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NOMINATION OF NANCI E. LANGLEY

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF NANCI E. LANGLEY TO BE COMMISSIONER, POSTAL REGULATORY COMMISSION

APRIL 23, 2008

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NOMINATION OF NANCI E. LANGLEY

WEDNESDAY, APRIL 23, 2008

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

The Committee met, pursuant to notice, at 2:31 p.m., in Room SD–342, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

Present: Senators Carper and Akaka.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. The Committee will come to order, and I am pleased to serve as Chairman today alongside my friend and colleague, Senator Akaka, as the Committee considers the nomination of Nanci Langley to be Commissioner on the Postal Regulatory Commission. Welcome.

Ms. LANGLEY. Thank you.

Senator CARPER. You look familiar. [Laughter.]

I am not sure why. We are glad you are here with us today.

Ms. Langley, your nomination comes at a difficult and challenging time for the Postal Service, although they have had plenty of challenging times before. Recently, in the last 7 years that I have served in the Senate, the economic slowdown that we have found ourselves in today has hurt a number of families and businesses, but it has hit the Postal Service early and hard. I described in a recent meeting with the Postmaster General, the Postal Service is a little bit like the canary in the coal mine in terms of feeling of the economic slowdown early

We actually heard some testimony in our Subcommittee about the Postal Service potentially being on track, for the first time in many years, to suffer significant losses, maybe as high as in the billions of dollars. But hopefully that is not going to be the case.

There is always the chance that some of the mail volume that the Postal Service has lost as a result of the slowing economy could be lost for good, although we hope not. The number of communications options available to postal customers and available to all of us continues to increase and to grow easier to use as well.

But having said all that, I think this is also a time of great opportunity for the Postal Service. The Postal Accountability and Enhancement Act, a bill that you have played a key role in helping us to get enacted, along with my colleague, Senator Akaka, and others, has been the law of our land for more than a year now, and

we are starting to see, I believe, some real benefits that flow from it as a result.

The Postal Service is set to change prices this spring using the streamlined cap-based rate system called for in the Act, and it is my hope that the Postal Service can use this new rate system in the coming years to offer customers some level of predictability and to be more competitive in the advertising and the mailing markets.

We also have a new set of service standards for most postal products that I trust will make the Postal Service more relevant and more valuable to customers that now have a lot of other communications options.

All this makes it vitally important that we have strong, experienced leadership, not just at the Postal Service, but at the Postal Regulatory Commission, too.

The Commission can play a key role in helping the Postal Service through the challenges that it faces in the years to come. In some ways, they can do this by standing back and letting the Postal Service take advantage of the commercial opportunities that the Congress has given it.

The Commission must also ensure that the Postal Service is acting in compliance with the law and fulfilling its service obligations.

I look forward to hearing how you, Ms. Langley, can help the Commission fulfill the important role it has under the new law we worked so hard together to make reality.

At this point in time, I want to yield to my friend and colleague, Senator Akaka, to actually introduce you to a room where you need little introduction. But I am anxious to hear what he has to say, nonetheless. Senator Akaka, you are on. Take it away.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman. It is really a great pleasure to be serving with you and to be with you on this Committee. I want to say aloha and good afternoon to everyone here as well. I am delighted to be at this hearing to consider the nomination of Nanci Langley to be a Commissioner on the Postal Regulatory Commission.

It is my distinct pleasure this afternoon to introduce Nanci Langley, whom I have had the privilege of knowing for the last 18 years. Although I say "introduce," Nanci is by no means a stranger to this Committee. She served in my personal office for 10 years, handling an array of issues, and until recently served on this Committee as the Deputy Staff Director of what is now the Oversight of Government Management Subcommittee.

It was in that capacity that Nanci was my senior adviser on government management, Federal workers, and, importantly, the Postal Service. She was instrumental in working for years to ensure that my concerns—financial transparency and workers' rights—were addressed in what became the recently enacted postal reform legislation.

As the former Chair of the Postal Subcommittee, I can think of no one who is more qualified to be nominated to this position and serve as a Commissioner than Nanci Langley. She is well known and respected by the entire mailing community, having worked

closely with the Postal Service, mailers, and employees for many years.

Being from my home State of Hawaii, thousands of miles away from the Mainland, let alone Washington, DC., she has a unique appreciation for just how important a role the mail system plays in everyday life. Her family was well aware of this. For 48 years, her parents owned a chain of clothing stores which relied on the Postal Service to receive timely deliveries of merchandise.

Nanci came to work for me when I came to the Senate after the passing of my predecessor and colleague, Senator Spark Matsunaga. When I asked her to join my staff, little did she know that today she would be well known amongst the postal community as one of the foremost experts in the city on postal affairs.

Not only does Nanci understand the needs of the Postal Service, more importantly she knows well and cares about the tens of thousands of employees that work at the Postal Service every day. It is this appreciation, which I share, that guides in balancing the needs of consumers, the Postal Service, and its employees.

The Postal Service and the Postal Regulatory Commission (PRC), in particular, have recently undergone tremendous changes. These changes have created challenges and also opportunities. Consumers are now assured more regular, predictable rate increases as well as increased transparency in postal finances, due in large part to Ms. Langley's hard work in crafting the postal reform legislation. As a testament to her expertise, after passing the postal reform legislation, which expanded the role of the Postal Regulatory Commission, she was tapped by PRC, headed by another former staffer of this Committee, Chairman Dan Blair, to run the Public and Governmental Affairs team.

Since assuming that role, I can tell you that she has been as tenacious and outstanding as ever in balancing the needs of the postal community. While I was saddened by her departure from my office, I knew it was a tremendous opportunity, and now we see it has led to an even bigger role at the PRC.

I will not belabor her qualifications for this position, which I think few have questioned. However, I do want to pass on my full faith in her abilities and to you, Ms. Langley, I want to extend, as I have for years, my deepest "aloha" and "mahalo," which is thank you, for your years of dedicated service not only to me but to the people of Hawaii, the Federal workforce, and the mailing community of this country.

Thank you, Mr. Chairman. I hope the Committee can move this nomination quickly.

Senator CARPER. Thank you, Senator Akaka. How do you say "thank you"? Is it "maloha"?

Senator AKAKA. "Mahalo."

Senator CARPER. "Mahalo." Thank you for that opening statement, for introducing Ms. Langley to us, and for your willingness to share her, not just with the folks that you serve in Hawaii, but with the whole country.

I believe Ms. Langley has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had her financial statements reviewed by the Office of Government Ethics. I won't question you about how

much fun it was to go through just filling out all the paperwork that we deal with. I remember once when I was nominated by President Clinton to serve on the Amtrak Board of Directors—I was governor at the time—a job I very much wanted to have, an extra job plus my regular day job. But after going through all this stuff, filling out the questionnaires and the financial statements, I said, "I am not sure this is really worth it for a job that does not pay anything." But I ended up doing it, and it was worth it. Thanks for going through all that.

Without objection, the information that you have compiled and submitted to the Office of Government Ethics will be made a part of our hearing record. The financial data, however, will remain on file and available for public inspection in our Committee's offices.

I believe the Committee rules require that all witnesses at nomination hearings give their testimony under oath, and you have had an opportunity, as someone who has worked in these halls in the past, seeing any number of people stand and take an oath. Did you ever think that you would be taking the oath yourself and repeating this?

Ms. LANGLEY. Never.

Senator CARPER. All right. You can probably do it by heart. I am going to ask you, if you don't mind, just to stand and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. LANGLEY. I do.

Senator CARPER. That is good. OK.

Senator Akaka, if you would like to lead off with questions—I have a whole lot of questions. I really want to grill this witness. [Laughter.]

But I am told by my staff director, John Kilvington, that I need to ask three questions first, and then if you would like to take over, I will ask a number of additional questions after that.

It is required, I think by Committee rules, to ask these three questions, and I will start—Mr. Kilvington says you might have an opening statement. Is that possible?

Ms. LANGLEY. It is possible. It is probable. [Laughter.]

Senator CARPER. Well, then, go ahead. We would love to have your opening statement, and then I will ask those questions, and then yield to Senator Akaka. Go ahead.

Ms. LANGLEY. I will try to be brief.

Senator CARPER. No. Take your time. I want to hear this. [Laughter.]

TESTIMONY OF NANCI E. LANGLEY,[1] TO BE COMMISSIONER, POSTAL REGULATORY COMMISSION

Ms. LANGLEY. Thank you, Mr. Chairman. As someone who sat behind Senator Akaka for so many years on the dais in front of me, I am humbled and I am pleased to be here today. I wish to thank the President for nominating me as a Commissioner of the Postal Regulatory Commission, and I am grateful to the Senate Majority Leader, Harry Reid, for recommending me to the President. And I

[1] The prepared statement of Ms. Langley appears in the Appendix on page 15.

am especially grateful to you, Senator Akaka, for your long advocacy on my behalf and your gracious words today.

I am honored to be accompanied by Dan Blair, whom Senator Akaka mentioned, a former staffer on this Committee, but, more importantly, Chairman of the Regulatory Commission. He is here with Vice Chairman Mark Acton and Commissioner Tony Hammond. Commissioner Ruth Goldway is in California with her family observing Passover. And I am equally pleased that two former PRC Chairmen, George Omas and Ed Gleiman, are here as well. And I would also like to acknowledge the many friends and colleagues who are wishing me good luck today.

And, last, but most importantly, I would like to introduce my husband of nearly 30 years, William Selander, who, for more than two decades as a Senate spouse, rarely complained about missed meals and having to take vacations during Senate recess.

Senator CARPER. Rarely complained?

Ms. LANGLEY. I said rarely, yes. Rarely. [Laughter.]

Senator CARPER. Where is he?

Ms. LANGLEY. Right behind me.

Senator CARPER. Welcome. How are you? He has your back.

Ms. LANGLEY. Yes, he has my back.

Senator CARPER. Just like you had Senator Akaka's for all those years.

Ms. LANGLEY. Absolutely.

Senator CARPER. Good.

Ms. LANGLEY. But I do continue to be Bill's biggest fan, and I thank him for all his support.

I am fortunate to have worked for two fine Senators from my home State of Hawaii, the late Senator Spark Matsunaga and Senator Akaka, who has been both my mentor and my role model for over 17 years. I thank you, Senator Akaka, for all the experience and opportunities you have afforded to me. And although I have left your Subcommittee, I know that I am in your heart, as all the people of Hawaii are in your heart.

And having spent so many years helping to draft, negotiate, and enact the Postal Accountability and Enhancement Act (PAEA), I am pleased that I am now inplementing the Act as part of the senior team at the Postal Regulatory Commission. If confirmed, it will be my privilege to continue my public service as a member of the Commission.

In closing, as I looked around the room before I sat down, I know that bringing to fruition the PAEA was not done in isolation. The mailing community, from union and association members to business mailers, to individual citizens, moved this effort forward because of their collective desire to sustain the Postal Service. The American people have Members of Congress, especially Senator Carper, Senator Akaka, Senator Collins, and Senator Lieberman, to thank for their tireless efforts. Ensuring a fair balance between the flexibilities granted to the Postal Service by the new law, with the accountability and transparency provided by the Commission, will be my goal if confirmed as Commissioner. I have the greatest respect for the four Commissioners who are now carrying out these duties.

So I thank you, Mr. Chairman, Senator Akaka. I also thank your wonderful staff who helped me through this nomination process: John Kilvington, Larry Novey, Chris Barkley, Brooke Hayes, Evan Cash, Kristine Lam, and Jennifer Tarr. They have all been wonderful, as well as Jennifer Tyree, and Rick Kessler, my former staff director. Thank you so much. That concludes my statement, and I am happy to answer any questions you may have.

Senator CARPER. Thank you for that really wonderful statement.

Again, as I was trying to say before you interrupted with that opening statement, I was trying to get to some of these questions. There are three questions that I think we are required by Committee rules to ask, and I will ask those, and then depending on how you answer those questions, we will turn it over to Senator Akaka.

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

Ms. LANGLEY. No.

Senator CARPER. Do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. LANGLEY. No, I do not.

Senator CARPER. So far, so good. 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?

Ms. LANGLEY. I do.

Senator CARPER. And I have a fourth question, but I am going to hold off on that, and I am going to ask Senator Akaka if he would like to go ahead and open the questioning. Ask as many questions for as long as you want, and when you have exhausted your list, I will ask a few of my own. Thank you.

Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman. It is a pleasure to ask Ms. Langley this question. She has the background for it. This question has to do with the Pacific.

Ms. Langley, when the Postal Service was crafting new service delivery standards, I urged them to ensure that standards to non-contiguous States were accurate and that they be constantly improved. However, I remain concerned that some of these standards, especially to Guam and Hawaii, may not fully reflect—and let me underscore this—the actual time, the actual time from mailbox to mailbox. And I am concerned about the delivery time between Guam and Hawaii and notice the standard is that it would take one day by boat from Hawaii to Guam.

Do you plan to work closely with the Postal Service to ensure that this issue remains a priority to be addressed?

Ms. LANGLEY. Yes. If confirmed, I can assure you that service standards and performance measurements for non-contiguous areas, including the State of Hawaii, as well as the territories, will be a top priority of mine. The Commission on its own, without my prompting, actually pressed the Postal Service quite a bit on the delivery standards for Hawaii. Particularly Hawaii and Alaska,

there was a lack of understanding why it would take 4 days from the West Coast to Hawaii or to Alaska, when the current service standards were already 3 days.

Your concerns that were expressed to the Postal Service, as well as the PRC's concerns, had a great deal of impact because it ended up rolling back those service standards to what the norm is now, and that is 3 days. As far as 1 day between Guam, we know that it is absolutely unfeasible to get a ship between Guam and Hawaii in that time frame. So I can assure you again, this will be a priority.

Senator AKAKA. Thank you very much.

Mr. Chairman, I apologize for leaving the Committee now. I have to chair another committee in a few minutes. So thank you very much, Ms. Langley. I wish you well.

Ms. LANGLEY. Thank you.

Senator AKAKA. With much aloha and, again, we will try to move as quickly as we can on my part, and I am sure the Chairman's part as well, to have you confirmed.

Ms. LANGLEY. Aloha pumehana.

Senator AKAKA. Thank you very much, Mr. Chairman.

Senator CARPER. Senator Akaka, thank you so much.

Ms. Langley, I served in the U.S. House of Representatives with Senator Akaka, then-Congressman Akaka. I never served with his predecessor in the Senate. Tell us a little bit about him.

Ms. LANGLEY. Senator Matsunaga came to the House, I think, in the early 1970s and then came to the Senate in the late 1970s and served—he was Chairman of the Taxation Subcommittee on the Finance Committee for a number of years and really pushed alternative energy. That was one of his key concerns, knowing Hawaii was out in the middle of the Pacific, finding a viable business besides agriculture, and it was actually a good thing to do because the pineapple and sugar cane industry has really closed up in the State. But he was constantly looking for ways to use the byproducts of sugar cane and pineapple.

Senator CARPER. He was ahead of his time.

Ms. LANGLEY. He was ahead of his time. He also passed legislation to establish the Institute of Peace in the United States.

Senator CARPER. Really.

Ms. LANGLEY. And to establish the position of Poet Laureate at the Library of Congress. So the United States, like many other countries, now has a Poet Laureate. He was a very fine man.

Senator CARPER. Good. You mentioned in your statement that Senator Akaka has been—you said a role model and a mentor to you, and he is, I think of all the Senators, maybe the most beloved Senator of all. People just love working with him, serving with him, and I think he is a role model and mentor for many of us.

In what ways have you learned from him? I am sure he has learned from you as well. But give us some examples of how he has mentored you and the lessons that you take from that time that you worked for him and what you have taken with you to the Commission.

Ms. LANGLEY. Well, he truely believes in finding consensus. He has taught me that whenever you are faced with a situation with two opposing sides and the two sides cannot come together, there

must be a way of bringing people together. And I know with the PAEA, there were differences of opinion as to what to do with the workers' compensation.

Senator CARPER. I remember that.

Ms. LANGLEY. And with a lot of patience, we were able to work out an agreement that, while it may not be totally acceptable to everybody, it allowed the bill to move forward and allowed Senator Akaka to proudly cosponsor the bill. So I think that is a good example.

Senator CARPER. That is a good one. Well, what do you think are some of the biggest issues today that are, first of all, facing the Postal Service but also facing the Commission? And if you are confirmed, are there any particular issues that you want to focus your time and attention on?

Ms. LANGLEY. Well, I think you mentioned the economy, and that is certainly a huge challenge to the Postal Service today. So there is the double whammy, so to speak, of the economy and the diversion of hard-copy mail to digital technology, and this is a short- and long-term challenge. And First-Class mail and standard mail are very susceptible to the impact of the economy. The downturn in the housing and credit markets is certainly affecting the Postal Service. And the Postmaster General mentioned that the last time that he was before the Committee that the economy is of great concern.

As far as the Commission, I think the challenge has been implementing the various requirements of the PAEA in a rather compressed time frame. But I believe the Commission has done an excellent job and having the new ratemaking system in effect 8 months early has allowed the Postal Service to move forward and use the flexibilities granted under the new law.

Senator CARPER. Good. Thank you.

Ms. LANGLEY. And do you want me to answer—I forgot to answer your question about what I would do.

Senator CARPER. Yes. What would you do?

Ms. LANGLEY. I think that accurate, timely data is very important, and Senator Akaka mentioned the financial transparency issue. So compliance with Section 404 of the Sarbanes-Oxley requirements as well as SEC-like reporting requirements, are going to go a long way to boost financial transparency and accountability. So that would be an area that I would continue to be interested in, as well as making sure that the non-contiguous areas along with rural areas and economically disadvantaged areas are served well by any changes in service standards.

Senator CARPER. All right. Fair enough.

The Postal Service has now submitted and received Commission approval for the first price increases under the new ratemaking system, as you know. New prices both for market-dominant products and for competitive products will go into effect, I believe, in less than a month.

What is your view on how the process has worked so far? And, second, what is your own philosophy on how the Commission should approach your pricing changes proposed by the Postal Service?

Ms. LANGLEY. Well, I think the first effort was a good first effort. The market-dominant review found that there were no increases

that exceeded inflation at the class level and that workshare discounts in general did not exceed avoided costs. There were some areas where the workshare discounts did exceed 100 percent of avoided costs, and with all but one exception, the Commission approved those. The Postal Service provided the appropriate detail that is required by the law, but the one that was returned to the Postal Service was reviewed again by the Service and returned in a timely manner.

But the entire process underscores the need for timely and reliable data. That has been the mantra from the PRC for many years. And there is more visibility now because of the reliance on the Postal Regulatory Commission to provide this accountability and transparency through the initial review. We have a 34-day review of the market-dominant increases, and then there is an annual compliance determination, and we completed the first annual compliance determination. And that lengthy report goes into great detail on the operations of the Postal Service as well as how well service standards are working.

And as far as my approach, I think the premise of the PAEA to provide the Postal Service with flexibility to set rates and classify products is going to work well. I am very hopeful that the system that was set up by the law and actually effectuated by the Commission through its ratemaking process will work well.

Senator CARPER. Well, I am glad to hear that you feel that way.

Are there some things that you have seen over the last year or so since we enacted the legislation with the Postal Service and the Commission endeavoring to meet the requirements under the law? Do you see any things that are not working so well that are a cause for concern that maybe we should be mindful of?

Ms. LANGLEY. I think the only thing that I would be concerned with, and I think because of the communication, the good ongoing communication that is going back and forth between the Postal Service, is making sure that the data is available. We are still working with the Postal Service many times on how to present the data, and with the compliance determination there will be a rulemaking that will set out guidelines as to what should be submitted and in what form. But it is a new process and the whole system is evolutionary, which I believe it needs time just to work out the different kinks that may be in the system.

Senator CARPER. All right. Good enough.

You talked earlier in your testimony about the economic slowdown, and I alluded to it as well, and that has hit the Postal Service hard. We were talking with the Postmaster General, and it is strange that sometimes when companies feel that we might be slipping into a recession, rather than advertising more or marketing more, they advertise less. It is sort of counterintuitive, but it happens time after time. I think it has happened this time, too, and as a result, some of the reduction in advertising has had an effect, and fewer catalogues are going out, thinner catalogues going out as well. And this problem I think is compounded by the fact that at least some—not all, but at least some of the postal customers are leaving the mail or are maybe considering leaving the Postal Service in favor of other forms of communication. There certainly are others to lure them away.

How can the Commission itself help the Postal Service to do what it needs to do to get past these challenges and past these difficulties and maintain the level of service that our public depends on?

Ms. LANGLEY. Well, I think the law is very clear that there is now a profit-making system that is available to the Postal Service, and the Postal Service needs to be innovative. They need to think outside the box, if you will, in what is an increasingly difficult economic climate. But there are simple things that they are doing which I think demonstrates the innovation that is needed to really keep them going.

Senator CARPER. Do you want to mention a couple of those?

Ms. LANGLEY. Yes. The efforts they are undertaking in the area of recycling, it does not bring a lot of revenue——

Senator CARPER. You are addressing the Co-Chairman of the Senate Recycling Caucus, so this is music to my ears. [Laughter.]

Ms. LANGLEY. That is wonderful.

Senator CARPER. Take as much time as you need.

Ms. LANGLEY. OK. [Laughter.]

The Postal Service obviously moves a lot of paper goods and material that is recyclable. So taking the opportunities to get involved in recycling I think is beneficial.

They have also recently moved ahead with having a new larger size flat rate box, flat rate priority box, so they are beginning to look at different areas in which they can grow revenue or volume. And where the PRC comes into account is through its regulations to move these requests from the Postal Service in an expeditious manner. And the competitive products area is an area where there portends a lot of innovation and a lot of activity.

Another opportunity is with competitive negotiated service agreements (NSAs), and they have not brought one forward, but there are opportunities there as well.

Senator CARPER. All right. Thank you.

Yesterday was Earth Day, and I reminded my colleagues at our caucus luncheon and gave them a little pep talk on recycling, encouraged them to—in the words of one of my old ministers who liked to say people would rather see a sermon than hear one—I was encouraging my colleagues to set a good example in recycling. We recycle here in the Senate, I think, on any given day roughly 3 tons of recyclables, including paper and beverage containers, toner cartridges, batteries, and cardboard. About 3 tons a day. This year we will be up over, I think, a thousand tons from the Senate. And for every 1 ton of aluminum cans that we recycle, we save about 400 gallons of oil. For every 1 ton of recycled paper products that we use, we avoid chopping down 17 trees; we preserve about 3½ cubic feet of landfill per year, and just do some good things.

While I have your attention, one of my favorite recycling "gee whiz" statistics is that we throw away enough aluminum cans in this country in a year, just in landfills, to rebuild the entire domestic U.S. airline fleet every 3 months. And for every—gosh, I could go on and on.

In any event, I am pleased to hear that the Postal Service is focusing on recycling, and I am glad you are giving them some encouragement.

You mentioned NSAs with individual customers, and I want to come back and just focus on that just a little bit more, if we could. As you know, those negotiated service agreements with individual customers have been talked about for some time as a tool that the Postal Service can use to find efficiencies and to bring along some additional businesses. And I know you have spoken about this to some extent, but let's just dwell on it a little bit more. Are you convinced that the Postal Service has taken full advantage of its opportunities in this area?

Ms. LANGLEY. I think they could take more advantage.

Senator CARPER. If you were giving them friendly advice, what kind of friendly advice would you extend to them, the Postal Service?

Ms. LANGLEY. Continue talking to individual customers and, again, be innovative, think of new ways that you can work with your customers. The law clearly provides for new opportunities, and this is especially true, as I mentioned, in the competitive product area.

The Commission's regulations mirror the law which ensures that NSA must either have a positive net effect on income or a positive effect on operational improvements, so long as no other competitor is harmed.

The one area that continues to be problematic is that NSAs are not always providing value to the Postal Service. Our just completed compliance determination found that current NSAs have provided a net $2.5 million, and that is not a great deal of money. And so, more work needs to be done by the Postal Service to make sure that NSAs are mutually beneficial to the Postal Service as well as the partner.

Senator CARPER. All right. Good. Thanks.

The postal reform bill includes a mechanism within it whereby members of the public can file a complaint, as you know, with the Commission if they feel that the Postal Service is in some way violating the law. In addition, I think the Commission has a number of tools that it can use to compel the Postal Service to be in compliance or even, I think, to punish the Postal Service for some of the transgressions that it might commit.

How do you think the Commission should handle this process?

Ms. LANGLEY. Well, on the compliance process, we have an existing compliance system, and it will be enhanced through new rulemaking activity, probably in a short time. Under the PAEA, the PRC is required within 90 days to make a determination on any complaint that is filed to decide whether or not it merits consideration.

I believe the complaint system will work well. It has worked well in the past. I think it will be more accessible to individual citizens and certainly accessible to mailers who may have concerns.

On the issue of subpoena, the Commission for years has been seeking subpoena authority. Subpoena authority many times is just that: It is authority. It is the threat of having a subpoena, the threat of being able to use a subpoena in order to get the information or the data that is necessary. It has not always been easy to get some information from the Postal Service. The Postal Service realizes now that the Commission has subpoena authority. The

Commission has authority to levy fines, and it has authority to require corrective action, if necessary.

My personal view is I would rather talk to the Postal Service first to see whether or not issues can be resolved rather than just wielding a subpoena when we have not spoken to the Service.

Senator CARPER. I think you spoke to this in part, but I am going to ask this question anyway just to make sure I know what your views are. Under what circumstances do you think that the Commissioners should use the tools available to them under the law to ensure that the Postal Service is in compliance with the law? And if you want to give some examples, feel free.

Ms. LANGLEY. Well, I think there needs to be judicious use of any of these tools. But I do think that if there is continued disregard of a Commission directive, for example if the Commission asks for information regarding a certain product and the information does not come forth, then there may be a discussion that the Commissioners would have to hold among themselves. But I think that would be an instance where if requested and information is not forthcoming what would be the next step.

Senator CARPER. All right. The Postal Service has proposed, as you know, a set of service standards for its market-dominant products. How do you think the Postal Service should be using these standards? And what role do you hope to see the Commission take in ensuring that they are enforced?

Ms. LANGLEY. The law is quite clear that the Postal Service has to consult with the PRC on the establishment of the initial service standards. That was done. The Postal Service issued those standards in December of this past year, and service standards are a key element in a rate cap regime. There is always the concern that a business that is guided by a rate cap could reduce the level of service in order to stay under a cap. And certainly this is an area that the Commission, in my mind, should keep a vigil eye on because you do not want to see service reduced in order to just stay under the cap.

So I believe that the PRC has an important role in monitoring service performance. Also, the Postal Service is required by the law to consult with the Commission on the establishment of performance measures and goals, and that is ongoing right now. So there is definitely a critical role for the Commission, and the annual compliance determination also has a section that is devoted strictly to service standards. The current compliance determination does not include a lot of data on service standards because at the present time, only a little under, I believe, 20 percent of mail is actually measured for service. But measuring service is critical, particularly when we are talking about regularity and predictability of mail.

Senator CARPER. As I recall, the Postal Service is required to submit a report, I think it is later this year, in which they will lay out their strategy for managing their facilities network, and include in that report any plans they may have for removing excess capacity.

What role should the Commission play in developing and also in monitoring the implementation of this strategy?

Ms. LANGLEY. Well, once more, I believe Congress wisely ensured that the Postal Service consult with the Commission on its June

2008 report that is due to Congress on facilities. And as part of this report, we have already made mention to the Postal Service in the past two hearings, that the Service needs to keep interested Members of Congress, stakeholders, and the public, as well as employees, informed about any decisions that they will be making. So this is an area where the Commission, I believe, is performing good service.

Another thing is that the Commission in 2006 reviewed realignment plans and found that the Postal Service's plans for making the public aware of its activities was not as good as it should be. This determination was handed down at the end of 2006. The Commission has also met with the GAO to have the benefit of their observations in this area as well.

One thing that is important to remember is that the service standards set in December 2007 are based on current facility capability, and so any realignment or reorganization of these facilities may or may not meet the service standards that were set forth at the end of the year. And that is where the performance measurement and performance goals are very important.

Senator CARPER. All right. Thanks.

Among the laws that exist in this land are laws that we never passed here in Congress. One of them is Murphy's Law. Another is the law of unintended consequences. When you look at the law that we worked on and finally enacted a year or so ago affecting our Postal Service—I asked you earlier what you thought was working well, and then I asked you if there were some areas where you had some concerns.

Are there any unintended consequences that you have seen grow out of the legislation that we have passed that we should be mindful of?

Ms. LANGLEY. There is an interesting consequence that the law requires the Postal Service within 90 days of the end of its fiscal year to file its compliance report with the Commission, and then the Commission has 90 days from that to issue its annual compliance determination. And because the law requires the Postal Service to have predictable schedules of rate increases, it turns out that when we are doing the compliance determination, we are also looking at the market-dominant and the competitive products rate cases at the same time.

So it really shows how great the Commission is because we are able to do it. But balancing a small staff and limited resources has been an interesting project. But I do not believe I would classify it as unintended. It just turned out to be that way.

Senator CARPER. OK. Thank you.

Each of the Members of the Committee, aside from Senator Akaka, have joined together and asked me to ask on their behalf one last question, and that is, if you could not have been from Hawaii, grown up in Hawaii, maybe lived in any other State——[Laughter.]

And been able to work on the staff of a Senator, what other State would have been your second choice?

Ms. LANGLEY. The chairman of the Commission says Missouri.

Senator CARPER. You can answer that one for the record.

Ms. LANGLEY. No. It is well known that I enjoy going over the Delaware bridge and seeing the factories, and John Kilvington has promised a tour of the factories.

Senator CARPER. Well, that is good.

Ms. LANGLEY. So I find Delaware actually a very interesting and exciting place.

Senator CARPER. I could not agree more. [Laughter.]

A wonderful answer, I thought. I will share that with my colleagues after the vote.

Well, we thank you for your service to our country. We thank your family, your husband for sharing you with the rest of us, and your parents for raising you and instilling these values in you as they have. We appreciate your statement today and your responses to our questions.

We are going to leave the record open until noon tomorrow for the submission of any additional statements or questions that my colleagues might have.

Do you have anything else you would like to say before we close the hearing?

Ms. LANGLEY. No, other than thank you for making this rather nervous experience very nice.

Senator CARPER. You are quite welcome. Thank you for allowing us to all be here.

And with that having been said, I think the hearing is adjourned. Thank you all.

[Whereupon, at 3:21 p.m., the Committee was adjourned.]

APPENDIX

Statement of Nanci E. Langley
Nomination Hearing to be Commissioner
Postal Regulatory Commission
U.S. Senate Committee on Homeland Security
and Governmental Affairs
April 23, 2008

Thank you Mr. Chairman.

As someone who sat behind Senator Akaka for so many years on the dais in front of me, I am humbled, and I am pleased to be here today. I wish to thank President George Bush for nominating me as a Commissioner of the Postal Regulatory Commission. I am grateful to Senate Majority Leader Harry Reid for recommending me to the President, and I am especially grateful to Senator Daniel Akaka for his advocacy on my behalf. Thank you, Senator Akaka for your gracious words.

I am honored to be accompanied by Dan Blair, Chairman of the Postal Regulatory Commission, along with Vice-Chairman Mark Acton and Commissioner Tony Hammond. Commissioner Ruth Goldway is in California with her family observing Passover. I am pleased that two former PRC Chairmen, George Omas and Ed Gleiman, are here today as well.

I would also like to acknowledge and thank the many friends and colleagues who are here today to wish me well.

And I would like to introduce my husband of nearly 30 years, William Selander, who, for more than two decades as a Senate spouse, rarely complained about missed dinners and vacations taking place only when the Senate was out of session. I continue to be his biggest fan, and I thank him for all his support.

I am fortunate to have worked for two Senators from my home state of Hawaii – the late Senator Spark Matsunaga and Senator Akaka, who has been both my mentor and role model for over 17 years. I thank him for the many experiences and opportunities afforded to me. Although I left Senator Akaka's subcommittee staff a year ago, I know his door is always open to my family and me just as his heart is open to the people of Hawaii.

Having spent so many years helping to draft, to negotiate, and to enact the Postal Accountability and Enhancement Act, I am pleased to be implementing this new law in my present position as a senior officer of the Commission. If confirmed, I will be privileged to continue my public service as a member of the Commission.

In closing, as I look around the hearing room, I know that bringing to fruition the PAEA was not done in isolation. The mailing community, from union and association members to business mailers to individual citizens, moved this effort forward because of their collective desire to sustain the vitality and value of the U.S. Postal Service. The American people have the Members of this Committee, especially Chairman Carper, Senator Collins, Senator Lieberman, and Senator Akaka to thank for their tireless efforts.

Ensuring a fair balance between the flexibilities given to the Postal Service by the PAEA, with the accountability and transparency provided by the Postal Regulatory Commission will be my goal, if confirmed, as a Commissioner. I have the greatest respect for the four Commissioners who now carry out their duties with great responsibility and bipartisanship.

Thank you, Mr. Chairman, Dr. Coburn, and Senator Akaka. I also thank your staff for assisting me through this nomination process, especially John Kilvington, Chris Barkley, Larry Novey, Brooke Hayes, Evan Cash, Kristine Lam, and Jen Tarr.

Mr. Chairman, this concludes my statement, and I am happy to answer any questions the Committee may have.

REDACTED

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

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

   Nanci Ellen Langley
   Nanci Langley Savit (1969 – 1978)

2. **Position to which nominated:**

   Commissioner, Postal Regulatory Commission

3. **Date of nomination:**

   February 27, 2008

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

   Residence:

   Office: Postal Regulatory Commission
   901 New York Avenue, NW
   Suite 200
   Washington, DC 20268

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

   March 29, 1948
   San Francisco, California

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

   R. William Selander

   (Mark N. Savit, divorced 1978)

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

   Joshua Dylan Savit (adult)

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

University of Southern California, Los Angeles, California (1966 – 1971)
Bachelor of Arts, 1971
Punahou School, Honolulu, Hawaii (1958 – 1966) High School Diploma, 1966

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.

Director, Public Affairs and Government Relations (April 2007 – present)
Postal Regulatory Commission
Washington, DC

Deputy Staff Director (March 1999 – March 2007)
Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia (2005-2007)
Subcommittee on Financial Services, International Security, the Budget, and the Federal Services (2003-2004)
Subcommittee on International Security, Proliferation, and Federal Services (1999-2002)
Committee on Homeland Security and Governmental Affairs
(United States Senator Daniel K. Akaka)
United States Senate
Washington, DC

Legislative Assistant (May 1990 – February 1999)
United States Senator Daniel K. Akaka
United States Senate
Washington, DC

Communications Director (February 1983 – April 1990)
United States Senator Spark M. Matsunaga
United States Senate
Washington, DC

Please see appendix 1 for additional employment

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.

None

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.

None

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

Member, Women in Logistics Delivery Services (current)
President and Secretary/Treasurer, Southeastern Chapter, Antiquarian Booksellers Association (1995 – 2003)
Member, Antiquarian Booksellers Association (1983 – 2004)
Member, Outrigger Canoe Club (Active membership 1960 – 1995)

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.

None

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

Volunteer – Fairfax County, Virginia Democratic Party – Fall 2006
Volunteer – Fairfax County, Virginia Democratic Party – Fall 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.

None

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.

20-year Recognition Award, United States Senate

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

None

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.

I have delivered informal speeches and participated in a variety of forums over the past five years; however, it has been my practice to proceed from notes rather than formal text. Although I have not delivered any formal speeches on issues affecting postal rates or classification, I have spoken (or participated on panels) before the Continuity Shippers Association (2007), the National League of Postmasters (various dates), the National Association of Postmasters (various dates), the National Association of Postal Supervisors (2002), the National Association of Letter Carriers (various dates), and the Mail Handlers (various dates).

(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.

As noted in 16(a), I have delivered a number of informal speeches and participated in a variety of forums over the past years. However, it has been my practice to proceed from notes rather than formal text. In addition to the organizations listed above, I spoken to or participated in forums for the Office of Personnel Management, National Academy of Public Administration, Government Accountability Office, National Treasury Employees Union, Federal Managers Association, and Senior Executives Association. I have also participated with other congressional staff at workshops sponsored by the Brookings Institution and CapNet, a division of Congressional Quarter.

17. **Selection:**

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

I believe the President nominated me for this position because of my understanding of the laws affecting the U.S. Postal Service and the U.S. postal system, stemming from my involvement with the drafting, negotiating, and enactment of these laws over 10 years. Since April 2007, I have been involved in the implementation of the Postal Accountability and Enhancement Act as a senior officer of the Postal Regulatory Commission.

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

My 25 years of hands-on public administration experience on a wide range of government management issues, especially matters relating to the U.S. Postal Service, the U.S. postal system, and government regulation, meets the requirements of USC 39 §502(a), which outlines desired qualifications for Commissioners, including professional standing and demonstrated expertise in public administration.

Working daily on postal issues since 1999, provides me with an in-depth knowledge of the federal statutes affecting the components of the U.S. Postal Service, the authority of the Commission, U.S. Postal Service regulations, as well as an understanding of issues and concerns raised by the diverse members of the mailing community and postal employee organizations. During the last 17 years of my Senate employment, I worked on matters related to regulatory reform and government reorganization.

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?

   My present employer is the Postal Regulatory Commission. If confirmed as a Commissioner, I will be working closely with the current staff.

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, 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?

   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 or 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

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.

   Not Applicable

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

   I thank the Committee for considering my nomination. Throughout my 25 years as a Federal employee, I have endeavored to make the Federal government an employer of choice and to foster fairness within the legislative process. I am honored to be selected by the President to be a Commissioner of the Postal Regulatory Commission. I am also honored that Senate Majority Leader Reid and Senator Akaka expressed their support of my nomination to the President. If confirmed, I will serve with integrity and honesty.

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

Nanci Langley 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.

Subscribed and sworn before me this 29th day of February, 2008.

Notary Public

MY COMMISSION EXPIRES:
DECEMBER 14, 2012

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of Nanci E. Langley to be a Commissioner
Postal Regulatory Commission

I. Nomination Process and Conflicts of Interest

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

   I believe the President nominated me for this position because of my extensive background and experience related to the laws affecting the U.S. Postal Service and the U.S. postal system. I was involved in the drafting, negotiation, and enactment of these laws over the past 11 years. Since April 2007, I have been involved in the implementation of the Postal Accountability and Enhancement Act (PAEA) as a senior officer of the Postal Regulatory Commission.

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

   No.

3. **What specific background and experience affirmatively qualifies you to be a Commissioner of the PRC?**

   Since 1999, I have served in key positions on the Commission and a Senate committee. Working daily on postal issues provides me with an in-depth knowledge of the federal statutes affecting the components of the U.S. Postal Service, the authority of the Commission and its regulations, U.S. Postal Service regulations, as well as an understanding of the issues and concerns of the diverse members of the mailing community and postal employee organizations. In addition, during the last 17 years of my Senate employment, I developed policies related to regulatory reform and government reorganization.

   My 25 years of hands-on public administration experience on a wide range of government management issues, especially matters relating to the U.S. Postal Service, the U.S. postal systems, and government regulation meets the requirements of 39 U.S.C. §502(a) which outlines desired qualifications for Commissioners, including professional standing and demonstrated expertise in public administration.

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

No, other than my present employer is the Postal Regulatory Commission. If confirmed, I will be working closely with the current Commissioners and staff.

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.**

None.

II. Role of the Postal Rate Commission and its Commissioners

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

The role of a Commissioner is to ensure the transparency and accountability of the U.S. Postal Service. This is a bipartisan agency, authorized by Congress, to carry out the mandates of the Postal Accountability and Enhancement Act. I would bring to this role fairness and a desire to achieve consensus when possible.

7. **In your view, what are the major internal and external challenges facing the PRC, and how would you help the PRC address these challenges? What contributions do you hope to make during your tenure at the PRC, if confirmed?**

In my view, a significant internal challenge is the implementation of the PAEA with its many important and statutorily time-sensitive requirements with limited resources. Another internal challenge is balancing the flexibilities afforded to the Postal Service with the need for transparency and accountability. This particular internal challenge also is an external challenge as the Commission articulates its mission of transparency and accountability to the public. As a Commissioner, if confirmed, I would continue to represent the Commission in appropriate forums.

8. **If confirmed, how would you coordinate and communicate with PRC staff to accomplish the PRC's goals?**

I am fortunate to be a member of the Commission staff and have developed strong working relationships with all staff. If confirmed as a Commissioner, I will continue to foster these ties.

9. How do you believe management of the PRC could be improved generally?

Chairman Blair has led a successful reorganization of the Commission after an extensive management review of Commission resources. If confirmed, I would offer my assistance in carrying out further management reform, including enhancing recruitment and retention programs, developing a succession plan, and fostering workforce diversity.

10. The PRC listed human capital management as a key strategic goal in its Strategic and Operational Plan. What role would you play, as a Commissioner, in helping recruit and retain a talented and skilled workforce?

Recruiting, retaining, and motivating a workforce are keys to a successful organization. I have 25 years of public administration experience, much of which is focused on human capital issues. If confirmed, I would lend my expertise to the Commission in this area. I am particularly interested in the recruitment and development of younger staff who are important to the agency's succession planning goals.

11. What should the Commissioners, including you, if confirmed, do to help ensure that the Office of Inspector General established under the Postal Accountability and Enhancement Act (PAEA) functions independently and effectively?

I have advocated on behalf of Senator Akaka, a primary proponent of strong federal employee whistleblower rights. Therefore, if confirmed, I would guard against attempts to impede the functions of the Commission's Office of Inspector General whose function is to investigate allegations of internal waste, fraud, abuse, and whistleblower violations.

12. How do you believe your prior experience would help inform and guide your decisions as a Commissioner of the PRC?

I am a senior official at the Commission, and as such, I am actively involved in the implementation of the PAEA. I also served for a number of years as the deputy staff director of several subcommittees on the Homeland Security and Governmental Affairs Committee with oversight of postal and a wide range of government management issues. This background provides me with valuable management and consensus building experience that would help inform and guide my decisions.

III. Policy Questions

Postal Reform Generally

13. What is your overall impression of how well the implementation of postal reform under the PAEA has gone so far? What areas have been most challenging, and what areas do you believe need the most attention in the future?

From my vantage point as a senior Commission official involved with the implementation of the PAEA, I believe that implementation is going well. The Commission challenged itself to complete new ratemaking regulations ahead of the statutory schedule, which it did by eight months, which in turn, allowed the Postal Service to forego a final rate case under the old 1970 law. To issue these final rules involved considerable commitment by Commissioners and staff, including the issuance and review of public comments solicited through public inquiries, three field hearings conducted outside of Washington, DC, and meetings with interested parties to ensure significant public input.

The task of issuing the new ratemaking framework was done at the same time that the Commission entered into formal consultations with the U.S. Postal Service on the development of modern service standards, as required by the PAEA, as well as decided several filings under the old law.

One of the most challenging aspects of implementation is the compressed timeframe in which the Commission must accomplish the numerous mandated requirements. At the same time that it is reviewing rate adjustments for both market dominant and competitive products, the Commission must also issue its annual compliance determination relating to the Postal Service's operations for fiscal year 2007. Completing both of these requirements demonstrates the Commission's ability to balance its limited staff and resources.

14. What do you believe are the most important responsibilities of the PRC under the PAEA, and what is your opinion of how those responsibilities have been fulfilled to date?

One of the primary responsibilities of the PRC is to ensure transparency and accountability of the U.S. Postal Service and to foster a vital and efficient universal mail system. I believe the Commission is meeting this responsibility as envisioned when it issued its Annual Compliance Determination (39 U.S.C. § 3653) of the Postal Service's performance for fiscal year 2007 on March 27, 2008. The Commission's determination, as required by the PAEA, evaluates, analyzes, and makes recommendations concerning the Postal Service's financial and service performance based on its fiscal year Annual Compliance Report.

Another key responsibility is to receive complaints under 39 U.S.C. §3662. The

Commission's current complaint process will be enhanced to reflect this provision of the PAEA as noted in my response to question 18. New proposed regulations will be issued soon for public comment.

A third significant responsibility is the Commission's consultation with the Postal Service on the development of service standards, performance goals, and performance measurement systems, as noted in my response to questions 25 and 26. The formal consultation process began last spring, and monthly meetings are occurring regularly. The Commission is also being consulted on the Service's plans for network reorganization, which I discuss in my response to question 31.

15. The PAEA substantially changed the relative responsibilities of the United States Postal Service (USPS) Board of Governors and the Commission. What are the key choices that the Commission has made, and must make in the future, in charting the course it will take in exercising its new authority? Generally, what approaches do you advocate in regulating the USPS and why?

I believe that the PAEA is clear in its intent that the Postal Service has the flexibility to operate in a more business-like manner and has the authority to set rates so long as the rates are lawful. I agree with the Commission's approach to date which attempts to leave the operational functions within the purview of the Board of Governors, while ensuring that all applicable provisions of the PAEA are met. Balancing the flexibilities granted to the Service by the PAEA with the strengthened regulatory role of the Commission is evolutionary, and in my view, is moving on the right course.

16. The Postal Service faces many financial challenges, including competition from electronic modes of communication and from private delivery services, and including upward pressure on costs. What role do you believe the PRC can play in ensuring a fiscally healthy and responsible Postal Service?

The diversion of mail, especially First Class Mail, by the Internet continues to pose serious financial challenges to the Postal Service, as well as the challenging economic climate affecting key volume mailers in the mortgage, housing, and credit card sectors.

The Commission is creating a regulatory climate, which recognizes the flexibility that the PAEA accorded to the Postal Service in offering and pricing products. New Commission rules allow the Service to exercise fully its flexibility in setting rates and controlling costs, which helps to increase net revenue and achieve greater financial stability. This flexibility includes providing differential rate increases within each market dominant class which works toward better aligning mailer demand, streamlining procedures for Negotiated Service Agreements, and offering greater flexibility within competitive products so the Service can use pricing to acquire new customers and additional volume from existing customers.

In addition, the PAEA charges the Commission with ensuring the transparency and accountability of postal finances and operations. The Commission's first Annual Compliance Determination, issued on March 27, 2008, gives a clear picture of the Postal Service's financial data, which in turn will assist the Commission to improve the quality and timeliness of data filed by the Postal Service with the Commission. These annual compliance determinations also gauge postal product pricing for compliance with our regulatory framework and serve as action-forcing mechanisms to shed light on postal operations and finances.

17. The debate on postal reform legislation covered fundamental questions about the role of the Postal Service in our nation, including the nature of the Service's universal service obligation, and the scope of the its authority to offer new services and products in the competitive marketplace. To what extent do you believe the PAEA has adequately set these issues to rest? What role do you believe the PRC should play in issues involving the universal service obligation and the introduction or pricing of new products?

The PAEA addresses the universal service obligation and postal monopoly by requiring the Commission to conduct a comprehensive review of the universal service obligation and monopoly in a report to the President and Congress by December 2008. The Commission's review must also make recommendations on any changes to universal service (39 U.S.C. § 702). The Commission has begun this review, which will involve extensive public outreach to ensure the input of postal customers of all sizes.

As to the pricing of new products, the Commission is charged with providing notice to the public when the Postal Service plans for the introduction of new competitive products. Most recently, the Service filed with the Commission two new products: a large-sized Flat Rate Box and a premium for guaranteed delivery of Express Mail on Sunday and holidays. After the Commission solicited public comments, the rates became effective March 3, 2008.

18. The PAEA sets forth a new process for resolving complaints against the Postal Service. What do you believe must be done to ensure that the PRC will review and resolve any complaints promptly and fairly?

The Commission is known for its fair approach to handling complaints from the public. The Commission's current complaint process will be enhanced to meet the requirements of the new law. I believe the process will benefit from easy-to-understand regulations and easily accessible filing procedures, while adhering to 39 U.S.C. §3662 that requires the Commission, within 90 days of receiving a complaint, to either find that the complaint raises material issues of fact or law and begin proceedings on the complaint, or issue an order dismissing the complaint. If the Commission finds the Postal Service is not in compliance with the law, it may order remedial action.

Postal Ratemaking

19. Before postal reform, the postal ratemaking process was criticized for being too cumbersome, taking too long, and being too adversarial to best serve the financial interests of the Postal Service or postal customers. Based on the experience so far, to what extent do you believe the PAEA and its implementation have improved the ratemaking process, and to what extent do you believe problems do and will remain?

Pursuant to Commission regulations promulgated as a result of the PAEA, the 10-month litigious process has shrunk to a 35-day review for market dominant products to ensure that all classes of mail, on average, are below inflation, and that worksharing discounts do not exceed avoided costs. For competitive products, the review process is shorter, ranging from 15 to 30 days depending on the nature of the rate filing. This compressed time period provides the predictability and consistency of rates envisioned by the law. The Commission just completed its 35-day review of price adjustments for market dominant products filed by the Postal Service on February 11, 2008. The Commission was required to seek additional information from the Postal Service, which delayed reviews of some product categories.

20. The PAEA codifies the Postal Service's ability to enter into special classifications with mailers, referred to as Negotiated Service Agreements (NSAs). What are your views about the desirability and effectiveness of NSAs under various circumstances?

I believe negotiated service agreements may be a useful pricing tool, and I am pleased the Commission's ratemaking regulations mirror the PAEA. The new law provides increased opportunities for the Postal Service to enter into specialized classifications that improve either the net financial position or operations of the Service.

The success of the current NSAs has been mixed. An assessment of the NSAs based on data collection plans required by the Commission has thrown this expectation of fiscal value into question. On some of the NSAs, the Postal Service may have forgone revenue that would have been achieved without the NSAs. In other words, the Postal Service did not improve the net income or improve operations as required by the PAEA. An example is the use of out-of-date data on a recent request that could result in a loss up to $45 million. Commission and Postal Service staff continue to discuss ways to improve the process.

21. Some mailers have raised concerns about the lengthy and often cumbersome process for approving NSAs. Some other stakeholders have been concerned that NSAs may lead to unfair competition. Do you believe these concerns have been successfully addressed and resolved by the postal reform legislation?

As noted above, the use of NSAs was not codified until the enactment of the PAEA. The Commission's recent recommendation on the Postal Service's request for an NSA with Bank of America brought to light significant financial concerns. As noted in my response to question 20, there may be legitimate concerns that greater coordination between the different units at the Postal Service is needed to enhance the overall quality of the NSAs and compliance with the PAEA.

22. Some have expressed concerns that the amount of the Postal Service's worksharing discounts may not be adequately covered by the actual cost savings achieved. In general, do you believe that the postal reform law has set an appropriate standard to govern when worksharing discounts are and are not allowed? How should the PRC and the Postal Service address situations where these discounts have long exceeded avoided costs?

I believe the PAEA sets forth an appropriate standard that workshare discounts should not exceed avoided costs with certain exceptions. The Commission's R2008-1 determination found that out of the 14 instances where workshare discounts exceeded costs avoided, the Postal Service proved the necessity for going over the 100 percent mark in 13 instances. However, the Commission denied one discount, which would have exceeded avoided costs by 557.8 percent. In its denial of this discount, the Commission noted that the Postal Service failed to comply with the requirements of the PAEA.

23. Some have criticized the quality of data used by the Postal Service to support proposed rate increases. In consideration of a recent NSA, questions were raised about whether the supporting data provided by the Postal Service was adequate to enable the NSA to be appropriately evaluated. What do you believe should be the role of the PRC in helping to ensure that the quality and timeliness of the Service's data are adequate?

I believe that accurate, timely, and usable data is the cornerstone to the Commission's goal of ensuring transparency and accountability of the U.S. Postal Service. The Commission's Annual Compliance Determination will review data on current NSAs to ensure that statutory criteria, e.g., competitive NSAs cover attributable costs. Understanding the costs and volumes associated with NSAs will afford the Commission important opportunities to shed light on the true costs of NSAs on a yearly basis. In addition, 39 U.S.C. § 3652 details the annual costs, revenues, rates, and service reporting to be submitted by the Postal Service to the Commission. The PAEA clearly confers upon the Commission significant responsibility in reviewing this annual submission and prescribing the content and form of the Postal Service's reports.

24. During consideration of postal reform legislation, there was much debate about whether it was realistic to expect the Postal Service to function under a strict inflation-based rate cap. From experience so far, do you believe the Service can operate successfully under the new rate cap system? How would you, as a Commissioner, interpret the rate cap and its exigency clause?

There was much debate over which index to use during consideration of postal reform. The CPI-based cap was employed because the Postal Service, over the past 37 years, had kept its rate increases for the First-Class stamp at or under inflation. Using this as a guide, it seemed appropriate to use an inflation-based rate cap. The Commission completed its review of the Postal Service's market dominant rate filing on March 17, 2008, and found that rate increases were, on average, under inflation for all classes of mail. The Postal Service was also able to bank a small portion of the cap for each class as well.

Further, the recent Annual Compliance Determination issued by the Commission cited Postal Service data showing increases in operating expenses below the rate of inflation since FY 2002.

As a Commissioner, if confirmed, I view the exigency clause as something to be used only in extraordinary or exceptional circumstances as required by the PAEA.

Service Standards and Other Performance Obligations

25. Under the PAEA, what do you believe should be the PRC's role in the establishment of performance standards for postal products and services and for monitoring the Service's results in meeting these standards?

The PAEA clearly defines the Commission's role in this area and requires that the Postal Service consult with the Commission not only on establishing modern service standards [issued December 2007] but on establishing performance goals and performance measurement systems by June 2008. I believe the law is clear on the Commission's involvement in the establishment and monitoring of service standards. The Commission is also charged with deciding the appropriateness of the Postal Service using an internal measurement system to measure whether service standards have been met.

In addition, the Commission's Annual Compliance Determination is required to determine whether any service standards in effect during the reviewed year were met (39 U.S.C. § 3653 (b)(2)).

26. The PAEA establishes certain requirements on the Postal Service to consult with the PRC in the establishment of modern service standards and performance goals and in making certain modifications and plans for the future. How do you believe this consultation should be carried out, and how has the consultation worked so far? Generally, what perspectives and other value-added do you believe the PRC can bring to this process?

As noted in my response to question 25, the Commission continues to engage in consultation with the Postal Service on service performance measures and goals. The formal consultations take place monthly and include Commissioners, senior Commission officials, the Deputy Postmaster General, and postal vice presidents. As a senior Commission official, I have participated in the majority of these consultations, and I am encouraged by the tenor of the meetings and acceptance of Commission recommendations. For example, the Commission in its comments on the establishment of modern service standards objected to delivery standards for non-contiguous areas of the United States. The Service changed this standard.

Prior to the adoption of new service standards by the Postal Service in December, the Commission questioned the downgrading of First Class delivery standards for all zip codes to the non-contiguous states of Alaska and Hawaii, even when the mail was coming from the West Coast. The Postal Service agreed and changed its initial proposal to retain delivery standards of three days for mail from the non-contiguous lower 48 zip codes. Another example was the Postal Service's proposal to downgrade a number of service standards from certain 3-digit zip codes to other 3-digit zip codes. This seemed extreme to the Commission, which urged the Postal Service to make this downgrading visible to mailers. The Service agreed with the Commission's recommendations.

27. What transparency is appropriate for the USPS to provide to Congress, mailers, and the public on delivery performance goals and general quality of delivery services? Do you believe the PRC has sufficient information to monitor service quality?

I believe the mailing public should know the service standards associated with different mailing products, as well as how well the Postal Service meets those standards. During the three field hearings held by the Commission last summer, it became obvious that business mailers and individual citizens wanted greater transparency and granularity of data available from the Postal Service.

Because the Postal Service currently measures less than 20 percent of mail, I believe it is too early to tell whether the Commission will receive sufficient information to monitor service quality. However, I am hopeful that the Service's requirement that all discounted automated mail include Intelligent Mail Barcode (IMB) by May 2009 will provide the expected data to evaluate service performance and provide visibility of the mailstream to mailers.

28. Many postal stakeholders have raised concerns about the adequacy of the Service's financial transparency. The PAEA now requires the Postal Service to meet the financial reporting requirements of the Sarbanes-Oxley legislation by fiscal year 2010. What is your opinion of this mandate, and what do you believe should be the role of the PRC in implementation of it?

As a Senate staffer, I advocated on behalf of Senator Akaka, who was a primary proponent of requiring the Postal Service to comply with Sarbanes-Oxley (SOX), which I believe will enhance the transparency of data. The Commission has met with the newly formed Financial Control Group at the Postal Service to exchange ideas on the breadth of data that will be available under SOX filings.

I support the inclusion of this financial reporting mandate because I believe the granularity of information required under Sarbanes-Oxley will provide greater accuracy in postal finances. Having worked with the Department of the Treasury during the drafting of the PAEA, I will, if confirmed, make this one of my focuses as a Commission.

Post Office Closings and Relocations

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

The Service must follow statutory procedures before closing or consolidating a post office, and, in my opinion, the Service is working to improve the manner in which it communicates with postal customers and affected communities about such closings. However, anecdotally, it appears that the Postal Service does not provide adequate notice or justification in all instances. Consumers and affected communities deserve more timely information.

30. Does the process for closing and relocating post offices need to be improved?

The Commission is guided by 39 U.S.C. § 404(d)(5), which provides for the statutory basis for a review of appeals of Postal Service decisions to close or to consolidate retail post offices. The Commission's review is limited to confirmation that the Postal Service followed statutory procedures and that the decision to close a post office is not arbitrary, capricious, or unsupported by substantial evidence on the record.

Although title 39 was amended substantially through the enactment of the PAEA, there may be further opportunities to review the issue of closing and relocating post offices.

31. Concerns have been raised 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?

The Postal Service is consulting with the Commission on network realignment, as required by the PAEA. The Postal Service has just initiated these discussions, although the Government Accountability Office has briefed the Commission on its work in this area. In addition, the Commission testified before the House Postal Subcommittee last summer on its opinion related to the Postal Service's 2006 planned nationwide realignment effort, then known as the Evolutionary Network Development (END). When the proceeding started, very little was known publicly about the overall END process, and the Service's vision of its future network was unclear. By the end of the proceeding, the Commission had brought transparency to the Postal Service's proposed network development plans.

In moving forward with this consultation, it will be our intent that any realignment process must be accountable and transparent to postal customers and be sensitive to the needs of the communities it serves. The Commission has suggested that the Service work closely with Members of Congress, especially those whose State or congressional district would be impacted, to provide Members with reasons for such proposals.

IV. Relations with Congress

32. 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.

33. 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

34. 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 Commission staff for technical guidance.

AFFIDAVIT

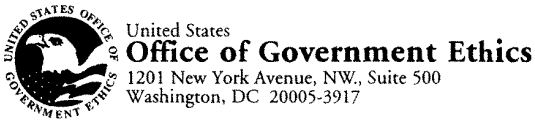
I, Nanci E. Langley being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Nanci E. Langley

Subscribed and sworn before me this 2nd day of April, 2008.

Notary Public

MY COMMISSION EXPIRES DECEMBER 14, 2012



March 4, 2008

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Mr. Chairman:

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

We have reviewed the report and have also obtained advice from the Postal Regulatory Commission concerning any possible conflict in light of its functions and the nominee's proposed duties.

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

Sincerely,

Robert I. Cusick
Director

Enclosure