

Before The
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
TESTIMONY OF CLIFF GUFFEY, PRESIDENT
AMERICAN POSTAL WORKERS UNION, AFL-CIO
(September 6, 2011)

Mr. Chairman, Ranking Member Collins, and members of the Committee; I am Cliff Guffey, President of the American Postal Workers Union, AFL-CIO – the APWU. Thank you for providing me this opportunity to testify on behalf of our more than 250,000 members. Your letter inviting me to testify states that the purpose of this hearing is to review pending legislative proposals and to review proposals being advocated by the Postal Service. I understand that you particularly want to receive our views on what impact the Postal Service’s most recent proposals on workforce reductions, health insurance, pension plans, and consolidation or closure of postal facilities would have on postal operations and postal employees.

I want to first talk about pending legislation and then turn to the more particular questions posed in your letter of invitation.

The Postal Service has been affected by a loss of mail volume due to electronic diversion and, more temporarily, the recent deep recession from which we have not fully recovered. But the loss of mail volume is not why we are here today. We are here because the Postal Service needs immediate relief from the requirement that it pre-fund its retiree health benefits obligation over a short period of time. No other federal agency is required to pre-fund its retiree health benefits obligation, and very few private sector firms do so. None of them would attempt to fund this obligation over such a short time period. The Postal Service needs relief from this requirement. The Postal Service also has other important needs, including the need to modernize its mail processing operations, the need to replace its aging fleet of delivery vehicles, and the need to develop new products that will help it replace revenue lost to declining First Class letter mail.

Because of these critical needs, attention has focused on the fact that the Postal Service has substantially over-paid its obligations to the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). The Postal Service and the Postal Service Inspector General estimate that the Postal Service has over-funded the CSRS by \$75 billion. The Postal Regulatory Commission has independently estimated the overfunding of CSRS at \$50 billion or more. In addition, there seems to be general agreement that the Postal Service has overfunded FERS by approximately \$6.9 billion.

In addition to needing relief from its retiree health benefits pre-funding obligation, the Postal Service urgently needs access to these over-funded amounts to make needed investments in the postal infrastructure.

There is fairly broad bipartisan agreement that the Postal Service should be permitted to have access to the excess contributions it has made into the Civil Service Retirement Fund and the Federal Employees Retirement Fund. The central postal issue of the day is whether Congress will do what is right and necessary to preserve and protect the United States Postal Service by permitting the Postal Service to apply its CSRS and FERS overpayments to meet its retiree health benefits pre-funding obligation and to reduce its debt. If that is done, every other necessary change in the Postal Service can be done deliberately and with due regard to the public interest. If that is not done, then other steps will prove to be half-measures in stabilizing the Postal Service's finances and will do unnecessary damage to the Postal Service and its customers and employees.

On the central issue of the overfunding of pensions by the Postal Service, we are fortunate to have the strong bipartisan leadership of Chairman Carper of the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, and of Senator Collins on the full committee. It is significant that Senators Carper and Collins both have introduced legislation that would provide the Postal Service access to these much-needed funds.

There is also bipartisan support for this sort of legislation in the House. Representative Lynch has introduced legislation, H.R. 1351, that would give the Postal Service access to the amounts by which it has overfunded the CSRS Fund. Mr. Lynch's legislation presently has 193 co-sponsors, including members of both parties.

Enactment of legislation to provide the Postal Service access to these funds is the most important postal legislation under consideration by Congress. In addition to meeting the Postal Service's immediate need for financial liquidity, these funds will provide an opportunity for the Postal Service to make more efficient changes in its retail and mail processing networks that will avoid unnecessarily heavy impacts on service. As Senator Collins said, "[i]t is simply unfair both to the Postal Service and its customers not to refund these overpayments."¹

In lieu of legislation that would provide this financial relief, the Postal Service has stated that it will take steps to curtail service as a means of cutting costs. These proposed service cuts, including elimination of Saturday delivery, closure of thousands of small post offices, and rapid and extreme consolidation of mail processing facilities threaten to de-value and weaken the Postal Service in ways that could exacerbate its revenue problems.

Eliminating Saturday delivery, for example, would save about 5 percent of the postal budget, but it would eliminate 17 percent of delivery service. Saturday delivery

¹ Cong. Rec. Senate December 2, 2010, S8398.

is important to many small businesses, and it is very important to individuals who receive their prescription medications through the mail. The mail order pharmacy business provides a good example of the need for Saturday delivery.² Inevitably, small businesses will find other ways to obtain Saturday deliveries, and mail order pharmacies and their customers, will be finding other ways of getting medicines delivered when people are home to receive them.

It is very important to the economy and to the American people that the Postal Service be stabilized and preserved. As Senator Collins observed when she introduced her legislation on this subject, “the Postal Service is the lynchpin of a \$1 trillion mailing industry that employs approximately 7.5 million Americans in fields as diverse as direct mail, printing, catalog companies, paper manufacturing, and financial services.”³ Remarkably, those numbers have been updated and they show that the mailing industry has continued to grow. The most recent published data show that, by 2010, the industry had grown to \$1.2 trillion and was generating 8.7 million jobs. Most of those jobs, 75.8 percent of them, are in firms that depend on the Postal Service delivery infrastructure. There has been job growth in private mail centers, catalogue and e-commerce fulfillment, and mail services activities.

². Despite Postal Service statements to the contrary, the mail order drug industry opposes the elimination of Saturday delivery. The General Counsel of Medco Health Solutions stated, for example, that “Medco remains unwavering in the belief that the Saturday delivery elimination plan is harmful to consumers, third party payors, mail-dependent companies such as Medco, and the USPS overall.” Testimony submitted to the PRC and then withdrawn after USPS served Medco with 22 interrogatories in response. Docket No. N2010-1.

³ Id., S8397.

The mailing industry supports over seven percent of the U.S. Gross Domestic Product and about six percent of all U.S. jobs.⁴

We have now reached the point in postal cost-cutting where further cuts are going to have a negative effect on service. Since 2008, the Postal Service has reduced its complement by more than 110,000 employees and cut its costs by more than \$11 billion. It is very clear, however, that the strategy of aggressively making cuts has passed the point of diminishing returns and has begun to be counterproductive. The Postal Service, having been engaged in several years of cost cutting, has become like the man whose only tool is a hammer. To him, everything looks like a nail.

A case in point is the Postal Service drive to close or consolidate small rural post offices and small stations and branches that are not “profitable” for the Postal Service. This is an area that deserves close congressional scrutiny. To begin with, we do not agree with the Postal Service method of accounting for the revenue generated by a post office. A small post office may be credited with only the revenue that is recorded as paid in that office. In fact, it is on the receiving end of a lot of mail that has been paid for elsewhere, and to which it adds the value of being the final destinating office. . It is estimated that these small offices serve as the delivery point for more than 900,000 households to which the Postal Service does not currently provide street delivery because of the difficulties and hazards of such delivery. The Postal Service provides free PO boxes to these customers. Closure of any office

⁴ 2010 U.S. Mailing Industry Job Study, provided by the EMA Foundation Institute of Postal Studies (2011)

providing this service would mean change of addresses for these customers; relocating to box elsewhere; or where street delivery is initiated, the construction of curbside mail box.

Present law requires that both rural and urban communities be provided effective postal services. There is much that can be done to make small post offices less costly and more effective than simply closing them. The new collective bargaining agreement between the APWU and the Postal Service makes provision for a less costly, more flexible workforce that will permit the Postal Service to operate post offices for longer hours – keeping them open when people are able to use them.

Most Senators and Representatives probably have seen first-hand the negative impact a post office closing can have on a rural community. Loss of service, loss of a community focal point, and a diminution of community identity, as well as a loss of jobs in the community, all have their negative effect. These impacts are well-understood and strongly felt by community leaders and postal patrons in these communities. Citizens are often very vocal in their opposition to closing their post office.

In more urban areas, opposition to the closing of stations and branches tends to be less concentrated; but studies have shown that post office closings have the most negative impact on the elderly and those whose mobility is impaired. The Postal Service is an important public utility. Congress should continue to insist that effective services be provided to all communities.

Too little has been done to make post offices more viable by expanding their use. In this regard, Senator Carper's bill would authorize the Postal Service to expand the products and services it could offer through its retail network and to partner with state and local governments to offer more government services through post offices. These are important changes that should be enacted. It would be very unfortunate to close post offices to save money in the short run and by doing that lose these opportunities to expand public services and make post offices more financially viable.

The savings that could be realized by closing thousands of small post offices and stations and branches would be less than one percent of postal costs. This is not enough to justify the loss of service to the communities served by those offices. This is an area where the Postal Service is cutting services and cutting access to postal services in ways that will damage the Postal Service in the long run. In another example of overzealous, cost cutting, the Postal Service also is undertaking an overly-aggressive program of closing mail processing facilities. We recognize that decreased mail volumes and the changing world will require postal change. But, once again, as in the area of post office closings, the Postal Service is being driven to consolidate by a lack of funds to do otherwise. As in the case of small post office closings, a major part of the costs saved by the Postal Service will be borne by the public in the form of degraded postal services and increased costs to postal customers.

To cut mail processing facilities as deeply as the Postal Service has proposed will require a change in service standards. This reduction in service would be

compounded if it were to be combined with the cessation of Saturday delivery, as the Postal Service also has proposed. Our point is that the Postal Service should be seeking greater efficiency in order to deliver services to the public at the least cost; instead, they are so determined to cut costs that service has become a decidedly secondary consideration. This is not a formula for success in any service industry.

Once again, the release of postal overpayments presently being held in the CSRS and FERS funds is critical. The Postal Service needs to rationalize its mail processing network and to modernize it. But it cannot do that most effectively unless it has sufficient funds to make capital improvements and capital investments. Merely closing and consolidating existing mail processing facilities inevitably will result in a far less than ideal mail processing network. In the meantime, postal customers and postal employees are forced to deal with substantial disruptions and changes that still do not result in the most effective or efficient network.

I will turn now to a discussion of the Postal Service's most recent proposals on workforce reductions, and separate postal health insurance and retirement plans. As a preface to that discussion, I need to talk about the recently-concluded collective bargaining agreement between the APWU and the Postal Service. On March 14, 2011, the APWU and the Postal Service reached agreement on a new National Agreement that will expire on May 20, 2015. That contract was ratified by APWU members in May of this year and signed by the Postmaster General and me on May 23, 2011.

That agreement was reached after lengthy negotiations on health benefits, including negotiations on a Postal Service proposal to create its own health plan outside the FEHB Program. The APWU never has agreed with the Postal Service contention that such a plan could be as good as the FEHB Program. As part of the give and take of negotiations, the Postal Service dropped its proposal for a separate postal health plan; but the APWU agreed that employees would contribute more toward the cost of insurance premiums, and the parties agreed on creative new ways of providing new workers health coverage at low cost to the Postal Service.

No-layoff protection was also a subject of our negotiations. The Postal Service proposed to eliminate no-layoff protections, and we proposed to continue them. The parties talked about the number of career employees who would be likely to retire and talked about the fact that non-career employees would not be protected against layoff. As part of the give-and-take of negotiations, the APWU agreed to a new category of bargaining unit employees. These employees, who will have an opportunity eventually to become career employees, will not in their temporary status be protected from layoff, nor will they qualify for retirement benefits. This means that they will be free to reduce its workforce by 20 percent if it chooses to do so, and that there will be no legacy costs associated with that 20 percent of the workforce that is comprised of temporary workers. So the Postal Service agreed to continue no layoff protection for career employees, and the Postal Service got a more flexible workforce and reduced legacy costs.

The APWU obtained a Memorandum of Understanding by which the Postal Service agreed not to lay off career postal workers who were on the postal employment rolls as of the beginning of the new contract period. And Article 6 of the contract, which protects postal employees who have six years of uninterrupted service, was continued unchanged.

I am emphasizing the health benefits and no layoff parts of the new contract between the APWU and the Postal Service because those areas are of special interest to the Committee today —. These are matters that were the subject of intense negotiations between the APWU and Postal Service, negotiations that culminated in the contract that I signed with the Postmaster General on May 23, 2011.

In his testimony about this new contract before the House Committee on Oversight and Government Reform, Postmaster General Donahoe reported that the new agreement will save the Postal Service \$3.7 billion. In summary, he said “[w]e sought and were able to achieve greater workforce flexibility, immediate cost relief, and long-term structural changes.” In testimony before a Subcommittee of this Committee, the Postmaster General took credit for “[r]eaching an historic agreement with the American Postal Workers Union (APWU) that will enhance workforce and work hour flexibility.”⁵

Since May, I and other APWU officers here in Washington and around the country have been working intently to implement our new contract. As with any

⁵ Hearings before the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, May 17, 2011.

groundbreaking and historic agreement, we are in the midst of changes that will be difficult to implement and that will require substantial adjustments by postal workers. It was in this context that we learned that, without letting the APWU know in advance, the Postal Service had begun circulating on Capitol Hill proposals to repeal our no-layoff protections and to replace our health benefits and retirement benefits plans.

I am at a loss for adjectives sufficient to the task of describing these actions by the Postal Service. Several that come close are outrageous, illegal and despicable.

The attempt by the Postal Service to keep what it gained from our bargain and to unilaterally abrogate what the APWU gained is in utter disregard for the legal requirement to bargain with the APWU in good faith. It also is illegal in the sense that not even the legislation they seek would succeed in freeing them from their contractual obligations. We can only wonder at the reactions of the National Association of Letter Carriers and the Mail Handlers Union which recently began collective bargaining negotiations with the Postal Service. It is impossible to negotiate if you know the party you are dealing with will feel free accept your concessions and then attempt to abrogate their own.

I am very tempted, for these reasons, to decline to make any substantive comments about the Postal Service proposals for legislation to permit it to implement separate health insurance and retirement plans. However, since others will be discussing these ideas, I do want to make a few points about these suggestions.

The Congress would be well-advised to study very carefully the ramifications of permitting the Postal Service to withdraw from the FEHBP. The APWU is, of course, a proud sponsor of a fee for service plan in FEHBP. We regularly receive high marks for delivering a valuable plan for a relatively low price. So we know quite a bit about what it takes to manage a good and efficient health plan. We also know that the FEHB Program has often been cited as a model of efficiency created by competition among multiple vendors in the program.

The withdrawal of postal employees and retirees from the FEHB Program would have very serious negative and destabilizing effects on that important federal program. The principal financial effect would be to impose hundreds of millions of dollars of additional costs on the federal government due to the withdrawal from FEHB Program of postal workers who are or could be enrolled in Medicare. The Postal Service also hopes to demand the Part D subsidy from HHS that is provided to private sector employers who continue to provide prescription drug coverage for their employees through health insurance.

A recent article in the Washington Post on line (federaldiary@Washpost.com) quotes a noted authority on the FEHBP, Walton Francis, who is the author of The Consumer's Checkbook Guide to Health Plans for Federal Employees. Mr. Francis reportedly said, in a summary that I would find it difficult to improve: "[T]here is no evidence to support any of the FEHBP conclusions of the so-called 'White Paper' of the USPS. Anyone who is expert in health insurance will recognize that it is

nonsensical propaganda, written by someone who didn't even know what he or she was talking about. This proposal is not about better health insurance. It is about finding ways to get money from someone, whether that be the public, the Treasury, or the employees. It is not about delivering an equivalent health insurance product at lower costs, since that is not within their competency.”⁶

We also adamantly oppose the Postal Service proposal to leave the federal retirement programs. In addition to the fact that it is illegal for the reasons described above, this is nothing more than an attempt to impose very large benefit cuts on postal employees. This is unfair and completely unwarranted. The Postal Service has overfunded its retirement programs; those programs, being fully funded, are not the source of the Postal Service's current financial problems.

It would be a cruel irony for the Postal Service to withdraw from a pension program it has overfunded, using in part contributions from postal workers, and then to expose its employees to the risk of losing their retirement benefits. There is a long list of employers, some of them very prominent, whose employees have suffered that fate. We adamantly reject any suggestion that postal workers should be removed from the federal retirement program.

Finally, I want to turn to the topic the Postal Service refers to as “Managing Complement.” We are outraged by the Postal Service's attempt to abrogate the

⁶ For a useful discussion of FEHBP as a model program that serves as an effective model of managed competition, see *The Federal Employee Health Benefits Program: A Model for Workers, Not Medicare*, K. Davis, et al., The Commonwealth Fund, November 2003.

agreement on the subject of layoff protections for APWU bargaining unit members we signed only a few months ago. Furthermore, this effort by the Postal Service is not only outrageous, it is ridiculous. As we sit here today, the Postal Service already employs tens of thousands of workers who do not have any protection against being laid off. The Postal Service is simultaneously crying that it needs greater power to lay off employees and failing to exercise the power it already has to lay off employees.

Furthermore, during the term of our agreement, approximately 100,000 postal workers will be eligible to retire. The APWU and the Postal Service just agreed to increase the complement of temporary workers to 20 percent of the total complement. Those workers are all vulnerable to being laid off. Because they are not career employees, the no layoff protection in the contract does not protect them.

This situation makes it clear that what the Postal Service is really saying is that it wants the Congress to authorize it to lay off 120,000 career postal employees and replace them with temporary workers without retirement benefits. This would be in addition to the large numbers of temporary employees the Postal Service already employs. As matters stand, the Postal Service already has plans to reduce its complement by 100,000 workers by 2014. If the Postal Service were serious about its claim that it needs the right to lay off an additional 120,000 workers, that

would mean a reduction of 220,000 postal employees by 2014. Such a drastic reduction would be catastrophic for the employees laid off, for the Postal Service, for individuals and small businesses; for the mailing industry that depends on the Postal Service, and for our economy.

To place these proposals in context, I will reiterate testimony I presented to the House Committee on Oversight and Government Reform last April. At that hearing, by the way, the Postal Service joined me in explaining the importance of our new contract and how it would go a long way toward solving the Postal Service's financial and operational problems. Here is what I said:

“I was born in rural Oklahoma. My father served as a Navy pilot in Korea and retired as a career Navy pilot. I served as a rifleman with the Second Battalion of the Third Marines in Vietnam in 1968 and 1969. Service to this country is a proud tradition in my family. My father fought in Korea, and I fought in Vietnam, because we knew that it was important to preserve the American way of life, and American freedoms.

“Like hundreds of thousands of other veterans, when I returned from war I was able to find employment with the newly-created United States Postal Service. In the Postal Reorganization Act of 1970, Congress had raised postal pay from near-poverty levels to provide a living wage and had given postal workers the right to have collective-bargaining. Postal workers, and among them hundreds of

thousands of veterans of foreign wars, were able to join the middle class.

“It is no coincidence that so many of us are veterans. The Postal Service has been an important source of middle-class jobs for American veterans. The 2010 comprehensive statement on postal operations reported that in 2010 there were 129,886 veterans in the postal career workforce. These veterans were 22 percent of the postal career workforce. 49,119 of these veterans are disabled veterans and 13,303 of them, including me, are rated as 30 percent or more disabled.

“The Postal Service is also one of the leading employers of racial and ethnic minorities and of women. In 2010, women were approximately 40 percent of the workforce; and minorities were approximately 40 percent of the workforce. As postal workers, we have been able to fulfill the American dream of holding a job that pays a living wage and provides health insurance for families with a dignified retirement when we can no longer work.”

Those were my words when the Postal Service seemed to be standing by its agreement with the APWU. I stand by those statements. The APWU will oppose with every resource at our disposal any effort to destroy our health benefits program, to lay us off and replace us with temporary workers, or to undermine our retirement.

And make no mistake about it, the layoff of 120,000 postal employees would hit all postal workers, including veterans. The Postal Service is wrong when

it says that the veterans' preference laws will continue to provide layoff protection for veterans even if our contract is abrogated. Whenever the Postal Service closes a whole plant, as they have said they want to do, all the employees in that plant, including veterans, would be subject to being laid off.

We support the efforts of Subcommittee Chairman Carper and Ranking Member Collins to make past Postal Service overpayments to CSRS and FERS available to meet the Service's most immediate financial obligations. That is a necessary first step in solving the Postal Service's problems. We very much appreciate their efforts and the efforts of Chairman Lieberman to address this important issue.

I am available to answer any questions the Committee may have.