

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

**Mail Processing Network Rationalization
Service Changes, 2012**

Docket No. N2012-1

**AMERICAN POSTAL WORKERS UNION, AFL-CIO,
COMMENTS ON SCHEDULE AND OTHER PROCEDURAL MATTERS**
(January 6, 2012)

American Postal Workers Union, AFL-CIO (APWU) hereby submits the following comments on the procedural schedule to be established in the above referenced docket. These comments also address other matters that have direct bearing on the scheduling of this case.

Procedural Schedule on Postal Service's Direct Case

APWU encourages the Commission to establish a procedural schedule in this case that properly balances the interest of the Postal Service in receiving a timely and thoughtful advisory opinion from the Commission with the due process interests of the participants and the public's right to a full airing and evaluation of the Postal Service's proposal. Given the breadth and severity of the service changes proposed, it is imperative that the procedural schedule permit a thorough examination of the Postal Service's direct case. This requires investigation of the models and inputs used, the study methodologies employed, and the Postal Service's conclusions as they pertain to its cost savings and revenue loss estimates as a result of the proposed network rationalization, among others. Such examination is neither easily nor quickly accomplished.

To that end, APWU has already propounded interrogatories to several of the Postal Service's witnesses. However, given the number of testimonies and library references filed, the scope of the issues involved and the complicated nature of the case, APWU expects several additional rounds of discovery will be required. APWU also

anticipates engaging expert witnesses to evaluate certain aspects of the Postal Service's case. Time will be required to enable the witnesses to digest the record and help develop targeted discovery requests. At present, APWU submits that a minimum of 45 days from the date the procedural schedule is issued, is required to permit meaningful discovery on the Postal Service's direct case. However, certain issues, including the submission of AMPs and other matters discussed more fully below, may impact the schedule and require it be adjusted to allow discovery on vital information not yet present in this case.

Scheduling Rebuttal Testimony

APWU anticipates submitting rebuttal testimony in this case and is actively searching for appropriate experts. We are in discussions with several potential witnesses, but no formal agreements have been reached. This is due in part to the uncertainty of the schedule that will be established for rebuttal testimony and the limitations a compact schedule might create.

APWU is currently considering rebuttal testimony on the following topics:

- A critique of the market research used to estimate the volume, revenue and contribution losses as a result of proposed services changes;
- A presentation of alternative market research and resulting volume, revenue and contribution loss estimates;
- A critique of the optimization model used by the Postal Service to determine locations to consolidate; and
- A presentation of an alternative direction for the network that better preserves current service standards.

In order to present rebuttal testimony that enhances the record and is useful to the Commission's analysis in this case, adequate time is needed to enable the expert witnesses to evaluate the Postal Service's case, conduct necessary research and develop testimony. In past dockets of this nature, only a brief amount of time was provided for the development and presentation of rebuttal testimony. While still helpful, the limited time allotted to developing rebuttal testimony impacted the utility of the testimony, eliminated the ability to provide substantial quantitative analysis of the Postal

Service's plans and opened the witnesses up to Postal Service criticism that the analysis was "hastily conducted" or "completed in a rush."¹ The importance of this case, both to the Postal Service and to the mailing public militates against an abbreviated schedule for rebuttal testimony.

Although we are still in the early stages of discovery on the Postal Service's direct case, even a cursory examination of what has been presented so far reveals questionable methodologies and dubious cost savings and volume and revenue loss estimates. The Commission's decision would greatly benefit from an in-depth review of these issues, enabling a thoughtful qualitative critique of the methodologies and outcomes and development of meaningful recommendations for improvement. APWU submits that a minimum period of 30 days from the close of the Postal Service's direct case is required to develop such qualitatively focused testimony. However, recognizing that the utility of qualitative analysis has its limits, APWU believes that the Commission's opinion in this case would be better informed with the addition of quantitative analysis of the Postal Service's proposal. Quantitative analysis is more time intensive than a strictly qualitative review, therefore, APWU supports the Public Representative' position on this point², and requests, at minimum, a 60 day discovery period after the close of the Postal Service's direct case to develop rebuttal testimony. Any shorter time period risks needlessly limiting the record in this case and potentially excluding important analysis useful to the Commission's review and advice.

Additional Matters Impacting the Schedule and Procedures

As mentioned above, several additional matters may impact the amount of time needed for discovery on the Postal Service's direct case and warrant consideration by the Commission. These additional matters include the request for Area Mail Processing (AMP) records; the need for a Postal Service policy witness to address the cumulative impacts of various Postal Service initiatives on service; and the process for accessing materials filed in the non-public annex of this docket. Each issue is addressed below.

¹ N2009-1 Initial Brief of USPS at 25-26 (December 2, 2009).

² N2012-1 Public Representative Notice of Proposed Procedural Schedule (January 5, 2012)

AMPs are Required for Meaningful Review of the Postal Service's Proposal

Area Mail Processing (AMP) studies are used by the Postal Service to evaluate whether a proposed consolidation of a mail processing facility is feasible. In the present docket the AMPs play a critical role in determining whether the proposed network rationalization can be achieved. In his prepared testimony Postal Service witness Frank Neri (USPS-T-4) states that “[t]he Postal Service intends to use the AMP process as a vital decision-making tool in support of Mail Processing Network Rationalization Service Changes.”³ Yet despite the importance of these studies and their impact on the current proceedings, the Postal Service has not provided any AMP studies for review in this docket. Perhaps recognizing this omission, Presiding Officer's Information Request No. 1 Question 8(e) filed December 29, 2011, requested the Postal Service provide a copy of all Area Mail Processing feasibility studies conducted since 2008. At present, the Postal Service's response to this request has not been filed.

During the Pre-Hearing Conference in this docket, Counsel for the APWU asserted that the Postal Service's current proposal could not be fully evaluated without an examination of the AMP studies the Postal Service is using to inform its network rationalization proposal. Postal Service Counsel countered that these studies were also the subject of discovery in Docket No. N2006-1 which involved the Postal Service's Evolutionary Network Development (END) Service Changes, and discovery moved forward without production of those AMPs. Therefore, the Postal Service contends, the AMPs are likewise not necessary in this case. However, this contention ignores important differences between this case and N2006-1. Specifically, in N2006-1, the impact on service was expected to be minimal and isolated to communities scattered across the country. In this case, the Postal Service admits that the service changes will be significant and will impact the entire country. Furthermore, as aptly noted by Chairman Goldway, the N2006-1 docket took a long time to conclude, in part because of the delay in receiving the AMPs. Chairman Goldway also noted that the time it took the Commission to issue its Advisory Opinion in N2006-1, which relied on AMPs, was greater than necessary because of the need for the AMPs.

³ Direct Testimony of USPS Witness Neri (USPS-T-4) at 14.

As the Postal Service admits, the AMP studies are a critical component of its present network rationalization plan. The results of the studies will effect which facilities are consolidated and where. Participants and the Commission must be able to review these studies to ensure that they are being properly executed, to test the veracity of their findings, and to evaluate their effect on Postal Service decisions regarding the network rationalization plan.

Accordingly, APWU contends that discovery on the Postal Service's direct case cannot conclude until these studies have been presented and the intervenors given an adequate amount of time to review them and propound discovery related to the studies.

A Policy Witness is Needed to Explain the Combined Impact on Service of the Current Proposal and Additional Ongoing Postal Service Initiatives

Under Rule 74 of the Commission's Rules of Practice, when the Postal Service proposes a change in the nature of service under Section 3661 of title 39 it must file a formal request with the Commission that "include[s] such information and data and such statements of reasons and basis as are necessary and appropriate to fully inform the Commission and the parties of the nature, scope, significance and impact of the proposed change in the nature of postal services and to show that such change in the nature of postal service is in accordance with and conforms to the policies established under the Act." Rule 74 further provides that the "Postal Service's prepared direct evidence may be relied upon for purposes of the formal request without restatement therein by reference in the request to the portions of the prepared direct evidence relied upon." In the present case, the Postal Service filed the direct testimonies of 13 witnesses and numerous Library References in support of its Request. This evidence addresses a wide array of topics and information. However, no testimony or library reference discusses the impact of this initiative in conjunction with the previously presented and currently ongoing Postal Service initiatives. Specifically, the Postal Service has not addressed how the service changes presented in this docket relate to or are impacted by the changes in rates or services proposed in dockets N2011-1 (Retail Access Optimization Initiative, 2011),

N2010-1 (Six-Day to Five-Day Street Delivery and Related Service Changes), and R2010-4 (Exigency Request).⁴

It is not possible that these initiatives can be implemented in isolation from each other. Likewise, it is not possible to know the true impact of one without examining how it affects and is affected by other actions of the Postal Service. The Commission could review the changes presented in this docket as if they were occurring in a vacuum. However, the resulting Advisory Opinion would be of limited use because without considering the other changes the Postal Service intends to make, the actual impacts of the changes proposed here, including service provided, costs saved and revenue lost, cannot be known.

Therefore, APWU submits that the Postal Service Request at present is deficient and violates the requirements of Rule 74. The Postal Service initial filing, while voluminous, does not include testimony necessary for a full assessment of the proposed change. APWU respectfully requests the Commission direct the Postal Service to file the testimony of a witness addressing the interaction of the current proposal with the proposals contained in dockets N2011-1 (Retail Access Optimization Initiative, 2011), N2010-1 (Six-Day to Five-Day Street Delivery and Related Service Changes), and R2010-4 (Exigency Request). APWU further requests the procedural schedule accommodate this filing and permit adequate time for discovery on this testimony.

A Streamlined Approach to Accessing Non-Public Materials is Warranted

The Commission should consider a streamlined approach to permitting access to non-public materials in certain situations. Specifically, the Commission should relax the three day waiting period applicable to requests for access to non-public material when the subject and rationale supporting the non-disclosure is the same as non-public material parties have already been granted access to. This would allow for more efficient use of the discovery period, including quicker follow-up discovery. It also lessens the burden on parties seeking access, and does not jeopardize the interests of the Postal Service in keeping the material non-public.

⁴ While Docket No. R2010-4 does not involve a change in service, and increase in the rate provided for the same or reduced service, is of critical importance and may impact the volume and revenue loss projections.

To better illustrate the need for a streamlined approach, please consider the following simple example: assume that the Postal Service has filed a Library Reference under seal because it contains finance numbers that the Postal Service contends if disclosed might cause it commercial harm. APWU files the proper Motion and accompanying certifications and after giving the Postal Service three days to object to our access, the Commission grants our Motion. Now assume that interrogatories have been propounded that call for a discussion or production of finance numbers and the Postal Service files its responses under seal claiming once again, the risk of commercial harm. Under current procedures, APWU must then file another Motion, submit additional certifications and wait another three days before it is able to access material that it essentially has already been cleared to review.

As this example demonstrates, the current process unnecessarily slows down the discovery process while providing the Postal Service with no substantial additional protection. It is a burden on the parties who have already demonstrated that access to the non-public material is warranted and certified compliance with the protective conditions. Therefore, APWU respectfully requests the Commission relax the three day waiting period, and permit parties who already have access to similar non-public information to access the material 24 hours after filing its request for access and compliance certifications.

Technical Conference

At the Prehearing Conference in the docket, parties were requested to address the need for one or more technical conferences in this case. APWU submits that a technical conference addressing the network optimization model used by the Postal Service, as discussed in the testimony of witness Emily R. Rosenberg (USPS-T-3), would be beneficial to all parties. APWU submits at least one week is needed to prepare for the technical conference.

Respectfully submitted,

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