



NATIONAL POSTAL MAIL HANDLERS UNION

John F. Hegarty – National President Mark A. Gardner – Secretary-Treasurer

2011 Contract Update #15

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ARBITRATION HEARINGS COMPLETED

Hearings in the ongoing interest arbitration proceedings to determine the terms of the 2011 National Agreement between the NPMHU and the Postal Service are now complete, with the final hearing held on Friday, February 1, 2013. Although the record officially remains open for additional submissions that might be needed by the three-member arbitration panel, the formal hearing process is over, and a final award should be issued soon.

On the last day of testimony, National President John Hegarty concluded the Union's case, emphasizing issues that have been front and center during this arbitration. First, he argued that the actual evidence of the Postal Service's financial condition was contrary to USPS claims: "Its prehearing brief in this proceeding claimed that the loss was \$36 billion during the past six years. Most recently, the agency has been telling the public that it is losing \$25 million per day, which is more than \$9 billion per year. And for Fiscal Year 2012, which ended a few months ago, the claim is a deficit of \$15.9 billion. These assertions are essentially political statements, aimed at emphasizing the need for legislative action. . . . [F]or the Postal Service to constantly repeat these statements in this forum is disrespectful to the intelligence of this panel. USPS operations for the four years ending with Fiscal Year 2010 showed a net income of \$700 million, including a \$3.3 billion surplus in 2007 and a \$2.8 billion surplus in 2008. Even in the years since then, the operational deficit was only \$2.7 billion in 2011; it then went down to \$2.4 billion in 2012; and it has been projected to be significantly lower in the current fiscal year (projected at \$2 billion, but running ahead of plan). So when the Postal Service claims that it lost \$15.9 billion last year, that so-called loss was comprised of \$11.9 billion in retiree health payments that were not made; another \$2.5 billion in non-cash expenses related to fluctuations in interest rates and their temporary effect on the long-term portion of workers compensation; and an actual operational net loss of \$2.4 billion."

After describing the ways in which mail handlers already have contributed to savings for the Postal Service – noting, for example, a decline of 27% in the mail handler bargaining unit during the past six years and reductions in the number of mail processing facilities – Hegarty turned to the issue of workforce flexibility, which has been the mantra of USPS management throughout these proceedings:

"[T]he USPS has consistently failed to take advantage of the flexibility it has been provided," not utilizing its complement of 10% PTFs and 6% PTRs. "Of particular importance to these proceedings, the Postal Service has failed to utilize its entire complement of authorized casual employees. . . . Frankly, it is only because the Postal Service has been unable to manage its own contractual commitments that it has made such a ruckus about elimination of the in lieu of clause under Article 7."

Hegarty noted that the use of casuals is always limited because Congress has mandated that employees of the Postal Service "shall be in the postal career service," and that the USPS shall, as an employer, "place particular emphasis upon . . . the achievement of worthwhile and satisfying careers in the service of the United States." Moreover, the parties have recognized, for more than forty years, that casual employees may only be hired for limited durations and may not be hired in lieu of, instead of, or in place of career employees. The Postal Service's demand to eliminate this "in lieu of" clause, if granted, would be a fundamental shift in the parties' long contract history. Such a change should not be made lightly, without full consideration of the impact that such a deviation from the norm means to the career mandate adopted by Congress or to future employees of the Postal Service.

Finally, Hegarty noted that if the "in lieu of" clause that traditionally has governed the hiring of casuals were eliminated, then the panel also should adopt the Union's key proposals for preserving and protecting mail handler work for the career bargaining unit: full protection against layoffs for all career employees and the establishment of a Task Force that will return previously subcontracted mail handler work. "It would be intolerable," Hegarty concluded, "for the Postal Service to insist on the creation of a full-time non-career workforce, while continuing to claim the right to lay off career mail handlers or subcontract out mail handler work to the private sector."

When a final decision from the arbitration panel is issued, it will be distributed.

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