



National Postal Mail Handlers Union

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December 4, 2015

TO: All Local Union Officers and Stewards

FROM: Paul V. Hogrogian, National President
T.J. Branch, Manager, CAD  

RE: National Arbitration Decision:
Closings and Consolidations Under Handbook PO-408

We are extremely pleased to announce that the NPMHU has prevailed in the first phase of its National arbitration against the Postal Service challenging many of the proposed closings and consolidations of mail processing plants under the Area Mail Processing guidelines found in Handbook PO-408. A complete copy of the award is attached.

As explained in more detail below, National Arbitrator Shyam Das has concluded, in his interim award, that the Handbook PO-408 is incorporated into the National Agreement through Article 19, and has ordered the parties to schedule a hearing on the merits of the NPMHU grievance. The Postal Service had argued that the PO-408 was unenforceable by the NPMHU and other postal unions, but that argument has now been rejected.

Some background from the most recent (August 2015) CAD Report is worth repeating. One part of the NPMHU's opposition to the Postal Service's plans to close and/or consolidate up to 82 additional postal facilities (as part of Phase II of the USPS Network Rationalization program) is the processing of a National-level grievance, in which the NPMHU claims that the Postal Service has violated Handbook PO-408 when it attempts to close and/or consolidate facilities without complying with the various provisions of that handbook.

The NPMHU grievance, originally filed in September 2014, explained the violations as follows:

Handbook PO-408 requires the Postal Service to take certain actions, conduct various studies, accept and consider various

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opinions, and hold public meetings before implementing most of these closings and consolidations. But in a clear attempt to avoid these requirements, the Postal Service is claiming that the closings and consolidations during 2015, now scheduled to start [no earlier than April 2016], are a continuation of the AMP activity that previously was approved by the Postal Service and its Board of Governors in 2011, if not earlier. In this way, the Postal Service is planning to violate Handbook PO-408, essentially by avoiding Handbook PO-408.

In the NPMHU's view, this simply cannot be accomplished under the National Agreement and in compliance with the requirements of Handbook PO-408. It is clear that Handbook PO-408 requires decisions made as part of the AMP process to be based on current and meaningful data. Since the earlier AMPs were issued in 2011 or earlier, there have been major changes in mail volume (both in amount and in the mix of the mail), major changes in the workforce (for example, through retirements and other forms of attrition and through contractual changes allowing for less costly employees), major changes in both the mail processing and transportation networks, and many additional changes in each of the other factors or criteria that must be examined when performing an appropriate study under Handbook PO-408. On this basis alone, the 2011 and earlier AMP studies that the Postal Service currently claims to be relying on do not and cannot reflect a reliable basis on which to make closing or consolidation decisions.

Moreover, the timing of the AMP process and its relationship to any eventual closing or consolidation is obviously a crucial factor in properly implementing the guidelines contained in Handbook PO-408. For just one example, . . . the "overview" of the AMP process (before the closing or consolidation) that is contained in Section 1-4 of the PO-408, [sets forth an extensive list of events and time deadlines that must occur during the AMP process].

When all of the deadlines and guidelines . . . are combined, the AMP process is defined to encompass a period of approximately six months, from initiation of the feasibility study to final approval by the SVP Operations. One obvious component of this process is to ensure that the information and data relied upon, and the consideration given to comments from managers, unions, and other stakeholders, is as current and timely as practicable.

Indeed, the entire AMP process is based on timely communications and the use of timely data. A computer search of the Handbook PO-408, for example, finds more than 200 references

to the timing of the process and the use of “current” data as two key components of the AMP process. See, e.g., Section 3-2 (“based on the most current quarter’s data”); Section 4-4 (stakeholders “require timely and appropriate communications”); Section 6-4 (“the gathering of the current work-hour usage and complement data” and the “import[of] current on-rolls, average work hours, and overtime data”); Appendix A-1 data “come from the most current update” of underlying reports); Appendix A-2 (“based on the most current quarter’s data”); Appendix A-5 (“A vital aspect of AMP is timely, clear communication with all stakeholders”); Appendix A-7 (“Workhour Costs – Current”); Appendix A-11 (transportation “[d]ata must come from the most currently completed four quarters”); Appendix A-13 (changes in mail processing equipment based on “current” versus proposed numbers); Appendix A-15 (the start date re drop shipments “may not exceed 90 days prior to the current date”).

In short, it is the NPMHU position that the Postal Service’s current plans to close or consolidate 82 mail processing facilities during 2015 [or later] are based on untimely AMP processes resulting in essentially meaningless AMP studies and reports. The Postal Service implementation of these closings or consolidations during 2015 [or later], therefore, would violate Handbook PO-408 and the National Agreement.

At the first day of hearings on this National-level grievance, which was held on April 9, 2015, the Postal Service claimed that this grievance is not arbitrable because, in its view, the PO-408 Handbook on Area Mail Processing is not covered by Article 19 of the National Agreement. Article 19 restricts the Postal Service’s ability unilaterally to make changes to “[t]hose parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement.” Any change to or departure from such handbooks or manuals is subject to arbitral scrutiny to determine whether the change “conflicts with this Agreement” and, if not, whether the change is “fair, reasonable, and equitable.”

What kinds of regulations “directly relate” to covered employees’ wages, hours and working conditions has been the subject of a substantial number of prior National arbitration decisions, and the Postal Service argued that Handbook PO-408 was unenforceable under those prior decisions.

Arbitrator Das has now rejected those USPS arguments, holding instead that “Article 19 incorporates Handbook PO-408 into the National Agreement.” As this Das Award concludes, “Given the significant impact

of decisions to close or relocate a processing facility on employee wages, hours or working conditions, affected employees and their unions have a substantial and direct interest in the Postal Service adhering to the AMP process set forth in PO-408.”

The following are more important excerpts from this recently issued award:

The March 2008 revision of Handbook PO-408 recognizes the strong interest of postal employees and unions -- among other stakeholders -- in decisions to close or consolidate Postal Service processing facilities. [Footnote 2: Employees excessed as a result of such decisions are subject to relocation, transfers and reassignments inside and outside the craft and inside and outside the building even across state lines.] It provides for Congressionally mandated (PAEA) notice/communication to employees and unions and for affording them opportunity for input which must be taken into account by management in making a final decision. Notably, prior to issuing this latest revision of PO-408, the Postal Service in November 2007 distributed drafts to the NPMHU and the APWU accompanied by letters signed by a top Labor Relations Manager at Headquarters which stated: In accordance with Article 19 of the National Agreement, enclosed is a draft copy of Handbook PO-408, Area Mail Processing Guidelines.

* * *

Bargaining unit employees and their unions have a vital interest in the conduct of AMP studies provided for in PO-408. The impact of those studies on their "wages, hours or working conditions" is direct and significant. This is not a case like that decided by Arbitrator Mittenthal in 1990, which involved an APWU challenge to voter registration guidelines, in which he concluded: "Voter registration, realistically viewed, has nothing to do with the 'wages, hours or working conditions' of Postal Service employees." While there can be no question that the ultimate decision as to whether to close or consolidate a postal processing facility is within the Postal Service's exclusive management rights recognized in Article 3, the AMP process provided for in PO-408 serves in part to protect bargaining unit interests. This also is not a case like that recently decided by Arbitrator Goldberg, involving contracting for and administering Contract Postal Units (CPUs), in which he found that the regulations at issue did not impact existing employee rights or benefits and were not concerned with protecting bargaining unit interests.

The purpose of PO-408, as it has evolved over the years, is not just to provide guidance or advice to postal managers on how to perform an AMP study; it is not solely an internal management document. The purpose also includes ensuring that the interests of postal employees, as well as other stakeholders, are adequately considered, not just by providing for notice/communication and stakeholder input, but more broadly by providing a process -- in part mandated by the PAEA -- designed to optimize decision-making regarding closing and relocation of processing and distribution facilities that has a significant impact on employees. Cost savings, including labor costs, are an important component of the AMP process. Given the significant impact of decisions to close or relocate a processing facility on employee wages, hours or working conditions, affected employees and their unions have a substantial and direct interest in the Postal Service adhering to the AMP process set forth in PO-408.

In short, this Award concludes that Handbook PO-408 is properly enforceable in the National Agreement's grievance-arbitration procedure, to the extent that the PO-408 directly related to wages, hours or working conditions of mail handlers and other postal employees.

Please disseminate this memorandum and its attachment as you deem appropriate. Also, please do not hesitate to contact the National Office should you have any questions.

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