

NOMINATION OF HON. RUTH Y. GOLDWAY

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF HON. RUTH Y. GOLDWAY TO BE A COMMISSIONER OF
THE U.S. POSTAL REGULATORY COMMISSION

SEPTEMBER 9, 2008

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NOMINATION OF HON. RUTH Y. GOLDWAY

TUESDAY, SEPTEMBER 9, 2008

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

The Committee met, pursuant to notice, at 3:20 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, Chairman of the Committee, presiding.

Present: Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Welcome, one and all. Today, we are going to be considering the nomination of Ruth Goldway to remain a member of the Postal Regulatory Commission.

Commissioner Goldway is no stranger to this Committee, but Senator Clinton is here to introduce her, and I would like to begin by recognizing Senator Clinton at this time for her statement.

Welcome Senator Clinton.

Senator CLINTON. Thank you very much, Chairman Carper.

Senator CARPER. I have seen a lot of you this morning and this afternoon. That is good.

STATEMENT OF HON. HILLARY RODHAM CLINTON, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator CLINTON. That is right. We have been busy today.

It is a real privilege to be here, to introduce and testify on behalf of someone I have known for a long time as a friend, and someone whom I greatly admire as a public servant.

Commissioner Ruth Goldway is seeking her third confirmation as a Commissioner of the Postal Regulatory Commission, and she has really given of herself to this job.

You know, a lot of the jobs that come before us for confirmation, we do not really know what happens after we confirm somebody: what their role is, what their participation and contribution might have been. But in this case, we have a very impressive record of the work that Commissioner Goldway has done behind the scenes that has been important not only to the Postal Service, but to the people of America and the indispensable service that is provided to us.

She has demonstrated a record of leadership and advocacy. As Commissioner, she is focused on the concerns of citizens and consumers to help make the Postal Service a more modern, responsive organization.

She has advocated for producing the Forever Stamp, expanding vote by mail, improving postal insurance, eliminating gender bias in Postal Service promotional campaigns, and improving tracking and reporting of retail service performance.

She has been active and unflinching in offering her distinct point of view, and she regularly submits her own independent concurring and dissenting opinions in important cases brought before the Commission.

She has testified, as you know, before committees in Congress to help forward a positive agenda for the Postal Service. She is not afraid to stand her ground, even criticizing the Postal Service when she believes that is appropriate, but the criticism is constructive because she is a strong defender and protector of the service—because she really does recognize the vital importance of what this means to us.

So, I am very honored to be here in support of Ms. Goldway. She is the kind of person that we want to attract and retain in public service, and I am delighted that she is up for confirmation so that we can see her continue her active and innovative leadership on the Commission for years to come.

And Mr. Chairman, I also want to commend you for the extraordinary service you have performed and the innovative thinking you have brought to the Postal Service. Again, you recognize the vital importance of this service, but you know that it has to change or die. If it does not keep moving forward, it is going to just stay in place and not really provide what we need as a Nation.

So, thank you for what you have done, and I lend my wholehearted support to Ruth Goldway's confirmation.

Senator CARPER. Senator Clinton, thank you so much. Thank you very much for coming. I know that Commissioner Goldway appreciates it as well, and I also know you have a lot to do, and if you need to slip out, we will certainly understand, but thank you so much for joining us today.

Ms. GOLDWAY. Well, thank you, Senator Carper—

Senator CARPER. I am going to ask you to hold for just a moment on your statement. In a minute, I get to administer an oath to you and will swear you in as we do all of our witnesses at hearings like this. But I think, before we do that, I have just a few things I want to get off my chest, and then we will yield to you.

Today, as I said earlier, we are pleased to hold the confirmation hearing for your third term on the Commission.

Ms. GOLDWAY. Yes.

Chairman CARPER. Yes. And I am pleased to do that. As you know, Commissioner Goldway, your nomination comes at a challenging time for the U.S. Postal Service.

The economic slowdown we find ourselves in has hurt any number of families and businesses, but it has hit the Postal Service early, and it has hit them hard. Mail volume is poor, and the service is on track, I understand, to suffer significant losses for this year.

Even more troubling than that is the possibility that some of the mail volume that the Postal Service has lost as a result of the slowing economy may be lost forever. The number of communication op-

tions available to postal customers continues to increase and grow easier to use, as well.

But this could also be a time of real opportunity for the Postal Service. I like to quote Albert Einstein; I will paraphrase him here. He said, "In adversity lies opportunity," and I think that may be the case here, as well.

The Postal Accountability and Enhancement Act has been the law of our land for over a year, and we are starting to see, I think, some benefits as a result of the legislation. The Postal Service is able, for example, to respond to the market and charge prices using a streamlined ratemaking process. It is my hope this new rate system can be used in the coming years to offer customers some level of predictability, and to be more competitive in the advertising and mailing markets, as well.

We also have a new set of service standards for most postal products that I hope will make the Postal Service more relevant and more valuable to its 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, where you serve, as well. The Commission can play a key role in helping the Postal Service through the challenges that it faces. In some ways, they can do this simply by standing back and letting the Postal Service take advantage of the commercial opportunities that Congress and the Administration have given it. The Commission must also ensure that the Postal Service is acting in compliance with the new law, and fulfilling its service obligations.

Commissioner Goldway, you have now served two terms on the Commission. You have worked under the old law and now, for a year or more, under the new law. I appreciate your willingness to continue your service, and, I think I speak for my colleagues, we appreciate your willingness to continue to serve and to use your experience to help your colleagues and the Postal Service to navigate through the challenging years that lie ahead.

Commissioner Goldway, I believe you filed a number of responses to biographical and financial questionnaires. You also answered pre-hearing questions submitted by the Committee. In addition, your financial statements have been reviewed by the Office of Government Ethics. Without objection, this information will be part of the hearing record.

The financial data, however, will remain on file and be available for public inspection in the Committee's offices.

As I said earlier, the Committee rules require all witnesses at nomination hearings to give their testimony under oath, and you have done this before, I believe.

Commissioner Goldway, please stand and raise your right hand.

Do you swear 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?

Ms. GOLDWAY. I do.

Senator CARPER. Thank you. Please be seated.

And I would invite you now, Commissioner Goldway, to please proceed with any opening statement that you may have, and I think that you may have one.

TESTIMONY OF HON. RUTH Y. GOLDWAY¹ TO BE A COMMISSIONER OF THE U.S. POSTAL REGULATORY COMMISSION

Ms. GOLDWAY. Thank you, Chairman Carper. I am certainly not shy about taking opportunities to speak when I am given an opportunity.

So, I wanted to begin by thanking you and the honorable Members of the Committee for letting me appear today. I am very honored and proud to be here. Each time that I have been lucky enough to be nominated by the President for the position of Commissioner and have undergone the thorough process of advice and consent before the Senate, I gain increased respect for our Nation's unique system of shared power among government branches that assures accountability to all citizens. I sincerely hope you will once again find me worthy of your support.

I greatly appreciate the thoughtful and considered attention that you, the Members of this Committee, and your excellent staff have given and continue to give to postal matters. For the careful review of each of the candidates for this position who has come before you over the years, for your robust oversight of postal operations, and especially for the foresight and imagination you provided in crafting the fundamental reforms embodied in the 2006 Postal Accountability and Enhancement Act (PAEA), I thank you.

And I thank Senator Clinton for introducing me today. Little did I realize when, in the early winter of 1998, she encouraged me to seek a Commission appointment—she pointed out that the Postal Service is the only government agency to touch every single household in America 6 days a week—that 10 years later I would still be engaged in this exciting work, representing the interests of ordinary consumers and average citizens.

I thank her for her leadership in regulatory issues, for her instrumental efforts on behalf of the semi-postal stamps—which have raised money for breast cancer research and for the heroes of September 11, 2001—and for her hard work and model participation in government that inspires us all, and especially the members of a new professional group that I helped to form, Women In Logistics and Delivery Services (WILDS). Some of the members are here today.

Senator CARPER. What is the acronym, again?

Ms. GOLDWAY. WILDS.

Senator CARPER. And it is all women?

Ms. GOLDWAY. Yes.

Senator CARPER. All right.

Ms. GOLDWAY. We are open to men, on occasion, but they have to live up to our standards.

Senator Carper, In addition to the members from WILDS, I would like to introduce some of the people who are in the audience who have joined me here today.

¹The prepared statement of Ms. Goldway appears in the Appendix on page 19.

First, my invaluable staff assistant, Michael Ravnitsky. And then, three of my fellow Commissioners are here: Commissioner Tony Hammond, Commissioner Mark Acton, and our newest Commissioner and fellow redhead, Nanci Langley. They, along with Chairman Blair—

Senator CARPER. Is it true that you have to have red hair to serve on this? [Laughter.]

Ms. GOLDWAY. Seems to be. Ask Ann Fisher. [Laughter.]

Senator CARPER. All right.

Ms. GOLDWAY. Yes.

Senator CARPER. We will check it out.

Ms. GOLDWAY. They, along with Chairman Blair, who was not able to come today, are exceptional public servants, and we have been seeing a great deal of each other since the enactment of the PAEA and the resulting responsibilities of the new law.

The Chairman has set us on a furious pace so that we meet or beat every deadline imposed by the new law. And in the process and in spite of our partisan differences, we have developed a deep respect for each other, and made accommodations for our various and unique points of view that serve to enhance the final outcome of our decisions. I hope you don't mind me taking the opportunity to thank them.

And I want to also thank former Chairman George Omas who is here as well. He was instrumental in creating the enormous respect for our agency that can be seen so clearly in the final outlines of the PAEA.

There are many good people who are in the audience today, and they make up what I call our "postal community." As I have been a member of that community now for 10 years, many of them have become good friends as well as colleagues: Publishers, mailers, printers, citizen advocates, unions representing clerks and letter carriers, supervisors and postmasters, shippers, and, of course, their legal counselors. All of us are engaged in a communication industry that adds up to nearly \$1 trillion and an economic force essential to the day-to-day commerce of our Nation.

And, more importantly, we all recognize that we participate in a system that has vital social and cultural significance. It binds our Nation together, and plays a key role in our democracy. I thank them all for their contributions, and I am really looking forward to working with them for the next 6 years.

During my tenure on the Commission, I believe I have demonstrated my commitment to maintaining and improving postal services. I have used my position forcefully to advocate on those issues that are of special importance to me: Residential consumers, single piece mail user, and small businesses.

I have filed separate concurring and dissenting opinions that clearly state my points of view, especially on fairness. For example, I have discussed the degree to which negotiated service agreements are fair and effective products for generating new mail volume while maintaining postal revenue, and how Post Office window service should be provided to the users of insurance or to the users of bound printed mail, and, through op-ed pieces published in national newspapers and in public appearances, I have suggested new services, such as the Forever Stamp and expanded vote by mail.

Most recently, during the frequent consultations between the Commission and the top executives of the Postal Service, a key requirement of the PAEA, I have been urging that the Postal Service's measurement standards include a component for retail access. After all, the neighborhood Post Office is a vital social link in most communities. I also believe that maintaining a vibrant, inviting, and ubiquitous network of convenient access points will be of utmost strategic advantage to the service as it moves into the more competitive role envisioned by the PAEA.

In 1999, I was the first Commissioner to attend the Universal Postal Union (UPU) Congress in Beijing as a member of the U.S. delegation, and from that time, I have participated in every UPU Congress, gaining expertise regarding the rapid structural reforms that other national posts have undertaken to adjust to a changing world.

The next 6 years will most certainly see major transformations within the Postal Service.

First of all, the Commission as the regulator and the Postal Service as the operator will be finalizing and implementing all the new rules and responsibilities defined in the PAEA. The decisions that we are making now in the first few years of the PAEA will set the course for a decade to come. Transparency and accountability must be the keystones of the system.

But just as we are making these decisions that ask all the players to live by the new rules, we will likely face a steady and marked decline in mail volume that will challenge the Postal Service in new and perhaps unanticipated ways. We must be sure that the Postal Service is flexible enough to respond with new products that will surely come to replace old-fashioned letters, and we must be sure that cost-saving measures are not so draconian that the Postal Service deteriorates before it can take advantage of the opportunities created by changes in communications technology.

If you honor me again with another term in office, I pledge to work more diligently than ever with the Senate, especially the Members of this Committee, your staff, members of the House of Representatives, the Postal Service and the mailing community, Chairman Blair, and my fellow Commissioners, to assure that the health, vitality, and future of the Postal Service is maintained. I will be grateful for the opportunity to continue as a public servant. The challenges I face, I am sure, will be more exciting, more important, and more personally rewarding than ever. Thank you again for your consideration. I am happy to take any questions.

Senator CARPER. Thank you. Thank you for that statement, and thank you for your service as well.

We will start the questioning with three standard questions that we ask of all nominees.

And the first is, is there anything 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. GOLDWAY. No, there is nothing.

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. GOLDWAY. No.

Senator CARPER. And 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. GOLDWAY. Yes.

Senator CARPER. Who is the mother of the Forever Stamp?

Ms. GOLDWAY. Well, I am the former mayor of Santa Monica—

Senator CARPER. I know.

Ms. GOLDWAY [continuing]. And when I go around the city, I point to projects, and I say, "This is the Ruth Goldway Memorial 'This' or 'That'." Of course, it does not have my name on it. So, I like to claim credit for the Forever Stamp, but of course it was an idea that was shared—and a concept and effort that was shared by many people in the mailing community: The Office of Consumer Advocate on our staff at the Postal Rate Commission, the then-Chairman of the Board of Governors, Jim Miller, and many people who were willing to take a risk and provide a new product for people.

Senator CARPER. Well, I think it is a great idea, and I know a lot of consumers believe that as well.

Several people have approached me over the last year or so, who like the American Flag Stamp and who like the idea of the Forever Stamp. And they have asked me, and I will just ask you, is there a possibility that the Forever Stamp would also be the American Flag Stamp someday?

Ms. GOLDWAY. I certainly think it is a good idea. I am always asked about what is on stamps. That seems to be the issue of great interest in the public, and I think it would be great fun to be able to decide what was on a stamp, but that is a separate committee, and I think they did a really excellent job in choosing a symbol that represents forever. But perhaps we could encourage them to think of—

Senator CARPER. All right.

Ms. GOLDWAY [continuing]. New Forever Stamps in the future. I would agree with you.

Senator CARPER. Thank you. Today is primary day in the State of Delaware and there are people that are out there braving the elements. I was out at 7 o'clock this morning and voted before I caught the train to come down here.

But my wife and I have two boys that are in college, and we have sought to get them registered to vote and get absentee ballots in their hands so that they might participate in this primary, and it has been a challenge.

I do not know that we make it easy for people to vote in this country, and you have been a champion for longer than I have of the opportunities for voters for greater participation, and the opportunities for the Postal Service for additional business if people actually vote by mail.

I think one State, Oregon, does this rather broadly and successfully. Let me just ask, given that this is something that you have taken a real interest in, provided leadership for, what is the latest? Give us the status. I know there is some legislation that has been introduced, at least in the House.

Ms. GOLDWAY. Congresswoman Davis introduced legislation which would require all States to have what is called “no-excuse” absentee ballots for Federal elections. I guess we cannot determine what the nature of State and local elections are. And that was marked up and—has it passed the full House? It has just gone through Committee, I think. So, I guess we cannot expect it to get through this year, but we will work on it again next year.

And Senator Wyden has a bill which would provide some grant money for States to experiment with vote by mail for the whole election, not just absentee ballots, and that also has not moved yet through full committees.

I would hope that next year we will have more interest in that and they will move forward. I am a voter in California, and California has no-excuse absentee ballots, and as much as 50 percent of the voters voted absentee in the last election, and the trend is toward more and more absentee voting. I think people feel in many ways more secure with the paper ballot they get in the mail and putting it back in the mail to be counted than they do with whatever the machines are that are now in our voting booths.

And the convenience of it—

Senator CARPER. Well, what might be some other virtues of vote by mail?

Ms. GOLDWAY. Well, in those States like California where you have a large ballot with, let’s say, initiatives on it, and a number of judges and various things, it is a daunting task to just go through that and mark it quickly when you have got 10 people waiting in line behind you to vote.

But if you can sit quietly in your own home, look at the document, refer back to some of the descriptions that have been given of it, you can really vote in a much more thoughtful, responsible way than you might otherwise. I have been known to mark the ballot and when I am not sure about a judge, then I call this group that I belong to and ask them if they have done research on it, and then I can go back and finish my ballot. So, I think people who really care about taking their voting responsibility seriously do it.

For the Postal Service, I think it is very important because what I believe the future of the mail is mail that is important to people, mail that has significance. And certainly, there is no more important act in our country than participating in democracy and voting.

And to the extent to which people count on the Postal Service to deliver their ballots and then to present the ballots to be counted fairly at the Secretary of State’s Office, the value of mail has increased, and it also increases in volume. So, I think there are many reasons why we should enhance voting by mail throughout the country.

Senator CARPER. So, there are a couple of good examples. We had a hearing this morning on legislation that Senator Clinton has introduced dealing with encouraging people to use transit as opposed to just riding everywhere in our cars, trucks, and vans.

But the notion that voting by mail does the things that you have mentioned—I would also vote for that, it may take a few people off the roads.

Ms. GOLDWAY. Absolutely.

Senator CARPER. We may use a little bit of less gasoline and oil. We may emit less carbon dioxide and other harmful emissions into our air.

And as you suggest, we might be more thoughtful voters. And the participation rate might well go up and more people feel that they have a sense of ownership in our country, in State and local governments, and in what they do.

So, I see a lot of virtues here. I would like to say that the States are really the laboratories of democracies. In this case, maybe Oregon is going to be that laboratory for us in that way.

I am very encouraged and I hope that we will end up going down that trail.

Ms. GOLDWAY. Good. I look forward to working on it.

Senator CARPER. What do you think are some of the biggest issues facing the Postal Service and at the same time the Commission?

Ms. GOLDWAY. Well, I think your statement outlined the issues facing us in a comprehensive and eloquent way.

The Postal Service is facing a transformation in the methods of communication in our society. There is no question about that, but I think there will always be an important place for hard copy mail, and the question is how to figure out what that place is and to provide an adequate system without huge subsidies.

I think the Postal Service is responding remarkably well to the dramatic downturn in mail, showing great flexibility in being able to reduce costs and to find ways to deliver mail more efficiently. I think the management is really on top of that, and I had, in my early years, worried that the Postal Service would not be able to do that, but it is really doing a fine job.

The Postal Service is investing a great deal of money in what is called the "Intelligent Mail" barcode, and in an automation system for flats, and it is hoping that this combination of computer readability, trackability of the mail, and automating this other size of letters that had not been automated before will make the mail as efficient or as competitive a product in the 21st Century as electronic mail is, or other kinds of communications.

We all think it is a good bet, but it is going to take a few years for the Postal Service to get from here to there, and I think we want to encourage them. So, the Postal Regulatory Commission has been supportive of that effort. And rather than imposing an external measurement system on the Postal Service, it is working with the Postal Service to try to make sure that the Intelligent Mail barcode does what it is required to do, which is to measure the service standards of the mail and have the transparency that is required under the law. So, we have a partnership in this, and we are all hoping that the transition to this new effective electronic technology will make a big difference in the future.

One issue that you may not have covered that I think we are going to have to struggle with is the definition of, "what is a postal product?" The law is quite clear on that, and when you were talking about the unanticipated changes that the Postal Service may face in the next decade, we may need to look at that definition again to give it that flexibility.

Senator CARPER. All right.

You touched on this on your response so far and some of what you said earlier, but if we confirm you for a third term, what are some of the other areas that you might want to focus your time and attention on?

Ms. GOLDWAY. Well, I certainly do want to continue to focus my attention on the average citizen, the person who does not get to participate on any of the procedures in front of us, and whose day-to-day interest is not well motivated because the average person only spends about \$6 a month on postage.

So, sometimes I tell people that the Postal Service is kind of like the sewers. You know, you expect them to function but you do not think about them very much, but when they are not working, it is a real problem. So, I feel an obligation to make sure it is working for those people, and I will be continuing to do that, and making sure that there is accountability in our oversight for the average citizen as well as for the big mailers.

I think that I would like to work more, as we talked about, on vote by mail. I think it is a really important part of the future of our country, and I am going to continue my interest in the international arena because, while we do not want to follow the specific models that are being tried by other countries, we can learn a lot from them about what we might do.

Senator CARPER. The Postal Service recently submitted and received Commission approval for the price increases under the new ratemaking system. From my perspective, from where I sit, it seemed to go pretty well. I would be interested in your view on how the new system is working.

And what is your philosophy on how the Commission ought to approach pricing changes proposed by the Postal Service?

Ms. GOLDWAY. Well, we have a limited role now when it comes to rate setting. We have a formula that establishes what the cap can be, and then we have to make sure that the products cover their costs. So, we need to get very clear and transparent information from the Postal Service on costing. And we need to create a kind of formula to make sure that the products, as a class, meet the cap.

We can only make adjustments if we find that there are rates that do not meet cost or rates that are not responsive to the worksharing clause in the PAEA, which says that we cannot have excessive discounts for worksharing. So, it is really the Postal Service's own discretion now.

And I think the rate increase that they worked with last time was a very small one. It is likely that the next rate increase in May—they will have a much larger inflation cap with which to work, and the mailers will get to see how the Postal Service decides to allocate those increases. So, I think this next rate increase is going to be a much better measurement of the effectiveness of the PAEA than last year's measurement because the discretion is now in the Postal Service's hands.

Senator CARPER. All right. Did you get feedback, positive or negative, with respect to the first round of increases?

Ms. GOLDWAY. Oh, I think everyone felt very comfortable with those. They were done in a very clear, straightforward manner. It was what was expected, it followed the cap, and it was done very

quickly. So, I think, under Chairman Blair's leadership, we were really quick to adopt the new system for rate setting. So, I think the whole process went very smoothly, and I think the process will go again smoothly this time, that the PAEA has really done that.

But how the Postal Service chooses to allocate that—what may be as much as a 5 percent increase within its categories—could result in some mailers getting much higher rates and others getting lower rates, and you may see some complaints at that point.

I think that the Postal Service, giving the external realities of the poor economy and the competition from the Internet, will use its discretion wisely, and my bet is that it will follow very much the same pattern it did last year.

Senator CARPER. As we all know, the economic slowdown has hit a wide variety of businesses hard. We have seen a lot of layoffs, a lot of hardships, and the unemployment rate, I think, is now over 6 percent. In some places it is worse than others. But the Postal Service has been hit with a special vengeance. It is always been interesting to me that at a time when business is down and companies are struggling to sell their products or services, one of the first places they cut back is in advertising.

Ms. GOLDWAY. Yes.

Senator CARPER. And it seems almost counterintuitive, but apparently that is the case and I think we are seeing fewer catalogs, for example, going out, instead of more.

The problems for the Postal Service are compounded by the fact that at least some potential customers are likely leaving the mail, or at least considering leaving the mail in favor of other forms of communication, be it the Internet or others.

How can the Commission help the Postal Service do what it needs to do in order to get past this difficult time, and yet maintain the level of service that the public is depending on?

Ms. GOLDWAY. I actually think that the philosophy, which I articulated in some of my questions to you, is “what gets measured is what gets fixed.”

I think the requirement under the PAEA to have the Postal Service set clear standards and measure those standards and be accountable has—

Senator CARPER. When you say “measure those standards”—measure performance against those standards?

Ms. GOLDWAY. Measure performance against those standards—has led the Postal Service to reevaluate its whole operation system, and it has undertaken processes that I think will make it far more effective and efficient than it has been. And that is why, to some degree, why they have been able to reduce costs in this climate.

And the fact that the Postal Regulatory Commission is there to make sure that information is transparent and available to the public also forces the Postal Service to have a discipline to make sure that they meet their standards, and that they have a product that is really valuable to the community.

I think, in business, when your demand is declining, you have to find a product that is more valuable to the people you want to sell it to, and you cannot just count on raising prices; that is counter-productive. You have to increase the worth of the product you are giving to these people, and I think that is what the Postal Service

is trying to do with the increased information that is in the Intelligent Mail barcode, and we are trying to encourage that procedure.

I also think the Postal Service is trying to develop a set of competitive products, which are going to be attractive to people.

You were mentioning the fact that vote by mail will help people not to use their automobiles. Well, buying by mail, using the catalogs to order by mail—the Postal Service is going to come to your house anyway. Let them bring you the packages so you can save some money—that is a value added that I think the Postal Service can build on, and it is working towards doing that in its package delivery services, and trying to raise revenue and profits that way. And we have been very supportive of the whole competitive products category and allowing them to establish all of that.

So, I think we actually provide the Postal Service with a reality check. They are a huge organization and they have been a monopoly for a very long time. So, for them to make this transition into a new world where they really have to be responsive, to have a regulatory agency that is consultative and cooperative, and yet disciplined in terms of performance, really will help in the future, I believe.

Senator CARPER. All right. Thank you.

Let's talk a little bit about negotiated service agreements (NSAs). I think you have mentioned that earlier in your testimony. But as you know, the negotiated service agreements with individual customers have been talked about for quite a while as a tool for the Postal Service to use to find efficiencies and to try to bring in additional business and additional revenue.

Do you think the Postal Service has taken full advantage of the opportunities in this area? And if confirmed, how would you work with your fellow Commissioners and with the Postal Service to encourage the use of negotiated service agreements?

Ms. GOLDWAY. Well, under the old law, I was concerned about the negotiated service agreements. In principal, I supported them, and advocated for them with Postal management. But when we would get the actual agreements to look at, I was frustrated that the Postal Service had not come to the table with the right information to strike an effective business deal with whoever was the partner.

But I think that all of that is improving, and certainly the negotiated service agreements that we have seen recently under the new Act, except for one that deal with international products seem to be quite successful and we are moving those through very quickly so that the Postal Service can take advantage of agreements it makes.

And I believe that for the most part, the negotiated service agreements that are in the process now, that we have received under the new Act, will answer some of my concerns in terms of how they are effective as business agreements, not just giving things away in exchange for some sort of promise from the mailer.

The Postal Service has to learn how to be a competitive business player, and negotiated service agreements are part of that learning curve, and I feel that they are certainly moving towards a situation where it will not be difficult for the Commissioners to approve the

NSAs that are in front of us in the future and to do it quite rapidly.

I do want to make sure that they are fair, that you do not provide opportunities for one mailer that you would not provide to a similarly situated mailer. So, that is an area in which the Postal Regulatory Commission will still be concerned.

Senator CARPER. OK. Thanks.

The postal reform bill includes a mechanism whereby members of the public, ordinary folks, can file a complaint with the Commission if they feel that the Postal Service is doing something that is not consistent with the law.

In addition, the Commission has a number of tools that it can use in order to compel the Postal Service to comply with the law, or even, I think, to punish it for any transgressions that it may commit.

How do you think the Commission should handle this process, and under what circumstances do you think the Commission should use the tools that are available to it to ensure that the Postal Service is in compliance with the law?

Ms. GOLDWAY. Well, I think the complaint process and the opportunity to hear from citizens about their experiences with the Postal Service will be a wonderful window for us to see the effectiveness of the Postal Service and its improved operations, and to ferret out any potential problems that might be occurring. So, I would certainly work to encourage more citizen participation in the complaint process.

That being said, I think that the punishment, to the extent we have a punishment, the corrective measures that we require of the Postal Service have to be crafted very carefully because we do not want to hurt the Postal Service. You may wind up hurting all the users of mail in order to help one particular problem.

The financial penalty does not go anywhere but back to the Postal Service, so it is a difficult formula, and I think we are going to have to experiment with this a bit. It is, I think, one of those areas where, when I was talking about what we do in our first 2 or 3 years will set a precedent is important. If we are too lax and we do not impose any penalties, then we will have set a precedent that the Postal Service does not really need to take our complaint authority seriously.

But if we are too stringent, we may punish the wrong parties and not really get the improvements that we are seeking for the overall benefit of the Postal Service. So, establishing the parameters of the imposition of fines or remedial action is going to be quite challenging and very important in the next couple of years. We are just now getting our complaint procedures established under the new law, and we will begin to hear complaints and figure out what those parameters are.

I think I carry this institutional memory with me of the Postal Rate Commission, and I think our record of being a fair arbiter and a cautious regulator will continue in the future.

Senator CARPER. All right.

The Postal Service has proposed a set of service standards for its market-dominant products, as you know. 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 those standards are enforced?

Ms. GOLDWAY. Well, we were part of a long consultative process with the Postal Service in going over what their service standards should be. They had service standards for first class single piece mail, and the new law requires that they have service standards for all classes of mail.

And the question was not just to pick a standard out of the air, but to pick a standard that the Postal Service could meet that would also be satisfactory to the mailers that use it. And we had many discussions with them, and we encouraged them to raise the bar on occasion so that the standards that they might have preferred to use were more lax than the ones we suggested the industry really requires. And I think we came up with a certain base which seems to satisfy most people in the industry.

Now, the question is how to measure those standards, how to make sure that the Postal Service, in fact, meets those standards, and to see if they do it, can we then raise the standards so that, if they are meeting a particular standard 98 percent of the time, why don't they set the bar a little higher to try something a little better.

Or, if they are not meeting the standard, they are only meeting it 80 percent of the time, we need to find out what the problem is and to engage the industry in a discussion to see how the actual performance can be improved. I think measuring service standards is an essential part of the PAEA, and the Regulatory Commission, each year, will make a report to Congress and file a compliance determination to show that the Postal Service is in fact meeting those standards. That is a very important part of our responsibilities.

Senator CARPER. As you know, the Postal Service recently submitted a report in which they share their strategy for managing their facilities network across the country.

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

Ms. GOLDWAY. Well, the law does not really give us any approval of this a priori, but through the complaint mechanism procedure and through the standards reporting procedures, we will be able to see whether these network changes that they are proposing actually improve service, or at least maintain service. And should there be problems, we will be able to identify them, I think, and encourage the Postal Service to fix them.

As I said in my statement, I am concerned that the Postal Service, in its zeal to reduce cost and be as efficient as possible, will not just reduce service, which is one of the reasons we are here so that—under the rate cap regime, they do not just reduce service; we are here to make sure the service is maintained—but that they do not get themselves in a situation that their network is so stretched that, should there be a sudden demand for more use of their product, that they are not able to handle it.

We have been having correspondences about Post Office boxes on the corner, and they have been taking them away because people are not using them. People are leaving them for their mailmen. They are using click-and-ship so letter carriers can come to the

door and pick up mail. It is a reasonable thing to do to reduce the number of mailboxes on the street.

But what happens if you have too few? And then people forget that mail is an option, so they go to something else. You do not want to be invisible. You still want to have your presence there.

And what if, as happens in a lot of big cities, there is new residential development in an area where you took a Post Office box away, and you have got a whole new group of people who cannot use the system, or it is not made available for them. So, I think you have to be very careful as you prune this system to make sure that there is enough of it that is viable to maintain current demand and be available for future demand.

And I hope that the oversight that we provide will give the Postal Service the balance it needs when it is developing these network realignment plans.

Senator CARPER. OK. Last week I visited the beautiful new Post Office in downtown Wilmington, right across the street from the central YMCA where I like to work out, and you can walk right out the front door of the YMCA after a great workout and go over to the Post Office and buy those Forever Stamps or whatever else you might need.

I was going over there to mail a package to a friend of mine—one of my best friends from the time I was in the Navy, and he lives down in South Carolina now. Sometimes people see a line and they say, “Oh, gosh. I wish there wasn’t this line.” When I see a line like I saw this morning when I went to vote, I work the line. [Laughter.]

And it is not exactly like working a room, but I learned a long time ago, find a line and work it, and I still do that.

And I worked the line last week in the Post Office and found my way at the end of the line and finally got to the lady who was the clerk, and told her I wanted to mail this package. I said, “I want to send it first class. There is not a great rush to send it.”

And she, to her credit, asked me if I wanted to insure the package, and she asked if I wanted to receive some kind of confirmation that the package had been delivered, and in both cases I declined, but I was pleased that she asked, because she was selling up.

Ms. GOLDWAY. Right.

Senator CARPER. And that is something that the employees in almost any business need to be interested in doing. And given the challenges that the Postal Service faces today, it is especially heartening that she was in the business of selling up to try to shore up some of the revenue.

So, you mentioned earlier how pleased you were with the way that management has responded to the challenges that we face. Do you want to conclude with any comments on some of the rank-and-file folks who work in the Postal Service, and the importance of their role as the Postal Service responds to the economic challenges that it faces?

Ms. GOLDWAY. I think that, as I mentioned in my testimony, the notion that the Postal Service is the sole Federal Government agency that touches every single American household 6 days a week is a very important part of our democracy.

And those letter carriers that are out there going to everybody's home 6 days a week are an essential part of our democracy, and they are really beloved, for the most part, all around the Nation.

And they do a lot more than just drop a letter in your mail box. They will watch out if you are sick. They will help in neighborhood emergencies. They will take your mail from you. They will give you advice about mail. Rural letter carriers are like mini Post Offices, going around the country.

And all of them treat the mail, whether they are clerks or mail handlers, with great respect. And it is probably the most secure form of communication. So, we certainly have to respect the people who work in the system. And they have seen real changes in the last 10 years. There has been a decrease in employment as a result of automation in the clerks' categories. And now, there will probably be a decrease in the letter carriers, as well, as the Postal Service figures out more efficient routes and as volume declines. But their importance does not diminish.

So, we need to continue to give them respect and, I think, to include them in decisions that are made about how the Postal Service changes. I think the Postal Regulatory Commission is one of those venues in which the representatives of the workers in the Postal Service get to have a voice because they can participate as well. They ask for information. They file documents. They could, you know, participate in various cases in front of us. So, their interests are also met through our operations, and I encourage them to do that because I think that is a really important part of what we do as a Commission, which is to hear a balanced view from all the interested parties.

I cannot imagine the United States without the U.S. Postal Service. I think they are going to be around for a long time, and I am going to be here for at least another 6 years with them, I hope.

Senator CARPER. Well, with a little luck, they will be here forever, and you and I will not be in our current roles forever, but we may be here for a while.

And I wanted to just ask in closing if there is anything else that you would like to add or take away from your statement here today.

Ms. GOLDWAY. I just want to reiterate how very proud and humbled I am to have had the opportunity to serve the public in this role and to be considered again, and to emphasize how much personal reward I get from working with the Senate and the House and people who really care about our society and contribute to it.

I think the discussions we have had around postal issues are one of those areas where there is very little partisan bickering and we really do come together to focus on making this a better system for all of us.

So, it has been a wonderful 10 years, and I am very grateful that you are going to give me an opportunity to do it again for another 6 years. Thank you.

Senator CARPER. You are quite welcome. Thanks to you for your willingness to serve.

I spend a fair amount of time in schools. When I was governor, I spent a whole lot more time visiting schools in our State. I think

I visited just about every school in my State and a lot that were not public schools.

People ask me what I like about my job, now and then. I always told them I like helping people. I also enjoy trying to get people to work together across party lines. And some issues are partisan, but a lot are not—most are not.

And later today, a bunch of us have been trying to cobble together a comprehensive energy policy that enables us to reduce our dependence on foreign oil, move to renewable fuels, follow some of the guidance of T. Boone Pickens, and just find a lot of ways to conserve.

But there is a pretty good compromise out there if we figure out how to reach across the aisle and work together and use some common sense, and my sense is that is what the Commission does, and I applaud you for that.

When I talk to kids in school, I tell them that the greatest source of joy is to help people and that I come to my job with the spirit of a servant. My job is to serve. My job is to help people.

And my sense is, in the way that you responded today, that you bring the spirit of the servant as well to your responsibilities on the Commission, and I think your colleagues do, as well.

And the folks who work in the Postal Service, at least the ones that I have come in contact with, I think they see themselves as servants, as well, and I applaud that.

But, thanks for joining us today. Thanks for your service for the last decade or so. We are going to leave the hearing record open until noon tomorrow. We will not leave it open forever, but we are going to leave it open until noon tomorrow for the submission of additional statements and questions. And if you get any, I would just urge you to reply to those promptly.

And with that having been said, this hearing is adjourned.

[Whereupon, at 4:19 p.m., the hearing was adjourned.]

A P P E N D I X

US Senate Committee on
Homeland Security and Governmental Affairs
September 9, 2008

STATEMENT OF
RUTH Y. GOLDWAY
UNITED STATES POSTAL REGULATORY COMMISSION NOMINEE

Senator Carper and honorable members of the Committee:

I am honored and very proud to appear before you today. Each time I have been lucky enough to be nominated by the President for the position of Commissioner and have undergone the thorough process of advise and consent before the Senate, I gain increased respect for our nation's unique system of shared power among government branches that assures accountability to all citizens. I sincerely hope you will, once again, find me worthy of your support.

I greatly appreciate the thoughtful and considered attention that you and the members of this committee and your excellent staff have given and continue to give to postal matters: in the careful review of each of the candidates for this position who has come before you over the years, in your robust oversight of postal operations, and especially in the foresight and imagination you provided in crafting the fundamental reforms embodied in the 2006 Postal Accountability & Enhancement Act (PAEA). Thank you.

And thank you Senator Clinton for introducing me today. Little did I realize when, in the winter of 1998, you encouraged me to seek a Commission appointment, pointing out that the Postal Service is the only government agency to touch every household in America six days a week, that ten years later I would still be engaged in exciting work representing the interests of ordinary consumers and average citizens. Thank you for your strong leadership on regulatory issues. Thank you for your instrumental efforts on behalf of the semi-postal stamps raising funds for breast cancer research and for the heroes of 9/11. Thank you for setting a standard of hard work and participation in government that inspires all of us, especially the members of a new professional group I helped to form, Women in Logistics and Delivery Services or WILDS. And thank you for the many kindnesses you have shown to me and my family in trying times. There is no one I am prouder to call a friend.

Senator Carper, I'd like to introduce some of the people in the audience who have joined me here today. First, my invaluable staff assistant Michael Ravnitzky. Three of my fellow Commissioners are here: Commissioner Tony Hammond, Commissioner Mark Acton and our newest Commissioner, Nanci Langley. They along with Chairman Dan Blair who wasn't able to be here, are exceptional public servants. We have been seeing a great deal of each other since the enactment of PAEA and the resultant responsibilities the new law. The Chairman has set us a furious pace so that we meet or beat every deadline imposed by the law. In the process, and in spite of our partisan differences, we have developed a deep respect for each other and made accommodations for our various and unique points of view that serve to enhance the final outcome of our decisions. I hope you don't mind me

taking this opportunity to thank them. Former Chairman George Omas is here as well. He was instrumental in creating the enormous respect for our agency that can be seen so clearly in the final outlines of the PAEA.

Also in the audience are many of the good people who make up our postal community. As I have been a member of that community now for ten years, many of them have become good friends as well as colleagues. Publishers; mailers; printers; citizen advocates; unions representing clerks; letter carriers; supervisors and postmasters; shippers, and, of course their legal counselors - all of us are engaged in a communications industry that adds up to a nearly one trillion dollar economic force essential to the day-to-day commerce of our nation. More importantly, we all recognize that we participate in a system that has vital social and cultural significance. It binds our nation together and plays a key role in our democracy. I thank them all for their contributions. If confirmed, I am really looking forward to working with these good people for the next six years.

During my tenure on the Commission, I believe I have demonstrated my commitment to maintaining and improving the Postal Service. I have used my position to forcefully advocate on those issues that are of special importance to the residential customer, the single-piece mail user and to small businesses.

I have filed separate concurring and dissenting opinions that clearly state my views on fairness. For example, I've discussed the degree to which negotiated service agreements are fair and effective products for generating new mail volume while maintaining postal revenue, and how post office

window service should be provided to users of insurance or of the bound-printed mail category. Through op-ed pieces published in national newspapers and in public appearances, I have suggested new services such as the Forever Stamp and Expanded Vote-By-Mail.

Most recently, during the frequent consultations between the Commission and the top executives of the Postal Service – a key requirement of the PAEA – I have been urging that the Service’s measurement standards include a component to assess retail access. After all, the neighborhood post office is a vital social link in most communities throughout the nation. I also believe that maintaining a vibrant, inviting and ubiquitous network of convenient access points will be of utmost strategic advantage to the Service as it moves into the more competitive role envisioned by the PAEA.

In 1999, I was the first Commissioner to attend the Universal Postal Union Congress as a member of the U.S. delegation. And from that time I have participated in every UPU Congress, expanding the Commission’s regulatory role and gaining expertise regarding the rapid structural reforms other national posts have undertaken to adjust to a changing world.

The next six years will most certainly see major transformations within the Postal Service. First of all, the Commission, as the regulator, and the Service, the operator, will be finalizing and implementing all the new rules and responsibilities defined in the PAEA. The decisions that we are making now, in the first few years of the PAEA, will set the course for a decade to come. Transparency and accountability must be the keystones of the system. But just as we are making these decisions that ask all the players to live by

the new rules, we will likely face a steady and marked decline in mail volume that will challenge the Postal Service in new and perhaps unanticipated ways. We must be sure the Service is flexible enough to respond with new products that will surely come to replace old-fashioned letters, and we must be sure that cost-savings measures are not so draconian that the Postal Service deteriorates before it can take advantage of the opportunities created by changes in communication technology.

If you honor me again with another term in office, I pledge to work more diligently than ever with the Senate, especially the members of this committee, your staff, members of the House of Representatives, with the Postal Service, the mailing community and with Chairman Blair and my fellow Commissioners, to assure the health, vitality and the future of the Postal Service. I will be grateful for the opportunity to continue as a public servant. The challenges I will face are certain to be more exciting, more important and more personally rewarding than ever. Again, thank you for your consideration.

I am pleased to answer your questions.

REDACTED

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Ruth Yannatta Goldway, Ruth Goldway Yannatta (1965-78)
2. Position to which nominated:
U.S. Postal Regulatory Commission
3. Date of Nomination:
July 10, 2008
4. Address: (List current place of residence and office addresses.)

U.S. Postal Regulatory Commission
901 New York Avenue, NW, #200
Washington, DC 20268
5. Date and place of birth:
September 17, 1945, New York, New York
6. Marital status: (Include maiden name of wife or husband's name.)
Divorced
7. Names and ages of children:
Julie Ann Yannatta, 39
Anthony David Yannatta, 36
Casey Vern Shearer, Deceased
8. Education: List secondary and higher education institutions, dates attended,
degree received and date degree granted.
Bronx High School of Science, New York, 1958-1962
University of Michigan, Ann Arbor, BA with honors, English Literature, 1962-
1965
Wayne State University, Detroit, MA, English Literature, 1968-1969
UCLA, Coursework towards a Ph.D., 1970-1971

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.)

Please see attachment #1.

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.

Santa Monica Pier Restoration Corp., founding board member and Chair, 1983-94
U.S. Congress Joint Economic Committee, Expert Witness of Urban Growth, 1981
U.S. Congress Office of Technology Assessment, Food Labeling Panel Member 1978
California Dep't of Food and Agriculture, Consumer Advisory Committee, founding member, 1977-81
Los Angeles City and County Government Consolidation Task Force, 1975-76
California Egg Program Board, first member in history of California from public sector, 1974-75

11. **Business relations:** 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 and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

Please see attachment #2.

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.

I ran unsuccessfully for the Cal. State Assembly, 44th District as a Democrat in 1977.

I ran for Santa Monica City Council, an officially non-partisan election, in 1979.

I served as Mayor of Santa Monica from 1980-83.

I ran unsuccessfully for reelection to the City Council in 1983.

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

- I have been a registered Democrat all of my voting life.
- 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.

Please see attachment # 3.

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.

None

15. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

The Election is In the Mail, *NY Times* op-ed piece, December 6, 2006
Why Not a 40 cents Stamp?, *Sacramento Bee* op-ed piece, January 13, 2006
A Stamp for the Ages, *NY Times* op-ed piece, November 6, 2005
A Champion Cyclist Outshines His Sponsor, *NY Times* op-ed piece, July 22, 2003
Fly Like and Eagle, Sting Like a Bee? *USA Today*, op-ed piece, December 8, 1999
The Postal Service: One Hot Property, *Washington Post*. Op-ed piece, January 19, 2000
Christine Lahti, American Actress with Finnish Roots, *Gloria*, April 1998
Letters From Finland: Ruth Goldway's Memoir of her Years as US Ambassador, Otava Publishing, 1998, 458 pp. (Translated and published in the Finnish Language)
The Getty Center: Los Angeles' New Temple of Culture, *Gloria*, a Finnish magazine, December 1997.
Diplomats in Dresses: Finland's Many Female Ambassadors, *Gloria*, June 1997
Pretty Prettier Helsinki: Wife of US Ambassador Looks at Helsinki, *Gloria*, January 1997
The Taste of America in the 1990s, *Gloria*, August 1997
Hillary Through a Friends' Eyes: A Review of "It Takes a Village", *Gloria*, March 1996
The Story of My House: The US Embassy in Helsinki is a Multi-Faceted Stage with an Interesting History, *Gloria*, September 1995
Where are the Women?: A Comparison of the Roles of American and Finnish Women in Politics and Life in General, *Gloria*, March 1995
 Witness Testimony in front of the JEC of the US Congress, September 1981
Consumerism in the Supermarket: How to Make our Purchasing Power Powerful, Town Hall Reporter, May 1975
The Politics of Jonathan Swift, Masters Thesis for Wayne State Univ., Bound for publication in WSU Library, 1969

16. Speeches:

- (a) Copies of Testimony are attached
- (b) To be submitted separately.

17. Selection:

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

I was recommended to the President by Majority Leader Senator Reid after he received recommendations on my behalf regarding the quality and fairness of my work as a Commissioner from several U.S. Senators, labor unions and postal industry association representatives with whom I have worked over the last ten years. The President's White House Personnel office then conducted a complete review of my work on the Commission, and determined to move my name forward.

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

I believe I have a breadth of experience in the public sector at all levels of government, and from the Western United States, and internationally, that brings a valuable national perspective to the Commission's deliberations. During my tenure on the Commission, I have developed a thorough understanding of the complex technical and business issues that must be considered by the PRC when it makes decisions that impact the Postal Service, others in the mailing industry and the ordinary citizens of the United States. I have written on a variety of postal matters such as Vote By Mail for national newspapers and submitted congressional testimony. I have represented the Commission on the State Department's delegation to the Universal Postal Union. My advocacy and leadership were instrumental in the Postal Service's adoption of the Forever Stamp. My experience is helpful to the Commission as it fills out its duties under the PAEA enacted in December of 2006.

B. FUTURE 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?

As a currently serving Commissioner, my activities are reviewed by our agency ethics officer each year. I do not maintain any connections with business firms, business associations or business organizations.

- 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.

Upon taking office in 1998, I was required to divest myself of the shares I owned of Los Angeles Times stock.

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. SF 278 and cover letter signed by the PRC General Counsel are attached.

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

The following refers to all the above questions.

In 1979, soon after I was elected to the Santa Monica City Council and while I was employed as Executive Director of the Center for New Corporate Priorities, the Center was audited by the Inspector General of Los Angeles County after an anonymous allegation was made claiming that funds from the Center's Youth Employment Program grant had been used to pay campaign workers for an initiative referendum on the Santa Monica ballot. The audit found no violations by the Center or its director.

In 1983, a resident of Santa Monica filed a suit against me in the US District Court for the Central District of California claiming that I had libeled her when answering a question at a meeting in a private home while I was Mayor of Santa Monica. The City Attorney for Santa Monica refused to represent me arguing that the Mayor's position was a voluntary, unpaid job and that I would have to respond to the suit as an individual. In 1984, I brought suit in the Superior Court of Los Angeles County against the City of Santa Monica and won a decision requiring the city to represent me or pay an attorney of my choice. My attorney then defended me in pre-trial motions in which the judge dismissed the libel suit citing my constitutional protection as public official to state opinions. The plaintiff appealed. The US Circuit Court of Appeals affirmed the lower court ruling in May 1987. The woman who made the libel claim was an active participant in the political organization that vigorously opposed my candidacy in the 1983 election campaign. The suit was widely recognized as political harassment.

While I served in the City Council of Santa Monica, I was routinely named in suits filed against the city and its administration. I was regularly briefed by the City Attorney about pending litigation but was never cited individually in any lawsuit directed at the city.

In 1982, while I was Mayor of Santa Monica, the United Brotherhood of Carpenters and Joiners, Local #1400, AFL-CIO, filed a civil complaint in Superior Court, County of Los Angeles, against me and my husband Derek Shearer, then a member of the Planning Commission. The suit argued that we had violated state law when we participated in a promotional flight to London on Laker Airways. Our attorney answered the initial complaint and the plaintiffs did not pursue the case. It was never litigated.

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

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

Ruth Goldway
Subscribed and sworn before me this 22nd day of July,
2008

[Signature]
Notary Public

Professional Experience Experience

US POSTAL REGULATORY COMMISSION 4/98-present
Washington, DC
Commissioner

- One of five members of the regulatory commission responsible for overseeing the United States Postal Service USPS with regard to rates, revenues, standards and classification of service. The USPS has a \$70 billion budget and more than 750,000 employees.

AMERICAN EMBASSY 7/94 – 12/97
Helsinki, Finland
*Ambassadress, partner of
U.S. Ambassador to Finland
H.E. Derek N. Shearer*

- Frequent lecturer at universities and civic organizations, often interviewed for national newspaper and TV stories.
- Freelance journalist with eight published articles in Finland on issues such as American Women in Politics, A Review of "It Takes a Village" and Helsinki Urban Planning and Development.

THE J. PAUL GETTY TRUST 4/91 – 5/94
Santa Monica, California
Manager of Public Affairs

- Responsible for all department administration, including budget, personnel and management systems, local government and community relations, and press relations for several Getty art programs and new campus constructions projects.
- Coordinated award-winning press and community events introducing billion dollar museum complex to local, national, and international audiences.

CALIFORNIA STATE UNIVERSITY, LOS ANGELES 6/86 – 4/91
Director of Public Affairs

- Responsible for all university press relations, publications, and government and community relations, reporting directly to the President. Official university spokes person representing the most ethnically and racially diverse college campus in California.

- Regularly organized special and community events, convocations, cultural presentations, banquets, including bringing internationally-known speakers to campus. Introduced video news releases.
- Directed computer system conversion and upgrades for university catalog, publications processes and alumni and development lists.

F.H.P. CORPORATION 2/86 – 6/86
Fountain Valley, California
Manager of Public Affairs

- Oversaw public announcements and events in conjunction with opening of new corporate headquarters.
- As part of new stock offering, developed financial relations plans, including annual report.

AMERICAN MEDICAL INTERNATIONAL (AMI) 9/83 – 6/86
Beverly Hills, California
Director of Internal Communications/Charitable Contributions Officer

- Initiated and administered a \$1 million annual corporate giving program, reporting to CEO and board of directors.
- Responsible for a 40,000 employee communications and education program including development of brochures, booklets, training and employee participation projects.

CITY OF SANTA MONICA 4/79 – 4/83
Santa Monica, California
Mayor and Council Member

- Coordinated grass-roots citizens movement for local government reform that resulted in being elected Mayor of Santa Monica on a bi-partisan slate.
- Initiated major civic reforms involving urban redevelopment, housing, neighborhood planning councils, and a consumer affairs bureau.
- Directed an annual city budget of \$90 million and 1300 employees. Restructured the City's finances assuring a 5% annual surplus without sacrifice of services and with reinvigoration of existing city staff.

CENTER FOR NEW CORPORATE PRIORITIES, INC. 1/78 – 6/80
Los Angeles, California
Executive Director

- Directed research and advocacy resulting in elimination of discrimination against children in rental housing in California.
- Received awards from and managed projects funded by several leading foundations, including Whitney, Rosenberg and California Council on the Humanities.

Candidate for the California State Assembly 2/77 – 6/77
44th District West Los Angeles and Santa Monica

- Unsuccessful, but created base for future City Council election

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS 3/75 – 1/77
Assistant to the Director

- Supervised staff of 125 employees in Southern California office.
- Proposed and lobbied for consumer reform legislation.
- Organized press conferences, legislative hearings, seminars, and a monthly Public Service Announcement media program.

CALIFORNIA PUBLIC POLICY CENTER, INC. 6/73 – 2/75
Los Angeles, California
Executive Director

- Successfully advocated for consumer labeling legislation and to require public membership on professional and agricultural regulatory boards.
- Provided expert counseling, social service information, media advocacy and legal representation to the public.

DETROIT CIVIL SERVICE COMMISSION 2/66 – 12/68
Detroit, Michigan
Personnel Officer

- Entry level employee trained in test-writing, interviewing techniques, personnel evaluation and civil service regulations.

Ruth Goldway's Community Activities**Boards on Which I Have Served**

Alhambra Chamber of Commerce (representing Cal State LA), 1986-91
Amer. Cancer Soc., LA Chapter, Public Issues Committee, 1986-1994
American Womens' Club of Helsinki, Honorary Chair, 1994-97
Co-opportunity, (a local cooperative food market), 1976-77
Pacific Telephone, Consumer Advisory Panel, 1981
Public Relations Assoc. of So. Cal. Colleges, 1989-91
Santa Monica Alternative Public School, Parents Committee, 1984-86
So. Cal. Assn of Philanthropies, 1985
YWCA of West Los Angeles, 1974

Boards on Which I Currently Serve

Center for Sustainable Cities, University of Southern California
New Visions Educational Foundation, Santa Monica, CA
Tree People, Los Angeles, CA
Women in Logistics and Delivery Services Council, Washington, DC

Memberships (paid dues, but no active involvement)

AAA of So. Cal., 1982-now
AARP, 2000-now
A Family Place, Event Committee member only, 1999-2000
Barnes & Noble, 2004-now
Bethesda Sport & Health, 1998-2002
Boston Museum of Fine Arts, 2001-02
Cal. State Parks Found., 2004-now
Co-opportunity, LA, 1976-now
Costco, 2002-now
Emily's List, 1997-2002
Gold's Gym, Venice, 2002-now
KPPC Public Radio, 2006-now
KUSC Public Radio, 2006-now
League of Women Voters, 2003-2004
Museum of Modern Art, NYC, 2005-now
Nat'l Wildlife Federation, 2006-now
Nature Conservancy, 2006-now
Phillips Gallery, 1999-2002
Santa Monica's for Renters' Rights, 2004-now
Sierra Club of So. Cal., 2005-now
Women's Political Committee, LA, 2003-now
World Wildlife Fund, 2006-now

Federal Contributions

Women's Political Committee – Los Angeles – Federal PAC
\$1100 each year from 2003 - 2007
\$1250 2008

Democratic Senatorial Comp. Comm.
\$1000 09/5/03
\$250 10/25/06

New Leadership for America PAC
\$250 04/05/04

Hillary Clinton for President
\$4600 04/12/07

Friends of Hillary Clinton
\$500 04/21/06

Friends of Hillary Clinton
\$1000 06/10/05

Bill Nelson for Senate
\$500 12/14/05

Friends of Kent Conrad
\$1250 01/18/06

Tony Knowles for Senate
\$100 07/11/06

Ben Cardin for Senate
\$100 05/2006

Claire McCaskill for Senate
\$100 06/2006

Hilda Solis for Congress
\$100 03/2004

Fitzgerald for Congress
\$100 01/15/08

Udalls for Senate
\$150 06/29/08

Carl Levin for Senate
\$100 03/25/08

Kerry for President
\$1500 03/07/04

State Contributions

Women's Political Committee – Los Angeles – State PAC
\$1100 each year from 2003-2007
\$1250 2008

Bass for Assembly
\$75 02/20/04
\$100 10/27/07

Pavley for Senate
\$100 10/27/07

Brown for Attorney General
\$150 04/21/05

Local Government Contributions

Rosendahl for LA Council
\$250 02/10/08

Santa Monicans for Renters Rights
\$50 each year 2003-2008

McGovern-Rowen for Council-Milwaukee
\$50 01/15/08

Villaraigosa for Council
\$100 02/13/03

Villaraigosa for Mayor
\$100 05/1/05

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of Ruth Y. Goldway to be Commissioner, Postal Regulatory Commission**

I. Nomination Process and Conflicts of Interest

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

I believe the President nominated me to the Postal Regulatory Commission based on my record of ten years of responsible and diligent participation in the work of the Commission and my demonstrated interest in and support of the particular needs of the residential postal customer. My name was recommended to the president by Senate Majority Leader Harry Reid, who received letters of support from several senators who are familiar with my work and from many leaders of the postal community.

- 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?**

I have served on the Commission for ten years. I am familiar with the full range of operations of the Postal Service and because I actively participated in the development of the Postal Accountability and Enhancement Act (PAEA), I am familiar with all facets of the new law.

Prior to my appointment to the PRC, I developed expertise in the areas of citizen participation on government regulatory bodies and as a consumer advocate. I have brought these areas of expertise to bear on many occasions during the course of my service at the PRC.

- 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?**

I have made a commitment to myself to be especially vigilant on behalf of the Postal Service's residential customers and small business customers. These constituents are not fully represented in proceedings at the Commission and the PAEA is silent on many issues of concern to them. I have assured representatives from the postal unions that I will not advocate for privatization of the Postal Service in the coming term. This is because I do not believe it would be of benefit to the Service or would promote greater efficiency at this time. I am familiar with the various attempts at liberalization that have

occurred in posts around the world and believe these examples will prove helpful to the PRC as it considers the future of the USPS.

5. **If confirmed again, 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 do not anticipate any recusal situations. None have arisen in my previous years of service. However the Commission has a very capable Ethics Officer to whom I turn for advice and whose direction I have always followed.

6. **In your responses to the Committee's Biographical and Financial Questionnaire, you listed Venice, California as your permanent residence. During an ordinary workweek, generally what days are you in Washington, D.C., what days are you in California, and what days are you traveling? Given that being a Commissioner of the Postal Regulatory Commission is a full time job, how do you manage to fulfill your responsibilities as a Commissioner while remaining a resident of California? Does your being a resident of California affect the scheduling of Commission meetings?**

I established my permanent residence in Los Angeles (Venice) in January 2003 as a result of the tragic and sudden death of my youngest son, Casey Shearer. I decided that I must spend more time with my two surviving children and their families. (Both of them live close to my Venice residence.) Other Commissioners had managed similarly before this. At that time, the PRC had few cases to hear and was settling most of the cases brought to it. It was possible for me to spend time there. I began an efficient "telecommute" program and was able to read all relevant documents and participate in PRC decisions quite easily. However, since mid 2006, when the caseload of the PRC increased and, especially since December 2006, when the new PAEA was enacted, I have adjusted my schedule accordingly. Typically, I take an evening flight from LA at the beginning of the week, stay in DC for 10 or 11 days and take a flight to LA for a long weekend. When in LA, I continue to telecommute and participate in the daily activities of the office. I believe Commission meetings are set in such a manner that the schedules of all of the Commissioners are considered. Each of us maintains a busy travel schedule involving speaking to industry associations and meeting with relevant constituents. Every chairman under whom I have served has consulted with the Commissioners with regard to schedules. In my case, I have asked for special consideration so that I may attend the annual Casey Shearer Lecture and Non-Fiction Writing Awards program at Brown University and so that I may travel to Bern, Switzerland to represent the Commission as part of the State Department delegation to the Universal Postal Union (UPU).

II. Role of the Postal Regulatory Commission and its Commissioners

7. What, in your view, is the role of a Commissioner of the PRC?

A PRC Commissioner must provide an independent perspective and an analytical mind in considering the issues brought before her. A Commissioner must ask questions to assure that a full set of information is available on which to make decisions and she must provide policy options to be considered by her colleagues. A Commissioner often makes decisions in a closeted, quasi-judicial capacity. Yet she should also maintain ongoing relationships with postal community representatives to assure that she remains cognizant of the full range of views and interests involved in any issue brought before her and her colleagues.

8. In your view, what are the major internal and external challenges facing the PRC, and what do you think should be the PRC's top priorities?

The PRC is well into its second year operating under the PAEA. The Commission is engaged in establishing the procedures and precedents that will guide the Commission and its regulatory oversight for years to come. This is our major challenge. Externally, the PRC must assert the new responsibilities and powers provided to it by Congress while assuring that the Postal Service has the flexibility and efficiency to respond to the changing economy. Internally, the PRC has been slow to meet the challenge of staffing up to the new work load. Due to the large number of tasks to be accomplished to comply with PAEA requirements and because of the short staff, our challenge is to prioritize the tasks assigned by the PAEA so that we meet our most important obligations as quickly as possible.

9. What contributions have you made as a Commissioner in meeting these challenges and priorities, and what additional contributions do you hope to make during your tenure at the PRC, if confirmed?

In the past ten years, I have contributed to the work of the Commission through my diligent and outspoken concern for the average residential customer. I used the "bully pulpit" to criticize the USPS when it was falsely advertising its priority mail service and when it improperly spent promotional funds on football tickets and the like. I was an early advocate for many of the reforms embodied in the PAEA. Perhaps my most important contribution was the advocacy of the "Forever Stamp." This is an innovation in the Postal Service that both helps those who buy stamps and the seller; making the First-Class single piece stamp more attractive and eliminating the confusion and long waits in line that occurred each time stamp prices rose. Most recently, I have advocated expanding access to voting by mail, a policy that will increase mail volume.

With the enactment of the PAEA, I have been an active participant in the commission's deliberations that established our strategic plan and our new personnel configuration as well as our plans for outreach through field hearings. I have been instrumental in the

PRC's initial examination of retail service and customer access as points of concern with regard to service measurement and with regard to the study of the Postal Service's Universal Service Obligation (USO). I have been helpful in identifying participants for our various field hearings and in encouraging the PRC to research various ongoing external measurement systems that would bolster the Postal Service's new measurement systems.

I hope to continue to consult with the Chair and staff on these challenges and to offer advice grounded both from my previous experiences in government and from my service as a public representative on Boards and Commissions.

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

I regularly meet with staff to have private briefings and to ask for research to support the issues of greatest interest and importance to me. I also try to underscore consensus during full Commission briefings to assure that staff are given clear directions, encouragement and positive feedback.

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

I believe there needs to be a broader outreach to find the best qualified and diverse workforce as we expand. The budget for the expanded role of the Commission must be maintained. I believe there may be more ways to increase efficiency and to open greater dialog with the public. I look forward to exploring these in the coming years.

In general, I would like to point out that the PRC has operated efficiently for more than 30 years with funds that amount to the tiniest fraction of the Postal Service's overall budget. We have been a remarkably effective regulatory agency mustering the expertise and the attention to detail that has held the USPS accountable within the extent of the then-current law. So I believe we have a track record of success and that Congress demonstrated a high level of confidence in our capabilities when it gave us expanded responsibilities and authority under the PAEA.

12. 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?

I have already made suggestions to broaden the reach of recruiting and vacancy announcements. Some of these have been accepted. I also make suggestions regarding work practices such as flex-time, telecommuting, cross-training and rotating assignments. The Chair maintains responsibility for administration of the agency, while commissioners give advice. Commissioners do have the particular responsibilities to actively participate in the oversight of Commission office heads and their deputies, and in decisions

regarding the PRC annual budget. I have exercised these responsibilities in the past and will continue to do so.

13. **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?**

It is important to maintain an arm's-length distance from the Inspector General (IG) in the day-to-day functions of the Commission. I will continue to do so. The IG does not now nor should he/she feel personally committed to any one Commissioner or to particular decisions made by the Commission as a whole. The Commissioners should assure that the IG's budget is adequate and that its expenditures should be independent within the fiscal year. The IG's recent review of the Commission's handling of its accounts revealed serious administrative shortcomings. The information was extremely helpful in improving the PRC's financial processes and safeguards, and was welcomed by all the commissioners.

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

I've served for ten years. I have the institutional memory and comprehensive knowledge of the Commission and the operations of the Postal Service that, I believe, will help me to be an even more effective public servant in my next term.

III. Policy Questions

Postal Reform Generally

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

I believe the implementation of the PAEA has to date proceeded smoothly and with positive results. The Postal Service, because it is now required to adopt explicit and transparent service standards, measure mail delivery times, and report on how it meets its standards, has undertaken a much-needed comprehensive review of its operations. It is beginning to standardize and streamline its procedures so that it is becoming a much more efficient and transparent service agency. The PRC and the Postal Service have used the consultation process, embodied in the PAEA, with excellent results. The rules and regulations the PRC has adopted, to date, strike the appropriate balance between robust oversight and flexibility for the Postal Service. The challenges for the PRC include (1) evaluating the Service's desire for an internal, brand new and as yet untried measurement system (based on the new Intelligent Mail Barcode (IMB)) in light of the PAEA preference for an external, comprehensive measurement system and (2) developing a

clear listing of postal vs. non-postal services to guide the USPS in products they will be allowed to offer in the future.

16. **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?**

The PRC's most important responsibility is to assure the public that the Postal Service is operating in an efficient, fair and transparent manner. The PRC's oversight of a reliable service standards measurement process and the issuance of a full and comprehensive Annual Compliance Determination by the Commission are essential to the success of PAEA. In my opinion, the PRC has undertaken its new, extensive responsibilities with speed and efficiency. I had been concerned that new regulations for the expanded complaint procedure were delayed but I now expect the PRC to adopt final regulations shortly.

17. **The PAEA substantially changed the relative responsibilities of the United States Postal Service (USPS) Board of Governors and the Commission.**

- a. **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?**

A key choice that the Commission is likely to make is whether to approve the Postal Service's IMB-based internal measurement system. Acceptance would be a major concession to the Postal Service but would be justified because it balances several important factors: the greater expense of an accurate and transparent external measurement system, the cost of which would be reflected in higher rates, against the needs of the Postal Service to invest in a more economical and detailed measurement system. This internal system will eventually greatly enhance the Service's operational efficiency but will take at least two years to implement. Another key decision involves our ongoing analysis of the definition and cost of the USO. In both of these major areas, the PRC could help refocus the Postal Service to meet the challenge of the 21st century. The PRC must continue its regular consultations with the Postal Service and begin to include the Board of Governors as it charts its course over the next few years.

- b. **Generally, what approaches do you advocate in regulating the USPS and why?**

We will have to balance the current needs and expectations of our citizens with the opportunity for the Postal Service to be flexible and responsive to changing customer demand in the future. I believe the PRC's emphasis should be requiring the greatest possible and feasible transparency and disclosure. There appears to be little sentiment here for the strict delineations and narrow definitions embodied in the European regulatory models.

18. **The Postal Service has experienced heavy losses in recent months due largely to the economic downturn and rising energy costs. These recent challenges add to the financial pressure generally faced by the Postal Service in recent years. What do you believe the Postal Service should do to face its financial challenges, and what can and should the PRC do to help?**

The USPS is facing competition and a troubling decline in mail volume. The PAEA gives the Service an opportunity to adjust prices more quickly to accommodate demand, and an opportunity to make and accumulate an operating profit. The PRC's efforts requiring the Service to be more accountable, transparent and efficient will, I believe, help the USPS to overcome its monopoly-oriented operating mindset and to become a more attractive, innovative and reliable service provider, to become a service better able to compete in the changing world of communications. Specialized service agreements, known as negotiated service agreements (NSAs) or customized mailing agreements, may help to shore up volume. The flexibility of the distinctions between postal and non-postal products could impact the future health of the Service as well. I believe the "Forever Stamp" is one example of the kind of innovation that comes from positive, helpful regulatory oversight.

I believe my special concerns for the average citizen/customer will help to remind the Postal Service that its strongest strategic advantage in this new era of declining volume is its universal reach and the support it has from these groups.

19. **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.**

- a. **To what extent do you believe the PAEA has adequately set these issues to rest?**

In enacting the PAEA, Congress shifted to the PRC the responsibility for defining and protecting the Universal Service Obligation. Ultimately Congress will review recommendations for change offered by the PRC. As the law requires the PRC to submit a report to Congress evaluating the USO at least every five years, it will be possible for the Congress to consider the matter thoughtfully, and, if necessary, make legislative changes gradually. The Commission will also report periodically on the costs to the Postal Service associated with its universal service obligations.

I think the Postal Service should be allowed a reasonable period to develop and exercise its new authority to offer new competitive products and services, and I am hopeful this new flexibility will be wisely exercised, and will result in profitable new revenue streams.

b. What role do you believe the PRC should play in issues involving the universal service obligation and the introduction or pricing of new products?

I am confident that the PRC's current efforts to review and evaluate the USO will yield answers to this question. For the moment, other than the comments I have offered in answering previous questions, I am keeping an open mind on this particular question.

20. 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 PRC must have a clear and easily understood complaint process and designated staff to assist the public with filings. The PRC's most difficult responsibility in this regard will be to establish reasonable and effective remedial actions for the Postal Service to undertake should the complaint process find it at fault. The PRC will also ensure that rate and service complaints that do not rise to the level of formal complaint proceedings are given proper attention and are resolved expeditiously with the assistance and cooperation of the Postal Service.

21. In January 2000, you had a letter published in the *Washington Post* which detailed the many benefits, as you saw them, of privatization of the Postal Service. Do you continue to believe that privatization of the Postal Service is necessary?

I believe that the time for privatizing the United States Postal Service has come and gone. It is no longer realistic to expect that the private capital markets would want to purchase the Service given the decline in venture capital and the decline in mail volumes. Also, the areas into which I had supposed the Postal Service might expand - electronic postmarks, traced packages and financial transactions - have all been heavily invested in by the private sector. I had proposed privatization under the rubric of the "Reinventing Government" project led by Vice President Gore and I imagined that the Postal Service's employees would be protected and, in fact, be assured of greater job security under my plan. It seems to me that now our emphasis should be on how to improve and maintain the traditional communications network provided by the Postal Service.

22. As required by the PAEA, the PRC is required to submit to Congress, this December, a comprehensive report on the Postal Service's universal service obligation and letter and mailbox monopolies, including the transportation and delivery of letters and the use of individual postal customers' mailboxes. In a statement you submitted to this Committee in May 2001, you endorsed the elimination of the Postal Service's monopoly over the letter mailing system. You stated, "I would like to offer my perspective on the reforms necessary to assure an efficient and self-supporting national postal service.... I believe that only sweeping legislative reform that demonopolizes the letter mailing system and privatizes the USPS provides the necessary solutions." Do you continue to believe that the Postal

Service's monopoly over the mailing system should be eliminated? If so, do you expect to see this particular view reflected in the Commission's final report?

Please see my answer to question 21. At the time, I believed that privatization and demonopolization would free the USPS of the shackles of an inefficient, customer unfriendly mindset. I believed that the opportunities for new products and expanding volume would actually help the USPS to create a larger market and more jobs. Competition from electronic communications has hurt volumes more than most of us expected and that market is now fully inhabited by private firms. I believe that the PAEA is much more likely to help the USPS adapt to the changing world than my proposal of 2001.

Postal Ratemaking

- 23. 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?**

There is no question that the rate making process has been substantially streamlined. The mailing community appears satisfied to date with the speed and certainty that the PAEA rate cap concept provides. Future problems could develop if the Postal Service adjusts rates within a product group so that one sub-class receives a much higher or lower increase than the average. The recent spike in the rate of inflation will allow the Postal Service to raise rates much higher in May than the mailing community had anticipated when the law was enacted. However, given the pressures of competition from the internet and lower demand from a slowing economy, I expect the USPS will exercise its authority to raise rates with caution and care.

- 24. 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 support the concept of NSAs and have voted to approve most of those presented to the Commission. From the outset, I have been concerned about the quality of costing and demand information that the Postal Service relies upon during their negotiations with mailers. I have written extensively about this in several separate concurring opinions. Attached as pages A-1 through A-17 are copies of Concurring Opinions in PRC Dockets MC2007-1, Bank of America Negotiated Service Agreement; MC2004-3, Bank One NSA Reconsideration; and MC2002-2, Capital One NSA. I believe the most recent NSAs presented to us for competitive products look very promising.

The dissenting opinion filed in the Bookspan case (PRC Docket MC2005-3) is the one instance to date in which I opposed a Postal Service NSA proposal (also attached).

- 25. 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?**

The cause of delays in approvals of NSAs rests primarily with the Postal Service and the poor quality of information they have submitted to the Commission. I believe that this situation is improving. In addition, the PAEA requires faster consideration and imposes stringent deadlines on the Commission to evaluate NSAs for legal compliance.

- 26. 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.**

- a. 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?**

Yes. I believe we should always try to align workshare discounts with the actual savings resulting from the worksharing. Providing a larger discount than is justified by the work saved is inefficient and harmful to the Service except in extraordinary circumstances.

- b. How should the PRC and the Postal Service address situations where these discounts have long exceeded avoided costs?**

The PRC should provide full disclosure of such situations in the context of the PRC's review of the Postal Service's annual rate adjustments. It could require the Service to change those particular rates if such changes are not too disruptive to the entire rate structure. The PRC should require the Postal Service to undertake current, accurate costing measurements. (In the past the Service has relied on costing studies that were as much as 20 years old.) The PAEA gives the Service much more flexibility to adjust rates within classes and subclasses. This could hide improper workshare discounts. The PRC's regulatory oversight is of great importance in this area.

- 27. 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?**

It is essential for the PRC to help ensure that the quality and timeliness of the Service's data are adequate and current. To that end, PRC staff can work closely with not only the

Postal Service itself but also the Postal Service's Office of Inspector General, who is authorized under PAEA to audit this type of data submitted to the Commission. The PRC has also cooperated with GAO on their independent evaluations. I hope congressional oversight will continue to support the Commission in our efforts to ensure the best possible data.

- 28. 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, and considering the impact on the Postal Service of the current economic downturn and escalation of fuel costs, do you believe the Service can operate successfully under the new rate cap system?**

Please see answer to question 18. To date, the rate cap regime has functioned well. I believe that external pressures make it unlikely that the Postal Service will use the full extent of this year's inflation consumer price index (CPI) or rely on the exigency clause anytime in the near future, barring truly extraordinary and unforeseen circumstances. The Postmaster General has been very clear on his position with regard to not using the exigency clause.

- 29. Given the changes in the rate-setting process under the PAEA, 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?**

Please see answer to question 23. I am concerned that some customers within a class may be unfairly discriminated against and that the current law gives the PRC little room to prohibit such rates. I do believe that a robust complaint process could establish findings and procedures that would direct the Service to be more fair in its annual rate adjustments. It may be that the PAEA will need to be altered in the future but I would like to give the current law and the balance it provides a full opportunity to succeed.

Service Standards and Other Performance Obligations

- 30. 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.**

- a. How do you believe this consultation should be carried out, and how has the consultation worked so far?**

The consultation process has worked far better than I had expected given past practices of the Postal Service under the PRA. I believe the PRC has made important and constructive suggestions to Postal Service leadership that have helped in ensuring appropriate service standards for all mail. The two agencies now function in a collegial manner and can point to areas of compromise that will benefit the entire mailing community.

b. Generally, what perspectives and other value-added do you believe the PRC can bring to this process?

The PRC always counsels for more openness, transparency and accountability. It often counsels the Postal Service about potential reactions that its proposals might generate within the mailing community. The PRC brings its insights and perspective on the mail system to the discussions. The result of the PRC contribution is a better, higher quality Postal Service.

31. Last December, the Postal Service established modern service standards for its market-dominant products, as required by PAEA. As the Postal Service changes its operations and implements new systems to measure delivery performance, what role do you believe the PRC should fulfill in the process by which the new service standards are reviewed and revised as necessary?

“What gets measured is what gets fixed.” That is the mantra of any customer-friendly operation. I believe that PRC’s role in service standards measurements is essential to its regulatory mission. After the PRC agrees to the Postal Service’s initial service measurement systems, it must continue to monitor the results. Firstly the PRC must be sure that a representative body of the mail and mail services (such as retail) are being measured and secondly, it must be sure that the resulting measures demonstrate a consistent service level. If, for example, the IMB is not adopted by enough mailers to create a representative cross section of mail, an external measurement system might need to be considered. If service levels decline as a result of the USPS sacrificing quality under a rate cap regime, then the PRC might need to undertake a review of the Service’s streamlining processes. I view the PAEA as a law that requires the PRC to make ongoing judgments and related readjustments over the years. Nothing is static. That is why the role of the commissioner is so important.

32. 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?

The Commission will soon issue proposed rules specifying the quality and service data and information necessary to complete our Annual Compliance Determination and to prepare our annual report to Congress. We await public comments on the adequacy of the information we request and whether such information will provide the level of transparency that the mailing community hoped for in supporting the PAEA. I believe the PRC is at the beginning of its monitoring process and that the sufficiency of information and the results of our oversight will only be discerned over the next several years.

33. **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?**

I believe that the PAEA appropriately requires the USPS to meet the supporting requirements of the Sarbanes-Oxley legislation. The USPS appears well on track to do so. The PRC should review the USPS filings to confirm they meet the SOX requirements and to report its findings to the public.

Post Office Closings and Relocations

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

I believe that neither the PRA nor the PAEA gives adequate consideration to the importance of retail access nor adequate protection with regard to closing and relocating post offices. However, I pledge to do all that is possible within the current law to uphold the interests and needs of the average citizens who rely on easily available access to postal services.

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

Yes. The PRC only gets appeals of closings after the fact and has no remedial powers except to require a second closing notice process should it find the first process inadequate. Congress may wish to revisit the statutory provision (39 U.S.C. §404(b)) that addresses this issue.

36. **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?**

I believe that as the PRC's review of service standards becomes more established, it can begin to look into and provide oversight of a wider array of quality of service issues such as communications with the public. The Postal Service should have an operative idea of how changes in mail processing operations will affect service, and it should communicate that information to customers likely to be affected. The law continues to require the Postal Service to seek an advisory opinion from the Commission when the Service determines there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.

IV. Relations with Congress

37. 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.

38. 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.

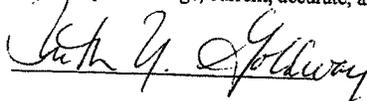
V. Assistance

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

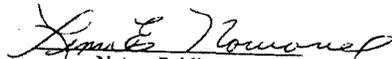
These are my own answers.

AFFIDAVIT

I, Ruth Y. Goldway, 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.



Subscribed and sworn before me this 5th day of September 2008.


Notary Public

MY COMMISSION EXPIRES:
DECEMBER 14, 2012

CONCURRING OPINION OF COMMISSIONER GOLDWAY

The new PAEA provides the Postal Service with the flexibility to adjust rates within classes of mail for market-dominant products, adopt special classifications that improve the net financial position or increase the efficiency of operations, and to price and market competitive products to accrue profits.

It also gives the PRC expanded oversight with regard to the financial soundness, efficiency, and fairness of Postal Service operations.

The negotiated service agreement (NSA) before the Commission demonstrates that the Postal Service is not yet capable of negotiating a good bargain within the framework of the PAEA. The Commission's majority opinion points out serious shortcomings in Postal Service management decision making. First, and foremost, through this NSA, the Postal Service will lose between \$25 and \$45 million and opens itself — if it is to be fair to other similarly situated mailers — to lose much more.

Second, the record of the case indicates that Postal Service negotiators did not prepare themselves with all the necessary financial and costing data when conducting the bargaining process with Bank of America. And third, the complex bureaucracy of the Postal Service has not yet been capable of identifying, analyzing, and distributing the appropriate data needed to make accurate cost-benefit decisions, nor did it pass on the data it did have to the group assigned to enter into negotiations for the NSA.¹

¹ Robinson, et al., *Negotiated Volume Discounts in a Regulated Post*, available on the Commission's website, www.prc.gov, provides an instructive analysis of the impact of previously approved negotiated service agreements.

This is the first opportunity the Commission has had to act on an NSA since passage of the new law.² I appreciate that my fellow Commissioners want to show their support for the concepts embodied in the new law and express their willingness to give the flexibility to the Postal Service provided therein. In the scheme of a \$75 billion budget, it will not be significant if the Postal Service loses \$45 million on an experimental venture. Therefore, I am willing to go along with the majority and approve the Bank of America NSA.

However, I feel obliged to emphasize that the flaws identified above in the Postal Service/business bargaining process do not bode well for the Postal Service under the PAEA regime. Unless the Postal Service takes the cautionary advice provided within the Commission's opinion, it may find it difficult to participate in a significant number of NSAs and still operate within the price cap, much less be optimistic that profits can be made in the competitive products sector.

I commend Commissioner Tisdale, the only one of my fellow Commissioners with direct operational experience at the Postal Service, for his forthright dissent. I am hopeful that his strong statement and my more detailed description of the concerns he identified will prove helpful to the Postal Service.



Ruth Y. Goldway, Commissioner

² I recognize that the PAEA system of rate regulation has not yet been implemented, so that this request arguably could have been evaluated giving less weight to the new legislation.

CONCURRING OPINION OF COMMISSIONER GOLDWAY

I fully agree with my colleagues that the Commission arrived at the appropriate recommendation in the Bank One case, including the recommendation of a stop-loss cap to provide a level of protection to the Postal Service and mailers not party to the agreement. While I do not find justification based on the existing record for providing the relief requested by the Governors, I continue to support Negotiated Service Agreements that are beneficial to the Postal Service and the mailing community, and am hopeful that the alternate model for negotiating volume-based discounts will foster the development of additional win-win-win agreements.

I, however, am concerned that the actual implementation of the Bank One Negotiated Service Agreement does not appear to be unfolding as predicted in the Request, but appears more in line with the predictions made in the subsequently filed omnibus rate case. I question whether the personnel involved with Negotiated Service Agreements had the benefit of the institutional knowledge incorporated into the rate case testimony. What may be the absence of the mailing of flats evident in the most recent data report further raises concerns that the Postal Service might not be fully realizing the cost savings anticipated from the agreement.

These concerns have come to light well after closing the Bank One record, and suffer from the limited available information. The Chase and Postal Service pleadings and the first data report actually raise more questions on the current status of the agreement than they answer. This adds to my concern that the Commission might not have a thorough understanding of the current status of the Bank One Negotiated Service Agreement, which might hinder the Commission's ability to expeditiously consider future requests to modify or extend the Bank One agreement. The Postal Service should take these concerns into consideration in its future requests.

Although the Bank One / J.P. Morgan Chase merger added uncertainty to the analysis of the Bank One Negotiated Service Agreement, it also appears to have provided the Postal Service with an opportunity to study the effects of volume-based discounts. Heritage-Bank One and heritage-Chase may have been separately soliciting

a similar, if not identical, product line through First-Class Mail for the first several months of the agreement. Heritage-Bank One had the benefit of the declining block rate discounts, and heritage-Chase did not. Because of this, it may be possible to isolate the effects of the declining block rate discounts from the other factors that influence volumes. A thorough understanding of this issue will aid the development of future agreements, and can be used by the Commission to make more informed recommendations. The Postal Service should not pass up the opportunity to study this important issue.

A. Docket No. R2005-1 Rate Case Testimony

The Postal Service sponsored testimony for the recent omnibus rate case, Docket No. R2005-1, which discusses mailing trends in the credit card industry. See Direct Testimony of Peter Bernstein on Behalf of the United States Postal Service (USPS-T-8); Docket No. R2005-1, Tr. 8A at 3168-71.¹ Witness Bernstein discusses recent "tremendous growth in the amount of direct mail solicitation undertaken by the credit card industry." At Tr. 8A/3170 he states: "Synovate reported that credit card solicitations for the first three quarters of 2004 were up more than 20 percent from the first three quarters of 2003. ...More recently, Comperemedia reported that mailings in October 2004 were up 20 percent from October 2003[;]" and "Capital One reported that its marketing expenses increased more than 60 percent in the fourth quarter of 2004 compared with the third quarter of 2004." He reports on the positive effect of an October 2004 Supreme Court decision which opened the way for more banks and financial companies to begin issuing American Express cards. He discusses a probable lift to credit card solicitation as a result of the "Do Not Call" restrictions on telemarketing. Although he acknowledges that the saturation point may be approaching, he concludes: "Looking to the future, it is reasonable to expect the credit card industry to continue to expand its marketing activity as it has for at least the last decade." *Id.* at 3171.

¹ The Postal Service presented a similar discussion in regard to credit card mailing trends in Docket No. R2001-1. See Direct Testimony of George S. Tolley on Behalf of the United States Postal Service (USPS-T-7).

Witness Bernstein's testimony leaves an impression of significant non-price exogenous factors influencing mailing trends in the credit card industry. Non-price exogenous factors as described also might be responsible for Bank One's increasing mail volumes. Conceivably, these non-price factors could quickly overwhelm the effect of any price incentive. If these factors are not accounted for in the Postal Service's analysis, the Postal Service could be paying incentives on mail that would have been mailed "anyhow" without a price incentive.

The Postal Service did not indicate on the Bank One record the extent to which it relied on this institutional analysis of the credit card industry. The analysis appears relevant to the Bank One request as Bank One contends it was the third largest credit card issuer in the United States. As such, its volume trends and those of the industry potentially could coincide.

An analysis of Bank One's assertion that without a discount it would experience flat to declining future mail volumes in light of the Postal Service's institutional analysis indicating that the credit card industry as a whole is experiencing increasing mail volumes might have further enlightened the Commission's recommendation. The implications of non-price exogenous factors also could have been contrasted with witness Buc's testimony describing the potential effects of price incentives. The Postal Service should consider undertaking such analysis in evaluating future requests, where applicable.

B. Mailing of Flats

The Commission estimated the Postal Service would realize a cost savings of \$7.6 million attributed to the Address Correction Service (ACS) element of the agreement. The majority of this savings, \$6.1 million, is related to the mailing of flats. Decision at 78.

The Postal Service filed its first data collection report in Docket No. MC2004-3 on February 7, 2006. The Postal Service reports the following First-Class Mail volumes in eligible Bank One permit accounts:

• Solicitations Non-automated Presort Letters:	17,736
• Solicitations Automation Presort Letters:	23,495,547
• Customer Mail Non-automated Presort Letters:	6,425,641
• Customer Mail Automation Presort Letters:	216,417,072
• Customer Mail Automation Carrier Route Presort Letters:	9,141,645

The data report does not mention the mailing of flats. If in fact flats are not being mailed, the Postal Service could be saving substantially less than estimated. It could also indicate that the stop-loss cap, which is calculated based upon the saving element, was set substantially higher than justified by actual cost savings.

I request that the Postal Service verify the accuracy of the first data collection report as to the mailing of flats. If accurate, the Postal Service should consider developing additional mechanisms to address the potential for unrealized savings if similar conditions are a part of future Negotiated Service Agreements.

C. Opportunity to Study Effects of Non-Price Exogenous Factors

Witness Rappaport presents record testimony projecting that in the first year of the Negotiated Service Agreement, Bank One's First-Class volume would increase as a result of the discount from 571 to 590 million pieces, an increase of 19 million pieces. Based on his estimates, the stop-loss cap limit established by the Commission should not be reached over the duration of the agreement.

Chase recently asserted that "[a]t current and projected volume trends, Chase could exhaust the aggregate volume cap imposed by the Commission as early as May 2006—

barely a year into the three-year scheduled life of the NSA."² To reach the stop-loss cap limit in the first year of the Negotiated Service Agreement (approximately May 2006), Bank One's First-Class volume would have to increase from 571 to 805 million pieces, an increase of 234 million pieces.³

In PRC Order No. 1450, the Commission stressed the importance of adhering to the contract provisions and of holding heritage-Bank One volumes separate from heritage-Chase volumes until formal integration occurs. The Postal Service has reassured the Commission that its concerns are being addressed.

The Postal Service has carefully analyzed Chase's volume trends to date and has tracked Chase's compliance with the terms of the agreement. Chase is in full compliance with the terms of the NSA; and the merger has not prevented the Postal Service from verifying this fact.

USPS Reply Comments at 2.

Chase assures the Commission that heritage-Bank One volumes are being held separate from heritage-Chase volumes.

The growth in heritage-Bank One Actual Rates volume was not accompanied by a collapse of First-Class Mail volume entered under heritage-Chase permits. In 2005, the last year before integration of Chase and Bank One permits, approximately 574 million pieces of First-Class Mail were

² Petition at 22-23 (footnote omitted). Chase has since revised this assertion to indicate that the stop-loss cap limit appears more likely to be reached near the end of 2006. Chase Comments at 18, n.10. However, it remains that actual volumes are vastly exceeding estimated volumes. Whether the volume surge is the result of the discount incentive or the result of other factors is a question that has direct bearing on the need for a stop-loss cap.

³ See PRC Order No 1450 at 12-13.

entered under heritage-Chase permits, *more than the 419 million pieces* projected by Mr. Rappaport in his testimony.

Chase Comments at 19-20. (Emphasis in original.)⁴

Chase further contends that the testimony representing that post-merger-Chase marketing philosophy would be akin to the pre-merger-Bank One marketing philosophy was within Rappaport's competence as a fact witness. Chase Comments at 15-16. Chase had announced that the pre-merger-Bank One and pre-merger-Chase consumer and commercial banking businesses, which include their credit card businesses, would operate under the Chase brand after completion of the merger.⁵ Every indication is that the heritage-Bank One credit card portfolio has converted to the Chase brand.⁶

It seems plausible from the limited information available to the Commission that heritage-Bank One and heritage-Chase are soliciting similar if not identical product lines. The solicitations are being mailed under separate identifiable and traceable mailing permits. Both mailings share the pre-merger-Bank One marketing philosophy. The heritage-Bank One mailings received the benefit of the Negotiated Service Agreement's declining block rate discounts. The heritage-Chase mailings are entered without the benefit of declining block rate discounts.

While data necessary to perform a detailed analysis have not been presented to the Commission, certain trends are indicated. Assuming the accuracy of Chase's first assertion that the stop-loss limit may be reached by May 2006, Bank One's First-Class

⁴ Witness Rappaport apparently underestimated heritage-Chase First-Class Mail volumes by 155 million pieces (574 million minus 419 million). The Commission did not rely on heritage-Chase First-Class Mail volumes in its Opinion. However, this again demonstrates the difficulty of obtaining accurate volume estimates, even for the near future.

⁵ J.P. Morgan Chase Press Release dated June 8, 2004.

⁶ Chase argues that the rebranding effort was a matter of public record, and that Chase did not conceal this fact. *Id.* at 16. While Chase may not have concealed this significant material fact, Chase did not disclose the nature of the rebranding effort on the record. The Commission became aware of this effort well after the record was closed.

volume would have had to increase from 571 to 805 million pieces, an increase of 41 percent.

Chase asserts that approximately 574 million pieces of First-Class Mail were entered under heritage-Chase permits compared with the 419 million pieces projected by Mr. Rappaport in his testimony, an increase of 37 percent. This surge in volume could only be due to other exogenous factors, because heritage-Chase mail was not subject to the benefit of the declining block rate discounts.

More meaningful comparisons can be made with the benefit of refined data. Negating the effect of growth in customer mail and isolating just solicitation mail could be an important comparison. Properly aligning time periods and using actual volumes to replace the Chase estimate of when the stop-loss cap will be reached is also necessary. Even though only limited information is available, it appears factors other than volume discounts may have had substantial impact on both the heritage-Bank One and heritage-Chase mailings.

The coincident mailing of heritage-Bank One and heritage-Chase mail has created an excellent opportunity for the Postal Service to study the impact of volume-based discounts. If the Postal Service can gather and preserve this information, and complete an appropriate analysis, the results could support future volume-based discounts. The assertions made by witness Buc concerning the effects of declining block rate discounts on volume also might be enhanced using witness Bernstein's rate case analysis of volume trends. It would be very helpful for the Postal Service to undertake such efforts and share the analysis and results with the Commission.



Ruth Y. Goldway, Commissioner

A-9

CONCURRING OPINION OF COMMISSIONER GOLDWAY

I support the recommended decision, but with reservations.

I have long been a supporter of Postal Service innovation. For example, in remarks before the Direct Marketing Association's 1999 Government Affairs Conference (available on the PRC website) I favored permitting Postal Service experiments for new types of services that had a nexus to its core mission. I also have spoken out in favor of innovative pricing, such as seasonal discounts. I agree with the fundamental message of the opinion that selective discounts can be in the public interest. Furthermore, the legislative history behind the Postal Reorganization Act suggests that the PRC should work cooperatively with the Postal Service, and I do not want this agency to be a stumbling block to Postal Service innovation.

The Postal Service's first NSA proposal, though lawful, raises questions about the soundness of its business strategy. The Postal Service has ample authority to regulate the preparation and hygiene of its mail — the Domestic Mail Manual is filled with such examples. It is continually seeking solutions to address hygiene problems. Thus, the April 15, 2003 edition of DMNews online stated that the Postal Service in May will start reclaiming postage discounts from First-Class mailers who do not comply with its Move Update rules, citing as its source Angelo Wider, USPS manager of finance, in remarks at the New Orleans Spring National Postal Forum. Move Update is designed to reduce undeliverable as addressed mail, whereby mailers using automation or presort rates are required to update addresses every 180 days using USPS-approved methods. The same report cites other proposed changes that should improve address hygiene as well.

In this proceeding, Postal Service witness Plunkett states that the Service will be evaluating the type of hygiene program to which Capital One has agreed for possible wider implementation. But one wonders, once the Postal Service became aware of the alleged substantial benefits of such a program for one mailer why did it not ask itself — "Why not mandate specific hygiene practices for all First Class mailers using the medium

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for advertising? Is it necessary or most efficient to give postage discounts to obtain what can be done by rule?" It is clear that Capital One likes to use First Class Mail for advertising and that barring some huge change in corporate strategy and fortunes such reliance will continue. It does not appear that Capital One was threatening to leave the First-Class mail advertising medium. See Tr. 4/714 (witness Plunkett), Tr. 2/70 (witness Jean).

The Postal Service has for some time wanted to be able to price its domestic product in the same way its private sector counterparts successfully do — by granting selective discounts to win or retain business. But there are major differences in how most private sector companies offer discounts to large accounts. First, private sector discounts are offered secretly so that other big customers do not demand the same or better deals, consequently eroding profit margins. Under the current system of postal regulation, where the Postal Service has been granted a monopoly, discounts cannot be made in secret. (Nor should a monopolist be able to price secretly.)

Second, discounts are offered based on specific competitive challenges ("I can't do business with you at that price — I've got a better offer.") and estimates of the customer's alternatives. Here, the evidence shows no specific competitive challenge, just the Postal Service's general desire to build volume. Indeed, with the current regulatory attacks on spam and telemarketing, some of the Postal Service's competitive threats to advertising mail could be lessened.

Third, private sector discounters know their costs of doing business with customers under the current arrangement and can assess any proposed new arrangement for its benefits to them, e.g., determining whether a discount will generate in fact scale economies. The evidence on this record concerns only hygiene related savings — there are no cost savings on this record associated with the potential for higher volumes. Even for those projected savings, Postal Service testimony shows it does not know with

much precision its current costs of handling Capital One's mail and how these costs will change under the future arrangement (e.g., the effect of PARS).

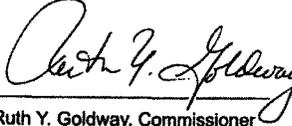
It may be that the Postal Service needs to reconsider its reliance on NSAs as the best option for pricing flexibility in the monopoly context and reconsider the niche classification approach, as some of the intervenors in this case suggest. The niche classification approach also reduces the possibility that discrimination will occur against mailers whose volumes are smaller and who cannot afford the litigation transaction costs of supporting an individual NSA, or the discrimination that could occur if the Postal Service focuses its (admittedly) limited negotiation resources on just the largest mailers. I would note that the Postal Service has pricing freedom for its international mail business, yet this practice does not appear to have helped it measurably, as volumes, revenues, and profits are declining in this sector.

This case profited from the observations of economists Panzar and Eakin concerning potential economic effects of the discounts available under the NSA on competitors of Capital One. Commission deliberations would be facilitated in future cases if the Postal Service analysts examined more thoroughly the current competitive conditions in the industry in which the NSA was being sought. For example, industry concentration, entry and exit conditions and other factors may indicate, e.g., that the slight advantage granted to one player in an industry from a lower rate will have merely the effect of a pebble thrown into a large lake — a mere ripple that soon disappears. Analysis of the credit card industry might show that there are a large group of well financed competitors, many of whom have their own particular competitive advantages (e.g., retailers who can advertise credit cards in their stores).

In light of the overall modest amount of money involved in this case (in relation to the Postal Service's total budget) and the economic experts' views about the potential benefits of contractual rates I am persuaded that new arrangements of this nature should

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be encouraged. However, I do not regard this case as precedent except for the general proposition that NSAs can be beneficial, and would ask the Postal Service and Board of Governors to carefully consider my reservations.



Ruth Y. Goldway, Commissioner

DISSENTING OPINION OF COMMISSIONER GOLDWAY

I am not joining with my fellow Commissioners in favorably recommending that the Postal Service proceed with implementing the Bookspan Negotiated Service Agreement. The majority opinion does include a thoughtful explication of several of the problems that I enumerate below. Unfortunately, I believe those problems and others are of such significance that approval is simply not appropriate under the provisions of Title 39. Further, I am concerned that the Commission's Decision sends confusing signals to the Postal Service and its potential Negotiated Service Agreement partners jeopardizing future agreements.

First, all previous Negotiated Service Agreements, as recommended, protected mailers not party to the Agreement from having to make up contributions lost from unintentionally paying discounts on mail that otherwise would have been mailed at the established rate. The Bookspan Decision provides too little protection.

Second, the Commission's Negotiated Service Agreement rules require rigorous evidentiary presentations for new baseline cases. This allows functionally equivalent requests to be handled more expeditiously. The Commission was encouraged by the Declaration of Michael K. Plunkett presented on reconsideration in the Bank One case that the Postal Service was developing independent tests of mailer-supplied volume estimates. The Postal Service's presentation in Bookspan does not approach the example set in Mr. Plunkett's Declaration. The Commission should be more forceful in signaling the Postal Service to provide more support for and be more forthcoming in its baseline Negotiated Service Agreement requests.

Finally, the Postal Service should be aware of the chilling effect that just one failed Negotiated Service Agreement could have on the entire Negotiated Service Agreement program. I would like the Postal Service to be successful in its Negotiated Service Agreement endeavors. Thus, I believe that the Postal Service needs to place more emphasis on due diligence, and should share the results of these efforts with the Commission when presenting its Negotiated Service Agreement requests.

The volume estimates presented on the record in this case suffer from infirmities similar to those present on the Capital One and Bank One Negotiated Service Agreement records. In those cases, as in the instant case, the Commission could not rely on the mailer-provided volume estimates. The Commission was unable to find that the Postal Service would not be made financially worse off by entering into this Agreement. And the Commission expressed concern that this created unreasonable risk, and that the burden of recovering from this risk would unfairly fall largely on captive monopoly mailers not party to the Agreement. Fortunately, the Capital One and Bank One agreements included cost savings features that could be employed (in the form of stop-loss caps) to counterbalance the risks associated with unreliable volume estimates. This permitted the Commission to issue favorable recommendations. The Bookspan agreement, however, does not offer a comparable method to protect mailers not party to the Agreement. Therefore, I believe this Agreement does not meet one of the essential obligations which the Commission must require of the Postal Service. I cannot and do not recommend that the Postal Service proceed with the Agreement.

The Commission relies heavily on the "multiplier effect" to tip its decision in favor of recommending that the Postal Service proceed with the Agreement. While I do not dispute that Bookspan may exhibit a multiplier effect, the nebulous characterization of the Bookspan multiplier effect presented on the record does not allow me to accord this factor much weight.

First, the economic impact of the multiplier effect is not quantified. Without quantification, it is not possible to determine to what extent, if any, the multiplier effect counterbalances the risks associated with unreliable volume estimates. Second, there is no requirement that Bookspan continue to utilize the Postal Service for its fulfillments. Thus, a substantial component of the multiplier effect could evaporate if Bookspan so chooses. Finally, because the multiplier effect is not relied on by the Postal Service in evaluating the financial impact of the Agreement, and the rationale for limiting functionally equivalent agreements as described in the Domestic Mail Classification

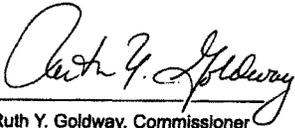
Schedule is not adequately explained, potential similarly situated mailers attempting to obtain comparable agreements may find the application of the multiplier effect requirement arbitrary, and possibly discriminatory in effect.

The Commission also relies heavily on the contract provision which allows the Postal Service to terminate the Agreement with 30 days' notice. The ability to terminate without cause provides the Postal Service with an important safety valve, which offers protection from unexpected results. However, it does little to add protection from the risks identified from unreliable volume estimates. The termination provision assumes that the Postal Service sufficiently monitors the progress of the Agreement, and that the metrics exist to decide when to exercise this provision. Without reliable before-rates volume estimates, the Postal Service lacks the critical information needed as a starting point to evaluate whether or not the Agreement is progressing as planned. The Postal Service may not be able to determine, even after the fact, the point at which the Agreement becomes no longer beneficial.¹ If the Postal Service can not determine this turning point, it can not determine when to exercise the termination provision. Further, the contract provision is not implemented automatically. This allows freedom for an agreement to continue, whether or not it remains beneficial.

Several participants, American Postal Workers Union, AFL-CIO; Newspaper Association of America; National Newspaper Association; Office of the Consumer Advocate; Valpak Direct Marketing Systems, Inc.; and Valpak Dealers' Association, Inc., oppose the implementation of the Bookspan agreement. Arguments were presented questioning the validity of the volume estimates, the use of system-wide versus mailer-specific data, the sufficiency of the cost data, the basis of the multiplier effect, and the absence of a requirement in regard to conversion of solicitation flats to letters. To the extent that each argument is valid, the concerns raised by this group of intervenors

¹ Without mailer-specific inputs, the Panzar test referenced in the Commission's Decision only provides an indication of where the Agreement turns unbeneficial.

further weigh in favor of not recommending that the Postal Service proceed with the Bookspan agreement.



Ruth Y. Goldway, Commissioner



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

July 17, 2008

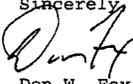
The Honorable Joseph I. Leiberman
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Ruth Y. Goldway, 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. Also enclosed is a letter dated June 15, 2008, from Commissioner Goldway to the agency's ethics official, outlining the steps Commissioner Goldway will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date with any action she agreed to take in her ethics agreement.

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

Sincerely,

Don W. Fox
General Counsel

Enclosures