

Day 1 Contract Arbitration- July 16, 2001

The arbitration opened with the arbitration panel meeting privately with the lead attorney from both sides.

The session opened by allowing everyone in the room to introduce themselves.

The arbitrator addressed the parties with some of his personal ground rules and the mutually agreed to ground rules.

William B. Peer, lead counsel for the NRLCA, started by giving the Union opening statements to the arbitration panel. His law partner, Michael Gan, who finished presenting the Union's opening statement, assisted him. The presentation by both of them was outstanding.

So ended the first half of the first day. The arbitrator called for a lunch break.

Upon return from lunch the USPS presented their opening statement. The USPS lead counsel, Edward Ward, presented it. Mr. Ward was also the USPS lead counsel in the USPS/NALC arbitration in front of arbitrator Fleishli concerning the NALC Level 6 pay issue.

~~~~~7/18/2001

## **DAY 2 CONTRACT ARBITRATION- July 17, 2001**

The second day opened with USPS lead counsel Ed Ward concluding the USPS opening statement that he had begun on day one.

With the opening statements concluded, the NRLCA began their presentation before the arbitration panel. The first witness called was Vice President Dale Holton. A site visit to a post office in the Northern Virginia area (Oakton, VA) had been scheduled for the second half of day two. Mr. Holton's testimony laid groundwork of what the arbitration panel would be viewing at the site visit that afternoon and took the panel through a verbal tour of the facility to be visited.

Also, a video was shown describing and showing various rural carrier job requirements and functions. Upon completion of the video the arbitrator called for the lunch break and informed the parties that we would meet at the postal facility in Oakton, Virginia after lunch.

The next scheduled dates for the arbitration hearing are: August 14, 15, and 16, 2001

## **DAY 3: CONTRACT ARBITRATION - AUGUST 14, 2001**

The third day of arbitration began with the NRLCA showing the arbitrator two videos. One was a training film that emphasized all of the postal services that are available to rural patrons through their rural carrier, in other words, "the post office on wheels" concept. The other presented a very thorough treatment of what a carrier does from the time of return to the office until signing out for the day.

Following the viewing of the videotapes lead counsel for the NRLCA, William B. Peer, submitted several association exhibits. These exhibits will be relied on and referred to throughout the arbitration hearings as the process continues. Some of them were particularly relevant to the testimony given by immediate NRLCA past President, Steve Smith on this day.

Lead counsel, Mr. Peer, called past President Smith to the witness stand.

The parties stipulated that Mr. Smith was an expert witness before his testimony began. Although a written statement had been prepared so that it could be read into the record, Mr. Smith also often interjected extemporaneous testimony to more fully educate the arbitrator on such issues as time standards, the numerous and ever-increasing rural carrier duties, and the intricacies of a mail count and its relationship to a carrier's compensation.

The day ended upon the conclusion of Mr. Smith's very thorough and impressive testimony.

Day four of the arbitration hearings will begin with the Postal Service's cross-examination of Steve Smith

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8/24/01

DAY 4: CONTRACT ARBITRATION-AUGUST 15, 2001

The Postal Service's lead counsel, Ed Ward, used the entire day to cross-exam NRLCA immediate past President Steve Smith, concerning Mr. Smith's testimony of August 14, 2001. In responding to questions posed by Mr. Ward the extensive experience of past President Smith as a rural carrier and National Officer of the NRLCA was again made part of the record.

Additionally, while answering the inquiries of lead counsel, Mr. Smith repeatedly expressed the NRLCA's contention that over time, the number of changes and added duties has made the job of a rural carrier more difficult. Therefore, the NRLCA is seeking a compensation package that is commensurate with the effort and skill needed to perform the job as presently constituted.

After finishing his questioning of Mr. Smith, Mr. Ward on behalf of himself and the Postal Service noted past President Smith's many years of dedicated service to rural carriers while always dealing with the employer with respect and integrity. The arbitrator was struck by this very unusual gesture in the setting of interest arbitration; a setting that more typically creates an atmosphere that does not normally engender complimentary remarks.

Although the parties were to convene on August 16, 2001, for day 5 of the hearings, the day has been cancelled due to an unfortunate delay in obtaining requested data from the Postal Service necessary for the NRLCA to continue presenting its case in the order that had been planned. However, the hearings will commence again on September 11th as scheduled.

The parties have agreed to three additional hearing dates: September 17th, 18th, and 19th. These are in addition to the dates of October 15th, 16th, and 17th, which were already on the calendar.

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9/11/01

The arbitration was cancelled for the day (Tuesday) before it even began, after the announcement of the evacuation of Postal Headquarters, which overlooks the Pentagon.

No NRLCA officers or Postal officials involved were harmed. It took 6 hours to get back to Alexandria VA from Postal headquarters due to the exiting traffic. Due to cell and phone line activity during this disaster, phones and even pagers were

**unuseable for much of the day.**

**It is unknown at this time whether the arbitration schedule for Wednesday will be postponed, continued, or moved.**

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DAY 5: CONTRACT ARBITRATION-September 12, 2001

A very solemn moment of silence was observed prior to the beginning of the hearing in respect for those who lives were lost, the survivors who continue to suffer, the families and loved ones of the victims, the valiant rescue workers who valiantly continue to sort through the devastation searching for more survivors.

The hearing commenced with legal counsel Michael Gan calling Vice President Dale Holton as a witness. In response to the direct examination by Mr. Gan, Mr. Holton began by giving an account of his background regarding his employment as a rural carrier and the various positions he had held at the state level in Louisiana in addition to having served as the national vice president for the past three years.

He continued his testimony by discussing the NRLCA proposals related to mail counts. In addition he discussed the NRLCA proposal regarding the NRLCA's desire to have a route's evaluation change once the workload, as determined by the formula delineated in the contract, has increased or decreased by one hour, instead of the two-hour provision that is our current benchmark.

He also discussed the NRLCA proposal to give those carriers who qualify the high-low option when a base hour change is made to the route. This would be an additional opportunity for carriers to avail themselves of the option that is provided for in the National Agreement. He finished his direct testimony with a very detailed and informative time line of the history of mail counts over the last four decades. Mr. Holton's was cross-examined by Postal Service attorney, Jon Saperstein, for approximately a half hour.

Legal counsel then called Executive Committeeman, Bill Gordon, to the stand. Mr. Gordon was asked to recount his service in the rural craft. He responded by saying that he had begun his employment with the Postal Service in 1975 at the age of eighteen. He served as a leave replacement while pursuing his secondary education. Mr. Gordon has a degree in business and an extensive education in statistical analysis. He served in several positions at the state level with the Arizona Rural Letter Carriers' Association before being elected to his current position in 1996 and again in 2000.

Although the arbitrator has heard much about mail count and the different elements of the mail count that collectively are the basis from which route evaluations are derived, Mr. Gordon took the opportunity to methodically and in great detail explain all of these to the arbitrator. This exhaustive testimony complimented the testimony of Mr. Holton earlier in the day concerning mail counts. Because of his education, experience and involvement in various time studies he also gave creditable testimony related to the mail count data that had been provided to the NRLCA from the Postal Service per an information request.

As the day ended Mr. Gordon was specifically addressing the two-week versus the four-week count issue and the relevant data. He will conclude his testimony regarding this issue and give other statistical analyses on the next scheduled day of hearings, September 17, 2001.

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DAY 6: Contract Arbitration-September 17, 2001

NRLCA Executive Committeeman Bill Gordon was recalled to the witness stand by NRLCA legal counsel Michael Gan. Mr. Gan continued with the direct examination of Mr. Gordon that had begun on day 5 of the hearings.

Executive Committeeman Gordon testified at length regarding the NRLCA’s pursuit of an annual four-week mail count of all routes including vacant and auxiliary routes. The mail count would be conducted for 24 consecutive working days in September inclusive of the Labor Day holiday where either the employer or the carrier chose to count. Mr. Gordon had meticulously analyzed the data collected from the four-week 1999 mail count and the two-week 2000 mail.

During his testimony he elaborated on the methodology used in his analysis and shared the conclusions that he had drawn with the arbitration panel. In simple terms he concluded that the elements of the NRLCA’s mail count proposal would provide the opportunity for capturing the most accurate representation of the work performed by a carrier throughout the year. After his direct testimony Executive Committeeman Gordon was cross-examined at length by legal counsel for the Postal Service.

Upon conclusion of cross-examination Mr. Gan had an opportunity to ask further questions of Mr. Gordon on re-direct. The day ended with the neutral arbitrator, Mr. John Calhoun Wells, asking Mr. Gordon several questions and making some observations about the longstanding tension between the parties’ as to the appropriate time frame and the duration of mail counts.

The parties reconvene on September 18, 2001, for day 7 of the hearings.

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DAY 7: Contract Arbitration-September 18, 2001

The day began with legal counsel submitting exhibits for the testimony that would ensue. In addition legal counsel Michael Gan gave the arbitration panel a preview of the subject matter and what the NRLCA wanted to accomplish with the testimony and the exhibits that were to become a part of the record.

It is indisputable that, notwithstanding the efforts of the parties in the past, there is still a considerable problem in hiring and retaining leave replacements. Solving the problem is in the best interest of both parties. Toward that end the NRLCA has advanced proposals to improve the economic package of bargaining unit leave replacements. The NRLCA is seeking to eliminate the two-tier pay system and to establish step progression for RCR’s and RCA’s. Most of the day was spent in supporting that position.

Lead legal counsel for the NRLCA, Bill Peer, called NRLCA Executive Committeeman Donnie Pitts to the witness stand. Mr. Pitts testified that he began his employment with the Postal Service on December 6, 1969, as a rural carrier substitute (Designation Code 73). He became a regular carrier on August 9, 1980.

Subsequently, he became involved in the NRLCA and held several state union positions before being elected to the National Board. Mr. Pitts provided a history of rural leave replacements from the early 1960's until 1981.

He gave a detailed account related to the rate of pay calculation, contractual entitlements, and benefits available to the "73 sub" during that span of time and at what point changes were made. After a brief cross-examination by the Postal Service Mr. Pitts was excused from the witness chair.

NRLCA legal counsel then called NRLCA Secretary-Treasurer, Clifford Dailing to the witness chair. Mr. Dailing was asked to give an account of his employment with the Postal Service and his involvement in the union. He indicated that he had served for several years as a state officer before being elected to national office. He is beginning his sixth year as the national secretary-treasurer. He went on to say that he was hired as an RCR on March 6, 1982.

As a result of the Memorandum of Understanding signed on November 12, 1986, that provided for the conversion of RCR's, who satisfied the criteria of the MOU, to the new position of Rural Carrier Associate, Mr. Dailing was converted to RCA on April 11, 1987, and subsequently became a regular carrier on June 18, 1988. He explained that there were two more mass conversion dates, those being January 16, 1988, and February 23, 1991.

Thousands of RCR's were converted to RCA and were then able to bid on rural route vacancies. Mr. Dailing then completed the circle by detailing events and changes up to the present time. He then addressed the specific proposals that, if granted by the arbitrator, would result in a significant improvement to the economic package for bargaining unit leave replacements. Mr. Dailing underwent extensive cross-examination before being excused from the witness stand.

The neutral arbitrator noted that he appreciated the testimony not only because of the knowledge of Mr. Pitts and Mr. Dailing but because they had experienced the very circumstances that were the subject of their testimony.

NRLCA legal counsel then called immediate past President Steve Smith to the witness stand. He gave a very detailed historical perspective on how and why the L-route concept was developed and implemented in 1981. He also gave compelling testimony in support of the NRLCA's proposal to eliminate the L-route profile. The day ended upon the conclusion of the Postal Service's cross-examination of Mr. Smith.

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DAY 8: Contract Arbitration-September 19, 2001

After giving the arbitration panel a brief preview of the testimony that would be offered during the day, NRLCA lead legal counsel Bill Peer called NRLCA Executive Committeeman Bill Gordon to the witness stand. At the end of day 7 of the hearings past President Smith had offered testimony relative to the NRLCA's proposal to eliminate L-routes. Mr. Gordon's testimony would build on that theme.

Mr. Gordon began with narrative testimony regarding the evolution of the types

of routes existent in the rural craft and other developments that have occurred from 1953 until the present. However, Mr. Gordon's testimony focused on the very significant change that occurred in 1981, i.e., the L-route profile being added to the national agreement. The NRLCA believes that the conditions that existed then and lead to the agreement of the L-route provisions no longer exist. Therefore, all rural routes should now be evaluated under one formula.

Although modifications have been made to the original features of the L-route concept, the 1.64-minute credit for a curbside box remains. Based upon graphs developed after an extensive analysis of data provided to the NRLCA by the Postal Service, Mr. Gordon gave hours of painstaking and thorough testimony throughout direct examination and extensive cross-examination.

During his testimony he and legal counsel continually directed the panel's attention to the exhibits that were a visual reflection of the data that had been analyzed. Before stepping down from the witness stand the neutral arbitrator asked Mr. Gordon many questions in order to better understand the presentation and the intent of the NRLCA regarding the L-route issue. The neutral complimented Mr. Gordon for his knowledge and intensity exhibited during his testimony.

The next set of days for contract arbitration hearings is October 15th, 16th, 17th.

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### **DAY 9: Contract Arbitration, October 15, 2001**

The day began with NRLCA legal counsel apprising the arbitrator as to what subject area the NRLCA's first witness would address in his testimony. NRLCA President Gus Baffa was then called to the witness stand. Before giving testimony regarding several MOU's that the NRLCA wishes to continue or modify, Mr. Baffa was asked to detail his employment with the Postal Service and his union involvement.

He stated that he was hired as a designation 73 substitute in 1978 and became a regular carrier on an L-route in 1981. Within months of his career appointment he became a local steward. Later he was appointed as an area steward. In 1986 he was appointed as the State Steward for the Florida Rural Letter Carriers' Association. In 1991 he was elected to the National Board as an Executive Committeeman. He served from 1997-2001 as Director of Labor Relations and was elected as president in August of this year.

During his testimony Mr. Baffa discussed the MOU's that are numbered as .2, .8, and .11 in the National Agreement. He expressed his puzzlement as to the Postal Service's reluctance to renew MOU .2, an MOU that simply memorializes the parties' recognition and commitment to the evaluated pay system. Next, he spent considerable time thoroughly advancing the NRLCA proposals that are intended to improve and expand MOU .8, better known as the right-hand drive incentive MOU.

The NRLCA is seeking to increase the incentive from \$500 to \$1500 and to extend eligibility to bargaining unit leave replacements. Additionally, the NRLCA is attempting to incorporate an alternative incentive of \$1000 to defray the cost of purchase and installation of a right-hand drive conversion kit, again an incentive for regular carriers and leave replacements alike. Although it is hoped that in the future there will be more right-hand drive vehicles available to rural carriers, it is important to have the conversion incentive as an option should rural carriers

continue to have practically no opportunities to purchase adequately-sized, true right-hand drive vehicles.

Finally, Mr. Baffa did not fail to state the obvious. At the core of the NRLCA's desire to attain a new and improved right-hand drive MOU, is the enhanced safety to rural carriers that a right-hand vehicle provides. President Baffa concluded his direct testimony by voicing the NRLCA's preference that MOU .11, the Joint Education & Training Fund, be continued. He testified that past joint trainings underwritten, in whole or in part, by this fund have been acknowledged by the parties to have been mutually beneficial. After cross-examination Mr. Baffa was excused from the witness stand.

Lead NRLCA legal counsel Bill Peer then spoke on the record for the NRLCA with regard to MOU .13 and MOU .15. Mr. Peer sponsored the NRLCA proposal to continue the "economic re-opener" MOU with the modification that the NRLCA could seek in any year-not just the last year of an NRLCA National Agreement-to avail itself of more favorable terms achieved in the contract of other crafts. Mr. Peer averred that the economic re-opener language is the manifestation of a historical past practice and this is not the time to abandon this pattern. He concluded his direct testimony by stating emphatically, clearly, and unequivocally to the arbitration panel that MOU .15, the "L" Route Profile, must be deleted. After dogged, but brief cross-examination related to the economic re-opener proposal, Mr. Peer's testimony was concluded.

NRLCA Vice President Dale Holton was the next witness to be called to the witness stand. Mr. Holton gave considerable testimony in support of the NRLCA's proposal to have the EMA base raised from the present 35-½ cents to 42 ½ cents during the life of the contract.

His testimony consisted of references to professional studies and assessments of the cost per mile to operate a vehicle, the data extracted from the approximate 1000 submissions by rural carriers who responded to the survey regarding their actual expenses that was published in The National Rural Letter Carrier several months ago, his personal experiences, and the introduction and explanation of the "rural carrier factor", i.e., the extra expenses incurred due to the multitude of stops, hours of operation, road conditions, and the purchase price of an adequate vehicle, etc. He candidly stated that the parties have struggled with the EMA issue in every contract negotiations in an effort to find the perfect solution to this matter.

Historically, both sides have had consultants who could put forth data to support the position of their respective clients. In 1995 the parties agreed to a new concept in which the CPI-W would be used to determine what the rate of EMA should be. This was a dramatic departure from the status quo in which the price of gasoline was the sole determiner of the EMA rate. The CPI-W takes into account all of the factors related to the operation of a vehicle. However, in hindsight, it is the position of the NRLCA that the EMA base was set too low; therefore, the NRLCA is seeking to correct that imperfection. After brief cross-examination Mr. Holton was excused from the witness stand.

NRLCA legal counsel then called Mr. Kenneth S. Mericle to the stand. Mr. Mericle was retained by the NRLCA to assist in the interest arbitration. Mr. Mericle is an industrial engineer with expertise in job evaluations and work measurement. He

has an impressive background and has over twenty years of experience in his field. He is currently the Director of the School for Workers at the University of Wisconsin, a position he has held since 1992.

He began by informing the arbitration panel that he would speak to the following three items in his initial testimony: (1) an overview of the evaluated system; (2) the direct savings to the Postal Service that result from this type of compensation system; and (3), the indirect savings that accrue to the employer due to this type of compensation system. He proceeded to do so. Next, he educated every one present on the various pay systems that exist in the industrial setting.

Some have an incentive that leads to higher productivity. The incentive could be time-based or money-based. Our evaluated system has the time-based incentive that allows the employee to earn incentive time by being efficient and productive. In addition our pay system gives the employer the ability to know, to a reasonable degree, what labor costs will be in a particular time frame. The labor costs to the employer in a non-incentive system are much more difficult to predict and can fluctuate dramatically.

The hearing was recessed at an appropriate juncture in Mr. Mericle's testimony. He will continue his presentation on October 16th.

### **DAY 10: Contract Arbitration, October 16, 2001**

The only witness to take the stand on day ten was NRLCA consultant, Ken Mericle. He continued his direct testimony under the direction of NRLCA lead legal counsel, Bill Peer. His impressive testimony on this day consisted primarily of his assertions regarding the direct and indirect savings that accrue to the Postal Service due to the evaluated pay system. An example of direct savings cited by Mr. Mericle is the thousands of hours that are in "bank time" at any given point in time.

These hours of work are performed without compensation to the carriers until such time that 120 minutes are accumulated and a two-hour adjustment is processed. Indirect savings are somewhat less tangible but, nonetheless, with careful analysis can be measured and expressed in real dollars. Less need for workload management and fewer grievances are examples of indirect savings that result from the rural carrier pay system. After performing a staggering number of mathematical calculations and analyzing the products of that exercise Mr. Mericle was able to state unabashedly and with confidence that millions of dollars flow through to the employer.

Lead legal counsel for the Postal Service, Ed Ward, aggressively cross-examined Mr. Mericle for well over an hour. After the cross-examination NRLCA lead legal counsel, Bill Peer, exercised the right to ask questions of Mr. Mericle on re-direct. The day ended before the re-direct had concluded. Day eleven will open with Mr. Mericle still on the witness stand.

### **DAY 11: Contract Arbitration, October 17, 2001**

Day eleven began with the resumption of the re-direct examination of Mr. Mericle by NRLCA legal counsel, Bill Peer. This was followed by a brief re-cross examination of the NRLCA consultant by USPS legal counsel, Ed Ward. The NRLCA then called its next witness.



**NRLCA legal counsel, Michael Gan, gave narrative testimony that expanded on testimony given on day ten of the hearings by Ken Mericle concerning the greater degree of conflict in the workplace experienced by city letter carriers in contrast to rural letter carriers. It is the position of the NRLCA that the factor that is most responsible for the disproportion in the number of disputes that arise is the difference in the method of compensation, i.e., evaluated pay versus paid by the hour. Secondly, Mr. Gan set the stage for the upcoming testimony of Mr. Mericle regarding the relative worth of rural carriers and city carriers. Mr. Gan cited several quotes by the Postal Service and others that stated that the jobs are "essentially the same". Mr. Gan was briefly cross-examined by Mr. Ward.**

**Mr. Mericle was then recalled to the witness stand. Under the direction of Michael Gan, the direct testimony of Mr. Mericle began. He commenced this portion of his testimony by introducing the concept of "equal pay for equal work". He stated the principle is accepted and embraced by employers and employees alike to such an extent that it has been instilled into the American culture. He went on to inform the arbitration panel that he would spend this time to discuss the work content of the jobs performed by city letter carriers and rural letter carriers. In addition he would examine the method used by the Postal Service to evaluate jobs in order to determine their relative worth.**

**After thoroughly and methodically accomplishing what he set out to do, Mr. Mericle finished his testimony by drawing some conclusions. Although not identical in all aspects, the core functions that are performed in both crafts are similar. The jobs are "essentially equal". In fact there is more diversity within the respective crafts than there is between the two crafts. Finally, since the jobs are essentially equal the principle of equal pay for equal work should apply.**

**The next scheduled day of hearing is November 27th. Additional dates are November 28th, December 19th, December 20th, and December 21st.**

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## **DAY 12: CONTRACT ARBITRATION-NOVEMBER 27, 2001**

**The twelfth day of arbitration hearings began with Dr. Ken Mericle taking the stand to give testimony rating the jobs of city letter carriers and rural letter carriers, using the Postal Services own method for comparing the seven compensable factors of the two jobs. Dr. Mericle evaluated each position using these seven factors,**

- 1) Difficulty of work,**
- 2) Responsibility,**
- 3) Scope and variety of tasks,**
- 4) Environmental considerations,**
- 5) Skill and Knowledge,**
- 6) Experience Requirements,**
- 7) Public Relations Skills.**

**After giving an explanation of each of the factors and how they applied to each of the crafts he then gave his conclusions. Dr. Mericle concluded that of the seven factors, four were rated the same for both crafts, for two of the factors, the rural craft was rated above the city craft and for one of the factors he determined the city craft was rated above the rural craft. His conclusion was**

that the jobs are relatively the same with the rural letter carrier position being rated slightly higher. Therefore, the NRLCA's proposals seeking level six pay and the continuation of COLA are reasonable and justified. Dr. Mericle concluded his testimony and at that point was cross-examined very extensively by lead counsel for the Postal Service, Mr. Ed Ward. Mr. Ward questioned Dr. Mericle about his qualifications, about how he drew his conclusions and how he came to his final determinations. When cross-examination ended Dr. Mericle was excused.

Mr. Peer, lead counsel for the NRLCA, resumed the presentation of the NRLCA case by providing the next set of exhibits. Mr. Peer then called on NRLCA Executive Committeeman, Bill Gordon, to testify. Mr. Gordon began by outlining the points he intended to make with the aid of the provided exhibits. In his testimony Mr. Gordon covered level six pay and cost of living adjustments. He proceeded to go through the exhibits, giving a complete explanation of each exhibit. Mr. Gordon gave extensive testimony on the National Payroll Hourly Summary Report, comparing the respective city and rural costs.

He elaborated on the difference between the pay. Mr. Peer then questioned Mr. Gordon as to the affect that fluctuations in mail volume has on the rural carrier pay verses the affect that it has on city carrier pay. There was a comparison made of the city/rural annual salaries. Comparisons were also made of the work hours paid for an "unusual work day" (i.e., days after a holiday, Mondays, etc.) and the distinct advantage that city carriers have over rural carriers on those days. Daily and weekly overtime pay for city carriers and rural carriers were compared, again showing a significant advantage for city carriers.

A comparison of the non-productive hours for city carriers and rural carriers was also made. At this point the direct examination of Mr. Gordon was finished. As it was late in the day Arbitrator Wells suggested that the Postal Service hold off its cross examination of Mr. Gordon until the next day. Lead counsel for the Postal Service Mr. Ward had no objection to this and Arbitrator Wells declared the hearing in recess until the next day.

### **DAY 13: CONTRACT ARBITRATION-NOVEMBER 28, 2001**

The entire morning of day thirteen consisted of the Postal Service's cross examination of NRLCA Executive Committeeman, Bill Gordon. The Postal Service's lead counsel, Mr. Ed Ward, questioned Mr. Gordon extensively regarding the testimony that he had given on the previous day. Since it is well known that the Postal Service is adamantly opposed to rural letter carriers being granted level six pay, it was not unexpected that Mr. Ward's cross examination of Mr. Gordon would be an attempt to discredit the accuracy and assertions of Mr. Gordon's testimony related to level six pay. However, due to the intense and exhaustive preparation of the NRLCA team, particularly Committeeman Gordon, regarding the economic issues, the case for the economic enhancement of the rural carrier position was not derailed during the cross examination.

After the lunch break NRLCA legal counsel, Michael Gan, called Mr. Gordon back to the witness stand to give direct testimony concerning time standard proposals that are being advanced by the NRLCA. The proposals that were presented to the arbitration panel are the following:

- (1) Parcels = 1.5 minutes each,
- (2) Re-loading (replenishing) time = 5 minutes/day,

- (3) Unloading time = Actual time,
- (4) Edit book = 10 minutes/week for up to 10 entries, additional time for more than 10 entries, and
- (5) Case label maintenance = 10 minutes/week.

Mr. Gordon's testimony consisted not only of direct responses to counsel and the arbitration panel but he also reviewed numerous pictures for the arbitrator. These pictures had been entered as exhibits by the NRLCA. These photos showed privately owned vehicles laden with mail and parcels. They were particularly relevant to the NRLCA proposals related to parcels, re-loading time, and unloading time.

After Mr. Gordon's direct testimony was concluded the parties agreed that due to the lateness of the hour and the anticipated length of the Postal Service's cross examination, the Postal Service would cross examine him on the next hearing date.

However, the NRLCA had one more witness to give direct testimony in support of the time standard proposals, specifically those relating to edit books and case label maintenance. At this time immediate NRLCA past president, Steve Smith, took the witness stand to give direct testimony. Earlier the NRLCA had shown a video in which a California rural letter carrier, Mary Bence, was shown with a complete set of labels which she was handling and preparing to insert into the label holders on the case once she had removed the old labels. Obviously, those at the hearing did not see Ms. Bence complete the entire work function because it would have taken a considerable amount of time.

However, the several minutes of viewing gave the arbitrator a real sense of the effort and time involved. Past president Smith gave excellent testimony relevant to the two intertwined proposals by referring to the video and giving a narrative account of the history of the edit book and C.L.A.S.S. labels. During his succinct yet very thorough treatment of the issues he emphasized the justification for a proper time standard for both work functions; in addition, he rightly and repeatedly pointed out the shortsightedness of not giving sufficient time to allow the carriers to properly maintain the edit books. The cornerstone of address management and the ability to realize a return on investment in automated equipment is founded on timely, correct, and complete edit book

After the conclusion of Mr. Smith's testimony, day thirteen ended. It is expected that the Postal Service will begin presenting its case on December 19 immediately following the cross examination of Committeeman Gordon. In addition to December 19 the following dates have been scheduled for hearings: December 20, December 21, January 22, January 23, January 24, and January 25. At this time it is believed that the arbitration hearings may be concluded on January 25; however, more time will be afforded the parties if it is necessary.

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DAY 14: CONTRACT ARBITRATION-DECEMBER 19, 2001

Day fourteen began with Postal Service attorney, Jon Saperstein, cross-examining Executive Committeeman, Bill Gordon, concerning the direct testimony that he had given on November 28th. Mr. Gordon had previously sponsored the NRLCA's time standards proposals. Mr. Saperstein's cross-examination was as much narration and commentary as interrogatory in nature. Through the responses of Mr. Gordon

and comments by the questioner, the Postal Service was trying to point out to the arbitration panel that the proposals, taken in the aggregate, represent a significant amount of time- possibly well over four hours based on certain assumptions- compensable time with a considerable price tag- that would be added to route evaluations. The NRLCA acknowledges the significance of the result of all of the time standards proposals being granted by the arbitrator. However, we feel no compunction in seeking such improvements.

After the cross examination of Mr. Gordon had concluded, past national president, Steve Smith was called to the witness stand and briefly cross-examined by Mr. Saperstein regarding Mr. Smith's direct testimony on the previous hearing day. Mr. Smith had spoken in support of the NRLCA's proposal that would add a base time of ten (10) minutes to every route for work related to the edit book and for up to 10 entries during a mail count. Actual time would be given for each entry beyond ten entries. Mr. Smith acquitted himself well and was excused from the witness stand.

Following a break for lunch, Executive Committeeman, Bill Gordon, was called to the witness stand and gave additional testimony on re-direct under the guidance of NRLCA legal counsel, Michael Gan. Mr. Gordon was then subjected to a brief re-cross examination by Mr. Saperstein before being excused from the witness stand. At this juncture, at approximately 1:27 P.M. on December 19, 2001, lead legal counsel for the NRLCA, Bill Peer, proclaimed, "We rest." The National Rural Letter Carriers' Association had finished presenting its direct case. Of course, the NRLCA will have rebuttal time once the U.S. Postal Service completes the presentation of its case.

Within a minute, the United States Postal Service commenced the presentation of its case. The Postal Service's lead legal counsel, Mr. Ed Ward, read into the record a short statement stating that labor costs account for 76% of the Postal Service's costs, the economy is slowing, first-class mail is declining, and there are additional costs to the Postal Service due to the events of September 11th and the anthrax situation. He then called Mr. William Tayman, USPS Manager, Corporate Financial Planning, to the witness stand. Mr. Tayman gave extensive testimony replete with statistics that painted a very bleak picture of the Postal Service's future. Among the many assertions and conclusions that he repeatedly presented to the arbitration panel were the following: (1) Growth of all postal classes has slowed due to the weakening economy, (2) First-class mail growth rate will not return, (3) Costs are rising faster than revenue, (4) Key drivers of cost are labor/ personnel costs, (5) Rate increases are not the answer, and (6) Cost containment is the only answer.

Mr. Tayman stated that the Postal Service had incurred a deficit of \$1.68 billion dollars in FY 2001 and that FY 2002 did not look much better. On September 11th, before the terrorists attack took place, the Board of Governors had already approved a plan for FY 2002 that would result in a \$1.35 billion dollar deficit. Although AP-03 was 1.2% over plan in the current fiscal year, the first three AP's show a shortfall of \$520 million-actual vs. plan. If things do not go well, the Postal Service could have a \$2 billion or more deficit during FY 02. Earlier he had implored the arbitration panel not to grant the "additional and exorbitant demands" of the union. He advocated \$500 lump sums and the elimination of COLA. . Before concluding, he reiterated his constant theme that rate cases are not the answer and that cutting costs is essential, especially labor costs.

It was agreed the NRLCA would reserve its right to cross examine Mr. Tayman so that an out of town witness, who would not be available the next day, could be called to the witness stand. The Postal Service called Mr. Peter Bernstein to the witness stand. Mr. Bernstein is the vice president of RCF Economic & Financial Consulting. He and his firm have been consultants on several occasions to the Postal Service on volume analysis and projection. Additionally, he has testified at several rate case hearings. In fact, he had testified on December 13, 2001, during the current rate case hearings about technological competition and its impact on volume. He spoke at length about mail volume and the factors that impact it. He stated that population, the economy, postal prices, and competition are the main drivers regarding changes in volume.

To make a point regarding the negative effect of technological competition, he stated that 50% of households now have computers and he projected that 60% of households would pay their bills electronically by 2005. His direct testimony was concluded. He will be made available for cross examination at a later date. The neutral arbitrator then recessed the proceedings.

DAY 16: CONTRACT ARBITRATION, DECEMBER 21, 2001

Day 16 began with the Postal Service calling, Joe Alexandrovich, USPS Labor Economist-Labor Relations, to the witness stand. Mr. Alexandrovich gave extensive testimony regarding the view of the Postal Service that the evaluated system has been a great boon to rural carriers.

Basing his calculations on a 44 hour evaluation coupled with the fact that benefits for rural carriers are based on the evaluation and not 40 hours as the other crafts, he concluded that the evaluated system gave rural carriers real dollars that provided for a total compensation package equal to the other crafts, including the city carriers who have been upgraded to level 6. He testified that rural carriers enjoyed a higher rate of wage growth than the other crafts from 1971-2000.

He testified that rural carrier wages had grown in "real" terms and the other crafts' wages had gone down in real terms over the same period. He testified that rural carriers were paid more than workers in the private sector. However, when asked by Arbitrator Wells to cite a job in the private sector that was analogous to the job of a rural carrier, he struggled initially and was unable to do so. Eventually, he seized upon the HCR carrier as having a similar job. He testified that rural carriers have experienced an average of 3.3 pay increases (step increase, COLA, general percentage increase) a year since 1971. He testified that the rural craft has experienced a 120% growth since 1971.

The city letter carrier craft by comparison has only experienced an approximate 30% growth during the same period. He stated that the "craft benefited" from the no lay-off protection provision that rural carriers enjoyed as a result of the capped COLA in the 1978 National Agreement. He also lamented that the "moderate restraint" principle with regard to postal wages that had been advanced by arbitrators in the early 80's was yet to be fully realized.

At some point, he also stated that parity exists. Finally, the direct testimony was concluded.

Mr. Alexandrovich was cross-examined by NRLCA legal counsel, Bill Peer. Mr. Ward followed up with a brief re-direct of the witness that concluded with the witness stating again, for the record, "Wage parity does exist." That utterance has a familiar ring to it for rural carriers.

The Postal Service continued their case by calling USPS Senior Economist, Don Develin, to the witness stand. He gave a brief account of his educational background and his employment history with the Postal Service. During his testimony, Mr. Develin stated the cost to the Postal Service if various NRLCA proposals were granted by the arbitrator. Although the arbitrator will decide the length of the contract, Mr. Develin assumed a four year contract for his calculations. The following is a reflection of his estimates:

1. Upgrade to pay level of NALC = \$1.6 billion
2. General increases after the upgrade the first year at 1.5% each year for years 2,3,&4 = \$367 million
3. Continuing COLA with October 2000 as the base and including immediate roll-in for RCA's = \$549 million
4. RCA hourly wage on based on 2000 hours instead of 2080 hours = \$33 million a year
5. Having all newly-hired RCA's start with an hourly rate based on step 1 and moving all that are on the rolls presently to step 2 = \$204 million
6. Granting step increases to RCA's = \$70 million over four years
7. EMA with immediate increase of 3 cents to the base and an additional 4 cents by the end of the contract = \$212 million

After the witness had testified to the above, the parties agreed that it was a natural stopping point. Chairman Wells wished everyone safe travels and day 16 ended. The next hearing dates are January 22, 23, 24, and 25, 2002. Although the parties may take whatever time is necessary for a complete airing of the issues, it is still expected that the four dates in January will provide adequate time.

Day 17-JANUARY 22, 2002

Day 17 began with the Postal Services lead legal counsel, Ed Ward, offering some exhibits that the Postal Service had previously committed to producing. He then recalled Mr. Peter Bernstein, Vice President of RCF Economic & Financial Consulting. His firm provides volume forecasts for the Postal Service. He had testified on day 14 but travel commitments shortened his testimony and precluded cross examination.

However, it was agreed at that time that he would be made available for cross examination at a later date. An overview of his testimony on day 14 has been published on page 28 of the January 19, 2002 edition of The National Rural Letter Carrier. His testimony on day 17 was more extensive but generally mirrored his remarks on day 14. Among many other things, he said the following:

- *3.5% of all advertising dollars being spent on the Internet negatively impacts standard mail volume, by 2005 the percentage will rise to 4.5%
- *Standard Mail volume is growing slowly
- *the growth in First Class Mail volume is declining
- *billions of First Class Mail pieces will be lost to technological alternatives
- *the growth in Periodical Mail is declining
- *the growth in total volume is less than the population growth

- *there is little growth in parcels**
- *over 90% of all mail is not household to household**

Although his forecast seemed gloomy enough, under the direct questioning by Mr. Ward, the witness stated that the predictions were made using data collected prior to the events of September 11th and the anthrax situation; therefore, Postal Service's financial condition may be even graver. He said that the Postal Service is "facing stagnation" and that costs throughout the Postal Service needed to be controlled.

The Postal Service needed revenue to finance the costs of additional deliveries and the infrastructure. He stated that mail volume would not be enough to meet the financial needs. He said that rate increases above the rate of inflation result in less volume which in turn requires yet another rate increase, thus a vicious cycle that does not solve the problem. There needs to be rate moderation and cost moderation to stem the tide. Additionally, he said that increased labor costs make rate moderation difficult.

After finishing his direct testimony and undergoing cross examination, the witness was asked by the arbitration panel Chairman, Mr. Wells, what the Postal Service had to do to remain viable. Mr. Bernstein responded by saying that the Postal Service needed to be leaner and smaller, close cost negative post offices, and to embrace business economics.

Next, the Postal Service called former witness, Don Develin, to the witness stand. Mr. Develin had testified on day 16 of the hearings. His testimony that day focused on the projected costs of the NRLCA proposals. A summary of his remarks on that day are published in January 19, 2002 edition of The National Rural Letter Carrier. On this day, he testified that the proposals in the aggregate would cost the Postal Service approximately \$3.7 billion over four years. The cost of an upgrade to what is referred to as "level six" would account for \$ 1.55 billion of that amount. He said that from 1971 to the present, carriers have experienced an average of three wage increases a year. Wages have increased by \$29,149 over that time, \$954 of that coming in COLA increases, \$195 in general increases.

The employer believes COLA to be "an outdated wage benefit". Further, nationally only a small number of employees enjoy COLA. He contended that COLA is a "stealth element" and should not be a "given" in collective bargaining. COLAs linkage to the CPI-W makes it difficult to plan budgets and to set rates because of its unpredictability. An outside consulting firm estimates that inflation and COLA resulted in a 16.2% increase in wages in the last agreement. He also said that private sector employers who do have COLA obligations in the contracts with their employees have a more modest arrangement. He specifically alluded to UPS and its lump sum based, capped version of COLA. His testimony was in support of the Postal Service's attempt to eliminate COLA.

After lunch, Mr. Develin addressed "quit rates" and wage rates for rural carriers. The quit rate for regular rural carriers is .9%. It was his testimony that the current quit rate for full time employees in the private sector was well above 10%. The quit rate for RCA's in Fiscal Year 2000 was 12.9%. This is comparable to similarly situated employees in the private sector. Although he threw out several statistics with narrative testimony on this issue, his conclusion was that the quit rate is low because the jobs in the rural craft and the Postal Service generally,

are good jobs with generous wages and benefits with a no lay off protection for regular rural carriers.

His testimony was replete with statistics on the wage and benefit issue comparing postal employees, and specifically rural carriers, to private sector workers. He stated that in Accounting Period 7 Fiscal Year 2001, the cost per hour to the employer for a regular rural carrier was .04 compared to the private sector at .55. Additionally, the weighted average for RCA's was .54 an hour as compared to .65 an hour for a similarly situated employee in the private sector. Mr. Develin also addressed the issue of HCR contractors. There are 5,758 box delivery HCR's. The weighted average hourly remuneration is .64.

Mr. Develin was cross-examined by NRLCA lead legal counsel, Bill Peer. Due to the fact that part of Mr. Develin's direct testimony had referenced the UPS contract, Mr. Peer concluded his cross-examination of this witness by requesting that the NRLCA be provided with a copy of that document. The witness promised to do so.

At this point Mr. Ed Ward, the Postal Service's lead counsel, was prepared to take the witness stand. However, the NRLCA made a motion to the arbitrator that Mr. Ward's testimony was not necessary because Mr. Ward was going to recount and analyze all of the past postal arbitration awards and interject editorial comment throughout the presentation. The NRLCA's position was that the arbitrator only need look at the printed contracts. Within those booklets, one can find the manifestation of the decisions of previous arbitrators. After the motion was considered by the arbitration panel, the motion was denied. Postal Service attorney, Jon Saperstein, asked Mr. Ward to give some background as to his education and postal service employment. Mr. Ward provided an impressive educational and employment resume to the panel.

Sprinkled throughout his testimony were references to virtually all of the arbitrators who have issued decisions in Postal Service disputes with its major unions during the last twenty five years. He referenced the Volz Award-Mr. Volz was the arbitrator in the 1984 USPS/NRLCA interest arbitration proceeding-in which the arbitrator had concluded that approximate parity existed between the rural carriers and the other major postal unions. This was in reference to the attempt of the NRLCA to "catch up", i.e., recover the approximately difference in salary that resulted because of the capped COLA provision that was negotiated and subsequently ratified in 1978.

He also pointed out to the panel that the rural carriers had ratified negotiated agreements in recent years by overwhelming margins, agreements that did not include the "catch up". He cited the ratification of a negotiated agreement by 99.23% and then, almost mockingly, noted that a later ratification of a tentative agreement had squeaked by with only a 99.11% approval rating. The 99.11% reference was the ratification of the 1995-1999 National Agreement with only the state of Arizona voting against ratification. All of this was to show the arbitrator that apparently rural carriers have been happy with their lot.

Despite the angry denunciation by NRLCA arbitrator, past president Steve Smith, of the Postal Service's tactics on an earlier day of the proceedings, Mr. Ward read articles from The National Rural Letter Carrier that were published during the two instances when the NALC was attempting to decertify the NRLCA as the

collective bargaining agent for the rural craft. He also recounted the efforts of another union, the NPMHU (Mail Handlers) that attempted to, at a later date; remedy what was perceived to be a very unfavorable negotiated agreement. He quoted the arbitrator in that arbitration as having said, "deal is a deal." This quote and the related testimony was the last of many times that the Postal Service has told the neutral arbitrator, Mr. Wells, that he should not grant the rural carriers something that was negotiated in 1978 and something that the NRLCA has not been successful in achieving in negotiations since that time.

Mr. Ward went on to discuss the Fleischli Award. This is the award that gave the city carriers "level six", although it is now called "grade 1". after stating that, "We lost, big time", Mr. Ward went on to describe the process that followed the issuance of the award, a process in which he stated that the NALC made concessions related to work methods which save the USPS -100 million a year. Next, he discussed the recent Goldberg Award, the award for the APWU. Although he spent considerable time in doing so, the summation of his comments is that the award was a favorable one for the USPS. He was particularly pleased that Mr. Goldberg rejected the APWU's parity argument. From 1907 and until the Fleischli Award, the NALC and the APWU had experienced wage parity. Although there were some 58,000 upgrades granted in the recent APWU decision, most from level 4 to level 5, Mr. Goldberg did not grant an upgrade to the overwhelming majority of APWU members. Mr. Ward did not want that point lost on the neutral arbitrator.

Mr. Ward gave testimony concerning EVA over the last five years. Managers have to meet goals regarding service, finances, and employee satisfaction in order to receive this pay. He pointed out that the EVA payments are in lieu of step increases, general increases, and COLA. He said that the percentage of payout has diminished over time. He also discussed the cost of retirement and health benefits. The Postal Service pays billions of dollars related to retirement. Contributions to the health care premium are also a concern. The employer desires to decrease the amount of employer contribution.

Before ending his direct testimony, Mr. Ward stated that the Postal Service was million below plan for Quarter 1 Fiscal Year 2002. Volume is down 2.8 billion pieces (5.5%) as compared to SPLY (Same Period Last Year). He said that this was the single largest drop in recent history. In addition, revenue is \$1 billion short despite the decrease in 16,000 full time employees in the last 18 months.

Mr. Ward was cross-examined at length by NRLCA legal counsel, Bill Peer. After some brief re-direct questioning he was excused from the witness stand. The Postal Service then called Ms. Andrea Wilson, USPS Contract Administrator NRLCA/NPMHU, as its next witness. Ms. Wilson was asked to give a summary of her employment background with the USPS. She has been an employee for 34 years, starting as a clerk in Baltimore. She has been involved with the NRLCA at the Headquarters level since 1984 and was the chief spokesperson for the Postal Service in the 1999 and 2000 negotiations with the NRLCA.

She began her testimony by saying that the evaluated system is "not an incentive system", but there were some incentives in the system. She spoke of the short-lived S.E.T. program of a few years ago. She then listed "advantages" that rural carriers have over city letter carriers. She gave the following:

(1) Time standards for raw letter casing are better than the city carriers' have-16

as opposed to 18,

- (2) A better time standard for pull down-60 as opposed to 70;
- (3) Option of casing DPS mail;
- (4) 71% of rural carriers have Saturday as their off day compared to 18% of city carriers;
- (5) Rural carriers only have to work relief day on their own route and know one route;
- (6) One relief for each route gives better chance to get leave;
- (7) Only charged 8 hours of leave when on leave;
- (8) Overtime built into retirement;
- (9) PTF's guaranteed number of weekly hours, city PTF's are not;
- (10) No Sunday or Christmas work; and
- (11) Rural carriers are compensated for additional duties.

Ms. Wilson stated that the Postal Service is not willing to continue MOU .2 (the MOU wherein the parties in the past have agreed that the time standards, taken collectively, represent a fair day's pay for rural carriers) because the Postal Service believes the "time standards are not appropriate". She said that rural carriers work "substantially below the evaluated hours". To support that contention the Postal Service had looked at a 5 year period from FY 1997 through FY 2001. The data indicates that, on average, the actual work hours were 9.4% below the standard hours, with the breakdown being 9.8% for non-L routes and 9.0% for L-routes. In the most recent year, FY 2001, all routes were 10.4% under with L-routes being 10.1%. She noted that in FY 1997 L-routes were working 8.9% under. In 1984, the "bump" was 3.3%. She told the arbitration panel that carriers on a 44-K route, the average route, are being paid for 4 hours of overtime for which they are not working, this while volume is declining. She said that the NRLCA proposals would increase the evaluations of routes by 288 minutes which would increase the "bump" by 96.3%.

As she continued her testimony, Ms. Wilson said that the USPS proposals on mail count and time standards would "fix" the problem of the inappropriate bump. She testified that a two-week count is "as accurate and reliable as a four-week count". There has been no change to the time standards, yet the carriers have been the beneficiaries of new equipment and improved work methods, she said. She stated that the current time standards are "too liberal" and that the "outdated standards must be adjusted." This has given rural carriers a "windfall". The definition of a letter and a parcel are "unreasonable definitions". The Postal Service is proposing to change the definition of a parcel to be only those items that would not fit into a standard #1 mailbox. Also, the USPS is proposing to change the definition of a letter from 5 inches to 6 1/8 inches.

In response to the union's observation that the rural craft proportionately generates significantly fewer grievances, the Postal Service's witness stated that this was the case because of the hard work of both parties in seeking innovative ways to resolve disputes. Additionally, she said that there are less grievances concerning overtime. However, the relationship has not been without a cost to the Postal Service. Most notably, millions of dollars are spent to maintain QWL/EI, a process that nurtures the relationship that exists between the parties. She asked the panel not to penalize the Postal Service for the cooperative relationship that the Postal Service has already paid for at a considerable cost.

Ms. Wilson then spoke on the relief system saying that there had been some

problems in hiring and that the system was difficult to maintain. Hiring TRC's had helped. She gave a breakdown of the various leave replacement designations: 117 substitutes (73s), 444 RCR's (75s), 476 PTF's (76s), 10,827 TRC's (70/70-1s), and 47,162 RCA's (78s). Comparing PTF's to the other leave replacements was comparing apples and oranges. Acknowledging several NRLCA proposals that would enhance the position of the non-career leave replacements, she stated there was never any intention to grant career benefits to any classification other than the PTF's.

Before finishing her direct testimony, the witness repeated the main points on which she wanted the arbitration panel to focus. She stated that the evaluated system had advantages for both parties. (However, no one on the NRLCA team can recall any listing by the witness of the advantages for the Postal Service.) Bill Peer, NRLCA legal counsel, then cross-examined Ms. Wilson. During the cross examination she simply restated what she had testified to earlier. Mr. Peer suggested that some of the "benefits" to rural carriers alluded to by Ms. Wilson were mandated by law and were not the product of negotiations between the parties.

NRLCA panelist, Steve Smith, commented that it was the first time in his experience that he had ever heard the Postal Service say that the evaluated system was not an incentive system. He also stated that the most major change in time standards had been the DPS time standard, a standard for letters that resulted in the Postal Service getting more work done for less time credit; and, the carriers' extra effort was the logical explanation for the bump continuing to increase in the face of the diminished time standard.

Counsel for the Postal Service, Jon Saperstein, questioned Ms. Wilson about the 1990 MOU in which the USPS and the NRLCA agreed to hold in abeyance three provisions of the National Agreement in anticipation of the negative impact of DPS on route evaluations. Following testimony regarding that issue, NRLCA panelist, Steve Smith, made it clear that those carriers who agreed to carry overburdened routes exceeding 57:00 standard hours did the work at no additional cost to the Postal Service.

Ms. Wilson was then excused from the witness stand and the day ended.

DAY 18: JANUARY 23, 2002

On day 18 of the hearings the Postal Service called as its first witness, Mr. James Kiser, Manager of Finance, Richmond District. USPS attorney, Jon Saperstein, conducted the direct examination of Mr. Kiser. Mr. Kiser was asked to tell the panel of his educational and employment background. Mr. Kiser stated that he had a bachelor's degree in the area of business administration and finance. He began his employment as an emergency hire in the rural craft in Bluefield, WV, in 1978. After a short time, he became a city carrier and then went on to many other postal positions before getting his current assignment in 1992. He is very familiar with mail volume and the cost of mail volume analyses.

Additionally, he is experienced in assessing workload based on the volume and allocating work hours as the volume fluctuates. The only source of the data used is CDVP (City Delivery Volume Pieces). He told the panel that analyses of mail volumes are necessary to allocate delivery budgets, as an indicator of space

requirements, and to determine the size and structure of vehicles.

The rest of Mr. Kiser's testimony was in support of the Postal Service's proposal for a two week mail count during the period the Postal Service believes is the most average two weeks of mail volume. According to the data compiled, that period would be the last week of February and the first week of March. Mr. Kiser stated that there is a basic consistency to the up's and down's of mail volume. He testified that the volume is above average during Accounting Periods 1, 2, & 3. It drops off in AP 4 and goes back up in AP 5 and then "gravitates to average" in AP's 6 and 7. Beginning with AP 8 the average daily volume is negative for the rest of the Fiscal Year.

The Postal Service looked at data on volume for Fiscal Years 98, 99, 00, & 01. Mr. Kiser said that week 2 of AP 7 is the closest to average of any non-negative week and the volume for that week is .295% above the average daily volume. On the other hand, the NRLCA proposal for a four week mail count with the Labor Day holiday included is during a period in which the daily volume averaged 2.065% above the fiscal year average daily volume. Further, the day after Labor Day is 12.53% above the average daily volume of non-holiday days, and the highest of any of the holidays.

After concluding his direct testimony, Mr. Kiser was cross-examined by Bill Peer. In cross-examination, Mr. Kiser stated that the Postal Service's analysis was based on the data for Fiscal Years 1998 through 2001 because data previous to that was less detailed and did not count as many things. It was repeated that the data is solely based on mail delivered by city carriers and that these volumes represent 74% of business and residential deliveries.

In response to NRLCA panelist, Steve Smith, who made the point that mail volume delivered by rural carriers is primarily estimated using a linear measurement system, Mr. Kiser told the panel that at this time there is an actual piece count on approximately 60% of mail volume delivered by rural carriers. DPS mail and box holders can be counted and 34% of flats were now being counted on automated equipment. The arbitration panel chairman, Mr. Wells, was also interested in knowing if there was specific data on rural volume and if there would be any proportional difference between volumes delivered by rural carriers versus city carriers. The witness did not believe so. The cross-examination and questioning by panel members concluded and the witness was excused.

After lunch, Mr. Kiser was again called to the witness stand to give testimony regarding the cost of mail counts. He stated that counters are managers from within and contract individuals, usually retired postal employees who have experience with rural routes and mail counts. The numbers that Mr. Kiser arrived at are based on a study of the cost of the two week national mail count in FY 2001 (September 2000) in the former Mid-Atlantic Area and by the process of extrapolation he could give some firm numbers as to the cost Postal Service wide. 41,468 routes were counted. The total cost to the Postal Service was 389,526. 9,641 counters were needed.

On average, 1 counter was needed for 4.4 routes. The hourly cost of using a supervisor was .38. The hourly cost of using a contract individual was .00. Nationally, 19,321 extra work hours were needed daily. The witness stated that if there had been a four week count the cost would have been 388,573. He also

stated that a two week count is more accurate. The witness was then cross-examined. Before Mr. Kiser left the witness stand, NRLCA panelist, Steve Smith, stated that a longer period was better than a shorter period in ascertaining the proper evaluation of a route. Chairman Wells mused that there ought to be a "more sophisticated way" and that the mail count seemed to be a "primitive means in order to" get an accurate count. Mr. Kiser was then excused from the witness stand.

The Postal Service's next witness was Bob West. Mr. West gave an overview of his employment history with the USPS. He started in Alexandria, VA, as a city carrier, before serving in the military which included a tour in Viet Nam. After his military service was finished, he returned to the Postal Service and progressed through various positions. He has been at Headquarters since 1983 and has had involvement with the rural craft since 1978. He has been on several contract negotiating teams for the Postal Service.

Mr. West agreed with the NRLCA's history of mail count timeline which had been presented to the arbitration panel earlier in the interest arbitration process. However, he wanted to clarify for Chairman Wells that every count since 1995 has been a national count with the opt-in feature. Mr. West's direct testimony was of short duration. NRLCA legal counsel, Bill Peer, cross-examined the witness. During the cross-examination, Mr. West stated that the Postal Service wanted a count in late February and the first of March. He also said that a count in that time frame was "fairer, more representative". The cross-examination ended and the witness was excused.

USPS lead legal counsel, Ed Ward, again called Mr. Kiser to the witness stand. As Mr. Ward was about to question the witness, NRLCA legal counsel, Bill Peer, interrupted to inform the panel that he wanted to make a motion on behalf of the NRLCA. Mr. Peer explained to the arbitrator that the witness was going to give testimony related to a study that the Postal Service had conducted unilaterally and without giving notice to the union. The NRLCA contended that the study was a unilateral action that breached the legal mandate of good faith bargaining, was not in accordance with the established past practice of joint studies, and was a violation of Article 34. Therefore, the NRLCA made a motion to exclude both the exhibits and the supporting testimony that the witness was prepared to give. Once the motion was made, a flurry of animated exchanges occurred. After listening to both sides go back and forth, the Chairman conferred with his colleagues on the panel. The arbitration panel then went into executive session.

The panel returned and Chairman Wells announced the decision of the panel. He ordered the parties to prepare briefs on the issue and submit them to the panel by 10:00 A.M. the next morning. Due to this development, Mr. Ward told the arbitrator that the Postal Service could not continue its case until the matter was resolved. At that time Bill Peer told the panel that another day (s) of hearings would be necessary in addition to those already scheduled. That suggestion was taken under advisement as day 18 ended.

DAY 20-JANUARY 25, 2002

Day 20 of the arbitration hearing was called into session at 9:30 A.M. Friday, January 25, 2002. NRLCA consultant, Dr. Ken Mericle, was called to the stand to continue his rebuttal testimony that had begun on the previous day. He began by

rebutting what Postal Service representative, Bill Daigneault, Headquarters Labor Relations Specialist, had said about some of his calculations and conclusions. Dr. Mericle clarified his interpretation of overtime hours and explained the theory of built-in overtime. He next addressed the issue of 2080 and the number of work days and hours that workers are available. Dr. Mericle then challenged the Postal Service's assertion that carriers were "earning money and not working for it". He reiterated his conclusion that the Postal Service saves .5 million by allowing route evaluations to exceed the 57:36 (48K) evaluation.

Before concluding his direct testimony, Dr. Mericle challenged the analysis that had been put forth several days earlier by Postal Service witness, Mr. Alexandrovich. Postal Service lead counsel, Ed Ward, then began his cross-examination of Dr. Mericle. Mr. Ward questioned Dr. Mericle extensively about his conclusions concerning the unilateral time study performed by the Postal Service. Mr. Ward then moved on to attack Dr. Mericle's rebuttal of Bill Daigneault's testimony. The cross-examination concluded and the arbitration panel was given an opportunity to question the witness. Arbitrator Wells asked Dr. Mericle to give an overview of his testimony and explain to the arbitrator what points he would like the panel to take from his testimony. Dr. Mericle was specifically asked by arbitrator Wells his opinion of the Postal Service's study and the NRLCA presentation to change time standards. Dr. Mericle firmly stated he would not change the standards based on what either side had presented. Dr. Mericle's testimony concluded.

NRLCA counsel, Michael Gan, called Dr. Amy McCarthy to the stand to rebut the testimony of Mr. Alexandrovich. Dr. McCarthy was asked to give her educational background and her experience. Dr. McCarthy was testifying as an expert witness on wages, salaries, and benefits. She commented on annual salary versus hourly salary. She also testified on the Postal Services exhibits presented by Mr. Alexandrovich. Dr. McCarthy had recalculated all of the exhibits presented by Mr. Alexandrovich to more closely reflect actual employee compensation contrasting the Postal Service's slant toward employer cost. Dr. McCarthy noted that in May of 1978 the salary for a 40 hour city route and a 40 hour rural route was identical, \$501. She stated that by any of the generally recognized economic measurements, rural carrier compensation had not kept pace with the private sector since 1978. She made the comparison of a 40 hour rural route and a 40 hour city route. She also made a comparison of a 44 hour rural route and a 40 hour city route. She was critical of Postal Service's analyses based upon all employers regardless of the number of employees. She explained that it was more appropriate to use employers with 500 or more employees in order to reach any reliable conclusions. Dr. McCarthy then concluded her direct testimony.

Arbitrator Wells asked her what she would like the panel of arbitrators to "take away" from her presentation. Dr. McCarthy responded with two points: (1) city letter carriers are the only group that can be compared to rural letter carriers, and city carriers are paid more; (2) since May of 1978, pay increases for rural carriers have failed to keep them even with comparable employees in the private sector.

Postal Service lead counsel, Ed Ward, began cross-examination. At 4:00 P.M. cross-examination ended and with no further questions from the arbitration panel Dr. McCarthy was excused from the witness stand.

NRLCA counsel, Michael Gan, then called NRLCA Secretary-Treasurer, Clifford

Dailing, to the stand to rebut the testimony of Bob West. Clifford testified to the case set-up that Mr. West had described earlier. The case labels used were the actual case labels from Mr. Dailing's route. Clifford explained that his entire route was not represented on the equipment used by the Postal Service to demonstrate how a route is set up. He further explained there were two pieces of equipment missing from the Postal Service's example and the absence of that equipment left the impression that casing was much easier than it actually is. He covered the history of the casing equipment he had used on his route since he began his postal career. Postal Service counsel Jon Saperstein conducted a brief cross-examination of Mr. Dailing. There were no questions from the arbitration panel and Mr. Dailing was excused from the witness stand.

At 4:58 P.M. arbitrator Wells recessed the hearing until Thursday January 31 at 9:00 A.M.

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