

**NOMINATIONS OF HON. MARK D. ACTON AND
ROBERT G. TAUB**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

NOMINATIONS OF HON. MARK D. ACTON AND ROBERT G. TAUB TO BE
COMMISSIONERS, POSTAL REGULATORY COMMISSION

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**NOMINATIONS OF HON. MARK D. ACTON AND
ROBERT G. TAUB**

THURSDAY, JULY 28, 2011

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

The Committee met, pursuant to notice, at 2:35 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

Present: Senators Carper, Pryor, Tester, Begich, and Brown.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. This hearing will come to order.

We want to welcome our witnesses, our introducers, and everyone in the audience. If there are any family members that you would like to introduce, you are welcome to do that.

Today, we are going to be considering two nominations to fill openings on the Postal Regulatory Commission, Mark Acton and Robert Taub.

As my colleagues know and I am sure much of our audience and our nominees know, this is a very challenging time for the Postal Service and this country. We are a few months away from the end of the fiscal year, and the Postal Service is projecting further record losses, perhaps more than \$8 billion.

Postal Service management has already stopped making its share of its employees' Federal Employees Retirement System (FERS) pension payments. Absent a change in the law, payments due in September and October related to retiree health and workers' compensation could be in jeopardy due to a serious cash crisis at the Postal Service. It is not out of the question that the Postal Service's ability to meet its payroll and, as a result, to continue operations might be in danger, as well, once the new fiscal year starts in October. Other than that, everything is pretty good. [Laughter.]

Unfortunately, things are not projected to get a whole lot better. Just over a year ago, our former Postmaster General Jack Potter announced the findings from a group of three respected outside consultants showing that the Postal Service's financial condition is likely to continue to erode in the coming years. Those consultants found that without major change, the Postal Service would run up cumulative deficits of more than \$230 billion by 2020.

The Postal Service, in partnership with its employees, is starting to chip away at that number, but more and difficult change will need to occur in both the near and the long term if we are going

to set things right. We will need to work quickly to start making that change happen. Even if the Postal Service was able to somehow make it through the financial land mines it will encounter in the coming months, fiscal year 2012 is shaping up to be little short of a disaster for the Postal Service and for all the customers and businesses that rely on it.

Even during the slow and halting economic recovery that our country is experiencing today, mail volume has been falling, particularly First Class mail volume. This likely means that the electronic diversion of the mail is happening at an even quicker rate than any of us might have imagined. If this trend continues or if it should worsen, the Postal Service will almost certainly run out of cash and borrowing authority and be forced to shut its doors no later than next summer. We cannot afford to let that happen in this country.

Millions of jobs in a wide variety of industries depend on a healthy Postal Service. We owe it to the men and women who hold those jobs to take whatever steps might be necessary to ensure that the Postal Service continues to remain solvent. We have to take those steps even if they may prove, at least in the near term, unpopular.

Now, I know that it is Congress and the Postal Service that will ultimately need to take those steps, not the Postal Regulatory Commission (PRC), but I wanted to mention all this at this hearing because it is essential that anyone who serves on the Commission or is thinking of joining the Commission be mindful of the current crisis and the impact their decisions as commissioners could have in either improving or worsening it.

I have not made a secret of the fact that I have some concerns about the Commission and some of its recent work. It was troubling to me, for example, when the Commission's Chair expressed her views on the Postal Service's proposal to eliminate Saturday delivery before that proposal had even gone to the Commission for examination. It was even more troubling when the Commission's report on the advisability of the Postal Service's proposal did not appear for about a year and, in a lot of ways, created more questions than it answered. On top of that, two recent Commission decisions on rate making and the Postal Service's licensing authority were recently remanded to the Commission by the courts. In one of those cases, the courts even criticized the Commission for doing sloppy work.

At a time like this, we need to do better. All of us need to do better, and that includes me. We need to do a better job here in Congress in finding consensus around the changes in law that are necessary to help the Postal Service survive, and the Postal Regulatory Commission can probably do a better job, too.

I look forward to exploring with our witnesses today how they would contribute to the Commission's work at this difficult time, and I also want to explore how they would balance the competing demands placed on the Commission to weigh both customer service needs and the Postal Service's financial challenges.

With that having been said, I am going to close my remarks at this point and turn to Senator Brown, the Ranking Republican of my Subcommittee on Federal Financial Management, Government

Information, Federal Services, and International Security, to ask him to make any comments he might like to make.

OPENING STATEMENT OF SENATOR BROWN¹

Senator BROWN. In the interest of time, since I would like to hear the nominees who are here testifying, I will submit my comments for the record.¹ Thank you.

Senator CARPER. Thanks so much. Thanks for being here.

Before we start our questions, we have a couple of distinguished guests to introduce our witnesses, and we will start with John McHugh, a former colleague of mine in the House of Representatives, a fellow who is probably regarded as the foremost Representative with knowledge of the Postal Service as anyone that has served, certainly in the time that I have been here. He is now the Secretary of the Army. I had the pleasure of meeting last night with your boss, Leon Panetta, who was also an old colleague of mine in the House. You are going to be introducing Robert Taub, so please go ahead with your introduction and then we will yield to Mr. Omas. But again, thank you, Mr. Secretary. Thank you so much, and thank you for your continued service to our country.

TESTIMONY OF HON. JOHN M. MCHUGH,² SECRETARY, U.S. ARMY

Secretary MCHUGH. Well, thank you, Mr. Chairman, and let me tell both you and the distinguished Ranking Member, Senator Brown, how much I truly appreciate the opportunity to be here today to appear before this distinguished Committee on behalf of my good friend and long-term colleague and, I would add, partner, Robert Taub.

I would be remiss, gentlemen, if I did not also gratefully acknowledge the presence of Mark Acton, someone who has been in the trenches and has been working these issues, and, as a member of the Commission and to introduce him, my good friend George Omas, who spent many years in the House of Representatives on Postal Service issues and other matters and did so after his time in the House, as well. So I am sure they will provide you with some very provocative thoughts on these very important issues, as you said in your opening statement.

I am particularly pleased because, as I understand it, Mr. Chairman, under the protocol, I am neither expected to face questions nor submit responses for the record, which, compared to my other congressional appearances—

Senator CARPER. No, we have questions. [Laughter.]

Secretary MCHUGH. You will have to catch me on the way out. [Laughter.]

But that is a good day for me and probably for you, as well. But I would note, as you so graciously noted, I am here today principally in my position as the 21st Secretary of the Army, but I think it is very relevant to take a moment to reflect on the 17 years I spent as a member of the House of Representatives and dwell a bit on what I think is a shared experience between members of

¹ The prepared statement of Senator Brown appears in the Appendix on page 39.

² The prepared statement of Secretary McHugh appears in the Appendix on page 42.

both Houses. Whether it is on national talk shows or local television, members of the Senate and the House are the faces and the voices of those we serve. It is a life that we all live in the public eye with demanding schedules, bad hours, writing laws, meeting in committees, long sessions in Washington, longer commutes back home. And every few years, they ask you to campaign, to go out and raise a lot of money, with just incredible strains on time and attention.

But we choose to do that, living in the public eye. We are blessed, though, to have around us individuals who do not seek the attention or the praise, who at the same time keep our schedules and meet our demands and whose industry and counsel, I would argue, are absolutely essential to all that we do. While members of Congress are the face and the voice, the individuals behind us are often the heart and the soul of what we are able to do.

And during my time in the House and later in the Pentagon, I have been fortunate—indeed, I have been blessed—to have just such a person working for me, working with me, for now the better part of 17 years. And as you noted, Mr. Chairman, while in Congress as my Chief of Staff, Mr. Taub was instrumental in assisting me better overcome the daily rigors of congressional life and, more to the point for your consideration today, was a key figure in the advancement of postal reform legislation that in the House, I had the opportunity to work on for the better part of 10 years as chairman of the Postal Service Subcommittee, and I guess the fact that it took us 10 years speaks to my incompetence.

But nevertheless, on the day we voted on that bill, I told my colleagues during floor proceedings that Mr. Taub was, as I put it, the intellectual and spiritual glue that held the effort together. And truly, to my amazement, he was always willing and, frankly, even anxious to hold one more meeting, make one more effort to advance reform. When others saw failure, he saw a challenge. When others lost hope, he remained focused. And when others became angry, including me often, he remained calm. In short, he is a truly remarkable man.

I said back then and I want to repeat to you today that as proud as I was of his work and his steadfastness, I am prouder still that in my heart, I consider him a friend. That friendship has endured and has grown since Mr. Taub joined the committee staff back in 1995, continuing a career in public service that first began when he was a student at Gloversville High School, when he would go to work at his State Assemblyman's office after classes got out—and I have it on good authority he did it for free—I would hope he would not have to meet his next challenge in that way, but it is another thing Mr. Taub and I have in common. We are both from small towns in upstate New York. Of course, where I live now in Pierrepont Manor, it has a population of about 1,600. Gloversville, where Mr. Taub's home town is, has about 15,000 residents, so we used to call that the big city.

But I know he was raised in an environment that cherishes loyalty, respects hard work, and values achievement. I want to be honest. It is very difficult for me to lose him. He came with me to the Pentagon as a Special Assistant when I was confirmed as the Secretary, and I have relied so deeply upon his friendship, his com-

mon sense, and his good judgment. But I know that his commitment to the postal regulation environment, his steady leadership, and his calm resolve will serve the Postal Service, all of you in this great Congress, and our Nation so very well.

America's first Postmaster General, Benjamin Franklin, observed in his famous Poor Richard's Almanac that "a good example is the best sermon." Mr. Taub continues to set a good example every day in everything he does. I am grateful for President Obama's wise nomination of this great leader, and I would, gentlemen, respectfully urge your favorable consideration of his nomination.

With that, I yield back.

Senator CARPER. Well, thank you very much. We hear a lot of introductions here. That was truly a lovely introduction. Thank you. If he is half the man that you say he is, we are lucky to have him.

Secretary MCHUGH. He is all of it.

Senator CARPER. Good.

I know your schedule is busy, and whenever you need to leave, feel free to do so.

Secretary MCHUGH. I will respectfully wait for Mr. Omas.

Senator CARPER. Very good.

Our next introducer is George Omas. He was a former chairman of the Postal Rate Commission. He knows something about that Commission and the kind of men and women that we need to serve. Mr. Omas, even though you are a former chairman, we are delighted that you are here and look forward to hear what you have to say about Mr. Acton. Thank you. Welcome.

**TESTIMONY OF HON. GEORGE A. OMAS, FORMER CHAIRMAN
OF THE POSTAL RATE COMMISSION**

Mr. OMAS. Thank you, Mr. Chairman and Members of the Committee. It is indeed an honor to once again appear before this panel. And I will say, it is going to be very difficult to follow Congressman McHugh after that glowing remark, but I will try. I served as chairman from November 2001 until December 2006 of the Postal Rate Commission, which was, as you know, the predecessor to the Postal Regulatory Commission. I really do take some pride in believing that during my time at the agency, I contributed toward making many key decisions that benefited the greater interest of the Postal Service and the postal community as a whole.

I am here today to say that selecting your nominee, Mr. Acton, as my special assistant when I became chairman is certainly among the best choices I made while I was chairman. I have known Mr. Acton for more than 25 years, and I have known him to be a man of honor and integrity. I have always been impressed that once Mr. Acton becomes a part of a staff for any endeavor, he diligently sets out to learn the principles, and he did that in trying to learn the principal regulations and rulemaking because when he came to the Commission, I think all he knew was the name of the Commission. But in his vigor to become a better partner with the rest of his colleagues at the Commission, he went on to earn an M.B.A. and to prepare himself for the role, and for the past 5 years, I feel he has served with distinction as a member of the Commission, and I am pleased that he has decided to continue to secure a second term at the Commission.

Mr. Chairman and Members of the Committee, I am delighted to introduce Mark Acton to you and to endorse his second term. Thank you.

Senator CARPER. Mr. Omas, very nice to see you. Thank you for those kind words about Mr. Acton.

Mr. Secretary, so long.

Secretary MCHUGH. Thank you, Mr. Chairman.

Senator CARPER. Take care. As we say in the Navy, fair winds and a following sea.

Mr. Taub, would you like to lead off? Your entire statement will be made part of the record. Feel free to introduce any special guests or family members that you have with you. You are recognized at this time.

**TESTIMONY OF ROBERT G. TAUB¹ TO BE A COMMISSIONER,
POSTAL REGULATORY COMMISSION**

Mr. TAUB. Mr. Chairman, Senator Brown, distinguished Members of the Committee, I want to thank you for the opportunity to appear before you today and for your consideration of my qualifications to be a Commissioner of the Postal Regulatory Commission. I would like to thank President Obama for the opportunity he has afforded me through this nomination. I am honored by his trust. I am pleased that many of my family, friends, and colleagues are here and am grateful for their support.

Senator CARPER. Where are they sitting?

Mr. TAUB. Well, while I cannot acknowledge them all, I would like to introduce my family.

Senator CARPER. Sure.

Mr. TAUB. My dear wife, Cynthia Taub.

Senator CARPER. Which one is your wife?

Mr. TAUB. At the end. Our daughter, Hannah Taub.

Senator CARPER. Hannah, welcome.

Mr. TAUB. Her twin sister, Madeline, is at camp and cannot enjoy our Constitution in action today.

Senator CARPER. Are they identical twins?

Mr. TAUB. Fraternal.

Senator CARPER. Very good.

Mr. TAUB. My sister and brother, who traveled a distance to be here, Beth Laddin and Bill Taub—

Senator CARPER. Where did they come from?

Mr. TAUB. Albany, New York, and Cherry Hill, New Jersey.

Senator CARPER. I have a son living in Albany now, so keep an eye on him. [Laughter.]

Welcome all.

Mr. TAUB. Like good families everywhere, all have lent me love, encouragement, and a good dose of understanding. While our parents could not be physically present, I feel their support with us today, as well.

Finally, a special thank you to Secretary of the Army John McHugh for his kind introduction. For close to two decades, I have had the privilege of working with one of the finest officials I have ever met in my 25 years of public service. If confirmed, I know I

¹The prepared statement of Mr. Taub appears in the Appendix on page 44.

will succeed in the challenges of being a Commissioner if I can bring even half the measure of dedication to duty and thoughtful analysis that I have seen in Secretary McHugh these many years.

We started working together in January 1995, when he became Chairman of the newly created House Postal Service Subcommittee, and I had joined the staff after 8 years at the Government Accountability Office. Neither of us could anticipate that the journey of modernizing our Nation's postal sector would take so long or be so challenging.

In addition to the numerous postal issues we worked on for 15 years, most notably in passage of the Postal Accountability and Enhancement Act, I subsequently had the honor of serving as his Chief of Staff for a decade, helping him represent that very rural area of Northern New York State where we were both born and raised. And for the past 2 years, I have supported him at the Army as he confronts the challenges of managing that Department in the midst of tightening budgets concurrent with a decade of war. So, deep thanks to my boss, my mentor, and my friend, Army Secretary John McHugh.

Last month, the Army celebrated its 236th birthday since its founding in 1775. Another institution as venerable as the U.S. Army also marked its 236th birthday this year, the U.S. Postal Service. Indeed, almost to the day of this hearing, it was on July 26, 1775, that the Continental Congress appointed Benjamin Franklin as our Nation's first Postmaster General. For 236 years, this is a service that American people and American businesses alike have come and grown to expect. Universal service at a uniform price, no questions asked. Very few in this country go to his or her mailbox or his or her local post office wondering if the mail will be there. It is always there. It has always been there. But the true question, the question confronting our Nation, is will the mail always be there?

I want to assure this Committee that I appear here before you today with few delusions as to the difficulties that lie ahead. I believe I have a clear understanding of the serious and numerous challenges that face America's postal system. As you all know well, the mail stream of today has been diminished by electronic means of communication that replace mail. They replace stamps. And, thus, they replace the revenues necessary to operate our key mail delivery system. Some may even suggest that the time of the Postal Service has passed. But the fact is, for all the challenges the Postal Service of the 21st Century faces, it still retains an integral place as a key cog in how American businesses conduct their affairs and how Americans all across this land communicate.

The U.S. postal and delivery sector represents a \$1-trillion-a-year industry with 8 million jobs, making it vital to our economy. Postal marketers speak of the proverbial "mail moment," that instant of receiving and opening mail that holds special meaning. And despite the immediacy of email or Skype, take one look at the men and women in the military and their families stationed around the planet when they get that hard copy letter or packet.

However, the Postal Service is in a serious financial crisis. For the Postal Service to continue to be self-financing may require a restructuring of its statutory and regulatory framework to reflect

business and consumers' changing use of the mail. I am aware that the Postal Regulatory Commission is now conducting its 5-year review of the law with recommendations to improve it.

If confirmed, I would welcome the opportunity to focus my executive and management skills on ensuring transparency and accountability of the Postal Service and fostering a vital and efficient universal mail system. I would bring to the job 25 years of public service achievement, and I pledge to work with all stakeholders to address the current difficulties. There are no easy answers to these challenges, but answer, we must. And I promise you, if confirmed, my first priority will be, along with this Committee, the Congress, the President of the United States, and, of course, the other Commissioners, to engage in a constant search for the discovery and implementation of solutions.

I am truly honored to be considered. Thank you.

Senator CARPER. Thank you, Mr. Taub. Mr. Acton, welcome. Please proceed.

**TESTIMONY OF HON. MARK D. ACTON¹ TO BE A
COMMISSIONER, POSTAL REGULATORY COMMISSION**

Mr. ACTON. Thank you, Mr. Chairman and Members of the Committee. I am honored to be with you today, and I thank you for holding this hearing to consider my nomination as a Postal Regulatory Commissioner.

I want to thank President Obama for his confidence in me and for the honor of nominating me for this important appointment.

I am most grateful for the support of our Minority Leader and my home State Senator, Mitch McConnell. My thanks, too, to the Committee staff for their expert guidance. I would also like to acknowledge the loving support of my partner, John Channing Wickham, my family, and my friends.

I want to make special mention today of my fellow Commissioners, Chairman Ruth Goldway, Commissioner Nancy Langley, and Commissioner Tony Hammond.

I am fortunate to have spent 4 years on staff at the former Postal Rate Commission assisting the agency chief, Chairman Omas, in administering all PRC operations in the past 5 years, as first a Postal Rate Commissioner and now a Postal Regulatory Commissioner.

To the employees of the PRC, I want to offer my profound thanks for their dedicated hard work.

Much has changed in the postal world during my 9 years at the Commission, and we find ourselves today in particularly challenging times. I believe that my experience affords me a clear appreciation of the key postal issues and a close familiarity with the concerns of the postal community stakeholders, and I am quite pleased to be considered for a continuing role.

If confirmed, I pledge today to work with this Committee in advancing workable solutions that help to renew and ensure the vitality of a great American institution, the U.S. Postal Service.

¹The prepared statement of Mr. Acton appears in the Appendix on page 70.

Mr. Chairman, I look forward to working with you and the other Members of this Committee, and I will be pleased to answer any questions.

Senator CARPER. Mr. Acton, thank you. Thanks for your testimony.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath.

I ask you to stand and raise your right hand.

Do you swear the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. TAUB. Yes, I do.

Mr. ACTON. I do.

Senator CARPER. I have three standard questions that we ask of all nominees, and I will pose each question and ask each of you to briefly respond, and we will do that three times.

First, 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?

Mr. TAUB. No, Mr. Chairman.

Mr. ACTON. No.

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

Mr. TAUB. No.

Mr. ACTON. No.

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

Mr. TAUB. Yes, I do.

Mr. ACTON. Yes, certainly.

Senator CARPER. All right. So far, so good. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

Senator CARPER. You are welcome.

Senator BROWN. First of all, congratulations to you both for being nominated. I certainly look forward to your answers to a lot of the questions. As we know, the Postal Service is having difficulty, and I think you noted, Mr. Taub, what the challenges are. I have had people in my office, probably more people than I know or I can remember on a particular issue, advocating, wondering, and questioning where we are going and what are the solutions. They are the same questions we are asking today on where we are going on our debt and, obviously, our default issues.

In a rush to bring the Postal Service into the 21st Century, what are your biggest concerns with ensuring that the Postal Service continues to provide a safety net for those left behind by the digital revolution? Mr. Acton.

Mr. ACTON. Thank you, Senator Brown. That concern falls pretty squarely under the rubric of the Universal Service Obligation (USO), and the regulator plays an important role in ensuring the integrity of the Universal Service Obligation. Indeed, part of the provisions of the Postal Accountability and Enhancement Act of 2006 (PAEA) was a mandate that the Commission look at the ques-

tion of the Universal Service Obligation and suggest a definition and a framework of what defines the USO. We did that in a 2008 report where we put forth a framework of different elements and aspects that should be included, and part of that includes uniform price and range of products, accessibility, and those sorts of questions. So the regulator, the Postal Regulatory Commission in this instance, has an important role in ensuring that type of universal service availability.

Senator BROWN. You know, it is interesting, one of the suggestions that I have heard about getting the fiscal and financial stability of the Postal Service under control is to eliminate Saturday service.

As somebody who is a consumer and user of the Postal Service, there are two things that I recognize. There is a cut-off point where we will stop using the post office if the price of a basic stamp gets too high. I am not quite sure what that is for me, but for many people, it is getting really close. They can do it online. They can save that 44 cents, and ultimately their cut-off may be 50 cents.

It would seem that cutting Saturday delivery potentially would be counterproductive, whereas that seems to have the most opportunity to excel and expand upon because your competitors—FedEx, UPS, DHL—do not really have that niche. So any comments on that issue of the Saturday delivery and then that breaking point? Mr. Taub.

Mr. TAUB. Senator, the Saturday delivery issue, having it on the table, I think, is emblematic of the challenge we are facing with the Postal Service today. They lost \$8.5 billion last year, and they are on that pace again. One of the requirements of the postal reform bill of 2006 was mandating that the Postal Service prefund its future retiree health benefits, and that is a very important goal. But as the Government Accountability Office and others have pointed out, given the current financial state, that should be a mandate that is required only to the maximum extent financially feasible.

That being said, having worked on that issue a couple of years ago in the House with then-Congressman McHugh before he went to the Army, there are Congressional Budget Office (CBO) challenges in scoring that. And where that leaves you in the Postal Service, it seems, is having to look at a variety of other options to save money, and one of those is Saturday delivery. I know the Commission has looked at that and has raised some concerns about the impact in rural areas. So I think, at the end of the day, that has to be a very carefully considered approach. But I well understand, given the financial challenges of the Postal Service, that policy makers should have all options on the table where there can be savings.

Senator BROWN. I know that you know, probably both of you, that Senator Carper and Senator Collins have two competing bills. Do you have any comments on those bills and what your preference would be at all?

Mr. TAUB. Senator, I believe that the goal shared by Senator Collins, Senator Carper, and the folks in the House is everyone is trying to get to that same end game. How do we preserve universal service?

One of the aspects of the postal reform bill of 2006 was to mandate a few studies. We did not anticipate that the financial situation would be such, but one of those was a Government Accountability Office study of the long-term business model. That was done in April 2010. That laid out a menu of options for policy makers to consider in the regulatory area, governance area, products, prices, and many of those ideas are reflected in the pending bills before the Senate.

I think the goal is the same at the end of the day. It is a matter, frankly, of getting the votes and moving it forward to help the Postal Service.

Senator BROWN. Mr. Acton, do you believe that the Universal Service Obligation applies in consideration of eliminating that Saturday service, and if so, why?

Mr. ACTON. It is definitely a component of the USO. The frequency of delivery is an essential element of the Universal Service Obligation. It does not mean that it prohibits the elimination of Saturday delivery. It just means that when you contemplate the balance that is needed when trying to satisfy the USO requirements, frequency of delivery is an important part of that balancing.

I would like to touch base on a couple of questions that you addressed to both of us earlier.

Senator BROWN. Right.

Mr. ACTON. I would echo most of what Mr. Taub just said, but the question of giving up Saturday delivery and the very unique niche that Saturday delivery is for the Postal Service was something that the Commission wrestled with in our advisory opinion, as well. In the course of our testimony, we heard viewpoints from both sides, and some of the most perplexing aspects of that decision involved very forward-thinking, progressive organizations who were on opposite sides of the issue. Netflix was fine with eliminating Saturday delivery. Amazon, on the other hand, wanted the addition of Sunday delivery.

So it is hard to go anywhere where you can get a unanimous viewpoint on whether or not the elimination of Saturday delivery is a good or bad thing. But for me, it comes down eventually, in the longer term, to a cost-benefit analysis. At what point are the benefits that you garner from having Saturday delivery outweighed by the cost involved in providing that service, and I think that is really the crux of the issue.

Senator BROWN. Right, but what if they took the gloves off a little bit and let you do more in that Saturday time frame, versus eliminating it, versus taking the gloves off and letting you do more and expand that Saturday service? It would be more competitive.

Mr. ACTON. Certainly, that is an option. One thing that the Postal Service clearly demonstrated during the course of its development of that proposal for the elimination of Saturday delivery is that when they learned of individual constituency's concerns about certain aspects of their proposal, they were very good at applying their resources toward coming up with better solutions, albeit each time they did that, it cuts into the proposed cost savings. But at the same time, it makes the plan more workable.

Senator BROWN. Right. Thank you, Mr. Chairman.

Senator CARPER. Senator Tester.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thank you, Mr. Chairman.

I want to thank you both for your willingness to serve and your public service in the past. I just have a couple of questions.

Now, the Postal Regulatory Commission is there to give recommendations to the Postal Service, is that correct?

Mr. ACTON. It is correct in the sense we certainly do fulfill an important advisory role, but we also have important compliance duties, as well.

Senator TESTER. For example, when they are talking about going from 6-day to 5-day delivery of mail, do they let you know ahead of time they are thinking about it and do they ask you for your recommendation?

Mr. TAUB. Not having served at the Commission—Mr. Acton was there—but indeed under the statute and under the process, when you have a national change in service, they have to seek an advisory opinion from the Postal Regulatory Commission.

Senator TESTER. Did you give them an advisory opinion?

Mr. ACTON. We did, indeed.

Senator TESTER. And what was that opinion?

Mr. ACTON. The opinion was that we believed that the financial prospects, the cost savings from their proposal is considerably less than what they forecast. The Postal Service's estimate is in the realm of about \$3.1 billion annually, and we are estimating more along the lines of \$1.7 billion annually.

Senator TESTER. And I would assume they have their accountants and you have your accountants, is that right?

Mr. ACTON. That is right, Senator.

Senator TESTER. They just announced 3,700 post offices being closed, a fair number of them in Montana. The Chairman got lucky. He got off with none. But the question is, did they ask you about your recommendation on those 3,700 post offices?

Mr. ACTON. Well, they have asked us, as a matter of fact. There was an earlier advisory opinion that the Postal Service requested of the Postal Regulatory Commission, and we offered some very thoughtful feedback—

Senator TESTER. Yes.

Mr. ACTON [continuing]. Primarily about processing procedures, and the Postal Service has incorporated a lot of those thoughts in their new advisory opinion request, which was filed yesterday and docketed this morning. So I think the Postal Service hears the call for better adherence to the sort of regulations and rules that they are obligated to follow when they want to close these post offices. But how closely they have managed that in their new proposal is too early for me to report, simply because the filing was only yesterday, and once it is filed, I cannot talk in depth about it.

Senator TESTER. Yes, but do they not ask you before they file it?

Mr. ACTON. They ask if they can close a post office?

Senator TESTER. Yes, if you think it is a good idea.

Mr. ACTON. I am speaking of the advisory process in terms of what the Commission thinks and the community thinks about what it is they are proposing. What you are talking about, I think, is the appeals process.

Senator TESTER. What I am talking about is there are 3,700 post offices they are recommending closing. Does the Commission have any recommendations on those closures, either generally or specifically?

Mr. ACTON. We do. We have an important role. It is outlined in statute.

Senator TESTER. And what was your recommendation to the Postal Service?

Mr. ACTON. Well, it is an instance-by-instance assessment, Senator. Each time they want to make a change in the status of an individual post office, station, or branch, they do that themselves, and then if there is a party involved with the community who has a problem with it, then they file a complaint—

Senator TESTER. So there are 3,700 of them.

Mr. ACTON. There are a lot.

Senator TESTER. There are 85 in Montana, alone.

Mr. ACTON. It is an enormous—

Senator TESTER. Are you going to do that on an individual basis?

Mr. ACTON. Well, we do not know how many of those will reach us for further consideration.

Senator TESTER. So what you are saying is that—I do not want to put words in your mouth—the post office in Hingham, Montana, for example, could be closed down and you would never be able to make a recommendation on it because it would be long gone by the time it gets to you?

Mr. ACTON. Well, the distinction to make here is that you have the appeals process and you have the advisory opinion process, and in no instance is the Postal Service planning on—they tell us—advancing with the closure of those thousands of post offices you have on your list until the beginning of the year. And by then, the Postal Regulatory Commission will have issued its advisory opinion.

Senator TESTER. On each one of them?

Mr. ACTON. The advisory opinion is—

Senator TESTER. Or it will be more general?

Mr. ACTON [continuing]. Comprehensive in scope, Senator—

Senator TESTER. You both talked about how the post office is always there. The post office mail is always there. You talked about workable solutions for the future. I can tell you that in Montana, these are all rural post offices, frontier post offices. In some cases in Southeastern Montana, people are going to have to get their mail in Wyoming because there is not going to be a post office for 40 miles.

Do you think the Commission's position on this would be to put the shortfall on the back of rural post offices?

Mr. ACTON. I can answer that.

Senator TESTER. Yes, go ahead.

Mr. ACTON. And again, keep in mind, Senator, they have filed a request for an advisory opinion.

Senator TESTER. Yes.

Mr. ACTON. Counsel advises me to tread cautiously in terms of how I respond because I do not want to give you the impression that I have prejudged anything, which I have not. But I am quite ready to answer your concern.

Senator TESTER. Sure. That is OK.

Mr. ACTON. I am from Kentucky. I have been in a few rural post offices.

Senator TESTER. Yes.

Mr. ACTON. I know the value of the rural post office back home.

Senator TESTER. I figured you might.

Mr. ACTON. In fact, I make a regular stop there when I make visits back to the Commonwealth.

Senator TESTER. Sure.

Mr. ACTON. But an important element that I have tried to stress with the Postal Service before they filed their advisory opinion because I had this concern, as well—

Senator TESTER. Yes.

Mr. ACTON [continuing]. Is they present a very cogent and thorough assessment of the alternative access provisions that they will include when they are talking about closing any rural or other post office so that individuals who otherwise might have had to go to that post office have some workable option instead. And how that applies in this particular instance, we have not assessed yet.

Senator TESTER. You will also assess how much money they are proposing to save versus how much money you think they are really going to save, much like 6-day to 5-day delivery?

Mr. ACTON. We do that in the context of the advisory opinion, almost surely.

Senator TESTER. All right. Can you tell me, what does the Postmaster General make?

Mr. ACTON. Well, he reports that to us regularly. The organization does. I cannot tell you to a penny, but probably about \$250,000.

Senator TESTER. Is that with benefits?

Mr. ACTON. I am guessing. I certainly can look it up for you.

Senator TESTER. Well, it is not very transparent. I wish it was more transparent.

Mr. ACTON. Well, we make it available—

Senator TESTER. But our figure is a little different than yours.

Mr. ACTON. Yes.

Senator TESTER. It was about \$550,000.

Mr. ACTON. I understand that.

Senator TESTER. Does that sound reasonable? I mean, does that sound accurate?

Mr. ACTON. It certainly sounds reasonable. If it is accurate to the dollar, I cannot say without referencing our Web site—

Senator TESTER. We are in the ballpark.

Mr. ACTON [continuing]. Where we disclose that information.

Senator TESTER. The shortfall is billions of dollars, and we are talking about a couple hundred grand, but it seems to me that if we are really looking to save money, the first place we cut a service is shutting down post offices. Do you ever make recommendations on salary? Quite frankly, I think I make a lot of money in the U.S. Senate, and he makes over triple.

Mr. ACTON. We are not asked by the provisions of the statute to provide insight on the salary of the executives of the Postal Service. That primarily, I believe, is the Board of Governors' responsibility. Typically, the regulator does not have a role in that other than to ensure the sort of transparency that you are asking for here today.

Senator TESTER. I understand, and I think we probably have a little role in that, too.

Mr. ACTON. Yes, you do.

Senator TESTER [continuing]. And we might be asking for your recommendation on that because, quite frankly, when times are tough, when you start cinching your belt down, that ought to be the first place we are looking, not the last place.

Mr. ACTON. I do not necessarily disagree with you, Senator, I am just trying to explain to you my understanding of the differentials in terms of the management responsibilities of the Postal Regulatory Commission—

Senator TESTER. I understand.

Mr. ACTON [continuing]. Versus the Board of Governors.

Senator TESTER. And I also understand that you give recommendations, and I appreciate that and I think they ought to be listened to a lot more than they have been listened to, quite honestly. You have important jobs, important connections, and quite frankly, from my constituency's base, you are a big deal because you can make a difference. The poor old man who is living 12 miles west of Big Sandy who gets his mail in his mailbox forever, and it has always been there for 6 days a week, and now we are looking at 5 days a week, we are looking at potentially shutting a post office down near him or maybe his post office, and this is going to raise heck with rural America, I am just telling you. And I think I hear you say similar things.

Mr. ACTON. I appreciate knowing your views on a first-hand basis, Senator Tester.

Senator TESTER. Yes. Thank you very much.

Senator CARPER. Senator Pryor.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Thank you, Mr. Chairman, and I want to thank our two witnesses for being here today.

I would first like to let you know that just a couple of days ago, Senators Tester, Begich, McCaskill, and I sent a letter to the Postmaster General. I do not know if you have seen this letter, but one of the reasons we sent it is that some of us have been frustrated with a lack of detail and analysis in the process of closing certain post offices and how the money works. You all may have access to that, but it has been very difficult to get information out of the Postal Service.

Mr. Acton, does the Postal Service provide you with an analysis of how much money is saved for each post office they close?

Mr. ACTON. As I mentioned earlier, Senator, they have filed a request for an advisory opinion, and in that advisory opinion, typically, there are the details that you are describing. But I have not had a chance yet, given that it was filed late yesterday, to actually examine this filing and know for sure that it does contain the information that usually is included.

Senator PRYOR. But they will give a breakdown of how much savings there will be per post office or other postal facility?

Mr. ACTON. I think that if they do not, it is fair to expect that the Commission may have an interest in knowing that.

Senator PRYOR. This has been a sore point with me because in Arkansas, some facilities have been closed and consolidated, and I just cannot tell if the numbers add up. They tell us that there is a certain amount of savings, and maybe there is, but the numbers do not seem to add up to me. For whatever reason, they do not want to or they are not able to give us the entire picture of how things are impacted.

Mr. ACTON. Well, Senator, it is a very commonplace occurrence, regrettably, for the Commission and the Postal Service to differ in terms of our cost savings estimates and other data points. But one important thing to remember is that Congress in the Postal Accountability Enhancement Act empowered the new Postal Regulatory Commission with subpoena privileges. And if need be, if there is important information that has been excluded that the regulator needs to properly examine the issue at hand, I do not think there will be a lack of popular support to get it any way we need to.

Senator PRYOR. I would encourage you all to consider that as you look at the most recent request by the Postal Service because we need more transparency and someone needs to hold the Postal Service accountable. Given the way things are set up today and just how things have been going, it has been difficult to do that.

I understand that the Postal Service is in a financial bind. Everybody understands that, but I just want to make sure the process is fair. It sounds like that is your concern as well, and I want to make sure that it is fair and it is done right, according to the law and according to the rules.

We talked about the advisory opinion role, and I know that is a statutory issue. In your opinion, should the PRC have more authority to go beyond just an advisory opinion? Mr. Taub, do you want to respond?

Mr. TAUB. One of the big changes done in 2006 with the Postal Accountability and Enhancement Act was transforming what had been, frankly, a weak rate-recommending body, the Postal Rate Commission, into a Postal Regulatory Commission with many tools, such as subpoena authority and final decisionmaking authority in certain areas of products and prices. It did retain advisory opinion on operational issues, such as this one, that the Board of Governors is responsible for.

Not having served at the Commission, one of the things that the Commission did after the law had been passed in 2006 was undertake a Strategic and Operational Plan to assess where they are going. I would, if confirmed, advocate that the Commission review that plan, which has not been updated in 4 years, to identify areas of strengths and weaknesses that it would help to identify, to the extent that there are changes needed.

And one last point. The law did mandate 5 years after the enactment of 2006, which is this year, that the regulator provide to Congress a report on how well the law is working with recommendations for improvement. I would assume that would be looked at as part of what the Commission will be doing coming forward, and if confirmed, I would certainly make sure I had a chance to look at that to the extent it is still going on.

Senator PRYOR. Great. Thank you. Mr. Acton.

Mr. ACTON. The Commission is presently in the midst of developing the response to Section 701 of the Postal Accountability and Enhancement Act, and it will include a reference to this concern.

If I can just touch on a couple of points that you raised here quickly, Senator. One has to do with this question of the availability of data, and I agree with you that the Commission needs certain data in order to make a proper assessment of what is happening in terms of the Postal Service proposal, and the issue we often are addressed with when we take up this cause is the Postal Service is citing its fiscal state and the fact that it takes money to develop the sort of data that we are asking for. So we are trying to walk that balance where we ask for what is reasonable in terms of fulfilling our lawful responsibilities. But just keep in mind that we try to do it in a way that is not going to contribute toward the fiscal insolvency that the Postal Service is already suffering.

I think you are asking if we should have final authority over these questions. It is not my belief that the regulator should have final authority, but we certainly have an important role, and I think the way that it is described and has been outlined now in the rules, the regulations, and the law works as long as the Postal Service works with the regulator in ensuring they provide us the information we need and a ripe and robust administrative record that we can review to be sure that issues like the Universal Service Obligation, which goes to the core of this access issue that you are raising, are properly satisfied.

Senator PRYOR. Let me make a quick statement for all of you to consider as you are looking at the Postal Service's most recent request for an advisory opinion. When you look at the breakdown of the post offices and postal facilities that are closing, Arkansas happens to be fourth in the number of facilities that would close. That puzzles me because we are not fourth in population. We are nowhere close to that. We are not fourth in geographical size. We are nowhere close to that. So, again, I am curious. I really think we all deserve to know what the criteria is for how the Postal Service makes these determinations.

Another thing I have heard and would like you to know about is that the Postal Service is, in some cases, bound and determined to close a certain facility. They may give public notice, but it is not very adequate and the folks that you think would want to know about it may not know about it. But then they are actually closing the facility during the appeal process. I have heard of that complaint. Again, I have not verified that, but that would certainly be a concern of mine.

I would like to ask one last question about an issue that you have been focused on, Mr. Chairman. This may not have anything to do with this panel, but I am just curious if you have a viewpoint on the retirement fund issue. We hear the Postal Service is, in effect, overpaying into that fund right now, at least by some standards. Do any of you have an opinion on whether that should be addressed?

Mr. TAUB. I know the Commission, in fact, has done a study looking at the funding of the retirement obligations. They had an outside group, the Segal Group, that studied that issue and indeed in their opinion found that there was an enormous overpayment,

on the order of \$50 billion, and recommended changes to that. I know Mr. Acton could speak to that issue, as well.

Related in a different way is the statutory mandate to prefund future retiree health benefits, and for the first 10 years after enactment, there were statutory locked-in figures of \$5 to \$6 billion. I think all would agree it is important to prefund, but the Postal Service, not with appropriated dollars, but with ratepayer money, has prefunded on the order of \$42 billion already, and given the current financial circumstances, that would be an area, it would seem, that Congress, to the extent possible, working with CBO, could revisit.

Mr. ACTON. Mr. Taub did a good job of describing the findings of the Commission, and that is an important contribution of the Commission for this debate because there is a provision in the PAEA that calls for the Commission, upon request from Congress or the Postal Service, to engage in independent, expert studies. And in producing these numbers, the Commission did not craft these outcomes on its own. It was a bit of a crapshoot in terms of going down this road and wondering where it was going to take us.

But in the end, an independent and certified actuarial firm told us that this methodology that is imposed on this retiree health benefit fund as well as the prepayments for the Civil Service Retirement System (CSRS) is really out of keeping with modern standards. So it is the Commission's view that Congress should take a close look at that and see if there is a way to better amortize those costs in a responsible fashion that still meets the need but does not sink the Postal Service in the process.

Senator PRYOR. Thank you. I am sorry I have exceeded my time.

Senator CARPER. Quite all right. We are glad you are here.

I would say to our witnesses, there are more "Marks" in the U.S. Senate than any other name. There are five, and we are privileged to have two of them here—they are not all from States that start with the letter "A"—the Marks from Arkansas and Alaska are here, and we are now pleased to recognize Senator Begich.

OPENING STATEMENT OF SENATOR BEGICH

Senator BEGICH. Thank you very much, Mr. Chairman. Sometimes people forget AK and AR; they get them mixed up—not the people at the post office, the people who write the letters. We work on that.

I want to follow up on, first, Senator Tester and Senator Pryor's comments. I know we had a great conversation already in regard to my view on the closings and the process, but I just want to give a visual from the State of Alaska's perspective. Here would be Montana. Here would be Arkansas, to give you a visual. All these blue dots here or squares are the post offices that are going to be closed, or at least on the list, I should say.¹ You can see the distance there for just my State. Delaware is too small to even have on the map, but— [Laughter.]

Senator CARPER. That is not true. I took my family to Denali, a great national park, several years ago for vacation, and we learned that Denali is three times the size of the State of Delaware.

¹The map submitted by Senator Begich appears in the Appendix on page 40.

Senator BEGICH. There we go. [Laughter.]

Senator CARPER. We do not even have a national park. You have one three times bigger than our State.

Senator BEGICH. There we go. [Laughter.]

We had a little discussion—you know my views, and I will state them here again. I think your role regulatory role and the process you go through should be more aggressive than it has been. I do not think it has been as aggressive as it could be.

In regard to these 3,700 locations, I think Senator Tester's question was when do you enter the process, and if it is case by case, that is never going to happen. He had a four- or five-page list that I am sure he was going to show you. I know Senator Pryor has a list of rural sites. That is not what I am interested in. I am interested in when they say we have 3,700 locations we are considering, is it at that point when they announce it that you enter, or is there work done ahead of time to have a conversation before they file and create a docket? The problem is, as you said, there is this legal framework once they create a docket, and some agencies will use that with the regulatory board so they do not really have to talk to you. They are making a decision and will tell you what the decision is, and then you have to respond, but they have already moved down the path.

So is there a process and do you think you have the powers to have the process before a docket is filed, before you get restricted, because, obviously, you want to have as much freedom of discussion to create a better outcome than just this regulatory process, which is not always the best way to do things. Who would like to respond? Either one.

Mr. ACTON. Senator, I will just say again, and this is the last time I will add this caveat about it being the pending docket, that I do not want to give the impression with anyone that I have prejudged a matter that I have not had a chance to explore yet. It is of great concern to the attorneys when I do that.

I would like to say that there was a previous advisory opinion, which I think helps go to your point, that the Postal Service had brought to the Commission for our thoughts about the disclosure process that they were using at the time, and we did provide some good feedback in terms of procedures and process, which I believe they may have incorporated in their new request for an advisory opinion. And prior to this request yesterday, the Postal Service had come over and consulted with the Commission and briefed us, basically, on what it is they were planning.

Senator BEGICH. At that time, do you give input or are you in a listening mode only?

Mr. ACTON. We are first in a listening mode—

Senator BEGICH. Sure.

Mr. ACTON [continuing]. And then we certainly do provide input, not official input because that is—

Senator BEGICH. I understand that. But, I mean, input that maybe helps areas in which they are not doing as well as they could and saying, here are some suggestions—

Mr. ACTON. For instance, I can share with you that the last time I had an informal discussion, before this request for an advisory opinion was filed, with the top executives at the Postal Service, I

tried to stress with them the import in their proposal of ensuring that there was an adequate, thorough, and robust discussion of alternative access and the integrity of the Universal Service Obligation. So I am hopeful that when I make time when we are done here today to sit down with that proposal and read it in greater detail, they will be taking care to be specific in addressing a lot of the concerns that you are raising today.

Senator BEGICH. Very good. Mr. Taub, do you want to add to that as a new member?

Mr. TAUB. Yes, and not having ever served at the Commission, but Mr. Acton's description certainly is consistent with the framework set up in the statute.

Senator BEGICH. Very good. Let me ask you both—I think I know the answer to this, but I want it on the record. Do you believe the Postal Service should have universal service, no matter where the locations are, equal treatment in whatever delivery of service? Now, equal treatment could be a kiosk, could be a post office, or could be home delivery, but people should get their mail wherever they are located.

Mr. TAUB. Universal service is, to me, the key cornerstone of what we are expecting of our Nation's Postal Service and its postal system.

Mr. ACTON. Senator, having enjoyed this process for the second time now, I can ensure you that the importance of the regulators' role in preserving the integrity of the Universal Service Obligation is of paramount interest to me and to the agency.

Senator BEGICH. Who do you believe, at the end of the day, you represent?

Mr. TAUB. From my perspective——

Senator BEGICH. Yes.

Mr. TAUB [continuing]. If confirmed, I would be representing the public interest.

Mr. ACTON. Well, I would agree with that, but I also recognize——

Senator BEGICH. Sure.

Mr. ACTON [continuing]. That for the details of these important policy concerns where it comes to the U.S. Postal Service, you have a lot of work to do up here, and you are looking for proxies who are going to delve into the weeds and bring to the fore the information you need to make more informed judgments.

Senator BEGICH. And based on the statutes we have passed.

Mr. ACTON. Yes.

Senator BEGICH. Yes.

Mr. ACTON. Of course. So I think that we are there to do a lot of the spade work for you so that we can offer up the sort of information that informs your views.

Senator BEGICH. Do you think that going from 6-day to 5-day delivery, if that ends up an issue, has a conflict with universal service?

Mr. TAUB. Frequency of delivery is one measure of universal service. Since 1982, Congress has, in essence, mandated the frequency of 6 days in the annual appropriation bill, and unless and until that no longer is in the bill, that standard will be there. At the end of the day, then, it is up to Congress.

Senator BEGICH. So if it is out of the appropriation bill as a rider, then—

Mr. TAUB. The Postal Service would have that operational flexibility.

Senator BEGICH. Do you agree with that, Mr. Acton?

Mr. ACTON. Senator, when we met, I think I mentioned that we had a lot to say in those 200 pages of the advisory opinion on the elimination of Saturday mail delivery.

Senator BEGICH. Right.

Mr. ACTON. A lot of it went to cost differentials and to service impact discussions. And honestly, I think we got it more closely correct than the Postal Service. But the crux of my concern with the Saturday proposal does not so much go to the differential in terms of cost and service impact. It goes to the role of the regulator in guarding the integrity of the Universal Service Obligation because the way I perceive this proposal, in its present form and at the present time, but maybe not going forward because this is a dynamic environment we are living in—

Senator BEGICH. Right. It is in movement now.

Mr. ACTON. Yes. It is not the same tomorrow as it is today.

Senator BEGICH. Right.

Mr. ACTON. And the trend seems clear that we are heading toward a time when perhaps not having Saturday delivery, given that there is proper accommodation in all these special circumstances, may be possible. But for the time being, at least, it was the Commission's assessment on a consensus viewpoint that there is a disproportionate effect between all of America and rural, remote, and non-contiguous America. So as long as that gap exists, then the proposal is problematic.

Senator BEGICH. Very good. If I can just take one last question because I think all of us would be concerned about this next one, which is military bases. I know in Alaska, on that chart I just showed you, all of our military bases look like they might have a post office closed. Here is the dynamics of a military base.

In our State, we will probably have 8,000 troops deployed by January in Afghanistan. Many of the spouses do not necessarily have transportation off base. I mean, that is it. Base is base. That is where they live. That is their community. That is their place of business and so forth. I want you to know, not only my State but other States have issues around this. In Alaska, I am very concerned about this. I know this as a mayor. We had challenges trying to have people come off base to be integrated into the community while their spouses are gone. It is a very difficult task because they live on the base, that is where their life is. And if you close the post office and they are trying to get communication back and forth, even though they utilize email quite a bit, you cannot email a care package, let me tell you that. That does not work. Maybe some day. I do not know. But you cannot do it.

So do you believe, as a regulator, in regard to these base issues with post offices, that there has to be full accommodation of some sort—maybe it is a kiosk or it is sales through the commissary. These bases are too isolated in some cases. I mean, I can tell you, Fort Greely, we are talking isolated. Clear Air Force Base is isolated. So tell me your thoughts on that.

Mr. TAUB. Senator, having served the last 2 years as a senior executive in the Army supporting Secretary McHugh, I well understand and appreciate what you are describing. In fact, a year ago, I was with him up at Fort Wainwright in Fairbanks—

Senator BEGICH. You know exactly what I am talking about.

Mr. TAUB [continuing]. And to the extent that this is part of the proposal of the 3,700 post offices on which the Postal Service is seeking an advisory opinion, if confirmed, indeed, as with all of them, but particularly in that area, I would be looking to get a good assessment of that because what you have described of the men and women serving in our military and their reliance of communicating—email and Skype are nice, but that hard copy, package—

Senator BEGICH. The care package.

Mr. TAUB [continuing]. Is an important one.

Mr. ACTON. Senator, again, it is a pending matter, and I think part of my response earlier about the stress for alternative access and the integrity of that information is responsive in part to what you are asking.

But I certainly recognize that this is a difficult issue because I appreciate the circumstance the Postal Service finds itself in. They have an infrastructural network that was developed decades ago that is not in touch with modern consumer demands. And I appreciate that may be the case for most of America. But I also understand that there are particular instances in areas like Alaska, which is separated from the rest of us by another nation, where you have special challenges that have to somehow be addressed by this American institution. So that is the nature of the issue we are wrestling with.

Senator BEGICH. Very good. I know I took more time than I should, but I appreciate your meeting yesterday—I think it was yesterday, I have lost track of time, maybe it was the day before—but thank you very much. I really appreciate it, and I look forward to seeing you on the regulatory board. Thanks.

Senator BROWN [presiding]. Thank you very much. Senator Carper stepped out for a moment and asked me to take over.

I had a follow-up to Senator Pryor's question. Mr. Taub, you indicated that there has been that overpayment and there is about \$50 million—was it million or billion?

Mr. TAUB. About \$42 billion in prefund—

Senator BROWN. So \$42 billion is great.

Mr. TAUB. There is the \$50 billion on the Civil Service Retirement System that there have been studies suggesting that—

Senator BROWN. Right. So basically the Postal Service has overpaid between \$40 and \$50 billion into these funds, correct?

Mr. TAUB. Those are two separate issues. The Civil Service Retirement System, there is a view that they have overpaid—

Senator BROWN. Yes.

Mr. TAUB. The prefunding is real money that over the last several years the Postal Service has paid \$42 billion.

Senator BROWN. Right. So let us take the Civil Service Retirement System overpayment. There are other civil service groups that have actually underpaid. So when you say that we would like to maybe adjust because of those overpayments, I mean, where is

the money—who is going to write the check because we do not have any money. That is why we are coming up to a deadline. So when you say that we want to adjust, and if we get that money back we will have the ability to do this and do that, I have not heard anybody tell me where the money is actually coming from, and it is the biggest question that is hanging out there. It is the big red herring.

Mr. TAUB. You have hit that right on the head. I mean, that is the challenge of dealing with this. There is the issue of the Postal Service itself having paid, in their perspective, ratepayer money. This is not taxpayer dollars that—

Senator BROWN. Ratepayer money into where?

Mr. TAUB. The CSRS, and some—

Senator BROWN. And the CSRS does not want to give it back.

Mr. TAUB. Right. As some would view it, they are helping mask, if you will, a deficit that actually would be there if the ratepayer had not been overpaying, and given the financial situation of the Postal Service, there is the view that this would help deal with a fairness issue. But that is the policy making challenge from that score.

The study done by the Segal Group was for the Postal Regulatory Commission. I do not know if Mr. Acton may have better insights on that, but it is really a judgment call at the end of the day on the overpayment issue, I would suggest.

Senator BROWN. Well, let us just assume that everyone agrees with you. Once again, where is the money? Where is it coming from? How do you get it from them back to you? Not you, per se, but back to them?

Mr. TAUB. I know the Administration, in their fiscal year 2012 budget proposal, outlined an approach amortizing it over 30 years, reducing some payments—

Senator BROWN. Yes, but that does not really help the issue at hand in terms of the fiscal and financial stability of the Postal Service.

Mr. TAUB. It definitely would not be a check back for \$50 billion right now, but it would be a piece of the billions of dollars—

Senator BROWN. So you are saying maybe it would be \$8.5 billion over time per year to get them off the problems that they are having right now?

Mr. TAUB. Yes, and again, Senator, I think that is why so many areas are on the table to be looked at, whether it is 5-day delivery—the Government Accountability Office, the Postal Service's Inspector General, all have identified a menu of areas where they could save money. Some would have big implications, whether it is rural service or the service we have come to expect, but given the times they are facing in the Postal Service, understandably, they are looking to put everything on the table.

Senator BROWN. Thank you.

Mr. Acton, with the Postal Service recently releasing, as has been talked about by Senator Begich and Senator Pryor, 3,700 post offices for closure or conversion, 44 of which would be in my home State of Massachusetts, in your pre-hearing questionnaire, you endorse a Base Realignment and Closure (BRAC) type of approach for

closing post offices. What benefit do you think this approach has over any other approach?

Mr. ACTON. I believe in my public policy questionnaire, Senator, I did reference the BRAC approach from Chairman Darrell Issa's proposal as something that Congress may want to consider when they are talking about making this type of change, and I included that view primarily because it is a proven vehicle for driving the type of change and the network arrangement that we are talking about, one that removes some of the constraints that otherwise are in place and puts it perhaps into a more impartial environment where some of the difficult choices can be made. But it all depends on the structure of the Commission and what their priorities are. I appreciate that. So I was not addressing the details of the application of BRAC, but I was talking about the general acceptability and proven record of that type of approach.

Senator BROWN. Thank you. Senator Begich, did you have some other questions, too, because I just have one more.

Senator BEGICH. Yes, I just had one more to follow up on your pension question.

Senator BROWN. Well, please go ahead.

Senator BEGICH. I want to follow up because I want to make sure we understand the two buckets. The first is the \$50 billion overpayment in the Civil Service Retirement System years ago. The issue is there is an analysis done that assumes that number was paid by ratepayers and what can be done.

The second piece is your existing retirement fund that the Postal Service manages. You have been paying into it at a pretty high rate based on a 10-year schedule, which I agree with you—I mean, that is CBO black box magic. No one does it that way. I dealt with this when I was the Mayor of Anchorage. You amortize it over a period of time, which is much longer, usually 20, 30, or 40 years, depending on the assumptions you utilize, and that is the real government and private sector model. That is what you want to achieve. Is that a fair statement? Both of you, if you could just quickly respond.

Mr. TAUB. That is correct, Senator.

Mr. ACTON. Yes, Senator, that is a fair characterization.

Senator BEGICH. And under that scenario, then you can take into account changing assumptions, maybe on a 3-year, 5-year, whatever that rolling basis is, because the economy could change and a lot of things could change. Rate of return, all kinds of assumptions could change. That would also potentially have an impact, is that fair?

Mr. TAUB. Actually, it would not. The issue of the prefunding is prefunding future retirees' health benefits, separate from the pension.

Senator BEGICH. I apologize. You are right. And the last part of this is, if this one item could be resolved, the amount of fiscal pressure on the Postal Service could be reduced significantly, is that a fair statement?

Mr. TAUB. Very much so, Senator. The Postal Service points out that they have paid in \$21 billion over the last 4 years. At the same time, they have lost \$20 billion. They have, in fact, maxed out

their borrowing from Treasury to prefund these future retiree health benefits.

Mr. ACTON. Not to sound cliched, Senator, but there is no silver bullet. But this is an important move that is a responsible approach that is endorsed and recommended by a bona fide and certified actuarial accounting firm, which we have hired in response to a provision of the law.

Senator BEGICH. Right.

Mr. ACTON. So the Commission did not cook these numbers up. It is something that is a modern and equitable approach toward this type of accounting.

Senator BEGICH. Again, I appreciate your being here, and I guess if everything breaks down and we cannot get to a bigger package, if there is one thing we could do, in my personal opinion, this is it, in order to create an actual private sector model for pension management and health care management. I do not know why anyone would be against that, other than CBO, but they operate in a world no one knows. No disrespect to the CBO people who might be watching and the work they do because I need good scores on some of the things I am working on. [Laughter.]

But, again, you just want a model like the private sector and other government practices that are done all over the country.

Mr. TAUB. In fact, Senator, I would simply add, the Postal Service is the only Federal Government entity that is required to prefund for its future retiree health benefits.

Mr. ACTON. I would just like to mention quickly, too, that there is a good reason why no other organization, public or private, suffers under this type of responsibility. It is because it is a recipe for insolvency.

Senator BEGICH. Right. You just summed it up. Thank you very much for giving me an opportunity to add a little bit.

Senator CARPER [presiding]. Senator Begich, it is always a pleasure.

I sat back during this hearing. I wanted the other Senators to go ahead with their questions. I have been on the phone a little bit and trying to follow what is happening on the floor. But what is going on here actually very much involves what is before the Senate and before the House this evening.

As we all know, we are spending a little more than \$1 trillion a year more than we have, and the Postal Service is drawing down pretty much all of its \$15 billion line of credit from the Federal Government. As I said earlier, we had those three really smart consulting groups that worked about a year ago and said that the Postal Service was on line to lose about \$230 billion more over the next 10 years. That was when we had actually somewhat rosier forecasts, particularly for First Class mail, than we have today.

So this all plays into it. Almost in every part of our Federal Government, although the Postal Service is sort of a quasi-public-private operation, we just have to make tough decisions.

For Democrats, those tough decisions involve, among other things, entitlement programs to try to rein in the growth of, for example, Medicare. We are going to spend a little over \$500 billion this year in Medicare, and in 2020, we will spend over \$900 billion. That will include so-called improper payments with respect to

Medicare, about \$50 billion in improper payments, mostly overpayments, and about another \$60 billion in fraud involving Medicare, and the numbers for Medicaid are significant, too. So we have a lot of concern on our side about how we do not want to cut benefits for folks, particularly older folks, but is there some way we can rein in the growth of those costs and maybe, even with less money, get some better results.

My bumper sticker these days is “Better results for less money,” or “Better results for not much more money,” and we need to do that everywhere, and we need to try to figure out how we can do that with the Postal Service. One of the things we have been talking about here today is what many believe to be the overpayment of the Postal Service’s obligation to the Civil Service Retirement System, and we have four studies now, including some pretty reputable outfits—Segal Company used to do a lot of work for us in Delaware when I was State treasurer and governor—that think the overpayment is anywhere from \$50 to \$75 billion. We have the Office of Personnel Management speaking for the Administration that says, not so fast. Do not think you are going to get that money to help address this problem.

We have the concern about going from 6 to 5 days, and we have estimates anywhere from \$1.7 billion or so per year up to a little more than \$3 billion. CBO says it is about \$2.5 billion a year that could be saved by going from 6-day-a-week service to 5-day-a-week service, and some think that is fine. There is some interesting polling data, I think it was by Gallup, indicating that fewer people object to that than I thought would be the case. We saw some numbers from earlier this year that said maybe two-thirds of the people in this country were OK with going from 6-day to 5-day service. They probably do not live in rural areas, that would be my guess. In some places, it is less a burden.

But for myself, I like the idea of 6-day-a-week service. I have offered legislation that actually allows the Postal Service to use its judgment to go to 5 days if they think they need to in order to cut their losses. My own view is I personally like the idea of 6-day-a-week service and think it can be helpful as part of their business model. But having said that, we have to figure out how, collectively, to save enough money so the Postal Service does not continue to rack up debt and become a drain on the Federal dollars.

In the legislation I have introduced, we want to be able to allow the Postal Service to diversify, to move away from their basic bread and butter to be able to do some other things that are related to delivery of mail, things like delivery of wine and spirits that we allow other folks to do but we do not allow the Postal Service to do, but there are other things, as well. People object to that, as you might imagine.

So you have folks who do not agree with the idea of recovering the overpayments in the Civil Service Retirement System. You have folks who do not want to go from 6-day to 5-day-a-week delivery, even if it would save some real dollars. You have folks who do not think we ought to let the Postal Service diversify because they are going to encroach on somebody else’s market share or business. And we have concerns, legitimate concerns, raised about closing or consolidating post offices, even if they are consolidated into a con-

venience store that is open 24/7 or a supermarket that is open 7 days a week. We have people that are concerned about closing mail processing centers around the country because of the impact it has on employment in regions, and I can understand that.

Senator Collins has been trying to do something with respect to Workers' Compensation, as some of us know, and to try to be humane in doing that, but to try to make sure that we do not continue to spend money that is just, I think, hard in the final judgment to really continue to do, and that is another source of contention.

This stuff is not easy, and that is why I suppose we find ourselves here as we sort of hit the three-quarters mark in the fiscal year with the Postal Service on the ropes. But I believe in the words of Albert Einstein, who used to say, among other things, "In adversity lies opportunity." There is great adversity here, and there is also real opportunity. For us, the adversity is the challenges that we have been talking about. But the opportunity is to find a way to navigate out of it, and we can do that. And we can do that with our Federal budget, as well. I was just on the phone with one of our leaders trying to talk through a couple of aspects of that.

As I think both of our witnesses are aware, and as I mentioned in my opening statement, it was frustrating to me that it took the Commission as long as it did to issue an advisory opinion on an issue as important as the Postal Service's proposal to eliminate Saturday delivery. I have just a couple of questions about that issue. You have already been asked a little bit about it, but I want to come back and drill down on it just a little bit more.

First, and this would be for both of you, would you agree that it was acceptable or unacceptable for the Commission to keep the Congress and the Postal Service waiting for so long for the Commission's thoughts on the Saturday delivery issue? Mr. Acton, please go first.

Mr. ACTON. Without getting into a discussion of the circumstances, Senator, I would like to answer your question directly, and for my own personal perspective, in retrospect, I do believe that we took too long to develop that product, and I think it is important that we work to do better going forward.

Senator CARPER. All right. Thank you.

Any response to that same question, Mr. Taub?

Mr. TAUB. Being on the outside looking in, I am not sure to what extent any internal challenges are there. That is why I had suggested the Commission may be well served revisiting its Strategic and Operational Plan last done 4 years ago to identify areas where there may be challenges getting things out.

I would also just simply observe that when the Postal Accountability and Enhancement Act was passed in 2006, there were a variety of on-the-record proceedings that were mandated with statutory time frames, one of them being the very complex exigency case, which required an on-the-record proceeding, and that was given only 90 days. In these challenging times for the Postal Service, with important issues being asked of the Commission, I certainly recognize that, without knowing the details of the internal operations, trying to more closely hit a 90-day schedule, give or take, is much more important to the policy makers.

Senator CARPER. All right. Thank you. There is an old saying that haste makes waste, but it works the other way, as well.

I have a follow-up question, if I could, to Mr. Acton, and then I am going to ask Mr. Taub a variation of this question. But just share with me, if you will, your personal thoughts on what went wrong and what can you commit to do if reconfirmed to address whatever problems contributed to the delay.

Mr. ACTON. Yes, I appreciate that, Senator. Mr. Taub did a good job without having been at the table of recognizing some of the details of the operational challenges that the Commission was faced with. I would just add on a personal note here that in my 9 years of public policy experience, four on the staff and five on the bench, I have never been presented with an issue as complex, as far-reaching, as, candidly, polarizing as this question of the elimination of Saturday delivery. And the Commission was determined to do a thorough job as quickly as due process allowed, but that meant hosting a whole series of field hearings and testimony here in Washington, development of the data, back and forth with the Postal Service to get what we needed to make a proper judgment. All of that ended up taking more time than it should have.

And in addition to that, it was complicated by the fact that in the middle of our review, we were presented with the first ever exigent rate request, which, by the way, does, of course, have a deadline, as you outlined in PAEA. So we had to make some difficult choices about resource allocation, and we decided to allocate our resources toward ensuring that the exigent case was resolved within the time frame that was allowed.

In terms of what we should be doing differently going forward, there is definitely some very sound and basic business principles that can be brought to bear at the Commission to ensure that there is a new administrative protocol for assessing these advisory opinions at the outset and making sort of a critical path gauge of what important milestones need to be done along the way and how long it will take to do it and how that is progressing throughout the development of the product. Believe me when I tell you, Senator, the Commissioners are very cognizant of your concerns on this front, and we are quite eager to be responsive.

I hope we demonstrated part of that by filing today the notice of docketing of this request for an advisory opinion that was filed last evening from the Postal Service. And in that, we are putting forth the sort of procedural scheduling information that you are calling for.

Senator CARPER. Thank you. And, Mr. Taub, same issue, as an outsider potentially coming into the Commission, following the issuance of a Saturday delivery report, how would you seek to address the problems that led to its delay?

Mr. TAUB. I am a big proponent of strategic planning, whether it is at the Army with Secretary McHugh, trying to get a sense of where the Army is going in tightening budget times with two concurrent wars going on, or for the 10 years as Chief of Staff in the personal office for him as a member of Congress. It is critical you figure out where you are going, where you want to go, so you are not spending time unnecessarily focused on areas you should not.

And part of that is getting a good assessment of the challenges one faces, the resources available.

I, again, would advocate a revisiting of the Commission's Strategic and Operational Plan, which I hope would provide an opportunity to lay out what might be some of the challenges to meet a more aggressive time frame with the limited resources of a 70-some-person Commission, given all the issues on their plate.

Senator CARPER. All right. Thank you.

Mr. Acton, you mentioned the filing last night, I think, of some paperwork, and let me just drill down on that, if I can. The Postal Service has, I believe, filed the paperwork with the Commission seeking an advisory opinion on its recent proposal to close a significant number of post offices across the country. We have read a lot about that in the media. But could both of you commit that, if confirmed, you would work with your colleagues on the Commission to get your work done more quickly than the Commission did on this Saturday delivery issue? And by quickly, I mean something much closer to the 90 days that the Commission's own regulation envisioned it completing work on advisory opinions.

Mr. TAUB. Certainly, Senator, you have my commitment in that regard.

Mr. ACTION. Senator, I am on the record with that commitment and the notice of the filing this morning with respect to that docket.

Senator CARPER. Good. Thank you both.

I spent a fair amount of time, as you may recall, in my opening statement discussing the Postal Service's financial situation. I will discuss it a little more when my colleagues have finished asking their questions. But what role should and what role will postal finances play in your consideration of the issues that come before the Commission, if confirmed? Mr. Acton, would you go first.

Mr. ACTON. With things as bad as they are, Senator, Postal Service finances are always the gorilla in the room regardless of the issue at hand. We try to make decisions based on the facts of the matter, and that is what we do. But we also have to be cognizant that the Postal Service is short on cash. Worse than that, they are billions of dollars in debt. So when we make decisions about allowing them to enter into experimental product pursuits or to do something that may not strictly be within the normal realm of the market test they have explored in the past, the Commissioners do that with the mindset that we do not want to be thwarting the sort of innovative thought that the Postal Service needs to engage in to help earn its way out of this hole.

Senator CARPER. All right. Thanks for that. Mr. Taub.

Mr. TAUB. I would concur with Mr. Acton in that regard. You know, when it comes to the finances of the Postal Service, given the cloud we are living under right now, one has to be very sensitive to that. Obviously, the issues presented to the Commission have to be decided on the facts presented. But it also seems to me we need to be very careful of keeping in mind the proverbial second- or third-order effects of a decision, how it may affect unintentionally the finances of the Postal Service because during these times that the Postal Service is facing, it seems, the Commission

has to always be very sensitive to how its decisions may affect the finances.

Senator CARPER. Thanks. As Commissioners, you would be charged with reviewing and approving new products and services—I think we just talked a little bit about this—that the Postal Service might want to offer. Do you think that the Postal Service has done enough to innovate and to make the mail more valuable, and has the Commission done enough to facilitate the good ideas that the Postal Service has put forward?

Some people think that the Postal Service does not do anything different now than they did 5, 10, 15, or 20 years ago, and actually, there are a lot of products that they offer. They did not deliver a lot of pharmaceuticals just a few years ago. Today, they do a lot. Netflix was not part of the package that ended up in the mail until very recently. Now, it is a big piece of their business. There are flat-rate boxes, and there are a number of things, like the idea of doing these cooperative arrangements where the Postal Service delivers the last mile for UPS and FedEx, and that is all smart stuff.

So I do not want to take anything away from them, although I have said to two Postmaster Generals, the current one and the last one, both of whom I respect, that if I were in your job, I think I would create an entity within the Postal Service or maybe from outside the Postal Service where you have a lot of entrepreneurial people just looking at the basic business model and thinking, how can we use this basic business model, where we go into every community, every mailbox 6 days a week? How can we actually derive financial value from that? The nature of a big organization like that is not really to be entrepreneurial, as we know, and the same is true for a lot of big business organizations.

In any event, do you think the Postal Service has done enough to innovate and make itself more valuable? Has the Commission done enough to facilitate the good ideas the Postal Service has put forward? And what thoughts would you have with regard to how we might end up with a Postal Service that actually is more innovative and entrepreneurial going forward?

Mr. TAUB. Senator, I think the Postal Service, looking at it from the outside, has improved in its use of the tools available under the law, whether it is seasonal pricing, experimental market tests. I think they are trying to be more innovative.

But you have hit on a key point. That was really the essence of the 2006 law, trying to take what had been a proverbial cost of service regulatory structure, where the Postal Service, whenever it felt the need for more money, generally speaking, could set its own revenue requirement. There might be an argument at the Commission over whether First Class might pay more than periodicals, but at the end of the day, whatever they wanted as the revenue, generally they would get. They were moved to a price cap system, where if they could live within that, they could retain earnings. Obviously, the financial challenges they are facing right now have caused them to hit the cap, but the idea of that system was to encourage a much more innovative culture at the Postal Service.

And one of the other big changes in the law was, as I mentioned, taking what was a weak rate-recommending body, transforming it to a much more vibrant regulator, and 5 years later, we have a ro-

bust, transparent array of data on costs and revenues that we did not have before. So to the extent that Congress is looking to maybe revisit the non-postal prohibition—certainly, there are issues to consider on fair competition and costs and how those would be funded, but unlike what we had in 2006, today, we do have a much more transparent process that may allow for moving in that area or allowing the Postal Service the opportunity to look at some innovative solutions.

Senator CARPER. Mr. Acton.

Mr. ACTON. Senator, there is always room for improvement on that front, but I would vehemently disagree with individuals who feel there is not innovative thought going on at the Postal Service. There is a new executive leadership team there under Postmaster General Donahoe, and there is a group that is headed up by Paul Vogel, who is in charge of bringing in all the revenue that the Postal Service can generate.

I had the privilege of seeing a demonstration of his team's work on this front in terms of new, innovative products at the National Postal Forum earlier this year, and it reminded me a lot of my time in business school, where you had a lot of young and bright individuals who are trying to think how to leverage this Postal Service commodity in a new and maybe before-now-unheard-of way. So the regulator is obliged to try to promote that type of innovation whenever it can, and I think that the PRC has done a good job of doing that through the use of market test products and through experimental arrangements. We approved the sample box. We approved the Quick Response (QR) code. All of those sorts of experimental and market test initiatives that were brought to the Commission, we have approved, and we do that keeping in mind that we do not want to be in the way of good innovation at the Postal Service.

Senator CARPER. All right. Thanks.

You mentioned the name of our current Postmaster General, and his name is spelled "D-o-n-a-h-o-e," I believe, and his name is pronounced all different kinds of ways, "Donna-hue," "Donna-ho." I asked him one day, how do you pronounce your last name? And he said, "Donna-who." And I said, like The Who? As in, who are you? And he said, that is it. So since then, I have done a pretty good job of pronouncing his last name.

Mr. ACTON. Senator, if I could just interject, I asked the same question, and he told me it was like the talk show host, Phil Donahue. So apparently he answers to several versions. [Laughter.]

Senator CARPER. He is as bad as guys like me. [Laughter.]

All right. Give me your best idea of an innovative piece of business that the Postal Service, if you were giving advice, might want to pursue. Just think about it. What might be a smart thing for them to do, kind of thinking outside the box?

Mr. TAUB. Senator, the Postal Service itself about a year ago in their Long-Term Action Plan acknowledged that e-commerce, for example, is an area that may provide some new ways of providing the safety and security and peace of mind that many people have with the Postal Service, but using its brand to do so. It is an issue they have looked at in the past that was not much of a money maker. And in that same report, the Postal Service did point out

part of the challenge of the financial pressures they are under now is, if you are going to get new ideas started, you need that capital to invest in it, and capital is so tight right now for them.

But certainly e-commerce would be one idea that the Postal Service, I know, has looked at within the confines of the current structure, continues to look at, but at the end of the day, as with all these new ideas, it is a balance of how much you are going to invest. These are risks, part of innovating. You are going to have things that succeed and fail. But when you are losing \$8 billion a year, how much risk can you truly afford?

Senator CARPER. Thanks. Mr. Acton, any thoughts?

Mr. ACTON. Yes, Senator. I would sort of take a bifurcated approach in answering that. I think there are operational approaches that the Postal Service should do differently and better in order to promote themselves here on the Hill and elsewhere. I think that their new Deputy Postmaster General, Ron Stroman, has made a new effort to try to engage the Hill in these discussions, and that is going to be, as you know, an important part of the challenge because you hold all the key chips and those important decisions are going to be up to you, and they have to do a good job of being aggressive in pursuing their agenda and being sure that they are providing you the information you need.

Now, that is separate and apart from what you are talking about, but on the product front, I encourage them to look to be more interactive with new technologies that are emerging, much in the way that Netflix is their biggest business mailer, and there is a reason for that. It is because Netflix is a very unique and progressive mix of new technologies that also incorporates into their business model in a very fundamental and important way the U.S. Postal Service. We need more of that.

Senator CARPER. Yes. If you look at the legislation Senator Collins and I co-authored in 2006, one of the things we did was we spelled out in the legislation the kind of background that we are looking for when the President nominates people to serve as a Governor on the Board of Governors. We have had very fine people who serve, who continue to serve.

But I do not think we have anybody who comes from, if you will, industries that involve social networking. There is nobody from Google, Facebook, Cisco, or any of those kinds of companies, and I think we are going to have a vacancy or two here in very short order, and one of the things I am going to do is to suggest to the Administration and the President that we make sure that we have some folks serving on the Board of Governors who bring a new perspective, really a perspective that is probably more akin to that of my sons, who are 21 and 23 and who are all over this social networking stuff. It might be helpful to have people who bring a different perspective and who are really innovative. That is kind of what they live and breathe. So that might be helpful.

The last question I have concerns the legislation that I have introduced, which would allow the Postal Service to take advantage of its resources and its delivery network to experiment on a limited basis with non-postal products, and you have had a chance to comment on that, but I would welcome any other thoughts that you have. Let me just ask, how would you approach non-postal pro-

posals if they were to come across your desk as a Commissioner? If you could just amplify some on what you have already said.

Mr. TAUB. Oh, sure thing, Senator. Again, to the extent Congress provides more leeway there, I think the Commission, having a robust track record of transparent data, accountable data out there that was not there before, would allow maybe a little bit more of a comfort level if Congress went down that road. Certainly to the extent that there is criteria the Commission would need to look at, I would assume would be in statute, but things like unfair competition or the effect on competition of services that are already out there, how losses would be covered, revenue issues, things of that nature, may be some of the criteria that one would want to consider.

Senator CARPER. Thank you. Commissioner Acton.

Mr. ACTON. Well, Senator, this viewpoint is colored by the acknowledgement we all share that the Postal Service has a mixed record in terms of these sorts of enterprises. But that does not mean they should not be doing more of it going forward. It just means that the regulator is obliged to be sure that they are doing it in the context which you outline in your question, which means limited and perhaps experimental. That way, they can go ahead with the type of innovative thought everyone wants to encourage, but they can have a third-party non-biased regulator involved to be sure that there are no market distortions or monopoly misuses taking place.

Senator CARPER. I have a couple of things I am going to say as we close down, but before I do, I just want to give each of you another minute or two, if there is anything else that you would like to add or take away, some things you did not mean to say or wish you had said.

Mr. TAUB. Mr. Chairman, I would simply say, having spent a lot of blood, sweat, and tears for many years on this issue with now-Secretary McHugh in the House, this is a big challenge. These are challenging and fearful times in many ways for the Postal Service. But if confirmed, I would look forward, hoping in some small way, to add to the solutions and have a viable Postal Service.

Senator CARPER. Thank you.

Mr. ACTON. The one encouragement I offer, Senator, is to ask you to keep pursuing that legislative solution that you include in your bill, which calls for some addressing of these concerns about the retiree health benefits and the Civil Service Retirement System, because even though I do not regard that as a long-term repair for what needs to be done, it can provide some short-term adjustment if it is done in a responsible fashion that gives us all more time to think about what needs to be done going forward.

Senator CARPER. Thanks for those thoughts.

Mr. Taub, you just mentioned that these are fearful times for the Postal Service. For a lot of people in our country, these are scary times, and I would just say, whether we are talking about the Postal Service or our Nation as a whole, we just need to remember that we are all in this together. And in the end, people who elect us expect us to govern, and they do not expect us to throw bombs at each other here. They expect us to work together. That is the way

we do business in Delaware. I wish the rest of the country were just maybe a little bit more like my State in that regard.

But Senator Collins and I worked a lot together, and some of you in this room helped a lot with the legislation we crafted in 2006, and ultimately we came together on legislation that, I think for the most part, was good. But things have changed, as we all know, in our economy and with the increased diversion away to electronic media. But my hope is to be able to work with Senator Collins, as we have in the past, with our Chairman, Senator Lieberman, and others on this Committee, including Senator Brown, to enable us to bring forth a bipartisan bill.

I do not know if we are going to be here in the month of August. I have suggested to the President, if we end up unable with the House and the Senate to work something out in the near term on the debt ceiling, that he ask the Congress for maybe a 30-day bump-up in the debt level and that he basically say to the Congress, unpack your bags. You are not going anywhere in August until we work this out. And for the folks who have been planning on August recess, forget it. We need to solve this problem.

And there are a bunch of us, Democrats and Republicans in the Senate, who pretty much like an idea that was worked up a year or so ago by the Fiscal Commission led by Erskine Bowles and Alan Simpson. That does not have to be the final answer, but I think that is a pretty good roadmap, one that I think we can follow.

But we are all in this together, and part of the need to address the Postal Service and resolve its financial issues is because it is a significant part of the bigger problems and challenges that we face as a Nation.

So I am not sure if we will be here in the month of August. If we are still in session, my hope is that Senator Collins and I can introduce bipartisan legislation and maybe hold a hearing before Labor Day. And if by some small miracle we work out our differences with our Republican friends in the Senate and the House and actually go forward with legislation that lifts the debt ceiling and provides for the opportunity for an up-or-down vote on, among other options, the Bowles-Simpson Commission idea, then maybe we will put off our bipartisan hearing until September. So we will see.

This has been informative. We appreciate very much, first of all, your appearance here today, your preparation for this hearing, for Mr. Acton, your service already, and for Mr. Taub, your work with a very good former member of the House of Representatives, someone I had a chance to work with and have huge respect for and am very pleased to see have the opportunity to serve as our Secretary of Army today.

Thank you all, and to your families, I would just say, I was watching your wife very carefully when you spoke, Mr. Taub, and I could just barely see her lips move when you spoke. [Laughter.]

Senator CARPER. You guys are pretty good at this.

Mr. TAUB. Nearly 18 years, we have been practicing that.

Senator CARPER. That is good. How old is your daughter?

Mr. TAUB. She will be 15 in a few weeks.

Senator CARPER. Fifteen years old, and is she going to be a sophomore?

Mr. TAUB. A sophomore in high school.

Senator CARPER. Those are good years. When our oldest boy was reaching the end of his sophomore year, we went out on road trips, and on these road trips we would drag along his younger brother, who is 2 years younger, and we would visit colleges and universities, here generally on the East Coast, and those were great trips. I do not give people a lot of advice, but just have a good time doing that. Hopefully, one of the places that you will take a look at is the University of Delaware— [Laughter.]

Or Delaware State University. There are some good places. Maybe over at Ohio State where I spent some time. There are a lot of great choices. But the great thing is just enjoying the trip. What do they say, the trip is sometimes better than the destination, so just have a good time out there on the road. And hopefully, if you are confirmed, your duties will allow you to have a little time to do that sort of thing.

Our thanks to those who are with you, your loved ones and family, for their willingness to share you with us, or continue to share you with us.

I think there are some Members of our Committee who were here today who will have some more questions and probably will submit those in writing. If they have any questions, they have until the close of business tomorrow to submit those questions. But if you get any, please respond right away.

And with that, this hearing is adjourned. Thank you very much. [Whereupon, at 4:21 p.m., the Committee was adjourned.]

A P P E N D I X



FOR RELEASE: July 28, 2011
CONTACT: Emily Spain (202) 224-2441

U.S. SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

HEARING: "Nominations of Honorable Mark D. Acton and Robert G. Taub to be Commissioners, Postal Regulatory Commission"

Opening Statement of Senator Tom Carper, Chairman *As prepared for delivery*

"Today, we'll be considering two individuals nominated to fill openings on the Postal Regulatory Commission – Mark Acton and Robert Taub. As my colleagues know – and as I'm sure much of our audience and our nominees know – this is a very challenging time for the Postal Service. We're a few months away from the end of the fiscal year and the Postal Service is projecting further record losses – perhaps more than \$8 billion.

"Postal management has already stopped making its share of its employees Federal Employees Retirement System pension payments. Absent a change in law, payments due in September and October related to retiree health and workers' compensation could be in jeopardy due to a serious cash crisis at the Postal Service. It's not out of the question that the Postal Service's ability to meet payroll and, as a result, continue operations might also be in danger once the new fiscal year starts in October.

"Unfortunately, things are not projected to get better. Just over a year ago, former Postmaster General Jack Potter announced the findings from a group of well-respected outside consultants showing that the Postal Service's financial condition is likely to continue to erode in the coming years. Those consultants found that, without major changes, the Postal Service would run up cumulative deficits of more than \$230 billion by 2020. The Postal Service, in partnership with its employees, has started to chip away at that number but more change – difficult change – will need to occur in both the near and long term to set things right.

"We'll need to work quickly to start making that change happen. Even if the Postal Service is able to somehow make it through the financial landmines it will encounter in the coming months, fiscal year 2012 is shaping up to be nothing short of a complete disaster for the Postal Service and all of the customers and businesses that rely on it.

“Even during the slow and halting economic recovery our country is experiencing, mail volume has been falling – particularly First Class Mail volume. This likely means that the electronic diversion of the mail is happening at a quicker rate than any of us imagined. If this trend continues or worsens, the Postal Service will almost certainly run out of cash and borrowing authority and be forced to shut its doors no later than next summer. We cannot afford to let this happen.

“Millions of jobs in a wide variety of industries depend on a healthy Postal Service. We owe it to them to take whatever steps might be necessary to ensure the Postal Service’s continued solvency. We have to take those steps even if they prove unpopular.

“Now, I know that it’s Congress and the Postal Service that will ultimately need to take those steps, not the Postal Regulatory Commission. But I wanted to mention all of this at this hearing because it’s essential that anyone on the Commission or thinking of coming onto the Commission be mindful of the current crisis and the impact their decisions could have in either improving or worsening it. I’ve not made a secret of the fact that I have some concerns about the Commission and its recent work.

“It was troubling to me when the Commission’s Chairman expressed her views on the Postal Service’s proposal to eliminate Saturday delivery before that proposal had even gone to the Commission for examination. It was even more troubling when the Commission’s report on the advisability of the Postal Service’s proposal didn’t appear for more than a year and, in a lot of ways, created more questions than it answered.

“On top of that, two recent Commission decisions on ratemaking and the Postal Service’s licensing authority were recently remanded by to the Commission by the courts. In one of those cases, the court even criticized the Commission for doing sloppy work.

“At a time like this, we need to do better. We need to do a better job here in Congress in finding consensus around the changes in law necessary to help the Postal Service survive. The Commission can probably do better too.

“I look forward to exploring with our witnesses today how they would contribute to the Commission’s work at this difficult time. I also want to explore how they would balance the competing demands placed on the Commission to weigh both customer service needs and the Postal Service’s financial needs.”

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STATEMENT OF SENATOR SCOTT BROWN, RANKING MEMBER
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
Nominations for Postal Regulatory Commission

July 28, 2011

Thank you Mr. Chairman. I also want to thank our two nominees, Mr. Acton and Mr. Taub, Secretary McHugh, Mr. Omas, and friends and family for being here today in support of our nominees.

These nominations are being considered at a time when the Postal Service is at a crossroads. Every day that passes is another day that pushes the Postal Service closer to the brink of insolvency. Facing an \$8 billion loss at the end of this fiscal year, the Postal Service is so strapped for cash that it will either default on its retiree obligations or miss making payroll.

Surely, the Postal Service must continue to cut costs and reduce capacity to align with projected declines in mail volume. It is also up to Congress to find the right balance of reforms to both ensure universal service and secure the long-term financial health of this vital institution into the future.

No doubt, some tough choices will need to be made. There is universal agreement that the time for action is now, yet there is plenty of debate on the combination of actions necessary to take. The Postal Service impacts many important stakeholders and thoughtful consideration is required across many viewpoints. I am confident, however, that Congress can find a responsible set of proposals that may require some shared sacrifice, but will finally put the Postal Service on a sustainable fiscal path.

The Postal Regulatory Commission will have an important role as this process moves forward. Surely, any legislation will likely impact the PRC itself, but it is their unique perspective has always been important to the various policy debates affecting the Postal Service, its employees, and its customers on a daily basis.

I'm sure Mr. Acton's experience as a Commissioner will be extremely valuable as questions are raised about the proper roles and responsibilities of the PRC in the future.

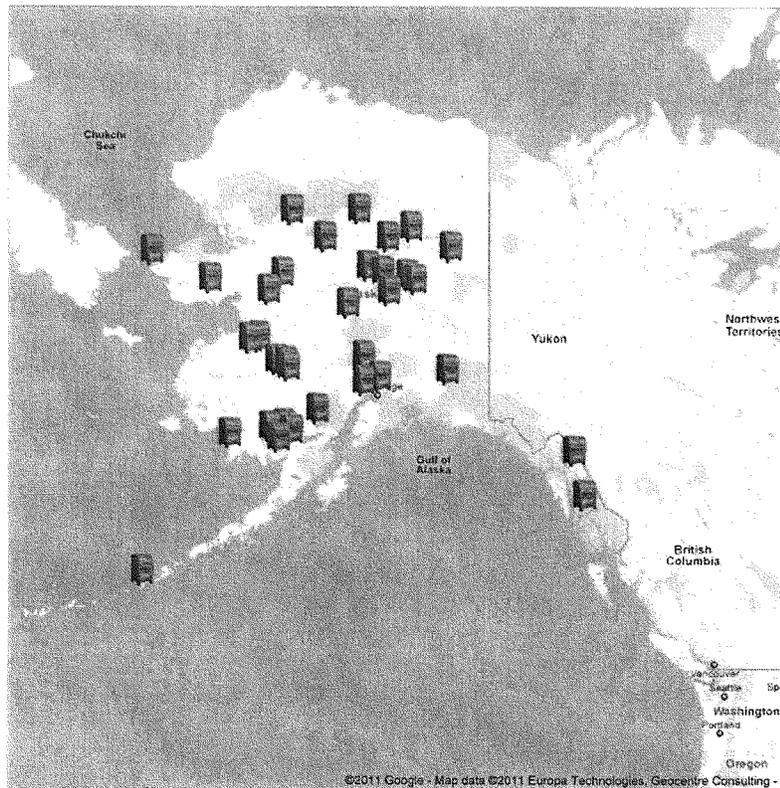
Furthermore, Mr. Taub is no stranger to the challenges and debates surrounding postal reform legislation having worked extensively on prior efforts when he was here on the Hill.

I appreciated their honest and candor during our meeting last week and look forward to continuing that conversation today. No doubt it will be a demanding time to serve on the PRC considering the challenges facing the Postal Service in the near and long term. We appreciate their willingness to serve in these important positions and look forward to their testimony.

Thank you Mr. Chairman.

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Alaska Post Office Reviews

List of post offices in Alaska the United States Postal Service is reviewing for potential closure.

In response to these reviews, Sen. Begich has called and written the Postmaster General to make sure he understands the unique circumstances facing Alaska's mail.

For more details visit Sen. Begich's website: <http://begich.senate.gov/public/index.cfm/pressreleases?ID=193c7900-cd14-4522-898d-3824aa79c563>

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 Anvik US Post Office	 Koyukuk US Post Office
 Aleknagik US Post Office	 Lake Minchumina US Post Office
 Beaver US Post Office	 Levelock US Post Office
 Bettles US Post Office	 Manley Hot Springs US Post Office
 Chitina US Post Office	 Nikolski US Post Office
 Circle US Post Office	 Minto US Post Office
 Clarks Point US Post Office	 Nondalton US Post Office
 Clear US Post Office	 Platinum US Post Office
 Crooked Creek US Post Office	 Point Baker US Post Office
 Douglas US Post Office	 Red Devil US Post Office
 Eielson AFB US Post Office	 Shageluk US Post Office
 Ekwok US Post Office	 Skwentna US Post Office
 Elmendorf Air Force Base US Post Office	 Sleetmute US Post Office
 Fort Wainwright US Post Office	 Stevens Village US Post Office
 Hughes US Post Office	 Wales US Post Office
 Kaltag US Post Office	 White Mountain US Post Office
 Kobuk US Post Office	 Tyonek US Post Office

Honorable John M. McHugh,
Secretary of the Army
Testimony presented to the United States Senate,
Homeland Security and Governmental Affairs Committee
In support of the nomination of Robert Taub
As Commissioner, Postal Regulatory Commission
28 July 2011

Mr. Chairman, Distinguished Members. I'm truly honored to be here today, and deeply appreciate the opportunity to appear before you, the members of the Homeland Security and Governmental Affairs Committee, on behalf of my good friend and long term colleague and partner, Robert Taub.

I'm especially pleased because, as I understand the protocol, I'm neither expected to face questions nor submit responses for the record. While, compared to my other Congressional appearances, adds up to a very good day.

While I officially appear before you as our Nation's 21st Secretary of the Army, I think it's particularly relevant to take just a moment to reflect on my 17 years as a member of the House of Representatives, and dwell a bit on what I believe is a shared experience in both hallowed chambers of Congress.

Whether on national talk shows or local television, Senators and Representatives are the faces and voices of those they serve. It's a career spent in the public eye, with demanding schedules and irregular hours, writing laws, meeting in committee, long sessions in Washington, longer commutes back home – served up every few years with a side of frenetic campaigning, challenging fundraising, and seemingly endless strains on time and attention.

But while this life is lived in the public eye, Members are blessed to have around them individuals who seek neither attention nor praise, who keep pace with the schedules and demands, and whose industry, counsel and loyalty are essential. While members of Congress are the face and the voice, these individuals are often the heart and the soul of what is done.

I've been fortunate, I've been blessed, to have just such a person working for me, working *with* me, for the past 16 years.

While in Congress, as my chief of staff, Robert was instrumental in assisting me better overcome the daily rigors of Congressional life and, perhaps more on point to your consideration today, was a key figure in the advancement of postal reform legislation that in the House, I had the opportunity to spearhead for the better part of 10 years as the Chairman of the Postal Subcommittee.

On the day we voted on that bill, I told my colleagues during floor proceedings that Robert was "the intellectual and spiritual glue that...held (the) effort together." To my amazement, he was always willing, even anxious, to do one more meeting, one more effort to advance reform.

Testimony of Hon. John McHugh
Page Two

And when others saw failure, Robert saw a challenge. When others lost hope, Robert remained focused." When others became angry, including myself, Robert remained calm.

A truly remarkable man.

I said then, and I say again today, that as proud as I was of his work and his steadfastness, "I am prouder still that in my heart I consider him a friend."

That friendship has endured and grown since Robert joined the committee staff in 1995 – continuing a career in public service that first began when he was a student at Gloversville High School, when he would go to work at his State Assemblyman's office after classes got out.

Which is another thing Robert and I have in common – we're both from small towns in upstate New York. Of course, Pierrepont Manor, where I now live, has a population of about 1,600. Gloversville, Robert's hometown, has about 15,000 residents, so I used to think of that as the big city.

But nevertheless, I know he was raised in an environment that cherishes loyalty, respects hard work and values achievement.

As difficult as it will be for me to lose Robert - who came with me to the Pentagon as a Special Assistant when I was confirmed as Secretary of the Army - I know that his commitment to postal regulation, his steady leadership and his calm resolve will serve the postal service, and our nation well.

America's first postmaster general, Benjamin Franklin, observed in Poor Richard's Almanac that "a good example is the best sermon."

Robert Taub continues to set a good example every day, in everything he does. I am grateful for President Obama's wise nomination of this great leader, and I respectfully urge your favorable consideration of Robert Taub's nomination as Commissioner of the Postal Regulatory Commission.

Opening Statement of Robert G. Taub
Nominee, Commissioner, Postal Regulatory Commission
July 28, 2011

Mr. Chairman, Senator Collins, and distinguished members of the Committee, I want to thank you for the opportunity to appear before you today, and for your consideration of my qualifications to be a Commissioner of the Postal Regulatory Commission. I would like to thank President Obama for the opportunity he has afforded me through this nomination, and I am honored by his trust.

I am pleased that many of my family, friends, and colleagues are here, and am grateful for the support they have provided in my chosen career of public service. While I cannot acknowledge them all by name, I would like to introduce my family: my dear wife Cynthia Taub and our daughter, Hannah Taub. Unfortunately, Hannah's twin sister Madeline is at camp and could not be here today to experience our Constitution in action. Also, my siblings who traveled a distance to attend: my sister Beth Laddin and my brother Bill Taub. Like good families everywhere, all have lent me love, encouragement, and a good dose of understanding. While our parents could not be physically present, I feel their support with me here today as well.

I would also like to acknowledge the other presidential nominee on this afternoon's panel: Mark Acton, nominated for another term as a Postal Regulatory Commissioner. I congratulate him for his selection and wish him well. I have known Mark for more than a decade, and it is a pleasure to be with him today.

Finally a special thank you to Secretary of the Army John McHugh for his kind introduction. For close to two decades, I have had the honor and privilege of working with one of the finest officials I have ever met in my more than 25 years of public service. If confirmed, I know I will succeed in the challenges of being a Commissioner if I can bring even half the measure of dedication to duty and thoughtful analysis that I have seen in Secretary McHugh these many years. We started working together in January 1995 when he became Chairman of the newly created House Postal Service Subcommittee, and I had joined the staff after 8 years at the Government Accountability Office. Neither of us could anticipate that the journey of modernizing our nation's postal and delivery sector would take so long or be so challenging. In addition to the numerous postal issues we worked on for 15 years – most notably in passage of the Postal Accountability and Enhancement Act – I subsequently had the honor of serving as his Chief of Staff for a decade, helping him represent that very rural area of Northern New York State where we were both born and raised. And for the past two years, I have supported him at the Army as he confronts the challenges of managing that Department in the midst of tightening budgets concurrent with a decade of war. So a deep thanks to my boss, my mentor, and my friend, Army Secretary John McHugh.

Last month, the Army celebrated its 236th birthday since its founding in 1775. Another institution as venerable as the U.S. Army also marked its 236th birthday this year – the U.S. Postal Service. Indeed, almost to the day of this hearing, it was on July 26, 1775 that the

Continental Congress appointed Benjamin Franklin as our nation's first Postmaster General. For 236 years, this is a service that American people and American businesses alike have come and grown to expect. Universal service at a uniform price, no questions asked. Very few in this country go to his or her mailbox or his or her local post office wondering if the mail will be there. It is always there. It has always been there. But the true question, the question confronting our Nation, is *will* the mail always be there?

I want to assure this Committee that I appear here before you today with few delusions as to the difficulties that lie ahead. I believe I have a clear understanding of the serious and numerous challenges that face America's postal system. As you all know well, the mail stream of today has been diminished by electronic means of communication that replace mail. They replace stamps. And thus they replace the revenues necessary to operate our key mail delivery system. Some may even suggest that the time of the Postal Service has passed.

But the fact is, for all the challenges the Postal Service of the 21st century faces, it still retains an integral place as a key cog in how American businesses conduct their affairs and how Americans all across this land communicate. The U.S. postal and delivery sector represents a trillion dollar-a-year industry, with 8 million jobs, making it vital to our economy. Postal marketers speak of the proverbial "mail moment" – that instant of receiving and opening mail that holds special meaning – and despite the immediacy of email or Skype, take one look at the men and women in the military and their families stationed around the planet when they get that hard copy letter or packet.

However, the Postal Service is in a serious financial crisis. For the Postal Service to continue to be self-financing may require restructuring its statutory and regulatory framework to reflect business and consumers' changing use of the mail. I am aware that the Postal Regulatory Commission is now conducting its five-year review of the law with recommendations to improve it.

If confirmed, I would welcome the opportunity to focus my executive and management skills on ensuring transparency and accountability of the Postal Service and fostering a vital and efficient universal mail system. I would bring to the job 25 years of public service achievement and experience, and I pledge to work with all stakeholders to address the current difficulties. There are no easy answers to these challenges, but answer we must. And I promise you, if confirmed, my first priority will be, along with this Committee, the Congress, the President of the United States, and of course the other Commissioners, to engage in a constant search for the discovery and effective implementation of solutions. I am truly honored to be considered. Thank you.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)
ROBERT GARSON TAUB
2. **Position to which nominated:**
COMMISSIONER, POSTAL REGULATORY COMMISSION
3. **Date of nomination:**
MAY 12, 2011
4. **Address:** (List current place of residence and office addresses.)

RESIDENCE:
REDACTED

OFFICE:
101 ARMY PENTAGON, ROOM 3E700
WASHINGTON, DC 20310-0101
5. **Date and place of birth:**
OCTOBER 12, 1964; GLOVERSVILLE, NEW YORK
6. **Marital status:** (Include maiden name of wife or husband's name.)
MARRIED: CYNTHIA LUCILLE TAUB (maiden name JORGENSON)
7. **Names and ages of children:**
REDACTED
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

AMERICAN UNIVERSITY 1986-1987 MASTER OF ARTS IN POLITICAL
SCIENCE (AMERICAN POLITICS) DECEMBER 1987

AMERICAN UNIVERSITY 1982-1986 BACHELOR OF SCIENCE IN
POLITICAL SCIENCE WITH HONORS (CUM LAUDE) MAY 1986

GLOVERSVILLE HIGH SCHOOL 1978-1982 HONORS HIGH SCHOOL
DIPLOMA JUNE 1982

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.)

SEE ATTACHED LIST

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

NONE

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

NONE

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

RAMS (REPUBLICANS ASSOCIATED FOR MUTUAL SUPPORT), MEMBER,
2008-PRESENT

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.

TREASURER, AMERICAN UNIVERSITY COLLEGE REPUBLICANS, 1983-
1984

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

VOLUNTEER, COMMITTEE TO ELECT McHUGH, MARCH 2000-
SEPTEMBER 2009 (TREASURER APRIL 2007- JANUARY 2009)

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

NONE

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

New York Former Administrative Assistant of the Year Award December 2010
 Recognition for outstanding contributions and continued support to the mission of the Postal Service's Office of Inspector General 2009
 Recognition as "NAPUS Champ" by National Association of Postmasters of the U.S. 2007
 Recognition for postal reform by National Association of Postal Supervisors March 2007
 Recognition for contributions and dedication to the mission of the Postal Service's Office of Inspector General March 2007
 Recognition from America's Postmasters for years of tireless effort on behalf of postal reform 2006
 Recognition for contributions to the development of the Postal Service's Office of Inspector General May 2006
 Recognition for support and many contributions to the National Postal Mail Handlers Union April 2005
 Recognition of contribution to the Postal Service's Office of Inspector General October 2004
 American Society of Association Executives congressional staff award for important efforts on behalf of the association community March 2002
 Recognition from The Nature Conservancy in appreciation for efforts to protect New York's Tug Hill Plateau and Great Northern Forest 2002
 Recognition for exceptional support of transition team efforts to the Postal Service's Office of Inspector General 1997

15. **Published writings:** Provide the Committee with a list and two copies of any books, articles, reports, or other published materials which you have written. These items can be provided electronically via e-mail or other digital format.

NONE

16. **Speeches:**

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

body. These items can be provided electronically via e-mail or other digital format.

Presentation on the history of U.S. postal reform; September 17, 2007; U.S.-China symposium on postal reform and express delivery services (presentation attached)

- (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

SEE ATTACHED LIST

17. **Selection:**

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

I BELIEVE I WAS CHOSEN FOR THIS NOMINATION BECAUSE OF MY KNOWLEDGE AND EXPERIENCE IN PUBLIC SERVICE AND PUBLIC ADMINISTRATION, PARTICULARLY REGARDING POSTAL LEGISLATIVE MATTERS.

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

I BELIEVE MY LONG PROFESSIONAL PUBLIC SERVICE EXPERIENCE COMBINED WITH DEMONSTRATED EXPERTISE WORKING ON POSTAL LEGISLATIVE AND OVERSIGHT MATTERS IN THE HOUSE OF REPRESENTATIVES, PARTICULARLY MY ROLE IN HELPING ULTIMATELY MODERNIZE OUR NATION'S POSTAL LAW IN 2006, QUALIFIES ME FOR THIS APPOINTMENT.

B. EMPLOYMENT RELATIONSHIPS

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

YES.

- 19. 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.

20. 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.

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

NO.

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

YES.

23. 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

24. 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.

IN CONNECTION WITH THE NOMINATION PROCESS, I HAVE CONSULTED WITH THE OFFICE OF GOVERNMENT ETHICS AND THE POSTAL REGULATORY COMMISSION'S DESIGNATED AGENCY ETHICS OFFICIAL TO IDENTIFY POTENTIAL CONFLICTS OF INTEREST. ANY POTENTIAL CONFLICTS OF INTEREST WILL BE RESOLVED IN ACCORDANCE WITH THE TERMS OF AN ETHICS AGREEMENT THAT I HAVE ENTERED INTO WITH THE POSTAL REGULATORY COMMISSION'S DESIGNATED AGENCY ETHICS OFFICIAL AND THAT HAS BEEN PROVIDED TO THIS COMMITTEE. I AM NOT AWARE OF ANY OTHER POTENTIAL CONFLICTS OF INTEREST.

25. 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.

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

YES.

D. LEGAL MATTERS

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

NO.

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

NO.

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

NO.

30. For responses to question 30, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

NONE.

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

NONE.

E. FINANCIAL DATA

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

REDACTED

AFFIDAVIT

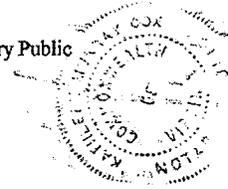
ROBERT G. TAUB being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Robert G. Taub

Subscribed and sworn before me this 9th day of June, 2011

Stephen Murray, CA # 118823
My Commission Expires 5/31/12

Notary Public



ROBERT TAUB
QUESTIONNAIRE ATTACHMENT

Employment record: Question 9

- **Special Assistant to the Secretary of the Army**, October 2009 to Present
Secretary of the Army John McHugh, Department of the Army, Washington DC
- **Chief of Staff**, March 2000 to October 2009
Congressman John McHugh, House of Representatives, Washington DC
- **Senior postal staffer working with Congressman McHugh on matters related to the nation's postal and delivery sector**, January 1995 to January 2007
Oversight & Government Reform Committee, House of Representatives, Washington DC
 Positions within the Committee included:
 - **Professional Staff Member**, January 2005 to January 2007
 - **Lead Professional Staff Member**, January 2003 to January 2005, Special Panel on Postal Reform & Oversight, Congressman McHugh, Chairman
 - **Professional Staff Member**, January 2001 to January 2005
 - **Staff Director**, January 1998 to January 2001, Subcommittee on the Postal Service, Congressman McHugh, Chairman
 - **Senior Professional Staff Member**, August 1997 to January 1998, Subcommittee on the Postal Service, Congressman McHugh, Chairman
 - **Chief Investigator/Professional Staff Member**, January 1995 to July 1997, Subcommittee on the Postal Service, Congressman McHugh, Chairman
- **Senior Evaluator**, December 1994 to January 1995; **Evaluator**, June 1987 to December 1989; August 1990 to November 1994
U.S. Government Accountability Office, all in Washington DC except for August 1990 to May 1993 in San Francisco, CA
- **Research Director**, January 1990 to July 1990
Verstandig & Associates, Inc., Washington DC
- *Additional public service experience as a **Staff Member** for three Members of Congress, a Member of the British Parliament, and state and county officials in upstate New York:*
 - **Fulton County Planning Department**, Johnstown NY, Summer 1985
 - **Austin Mitchell, Member of British Parliament**, London England, Winter/Spring 1985
 - **Congressman Peter Rodino**, Washington DC, Fall 1984
 - **Congressman David O'B. Martin**, Washington DC, Spring 1983 & Summer 1984
 - **Congressman Sherwood Boehlert**, Washington DC, Summer 1984
 - **New York State Assemblyman Glenn H. Harris**, Johnstown NY, Sept. 1979 to June 1982

Speeches: Question 16 (b)

I have done my best to identify all speeches and presentations through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other items I have been unable to identify, find or remember.

Presentation on status of pending legislation before Congress; May 19, 2008; legislative seminar of National Rural Letter Carriers' Association

Presentation on current postal issues; April 15, 2008; conference of the Alliance of Nonprofit Mailers

Presentation on current and future postal issues; November 27, 2007; meeting of the postal policy council of First-Class mailers

Presentation on postal reform legislation; on or about June 2007; meeting of Inspector General of the Postal Service staff

Presentation on legislative postal matters; March 22, 2007; seminar for national stewards of the National Rural Letter Carriers' Association

Presentation and panel discussion of new postal law; March 1, 2007; American University School of Public Affairs forum

Panel discussion on postal reform; March 22, 2006; National Association of Postmasters of the U.S. conference

Panel presentation on status of postal reform; June 21, 2005; Pitney Bowes Chairman's Council meeting of mailing industry executives

Presentation on the status of acid rain legislation; May 18, 2005; Garden Club of America New York State Zone III

Presentation on postal reform; April 22, 2005; National Postal Mail Handlers Union conference

Keynote speech regarding challenges facing the Postal Service and subsequent panel discussion on postal reform; October 22, 2004; Office of the Inspector General of the Postal Service conference

Presentation on status of postal reform legislation; September 21, 2004; National Association of Letter Carriers state presidents and business agents

Presentation on status of postal reform legislation; April 22, 2004; National Association of Postmasters of the U.S. legislative chairs

Panel discussion on postal reform; March 29, 2004; National Association of Postal Supervisors legislative training seminar

Presentation on postal reform legislation; on or about February 2004; National League of Postmasters forum

Presentation on postal reform legislation; October 29, 2003; Paper Industry Association council membership meeting

Presentation on postal reform; on or about September 2003; National Association of Letter Carriers training workshop for national business agents and state legislative chairs

Presentation on federal higher education legislative issues; June 5, 2003; State University of New York conference on university affairs and development

Presentation on postal reform; on or about May 2003; Printing Industry Association meeting

Panel presentation of postal workforce issues and its unfunded liabilities; May 8, 2003; symposium on postal transformation issues before government and industry officials

Presentation on pending postal legislative issues; on or about April 2003; National Association of Postal Supervisors legislative training seminar

Presentation on postal legislative issues; on or about March 2003; National Association of Postmasters of the U.S. legislative seminar

Speech on congressional operations and services; March 28, 2002; North Country Council of Social Agencies

Presentation on postal reform status; on or about April 2002; legislative seminar of federal employee organizations

Presentation and panel discussion on the status of U.S. postal reform legislation; January 25, 2002; International Post Corporation conference of the CEOs of global postal operators

Presentation and panel discussion on postal reform; May 2, 2001; The Direct Marketing Association Nonprofit Federation symposium on nonprofit postal rates

16(a) ATTACHMENT

China - U.S. Symposium on Postal Reform and the
 E-Postal Delivery Service
 December 10 - 15, 2007

Summary of the History of U.S. Postal
 Reform

Robert G. Taylor, Chief of Staff
 U.S. Congressman, John M. McHugh

1

1. Historical Development of
 U.S. Postal Policy

2

Post Office Dept (1782-1970)

- Post Office was crucial to development of the federal government
- Congress, not President, controlled Post Office
 - Congress specified postal routes until 1884
 - Congress set postage rates until 1970
 - Congress selected most postmasters until 1970
 - Ultimate control vested in the Congress and its Committee on the Post Office in House and Senate

3

Consequences of Congressional Control

- Comprehensive legal reform rare
 - Postal codes 1825, 1872, 1960
- Key legal provisions are old and unquestioned
 - Postal monopoly law was adopted in 1872 and last debated in 1845
- U.S. postal policy was very political
- Executive Branch gained no experience in postal policy

4

Origin of Postal Reorganization, 1970

- Post Office was unable to keep up with growth in mail due to post-WW II prosperity
 - 1966 Breakdown of Chicago post office
- Presidential Commission appointed in 1967
 - Composed of leading businessmen
 - Offered to relinquish telephone monopolies
 - Recommended a "lockmark-free" postal service free of Congressional control
 - Did not recommend Rate Commission

5

Postal Reorganization, 1970

- Objective: managerial independence
 - Congress barred from influencing appointments
- Ultimate authority: Board of Governors
 - 9 Governors appointed for 9-year terms
 - Governors appoint Postmaster General, set rates
- Postal Rate Commission
 - Ex ante review of domestic rate changes
 - Limited authority to police price discrimination
- Transition took about a decade

6

2. Postal Reform of 2006

Origins of McHugh Bill: 1991-98

- 1991. Postal Service concludes Rate Commission control is too intrusive and must be limited
- 1995. Congressman John McHugh becomes chairman of Postal Service Subcommittee
- 1996. McHugh bill - first draft after public hearings
- 1997-1998. McHugh bill completely revised with transparent stakeholder input
 - For: Postal Service, most postal unions, major mailers, FedEx
 - Against: largest postal union, large newspapers, parcel companies

Reform Stalled: 1999-2003

- 1999-June 2002. McHugh bill stalled and then rejected by House Committee
 - Key: insufficient bipartisan support
- Dec 2002. Presidential Commission appointed
 - Historic declines in volume/revenue with higher costs
 - Urged by mailers
 - Report in July 2003 endorsed McHugh Plus
- Postal pension act of 2003
 - Relieved Postal Service of excess pension fees until 2005

Reform Adopted: 2004-06

- 2004. Reform bills revived
 - Presidential Commission gives visibility to reform
 - Bipartisan work with McHugh to revise bill
 - Mailers/Postal Service became concerned over pension fees
 - House and Senate committee approve bills
- 2005-06. Reform adopted
 - Further delay: end-game disputes among parties
 - Dec.: compromise bill adopted at very end of Congress

Overall

- Postal reform bill took 12 years (1995-2006) of discussion, debate, and compromise
- 2006 law is primarily based on McHugh's proposal of early 1998
- Provides Postal Service commercial flexibility, concurrent with strong oversight
- What the new law means will be largely dependent on how the Regulator and the Postal Service interpret and implement the new law.
- Congress can revisit if necessary

Conclusions

- Postal reform of 2006 is a significant step
- Like most other industrialized countries, U.S. must continue to reform the fundamental parameters of postal policy: monopoly, institutional organization, and definition of universal service
- U.S. does a good job of ensuring fair competition and encouraging transparency
- New law is a positive for the U.S. economy in general; viable postal and delivery system, stability, and fairer competition for the marketplace of the Postal Service and competitors



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

JUN 1 2011

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

Dear Mr. Chairman:

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

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Don Fox".

Don W. Fox
General Counsel

Enclosures - REDACTED

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination Robert G. Taub to be Commissioner, Postal Regulatory Commission**

I. Nomination Process and Conflicts of Interest

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

I believe I was nominated because of my knowledge and experience in public service and public administration, particularly regarding postal legislative matters.

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 believe my lengthy professional public service experience as both a senior manager and executive combined with demonstrated expertise working on postal legislative and oversight matters in the House of Representatives, particularly through my work on and extensive knowledge of the Postal Accountability & Enhancement Act which modernized our nation's postal laws in 2006, qualifies me to be a PRC Commissioner. My nearly quarter century of experience in public service as an independent and objective analyst at the Government Accountability Office (GAO), a Subcommittee Staff Director in the House of Representatives, a Chief of Staff to a Member of Congress, and currently a senior executive directly assisting the Secretary of the Army in managing a Military Department, should prove to be important experience if confirmed.

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

No.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Postal Regulatory Commission's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Postal Regulatory Commission's Designated Agency Ethics Official and that has been provided to the Committee. I am not aware of any current conflicts of interest.

II. Role of the Postal Regulatory Commission and its Commissioners

6. What is your view of the role of a Commissioner of the PRC?
- I view the Commissioner's role as protecting the public interest in ensuring a vital, effective, efficient, and transparent Postal Service that operates as required by and in compliance with the law. I believe a PRC Commissioner must be fair and impartial in all matters brought before the agency.
7. In your view, what are the major internal and external challenges facing the PRC?
- Having never served at the PRC, any such assessment of internal challenges would be speculative on my part. If confirmed, however, I will encourage the PRC to holistically evaluate the agency's internal processes, priorities, opportunities, and challenges through a strategic planning process. It appears that helping confront the financial crisis currently impacting the Postal Service is the major external challenge facing the PRC.
8. If confirmed, how do you plan to address the challenges facing the PRC?
- I believe in the importance of strategic planning and goal setting for any organization; such efforts help to articulate priorities for the organization and focus key efforts. I understand the PRC last developed and issued a Strategic and Operational Plan nearly four years ago for years 2008-2012. Given the significant developments since then in the Nation's postal and delivery sector as well as the broader economy, if confirmed, I would advocate for reviewing the existing Plan and developing an updated one. A new plan could provide a road map reflecting analysis of the challenges, strengths, and weaknesses identified in the nearly five years since the Commission was transformed by the Postal Accountability & Enhancement Act.
9. If confirmed, how would you coordinate and communicate with PRC staff to accomplish the PRC's goals?
- The PRC is a relatively small agency compared to the Department of the Army, where I am currently a senior executive. I believe the size of the PRC would allow me, if confirmed, to provide direct input to the staff regarding the PRC's vision, goals, and objectives. As noted, I also believe updating of its Strategic and Operational Plan would allow explicit understanding of the PRC's goals among the entire agency.
10. What do you believe should be the PRC's top three priorities over your six-year term?
- Given the severe financial crisis facing the U.S. Postal Service, I believe fostering an efficient and effective universal mail system for the United States is the critical priority for the PRC, particularly in its regulatory responsibilities for prices, products, and service. Ensuring transparency and accountability of the Postal Service is an equally important priority. In addition, I believe the PRC should update and revisit its Strategic and Operational Plan for 2008-2012, last issued four years ago, which would help guide and reassess key areas of priority.
11. In what ways do you believe the PRC could improve the management and timeliness of its docket?
- I am not sufficiently familiar with the PRC's internal operations to offer an opinion. As noted, I believe the development and assessment of a new Strategic and Operational Plan would provide an improved understanding of the Commission's current challenges. If confirmed, I commit to studying this issue further.

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

I believe my nearly quarter century of experience in public service as an independent and objective analyst at GAO, a Subcommittee Staff Director in the House of Representatives, a Chief of Staff to a Member of Congress, and currently a senior executive directly assisting the Secretary of the Army in managing a Military Department, would help provide me the experience to weigh all information and points of view in making decisions on the matters before the Commission, if confirmed.

III. Policy Questions

Postal Reform Generally

13. The U.S. Postal Service (or "USPS") continues to experience volume and revenue losses. In fact, USPS ended Fiscal Year (FY) 2010 with a net loss of \$8.5 billion and expects to lose another \$8 billion by the end of FY2011. Further, the Postal Service recently announced that it will have to suspend employer contributions for Federal Employees Retirement System (FERS) participants in order to have sufficient cash available to pay its employees and suppliers.

- a. In your view, what is the PRC's role in USPS's efforts to increase revenue and cut costs as it addresses its financial condition?

I believe the PRC's primary responsibility is to ensure, in a deliberate but timely manner, transparency and accountability of the Postal Service's actions. This includes maintaining a predictable, transparent, and effective system of rate and product regulation; ensuring appropriate and transparent performance standards and measurement; ensuring transparent, accurate, and informative data reporting for evaluation of financial performance; ensuring accountability through a fair and open public complaint process that provides appropriate and timely resolution; and ensuring the Commission is visible and readily accessible to all stakeholders.

- b. How does this differ from the role of the Postal Board of Governors or the role of Congress?

Unlike the PRC, the Board of Governors directs the exercise of the powers of the U.S. Postal Service, directs and controls its expenditures, and conducts long-range planning for its operations. The Board is responsible for increasing revenue and cutting costs. Congress has ultimate responsibility for our nation's postal system, rooted in its authority under the Constitution in Article I, Section 8, "To establish Post Offices and post Roads." Congress establishes the policies that the Postal Service must strive to fulfill.

14. In the PRC's Annual Compliance Determination Report for FY2010, the Commission stated that while the Postal Service's reduction of work hours and other actions have reduced costs, "they will not provide the \$4-\$5 billion annual cost savings necessary to bring the Postal Service long term financial solvency and stability."

- a. What additional steps do you believe the Postal Service should take that do not require congressional action to improve its financial condition?

Both the GAO and the Postal Service's Office of Inspector General have issued recent reports that outline a variety of possible approaches the Postal Service could consider to include transforming its operations and network structure as well as further use of existing product and pricing flexibilities in the law.

- b. What legislative changes do you believe Congress should consider to help improve the Postal Service's financial condition?

The Postal Accountability and Enhancement Act mandated several assessments that should help guide policymakers in crafting solutions. For example, the GAO's April 2010 evaluation of the Postal Service's long-term business model provided a menu of possible changes to its mission, role, monopoly, governance, and regulation. The same study recommended that the Postal Service only be required to prfund its retiree health benefits to the maximum extent its finances permit. In addition, the PRC reported on universal service and the monopoly, and I am aware that the Commission is now conducting its five-year review of the law with recommendations to improve it. Accordingly, before making any recommendations for statutory changes, if confirmed, I will thoroughly analyze these reviews and reports to ensure that any proposed changes will be in the best interest of the public, as well as efficient and effective postal operations.

15. What role, if any, should the PRC have in the Postal Service's operational decisions?

As a regulator, the PRC's role is to protect the public interest and assure that the Postal Service's actions do not violate the policies established in law. The Postal Service's Board of Governors is responsible for operating the Postal Service.

16. It has been almost five years since the Postal Accountability and Enhancement Act of 2006 (PAEA) (P.L. 109-435) changed postal pricing to provide the Postal Service with more flexibility as well as improve the ratemaking process. Do you believe the Postal Service has effectively utilized the pricing flexibility provided in PAEA?

I believe that the Postal Service has become more active in developing initiatives to take advantage of the pricing flexibility provided by the Act. I understand that the Postal Service is using seasonal pricing incentives, experimental market tests, and increasing numbers of Negotiated Service Agreements. Among its competitive products, I believe that the Postal Service has been effectively using its pricing flexibility. The Postal Service must continue to encourage a culture of innovation and look to make greatest use of the pricing flexibilities provided in law.

17. In your view, how can the Postal Service return to viability in a market where e-commerce and electronic communication and payments are increasing and mail volume is declining? What role do you believe the PRC should play in shaping the future Postal Service given these rapid changes?

The Postal Service continues to provide a portfolio of valuable services to the American public. Clearly, modern technology has eroded the value of some products. The PRC must be cognizant of these factors in evaluating Postal Service proposals to innovate and modernize its products and network to better meet the needs of current customers.

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

I believe the PRC's primary responsibility is to ensure, in a deliberate but timely manner, transparency and accountability of the Postal Service, as well as fostering a vital and efficient universal mail system. To date, the PRC appears to have exercised its authority responsibly, particularly in allowing the Postal Service flexibility to design operationally feasible solutions to identified problems.

19. The PAEA substantially changed the relative responsibilities of the Postal Board of Governors and the PRC.

- a. What are the key decisions you expect the Commission to make in the future under PAEA?

I believe the PRC will have to evaluate the success of the price cap, and determine whether that mechanism should be altered. It will also have to reevaluate whether the contribution currently required of competitive products is appropriate. Finally, it may be called upon to further interpret when exigent rate increases may be permissible.

- b. Generally, what approaches would you advocate the PRC take in regulating USPS and why?

I believe the PRC should continue its measured approach to regulation that allows, when appropriate, the Postal Service flexibility to design operationally feasible solutions to identified problems. Also, as noted in earlier answers, I believe the development and assessment of a new Strategic and Operational Plan, last developed four years ago, would provide an improved understanding of the strengths and challenges of the PRC's current operation.

20. Debates about postal reform legislation raise fundamental questions about USPS's role in our nation, including the nature of the Postal Service's universal service obligation. The Postal Service is required by statute to provide "...a maximum degree of effective and regular postal services..."

- a. What is your view of the Postal Service's universal service obligation?

The universal service obligation remains the essential capstone of national postal policy. It establishes the minimum service levels that the Postal Service must provide to all Americans. In developing the legislation that became PAEA, Congress determined to retain for itself the responsibility to define that obligation. As circumstances change, it may well be that the minimum level of service necessary to meet the needs of the American public will further evolve.

- b. Do you believe the concept of universal service has evolved? If so, how? How do you believe USPS can adapt to meet that obligation?

Yes. As technology improved during previous centuries, the minimum service levels that the public could reasonably expect improved. It is the role of the Postal Service Board of Governors to adapt operations to meet the changing needs and expectations of the American public.

c. In your view, what is the PRC's role in preserving universal service?

The PRC evaluates service performance each year and identifies areas of potential concern. Additionally, the PRC is responsible for informing Congress of the cost of the universal service obligation, and if necessary, suggesting congressional action needed to preserve it.

21. Since enactment of PAEA, the PRC has interpreted the term "non-postal service" through consideration of various USPS proposals for new products and services.

a. In your view, do you believe USPS should be allowed to compete in areas where there are private sector interests? If so, under what circumstances?

The Postal Service should be allowed to compete with the private sector to deliver postal products. PAEA restricted the Postal Service from offering nonpostal products. Whether the Postal Service should be allowed to engage in nonpostal activities should be carefully considered, including its poor past performance in this area, as should the risks and fair competition issues.

b. What concerns, if any, do you have about such efforts?

Allowing the Postal Service to diversify into nonpostal activities would raise a number of issues, including whether it should engage in nonpostal areas where there are private-sector providers and if so, under what terms. Other issues relate to concerns about unfair competition; whether the Postal Service's mission and role as a government entity with a monopoly should be changed; as well as questions regarding how it would finance its nonpostal activities, what transparency and accountability provisions would apply; whether the Postal Service would be subject to the same regulatory entities and regulations as its competitors; and whether any losses might be borne by postal ratepayers or the taxpayer.

c. What role do you believe the PRC should play in issues regarding the introduction or pricing of new products?

The PRC should ensure that new products, and the pricing of new products, are consistent with the policies established in the PAEA.

22. The PAEA sets forth a new process for resolving complaints against the Postal Service. Do you believe the PRC is equipped to review and resolve complaints promptly and fairly? If not, what challenges exist?

I am not sufficiently familiar with the PRC's internal operations to offer an opinion. As noted, I believe the development and assessment of a new Strategic and Operational Plan would provide an improved understanding of the Commission's current challenges. I firmly believe that complaints must be resolved promptly and fairly. If confirmed, I will strive to ensure that this standard is met.

Postal Ratemaking

23. Before the PAEA was enacted in 2006, 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. In your view, how has the

ratemaking process changed from implementation of PAEA? Do you believe additional improvements to the ratemaking system are necessary?

I believe the new ratemaking process has worked. Rate changes are reviewed quickly and economically, and mailers benefit from more regular and predictable rate adjustments. If confirmed, I will evaluate whether the new process established by the PRC can be improved further.

24. The PAEA codifies the Postal Service's ability to enter into special classifications with mailers, referred to as Negotiated Service Agreements (NSAs). The Postal Service, however, has entered into very few domestic market-dominant NSAs. Some mailers cite the lengthy and cumbersome process for NSA approval, while other stakeholders have raised concern that NSAs may lead to unfair competition.

a. What do you believe has hindered the use of this authority?

It is my understanding that since passage of the PAEA, the PRC has been able to deal with NSA proposals more quickly and effectively. NSAs can be an effective tool for capitalizing on special situations. I believe NSAs have been particularly successful in the competitive product area. I do not have sufficient information to evaluate why the Postal Service has not entered into more successful market dominant NSAs, but intend to explore this issue if confirmed.

b. Do you believe the PAEA addresses and resolves these concerns?

I believe the current law provides adequate flexibility in this area, but would examine this issue further if confirmed.

25. 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 supporting data the Postal Service provided 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 Postal Service's data are adequate?

The PRC has a major role in ensuring that the Postal Service data are useful and reliable. Clearly, the Postal Service must adhere to modern business standards and practices, and develop sufficiently reliable data that will permit it to evaluate the success or failure of experiments and promotional discounts. This responsibility is particularly important in light of the Service's current financial circumstances when all expenditures must be carefully reviewed.

26. Last year the Postal Service filed its first exigent rate case under PAEA, requesting to raise rates above the inflation-based rate cap. The PRC's unanimous decision to reject the proposed rate hikes was upheld by the Court of Appeals, except for one point of clarification that was remanded to the PRC. How can the Committee be assured that the Commission will decide the remand in accordance with the law?

In my view, to this point the Commission has faithfully interpreted the law in this area. Rest assured, if confirmed I will strive to ensure that the PRC reviews the remand and any other matter referred to it in accordance with applicable law and court rulings.

Service Standards and Other Performance Obligations

27. What do you believe the PRC's role should be in the establishing performance standards for postal products and services and for holding USPS accountable for meeting these standards under PAEA?

It appears that the PRC worked successfully with the Postal Service to develop initial performance standards. While development of systems for measuring service performance has been delayed, I believe the consultative process for developing standards and measurement systems has been generally successful. The PRC has an ongoing responsibility to hold the Postal Service accountable for meeting its service standards and if confirmed I would make this one of my key priorities as a Commissioner.

28. The PAEA requires USPS to consult with the PRC in establishing modern service standards, as well as modifying the standards and planning for future standards. How do you believe this consultation should be carried out? What additional value, if any, do you believe the PRC can bring to this process? Do you believe PRC consultation has been effective thus far?

It is my understanding that the Postal Service and the PRC have been meeting regularly to develop service standards and performance goals. I have been informed that the consultations have been carried out in the spirit of cooperation, and that the PRC has provided useful public policy context that has helped develop consistent and understandable standards and goals.

29. PAEA also required the Postal Service to measure and report service performance for all market dominant products. The Commission recently found that the Postal Service's service results for bulk First-Class Mail, Standard Mail, Packages and Periodicals remain deficient. How do you think the Commission and the Postal Service should address this deficiency and what do you think are the main reasons for these problems?

It is my understanding that the delay in obtaining reliable system wide measures of service performance for certain categories of mail is the result of slow implementation and mailer adoption of the Intelligent Mail barcode technology. I have been told that the Postal Service recently modified and simplified its systems to encourage more rapid mailer participation. If this system can be successfully utilized for measuring service performance, it should provide broad-based, economical measures of performance.

30. In your view, what degree of transparency should USPS 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 Postal Service has a statutory monopoly and a market dominant position in most of the mail industry. Under these circumstances, it has an obligation to provide Congress, mailers, and the public with full information on its service performance goals, and its success in meeting those goals. It is my understanding that the Postal Service has not yet been able to provide the PRC with robust delivery performance information for certain products.

31. 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 FY2010.

- a. What is your opinion of this mandate, and what do you believe should be the role of the PRC in implementation of it?

I think the requirements that the Postal Service meet many of the financial reporting obligations of the Sarbanes-Oxley legislation are some of the most important reforms accomplished by PAEA. The PRC developed the rules to guide the Postal Service to achieve Sarbanes-Oxley requirements. I believe the PRC implemented guidelines in a timely fashion, and it is my understanding that the Postal Service is complying with those rules.

- b. Do you believe the Postal Service has satisfied this mandate?

Based on the PRC's annual compliance determinations, I believe the Postal Service has satisfied this mandate.

32. In March 2011, the PRC issued an advisory opinion about the USPS's proposal to reduce delivery to five days per week. In its opinion, the PRC identified many shortcomings in the USPS's proposal, including a lack of consideration for the disproportionate effect the proposal would have in rural areas.

- a. What role do you believe this opinion should play in Congress's decision to allow USPS to reduce delivery days?

The PRC's opinion evaluated both potential financial savings and impacts on service of a five days per week delivery schedule. I believe that the opinion provides useful information to assist Congress with balancing the needs of the public with the Postal Service's financial challenges.

- b. Please explain your views on whether you believe the PRC's opinion should be binding rather than advisory.

I believe that in general, the Postal Service's Board of Governors should have the authority and responsibility for operational decisions. While the PRC has final authority on many issues involving products and rates, the law provides the Commission with advisory authority on certain operational matters such as this one. As long as the Postal Service fairly takes PRC advisory opinions into account before making final decisions, I see no reason to make such PRC opinions binding.

Post Office Closings and Relocations

33. In your opinion, does the existing process for closing and relocating post offices adequately protect the interests of postal customers and the affected communities? If not, what additional protections do you believe are necessary?

The Postal Service recently modified its process for closing and relocating post offices. If the Postal Service follows its new procedures as I understand them, it should be able to effectively develop and analyze the relevant information needed to allow it to adequately protect the interests of postal customers and affected communities when deciding whether to close facilities.

34. Do you believe the PRC should have final authority over post office closings?

No. The PRC serves an important function by hearing appeals to ensure that the Postal Service has followed its procedures, but in the final analysis, a decision to close a specific facility should be in the hands of the Board of Governors and Postal Service management.

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

As noted, the Postal Service recently implemented a new process for closing and relocating post offices. After that process has been allowed to operate for a time, necessary improvements can be identified and implemented.

36. Do you believe the Postal Service should have additional flexibility to more quickly and easily close post offices? If so, what impact do you believe this will have on USPS's current retail network?

The current law allows the Postal Service flexibility to close post offices when necessary, after providing affected patrons a relatively brief window to provide comments. I believe it important to maintain the opportunity for citizen participation.

a. In the last year, USPS has expanded its retail network to existing retail facilities, such as Office Depot. What is your view on USPS's efforts to offer postal products and services at existing retail facilities and other alternative retail locations?

The primary purpose for many traditional retail facilities is to provide convenient access to postal services for American consumers and businesses. The convenient availability of a full range of postal services from existing alternative locations should be a major consideration when determining whether or not to close a traditional post office.

b. To what extent do you think the availability of postal services at alternative locations should be a key factor when considering closing or consolidating traditional retail facilities?

As noted, availability of postal services at alternative locations should be a major consideration when considering closing or consolidating traditional retail facilities.

c. Are improvements needed to the PRC's appeals process related to closing and consolidating post offices? If yes, what specific changes do you believe are needed? If no, please explain why you believe the current process is viable.

The current appeal process provides important safeguards to individuals and communities that must rely on existing post offices. I believe that the process could be streamlined so that appeals are resolved more quickly, but I intend to examine the issue further if confirmed.

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 answers are my own. I have received general briefings and information from the PRC.

AFFIDAVIT

I, ROBERT G. TAUB, 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.

Robert G. Taub

Subscribed and sworn before me this 22 day of July, 2011.



Stephen Murray, Esq. 118823
Notary Public
My Commission Expires May 31, 2012

Prepared Statement of Mark D. Acton
For the United States Senate
Committee on Homeland Security and Governmental Affairs
July 28, 2011

Thank you, Mr. Chairman and members of the Committee.

I am honored to be with you today and I thank you for holding this hearing to consider my nomination as Postal Regulatory Commissioner.

I want to thank President Obama for his confidence in me and for the honor of nominating me for this appointment. I am most grateful for the support of our Minority Leader, and my home state Senator, Mitch McConnell. My thanks to Committee staff for their expert guidance and I would like also to acknowledge the loving support of my partner, family and friends.

I am pleased to have spent four years on staff at the Postal Rate Commission assisting the former agency Chairman in administering PRC operations, and the past five years as first a Postal Rate Commissioner and now a Postal Regulatory Commissioner. To PRC employees, I offer profound thanks for their dedicated, hard work.

Much has changed in the postal world during those nine years and we find ourselves today in particularly challenging times. I believe that my experience affords me a clear appreciation of key postal issues, as well as a close familiarity with the concerns of the postal community stakeholders. I am pleased to be considered for a continuing role. If confirmed, I pledge to work with this Committee in advancing workable solutions that help to renew and ensure the vitality of the United States Postal Service.

Mr. Chairman, I look forward to working with you and the other members of the Committee, and I would be pleased to answer any questions.

###

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES**A. BIOGRAPHICAL INFORMATION**

1. **Name:** (Include any former names used.) Mark David Acton
2. **Position to which nominated:** Postal Regulatory Commissioner
3. **Date of nomination:** May 12, 2011
4. **Address:** (List current place of residence and office addresses.)
 REDACTED (residence)

 Postal Regulatory Commission, 901 New York Ave., NW,
 West Tower, 2nd Floor, Washington, DC 20268 (business)
5. **Date and place of birth:** 11/09/1959 - Louisville, KY
6. **Marital status:** (Include maiden name of wife or husband's name.) Single
7. **Names and ages of children:** None
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

 University of Maryland, College Park, MD 7/05-11/06, MBA granted December, 2006
 University of Louisville, Louisville, KY 09/77-09/82, BA degree granted May, 2005
 University of District of Columbia, 01/03-05/05
 Northern Kentucky University, 05/03-07/03
 Harry Doss High School, Louisville, KY- 1974-1977, degree granted August 1977
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.)

United States Postal Regulatory Commission, Washington, DC
 Commissioner - *August 17, 2006 to present*
 - The Postal Regulatory Commission is the Executive Branch regulatory authority charged by Congress and the President with independent oversight of the United States Postal Service. The mission of the agency is to ensure transparency and accountability of the United States Postal Service and foster a vital and efficient universal mail system.

Special Assistant to the Chairman - March 2002 to August 16, 2006

- Assisted agency chief in managing the operations of this Executive Branch regulatory authority charged with independent review of postal rates and service. Participated fully in briefings and deliberations of the Commission concerning all matters within agency purview. Advised the Chairman regarding all proceedings and related matters brought before the Commission for review and recommendation. Served as agency liaison to the White House, U.S. Congress, U.S. Postal Service (USPS), and the President's Commission on the United States Postal Service, and other governmental and private sector entities. Represented agency at USPS Board of Governors meetings, as well as various postal forums and functions.

Committee on Arrangements for the 2004 Republican National Convention, New York, NY**Deputy to the Chairman - July 2003 to September 2004**

- Provided executive oversight in the planning for and management of a political party national convention. Served primarily as liaison between 2004 Republican National Convention and NYC Host Committee 2004 operations in New York City and Republican National Committee leadership in Washington, DC.

Republican National Committee, Washington, DC**Staff Director, Counsel's Office - November 1996 to March 2002****Special Assistant to the Chief Counsel - July 1993 to March 2002**

- Assisted counsel in directing national political party committee legal support operations including representation before the Federal Election Commission and state campaign finance agencies, communications script and finance copy review, management of insurance and liability concerns, copyright and trademark and employment law issues, contract negotiations and administration, as well as fielding federal, state and local party and campaign committee requests for assistance. Responsible also for divisional administrative and personal matters, budget preparations, and convention and meeting arrangements.

Government Relations Officer, Counsel's Office - March 2001 to March 2002

- Involved in national and state party organization efforts to manage federal and state legislative agendas including campaign finance and election administration reform. Coordinated legislative issue briefings for RNC officers, members and staff, developed position papers and prepared strategic action recommendations. Served as liaison with National Conference of State Legislatures, American Legislative Exchange Council, Republican Governors Association, National Republican Senatorial Committee, National Republican Congressional Committee.

Redistricting coordinator - November 1997 to March 2002

- Engaged in preparations to offer comprehensive GOP support concerning state and federal legislative redistricting, reapportionment, and the census. Coordinated situational briefings and media relations. Acted as RNC liaison on related issues with the various political entities and state and federal governmental agencies including the U.S. Department of Commerce, U.S. Bureau of the Census, and the Census Monitoring Board.

National Republican Congressional Committee, Washington, DCDeputy Redistricting Director - *March 1989 to January 1993*

- Worked with Republican Members of the U.S. House of Representatives and staff in preparing for the decennial congressional redistricting process.

Republican National Committee, Washington, DCAssistant to the Computer Services Director - *August 1986 to February 1989*

- Provided administrative and user-support supervision for data and word processing activities. Participated in the development and implementation of technical support for the 1988 Republican National Convention, national voter list program, and in-house databases.

Assistant Finance Director for the Major Donor Program - *January 1985 to July 1986*

- Donor list development, maintenance and correspondence, event planning.

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

None.

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

None.

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

Kentucky Society of Washington
 United States Tennis Association
 Honorable Order of Kentucky Colonels
 University of Louisville Alumni Association

13. **Political affiliations and activities:**

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

None.

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

Employed by Republican National Committee, National Republican Congressional Committee, and the Committee of Arrangements for the 2004 Republican National Convention

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

John McCain 2008 Inc.

02/19/08	\$1000
04/05/08	\$500
05/15/08	\$200
06/12/08	\$200
07/24/08	\$200
08/16/08	\$200

McConnell Senate Committee '14

08/04/08	\$500
09/28/09	\$250

Holtzman Vogel for Senate (Republican candidate for Virginia Senate District 27)

3/24/05	\$200
8/27/05	\$200

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

Attached.

16. **Speeches:**

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

Attached.

- (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

Not Applicable.

17. **Selection:**

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

I was chosen on the basis of my professional qualifications.

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

1. Expertise in postal industry issues and concerns, as well as familiarity with key stakeholders, through eight years of public administration experience as a Postal Regulatory Commissioner and Postal Rate Commissioner, as well as assisting the former Postal Rate Commission Chairman in managing all aspects of agency operations.
2. Nine years of professional experience in the law including regulatory compliance concerns as Staff Director for the Republican National Committee Counsel's Office.
3. Direct mail marketing management experience as Assistant Finance Director for the Republican National Committee.
4. Graduate level technical training in Business Administration including Managerial Accounting, Financial Accounting, Business and Product Marketing Strategy, Data Analysis/Statistics & Decision Modeling, Information Systems Management, and Executive Skills Mastery.

B. EMPLOYMENT RELATIONSHIPS

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

I am employed by the Postal Regulatory Commission.

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?

I expect to serve out the full term.

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

No.

C. POTENTIAL CONFLICTS OF INTEREST

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

None.

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

On behalf of, and in the employment of, the Republican National Committee:

- Election administration reform
- Campaign finance reform
- Legislative redistricting reform

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

Yes.

D. LEGAL MATTERS

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

No.

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

No.

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

Small Claims and Conciliation Branch, Civil Division, Superior Court of the District of Columbia. Resolved by mutual settlement in February, 1992.

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

None.

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

None.

E. FINANCIAL DATA

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

REDACTED

AFFIDAVIT

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

Mark D. Acton

Subscribed and sworn before me this 13th day of June, 2011

Lucretia Howard

Notary Public

MY COMMISSION EXPIRES:
DECEMBER 14, 2012



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

JUN 1 2011

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

Dear Mr. Chairman:

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

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Don W. Fox".

Don W. Fox
General Counsel

Enclosures - REDACTED

**U.S. Senate Committee on Homeland Security and Governmental Affairs
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Nomination Mark D. Acton to be Commissioner, Postal Regulatory Commission**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President has re-nominated you to serve as a Commissioner of the Postal Regulatory Commission (“PRC” or “the Commission”)?
 - My professional record of active and ongoing involvement in postal policy, regulatory and legislative matters.
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?
 - Professional expertise in postal industry issues and concerns, as well as familiarity with key stakeholders, through nine years of public administration experience: three years assisting the former Postal Rate Commission Chairman in managing all aspects of agency operations and (for the past six years) as a Postal Regulatory Commissioner – formerly a Postal Rate Commissioner.
 - Nine years of significant experience with legal concepts, including regulatory and legislative issues as Staff Director for the Republican National Committee Counsel’s Office.
 - Direct mail marketing management experience as an Assistant Director for Republican National Committee Major Donor Finance Programs.
 - Masters in Business Administration including applicable graduate level technical training: managerial economics and public policy, managerial accounting, financial accounting, business and product marketing strategy, data analysis/statistics and decision modeling, information systems management and executive skills mastery.
4. Have you made any commitments with respect to the policies and principles you will attempt to implement as a Commissioner of the PRC? If so, what are they and to whom have the commitments been made?
 - No.

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

- No.

II. Role of the Postal Rate Commission and its Commissioners

6. What is your view of the role of a Commissioner of the PRC?
- To forward an independent, executive branch agency review of domestic and international postal policy issues; protecting the public interest as set forth in title 39.
7. In your view, what are the major internal and external challenges facing the PRC, and how have they evolved since you were appointed to the PRC?
- The major internal challenge is in managing organizational resources to best address matters pending before the agency. Due to postal reform, the Commission's role – and workload – has grown. It is vital that the agency expertise and resources be adaptable and current with changing needs and priorities so that Commission business can be accomplished in a timely fashion.
 - The salient external challenge, with the growing multi-channel nature of the communications environment, comes in working effectively with Congress, the Postal Service and the postal community to ensure that postal products remain relevant, affordable and sustainable now and into the future.
8. How have you addressed the challenges facing the PRC during your term as Commissioner?
- The Commission's established procedure of addressing and resolving key public policy concerns by exploration of the issues through public comment and reply has informed members of the Commission regarding the full spectrum of the relative "cause and effects" of any proposal before the agency. Reflective of my past role as Commission Chief of Staff, I personally have endeavored to encourage consensus among the panel in crafting workable

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solutions to issues before us.

- I have had, and will continue to have, discussions with stakeholders, and I make every attempt to be educated and informed – earning a MBA, reading relevant literature on postal policy (research papers, previous PRC Decisions, current news accounts) – in order to better appreciate the breadth of issues before the PRC and drive development of common sense decisions and opinions which comport with title 39.

9. What specific contributions have you made during your tenure at the PRC? What contributions do you hope to make if confirmed for a second term?

- I consistently reach out to the postal stakeholder community at key forums regarding the findings, rationales and consequences of Commission determinations. I take pride in being an accessible public servant to the full extent that applicable legal standards allow.
- To provide the Commission additional resources and develop talented potential candidates for vacant positions, I proposed an internship program. To date, two interns have been hired as permanent employees; one recently earned a promotion.
- Based upon the confidence expressed by my colleagues, I am currently serving a second term as Vice-Chairman of the Commission.
- If confirmed for a second term the most critical contribution I hope to make is to play a meaningful role in working with Congress, the Postal Service and the postal community at large in forming a workable plan to sustain the Postal Service and ensure its future vitality.

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

- At regular staff briefings and meetings with my fellow Commissioners and the senior management team. Also via scheduled personnel evaluations and performance management planning with my personal staff.

11. What do you believe should be the PRC's top three priorities over your six-year term?

- Assisting Congress to ensure the USPS remains a viable public service for all of our Nation's citizens.
- Fair and expeditious review of matters before the agency.
- Cooperative approach in working with the Postal Service and mailing

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community toward best possible service at fair prices.

12. In what ways do you believe the PRC could improve the management and timeliness of its docket?
- Better use of proven business administration techniques – such as dynamic critical path assessments – could aid the Commission in better tracking key pending concerns and addressing each in a more efficient, timely manner.
 - I believe in the value of continuing executive management training and, resources permitting, I would encourage greater use of staff development opportunities.
13. How do you believe your prior experience would help inform and guide your decisions as a Commissioner of the PRC for a second term?
- Nine years of experience serving, first on staff and now as a member of the Postal Regulatory (and Postal Rate) Commission – through the reforms the Postal Accountability and Enhancement Act (PAEA) effected – provides me an informed perspective of Congress' view for the role of Postal Regulatory Commissioner.
 - My experience as Commissioner and my career prior to my appointment have shown me the value of informed, spirited debate as well as consensus thought, when called for, in forging public policy determinations.
 - I successfully completed MBA coursework which aids analysis of Postal Service product proposals and rates, review of complex costing and financial data, and managing detailed study and deliberation of policy issues.
14. Given that the PRC is an independent agency, how do you plan to ensure that your analysis and review of requests submitted by the Postal Service is thorough and independent of your colleagues?
- While matters brought before the agency are subject to regulatory review by the Commission and staff as a whole, individual Commissioners can, and certainly often do, explore relevant, specific interests. PRC Office Directors are selected by popular vote of, and are answerable to, all five Commissioners. It is not uncommon for agency staff, in response to a request from an individual Commissioner for assistance in informing the decisional process with respect to a particular interest, to develop supplemental research and briefing material. Additionally, each Commissioner has a Special Assistant

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and a Confidential Assistant, who aid in informing and forwarding a Commissioner's independent viewpoints. I have not hesitated to avail myself of any and all of these resources to ensure that the vote I cast in deciding important public policy matters pending before the PRC is properly informed and wholly my own.

III. Policy Questions

Postal Reform Generally

15. The U.S. Postal Service (or "USPS") continues to experience volume and revenue losses. In fact, USPS ended Fiscal Year (FY) 2010 with a net loss of \$8.5 billion and expects to lose another \$8 billion by the end of FY2011. Further, the Postal Service recently announced that it will have to suspend employer contributions for Federal Employees Retirement System (FERS) participants in order to have sufficient cash available to pay its employees and suppliers.
- a. In your view, what is the PRC's role in overseeing USPS's efforts to improve its financial condition, while providing the Postal Service with the flexibility to increase postal revenue and cut costs?
- The principal regulatory review of Postal Service operations is the Annual Compliance Determination. The ACD provides a comprehensive review of Postal Service operations and finances over the previous year. The PRC notifies USPS management when there is insufficient cost coverage for a product and, when appropriate, requires corrective actions. USPS can also use the findings to identify and promote profitable products and reduce costs.
 - The PRC can offer valuable guidance when asked, through the Advisory Opinion process, regarding operational changes that could generally affect service on a substantially nationwide basis, concerning affiliated financial impacts and related considerations.
 - In performing its statutory oversight functions, the PRC can provide independent estimates of the costs and benefits of various Postal Service initiatives to adjust its products or service levels to improve its balance sheet. This type of independent review can assist USPS and Congress in deciding which initiatives to pursue. For example, the PRC, responding to a USPS request pursuant to section 802(c) of PAEA, retained an independent actuarial firm to assess the Office of Personnel Management's calculation of the Postal Service's share of the CSRS pension assets and liabilities, which also included

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a review of the methodology proposed in a USPS OIG study. The Segal Company met with all parties and conducted independent reviews for each methodology. After thorough review, the Commission issued the report prepared by Segal on June 29, 2010. The report suggested that the methodology for determining the Postal Service's share of the CSRS pension fund does not follow current private sector accounting standards. If it did, it would reflect USPS overpayments of \$50-55 billion. While OPM concedes some principle findings of the Segal report, it will not release any of the CSRS funding in question – absent a legislative directive to do so.

- The PRC has approved Market Tests of experimental products, and encourages the Postal Service to exercise its pricing flexibility wherever prudent. In short: The PRC – with all due diligence – should strictly fulfill its lawful oversight responsibilities outlined in PAEA in a manner that does not compromise the flexibilities afforded the USPS by law.
- b. How does this differ from the role of the Postal Board of Governors or the role of Congress?
- The Postal Board of Governors, akin to a corporate board of directors, sets organizational goals and policy. They broadly direct USPS activities managed by USPS executive leadership. The PRC is responsible for developing an independent, primarily after-the-fact, review of USPS finances, operations and activities as provided in title 39.
 - Through legislation, Congress establishes the framework for the relative roles of both the PRC and the USPS Board of Governors. Congress's authority over both is paramount.
16. In the PRC's Annual Compliance Determination Report for FY2010, the Commission stated that while the Postal Service's reduction of work hours and other actions have reduced costs, "they will not provide the \$4-\$5 billion annual cost savings necessary to bring the Postal Service long term financial solvency and stability."
- a. What additional steps do you believe the Postal Service should take that do not require congressional action to improve its financial condition?
- Postal Service management and its workforce leadership should continue to bargain in good faith recognition of the changing environment facing the agency. Provisions of recent workforce agreements allowing for more flexible work rules and adjustable wages and benefits can help improve the long-term USPS fiscal condition.

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- The Postal Service should centralize and standardize its facility review and closure process – so that post office, stations and branch operations receive the same scrutiny and opportunity for community comment. USPS management advises they have reviewed new procedures, and on July 14 USPS published its final rules. In a related effort, the Postal Service should expand customer convenience through development of better alternative retail access channels. It is my view that the existing retail network is not well aligned with modern consumer habits. I believe that the Postal Service recognizes this as well and is moving to adjust its presence accordingly.
 - The PRC and USPS are working on a Periodicals study, which is nearing completion. The PRC has recommendations (already shared informally with USPS) regarding how the Postal Service can reduce attributable costs for Periodicals through more efficient processing.
 - USPS should consider a review of its performance standards for all classes of delivery to explore changes in the existing modern service standards to help better capture saving and control costs while still meeting community and business expectations.
- b. What legislative changes do you believe Congress should consider to help improve the Postal Service's financial condition?

- The PAEA set a unique, and what appears now to be an overly-ambitious, timeframe for the USPS to prefund its Retiree Health Benefit Fund obligations. This view is supported by independent findings developed, as authorized by statute, by PRC consultant The Mercer Group in its expert review of the present Postal Service health benefit funding methodology. Also, at the Postal Service's request and as authorized by law, the Commission provided an independent actuarial analysis (the Segal Report) showing the Postal Service's civil service pension obligation may be overstated by as much as \$55 billion. Responsible adjustments to one or both of these obligations could provide the shorter term financial stability needed by the Postal Service as it restructures its operations and as Congress considers possible changes to the Postal Service business model.

In facilitating longer term change, Congress may wish to consider:

- Further changes to the PAEA postal pricing model – provided active input from the full postal community. It is my view that careful consideration of other proposed pricing approaches such as “bottom-up” pricing, allowing the

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USPS to adjust rates across classes beneath the price cap and/or incorporating an “x factor” in price cap calculations, should be an important part of this discussion going forward. I should note that PAEA does require the PRC to obtain public comment and review Market Dominant pricing ten years after PAEA enactment [see 39 U.S.C. 3622(d)(3)].

- Empowering USPS to better rationalize its infrastructural network via a “BRAC”-type approach. This is one proven course of action in better fostering this needed process toward completion.
- Removing the requirement for six-day delivery, yet only in light of the Commission’s Advisory Opinion findings concerning costs and service impacts of such a change. Such a change must be tempered by ensuring that rural, remote and non-contiguous areas of the Nation continue to have adequate service.

17. What role, if any, should the PRC have in the Postal Service’s operational decisions?

- Aside from advisory opinion guidance [39 U.S.C. 3661 (b) and (c)], none. Postal managers must have the flexibility to make decisions in the day-to-day operations of the USPS network.
- The recent PRC review of the Postal Service proposal to eliminate Saturday delivery uncovered a number of previously unforeseen consequences, and pointed out disparities both in cost estimates and impacts on urban and rural communities. This type of guidance can assist USPS executives in making informed decisions regarding broad policy changes.
- The PRC’s role is to ensure that USPS products and service conform to title 39 as amended by PAEA; that activities in furtherance of its business comply with the spirit of PAEA. Beyond such regulatory guidance, the PRC involvement with USPS operational decisions would appear to be beyond the scope of title 39.
- I would note, however, that consultations between USPS officers and Commissioners regarding service standards did illustrate a value in PRC/USPS communications, permitting the Commission to become better informed regarding broad operational decisions. These discussions, I believe, also afforded top Postal Service management a first-hand view of the regulators priorities. I look forward to continuing discussions, whenever possible, that lead to better understanding.

18. It has been almost five years since the Postal Accountability and Enhancement Act of 2006 (PAEA) (P.L. 109-435) changed postal pricing to provide the Postal Service with

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more flexibility as well as improve the rate-making process. Do you believe the Postal Service has effectively utilized the pricing flexibility provided in PAEA?

- I believe that there are examples of the Postal Service using – and not using – its PAEA pricing flexibility effectively. For example:
 - Effectively: Within the Package Service class of mail, which has a below 100 percent cost coverage, the Postal Service has steadily given “underwater” products (and products with healthy cost coverage) above-average increases. Additionally, in each PAEA price adjustment, the Postal Service has adjusted prices in each class to within one-tenth of a percentage point of the CPI-U price-cap.
 - Ineffectively: The Postal Service has not always given “underwater” products adjustments adequate to move rates progressively closer toward making institutional contribution, or even cost coverage. Part of the Postal Service’s financial problem lies in pricing imbalances. In our FY 2010 Annual Compliance Determination, the PRC identified 10 market dominant products and services with revenue that did not cover attributable costs in FY2010, including flats, periodicals, and non-profit mail, totaling \$1.7 billion in losses. For the first time ever, the Commission found rates not in compliance with the statute, and directed the Postal Service to take action to end the intra-class cross subsidy for Standard Mail Flats as soon as practicable.
 - Overall: Beyond the price cap, the Postal Service has used pricing flexibility to increase Competitive Products prices, and, when appropriate, transfer Market Dominant products to the Competitive Product list. Since Competitive Products do not fall under the price cap, the Postal Service has more pricing flexibility with those products. On April 6, 2011, the Commission issued Order No. 710 – permitting the transfer of small, lightweight parcels from the Market Dominant to the Competitive Product list. This enabled the Postal Service to increase revenue for a product which was long underpriced.
19. In your view, how can the Postal Service return to viability in a market where e-commerce and electronic communication and payments are increasing and mail volume is declining? What role do you believe the PRC should play in shaping the future Postal Service given these rapid changes?
- The need for postal service products remains significant despite an environment where new and emerging technologies offer faster, often cheaper

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communication alternatives. In even a resized market segment, the Postal Service still delivered 170 billion pieces of mail in 2010, (nearly 40 percent of the world's mail). In a broad sense, the USPS is in the midst of a challenging right-sizing period wherein its legacy "supply" capabilities are coming to terms with a new "demand" model. Adjusting Postal Service institutional resources to meet its modern niche will help ensure sustainability. The call for active PRC review as the Postal Service makes critically needed operational, infrastructural, market presence and product pricing adjustments is perhaps more crucial now than ever before.

- For instance, the rapid adoption of electronic transfers and communication has contributed to structural pricing imbalances. The volume of Standard Mail, which brings lower contributions to institutional costs, now exceeds First-Class Mail volume (a more profitable product to the Postal Service). In the PRC's FY2010 Annual Compliance Determination the Commission found rates for Standard Mail Flats not in compliance with the statute. The Postal Service needs to better utilize existing pricing options to address the growing Standard Mail intra-class cross subsidy. Nine other Market Dominant products and services' revenue did not cover attributable costs in FY 2010, totaling \$1.7 billion in negative contribution. The Commission has directed the USPS to take appropriate action to end the intra-class cross subsidy as soon as practicable. The Postal Service has the flexibility to achieve this through cost-cutting, pricing adjustment (or both), or the introduction of proven new methodologies, but meaningful progress toward improved cost coverage is needed. PRC continues to monitor Postal Service pricing and encourage the development of new core products and strategies to maximize profit while maintaining adequate service to the Nation.
20. What is your overall impression of how well the postal reforms under PAEA have been implemented? What areas have been most challenging, and what areas do you believe need the most attention in the future?
- My overall impression is that the PAEA has worked as Congress intended, yet there are specific provisions (discussed below) that I believe need attention. Two primary goals of PAEA were to offer mailers greater predictability of rates and planned rate adjustments, while affording the Postal Service a higher level of pricing flexibility. I believe that PAEA has been most successful in terms of achieving the former, while pursuing the latter is more challenging. Going forward, the PRC should continue to work with the Postal Service and the larger postal community in exploring additional

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approaches which could encourage USPS to exercise greater pricing flexibility, in keeping with the spirit of PAEA.

- I believe also that, in broad terms, the PAEA price-cap provision has been effective in forcing greater Postal Service cost efficiencies. Our Annual Compliance Determination for FY 2010, for example, found that the Postal Service increased Total Factor Productivity increased 2.2 percent, as the Postal Service reduced workhours by 75.1 million, saving an estimated \$3.6 billion. Cost savings are essential in the present environment of declining mail volumes. Furthermore, in the Postal Service Form 10-Q report, Quarter 1, FY 2011 the agency reports that the Postal Service is also reviewing the current management structure for opportunities to reduce the ranks of management and administrative personnel by almost 7,500, saving an annualized estimate of over \$700 million beginning in FY 2012.
- Despite the success of the price cap in driving savings, cost cuts and other actions have not kept pace with obligations. For the immediate future, it is imperative that the Postal Service avoid financial insolvency due to a large and increasing debt load and a statutory cap on its borrowing authority. In the PRC exigent rate case review, the Postal Service testified that a primary cause of its liquidity crisis is related to an overly-ambitious schedule for the USPS to prefund its Retiree Health Benefit Fund obligations. This view is supported by PRC independent expert findings. At the Postal Service's request, and as authorized by law, the Commission also provided an independent actuarial analysis showing the Postal Service's civil service pension obligation may be overstated by as much as \$55 billion. Responsible adjustments to one or both of these obligations, as recommended by bona fide independent experts, could provide the financial stability needed by the Postal Service as it restructures its operations and as Congress considers possible changes to the Postal Service business model.

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

- From the outset of enactment of PAEA, one of the most critical responsibilities reserved for the PRC included the development and implementation of a system of price-cap ratemaking. The PRC accomplished this important goal eight months in advance of the statutory deadline.
- A central regulatory function under PAEA for the PRC is ensuring appropriate disclosure and transparency of USPS finances and operations. The PRC has accomplished this vital role through our Annual Compliance

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Determination, Annual Report to Congress, review of USPS data reported to the PRC on a regular basis, in addition to PAEA-required Forms 10-K and 10-Q filings.

- Although this responsibility pre-dates PAEA, in accordance with title 39, the PRC applies its expertise in offering Advisory Opinions to the Postal Service and Congress concerning USPS-proposed initiatives of nationwide scope. Since enactment of the PAEA, the PRC has provided two Advisory Opinions. The recent PRC review of the USPS proposal to eliminate Saturday delivery is an example of an endeavor to provide a data-rich analysis of the totality of customer impacts, cost considerations and network capabilities. Our Advisory Opinion uncovered a number of previously unforeseen consequences, and pointed out disparities both in cost estimates and impacts on urban and rural communities.
 - The PRC brings much-needed transparency to the Postal Service, allowing Congress, ratepayers and the general public to examine USPS's cost structures, expenditures and revenues. The PRC invites public participation in matters before it (and appoints a representative for the public as a party in every proceeding) as required by PRA and PAEA, and hears complaints and post office closing appeals. The PRC began webcasting monthly Public Meetings in 2010.
 - The Commission's scope of responsibility – and accordingly, its relative workload – increased significantly under PAEA. The PRC endeavors to successfully meet all of these critical responsibilities as called for under the Act. In each case, the Commission has focused squarely upon completing its given statutory duties thoroughly and expeditiously.
22. The PAEA substantially changed the relative responsibilities of the Postal Board of Governors and the PRC.
- a. What are the key decisions the Commission has made under PAEA?
- I must preface this response by noting that I fully appreciate that *every* decision made by a Congressionally-empowered regulator holds important consequences for the operator, and thereby the shareholders; in this case the mailing industry and the American public. However, in identifying several key decisions that the PRC has taken since the enactment of PAEA, these stand alone:
 - The promulgation of rules and regulations, months ahead of schedule, for

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a new CPI-based ratemaking system. This required much deliberation, after considering public and USPS comment to fine-tune and develop in accordance with Congress's direction in the PAEA. I would consider this the centerpiece of PAEA, positively fundamental to the successful implementation of reform.

- The exigent (Type III) rate request ruling, of course – an endeavor that continues to this day – was the first major challenge to the modern system of setting rates. In any price cap-based rate system, the integrity of the price cap must be regarded as the key concept.
- Indeed, each price adjustment proposal the Commission has approved since PAEA enactment has had significant impact on the Postal Service and mailers, and provided the PRC an opportunity to encourage the USPS to use its flexibility to ensure that rates are fair and comport with title 39.
- While not Decisions, the Commission Advisory Opinions regarding the Postal Service Station and Branch Optimization and Consolidation Initiative and concerning the plan to Eliminate Saturday Delivery better informed the Postal Service regarding proposals they made regarding changes to postal services on a nationwide or substantially nationwide basis. It is clear from public comment we received that such proposals are very important to the American people.
- Throughout our decisions, there is a continuing commitment made by the Commission following the passage PAEA not to express authority beyond that granted to the PRC by PAEA and title 39. An important aspect of PAEA is to better permit the Postal Service to function like a private sector enterprise. In short, the USPS executive management team manages the Postal Service, not the PRC. The Commission has endeavored to support that intent through a reasoned and responsible, but light-handed, *ex post facto* regulatory review.

b. What are the key decisions you expect the Commission to make in the future under the PAEA?

Future key decisions for the future:

- A final resolution of the exigent case review.
- A final resolution of the “postal”/“nonpostal” products review.
- Recommendations in our forthcoming joint USPS/PRC periodicals study.
- Issuance of the Commission’s legislative recommendations in keeping with Section 701 of PAEA.
- In 2016, the PRC’s 10-year review of the present price-cap system method

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of rate setting, as mandated by PAEA.

c. Generally, what approaches do you advocate the PRC should take in regulating USPS and why?

- Generally speaking and in my personal experience, the most productive approach that the PRC can take in executing our lawful responsibilities is to do so while working to ensure a healthy level of proper dialogue between the two organizations and the postal community. The mandate included by Congress in the PAEA legislation calling for consultation between the agencies when addressing specific reform directives (such as the development of modern service standards for instance) has proven critically important. I believe that this statutory requirement has permitted, encouraged and indeed forced a more productive exchange of ideas and thought, and driven an environment of shared information that I am not convinced would otherwise have developed to the same degree.
- Since the enactment of PAEA, the Commission has endeavored steadfastly to abide by the legislative mandate granting greater USPS pricing flexibilities in exchange for more predictable rates in concert with enhanced disclosure and transparency. In evaluating USPS performance, the PRC has adhered to the *ex post facto* regulatory model, employing our most important regulatory tool – the Annual Compliance Determination – in advising Postal Service management how USPS activities comport with the provisions of the PAEA. The Commission has consistently encouraged Postal Service management to craft approaches balancing compliance and regulatory concerns with costs and operations. This record of involvement within the strict lawful bounds, and spirit of the provisions, of PAEA is generally expressive of my regulatory approach.

23. Debates about postal reform legislation raise fundamental questions about USPS's role in our nation, including the nature of the Postal Service's universal service obligation. The Postal Service is required by statute to provide "...a maximum degree of effective and regular postal services..."

a. What is your view of the Postal Service's universal service obligation?

- In addition to title 39's requirement, the USO was implied in the Constitution (Art. 1, Sec. 8), and is part of international law administered through the Universal Postal Union, and is reflective of the need for the USPS

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to serve an extremely large geographic area, including rural, remote and non-contiguous components.

- As the Commission found in the 2008 Report on Universal Service and the Postal Monopoly, the USO is defined by a variety of core elements including geographic scope, access, delivery, pricing, quality and range of products. The Postal Service must provide an accessible communications channel for all U.S. and territorial residents at affordable, uniform pricing.
- b. Do you believe the concept of universal service has evolved? If so, how? How do you believe USPS can adapt to meet that obligation?
- Yes. The dynamic core elements of Universal Service Obligation – including geographic scope, access, delivery, pricing, quality and range of products – develop, often independently, as time and technology advance. The powerful emergence of the Internet as a factor in the USO consideration is primarily, at this point at least, one of access – most importantly uniformity (or prevalence) of access. The Commission work on the USO provides a solid framework for future consideration of precisely how these changing components may be developing and interacting to impact the totality of the USO.
- c. In your view, what is the PRC's role in preserving universal service?
- Ensuring that the postal operator, in accommodating a changing postal landscape, endeavors to maintain a proper balance of the several central aspects of the USO.
- d. What PRC decisions or opinions have you been involved in that uphold the Postal Service's responsibility to provide universal service?
- Given that the PRC has identified the core elements of the USO to include geographic scope, access, delivery, pricing, quality and range of products, nearly every important postal regulatory action or finding impacts some element of the Universal Service Obligation. The exigent case, for example, drives pricing. The elimination of Saturday delivery Advisory Opinion relates to delivery. Post Office closing appeals concern access. The "postal" versus "nonpostal" products determination pertains to the range of products offered. This expression of comprehensive concern is the very nature of *universal* service.

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24. Since enactment of PAEA, the PRC has interpreted the term “non-postal service” through consideration of various USPS proposals for new products and services.
- a. In your view, do you believe the Postal Service should be allowed to compete in areas where there are private sector interests? If so, under what circumstances?
- Generally speaking, I believe that the Postal Service should not be competing with private sector business. The USPS should focus on products that maintain and enhance its core mission: the delivery of the mail. There may be, however, narrowly-defined instances where the Postal Service may formulate postal related products featuring components either developed by, or competing with, private sector providers.
- b. What concerns, if any, do you have about such efforts?
- Besides having the Postal Service perhaps stray too far afield from its statutory mission, my primary concern would be any unlawful, undue, unfair, or inequitable marketplace distortions wrought, unintentionally or otherwise, via the unique resources of the world’s largest government mandated monopoly.
- c. What role do you believe the PRC should play in the introduction or pricing of new products?
- The PRC has experience in extensive research and interpretation of the nature of the Universal Service Obligation. The PAEA directed the PRC to undertake the Report on Universal Postal Service and the Postal Monopoly (2008). Therein, the Commission explores in great detail the current status of the USO, its legislative history, economics, relevant public policy options and recommendations.
 - It is the PRC’s role to review Postal Service financial and volume reports to ensure the integrity of the USO while guarding against any undue marketplace distortions. In reviewing experimental “Market Test” product proposals, any proposed exception to the broad prohibition on competition with the private sector must be scrutinized on a case-by-case basis. Another of the regulator’s primary duties is to ensure that Competitive Products and programs are not subsidized by Market Dominant Product revenue.

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25. The PAEA sets forth a new process for resolving complaints against the Postal Service. Do you believe the PRC is equipped to review and resolve complaints promptly and fairly? If not, what challenges exist?
- The PRC has successfully resolved numerous informal complaints (367 filed during FY 2010) against the Postal Service prior to these having become fully litigated matters. Most complaints involved individual mailers with specific concerns, such as the location of a mailbox. The two-tiered process provides informal resolution for these matters and more formal procedures for broader complaints.
 - To date, in accordance with the PAEA complaint authority, the PRC has heard two formal complaints. In Docket C2008-3, one party achieved settlement with the Postal Service in 11 months. The second formal complaint (C2009-1) was fully litigated in nearly 24 months. During the course of this first comprehensive complaint process, the PRC encountered and resolved a number of first-time procedural and administrative issues. These included procedures for electronic discovery, as well as handling of commercially-sensitive materials. Now that the agency has established precedents for resolving such issues they can serve as templates for resolving such issues in future proceedings, and it is our belief that this will speed processing of future complaints.

Postal Ratemaking

26. Before the PAEA was enacted in 2006, 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. In your view, how has the ratemaking process changed from implementation of PAEA? Do you believe additional improvements to the ratemaking system are necessary?
- The PRC, upon enactment of PAEA, established a docket to engage the mailing community in the design of a reformed ratemaking system developed expressly to address these concerns. The result is a CPI-based rate setting system vastly unlike the former cost-of-service rate making. Pricing is set directly by the operator. The regulator then reviews and can approve proposed price adjustments in 45 days, rather than 10 months. This spares the mailing community the cost and confrontational nature of lengthy litigation. Based on PRC experience to date, The PAEA has greatly improved the ratemaking process and has accomplished its primary goal of streamlining the process.

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- As I noted earlier, it is my view that careful consideration of other proposed pricing approaches such as “bottom-up” pricing, allowing the USPS to adjust rates across classes beneath the price cap and/or incorporating an “x factor” in price cap calculations, should be an important part of this discussion going forward. PAEA does require the PRC to obtain public comment and review Market Dominant pricing ten years after PAEA enactment [see 39 U.S.C. 3622(d)(3)].
27. The PAEA codifies the Postal Service’s ability to enter into special classifications with mailers, referred to as Negotiated Service Agreements (NSAs). The Postal Service, however, has entered into very few domestic market-dominant NSAs. Some mailers cite the lengthy and cumbersome process for NSA approval, while other stakeholders have raised concern that NSAs may lead to unfair competition.
- a. What do you believe has hindered the use of this authority?
- Since the passage of PAEA, the Postal Service has presented only two Market Dominant NSAs and 6 Special Classifications. All have been approved by the Commission. Although the first Market Dominant NSA review took 8 months, analysis required significant additional information following the Postal Service filing. This seminal review provided an outline of all the data necessary to fully consider forthcoming Market Dominant NSA proposals in accordance with title 39 requirements.
 - The PRC reviewed and approved the second post-reform Postal Service request for a Market Dominant NSA in 60 days. In the course of our review, the Commission addressed and resolved several contentious new issues concerning the methodologies employed in the development of the NSA.
 - The process of negotiating NSAs with the USPS may hold unique challenges, but the PAEA process for reviewing NSAs before the PRC, as enacted by Commission regulation, does not require any mailer input. Therefore, from the mailers’ standpoint, regulatory review of NSAs is reasonably simple as they are not required to submit testimony or comments.
 - In the early development of Competitive Product NSAs the Postal Service and PRC experienced challenges in expediting review and approval of pending agreements. The issue was not a matter of law, but rather administrative and procedural inefficiencies inherent with the process both at the USPS and the PRC. The Commissioners and the Governors of the Postal Service agreed upon development of a more streamlined framework to help speed execution of some Competitive NSAs. This broad parameter review

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has helped to significantly decrease the Competitive NSA development, review and approval cycle. The average PRC review period for Competitive NSAs is 19 days. Perhaps a similar leadership interface regarding market dominant NSAs could likewise prove helpful.

- In the greater sense, the economic recession colors much of the present Postal Service circumstance, and it seems reasonable that the call for NSAs, in the midst of a historic period of declining mail volume, may also be depressed. However, business mail volumes appear, like the nation's economy, to be experiencing a tentative recovery and perhaps that will bring an improved NSA environment.

b. Do you believe the PAEA addresses and resolves these concerns?

- Yes; NSAs in both primary product categories, Competitive and Market Dominant, must comport with their individual title 39 requirements. NSAs are desirable and effective when they are crafted to meet the clear statutory goals of improving Postal Service operations or *net* financial position. These seem to be rational thresholds.
- The reform legislation requires that similarly situated mailers be eligible for functionally equivalent agreements. The PRC is empowered by PAEA to hear complaints to ensure that the NSA development process is working lawfully and not promoting unfair competition.

28. 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 supporting data the Postal Service provided 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 Postal Service's data are adequate?

- The PRC has enacted rulemaking guidelines in "RM" Dockets that encourage all participants to provide their best advice on how to get accurate costing data. As is the case currently, the Commission should hold final review authority in determining how to measure the adequacy of the data and methodologies used in determining the overall financial and operational impact of NSAs. In forwarding the cost formula dialogue, the PRC administers strategic rulemaking initiatives to help better evaluate where data may be improved. In the instance of NSAs, the gathering of additional NSA data may require the USPS to focus closer on customer needs and a greater understanding of where the mailer enters mail. USPS long-term financial

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goals benefit from improving such data quality.

29. Last year the Postal Service filed its first exigent rate case under PAEA, requesting to raise rates above the inflation-based rate cap. The PRC's unanimous decision to reject the proposed rate hikes was upheld by the Court of Appeals, except for one point of clarification that was remanded to the PRC. How can the Committee be assured that the Commission will decide the remand in accordance with the law?
- As a Commissioner, I believe that in a rate cap regulatory regime a primary responsibility of the regulator is to carefully guard the integrity of the rate cap. Otherwise the entire premise of the regulatory arrangement – the cap forces needed cost savings and related operational efficiencies – collapses. The exigent clause is a matter of on-going litigation between the Postal Service and the PRC. What the PRC has said, and what the U.S. Court of Appeals for the D.C. Circuit has affirmed, is that a cause-and-effect relationship exists between the exigent circumstance and the Postal Service request for revenue above the cap. How closely this “due to” nexus must be aligned is a question we are now in the process of resolving as required by the Court.
 - The decision to reject the Postal Service's proposed exigent rate hikes was based upon PRC statutory interpretation of title 39. The U.S. Court of Appeals for the D.C. Circuit asked the PRC to provide guidance beyond our finding. In Order No. 757 (July 11, 2011), the Commission invited public comment to further inform our deliberations. The deadline for comments is July 25, and the deadline for reply comments is August 1, 2011. Ultimately, the PRC looks to title 39 for guidance in all our rate decisions.

Service Standards and Other Performance Obligations

30. What do you believe the PRC's role should be in establishing performance standards for postal products and services and for holding USPS accountable for meeting these standards under PAEA?
- As provided in PAEA, the Postal Service established modern service standards and has consulted closely and regularly with the PRC throughout the process. Reasonable service standards should be reflective of consumer needs. Since Market Dominant product customers have no alternate service provider, meaningful consultation with stakeholders is essential to accurately assessing and meeting their needs. The PRC conducted public outreach

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through field hearings and reviewed formal public filings in the PRC Docket. Additionally, the PRC, through our observation at Mailers Technical Advisory Committee discussions, representation at public forums and meetings with individual mailers, has taken an active approach in the establishment of modern service standards (39 U.S.C. 3691) measurement.

- The PRC's role, monitoring USPS results, suffers from insufficient data. Despite USPS assurances that Intelligent Mail barcode (IMb) data would provide robust data for analyses, the IMb platform has not yet achieved its anticipated potential, as noted in our FY2010 Annual Compliance Determination.
31. The PAEA requires USPS to consult with the PRC in establishing modern service standards, as well as modifying the standards and planning for future standards. How do you believe this consultation should be carried out? What additional value, if any, do you believe the PRC can bring to this process? Do you believe PRC consultation has been effective thus far?
- The PAEA mandated that the Postal Service set modern service standards in consultation with the Commission. The Postal Service and the PRC accomplished this through ongoing monthly development meetings of the PMG and his executive team and the Commission and staff. From my standpoint, these consultations work well toward informing both agencies regarding our relative positions and mutual mission in these pursuits. I might note that the PAEA does not include similar provisions for the Postal Service to consult with the Commission when changing the established service standards, nor does the law require notice be given by the USPS when changes may be made. It is my belief that the Postal Service should be required to consult, or at least notify in advance, the Commission of any planned service standard changes.
 - The PRC brings transparency and accountability to the process by actively seeking and considering stakeholder input. The Commission also balances service and rate issues and provides this perspective to the Postal Service during our consultations.
32. PAEA also required the Postal Service to measure and report service performance for all market dominant products. The Commission recently found that the Postal Service's service results for bulk First-Class Mail, Standard Mail, Packages and Periodicals remain deficient. How do you think the Commission and the Postal Service should address this deficiency and what do you think are the main reasons for these problems?

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- The Commission's role in monitoring service standard performance is more robust under PAEA. The PRC can find the Postal Service out of compliance and order appropriate remedies. One of the central drivers for the noted present deficiency is that the Postal Service has received less mailer participation in their primary mailing data collection program, the Intelligent Mail barcode (IMb), than initially anticipated. This, in turn, has led to data concerns regarding representativeness for the totality of the mailstream. Additionally, there have been concerns related to timing ("start-the-clock") data – some of which resulted from Postal Service software problems and some of which were due to mailer errors in electronic manifests. The Postal Service recognizes these problems and recently has instituted changes engineered to make progress in resolving these issues.
 - If these concerns cannot be resolved satisfactorily, the Commission may be required to revisit our earlier conditional approval of use an internal measurement system (in this case, IMb) for use in performance monitoring.
33. In your view, what degree of transparency should USPS 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 Postal Service should – at minimum – provide data on annual service standards, annual service performance targets, annual actual service performance scores by product, for all Market Dominant products; and the reason for any discrepancies between targets and actual scores. The Commission also finds that stakeholders want quarterly data by area and district and in the interest of transparency the Postal Service should, in time, provide that data.
 - To date, the Postal Service has not been able to provide all of the service measurement data required by the Commission's rules. The Commission expects the data to be adequate in the future as Postal Service management continues to address and refine its data collection and reporting programs.
34. 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.
- a. What is your opinion of this mandate, and what do you believe should be the role of the PRC in implementation of it?

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- Overall, the PAEA Sarbanes-Oxley reporting requirements have resulting in an improvement in transparency and substantial cost savings. The "SOX" requirements function in concert with PAEA policy driving the Postal Service to operate in a more business-like manner as well as ensuring greater accountability. The PAEA requires the Postal Service to report (for disclosure) to its regulator, financial and operational details in the same fashion as corporations report to the Securities and Exchange Commission.
- The PRC role is to ensure full and timely filing by the USPS of the required reports accompanied by complete disclosure. These provide an additional window to USPS finances and operations.

b. Do you believe the Postal Service has satisfied this mandate?

- Yes, I believe that the Postal Service has met the PAEA Sarbanes-Oxley reporting requirement. The USPS team charged with managing the SOX implementation has periodically briefed the PRC and staff concerning the progress and status of this project. All indications are that the SOX protocols are in full compliance both ahead of schedule and below budget. The SOX disciplines identify revenue and financial measures which should be tightened. Additionally, USPS management reports that the information gleaned from SOX practices has proven to be a useful management tool in identifying new opportunities for increasing operational (cost) efficiencies.

35. In March 2011, the PRC issued an advisory opinion about the USPS's proposal to reduce delivery to five days per week. In its opinion, the PRC identified many shortcomings in the USPS's proposal, including a lack of consideration for the disproportionate effect the proposal would have in rural areas.

a. What role do you believe the PRC's opinion should play in Congress's decision to allow USPS to reduce delivery days?

- The PRC's opinion in this matter should inform the decision makers in Congress concerning the likely consequences of eliminating Saturday mail delivery.
- The Commission found in our Advisory Opinion on the Postal Service proposal for elimination of Saturday delivery that a likely outcome would be less savings and a greater impact on service than anticipated by the Postal Service. More troubling for me, however, was the Commission's view that the Postal Service may not have adequately evaluated the impact of its

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proposal on customers who reside or conduct business in rural, remote, or non-contiguous areas.

- The essence of my current concern in providing the Postal Service more flexibility to reduce the frequency of mail delivery at this time is that it that the implementation of this USPS proposal across America in a uniform fashion would, regretfully, appear to have a disproportionate effect. Indeed in those areas of the country (rural, remote, or non-contiguous areas) that may be most reliant upon Saturday delivery mailers will be the most negatively impacted. The PRC found that the Postal Service contention that broadband internet would effectively fill the gap in serving this population is unrealistic at current penetration levels.
 - In our AO, the Commission also found greater access to, and adoption of, new and emerging technologies should help bridge this gap overtime. Accordingly, the circumstances under which I believe that Congress should allow the Postal Service more flexibility to reduce the frequency of mail delivery includes a greater availability and adoption of electronic or other alternative access capabilities throughout the Nation. I should note that the Postal Service, over the course of the development of its proposal for the elimination of Saturday delivery, demonstrated a willingness and capability to adapt its plan to address key business concerns. For example, USPS proposed accommodations for remittance mail users. Perhaps an arrangement could be made to ensure that rural, remote and non-contiguous customers receive an appropriate, similar level of service.
- b. Please explain your views on whether you believe the PRC's opinion should be binding rather than advisory.
- Given all of the above, a change in the frequency of the Nation's postal delivery from six days to five is, in my view, certainly an issue of sufficient magnitude to warrant Congressional determination. This is an instance, however, where I feel also that, should Congress so decide, the Postal Regulatory Commission is the governmental agency most suited to render that binding judgment.
 - The Postal Service elected to respond to the PRC Advisory Opinion on the proposal to eliminate of Saturday delivery. Some have suggested that the USPS be required to respond to PRC AO findings before initiating its proposals. I agree that this would provide greater transparency to USPS decisions.

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Post Office Closings and Relocations

36. In your opinion, does the existing process for closing and relocating post offices adequately protect the interests of postal customers and the affected communities? If not, what additional protections do you believe are necessary?
- When the regulations and procedures established for the closing and relocating of post offices are properly, thoroughly and consistently administered, yes. In my view, present protocol does afford postal customers and affected communities adequate opportunity to make their views and concerns known. The key here is in ensuring due process – that is the regulator’s concern.
37. Do you believe the PRC should have final authority over post office closings?
- No. I do, however, believe that the PRC should hold responsibility to review, if requested by the community, post office closures to ensure proper adherence to relevant process and procedures.
38. Does the process for closing and relocating post offices need to be improved?
- In some respects, yes. Postal Service management has been reviewing its post office closure process to establish more centralized and standardized criteria and procedures for use in making these decisions. On July 14, the Postal Service published its new rules. I am hopeful these procedures will result in a successful outcome: more careful and consistent administration of these determinations.
39. Do you believe the Postal Service should have additional flexibility to more quickly and easily close post offices? If so, what impact do you believe this will have on USPS’s current retail network?
- a. In the last year, USPS has expanded its retail network to existing retail facilities, such as Office Depot. What is your view on USPS’s efforts to offer postal products and services at existing retail facilities and other alternative retail locations?
- It is my impression that the existing network of post offices is often not well aligned with many modern consumer needs and habits. I believe that the Postal Service management recognizes this as well. The Postal Service has

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announced it is making changes in an effort to better address such concerns. Provided that the PRC continues to be engaged with the USPS in a general advisory and procedural oversight role, I am hopeful the Postal Service can manage suitable changes and improvements as quickly as possible. Key considerations should include proper public input as well as suitable alternative access arrangements that adequately accommodate the Universal Service Obligation.

- b. To what extent do you think the availability of postal services at alternative locations should be a key factor when considering closing or consolidating traditional retail facilities?
- Access to facilities is one aspect of the Universal Service Obligation and the availability of service through appropriate alternatives should be a central consideration for the Postal Service before closing or consolidating traditional retail facilities.
- c. Are improvements needed to the PRC's appeals process related to closing and consolidating post offices? If yes, what specific changes do you believe are needed? If no, please explain why you believe the current process is viable.
- In my view, the PRC post office closing appeals process suffers most from one important point of statutory ambiguity: should the Commission hold oversight responsibilities for the closing of post office branches, stations and other facilities? This question has been a longstanding point of dispute between the Postal Service and the PRC. Final word from Congress regarding the precise authority it intended would bring needed clarity to both agencies' public duties.

IV. Relations with Congress

40. 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.
41. 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?

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- Yes.

V. Assistance

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

- Yes. I have consulted with the PRC and staff.

AFFIDAVIT

I, Mark D. Acton, 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.

Mark D. Acton

Subscribed and sworn before me this 18th day of July, 2011.

[Signature]
Notary Public

MY COMMISSION EXPIRES
DECEMBER 14, 2012