

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

Service Performance Measurement
Systems For Market Dominant Products

Docket No. PI2015-1

INITIAL COMMENTS OF
AMERICAN POSTAL WORKERS UNION, AFL-CIO
(April 8, 2015)

On January 29, 2015, the Commission solicited comments on the Postal Service's new proposals for service performance measurement and reporting systems, and established Docket No. PI 2015-1. In response to the Request for Public Comment, the American Postal Workers Union, AFL-CIO (APWU) respectfully submits the following Comments.

In Part I, we give a general overview of the importance of independent auditing to corporate integrity. In Parts II-IV, we focus on the technical defects in the Postal Service proposal: the proposal is too undeveloped to permit approval, and its preliminary features clearly permit sampling bias and non-random results affected by managers interested in the test's outcome.

I. Independent Third-Party Auditing is Essential to Public Confidence.

Even aside from the particular defects of the USPS proposal, the move to eliminate independent auditing is inherently harmful to the public trust at a critical point in the Postal Service's history.

A. The proposal erodes public trust.

The Postal Service has significantly degraded service standards in the past three years. There is ongoing public debate over how significant these changes have been. Congress is debating legislation to reverse the service standard reductions. Postal Reform Act of 2014, S. 1486, 113th Cong. (2014). A letter from fifty Senators urged a one-year moratorium on facility closings or consolidations: "As the postal network has been weakened, service delivery has suffered. Since the Postal Service slowed down the delivery of First-Class Mail over two years ago by revising its service standards, it has been more difficult for the American public and small business to receive mail in a timely manner. Slowing down mail delivery even further will hurt senior citizens on fixed incomes, small businesses and the entire economy." Letter from Sen. Jon Tester, et al., to Sen. Barbara Mikulski, Chairman of the Committee on Appropriations (April 14, 2014), www.sanders.senate.gov/download/postal-appropriations-letter?inline=file.

The Postal Service relies on statistics to minimize these concerns. See, e.g., Our Future Network: Phase 2 Network Rationalization, Frequently Asked Questions, <https://about.usps.com/news/electronic-press-kits/our-future-network/ofn-phase-2-faqs.htm> ("Overall, the time it takes First-Class Mail to reach its destination will increase slightly from an overall average of 2.14 days to an overall average of 2.25 days.")

These statistics are the only way the public and Congress can evaluate Postal Service performance. Yet the Postal Service is now proposing to replace independent third-party measurement with its own managers. Whatever the merits of a new measurement system, this change creates an unhealthy appearance. It now appears to

a skeptical public that the Postal Service prefers statistics compiled by its own supervisors rather than data compiled independently.

B. Independent auditing is essential for major corporations.

The Postal Service frequently compares itself to publicly traded corporations: "As the governing body of the Postal Service, the 11-member Board of Governors has responsibilities comparable to the board of directors of a publicly held corporation." Postal Service 2014 Annual Report, <https://about.usps.com/publications/annual-report-comprehensive-statement-2014/annual-report-comprehensive-statement-2014.pdf>. at p. 32. Congress charges the Postal Service with a greater duty to the public than it does private corporations. See 39 U.S.C. §101(a) and (b).

It would be ironic if the Commission were to permit the Postal Service to avoid the independent auditing required for publicly traded corporations. SEC regulations require that independence in auditing. See 17 C.F.R. § 210.2-01. "By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client. . . This 'public watchdog' function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust." *United States v. Arthur Young & Co.*, 465 U.S. 805, 817-18 (1984).

Compromising the independence of such records could do great harm to the public's trust, and "the value of the audit function itself might well be lost." *Arthur Young*, 465 U.S. at 819 n.15. Requiring public filings to be audited by an independent accountant is meant to "obviate" the public's "fear of loss." *Id.* It is "not enough that

financial statements be accurate; the public must also perceive them as being accurate.” *Id. See also Ferriso v. N.L.R.B.*, 125 F.3d 865, 872 (D.C. Cir. 1997) (SEC regulations’ “independence requirement bars an accountant from auditing a firm or its affiliates if that firm has employed him or anyone else from his office during the period covered by his report.”)

Yet the Postal Service’s current proposal treats that independence as a formality that it may freely dispense with. The Commission should not countenance this.

C. The Postal Service offers no reason to end independent auditing.

While the Commission has the discretion to permit an internal measurement system, 39 U.S.C. § 3691(b)(2), the current debate over postal service presents the most inappropriate environment for such a change. The service reductions of the past three years have eroded public confidence in the Postal Service. Letter from Sen. Jon Tester on behalf of 50 Senators, to Chairman of the Committee on Appropriations (April 14, 2014), www.sanders.senate.gov/download/postal-appropriations-letter?inline=file. Congress is currently debating legislation to roll back the service changes. At a time when the degree of harm from service reductions is a matter of intense public concern, the Postal Service should not be allowed to fill out its own report card.

Even if the proposed technological changes were viable, the Postal Service offers no justification for abandoning independent administration of the process. The Postal Service does not show that there will be significant cost savings, improvement in efficiency, or increased reliability of results. By contrast, the certain cost of the change would be the public’s perception that the fox is guarding the chicken coop. As in *Arthur*

Young, it is “not enough that financial statements be accurate; the public must also perceive them as being accurate.” 465 U.S. at 817-818.

II. The Postal Service Has Not Developed Its Proposal Sufficiently.

In any event, the Postal Service’s proposal is incomplete and flawed.

At the March 18, 2015 technical meeting, the Postal Service’s representative admitted that the USPS has not fully developed its proposed program. The USPS could not present information on how it would select samplings across the country, nor does it have the software developed to show how the samplings would insure integrity of the system. The Postal Service’s plan has not identified personnel who would run the software and be in charge of the program. The Postal Service has not discussed or planned budget requirements. Nor has the Postal Service completed testing of the scanners it claims to have purchased.

At the March 18 presentation, Postal Service management said it would work with the Mailers' Technical Advisory Committee (MTAC) and its partners to decide how it would select samplings. This gives the Commission nothing to approve. A promise to develop a system in the future is not the same as a system that the Commission can approve now.

The USPS claims that it will test the Service Performance Measurement (SPM) system in September 2015. Such testing should not be authorized until there is a technical conference and proposal submitted with the full written program that includes the complete information for how samplings will be chosen and processed, including how change of address corrections will be included in the samplings. The Postal

Service should also be required to make a full disclosure as to the scanners used, GPS program battery life, and password protection for the system. The APWU cannot comment fully on an incomplete proposal. More importantly, the Commission cannot intelligently consider a proposal that leaves so much to future development.

III. Sampling Bias

The Postal Service proposal, even in its incomplete form, builds in structural selection bias into its measurement.

A. The proposed system only studies mail successfully picked up.

The proposed SPM, as far as collection mail goes, would be based solely on pieces that were already successfully retrieved by mail collectors. The “Clock In / Clock Out” method therefore fails to measure errors that lead to mail not being collected in a timely manner. This, of course, sanitizes the data by excluding a major category of missed mail. Therefore to say the USPS is providing “end to end” mail transit time would be inaccurate. In fact, when the USPS revised its proposal on March 15, 2015, it changed the phrase "end to end" to "overall."

Third-party measurement like Externa First-Class Measurement System (EXFC) has the benefit of capturing such errors, and weighing them in the overall system performance.

B. The proposed system measures automated mail, not stamped mail.

SPM samples will be easier to process than EXFC samples, and yield higher scores than EXFC mail. The SPM mail will be representative of the mail with an Intelligent Mail barcode or franked with information-based indicia, and more likely to be

business mail, thus more likely to be of standard size and higher readability than the mail mix represented by EXFC samples (hand-written, varying in quality of addressing, shape, or composition of the envelope). In other words, the SPM system will report a rosy picture of performance based only on automated mail, while treating more traditional forms of mail as irrelevant.

In its March technical meeting, the USPS mentioned one 2012 study showing there may be one out of a possible 25 pieces in a blue collection box that actually have a barcode. If sampling only works for one of 25 pieces, the system would not have the ability to conduct large amounts of samplings to “Start the Clock.” Barcoded mail is easier to process, and so the data will present a rosy picture of service that will not describe performance for other types of mail.

This is a subtle way for the Postal Service to prefer business customers over ordinary citizens. The outgoing Postmaster General has publicly argued that customers using stamps are not worth the USPS’s investment, see Patrick Donohoe, *Challenges Facing the U.S. Postal Service*, Remarks at the National Press Club (Nov. 6, 2014), www.c-span.org/video/?323596-1/us-postmaster-general-patrick-donahoe-remarks. Just as the Postal Service grants preferential discounts to metered mail business customers that are not justified by worksharing, see Order 1890, Docket No. R2013-10, *Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes*, November 21, 2013 at 48-50, the Postal Service now proposes to treat customers who do not own a Pitney Bowes machine as irrelevant to its mission.

The Commission cannot endorse this approach. While any post would run more

efficiently if its customers were all machines, the Postal Service violates the public trust if it disregards its reduced performance for customers who still use stamps.

IV. Non-Objective Measurement by Interested Personnel

The USPS proposal has a second problem - the identification of sample pieces to postal personnel, both as to type (bearing IMb or IBI markings) and to identity of specific pieces during collection and delivery.

A. Incentive to report favorable results

The key to integrity of objective measurement is that the postal personnel should not be aware of what pieces are being sampled and tested. This was the emphasis of the OIG report *Evaluation of the External First-Class Measurement System Audit Report*, Report Number FF-AR-12-006 (Sept. 18, 2012) at 1, 9-16. Even the EXFC system “is vulnerable to ‘gaming’ as management and staff often give potential test pieces preferential treatment to raise scores.” *Id.* at 1.

At the March 18, 2015 technical meeting, the USPS presenter could not confirm whether postal managers get a monetary incentive for good SPM scores. But this has historically been the Postal Service’s practice. The 2012 OIG report noted that USPS managers have a strong monetary incentive to report favorable service results: “National Performance Assessment supports the Pay for Performance program and Performance Evaluation System. Therefore, the service performance of First-Class Mail affects non-bargaining employees’ performance ratings and associated pay increases or bonuses.” *Id.* at 11.

The USPS presenter suggested that this SPM would also be used to discipline

employees for any missed scans or delayed mail pieces. This service performance measurement should never be utilized to blame employees for mistakes made by mismanagement, bad scanners, mail processing equipment problems, and or other conditions that may arise. More fundamentally, however, the use of SPM data to discipline employees creates an unhealthy incentive among employees as well as managers to ensure that results are favorable, and that errors and delays escape measurement.

This problem would become much worse under the proposed SPM system.

B. Not-yet-unloaded mail

Mail transport trucks do not always have room to load all the mail at every stop, so mail ready for dispatch sometimes has to wait for the next truck. Management would naturally avoid sampling such mail, which by definition would have to wait hours or more for the next truck, which will affect delivery times.

The same holds true for mail brought to a processing plant where the plant is unable to handle the mail, and so is sent to another plant further away. That mail would not be part of the sampling as it would not be scanned at the plant but sent on its way at a much later time or the next day.

C. Fixed time at which carriers stop scanning

Carriers will be told how many pieces to scan and then told when to stop scanning. This allows management control over what pieces are being selected at any given time.

This permits delayed mail to be disregarded in the measurement. When a

collection box is missed or scanned too early, someone is dispatched to scan the missed collection but returns after the last truck has left for the mail processing plant. That additional effort is far less likely to occur if managers are aware that none of the delayed mail has been scanned as sampled mail (particularly now that processing plants are fewer and often much further away).

By contrast, the current EXFC sampling method motivates management to ensure that all boxes and mail chutes are collected and sent to mail processing on the same day. Once it is known that sample pieces are identified upon collection, there is much less incentive to make sure that every last letter is scraped out of every last collection point and container. The SPM will not measure a missed letter from the collection box under this proposal.

For these reasons, the use of postal personnel to identify specific sample pieces will allow collection and delivery data that is not as objective and reliable as EXFC.

CONCLUSION

The Commission should not approve the proposed SPM system. The Postal Service should not abandon independent auditing at this critical point in the public debate. The Postal Service has not presented a complete proposal. What has been presented ensures sampling bias and managerial influence over the results, for worse than the current EXFC system

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Respectfully submitted,

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