

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON DC 20268-0001

Six-Day to Five-Day Street Delivery
and Related Service Changes

Docket No. N2010-1

PUBLIC REPRESENTATIVES' REPLY BRIEF

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Submitted by the
Public Representatives

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I. INTRODUCTION

The Public Representatives address three points in this reply brief:

- the Postal Service's characterization of Public Representatives' witness Luttrell's broadband observations;
- Valpak's assertions regarding "tiny constituencies;" and
- the Postal Service's general dismissal of witness Luttrell's testimony as having little force or effect.

II. SEVERAL ASSERTIONS IN INITIAL BRIEFS WARRANT CLARIFICATION OR FURTHER EXPLANATION

A. The Postal Service's Characterization of Witness Luttrell's Broadband Discussion Misses the Point . . . Entirely

The Postal Service asserts that part of witness Luttrell's concern appears to be premised on a "misperception" that the Postal Service was motivated to streamline its delivery functions because Internet access has reached a sufficient saturation level "as to provide a reasonable substitute for mail service allowing the Postal Service to reduce delivery frequency." Initial Brief of the United States Postal Service (Postal Service Initial Brief) at 93 (October 15, 2010). It states "... it should be emphasized that household broadband (or any type of) Internet penetration *was not* a factor in the Postal Service's determination that the time has come to adjust delivery frequency to street addresses." *Id.* (Emphasis supplied.)

The Postal Service's failure to consider broadband penetration is *precisely* witness Luttrell's point. He has not "misperceived" the Postal Service's motivation for streamlining its delivery functions; in fact, it is just the opposite: he

believes the Postal Service *should* have taken the state of internet access in rural America into account when making its decision to end Saturday delivery and make several related service changes. He notes: “...today, rural communities are not in a place to replace mail delivery with electronic communications.” Tr. X at 3009.

The uncontroverted Federal Communications Commission data witness Luttrell cites confirms the fact that a “digital divide” currently exists between urban and rural America. That is, in part, why the Postal Service’s conclusion about what is “adequate” service for residents of rural America is wrong.

Witness Luttrell’s testimony on this point is one of several reasons why the Commission should not approve the Postal Service’s proposal.

B. Valpak’s Dismissive Characterization of Unnamed Stakeholders as “Small, Almost Tiny” Constituencies is Precisely Why Statutory Safeguards Exist

Valpak¹ asserts that “The narrow, parochial interests of small, almost tiny, groups of stakeholders cannot be allowed to block major cost reduction efforts.” Initial Brief of Valpak at 24 (October 15, 2010). This prompts two observations. First, Valpak’s dismissive attitude is precisely the sort of sentiment that was among factors that motivated the United States Congress, so many years ago, to include in the Postal Reorganization Act checks and balances like those in 39 U.S.C. 3661(b) and (c). Valpak’s insinuation that witnesses Brown and Luttrell, or others who went to the effort to present formal testimony in this case, are the postal equivalent of “snail darters” is a misguided attempt to cast them as villains. And its characterization of those who oppose the Postal Service’s proposal as “small, almost tiny” groups of stakeholders cavalierly sweeps aside the testimony of witnesses representing unions; community newspaper publishers and their readers; residents of rural America; and voters, candidates, and governmental bodies. Their voices deserve to be heard.

¹ Valpak is used in this brief as a short form for Valpak Direct Marketing Systems, Inc., and Valpak Dealers’ Association, Inc.

Second, Valpak, understandably, speaks from its position as a representative of mail users who are highly experienced in dealing with postal processing and delivery of commercial bulk mailings. These mailers apparently find themselves well positioned to adjust to the proposed processing changes. In fact, a “window” of several delivery days may satisfy their business model, so losing one day of delivery may not be a material consideration for them. Witnesses Luttrell and Brown, on the other hand, provide record evidence that other mail users are far more interested in, and dependent on, six days of delivery and processing. Again, these witnesses, and others, provide record evidence of the impact of the Postal Service’s proposal and highlight aspects of the filing that are deficient.

C. The Postal Service’s Characterization of Witness Luttrell’s Assertions as “Largely Misguided, Unsubstantiated and/or Contrived” is Wrong

The Postal Service attacks the central assertions of witness Luttrell’s testimony as “largely misguided, unsubstantiated, and/or contrived.” Postal Service Initial Brief at 92. One reason why the Postal Service finds the Luttrell testimony lacking in substance is that the Grange does not survey its members. *Id.* at 94 and 95-96. Another is its alleged failure to offer insight into what informed grassroots debates. *Id.* at 94.

The absence of a survey is not a valid criticism of witness Luttrell’s testimony. Not only is there *no* requirement that testimony of the type presented by witness Luttrell be supported by a survey, but witness Luttrell’s testimony and responses to interrogatories provide many insights into how and why postal issues are of longstanding — and continuing — concern to Grange members.

The claim that witness Luttrell provides no evidence of disproportionate impact on rural businesses is unfounded. *Id.* at 97. The Luttrell testimony clearly indicates that *if* post offices in rural areas are open on Saturdays, some rural

residents, including farmers, would find it difficult to get there due to obligations on the farm or at home or because of the distance involved.

Finally, the Postal Service calls Luttrell's testimony "contrived" with respect to certain voting impact concerns. Postal Service Initial Brief at 99. This is apparently based, in part, on the fact that the Grange has employed a legislative director. Witness Luttrell relied on him, in part, in preparing testimony for this case. Witness Luttrell also testified truthfully that the person who held this position left the Grange while this case was pending.

The Grange's employment of a legislative director does not negate the fact that the Grange also has a longstanding grassroots process for arriving at important policy conclusions. The Postal Service's attempt to paint witness Luttrell and other Grange members as rubes who are putty in the hands of a wily "legislative director" is a poor cover for the fact that its filing was sorely deficient in assessing the needs and interests of rural America.

III. CONCLUSION

The Public Representatives and the witnesses they sponsored in this case recognize that the Postal Service faces a challenging future. The testimonies of witnesses Luttrell and Brown highlight important, large constituencies that use the Postal Service and want to continue doing so. Both witnesses sincerely brought to the Commission's attention their concerns, and were willing to respond to numerous interrogatories posed by the Postal Service. The Postal Service's response is largely ridicule (in the case of witness Luttrell) or the replacement ballot "red herring" (in the case of witness Brown). One would think the Public Representatives' witnesses came to unleash invective on the Postal Service; instead, they came to praise it. They simply believe that other avenues should be explored before an irreversible delivery and processing decision is made. The Public Representatives agree, and urge the Commission to issue an advisory opinion to that effect.