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Postal Regulatory Commission
Office of Public Affairs and Government Relations
901 New York Avenue, NW
Washington, DC 20268-0001

Re: Commission Report to Congress on the Functioning of the PAEA

Dear Commissioners:

These comments are submitted on behalf of the American Postal Workers Union, AFL-CIO (APWU) in response to the Commission's solicitation of comments to assist the Commission in developing a report to the President and Congress as required by Section 701 of the Postal Accountability and Enhancement Act (PAEA).

There is a broad consensus among postal industry stakeholders that the most urgent need for reform of the PAEA is the need to reform the funding requirements for retiree health benefits. In particular, the funding requirements imposed by Section 803(a) of the PAEA, which requires payments of \$5.4 to \$5.7 billion per year into the Postal Service Retiree Health Benefits Fund are unsustainable, inconsistent with the provision of universal service at fair and reasonable rates, and inconsistent with the operation of the Postal Service in an efficient and businesslike manner.¹ Thus, it is imperative that the Commission report to the President and Congress that these payment requirements must be repealed.

¹ 39 U.S.C. § 8909a(d)(3)(A).

Almost equally critical, because it is as a practical matter linked to the issue of relief from the funding of retiree health benefits, is the need to provide the Postal Service access to the substantial amounts it has overpaid into CSRA and FERS retirement accounts. The Postal Service's overpayments into the CSRA Trust Fund are variously estimated to total \$55 billion (PRC estimate) to \$75 billion (USPS OIG estimate). Either amount, if released for use by the Postal Service would permit the Postal Service to meet its retiree health benefits funding obligations without burdensome and disruptive increases in rates.²

In our view, the need for legislative relief on these funding issues is so critical to the welfare of the Postal Service that the Commission's Report should focus exclusively, or almost exclusively, on the need for this reform. We are mindful of the fact that Section 701 makes reference to the "operation of the amendments made by this Act." However, the central point to be made is that no other amendment made by the Act can make any difference as long as the crushing and insuperable burden of the current retiree health benefits funding requirement remains in place.³

Furthermore, the most important requirement imposed on the Commission by Section 701 is that it make "recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States." In our view, and we respectfully submit that it is the strongly-held consensus view among postal industry stakeholders, the only recommendation the Commission should make at this time is that the Postal Service be provided relief from its current retirement funding obligations. By providing leadership on this issue and a focal point for discussion of how best to provide the necessary relief to the Postal Service, the Commission will be filling most effectively its role under Section 701 of the PAEA.

² Relief from FERS overfunding would provide approximately \$5.5 billion of additional relief. See USPS OIG Report No. FT-MA-10-002 (Sept. 30, 2010).

³ This point is illustrated by the recent decision of the Commission declining to approve a proposed rate increase the Postal Service sought to justify by reference to exigent financial circumstances. Docket No. R2010-4. It would be difficult for the Commission to report meaningfully on the operation of the exigency provision of the law in the present context. As we understand the majority opinion in that case, it makes our point. The enormous financial need of the Postal Service exceeded the Postal Service's demonstration of financial need caused by exigent circumstances by an indeterminate, but presumably large, amount.

If the Commission should decide to comment on the operation of other provisions of the PAEA, we respectfully suggest that its comments should include the following:

1. Congress should reconsider the wisdom of the CPI cap and exigency provisions in their present form.

- In retrospect, it was a mistake to isolate CPI as the controlling variable to dictate rate increases.
- The Postal Service needs more pricing flexibility than the cap provides.
- Additional considerations should include:
 - The need to maintain the postal delivery network;
 - The need to provide access to postal services for all segments of society; and
 - Price and demand elasticities.

2. The law should be amended to permit non-postal services that “utilize the processing, transportation, delivery, or retail network of the Postal Service in a manner that is consistent with the public interest.”

3. The law should be amended to create an Office of Consumer Advocate to replace the system of ad hoc appointments of public representatives. The head of the Office should be appointed for a term of years, and separate staffing funding should be provided for the Office.

The APWU appreciates this opportunity to provide assistance to the Commission in the formulation of its Report to the President and Congress.

Respectfully submitted,



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