

Mailers Hub News

May 2024 Summary *From the May 6 and 20 issues*

[May 6] *PRC Orders USPS to "Show Cause"*

In an unprecedented example of the Postal Regulatory Commission's frustration with how Postmaster General Louis DeJoy is unilaterally implementing his 10-Year Plan, the commission issued an order on April 26 as part of its docketed review of that Plan (PI2023-4). In its filing, titled *Order Directing Postal Service to Show Cause or File a Nature of Service Proceeding Regarding Certain Delivering For America Initiatives*, the commission directed the Postal Service to "show cause," i.e., explain why the collective actions taken to implement The Plan do not require the USPS to seek an advisory opinion from the PRC before proceeding. The commission noted that the PMG's Plan stated that

"... the Postal Service will provide opportunities for stakeholder input and engagement, including by the Postal Service requesting advisory opinions from the Commission."

In turn, the USPS has sought three advisory opinions thus far in The Plan's implementation. The PRC issued advisory opinions on each but the opinions are not decisions binding on the USPS so, regardless of what the commission advised, the Postal Service did what it had intended.

The commission added that it had previously ruled that "the DFA Plan is not in and of itself a change" requiring an advisory opinion. However, the PRC added, regarding the recent changes noted, the Postal Service stated that "that it evaluated those initiatives and concluded that advisory opinions were not required." The commission explained why it wasn't accepting the Postal Service's self-serving evaluation of its legal obligation.

"To date, the Postal Service has provided limited detailed information concerning its additional planned changes and thus far, has not included any information that address stakeholder and Commission concerns that implementation of these changes will result in nationwide service changes. Although the Postal Service states that the DFA Plan initiatives will result in efficient operations and improved service once the changes have been implemented, the Postal Service has not provided any analyses, data, or modeling showing that these changes will improve service. Nor have preliminary results from areas most affected by the DFA Plan initiatives demonstrated improved efficiency or service,

"It is hard to see how these initiatives will not involve a change in the nature of services. ...

"Accordingly, ... the Commission directs the Postal Service to show cause within 20 days as to why an advisory opinion is not warranted for these initiatives. Should the Postal Service take the position that its planned network changes do not constitute such a change, the Postal Service shall discuss relevant authority interpreting [the applicable statute] including but not limited to [seven prior judicial decisions or PRC advisory opinions].

"The Postal Service must support its statements with sufficient data and analysis showing how the DFA initiatives, implemented together, do not constitute significant, nationwide service changes. Otherwise, the Postal Service must file a request for an advisory opinion including the initiatives discussed in this Order ... within 40 days of this Order."

Mailing industry observers considered the PRC's relatively assertive action to be a belated but welcome change from its usual reticence. Most attributed the commission's order to be a reaction to the PMG's obdurate dismissiveness toward the PRC and the agency's overall lack of communication and transparency about any of its plans or actions. It's likely that the Postal Service's self-absolution from the need to seek an advisory opinion about its latest initiatives further nettled the commission and added to its determination to not be dismissed from relevance so casually.

[May 6] *Senators Urge USPS Governors to Slow Implementation*

Anyone who watched the April 16 hearing before the Senate Homeland Security and Governmental Affairs Committee knows that there's considerable attention being given to the ongoing implementation of Postmaster General Louis DeJoy's 10-Year Plan. At the hearing, the PMG and Board of Governors chairman Ramon Martinez IV defended The Plan and argued that current problems – notably poor service – will be resolved if more time is allowed to get The Plan fully in place. An indication of how some of the senators were not persuaded was an April 23 letter sent to the Postal Service's Board of Governors:

"We write to express our concerns regarding the Delivering for America plan (DFA) and the future of the United States Postal Service (USPS). While it was a step forward to produce a transformative plan, the policies to date have led to diminished quality of customer service, unsustainable postage increases, and drastic declines in businesses whose commerce relies on USPS. USPS relies on both mail and packages for its revenues, yet since 2020, USPS has delivered 12 billion fewer pieces of mail, bringing volume to its lowest level in 40 years, while seeing no offsetting increase in package volume. We ask that the Board of Governors take decisive action to halt these changes and prevent further consequences for American families and businesses who depend on USPS to meet their needs. ...

At the April 16 hearing, DeJoy was often criticized for failing to respond to legislators' letters and requests for information, so it's unlikely that the senators' letter will cause a sudden change of practice. Moreover, because

USPS executives actively discourage the governors from seeking outside information – likely to inhibit independent thinking not supportive of DeJoy and his Plan – it’s questionable whether they will be provided a copy of the letter rather than having it managed by the agency’s government relations staff. Regardless, the tenor of the hearing and the comments in the senators’ letter indicate a growing displeasure with the PMG’s Plan and its implementation. Whether he and his minions on the board will remain defiant of any critics remains to be seen.

[May 20] *USPS Reports Another Loss for PQII*

On May 9, the Postal Service filed its Form 10-Q for the second quarter of the 2024 fiscal year (January 1 – March 31, 2024). The reported figures reflected how the agency’s situation has changed since the same period the previous year. Despite continuing to increase prices every six months, the Postal Service has not seen anything resembling the additional revenue that it might have expected. Total revenue in the second quarter of FY 2024 was only 1.87% higher than for the comparable period a year earlier. The usual explanations offered by the USPS include inflation, adjustments to marketing practices, and ongoing diversion to electronic media as causes of lower volume and, in turn, of lower revenue. The possibility that aggressive rate hikes could be a factor is not acknowledged by postal executives.

Volume of the two largest classes of market-dominant mail was down 2.09% year-over-year, with their revenue down 3.58%, again suggesting that persistent price hikes are worsening volume loss. Although the price increases were intended to increase income, the results would suggest that such a strategy may warrant reconsideration.

The first half of the fiscal year is typically the Postal Service’s best period for volume and revenue so, if that remains true for FY 2024, the rest of the year may do little to avoid the \$6.3 billion loss that the agency had projected last year. PQ II did not yield significantly more Shipping and Packages volume and revenue, either, growing by 1.48% and 1.17%, respectively, compared to PQ II of FY 23. Such increases don’t indicate the growth in package business that the Postmaster General’s 10-Year Plan foresees, and has identified as critical to offset the loss of traditional hard-copy mail.

Meanwhile, neither expenses for the quarter nor the agency’s workforce aligned with decreased volume. Compensation costs were 3.02% higher than the same period last year and the Postal Service continued to increase both its workforce (up 6,001, 0.94%) and the proportion of fixed-schedule career employees (82.37% vs 81.20% last March). The USPS blamed “systemic imbalances that make our current operating model unsustainable” and claimed “legal restrictions on pricing, service diversification, and operations currently restrict our ability to cover our costs” without acknowledging that its largest costs – wages and benefits – are based on labor agreements it has negotiated. Rather than making excuses, it might be more purposeful if the USPS governors asked if the PMG’s 10-Year Plan is really delivering.

[May 20] *Another Letter from US Senators Urges Pause in Network Changes*

Postmaster General Louis DeJoy often shows his pique toward anyone or anything that he perceives is interfering or resisting the full-speed implementation of his 10-Year Plan. In speaking at a variety of venues, he’s regularly chided industry groups, the Postal Regulatory Commission, and politicians for defending the “status quo” rather than supporting his initiatives, notably steep price increases and wholesale changes to the USPS processing, transportation, and delivery networks.

His most recent public exchange about his Plan was at an April 16 hearing before the Senate Homeland Security and Governmental Affairs Committee. In their statements, and particularly in the subsequent questions, most of the panel was critical of declining service and the potential consequences of planned processing facility changes.

Several reiterated their concerns in a May 6 letter to the Postal Service’s Board of Governors. As if to further reinforce the Senate’s growing concerns, a second letter – on May 8 from a bipartisan group of 26 senators – was addressed to the PMG and the Governors, repeating the call to pause further network realignment.

Among the signatories was Sen Gary Peters (MI) who, among other senators at the April 16 hearing, complained about DeJoy’s lack of responsiveness to letters and requests for information from Congress. Having more than a quarter of the Senate express their common concerns about the PMG’s Plan should be a clear signal to both DeJoy and his allies on the Board that they need to rethink that Plan and pause further implementation until the issues raised repeatedly by senators have been satisfactorily resolved.

More importantly, it’s equally likely that DeJoy and the Board understand that, if they fail to take the hint and continue prosecuting the network changes that DeJoy’s Plan contemplates, legislative measures could be initiated.

[May 20] *DeJoy Concedes to Slowing Network Changes*

After years of compliant support for Postmaster General Louis DeJoy’s 10-Year Plan, the growing outcry over decreasing service performance seems to have inspired a member of the Postal Service’s Board of Governors to offer a different opinion. Outsiders will never know whether that was a bold departure from the usual stilted

consonance or a scripted preface to later events, but the coincidence is interesting.

In a public statement made at the Board's May 9 meeting, former Deputy PMG Ron Stroman agreed that the Postal Service needs to develop an integrated network for mail and packages, and noted that the hub-and-spoke network it's developing, modeled on those used by other carriers, "has the potential to create a more efficient network," but cautioned that "it has some inherent risks." He added:

"To better manage these risks, I believe we need to slow down new network changes until service has gotten close to our service targets for 2024. We should then more gradually phase in changes over time.

"Slowing down our network changes would accomplish several things. First, it would minimize the impact of any service declines on the entire network. Second, it would stop the necessity to address sustained service declines in several parts of the country simultaneously. Third, it would allow management more time to examine future network plans and to make necessary adjustments. Fourth, it would provide more time to ensure that the right employees are in place and provide them with the sufficient training. Finally, it would give the Postal Service more time to stabilize the network and ensure the country's confidence in our network and the design well ahead of the November presidential election.

"This network design is the most sweeping change to the Postal Service's processing and delivery network in over fifty years, and we need to proceed carefully. At last November's open session I said we should give the network change a fair opportunity to improve service, and while that does remain true, six months later that opportunity has yielded declining service performance. Slowing further network changes, and re-examining our plans is the responsible next step."

Regardless of their motive, Stroman's public comments were unprecedented. No member of the Board has ever spoken out during the Board's open session in a way that was less than fawningly supportive of the PMG's Plan, let alone suggestive of the need for any degree of reconsideration. After he concluded, no other governor made comments on the record, so it's unknown whether any of his colleagues supported his position. Given how tightly the Board's agenda and public statements are controlled, it's notable that Stroman was afforded the opportunity to deliver his diplomatically-worded message – which is exactly the cause to wonder about its context.

The timing and content of Stroman's cautionary message might have been related to the increasing Congressional scrutiny of how the PMG's Plan, particularly how the related network changes, are adversely impacting service. If so, the question becomes whether he spoke on his own initiative or whether he was asked to offer his statement as a way to acknowledge the Board's awareness of Congressional interest, and establish a premise for separate actions the PMG may take to slow implementation of his network redesign. Subsequent events suggest things were already in motion, however, and that the PMG had already made his decision.

In a letter sent the same day to Sen Gary Peters, chair of the Senate Homeland Security and Governmental Affairs Committee, DeJoy referenced a conversation the day before (i.e., May 8, the day before the Board's open session). In his letter, DeJoy repeated his usual defense of what his Plan involves before finally agreeing to slow some network changes:

"Thank you for the opportunity to speak yesterday about the efforts we are undertaking here to fix the Postal Service network, and the areas of concern about which you are hearing from fellow Senators. I know we share the mutual goal to ultimately provide high-quality service for the American people in a financially sustainable manner. I am also in receipt of your letter dated May 8 and signed by a number of your colleagues. ...

"Further to our conversation yesterday, I agree to pause the movement of processing operations associated with the Mail Processing Facility Reviews. In response to the concerns you and your colleagues have expressed, I will commit to pause any implementation of these moves at least until after January 1, 2025. Even then, we will not advance these efforts without advising you of our plans to do so, and then only at a moderated pace of implementation. I will also continue to consider whether we should seek an advisory opinion from the PRC as a discretionary matter on our part, consistent with the process provided by 39 USC section 3661, taking into account the relevant legal requirements.

"I trust that this pause in implementation activity will be of interest to the signatories of your May 8 letter. ..."

The sum of these events tends to support the conclusion that the senator made clear to DeJoy that deferring further network changes was the smart thing to do. In turn, it would seem that the open session of the Board meeting provided a stage to give the public the impression that he was responding to the direction of the governors and not simply bowing to political pressure. It deserves noting that his carefully worded agreement was to defer "movement of processing operations." *He did not commit to a "pause" in either ongoing facility reviews or the opening of more RPDs or S&DCs*, so the "pause" is simply to let the heat cool on politicians, not to truly alter his Plan.

The remaining item is whether he will agree to ask the Postal Regulatory Commission for an advisory opinion; he told Sen Peters that he would only "continue to consider" doing so. Given that his ego was bruised by the Senate hearing, the demands of the senators' letter, and his concession to Peters to "pause" moving operations, it remains to be seen whether DeJoy will continue trying to appear conciliatory. Though he realizes the Senate could cause him serious problems, he may feel there's less danger in ignoring the PRC, and so console himself by again defying the commission.

[May 20] USPS Files Limited Price Change for Competitive Products

On May 10, the Postal Service filed notice with the Postal Regulatory Commission of a price change for only one competitive product: Parcel Select. Generally speaking, the Postal Service's Governors have the legal flexibility to adjust competitive product prices, with the Postal Regulatory Commission's role limited to ensuring the prices meet the applicable legal requirements and contribute at least a minimum amount toward USPS institutional costs. Barring any opposition by the PRC, the announced increases will be effective July 14, concurrent with the price change for market-dominant products now under review by the PRC.

[May 20] USPS Board Chairman Blames Losses on Accounting Rules, not The Plan

Every month, quarter, and year, the Postal Service is required to report on its financial condition. The official quarterly report is on *Form 10-Q*, in which the USPS notes at the opening of its report, "The accompanying unaudited interim financial statements ... have been prepared in accordance with GAAP for interim financial information" GAAP is short for "Generally Accepted Accounting Principles in the US" that dictate how various revenue and cost items are to be calculated, recognized, and reported. Because of these accounting rules, the Postal Service is required to include both costs it can control and those it cannot in its periodic financial reports in such a way that, looking at the bottom line, the agency believes creates an inaccurate picture of its efforts to control expenses.

In his remarks at the opening of the May 9 meeting of the USPS Board of Governors, Chairman Roman Martinez IV complained about this situation, and how unnamed commenters misconstrue financial reports by not recognizing the impact of GAAP rules as well as the difference between the costs postal management can control and those it can't. The chairman's comments largely aligned with his April 16 testimony before the Senate Homeland Security and Governmental Affairs Committee. At that hearing, his focus was on what he argued were unfair financial circumstances, claiming that the Postal Service's liabilities could be ameliorated by less conservative investment requirements, changes in cost attribution, or greater control of workers' compensation costs. At the hearing, there was little pick-up of Martinez's issues by the panel; their concerns were more about network changes and their impact on service.

His comments then and at the recent Board meeting might raise valid points but, in context, seem more meant to provide cover for the financial losses being reported by the Postal Service despite the rosier forecast made in 2021 by Postmaster General Louis DeJoy in his 10-Year Plan. At the outset of that document, it stated that

"... The Plan's strategic initiatives are designed to reverse a projected \$160 billion in losses over the next ten years by achieving break-even operating performance. We can accomplish this goal with modest regulatory and legislative changes, effective use of newly acquired and existing pricing authorities, operating more efficiently across our enterprise, and by driving revenue growth through innovative customer solutions. ..."

The document cited \$58 billion in savings from "legislative and administrative action" that included \$44 billion from "Medicare integration and eliminating the pre-funding requirement." Both of those goals have been achieved in recent legislation. The Plan also foresaw another \$14 billion savings (from 2021 through 2023) from correcting the "longstanding, unfair allocation of CSRS benefits for legacy 'Post Office Department' employees."

The funds in which the Treasury invests retirement funds, elimination of the FERS retirement system amortization, and the rules related to the workers' compensation liability weren't detailed as factors in The Plan's projected losses nor was their amendment cited in The Plan as contributing to the elimination of the then-projected \$160 billion loss over ten years. However, as the Postal Service's other strategies have failed to deliver promised efficiencies, and as the chances of the \$1.7 billion FY 2024 surplus assured by The Plan fades ever farther out of view, these additional sources of savings have belatedly been cited as necessary to enable The Plan's success.

Changing how GAAP requires items to be shown on financial statements wasn't in The Plan, either, and how GAAP rules worsen the appearance of USPS financial reports has only recently become an issue. As with the other factors cited above, it's becoming more and more important for the Postal Service's publicists to find ways to defend the shining promise of the PMG's Plan; blaming GAAP is convenient.

[May 20] USPS Responds to PRC "Show Cause" Order

In a document filed late on May 16, the Postal Service replied to the Postal Regulatory Commission's "show cause" order issued April 20, as part of the ongoing *Public Inquiry on Changes Associated with the Delivering For America Plan* (Docket PI2023-4).

As would be expected, the Postal Service contends that the commission's order "significantly encroaches on the Postal Service's discretion and marks a serious departure from Commission precedent." After pages of argument refuting the PRC's right (or authority) to issue a "show cause" order, the Postal Service dangles the possibility for future advisory opinion requests, stating

"While the Postal Service has complied with all its legal obligations at this stage, it has also been working through the

process of determining whether to seek any additional advisory opinions from the Commission concerning the implementation of DFA Plan initiatives, including those that have been piloted thus far, and what the scope of any such advisory opinion case might be. Exactly how and when this process unfolds are squarely matters of Postal Service discretion. As the Postmaster General explained in his recent Congressional testimony before the Senate Homeland Security and Governmental Affairs Committee, the Postal Service's first step is to understand the issues that are leading to disconnects between the DFA Plan and its execution, to determine whether any initiatives would, if implemented, result in changes to the nature of service on a substantially nationwide basis, and on that basis to decide whether any initiatives warrant an advisory opinion request. ..."

The Postal Service's response to the PRC's "show cause" order illustrates many situations that have broad consequences for postal services and postal customers.

The first is the apparent presumption of statute that allowing Postal Service management to manage its own operations would result in sensible actions that reflect deliberate and inclusive planning and careful execution. Allowing the Postal Service to run itself responsibly is one thing but, given the current circumstances and the widespread doubts about the planning and execution of its initiatives, failing to challenge the agency would itself be irresponsible.

Second, the Postal Service's general arguments essentially advocate against closing the barn door until after the horse has been allowed to plan and execute its escape. In asserting that plans and actions aren't yet "ripe" for review equates to telling the PRC that it should let the Postal Service do what it wants to do first, then, after it's finished, go through the advisory opinion process to decide whether it should have done what it did.

To many, that seems backwards. As has been seen in the opening the new RPDCs in Richmond and Atlanta, planning and execution were rushed, insight from local managers was ignored, and implementation problems were pushed aside despite significant and lingering service performance issues. Meanwhile, repeated price increases have been imposed, indifferent to the consequence of these price hikes on mail volume – the numbers don't lie – yet USPS executives want us to look the other way. So far, it seems, implementation of the PMG's 10-Year Plan, has been "shoot, ready, aim," i.e., do what you want, see what happened, then find other people or conditions to blame.

Finally, the Postal Service continues to argue that The PMG's 10-Year Plan is merely a blueprint for separate actions that, being allegedly unrelated, don't constitute anything having a nationwide impact on postal services or that warrant any external review. That assertion defies logic and the PMG's fundamental claim that what he inherited from his predecessors needed comprehensive change. Such a broad revision to the agency would, by definition, include a wide range of functional elements so, to then claim they're not related, or that they would not make a difference to the service to postal ratepayers and customers nationally, is counterintuitive.

Even more broadly, the "show cause" order argument illustrated the flawed premise that USPS management, left alone to do what it wants, without any external controls, will result in responsible and positive actions that are beneficial to both the institution and its customers. To the PMG, any external oversight is "interference," "noise," or an "impediment" to doing what he wants – and that illustrates the problem.

As many in the postal ratepaying and customer communities – and in Congress – would argue, based on what they've seen, an executive who wants to operate unfettered requires exactly the opposite – a strong external regulator to blunt arbitrary measures implemented despite the obvious potential for adverse consequences.

Unfortunately, the current statutory framework enables the Postal Service to continue implementing The Plan, knowing that any later retrospective assessment really won't matter.

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