

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

**Inquiry Concerning Scope of
Public Service Cost Reporting**

Docket No. PI2014-1

REPLY OF FEDERAL EXPRESS CORPORATION

Federal Express Corporation (FedEx) respectfully submits this reply relating to the Commission's Notice Establishing Docket Concerning the Scope of Public Service or Activity Cost Reporting under 39 U.S.C. §36512 (b)(1)(C) (the Notice) and the Analysis of Additional Postal Service Activities That Could Qualify for Reporting under 39 U.S.C. §3651(b)(1)(C) (the USPS Analysis) attached to the Notice. FedEx wishes to briefly address certain issues raised in this docket thus far.

FedEx supports the comments of the Public Representative and others regarding the scope of Section 3651(b)(1)(C). Reading this provision in context, it is clear Congress did not intend to get a litany of complaints about unfunded mandates, but an accounting of those costs related to additional services and activities that the United States Postal Service (USPS) provides to the public. As the Public Representative says, the catch-all phrase at the end of in Section 3651(b)(1) "should be afforded a somewhat narrow interpretation." At 3. To expand this review to reach employment-related activities (retiree health benefits, workers compensation, retirement

benefits) and costs associated with being part of the federal government would be overreaching, because those do not constitute activities that benefit the public.

The Public Representative states that employee related costs should not be included in this review, and FedEx agrees that such costs are beyond the legislated scope. In fact, it would appear that very few of the employment-related items listed in the USPS Analysis are unique to USPS. Instead, what USPS calls an “activity” is, in fact, a reference to the amount, or the format, of various costs. The prepayment obligation, for example, refers to the procedure for the funding of a retiree health benefit (still provided by many companies). Congress has decided that the payment of remaining unfunded liabilities should be front-loaded – this is not a demand by, nor a benefit to, the consumers of USPS services. Binding arbitration of labor issues – the cost of which even USPS does not attempt to quantify – is a Congressionally mandated aspect of USPS’ labor relations. Again, it does not benefit the rate-paying public. As the National Association of Letter Carriers (NALC) notes, these and most of the other employment issues have been the subject of great public debate and can only be resolved by the actions of Congress. The Commission, as the impartial regulator, should not place itself in the position of taking sides on such strongly politicized issues, and we would contend that Congress has not asked for such intervention or assistance in Section 3651(b)(1)(C).

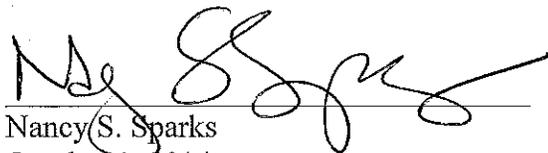
The Public Representative stays with that narrow interpretation when USPS benchmarks against the private sector, stating: “[i]f this was the intended task, Congress would have provided explicit directions.” At 5. In fact, it is FedEx’s view that Congress did ask for much of this type of information already, in Section 703 of the Postal Accountability and Enhancement Act of 2006. There, the Federal Trade Commission was instructed to prepare a report for Congress “identifying Federal and State laws that apply differently to the United States Postal

Service...and to private companies providing similar products.” That report was prepared, and covered many of the items which USPS now seeks to categorize as “public...activities.” If Congress wants another report on this competitive differential, it can ask the competition authorities within the government to work on this. This type of analysis is not what Congress requested from the Commission under this section.

Many of the parties in this docket all seem to place the emphasis somewhat differently in interpreting the statute – the National Association of Letter Carriers points to “provided,” the Public Representative focuses on “activities,” and United Parcel Service looks to “other” to give context to the provision in question. FedEx agrees with them all. USPS is asking the Commission to stretch the plain meaning of this statute to create a new platform from which USPS can, perhaps, make a case for Congress to lift or alter obligations imposed by earlier legislation. This is not the intent of Section 3651(b)(1)(C) and the Commission should not expand this review in the way suggested by USPS.

USPS notes that many of the items it cites serve important public policy goals. That does not make them “public activities” to be analyzed under Section 3651(b)(1)(C). FedEx would urge the Commission to heed the well-reasoned views of the Public Representative and others in this docket and not expand its review under that provision.

Respectfully submitted,


Nancy S. Sparks
October 1, 2014