

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Public Inquiry on Changes Associated
with the Delivering for America Plan

Docket No. PI2023-4

**RESPONSE TO UNITED STATES POSTAL SERVICE
MOTION FOR RECONSIDERATION OF ORDER NO. 6488**

(May 12, 2023)

The National Postal Policy Council, the Major Mailers Association, and N/MA – The News/Media Alliance respectfully submit this response to the Postal Service’s motion for reconsideration of Order No. 6488.¹ The Commission has authority to commence this public inquiry in furtherance of its regulatory responsibilities, and the Postal Service’s objections are, at best, premature. Accordingly, the Commission should deny the Postal Service’s motion for reconsideration.

The undersigned mailer groups commend the Commission for initiating this proceeding to review the network changes associated with the Postal Service’s Delivering for America Plan (“DFAP”). See Order No. 6488 at 1. Some of these network changes have already occurred, such as the creation of at least six Sorting and Delivery Centers (“SD&Cs”).² The network changes potentially

¹ *United States Postal Service’s Motion For Reconsideration Of Order No. 6488* (May 5, 2023) (“USPS Motion”).

² See United States Postal Service, *Delivering for America: Second-Year Progress Report*, at 18 (April 2023) (“Second-year Progress Report”) (listing Atlanta; Gainesville, FL; Panama City;

could have profound implications for costing, service performance, productivity, and rates – all matters well within the Commission’s regulatory jurisdiction.

The Commission has a responsibility to stay abreast of changes affecting the postal network that undeniably could have significant consequences on its regulatory responsibilities. The DFAP is the Postal Service’s plan to substantially improve its cost management, service, and productivity, all which have effects on rates. The Postal Service has already taken numerous actions pursuant to the DFAP, including raising rates, reducing service standards, and redesigning the network. While rate and “N-case” advisory proceedings have addressed some of these actions, other actions, such as the network changes, have not similarly been addressed.

The Commission has chosen to open this inquiry to improve its understanding of these network developments. Order No. 6488 at 1. That is fully consistent with the Commission’s ongoing responsibility to review the Postal Service’s performance on an annual basis and to provide a check that the Service is operating in accordance with law. *Cf.* Order No. 3490, Docket No. PI2016-1, at 1 (August 26, 2016) (*Order Enhancing Service Performance Reporting Requirements and Closing Docket*). Congress has granted the Commission authority to take any action it deems “necessary and proper to carry

FL; Woburn, MA; Utica, NY; and Bryan, TX). The Postal Service states that it currently is evaluating more than 100 more locations for conversion to S&DCs. *Id.*

out their functions and obligations” and such actions “shall not be subject to any change or supervision by the Postal Service. 39 U.S.C. §503.³

Opening a public inquiry to educate itself regarding what appears to be a major restructuring of postal processing and delivery facilities is a reasonable and prudential action well within the regulator’s discretion. For example, it is quite possible that this docket could elicit information that would cause the Commission to exercise its authority to revise the costing methodologies to be included in annual compliance reports. See 39 U.S.C. §3652(a). And it should better prepare the Commission to understand other proceedings that the Postal Service may choose to initiate pursuant to the DFAP. Many of those proceedings, including “N-cases” seeking advisory opinions on service changes and rate adjustment proceedings, have statutory timeframes which constrain the ability of the Commission and interested parties to explore and understand the issues.⁴

Nevertheless, the Postal Service motion contends that the Commission lacks statutory authority even to *initiate* this proceeding. *USPS Motion* at 1 & 5. That contention is meritless. As summarized above, the Commission plainly has

³ The Postal Service cites (at 17 & nn. 50-53) as “illuminating” a number of decisions in support of arguing that the Commission has no authority to conduct this proceeding. Those decisions have little value because they predated the Postal Accountability and Enhancement Act. The PAEA converted the former Postal Rate Commission (the entity at issue in those cases) into the current Postal Regulatory Commission, an agency with far more powers.

⁴ On occasion, the Commission has criticized the Postal Service for failing to provide complete information on a timely basis. This docket would provide an opportunity for the Commission to obtain information in a far less piecemeal fashion,

statutory authority to initiate a public inquiry proceeding to elicit information relevant to its regulatory responsibilities.⁵

Using almost apocalyptic language, the Postal Service expresses grave alarm that this proceeding will create “unfettered access into the deliberations and strategic thinking” of postal management and the Board of Governors. It fears that the docket will be a “plenary-type review of all of the strategic initiatives in the Plan before concrete and specific plans have materialized and been sanctioned by the Board of Governors.” *USPS Motion* at 1.

Order No. 6488 does no such thing. Its introductory paragraph states that the Commission is opening the docket “to examine the recent and planned network changes.”

Order No. 6488 does speak generally of “strategic plan initiatives that may have a significant impact on the postal community.” *Id.* But nothing in that Order mentions any intention to probe into long-range planning matters. The Order mentions several aspects of the DFAP that have been the subject of Commission proceedings. The only topic specifically mentioned in Order No. 6488 that has not been the focus on any proceeding are Sorting and Distribution Centers (“S&DCs”).

It is difficult to take seriously the notion that S&DCs are in the “early stages” of “strategic and operational planning.” *USPS Motion* at 19. At least six

⁵ The Postal Service’s criticism of the Commission for not citing a specific legal basis for initiating Docket No. PI2023-4 is a red herring. *USPS Motion* at 7. While it may have been better practice for the Commission to provide a citation, it certainly has such authority. The Postal Service’s criticism is selective; in Order No. 6159, the Commission initiated Docket No. PI2022-3 without citing any statutory authority, although it clearly had authority to review the Service’s service performance plans, and the Postal Service uttered no objection.

exist today. They certainly constitute a change to the network, but their effects on costs and service remain mysteries to stakeholders. Undoubtedly Postal Service management has approved concrete plans about how S&DCs – and the larger Regional Processing and Distribution Centers and redesigned Local Processing Centers which will house them -- will improve service and efficiency. Presumably those plans were sufficiently decisional to enable it to commit nearly \$7.6 billion⁶ to proceed with the creation of a promised “modern network of new or reimagined facilities supporting redesigned processing, transportation and delivery infrastructure” of which they will be an integral part. *Second-Year Progress Report*, at 15-17.

The *USPS Motion* is, at best, overbroad. It amounts to an assertion that the Commission cannot possibly ask a single proper question in this docket. The Postal Service has certainly not made a case for such a sweeping claim.

Furthermore, the *USPS Motion* is premature. As of today, the Commission has not yet even posed a single question to the Postal Service, much less one that probes into management deliberations. And the Commission may never do so. But if the Commission does ask the Postal Service to divulge information which the Service believes to be pre-decisional, the Service is free to object or seek confidential treatment at that time.

The Postal Service is an important part of the national infrastructure, and its management does have primary operational authority. But the vesting of

⁶ See *Delivering for America Strategic Initiatives: Network Modernization*, <https://about.usps.com/what/strategic-plans/delivering-for-america/details.htm> (visited May 10, 2023).

operational authority in postal management and the Governors is not an excuse for evading the oversight necessary to permit the regulator to fulfill its responsibility to serve as a check to ensure that the Service acts in compliance with the law and does not abuse its legal monopoly over the essential mail side of its business. It is difficult to understand how the Commission can fulfill its responsibilities based on the little information that the Postal Service has deigned to share to date about network changes.

For these reasons, the National Postal Policy Council, the Major Mailers Association, and N/MA – The News/Media Alliance urge the Commission to deny the Postal Service’s motion for reconsideration.

Respectfully submitted,

Arthur B. Sackler
Executive Director
NATIONAL POSTAL POLICY COUNCIL
1629 K Street, N.W.
Suite 300
Washington DC 20066
(202) 508-3687

Todd Haycock
President
MAJOR MAILERS ASSOCIATION
5220 Robert J Mathews Parkway
Eldorado Hills CA 95762

By: /s/ William B. Baker
William B. Baker
POTOMAC LAW GROUP, PLLC
1300 Pennsylvania Avenue, N.W.
Suite 700
Washington, DC 20004
(571) 317-1922
wbaker@potomaclaw.com
Attorney for NATIONAL POSTAL POLICY
COUNCIL and N/MA – THE
NEWS/MEDIA ALLIANCE