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NOMINATIONS OF HON. JAMES H. BILBRAY, THURGOOD MARSHALL, JR., AND HON. DAN G. BLAIR

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF HON. JAMES H. BILBRAY AND THURGOOD MARSHALL, JR. TO BE GOVERNORS, U.S. POSTAL SERVICE, AND HON. DAN G. BLAIR TO BE CHAIRMAN, POSTAL RATE COMMISSION

NOVEMBER 14, 2006

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NOMINATIONS OF HON. JAMES H. BILBRAY, THURGOOD MARSHALL, JR., AND HON. DAN G. BLAIR

TUESDAY, NOVEMBER 14, 2006

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senator Collins.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order.

This morning, the Committee is considering the nominations of former Congressman James Bilbray and Thurgood Marshall, Jr., to be Governors of the U.S. Postal Service and of Dan Blair to serve as Chairman of the Postal Rate Commission. We are also very pleased to be joined by the distinguished Senator from Missouri, whom I understand has an appointment that starts right now, so I am going to defer the reading of my opening statement and call upon Senator Bond for the purposes of an introduction. Senator Bond.

TESTIMONY OF HON. CHRISTOPHER S. BOND, A U.S. SENATOR FROM THE STATE OF MISSOURI

Senator BOND. Madam Chairman, with great thanks and apologies, I have been summoned by the Leader for planning for the appropriations process, and I do appreciate the chance to go forward with introducing Dan Blair at his confirmation hearing, realizing that introducing Dan Blair to this Committee is a redundancy that is probably unnecessary, but I wanted the chance to brag on him for just a moment and his strong Missouri roots.

Born and raised in Joplin, Dan received both his journalism and law degrees from the University of Missouri. His mother lives in Joplin, and he has close family in Kansas City. His wife, Michele, grew up in Kansas City, and in the interest of full disclosure, his niece, Amy, is a valued assistant in my office. So I do not come to this with a totally impartial view.

First and foremost, Dan came to work in Washington for my very good friend, the late Congressman Gene Taylor, and Gene brought Dan to Washington, where Dan worked for him as chief counsel on

the former Post Office and Civil Service Committee. Dan eventually became staff director, and in that job he worked on postal reform, which you, Madam Chairman, your Committee, and I have worked so hard to move forward.

Dan's appearance today is a homecoming of sorts since he served admirably as former Senator Fred Thompson's senior counsel on the Committee for 4 years until the President wisely tapped Dan as part of his first-string line-up in 2001. And he has been with the Administration since that time as Deputy Director of Office of Personnel Management, and he served as OPM's Acting Director for 5 months last year.

He is a well-known friend of the Committee, and when confirmed, I know he will bring to his new job a wealth of experience, having helped shape postal policy issues during most of his career. I cannot imagine a more qualified and competent appointee. I applaud his nomination, and I strongly endorse the appointment and hope the Committee and the Senate will act swiftly to approve this nomination.

Thank you very much for hearing me, and thank you for your courtesies.

Chairman COLLINS. Thank you, Senator.

I am going to excuse Senator Bond now. I know he does need to leave, but I want to tell him that his strong endorsement of Mr. Blair means a great deal to this Committee. So thank you for being here.

I would like to extend to our two Members from the House of Representatives the opportunity also to proceed now since I know that you, too, have very busy schedules. And I will confess that my staff has not advised me as to who has seniority in the House, but I assume that it is Representative Moran, so I am going to call on him next. Thank you.

TESTIMONY OF HON. JAMES P. MORAN,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. MORAN. Thank you, Senator. Actually, I think Jim Bilbray has seniority.

Chairman COLLINS. Good point.

Mr. MORAN. I do appreciate the opportunity to be before you, Madam Chairman, and I am particularly pleased to present Thurgood Marshall, Jr., to the Committee and to speak in support of his nomination to the Board of Governors of the U.S. Postal Service.

I have over 1,400 people in my congressional district that work in Postal Service facilities and, of course, have been very much pleased to be able to work with the Postal Service and its private sector counterparts throughout my career. So that is one of the reasons I am particularly excited about Mr. Marshall going on the Board.

After moving to Virginia from New York City, the Marshall family has lived in my congressional district for over 30 years, and the nominee before you this morning and his two teen-aged sons have been constituents for most of those years.

[1] The prepared statement of Mr. Moran appears in the Appendix on page 23.

Mr. Marshall is a Northern Virginian, and we take pride in that. We first crossed paths when I was a freshman Member of the House and he was Director of Congressional Affairs for Vice President Gore. And in that position, he managed a team of congressional affairs specialists and made himself available to members on both sides of the aisle. He was superb in working in a bipartisan manner to achieve constructive legislative accomplishments.

He is a quick study, an honest broker, and an intelligent and persuasive advocate. He used to be on Speaker Carl Albert's staff and served on the staff of three different Senate committees. When he was working for the White House, Mr. Marshall was sensitive to the concerns that face all of the House and Senate Members on legislative issues, and even when there was not complete agreement, he would do everything he could to be responsive to our concerns. So he is a consummate professional.

Prior to his White House service, Mr. Marshall's experience included time spent on the staff of this Committee. That brought him in contact with many of the individuals and interest groups that regularly interact with the Postal Service Board of Governors, and he remained in contact with those groups and individuals over the years.

I have no doubt that Mr. Marshall's door is always going to be open to the stakeholders in the Postal Service if he is confirmed to the Board of Governors. And I know that his commitment to working in a bipartisan manner will serve the Board very well. Of course, he comes with valuable experience on a number of boards of directors. I am confident that as a member of the Board of Governors Mr. Marshall will not delve into areas that are the responsibilities of Postmaster Potter and the U.S. Postal Service management team, which I know is a concern that you do not want people on the Board micromanaging, and Mr. Marshall fully understands that.

His prior membership on other boards of directors has given him important experience with issues, though, that involve organizational ethics and compliance, performance measures and accountability, personnel management, and government contracting. And that will serve him very well in terms of his oversight responsibilities.

One final note, Madam Chairman, is to a personal tie that Mr. Marshall has to the Postal Service. His grandfather decades ago was a postman and sorted mail in Hawaii, on the island of Maui. So he has a personal connection, and for all these reasons, Madam Chairman, I believe that Thurgood Marshall, Jr., is extremely well qualified to become a member of the Board of Governors of the Postal Service and, if appointed, will serve the Board and the Postal Service with great distinction. So I do urge the Committee to give his nomination favorable consideration.

Chairman COLLINS. Thank you very much, Congressman. We very much appreciate your strong endorsement of the nominee and your taking the time to be with us this morning to present him.

Mr. MORAN. It was my pleasure. Thank you.

Chairman COLLINS. Thank you.

Congressman Bilbray, you have a familiar last name. It sounds quite similar to that of the nominee, and we are very pleased to welcome you as well.

TESTIMONY OF HON. BRIAN BILBRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BILBRAY. Thank you, Madam Chairman.

Madam Chairman, it is an honor to appear before your Committee to support the nomination of my cousin, James Bilbray, to the Board of Governors of the U.S. Postal Service. James' public service goes way back in many fields. He served in the Nevada National Guard, and actually his first elected position, a lot of people do not know, was as a regent for UNLV, University of Nevada, Las Vegas, otherwise known as the notorious "Running Rebels." And being a graduate from that school and one of the first classes from that school, James was very proud to go back as an elected representative in that university, that college.

Let me just say he served in a post as the Deputy District Attorney for Clark County, the Las Vegas area, and was chief legal counsel to the juvenile court. That is probably why he has done so well working with Members of Congress. [Laughter.]

He also was an alternate judge—there goes your nomination, Cousin.

Chairman COLLINS. A dangerous comment. [Laughter.]

Mr. BILBRAY. He also was an alternate judge for the City of Las Vegas. He served since 1986 in the House of Representatives until a period when I was able to relieve him for a short period of time, and he is very well respected across the political spectrum, Madam Chairman. I think that if you talk to anyone who has served with him and has had the pleasure of serving with him, even those of us who have had the pleasure of being relatives, you will recognize that his performance in the past has proven that he is willing to work with everybody and anyone if their intentions are well and good.

He is respected through those political spectrums, and I hope that you will consider him for the nomination and give him the consideration he deserves, even if he is a Bilbray. [Laughter.]

Mr. JAMES BILBRAY. And a Democrat.

Mr. MR. BILBRAY. Thank you.

Chairman COLLINS. Thank you very much, Congressman. It is evident that public service runs very deep in the Bilbray family, and we are very pleased that you would take the time to be here today.

I know that you, too, have a busy schedule, so I am happy to excuse you at this time.

Mr. BILBRAY. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. I am now going to resume reading my opening statement, which I know you have all been waiting for while we diverted for these introductions.

The Board of Governors of the U.S. Postal Service works in many ways like the board of directors of a large corporation. The Board selects the Postmaster General and together they direct the Postal Service, controlling its expenditures, conducting long-range planning, and setting policies on all postal matters. The Board's pri-

mary obligation is representation of the public interest. Fulfilling that obligation is a significant responsibility as the Postal Service faces increasingly complex policy choices.

James Bilbray currently serves as a member of the Board of Governors. He was nominated on August 1, 2006, to fill the remainder of a term on the Board that will expire on December 8 of this year. At the same time, the President also nominated Mr. Bilbray for an additional 9-year term, expiring December 8, 2015.

Mr. Bilbray has significant experience serving the public interest, as we have already heard from his cousin. I do want to add, in addition to his service as a representative of the people of Nevada, that he has held various other positions. I first got to know the Congressman when he served in 2005 as a member of the BRAC Commission. This is tough duty indeed, and I found him to be extraordinarily fair-minded as he weighed all of the testimony and the evidence that was brought before the Commission. And I very much appreciated the seriousness with which he approached that important task that had such consequences for communities across the United States.

Thurgood Marshall, Jr., as we have heard, is a practicing attorney, and he is a partner with Bingham Consulting Group. Mr. Marshall also has a long history of public service from his work as a staff member on committees here in the Senate, to his service as an assistant to President Clinton. I also want to point out that he serves as a member of the Board of Directors for Corrections Corporation of America. I point this out because this is a very large entity. This business is responsible for some 15,000 professionals nationwide, and I think that experience as a director on a board of a large employer will prove invaluable as the Postal Service faces challenges in its workforce composition.

The third nominee, Dan Blair, is no stranger to this Committee. We have worked very closely with him over the years. Senator Bond talked about his experience and background on this very Committee. I would note that he also served on the House Subcommittee on Postal Service, and he has done yeoman's work at OPM as well.

The Postal Rate Commission is an independent regulatory agency. Its five commissioners review the requests from the Postal Service for new domestic mail rates, fees, and classifications. It reviews these requests in public proceedings and then makes recommendations to the Board of Governors. I would also note that the Commission has the authority to propose changes in mail classifications and to investigate certain nationally significant complaints of postal customers concerning rates, fees, classifications, and services.

The Commission issues advisory opinions in response to requests from the Postal Service to change its services in any substantial way, and the Commission hears appeals from postal customers concerning decisions to close or consolidate retail Post Offices. For those of us who represent rural States where this is often an issue, that is indeed an important responsibility of the Commission.

The President has nominated Mr. Blair to become the Chairman of the Postal Rate Commission for a 6-year term that would expire in October 2012.

Again, I think that the Members of this Committee know full well how absolutely vital the U.S. Postal Service is to our society and to our economy. Currently, the fiscal status and the prospects of further declines in First-Class mail volume threaten the national commitment to affordable universal service, a commitment that I share with the Board of Governors and with the Commission members. These nominees appear to possess the knowledge, the experience, and the talent that are required to deal with the considerable challenges that lie ahead for the Postal Service, so I welcome them to the Committee and I look forward to hearing their views this morning.

I would note that each nominee has already filed responses to a biographical and financial questionnaire and has answered prehearing questions submitted by the Committee. They have had their financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which are on file and available for public inspection in the Committee offices.

Our Committee rules require that all nominees give their testimony under oath, so I would ask that you each stand so I can administer the oath. Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. BILBRAY. I do.

Mr. MARSHALL. I do.

Mr. BLAIR. I do.

Chairman COLLINS. Please be seated.

I would now like to invite the nominees to introduce any family members that they have with them. We have already met the cousin of Congressman Bilbray. It is my understanding, Mr. Blair, that you do have some family members present, so I would invite you to introduce them.

Mr. BLAIR. I have with me today my wife, Michele Blair, and my niece, Amy Blair, and a number of friends in the audience as well.

Chairman COLLINS. Great. We thank you very much for being here today and for your family's commitment to public service.

I think those are the only family members present, so we will now proceed with statements, and we are going to start with Congressman Bilbray.

TESTIMONY OF HON. JAMES H. BILBRAY, TO BE GOVERNOR, U.S. POSTAL SERVICE

Mr. BILBRAY. Madam Chairman, I really don't have an opening statement except to thank the Committee for working with me through this process and the fact that I believe that, having served in Congress, being part of this wonderful institution—which I guess when you look at what the public thinks about Congress, it is a little different than they do. But having served here and worked with such wonderful people on both sides of the aisle and in both Houses of Congress, I know that this is a great institution and one that has served this country well.

I think I can bring a balance and maybe a working relationship with the committees on both sides of the aisle and both Houses. I know there has been misunderstanding over the years between this

group. And I think part of it I would like to mention in my opening statement is the fact that I remember I served on the Advisory Board of the Ex-Im Bank, and the Ex-Im Board of Governors—which are full-time, by the way—they felt that they could not come down to the Hill and really discuss these issues because they thought they were crossing the threshold on lobbying. I think that if we could work together maybe between the Committee and the members of the Board of Governors, we can get past this gray area where the Board of Governors can have more input and when things begin, not at the end of a particular process so there is no feeling, well, why didn't you come forward at an earlier time and talk to us and tell us what your concerns were.

So I am hoping, almost like a liaison situation, where hopefully myself and others can work closer with the Committee so that we do not get to a position where we have misunderstandings on where the Board of Governors stands or individual members of the Board of Governors stand and the Committee.

So I am hoping that, like I say, as a former member that I can bring something to this Board of Governors that can reach out to both the Senate and the House committees to work together to have a more efficient U.S. Postal System.

Chairman COLLINS. Thank you very much. Mr. Marshall.

TESTIMONY OF THURGOOD MARSHALL, JR.,[1] TO BE GOVERNOR, U.S. POSTAL SERVICE

Mr. MARSHALL. Thank you, Madam Chairman. I am honored to have been nominated by President Bush on the recommendation of Senator Harry Reid, and I am honored to appear before the Committee this morning. I am also deeply grateful to my Congressman, Jim Moran, for his kind words and for taking the time to join us this morning to introduce me.

It is a special pleasure to appear before you under these circumstances because, as Congressman Moran mentioned, I have an important personal family connection to the Postal Service, and I have always had great respect for the Postal Service and for its employees. Indeed, the opportunity to work on postal issues during my tenure working at this Committee was one that I savored.

While I was working at this Committee, I also learned the value of dispensing with formal statements, so I would ask that my full statement be included in the record, and I look forward to your questions.

Chairman COLLINS. Without objection. Mr. Blair.

TESTIMONY OF HON. DAN G. BLAIR,[2] TO BE CHAIRMAN, POSTAL RATE COMMISSION

Mr. BLAIR. Thank you, Madam Chairman. I want to thank you for conducting this hearing today. I appreciate the many courtesies that you and your staff and Senator Akaka's staff and Senator Lieberman's staff have extended to me during this process. I also want to thank Senator Bond for introducing me today as well and reminding me of my strong Missouri roots.

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[1] The prepared statement of Mr. Marshall appears in the Appendix on page 41.
[2] The prepared statement of Mr. Blair appears in the Appendix on page 67.

I am extremely honored that President Bush would again nominate me for a position of public trust, and I greatly thank him for the confidence he has shown in me. Chairing the independent Postal Rate Commission is indeed a great privilege, and it is one that I undertake with great pride, should I be confirmed.

I approach this assignment with a tremendous sense of respect and welcome the Committee's support for the well-recognized independence and integrity that the Commission has, and I also note that the Commission has done yeoman's work over the past few years making recommendations on the introduction of new postal products. I hope to continue that tradition.

The current Chairman, George Omas, has done a good job in reaching out to the postal community and the Board of Governors. I plan to build on these efforts, and I look forward to working with him and my fellow commissioners as well.

I have a longer statement that I would ask be included for the record, but, again, I greatly appreciate you giving me this opportunity to testify today, and I am pleased I was able to appear on this panel with nominees Goody Marshall and Jim Bilbray.

Thank you very much.

Chairman COLLINS. Without objection, your full statement will be included in the record.

I am going to begin my questioning with standard questions that we ask of all nominees.

First, is there anything you are aware of in your background which might present a conflict of interest with the duties of the office to which you have been nominated? Mr. Bilbray.

Mr. BILBRAY. Madam Chairman, I don't know of anything. I served in the Postal Clerks Union when I was in college for 3 months, but other than that, I don't know of any potential conflict I might have. [Laughter.]

Chairman COLLINS. Mr. Marshall.

Mr. MARSHALL. No, Madam Chairman, I am not aware of any conflicts, and my office has established a process to help track that in the future.

Chairman COLLINS. Mr. Blair.

Mr. BLAIR. No, Madam Chairman. I did do an ethics letter for the designated agency ethics official, which the Committee has on file, and I would recluse myself from any potential conflicts.

Chairman COLLINS. Second, do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of this office? Mr. Bilbray.

Mr. BILBRAY. I don't know of any.

Chairman COLLINS. Mr. Marshall.

Mr. MARSHALL. I know of nothing.

Chairman COLLINS. Mr. Blair.

Mr. BLAIR. No, Madam Chairman.

Chairman COLLINS. And, third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed? Mr. Bilbray.

Mr. BILBRAY. I have no hesitation, even if it is unreasonable. [Laughter.]

Chairman COLLINS. Mr. Marshall.

Mr. MARSHALL. I have no hesitation either.

Chairman COLLINS. Mr. Blair.

Mr. BLAIR. None whatsoever.

Chairman COLLINS. Thank you.

I am now going to begin the non-standard questions. All of you have served on Capitol Hill for a number of years, and I have to tell you that I think that is a tremendous advantage. I mentioned to Mr. Marshall earlier—and I have talked to Congressman Bilbray—that there has been tension between the Board of Governors and this Committee, tension that I think could have been avoided by earlier and more frequent communication. I am pleased to hear your comments, Congressman, that this is one of your goals.

I would like to hear from all three of you how you think the Postal Board of Governors in particular, but also the Commission, when appropriate—obviously, the Commission is an independent regulatory agency and has a different role, a more constrained role in terms of communications. But I would like to hear each of you address the issue of understanding the congressional role in establishing overall postal policy and the laws under which you operate. Mr. Bilbray.

Mr. BILBRAY. Well, I think it is generally accepted, the fact that the Legislative Branch certainly has oversight and helps establish policy for the Board of Governors. In fact, one of the things that I have recommended to the Chairman—and I also did to other Members that I spoke to last week—was the fact I thought we should establish a subcommittee that is just basically aimed at working with the Congress. I think, and no question in my mind, that the general policy of where the Postal Service goes in the future, the Congress is the one that sets that policy, and then we carry it out. That may be different than some of my colleagues' feelings, but that is mine.

Chairman COLLINS. Mr. Marshall.

Mr. MARSHALL. Well, I certainly have great respect for the role that the Legislative Branch plays with regard to oversight and policy. I also think that my experience working in and around Capitol Hill can be a valuable asset to the Board. It has taught me the important role that politics can play in the policymaking process. It has taught me the value of taking into account constituent needs. And also it has taught me the value of polling, messaging, and customer surveys in that process.

Chairman COLLINS. Thank you. Mr. Blair.

Mr. BLAIR. Well, Madam Chairman, I appreciate the role that you see the Commission playing, and I approach this from the perspective that clear, open, and regular communications between the regulator and the Congress is essential if the regulator is going to accomplish the role that you expect of it.

Having come from Capitol Hill, you understand that the Commission implements the policy that the policymakers enact, and understanding the congressional intent in specific areas, understanding congressional concerns certainly go far in helping the regulator effectively perform its role.

Chairman COLLINS. Mr. Blair, in your roles as both the Deputy and the Acting Director of OPM, you have testified before this Committee twice on the subject of postal reform, and both times you presented the Administration's case very strongly for making the Postal Service the sole agency that would be responsible in the Federal Government for retroactively assuming the responsibility for the Civil Service Retirement System pension costs related to its employees' military service. I am sure that you remember that testimony, perhaps not fondly. [Laughter.]

After 3 years of extensive debate on this issue, in July, as part of an extraordinary effort to advance postal reform, the Administration, to its great credit, agreed to revise its position on that issue and that the entire military pension obligation should indeed be returned to the Department of the Treasury, as I had long advocated and as Senator Carper had long advocated.

To what extent, if any, were you involved in the Administration's final decision on this issue?

Mr. BLAIR. Well, I think that there were internal discussions going on at all points during the process, but I believe that it was important for the Administration in reviewing the overall package of postal reform to determine that, in order to move it forward some parties would have to give, some parties would have to take. And at that juncture, it was most important that the budgetary hit be minimized as much as possible.

Recognizing that the Administration took a very strong position on that end, I think it is to the Administration's credit in pushing forward the postal reform debate that we saw an effort to compromise in order to move the bill forward, and that the Administration wants to see comprehensive postal reform enacted.

Chairman COLLINS. And as I said, I really credit the Administration with continuing to work with us. I have had numerous meetings with White House officials, and I am really pleased that those meetings have been so constructive and produced such good results. Unfortunately, despite 3½ years of work by Senator Carper and myself, success in crossing the finish line has proven far more elusive than we ever would have imagined.

If, however, as we hope, postal reform is enacted before the end of the year, the Commission will have a very heavy agenda for 2007. You will be charged with implementing an entirely new rate-making process while deliberating on a pending rate case during the first quarter of the year.

As the new Chairman, how would you prepare yourself to deal with that very heavy agenda?

Mr. BLAIR. It is a heavy agenda, and it is one that the current Commission has been contemplating and working on. I understand that there have been working groups formed at the Commission. But I want to make sure that, if confirmed, once I go down there to properly analyze and explore to what extent the resources are available to carry out this mission, to make sure that we have those in place because the Commission is going to undertake a tremendous new role and will want to make sure that we meet the congressional intent in assuming those responsibilities.

I have no doubt in my mind that we can undertake it. Ever since the process of postal reform first began, it was contemplated that

in giving great new flexibilities to the Postal Service, Congress would also have to balance those with an empowered new regulator. And I think that Congress is doing the right thing in proposing that in its legislation, and I am ready, if confirmed, to tackle those new problems. And I would look forward to it.

Chairman COLLINS. Do you believe that the Commission at present is adequately staffed and has sufficient resources to take on these new responsibilities?

Mr. BLAIR. I would have to get down there to look at the staffing levels and determine if we have the right mix of skills available down there, if we have the right people with the right kind of talent. So I want to reserve judgment before I get down there, but I think given the new role for the Commission, it certainly envisions a more robust entity than what it is now, given that its new responsibilities are going to be much greater. And I think that going into that with my eyes wide open and realizing where Congress wants it to go would be a great benefit.

Chairman COLLINS. Mr. Bilbray and Mr. Marshall, the Collins-Carper postal reform bill is designed to foster more efficient postal operations by giving the Postal Service much more flexibility than it has now to set its own prices and to implement revised operating procedures. For market-dominant products, the average increase for each class of mail would be capped at the level of the CPI. A key assumption is that the level of services provided by the Postal Service will remain sufficient to meet the personal and business needs of the public. A major concern of mailers is that when the Postal Service projects that its costs are likely to increase faster than inflation during some period of time, it might decide to balance its budget by cutting services instead of by implementing more efficient operating practices. Our bill attempts to avoid that undesirable outcome by requiring the Postal Service, in consultation with the Postal Rate Commission, to develop and define service standards.

Do you agree with the recommendation, the provisions in this bill, that the Postal Service should establish service standards, performance goals, and report those on a regular basis on the Postal Service's website so that your customers, the Congress, and all interested parties can monitor the Postal Service's performance? Mr. Bilbray.

Mr. BILBRAY. Having served on the Board now for 3 months—this is my second meeting, actually, after being confirmed, this has been discussed, and I didn't see and didn't feel a lot of opposition, and I didn't feel opposition to this particular point.

One point, Madam Chairman, that I think was a concern is the cap—not the cap on the inflationary rate, but for each class. I know that the discussion has been that we—and I have asked for an opinion or an analysis of all classes, are they carrying their own load. And there is a feeling that there may be some classes within the Post Office that are maybe even losing money and that, if we cap that at the CPI, maybe the CPI should be across the whole board. In other words, the entire raise cannot be more than the CPI. But there might be some sub-classes within the overall Post Office that might have to be raised higher to bring them equal.

An example of that is—and I have not got the figures yet because it has not been provided to me yet—newspapers and magazines, that there is some feeling within the Administration of the Post Office that may be losing money and that we would never be able to catch up if each class is capped with the CPI.

I have not seen the figures yet, so I don't know if that is correct or not. But those are the kind of things that are of concern. But reporting to Congress and reporting to the public what we are doing in each area is not an objection of mine, and I think the public right to know is more important than the privacy of the system.

Chairman COLLINS. Mr. Marshall, what are your views on the idea of having service standards that would be published and available to the public?

Mr. MARSHALL. I believe the Postal Service should provide customers with useful and timely data regarding service standards and guidance as to whether those standards have been met. I understand that the Postal Service is responsive to the Government Performance and Results Act (GPRA), and I would expect the Board of Governors to play a role in matching those standards, consistent with the GPRA process, and applying those standards to postal management and postal practices.

I recall that during President Clinton's Reinventing Government Initiative there were only three agencies that first stepped to the plate and offered to make performance standards public, and the Postal Service was one of those three agencies. And I think that speaks well to its willingness to make those standards available to the public in a timely manner.

Chairman COLLINS. I want to turn to the issue of labor relations. This has been a longstanding postal issue, the need to improve labor-management relations within the Postal Service. Obviously, if anyone looks at the Postal Service, you see that a great deal of the costs are personnel related. You would expect that given the mission of the Postal Service.

Congressman Bilbray, I am actually happy to learn that you were a member of the postal union when you were in college for a short time because maybe you will bring some extra credibility to dealing with that issue. But is there anything in particular that you think the Postal Service should be doing to encourage and facilitate greater cooperation between postal managers and the postal unions? Mr. Bilbray.

Mr. BILBRAY. I have not—and, of course, I have talked to members, the heads of the different postal unions, the Postmaster General, his assistant. I was not aware that there is really any problem right now. They seem to like each other. The Postmaster General comes out of the system. He is not a newcomer into it. But, again, I have only been there for one meeting, the last meeting, and have not had time since I have been on the Board to really sit down and discuss this issue with members of the union as well as the Postmaster, except the fact they are just beginning, I guess, negotiations starting next week, and I think we will get a good feeling of how those negotiations are going. But I think good relations with labor—and I have always had a good relationship, even as a Congressman, with labor. And I really think that they are the back-

bone of our business. And so I feel a happy postman is a good postman. So I am hoping that improves.

Chairman COLLINS. Also, having dealt extensively not only with the unions but the Postmasters' associations, there is a lot of expertise there. There is a lot of wisdom in these groups, and I think most—not all, but most of the leaders of those groups recognize that the stakes are very high and they want the Postal Service to be a strong, economically viable institution that can continue to serve our country for centuries into the future.

So I think the more outreach that can be done, the better. I realize it is difficult during labor negotiations, perhaps, to have those kinds of discussions, but that is something I would urge.

Mr. Marshall.

Mr. MARSHALL. Well, as with any longstanding institutional relationship, particularly one with such a long and storied history, I suspect that in this instance an additional set of eyes and ears, particularly those of an independent member of the Board of Governors, can be valuable. And so I would hope that those of us who have an opportunity to serve on the Board of Governors will be able to help to encourage a cooperative spirit and to provide guidance, taking into account what we are able to pick up through those independent eyes and ears.

Chairman COLLINS. I think there is still work to be done in this area, and as evidence of that, I would share a personal experience where the Maine congressional delegation was recently invited to the opening of a new postal facility in southern Maine. We arrived to find an informational picket in place where members of the Postal Workers Union were picketing over what they felt were unfair schedule changes, adverse working conditions, and some safety concerns.

Needless to say, that took the celebration out of what was supposed to be the celebration of a state-of-the-art new facility, and the members of the delegation, including myself, decided not to participate.

I felt bad that those issues could not have been worked through earlier and that there was not better communication between the local managers and the union representatives. But as I will share with you, I have found that, for the most part, all of the various associations, whether it is the postal supervisors or the postmasters or the various—the Mail Handlers Union, the rural letter carriers, the letter carriers—I am undoubtedly forgetting one, but there are so many of them, and for the most part—there are always exceptions, but for the most part, they really care about sustaining the Postal Service for the future and working together, and they understand the need for legislation as well.

One of the major challenges is, of course, the decline in First-Class mail volume. This is a dangerous decline given how important First-Class mail is to support the institutional costs of the Postal Service, and, unfortunately, we see the Postal Service in a continuing decline as people turn more and more to the Internet for bill paying and for other services.

Declining First-Class mail volume reduces the revenue available to pay for institutional costs and places upward pressure on postal

rates, which in turn leads to further reductions in First-Class mail volume.

I think this needs to be a primary focus of the Board, and I realize you are both just getting into these issues. But, Mr. Bilbray, we will start with you since you are on the Board, albeit a new member. Are there ways that the Postal Service can reduce this very disturbing trend?

Mr. BILBRAY. Well, I think there are a couple. One is we are looking at new businesses within the purview of the postal system. The Postmaster General has said at the last meeting that we really have not done the job on international mail that we should. International mail could be a real profit center for the Post Office, and I think if we adjust it as we go along and find other areas within the job description of the postal system that we can help by bringing revenue up there, it would take the pressure off First-Class mail. Because I agree with you, I think First-Class mail is not only—I just do not see any increase in the percentage of it. I think it is going to go down. And, again, the worst thing when you are out—I mean, everybody that knows I am on the Board of Governors now, the first thing anybody says to me, "Don't increase my First-Class mail." They don't call it "First-Class," but I know what they mean when they say "mail." And I tell them about the proposal of forever stamps. Maybe this kind of pacifies them a little bit. But it is a sore spot with the general public, and we know that, and it causes more decrease.

The other thing is, of course, more efficiency, and a lot of it is done through automation, and some of the new automation programs really—we have reduced—the Post Office has reduced over 100,000 employees over the last 10 years with more efficient systems. There is not a lot more to give, but there will be more that will go down unfortunately, and I don't think any postman or clerk or mail handler will ever be replaced at this point, but they will be replaced by attrition, and we get the cost of the service down.

But, again, new products like an increase in international mail, people kind of look to the Post Office, and they go with FedEx or DHL, and they go with these other companies because they think that they can have a better delivery system, get it there faster.

We are cheaper. We can do it as well as they can. And as people become aware of this, I think we can increase our revenues for the Post Office and keep the costs down, and hopefully we won't have continually this spiral of First-Class mail, which is, again, as you increase the price, you reduce the volume and it keeps going down.

So I think that I am very impressed with the Administration of the Post Office itself, the Postmaster, his assistants, and the people around him. And they are very innovative, and I think that we are going to have to work on this over the years to keep the price down. And hopefully when I tell people, the Postal Commission, those dirty guys over there, they are going to raise it to 42 cents, it is not us, it is them.

Mr. BLAIR. Thank you. [Laughter.]

Mr. BILBRAY. They really get a little excited about it. Let's put it that way.

Chairman COLLINS. Thank you. Mr. Marshall.

Mr. MARSHALL. Madam Chairman, I believe that the bottom line is that the decline in First-Class mail volume absolutely needs to be addressed, not solely because a huge portion of the Postal Service's institutional costs are offset by First-Class mail, but also because high-quality First-Class mail service has been a hallmark of the Postal Service and has been a significant reason that the Postal Service has engendered such confidence from our citizens.

We are all acutely aware that the challenge is made all the more difficult by the national security challenges that the country faces, and as I stated in my prepared remarks, I would hope that the Postal Service can receive budgetary assistance on security issues, particularly research and development regarding the bioterror threat and related threats.

Chairman COLLINS. Thank you.

All three of you answered some questions in the pre-hearing questionnaire about Post Office closings. One area that is of particular interest to the general public and to the Congress is the transparency of those issues. Do you feel that it is appropriate for the Postal Service to be as transparent as can be about which Post Offices and postal facilities it plans to close and the reasons for closing them? Do you also feel that it is appropriate for the Postal Service to develop and publish standards that it plans to use to determine which facilities to close? Mr. Blair.

Mr. BLAIR. I have never heard a good argument against transparency. I think it is always important for a government institution to be as transparent as possible so that the public has a right to know and understands what it is doing. Developing clear guidelines in this area and adhering to them I think would go a long way toward solving the confusion that surrounds this area.

There is a clear statutory area in the closing of Post Offices, but with leased and rental facilities it gets much murkier. And for some communities, the leased or rental facilities are the only retail outlet they have. And so I think transparency and giving what the clear guidelines are that the community can follow would be helpful.

Chairman COLLINS. Mr. Marshall.

Mr. MARSHALL. I understand that the Postal Service has recently implemented a public meeting process during its efforts to consolidate mail processing facilities, and I certainly believe that is an important and valuable step. I also recognize that what is called for is a two-way dialogue in the process, and so I believe that providing standards for public analysis is an important step toward transparency.

I would also expect the Board of Governors to receive regular briefings and consultation on service measurements and consolidation options and to work closely with management in analyzing how those compare.

Chairman COLLINS. Mr. Bilbray.

Mr. BILBRAY. Closing anything is tough, as I knew in the 2005 BRAC Commission. One of the things that, of course, I thought was very effective was the fact that many of us traveled to different facilities and met with the people, saw the facilities. As the Senator well knows, the Pentagon did a miserable job on doing their part of the BRAC, in many cases we found out that no one had ever vis-

ited the facilities; in fact, the Pentagon admitted that in some places they Googled the information and decided to close a certain facility.

Nothing, I think, when you go to the Post Office system, when you go out to the rural areas in Nevada, Utah, and those areas, that little rural Post Office is as important to them as the big metropolitan Post Office in the middle of a big city.

I know that the Board and the Chairman have encouraged people visiting and members of the Board going out to some of these areas before we close. And I think we should do more of that to allow local input. And I know that you can look and say there is a little Post Office in Lamoille, Nevada, and it is 20, 30 miles from Elko. And it is not cost-efficient. It costs us money to run that facility. It does not take care of itself. But to the people around Lamoille and Elko County, that is an important facility. In the middle of winter to drive, it is like Maine, driving 30 miles in the snow and the bad weather to do certain things, to a Post Office, is tough.

The problem, we have a part-time Board, and it sometimes gets very difficult. We come almost every month to Washington to meet on these issues. To get members to go off to Point A, Point B, Point C to meet with people is tough. But we have got to do more of that, and it may be one of the reasons that we do not do as much and we do not meet as much as we possibly can is somebody told me at the Post Office that we reach a Hatch Act situation where we are all political appointees, but when you have so many meeting dates and you do so many things, even if we are only paid up to—what?—40 meetings. But if you reach over a certain limit, you reach the Hatch Act, and you cannot do that anymore. It might be something we might want to adjust down the line because I think it is important that we reach out.

In your facility, Portsmouth, New London, these kind of things, probably without a BRAC Commission that went out and looked at it, and if just the Pentagon could do it, those facilities probably would have been closed by the information just provided by the Pentagon in both those facilities. But as BRAC Commissioners went out and looked at these facilities, saw the need, saw the errors that were made in the projections by the Pentagon, we reversed those decisions, as you well know. And we did that across the country in many cases, even though we backed about 80 percent of the Pentagon recommendations.

I think we need to do something similar here where we can talk to people in Lamoille and find out, yes, it is not profitable to keep this facility open, but, on the other hand, there is something beyond economics when it comes to these rural Post Offices. And I imagine Maine has that problem worse than many States because of the winter weathers and inability to go to the bigger cities and do your postal business.

Maybe we can come up with more efficient ways, but those little rural postmasters are sometimes the key in a community. I know my great aunt in Louisiana back in the early 1900s was the postmaster of Ethel, Louisiana, and she was kind of a center of the community. She was also the midwife, too. But these are important situations, and I am very hesitant to close rural Post Offices be-

cause I think they are the backbone of the postal system. But I imagine some have to be closed. I don't think we will ever have a BRAC Commission for the Post Office system, but we can certainly get more involved, and maybe we need to work together with the Committee to find out how we do more meetings, how we go out and do these kind of things without crossing a threshold that puts us into a situation because—of course, I have got so many friends running for the Democratic nomination for President right now, I wish I was limited by the Hatch Act.

Chairman COLLINS. Thank you. It is obvious that you understand that issue very well, and I love that your relative both could deliver babies and deliver the mail. [Laughter.]

But that is an important issue. A lot of times the rural Post Office also is the town center. It is what brings people together. And I do have a deep appreciation, representing a large rural State, of how important those rural Post Offices are. So I very much appreciate your comments on that.

Mr. Marshall, I want to switch to one final issue, and I touched on this issue when we met in my office. The Postal Service has occasionally been criticized for offering products or services that are not directly related to the delivery of mail. And photocopying is one example, passport photo taking is another; postal money orders is a third; selling cards or wrapping materials is yet another example.

This is a difficult issue because in some very rural areas, the Post Office may have the only photocopier available for miles, and it is a real public service that you can go to the local Post Office and get something copied and pay a modest fee.

On the other hand, in other communities you have small businesses that are available, willing, and able to provide these services, and they do not like the idea of having to compete with the Postal Service, which has, obviously, some competitive advantages and has a monopoly on First-Class mail, and it creates an unfair playing field for a small business that is trying to compete with the same service.

What are your thoughts on how the Postal Service can strike the appropriate balance and not unfairly compete with small businesses?

Mr. MARSHALL. Well, this is certainly an issue that I want to study further. I am interested in learning how the Postal Service's private sector competitors have lined up their product lines. I am also interested in learning more about the Postal Service's product lines, usage, and costs associated with what they are engaged in with their product lines. And I am interested in customer survey data.

In light of my discussions with you, Madam Chairman, I am also very sensitive to the impacts that any such decisions would have on small businesses. I certainly recognize that, as Governor Bilbray has mentioned and as you schooled me on our visit, Post Offices do indeed serve as community focal points in many jurisdictions. And to the extent that there is a sliding scale that could be imposed in terms of the degree to which those services may be heavily relied upon in certain communities but less so in others, hopefully a balance point can be achieved on that sliding scale that takes those sensitive issues into account, so that services can be provided

where appropriate, but businesses and local small business efforts are not threatened.

Chairman COLLINS. Thank you. Mr. Blair, what are your thoughts on that issue?

Mr. BLAIR. Well, I think you eloquently stated the balancing between a large governmental entity which in some people's view would have the ability to cross-subsidize competitive services versus the ability of government to provide a basic service when it cannot be provided by the private sector.

I think what you want to do is—how do you strike that balance? I think that you have to look at it over a period of time. Maybe it is something that the Postal Service introduces, and then as the private sector enters the market, it slowly withdraws. I do not have an easy answer for you at this point, but you certainly recognize the public policy implications that the Postal Service competing with the private sector bring to the forefront. That was something that was struggled with in the original postal reform bill. I know that your postal reform bill addresses that the U.S. Postal Service will be only offering postal services. Sometimes when you cut the baby in half, neither party is completely satisfied, and it doesn't satisfy all parties. But recognizing the breadth and scope of the Postal Service and its ability to impact communities, both positively and negatively, I think that your approach in H.R. 22 took the right tack.

Chairman COLLINS. Thank you. Mr. Bilbray.

Mr. BILBRAY. I laugh at a story when I was in Congress. You know how sometimes we provide flags that have flown over the Capitol? I remember getting a letter from a couple of businesses that I should stop doing that because I was interfering with their selling of flags at their business. The same thing here in the Post Office. The fact is when I walk into a Post Office, I like the idea that you can buy the boxes, you can buy the packing material, you can buy the paper. I think these are related items to the Post Office. In some Post Offices, you can get passport pictures, and in my case, I can go down to the corner to the CVS or the Walgreen and get passport pictures. But in some communities you can't.

I think you have got to be very careful in trying to interpret what are Post Office-related businesses. And I think that what I have seen in the Post Office when I go into the Post Office, boxes that fit my package, I will come in, "You got a box that will fit it?" I don't think it is a real conflict with small business. I understand if you go down to the Post Office to get boxes, there is a place by the 7-Eleven down at the corner, and if you want to buy it down there and you want to package it down there, it costs about twice as much as if you went to the U.S. Post Office, and I am sure those kind of businesses would like to see us get out of the boxing and the packaging and the wrapping and so forth because they have to make a profit. But it is very much more expensive, and I think most of my people in my district, especially seniors, would rather go to the Post Office and get what they consider a reasonable deal and a full-service Post Office where they can help them package, and the people are very accommodating, help you find the right size box, the right size bubble wrap, and so forth.

So maybe I am just not as concerned as my colleagues are about our competition because if we want to keep First-Class mail down, we have got to expand into areas that are related. And I think what the problem is going to be here with the Committee, and maybe some others, is what is Post Office-related business. To some people, some of the stuff we do, it maybe is not. But I think it is related to the Post Office, and I think it is a service we provide to the public.

Chairman COLLINS. I think that is going to be an ongoing debate, and I very much appreciate hearing your insights on it.

I want to thank all of the nominees for appearing here today and for your willingness to serve. The Postal Service is such a vital institution to this country, and I think it is absolutely vital that we have highly qualified individuals on the Board of Governors, on the Postal Rate Commission, and I believe that the President has chosen very well in sending your nominations before this Committee. So based on what I have heard today, I look forward to supporting all three of you and quickly advancing your nomination to the full Senate. It is my hope that the Committee will be able to favorably report you later this week and that we can encourage the full Senate to confirm you shortly thereafter.

Without objection, the hearing record will be kept open until noon tomorrow for the submission of any written questions or statements for the record. Should there be any additional questions, I would encourage you to turn those around very rapidly because the Committee cannot vote to report you until we get your answers back to any additional questions.

I do not expect, judging from the widespread participation in this hearing this morning, that there will be a great number of questions. Again, thank you for your service, both past, present, and future.

This hearing is now adjourned.

[Whereupon, at 11:05 a.m., the Committee was adjourned.]

APPENDIX

PREPARED STATEMENT OF SENATOR AKAKA

Thank you very much, Madam Chairman. I join you today in welcoming our distinguished nominees, who I believe exemplify the best in public service. I also welcome their families and friends to the Committee this morning. And of course I welcome our Congressional colleagues who have introduced our nominees.

I am pleased to be acquainted with all three of these fine individuals. Mr. Bilbray and I knew one another in the House, and Mr. Marshall, whose mother is from Maui and a friend of mine, can be called a son of Hawaii. I am pleased to have worked with Mr. Blair in his capacity as Deputy Director of the Office of Personnel Management.

I believe all three nominees have the professional experience and qualifications to serve in the positions to which they have been nominated. They understand that sound management is key to the vitality of the U.S. Postal Service, and they share my belief that effective management demands accountability and transparency.

That is why I look forward to working with them, if confirmed, in meeting the challenges and opportunities facing the Postal Service.

I urge Mr. Blair, who will be Chairman of the Postal Rate Commission, to continue the gains made by the current PRC Chairman George Omas in creating an open environment and maintaining good relations with the Postal Board of Governors. I also urge Mr. Bilbray and Mr. Marshall to be independent and to express their opinions on how the Postal Service should be run today and in the future.

Thank you, Madam Chairman. I look forward to moving these nominations quickly. I wish all three of you well. You may be assured I support acting on your nominations quickly.

Prepared Statement of the Honorable John M. McHugh
U.S. House of Representatives
November 14, 2006

It is an honor and privilege to share with you my strong endorsement of the Honorable Dan G. Blair's nomination to be Chairman of the Postal Rate Commission. I have known Dan for nearly 12 years, and in particular, we worked closely for three years – 1995 through 1997 – on legislation to modernize our nation's postal laws. As the Staff Director of the former House Subcommittee on the Postal Service, which I chaired at that time, Dan was responsible for managing the Subcommittee's oversight of the U.S. Postal Service and directed the development of comprehensive postal reform legislation.

Dan was an easy choice to lead the newly created Postal Service Subcommittee in January 1995. He had already spent a decade as the Minority General Counsel of the former Post Office and Civil Service Committee, in which he led legislative and oversight efforts of the Postal Service. Dan's record speaks for itself, including his time on the Senate Committee on Governmental Affairs and his current position that he has held for the last five years as Deputy Director of the Office of Personnel Management. The President's nomination of Dan to be Chairman of the Commission reflects what is now an almost quarter of a century of public service, including extensive experience on postal matters.

Dan brings the knowledge, skills, and abilities to be an excellent leader of the Postal Rate Commission, particularly as we seek to enact legislation that would turn that entity into a new Postal Regulatory Commission. Dan would be the right choice at the right time to guide the transformation of this independent body. The Postal Service touches the lives of each of us, whether at home or at work, almost every day of the week. The postal and delivery sector is a critical component of our nation's economy, representing almost 9 percent of our Gross Domestic Product. An entity of that size and scope requires strong oversight to ensure the public interest is protected, and I heartily agree with the President's choice of Dan as the person needed to lead the independent Postal Rate Commission.

Thank you for your consideration of my views.

TESTIMONY OF CONGRESSMAN JAMES P. MORAN
ON THE NOMINATION OF THURGOOD MARSHALL, JR.,
TO THE BOARD OF GOVERNORS
OF THE UNITED STATES POSTAL SERVICE
BEFORE THE SENATE COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
NOVEMBER 14, 2006

Madam Chairman, I appreciate the opportunity to appear before you.

This morning, I am pleased and honored to present Thurgood Marshall, Jr., to the Committee, and to speak in support of his nomination to the Board of Governors of the United States Postal Service.

I have worked closely with postal employees, the leadership of the Postal Service, and their private sector counterparts throughout my public career. I am proud that over 1,400 individuals are employed at Postal Service facilities in my district, many of whom I count among my constituents. I have the greatest respect for the work performed by Postal Service employees and management, and the longstanding traditions they uphold.

I am especially pleased to join the Committee on this particular occasion.

After moving to Virginia from New York City, the Marshall family has lived in or near my Congressional District for over 30 years, and the nominee before you this morning, and his two teen-age sons, have has been constituents of mine for many of those years.

Mr. Marshall and I first crossed paths when I was a freshman Member of the House of Representatives and he was Director of Congressional Affairs for Vice-President Al Gore. In that position, he managed a small team of congressional affairs specialists, and he regularly made himself available to me and scores of other Members on both sides of the aisle. I found Mr. Marshall to be a quick study, an honest broker and an intelligent and persuasive advocate. This was not surprising as he had been a congressional intern on Speaker Carl Albert's staff and had served on the staff of three different Senate Committees.

When working for the White House, Mr. Marshall was sensitive to the challenges that Members of the

House and Senate face in dealing with legislative issues and constituent needs. Even when he and I disagreed on an issue, which was not often, I never doubted that he would be fully honest and objective in his responses to my inquiries, and would work with myself and others to reach a solution that would be in the public's best interest.

Prior to his White House service, Mr. Marshall's experience included time well-spent on the staff of this Committee. That brought him in contact with many of the individuals and interest groups that regularly interact with the United States Postal Service and its Board of Governors. He has remained in contact with these groups and individuals over the years, even as his work portfolio has shifted to other issue areas.

I have no doubt that Mr. Marshall's door will remain open to all USPS stakeholders if he is confirmed to the Board of Governors. And I know that his commitment to working in a bipartisan manner will serve the Board well.

Mr. Marshall also comes with valuable experience as a member of other boards of directors. This experience has given him insights into the delicate balance between boards and management, as well as an understanding and respect for the line that divides the role of directors from that of management. I am confident that, as a member of the Board of Governors, Thurgood will not delve into areas that are the responsibilities of Postmaster General Jack Potter and the USPS management team.

Mr. Marshall's prior membership on other boards of directors also has given him important experience with issues involving organizational ethics and compliance, performance measures and accountability, personnel management, and government contracting. This experience will serve him well as a member of the Board of Governors.

One final note, Madam Chairman, is to a personal tie that Mr. Marshall has to the Postal Service — one of his grandfathers, decades ago, delivered letters and packages, and sorted mail in Hawaii on the island of Maui.

For all these reasons, Madam Chairman, I believe that Thurgood Marshall, Jr., is extremely well-qualified to become a member of the Board of Governors of the United States Postal Service, and, if appointed, will serve the Board and the Postal Service with great distinction.

I urge the Committee to give his nomination favorable consideration.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.) James H. Bilbray, Jim Bilbray

2. **Position to which nominated:**
US Post office Board of Governors

3. **Date of nomination: August 1, 2006**

4. **Address:** (List current place of residence and office addresses.).

5. **Date and place of birth: May 19, 1938, Las Vegas, NV**

6. **Marital status:** (Include maiden name of wife or husband's name.) Married, former Michaelene Mercer married 1960

7. **Names and ages of children: Bridget Phillips (45), Erin Bilbray (35) Shannon Bilbray (32) Kevin Bilbray (deceased)**

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted. Las Vegas High School (1956) BYU (1956-57) UNLV (1957-1960) American University (1961) BA in Govt and Public Adm. American University (1962-65) JD

9. **Employment record:** List all jobs held since college and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.) Clark County Dep District Attorney 1965-69, Private attorney Las Vegas 1969-1987, 1987 to 1995 Member US House, 1995-2002 Partner Alcalde & Fay Arlington VA government affairs, 2002 of counsel Kummer Kaempfer Bonner and Renshaw, attorney Las Vegas, NV

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above. Member Board of Regents Univ of Nevada System 1968-73, Member Nevada State Senate 1981-86, Member Board of Visitor US Military Academy 1996-2000, Member National security policy Board advisory committee 1999-2000, Member 2005 BRAC 1005, Member California Nevada High speed train commission 2005 to 2008.

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any

corporation, company, firm, partnership, or other business enterprise, educational or other institution. Partner Alcalde and Fay 1995 to 2002, of Counsel KKBR present.

12. **Memberships:** List all memberships, affiliations, or and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable or other organizations. Knight of Columbus 1996 to present, Sigma Chi Alumni 1968 to present, UNLV Alumni Ass past Present, Sierra Club member.

13. **Political affiliations and activities:**

    (a) List all offices with a political party which you have held or any public office for which you have been a candidate. US House, Nevada State Senate, Democratic candidate

    (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years. National Committeeman for Nevada 1996 to 2004

    (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more during the past 5 years. Bryan Bilbray for Congress 2006 $1000 (cousin) , Casey for Senate 2006 ($1000) Darby for Congress ($500) Marshall for State Treasure (500) LaRocco for Lt Governor (Idaho) (500) Hafen for Congress (500)Cortez for Attorney General (500) Carden for Senate (500)

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements. Nevada National Guard Commendation medal, Honorary doctor of Law 2005 UNLV

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written. n/a

16. **Speeches:**

    (a) Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated. Provide copies of any testimony to Congress, or to any other legislative or administrative body. n/a

    (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it. none

17. **Selection:**

    (a) Do you know why you were chosen for this nomination by the President? Yes recommended from Senator Reid.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? Years of experience working with people and ability to obtain consensus agreements.

B. EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? I will keep my of counsel relationship with my law firm, and stay on the California Nevada High speed train commission until my term ends, This is a govt commission appointed by the governor of Nevada.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. I have no plans but will not remove option of changing law firms etc.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity? no

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? no

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If I live that long.

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain. Only when the voters defeated me.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. none

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation

or affecting the administration or execution of law or public policy, other than while in a federal government capacity. Working with the senate at present to obtain funds for dredging of Laughlin channel in Clark county Nevada this is a law client who I have register to represent until the end of the project Which should be September or October?

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? no

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. no

2. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details. no

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. no

4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

James H Billy being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

James H Billy

Subscribed and sworn before me this 3rd day of August, 20 06

TERRI SMITH
Notary Public State of Hawaii
No. 99-559537-1
My appt. exp. May 24, 2007

Terri Smith
Notary Public

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the Nomination
of James H. Bilbray to be
Governor of the United States Postal Service

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Governor of the United States Postal Service (USPS)? Because of my being recommended by the senate minority leader and my background in government

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain. No

3. What specific background and experience affirmatively qualify you to be a Governor of the Postal Service? Service in the both the Nevada Legislature, & the US House

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Governor? If so, what are they and to whom have commitments been made? No

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification. NO

III. Role and Responsibilities of Governor

6. What do you see as the main challenges facing the Postal Service? How should the Board of Governors work with postal management to address these challenges? To make sure that the USPS is able to compete in the ever-changing US and global market, The USPS must be able to offer a product that is cost effective and of a quality to be able to compete.

7. What do you think should be the Board of Governors' top priorities? To make sure that the USPS effectively can compete. Also to be a bridge with other executive branches and the legislative branch.

8. The Governors are chosen to represent the public interest generally. How do you plan to interact with various stakeholders interested in postal issues and how do you think as a Governor you can effectively represent their ideas? I believe that the USPS must interact with the public and I plan to encourage reaching out for public input, through regional and local meetings with the clients and public.

9. How do you view the role of a Governor of the Postal Service? What do you believe are the principal responsibilities of the Board of Governors? To set effective and fair policies for the governing of the USPS

10. What would you highlight from your experience that will enhance your effectiveness in this role? Past duty in Congress, and the 2005 ABRAC Commission where I attended dozens of meetings with the public and elected and appointed officials. I listened learned and responded in a fair and unbiased fashion.

IV. Policy Questions

Postal Reform and Financial Issues

11. What are your views on the extent to which fundamental reform is needed in the laws and regulations that govern the Postal Service? I need time on the Board to asses this question.

12. One of the goals of the reform legislation passed by the Senate (S.662) is to give the Postal Service more flexibility to operate like a business while also providing appropriate accountability mechanisms. How should the role and responsibilities of the Board of Governors complement or balance the role and responsibilities of the regulator under postal reform to ensure appropriate accountability? To encourage flexibility in pricing, outsourcing, and looking into optional plans of daily and weekend delivery.

13. How can the Board of Governors provide leadership in working with Congress and postal stakeholders to ensure that postal reform legislation is passed and effectively implemented? By working to be part of the solution and not a hindrance to reform.

14. Recent data show that the Postal Service is facing declining volumes in First-Class Mail, which is its largest revenue-producing area, due largely to competition and electronic diversion. What approach should the Postal Service take to maintain its viability and competitiveness? Electronic mail is the future, and the postal service must adapt or face additional decline in revenue. We must continue to develop ways of delivery that reduce the cost to the public and to the USPS.

15. Recently, the growth in the Service's operating expenses has outpaced its revenue growth. Many suggestions have been made on ways that the Service could reduce costs and improve productivity. How should the Board be involved in identifying areas for cutting costs and improving efficiency in postal operations? There must be ways to cut costs while delivering a quality product. I need to time to review options.

16. Personnel expenses (which include wages, employee and retiree benefits, and workers' compensation) have consistently accounted for nearly 80 percent of operating expenses, even though the Service has downsized its workforce. These personnel expenses will continue to dominate the Service's financial condition, as growth in benefit costs, and

retiree health costs in particular, continue to exceed inflation. What do you think the Service should do with respect to these circumstances? The future size of the USPS should depend on methods developed to process the mail. New advances should make it possible to provide decent wage to employees and at the same time reduce the manpower needed for such a process.

17. Some concerns have been raised about whether it is appropriate for the Postal Service to offer certain new products and services. What are your views regarding whether it is appropriate for the Postal Service to offer products and services that compete with private sector companies? The USPS needs to be competitive. The USPS should not be precluded from entering into areas that are compatible with the prime mission. They should not be hindered by not being allowed to be competitive.

Postal Rates

18. The Postmaster General and several Board members have expressed concern that the current ratemaking process is too restrictive and limits the Postal Service's ability to quickly adjust postage rates in a highly competitive and changing marketplace. Do you believe changes are needed in this area, and if so, what types of changes? Yes the Board should have more say in the ultimate cost of product.

19. Many postal customers are concerned about the prospect of more frequent and larger rate increases as the Service faces an increasingly difficult financial situation. Can the Service continue to operate by regularly increasing rates and remain competitive? What are your views with respect to the need and timing of rate increases? Cost is the number one concern I hear from the customers. 90% of all questions are on rates. The USPS must find ways to limit rate increases.

Facility Closings

20. One of the major initiatives discussed in the Service's Transformation Plan was its goal to optimize its mail processing and distribution network to reduce costs and improve efficiency. Recently, the Service announced that it will begin implementing numerous consolidations of mail processing facilities. Many stakeholders have questions about these consolidations. For example, some have said that the Postal Service has failed to adequately provide sufficient information to affected communities and stakeholders about the reasons for, and impact of, the proposed consolidations or closures. What information do you believe the Service should provide to the public about proposed consolidations of mail processing operations and closings of mail processing facilities, and how widely do you believe such information should be disseminated to affected communities and stakeholders? How can the Service ensure that its decisions related to closing postal facilities take appropriate account of community views and priorities and are fair and objective and perceived to be so? While a member of the 2005 BRAC we closed or consolidated numerous facilities. The best job in consolidation and closing was done by the ARMY. The Army met with local communities TAGS and other interested parties

and worked out the consolidations and closings. While not everyone was pleased 99% believed the process was fair and needed. The same type of process needs to be done with local especially rural communities before closures are announced. Community and legislative input is necessary.

21. A major issue frequently raised by the public related to the Postal Service's decisions on relocating or closing post offices or processing plants is that the Postal Service does not adequately involve affected communities in the decisionmaking process. What are your views on this issue? See answer question 20

22. Some stakeholders are concerned about the potential decline in delivery services resulting from consolidations and workforce realignment. How can the Board ensure that delivery performance does not decline as a result of facility consolidations? Each facility to be close or consolidated must be studies and input brought in from the community. A Board member should meet with the community.

Transparency and Accountability

23. Some mailers have suggested that the Service should establish a set of service standards for specific classes of mail and that the standards, performance goals, and performance be measured and reported regularly, with timely updates included on the Service's web site. Do you agree with the suggestion and should the Board encourage the Service to provide more transparency on its performance information? Openness is a must for any part of the government and this is certainly true of the USPS

24. The Postal Service is required to annually report to Congress on its plans and performance related to its major goals. This information is vital to congressional oversight. However, some concerns have been raised that the Service has not established goals related to major postal functions and operations. What can the Board of Governors do to provide leadership in this area? I intend to be a very active member of the Board and intend to work and meet with Congress and staff as much as possible. Unlike some I believe in Congressional oversight, and input.

Mail Safety and Security

25. What are the tradeoffs that should be considered to determine what actions USPS should take to enhance the safety and security of the mail? What are the potential impacts on postal operations and service delivery? How should the additional costs for enhancing mail security be funded – i.e., taxpayers or ratepayers? How should the Service manage risks posed by suspicious mail to enhance the safety and security of the mail? This is question I need more information. Even though I served on the House Intelligence Committee, I have been out of Congress since January 2005. I need more updating, but I can assure you I will study this problem.

26. What steps should the Postal Service be taking to maintain trust and credibility with its employees and customers that the mail system is safe? How can the Postal Service improve its response to hazardous incidents to ensure that appropriate safety procedures are understood and followed by all employees? See answer to Question 25

Workforce-Related Issues

27. The Service has projected that by 2010 about 75 percent of its executives and 50 percent of its managers and supervisors will be eligible to retire. How can the Board work with postal management to address these challenging succession, continuity, and associated cost issues? In your view, has the Postal Service taken sufficient advantage in recent years of the opportunity retirements offer to re-shape the workforce? This is a question I just have no idea on. I will make myself aware as a member of the Board over the next few months.

28. How do you believe the Postal Service can ensure that whatever steps it takes to realign its workforce is consistent with its universal service obligation and with any existing strategies on related issues such as automation, facilities consolidations, and worksharing? This again needs further study by me.

29. Performance-based compensation systems have recently been implemented for postal executives, as well as managers and supervisors. The success of these systems depends on the credibility, validity, transparency, and fairness of the performance measures and their. implementation. How can the Board ensure the credibility of the Service's performance-based compensation systems? I believe the Board needs direct involvement in this area.

30. Concerns have been raised regarding diversity within the Postal Service, particularly in the composition of top executives and in contracting practices. What role do you see for the Board of Governors in addressing these concerns? Like any private or governmental company or agency the Board must review annually the diversity figures to see that USPS is fair in employment and promotions factors.

31. The Postal Service is subject to Occupational Safety and Health Act (OSHA) workplace safety laws in the same manner as other employers. How can the Board of Governors ensure compliance with this law and encourage efforts to improve the safety of the workplace? I believe annual reports from OSHA should be made available to the Board, plus postal employees should have access to Board member through e-mail or other means to report uncorrected problems.

32. One longstanding postal issue has been the need to improve labor-management relations within the Postal Service. What can the Board of Governors do to encourage and facilitate greater cooperation between postal management and Postal Service labor

unions? I would encourage an annual retreat with management, the Board and representative of the unions.

33. Please describe the kind of labor-management relationship you believe is most desirable at the Postal Service, and the steps you believe should be taken to achieve it. Is there anything in your past experiences that demonstrate or sheds light on your approach or views in the area of labor management relations? I believe the USPS is the employees. It is unfortunate that the word for a crazy employee act is called going postal. As a Board we must do our best to make our employee happy to work for the USPS.

V. Relations with Congress

34. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee on the Congress if you are confirmed? Yes

35. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed? Yes

VI. Assistance

36. Are these answers your own? Have you consulted with the Postal Service or any interested parties? If so, please indicate which entities. Yes they are my own.

AFFIDAVIT

I,. James H. Bilbray, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-Hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

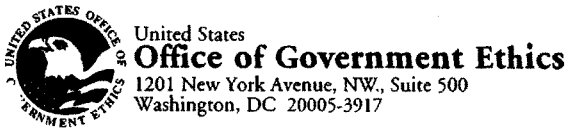
James H. Bilbray

Subscribed and sworn before me this 4th day of August, 2006.

Terri Smith

Notary Public

TERRI SMITH
Notary Public State of Nevada
No. 99-55937-1
My appt. exp. May 26, 2007



September 1, 2006

The Honorable Susan M. Collins
Chair
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, as amended, however, contains a provision in section 101(b) which allows the committee with jurisdiction to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive a financial disclosure report (SF 278) from any Presidential nominee for a position on the Board of Governors of the United States Postal Service, along with a written opinion from this Office regarding any possible conflicts of interest.

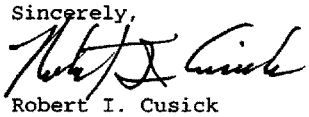
Therefore, I am forwarding a copy of the financial disclosure report of James H. Bilbray, who has been nominated by President Bush for the position of Member, Board of Governors with the United States Postal Service. Because Mr. Bilbray is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

The Honorable Susan M. Collins
Page 2

We have reviewed the report and have obtained advice from the United States Postal Service concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated August 23, 2006, from Mr. Bilbray to the U.S. Postal Service ethics official, outlining the steps that he will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with the actions he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Bilbray is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,



Robert I. Cusick
Director

Enclosures

TESTIMONY OF THURGOOD MARSHALL JR
NOMINEE TO THE BOARD OF GOVERNORS OF THE UNITED STATES POSTAL SERVICE
UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY & GOVERNMENTAL AFFAIRS
NOVEMBER 14, 2006

Madam Chairman:

I am pleased to have been nominated by President Bush on the recommendation of Senator Harry Reid and I am honored to appear before this Committee.

I am also deeply grateful to my Congressman, the Honorable Jim Moran, for his kind words and for having taken time out from the very important business that he conducts on behalf of the country and the people of the Eighth District so that he could introduce me to the Committee this morning. Like you he has been tireless and I look forward to his guidance if I am confirmed.

It is a distinct pleasure to appear before you this morning because postal issues have held my interest for many years and I am excited to have the opportunity to serve on the Board of Governors. Having had a grandparent who sorted and delivered mail, I have had a special attraction to the Postal Service, and the opportunity to work on postal issues during my tenure at this Committee many years ago was one that I savored.

I have always had great respect for the employees of our Postal Service -- employees whose service predates the founding of our country. That respect applies to the postal employees who regularly go above and beyond their duties to help individuals in need, sometimes at risk to their own safety, and it applies to each postal employee who provides the services that we all count on each and every day. That respect applies to Mr. John Carmody, the ever-reliable Letter Carrier on my route in Arlington and the hardworking and friendly postal employees at the post offices that I frequent in Arlington and Kinsale, Virginia. It also applies to the countless individuals who make it possible for me to send and receive bills, packages and correspondence reliably and safely.

Like so many businesses, the United States Postal Service finds itself at an interesting crossroads in its evolution because of challenges that it faces as a result of developments in business practices, advances in technology and competition from private delivery companies. The Postal Service confronts those challenges with a unique history and that history carries positives and negatives. On balance, I am hopeful that the many strengths of the Postal Service that can be found among its dedicated workforce and its ability to adapt are what will help it grow and thrive into the future.

As Postmaster General Jack Potter has properly framed it, "the key question is how can we continue to provide universal service to all Americans and still make it affordable in the face of potentially declining mail volume." We are all acutely aware that the question framed by the Postmaster General is made all the more difficult in the challenging security environment that confronts our Nation.

So I expect to see significant changes in this important American institution that has engendered such a high level of confidence from our citizens over so many generations. In particular the decline in First-Class Mail volume needs to be addressed. That is the case not solely because First-Class Mail covers more than two-thirds of the Postal Service's institutional costs but because quality First-Class Mail service has been a hallmark of the Postal Service. I hold to the view that employee protections should be respected, that security issues should be addressed with appropriate research and development assistance, that transparency should be enhanced wherever possible and that customer surveys and town hall listening sessions should continue to be relied upon, if not expanded.

I believe that the combined experience that I have gained through government service, the practice of law and through serving on several boards of directors will enhance my effectiveness on the Board of Governors of the United States Postal Service.

In anticipation of this hearing, I had an opportunity to meet with a bipartisan group of Committee staff a couple of weeks ago to address a number issues facing the Postal Service. While it is clear that I have much to learn, I look forward to maintaining that valuable dialogue, and delving further into each of the issues raised at that meeting and during this proceeding. And I look forward to making what I hope will be a worthwhile and lasting contribution to the U.S. Postal Service.

Millions of jobs and thousands of businesses large and small depend on the United States Postal Service, so it is critical that we take steps to insure that this cornerstone of the American economy will remain viable and affordable.

Once again, I would like to thank Congressman Jim Moran for his gracious comments and I would like to thank you, Madam Chair, as well as Senator Carper and Senator Akaka and the other Members of this Committee for providing me with the opportunity to appear here this morning.

I look forward to your questions.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Thurgood Marshall Jr

2. **Position to which nominated:**

   Member, Board of Governors, United States Postal Service

3. **Date of nomination:**

   September 26, 2006

4. **Address:** (List current place of residence and office addresses.)

   Residence:

   Office: Bingham McCutchen LLP
   2020 K Street, NW
   Washington, DC 20006-1806

5. **Date and place of birth:**

   August 12, 1956
   New York, New York

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Divorced (July 2001)

7. **Names and ages of children:**

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

   Phillips Exeter Academy (1970-1974) High School Diploma 1974
   University of Virginia (1974-1978) Bachelor of Arts 1978
   University of Virginia (1978-1981) Juris Doctor 1981

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

Partner (2001 - present)
Bingham McCutchen LLP
(formerly Swidler Berlin LLP and Swidler Berlin Shereff Friedman LLP)
Washington, DC

Principal (March 2006 - present)
Bingham Consulting Group
Washington, DC

Managing Director (2005)
The Harbour Group LLC
(a wholly owned subsidiary of Swidler Berlin LLP)
Washington, DC

Assistant to the President & Cabinet Secretary (1997- January 2001)
The White House
Washington, DC

Director of Congressional Affairs & Deputy Counsel (1993-1997)
Office of the Vice President
Washington, DC

Personnel Manager - Justice Cluster (Winter 1992)
Office of Presidential Transition
Washington, DC

Senior Policy Advisor - Gore Traveling Staff (Summer/Fall 1992)
Clinton-Gore Campaign
Little Rock, AR

Counsel (Summer 1988 - Summer 1992)
Subcommittee on Immigration & Refugee Affairs
Committee on the Judiciary
(Senator Edward M. Kennedy)
United States Senate
Washington, DC

Deputy Campaign Manager (Spring 1987 - Summer 1988)
Gore for President
Arlington, VA

Counsel (Spring 1986 - Spring 1987)
Consumer Subcommittee
(Senator Ernest F. Hollings & Senator Albert Gore Jr)
Committee on Commerce Science & Transportation
United States Senate
Washington, DC

Staff Director (Spring 1985 - Spring 1986)
Subcommittee on Post Office & Civil Service
(Senator Albert Gore Jr)
Committee on Governmental Affairs
United States Senate
Washington, DC

Associate (Fall 1983 - Spring 1985)
Kaye Scholer Fierman Hays & Handler
Washington, DC

Judicial Law Clerk (Fall 1981 - Fall 1983)
The Honorable Barrington D. Parker
United States District Court
Washington, DC

Summer Law Clerk (Summer 1980)
Office of the United States Attorney
Narcotics & Appellate Divisions
Southern District of New York
New York, New York

Summer Associate (Summer 1979)
Akin Gump Strauss Hauer & Feld
Washington, DC

Paralegal (Summer 1978)
Akin Gump Hauer & Feld
Washington, DC

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

Member, Interagency Task Force on United States Coast Guard Roles & Missions (1998-1999)

Chair, White House Task Force for the Salt Lake 2002 Winter Olympic Games (1998-2001)

Co-Chair, White House Task Force on Drug Use in Sports (1999-2001)

Member, Presidential Delegation to the Presidential Inauguration of Nelson Mandela (1994)

Member, Presidential Delegation to the Bosnia Elections (1998)

Member, Presidential Delegation to Colombia (2000)

Member, Presidential Delegation to the Olympic Games (2000)

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Senior Advisor, AllAmerica PAC (Senator Evan Bayh)
http://www.allamericapac.com

Board, Clinton School of Public Service, University of Arkansas
http://www.clintonschool.usasys.edu

Board, Corrections Corporation of America
http://www.correctionscorp.com

Board, National Fish & Wildlife Foundation
http://www.nfwf.org

Board & Trustee, The Third Way
http://www.third-way.com

United States Olympic Committee Ethics Committee
(Vice-Chair 2001-2004)
http://www.usoc.org

Task Force Member, Homeland Security Policy Institute & Critical Incident Analysis Group, Prison Radicalization Task Force (2006)

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other

organizations.

Member, American Bar Association
Standing Committee On Election Law, American Bar Association
http://www.abanet.org/publicserv/election.html

Member, Army Navy Club
http://www.armynavyclub.org

Member, National Bar Association
http://www.nationalbar.org

Board, National Womens Law Center
http://www.nwlc.org

Member, 116 Club

Trustee, Supreme Court Historical Society
http://www.supremecourthistory.org

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

Member, Rules Committee, 2004 Democratic National Convention
Delegate (Virginia) to the 1996 Democratic National Convention

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Senior Advisor AllAmerica PAC (Senator Evan Bayh)
Volunteer, Kerry/Edwards (Fall 2004)
Congressional Affairs Director, Clark for President (2004)
Volunteer, Gore/Lieberman 2000
Volunteer, Clinton-Gore '96

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

The following list was compiled based on a review of website information and electronic-mail receipts. It is possible that some contributions made by check, particularly in early years were missed.

2006

Clinton for Senate	$1000
D C C C	$1000
Ford for Senate	$500
Webb for Senate	$250
Franchot for Comptroller	$250
Akaka for Senate	$500
Corrections Corporation PAC	$5000
AllAmerica PAC	$1000
D S C C	$500
D S C C	$1000
Halter for Governor	$1000
O'Malley for Governor	$250
Brown for Senate	$500
Mfume for Senate	$500
Ivey for State's Attorney	$250
Maffei for Congress	$500
Biden for Attorney General	$500
Halter for Lt Governor	$500
Cardin for Senate	$500
Towns for Congress	$500
Lawton for Delegate	$500
Pryor for Congress	$250
O'Malley for Governor	$250
Rendell for Governor	$250
Ford for Senate	$500

2005

Corrections Corporation PAC	$5000
North Dakota Democratic Party	$237
Clinton for Senate	$1000
Pryor for Senate	$500
Towns for Congress	$500
Whitehouse for Senate	$500
Clinton for Senate	$250
Eve for Lt Governor	$500
Kaine for Governor	$500

2004

Corrections Corporation PAC	$5000
Rangel for Congress	$500
Boyd for Congress	$500
Clark for President	$1000
Kerry for President	$1000
Boxer for Senate	$500

	Millender-McDonalds for Congress	$500
	Kerry for Senate	$500
	Jennings for Congress	$500
	Kerry for Senate	$500
	Kerry for Senate	$500
	Lincoln for Senate	$500
	Thompson for Congress	4500
	Milkulski for Senate	$500
	Kerry for Senate	$500
	Bowles for Senate	$500
	Jennings for Congress	$250
	Clinton for Senate	$250
	Leahy for Senate	$250
	Metzl for Congress	$250
	Metzl for Congress	$250
2003		
	Swidler Berlin PAC	$962
	Leahy for Senate	$1000
	Bayh for Senate	$1000
	Cantwell for Senate	$1000
	Bayh for Senate	$500
	Scott for Congress	$500
	Jennings for Congress	$1000
	Ford for Congress	$500
	Conyers for Congress	$500
	Quigley for Congress	$500
	Clark for President	$500
	Leahy for Senate	$500
	Leahy for Senate	$250
	Davis for Congress	$250
	Rangel for Congress	$500
	Cauthen for Sheriff	$750
2002		
	Swidler Berlin PAC	$1184
	Bowles for Senate	$500
	Blinken for Senate	$500
	Reid for Senate	$500
	Pryor for Senate	$500
	Pryor for Senate	$500
	Kirk for Senate	$250
	Wofford for Congress	$250
	Shriver for Congress	$250
	Leahy for Senate	$250

Booker for Mayor	$1000
Burris for Senate	$250
Cuomo for Governor	$2000
McCall for Governor	$500
Rendell for Governor	$500
Ford for Congress	$500
Texas Democrats for Senate	$250
Reno for Senate	$500
Romney for Governor	$250
Richardson for Governor	$500
Townsend for Governor	$500
Underwood for Governor	$500
Whitehouse for Attorney General	$500
Emanuel for Congress	$250
Holden for Congress	$250
Johnson for Congress	$250
Lawton for Delegate	$250
Leadership '02 PAC	$500

2001

Swidler Berlin PAC	$1184
Collins for Congress	$750
Romney for Governor	$250
Leahy for Senate	$750
Landrieu for Senate	$500
Cantwell for Senate	$500
Leahy for Senate	$250

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Secretary of Transportation's Award for Outstanding Government Service
United States Coast Guard Distinguished Public Service Medal
Federal Government Meritorious Service Medal
New York City Riot Relief Fund Scholarship
Named One Of Washington's Top Lawyers For Campaign & Election Law, Washingtonian Magazine, December 2004
Named One Of Newsweek Magazine's Top 100 People to Watch in the New Century, April 1997

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

Copies of the following are attached hereto:
Burton & Marshall, "The Use of an Inner Circle of Advisers Has Made the Cabinet Less Significant: CON" in Watson & Freeman, Debating The Presidency pages 141-150 (2005)
Backstory, The Crisis Magazine (May/June 2004)
Let South Africa Decide, Legal Times (September 2003)
Testimony before the United States Senate Committee on Commerce, Science & Transportation regarding the State of the United States Olympic Committee (January 2003)

16. **Speeches:** Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

Although I have delivered a number of speeches over the past ten-plus years, it has been my practice to proceed from notes rather than formal text.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I believe that I was nominated because of the judgment that I have displayed and the experience that I have gained working in government and in the private sector.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe that my experience in government and in the private sector combined with prior work on postal and federal civil service issues qualify me for this appointment

B. EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Because this is an appointment to a part-time government position, I do not plan to sever connections with my present employers, business associations or organizations. However, if confirmed, I intend to work closely with the United States Postal Service Office of General Counsel and with my law firm ethics counsel to avoid any potential conflicts of interest.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

   Please see response to Question B.1 above.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

   Please see response to Question B.1 above.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

   No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

   Yes.

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.

   No.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   None.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

   I have handled a range of legislative issues for a number of clients since entering private practice in 2001. That work has included efforts to gain support for

particular legislative positions, efforts to provide briefings and information regarding client interests and projects, and efforts to counsel clients responding to witness interview and testimony requests from congressional committees. I can think of no organizations with which I have been involved that might pose a conflict of interest or an appearance of a conflict with my potential service on the Board of Governors of the United States Postal Service. In addition to work for the following clients, I have also worked to keep congressional offices informed about the work of the National Fish & Wildlife Foundation and to seek reauthorization of the Foundation; that work has been pursued in connection with my service on the Foundation's Board of Directors.

Florida Power & Light Company
Dean Foods Company
Suiza Foods Corporation
Western Systems
Ira Smolev
United States Chamber of Commerce Institute for Legal Reform
Duke Energy International
Airbus Industrie
National Association of Chain Drug Stores
Asbestos Study Group
PacWest Telecomm
Global Crossing
AES Telecom
RCN Telecom Services
El Paso Global Networks
ICG Communications
Cbeyond
Media & Democracy Coalition
International Relief & Development
Wesley LLC
Andrew Corporation
Major League Baseball Players Association
Employees of Enron
Amtrak
Brian Markison - Bristol Myers
Vonage Holdings Corporation

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.**

   No.

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

   No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   Civil lawsuits are regularly filed against the Corrections Corporation of America, on whose Board of Directors I currently serve. I believe that I have been named as a defendant in lawsuits filed against the Corrections Corporation of America. To my knowledge, no such lawsuit has alleged improper action outside my official capacity.

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

   None.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

THURGOOD MARSHALL JR being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Thurgood Marshall Jr.

Subscribed and sworn before me this 29th day of September, 2006

Manami F. Elwell

Notary Public

Manami F. Elwell
Notary Public, District of Columbia
My Commission Expires Jan. 1, 2011

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the Nomination
of Thurgood Marshall, Jr. to be
Governor of the United States Postal Service

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Governor of the United States Postal Service (USPS)?

   I believe that I was nominated because of the judgment that I have displayed and the experience that I have gained working in government and in the private sector.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

   No.

3. What specific background and experience affirmatively qualify you to be a Governor of the Postal Service?

   My years of public service have given me an understanding of the importance of policy issues. I have experience in gathering information from competing interests during the development of policies and strategies and I believe that experience will serve well should I be confirmed as a Governor.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Governor? If so, what are they and to whom have commitments been made?

   No.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

   Not to my knowledge. If any issues arise, I will consult immediately with the Postal Service Office of General Counsel. In addition, Ethics Counsel at my law firm have developed a comprehensive conflicts check process and I have been assured that this process can and will be in effect for matters potentially relating to the Postal Service.

III. Role and Responsibilities of Governor

6. What do you see as the main challenges facing the Postal Service? How should the Board of Governors work with postal management to address these challenges?

It is important for members of the Board of Governors to bear in mind that the Postal Service is a self-supporting agency that provides a valuable service to the American public. Its primary product, First-Class Mail, appears to be under great pressure from competing technologies. The role of the Board of Governors is to work with management to ensure that the Postal Service takes actions that will enable the Postal Service to continue to support itself while also providing attractive and affordable services.

7. What do you think should be the Board of Governors' top priorities?

The Board's top priority should be to set long-term goals to enable the Postal Service and its leadership to address the challenges presented by the slowing growth of First-Class Mail and to hold management accountable for achieving those goals.

8. The Governors are chosen to represent the public interest generally. How do you plan to interact with various stakeholders interested in postal issues and how do you think as a Governor you can effectively represent their ideas?

It is important for the Postal Leadership, including its Board of Governors to meet with postal stakeholders. As Secretary to the Cabinet, I developed significant experience gathering information from a wide range of sources and using that information to develop public policy. Interacting with a wide variety of stakeholders is a vitally important way to enhance one's understanding of the interests of the many groups who use and rely on the United States Postal Service.

9. How do you view the role of a Governor of the Postal Service? What do you believe are the principal responsibilities of the Board of Governors?

I believe that the Board of Governors can and should play a role similar to that of a corporate board. The Governors are charged with providing independent guidance to postal management, combined with effective oversight. Governors can also offer an outsider's experience and perspective in the same way that independent directors do on a corporate board of directors.

10. What would you highlight from your experience that will enhance your effectiveness in this role?

My positions in each branch of the Federal Government have provided experience in dealing with a wide variety of issues, as well as a wide variety of stakeholders. I have a genuine appreciation for the importance of our Federal Government and the unique role that it plays in the daily lives of Americans. If confirmed, I hope

to use my experience to help the Postal Service continue to improve its service to the public.

IV. Policy Questions

Postal Reform and Financial Issues

11. What are your views on the extent to which fundamental reform is needed in the laws and regulations that govern the Postal Service?

    I am well aware that the Postal Service faces severe challenges. It must work to control its costs, while continuing to provide the high quality service that we have all come to expect. I do not yet have sufficient detailed information about the Postal Service's authorizing statute to know whether or what reform may be necessary.

12. One of the goals of the reform legislation passed by the Senate (S.662) is to give the Postal Service more flexibility to operate like a business while also providing appropriate accountability mechanisms. How should the role and responsibilities of the Board of Governors complement or balance the role and responsibilities of the regulator under postal reform to ensure appropriate accountability?

    Like a corporate Board, I believe it is the role of the Board of Governors to frame the long-term strategies for the Postal Service and to provide independent oversight of Postal management. I believe the Board and management should have the responsibility of managing the Postal Service.

13. How can the Board of Governors provide leadership in working with Congress and postal stakeholders to ensure that postal reform legislation is passed and effectively implemented?

    The Board must represent the public interest and work to ensure the long-term viability of the Postal Service and its finest traditions. The Board is in a unique position to share its views with Congress about the policies that it believes would best serve the Postal Service and its stakeholders.

14. Recent data show that the Postal Service is facing declining volumes in First-Class Mail, which is its largest revenue-producing area, due largely to competition and electronic diversion. What approach should the Postal Service take to maintain its viability and competitiveness?

    The Postal Service must continually search for new ways and new technologies that will enable it to provide the very best service at an affordable price. Although the internet may divert some mail volume, it also seems to offer new

opportunities for Postal products; recent press reports regarding the positive impact that online retailers have had on the Postal Service serve as an example.

15. Recently, the growth in the Service's operating expenses has outpaced its revenue growth. Many suggestions have been made on ways that the Service could reduce costs and improve productivity. How should the Board be involved in identifying areas for cutting costs and improving efficiency in postal operations?

    It is my understanding that the Postal Service has made great strides in restraining the growth in its costs. The Board's role is to ensure that Postal management maintains its focus on this important issue.

16. Personnel expenses (which include wages, employee and retiree benefits, and workers' compensation) have consistently accounted for nearly 80 percent of operating expenses, even though the Service has downsized its workforce. These personnel expenses will continue to dominate the Service's financial condition, as growth in benefit costs, and retiree health costs in particular, continue to exceed inflation. What do you think the Service should do with respect to these circumstances?

    Corporations nation-wide have had to address these complex issues. I do not have sufficient understanding of the Postal Service budget to provide specific policy suggestions. Any change in this area must take into account employee and customer viewpoints.

17. Some concerns have been raised about whether it is appropriate for the Postal Service to offer certain new products and services. What are your views regarding whether it is appropriate for the Postal Service to offer products and services that compete with private sector companies?

    The Postal Service currently competes with the private sector in its package and express business. This type of competition benefits mailers by providing choices regarding price and product. Generally, the Postal Service should focus on identifying ways to makes its current products and services more available and useful to the public.

Postal Rates

18. The Postmaster General and several Board members have expressed concern that the current ratemaking process is too restrictive and limits the Postal Service's ability to quickly adjust postage rates in a highly competitive and changing marketplace. Do you believe changes are needed in this area, and if so, what types of changes?

    I am not familiar enough with the Postal Service's current rate-making process to offer specific suggestions at this time.

19. Many postal customers are concerned about the prospect of more frequent and larger rate increases as the Service faces an increasingly difficult financial situation. Can the Service continue to operate by regularly increasing rates and remain competitive? What are your views with respect to the need and timing of rate increases?

> I do not have specific ideas to offer regarding Postal rate increases. I would note that other businesses regularly raise rates to account for inflation and other cost increases. However, simply raising rates will not keep the Postal Service or any other business competitive. At its core, success demands that a quality product and service be delivered at a reasonable price that blends market expectations with the cost associated with the delivery of those services.

Facility Closings

20. One of the major initiatives discussed in the Service's Transformation Plan was its goal to optimize its mail processing and distribution network to reduce costs and improve efficiency. Recently, the Service announced that it will begin implementing numerous consolidations of mail processing facilities. Many stakeholders have questions about these consolidations. For example, some have said that the Postal Service has failed to adequately provide sufficient information to affected communities and stakeholders about the reasons for, and impact of, the proposed consolidations or closures. What information do you believe the Service should provide to the public about proposed consolidations of mail processing operations and closings of mail processing facilities, and how widely do you believe such information should be disseminated to affected communities and stakeholders? How can the Service ensure that its decisions related to closing postal facilities take appropriate account of community views and priorities and are fair and objective and perceived to be so?

> I understand that the Postal Service has recently implemented public meetings as part of its recent efforts to consolidate mail processing, which I believe is appropriate. As a Federal entity, the Postal Service has a responsibility to weigh community views. However, as a self-supporting Federal entity, the Postal Service also has a responsibility to look for ways to improve efficiency and reduce costs.

21. A major issue frequently raised by the public related to the Postal Service's decisions on relocating or closing post offices or processing plants is that the Postal Service does not adequately involve affected communities in the decisionmaking process. What are your views on this issue?

> I believe that the Postal Service should take community input into account during its decision-making process. I also believe that the Postal Service and its Board of Governors must look for opportunities to reduce costs and pursue those opportunities as appropriate.

22. Some stakeholders are concerned about the potential decline in delivery services resulting from consolidations and workforce realignment. How can the Board ensure that delivery performance does not decline as a result of facility consolidations?

The Board of Governors, like a corporate Board, must oversee Postal Service actions. I understand that the Governors receive regular briefings on service measurements. I would expect that if the Postal Service continues to consolidate its mail processing operations, the Board would closely monitor that service information and recommend action where it is warranted.

Transparency and Accountability

23. Some mailers have suggested that the Service should establish a set of service standards for specific classes of mail and that the standards, performance goals, and performance be measured and reported regularly, with timely updates included on the Service's web site. Do you agree with the suggestion and should the Board encourage the Service to provide more transparency on its performance information?

I believe that the Postal Service should work to provide its customers with useful data regarding service standards and information clearly indicating whether the standard was achieved. However, I do not yet possess sufficient information to know what work needs to be done in this area.

24. The Postal Service is required to annually report to Congress on its plans and performance related to its major goals. This information is vital to congressional oversight. However, some concerns have been raised that the Service has not established goals related to major postal functions and operations. What can the Board of Governors do to provide leadership in this area?

I believe that the Postal Service is covered by the Government Performance and Results Act. I would expect the Board of Governors to play a role in setting the Postal Service's goals and monitoring the achievement of those goals.

Mail Safety and Security

25. What are the tradeoffs that should be considered to determine what actions USPS should take to enhance the safety and security of the mail? What are the potential impacts on postal operations and service delivery? How should the additional costs for enhancing mail security be funded – i.e., taxpayers or ratepayers? How should the Service manage risks posed by suspicious mail to enhance the safety and security of the mail?

Particularly in light of the 2001 anthrax attacks, it is clear that the safety of Postal employees and customers must be considered. However, without information about specific threats, it is difficult to answer this question. To the extent that protecting the mail is a homeland security issue, I believe it may be appropriate

for taxpayers, rather than postal ratepayers to fund some or all of the security measures. On a related note, I believe that my familiarity with Continuity of Government issues can be a resource in evaluating safety and security options.

26. What steps should the Postal Service be taking to maintain trust and credibility with its employees and customers that the mail system is safe? How can the Postal Service improve its response to hazardous incidents to ensure that appropriate safety procedures are understood and followed by all employees?

Dating to Benjamin Franklin, the Postal Service has enjoyed a high level of trust with its customers. I believe the Postal Service needs to remain vigilant in its efforts to protect its employees, its customers and the mail. I do not have any specific suggestions as to how it could improve at this time, but I believe that my experience on related issues can serve as a resource.

Workforce-Related Issues

27. The Service has projected that by 2010 about 75 percent of its executives and 50 percent of its managers and supervisors will be eligible to retire. How can the Board work with postal management to address these challenging succession, continuity, and associated cost issues? In your view, has the Postal Service taken sufficient advantage in recent years of the opportunity retirements offer to re-shape the workforce?

Based on my experience working in the Executive branch, it is my understanding that many Federal agencies are anticipating a wave of retirements in the upcoming years. I understand that the Postal Service has instituted a succession planning process designed to identify and develop its future managers and executives and to gain insight from those approaching retirement. I believe the Board has a responsibility to provide oversight and guidance to that process.

28. How do you believe the Postal Service can ensure that whatever steps it takes to realign its workforce is consistent with its universal service obligation and with any existing strategies on related issues such as automation, facilities consolidations, and worksharing?

The Postal Service's universal service obligation is at the heart of its mission; any changes it makes must take that into account. The Board is responsible for providing oversight and guidance as the Postal Service evolves.

29. Performance-based compensation systems have recently been implemented for postal executives, as well as managers and supervisors. The success of these systems depends on the credibility, validity, transparency, and fairness of the performance measures and their implementation. How can the Board ensure the credibility of the Service's performance-based compensation systems?

The Board of Governors must regularly review information about the compensation system to ensure that employees and stakeholders have confidence that the system sets the right target and encourages the proper performance.

30. Concerns have been raised regarding diversity within the Postal Service, particularly in the composition of top executives and in contracting practices. What role do you see for the Board of Governors in addressing these concerns?

I have always believed that a commitment to a diverse workforce is vitally important to the success of any organization. One tool the Board will have to judge the Postal Service's commitment to diversity will be the Board's reviews of the pay for performance and succession planning systems.

31. The Postal Service is subject to Occupational Safety and Health Act (OSHA) workplace safety laws in the same manner as other employers. How can the Board of Governors ensure compliance with this law and encourage efforts to improve the safety of the workplace?

The Board should ensure compliance with all applicable statutes, including OSHA. It is my understanding that the Postal Service has particularly focused on this issue and has reduced its OSHA injury and illness rate significantly.

32. One longstanding postal issue has been the need to improve labor-management relations within the Postal Service. What can the Board of Governors do to encourage and facilitate greater cooperation between postal management and Postal Service labor unions?

The Postal Service faces a number of significant challenges. If Postal management and the Postal Service labor unions are able to address those challenges in as cooperative a spirit as possible, the Postal Service will have the greatest chance at successfully meeting those challenges. The Board should provide guidance to Postal management on this issue and set the right tone for fostering that type of relationship.

33. Please describe the kind of labor-management relationship you believe is most desirable at the Postal Service, and the steps you believe should be taken to achieve it. Is there anything in your past experiences that demonstrate or sheds light on your approach or views in the area of labor management relations?

The Postal Service and its customers will benefit if the labor-management relationship is healthy and strong. I learned during my service at the Senate Post Office and Civil Service Subcommittee that there is considerable value in maintaining lines of communication, with an eye toward gaining and maintaining a thorough understanding of each of the competing challenges and goals that are in play.

V. Relations with Congress

34. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee on the Congress if you are confirmed?

Yes.

35. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes.

VI. Assistance

36. Are these answers your own? Have you consulted with the Postal Service or any interested parties? If so, please indicate which entities.

These answers are my own. I consulted with the Postal Service in the developing my responses.

AFFIDAVIT

I, **THURGOOD MARSHALL JR**, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-Hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Thurgood Marshall Jr

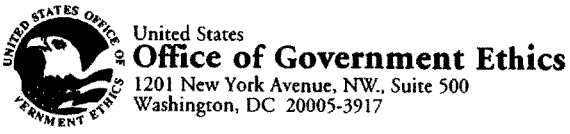
Subscribed and sworn before me this 2nd day of October, 2006.

Cathy A. McGrail

Notary Public

Cathy A. McGrail
Notary Public, District of Columbia
My Commission Expires 01/01/2011

District of Columbia : SS
Subscribed and Sworn to before me, in my presence,
this 2nd day of October, 2006
Cathy A. McGrail
Notary Public, D.C.
My commission expires 1-1-2011



September 29, 2006

The Honorable Susan M. Collins
Chair
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, as amended, however, contains a provision in section 101(b) that allows the committee with jurisdiction to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive a financial disclosure report (SF 278) from any Presidential nominee for a position on the Board of Governors of the United States Postal Service, along with a written opinion from this Office regarding any possible conflicts of interest.

Therefore, I am forwarding a copy of the financial disclosure report of Thurgood Marshall, Jr., who has been nominated by President Bush for the position of Governor of the United States Postal Service. Because Mr. Marshall is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated August 22, 2006, from Mr. Marshall to the agency's ethics official, outlining the steps that Mr. Marshall will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with the actions he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Marshall is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

Statement of the Honorable Dan G. Blair
Before the Committee on Homeland Security
and Governmental Affairs on the nomination to be
Chairman, Postal Rate Commission
November 14, 2006

Madam Chairman and members of the Committee. I want to thank you for this opportunity to meet with you today to discuss my nomination as chairman of the Postal Rate Commission. I appreciate the many courtesies you and the Committee staff have extended to me as you consider this nomination.

I want to thank Senator Bond for his kind introduction. I greatly appreciate the support of the senior Senator from Missouri.

I'd also like to acknowledge several family members and friends in the audience this morning - my wife, Michele, and our niece, Amy Blair. Also in the audience are our good friends Karen Howard, Ellen Evans, Ellen Brown, Darla Cassell and many more that, time permitting, I would acknowledge.

I am extremely honored that President Bush has nominated me for a position of public trust for a second time and I thank him for the confidence he has shown in me. Chairing the independent regulatory commission overseeing the United States Postal Service is a great privilege. I pledge to the Committee that, if confirmed, I will dedicate myself to helping oversee an institution on which our country and economy greatly depend – and one in which this committee has a great interest.

I approach this assignment with a tremendous sense of respect and welcome the Committee's support for maintaining the Commission's well-recognized integrity and independence. We share a common goal of a Postal Service that is well run in an open, transparent way, and offers its services at fair prices that customers can afford. I believe the Commission must carry out its work in an atmosphere of openness and impartiality, providing a forum where due process insures all interested parties can be heard.

The Commission has broken new ground over the last few years by working collaboratively with interested parties and the Postal Service. It has recommended for adoption new postal services, such as negotiated service agreements, in order to improve efficiency and expand postal markets. Reviewing current law with a more contemporary eye for how the mailing public can better use our postal system is something that should be continued and, perhaps, expanded.

Chairman George Omas has done a good job in reaching out to the postal community and the Postal Board of Governors. I plan to build on these efforts. I look forward to working with him and his fellow Commissioners to ensure a smooth, seamless transition.

Again, thank you for holding this hearing today and I appreciate this chance to appear with nominees Goody Marshall and Jim Bilbray. I look forward to working with them, Chairman Jim Miller and their fellow Governors.

I'd be happy to answer any questions.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Dan Gregory Blair

2. **Position to which nominated:**

   Chairman, Postal Rate Commission

3. **Date of nomination:**

   November 13, 2006

4. **Address:** (List current place of residence and office addresses.)

5. **Date and place of birth:**

   February 23, 1959
   Joplin, Missouri

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Married to Michele Watts Blair

7. **Names and ages of children:**

   N/A

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

   University of Missouri-Columbia; 8/81 to 5/84 JD received 5/84
   University of Missouri-Columbia; 8/77 to 5/81; BJ received 5/81
   Parkwood High School; Joplin, Missouri; 8/73 to 5/77; Diploma received 5/77

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

   Minority Counsel
   Committee on Post Office & Civil Service
   United States House of Representatives
   Washington, DC
   1/85 to 1/95

Staff Director
Subcommittee on the Postal Service
Committee on Government Reform and Oversight
United States House of Representatives
Washington, DC
1/95 to 1/98

Senior Counsel
Committee on Governmental Affairs
United States Senate
Washington, DC
1/98 to 10/01

Senior Advisor to the Director
United States Office of Personnel Management
Washington, DC
10/01 to 2/02

Deputy Director
United States Office of Personnel Management
Washington, DC
2/02 to 2/05; 6/05 to present

Acting Director
United States Office of Personnel Management
Washington, DC
2/05 to 6/05

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

N/A

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Tuscany Condominium, member, Board of Directors

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

District of Columbia Bar Association
American Bar Association
Tuscany Condominium
Forest Hills Citizens Association
Taste of the South – General Counsel
Missouri Bar Association
Federal Bar Association
Historic Mount Pleasant
Beta Theta Pi fraternity
Capitol Hill Club

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

N/A

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Participated in the Bush-Cheney '04 "72 Hour Program" – assigned to Columbus, OH
Volunteer for Montgomery County, Maryland Republican Party – Fall 2006
Volunteer- Republican National Committee phone banks – Fall 2006

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

$1,000 to Bush-Cheney '04
$ 200 to Mike Dovilla for Congress '06

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

USPS Office of Inspector General Recognition Award 1999

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

See Attachment 1

16. **Speeches:** Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

See Attachment 1. I have not delivered any formal speeches on issues affecting postal rates or classification. However, I did include an address I gave before the National Association of Letter Carriers in 2002.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I believe I was nominated by the President for this position because of my knowledge and experience based on 21 years of service in both legislative and executive branch positions influencing postal and civil service issues.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe my experience in relevant positions in both the Legislative and Executive branches affirmatively qualifies me for this appointment. I have had the opportunity, over the course of my career, to observe and participate in key policy decisions affecting postal policy. My experience as minority counsel to the former House Post Office and Civil Service Committee, followed by my service as staff director to the House Government Reform Subcommittee on the Postal Service and as Senior Counsel on the Senate Governmental Affairs Committee, prepared me in understanding the complexities of the issues affecting postal ratemaking, classification and policy. My current responsibilities as Office of Personnel Management Deputy Director have allowed me to gain a better understanding of the complex issues affecting postal pension and health benefits and provided me with valuable management experience which is critical for leading and managing a regulatory agency.

B. EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

   Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

   No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

   No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

   No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

   Yes.

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.

   No.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   None.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

   None.

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

   Yes. Further I have entered into a written agreement with the Postal Rate Commission Designated Agency Ethics Official not to participate personally and substantially in any particular matter that would have a direct and predictable effect on Hewlett-Packard Company, my spouse's current employer, unless I first obtain a written waiver or qualify for a regulatory exemption.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

   No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   As acting agency director for the Office of Personnel Management, I would have been the named party for OPM in any lawsuits directed at the agency during my tenure in that position. Also, the condominium board on which I serve has been involved in civil litigation efforts to collect unpaid condominium fees.

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

   Throughout my professional career, I have worked to improve the environment for public service. I consider it an honor to have performed service as a staff member in the legislative branch and in a senior appointed position within this Administration. I am privileged that President Bush would

nominate me to serve as Chairman of the Postal Rate Commission. If confirmed, I pledge to serve to the best of my ability and with the highest integrity to perform the duties of the office to which I have been nominated.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

Dan Gregory BLAIR being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Dan Gregory Blair

Subscribed and sworn before me this 3 day of November, 20 06

Notary Public

Isoline Jones
Notary Public, District of Columbia
My Commission Expires 10-14-2007

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of Dan Blair to be Chairman, Postal Rate Commission

I. Nomination Process and Conflicts of Interest

1. **Why do you believe the President nominated you to serve as Chairman of the Postal Rate Commission (PRC)?**

   I am proud to have been nominated by President George W. Bush for this position and believe the President nominated me to serve as Chairman of the Postal Rate Commission due to my extensive background and experience in postal and civil service issues.

2. **Were any conditions, expressed or implied, attached to your nomination?**

   No.

3. **What specific background and experience affirmatively qualifies you to be Chairman?**

   I have served in key positions on both House and Senate committee staffs exercising oversight and legislative jurisdiction over the United States Postal Service. My experience as minority counsel to the former House Post Office and Civil Service Committee, followed by my service as staff director to the House Government Reform Subcommittee on the Postal Service and as Senior Counsel on the Senate Governmental Affairs Committee, prepared me in understanding the complexities of the issues affecting postal ratemaking, classification and policy.

   My current responsibilities as Office of Personnel Management Deputy Director have allowed me to gain a better understanding of the complex issues affecting postal pension and health benefits and provided me with valuable management experience which is critical for leading and managing a regulatory agency. Further, I approach this position with a special recognition of and appreciation for the importance for sound human capital management practices in an agency.

4. **Have you made any commitments with respect to the policies and principles you will attempt to implement as Chairman? If so, what are they and to whom have the commitments been made?**

   I have made no formal commitments. However, I am committed to follow the laws governing postal ratemaking and classification and will remain faithful to the Constitution during my tenure in public service.

5. **If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest?**

If so, please explain what procedures you will use to carry out such a recusal or disqualification.

I have entered into a written agreement with the PRC Designated Agency Ethics Official not to participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interest of Hewlett-Packard Company, my spouse's current employer, unless I first obtain a written waiver or qualify for a regulatory exemption.

II. Role of the Chairman, Postal Rate Commission

6. **What is your view of the role of a Chairman of the PRC?**

I see the role of Chairman, as currently constituted, to be that of a Presidentially-designated agency head presiding over a regulatory commission authorized by Congress to review and recommend establishment of postal rates, fees and classifications. The Commission provides the mailing public with a forum to be heard during the ratemaking and classification process, as prescribed in statute. The Chairman organizes and manages case dockets and acts as presiding officer during omnibus rate cases. Further the Chairman is responsible for being the chief administrator of staff and commission operations.

If confirmed as Chairman, I would approach this role with a commitment to fairness, independence and transparency. In many ways, the Chairman sets the tone for commission operations. I look forward to working closely in a collegial manner with my fellow commissioners in addressing issues before the PRC.

7. **In your view, what are the major internal and external challenges facing the PRC and how would you, as Chairman, address these challenges?**

In my view, the chief challenge facing the PRC lies in ensuring transparency, predictability and accountability in the ratemaking and classification process. Further, the integrity of the process is premised on the need for timely and accurate data provided by the Postal Service and I know the Commission in the past has voiced that as among its chief challenges.

Should comprehensive postal reform be enacted, the Commission would assume a new role and transitioning to this role will require significant preparation and planning.

8. **What do you think should be the PRC's top priorities?**

The top priority for the PRC should be to timely conclude rate cases under its authorities as prescribed in title 39, United States Code. This requires the PRC receiving timely and accurate data from the USPS. I would make it a priority to work with the Postal Service and stakeholders to achieve this goal. Should postal reform be enacted, implementation

of the new regulatory structure would be the first and foremost priority.

I also believe it is important to ensure the Commission has sufficient human resources to carry out its responsibilities and duties. This will require it be properly staffed with individuals with the requisite skills, knowledge and abilities, and planning for any changes in staffing that result from attrition or retirements.

9. If confirmed, how would you communicate with PRC staff to receive their input on the activities and policies of the office and to accomplish your priorities?

I would communicate with the PRC staff through a variety of approaches. Given the size of the staff, a personal approach can be applied since I would expect to be working daily with staff on a one-on-one basis. In addition, I would expect to use generally accepted modes of communication such as email and staff meetings to communicate with employees and receive their input.

10. What contributions do you hope to make during your tenure at the PRC, if confirmed?

The Commission has generally been viewed as a fair arbiter when it comes to recommending postal rates and classifications. Further, it is viewed as a forum for parties to seek information which otherwise would not have been available to the mailing public. I hope to carry on this tradition and leave a legacy in which the Commission is viewed as a fair, open and transparent body which benefits the mailing and public interest.

11. How do think management of the PRC could be improved?

I understand PRC Chairman Omas has worked hard during his tenure to improve management practices at the PRC, particularly in implementing a new performance management system for staff. I will want to examine all aspects of PRC management to determine areas for improvement.

12. How would your prior experience help inform and guide your decisions as Chairman of the PRC?

Serving as minority general counsel, subcommittee staff director, and senior counsel on the congressional committees overseeing the USPS gave me the opportunity to become familiar with the postal community as well as the laws governing the USPS. Further, my service as OPM Deputy Director has afforded me opportunities to gain valuable management experience which is critical in leading an organization, particularly one slated to undergo as substantial a change as the PRC should postal reform be enacted.

I am aware that, like the rest of the Federal Government, the PRC anticipates a significant turnover in staff due to retirements. My experience at OPM will help prepare me to address these and other succession planning issues.

13. **As the current deputy director of the Office of Personnel Management (OPM) you have testified in behalf of the Administration that the military service retirement credit should be borne by the Postal Service rather than by the US Treasury. If confirmed, as Chairman of the PRC what would be your view of this matter?**

I appreciated the opportunity presented by the Committee to testify in support of the Administration's position regarding pension funding for the USPS. Both House and Senate reform bills transfer that responsibility to the Treasury. Should legislation be enacted that changes the way the USPS funds its pension liabilities, including military service credit, the Committee can be assured that, if confirmed as PRC chairman, I would follow the formula as prescribed by law.

14. **As the current deputy director of OPM, you have had the opportunity to gain a special appreciation and understanding of strategic human capital management. If confirmed, what actions will you take to assess and address the human resource needs of the PRC?**

I approach this position with a special appreciation that an organization's ability to perform is dependent on the quality of the people who work there. I also believe that human capital management is a leadership issue, deserving of attention at the highest levels of the organization. I would work with the PRC's Administrative Office to assess the status of the Commission's current and future human capital needs.

I would want to determine the extent that Commission human capital management strategies are aligned with mission, goals, and organizational objectives and integrated into its planning and budgets. I would want to see to what extent strategies are in place ensuring continuity of leadership, and what training opportunities are needed and available. I would also want to review the performance management system and what strategies are in place to recruit and retain talented employees.

15. **The PRC, unlike OPM, is an independent regulatory agency. If confirmed, what relationship would you maintain with OPM and the Administration as a whole? To what extent and in what manner would you receive suggestions or direction from OPM or the Administration, whether in deciding individual cases, in setting policy, or in management of the Commission?**

If confirmed as Chairman, I will follow the letter and spirit of section 3601, title 39, United States Code, that clearly states that the PRC is an independent agency. I would not anticipate, nor would I accept, any formal direction from either OPM or the Administration in deciding individual cases or in setting policy.

To the extent appropriate, I would consider consulting OPM on issues involving good human capital management practices. I understand that the staff of the Administrative Office of the PRC keeps abreast of current federal human resources issues and may, from time to time, make inquiries with OPM. Further, I understand that the PRC has used the

USAJobs website as a venue to post jobs. If confirmed as Chairman, I would expect my formal contact with OPM would be minimal.

16. **What do you believe is the appropriate kind of relationship that the Chairman and Members of the PRC should maintain with the Postal Board of Governors and the Postmaster General? If confirmed as Chairman of the PRC what actions would you take to pursue stronger relations with the USPS Board of Governors?**

A good working relationship recognizing the distinct responsibilities and duties of each entity benefits our postal system and the mailing public. I understand that Chairman Omas has worked hard to develop a good rapport with the Board and I would want to continue these efforts at building and maintaining a good working relationship. If confirmed, I would look forward to working with Chairman James Miller and the Board of Governors.

III. Policy Questions

Postal Ratemaking

17. **The postal ratemaking process has been frequently criticized for being too cumbersome, taking too long, and being too adversarial to best serve the financial interests of the Postal Service. Do you agree and, if so, what administrative changes do you think the PRC could make under its existing authority to improve the postal ratemaking process?**

Improvements should always be sought with the current process and, short of legislative reform, I would want to elicit a broad spectrum of views on ways of exploring maximum flexibility, while preserving appropriate opportunities for interested parties to be heard and ensuring rates cover attributable costs. I believe it is important to note that the current process is intended to grant interested parties the ability to engage in discovery and challenge the USPS' cost assumptions and requests. Further, the Commission has entered into settlement agreements in omnibus rate cases thus reducing the 10-month time frame and reaching consensus among sometimes adversarial interests.

A significant amount of time in the ratemaking process is devoted to documenting financial information such that it could withstand independent scrutiny in litigation. Indeed, apportioning costs among postal customers as diverse as multi-billion dollar mailers and small town weekly newspapers naturally generates a degree of adversarial relations. Allowing the regulator and the mailing public access to this information on a periodic basis could reduce the time now devoted to discovery. Yet, the best way to improve the process is to overhaul it with through enactment of comprehensive postal reform.

18. **Congress is considering proposals to change the postal ratemaking process from the current cost-of-service model to other models such as a price-cap system. What are**

your views on the advantages or disadvantages of moving to a price-cap system to set postal rates?

I believe a price-cap system would impose appropriate discipline and incentives on the Postal Service while granting it needed flexibility in adjusting rates. While the cost-of service approach currently used in postal ratemaking ensures that rates cover costs, this approach does not appear to provide incentives to operate efficiently and effectively.

A price cap regime decouples price from cost thereby giving the Postal Service incentives to increase efficiencies and reduce costs. It also would allow postal customers predictability in planning for future increases as well.

19. **Some parties have criticized the quality of data used by the Postal Service to support proposed rate increases. Are changes in the current ratemaking process needed to incorporate more timely information? What do you believe should be the role of the PRC in ensuring that the quality and timeliness of the Service's data is adequate?**

The integrity of the ratemaking process relies on timely and accurate data. Current law provides the PRC with limited sanctions should USPS data prove unreliable or untimely. I would want to work with the USPS to improve the quality and timeliness of data in order to maintain the integrity of the process.

I support the provisions of HR 22 which would equip the regulator with new tools to better ensure transparency, openness and timeliness of financial and operational information sought from the USPS.

20. **Some have expressed concerns that the Postal Service's worksharing discounts may not be adequately covered by the actual cost savings achieved. How would you address these concerns -- whether by legislation, or otherwise?**

Current law requires that rates cover attributable costs and make a reasonable contribution to overhead. Any worksharing discounts that would be reflected in recommended rates are subject to review and the Commission would have the opportunity to hear differing points of view on any proposed rates. This underscores the need for the USPS to provide accurate, timely and transparent financial and operational information.

I support efforts to equip the Commission with the means to examine all of the costs currently treated as institutional in order to assure Congress, the Postal Service, and the public that all costs that can be attributed, are attributed. I believe that any current deficiencies, if they exist, can be identified and I would welcome the opportunity to address them.

I do not believe that legislation addressing this specific issue is needed, unless it is in the context of comprehensive postal reform as envisioned by HR 22.

21. **Some mailers have raised concerns about the lengthy and often cumbersome process for approving Negotiated Service Agreements (NSAs). Some other stakeholders are concerned that NSAs may lead to unfair competition. What changes, if any, do you think are needed to improve this process?**

I understand the PRC broke new ground when it recommended for approval a NSA for Capital One Services. As PRC gains experience in hearing these cases, I would anticipate the process could improve over time, as some cases have been processed in less than 90 days.

I want to acquaint myself with the specific process before recommending any changes. However, any changes in process should ensure that all interested parties have the ability to engage in meaningful discovery with timely access to accurate information while providing parties with an opportunity to air their views before the PRC.

22. **Some concerns have been raised in a recent PRC proceeding regarding the Service's limited communication with the public and the PRC related to proposed changes in service as it implements consolidation of its mail processing operations. How should the PRC consider the Service's proposed service changes?**

I recognize there is a current case pending before the PRC and I would not want to comments on the merits of the case or prejudge it in anyway. It is important to note that current law provides the PRC with limited authority to review such cases for any impact on nationwide service standards.

Postal Reform

23. **What are your views on whether changes are needed to the role of the PRC as part of postal reform to strengthen its regulatory oversight responsibilities?**

Both House and Senate bills significantly strengthen the PRC's ability to conduct meaningful and appropriate oversight. I believe this course of action is important if the USPS is to be granted additional flexibilities to set rates pursuant to enactment of postal reform.

24. **The Postal Service Board of Governors maintains that their primary issue with both H.R. 22 is that of governance. In particular, the Board believes the regulator should focus solely on the appropriateness of postal rates. Among other things, the Board opposes the proposed shift of final authority on rates from the Board to the regulator. Do you believe the governance changes contained in H.R. 22 are necessary, why or why not?**

HR 22 seeks to strike the appropriate balance between new flexibilities granted to the USPS and appropriate regulatory oversight and authority. I believe HR 22 takes the proper approach in granting the USPS needed flexibility while empowering the regulator with new oversight authority. It is important that an effective regulator be available to the mailing

public to insure that the policies of the reform legislation are implemented.

25. **Do you think that universal postal service needs to be more precisely defined, and if so, what contribution could the PRC make to defining universal service?**

I understand that recommendations have been made that postal reform legislation grant the regulator authority to define universal service or review changes in service standards after they have been made. Further, I am aware that the Commission has taken the position that the regulator should have the authority to ensure that appropriate levels of service are maintained throughout the nation. This can be accomplished through regular audits of service performance, and by considering complaints of aggrieved postal patrons. The reform legislation contemplates assigning the regulatory commission to perform these tasks.

26. **Recent legislative reform proposals, such as H.R. 22, are intended to eliminate traditional rate cases, to set baseline rates for non-competitive postal services in an expeditious administrative process based on clear guidelines using a specified rate adjustment factor, and to make rate changes subject to after-the-fact review by an independent postal regulator. Would you be in favor of this reform proposal, why or why not?**

I believe these reform proposals are part of a comprehensive approach designed to place the Postal Service on a financially sound, transparent and competitive footing. Under HR 22, a system would be developed which would significantly reduce the time currently required in an omnibus rate case. Per this new regulatory structure, the Commission could be expected to require the USPS to regularly provide essential information that is basic to reviewing rate changes.

Such information would be made available to the public, consistent with the intent of HR 22 that transparency and accountability are central to postal reform. If such information would be made available in advance of a rate change this would allow the Commission to conduct effective review in a fraction of the time the current system requires. HR 22 provides for before-the-fact review of whether rate changes in the non-competitive area are in compliance with rate cap requirements.

27. **What key statutory or regulatory mechanisms are needed in the postal rate-setting process to protect postal customers against undue discrimination and to ensure due process?**

The basic safeguards against undue discrimination and to ensure due process are brought about by devising a system which grants the regulator and interested parties, when appropriate, access to reliable, accurate information and the opportunity to be heard before a fair, neutral third party in an open and transparent process. Requiring timely and accurate disclosure of information so the mailing public has the opportunity to review and respond should address those concerns.

Further, HR 22 would also layer additional protections by way of application of the anti-trust laws to the USPS and the regulator would follow Administrative Procedures Act in its proceedings. The legislation also directs the Commission to report annually to Congress to ensure that any occurrences of potential discrimination are identified for public review and action through the complaint process.

28. At present, the Postal Service periodically issues regulations that define the scope of its monopoly over the delivery of letter mail and access to mailboxes. Certain postal stakeholders believe such authority should be given to the regulator. Do you agree that such authorities should be given to the regulator? Why or why not? What principles should guide these decisions?

HR 22 retains the authority to define the scope of the postal monopoly over delivery of letter mail and access to mailboxes with Congress. Granting this authority to a third party would provide agility in addressing issues surrounding the scope of the monopoly over delivery of letter mail and access to mailboxes.

While there may be benefit toward granting an independent third party this authority, I recognize that delegation of this authority would be extraordinary and that such authority properly resides with the Congress. If confirmed as Chairman of the PRC, I would be prepared to implement any legislative direction.

Some postal observers are concerned that the Postal Service should not be free to "interpret" statutory definitions in a way that is unreasonable or anti-competitive. For that reason, Congress should consider granting the PRC the authority to review interpretive regulations.

29. Some postal stakeholders have suggested that the PRC should have a stronger role in defining requirements for performance standards for postal products and services and for monitoring the Service's results in meeting these standards. What are you views in this area? Why might allowing the Postal Service to sets its own service standards be problematic?

HR 22 grants the Commission authority to review complaints regarding whether service is consistent with established standards, and if necessary, to order corrective action. However, USPS is granted the authority, after consulting with the regulator, to establish its own delivery standards and then to change them as it deems appropriate. Some may be concerned that USPS might make excessive cuts to service in order to reduce costs,

The proposed balancing of responsibilities should be satisfactory. However, since the Postal Service is granted broad operational flexibility, it is important that the regulator be able to assure that satisfactory levels of postal service continue to be provided to citizens in all parts of the country. Should conflicts arise, after enactment of HR 22, as to whether sufficient levels of service are being provided, it may become necessary to revisit this area.

30. Many postal stakeholders have raised concerns about the adequacy of the Service's financial transparency. How can the Postal Service improve the transparency and accountability of its financial and operational performance?

HR 22 imposes SEC-like reporting requirements on the USPS and the new regulatory structure envisions the regulator obtaining financial or operational information on a regular basis in order for the mailing public to have such information available for review.

Further, the USPS should gradually make more reliable the cost studies upon which its financial data are based. I recognize that the USPS has made progress in making this information available in past rate cases, however it is necessary to continue to update analyses to account for new technology.

31. Are there legislative changes, beyond those included in H.R. 22, that Congress should consider to enhance the Service's transparency and accountability and if so, what changes may be needed? What should be the regulator's responsibilities in this area?

Generally, the regulator will need full access to the USPS financial and operational information if it is to carry out its responsibilities. That includes access to the underlying studies that serve as the basis for this information. It should be recognized that HR 22 requires significant new transparency and accountability procedures.

I would ask the Committee to allow me to reserve my recommendations until enactment of the legislation and the Commission's implementation of the new system. The legislation requires the Commission to report regularly to Congress on whether the goals of postal reform are being met.

32. One area of debate has focused on what type of new products and services the Postal Service should be allowed to provide. What are your views on this issue? What role do you believe that the PRC should play in the introduction or pricing of new products and services?

The Postal Service was established as a part of the Government of the United States to provide postal services to the people. In furtherance of this mission, HR 22 provides a specific definition of what is a "postal service" and restricts USPS to only offering new products that are within that definition.

Generally, all postal products and services should generate revenues sufficient to cover their attributable costs over the long term. Consistent with this, I would want the Commission to be open to the USPS requests to try new postal products and services and would work with the USPS to ensure that new postal products are considered in an environment of transparency, openness and accountability.

I am aware that the Commission under Chairman Omas' leadership has worked well with the USPS in reviewing new postal products and services, such as negotiated service agreements. I would hope to continue these efforts at looking to make the ratemaking

system contemporary and flexible in order to improve our postal system for the entire mailing public.

33. **Another concern has focused on the Postal Service's activities in the competitive marketplace. What role, if any, do you believe that the PRC should play in ensuring "fair competition?"**

A primary role of a regulator is to ensure fair competition and guard against cross-subsidization. Per HR 22, the USPS must recover its attributable costs and make a sufficient contribution to overhead for its competitive products. I believe an effective regulator should be available to assure a level playing field is maintained where the USPS is providing services in competition with the private sector.

34. **The Postal Service has said that it should be able to retain earnings as well as request exigent rate increases. What level of retained earnings, if any, should be consid red appropriate in an exigent rate case? Do you believe statutory criteria are necessary to guide decisions in this area?**

Congressional intent should guide the PRC in this area. I understand that many postal stakeholders hold strong views regarding the extent to which the USPS should be allowed to seek an exigent rate case if they have substantial retained earnings. Additional clarification by Congress would help avoid confusion on this issue.

While not prejudging any specific request, it would appear that the Postal Service would have to have extraordinary justification before it could seek an exigent rate increase while still in possession of retained earnings, or for the primary purpose of increasing retained earnings.

35. **Some have raised concerns about the Postal Service's statutory monopoly to deliver letter mail, and whether statutory or regulatory mechanisms may be needed in the postal rate-setting process to protect captive customers including the general public? What are your views on this issue?**

HR 22 appropriately directs the Commission to report to Congress on universal postal service and the postal monopoly on the delivery of mail and on access to mailboxes. I would expect that study to provide a comprehensive review of universal mail service in this country. Further, any concerns raised by captive customers could be aired as part of a comprehensive complaint process. Clear congressional intent that universal mail service incorporates the concept of service at a reasonable price to all parts of the country would also prove helpful in guiding any regulatory process.

36. **If the Postal Service obtains more pricing flexibility under postal reform, what should be the key elements of an effective complaint process?**

The Commission is instructed by HR 22 to establish an effective complaint process. The first step toward that goal is to obtain the views of all interested parties. An open process

is the best way to meld ideas into an effective process that will provide relief when called for without unreasonably burdening the USPS. The commission process should not be so expensive as to make it inaccessible to regular mail users; at the same time, complaints should deal with issues of substance, rather than local operating issues.

37. **Both the Senate and the House postal reform bills contain provisions under which the PRC would provide for a review of certain USPS pension/benefits calculations made by OPM. The purpose of the provisions is to enable an independent review of the USPS pension and health care obligation numbers. Given your previous positions at OPM, what steps will you take to ensure that the review and subsequent report are truly independent of OPM?**

In order to comply with congressional intent, I would have the PRC seek the services of an independent actuary to review these pension and health care obligation numbers.

Post Office Closings and Relocations

38. **In your opinion, does the existing process for closing and relocating post offices adequately protect the interests of postal customers and the affected communities?**

In general, yes. However, current procedures do not apply to leased or branch facilities since these facilities are not considered "post offices" under the Postal Service interpretations. This leaves some communities, which rely on the provision of postal services by these types of facilities, vulnerable to the loss of their community post office. Any type of process must carefully balance the need of the mailing public against the financial considerations of the USPS.

I am aware of concerns regarding USPS actions to relocate and suspend operations of postal facilities as well. Ideally, the USPS should work with local communities before taking actions significantly impacting provision of local postal services.

39. **Do you believe it is appropriate for the Postal Service to be openly transparent about which post offices it plans to close and the reasons for closing them? Do you believ it is appropriate for the Postal Service to develop and publish the specific standards it plans to use to determine which post offices to close?**

Yes. I believe it is appropriate for the Postal Service to be openly transparent about which post offices it plans to close and the reasons for closing them. Such transparency furthers the mailing public's ability to better understand the operations of the Postal Service. I believe the Postal Service should have a specified process for communities and the mailing public to avail themselves in order to assure adequate postal services continue.

40. **Does the process for closing and relocating post offices need to be improved? If so, how, and are legislative changes needed?**

The process for closing and relocating post offices has proven problematic for some

impacted communities. The Service routinely uses leased facilities, contracted community post offices, and stations and branches to an extent not anticipated or expected when the law governing this process was enacted. As the USPS utilizes new business practices to offer postal services to communities, instances may arise necessitating congressional review and legislative action. Many communities impacted by a post office closing or relocation would benefit from the USPS establishing and adhering to a clear, internal review process. .

IV. Relations with Congress

41. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

42. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes.

V. Assistance

43. Are these answers your own? Have you consulted with the PRC or any interested parties? If so, please indicate which entities.

Yes. These answers are my own. I did consult with PRC staff for technical guidance and sought clarification for questions from Committee staff as well.

AFFIDAVIT

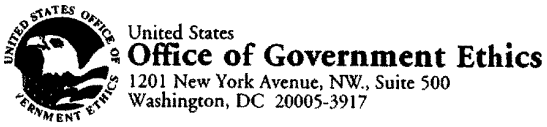
I, Nancy Blair, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Nancy G. Blair

Subscribed and sworn before me this 7 day of December, 2005.

Wanda C. Franklin
Notary Public

WANDA C. FRANKLIN
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 14, 2008



November 13, 2006

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Dan G. Blair, who has been nominated by President Bush for the position of Commissioner, Postal Rate Commission.

We have reviewed the report and have also obtained advice from the Postal Rate Commission concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated November 3, 2006, from Mr. Blair to the agency's ethics official, outlining the steps Mr. Blair will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with any action he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Blair is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

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