

MINUTES

Time : 8:30 am CST

Date: April 29, 2003

Location: Hilton Chicago
Chicago, Illinois

Members in Attendance: Co-Chairs James A. Johnson and Harry J. Pearce, Commissioners Dionel Aviles, Don Cogman, Carolyn Gallagher, Richard Levin, Norman Seabrook, and Robert Walker.

Staff in Attendance: Executive Director Dennis Shea, Randall Lewis, Jana Sinclair White, and James Cox.

Agency Employees in Attendance: Designated Federal Official Roger Kodat.

Members of the Public Providing Oral or Written Statements: Anthony J. Vegliante, Vice President for Labor Relations, USPS; Robert Dufek, partner, Morgan, Lewis & Bockius, and counsel to the USPS; John Hegarty, National President, National Postal Mail Handlers Union; William Young, National President, National Association of Letter Carriers; William Burrus, President, American Postal Workers Union; Gus Baffa, President, National Rural Letter Carriers' Association; George R. Fleischli, Mediator/Arbitrator; Professor Stephen B. Goldberg Northwestern University Law School; John C. Wells, President, John Calhoun Wells Consulting Services, Ltd.; Wally Olihovik, National President, National Association of Postmasters of the United States; Professor Michael L. Wachter, University of Pennsylvania Law School; William Tayman, Manager of Corporate Financial Planning, USPS.

Matters Discussed:

Co-Chair James A. Johnson called the meeting to order at 8:30 am. Mr. Johnson stated that the focus of the meeting was the Postal Service's workforce and the collective bargaining process. He noted that the Commission understood the importance of the workforce to the vitality of the Postal Service and that the Commission's recommendations, if accepted, could have an impact on Postal Service employees and their families. Mr. Johnson thanked the witnesses for testifying before the Commission and said that it was fitting to convene the meeting in Chicago, a city that is the home to thousands of Postal Service employees. The meeting continued with remarks by Co-Chair Harry J. Pearce.

Mr. Pearce discussed the agenda for the meeting and reviewed each panel of witnesses. He also announced that members of the audience would have an opportunity to share their views with the Commission at the end of the meeting. Mr. Pearce thanked the witnesses for testifying before the Commission and noted that the Commission does not underestimate the

task before it. The meeting continued with remarks by Commissioner Carolyn Gallagher, Chair of the Workforce Subcommittee.

Remarks by Commissioner Carolyn Gallagher

Ms. Gallagher provided a brief description of the Workforce Subcommittee's activities to date, noting that it had convened twice by conference call, had reviewed materials, had toured Postal Service facilities, had been briefed by the Postal Service, and had met individually with private parties, including with representatives of the Postal Service unions. She emphasized that the subcommittee had not reached any conclusions thus far. Ms. Gallagher stated that the subcommittee has been examining how workforce issues impact the Postal Service's ability to operate in a "business-like" manner. She also stated that the subcommittee is considering the Postal Service's collective bargaining and dispute resolution processes as well as reviewing alternative models. Ms. Gallagher noted that the Commission is examining the Postal Service's workers' compensation claims-handling system and considering whether this function should be outsourced. She also stated that the Commission is considering employee pay and other associated labor costs.

Panel One: The Collective Bargaining Process: The Postal Service's Perspective

Testifying on this panel were Anthony J. Vegliante and Robert Dufek. Please see attachments A and B for the text of their prepared written comments.

Questions for Mr. Vegliante: In response to questions concerning past attempts to implement pay for performance initiatives, Mr. Vegliante noted that the Postal Service terminated the Striving for Excellence Together (SET) program to implement the Economic Value Added (EVA) program. He stated that the Postal Service utilized the EVA program for approximately 7 years and experienced improved productivity and customer service during this time. He noted that the unions did not participate in the EVA program. He further stated that the Postal Service is currently in negotiations with its management associations to implement a pay for performance program for its managers. In response to questions concerning the number of Postal Service employees, Mr. Vegliante stated that there has been a net decrease of 60,000 employees since 1999 and that the Postal Service expects to reduce the workforce by an additional 40,000 employees over the next three years. He further stated that a voluntary early retirement option could increase the number of workforce reductions. When questioned as to whether an early retirement plan would encourage the wrong people to retire, Mr. Vegliante said that in considering the early retirement process, the Postal Service would examine its future needs, including the number of personnel it employs, and find the right people for the right positions. In response to questions concerning the supervisory workforce, Mr. Vegliante stated that the supervisor-to-employee ratio is currently 1 to 20 and that the Postal Service is considering moving to a 1 to 22 ratio. Mr. Vegliante agreed to provide the Commission with a paper summarizing the Postal Service's chain of command. In response to questions concerning the appropriate subjects for collective bargaining, Mr. Vegliante stated that the Commission should recommend that all benefits, including retiree health care and pensions, be subject to collective bargaining,

but noted that this change could only be accomplished through legislation. Commissioner Pearce noted that due to the agreements between the Postal Service and its unions, the Postal Service pays a higher percentage of its current employees' health care premiums than the rest of the Federal government and expressed concern that making retiree health benefits and pension plans subjects of collective bargaining could actually increase the costs of these programs. In response, Mr. Vegliante noted that the premium percentages were negotiated in the 1970s. When asked about the "no-layoffs" provisions included in each of the Postal Service's agreements with its unions, Mr. Vegliante stated that the provisions could affect the Postal Service ability to "right-size" its workforce if there is a significant need for reduction, but noted that the Postal Service currently does not foresee a problem. When asked whether the "no layoffs" provisions could impact the network integration and alignment ("NIA") strategy, he stated that the NIA is not yet complete, but that the impact of such a plan would depend on the speed of implementation. Mr. Vegliante noted that the Postal Service has tried, unsuccessfully, to remove the "no layoffs" clauses from the agreements during previous negotiations. When asked to reconcile the Postal Service's assertion in the Transformation Plan that the Railway Labor Act (RLA) should be considered as a model for the Postal Service's collective bargaining process and Mr. Dufek's assertion in his testimony before the Commission that it should not, Mr. Vegliante stated that since the development of the Transformation Plan, the Postal Service has talked with people in the airline industry and the Postal Service unions regarding their problems and concerns with the RLA. He also noted that the collective bargaining model used by the parties will not necessarily lead to successful negotiations, but that only an improved relationship between the parties can make a positive difference. In response to questions concerning grievances, Mr. Vegliante stated that the Postal Service developed a Joint Contract Administration Manual with the National Association of Letter Carriers to address the high number of grievances. He also stated that the Postal Service recently completed a version of the manual with the National Postal Mail Handlers Union and that it is in the process of developing a manual with the American Postal Workers Union (APWU).

Questions for Mr. Dufek: In his prepared written comments, Mr. Dufek recommended that the collective bargaining process should contain a period of mandatory mediation with a mediator who would become the neutral chair of a three-member board that would conduct interest arbitration if resolution cannot be reached through mediation. This process is called "med-arb." When asked whether med-arb would encourage parties to withhold information during mediation, Mr. Dufek agreed that this was a possibility, but stated that a good arbitrator could overcome this difficulty. Mr. Dufek agreed to prepare a paper for the Commission outlining instances where med-arb is used currently. In response to questions concerning the appropriate subjects for collective bargaining, Mr. Dufek stated that retiree health care and pensions should be subjects of collective bargaining and asserted that most collective bargaining models include retirement benefits as a bargaining subject. He stated that the dynamics of collective bargaining require the parties to compromise and that this requires the Postal Service to be able to negotiate with respect to each item affecting total labor costs.

Panel Two: The Collective Bargaining Process: The Union Perspective

Testifying on this panel were John Hegarty, William Young, William Burrus, and Gus Baffa. Please see attachments C, D, E, and F for their prepared written comments.

Questions for Mr. Hegarty: When asked whether he would support a period of mandatory mediation conducted by an individual who would ultimately become the neutral arbitrator if an agreement was not reached (i.e. med-arb), Mr. Hegarty stated that med-arb would lengthen the collective bargaining process. He noted that the parties currently have the flexibility to tailor the collective bargaining process to meet their needs, including the ability to adopt a med-arb process. When asked whether he would support the inclusion of retiree health benefits and pensions as subjects of collective bargaining, Mr. Hegarty stated that to do so would increase the time necessary to complete the collective bargaining process. When asked whether procedures utilized to handle grievances were improving, Mr. Hegarty stated that he is optimistic that initiatives recently implemented by the Postal Service will reduce the number of grievances filed. He specifically noted the development of the Joint Contract Administration Manual. He also commended the Postal Service for moving Step 2 in the grievance resolution process from the workroom floor to the labor relations office. In response to questions concerning pay comparability, Mr. Hegarty stated that the Commission does not have time to consider this issue. He stated that pay comparability is part of the collective bargaining process and that it should be considered in that context.

Questions for Mr. Young: When asked whether he would support a period of mandatory mediation conducted by an individual who would ultimately become the neutral arbitrator if agreement was not reached, Mr. Young stated that the National Association of Letter Carriers (NALC) and the Postal Service used mediation in place of fact finding in their 1999 negotiations. He further stated that parties bypass fact finding because it requires them to argue their case twice and that the same problem would exist with mediation, unless the mediator had the power to decide the case. He further stated that he did not think med-arb would be superior to the current collective bargaining model. When asked whether he would support making retiree health benefits and pensions subjects of collective bargaining, Mr. Young stated that Congress would never allow this to happen. He elaborated that eliminating postal employees from the Federal Employees' Health Benefit Plan (FEHBP) would affect the rates paid by other Federal employees. When asked about a proposal to give the unions and the Postal Service a limited amount of time at the end of interest arbitration to substitute their own negotiated settlement for the interest arbitration award, Mr. Young stated that he would not necessarily be opposed to this idea, but reiterated that no system will work if the parties do not have a good relationship. In response to questions concerning pay comparability, Mr. Young stated that an arbitrator has not concluded that letter carriers are overcompensated during the last two contract negotiations with the Postal Service. He also noted that the Commission should not focus on wage comparability, but should focus on larger issues.

Questions for Mr. Burrus: When asked whether he would support a period of mandatory mediation conducted by an individual who would ultimately become the neutral arbitrator

if agreement was not reached, Mr. Burrus stated that he would not. He elaborated that the current collective bargaining system embraces any process to which the parties agree, including med-arb. He further stated that requiring med-arb would give an advantage to one side. When asked whether he would support making retiree health benefits and pensions subjects of collective bargaining, Mr. Burrus stated that putting these issues on the table would give one party an advantage. When asked about a proposal to give the unions and the Postal Service a limited amount of time at the end of interest arbitration to substitute their own negotiated settlement for the interest arbitration award, Mr. Burrus stated that he would be opposed to this proposal if it were in lieu of the collective bargaining process established in the Postal Reorganization Act (PRA). When asked whether he agreed that relationships between the Postal Service and union employees were improving, Mr. Burrus stated that he did not agree. He also asserted that the processes used to resolve employee grievances were not getting better. He stated that the Postal Service may have reduced the number of grievances processed, but that it has not reduced the number of grievances filed. In response to a question concerning his assertion that the current collective bargaining system allows managers to engage in violations of the collective bargaining agreement, Mr. Burrus stated that there was no legislative change or action by the Board of Governors that would correct the problem. He elaborated that better relationships are required. When asked to respond to the fact that three neutral arbitrators in recent interest arbitrations have found that a pay premium exists, Mr. Burrus stated that the finding of a pay premium was a small part of the agreement that should not be taken out of context. He noted that the arbitration awards provided additional compensation for Postal Service employees.

Questions for Mr. Baffa: When asked whether he would support a period of mandatory mediation conducted by an individual who would ultimately become the neutral arbitrator if an agreement was not reached, Mr. Baffa stated that the National Rural Letter Carriers' Association (NRLCA) and the Postal Service had used a process similar to med-arb in the past.

Panel Three: The Collective Bargaining Process: The Experience of the Arbitrators
Testifying on this panel were George R. Fleischli, Stephen B. Goldberg, and John C. Wells. Please see attachments G, H, and I for their prepared written comments.

Questions for Mr. Fleischli: In response to questions concerning pay comparability, Mr. Fleischli stated that the issue has been adequately addressed in interest arbitration proceedings. He further stated that he does not believe the idea of pay comparability needs to be statutorily clarified. When asked whether criteria, such as the Postal Service's ability to pay, financial performance, and productivity, should be considered in interest arbitration, Mr. Fleischli agreed that the PRA outlines simplistic criteria, but stated that arbitrators consider all issues presented. When asked whether a pay premium exists, Mr. Fleischli referred the Commission to his award in the 1999 interest arbitration between the Postal Service and the NALC. In response to questions concerning the current collective bargaining process, Mr. Fleischli stated that the system is balanced and effective. He stated that the system does not need to be substantially changed, but that minor changes could be made.

Questions for Mr. Goldberg: In response to questions concerning pay comparability, Mr. Goldberg stated that the issue is adequately addressed in interest arbitration. When asked whether a pay premium exists, Mr. Goldberg referred the Commission to his award in the 2000-2001 interest arbitration between the Postal Service and the American Postal Workers Union (APWU). In response to questions concerning the collective bargaining system, Mr. Goldberg said that the process should be maintained. He elaborated that his only suggestion would be to alter the process to give the unions and the Postal Service a limited amount of time at the end of interest arbitration to substitute their own negotiated settlement for the interest arbitration award. In response to questions regarding grievance resolution, Mr. Goldberg stated that there are many ways to improve the process, but it ultimately depends on whether the parties are committed to a good relationship. Mr. Goldberg stated that the Commission should focus on defining the Postal Service's role in the 21st Century.

Questions for Mr. Wells: In response to questions concerning pay comparability, Mr. Wells stated that clarification regarding a proper point of reference for pay comparability would be helpful. When asked whether the current collective bargaining process is fairly balanced, Mr. Wells stated there has been a significant improvement in labor-management relationships over the past decade. He attributed the improved relationships, in part, to new leadership within the Postal Service and the unions. In response to questions concerning grievance processes, Mr. Wells asserted that the Postal Service should provide business education to its employees regarding the realities of the competition it faces and the steps the Postal Service must take to continue providing universal service.

Panel Four: Improving Productivity: Pay for Performance and Workplace Flexibility

Testifying on this panel was Wally Olihovik. Please see attachment J for his prepared written comments.

Questions for Mr. Olihovik: When asked about the appropriate layers of management within the Postal Service, Mr. Olihovik questioned whether the Postal Service requires a structure with 9 areas and 85 districts. He stated that steps are currently being taken to remove managerial layers, but noted that layers are often removed at the wrong level. When asked whether the workplace flexibility problems he referenced in his prepared written testimony are statutorily or managerially generated, Mr. Olihovik stated that the Postal Service and the unions have the ability to work on the issues together and that the unions must be part of the process. In response to questions concerning the cost of selling stamps at locations other than a post office, Mr. Olihovik responded that the Postal Service should take advantage of cheaper alternatives, but that it should be remembered that Postmasters do much more than sell stamps. He also stated that a universal postage rate should be maintained, but that he did not have a problem with providing worksharing discounts to businesses.

Panel Five: Wages and Benefits: A Comparison with the Private Sector

Testifying on this panel was Professor Michael L. Wachter. Please see attachment K for his prepared written comments.

Questions for Professor Wachter: When questioned as to how a wage premium, if one exists, should be addressed, Professor Wachter stated that more attention should be paid to the benefits provided to Postal Service employees. He recommended that the Commission not consider granting Postal Service employees the right to strike as he believes the economic pressures on the Postal Service to avoid a strike would be so great that employee wages and benefits would increase above their current levels. Professor Wachter stated that the best way to stop arbitrators from ignoring the pay comparability requirement is to apply the concept of “moderate restraint” to both wages and benefits. Professor Wachter noted that the First Class mail monopoly has financed the wage premium, but to the extent that First Class mail is diverted, the Postal Service may not be able to continue paying a premium. In response to questions concerning the proper point of reference for pay comparability, Professor Wachter stated that the unions compare postal employees to “unionized white males in a large firm” to get a wage premium of zero. He noted, however, that this point of reference still yields a benefit premium of approximately 20%. Professor Wachter questioned the use of this point of reference since the workforce has not been composed entirely of white males since the 1960s. When asked if the Postal Service’s limit on investing pension funds in only government securities should be lifted, Professor Wachter stated that it should be considered if the Postal Service moves closer to a true private-sector business model.

Panel Six: Workers’ Compensation Claims and the Federal Employees’ Compensation Act

Testifying on this panel was William Tayman. Please see attachment L for his prepared written comments.

Questions for Mr. Tayman: In response to questions concerning its workers’ compensation program, Mr. Tayman stated that the Longshoreman and Harbor Workers Compensation’ Act (LHWCA) is probably the benchmark for workers’ compensation in the private sector. He noted that the LHWCA provides only sixty percent of the benefits provided under the Federal Employees’ Compensation Act (FECA). When questioned regarding the possibility of removing the Postal Service’s workers’ compensation plan from the FECA and instead subjecting it to state laws like other large companies, Mr. Tayman stated that there are pros and cons to this idea. He noted that most proposals regarding the workers’ compensation plan relate to the administration of the plan. Mr. Tayman stated that he believes the Postal Service could more effectively process workers’ compensation claims than the current plan administrator, but noted that this would require a statutory change. When asked about inspection processes utilized to locate hazards at Postal Service plants, Mr. Tayman stated that the Postal Service is subject to the Occupational Safety and Health Act, but stated that he is not sure of the frequency of inspections. He stated that he would provide this information to the

Commission, along with a breakdown of workers' compensation claims by the type of work, the type of injury, and age of claimant. When asked about the Postal Service's general safety programs, Mr. Tayman stated that the Postal Service employs a comprehensive safety system developed in conjunction with its unions. He noted that several years ago the Postal Service consulted Dupont regarding its safety programs. When asked whether the Postal Service has any programs to begin transferring older workers to less hazardous jobs, Mr. Tayman stated that he was not aware of any such programs.

Testimony from the audience

Dr. Thelma Dowies: Dr. Dowies asserted that role-playing strategies taught at a facility used to train Postal Service managers were inappropriate. She stated that management trainees were taught "how to bully and intimidate their workforce" at the facility. Dr. Dowies gave an example of an alleged abuse to substantiate her claims. The facility is no longer in operation, but Dr. Dowies recommended that the Commission consider whether the effects of teaching these strategies still linger today. Dr. Dowies submitted the rest of her statement to the Commission for its review.

Elizabeth Flamon, supervisor of Chicago Post Office: Ms. Flamon stated that examples of supervisor abuse are an exception, rather than the rule. She stated that most supervisors treat employees as they would like to be treated. She also noted that it is the supervisors' duty to ensure that rules are followed, but that most supervisors try to do this fairly.

Thom Green, President of Local Letter Carriers Union in Ft. Wayne, Indiana: Mr. Green stated that the Postal Service should continue delivering mail six days a week. He also stated that the grievance system is not broken. He stated that he agrees with the testimony of John Wells that employees should be educated regarding business issues facing the Postal Service. He also asserted that if private carriers are allowed to have access to the mailbox, consumers will receive many types of mail that they do not want.

Robert Knackman: Mr. Knackman stated that the Commission should consider the practices of the Postal Service with regard to the promotion of its employees. Mr. Knackman further stated that the Postal Service should bring in qualified people and that the Postal Service should be operated like a business.

Linda Turney, bulk mail clerk and President of local union: Ms. Turney conveyed the story of a maintenance worker at her facility who shattered his knee-cap. She also asked the Commission to consider the Postal Service's responsibility to employees who injure themselves at work and the human cost of workplace accidents.

Commission Business

The meeting adjourned at approximately 2:30 pm CST.