

QUESTIONS AND ANSWERS ABOUT A POSTAL EXIGENCY

- Q. Should the Postal Regulatory Commission (PRC) approve the request from the U.S. Postal Service (USPS) for greater-than-inflation postal rate increases under the "extraordinary or exceptional" clause of the Postal Accountability and Enhancement Act of 2006 (PAEA)?
- A. No.
- Q. Why not? Aren't the conditions facing the USPS "extraordinary" or "exceptional"?
- A. No. The circumstances affecting the Postal Service are neither extraordinary nor exceptional in terms of what was originally intended at the time of the enactment of the 2006 postal act. "Extraordinary" or "exceptional" were terms that were meant to describe the circumstances with which the Postal Service would have to contend in the face of another anthrax attack on the mail (or some similar event) or one significant and unforeseeable catastrophe such as the kind of earthquake or geological disaster that has long been considered a possibility along the American west coast.
- Q. What about the most recent recession? Doesn't that qualify as either an extraordinary or exceptional circumstance?
- A. No, it does not. Economic cycles have their ups and downs. Sometimes the swings in these ups and downs are greater than at others. Nonetheless, this is a part of life in a country that has a free-market economy. In fact, the circumstances the Postal Service faces today are similar to those faced by businesses across America. The circumstances either could have been anticipated, planned for, or adjusted to in a variety of ways. Many of these ways were fully within the power of the USPS to do. The USPS, however, simply chose not to do them.
- Q. Could you give me some examples of what things the USPS could have done but chose not to do?
- A. Here are a few of things that the Postal Service could have done and chose not to do:
- Reopen union contracts to permit the use of lay-offs during periods of precipitous mail volume (business) declines.
 - Reopen union contracts to permit the use of employee furloughs during periods of precipitous mail volume (business) declines.
 - Reopen union contracts to eliminate work rules that had the effect of increasing postal costs with no commensurate gain in postal productivity.
 - Reopen union contracts to permit the re-deployment of personnel to cover functions that ordinarily might be done by other postal workers.
 - Close or consolidate redundant postal facilities that were not required to provide the nation adequate postal service.
 - Ask Congress to permit a reduction in the number of days of mail delivery solely in those areas that would not be adversely affected by service reductions, rather than seeking blanket authority to reduce services nationwide regardless of specific local market needs or demands.
 - Restructure mail services to comport more closely with actual and changing market needs and priced in closer accord to market place realities (i.e., market actual mail products as envisioned by the Postal Accountability and Enhancement Act of 2006, and not classes of mail or mail shapes as would have been more typical under the former Postal Reorganization Act.)
 - Devise with postal mail users new mail products and services that would better meet their actual and projected business needs in a rapidly changing business communication and transactional marketplace (i.e., make mail a more compelling business proposition).

- Create new private-public sector partnerships that would expand and facilitate the development of a more robust mail market (e.g., use private sector sales and marketing resources to develop unserved or underserved business markets, such as small to medium size enterprises.

Again, these are things the Postal Service could have done, but (for whatever reason) chose not to do.

Q. Wait! How can you say the Postal Service could have eliminated redundant postal facilities when Congress clearly wouldn't let them do that?

A. While members of Congress have been most vocal in their criticisms of the Postal Service to make certain structural facility changes, Congress has never passed any law prohibiting the Postal Service from making such changes. Specific members of Congress may have rattled their swords, but Congress as a whole has never unsheathed its sword and stopped the Postal Service from doing anything.

Rather than proceeding in a manner which it had long maintained was in the nation's best postal interests, the USPS allowed itself to be cowed into doing nothing (or, if it did anything, it did so insufficiently) to eliminate redundant physical facilities. Members of Congress may have roared. But Congress itself never inflicted a bite.

Q. Isn't it true, though, that the Postal Service needs an infusion of cash to ensure continuance of universal service?

A. Yes, it is. The lion's share of the Postal Service's most immediate cash needs stem largely from the requirement written in the new postal law for the Postal Service to pre-fund its employees' anticipated retirement-related health care expenses. There were fundamental flaws in the actuarial assumptions that underlay that requirement that need to be addressed by Congress. So also must Congress address the gross overfunding of the Postal Service's anticipated Civil Service Retirement System liabilities. [Please refer to the work done by the Postal Service's Office of the Inspector General for a complete report on these issues.]

Q. Isn't it true that some of the Postal Service's revenue need stems from the fact that certain postal services are priced below their actual costs, and that the Postal Service is losing money on these services?

A. Yes, that also is true, but this is a circumstance with which the Postal Service already was familiar and chose to do nothing to address before asking for an exigency adjustment in rates.

Q. Shouldn't the Postal Service be allowed to adjust these rates now?

A. Should this issue be addressed? Perhaps so. In an exigency proceeding? Absolutely not. Again, the purpose for an exigency proceeding is to enable the Postal Service to generate revenue in the face of "extraordinary" or "exceptional" circumstances.

The Postal Service could have chosen to adjust rates to make them more fully compensable during the two previous annual episodes that would have made rate changes possible. On both occasions, the Postal Service chose not to do so. Clearly that was a business decision upon which the USPS arrived that could not be described as "extraordinary" or "exceptional."

Q. What then would you have the PRC do? Surely it must provide the Postal Service with the revenue it needs to continue to operate in the black?

A. No, that, in fact, is not what current postal law requires of the Regulatory Commission. The law clearly states that, in the event of an exigency request, must hear the Postal Service's rationale for rate adjustments that exceed the inflation-related caps PAEA imposes on the prices of market-dominant postal services, and that the Commission must decide whether or not the Postal Service has provided

convincing evidence that its revenue need stems from "extraordinary" or "exceptional" circumstances that could not have been foreseen or adjusted to through other available means. The law clearly does not expect the Commission to yield to the Postal Service's revenue request because of foregone business development opportunities, imprudent business decisions, or simply the failure to respond to changing marketplace realities with sufficient vigor and speed.

Q. But isn't it true that a significant part of the Postal Service's current plight comes from the increased substitution of electronic communication and business transactional alternatives to printed, hard-copy messaging?

A. America's method for communicating and doing business is changing. But this change was long-predicted and should have been anticipated. If the Postal Service behaved prudently, it would have sought to organize or create services and products that reflected more harmoniously the nation's changing needs. It didn't. At least, it surely didn't do enough. Consequently, there is nothing about the impact of electronic communication technology on the post that is either "extraordinary" or "exceptional." In fact, the same sort of changes are occurring elsewhere around the world and there are posts in many nations that have addressed this challenge more creatively and with greater vigor.

Q. This is a time of great economic stress. Today, more than ever before, it's important to stimulate employment and create jobs. Isn't it important for the Postal Service to get the money it needs to continue to employ the people on its roles?

A. The Postal Service now employs over 600,000 people. The private sector, at least that portion with business interests closely tied to the use of a universal mail system, employ over 7.5 million people. It's just as vital to preserve and sustain those jobs as it is for public sector jobs. One should have a right to expect that the Postal Service should be managed in a manner that facilitates and preserves private sector employment in addition to postal employment.

Q. Well, won't passing along modest postal rate increases to mail users help preserve those jobs and foster employment?

A. Not in the private sector it won't. And in the longer term, not in the public sector either.

Q. What do you mean?

A. America's private sector businesses are facing economic pressures that at least equal and more often exceed those facing the Postal Service. Private sector businesses operate in a fully competitive environment. They don't have the benefit or protection afforded by statutory monopolies, as is the case with the Postal Service.

In response to falling business demand related to the most recent economic recession, private businesses have had to lay off workers that weren't needed, impose no-pay furloughs, or just plain go out of business.

In contrast, while the Postal Service has eliminated many part-time and temporary workers, not a single full-time, career postal worker has been laid off or furloughed. In fact, the press is replete with stories where unneeded full-time postal workers have been allowed to sit idle in "holding" rooms, play cards, drink coffee, and draw in coloring books because of antiquated and restrictive union contract rules.

Q. Isn't it true, though, that these rules are beyond the Postal Service's control?

A. Not at all. First, these rules didn't come into being out of thin air. They were the result of contract talks and collective bargaining agreements to which the Postal Service was a full party. These were rules to which the USPS, at one time, had agreed. They are based on decisions that the Postal Service itself made, and now should not be used as an excuse to raise postal rates beyond inflationary bounds.

Q. Current postal law prohibits the Postal Service from raising rates beyond the cumulative rate of inflation. For the past two years, the inflation rate has been zero. Consequently, the USPS has not

been able to raise rates. Doesn't this impose an unnecessary hardship that should be corrected through an exigency increase?

A. The postal accountability act only limits the Postal Service from raising rates above inflation over a mail class-wide perspective. If inflation is zero, then the overall change in rates within each mail class cannot change. The Postal Service most definitely is allowed to adjust rates within any particular mail class to redirect business more fruitfully or redirect the incentives that shape how postal customers prepare and distribute their mail. The only limit PAEA imposes is that the revenue raised from any class overall cannot exceed inflation.

Q. Why isn't that a ridiculous requirement?

A. First, at the time of PAEA's enactment, the USPS had said that it foresaw no difficulty in keeping the prices of its services within inflationary bounds, since postal rates all during the Postal Reorganization Act era were always kept within the limits of inflation.

Q. But how can the Postal Service increase its profits and revenues when it's prohibited from raising rates, even if over classes as a whole, when inflation is zero?

A. Get real here. Adjustments to inflation are not nor have they ever been considered anything other than zero-gain adjustments. When dollars inflate, they have less value. Inflation-related adjustments are intended only to keep the Postal Service whole from an inflation-related perspective.

Clearly, the law envisions that the Postal Service would make full use of all the other provisions afforded in the act to ensure operation in the black, e.g., the increased flexibility to create new services and re-categorize old services, the ability to use costing and pricing approaches never afforded under the former postal act, the ability to generate and retain revenues over costs, the ability to "bank" unused rate change authority, and so on.

Furthermore, the purpose of PAEA was to eliminate the same kind of cost-based rates approach that marked the manner in which this nation's health care system formerly operated and nearly bankrupted America. Congress intended to redirect incentives that underlie the postal system to motivate the Postal Service to organize and function more like a competitive, private-sector like enterprise rather than a government bureaucracy.

Q. The Postmaster General has said that the business model of the USPS is broken and needs to be changed? Isn't approving an exigency request the first step in bringing about that change?

A. If the Postal Service's business model is broken, it wasn't the customers of the Postal Service that broke it. Expecting them to pick up the tab for decisions the Postal Service has made that have not turned out as the USPS might have expected is not only unfair, it also will prove to be counter-productive.

Q. How do you mean?

A. The Postal Service, despite its statutory monopolies over the carriage of mail and access to the mail box, must operate in an environment in which businesses have more access than ever before to alternative pathways for communicating and doing business. If the Postal Service is allowed to raise rates beyond inflationary bounds, it will provide the impetus for businesses to move their communications and transactions out of the mail and into alternative methods. In some instances, this would mean going "digital." In other instances, it might mean moving more business (such as profitable parcels) to alternative private sector parcel delivery carriers.

Q. And the affects of this would be what?

A. For one, it would mean the diversion of mail business and revenue to alternative channels. That would lessen the need for the USPS' still extensive human and physical assets. It would mean an increased need to reduce postal employment and shutter postal facilities.

Furthermore, the loss of revenue would make the preservation of a viable universal mail delivery system even more expensive. The burden of this increased cost would have to be recovered through still higher (and ever-increasing) postal rates that would accelerate further diversion out of the mail and destroy the nation's ability to support a postal system without the use of tax revenues. In short, it would hasten the demise of the very system the USPS claims it wants to preserve.

- Q. How can the Postal Regulatory Commission be expected to tell the Postal Service "no," when it is responsible, at least in part, to ensure the viability of the nation's postal system.
- A. While the PRC clearly has some responsibilities regarding the provision of mail service, serving as the guarantor of a self-supporting universal mail service isn't one of them. That responsibility clearly lies with the Governors of the Postal Service. The Governors, and not the Commission, are charged with the responsibility to oversee the management of the Postal Service and to ensure it is operated in accord with "honest, efficient, and economical" business practices.

The Postal Regulatory Commission's prime requirement in the face of an exigency request is to determine whether the Postal Service actually is confronted by "extraordinary or exceptional" circumstances (in accord with the manner in which Congress envisioned) and whether the result it seeks is consistent with "honest, efficient, and economical" practice.

- Q. Well, doesn't an exigency increase do exactly that?
- A. Not at all. As stated above, the Postal Service's current fiscal predicament in large part is a consequence of its own doing, or, more accurately, "not doing." It is responsible not only for what it does, but also for what it fails to do. In those instances where it has failed to do what other more prudent businesses have done or would have done, the Postal Service has failed to function in an efficient and economical manner. On that basis alone, it should not be granted exigency rate increases.
- Q. What then should the Commission do?
- A. It should find that the Postal Service, while in sore need of cash, has not met the threshold test that would justify the satisfying an exigency request. The rest, it would seem, would be up to Congress to address those elements of the Postal Service's need that are within its power.