

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

MODERN RULES OF PROCEDURE FOR THE
ISSUANCE OF ADVISORY OPINIONS IN Docket No. RM2012-4
NATURE OF SERVICE PROCEEDINGS

COMMENTS OF MARK JAMISON

I apologize to the Commission for my late submission in this docket and request your indulgence in accepting them.

I wanted to read and understand the comments that others made before deciding whether I had anything to add to the discussion. I am not a lawyer, nor do I represent a large institution like the Postal Service, itself, or one of the many unions or employee organizations that rely on the Commission's rulings. I am also not a large mailer or the representative of a large business enterprise that has interest in the Commission's proceedings because the postal network provides the means and opportunity for the enterprise to earn profit.

I am a soon to be retired postmaster who has served rural communities much of his career. While that describes the last half of my career, I have also served in large urban areas and in plant settings. In all of those instances I have seen how the public relies on postal services, primarily but not solely for mailing services. The Post Office identifies communities, provides a needed face for government, and in many way defines the importance of the ties that bring us together, bind us as a nation.

The N-Cases, the Advisory Opinions, are probably the most important in defining and describing what postal services will look like and who they will serve. While the recent cases in this genre have been about specific concepts like the duration of delivery or the breadth of the postal network, they have, in a very real sense, been at the heart of the discussion about what we mean by universal service and what importance we place on the mission of binding the nation together.

I have participated with comments in at least two N-Cases. While I do not know if my comments made a difference, I do know that they were read. Because the N-Cases are structured as legal proceedings it is both daunting and difficult for an individual, unschooled in the arcane complexities of legal practice to fully participate. I do not know how the Commission could overcome that although it is clear that the Public Representative system has done a thorough and professional job in generally representing the views and needs of the American people as a whole.

The Commission has received many comments in this case but two ideas in those comments stand out and, I think, bear some refutation. The first, as most clearly stated by Senator Tom Carper, is that because the Postal Service is faced with a traumatic and worsening financial situation, the Commission should design its rules of practice solely as a reflection of that and hurry up. Those comments are mirrored by the Postal Service and other filers and seem to fit in with the second prevalent view that the process has become too adversarial.

Senator Carper throws out the dramatic figure of postal losses as \$25 million per day, a truly intimidating figure if one were to take it at face value. The problem is and it is a

problem that has dogged every discussion of the future of the Postal Service for the last few years is that the cries of financial crisis are based on either an intentionally obtuse and distorted view or are simply a bald-faced lie being used to serve an agenda that wishes to fundamentally redefine universal service and the commitment of the Postal Service to the American people.

There is no doubt that our postal system faces challenges. Technology and the growth of electronic alternatives pose a real challenge to our volume based system. Compounding that has been the worst economic conditions since the Great Depression. But to blindly characterize the current situation as one of desperate and devastating losses simply ignores the fact that all of the losses over the last several years can be attributed to provisions promulgated by Congress that transfer vast sums from the Postal Service to the Treasury for no reason other than satisfying obtuse and arcane budget scoring principles that have more to do with politics than good accounting.

The alleged losses the Postal Service has incurred are directly attributed to pension overpayments, payments to the Retiree Health Benefits Fund far in excess of what is actuarially sound, and a convoluted formula for dealing with workman's compensation cases. One might argue quite convincingly that the operations of the Postal Service would be far healthier if, instead of responding to an illusory crisis, we had focused on strengthening both the network and affirming its mission.

The Commission must of course take into account the financial condition of the Postal Service, that is a primary job as regulator. But the Commission also must not allow itself to be misled as a means of deterring it in its mission to guard the interests and assets of the American people.

We are told that the procedures in the N-Cases have become too adversarial and that as a result the cases have become too drawn out, therefore making the Advisory Opinions untimely and of little use to the Postal Service. My immediate response to that would be that the Postal Service is not interested in advice. They are only interested in affirmation and the conduct of the Postal Service in the cases, in the timing of bringing the cases, in the conduct of the cases themselves and in the response to the cases has demonstrated a disdain for any opinion, advice or evidence that contradicts the Service's preferred course of action. The Postal Service appears to care little for the process or what it may contribute.

The process is adversarial because, as some comments have pointed out, the law makes it so. The degree of contention and the additional length that adds to the proceedings can often be laid directly on the doorstep of the Postal Service.

Since at least 2002 when then PMG Jack Potter introduced his Transformation strategy the Postal Service has indicated that its preferred course of action would be to reduce delivery days and reduce the size of its retail network. If those planks supported the strategic initiatives which the leadership of the Postal Service saw as essential for a successful future then the Postal Service should have been prepared at any time to bring a request for an advisory opinion.

The Postal Service could have brought forth a request without necessarily having a specific plan, the process of the advisory opinion may have helped illuminate the best path forward. Instead, in virtually every case the Postal Service has asked for the advisory opinion after they have already determined what they intended to do. The Postal Service

has made a sham of the process as a matter of exploration and discovery. Instead it wants a rubber stamp, and quickly.

The proceedings in these cases have become legally adversarial and contentious because the Postal Service is not always forthcoming with information. In some cases the Postal Service changes its testimony, its figures and even its plan on the fly. The Postal Service has withheld the results of studies that may have provided contradictory evidence, as in the case of the marketing study that was essentially revealed by mistake.

A reasonably objective observer might actually determine that the Postal Service really has no plans. What they have is a stated goal of fewer employees, a smaller network, less service for the public while providing more attention to a segment of the mailing community, all under the guise of a business model that is less governmental, more privatized and supposedly more competitive. The actual plans that get us there don't really matter and neither do the consequences because the goal appear not a matter of serving the mission of universal service but of turning the Postal Service into some sort of competitive enterprise.

The N-Cases have been critical in shining a light on the methods and objectives of the Postal Service. The result of the thorough approach of the Commission has often been to demonstrate that the plans and consequences of those plans that the Postal Service offers are not nearly what has been advertised. The cases are adversarial because the Postal Service makes them so, often acting as a petulant child that wants what it wants without regard to reason or obligation.

The Postal Regulatory Commission is a creation of Congress and in a political world I suppose that means that the Commission is somehow obligated to satisfy Congress. But while it may be a child of Congress the Commission is a slave to the law and so even if certain legislators like Mr. Carper are impatient or in a hurry, the Commission does well to follow the dictates of the statute and thoroughly examine the questions put before it. The Commission's true obligation, under the law, is to the American people. It is the only body that has held the Postal Service accountable. It is the only body that has tried to maintain a level of transparency. It should continue to fulfill its obligations to the law and the American people.

If the legislature wishes a less robust procedure for examining the nature of services the United States Postal Service provides then it should specify that in legislation. If the legislature wishes less accountability and less transparency then it should make that clear in statute. Such choices would be both unfortunate and wrong in my view but at least the legislature would be taking responsibility for its actions.

The Commission should ignore calls to hurry up the process. You should ignore calls to dilute the process. If the process could be made more accommodating to the participation of individuals without compromising the legal nature of the proceedings then the Commission should examine ways to do that. If the process could be made more transparent by ensuring that the justifications and rationalizations for the delivery of evidence under seal are genuine and serve a real purpose then the Commission should examine that part of the process. Currently too much leeway is given to the Postal Service, a public body, in allowing it to keep information out of the public's view. It is, after all, the Postal Service not a national security agency or for that matter a private

corporation - it should be held to a higher standard of openness and transparency as befits an institution charged with binding the nation together through the free flow of information.

The Postal Regulatory Commission has done a yeoman's job in protecting the public interest. It has followed the law and the statutes in its processes and done so in a fair and open way. Its work should be a model for other regulatory bodies. If its processes and opinions are not well received that may be as much an indication as anything that it is doing its job well.

The leadership of the United States Postal Service and some of its supporters in Congress have been in a rush to dismantle the postal network and change the very nature of the institution's mission. Before we discard hundreds of thousands of jobs and cause the deterioration of services essential to the American public and communities across this country we should make every effort to examine the proposals that would cause such disruption. The PRC has done well in its part and particularly through the N-Case process.

Respectfully,

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