

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

Evolutionary Network Development  
Service Changes

Docket No. N2006-1

PRESIDING OFFICER'S RULING GRANTING MOTIONS  
TO REOPEN AND SUPPLEMENT THE RECORD

(Issued October 27, 2006)

Two participants have recently filed motions to re-open and supplement the record of this proceeding. On October 18, the American Postal Workers Union filed a motion<sup>1</sup> to supplement the record with an audit report prepared by the Inspector General of the United States Postal Service, which it attached to its pleading, and other documents it describes. On October 20, the Office of the Consumer Advocate submitted a motion<sup>2</sup> to re-open the record to receive a late-filed institutional response to written discovery directed to the Postal Service. I will address each motion in turn.

The APWU Motion. APWU's Motion seeks to re-open the record to include four categories of information: (1) an Office of Inspector General (OIG) Audit Report for the Pasadena, California Processing and Distribution Center Consolidation, dated September 26, 2006; (2) a copy of draft revisions to USPS Handbook PO-408 referenced in the OIG report; (3) Regional Distribution Center (RDC) Plan Worksheets for three of the first Bulk Mail Centers to be converted to RDCs; and (4) copies of several other types of documents related to the conversion of Bulk Mail Centers to RDCs.

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<sup>1</sup> Motion of the American Postal Workers Union, AFL-CIO, to Supplement the Record, October 18, 2006 (APWU Motion).

<sup>2</sup> Motion of Office of the Consumer Advocate to Reopen the Record to Receive Late-Filed Written Cross-Examination of United States Postal Service, October 20, 2006 (OCA Motion).

The Postal Service filed a Reply<sup>3</sup> to APWU's Motion on October 25, 2006. In its Reply, the Postal Service states that it has no objection to the Commission's taking official notice of the OIG Audit Report, but objects to each of APWU's other three requests.

APWU concedes that the OIG Report on the Pasadena P&DC Consolidation is not a substitute for a post-implementation review, but that it is the only information available for assessing any portion of the ten AMPs contained in Library Reference USPS-LR-N2006-1/5. The Postal Service does not resist this argument, and I agree. Further, the report is similar in substance and apparent relevance to the OIG Status Report admitted into evidence in Ruling No. 38.<sup>4</sup> Accordingly, I shall re-open the record for the limited purpose of admitting this item and receive it into evidence.

However, I shall not grant APWU's Motion with respect to the other described documents. While the Postal Service concedes that the Commission's advice on management procedures of the kind incorporated in Handbook PO-408 would be germane, it argues that the Commission does not need to know what specific changes to that document might be under consideration to perform that function, and explains that the requested draft revisions are the subject of current deliberations and therefore protected by the attorney-client privilege.<sup>5</sup> With regard to APWU's request for RDC Plan Worksheets for Bulk Mail Centers soon to be converted, the Postal Service represents that no such facility-specific RDC activation documents exist.<sup>6</sup> Similarly, concerning Requests for Proposals (RFPs), responses thereto, and any actual contracts related to converting current Bulk Mail Centers to RDCs, the Service observes that it upgrades processing equipment in BMCs for a variety of purposes; notes APWU's concession that these documents are not as directly related to the substance of the END program as other requested documents; and argues that APWU has offered no compelling

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<sup>3</sup> Reply of the United States Postal Service to APWU Motion to Supplement the Record, October 25, 2006 (Postal Service Reply).

<sup>4</sup> Presiding Officer's Ruling No. N2006-1/38, September 19, 2006.

<sup>5</sup> Postal Service Reply at 1-3.

<sup>6</sup> *Id.* at 4.

reason for posing such a discovery request at this time. Indeed, each of these additional requests to supplement the record is tantamount to new discovery directed to the Postal Service, and as such is objectionably untimely. Therefore, they will be denied.

The OCA Motion. The material OCA seeks to designate into the record consists of the response to a single interrogatory, OCA/USPS-63. This interrogatory was directed to the Postal Service on August 22, 2006. The Postal Service filed its response on October 18, 2006, two days after the record was closed in Ruling No. 43.<sup>7</sup> In view of these circumstances, I shall grant OCA's motion.

#### RULING

1. The Motion of the American Postal Workers Union, AFL-CIO, to Supplement the Record, filed October 18, 2006, is granted in part, as specified in the body of this ruling. The Audit Report—Pasadena, California, Processing and Distribution Center Consolidation (Report Number EN-AR-06-001) attached thereto is added to the evidentiary record in this case.
2. The Motion of Office of the Consumer Advocate to Reopen the Record to Receive Late-Filed Written Cross-Examination of United States Postal Service, filed October 20, 2006, is granted. The Response of the United States Postal Service to Office of the Consumer Advocate Interrogatory (OCA/USPS-63), filed October 18, 2006, is added to the evidentiary record in this case.

Dawn A. Tisdale  
Presiding Officer

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<sup>7</sup> Presiding Officer's Ruling No. N2006-1/43, October 16, 2006.