FACTFINDING PROCEEDINGS BEFORE
SUSAN HALPERIN (CHAIR),
JOSHUA JAVITS, AND ROBERT HITE,
NEUTRAL FACTFINDERS

IN THE MATTER OF:

UNITED STATES POSTAL SERVICE

AND

NATIONAL ASSOCIATION OF
POSTAL SUPERVISORS

UNITED STATES POSTAL SERVICE'S PREHEARING BRIEF TO THE FACTFINDING PANEL

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In the fall of 2017, the Postal Service began its statutorily directed pay consultation process with the National Association of Postal Supervisors (NAPS). Despite multiple meetings over many months, extensive proposal exchanges, and significant modifications by the Postal Service to the first iteration of its pay decision, NAPS remains dissatisfied with several components of the Postal Service's proposed pay package. NAPS has now elected to pursue factfinding before this Federal Mediation and Conciliation Service panel. The Postal Service submits this prehearing brief in advance of the December 10-11 hearing to familiarize the panel with the history and mission of the Agency, its current dire financial outlook, the parties' good faith consultations leading to the pay decision at issue, the relevant legal standard governing the consultations, and the issues to be addressed by the panel. The Postal Service contends that after all the information is presented, the panel will conclude that the Postal Service fulfilled its statutory consultation obligations, made substantial concessions in response to NAPS' proposals, and issued a pay decision that provides managerial and supervisory employees with a competitive wage and benefits package that meets, and often exceeds, the compensation paid for similar levels of work in the private sector.

I. THE MISSION OF THE POSTAL SERVICE

A. The Postal Service's Public Service Mandate Is Unique in Size and Scope

The Postal Service is older than the nation itself.[1] In 1970, Congress reformed the Post Office Department and created the United States Postal Service as a "basic and fundamental service provided to the people by the Government" in order "to bind the

[1] The first Postmaster General, Benjamin Franklin, was appointed by the Continental Congress in 1775.

Nation together" by offering "prompt, reliable, and efficient services to patrons in all areas and [by rendering] postal services to all communities." 39 U.S.C. § 101(a). Not surprisingly in light of this universal delivery service mandate, the Postal Service's size and scope of operations dwarfs almost every other business in America. Even with the recent cataclysmic drops in mail volume—plummeting nearly 30% over the last decade—the Postal Service processed and delivered over 146 billion pieces of mail to approximately 159 million delivery points in FY 2018, including over a million new delivery points from the previous year.

Despite a decades-long automation program and numerous other operational innovations, the Postal Service's work remains highly labor-intensive. Currently, some 634,000 employees work to accomplish the responsibilities of the Postal Service. Although this is down from 798,000 employees in 2006, personnel costs still account for over 76% of the Postal Service's expenses. The requirement to process and deliver such a large number of mail pieces to every delivery point in the country six days a week necessitates a large labor force, the cost of which unavoidably dominates the Postal Service's balance sheets.

B. The Postal Service Was Structured to Operate with the Financial Discipline of a Private Commercial Enterprise

When Congress restructured the Nation's postal operations in 1970, it did so with the goal of creating a more efficient and market-driven enterprise modeled on the private sector. The Postal Service became an "independent establishment in the executive branch" and was exempted from many laws that apply to other federal agencies' "contracts, property, works, officers, employees, budgets, or funds." 39 U.S.C. §§ 201, 410(a). Congress expected the Postal Service to operate on a financially self-sufficient basis, with modern management practices and work methods, operational efficiencies, and cost controls that would eliminate the need for government subsidies. 39 U.S.C. §§ 101(f), 403(b), 2010, 3621[2] (2005); *see also id.* § 2401(b)-(d) (authorizing only limited taxpayer appropriations to the Postal Service).

Congress also removed itself from the arduous and politically-charged tasks of setting postal rates and establishing postal wages. Instead, it created a separate Postal Rate Commission to review proposed changes in postal prices to ensure that the Postal Service was operating on a responsible and sound fiscal basis, was not overcharging the American public, and had sufficient funds to fulfill its mission. 39 U.S.C. §§ 3601, 3621 (2005). As for postal wages and other terms of employment, Congress applied to the Postal Service an employee and labor relations model largely distinct from the rest of the federal government and substantially patterned after labor relations in the private sector. 39 U.S.C. §§ 1202-1206, 1209. Although rank-and-file bargaining unit postal employees are not permitted to strike, they are allowed to collectively bargain over most wages, hours, and working conditions, with impasses in negotiations ultimately settled in final and binding interest arbitration. 39 U.S.C. § 1207(d); *see* H.R. Rep. No. 91-1104, at 14-15. As discussed more fully below, consistent with standards applicable in the private sector, Congress specifically excluded managers and supervisors from participation in collective bargaining.

Thus, commencing in 1970, the clear import of postal reorganization was to establish a United States Postal Service different from the old Post Office Department and unlike other federal agencies: a Postal Service operating under sound business

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[2] Former section 3621 is now 39 U.S.C. § 404(b).

principles comparable to a private enterprise, supported by revenue generated by providing quality service at fair prices, and employing a workforce at market-based compensation levels. *See* H.R. Rep. No. 91-1104, at 2, 5, 6, 11-12 (expressing the House's intent to enable the Postal Service to operate in a "businesslike" manner). That trajectory continued under the more recent Postal Reorganization Act, which sought to grapple with the complex financial realities of the Postal Service, and the dramatically changing market for mail and parcel delivery services.

C. The Postal Accountability and Enhancement Act (PAEA) Increased the Pressure on the Postal Service to Be Financially Responsible

In 2006, Congress enacted the first comprehensive reform of postal statutes in more than 30 years. The PAEA 1) dramatically altered the mechanisms for pricing postal products, 2) imposed obligations to prefund retiree health benefits on a specified schedule, and 3) provided the Postal Service with some flexibility in product design, but also imposed various restraints and requirements.

The PAEA divides postal products and services into two broad categories: "market-dominant products" and "competitive products." Market-dominant products include First-Class Mail, Marketing (Standard) Mail, Periodicals, and certain Package Services like Bound Printed Matter: products with respect to which the Postal Service has either a legal or a *de facto* monopoly. Competitive products include Priority Mail Express, Priority Mail, Parcel Select, and certain other parcel services: products for which the Postal Service has significant competition from private competitors. Currently, market-dominant products account for over 95% of total postal volume and 67% of total postal revenues.

Prices for each class of market-dominant products are capped at the rate of consumer inflation as measured by the Consumer Price Index for All Urban Consumers (CPI). 39 U.S.C. § 3622(d)(1)(A), (2)(A).[3] Prices for competitive products are subject, in effect, to a price floor. Each product's revenues must cover 100% of its attributable costs, and competitive products must collectively cover an "appropriate share" of institutional costs. 39 U.S.C. § 3633(a)(2)-(3). Essentially, the Postal Service must price competitive products high enough so as not to lose money and, therefore, avoid cross-subsidization from the market-dominant side. The market itself also imposes a functional price cap on these intensely competitive products. Thus, while Congress theoretically afforded the Postal Service more latitude to increase competitive product prices, market conditions functionally limit the Service's ability to recoup revenue losses through growth in competitive product volume.

The PAEA also imposed on the Postal Service the unique, and unrealistic, burden of prefunding its projected future retiree health benefits (RHB) on an accelerated ten-year schedule, with annual installments ranging from $5.4 billion to $5.8 billion. 5 U.S.C. § 8909a(d)(3)(A).[4] These prefunding payments were in addition to payments that the

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[3] In 2016, as prescribed by law, the Postal Regulatory Commission reviewed the price cap to determine its conformity with various statutory objectives and to modify or replace the cap as necessary. The Commission completed its evaluation in December 2017. While the Commission concluded that the pricing system did not fully achieve the goals set forth in the PAEA, the Commission refused to eliminate the price cap entirely and gave the Postal Service limited additional flexibility to increase prices. *See* PRC Concludes Rate System Has Not Achieved Necessary Objectives and Issues Proposed Rulemaking to Address Shortcomings, *available at* https://www.prc.gov/sites/default/files/pr/10%20year%20Order%20and%20NPR%20Release.pdf.

[4] In 2009, Congress adjusted the FY2009 installment to $1.4 billion. Continuing Appropriations Resolution, 2010, Pub. L. No. 111-68, § 164(a) (2009).

Postal Service already made toward health insurance premiums for current annuitants. *Id.* § 8906(g)(2)(A). Beginning in FY2017, annuitant health insurance premiums began coming out of the Postal Service Retiree Health Benefits Fund rather than out of the Postal Service's pocket, but the Postal Service was required to begin making amortization payments on any remaining unfunded RHB liability, as well as making normal cost payments into the Fund. *Id.* §§ 8906(g)(2)(A), 8909a(d)(2)(B), (3)(B). Predictably, these prefunding burdens proved unsustainable, and the Postal Service defaulted on the required payments between 2012 and 2016, and also defaulted on its normal cost and amortization payments in both FY2017 and FY2018. The obligation going forward will continue to drag like an anchor on the Postal Service's balance sheet, as the defaults on pre-funding obligations drive even higher ongoing amortization payments.

Congress did grant the Postal Service a ten-year holiday from making payments toward any unfunded Civil Service Retirement System (CSRS) liability. *Id.* § 8348(h)(2)(B). However, beginning in FY2017, the Postal Service was required to commence amortization payments on this unfunded liability. *Id.* The Postal Service defaulted on these payments in both FY2017 and FY2018. The combination of RHB and CSRS amortization payments, along with the payments required to fund the Postal Service's liabilities toward the Federal Employees' Retirement System, mean that the Postal Service's RHB and pension obligations remain sizeable and unaffordable.

The Postal Service has been critical of some of the provisions of the PAEA, especially the limitations imposed by the CPI price cap and the aggressive schedule for prefunding retiree health benefits. The PAEA has proven not to be well-suited to deal with the gravity of the precipitous decline in mail volumes that occurred shortly after its passage. Whether any legislative adjustments will be made remains to be seen and cannot be assumed. Regardless, it is clear that under the current PAEA or any revised version of it, the Postal Service will have to continue to seriously address its cost structure to have any opportunity to stabilize its financial situation in the intensely competitive markets in which it must increasingly operate.

II. THE POSTAL SERVICE'S BUSINESS OUTLOOK

From the effective date of the Postal Reorganization Act in 1971 through 2006, mail volume increased. Volume peaked in 2006 at 213 billion pieces. By 2009, the depth of the great recession, that figure had plummeted to 177 billion pieces, a decline of almost 17% in three years. While much of American industry has since recovered, mail volume has continued a precipitous slide. By the end of FY2018, mail volume was down to 146 billion pieces, an additional loss of almost 18% since 2009.

Continued electronic diversion (i.e., displacement of conventional mail by electronic communication alternatives such as e-mail and web-based social networking) has exacerbated the loss of the Postal Service's most profitable class of mail—First-Class Mail—which has declined from 95.3 billion pieces in 2007 to 56.7 billion pieces in FY2018 (a loss of over 40%). Moreover, as electronic payment options continue to expand and gain in popularity, the lost volume of bills, financial statements, and remittances will continue to decline with no return in sight. Marketing (Standard) Mail fell from 103.5 billion pieces in 2007 to 82.7 billion pieces in 2009 (a 20% decline), stabilizing slightly more recently, with the 77.3 billion pieces in 2018, representing a loss of 6.5% since 2009.

The Postal Service has aggressively grown its parcel and other competitive products, which have increased from 3.3 billion pieces in 2007 to 6 billion pieces in 2018. As the term suggests, however, the Postal Service must compete with companies like FedEx and UPS for this volume, and additional competition from regional and other carriers continues to intensify. These products have a lower profit margin than First-Class Mail and cannot possibly make up for the loss of revenue caused by the diversion of First-Class Mail. Therefore, while competitive product volume has grown and is expected to continue to grow, it is wishful thinking to believe that revenues from the sale of competitive products will ever compensate for lost market-dominant volume, particularly the extraordinary decline in First-Class Mail letters.

Meanwhile, the number of delivery points to which the Postal Service must deliver has grown from 127.8 million in 2007 (at a cost then of $0.36 per piece delivered) to 138 million in 2017 (at a cost today of $0.48 per piece delivered). The diminishing revenue per delivery point, as a result of both reduced volume and more delivery points, is a key and troubling trend that strains the Postal Service's ability to provide mail service affordably. Unfortunately, the Postal Service expects these trends to worsen in the upcoming years.

The reality of these volume and revenue trends has enormous implications for the Postal Service. The steep declines in mail volume generally, and in First-Class Mail volume in particular, coupled with the restrictive price controls and massive debt obligation, require extraordinary fiscal discipline and aggressive management of controllable costs. Growth in parcels and other competitive products can help, but they cannot make up for the loss of First-Class Mail revenue.

It is against this fiscal backdrop and the extraordinary and likely permanent changes in the delivery market that the Postal Service must strike a delicate balance between carrying out its statutory mandate to provide "prompt, reliable, and efficient services to patrons in all areas and [by rendering] postal services to all communities," 39 U.S.C. § 101(a), and satisfying its duty to set wages and benefits with reference to compensation paid for comparable levels of work in the private sector. 39 U.S.C. §§ 101(c), 1003(a).

III. EMPLOYEES REPRESENTED BY THE NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

Approximately 92% of the Postal Service's 634,000 employees are rank-and-file bargaining unit members represented by one of seven postal unions, including: city letter carriers (National Association of Letter Carriers, AFL-CIO); rural letter carriers (National Rural Letter Carriers Association); retail and mail processing clerks, maintenance, and motor vehicle personnel (American Postal Workers Union, AFL-CIO); mail handlers (National Postal Mail Handlers Union, A Division of LIUNA, AFL-CIO); postal police (Postal Police Officers Association); information technology and accounting services employees (IT/AS); and nurses (National Postal Professional Nurses). The salaries of these employees are established through collective bargaining agreements negotiated between the Postal Service and its unions. 39 U.S.C. §§1202-1209. The recognition of these unions and the general course of relations between management and bargaining unit employees are governed by the National Labor Relations Act, 29 U.S.C. §151, *et seq.*, the same statute applicable to private sector employers. 39 U.S.C. §1209.

In addition to its unions, the Postal Service also has two managerial associations representing non-bargaining supervisory and managerial personnel in accordance with 39 U.S.C. §1004: The United Postmasters and Managers of America ("UPMA"), representing postmasters, who serve as installation heads at post offices throughout the United States, and the National Association of Postal Supervisors ("NAPS"), representing approximately 27,000 managers, supervisors, and professional, administrative, and technical personnel in the field.[5]

Congress expressly excluded Postal Service supervisory and managerial employees from representation in any collective bargaining unit. 39 U.S.C. §1202(1). This was a conscious choice rooted in the desire to avoid a compulsory bargaining process that might polarize the interests of top management and lower level supervisors. As explained by the D.C. Circuit:

> This caveat is very precise in its repudiation of any compulsory mechanism for resolving disputes between the Postal Service and its management personnel. The reason for the concern seems clear: Congress did not want to create a setting in which top management could be pitted against lower level management; instead, it envisioned a system that could bring together all levels of management, with the top echelon dependent on the lower level to assist efforts at improved service and the lower levels correspondingly dependent on the top echelon for the rewards of that assistance.

[5] The Postal Service anticipates that NAPS will ask the factfinding panel to address whether the Postal Service is required to consult with NAPS on the pay decision for approximately 7,500 Executive Administrative Schedule (EAS) employees who report directly to postal Headquarters. But factfinding is not the appropriate forum to address NAPS' ability to represent these individuals, as Congress confined the panel's jurisdiction to "recommend[ing] *standards for pay policies and schedules and fringe benefit programs* affecting the members of the supervisors' organization . . . ." 39 U.S.C. § 1004(f)(3)(A) (emphasis added). Regardless, the Postal Service and NAPS agreed in 1978 that "NAPS is not the representative of any USPS personnel employed in Washington Headquarters . . . ." Ex. 20 (1978 Memorandum of Understanding Re: NAPS Representation). While that agreement expired in 1981, the parties have continued to operate pursuant to its terms.

Nat'l Ass'n of Postal Supervisors v. U.S. Postal Service, 602 F.2d 420, 437 (D.C. Cir. 1979).

Thus, by statutory design, supervisory and other managerial personnel have no right to collectively bargain with the Postal Service over wages, benefits, and other terms and conditions of employment.

IV. STATUTORY REQUIREMENTS FOR THE PAY AND BENEFITS OF NAPS-REPRESENTED EMPLOYEES

In lieu of bargaining rights, Congress afforded duly-recognized associations representing such personnel the ability "to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees." 39 U.S.C. §1004(b). In order to facilitate this participation, the Postal Reorganization Act outlines a framework under which the Postal Service engages in regular and ongoing consultations with duly-recognized managerial associations, such as NAPS, over a variety of subjects and programs relating to supervisory employees. 39 U.S.C. §§1004(b)-(e). Indeed, the parties have a long history of working collaboratively and cooperatively together on a host of different issues of mutual interest, such as revising the Supervisor Workload Credit system that determines the number of Supervisors, Customer Services in post offices and carrier stations, and developing and enhancing a more streamlined program for the selection and training of new supervisors. With respect to pay policies and schedules and fringe benefit programs specifically, the PRA directs the Postal Service to make any proposed changes to the association within 45 days of the date on which it reaches agreement on a collective bargaining agreement with the representative of its largest rank-and-file bargaining unit, solicit the association's input and recommendations, afford any such recommendations full and fair consideration, and then engage in efforts to resolve differences concerning the proposal prior to reaching a decision. 39 U.S.C. §§1004(d)-(e).

In vesting the Postal Service with broad authority to establish its compensation policies, Congress expected the Service to behave like a private sector employer and establish pay scales with reference to the competitive market for talent. Accordingly, the PRA provides that:

> It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy.

39 U.S.C. §1003(a). Similarly, with respect to supervisory and management personnel in particular, the PRA provides that:

> It shall be the policy of the Postal Service to provide compensation, working conditions, and career opportunities that will assure the attraction and retention of qualified and capable supervisory and other managerial personnel; to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and other managerial personnel; to establish and maintain continuously a program for such personnel that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations; and to promote the leadership status of such personnel with respect to rank-and-file employees, recognizing that the role of such personnel in primary level management is particularly vital to the process of converting general postal policies into successful postal operations.

39 U.S.C. §1004(a). To be clear, however, while Section 1004(a) provides for a private sector comparability standard and maintenance of some pay differential between management and the rank-and-file:

> Section 1004(a) does not set a fixed differential . . . . [i]t does not mandate that management personnel receive increases as much or more than . . . rank-and-file

> workers through the collective bargaining process; it does not hold the agency to an express formula for computing the salary differential; it does not define a precise relationship between the compensation received by one class of postal employees and that received by another . . . . Congress chose instead to leave the precise differential to the discretion of the agency, mandating only that the differential at any time be "adequate and reasonable."

Nat'l Ass'n of Postal Supervisors, 602 F.2d at 433.

The adequacy and reasonableness of the differential is to be assessed in light of the other standards Congress included in the PRA to guide postal compensation decisions, including: compensation paid for comparable work in the private sector, the need to attract and retain management talent, and the importance of promoting the leadership status of management personnel relative to the employees they supervise. *Id.* at 435; 39 U.S.C. §1004(a). However these factors must be balanced against "the Postal Service's overall responsibility, articulated in 39 U.S.C. §101(a), of providing 'prompt, reliable, and efficient' postal services." *Nat'l Ass'n of Postal Supervisors*, 602 F.2d at 435. Moreover, "it is for the Postal Service and the Postal Service alone," to resolve conflicts among the standards, and so long as the Postal Service has considered the statutory factors and arrives at a good faith judgment regarding a differential that is adequate and reasonable in light of these factors, its duty is complete . . . ." *Id.*

Under the PRA, if a management association is dissatisfied with a Postal Service decision to make changes in pay policies and schedules and fringe benefit programs for members of the organization, the association may, after engaging in the required consultations and efforts to resolve differences, request factfinding pursuant to 39 U.S.C. §1004(f). The responsibility of a panel convened under that section is as follows:

> (A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the supervisors' organization for the period covered by the collective bargaining agreement specified in subsection

> (e)(1) of this section [i.e. the most recent agreement covering the largest rank-and-file bargaining unit].
>
> (B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such polices, schedules, and programs.

39 U.S.C. §1004(f)(3). The panel recommendations shall be made within 30 days after appointment, unless the parties agree otherwise, following a hearing conducted in such manner as the panel directs. As observed by the 2012 USPS-NAPS factfinding panel, in light of the long and productive history of collaboration and mutual respect between the parties, factfinding proceedings have been conducted in a non-adversarial and informal manner, with a focus on problem solving rather than litigious posturing. Ex. 3 (2012 Factfinding Report) at 3-4.

V. NAPS-REPRESENTED EMPLOYEES ENJOY GENEROUS WAGES AND BENEFITS

A. Postal Managers and Supervisors Earn Wages and Benefits Comparable to Those in the Private Sector

The managerial and supervisory employees represented by NAPS enjoy a generous wage and benefits package that is comparable, and often exceeds, the compensation paid for similar levels of work in the private sector of the economy. NAPS-represented employees are compensated on the Executive Administrative Schedule (EAS).[6] Each EAS grade has an accompanying salary range. See Ex. 4 (2018 EAS Pay Schedule). A new postal employee hired into the EAS schedule is generally paid the

[6] Manager or supervisor jobs are assigned EAS grade levels 17 through 26. The pay grade levels for professional, administrative, and technical field personnel range from EAS 12 through 26.

minimum salary for the grade level of the position to which he or she is hired; however, an appointing official has the flexibility to set the starting salary up to the midpoint of the range, and may even request an exception to set the starting salary over the midpoint if the candidate has exceptional qualifications. Ex. 5 (Employee and Labor Relations Manual ("ELM")) at Section 412.12. If an employee is promoted into the non-bargaining EAS schedule from a bargaining unit job, he or she receives a five percent basic salary increase (or more, if necessary to bring the employee's salary to the required minimum). Ex. 5 at Section 413.22. When employees are promoted *within* the EAS schedule, the Postal Service follows a specific formula to determine the employee's new rate of pay within the salary range for his or her grade level. *See* Ex. 5 at Section 413.21.

As the Postal Service will demonstrate in factfinding, when compared to the salaries for similar levels of work in the private sector, the salaries of NAPS-represented employees are approximately 5.7% above market. The average salary of a NAPS-represented employee is $72,427. In addition to their salaries, and unlike most managers and supervisors in the private sector, some NAPS-represented employees receive additional pay for overtime,[7] annual leave exchange,[8] night shift differential, and Sunday

[7] Some NAPS-represented technical and administrative positions receive Fair Labor Standards Act (FLSA) overtime pay at one-and-one-half times the employee's regular rate of pay for hours worked over 40 in a work week. *See* Ex. 5 at Section 443. Other NAPS-represented supervisory employees are entitled to straight-time pay for hours worked in excess of 8.5 hours in a day or if asked to work on a non-scheduled work day. *See* discussion *infra* Part V.C.

[8] Selling future annual leave for cash. *See* Ex. 6 at Section 512.633.

premium.[9] When factored into the average supervisor's pay, these additional sources of pay bring average total annual cash compensation to $81,602.

NAPS-represented employees also enjoy extensive paid leave, health insurance, and retirement benefits. NAPS-represented employees receive up to 49 paid days off per year (up to 13 days of paid sick leave, 10 federal holidays and, depending on their tenure, up to 26 annual leave days). *See* Ex. 6 (ELM) at Sections 512, 513, 518.1. In terms of health insurance, NAPS employees have a choice of healthcare plans under the Federal Employees Health Benefits (FEHB) program, with the Postal Service covering approximately 72% of the weighted average of health insurance premium costs. Ex. 6 at Section 520. The Postal Service also makes available basic life insurance coverage to all NAPS employees through the Federal Employees' Group Life Insurance Program, and pays for 100% of the basic life insurance premium. Ex. 6 at Section 530.

In addition, postal retirees participate in one of two very generous and expensive pension plans—either a defined benefit pension through the Civil Service Retirement System, or, for most employees hired since 1987, a combination defined benefit/defined contribution plan through the Federal Employees Retirement System. Ex. 6 at Sections 560, 580. Retired postal employees and their survivors also receive the same health insurance as if they were active employees for the rest of their lives, with the Postal Service covering a substantial portion of the premium (approximately 72%).

By any measure, postal fringe benefits—paid leave, health insurance, life insurance, and retirement benefits—are generous and costly. As the Postal Service's

[9] Premiums paid for scheduled work between 6:00 P.M. and 6:00 A.M. or for work on Sundays. *See* Ex. 5 at Sections 434.2, 434.3.

benefits expert will testify, the fringe benefits package for NAPS-represented employees (without considering the additional cost and value of retiree health benefits) costs the Postal Service approximately $17.44 per work hour. By contrast, the benefits package for the average private sector employee costs about $10.38 per hour, meaning NAPS employees receive an approximate 68% benefits premium over their counterparts in the private sector. Factoring in the value of Postal benefits drives the total average annual compensation of NAPS-represented employees to over $100,000. This substantial benefits premium cannot be overlooked when evaluating the reasonableness of the total compensation of NAPS employees against the private sector comparability standard set forth in the Postal Reorganization Act.

B. Pay-for-Performance Rewards Employees for Organizational Success

The Pay-for-Performance ("PFP") system is the sole source of annual salary increases and lump sum payments for career non-bargaining unit employees. PFP is a performance-based system that ties pay increases to success at the organizational and unit (i.e., local) levels, consistent with the Postal Service's mandate to establish and maintain a program "that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations." 39 U.S.C. §1004(a); *see also* Ex. 7 (Pay-for-Performance Evaluation Rules for Field EAS Employees) at 1.

The foundation of the Pay-for-Performance program is a balanced scorecard of objective performance indicators that focus on customer service, business improvement, and profitability, and are measured under the National Performance Assessment ("NPA") program. NPA is a web-based system that collects performance-related metrics such as retail revenue, Priority Mail service performance, deliveries per total workhours, etc., from various postal systems. These metrics are translated into web-based scorecards that can be used to monitor the performance of both the entire enterprise and of individual units across the country.

The goal of PFP, like other variable pay programs common in the private sector, is to provide accountability as well as a shared vision of and cooperative efforts toward focused goals and organizational success. When the organization and defined operational units meet objectives, managers and supervisors in those units are rewarded accordingly, with annual increases under the current system, of up to 9%. Where organizational or operational unit performance falls short, pay increases are adjusted accordingly. Field EAS employees are evaluated under a combination of performance indicators at both the corporate and unit level, then assigned a rating based on the end-of-year outcomes for each indicator and its distance from a target set at the beginning of the year. That rating is then translated into a pay action—the higher the rating an employee receives, the greater the wage increase associated with the rating.[10]

PFP was developed with the input and consultation of the management associations. *See* Ex. 21 (2003 *The Postal Supervisor* Excerpt on PFP) ("'This new evaluation system goes a long way in taking subjectivity out of the appraisal process,' President Vincent Palladino said. 'The majority of an employee's appraisal rating will be

[10] Employees not at the top of the pay range within their pay grade receive a pay increase based on their PFP rating. However, employees may not receive a percentage increase which will take them beyond the limit of their grade. For that reason, employees at the top of the range are given a lump sum (or a combination of pay increase and lump sum) based on their PFP rating, to keep them within the pay range for their grade. It is also possible for employees to not receive any sort of increase under PFP depending on the organization's and their unit's performance in a given year. *See* Ex. 8 (FY2018 Pay-for-Performance EAS Pay Rules) at 2.

based on objective measures of performance. That's good for our members and good for the Postal Service.'"). Prior to 2012, PFP contained an individual performance evaluation component for field EAS employees that contributed to an employee's final rating. This individual component was a "source of contention" between the parties, and the objectivity and accuracy of the performance evaluations that made up the individual component were often debated. Ex. 3 at 8. The 2012 Factfinding panel recommended that a working group of NAPS and Postal Service representatives be convened to develop recommendations for modifying the PFP, giving particular attention to the changes needed to the individual component of the program with a view toward "making the PFP process more transparent." *Id.* The Postal Service accepted the panel's recommendation: it discontinued the individual component of PFP and convened a work group with NAPS to develop recommendations for the PFP program, paying particular attention to changes needed to the individual component. *See* Ex. 9 (FY2011-2015 Field EAS Pay Decision) at 1. The work group provided recommendations to the Postal Service on revisions to the PFP program in October 2012. All recommendations were adopted and implemented. To date, the individual performance evaluation has not been reintroduced to PFP.

Since PFP was introduced in 2004, NAPS-represented employees have received meaningful wage increases in the years in which PFP payments were made. (Postal Service employees, like all federal government employees, experienced a two-year wage freeze between 2010 and 2012.) Commensurate with the design of PFP, employees generally received higher increases in years of better Postal Service performance. The following chart illustrates the average PFP wage increase and lump sum payment for NAPS-represented employees over the past decade:

	Avg. PFP Salary Increase	*Avg. Lump Sum*	***Total Average PFP***	***Percentage of Employees Who Did Not Receive Any Increase or Lump Sum***
FY 2007*	3.81%	1.17%	**4.98%**	1%
FY 2008	3.50%	1.19%	**4.69%**	1%
FY 2009	2.51%	0.48%	**2.99%**	10.5%
FY 2010	3.65%	1.56%	**5.21%**	1%
FY 2011	**PFP payments were suspended for FY2011 and 2012, consistent with the recommendations of the 2012 Factfinding Panel.**			
FY 2012	***See* Ex. 3 at 8.**			
FY 2013†	1.00%	0.00%	**1.00%**	0%
FY 2014	1.99%	0.08%	**2.07%**	0%
FY 2015	1.34%	0.06%	**1.40%**	38.4%
FY 2016	2.63%	0.15%	**2.78%**	0.5%
FY 2017	1.33%	0.11%	**1.44%**	16%

* PFP payments are made in January of the following calendar year. (For example, FY2007 PFP payments/ salary adjustments were made in January 2008.)

† In its 2011-2015 Pay Decision, the Postal Service committed to revisiting PFP for FY2013 based on economic conditions in place at the time. Ex. 9 at 1. The Postal Service ultimately applied a 1% across-the-board general increase in lieu of PFP for FY2013.

While no variable performance based pay system is perfect, the Postal Service, in consultation with its managerial and supervisory associations, has developed a pay for performance model that, in the words of the 2012 factfinding panel, "contributes to improved performance of the Postal Service and provides appropriate and equitable means for measuring performance and compensating NAPS members." Ex. 3 at 8.

C. The Postal Service Maintains Adequate and Reasonable Differentials in Rates of Pay Between the Line Work Force and Supervisory and Other Managerial Personnel

The Postal Reorganization Act requires the Postal Service to "provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and other managerial personnel." 39 U.S.C. §1004(a). To comply with this directive, the Postal Service developed a mechanism known as the Supervisor Differential Adjustment ("SDA"). *See* Ex. 5 at Section 412.12. The SDA adjusts the minimum salary of FLSA-exempt employees in positions in EAS Grade 15 through 19 who directly supervise two or more bargaining unit employees to ensure a minimum salary differential between supervisors and the positions they supervise. *Id.* To establish the SDA, the Postal Service chose benchmark bargaining unit positions (usually the most populated level and step of the salary schedule for a craft supervised) on which to base the differential. *See* Ex. 5 at Section 412.12(b); Ex. 10 (Occupation Codes Eligible for the Supervisor Differential Adjustment).[11] For example, under the SDA, employees in front-line supervisor positions who supervise maintenance employees are guaranteed a minimum salary five percent above that of a bargaining unit

[11] NAPS has expressed dissatisfaction with the Postal Service's decision to use benchmark positions on which to base the differential. But the Agency's decision is consistent with the statute, which requires only that the differential be "adequate and reasonable." 39 U.S.C. § 1004(a). Importantly, the statute "does not hold the agency to an express formula for computing the salary differential" and "does not define a precise relationship between the compensation received by one class of postal employees and that received by another." *Nat'l Ass'n of Postal Supervisors*, 602 F.2d at 433. While NAPS might prefer that the Postal Service always select the position that will result in the highest salary for its members—i.e., the highest-paid position that the supervisor supervises—that method is unworkable; it would require the Postal Service to continually evaluate, on a supervisor by supervisor basis, the salaries of each craft employee he or she supervises. In an organization of the Postal Service's size, this would be an arduous task, requiring many more payroll resources than the agency currently maintains. And even that method would not satisfy NAPS' apparent preference for establishing a differential based on cash compensation. Basing the differential on cash compensation would require the Postal Service, again on a supervisor by supervisor basis, to establish the supervisor's salary using a fluctuating figure that incorporates overtime and other forms of non-scheduled pay earned by craft employees. Congress cannot have intended to saddle the Postal Service with such a burdensome and unstable process of establishing an "adequate and reasonable" differential.

maintenance employee at Grade 10, Step P of the APWU salary schedule. *See* Ex. 5 at Section 412.12(b). SDA minimums for supervisors are adjusted each time the relevant bargaining unit salaries are increased, ensuring the differential is maintained.

Although SDA sets a minimum differential in supervisors' rate of pay, the majority of NAPS-represented employees make more than the SDA minimum. In total, only 23% of NAPS-represented employees in positions eligible for the SDA make the SDA minimum; the rest earn higher base salaries, creating an even greater differential between the rate of pay of bargaining unit employees and supervisors. Nonetheless, NAPS has claimed that the SDA is inadequate because it fails to take into account overtime worked by bargaining unit employees, purportedly resulting in the total cash compensation of bargaining unit employees often being much higher than that of supervisors. As the Postal Service will demonstrate at the hearing, this claim is demonstrably false; in fact, average total cash compensation of managers and supervisors exceeds that of bargaining unit employees. Moreover, NAPS' position ignores the concessions the Postal Service has made toward this very issue: in 1996, in consultation with the management associations (including NAPS), the Postal Service created a "special-exempt" status for front-line supervisors in EAS Grades 18 and below to avoid the sort of differential compression NAPS claims occurs. *See* ELM, Section 434.143; Ex. 11 (Non-bargaining Special Exempt Position Titles). These special-exempt employees are eligible for additional pay at the straight time rate if authorized to work over 8.5 hours on a scheduled day, or if requested to work any hours on a non-scheduled day. Factoring in these payments, in 2017, the average Level 17 Supervisor Customer Service (one of NAPS' most populated job categories) took home $74,987 in total cash compensation, while the average city letter carrier at the top step of the carrier salary schedule (i.e., the most senior group) took home $69,922, and the most senior APWU clerks took home $65,931 on average.

Ultimately, the Postal Service has broad discretion to set the supervisory differential. *See Nat'l Ass'n of Postal Supervisors*, 602 F.2d at 435 ("Some factors, like the differential requirement, may at times conflict with others, like the comparability standard. But it is for the Postal Service and the Postal Service alone to resolve those conflicts."). The law does not contemplate a precise salary differential; it does not mandate that management personnel receive increases as much as or more than bargaining unit employees; and it does not hold the Postal Service to a particular formula for computing the salary differential. *Id.* at 433.

D. The Postal Service Has No Problem Attracting and Retaining Managers and Supervisors

While both sides will present the testimony of economic experts at the hearing as to the comparability of Postal Service pay and benefits relative to the market, the best real world indicator of comparability is whether employees are leaving the organization for better opportunities elsewhere. Voluntary quit rates are perhaps the most direct and easily understood measure of comparability in particular labor markets. Firms that pay below market wages will tend to have high quit rates as employees will "vote with their feet" and move to firms where they can earn higher wages. Conversely, firms that pay above market wages will tend to have low quit rates. As shown in the table below, voluntary quit rates among NAPS-represented employees are extraordinarily low—even when compared to quit rates in the Federal sector. *See* Ex. 12 (Barry T. Hirsch, et al., *Postal Service Compensation and Comparability Standard*) at 265 ("By any measure, quit rates are exceedingly low in the Postal Service, corroborating evidence for a large compensation premium.”).

Voluntary Quit Rates for USPS Managerial and Supervisory Employees vs. Private and Federal Sector Employees					
	2013	**2014**	**2015**	**2016**	**2017**
USPS Managers and Supervisors	0.4	0.3	0.5	0.6	0.7
Private Sector	20.3	22	23.8	25.2	26
Federal Sector	4.9	5.4	5.4	5.8	6.7

Source for Private and Federal Sector Data: Bureau of Labor Statistics Job Openings and Labor Turnover Survey, March 16, 2018, *available at* https://www.bls.gov/news.release/jolts.t18.htm.

Statistics on Postal Service employee turnover have been cited by eminent interest arbitrators (and the 2012 factfinding panel) as compelling evidence of the competitive—indeed, premium—wages and benefits offered by the Postal Service, which remains an employer of choice. *See*, *e.g.*, Ex. 13 (2015 Goldberg Interest Arbitration Award with the American Postal Workers Union, AFL-CIO) at 11 (“Another factor which stands out are [*sic*] the quit rate data which show that career Postal employees voluntarily leave their jobs at a rate far lower than do private sector employees. . . . I conclude that the almost total unwillingness of APWU-represented employees to leave their jobs voluntarily is powerful evidence that they view their compensation and benefits as superior to what they would receive elsewhere . . . . [I]t does not suggest that the Postal Service is lagging the private sector in wages and benefits.”); Ex. 3 at 9 (“The evidence presented to the Panel demonstrated that the Postal Service is not experiencing problems in attracting or retaining qualified employees in the EAS positions and that the current salaries across the country are meeting the standard of comparability for similar levels of work in the private sector.”).

In addition to its ability to retain existing employees, the Postal Service has no issues attracting qualified managerial and supervisory employees to EAS jobs. The Postal Service will present testimony that only 5.1% of Postal Service EAS jobs are currently vacant in the Postal Service nationwide. Of those roughly 2,200 vacancies nationwide, only 6 have had job postings open more than a year; the majority have been vacant and posted to be filled for less than 60 days. In other words, the Postal Service is able to fill EAS positions quickly and with no demonstrable shortage of qualified applicants. This, too, supports the conclusion that EAS salaries are attractive and in line with similar opportunities in the private sector.

VI. THE POSTAL SERVICE'S PAY DECISION MEETS THE STATUTORY STANDARD AND IS REASONABLE IN LIGHT OF ITS FINANCIAL SITUATION

A. The Postal Service Is Struggling to Endure an Extremely Difficult Financial Situation and Has Required Shared Sacrifice Across the Organization

As discussed above, the Postal Service is insolvent and has experienced eleven consecutive years of net losses, with a cumulative loss of $65.1 billion dating back to FY 2006. The Postal Service has sought to cut costs throughout the organization. It has consolidated 360 facilities and 20,000 delivery routes. It has reduced hours in 13,000 post offices. It has invested in continuous improvement programs to improve efficiency and eliminate waste. It has purchased and deployed sophisticated automated mail processing and tracking technologies that have resulted in dramatic reductions in the size of its workforce. It has aggressively negotiated with unions representing its rank-and-file employees to secure significant economic concessions, including two-tiered salary structures, the ability to hire a non-career workforce with substantially lower pay and benefits, reductions in the employer contribution to health care, modest wage increases, and additional operational flexibility.[12] During this time, the Postal Service has also reduced administrative costs at its Headquarters and other offices, and demanded shared sacrifices from its executives.[13]

B. The Postal Service Fully Engaged in the Consultative Process with NAPS Prior to Issuing Its Decision

It was against this financial backdrop and history of shared sacrifice that the Postal Service made its most recent pay decision for supervisors and managers, understanding its responsibility to "control costs and manage the . . . agency in a manner consistent with its views of what is the economical and efficient thing to do." *Nat'l Ass'n of Postal Supervisors*, 602 F.2d at 432. In reaching its pay decision, the Postal Service engaged a lengthy and productive consultative process with NAPS. On August 7, 2017, the NALC (the Postal Service's largest union) ratified a three-year collective bargaining agreement. On September 21, 2017, the Postal Service sent NAPS its initial pay proposal for FY2016 through FY2019, pursuant to 39 U.S.C. §1004(e). *See* Ex. 14 (September 21, 2017 Initial Pay Proposal). The parties scheduled their first discussion on the proposal for October 19, 2017. Between October 19, 2017 and June of 2018, the parties met seven

[12] Between May 2011 and February 2013, the Postal Service finalized the 2010 and 2011 National Agreements with its four major unions. All four National Agreements provided essential economic relief to the Postal Service in the form of, among other changes, a two-year wage freeze, COLA modifications, lower wages for new career employees, and a new noncareer category of employee. All told, these negotiated provisions have saved the Postal Service over $13 billion since 2011.

[13] Postal executives had their salaries frozen in 2008, 2010, 2011, 2012, and 2013, and did not receive any performance-based lump sums in 2009, 2011, 2012, 2013, or 2014. In 2012, Postal executives began contributing to their health insurance premiums, and today contribute 28% toward the cost of health insurance (the same as NAPS-represented EAS employees).

times to discuss the pay proposal, and the Postal Service revised its pay package on April 6, 2018, and May 15, 2018, and issued its decision on June 28, 2018. *See* Exs. 15 (April 2018 Revised Draft Pay Decision), 16 (May 2018 Revised Draft Pay Decision), 17 (June 28, 2018 Pay Decision). On July 5, 2018, NAPS notified the Postal Service that it planned to pursue factfinding in accordance with 39 U.S.C. §1004(f)(1). On July 20, 2018, the Postal Service again revised its June 28, 2018 pay package decision for NAPS-represented employees to comport with a similar decision reached with UPMA. *See* Exs. 18 (July 20, 2018 Pay Decision), 19 (*UPMA Leader* Excerpt) at 8-10. UPMA accepted the Postal Service's pay package and declined to pursue factfinding; NAPS chose to continue with factfinding. *See* Ex. 19 at 7.

During its consultations with NAPS, the Postal Service carefully considered NAPS' input and made several changes to its pay decision based on NAPS' feedback, including the following:

- Significantly raised the minimum salaries for most of the grades in the EAS salary structure;
- Maintained the status quo for the employer health benefits contribution for the duration of the pay package;
- Upgraded the EAS-12 Administrative Assistant (Field) position to level EAS-15 and awarded a 2% salary increase;
- Continued a 15-point rating system as part of the Pay-for-Performance program;
- Allowed for greater promotional pay increases;
- Agreed to establish a joint work team for the purpose of exploring and resolving issues regarding Field EAS salaries and grades.

Ex. 18 at 4-5. The Postal Service fulfilled its obligation to consult in good faith with NAPS, affording them the opportunity to "participate directly" in the process. 39 U.S.C. §1004(b). This obligation requires good faith consultation, but not agreement. As noted in *Postal Supervisors:*

> [T]he Postal Service must discuss its proposed compensation policies with [NAPS] before those policies go into effect, and . . . such discussions must be conducted in a meaningful, good faith manner. Under no circumstances, however, does this mean that the Postal Service can be forced to accept [NAPS'] proposals on compensation policies or even be compelled to negotiate those policies with the Associations.

602 F.2d at 426. Here, the Postal Service fully satisfied its statutory obligation, and the result is a pay package that is fair, balanced, and fiscally responsible.

C. The Components of the Postal Service's Pay Decision are Adequate and Reasonable

The Postal Service's July 2018 pay decision impacts several areas of field EAS employee compensation: Pay-for-Performance, salary ranges, health benefits, promotional pay, and upgrades of particular positions. *See* Ex. 18. The pay decision reflects a measured approach to managerial and supervisory compensation, based on private sector comparability, the importance of a well-motivated workforce, the maintenance of a differential in the rate of pay of management and the rank-and-file workforce, NAPS' input, and the Postal Service's overarching responsibility to provide efficient postal delivery and control its costs.

1. *Pay-for-Performance*

The Postal Service did not and does not propose major changes to the PFP program. For FY2018, the Postal Service proposes to maintain the same PFP matrix that was established by the FY2011-2015 pay decision and recommended by the 2012

Factfinding panel. *See* Ex. 18 at 1; Ex. 3 at 9. Under this matrix, the majority of NAPS-represented employees (63%) will receive a pay increase, lump sum, or combination of the two, paid in 2019. Although NAPS advocated for across-the-board increases for all its members, the variable pay program implemented by the Postal Service is the norm in the private sector and was approved in the last factfinding as a necessary and appropriate pay structure. While the Postal Service's National Performance Assessment scores for FY2018 were lower than anyone would have preferred, that does not make the Postal Service's proposed pay matrix inherently unreasonable. As our compensation expert will testify, commensurate with the private sector, as members of management, NAPS-represented employees' compensation is tied to the success of the organization.

For FY2019, the Postal Service, in response to input from NAPS, agreed to a modification to the matrix to allow for a 1.0% lump sum payment in Cell 3, with smaller percentage increases in the remaining cells. *See* Ex. 18 at 2. This matrix will allow the Postal Service to control labor costs in a precarious financial environment, while providing a greater segment of the NAPS-represented population of employees with the opportunity for a lump sum or wage increase. The Postal Service also proposes to maintain the composite weights that result in an employee's PFP rating at 60% for the corporate score and 40% for the unit score. *See* Ex. 18 at 3. This is the same ratio recommended by the joint work group on PFP that the Postal Service formed with NAPS in response to the 2012 Factfinding Report.

2. *Salary Minimums*

Again incorporating input from NAPS, the Postal Service proposes significant raises to the minimum salaries of NAPS-represented employees. *See* Ex. 18 at 3. In most instances, the Postal Service's proposals either met or exceeded the salary ranges offered by NAPS. The proposed increases to the salary minimums are as follows:

EAS Schedule			
Grade	**OLD Minimum**	**NEW Minimum**	**% Increase**
15	$46,309	$46,500	0.4%
16	$48,360	$48,500	0.3%
17	$50,507	$52,800	4.5%
18	$52,724	$52,800	0.1%
19	$55,221	$60,000	8.7%
20	$58,217	$65,300	12.2%
21	$61,046	$71,000	16.3%
22	$64,843	$73,300	13.0%
23	$68,378	$77,300	13.0%
24	$71,764	$82,000	14.3%
25	$75,332	$93,000	23.5%
26	$79,090	$99,900	26.3%

All NAPS-represented employees whose current salaries fall below the new minimum for their position's salary range will be brought up to the new minimum. To the extent NAPS disagrees with the Postal Service's changes to the salary ranges, the Postal Service's pay decision provides for a joint work group with NAPS to explore and resolve issues regarding Field EAS salaries and grades. *Id.* at 4. The Postal Service has agreed to continue meeting with NAPS to determine increases to the salary ranges for FY2019.

3. *Components of the Decision Not Challenged by NAPS*

The Postal Service does not propose any change to the employer contribution for health benefits. Ex. 18 at 3. NAPS supports this proposal. Additionally, the Postal Service increased the amount of promotional salary increase available to employees whose salaries fall below the maximum of the grade into which they are promoted. The Postal Service also proposes a restriction on promotion pay for employees who voluntarily take a downgrade only to apply for an upgrade within the same year. *Id.* at 3. Both proposals are supported by NAPS and are not at issue in this factfinding.

D. NAPS' Economic Proposals Are Unreasonable, Contrary to the Comparability Standard, and Would Unduly Burden the Ability of the Postal Service to Be Competitive in the Future

We anticipate NAPS will ask the panel to recommend several of its suggestions made in pay consultations, none of which are justified under the statute or reasonable given the Postal Service's financial situation.[14]

First, during pay consultations, NAPS presented several alternative pay matrices for PFP, each designed to ensure a greater number of managerial and supervisory employees receive pay increases. NAPS' proposal ignores the very purpose of PFP (a program developed in consultation with and previously endorsed by NAPS)—to align pay increases with the performance of the organization. Rather, NAPS insists that across-the-board wage increases are needed to boost allegedly poor employee morale, a complaint belied by the extraordinarily low quit rate among EAS employees.[15] As members of management, it is appropriate that the compensation of NAPS-represented employees be tied to the success of the organization and the performance of their

[14] In addition, NAPS has expressed its intention to raise a number of issues outside the narrow jurisdiction that Congress conferred on the factfinding panel. The Postal Service submits that the panel's statutory role is clear and limited: "[t]he panel shall recommend *standards for pay policies and schedules and fringe benefit programs* affecting the members of the supervisors' organization . . . ." 39 U.S.C. §1004(f)(3)(A) (emphasis added). The Postal Service will not accede to efforts on the part of NAPS to expand the statute by raising issues tangential to the pay decision.

[15] NAPS also points to the negotiated wage increases received by the Postal Service's bargaining unit employees. Those wage increases are the result of a give-and-take in collective bargaining that does not (and legally cannot) exist for management associations such as NAPS. The wage increases received by bargaining unit employees are offset by bargaining concessions made by the unions (*e.g.*, a lower salary schedule for new career hires); NAPS offers no such concessions here.

individual unit. NAPS-represented employees may have greater downside risk when the organization is not successful, but they also have greater potential for reward—in past years up to a double-digit salary increase if they obtained the highest rating in the PFP matrix.

NAPS has also revived the issue of locality pay for its members, an issue addressed and rejected by the factfinding panel in 2012 due to the cost and complexity of developing and implementing such a program, and the absence of evidence that the Postal Service was experiencing problems attracting or retaining qualified employees in EAS positions. *See* Ex. 3 at 9. Since that time, the Postal Service's financial position has only worsened, while its turnover rates remain trivial.[16] The only conceivable way a locality pay program could even be contemplated would be if it was structured in a cost-neutral manner—i.e., by cutting the salaries of supervisors and managers in lower-cost areas to offset increases for employees in high-wage areas—an approach attractive to no one. More importantly, there continues to be no demonstrated need for locality pay, as the Postal Service still experiences turnover rates that pale in comparison to either the private or federal government sectors.[17] Thus, the justifications for rejecting NAPS' call for locality pay are even stronger now than in 2012.

NAPS' proposal for retroactive across-the-board wage increases is similarly misguided. In addition to PFP payments its members have already received and may receive in FY2019 and FY2020, NAPS proposed a 5% additional retroactive pay increase for FY2016, a 2% retroactive pay increase for FY2017, and 2% across-the-board

[16] *See* discussion *supra* Part VI.A.

[17] *See* discussion *supra* Part IV.D.

increases for FY2018 and FY2019, allegedly to compensate for perceived delays in implementing a pay decision for FY2016-2019. NAPS' request presumes the Postal Service purposefully delayed a pay package for its members, when, in fact, the delay was a consequence of following the requirements of 39 U.S.C. §1004(e)(1).[18] NAPS' request also conveniently ignores the fact that the Postal Service voluntarily increased salary ranges for EAS positions in 2016, 2017, and 2018, and maintained PFP payouts in those years, during the pendency of the predicate negotiations with rank-and-file employees. There was thus no harm to NAPS-represented employees that would require unprecedented additional compensation.

Furthermore, NAPS' proposal for retroactive wage increases is not justified by private sector comparability; as the Postal Service will demonstrate, the salaries and benefits of the employees NAPS represents are already comparable to, and in many cases, exceed those paid for similar work in the private sector of the economy. Nor can NAPS justify its proposal from an internal equity standpoint—between 2016 and 2018, bargaining unit employees received an average wage increase of 2.2% per year, including cost-of-living adjustments. NAPS is asking for an additional 2 to 5% on top of the wage increases its employees already received from PFP. Given its dire financial situation, the

[18] The 2011-2015 pay decision for NAPS' members expired with the collective bargaining agreement of the APWU, which was the Postal Service's largest union at the time the collective bargaining agreement was reached. *See* 39 U.S.C. §1004(e)(1). At the time of the 2011-2015 pay decision's expiration in May 2015, the NALC had overtaken the APWU as the Postal Service's largest bargaining unit. The Postal Service was thus obligated by 39 U.S.C. §1004(e)(1) to wait until the conclusion of the collective bargaining process with the *NALC* (which occurred on August 7, 2017) before making a proposal for any changes in pay policies and schedules and fringe benefits for NAPS-represented employees. The Postal Service opened pay consultations with NAPS on September 21, 2017—within the 45-day statutory timeframe. *See id.*

Postal Service simply cannot justify giving managerial and supervisory employees significant retroactive across-the-board wage increases that no one else has received and which have no basis under the private sector comparability standard.

VII. CONCLUSION

The pay and benefits package proposed for NAPS-represented employees in this round of consultations is consistent with the requirements of the PRA. For that reason, the Postal Service asks that the panel make a recommendation to that effect.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

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