

**BEFORE THE
PRESIDENT'S COMMISSION
ON THE UNITED STATES POSTAL SERVICE**

**TESTIMONY OF
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(April 29, 2003)

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INTRODUCTION

On behalf of the American Postal Workers Union, AFL-CIO, the largest postal union in the world, I appreciate the Commission's invitation to testify today about issues affecting the Postal Service's collective bargaining process. It is important to bear in mind that there are more than 180,000 employees of the Postal Service who are not represented by a union. This number includes approximately 75,000 managerial and supervisory employees.¹

At the Commission's request, I will highlight what I consider the strengths and weaknesses of the current collective bargaining process. In my opinion, there are two fundamental rights that make the present system of collective bargaining strong and effective. The most fundamental right is the right to bargain about wages and working conditions. The second is the right to a prompt and effective resolution of any dispute that may result from collective bargaining. In our industry, strikes are not permitted, so we have a right to receive an arbitrated resolution of any collective bargaining dispute. This is important because, without an effective dispute resolution mechanism, bargaining rights are illusory.

The right to free collective bargaining also gives effect to our constitutional rights of freedom of association and freedom of speech. So, the right to bargain and an effective dispute resolution process must be preserved.

Considering how to respond to the Commission's request that I address the strength and weaknesses of the present system of collective bargaining, I am reminded of Winston Churchill's famous statement about democracy being the worst form of government except for the others that have been tried. Our collective bargaining system is the worst form of industrial governance for the Postal Service, except for all the others.

Strengths

Our system of collective bargaining has shown some notable strengths.

One is that postal wages have been maintained and stabilized over a period of 30 years. Low wages were a reason for the postal strike of 1970 and the catalyst for passage of the Postal Reorganization Act. Congress enacted two pay increases for postal employees, totaling 14 percent. The second of these two PRA-mandated increases, an 8 percent increase, took effect in April 1970.

Counting from the time of the first negotiated postal wage increase effective in July 1971, real postal wages have been virtually unchanged for 33 years. The testimony of witnesses who contend that postal workers are overpaid substitutes their

¹ See 2002 Annual Report of the United States Postal Service, Operating Statistics Table; see the first attachment to this Paper.

judgment for that of Congress and President Richard Nixon to grant wage increases with the passage of the Postal Reorganization Act.

When the Congress and the President provided increases totaling 14 percent in 1970, they set the benchmark for comparability. In the 33 years of collective bargaining under the PRA wage increases -- legislated, negotiated and arbitrated -- have averaged 2.60 percent per year. Excluding the congressionally mandated increases, negotiated and arbitrated increases have averaged 2.33 percent per year since 1970. In addition, semi-annual cost of living adjustments incorporated in our contract have provided protection from inflation at about 60 percent of CPI.

We can use ECI as a basis for comparing postal wage increases to wage increases in the private sector since 1984. This comparison shows that postal wages have increased at a slower rate than private sector wages over this 19-year period. For the 10 year period between 1992 and 2002, postal wages rose only 27 percent, while private sector wages increased 41 percent

Collective bargaining under the PRA has not resulted in any strike since 1970. Thirty-three years of labor peace is a significant accomplishment.

The strength of the parties' collective bargaining relationship was tested by the tragic anthrax attack that resulted in the deaths of two of our members. Management and labor cooperated during that crisis and, while we did not always agree, we worked together to protect employees and the public. It would have been easier during the anthrax crisis to advise our members not to report to work.

Under our collective bargaining system, postal unions, most notably the American Postal Workers Union, have cooperated with dramatic changes in postal technology. This was an explicit goal set by the proponents of the Postal Reorganization Act, and it has worked. Since 1972, we have progressed from a manual mail processing system to a mechanized system during the 1980s, and now to an automated system. The Postal Service has reported that between 1993 and 2001, letter-mail productivity increased 83 percent. In the past two years, flat sorting productivity has increased 78 percent.

Automation has had a dramatic impact on the jobs and lives of postal workers. By far the largest impact of automation has been on the Clerk Craft, and because of automation, the proportion of postal resources that must be devoted to mail processing has dropped very significantly. Additional savings will result from the automation of flats and from the consolidation of postal facilities.

In 1991, interest arbitrator Richard Mittenenthal ruled that the postal unions must accept into their bargaining units employees called "Transitional Employees" or "TEs" who would be employed for short periods of time in positions that would be eliminated by automation. Although the APWU had opposed the creation of this category of

employees, we accepted Arbitrator Mittenthal's decision and negotiated an agreement governing their wages, hours and working conditions. Because these employees are employed for only a short period of time, they receive no health insurance or retirement benefits. The Postal Service employed 30,000 of these TEs in the clerk craft, and they continue to employ them today in reduced numbers.

These changes due to automation have permitted the Postal Service to keep postage rate increases consistent with other cost increases in our economy. Since the passage of the PRA, rates have increased no more than inflation. For large business mailers who have been able to take advantage of worksharing discounts, rates have gone up substantially less than inflation since 1976. In the past 10 years, postal rates have increased significantly less than the rates of our competitors in the ground courier business, including UPS, FedEx, and Emery.

In Competition With The Private Sector

Postal Service efforts to save money or improve efficiency by contracting out to the private sector have almost all failed.

A September 1999 Audit Report on the Priority Mail Processing Center Network by the Inspector General's Office of the U.S. Postal Service² reported that the cost of providing priority mail processing by the contractor was higher than it would have been to have the Priority Mail processed in-house without a network. Furthermore, the OIG Report showed that the Priority Mail Processing Center Network was not meeting overall delivery rate goals.

When the Postal Service was considering abandoning this costly attempt to contract out mail processing work, the APWU negotiated an agreement to bring the work back in-house. That agreement provides for the use of a priority mail processing workforce that includes 25 percent casual employees (temporary low-wage employees without fringe benefits).³

The Postal Service also attempted to save money by using private contractors to operate remote video encoding sites, separate from postal facilities, where low-wage workers employed by contractors would input data necessary for mail processing operations. A rights arbitrator held that the Postal Service had violated the collective bargaining agreement by not offering this work to employees in the Clerk Craft. The APWU and the Postal Service subsequently negotiated an agreement to employ a

² Audit Report-Priority Mail Processing Center Network (DA-AR-99-001), September 24, 1999. While the amount by which the contracted out costs exceeded the estimated in-house costs is redacted in the public version of the September 24th report, a later report (MK-AR-01-003) released September 28, 2001 indicates that mail processed through the contracted network cost 23 percent more than had it been processed in-house without a network.

³ Casual employees are temporary employees who are not represented by the Union. They do not receive Union wages or fringe benefits.

combination of Transitional Employees and career employees. It has been much more effective for the Postal Service to perform this work using postal employees.

Another failure by the private sector to perform Postal Service bargaining unit work occurred when the Postal Service transferred maintenance work to a network of 22 contractor-operated Mail Transport Equipment Service Centers (MTECs). The Office of the Inspector General of the Postal Service has issued a series of reports on this system.⁴ An audit determined there had been several underestimates of contractor costs in the Decision Analysis Report (DAR) and that the 10-year forecasts for the new system exceeded the old system by more than \$1 billion. In addition, the IG's office has identified other operational problems including work that was invoiced as already processed, but not performed, containers reported as repaired when no repairs were made, serviceable equipment condemned and discarded, and poor record keeping that resulted in the Postal Service paying for work not properly authorized. Questions were also raised about the noncompetitive nature of some of the awards.⁵

Recently, the Postal Service announced that it is closing yet another failed attempt to contract out to private sector businesses – corporate call centers. The Postal Service believed that it could improve customer service by contracting out telephone answering to private sector contractors operating centralized call centers. The APWU filed a grievance protesting this contracting out. Now, this has become another failed experiment in contracting out. The call centers are being closed and the work of answering customer inquiries is being returned to postal employees.

The Office of Inspector General also has repeatedly found that there are serious problems with postal trucking contracts. The cost of these contracts tends to exceed the cost proposed by successful bidders, and service problems persist.⁶ One audit revealed that the Postal Service could save \$85 million over a 12-year period by purchasing rather than leasing truck trailers.⁷

The APWU was not provided an opportunity to compete when these contracts were awarded. Only after the contracts proved to be financial or operational disasters have postal employees been permitted to demonstrate that they can do the work more efficiently. The failure of these worksharing efforts, followed by the more efficient performance of the work by postal employees, demonstrates that collective bargaining has resulted in a postal workforce that is highly competitive with the private sector.

⁴ Audit Report- Mail Transport Equipment Service Center Decision Analysis Report, Performance and Financial Benefits (TR-AR-01-003), May 4, 2001.

⁵ Adequacy of Mail Transport Equipment Center Network Internal Controls (TR-AR-01-001), October 31, 2000 and Contracting Practices for the Procurement of Mail Transport Equipment Services (CA-AR-01-001), February 27, 2001.

⁶ See, e.g., Audit Report – Extra Trip Expenditures within the Mid Atlantic Area (Report No. TR-AR-00-009, July 27, 2000); Emergency and Extra Trip Expenditures On Highway Routes (Report No. TR-AR-00-003, September 29, 1999).

⁷ Audit Report – Trailer Lease Justification (Report No. TD-AR-02-002, March 29, 2002).

Worksharing discounts are another type of contracting-out to the private sector. In my earlier testimony, I have pointed out that discounts exceed the costs avoided by the Postal Service and dramatically increase costs. These excessive discounts undermine universal service by eroding the revenue stream of the Postal Service. The single most important recommendation you could make to stabilize Postal Service revenue and protect universal service would be to prohibit work sharing discounts that exceed costs avoided. To determine the most efficient use of labor, the standard of comparability must be applied equally to postal and private sector cost.

The Strength Of Tripartite Arbitration

One of the strengths of the present collective bargaining system is the tripartite arbitration process used to resolve collective bargaining disputes.

Under the PRA, the Federal Mediation and Conciliation Service must be informed of the parties' efforts to negotiate a new agreement. Before the expiration of the agreement, the FMCS assists the parties if agreement is possible. If the parties do not reach agreement on a new contract, a statutory dispute resolution system is automatically triggered. This system requires that the parties participate in factfinding, with an appointed factfinder and, if there is no agreement, to go to tripartite interest arbitration.

This system gives the parties the opportunity to modify the procedure by mutual agreement. Over the years, the parties have agreed to bypass factfinding; to engage in formal mediation prior to arbitration; and to modify the usual arbitration procedures.

One of the most important features of interest arbitration under the PRA is that it is tripartite. The Union appoints an arbitrator, the Postal Service appoints an arbitrator, and the parties jointly appoint an expert neutral arbitrator. The participation of the party-appointed arbitrators ensures that the parties' positions will be understood and considered, and ensures that the neutral arbitrator will understand the implications of the decisions made.

I want to give particular emphasis to the fact that the parties may and usually do jointly select the neutral arbitrator. The statutory process provides that the Director of the FMCS gives the parties a list and, if they fail to choose, the Director can make the selection. However, the parties almost invariably prefer to agree between themselves on the identity of the neutral arbitrator. The neutral arbitrator is then appointed by the Director of the FMCS.

This procedure has resulted in the selection of neutral arbitrators of outstanding ability and experience. The interest arbitration award that established the terms of the 1984 National Agreement was decided by Dr. Clark Kerr, an internationally renowned labor economist. Prior to serving as the parties' neutral arbitrator, he had served as the

Chancellor of the University of California at Berkeley. His award has served as a benchmark for agreements and awards since 1984.

Other neutral arbitrators selected by the parties have included, for example, Richard Mittenenthal, Rolph Valtin, and Jack Clarke. Mittenenthal and Valtin are past presidents of the National Academy of Arbitrators, and Clarke is a past Vice-President. Most recently the neutral arbitrator for the APWU National Agreement was Professor Stephen Goldberg of Northwestern University, an internationally known arbitrator and mediator. These are very able, very knowledgeable, and very conscientious people. I could cite other examples as well, and I am sure that the other Union presidents could cite their own examples. The point is that the process has been served by excellent arbitrators who have been chosen by the parties themselves. This is an important strength of the system.

All the emphasis that is placed on interest arbitration may be misleading. More often than not, the parties reach agreement without proceeding to arbitration. In the 33 years since the passage of the PRA, there have been 85 separate collective bargaining agreements between the Postal Service and postal unions. Of those agreements, 61 have been voluntary and 24 have been arbitrated. In the case of the APWU, we have been party to 34 collective bargaining agreements, 27 of which have resulted from voluntary agreements.⁸ This record demonstrates the effectiveness of the system of collective bargaining.

Most recently, the APWU agreed to extend its three-year agreement another two years, to 2005; the NALC agreed to a five-year agreement; and the Mail Handlers Union agreed to extend its agreement until 2006. These voluntary agreements show that the collective bargaining system is mature. Of course, in the absence of the right to strike, it is necessary to have an effective dispute resolution mechanism available to encourage agreement, and to impose an agreement if necessary.

Weaknesses Of The Collective Bargaining System

A weakness of the present system is that postal workers do not have the right to strike. This is a policy decision made by Congress that we do not realistically expect to see changed, but it is the position of the APWU that all workers should have the right to strike.

Another weakness of the present system is that it permits managers to engage in blatant violations of the collective bargaining agreement. Managers have the right to misinterpret and misapply the contract, contrary to the advice of labor relations professionals. The resulting grievances are then deferred to the grievance arbitration procedure, which postpones a final decision for years.

⁸ The second Attachment to this Paper is a Table showing the number of agreements by bargaining unit and the number settled by agreement and by arbitration.

An example of this problem is the excessive employment of casual employees.⁹ Local managers have too often employed casual employees in place of career employees. In many of these cases it has taken the Union years to get the resulting disputes to arbitration and obtain remedies that have amounted to tens of millions of dollars.

There have been numerous efforts by the parties to reduce the large grievance backlog. We are now engaged in an effort that we hope will reduce the pending grievance backlog by half. The parties have also attempted to reach common interpretations of the collective bargaining agreement to avoid disputes. APWU has submitted a complete set of questions and answers on our negotiated agreements to the Postal Service, and we are awaiting their response.

Alternatives To The Present Collective Bargaining System

Any meaningful evaluation of our present system must include a comparison to alternatives available under our system of laws. Congress considered, but rejected various alternatives:

- **One alternative is no collective bargaining rights.**

This is the situation that existed in 1970 when the postal strike occurred. Postal operations had grown larger and more complex as volume grew and the country expanded. The Post Office Department had become a major industry, but it lacked the means of dealing effectively with the needs of its workforce. Postal wages were notoriously low, but postal workers had no right to bargain for wages, and had no effective means of protesting intolerable conditions.

The PRA applied the National Labor Relations Act to the Postal Service, except for the right to strike, and directed the Postal Service to honor agreements by which unions were permitted to represent employees of the Post Office Department. Congress also empowered the Postal Service to recognize pre-existing nationwide bargaining units.

- **Legislation Of Wages Did Not Work**

It is not surprising that the Congress was not able to deal successfully with the difficult issues of postal compensation. As this Commission is aware, the Postal Service is a very complex business organization. Congress was aware that wage increases and capital investments would require rate increases. Not surprisingly, both wages and capital investment became inadequate over time, and, by 1970, postal problems had resulted in a crisis in service. Mail simply could not be moved.

⁹ Casual employees are temporary low-wage employees without fringe benefits.

- **The Railway Labor Act**

I have emphasized the problems caused by leaving decisions on wages in the hands of Congress in part because I want to caution against any effort to apply the Railway Labor Act or any similar scheme to the Postal Service.

Application of the Railway Labor Act to the Postal Service would be tantamount to the elimination of free collective bargaining. Under the Railway Labor Act, when a labor dispute threatens to disrupt an essential service, the dispute is placed before a presidential emergency board. This would happen whenever postal unions and management failed to reach agreement. Inevitably, the dispute would be dumped in the lap of the President and Congress. No strike would be permitted. Postal management could simply abdicate its responsibility, knowing that Congress would be required to act. Not surprisingly, given the failures of this system, there are legislative proposals to amend the Railway Labor Act to require arbitration to resolve disputes.

Postal workers, the Postal Service, and the rate payers would not be well-served by a system that ultimately requires Congress to resolve labor disputes.

In closing, I want to return to the point that Collective bargaining worked as intended by the authors of the PRA. Postage rates have risen no more than inflation over 30 years even though the Postal Service

- is vulnerable to energy and transportation costs increases;
- has experienced the same increases in health care costs as other major employers;
- has met the inexorable requirement that it service as many as 1.8 million new delivery points every year; and
- has absorbed more than \$16 billion in costs shifted to it from the federal budget; and has overpaid its contributions to the Civil Service Retirement System by billions of dollars.

It has done all this while profitable portions of its business, large package delivery and expedited delivery, were ceded to our private sector competitors. And, postal collective bargaining has fostered labor peace through 61 voluntarily negotiated agreements

To critics of postal bargaining who seek lower wages and lower postage as a means to a predetermined end, I pose the question “compared to what”?

- Has the postal service in any other industrialized country had labor peace for the past 33 years?
- Does the Postal Service in any other industrialized country offer lower rates?

- In what other country have business mailers seen their postage rates decrease in real cost over the past 27 years?
- Why have the rates charged by other advertising media increased faster than postal rates, and why has their share of the advertising market declined while our share has increased?
- What other service sector in our economy has seen prices rise less than inflation over a 30-year period?
- Why do our closest private sector competitors, UPS and FedEx pay higher wages and fringe benefits than the Postal Service?

Finally and perhaps most important, I caution the Commission in arriving at wage and operational judgments after limited exposure to the many complexities of the United States Postal Service. Your greatest contribution will be to put in place a management and legal structure capable of dealing with the future and refrain from substituting your judgment for that of those responsible.

Our collective bargaining system, while not perfect, has permitted the parties to meet the challenges of technology and competition. As a union official, I would have liked to have done better for the employees I represent: they are deserving of more. I am sure that postal management did not reach all of their objectives. This is collective bargaining, and it is alive and well in the Postal Service.

Contract	Union	Dispute Resolution				Total Impasses	Total Contract
		Voluntary Agreements	Impasse Arbitration	Fact-Finding Followed by Agreement	Mediation Arbitration		
Tool & Die Shop	IAM	5				0	5
Nurses	NPNA	5	2	1		3	8
Police	FOP	8	1	1		2	10
National Agreement	PCBC	2		1	1	2	4
National Agreement	JBC	2	2			2	4
National Agreement	NALC	1	2			2	3
National Agreement	NRLCA	7	2			2	9
National Agreement	NPMHU	4	4			4	8
National Agreement	APWU	2	2			2	4
Research & Development	APWU	1	1			1	2
Data Automation	APWU	1				0	1
Automatic Data Processing	APWU	1	1			1	2
Operating Services	APWU	9	1			1	10
Data Centers	APWU	7	2			2	9
Mail Bag Depositories	NPMHU	Combined					
Mail Equipment Shops	APWU	Combined					
Supply Centers	APWU	6	0			0	6
Totals		61	20	3	1	24	85
Subtotal - APWU (alone)		27	7	0	0	7	34
Subtotal - APWU (with PCBC & JBC)		31	9	1	1	41	42



OPERATING STATISTICS

	2002	2001	2000	1999	1998
Headquarters Career Employees*					
Headquarters	1,712	1,836	2,279	2,372	2,231
Headquarters—Field Support Units	3,848	5,653	5,566	4,357	4,307
Inspection Service (field)	3,875	4,047	4,190	4,334	4,280
Inspector General	722	713	664	387	223
TOTAL HQ AND RELATED EMPLOYEES*	10,157	12,249	12,699	11,450	11,041
FIELD CAREER EMPLOYEES*					
Area Offices	2,107	1,377	1,597	1,875	1,703
Postmasters/Installation Heads	25,771	26,113	26,121	26,108	26,156
Supervisors/Managers	37,829	38,754	38,797	38,835	36,508
Prof. Admin. Tech. Personnel	9,661	9,764	9,959	11,097	11,703
Clerks	256,656	269,792	281,956	292,400	293,829
Nurses	173	180	191	188	189
Mail Handlers	59,259	60,102	60,851	62,237	62,247
City Delivery Carriers	233,639	240,295	241,079	242,300	240,813
Motor Vehicles Operators	9,092	9,325	9,347	9,270	9,026
Rural Delivery Carriers—Full Time	60,817	59,790	57,111	54,588	52,241
Special Delivery Messengers	—	—	—	—	7
Bldg. & Equip. Maintenance Personnel	42,275	42,604	42,284	41,873	41,054
Vehicle Maintenance Personnel	5,513	5,558	5,546	5,574	5,524
TOTAL FIELD CAREER EMPLOYEES*	742,792	763,854	774,839	786,345	781,000
TOTAL CAREER EMPLOYEES	752,949	775,903	787,538	797,795	792,041
NON-CAREER EMPLOYEES*					
Casuals	19,065	30,317	29,572	25,067	25,711
Non-Bargaining Temporary	807	761	712	707	784
Rural Subs/RCA/RCR/AUX	56,474	58,134	57,532	57,357	56,265
PM Relief/Leave Replacements	12,234	12,313	12,423	12,485	12,613
Transitional Employees	12,847	13,577	13,461	12,355	17,222
TOTAL NON-CAREER EMPLOYEES*	101,427	115,102	113,700	107,971	112,595
TOTAL EMPLOYEES	854,376	891,005	901,238	905,766	904,636
OFFICES, STATIONS AND BRANCHES					
Post Offices	27,791	27,876	27,876	27,893	27,952
Classified stations and branches	5,900	5,835	5,802	5,788	5,661
Contract stations and branches	2,500	2,876	2,833	2,903	2,974
Community Post Offices	1,492	1,536	1,549	1,585	1,572
TOTAL OFFICES, STATIONS AND BRANCHES	37,683	38,123	38,060	38,169	38,159
RESIDENTIAL DELIVERY POINTS					
City	77,014,294	76,578,169	76,131,249	75,575,844	75,088,866
Rural	32,141,581	31,004,518	29,915,385	28,753,812	27,683,441
PO Box	15,772,964	15,818,625	15,904,400	16,048,325	16,575,127
Highway Contract	2,073,145	2,004,837	1,938,395	1,857,689	1,784,522
TOTAL RESIDENTIAL	127,001,984	125,406,149	123,889,429	122,235,670	121,131,956