Postal Regulatory Commission
Submitted 3/24/2016 12:03:46 PM
Filing ID: 95415
Accepted 3/24/2016

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC

PERIODIC REPORTING (UPS PROPOSALS ONE, TWO, AND THREE)	Docket No. RM2016-2

<u>REPLY COMMENT OF THE</u>
<u>NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO</u>

(MARCH 24, 2016)

The National Association of Letter Carriers, AFL-CIO serves as the exclusive collective bargaining representative of the over 200,000 city letter carriers employed by the United States Postal Service ("Postal Service"). For the reasons explained below, we submit this reply comment in opposition to the petition of United Parcel Service, Inc. ("UPS") in the above-captioned matter.

UPS's petition is just the latest ploy by the company, in a long line of such attempts, to use rhetoric about supposed unfair postal subsidies to try to gain a competitive advantage for itself in the parcel market. Back in 1990, UPS charged Canada Post with "cross-subsidizing its parcel and express services." Over the past two decades, it accused a number of postal administrations in Europe of using their monopoly revenues to give them an unfair advantage over private competitors there. UPS sang the same tune in this country in 1998 – well before passage of the PAEA – when it claimed that the Postal Service was unfairly subsidizing package deliveries.[1]

[1] *See The Globe and Mail*, July 10, 1990; *The Commercial Appeal*, June 3, 1998.

UPS's current charges, which purport to offer the latest in economic thinking, in reality constitute the same, tired claim that UPS has peddled unsuccessfully for many years.

UPS's first two proposals, if adopted, would cause attributed competitive product costs to balloon, from $10.97 billion to $14.38 billion. The company's petition is nothing more than an effort to hobble the Postal Service's robust and growing parcel business, a business that serves America's consumers and retailers well, and that – absent artificially elevated price floors – promises to continue to do so.

In their initial comments, the Postal Service and the group of "Market Dominant Mailers" provide extensive and persuasive analysis debunking UPS's self-interested claims.[2] NALC endorses their view that UPS's proposals would be a large step in the wrong direction. In its Proposal One, UPS argues that so-called "intramarginal costs" should be attributed to competitive products. This proposal, based on arcane game theory, has little connection to the reality of the cost of mail delivery, and even less grounding in either common sense or judicial and Commission precedent. In its Proposal Two, UPS asserts that the Postal Service misclassifies many variable costs as fixed costs. This proposal, also devoid of any connection to operational reality, rests on a series of simplistic regression models that teeter on just one explanatory variable and eight data points. Moreover, as the comments explain, both proposals are inconsistent with the established principle, embodied in both statutory language, legislative history and Commission precedent, that costs only be attributed to postal products when reliable evidence shows that increased volume causes those costs. In addition, UPS's proposals ignore the fact that since enactment

[2] *See* Jan. 25, 2016 *Initial Comments of the United States Postal Service on UPS Proposals One and Two*; Jan. 25, 2016 *Comments of American Catalog Mailers Association, Inc. et al.*

of the PAEA in 2006, competitive product prices, far from being slashed, have risen significantly faster than market-dominant ones.

Perhaps most worrisome, as the Market Dominant Mailers' group points out, UPS's proposals would have a devastating impact on the users of market-dominant products, increasing the costs attributed to market-dominant mail and services by 47 percent, or over $13 billion per year. NALC has always been committed to the principle that mail service should be affordable to the American people. By proposing a radical reconfiguration of cost accounting that would result in bloated attributed costs for many market-dominant products, UPS's proposals cut against the core postal principle of maintaining the universal service obligation.

The PAEA requires that later this year the Commission devote its limited resources to a wholesale reassessment of its methods for regulating rates of market-dominant products. With that significant task looming, the Commission would be ill-advised now to consider seriously UPS's proposal that the Commission jettison its long-accepted cost accounting procedures and adopt new ones that serve that company's business agenda.

For those reasons, NALC opposes UPS's petition.

We are joined in this opposition by three other postal unions – the American Postal Workers Union, the National Rural Letter Carriers Association and the National Postal Mail Handlers Union – which have indicated to NALC that they endorse this reply comment.

March 24, 2016

Respectfully submitted,

/s/ *Peter D. DeChiara*
Peter D. DeChiara
COHEN, WEISS AND SIMON LLP
330 West 42nd Street
New York, New York 10036-6976

Attorneys for National Association of
Letter Carriers, AFL-CIO