume terms – and then applying a probability percentage to the answer, it may have introduced a serious systematic bias toward underestimation of volume losses.

D. The five-day project – apart from deficiencies in the supporting evidence – would seriously harm the Postal Service and its customers. The five-day service proposal seems to emerge from a serious over-concentration on cost-cutting, without sufficient attention to the harm the change would cause to the Service itself and to its customers. Cost reduction by degrading service is not a wise choice when the firm retains a high public reputation (which the Postal Service does) and many of its customers have readily available alternatives (which First-Class Mail and package service customers do). This is particularly true when the financial problems motivating the change are either transient (the current recession) or legislatively correctible (the infeasible retiree health care prefunding schedule and the long-standing over-

payment of obligations to the Federal pension system – and yet the service reduction is meant to be permanent.

E. *As the Commission emphasized in rejecting the exigency rate increase, the Postal Service's financial problems are structural, and cutting service is no more defensible as a remedy than an exigency rate increase would have been.* It may be argued that a “practical” compromise on Postal Service deficit reduction initiatives would be to disallow an above-the-cap rate increase (as the Commission has now done) but permit elimination of Saturday delivery. The evident rationale would be that the deficit is caused by excessive costs – mainly labor costs, since these are nearly 80 percent of the total budget – so that raising rates is not an answer; but labor costs would be reduced by dropping a day of delivery. This argument fails in part because the analysis offered in this case does not support even the claimed savings (\$3.1 billion, or 4.6 percent of total FY 2010 operating costs). Equally important, it does not address the global problem: *systemwide* salaries and benefits exceeding – most often by statutory mandate – those in the private sector and, in significant areas, in Federal employment generally.

II. THE CASE FOR FIVE-DAY DELIVERY IS FUNDAMENTALLY DEFICIENT

As the Commission is well aware, this proceeding is about an important tradeoff: maintenance of a historically consistent level of service to the public versus a claimed \$3.1 billion improvement in the Postal Service's bottom line. A case for the project which, on examination, appears to overestimate the financial benefit and underestimate the detriment from reducing service cannot be relied on as the basis for a favorable advisory opinion.

A. The Postal Service's "Historic Test Year" Approach is a Basic Methodological Mistake

The Postal Service's case rests on a single past year, to estimate savings in the future. The Postal Service intends the service reduction to improve its financial position in a process extending into the future. The savings – however large they may turn out to be – are not expected immediately. The Service's policy witness, Mr. Pulcrano, states that the plan would be implemented during FY 2011.¹ Achieving the savings would not be an instantaneous process.² Consequently, the basic structure of the five-day project requires projection of *future* operational changes and *future* cost savings. In the same way, the Commission's independent evaluation of it for purposes of this case must be not simply an assessment of the Service's analytical processes but also a forecast of what results the project based on them is likely to produce over the next several years.

It is therefore disquieting to find that the Postal Service's studies, and its presentation in this case, focus solely on a single past year: FY 2009.³ The case for five-day delivery is at bottom a (heavily edited) snapshot of that year, transplanted into the future implementation period, with the aid of very significant assumptions. The Service has evidently not tried to roll forward its FY 2009 results to demonstrate, even to itself, that they or something adequately like them will obtain in FY 2011, 2012, or beyond.⁴ Instead, it argues that in deciding to pursue the proposed

¹ USPS-T-1, pp. 1, 4.

² Response to PR/USPS-T3-4; Tr. 2/114 (Pulcrano).

³ We leave aside for the moment the question whether FY 2009, which saw the largest decline in mail volume in postal history, would be a suitable base year for any sort of forecast. But see pp. 7 et seq., below.

Furthermore, in order to make clear the scope of GCA's objection to the Postal Service's method, we should state here that its other basic methodological choice – to use an operations-based rather than a volume-variability approach – is entirely correct.

⁴ Postal Service witness Bradley, who was responsible for quantifying much of the cost saving effect of operational changes, was not part of any rollforward exercise (Tr. 4/938-939), and confirmed that it was not used (Tr. 4/956-957). See also Tr. 4/1027-1028 (witness Colvin, to the same effect).

changes in this filing, “the Postal Service did not prepare estimates of future hires, retirements, possible reduction-in-force (RIF) actions, and inter-craft transfers. Indeed, the Postal Service does not believe that it can provide useful estimates of the requested detailed labor complements for future fiscal years in response to this question.[⁵] “

This approach permeates the Service’s entire case regarding cost savings.

Without a rollforward of the FY 2009 estimates the savings projection cannot be relied on, especially in a recovering economy. If nothing else, the history of ratemaking under the 1970 Postal Reorganization Act should suggest that projecting future results on the basis of the most recent available actual data⁶ is a necessity if the forward-looking actions being considered are to have a chance of success. The former rate case rules required, in addition to base-year actual statistics, estimated total accrued costs which were to form the basis for the new rates, and which were to be “for a fiscal year beginning not more than 24 months subsequent to the filing date of the formal request.”⁷ With such forecast data available, the Commission could judge with reasonable accuracy whether the proposed rates would produce adequate revenues when actually being collected. Without them, the Postal Service would have been continually trying, and failing, to catch up with its operating costs.

It seems evident that the problem before the Commission in this case is very similar: how to judge, well in advance of implementation, whether a proposed change will in fact produce the effects the Postal Service wants to bring about. In

⁵ Response to Chairman’s Information Request No. 5, Question 4 [a]-[b]

⁶ We deal later on with the question of how “actual” the FY 2009 statistics presented here – which necessarily depend on counterfactual propositions concerning operations and staffing – really are. See pp. 12 et seq., below. At present we are concerned simply with the problems presented by a case containing no projected information relevant to the period when the contemplated changes in service would be put into effect.

⁷ Former 39 CFR § 3001.54(f)(2). The rollforward process itself was normally explained in detail by a Postal Service witness.

view of that, and of the effective techniques the Service developed for use in rolling forward base year rate case data under the 1970 Act, there seems to be no reason why a similar exercise could not have been performed for this Docket. The Service's reasons for not doing so ignore the fact that all rollforwards encounter some risks and uncertainties. Analysis of the five-day proposal on the basis of FY 2009 involved statistical categories such as workhours, hourly pay rates, transportation capacity requirements, and the like. Rate case rollforward techniques could have been applied to them here, as they were in rate cases under the 1970 statute.

Why the methodological question matters. That the issue discussed above is not an abstract or academic one can be seen by examining a few instances. The most striking of these is the abnormal character of the base year, FY 2009, taken together with the Service's reliance on utilization of excess capacity. By relying on largely recession-induced excess capacity, the Service is able to postulate that no extra labor and other resources will be needed on Mondays if Saturday delivery is ended. As we will see below, this assumption is not justified (in part because the economy is recovering from the recession).

B. FY 2009 Is Highly Unrepresentative, and Therefore an Unsuitable Year on Which to Base the Key Estimates in this Case

FY 2009 volumes were abnormally low. It is generally agreed that FY 2009 saw a highly atypical pattern of mail volume changes. Postal Service witness Corbett noted this departure from even recent trends: a one-year drop of 26 billion pieces, or 12.7 percent, from FY 2008.⁸

Because much of this loss is due to the current recession, it is *pro tanto* not a permanent change. Mr. Corbett testified that the expected volume drop for FY 2010 is approximately 10 billion pieces, less than half that recorded in FY 2009. He also

⁸ USPS-T-2, p. 3.

stated that the Service expects advertising mail “to begin to increase and stabilize as the economy improves.”⁹ That the recession is largely responsible for the FY 2009 loss is clear from the Service’s detailed response to GCA/USPS-T2-1 and -2, which were redirected from Mr. Corbett. Briefly, the Service explained that macroeconomic factors are estimated to have caused a loss of about 21.7 billion pieces, or 85 percent of the 25.6 billion piece total loss. (Because of offsets like population growth, macroeconomic factors caused a smaller percentage of the loss – 31.2 billion pieces – ascribed to negative factors considered alone.) Summarizing, the Postal Service stated that:

. . . Specifically, macro-economic effects account for approximately 69 percent of all the downward effects on volume (total market dominant and competitive products) in FY 2009. Obviously, macro-economic factors are thus still explaining a substantial majority of the observed decline, but not as much as the 85 percent figure might suggest on its own. Broadly speaking, it seems fair to say that the effects of the recession account for something in the general neighborhood of two-thirds of the volume decline experienced in FY 2009.[¹⁰]

For purposes of discussion, we will take the two-thirds figure offered in the last sentence just quoted as the recession-driven portion of the FY 2009 volume loss.

We should also note that the same Postal Service volume estimation model which produced these results also would, in the Service’s view, probably have predicted higher volumes if the macroeconomic data had been more favorable – or, in the Service’s more specific phrase, “had the economy been stronger in FY 2009[.]”¹¹

The Postal Service relies on present excess capacity to provide savings in a five-day environment, in which economic growth will also be occurring. This fact is

⁹ Id., pp. 9, 10.

¹⁰ Tr. 7/1759-1760.

¹¹ Response to GCA/USPS-1, Tr. 7/1756.

significant because the savings anticipated from five-day delivery stem largely from the ability (as the Service sees it) to use existing excess delivery capacity to deal with the mail volumes diverted from Saturday into the work week. That is, the end of Saturday delivery entails delivering substantial volumes on Monday (or later in the week); absent excess capacity on those weekdays, the Service would have to increase capacity then, and would gain little from the delivery reduction. City and rural carrier cost savings¹² account for some \$2.369 billion of the \$3.3 billion gross savings¹³ from five-day delivery.

Postal Service witness Bradley describes two reasons why, in the Service's view, excess delivery capacity can be so used:

. . . [T]ransferring delivery of current Saturday volume to other days of the week will not cause a transfer of much of this time to those days. This is for two reasons. First, despite efforts to reduce the number of routes and save delivery costs, the reduction of volume has outstripped the reduction in street time capacity and there is available capacity on the street. This is not just a historical artifact for FY2009. Operations believe that there will be available capacity in the future despite the reduction in routes.

Second, there are substantial potential economies of density in street delivery that allow street time productivities to rise as volume[s] rise, as evidenced by the sharp increase in street time productivity on the Tuesdays after Monday holidays. This increase in productivity also facilitates handling Saturday's volume on other days without an increase in street hours on those days. In sum, operations experts expect about 10 percent of Saturday's eligible delivery time to be transferred to other days of the week.^[14]

At first glance, Dr. Bradley's statement that according to operations experts "there will be available capacity in the future" might seem to undercut our view that FY 2009 alone is an inadequate basis for decision. What that statement refers to, however, is *not* potential post-recession recovery of some lost mail volume but the effect of further reductions in the number of routes. Examination of his references to

¹² That is, savings in Cost Segments 6 and 7 (city carriers), and 10 (rural carriers).

¹³ USPS-T7, Attachment 3, p. 2 (Colvin).

¹⁴ USPS-T-6, pp. 16-17 (fns. omitted).

Mr. Granholm's testimony and library references shows that the entire analysis was based on FY 2009 results¹⁵ alone, with no consideration of potentially higher volumes, from economic recovery and growth, in later years. Dr. Bradley was not able to quantify the excess capacity remaining after the FY 2008 and FY 2009 capacity reductions.¹⁶

Even accepting the depressed daily estimates of City Carrier Cost System (CCCS) volume data for FY2009 would not save the Postal Service's postulate that no extra labor and other resources will be needed on Mondays if Saturday delivery is ended. Ending Saturday delivery would nearly double Monday's volume of 19.8 billion pieces to 35.7 billion pieces, a figure which is fully twice as great as volume delivery for any other day of the week.¹⁷ It is well known in the peak load literature that costs accelerate as the firm moves beyond normal capacity utilization.¹⁸ The Postal Service, as we just observed, acknowledges that volume has fallen too fast for it to keep pace through cost-reduction programs – though an excess Monday capacity of roughly 50 percent is disquieting. As total postal volumes recover from the 2008-2009 recession, even if USPS had 50 percent excess capacity on Mondays, it would have less than this with recovery and would have to have more than 50 percent excess capacity measured in terms of 2009 to avoid having to allocate more resources to Monday delivery under a 5 day scenario. The same argument as above would hold true if Saturday mail is processed on Monday and delivered on Tuesday.

¹⁵ In fact, as Mr. Granholm explains, the underlying data represent only the final two months of FY 2009; the restriction seeks, appropriately, to avoid including results for routes eliminated earlier in that year. USPS-LR-N2010-1/3, p. 2.

¹⁶ Tr. 4/933.

¹⁷ Response to CHIR No. 7, Question 5(d) (Bradley); see also Response to CHIR No. 1, Question 1 (attachment).

¹⁸ The most obvious possibility in the postal case is that greatly expanded volume would require (additional) overtime.

It seems evident, therefore, that the Postal Service would have higher operating costs on Mondays (at least) as a result of ending Saturday delivery – costs that it has not netted out from its \$3.1 billion savings estimate.

In summary, therefore, the Commission faces a situation in which

- The only detailed estimates of savings are based on an abnormally low-volume past year, FY 2009;
- The savings themselves are expected mostly from the ability to use current (i.e., FY 2009) excess capacity to handle volumes otherwise delivered on Saturdays;
- The FY 2009 volume loss – the steepest in modern postal history – was largely due to the effects of the economic recession, which the Postal Service itself expects will be reversed to a material extent; so that
- For the near future, it is likely that returning volumes will themselves absorb a portion – possibly a large portion – of the excess capacity estimated for FY 2009 and relied on by Dr. Bradley.

Under these circumstances, the Postal Service's savings forecasts are necessarily suspect.

Trends in the number of delivery points. Another potential source of error – also related to predictable post-recession events – relates to the recent downward, and presumably reversible, trend in the number of new delivery points. The Postal Service's Form 10-K for FY 2009¹⁹ presents figures for recent years:

¹⁹ U.S. Postal Service Form 10-K, FY 2009, p. 70.

| Year | Total Delivery Points | Change in Delivery Points |
|------|-----------------------|---------------------------|
| 2005 | 144,326,365 | 2,006,577 |
| 2006 | 146,174,196 | 1,847,831 |
| 2007 | 147,992,522 | 1,818,326 |
| 2008 | 149,192,286 | 1,199,764 |
| 2009 | 150,115,881 | 923,595 |

With the change for FY 2009 barely more than 50 percent of that for FY 2007, it seems evident that the number of new delivery points has fallen drastically in parallel with the recession. That is the explanation given in the Form 10-K: “The total number of new delivery points was also dramatically lower in 2009 and is a direct reflection of the weak economy, with lower housing starts and housing sales.”²⁰

Economic recovery, therefore, may be expected to reverse the downward trend in new delivery points. The predictable result will be an increased need for carrier capacity, beyond even what a mechanical rollforward of the exceptionally low FY 2009 figure might have suggested.

C. The Postal Service’s “Full-Up” Assumption is a Further Source of Potential Error

The full-up savings assumption defined. The Postal Service’s quantitative case for five-day delivery rests on a “full-up savings” assumption: that is, the project is evaluated on the basis of fully-captured cost savings. The Service does not claim that all these savings can be captured immediately on implementation. Witness Pulcrano, for example, states that

²⁰ Id., p. 17. Postal Service witness Bradley did not offer an opinion either way on the relation between the decline in new deliveries and the recession (Tr. 4/937-938), but this was presumably not an issue he had been asked to study..

The length of the transition [to full-up savings] will be contingent upon the results of the collective bargaining that will be necessary to develop certain changes in working conditions, the length of time necessary to implement those changes, and the proximity of those changes to the implementation of the five-day plan. Another factor will be the timing of the 5-day plan in relation to existing transportation contracts and contractual changes that may need to be negotiated and implemented. Assuming implementation of the five-day plan some time during calendar year 2011 (six months after an implementation date is announced), it seems clear that a year's worth of full-up savings will not be realized in FY 2011. It would be more realistic to expect savings to begin to approach "full-up" levels in FY 2012.^[21]

While the full-up savings assumption simplifies the analysis, it also introduces significant questions. Mr. Pulcrano's response, for example, points to the need for bargaining with employee organizations and perhaps also transportation suppliers to obtain the required modifications to existing contracts. Necessarily, then, the Service is assuming that these negotiations will produce more or less precisely the changes needed to implement the five-day plan as presented in this Docket.

At this point, of course, GCA is no more able than any other observer to predict the outcome of the labor negotiations. It is worth noting, however, that the Postal Service's agenda for them appears to be extensive. A recent article in the trade press²² reports that the Service will be seeking both concessions allowing more part-time workers and reduction of its contribution to the Federal Employee Health Benefits Plan. The Postal Service is not, however, assuming a five-day delivery week for purposes of the negotiation, since legislation is admittedly necessary before it could be implemented. Both the uncertain outcome of this legislative effort and its timing would make the process described by Mr. Pulcrano even more complex and unpredictable.

²¹ Response to PR/USPS-T3-4, Tr. 2/114. See also Mr. Granholm's responses to GCA/USPS-T3-7(b), Tr. 2/358; and GCA/USPS-T3-11(c), (d); Tr. 2/363-364.

²² "USPS Seeks Flexibility in Contract Talks," *Business Mailers Review*, September 6, 2010, p. 1.

The dependence of the five-day proposal on labor negotiations is at least not a problem intrinsic to the Postal Service's analytic process. That analysis, however, incorporates some other choices, related to the full-up savings assumption, which make it less than fully reliable.

The source of savings in city delivery. The Postal Service has explained that city carrier savings will come largely from the elimination of Carrier Technician positions, which will become unnecessary under a five-day regime, since day-off relief carriers would no longer be needed. The affected Carrier Technicians would then take over other jobs being vacated through attrition, or through layoffs where these are possible.²³ The Service's savings calculations rest on the premise that in each case the saving would be equal to the salary attached to the Carrier Technician position.²⁴ Consequently, the analysis assumes that the savings as a whole will stem from eliminating the compensation of full-time regular city carriers.²⁵

Whether this premise is thought to follow from the full-up savings assumption or to be a consequence of too-exclusive concentration on the Carrier Technician positions themselves, it is distinctly dubious. The positions into which Carrier Technicians would move are not necessarily held by regular-rate career employees. Some, as Mr. Granholm observed, are held by Transitional employees, who are paid substantially less. These employees are subject to layoff. If a Carrier Technician takes over a route previously assigned to a Transitional employee, the saving will be equal to the (lower) compensation of the displaced Transitional – not the more nearly comparable pay of a regular career carrier who has, for example, chosen to retire.

²³ Postal Service witness Granholm states that "The Postal Service expects the existing Carrier Technicians to fill required assignments that become vacant through attrition and the elimination of Transitional Employees." USPS-T3, p. 12.

²⁴ Carrier Technicians are paid somewhat more than other regular-rate carriers. USPS-T3, p. 13. .

²⁵ Response to GCA/USPS-T3-7 (Granholm); Tr. 2/358.

This is not an insignificant possibility. Mr. Granholm, in answer to a GCA interrogatory, stated that of the carrier employees who “fill in on the sixth day,” 833 are classed as “City Carrier Part Time Regular”; 19,850 as “City Carrier Part Time Flexible”; and 14,136 as “City Carrier Transitional Employee.”²⁶ Thus approximately 40 percent of the carriers now providing sixth-day relief are Transitional Employees. Mr. Granholm confirmed that the “attrition” he posited was of full-time regular carriers, but made no investigation or assumptions as to the rate at which such carriers would be retiring or otherwise vacating their positions.²⁷

Valuing the displacement of each sixth-day relief carrier at the full-time regular rate makes a considerable difference when total compensation is taken into account. According to a recent National Payroll Hours Summary Report²⁸, total (salary and benefits) compensation for city carrier straight-time hours followed this pattern:

| Employee Category (City Carriers) | Salary + Benefits per Straight Time Hour |
|-----------------------------------|--|
| Full Time Regular | \$41.8485 |
| Part Time Regular | 41.0487 |
| Part Time Flexible | 37.0898 |
| Transitional Employee | 24.0095 |

Dr. Bradley adjusted his data to reflect the full-time regular *wage rate*, in accordance with advice from operations experts.²⁹ That rate is about 4.4 percent greater than the average for city carriers. But if in fact a Transitional Employee is laid off and his or her route goes to a displaced regular-rate, full-time³⁰ Carrier Technician, the difference in *total* compensation saved per hour will be substantially greater than the

²⁶ Response to GCA/USPS-T3-1; Tr. 2/351-352.; see also Tr. 2/436-438.

²⁷ Response to GCA/USPS-T3-8; Tr. 2/359-360.

²⁸ National Payroll Hours Summary Report, Pay Period 15 – 2010, pp. 34 et seq.

²⁹ USPS-T6, p. 19.

³⁰ Response to GCA/USPS-T3-4(d), (e) (Granholm); Tr. 2/355.

difference in hourly pay. Currently, total compensation for a Transitional Employee is \$24.01; that for a Full-Time Regular Carrier, \$41.85. The difference is \$17.84; thus total compensation for the Transitional employee is 42.6 percent less than that of the Full-Time counterpart. The saving will be correspondingly smaller, since the ex-Carrier Technician taking over the position will keep his/her old salary and benefits.³¹ If we look only at the category of employees providing most of the sixth-day relief – Part-Time Regular Flexible carriers, according to Mr. Granholm’s figures cited above – the difference in total compensation is still substantial: \$37.09 - \$24.01 = \$13.08, or 35.3 percent less than the Part-Time Flexible rate.³² In somewhat the same vein, Dr. Bradley, responding to a question from Chairman Goldway stated that five-day savings calculations in his model would show only a few dollars difference per work-hour if transitional employees instead of regular full time employees were used.³³ This result is an artifact of the cost savings formula he has used. The formula notwithstanding, the concept of labor costs used in this case, “productive hourly rates,” are in fact \$41.74 for full time city carriers and \$24.47 for city carrier transitional employees.³⁴ If one looks simply at the numbers of carriers by carrier

³¹ Ibid.

³² It is interesting that the Postal Service has recognized a somewhat similar problem in a different context: that because service-wide benefits recorded in Cost Segment 18.3 are not divided out among direct-labor cost segments, applying them directly, as an average figure, to particular employee categories may overstate or understate the savings from eliminating that category. See USPS-T7 (Colvin), pp. 8-10. Dr. Colvin acknowledges that the average C/S 18.3 benefits figure overstates the savings from eliminating Rural Carrier Associate (RCA) positions, because RCAs do not receive many of these benefits, but points out that for some other categories the average understates the actual benefits provided. The problem Dr. Colvin recognizes, however, is that of applying an actual enterprise-wide average to different types of employees with different compensation arrangements – not the one created by assuming *in limine* that every one of the eliminated positions will turn out to have been held by an employee compensated at almost the highest possible rate.

It is likewise significant that – as both Dr. Colvin and Dr. Bradley (USPS-T6, pp. 26 et seq.) indicate – where contractual rules dictate *in advance* what type of rural carrier employee will be delivering the mail displaced from Saturdays, and at what pay level, the Service has recognized the necessity to calculate the savings accordingly. In the city delivery case, however, it has not even tried to estimate the average compensation of the employees who will have vacated the jobs taken over by former Carrier Technicians.

³³ Tr. 4/978-979.

³⁴ USPS-T7, Attachment 1, p. 2.

type, ending Saturday delivery could be accomplished entirely with low-cost labor in rural areas.³⁵ For city carriers, 40 percent of the savings would be represented by low-cost labor, not full-time regular-rate employees.³⁶

Summary. The Postal Service calculates city carrier savings as approximately \$1.94 billion.³⁷ This is about 55 percent of the total gross savings estimated for the proposal as a whole. It depends on the assumption that every city carrier hour saved should be valued at the full-time regular rate of compensation. The Service has presented no estimate of how many such hours will in fact have been compensated at that rate. Forty percent of the carriers now working Saturdays are Transitional Employees, whose total compensation may be from 35 to 42 percent less per hour than that of the Carrier Technicians expected, in an unknown but substantial number of cases, to take over their routes. In short, the Commission cannot determine, on this record, by how much the actual city carrier savings would fall short of the \$1.94 billion generated by reliance on the “full-up savings” assumption.

This fact is of the greatest importance, because the price of these savings is high. As we will argue below, the Postal Service has not made a convincing case for the proposition that reduction of delivery service will cost it only 0.7 percent of its volume. There is reason to think the losses could be substantially greater. The risks to the Postal Service’s central position as a key communications medium are also clear; we discuss them below in section II. GCA does not believe they would be justified even if the claimed \$3.1 billion saving were guaranteed. A fortiori, the Commission cannot be satisfied with a finding that five-day delivery will produce *some*

³⁵ We recognize that rural carrier agreements now define the role of lower-rate employees with respect to days of the week. The Postal Service, however, has also assumed that modifications to labor agreements would be needed to execute the five-day plan. See Response to PR/USPS-T3/4; Tr. 2/114 (Pulcrano); USPS-T3, pp. 9-10 (Granholm).

³⁶ See pp. 14-15, above.

³⁷ USPS-T6, p. 20.

net savings – never mind how little – and therefore merits a favorable recommendation.

D. The opinion research is unreliable in several respects

The second main branch of the Postal Service's case concerns the effects on volume and revenue of the change to five-day delivery. Here the Service and Opinion Research Corporation (ORC) collaborated on opinion research, both qualitative and quantitative, in an effort to estimate these effects. The results are presented by witnesses Elmore-Yalch, of ORC, and Whiteman (USPS-T8 and USPS-T9, respectively).

At the outset, this approach raises the question – articulated in the testimony of Dr. Michael A. Crew for the National Association of Letter Carriers – whether econometric or discrete-choice analysis should have been used instead of, or alongside, opinion research.³⁸ GCA regards this question as a significant one, but since we have not attempted such an analysis and thus cannot argue that it would have produced different results, we restrict our comments to the work the Postal Service and ORC actually did.

Problems in the qualitative research. The Postal Service and ORC conducted qualitative (focus group and in-depth interview) research with business and consumer participants. The Service's conclusions from it are stated by witness Whiteman:

Overall, the qualitative research clearly demonstrates that both consumers and businesses will be able to adapt to five-day delivery and most would prefer the implementation of five-day delivery as opposed to [a] significant price increase.^{39]}

³⁸ No such alternative method seems to have been considered. Tr. 5/1285 et seq.

³⁹ USPS-T9, p. 3.

The second conclusion is particularly problematic, since the Service ultimately proposed both a rate increase and an end to Saturday delivery – a situation never examined in the focus groups...

The alternatives presented to focus group participants are no longer mutually exclusive. In the course of the focus group, participants were asked for their preference as between five-day delivery and a 10 percent across-the-board rate increase “[i]f these were the only two options to reduce the deficit the USPS is facing[.]”⁴⁰ Preferences were to be indicated on an 11-point scale.

The five-day and rate-increase alternatives were presented as mutually exclusive and jointly exhaustive (“[i]f these were the only two options . . .”). Since the research was done, it has become clear that they are not mutually exclusive; the Service filed a substantial (5.6 percent average) rate increase under 39 U.S.C. § 3622(d)(1)(E), as Docket R2010-4⁴¹. Necessarily, then, the Commission must consider whether the responses favoring service reduction over higher rates when these were offered as strict alternatives are still a reliable guide to public opinion.

It is easy to see why they might not be. Respondents might, for example, consider that if rates were to be increased anyway, there would be less, or no, reason for them to “adapt to five-day delivery.” Other reactions are no doubt possible.⁴² What is significant is that the focus group research as performed is no help in estimating mail user reactions to a situation combining reduced delivery and higher rates. Ms. Elmore-Yalch so testified:

⁴⁰ USPS-T8, p. 8; Appendix C, p. 77 (Elmore-Yalch).

⁴¹ That the Commission did not approve the increase has no bearing on the question of whether, in late 2009, the focus group participants were misled as to the Service’s future actions and thus gave answers which the Commission cannot now rely on.

⁴² Postal Service rebuttal witness Boatwright – who is, admittedly, discussing quantitative research – provides a helpful description of biases introduced by disparity between the information given respondents and the actual future product, and by gaps in the information which lead respondents to form their own theories (“attribution bias”). See USPS-RT4, p. 15. We suggest that his discussion is relevant here too.

. . . am I right to think that it would be just speculation to try to extrapolate from the work you [i.e., ORC] did on these focus groups – with these focus groups – to estimate the reaction of those participants to the situation of both a delivery service reduction and a rate increase?

A It would be impossible for me to judge that from the research we did.^[43]

Mr. Whiteman has explained that between initiation and completion of the research, no decision regarding an exigency rate request had been made and that, accordingly, “no one could have advised ORC that both five-day delivery and an exigent case would subsequently become Postal Service plans.”⁴⁴ This is no doubt both true and useful to know, but the fact remains that the situation now facing the Commission is very substantially different from the one presented to the focus groups. Ms. Elmore-Yalch confirmed that reactions to the service-cut-plus- rate-increase combination could not be judged from the focus group responses. We suggest, therefore, that the Commission cannot rely on any conclusion that “most” consumers and businesses would prefer five-day service to a rate increase.

The alternatives presented were not equivalents. The “Communications Message Points” prepared for the focus groups⁴⁵ listed a variety of anti-deficit initiatives the Postal Service had adopted, and in the case of five-day delivery, the anticipated savings from the move:

- Nevertheless, the Postal Service faces a deficit of over \$7 billion. The deficit will be reduced in part by eliminating Saturday delivery which will save over \$3.3 billion annually.
- The rest of the deficit will be eliminated by restructuring payment of about \$5.6 billion annually for prepayment of future retiree health benefits that are now required by law.

⁴³ Tr. 5/1113 (Postal Service witness Elmore-Yalch).

⁴⁴ Response to GCA/USPS-T9-6; Tr. 5/1218-1219.

⁴⁵ See USPS-T8, Appendix C, p. 85.

Taken in conjunction with these “message points,” a fair – in our view, the fairest – reading of the preference question is that an across-the-board ten-percent rate increase would produce revenue roughly equal to the \$3.3 billion saving expected from five-day delivery. The two measures, in other words, would be substantially equivalent from the deficit reduction standpoint explicitly adopted in the question. In fact, of course, the rate increase necessary to generate \$3.3 billion would be somewhat less than five percent.⁴⁶ The Commission, accordingly, should ask itself whether, facing a choice between five-day delivery and a rate increase half the size of that actually propounded, “most” participants would still have opted for the service reduction. GCA, of course, does not know the answer to this question. Our point is that nothing in the record is capable of providing an answer.

Both Ms. Elmore-Yalch and Mr. Whiteman explained the reasons for choosing a ten-percent increase. They are understandable, but seem to have been adopted without sufficient regard for the distortions they might introduce into the results. The figure was provided by the Postal Service.⁴⁷ It was meant to be a figure which the focus group participant could “easily relate to”⁴⁸ and which would bring participants to realize that five-day delivery would be “a significant change.”⁴⁹ No consideration was given to using a percentage increase equal, in dollar benefit terms, to the expected savings from five-day delivery.⁵⁰

It may be true that choosing a hypothetical rate increase twice the size of the one which would equate to the savings from five-day delivery would impress participants with the importance of the service change. Whether that effect was worth the

⁴⁶ FY 2009 mail and services revenue was \$67.9 billion (see *Public Cost and Revenue Analysis Report, FY 2009*), and \$3.3 billion is 4.86 percent of this figure. Mr. Whiteman pegged the ten-percent increase at about \$7 billion. Response to NNA/USPS-T9-3; Tr.5/1229.

⁴⁷ Response to GCA/USPS-T8-2(a) (Elmore-Yalch); Tr.5/1078. See also Tr. 5/1104 et seq.

⁴⁸ Response to GCA/USPS-T8-2(b); Tr. 5/1078-1079.

⁴⁹ Tr. 5/1275-1276 (Whiteman).

⁵⁰ Tr. 5/1274-1275 (Whiteman).

risks of distortion created by basing the question on a ten-percent increase is another question. Indeed, the design of the focus group materials suggests that by the time the preference question arose the participants should have had a quite comprehensive understanding of how important five-day delivery could be to them.

Business group participants, for example, were first asked –

- To “think about a typical week at work and describe your mail routine – think about both sending and receiving mail – walk through a typical week by day”;
- To think about specific mail activities (paying bills, receiving payments, sending packages, etc.);
- To consider, for these specific activities, the degree of flexibility the business has and the consequences to it of a day’s delay; and
- To describe how the business plans for the delivery of its mail, or the receipt of expected mail, in terms of time to delivery for local, intercity, and nationwide mailpieces.

After this, the group leader was to describe the Service’s financial challenges and the five-day proposal, and then to ask participants, *inter alia*, to relate five-day delivery to the mail routines discussed earlier and to describe the impacts of the plan on their businesses. This was to be followed by a yet more specific discussion of the five-day delivery concept statement and the impacts of each point in it on the participant’s operations. Only then was the service change vs. rate increase question posed.⁵¹

⁵¹ See USPS-T8, Appendix C, pp. 74-77. Rather similar preliminary questions were put to consumer participants. The concept statement referred to is at USPS-T8, Appendix D, Part 1.

It is not easy to see why, after these elaborate preliminaries, it was also necessary to hypothesize a disproportionately large rate increase to impress on participants that five-day delivery would be a significant change.

It is also significant that the 10 percent increase put before the participants is substantially larger, in percentage terms, than any recent rate change (or the proposed exigency increase recently disapproved):

| Rate Change | Systemwide Percentage Increase |
|--------------------------------------|--------------------------------|
| R2010-4 (proposed exigency increase) | 5.6 |
| R2009-2 (price capped) | 3.8 |
| R2008-1 (price capped) | 2.9 |
| R2006-1 | 7.6 |
| R2005-1 (across-the-board) | 5.4 |

For whatever reason it was chosen, a hypothesized increase so far out of line with recent history⁵² is likely to have influenced participants to opt for five-day service instead.

Indications that large-volume mailers' views may be wrongly represented in the opinion research results. While the Commission's field hearings were not a "scientific" procedure, in the sense that well-conducted opinion research may be thought of as scientific, they did elicit information – from knowledgeable persons –

⁵² For example, the First-Class letter stamp would rise by four cents, to 48 cents ($\$0.440 \times 1.1 = \0.484).

which provides a fresh perspective on some problems five-day delivery would pose for large-scale mail users.

Consider the position of the Major Mailers Association (MMA). MMA represents very large mailers of First Class⁵³ letter mail in the telecommunications, utility, banking, financial services, insurance and healthcare industries. These firms send a substantial portion of the Nation's bulk First-Class letter mail. MMA notes⁵⁴, in the Rapid City field hearings, that ending Saturday delivery is a bad idea for several reasons:

- “A large segment of the population pays bills on the weekends.”
- Ending Saturday delivery will reduce the value of postal services to major mailers and “cause an acceleration in electronic adoption.”
- “[T]he consumer may view this [mail without Saturday] as a risky proposition and choose electronic instead.” “MMA sees that eliminating Saturday street delivery will also impose new costs on mailers.”
- “The timing of such a change couldn't be worse for business. Resources are tight.”
- MMA believes that the postal service suggested pricing strategies and reduced delivery will increase electronic adoption greater than the rate projected by the postal service and its consultant.”

⁵³ The greater part of this mail is part of a two-way relationship with the addressee, who will be sending a remittance by mail. In the case of advertising mail, no payment deadlines are involved and no direct response may even be looked for. It is understandable, therefore, that mailers of advertising would be indifferent to or even supportive of five-day delivery, particularly as opposed to a rate increase. Such mail can be planned for delivery in ways which are not affected by ending Saturday delivery.

⁵⁴ Hearing, Rapid City, SD (June 23, 2010), Tr. 12-13, 15.

GCA finds itself in agreement with MMA on many of these points – particularly the first three.

E. The “likelihood” question raises questions of its own

Gaps in the recognition of uncertainty. A notable feature of the quantitative research is that, before being asked for next-year and post-implementation volume estimates, application by application, the respondent was given this question:

Q10k If the service change described does happen, what is the likelihood that this change would cause your organization to modify the number of individual pieces of mail and/or packages your organization sends or the way you send it? Please answer using a scale of from 0 to 10, where “10” means extremely likely and a “0” means extremely unlikely.^[55]

The question is notably unspecific.⁵⁶ Taken at all literally, it seems inevitably to mean something like “Given the service change, would your organization modify *in some way or other* the volume it sends or the way it sends it?” Thus a particular numerical answer might have widely differing implications for Postal Service volumes. For example, one respondent might answer “10” because he was quite certain that his firm would shift its entire parcel volume (10,000 pieces, or one percent of total outgoing volume) to a competitor and equally certain that it would make no change in the other 99 percent (990,000 pieces) of its mailings. A second respondent might answer “7” because she was moderately, but not entirely, certain both that her organization would send all its outgoing parcels (in this case, 500,000 parcels, or 50 percent of outgoing pieces) via a competitor and that it would not change the other 50 percent.

⁵⁵ USPS-T8, p. 132 (Elmore-Yalch). This is from the questionnaire for National Accounts; the others are similar.

⁵⁶ A minor problem arises from the phrase “the way you send it.” Some might interpret this as meaning “the carrier by which you send it” (i.e., the Postal Service or a competitor), and others as meaning “the Postal Service product you select as a way to send it” (e.g., trading up from First-Class Single-Piece to Priority Mail). The actions implied by these differing interpretations would have disparate implications for the Service’s volume and revenue change estimates.

Rather than treating these answers as indicators of the reliability, or lack of it, of the volume estimates provided in response to subsequent questioning, however, the Service has used them as deflation factors. The first respondent's "10" would result in his diversion of 10,000 parcels being recorded as a 10,000-piece loss: a "10" response is equated, in the Service's method, with 100 percent certainty and 100 percent certainty, in turn, with complete acceptance of the respondent's estimate of change. The second respondent was only sure enough of diverting 500,000 pieces to answer "7" – 70 percent, on the Service's scale – and so her prospective diversion shrinks to $500,000 \times 0.7 = 350,000$ parcels. This reduced figure is then apparently (i) treated as entirely reliable and (ii) incorporated into the ultimate volume loss estimate.

Postal Service witness Whiteman explains the process at USPS-T9, pp. 13 et seq. Each volume change reported, for each product, was multiplied by the percentage derived from the "likelihood" response. The results of this process underpin the ultimate volume loss estimate.

This approach presents some logical problems. Consider the hypothetical case of a respondent who reports being certain at level "6" – i.e., 60 percent certain – that the five-day plan would cause some modification in his organization's mail volume. This global answer, let us assume, reflects two factors in the respondent's thinking: (i) he is 60 percent certain that his firm will reduce First-Class Letter mailings by 500,000 pieces, and (ii) he is also 60 percent certain that it will not reduce its Standard Regular advertising mailings (say, 2,000,000 pieces/year) at all. His answers to the product-specific questions show *only one* volume change: a loss of 500,000 First-Class pieces. Applying its percentage scale, the Service reduces this to $500,000 \times 0.6 = 300,000$ pieces. The respondent, however, was 60 percent certain, *and therefore 40 percent uncertain*, that his company would maintain its Standard volume of 2 million pieces/year. Since this answer did not show a volume change, it is not subjected to the scaling-down process applied to the First-Class estimate. It seems, however, that the process should also recognize what we may call

the respondent's own (tacit) recognition of a 40-percent chance that his firm *will* reduce its Standard mailings too. The Postal Service's procedure, in other words, fails to recognize that if (quantified) uncertainty over a future (quantified) reduction in volume justifies scaling down the estimated reduction in proportion to the level of uncertainty, the same logic applies to (impliedly quantified) uncertainty over future maintenance of current volumes.⁵⁷ Because the procedure is applied only to reported volume changes, there may be no convenient way to scale down a projection of "no change." But that does not abolish the objective uncertainty of such projections, and it makes the volume loss estimates correspondingly unreliable.

Problems in using the 11-point scale to generate deflation factors. The survey instrument defines only two of the 11 points on the scale: 0 ("extremely unlikely") and 10 ("extremely likely"). Assigning a numerical value to any intended response between those points is apparently left to the respondent's discretion. This unavoidably introduces a degree of fuzziness into the data collected. One respondent's "6" may in fact represent almost exactly the same degree of relative certainty as another respondent's "8." If the responses were to be used directly – e.g., to ground a finding that (nonspecific) changes in mailing behavior were likely to a certain degree because likelihood of (nonspecific) change had, over the whole collection of responses, a top-two-box score of X percent – this might not matter greatly.⁵⁸ The Postal Service, however, has used these subjective and thus inevitably fuzzy assignments of numerical value to produce deflation factors which are then mechanically applied to the respondent's (presumably less fuzzy) estimates of future volumes. This procedure creates an appearance of exactness which the inputs to it simply do not justify.

F. Other testimony – NALC witness Crew; Postal Service witness Boatwright

⁵⁷ We recognize that the Service, quite appropriately, applies its percentage scale of uncertainty to anticipated increases as well as decreases in volume. The problem, however, is that applying the scale only to reported volume changes neglects the uncertainty which also surrounds anticipated volume maintenance.

⁵⁸ Not least because the finding would still be one reporting *opinions* – not, as here, a supposedly empirical prediction of actual mailing behavior.

Professor Crew's criticisms. Professor Crew's testimony for the National Association of Letter Carriers⁵⁹ raises different issues. In a preceding section, we criticized the failure of the Service's procedure to recognize that projections of unchanged volume are, so far as its survey reveals, just as uncertain as projections of reductions or increases. Prof. Crew, for several reasons, objects to the entire procedure.

Perhaps the most telling of his objections is that, if respondents' volume change estimates were considered uncertain, they should have been treated "as mean estimates, with both upside and downside possibilities."⁶⁰ Applying this suggestion to the example we gave a few paragraphs back, the hypothetical respondent's 60-percent-certain projection of a 500,000-piece drop in First-Class Letter mailings should have been translated into a range of volume declines, from 300,000 (using the Postal Service's method unchanged) to $500,000 + (500,000 \times 0.4) = 700,000$ (treating the 500,000-piece projection as subject to 40 percent uncertainty, and thus allowing for the possibility that it is too small).⁶¹

This procedure would, obviously, produce a very different-looking – and much less precise – set of volume-change estimates. This, however, may be a case in which precision and usefulness do not necessarily go hand in hand. The Commission's task in this Docket, we have suggested, is largely one of risk assessment. Prof. Crew's suggestion of treating the responses as mean estimates and deriving from them ranges of possible volume loss does not produce a volume analysis as

⁵⁹ NALC-T4.

⁶⁰ *Id.*, p. 6.

⁶¹ One might also express the problem by pointing out that the Service's method treats possible errors (uncertainties) in the respondents' estimates as universally biased: the error is assumed always to be an overestimate. There seems to be no reason why this should be true. At all events, the Service does not explain why a respondent's prediction of a 500,000-piece decline could not in some cases be an underestimate.

neat and seemingly unambiguous as the Postal Service's procedure, but it also leaves apparent some significant risks which that procedure tends to obscure.

In an earlier section of this Brief, we criticized the Postal Service's exclusive reliance on a highly abnormal year (FY 2009) for its cost analysis. As Prof. Crew points out, the massive volume drop in FY 2009 affects this aspect of the case too:

. . . It is hard to imagine how this extreme macroeconomic environment could not have colored the perspectives of the businesses and consumers respondents. For example, a business experiencing severely diminished activity as a result of the recession might have seen five-day delivery as impacting it less than during times of normal business activity.^[62]

The FY 2009 volume statistics we quoted earlier⁶³ will, in many cases, have made Prof. Crew's "severely diminished activity" something of an understatement. The survey work was conducted in the autumn of 2009, when the effects of the recession were still widely and severely felt. The Service's basis for comparison was the respondent's predicted volume in the next twelve months. It is not likely that in the fall or winter of 2009 many respondents expected a prompt return to "normal business activity" during the next year. Prof. Crew's observation, quoted above, seems to amount to the common-sense perception that bad economic conditions may markedly depress the respondents' "before" estimates, and so correspondingly lower the specific impact of five-day delivery reflected in their "after" estimates. It does not follow that all the pieces not sent because of the recession will be sent when the economy returns to normal. Problems caused by five-day delivery may deter the mailer from sending some or all of them too.

Dr. Boatwright's surrebuttal testimony. The Postal Service, in response to Prof. Crew's points, filed the surrebuttal testimony of Prof. Peter Boatwright. In this section, we discuss his testimony as it relates to the issues discussed above.

⁶² Id., p. 5.

⁶³ See p. 7, above.

Dr. Boatwright shows that the calculation based on the respondents' estimates of likelihood can be reduced to the "expected value" equation widely used in statistics.⁶⁴ No doubt this is true, but it does not fully meet the objections to the process ORC and the Service used. His demonstration at USPS-RT1, pp. 12-13, assumes⁶⁵ that the probability elicited by the global "likelihood" question (Q10k) applies equally to each product for which the respondent later gave a volume estimate. Given that mailers use different products for different purposes, which in turn have different levels of importance to their organizations or households, there was no basis for this assumption initially, and neither Ms. Elmore-Yalch nor Mr. Whiteman nor Dr. Boatwright has offered one.

Dr. Boatwright observes that

Purchase intent measures (measures of the likelihood that customers will purchase a given product or service or, in this case, likelihood that customers would change their behavior if Saturday street delivery is eliminated) are routinely used in market research, for forecasting in general, and for new product testing.^[66]

Once again, this is true as far as it goes, but like the rest of Dr. Boatwright's discussion it ignores the complex and diffuse character of the (only) likelihood data ORC collected. As we pointed out earlier, the question asks only how likely it is that the respondent's firm will change its behavior *in some way or other* if Saturday service is dropped.⁶⁷ There is no bridge from this generalized response to the product-specific volume estimates it was used to generate. The problem is not with the formula but

⁶⁴ USPS-RT1, pp. 8-13.

⁶⁵ Implicitly; the problem is not actually discussed.

⁶⁶ *Id.*, p. 8 (fns. omitted).

⁶⁷ Another way to view the problem is to appreciate that Dr. Boatwright has treated a highly unspecific variable – "likelihood that customers would change their behavior" – as indistinguishable, methodologically, from a quite specific one – "likelihood that customers will purchase a *given* product or service" (italics added). But the "likelihood" question here was never asked about a *given* postal product or service – only globally.

with the nature of the probability data available to be fed into it. Those data are highly generalized. There is thus no possible basis – other than arbitrary assumption – for using them to adjust the specific volume change estimates obtained through later questions.

G. The design of the opinion research ignores significant groups of mail users

It is fair to say that the Postal Service’s approach in designing both the five-day project itself and the opinion research offered to support it has been a “system-wide” one – comparatively little attention was paid to the needs of specific mail user groups or segments of the population, in contrast to the overall potential of the project to reduce costs across the system. This is perhaps somewhat less true of the project design proper, since as Postal Service witnesses have pointed out, the Service changed some features of the design to accommodate large business mailers.⁶⁸ The opinion research, however, did little or nothing to illuminate the effects of the proposal on some not unimportant mail user groups.

Non-employer businesses. Mr. Whiteman has explained that, for purposes of the opinion research, businesses with no employees were treated as (equivalent to) consumers. This was a judgment Mr. Whiteman made on the basis of his experience in the field.⁶⁹ It was made solely on the basis of an assumed – not measured⁷⁰ – similarity in their mailing patterns; “mailing pattern” here means, essentially,

⁶⁸ See USPS-T1, pp. 15 et seq. (Pulcrano); USPS-T9, pp. 15-16 (Whiteman)

⁶⁹ Response to GCA/USPS-T9-8; Tr. 5/1221-1223

⁷⁰ Mr. Whiteman explained that

[a]s the Postal Service does not have internal data to profile the mailing pattern of small businesses with no employees, it became necessary to make a reasonable assumption about the mailing pattern of small businesses with no employees. . . . I made the judgment that a small business with no employees typically would use mail in a limited manner and that their total volume of mail and the products used would better resemble the mailing pattern of consumers rather than larger small businesses. . . .

Response to GCA/USPS-T9-8(c)(i); Tr.5/1223.

volume sent and received, and choice of products. Mr. Whiteman confirmed that the judgment was made without consideration of other factors that might either assimilate such businesses to or differentiate them from consumers. It does not appear that in the Service's judgment, the advent of the Internet as a vehicle for small (especially home-based) businesses might have made a difference in their needs for Saturday delivery.⁷¹

Statistics issued by the Census Bureau in 2006⁷² indicate that

- No less than three-fourths of all businesses have no employees.
- 44 percent of nonemployee business owners reported that the business was their primary source of income.
- 49 percent of all U.S. businesses are home-based
- The home-based proportion was even higher for women (56 percent of women business owners) and some ethnic minorities (56 percent of American Indian and Alaskan Native owners; 53 percent of African-American owners; 53 percent of Native Hawaiian and Pacific Islander owners).

There are approximately 21 million non-employer businesses in the United States. Most (almost 19 million) are sole proprietorships.⁷³ Many home-based businesses are structured around other (primary or secondary) jobs – for which, in the present economy, they may even have to substitute entirely.

⁷¹ Tr. 5/1271-1273.

⁷² U.S. Census Bureau News (September 27, 2006). Although issued four years later, these findings are based on 2002 data.

⁷³ Census Bureau statistics for 2008; see <http://censtats.census.gov/cgi-bin/nonemployer/nonsect.pl>

Not very much imagination is required to see that a home-based business is likely to require weekend and particularly Saturday work. If it is designed around the requirements of another job, it almost certainly will. With the rise of Internet retailing, it is likewise easy to see that the home-based business mailer may send far more mail than Mr. Whiteman's assumption allows for. In this connection, it is interesting that in the data scrubbing process carried out by ORC,

. . . two [consumer] respondents were dropped because they reported sending more than 500 pieces of mail or packages in the past 12 months. This volume is atypical for a consumer and suggests that the respondent may be operating a business at home.⁷⁴

Our point here is not principally that it is odd (though it is) for the data collector to exclude consumer data points because the volume reported seems to indicate the presence of a home-based business, while the data interpreter assumes that home-based businesses are just like consumers. It is rather that a 500-piece/year outgoing volume is taken, as a matter of course, to be diagnostic of a home-based business. In short, we are *not* here dealing with mail users who can be easily lumped together, on mail usage grounds, with consumers.⁷⁵ It is therefore a mistake to assume, as the Service has done, that these businesses have no different need for Saturday mail service than do consumers.

We discuss home-based businesses as just one example of the level of detail to which, in our view, the five-day delivery plan should have been carried. Other participants in this Docket have similarly called attention to the needs of sectors of the population which seem to have been glossed over in the planning process. Public Representative witness Luttrell, for example, makes significant points regarding the rural population; NNA witness Cross discusses the same sector from a different viewpoint and, along with witness Heath, focuses on the role of country newspapers.

⁷⁴ USPS-T8, p. 30.

⁷⁵ Households send, on the average, 161 pieces of mail per year. U.S. Postal Service, *The Household Diary Study: Mail Use & Attitudes in FY 2009*, Table 1.6.

GCA has argued elsewhere⁷⁶ that mail usage (or, if one prefers, demand for postal services) must be clearly distinguished from dependence on the mails. A relatively small-volume mail user may be much more dependent on the mail than a larger-volume user who has ample alternatives such as broadband and mobile Internet access. (Messrs. Luttrell and Cross both make this point as regards rural residents.) This fact has serious implications for the Postal Service's planning approach, which as a practical matter homogenizes all uses and users of the mails into a systemwide table of volume, cost, and revenue statistics.

H. Other biases in the research

Alternative deficit-reduction measures not discussed. Many of the opinion research materials include a discussion of the Postal Service's financial challenges and the measures (including legislation) it is contemplating to deal with them. There were opportunities to elicit – particularly from representatives of large mailers, who were selected on the basis of their presumed experience in postal work – opinions as to the relative merit of these measures. The opportunities were not taken. Ms. Elmore-Yalch stated that “IDI respondents were not asked what changes it would suggest to address the USPS deficit.”⁷⁷ The focus seems to have been restricted to respondents' views of five-day delivery, without consideration of whether different deficit-fighting measures would be better received. Even the widely-discussed possibility of eliminating excess capacity was ignored. Ms. Elmore-Yalch stated that “I did not find any specific instance where participants were told that the Postal Service has excess capacity in mail processing and other upstream functions.”⁷⁸

⁷⁶ Docket No. PI2008-3, Comments of the Greeting Card Association (June 30, 2008), p. 5, fn. 12.

⁷⁷ Response to GCA/USPS-T8-5(b); Tr. 5/1083 That such alternatives are possible is indicated by the fact that MMA, in the field hearing cited above, proposed eliminating USPS over-night delivery instead of Saturday in the field hearings – an idea which might equally well have surfaced in the opinion research.

⁷⁸ Response to GCA/USPS-T8-3(c); Tr. 5/1081.

Geographical biases. Coverage of rural or remote areas in the opinion research appears to have been inadequate at best. The special need of rural residents for adequate postal service has been well described by witnesses Cross and Luttrell, and there is little we could add. Perhaps the most glaring example is the exclusion of the entire states of Alaska and Hawaii. The colloquy between Commissioner Langley and Ms. Elmore-Yalch⁷⁹ not only confirms this omission but illustrates the inadequacy of a purely mathematical, not to say mechanical, approach to exploring public response to the proposed service change. Ms. Elmore-Yalch explained, for example, that Alaska and Hawaii are separate Census Regions, and the ORC Caravan survey reaches only the four Regions covering the contiguous 48 states. But, furthermore, “[E]ven if we surveyed there, and survey[ed in] proportion to their population, they would basically drop out of the data because we might not even get anybody because of their size relative to the rest of the United States.”⁸⁰

In other words, Hawaiians and Alaskans, for reasons of statistical technique, had no chance to make known how their special geographic situations affected their use of the mail and their need for Saturday delivery.⁸¹ It is interesting to contrast this result with Mr. Whiteman’s explanation of how participants in the large-mailer in-depth interview phase of the research were chosen:

. . . [W]e screen customers based upon their work position that gave us knowledge that they were involved in such things as billing operations and therefore use of [F]irst [C]lass [M]ail or marketing and advertising and the use of mail for advertising purposes. So we screened for people who were know-

⁷⁹ Tr. 5/1145 et seq.

⁸⁰ Tr. 5/1146.

⁸¹ Compare the Statement of Senator Daniel K. Akaka of Hawaii, submitted October 4, 2010. It is also difficult to see how this approach squares with the first sentence of 39 U.S.C. § 101(b) (“The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.”)

ledgeable based upon their business function and experience to talk about how their company uses mail and would be affected by five-day delivery.^[82]

For all these reasons, GCA believes the Commission cannot rely on the opinion research as a guide to the real effects on volume to be expected if Saturday delivery is ended.

II. EVEN IF COST SAVINGS AND MAIL USER RESPONSE HAD BEEN RELIABLY ESTIMATED, THE FIVE-DAY SERVICE PROPOSAL WOULD NOT MERIT A FAVORABLE OPINION

A. Introduction

Up to this point, we have focused on reasons why the Commission should not rely on the Postal Service's estimates of either cost savings or mail user response to the five-day proposal. These reasons, by themselves, are sufficient to call for an unfavorable advisory opinion; the proposal has simply not been adequately supported. It would, moreover, involve an excessive degree of risk even if the savings had not been overestimated and the volume losses underestimated. When to the risks inherent in a drastic downgrading of service are added those created by poorly chosen analytical methods (for both costs and mailer reactions), a backward-looking test period, and overly optimistic assumptions, it seems clear that the proposal has not been justified.

Several witnesses have emphasized the damage the five-day proposal would do to the Postal Service's ability to serve the American public. NALC witness Rolando discusses the historic and still vital bond between the public and the Postal Service, and in particular the importance of the carrier as an "ambassador" in daily contact with customers – a contact which for many families would be lost, since it

⁸² Tr. 5/1276.

occurs largely on Saturdays.⁸³ Public Representative witness Luttrell and NNA witness Cross shed much light on the particularly severe effects the proposal would have in rural areas. GCA agrees with much of what these witnesses say, and sees no need to reiterate it in this brief. Instead, we will concentrate on a few specific issues.

The experience of other countries is ignored in the Postal Service's case.

One might assume that any effort by the Postal Service to design and present its case for five day delivery would include its findings on other countries' experience in moving from six to five-day delivery. However, the Postal Service did not present any such evidence. The information available, however, shows that other countries have found no reason to predict the success that the Postal Service claims five-day delivery will have in the United States.

For example, Copenhagen Economics estimated that "stopping Saturday delivery" would save about 1.5% of Post Danmark's 2007 operating costs. USPS on the other hand claims stopping Saturday delivery would save about 4.3% of its 2009 operating costs.⁸⁴ The regulator of Swiss Post rejected its proposal to reduce "services to 70% of Swiss households." In the case of Royal Mail, the Postal Services Commission asked Frontier Economics in 2007 to estimate USO costs. Frontier Economics found that ending Saturday delivery, the closest it could come to estimating the USO obligation given data limitations, would produce savings no greater than what "Royal Mail could achieve, in a four-year period, by improving efficiency by 1% a year." (Frontier Economics Bulletin, Costing Elements of the Postal Public Service Obligation, August 2008.) Despite TFP productivity declines of -0.5% and -0.9% in 2008 and 2009 respectively, the U. S. Postal Service achieved an average annual growth in TFP productivity of 1% from 2000-2009.⁸⁵

⁸³ See NALC T-1, pp. 2-8.

⁸⁴ The studies referred to in this paragraph, relating to the Danish, Swiss, and British posts, were attachments to Dr. Bradley's response to GCA/USPS-T6-14, which appears at Tr. 5/764.

⁸⁵ U.S. Postal Service, Annual Report, FY 2009, pp. 51, 52.

B. Cost-cutting is not a panacea

The seeming neglect of public service issues in the Postal Service's presentation may be due, in large part, to the concentration on cost savings which characterizes the entire project. GCA is fully aware of the need for cost savings; our opposition to the five-day project as a means of obtaining them stems from a belief that the cure will be at least as bad as the disease.

Cost-cutting may not be the best way to restore financial stability if (i) it reduces the quality of service to patrons who already have alternatives available, and (ii) it damages the still very favorable public image of the Postal Service. NALC witness Riley has underlined the risks of a single-minded cost-reduction approach.⁸⁶ Even Postal Service witness Boatwright, who clearly finds the five-day proposal adequately supported, considers that it is only a near-term solution, and that in the long run the institution would be better served by "a focus on additional ways to add value to customers and other stakeholders[.]"⁸⁷ A large part of the problem, however, is that if the risk of losing still more customers and more volume materializes, the Service will not, in either the short or the long run, be able to restore its finances.

In Docket R2010-4, the Commission found that the Service's deficits were caused largely by structural problems not brought about by the recession. While 39 U.S.C. § 3622(d)(1)(E) is particularly specific in its requirement that an exigency increase be causally linked with "either extraordinary or exceptional circumstances," the principle laid down by the Commission applies here too. Eliminating Saturday delivery will not cure the unreasonable schedule on which the Service has been re-

⁸⁶ NALC-T5, pp. 5-8. GCA by no means agrees with all of witness Riley's prescriptions, including particularly his advocacy of drastic rate increases on the supposition that presumed price inelasticity will prevent severe volume losses. The "rule of thumb" Dr. Riley cites as having been used during his tenure (1993-1998) as the Postal Service's Chief Financial Officer – that a ten percent rate increase would produce a nine percent net revenue gain – may not reflect the increasing diversion of profitable First-Class Mail to the Internet.

⁸⁷ USPS-RT-1, p. 27.

quired to prepay retiree health benefits, nor restore previous overpayments on postal pension obligations. It is true that these necessary corrections are not within the Postal Service's unilateral discretion. That, however, does not make pure cost-cutting – assuming for the moment that ending Saturday delivery would save significant sums – any more appropriate as a solution.⁸⁸

C. A permanent solution to a short-run problem?

There seems to be little doubt that, if the Postal Service eliminates Saturday delivery, it will be gone for good. If there were any such doubt, what witness Pulcra-no says at pp. 2-3 of his prepared testimony should dispose of it. The question GCA would ask, however, is whether curtailing service permanently is the right option when a large part of the financial problem is due to transient macroeconomic conditions.

In an earlier section, we discussed the Service's explanation of how much of the volume loss, as between FY 2008 and FY 2009, was due to the recession.⁸⁹ Its estimate was that roughly two-thirds of the decline was recession-driven. We were then discussing the effect of this fact on the cost savings estimates presented in this case, but it is relevant here too. If, as is to be expected, volume shows a material recovery as the economy improves, the gap between costs and revenues will shrink. The savings benefit from five-day delivery (even assuming it has been correctly estimated) then becomes relatively less; the savings are, after all, wanted not for their own sake but to restore the Service's cost-income balance.

⁸⁸ The Postal Service often observes, quite justly, that it is both required to operate like a business and to conform to a wide range of legislative constraints. A financially strapped private-sector business subject to few or no regulatory controls may have a choice between reducing service and taking direct steps to remove the source of the problem. In the Service's case, when a legislative requirement – in this case, the retiree health benefit prefunding schedule – creates a financial stringency, it does not follow that because that requirement can be changed *only* by Congress, the Postal Service *must* resort to service reduction. A private-sector business commonly would find service reduction to be the worse option; the absence of a choice does not make it a better one for the Postal Service.

⁸⁹ See pp. 7-8, above.

From this viewpoint, it is questionable whether a presumptively permanent reduction in historic service levels is the best option. While the Commission has rejected the proposed exigency rate increase, -- a wise choice, in what is, at best, the early stages of economic recovery -- at least a rate increase is to some degree reversible.⁹⁰ If such a later “payback” occurred, some customers whose mailed volume is significantly price-dependent could then be expected to respond by increasing it. Customers for whom the end of Saturday delivery makes using the Postal Service infeasible, or who abandon their commitment to using the Service because they perceive the move as a lessening of its commitment to the public, will not return even if future price increases are moderated. A citizen or business owner who is no longer using the mails and who has adapted household or office routines to a non-postal alternative will no longer care if the increase in the stamp price is only a penny.

NALC witness Riley has suggested⁹¹ that the Service’s financial problems can be traced mainly to (i) the unreasonable retiree health benefit prefunding schedule mandated by PAEA, together with long-standing overpayment of retirement contributions, and (ii) the recession. The first set of problems is under active legislative review.⁹² The second is at least not a permanent condition, and the Service itself expects some stabilization or recovery of volumes as it ends.

B. “The customer will adapt” is not a good basis for postal policy

⁹⁰ The Postal Service itself raised that possibility. See Docket No. R2010-4, Exigent Request of the United States Postal Service, p. 11.

⁹¹ NALC-T5, p. 3.

⁹² See S. 3831, introduced on September 23, 2010, by Senator Carper.

The proposition that postal customers will “adapt” or “adjust” to the loss of Saturday delivery appears frequently in the record of this case.⁹³ It is worth inquiring whether it is either good business or good public policy for the Postal Service, in pursuit of cost savings, to rely on the resourcefulness of its customers as a way of preserving volume and revenue.

So far as larger customers – at least those larger customers whose business *is* mailing, as opposed to simply *involving* mailing – we have no doubt that adaptation is possible. As noted earlier, the Service has made some modifications in its original plan to adapt it better to the needs of these customers. Even as to them, adaptation may be costly, and the Postal Service seems to have paid relatively little attention to those costs.⁹⁴ As regards smaller, and particularly household, mail users, the ruling assumption seems to have been that adaptation would be not only possible but a routine occurrence.

The distinction between those whose business is mailing and those who use mail in their businesses, or in managing their households, is real and important. The latter group, increasingly, have alternatives, of which the most significant is the Internet. While he was making a quite different point concerning rural areas, witness Cross provided 2009 figures showing that in urban and suburban areas well over 60 percent of households have broadband connections.⁹⁵ If the Postal Service hopes to bolster its finances, it should insure that these households, to the extent that they are now using the mails for everyday transactions, are able to continue doing so. As Mr. Rolando points out, the prevalence of two-wage-earner households makes Saturday service a particular important point of contact.⁹⁶ In other words: “adaptation”

⁹³ See, e.g., Tr. 2/87, 90, 96, 97, 137, 165; Response to DFC/USPS-T1-11, Tr. 2/97 (witness Pulcrano).

⁹⁴ Tr. 2/163-164. Mr. Pulcrano does state that business mailers did not raise this issue with the Service. It is not clear from the context whether the discussions took place in a setting (e.g., with competitors present) where firms would be reluctant to discuss their own additional costs.

⁹⁵ NNA T-2, p. 5.

⁹⁶ NALC-T1, pp. 4-5.

for many households is likely to mean not mailing bill payments a day early but abandoning transactional mailing altogether. That is not a promising way of restoring balance between postal revenues and operating costs.

III. SUMMARY AND CONCLUSIONS

The Commission faces two fundamental questions: (1) has the Postal Service adequately justified, on this record, its five-day delivery proposal, and (2) apart from any disqualifying flaws in the case supporting it, do the cost savings from the proposed change outweigh the potential damage to the Service and its customers. GCA believes both questions should be answered “no.”

The analysis underlying the cost savings estimate starts from a highly abnormal historic test year – FY 2009, which saw the largest volume decline in postal history – and on the basis of that year’s data constructs a model five-day delivery system. No consideration was given to rolling forward the modeled results to the period when the service change would actually be implemented. The savings depend, for the most part, on the ability to use what is now excess capacity. What would become of this excess capacity as mail volume expands along with economic recovery was not explored, even though, on the Service’s own showing, two-thirds of the FY 2008 – FY 2009 volume loss was due to the recession. The financial benefits were calculated on the assumption that all possible savings would be achieved. This assumption is untenable, in light of (i) the likelihood that saved work hours, assumed to be paid at full-time regular rates, will turn out to be from displacing much lower-paid Transitional employees, and (ii) the admitted fact that labor and transportation contracts will have to be renegotiated to carry out the plan as submitted. The Commission should not rely on these inadequate and artificial savings estimates.

The opinion research offered to support the (relatively minor) volume loss offset to the savings is similarly defective. Participants in the qualitative phase were

asked to choose between less delivery service and higher rates; however defensible that approach may have been in the autumn of 2009, when a combination of the two was not yet settled Postal Service policy, it produced results which are unusable now. The technique used to deflate respondents' estimates of changed mail use by mechanically applying a (subjective) measure of likelihood is illogical, not least because it ignores respondents' corresponding uncertainty of *not* changing their use of the mails. Important sectors of the mail market, and, more important, of the population, were left out. In short, the opinion research, and hence the volume-loss estimates resting on it, are no more credible than the savings calculations.

Quite apart from these defects – sufficient in themselves to require an adverse decision – the five-day project carries with it such potential for harm to the Service and its customers that it should be rejected for that reason as well. It is the product of a too-exclusive focus on cost-cutting. Such a focus is, perhaps, understandable; the Postal Service, over the last several years, has impressed observers everywhere with its ingenuity and persistence in streamlining many areas of its operations despite political obstacles and a rapidly-falling volume base. Those undoubted successes, however, do not make cost-cutting a panacea. First, if the Service did not already have a highly favorable public image, its volume situation would be much worse than it is. Eliminating a sixth of its delivery commitment at one stroke is, we suggest, guaranteed to damage that favorable image severely. It is telling that a frequent theme in the Service's presentation was "the customer will adapt." Many of those customers, including the groups sending and receiving the highest-margin mail, are likely to "adapt" by abandoning the mails for the Internet.

Accordingly, GCA respectfully suggests that the Commission's only appropriate course is to render an unfavorable advisory opinion on the five-day service proposal.

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