

**REMARKS OF
COMMISSIONER TONY HAMMOND
BEFORE THE
NATIONAL POSTAL POLICY COUNCIL**

**Arlington, VA
November 9, 2004**

Thank you, Art. It's a pleasure to be here with you today at the National Postal Policy Council.

Art suggested I focus on three topics— postal reform; negotiated service agreements, or NSAs; and the next rate case. Following my remarks I'll be glad to answer questions, but I hope we can have more of a discussion, so that I can learn what's on your mind.

POSTAL REFORM

First, I must say I don't expect to see any postal reform legislation before Congress adjourns. I know many mailers are hopeful that a stop-gap measure might further delay the next rate case, but honestly, I am not optimistic that Congress will take such action.

It remains to be seen whether the push for legislative reform will continue once the new Congress is in session.

Certainly, many mailers still have a strong interest in postal reform. They want to enable the Postal Service to operate more efficiently, and hold rates below inflation.

Everyone agrees with those goals. But let's look at what has been happening in the last four or five years. Under Postmaster General Potter, Postal Service costs have been held in check, and service has improved.

I'm not suggesting there is no room for further improvement — there is always room for further improvement. But some of the arguments that legislative changes are necessary to allow for efficient operations no longer carry the same impact.

The "reform" model that passed the House and Senate Committees gave the Postal Service some flexibility, and established a strengthened regulator, but in many areas it did not really make significant changes.

The Postal Service is transforming itself, following its own, internal, Transformation Plan. It seems to me it is doing a pretty good job of it. And we might want to wait to see how that turns out, before we enact legislation that may or may not address whatever problems are really remaining.

I'm not here talking on behalf of the Commission, but I know that my colleagues and I agree that we don't have a particular axe to grind on legislation. The Commission is willing to continue to hear rate cases, or if there is legislation, it will analyze and report on Postal performance.

We believe that in either circumstance, the Postal Service's status as a government-sponsored monopoly requires it be more transparent. This involves challenges since some of its services are offered in competitive markets. Nonetheless, as a public institution, the Postal Service has a responsibility to be financially transparent.

Both the Senate and House bills retained the government-sponsored postal monopoly, and provided for increased financial transparency along with regulatory subpoena power. This also is

in line with recommendations in the Report of the President's Commission on the Postal Service.

In 2003, Congress passed and the President signed PL108-18 – the Postal Civil Service Retirement System Funding Reform Act of 2003. Retirement payments were deferred for three years which allowed the Postal service to keep rates stable until 2006 and pay down its debt. Currently, however, the Postal Service is required to resume making escrow payments in 2006.

In addition, that legislation transferred from the Treasury to the Postal Service the responsibility for the retirement costs of postal employees related to service in the military or other volunteer agencies (such as the Peace Corps). This transfer [from taxpayers to mailers] represents approximately \$27 billion.

These two provisions appear to be the focal point of mailers' recent calls for "postal reform." While that approach may, as I indicated, be understandable, its chances of success seem to me to be problematic. While the equities of the situation may lie with mailers and the Postal Service, proposals that simply address these 2 provisions are not really "postal reform."

NEGOTIATED SERVICE AGREEMENTS

NSAs — targeted pricing initiatives designed to encourage greater efficiencies — are familiar to National Postal Policy Council members. Each of the three NSAs that have been before the Commission involves one of your members.

These include:

- Capital One, which was the first NSA considered by the Commission; it was approved in May of 2003;
- Discover Financial Services, which was approved by the Commission in September, 2004, and
- Bank One, which is pending before the Commission.

Let me emphasize here that I can not discuss any of the issues that may impact on the Bank One case, so I must be very careful. I know you will be understanding about that.

Following the approval of the Capital One NSA, the Commission issued a notice of proposed rulemaking covering regulations applicable to NSAs. New regulations were adopted

that I think have been working well. But as soon as the current case is finished, we intend to ask for suggestions of how these rules can be improved.

The Commission is committed to making its processes as user friendly as possible.

From the beginning your members have been very helpful. Comments on our first rulemaking were submitted by the Council itself (jointly with other mailer groups -- DMA, MPA, MOAA and PSA) and individually by Capital One, Discover Financial Services, and Pitney Bowes – each a member of NPPC.

In fashioning our rules, the Commission attempted to balance the parties' burden of providing data supporting the agreement, with the Commission's obligation to review proposals in accordance with its statutory obligations. In addition, of course, it was necessary to consider the treatment of commercially sensitive information and the degree to which it and the NSA should be made public. *[Commission noted it could use protective conditions, if appropriate, and expressed its intent to make the contents of the NSA available publicly.]*

So far, I am happy to say there have been no problems in these areas.

In the end, the touchstone of any NSA must be that it presents a win-win situation. That is, through efficiencies and incentives, the parties to the agreement are better off – mailers through increased savings, and the Postal Service through savings and increased contribution – while other mailers are not harmed by the arrangement.

I hope that it is clear that the Commission is willing to consider NSAs. Provided that future proposals satisfy the win-win criteria, the Commission will remain receptive to such proposals.

RATE CASE

Regardless of legislation, it seems probable that a new rate case will be filed sometime in 2005. Whether it will come in the spring, summer, or beyond I don't know. Regardless, there are two rate-related issues I want to address – phasing and reporting requirements – two topics that have something in common with postal reform.

Phasing

During the Ratemaking Summit conducted jointly by the Commission and the Postal Service in the spring of 2002, phasing was raised by several commenters as a way to mitigate the effects of relatively high rate increases. Instead of implementing a rate increase all at once, it would be implemented – that is phased in – over a set schedule.

Under this approach, the Postal Service would attempt to recover the same amount of revenue over a two or three year period as it would if a single, larger increase was implemented all at one time.

For example, instead of increasing rates by 10% on a one time basis in year One, the Postal Service might implement smaller increases in year One and year Two (perhaps 6% each time) to recover approximately the same total revenue.

Some mailers see phasing as a solution to “rate shock” – that is the business disruption caused by a large percentage increase in their postal rates. For planning purposes, they would

trade smaller, but more frequent increases for a single, larger lump sum increase.

To date, the Commission has not been presented with a phasing proposal, at least not one labeled as such. In Docket No. R2000-1, the OCA proposed rates for single piece First-Class Mail be kept stable over two rate cycles. Without addressing that proposal in detail, it can fairly be described as having the same effects as phasing. While the Commission did not adopt that proposal, it concluded that phasing is permissible under the Postal Reorganization Act.

Thus, should phased rates be proposed in the next case, the Commission would consider that proposal on its merits. If it is proposed, it is likely to raise novel questions and I hope interested persons will provide input to the Commission.

Reporting Requirements

By statute, the Commission is required to issue its recommended decision within 10 months of receiving the Postal Service's request.

Any of you who have participated in a rate case – and several of you have, both individually and as association members – have an appreciation for the sheer volume of information provided and the work necessary to be able to understand a Postal Service rate filing.

Typically, the Postal Service supports its request with the testimony of 40 or more witnesses, most of whom support their presentation with detailed exhibits. In addition, at the outset of the case and as the case progresses, the Postal Service files library references as background and further support for its request. Generally, these library references number in the hundreds. In short, it is almost impossible to digest all of this material in a short timeframe.

Since the last rate case the Commission has taken steps to “level the playing field” to make it easier for intervenors to understand the Postal Service’s data.

As an outgrowth of the Ratemaking Summit, the Commission initiated a rulemaking [*Docket No. RM2003-1*] that culminated in an amendment to the Commission’s rules designed to streamline the administrative process in two ways.

First, when it files its rate request, the Postal Service is required to file a single piece of testimony – the roadmap testimony – explaining how each witness is used to support specific proposed rates.

Second, the Postal Service must also file testimony addressing the details of material methodological changes, including the impact of such changes. The rule assures that testimony will be filed by a witness explaining any changes in the way, costs, volumes, or revenues are estimated.

These changes will benefit participants because the testimony will provide a means to quickly grasp the essential elements of the Postal Service's filing and focus on issues of principal concern.

A second rulemaking is also notable. About a year ago, the Commission amended its rules applicable to filing period reports by the Postal Service. [*PRC Order No. 1386, November 3, 2003, Docket RM2003-3*] That order revised our rules to increase the amount of information the Postal Service was to submit between rate cases

to assist the Commission and foster effective public participation in proceedings before the Commission.

The amendment was designed to streamline the administrative/ratemaking process by providing the Commission and the interested public with timely access to the standard, routinely prepared cost and revenue data that serve as the basis for rate and classification requests.

The updated periodic reporting rule asks the Postal Service to provide the basic datasets that it uses to estimate unit product costs, and identify any new estimating techniques it applies to those data to derive the unit cost estimates in the CRA. Having this information filed annually – rather than only with a general rate request – will produce numerous benefits including:

- It will enable interested persons and the Commission to be familiar with the standard cost and revenue reports on which much of any rate filing is based. This should reduce the need for discovery, and make it possible to shorten hearings.
- Between general rate cases, the Commission and the public will be able to analyze the accuracy of the cost,

volume, and revenue projections on which current rates are based.

- Between general rate cases, if the CRA shows that cross-subsidy or other rate inequity exists, affected parties will have a basis for asking the Commission to hold a hearing to investigate the matter and fashion a remedy under § 3662.
- Between general rate cases, parties looking to propose alternative models of postal cost behavior in future rate cases will be able to analyze data that reflects current postal operations.

In sum, the new rules would assist both the Commission and the public in understanding and analyzing Postal Service cost, revenue, and volume estimates; this will enable the public to participate more meaningfully in Commission proceedings.

Initially the Postal Service cooperated, however, as some of you may be aware, the Postal Service recently has stated that it will not comply with the requirement that it report new methodologies and data used to prepare the annual CRA report.

The principal reason appears to be the Postal Service's objection to the Commission's practice of making materials filed with it available to the public.

Transparency is at the heart of this issue.

Yesterday [November 8th] the Commission issued an advance notice of proposed rulemaking outlining the dispute and inviting comments from interested persons. Among other things, the notice notes the Commission has successfully used protective conditions in response to legitimate claims of trade secrets or other commercially sensitive information.

We are requesting interested persons to suggest what policies or principles should guide the Commission in this matter, as well as to suggest changes to the Commission's rules to address the situation.

I urge the Council and its members to review this proposed rulemaking, and I encourage you to consider what contributions you can make. The Commission wants to hear from you.

With that, I will stop, so I can hear your concerns and answer questions you might have.

Thank you again for having me here today.