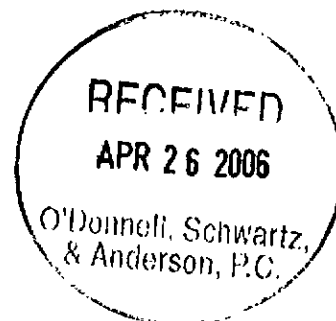


BEFORE  
JOSEPH M. SHARNOFF  
ARBITRATOR



**In the matter of the Arbitration Between:**

UNITED STATES POSTAL SERVICE

AND

Case No. Q90M-4Q-J  
94021635

NATIONAL POSTAL MAIL HANDLERS  
UNION, AFL-CIO

("Letter Mail Labeling  
Machine LMLM")

AND

AMERICAN POSTAL WORKERS UNION, AFL-CIO

**Appearances:**

For the USPS:

Patrick M. Devine, Esquire  
Labor Relations Specialist

For the NPMHU:

Bruce R. Lerner, Esquire  
Alyson Foster, Esquire  
Bredhoff & Kaiser, P.L.L.C.

For APWU:

Anton Hajjar, Esquire  
O'Donnell, Schwartz & Anderson, P.C.

**OPINION AND AWARD  
OF THE  
ARBITRATOR**

This grievance, Case Q90M-4Q-J 94021635, was filed by the National Postal Mail Handlers Union, AFL-CIO [Mail Handlers or NPMHU herein] in protest of the assignment by the United States Postal Service [Postal Service or USPS herein] of the jobs on the "Letter Mail Labeling Machine" [LMLM herein] to employees represented by the American Postal Workers Union [APWU herein], rather than to employees represented by the NPMHU. The letter from the USPS to the

NPMHU, dated January 6, 1994, states, in relevant part:

This letter is in regard to the Letter Mail Labeling Machine (LMLM). After reviewing the equipment operation, the Postal Service has determined that the operator of this equipment should be compensated as a PS Level 4. The duties performed by the operator of the LMLM are similar to those duties currently performed by a Mail Processor, PS-4.

\* \* \*

The NPMHU, by letter dated February 9, 1994, filed the instant grievance, which alleges that the USPS, by its letter, dated January 6, 1994, "which indicated that the USPS determined the operator of the LMLM would be a Mail Processor PS-4", violated Article 15.4, Arbitration, and Article 19.2, Handbooks and Manuals, of the National Agreement between the NPMHU and the USPS, for the period November 20, 1990, to November 20, 1993 [NPMHU-USPS Agreement herein].

Arbitration hearings on this matter were held on the following dates: June 16 & 17, and September 28, 2004; and January 26, and March 15, 2005. The Arbitrator, accompanied by representatives of each of the Parties involved in this grievance, had a tour of a Postal Facility to view the operation of a LMLM; the Parties were advised and agreed that none of the discussions during the tour concerning the operation of the LMLM or any other matter would form part of the record in this case and the Parties were advised to present any such statements they wished to have a part of the record as testimony at the hearing. The Arbitrator received the following respective Post-Arbitration hearing brief from each Party: the brief for the APWU was received on August 2, 2005; the brief for the NPMHU was received on August 3, 2005; and the brief for the USPS was received on August 4, 2005.

**RELEVANT PROVISIONS OF THE  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE UNITED STATES POSTAL  
SERVICE, THE AMERICAN POSTAL WORKERS  
UNION, AFL-CIO, AND THE NATIONAL POSTAL  
MAIL HANDLERS UNION, A DIVISION OF  
LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, AFL-CIO**

**REGIONAL INSTRUCTION 399 - DISPUTE RESOLUTION PROCEDURES  
Dated April 16, 1992**

### General Principles

The parties to this Agreement agree to a new procedure for resolving jurisdictional disputes under Regional Instruction 399 (hereafter "RI-399"). The new procedures will be implemented sixty (60) calendar days after the effective date of this Agreement.

Effective with the signing of this Agreement, no new disputes will be initiated at the local level by either union challenging jurisdictional work assignments in any operations as they currently exist. Except as otherwise specifically provided in the New or Consolidated Facilities, New Work, or Operational Change sections contained in this memorandum, all local craft jurisdictional assignments which are not already the subject of a pending locally initiated grievance will be deemed as a proper assignment for that facility.

In order to provide for expeditious and efficient resolution of jurisdictional disputes only one representative case shall be processed for each operation/function in dispute. Multiple disputes arising out of the same or substantially similar issues or facts shall not be allowed.

\* \* \*

### National Level

The National Dispute Resolution Committee (NDRC) shall have sixty (60) calendar days after receipt of a properly filed or appealed dispute to attempt to resolve the dispute.

1. Either union party may initiate a dispute at the National level when such dispute involves an interpretive issue which under the National Agreement is of general application. Such disputes shall be provided to the National Committee, in writing, and must specify in detail the facts giving rise to the dispute, the precise interpretive issues to be decided and the contentions of the Union.
2. If a dispute is resolved, a tripartite settlement agreement will be signed by the parties.
3. If the dispute is unresolved at the end of the sixty (60) calendar day period, a tripartite decision will be written by the Committee setting forth the position of each party. The moving Union may appeal the dispute to National Arbitration within twenty-one (21) calendar days of the date of receipt of the written decision of the

Committee. Copies of the appeal will be provided to the other parties.

\* \* \*

New Work

This section refers to implementation of RI-399 involving work which had not previously existed in the installation.

The procedures for activation of a new or consolidated facility shall apply to the assignment of new work to an installation. The standards contained in Section II.E of RI-399 shall apply in making the craft determinations.

\* \* \*

**RELEVANT PROVISIONS OF  
THE NPMHU-USPS NATIONAL  
AGREEMENT For the Period:  
November 20, 1990 - November 20, 1993**

Letter of Intent  
Regional Instruction 399

The parties recognize that Regional Instruction 399 identifies the mail handler craft as the primary craft for the transportation of mail. In this regard, when mail is transported via an elevator, the principle contained in Regional Instruction 399 that the mail handlers craft is the primary craft for transportation of mail applies.

Regional Instructions Part 300  
Postal Operations  
1805-PO-204

Subject	Date	Filing No.
Mail Processing Work Assignment	2/16/79	399

Guidelines

I. INTRODUCTION

The enclosed "Mail Processing Work Assignment Guidelines," provide primary craft

designations relative to the performance of specific mail processing work functions. Compliance with the principles contained therein is mandatory and applicable to the assignment of all categories of employees in the regular work force. These assignment guidelines are to be implemented at all postal installations which perform mail processing, in accordance with the implementation criteria outlined below and consistent with the terms of the 1978 National Agreement.

## II. IMPLEMENTATION CRITERIA

### A. Efficient and Effective Operation

All actions taken relative to implementation of these guidelines must be consistent with an efficient and effective operation. Consistent with this obligation, no postal installation shall declare employees excess, increase the number of employees and/or increase work hours solely as a result of this instruction.

### B. Four (4) Hours Criteria

If there are four (4) or more hours of continuous work consisting of one or more work functions in one or more operations designated to the same primary craft, the performance of the work should be assigned to an employee of that primary craft.

### C. Distribution Activities

Where the functions of obtaining empty equipment, obtaining unprocessed mail, loading ledges and sweeping are an integral part of the distribution function and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.

### D. Changes in Duty Assignments

No employee's current duty assignment will be modified by removing functions designated to another primary craft until and unless such duty assignment becomes vacant through attrition. In addition, management may continue to revert or abolish positions no longer needed.

### E. Assignment of New and/or Additional Work

Assignment of new or additional work, not previously existing in the installation, shall be made in accordance with the primary craft designations contained in this instruction.

## III. IMPLEMENTATION PROCEDURES

\* \* \*

MAIL PROCESSING WORK ASSIGNMENT  
GUIDELINESU. S. Postal Service  
November 15, 1978(The June 15, 1979 (1096-PO-209) Revision to the Mail Processing Work  
Assignment Guidelines (1085-PO-204) have been incorporated herein.)

11/15/87

## POST OFFICE - PRIMARY CRAFT DESIGNATIONS

<u>Operation</u>	<u>Function</u>	<u>Primary Craft</u>
010 Originat- ing Mail Prep- aration	1. Transport empty equipment.	Mail Handler
	2. Obtaining mail (courtesy win- dows, drop units, staging areas etc.).	Mail Handler
	3. Open and dump sacks or other containers.	Mail Handler
	4. Cull (separate mail by type, and make basic local/out of town splits into trays, hampers, conveyors, etc.). Distribution to cases or sack/pouch racks will be assigned in accordance with the appropriate distribution operation.	Mail Handler
	5. Tray loose metered mail, etc.	Mail Handler
	6. Face and cancel letters on the facer canceler (Mark II or	Mail Handler

equivalent).

	7. Cancel letters on Mark II that were rejected on first pass.	Mail Handler
	8. Hand cancel, cancel with Model G or other device.	Mail Handler
	9. Tray canceled mail for distribution operations.	Mail Handler
	10. Rate and cancel short paid mail.	Clerk
	11. Repair damaged letters.	Mail Handler
	12. Examine sacks for mail content.	Mail Handler
	13. Identifying and reporting, as appropriate, mail not meeting postal regulations.	Clerk
	14. Back stamping of missent mail.	Mail Handler
020 Originating Meter Mail Preparation	1. Transporting empty equipment.	Mail Handler
	2. Prepare originating metered, permit imprint, and official penalty mail received from collection routes, lobby drop, dock, slides, chutes, conveyors, and other sources for distribution.	Mail Handler
	3. Traying letters and separating mail by type into different containers, separating by local and out of town.	Mail Handler

4. Reporting mail with incorrect meter dates and rating short paid mail. Clerk

5. Identification and handling of presorted and riffle mail. Clerk

\* \* \*

030 Combined  
Outgoing-  
Incoming Letter  
Primary

1. \*Transporting empty equipment. Mail Handler

2. \*Obtaining letters from staging areas for distribution. Mail Handler

3. \*Loading ledges. Mail Handler

[footnote]\* In offices where the tasks of obtaining empty equipment, obtaining unprocessed mail, loading ledges, sweeping and containerizing is an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution.

4. Manual distribution of letter mail. Clerk

5. Distribution of NIXIE mail. Clerk

6. \*Sweeping, containerizing and transporting. Mail Handler

7. Identifying and reporting, as appropriate, mail not meeting postal regulations. Clerk

8. \*Pulling and transporting pouches and/or other containers. Mail Handler

\* \* \*

\*See asterisk below Operation 030.



\* \* \*

080-087 MPLSM Distribution	Machine distribution of all classes of letters Note: Allied labor required is normally performed by clerks because of the rotation system employed.	Clerk
----------------------------------	---	-------

088-089 Optical Character Reader Distribution	OCR machine distribution of all classes of letters Note: See O80-987 note.	Clerk
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\* \* \*

## BACKGROUND

### The USPS' Evidence Regarding the Nature of the Problem Which the LMLM was Designed to Resolve

John Reid, currently an Operations Specialist with Transportation Field Support, testified that, in 1981 he was a Supervisor in the Computerized Forwarding Systems which was the beginning of computerized systems. Prior to the introduction of the computer there was an operating called Central Forwarding System which involved mail being returned by carriers after individuals have moved so that a label to the forwarding address could be applied. In 1981 the Central Forwarding System became the Computerized Forwarding System and the system was mechanized. "Well, there was a mechanized terminal at that time that we had where an operator would sit there and it would be loaded on there, and this was called CFS mechanized terminal." That operation applied a yellow label with the name and new address and a bar code. At the time that this was done manually, the work was performed by the Clerk craft. According to Mr. Reid, he began working in this area in the Southern Region as an automation coordinator with the title of Automation Readability Specialist to help and assist customers in improving the automation capability of their mailings. "What we did, we primarily went through mail, reject mail and things like that so that we could talk to customers about changing the content of the labels - of their envelopes, the colors, contrasts and things like that so that we can improve the weight and also lower our costs in the processing of this mail." At that time the USPS was "deploying what we refer to now as multi-line optical character readers. Before then we had a single line wherein this type of equipment can only read the last line of the address." The new equipment was capable of reading multiple (up to three) lines of the address and apply a nine digit bar code which provided the zip code and code for the sector and segment of the address.

According to Mr. Reid, he came to headquarters in 1991 where he was assigned to work on delivery policies and programs. He was assigned as an assistant program lead for CFS operations and also assigned in a detail to work with the Advanced Bar Coding System [ABC herein] test of the ability to lift images, which was the first stage of remote bar coding system. Mr. Reid testified, that, at that time, the Optical Character Readers [OCRs herein] had a capability, based on mail size, to process at least 32,000 to 36,000 pieces of mail per hour. Often this would be 8 to 10 pieces per second. Mr. Reid stated that "[t]his was a great piece of equipment as long as the mail was nice and clean, as long as it was typewritten. However, if the mail was handwritten, it would reject it. It just did not read any of the numbers." Mr. Reid stated that the RBCs technology was designed to address this to automate mail which normally was handwritten. ". . . when this mail was rejected when the machine could not apply a bar code to this mail, it lifted the image and it sent that image, the T-1 lines to a remote encoding center where clerks entered that data, and based upon the visual image that was before them on the screen. . . ." Mr. Reid added, "Those images are sent - - what happens is all of the mail that cannot be read, that mail will go to a specific bin on the OCR. That mail will be segregated separately until those images have been retrieved or keyed in by the loading code employees." According to Mr. Reid, the remote site can "hold onto the images" at most for a matter of hours. "Sometimes it's a matter of minutes. But the operation had to be cleared within the MOD day or also within the processing window of that particular mailflow." Mr. Reid stated that, once the mail was pulled out of the tray, it was time-stamped when the last piece came through. Another computer near the Output Subsystem [OSS herein], a bar code sorter, also would indicate a time when this mail was ready to be run. "Once those images came back and all the images had been keyed in by those employees there, we ran it on a separate machine which was called the bar code sorter at OSS, and it would in turn spray a bar code in that area."

### The Development of the LMLM

Mr. Reid stated that, in 1992, he was in Westchester, New York [sic, Western Nassau, Long Island, New York ?], working with engineers testing the concept of remote bar code sorting and related spraying of a 9-digit bar code so that they could carrier route sort mail in walk sequence to create more mail that could be in carrier route sequence for the carriers." Mr. Reid stated that he was the mail processing representative/ technical liaison with the engineers who were developing the process. According to Mr. Reid:

And as we began to roll out the process and began to test it more, we found out that as mail rejected from the OCR there was a need to cover that area.

But moreover, what really alarmed us was when we took this mail after we had lifted the images and the remote bar coding site had keyed the mail, we ran it back through the bar code sort or the output subsystem.

We attempted to spray a bar code on there, but the machine could not read the

bar code. And the reason why it could not read the bar code in many instances was there were color contrast issues, ratio issues. There was noise. The term "noise," that means handwriting that was done in there, or the way that the envelope was designed, or sometimes the envelopes were slick and the labels would not apply to there.

And we recognized that we were losing a lot of our investment because we had taken the time to send this mail to a remote encoding site. People have keyed this mail, and yet now we can't apply an appropriate bar code in order to get our money's worth out of that.

The term for this was called leakage. And every area, every facility that was an RBACs site had a leakage goal to attain. That was a 5 percent goal that we were given.

So there was emphasis placed upon us to do everything we could to keep that mailstream or what we referred to at that time was the distribution ladder, to keep mail off the distribution ladder so that we could lower our cost of processing the mail.

\* \* \*

Mr. Reid, on cross-examination by Counsel for the Mail Handlers testified, with regard to "leakage":

. . . Leakage actually is the amount of mail that you've read, you've processed already but you can't finalize. It's the difference between that amount.

For example, if you've ran mail through there and you lifted - - just say roughly 1,000 images. You lifted 1,000 images. You take them over to run them over to the bar code sorter, OSS. And you run them through there. And you end up with like 10 percent of those rejected, which is about, you know, 100 of those reject. That would be 10 percent leakage if you just left that mail alone and took it down to a downstream operation.

If you take that mail and run it through a LMLM, apply the label on it and you successfully were able to apply as much labels as you could on it, you know, without it rejecting, and you got 800 through there, so your leakage would only be 2 percent.

\* \* \*

Mr. Reid testified, with regard to the solution to the problem which they developed:

Initially, we knew there was a way that we needed to cover that and use that, so with my expertise with CFS and knowing that we had a program that we were looking at that was called MUM, it created a half-white label, and we knew that label applied to that mail piece would actually create another bar code clear zone.

There was no such thing as a LMLM at that time. So we used CFS mechanized terminals. We stripped them down, we took the tops off them, and primarily we used them to just feed these pieces of mail through this equipment and modify them so that they would automatically just apply that white label on it.

This was a very expensive piece of equipment to use for this purpose. However, there was no other recourse at that time. We used - - in that facility, we used four machines, four CFS machines that we placed right out in the middle of the plant to do this so that we could avert leakage and so that we could put this mail back in the automation mail stream.

\* \* \*

According to Mr. Reid, on cross-examination by the Mail Handlers, although he was aware that there had been testimony from Mail Handler witnesses in this proceeding to the effect that Mail Handlers in the OCR mail room preparation unit would identify mail and send it to the LMLM directly, "That was not the design of the machine for that purpose." According to Mr. Reid, with regard to whether mail which was placed on the OCR and rejected by the OCR constitutes "leakage":

. . . The leakage actually occurs when the mail goes through the bar code sorter, through the OSS. Leakage does not occur through the OCR itself. If it rejects dirty OCR and you can't read a dirty OCR for those reasons like that, that's one of the flaws of the LMLM, but that would not come up as a leakage concern.

\* \* \*

Mr. Reid added:

. . . That's just basically a reject.

\* \* \*

On cross-examination by the Mail Handlers, with regard to whether some of the OCR rejected mail becomes "leakage", Mr. Reid stated:

Yes - - no. It doesn't - - that doesn't become leakage mail. There is a flow of that mail, for example, if the people are going through the mail, the mail processors are pulling that mail, they would pull that bin. In most cases, it came out of bin one or bin 48. Those came out. The mail processor would go through there and they will pull out some of the mail that they see that may, you know, that could be automation compatible and could run through the LMLM. They could isolate some of that mail through there.

Some of that mail that comes out of the reject is just kind of chewed up. It's bent, different things like that, so there's no opportunity to upgrade the mail.

But that in no way is not a leakage concern. Leakage only occurs at the OSS or the output subsystem, based upon mail that you may have lifted an image for and you cannot find a bar code for it.

\* \* \*

Mr. Reid testified, as follows, on cross-examination by the Mail Handlers, with regard to mail that has gone through the OCR where an image is lifted and it then goes through the BCS:

It's staged. All of that mail that it could not read, that mail that runs through there that it could not read, it would go to a specific bin. Then that bin - - that mail is placed in a tray. That tray would be time stamped by that machine and TMS time stamped. For example, if it's OCR Number 1 and you finish running it at three o'clock, you would put that on the last one.

Now the clerks that are operating the OSS or the output subsystem, it will come up on their computer and let them know when this mail is ready. And it comes up and it lets them know, okay, mail from machine number 1 that was processed at 1500 is ready. They could take that tray of mail and run it through the OSS, and then it's ready. . . .

\* \* \*

Mr. Reid testified that, once they applied the white labels:

We ran it right back through the OSS, bar code sorter, because it still retained that information that had been fed down through it, through what we call the input processing unit.

It still retained that, so we ran that mail back through there where it sprayed the subsequent bar code, and the mail was automation compatible. That solved a lot of the problem.

But also too, the LMLM was used because on the back of some of these envelopes, you had the same problem. So we had mail that was rejecting because it could not read an ID tag. So the LMLM served that purpose also because there were multiple flows of mail the LMLM [sic]. You had mail that you had to cover the bar code clear zone, but then you had mail that where you could not read the ID tag on the back where you had to apply another ID tag.

\* \* \*

Mr. Reid testified that engineering placed a solicitation for development of a new machine to do this work. Bell & Howell came back with a "quick product" which the USPS needed because they USPS "could not afford using CFS II equipment that was being deployed out to the field. We could not continue to diver[t] this equipment to other RBCS sites. . . It was extremely expensive. And the machine only had a capacity of like 2000 pieces of mail per hour, each machine. So it was very slow - - it was a very arduous type process." The machine developed by Bell & Howell was the LMLM 200, which had a capacity of about five to eight thousand pieces of mail per hour upon which they could apply a white label.

Mr Reid testified, on cross-examination by the Mail Handlers, that the machines used at the two "test sites", Louisville, Kentucky, and Western Nassau, Long Island, New York, ". . . were like alpha and beta type machines that were eventually modified to improvements. So when these - - this piece of machine was rolled out, this was just a modified improved version. Mr. Reid testified that he visited each of the "test sites" and that Mail Processors were operating the machines at both locations. Mr. Reid testified that he ". . . had received a number of feedback from some places that they were using both crafts."

Letter from Mr. O'Tormey  
Re: LMLM Deployment  
Dated May 6, 1992

The letter, dated May 6, 1992, from Walt O'Tormey, Distribution Operations Division, Office of Distribution Operations & Networks, Subject: LMLM Deployment, states, in relevant part:

Attached is the LMLM deployment schedule per the request at the National/Regional Automation Meeting in St. Paul, MN.

According to EDC, RBCS sites 21 through 25 will receive their LMLM's after the competitive contract is awarded. I will try to get site prep packages for the LMLM as soon as they are available.

\* \* \*

LETTER MAIL LABELING MACHINE  
BELL & HOWELL CONTRACT (24 UNITS)

<u>WEEK OF</u>	<u>FACILITIES</u>
April 13, 1992	Tampa, FL
May 18, 1992	Mid-Island GMF Western Nassau, GMF
May 25, 1992	Southeastern GMF San Diego, CA
June 1, 1992	Louisville, KY EDC
June 8, 1992	Carol Stream, IL South Florida, FL
June 15, 1992	South Jersey, NJ Minneapolis, MN
June 22, 1992	Oakland, CA Flushing, NY
June 29, 1992	San Antonio, TX Santa Ana, CA
July 6, 1992	Buffalo, NY Northern Virginia, VA
July 13, 1992	Fort Lauderdale, FL Indianapolis, IN
July 20, 1992	Phoenix, AZ Middlesex-Essex, MA
July 27, 1992	Cincinnati, OH Saint Petersburg, FL

Note - 1 LMLM resident in Bell & Howell Plant

There will be a competitive contract for 32 additional LMLM's. The following delivery dates for the competitive machines: [dates deleted]

\* \* \*

Mr. Reid stated, with regard to the operation of the LMI.M, as planned:

This mail would flow out here, as you see in the diagram here [USPS Ex. 6], it would have to be maintained separately, because we are working various sort plans on these in automation. That's one thing we must really bear in mind, because we're working this on various tours, and also we're working various sort plans.

So when you're working that mail with that various sort plan, that mail has to stay with that specific sort plan.

The clerk craft personnel would take this mail and take it over to the LMLM machine, apply the label there and take it and run it right back through this, through the OSS or bar code sorter, so it could apply a label onto it.

\* \* \*

Mr. Reid testified, on cross-examination by APWU, with regard to "sort plans":

A sort plan is a particular assignment that's given to a machine. The processing equipment there is essentially a computer, and it is programmed to sort mail through various bins, based upon their zip. Initially, it reads the zips.

So a sort plan may be designed to run your outgoing mail, your mail that's going outside of your states and your states areas, or it may be designed to handle your incoming mail. That means your mail that's designated to you.

Essentially, you're doing two or three operations, two or three operations up till about midnight, you're working what you refer to as your outgoing mail. And so your sort plan then would be to designate your mail, your two-day, your two- and your three-day service commitment mail, to sort that mail and get that through your facility as quick as possible.

\* \* \*

Mr. Reid testified that sort plans can change throughout a tour as mail has finished its processing screen. Mail processed in a sort plan is designated to be done during a particular period of time.



The Initial Deployment of the LMLM

Mr. Reid testified that, in 1992, they began to deploy the LMLM 200 machine in six locations, including Western Nassau on Long Island, New York. According to Mr. Reid:

All of them uniformly were the same. We went through great measures to see that the LMLM 200 machine was placed within a close proximity of the other equipment, which consisted of the OCR, ISS and the bar code sorter, the OSS machine. They were, you know, no more than 20 or 30 feet away from any of these various components of this equipment at any time.

. . . The LMLM usually would be very close by the OSS, by the bar code sorter, mainly because this was a primary feed from those operations.

\* \* \*

With regard to the physical layout of the area at the test sites in which the LMLMs were placed in about the Summer of 1992, Mr. Reid testified:

Well, the initial place where it was laid out there in New York was you had the OCR, or the ISS at that time, the input subsystem, would be on the floor. You had that machine right there.

Initially we had only two. We were only using two in each site for this test that were retrofitted with this type of equipment with the image lift capacity. You know, we were in the infantile stages of this, and it was very expensive.

We also had two bar code sorters that were modified, which were the OSS machines. These were placed right in the same area within about ten yards of all the equipment.

\* \* \*

Mr. Reid testified that at that time, the Mail Processors were operating the LMLMs. According to Mr. Reid:

No, mail handlers weren't used mainly because we wanted to maintain this within the mailflow. The mail was taken directly from the bins in these operations

and taken to this equipment, because we were trying to address the system problem of leakage in automation.

\* \* \*

Mr. Reid testified that they had the work performed by Mail Processors:

The mail processors would know where the labels need to be applied and how to apply the labels. There was various operations that you had to turn the mail. Mail had to be turned different ways.

For example, if it was an OSS verifier reject error, the mail had to be turned to a point where you had to apply the label to the front. If it was an ID tag, the mail had to be reversed and turned backwards so that you apply a label to the back of the mail piece.

And once a label is applied to the back piece, that mail piece had to be flowed back to the OCR or the ISS to get a new ID tag. So there were complex flows that were required.

\* \* \*

Mr. Reid testified, on cross-examination by the Mail Handlers, that he did not agree with the testimony of a Mail Handler witness, Mr. Evenson, to the effect that Mail Handlers had performed the work on the LMLMs in Tampa, Florida, during the period in question. Mr. Reid testified that he had visited some of the sites listed in Mr. O'Tormey's letter [quoted above] dated May 6, 1992, in which the LMLM had been installed and observed Mail Processors performing work on the LMLMs, including: Mid Island GMF; Louisville; Carol Stream, Illinois; San Antonio, Texas; Santa Ana, California; Buffalo, New York; and Northern Virginia, Virginia. Mr. Reid noted that a Mail Handler witness had testified that she had operated the LMLM during the relevant period but, according to Mr. Reid: "I understand that she was performing it as mail prep, as a mail prep operation, not within the processing stream of the operation." Mr. Reid testified, with regard to whether he believed that Mail Handlers were qualified to operate the LMLM, that he believed that Mail Handlers were not qualified to operate the LMLMs:

Primarily because I was involved in the initial implementation and development of a piece of equipment. The equipment was designed and set apart to perform a task to avert leakage in our OCRs, and for that task initially alone. That's what I based my decision upon. . . . The decision [corrected by Mr. Reid to "recommendation"] that this position should be performed by the clerk rec.

\* \* \*

Mr. Reid testified further, on cross-examination, with regard to two skills which he considered important for the LMLM operator to have, including knowing where to place the label, i.e., on the front of the piece of mail for a "leakage" problem, or on the back, in the case of an ID tag verifier reject coming from the OSS bar code sorter which is not "leakage" - the florescent bar code on the back identifies the mail as a piece which went through RBCS. The florescent bar code identifies the particular machine and the time it ran through that machine along with other data "to match it back with the data stream that comes back from the remote bar code site." The other skill referred to by Mr. Reid is knowledge of the mailflow:

... See, even within this - - and this is just how complex it is. A person has to be really working around that piece of equipment to even understand that flow of those operations. Because you would have a reject.

Just put yourself in the position of a person that's feeding that machine. You're feeding this mail through there and it's being rejected, and you've got a place there where it's being rejected because it cannot apply a bar code. Apply the bar code on there, and it can't read that bar code, okay. So now you've got to take this mail and hold this aside because it has to go through the LMLM straight with the stamps facing outward.

Now another bin you have, you have a bin that rolls through there where it goes through there and the machine doesn't even recognize the mail piece because it says I can't read an ID tag. I can't do anything with this mail piece. So it rejects that over to the other side of the machine.

\* \* \*

In response to a question on cross-examination as to whether Mr. Reid had explained these complexities to Curtis Warren, Mr. Reid responded: "Curtis Warren had worked a lot with me in the automation aspect, so he knew all the components. He went on a number of road trips where we observed this being tested in the field too."

Testimony of Richard Collins -  
Mail Handlers

Richard Collins, Assistant to the President of the Mail Handlers, testified that, in 1990 to 1994, he served as the Administrative Vice President (title subsequently changed to Branch

President) of the Mail Handlers local at the Postal facility in Providence, Rhode Island. Mr. Collins testified that, when he worked in the Providence Postal facility he was familiar with the LMLM. According to Mr. Collins, as Branch President, he served about 400 Mail Handler employees. He worked in the automated mail preparation area. According to Mr. Collins, the mail came in from a couple of different places and, after removing a cardboard sleeve and a plastic strap it was removed from the tray. The Mail Handler would "ripple [sic] through that mail to give it a quick look and see if the mail was in there was good mail, machinable mail that could be run through the automated equipment." Mr. Collins stated:

Well, the good mail went right to the OCRS. If you got a bundle of mail or if there were pieces that were obviously bad from the sense of running them through the OCR, in other words glossy envelopes, what we used to call a busy envelope that had a lot of print on it, or a lot of mixed colors on it that would make it difficult for the bar code reader to see a bar code that was on that, you pulled that out and you sent that to the LMLM.

\* \* \*

Mr. Collins testified that he was aware of the source of mail for the LMLM because:

... I actually worked in that automated prep area when I was on the floor working after tour overtime. That was one of the areas that required a lot of manpower. Oftentimes they added extra staffing there so that they could get that mail prepped and moved to the machines.

The other reason was that as branch president, when the new equipment came into the facility it was my job to understand what the workings of that machine were, how it was going to play into the mail stream, and what types of information I might need to acquire to file a grievance if it became necessary or to provide information to the national office if they required it from the field.

\* \* \*

Mr. Collins testified that the LMLM was located in the facility: "pretty much dead center. We had the 010 operation in one corner of the floor and across the aisle from there were some bar code readers. And then down at the end of the other end of the building marking away from that was the OCR. We also had a mezzanine. Provide [sic], Rhode Island was one of the earliest facilities to automate. And in order to accommodate the machinery that came in they actually built a mezzanine, a second floor within this large structure to afford them the floor space that they needed to bring in these additional OCRs and BCRs and accommodate them. Our LMLM was actually

located right under one corner of that mezzanine. So it was adjacent to the entire -- both operations. . . Automated and culling; yes, mail preparation." Mr. Collins testified that he never operated the LMLM but that he was familiar with the mail flow from his activities as the Branch President.

Mr. Collins testified, with regard to the relative amount of mail destined for the LMLM coming from the mail preparation area:

Well, I would say the majority of the mail, maybe 90, 95 percent. The whole thing in Providence, because they automated so early, they spent a lot of time educating the mail handlers as to what a machinable piece was and what were the characteristics that they were looking for on the mail pieces.

\* \* \*

Mr. Collins testified that, as a rough estimate, in about the summer of 1993, Management provided service talks a couple of times per week to reinforce the mail preparation area where they performed the automated mail preparation, but also in the metered area where a lot of mail was generated. Mr. Collins testified that the talks were given frequently, while he was working overtime. He often stayed after his tour of duty on his own time because, as Branch President, there was a lot going on in the building of which he had to be aware. Mr. Collins testified that "Tour three was probably the most active tour because of the amount of mail and the number of personnel from my craft that were working. It generally was the area where most of our discipline was issued, so I spent a good deal of time interacting with my stewards, oftentimes talking to supervisors about specific cases that were in the grievance procedure, and just wandering the floor, keeping an eye on things. My chief steward on the tour worked on the platform. In fact, he worked on one of those codas, what we call the coda that I mentioned, where the business mail was collected." Mr. Collins stated that, at these stand-up talks about the mail for the LMLM, the Mail Handlers were told by Management:

Well, his instructions were to look for mail that had these types of characteristics and to separate it from the mail that we were working out of the managed mail trays so that when we sent mail through the OCR he would get the highest successful throughput that he could and eliminate as much rejected mail as possible.

\* \* \*

Mr. Collins stated, with regard to the mail that was identified as not able to go through the OCRs: "That mail was set aside and it was brought over to the LMLM machine so that a label could be attached." Mr. Collins stated that that mail would be brought to the LMLM either by a Mail Handler or "occasionally the runner would come through and pick up the GPMC and just take it over

on his way.”

Mr. Collins testified that the Mail Handlers received the business collections on the platform. Management had posted signs in the area which showed the types of mail that would not run through the OCRs on the first pass. According to Mr. Collins:

... And the reason that they were pressuring the mail handlers to be so keenly aware of the type of mail that they wanted to eliminate from being rejected was because they were trying to hit the highest through that they could get. And as I understood it from talking to managers at the time, they had to justify keeping that equipment in the building. If they couldn't justify keeping that equipment in the building with throughputs and successful processing of that mail, then that equipment would have been taken out and shipped to another office.

\* \* \*

Mr. Collins testified, with regard to mail preparation, that that operation involved “culling, which would be dumping large volumes of mail usually on a conveyor belt, and you would separate that mail by type and characteristic. Sometimes you would pull it out by Zip code, if you were throwing to a city area or something.” The Mail Handlers also “faced” the mail, “taking a bunch of letters and putting them in a position so that they would be upright with all of the addresses facing the same. When you face mail, you always want your stamp or your imprints or your meter stamp in the upper corner.” They also cancelled the collection mail which goes through the 010 area. The mail is being “prepared” for “distribution”. Mr. Collins testified with regard to Operations 010 and 020 in RI-399 are operations recognized as Mail Handler functions. There are no “asterisks” attached to either operation. Mr. Collins asserted that, in his view, the application to a piece of mail of a blank label prior to distribution is a mail preparation function which should be assigned to Mail Handlers as the primary craft.

Mr. Collins testified, with regard to Operations 088-089, Optical Character Reader is “machine distribution of all classes of mail, and that’s identifying the clerk craft as the primary craft for that distribution function.” There is a note attached to that operation to see Operation 080-087 which refers to MPLSM distribution, “allied labor required is normally performed by clerk because of the rotation system employed.” Mr. Collins stated that it was his understanding that the rotation system refers to the sweeping function, which is taking the mail from bins after the mail has been designated by a computerized sort plan and then that mail is placed in a tray which has a label corresponding to a Zip code. The rotation refers to the Mail Processors alternating between feeding the mail onto a belt into the front end of the machine. While they are running that mail, they will shake the next tray to help line up the mail. After working on that process for awhile, they take a break from feeding and start sweeping the bins. Mr. Collins noted that Operation 088-089 does not have an asterisk.

Mr. Collins testified with respect to a letter from the Postal Service regarding OCR mail preparation work being assigned to Mail Handlers when the basic function of cutting bundles and traying mail and preparing mail for distribution could be officially separated from a distribution function, that the assignment of that mail preparation should be to the Mail Handlers as the primary craft. [The Mail Handlers acknowledged that the APWU has filed a grievance which still is pending protesting this assignment to Mail Handlers. The Mail Handlers claim that, nevertheless, the Postal service has continued to assign this work, except with regard to the LMLM, to Mail Handlers since about 1990.]

Testimony of Evander "Duke" Derico, Jr.  
Mail Handlers

Evander "Duke" Derico, Jr., testified that he has worked at the main USPS facility in Fort Lauderdale, Florida, for about 31 years, since October 1973. He became a Local Union Shop Steward in 1975 and, after the Local Mailhandlers Union President who was an Administrative Vice President left to work in the Carrier craft, Mr. Derico was appointed as the Administrative Vice President which position he held for 15 years, until 1990. According to Mr. Derico, in 1990 there were about 130 employees in Mail Handler positions at the Fort Lauderdale postal facility. In 1990, as the Administrative Vice President, he worked with and trained the Shop Stewards. He had Union responsibilities and visited the postal facility on all three tours. He usually worked on tours two or three at that time. He was familiar with the mail flow. Mr. Derico testified that he also worked on the opening unit on Tour 1 where the Fort Lauderdale incoming mail arrived at the facility and he worked the parcel post area. He testified that he worked on preparing mail for the OCRs and the DBCSs when they first came in to the building, although he did not operate these machines, so that he is "familiar with the entire flow of the mail in the facility."

Mr. Derico testified that he had worked on the opening unit on Tour 3 where the mail was received in the building. Mr. Derico described the "opening unit" as the unit where the mail comes from the platform. In the Fort Lauderdale postal facility there are about 25 stations and branches. Trucks bring the mail to the platform and the mail is brought from the platform to an area, the "opening unit" where the processing of the mail through the system begins. Mr. Derico stated that he was a group leader. He worked with five or more Mail Handlers. He was responsible for getting all the mail inside to the proper areas. The operation number of the area in which he worked was 010, which was associated with the 010 line which handled stamped mail; the 020 line, for example, handled metered mail. According to Mr. Derico, when the trucks brought in the mail, the Mail Handlers took it off the trucks and brought it to the opening unit. They took the stamped mail to 010 and the metered mail to 020; at 020 they would remove any stamped mail which had been mixed in with the metered mail, as well as remove SPRs and parcel post. The metered mail was brought to the employees who were prepping the mail for the OCRs.

Mr. Derico testified that he was familiar with the LMLM which he described as follows:  
"... What that machine does is, when mail comes in and it's not machinable as far as to go through

the OCR, then that machine, what it does is, it puts a blank label on the mail, and then it comes back to the OCR to go through." Mr. Derico testified that the LMLMs came into the Fort Lauderdale facility in the "early '90s . . . somewhere around '91, '92 I guess." According to Mr. Derico:

Now we were instructed that if we had mail that we knew, for instance, letters that came in, colored letters, slick letters. Now when they first got the OCRs in, what happened is, this mail would not go through. It would go through, but the bar code would smear. So it would all reject. We didn't have what we called an LMLM at that time, so they'd shoot it to OCR.

\* \* \*

So what happened is that since they knew what type of mail was coming in that was being rejected, were we [sic] told as mail handlers when this mail comes in, separate it out.

And since we had - - they brought this LMLM machine in just for that precise reason, that to shoot it right to the LMLM. That way it can get that blank label on, and the mail handler could take it back to the OCR to be worked.

\* \* \*

That was mail going directly from 020 straight to the LMLM now. Now we also had, as I said, they were separated out for the OCRs.

Now the other mail, let's say you had mail in, you just had a big - - well, we had hampers and JPCs, and you had a hamper of mail there. Now, the mail handler looks at it, and he don't see no LMLM mail, but he's not going through the entire hamper. So he sent that hamper because it is a hamper of metered mail. He sent it into the prep man on OCR.

. . . That would be another mail handler. Now this mail handler, he is prepping this mail to make sure that it's good, let's say machinable mail that can run on the OCRs.

Now the idea was, which is what management told us was, we're trying to save money. So, therefore, the less rejection we got, you know, we could get the mail out.

So we had to prep that mail to make sure that it was what we call good, clean mail for the OCR. Anything that was not OCR readable, the prep man had two trays, one tray for big letters, a tray for LMLM mail. If he saw LMLM mail in there, he'd



put it in that tray. If he saw fat letters in there, because fat letters couldn't go through the OCR, he'd put it in that tray.

Now we had a hamper here, a hamper here. Once the hamper get full for the fat letters, they went to an area called 030 where the clerks dispatched through it manually. When the hamper got full for the LMLM mail, the mail handler took it over to the LMLM.

So you had mail coming from 010 - - well, not 010, but 020, straight to the LMLM. You also had mail coming from the OCR prep area going to the LMLM.

Now I don't want you to think that all the mail that was on the OCR was good, clean mail. Quite naturally, you're not going to get it all. So you're going to have some rejects. But the reject was minimum. I mean, out of a tray of mail - -

\* \* \*

. . . The reason why mail handlers knew, and I'm not talking - - I'm talking about me and other mail handlers, because mail handlers was assigned to go around to pick up all the rejects in all the areas. We had, where the machine areas was, the OCR, the BCSes and the DBCes, and the LMLM, that' what we had in our building.

And they had a mail handler. It was his assigned duty to go around to each area, pick up the rejects, and take them to the different areas.

Now on the OCR, the mail handler is the one that picked the mail up. All that clerk did was distribute that bin. He got the rejects, put it in a tray, set it inside a utility cart, which is a cart I guess about four feet high, about three feet wide, and it's about maybe 24 inches deep, which you can set six trays in there, three on top. So you can get - - not six, but four. You can get ten trays on a GPC - - I mean, on a utility cart.

When the cart got full, that mail handler, he's going around picking up the mail. So we know what's coming out the machine, because we're the ones that's taking it to the area.

\* \* \*

Mr. Derico testified that he had the job of going around to different areas picking up rejects but, also, he worked on overtime prepping the mail for the OCR. He testified that, even before they had the machines in that building, he had been assigned to the "010 area putting the mail on the ledges for the clerks, putting in the bins in order to take it to the other areas." Mr. Derico testified

that he used a hamper to take the mail from the OCR mail prep unit to the LMLM and that they used a utility cart to take the mail from the OCR reject area to the LMLM.

On cross-examination by the APWU, Mr. Derico testified that he never operated the LMLM. Mr. Derico testified that all of the mail that came into the opening unit was originating mail that came in from the trucks. He agreed that some of this was mail, the return-to-sender mail, already had been through some steps of the automation process at some other facility. Mr. Derico stated that they also received mail in unit 180 which, unlike the mail in 010, was not outgoing mail. The 180 unit had mail from the Fort Lauderdale stations which "we had to break down to go into the other area, for the OCRs . . ." Mr. Derico agreed that he had no idea what amount of mail from Fort Lauderdale previously had come from facilities at which it already had been through automation as opposed to mail which originated at his own facility.

Mr. Derico testified on cross-examination by APWU that, when the LMLM first came into his facility they had service talks on recognizing non-machinable or non-readable mail in connection with the new LMLM. Mr. Derico testified: "Because the fact that the mail wouldn't go through the OCRs was the reason why they brought the machine in. So they was letting us know the type of mail that would go on this machine - - slick mail, that when you put it through the machine, the bar code would smear. Mail with dark coloring." Mr. Derico stated that service talks took about 15 to 20 minutes. They did not receive written instructions about the LMLM. Mr. Derico testified that he had a bid assignment which included picking up the reject mail in the OCR area and bringing it to the LMLM; that assignment also included the BCSs and the DBCs, his job was "to go around to all those areas and pick up the rejects and take them to the respective areas where they would be worked. . . Now the mail from the OCRs went to the LMLM. The mail from the Dbs went to 030. The mail from the BCSs went to 030. So it was my bid to make every so often, go around after you give them time to accumulate, pick it up and take it to the different areas." He explained that in the 030 area the Clerks ". . . manually threw mail. When you say throw it, they distributed mail in other words. . . . They cased it where it can go out to the different states." Mr. Derico stated that, before the LMLM arrived, the rejects from the OCRs went to 030 and was worked by Clerks. Mr. Derico stated that, at the time he had this bid job there were Letter Sorting Machines [LSMs herein] and that some of the rejects went to LSMs. According to Mr. Derico:

Some of the rejects off of the DBCs may have went to the LSM, LSM or 030. If they couldn't be read by the DBCs, the clerk on the LSM, because it was machinable, could key it rather than sending the machinable mail to 030.

They tried to keep all the machinable mail out of 030. The only mail that really went to 030 was non-machinable mail. So when I went to pick the mail up, well, they really had bins for LSM and bins for 030 on the - - let's say the Dvs.

\* \* \*

According to Mr. Derico, on cross-examination by APWU, the job of picking up reject mail was on tour two or three. At the time they had four OCRs at that facility. He does not know the "throughput rates" of the OCRs. Mr. Derico testified that, when he worked tour one the mail that originated in Fort Lauderdale came into the 180 opening unit, where they cut the bundles and placed the mail on trays to get it to the OCRs and the BCSs. Mail which was "rubber-banded" by customers came into the 020 in hampers and was sent to the prep Mail Handler in the OCR area where they cut the rubber bands and string and placed the mail on trays so that the OCR could run it.

On cross-examination by the USPS, Mr. Derico stated that the facility received OCRs during the 1980s and, during that time, he worked primarily in the opening unit. Mr. Derico testified, with regard to "slick letters" that "you knew they wasn't going through" the OCRs. Prior to the LMLMs, when they received "slick letters" was taken to the 030 area, where it was sorted by Clerks. "Now it was the clerks' job to sort, but it was our job to prepare it for them." When the slick letters came in, the Mail Handlers "got a container and we tray it up. When the container gets full, the mail handler in the opening unit, which is really the 020 area, pushes it over to 030. Now he has prepared it for the 030 area." Mr. Derico testified that the Mail Handlers in the 010 area decided "on their own" whether the slick letters would be rejected by the OCRs; that is, they were not required to check with a supervisor each time, rather, they were following supervisory orders. Mr. Derico stated that they "had been given service talks to recognize the mail." Mr. Derico stated that they were given service talks because, when they first got the OCRs, the slick letters and dark mail in colored envelopes was being rejected by the OCRs and they were instructed "when you see this mail, those slick letters and those dark shade envelopes that come on, the colored envelopes, this mail goes directly over to 030." Mr. Derico agreed that if, in fact, the OCR would not have rejected certain slick letters, it would have been faster to run them through the OCR first, instead of separating out this mail but, he pointed out, they had been instructed not to run it through the OCR to see wheter it would be rejected but, rather, to take it to 030.

Mr. Derico stated, on cross-examination by USPS, that, once the LMLM came to the facility, the Mail Handlers received a "service talk on the mail that goes to the LMLM. And that service talk was dealing with the slick letters and the dark colored letters, colored letters, okay. . . So management let us know in a service talk that this mail now you don't take it to 030, because it's machinable mail. So what we're going to do with it is take it to the LMLM. That was the second service talk. We've [sic] to the LMLM now." Mr. Derico testified that when the LMLM arrived, he was working in the opening unit on tour three as his regular assignment and stated that, when he gathered the OCR rejects in a utility cart he did so while working overtime. Mr. Derico testified that he picked up on tour one about every hour. He worked overtime "like every day." If he was not picking up mail, he was prepping mail. After the LMLM arrived, he took the OCR rejects to the LMLM, which was located at the end of the OCR, about 20 feet from where the Clerk is putting mail into the OCR. Mr. Derico agreed that the mail he was gathering had been pulled by the Clerks.

On recross by the APWU, Mr. Derico stated that there was a bulk mail acceptance unit in Fort Lauderdale, at which he currently works, where they check to see whether mail is machinable which Mr. Derico stated was Mail Handler work [and Counsel for APWU noted was "disputed"].

Mr. Derico agreed that, after the LMLM arrived, although some of the reject mail went to the 030, some of it went to LSMs "[i]f it was good machinable mail, it just - - let's say it could be read . . ." Mr. Derico agreed that he had testified, in effect, that based on his experience, most of the mail that went through the LMLM was not reject mail but, in fact, was mail that had been pre-identified as not machine readable at the opening unit, which was about 10 to 15 feet from the OCR. The LMLM was located at the end of the OCR.

### Testimony of Daniel Flathers

Daniel Flathers testified on behalf of the Mail Handlers that currently, he is employed at the Middlesex Essex Processing Center in North Reading, Massachusetts. He is a Mail Handler who was hired in November 1980 and has served as a Union representative, including Administrative Vice President in 1991 and 1992. Mr. Flathers testified, with respect to the LMLM, that it is used to place a rectangular white strip onto the proper area of an envelope where the bar code usually is placed, if the OCRs and the BCRs can not read the bar code on the envelope. According to Mr. Flathers, "And so we would take these letters and run them through the machine and it would cover up whatever was wrong with the envelope where the machine couldn't read it."

### The Subsequent Deployment of the LMLM 400 Early 1993

Mr. Reid testified that the first LMLM 200 "was not a very good piece of equipment and it was not reliable". After that initial deployment, at about the end of 1992, the USPS returned to Bell & Howell which had a "small footprint OSSI" which was a combination machine which became the LMLM 400. According to Mr. Reid, they began to deploy the LMLM 400s in early 1993 which was at the time that they also were "rolling out Phase II of our RBCS process". The RBCS sites had the OCRs and bar code sorters linked to remote sites. The LMLM 400s were about four times faster than the previous LMLMs and could apply labels to about 20,000 pieces per hour. Mr. Reid testified that he visited about six of the sites involved in this phase of the development of the LMLM. Mr. Reid testified that they positioned the new LMLMs in the same area that the prior LMLMs had been placed, within 20 to 30 feet of the OCR and BCS. According to Mr. Reid, the LMLMs were operated by Mail Processors. Mr. Reid testified that they incorporated the assignment to operate the LMLM into the rotation for the mail processors:

Well, working on the automation - - mail process was a very laborious job. Either a person was loading the mail, was standing there, had to jog and load the mail properly into this piece of equipment so that you wouldn't get misfeeds and jams. And at the same juncture, a person that was pulling the machine down or taking mail off from this piece of equipment had a lot of walking. There was a lot of walking because these machines had 96 bins.

\* \* \*

... There was a lot of walking involved, because the OCR, most of those that we had had 44 bins, and it was a one way, it was a long walk. And with the bar code sorters, with the OSS bar code sorters, they [sic] 98. So you looked at, you know, 49 on each side. So it's a lot of walking.

\* \* \*

A number of facilities have people rotating on 30-minute shift of 45 minutes. It was variable based upon that facility. You may load the machine for 45 minutes and then you would go back in the back and you would pull the mail away from the machine for 45 minutes.

\* \* \*

And then you would take mail from that operation to the LMLM. So you just made a rotation within the operation.

\* \* \*

... They [the Mail Processors] knew the mail that was rejected, knew where it was being rejected from, so they knew how to run it on the LMLM to get it completed within that processing window and that sort plan that was being run for that specific operation.

\* \* \*

According to Mr. Reid, having the work performed by the Mail Processors "... proved to be very efficient. Our initial -- when we began to deploy the 400 machines, our leakage went down from a national average of about 12 percent down to in the high 3s."

Mr. Reid stated, with regard to why he had recommended that the work be assigned to Mail Processors:

Their familiarity with the automation aspects of it, all the various automation aspects about the mail and the equipment that's involved with the mail that's being rejected from both pieces of equipment, the mail that's being rejected from the OCR, ISS, and mail that's being rejected from the bar code sorter, OSS. That familiarity was our primary reason.

\* \* \*

Mr. Reid added that, once the label had been placed on the mail, the Mail Processor could run in through the bar code sorter and, if it was rejected at that machine because of a continuing problem, "then that mail would flow downstream to another operation to ensure that it cleared operations." Mr. Reid stated that the types of mail processed through the LMLM were "[p]rimarily OCR reject mail and OSS verify reject mail." Mr. Reid testified that the purpose of creating the LMLM was ". . . to avert RBCS leakage and also to be able to keep mail in the automated mailstream."

Mr. Reid testified on examination by Counsel for the APWU, that MUMS is a missed zip/unzip program that was designed to upgrade mail that was not bar coded, that was not OCR readable. That machine was operated by CFS - Level 4 Clerks. Mr. Reid testified, with regard to the training received by Mail Processors/Clerks:

They receive a lot of essential training in those areas, particularly regarding the various types of mail that they are processing.

Mail processors have to know the downstream operations for that mailflow too. This refers to mail that's rejected from the operation to ensure that mail is cleared within the operational window time. So they are well informed of the various flows.

They are well informed of the bins and how that mail needs to be, you know, pulled from their equipment and also see about their dispatch.

\* \* \*

Mr. Reid testified, on cross-examination by APWU, with regard to Mail Processors and sort plans:

Well, during that time [the early 1990s] if you're changing an operation. For example, if you're finishing up your operation, I think someone had mentioned earlier, in some earlier testimony about outgoing mail and destinating mail, incoming mail and destinating mail, originating mail.

If you're - - during the middle part of the day, which is like in tour two in the afternoon or early morning operation hours, we handle what we call managed mail, which is actually our destinated mail.

Well, as we process that mail for our local destinating area, we have a window to process that mail in. In many cases we'll finish processing that mail at

about two or three o'clock in the afternoon before we start processing our originating mail.

The operators, when they run out of that mail, clear that operation, they will in turn pull that machine, take all the mail out of that machine, and change the sort plan so that they can begin processing the originating mail.

\* \* \*

Letter, NPMHU to USPS  
November 9, 1992

The letter, dated November 9, 1992, from Claudis S. Johnson, Jr., Manager, Contract Administration, NPMHU, to Curtis Warren, Labor Relations Representative, USPS, states, in relevant part:

It has been brought to our attention that a type of mail processing machine entitled "Letter Mail Labeling Machine" has been put into operation in a number of facilities throughout the country.

It should also be noted, as of this date there has been no notification of any initiation or craft designation of this new machine. Therefore, it is requested that we be supplied with all information relative to the operation procedure and craft designation, if any, to the "Letter Mail Labeling Machine."

\* \* \*

Letter USPS to NPMHU  
Dated December 18, 1992

The letter, dated December 18, 1992, from William J. Downes, Manager, Contract Administration APWU/NPMHU, Labor Relations, to Mr. Johnson, NPMHU, states, in relevant part:

This letter is in response to your November 9 correspondence to Curtis Warren of my staff concerning the Letter Mail Labeling Machine (LMLM).

The LMLM applies plain white, non-permanent labels to the bar code clear zone on letter mail. The LMLM is used to process verifier rejects, which are letters with bar codes that are not readable by a Bar Code Sorter (BCS). Following application of the

label, the letter can then be rerun and a readable bar code applied to it. This keeps such letters in the automated mail stream. LMLM is primarily intended to be used in support of RBCS sites.

We have not yet made any determination as to which craft should operate this equipment.

\* \* \*

Letter NPMHU to USPS  
Dated December 24, 1992

The letter, dated December 24, 1992, from Mr. Johnson, NPMHU, to Mr. Warren, USPS, states, in relevant part:

This letter is in reference to Mr. Downe's letter of December 18, 1992, concerning the Letter Mail Labeling Machine (LMLM).

Due to the fact that we have no knowledge nor any notification of the purpose of this machine, it is requested that we be supplied with a copy of any and all material relating to this LMLM.

After review of said material, it is further requested that we meet and discuss our concern relative thereto.

\* \* \*

Letter from USPS to NPMHU  
Dated January 27, 1993

The letter, dated January 27, 1993, from Frank X. Jacquette, III, Labor Relations Specialist, USPS to Mr. Johnson, NPMHU, states, in relevant part:

This is in response to your request for information regarding the Letter Mail Labeling Machine.

In addition to the information provided in our correspondence of December 18, 1992, the only other information available is a draft maintenance handbook prepared by the Maintenance Technical Support Center. I have enclosed a copy of that document because it also provides an explanation of the manner in which the equipment is operated.



After reviewing this material, please contact me [telephone number deleted] at your convenience to arrange the meeting that you have requested.

\* \* \*

Letter from NPMHU to USPS  
Dated August 24, 1993

The letter, dated August 24, 1993, from William J. Shields, Manager, Contract Administration, NPMHU, to Mr. Downes, USPS, states, in relevant part:

I am writing to you as a follow-up to your enclosed response of December 18, 1992 concerning the above-referenced new equipment.

This equipment is currently being staffed on an inconsistent basis in various facilities throughout the country.

Please advise when a determination will be made as to which craft should be operating this equipment.

\* \* \*

Letter from USPS to NPMHU  
Dated September 3, 1993

The letter, dated September 3, 1993, from Mr. Warren, USPS, to Mr. Shields, NPMHU, states, in relevant part:

This letter is in regard to your correspondence of August 24 to William Downes inquiring as to which craft would be assigned to operate the Letter Mail Labeling Machine (LMLM).

The specific craft designation for operation of the LMLM is being evaluated, and no final determination has been made as to which craft should operate this equipment. You will be advised when a decision has been made.

\* \* \*

Letter from Mr. Potter to Mr. Downes  
Dated October 29, 1993

The letter, dated October 29, 1993, from John E. Potter, Manager, Processing Policies and Programs, Processing and Distribution, to William J. Downes, Manager, Contract Administration, APWU/Mail Handlers, Subject: Remote Barcoding System Operations, states, in relevant part:

As you are aware, since early 1992, the Letter Mail Labeling Machine (LMLM) has been deployed and used to support Remote Barcoding System operations. Operation of this equipment is presently performed by volunteers consisting of both clerks and mail handlers in the various sites. The field continually expresses concern that no final decision has been made on this position.

As we embark upon implementation of the next 22 RBSC sites and add additional LMLMs to the current 27 RBSC sites, the problems will only be compounded.

Operationally, we support designation of this task to the clerk craft since it would provide additional rotational tasks for mail processors. However, we recognize that it is not our decision to make. Please advise when a decision can be expected.

\* \* \*

Letter from USPS to NPMHU  
Dated January 6, 1994

The letter, dated January 6, 1994, from Mr. Downes, USPS, to William Quinn, President, NPMHU, [quoted above, in relevant part] states:

the Postal Service has determined that the operator of this equipment should be compensated as a PS Level 4. The duties performed by the operator of the LMLM are similar to those duties currently performed by a Mail Processor, PS-4."

\* \* \*

Letter from USPS to APWU  
Dated January 25, 1994

The letter, dated January 25, 1993, from Mr. Downes, USPS, to Moe Biller, President, APWU, states, in relevant part, with regard to the award of the work:

This letter is in further regard to my correspondence of January 6 concerning the Letter Mail Labeling Machine (LMLM). As referenced in my previous letter and

subsequently discussed with Thomas J. Valenti of my staff, operation of the LMLM should be performed by Mail Processors, PS-4.

\* \* \*

Grievance Filed by NPMHU  
Dated February 9, 1994

The grievance, filed by letter dated February 9, 1994, from William J. Flynn, Manager, Contract Administration, NPMHU, to Joseph J. Mahon, Jr., Vice President, Labor Relations, USPS, states, in relevant part:

By letter dated January 6, 1994, received January 7, 1994, this office was provided a draft, indicating that the USPS determined the operator of the LMLM would be a Mail Processor PS-4.

Please be advised, the National Postal Mail Handlers Union disagrees with the awarding of this position unilaterally to the clerk craft. Therefore, in accordance with the provisions of Article 15.4 and 19.2 of the National Agreement, the Union hereby appeals this matter to National Arbitration.

\* \* \*

Memorandum to Area Managers, USPS  
Dated February 9, 1994

The Memorandum for Area Managers Processing and Distribution, dated February 9, 1994, from John E. Potter, Manager Processing Policies and Program, USPS, Subject: Craft Designation for LMLM Operation, states, in relevant part:

As you are aware, since early 1992, the Letter Mail Labeling Machine (LMLM) has been deployed and used to support Remote Barcoding System operations. To date, operation of this equipment has been performed by volunteers from both clerk and mail handler crafts.

The Postal Service has determined that the duties by the operator of the LMLM are similar to those duties currently performed by a Mail Processor, PS-4. Therefore, the LMLM is to be staffed with mail processors effective immediately. Offices may choose to staff the LMLM with mail processors who rotate between the LMLM and other automated equipment.

\* \* \*

## THE RESPECTIVE POSITIONS OF THE PARTIES

### Mail Handlers

The Mail Handlers position, as set forth in its post-hearing brief, is summarized, as follows. The Mail Handlers contend, with respect to RI-399, that the sole and undisputed function of the LMLM is to apply a blank label to individual pieces of mail to create a space on which the OCR can spray a readable bar (or ID) code. The Mail Handlers assert that, by placing this label on the mail, the LMLM does nothing more, or less, than prepare the mail for automated distribution. The Mail Handlers claim that the Mail Handler craft is the primary craft for mail preparation under RI-399 and authoritative interpretations thereof. The Mail Handlers argue that, under the principals of RI-399 that govern jurisdictional disputes, the Postal Service should have assigned operation of the LMLM to the Mail Handler craft.

The Mail Handlers asserts that, during the 50 years of postal history discussed in this record, Mail Handlers always have been the primary craft responsible for preparing mail for distribution. The Mail Handlers point out that, as adopted in 1979, and continuing, RI-399 provides that Mail Handlers are the primary craft for a host of functions comprising the preparation of the mail for later distribution. Under Operation 010, "Originating Mail Preparation", the mail preparation tasks assigned require Mail Handlers to transport empty equipment; obtain mail from courtesy windows, drop units, staging areas, etc.; cull (separate mail by type, and make basic local/out of town splits into trays, hampers, conveyors, etc.); tray loose metered mail, etc.; face and cancel letters on the facer canceler (Mark II or equivalent); cancel letters on Mark II that were rejected on first pass; hand cancel or cancel with Model G or other device; tray canceled mail for distribution operations; repair damaged letters; examine sacks for mail content; and back stamp of missent mail. Similarly, under Operation 020, "Originating Meter Mail Preparation," the mail preparation tasks assigned to mail handlers include: "[p]repare originating metered, permit imprint, and official penalty mail received from collection routes, lobby drop, dock, slides, chutes, conveyors, and other sources for distribution," and "[t]raying letters and separating mail by type into different containers, separating by local and out of town." The Mail Handlers noted that Richard Collins, in his testimony, described "mail preparation" as including culling, separation of mail by type and characteristic, facing the mail, canceling the mail and breaking down mail by city zone, zip codes, and characteristic. All of these tasks are to prepare mail for distribution, which commences when the mail is sorted by destination by the OCR and BCS machines.

The Mail Handlers assert that both the USPS and the APWU have conceded that the Mail Handlers are the primary craft for the preparation of mail. The Mail Handlers note that the USPS already has assigned "mail preparation for the OCR" to the Mail Handler craft, thereby recognizing that Mail Handlers should be assigned to preparing the mail for distribution by the OCR or the related BCS machines, and at the same time ensuring that Mail Handlers will be located conveniently next to all OCR machines. [The Mail Handlers note that the APWU has grieved this assignment but argues that that pending grievance does not control the instant case since the Postal Service is

required to act consistently and to follow its own prior rulings when determining craft jurisdiction under RI-399.]

The Mail Handlers state that, under RI-399 and its principles, the tasks involved in preparing the mail for automated distribution through the OCR and BCS machines must be assigned to the Mail Handlers as the primary craft. Placing a blank label on a piece of mail so that it can be run through the OCR machine is an act of preparation. Accordingly, operation of the LMLM must be assigned to the Mail Handler Craft.

The Mail Handlers next argues that the above conclusion is consistent with the criteria included in the Memorandum of Understanding which established the Committee on Jurisdiction in 1975, which formed the basis for the development of RI-399 and for the Gamser Award and which continues to govern the determination of the primary crafts under RI-399. The Mail Handlers note these criteria as: "nature of all duties"; "effective utilization of manpower"; "existing work assignment practices"; "manpower costs"; and the "contractual and legal obligations and requirements of the parties". The Mail Handlers claims that, based on the application of these factors in this case, the USPS improperly assigned the LMLM operation to the Clerks as the primary craft. The Mail Handlers position with respect to each factor is as follows.

"Nature of all duties": The Mail Handlers assert that the purpose and function of the LMLM is to prepare the mail for distribution by the OCR/BCS process. The actual operation of the LMLM involves tasks which Mail Handlers already perform on a daily basis, for example with respect to the operation of the cancellation machines: facing the mail; loading ledges; sweeping bins; stacking mail in trays; and determining the next stage of processing for the mail. All of these duties are designated as Mail Handler tasks in Operations 010 and 020 and routinely are performed by the Mail Handler craft.

"Effective utilization of manpower": The Mail Handlers claim that the overwhelming evidence shows that it is most efficient to have Mail Handlers operate the LMLM machine. The Mail Handlers assert that their witnesses, the only witnesses who actually worked on or near the LMLM, testified that the LMLM is in or near the OCR/BCS preparation area. The witnesses claimed that the vast majority of the mail processed on the LMLM came directly from that preparation area or from other mail acceptance breakdown areas in which Mail Handlers work. These witnesses explained that in breaking down and culling the mail, Mail Handlers would set aside mail which they knew was not "machinable" and send that directly to the LMLM. Either the Mail Handlers pulled the mail from the OCR reject bins or those rejects already were staged in the LMLM area. Because the Mail Handlers are the primary craft for transporting the mail, those rejects would be transported to the LMLM by a Mail Handler. The Mail Handlers argue that assigning a Clerk to operate the LMLM would create a break in the chain of work performed by Mail Handlers.

"Existing work assignment practices": The LMLM was a new piece of equipment when it first was activated in 1992. Mail Handlers are assigned as the primary craft to all other mail

preparation assignments. The USPS routinely assigned Mail Handlers to operate the LMLM during the two years that the LMLM was in the field prior to the 1994 jurisdictional determination challenged herein. All of this evidence, from the Mail Handler witnesses and from Mr. Jacquette, leads to the conclusion that the assignment of the Mail Handler craft as the primary craft for operating the LMLM machine is fully consistent with "existing work assignment practices", citing the Gamser Award, at pp. 14-15.

"Manpower costs": The Mail Handlers claim that it is undisputed that the Mail Handlers have the skills and qualifications to operate the LMLM and would perform this work at pay rates that are lower than the pay of APWU-represented Mail Processors. At the time of this craft determination in January 1994, the pay range for Level 4 Mail Handlers from new hires to senior employees was from \$20,703 to \$33,287; the pay range for Level 4 Mail Processors was from \$23,210 to \$34,163.

"Contractual and legal obligations and requirements of the parties": The Mail Handlers contend that RI-399, which has appeared in NPMHU/USPS National Agreements since 1981 and is binding contractually on the APWU clearly directs the USPS to assign Mail Handlers as the primary craft for mail preparation. The Mail Handlers argue that placing a blank label on mail for later spraying of a bar (or ID) code falls within that type of work.

For these reasons, the Mail Handlers claim that the USPS's decision to assign Clerks as the primary craft for the operation of the LMLM violates RI-399 and the principles which govern it and is inconsistent with the nature of the work, the efficient and effective use of employees, and the application of the usual criteria for determining craft jurisdiction within the Postal Service.

The Mail Handlers claim that the USPS has issued a series of different and inconsistent reasons for having assigned the operation of the LMLM to the Clerks as the primary craft. The Mail Handlers argue that all of these reasons should be rejected herein. First, according to the Mail Handlers, when the USPS issued the craft determination in 1994, the USPS stated that it was making the assignment to the Clerks because "the duties performed by the operator of the LMLM are similar to those duties currently performed by a Mail Processor, PS-4." Those duties included loading ledges of mail onto the LMLM, clearing simple jams as the mail moves through the LMLM, and sweeping the mail off the LMLM after a white label has been affixed to each letter. The Mail Handlers claim that both the Mail Handlers represented by NPMHU and the Mail Processors represented by APWU perform these duties. The Mail Handlers note that, RI-399 lists "loading ledges" in 16 different operations in each of which the Mail Handlers is listed as the primary craft. RI-399 lists "sweeping" in 17 different operations in each of which Mail Handlers is listed as the primary craft. The Mail Handlers claim, therefore, that the principal reason provided by the USPS in 1994 is not a reasonable basis for the determination.

The Mail Handlers assert that the USPS, for the first time during the instant Arbitration hearing, produced an internal Management memorandum, dated October 29, 1993, from the USPS Manager for Processing Policies and Programs in which the assignment to the Clerks:

“[o]perationally, we support designation of this task to the clerk craft since it would provide additional rotational tasks for mail processors.” The Mail Handlers claim that Mr. Jacquette, the Labor Relations official who testified that he was responsible for making the determination, testified that he did not rely on rotation of Clerks as a basis for the determination.

The Mail Handlers claim that the USPS asserted that one of the reasons for the assignment to the Clerks was the proximity of the LMLM to the OCR and BCS machines. The Mail Handlers argue that the same rationale would support the assignment to the Mail Handlers since the LMLMs also are located near the mail preparation areas for these machines.

The Mail Handlers assert that the USPS’s claim, that the LMLM is a “link in the chain” of automated distribution because the LMLM is necessary to place blank labels on letter mail which already has been rejected by the OCR automation and that after labeling it will be returned to the OCR or related machinery, is based on false assumptions and should be rejected. The Mail Handlers claim that Mr. Jacquette incorrectly concluded at the time that all of the mail which went to the LMLM came from mail already rejected by the OCR and did not come directly from mail set aside by Mail Handler operations so that the label could be affixed before it went through the OCR. The Mail Handlers claim that the testimony of Mr. Reid should be rejected, first, because, concededly, he had nothing to do with the craft determination and, second, his testimony regarding the purpose of the LMLM, as having been designed solely to deal with “leakage mail” (which he defined as occurring only at the OSS after the mail has been processed through the BCS and the BCS is not capable of reading it), was not consistent with Mr. Jacquette’s testimony that the purpose of the LMLM was to place a white label onto letter mail rejected by the OCR machine.

The Mail Handlers also claim that the USPS’s determination in favor of the Clerks as the primary craft was based on a misunderstanding of the function performed by the LMLM and a misinterpretation of RI-399 which follows directly from that error. The USPS has suggested falsely that the LMLM is performing distribution of the mail, such that the operation of this machinery must be awarded to the Clerk craft, citing the 1986 Zumas Award, which held that the operator of the OCR machine should be assigned to the clerical craft because the machine actually distributes letter mail. The Mail Handlers argue that the assertion that the LMLM is performing a distribution function does not make that assertion true. The function of the LMLM, according to the Mail Handlers is to prepare the mail for subsequent distribution. The APWU conceded that there is no support for concluding that the LMLM is distributing the mail in any way.

The Mail Handlers claim that the more difficult contractual issue turns on that portion of RI-399, paragraph C of the implementation criteria, which states that loading ledges and sweeping and other allied functions normally assigned to Mail Handlers may be assigned to Clerks when such functions meet at least two criteria: when they are an integral part of the distribution function and cannot be efficiently separated. The same criteria are set forth in the “asterisk” notation on several operations. The Mail Handlers claim that neither of the Mail Handler functions related to mail preparation which are found in Operations 010 and 020 in RI-399, nor the Clerk functions related to OCR machine distribution which are found in Operations 088-089 in RI-399 have an asterisk

attached. Therefore, RI-399 by its own terms clearly dictates that the asterisk is not to be applied to functions related to mail preparation or OCR machine distribution. The Mail Handlers argue that, to the extent, despite the plain terms of RI-399, that the USPS is allowed to apply this implementation criterion to this case - that the entire operation will be assigned with the distribution activity if loading ledges, sweeping, and other allied duties are "an integral part of the distribution function and cannot be efficiently separated") to the extent that the USPS's position on craft jurisdiction for the LMLM depends on this criterion, that position is inconsistent with the weight of the evidence. The Mail Handlers assert that the primary purpose of the LMLM is to prepare the mail for subsequent distribution which will be performed by the OCR and BCS machines and the Mail Handler craft always has been assigned as the primary craft for performing such mail preparation. The Mail Handlers claim that, even if the entire automation operation, as described by the Postal Service, is accepted as an integrated whole, it is plain that operation of the LMLM, much like the manual preparation of the mail for the OCR both can and should be separated easily, effectively and efficiently from the function of distributing the mail which, in this case, is performed by the OCR or related BCS machines. The Mail Handlers claim that, in effect, the USPS already has recognized that mail preparation within the automated section of each mail processing facility can be efficiently separated, in both its determination that mail handlers are the primary craft for OCR mail preparation and in its use of Mail Handlers to operate the LMLM prior to the decision challenged herein.

According to the Mail Handlers, to the extent that the APWU argues that, even though the LMLM does not distribute the mail, the operation of the LMLM properly was assigned to the Clerks under the so-called "replacement principle" because the placement of blank labels on mail by the LMLM replaces or serves as a substitute for manual distribution of that mail, which would otherwise be performed by Clerks based on the Zumas Award and the Snow Award regarding the Carrier Sequence Bar Code Sorter. The Mail Handlers claim that the APWU's premise is incorrect insofar as the LMLM does not replace manual distribution, rather the distribution of that mail that would have been performed by manual distribution by Clerks is being performed, i.e., replaced, by the OCR or related BCS machines.

For all of these reasons, the Mail Handlers submit, the USPS's assignment of the operation of the LMLM to the Mail Processors represented by the APWU as the primary craft should be set aside and the USPS directed instead to assign the work to the Mail Handler craft.

## USPS

The position of the USPS, as set forth in its post-Arbitration hearing brief, is summarized, as follows. The USPS contends, first, that the USPS's assignment of the operation of the LMLM to the Mail Processors represented by the APWU was appropriate under RI-399 and appropriate Arbitral authority and should be upheld and the claim by the Mail Handlers should be denied in all respects. The USPS argues first that the assignment falls within the discretion of the USPS under Article 3.D of its respective Agreements with the APWU and the NPMHU to "... determine the methods, means, and personnel by which [its] operations are to be conducted." The USPS asserts



that the assignment also is consistent with a commitment to apply the principles of RI-399 in making jurisdictional determinations. The USPS claims that the assignment of the LMLM furthers the principle of an "efficient and effective" operation, and assigns duties which cannot be "efficiently separated" from the automated distribution of mail. The USPS adds that the assignment comports with conclusions reached by several national Arbitrators who have supported good faith jurisdictional assignments made by the USPS.

The USPS asserts that RI-399, which made jurisdictional assignments for clerks and mail handlers, was published in February 1979 after consultation with the Unions. According to the USPS, RI-399 identifies primary craft designations for various Postal Service operations using the operations numbers borrowed from the management operating data system to identify work tasks. RI-399 applied past practice, prior arbitration decisions dealing with jurisdictional claims, various handbooks, bargaining unit position descriptions, personnel practices and qualification standards for all Postal positions. The goal, as stated in the Gamser Award, was "To develop an efficient and cost effective way to resolve the jurisdictional claims while creating the least amount of confusion in the field." The USPS notes that the APWU challenged the issuance of RI-399 and several assignments contained therein, but the issuance and assignments were upheld by Arbitrator Gamser. According to the USPS, RI-399 has been accepted by the Parties since then as the governing document for resolving jurisdictional disputes. More importantly, RI-399 also incorporates the Postal Service's Congressionally-mandated requirement of greater efficiency and economy of operation imposed by the passage of the Postal Reorganization Act (PRA) in 1970. Arbitrator Gamser prioritized efficiency, in terms of facilitating a rational integration of mail flow and the proximity of equipment and employees.

The USPS notes that, several years after the issuance of RI-399, the USPS, the APWU and the NPMHU entered into an MOU to establish a dispute resolution procedure to resolve jurisdictional disputes arising under RI-399. Arbitrator Eischen's Award, issued in 1997, which was processed pursuant to these procedures, upheld the USPS's decision to assign to Mail Handlers the spreading of mail to carrier cases in stations and branches. Arbitrator Eischen based his decision not only on RI-399, but also on the six guidelines which underpin RI-399.

The USPS argues that, as the use of the LMLM is a continuation of the work that already has been performed on the affected mail piece, the work clearly belongs to the Mail Processors. The USPS claims that, based on the language of RI-399, the assignment of the LMLM to the Mail Processors furthers the principle of an "efficient and effective" operation, and assigns duties which cannot be "efficiently separated" from the automated distribution of mail. The USPS states that, working the LMLM gives the Mail Processors an opportunity to rotate off the more physically demanding work on the OCR and the BCS. The USPS contends that the Awards of Arbitrator Gamser and Arbitrator Eischen and the logic contained in those awards support the USPS's decision in the instant case.

The USPS cites the RI-399 Implementation Criteria, at A. Efficient and Effective Operation, which states, in relevant part: "All action taken relative to implementation of these guidelines must

be consistent with an efficient and effective operation.” The USPS asserts that this conclusion is supported by the testimony of the USPS’s witnesses, Mr. Jacquette and Mr. Reid, who performed analyses of the LMLM independently, arrived at the same conclusion and both cited similar reasons. According to the USPS, it was clear from mere observation of the LMLM operation that it was more efficient to use Mail Processors. The USPS asserts that both Mr. Jacquette and Mr. Reid noted the Mail Processors’ proximity to, and familiarity with, the automation mail being processed. Both noted that the LMLM is located in close proximity to the OCR and BCS, that the OCR provided the mail which was run through the LMLM, that the Mail Processors who are performing similar work of feeding mail into the OCR and BCS and sweeping the finished product are able to rotate over to work on the LMLM. They noted the quick turnaround of running the OCR rejects through the LMLM and then to run these envelopes through the nearby BCSs. Both noted that the Mail Processors, given their knowledge of which side of the envelope needs the blank label, were able to turn around quickly the mail which had been rejected and get the rejected mail back into the mail stream. Mr. Reid explained that the LMLM operator needs to know which side of the envelope to place the label because some need a clear label on the front and some need a label on the back for an ID tag to be sprayed. Mail Processors working on the automation equipment are familiar with this.

On the other hand, according to the USPS, having the Mail Handlers, who do not work in as close proximity to the LMLM as the Mail Processors, come over and operate the LMLM would not be efficient and would cause an interruption of the mail flow. The USPS claims that a Mail Handler, coming from a considerable distance to operate only the LMLM, perhaps would need to be guided as to which side of the envelopes needed to be labeled. Worse yet, according to the USPS, requiring the presence of a Mail Handler, who is not working in the area of the OCR, might delay the processing of those rejects and Mail Processors operating the OCR and BCS might be forced to wait until the arrival of the Mail Handler before being able to re-distribute those same rejects. Waiting for the further processing of the mail is inefficient, given the time-sensitive nature of the OCR rejects. According to Mr. Reid’s testimony, if these OCR rejects are not processed further before the sortation plan is changed, all the time and effort expended upon the mail piece thus far will be lost. This time and effort included the time spent running the mail through the OCR, transmitting its image to a Remote Bar Coding Site, video-encoding the image, assigning an identification tag, etc. The sum total of all these considerable efforts would be lost if not for the “quick turnaround” by the Mail Processors.

The USPS claim that the arbitral authority also supports the conclusion that assigning the Mail Processors is more efficient, given their proximity to the LM-LM, noting Arbitrator Gamser’s reliance, in upholding the USPS’s assignment in that case to Mail Handlers, of the fact that the Mail Handlers customarily were employed on the docks where they could perform the manual sorting of outside parcels. Arbitrator Gamser viewed an assignment of the Clerks as an interruption of the process. The USPS claims that efficiency is furthered because the LMLM is located within the automation area, within 20 to 30 feet of the OCRs, where the mail comes from, and BCSs, where it goes after going through the LMLM. The USPS also asserts that the assignment of the operation of the LMLMs to the Mail Processors serves as a rotation from the more physically demanding work

of sweeping the mail from the OCRs and BCSs, which involves a lot of walking.

The USPS notes that the RI-399 Implementation Criteria also states, at C:

### C. Distribution Activities

Where the functions of obtaining empty equipment, obtaining unprocessed mail, loading ledges and sweeping are an integral part of the distribution function and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.

\* \* \*

The USPS states that the "distribution activity" in this case is the operation of the Optical Character Reader (OCR) Distribution (Operation 088-089), for which the Clerks are designated as the primary craft. It is undisputed that the operation of the LMLM involves the loading of the ledges on the LMLM and the sweeping of the finished product from the machine. In order to operate the LMLM, the Mail Processors face the mail on the ledge of the LMLM on its proper side and feed the envelopes into the machine. Thereafter they sweep and empty bins which have the letters with the blank labels affixed. The Mail Processors also load labels into the machine, empty the reject bin on the LMLM and clear jams in the machine as they occur.

The USPS claims that the loading of the ledges and sweeping from the LMLM cannot be efficiently separated from the distribution function performed by Mail Processors who are working on the machines, OCRs, which are the source of the envelopes which are run through the LMLM. The USPS asserts that it would be like breaking the links of the automated mail processing chain. The use of the LMLM is just such an integral part of the OCR function that RI-399 itself contemplates. For that reason, it is logical that the use of the LMLM, with its consequent loading and sweeping, should be assigned to the OCR activity, the primary craft for which is the Clerk craft. The mail sent to the LMLM: already has been run through the OCR; already has been keyed to the Remote Bar Coding Sites; already has had an image of its address saved; already has had a bar code or ID tag ready to be sprayed onto the envelope; and needs only a clear space on the envelope in the chain of mail distribution to be processed further. Thus, according to the USPS, the application of the label by the LMLM is a continuation of the work which was started by the OCR and/or the Remote Bar Coding site, not only reading the address on the envelope, but also saving the image of the address from the envelope. For that reason, it cannot be separated efficiently.

The USPS contends that the Mail Handlers' claim that attaching labels to letters is more akin to preparation than distribution, must fail. The USPS describes the Mail Handlers' argument as positing that the feeding of the LMLM being similar to facing the mail on cancellation machines in Operation 010 and/or that the "majority" of the mail flowing through the LMLM was "slick" or

“glossy” which the Mail Handlers would identify in the opening unit (Operation 010) or in the automated mail preparation area, prior to its being run through the OCR. Therefore, according to the Mail Handlers, since no distribution had occurred, the attachment of the label provided preparation of mail likely to be rejected by the OCR. While the tasks of loading ledges on both the LMLM and the cancelling machine are similar, the Mail Handlers’ argument overlooks the fact that the loading of ledges cannot be separated “efficiently” from the distribution function performed by the Mail Processors.

The USPS contends that Arbitral authority supports the conclusion that the operation of the LMLM should be considered an “integral part of the distribution function,” performed by the OCRs and BCSs. Arbitrator Gamser specifically addressed Operations 105, 180/189 and 200, which relate to labeling and the dispatch function. The LMLM applies a blank label to the envelope rejected by the OCR.

Although Mail Handlers obviously have the necessary skill to perform this function, Regional Instruction No. 399 does provide that when labeling and dispatching are an integral part of the distribution function, they will be performed by Clerks. For this reason, it must be found that the Regional Instruction in a realistic and most efficient manner provides for the primary assignment to be determined by considering the efficiencies of an integrated operation.

The USPS states that, given the link between the OCR and the LMLM, the LMLM must be seen as such an “integral part” of the OCR function, so that the labeling performed by the LMLM must be assigned to the Clerk craft.

The USPS argues that the Mail Handlers’ witnesses sought to establish that the majority of the mail run through the LMLM came from the preparation area, not from the OCR reject bins. The USPS describes this testimony as utterly unreliable and asserts that none of the witnesses worked on Tour III, when the undisputed majority of the volume of mail is generated, and some did not work on the LMLM and only worked on the LMLM during the interim period prior to the jurisdictional determination at a few test sites. They provided no documentation about the source of the mail run through the LMLM. According to the USPS, this does not establish any conclusive facts. The USPS asserts that Ms. Dawson candidly contradicted the other witnesses and admitted that the mail for the LMLM was coming from the OCR rejects. The Mail Handlers’ position is belied by the fact that the LMLMs were situated near the OCRs, not in the preparation area. The USPS asserts that the more reliable testimony was provided by the USPS’ witnesses, to the effect that the candidate mail for the LMLM was OCR rejects and the LMLM was not used at the time of its creation or during the jurisdictional determination to “upgrade” any mail which came from the preparation area. Moreover, the LMLM was created to support the Remote Bar Coding sites, thereby demonstrating that distribution already had taken place on the candidate mail. The individual responsible for the creation of the LMLM, Mr. Reid, contemplated its use in repairing mail rejected by the automated distribution equipment at the time it was created. Any use of the LMLM subsequent to its creation

to "upgrade" mail at best was an afterthought. As such, the more relevant evidence, the factors contemplated at the time of the jurisdictional determination, including the purpose of the machine in 1994, demonstrates a good faith decision was made by the USPS that a machine created to repair OCR rejects was operated more efficiently by Mail Processors operating the OCRs. Even if the LMLM were used to "upgrade" mail to some degree, as noted by the Arbitrator, "... the argument could also be made that the question is the reasonableness of their projection into the future at the time they made the projection, not the actual experience."

With regard to the six guidelines, the USPS argues as follows:

1) Existing work assignment practices:

Prior to the LMLM, the letters which were rejected were distributed manually by clerks. As such, this manual distribution previously performed by the Clerks is a better example of what is contemplated by the phrase "existing work assignment practice" than the Mail Handlers' suggestion that operating the LMLM during the interim period prior to the jurisdictional determination. Moreover, the loading and sweeping performed on the LMLM is the same as the duties performed on the OCRs and BCSs.

2) Manpower costs:

The *de minimus* difference in pay is inapplicable.

3) Avoidance of duplication of effort and makework assignments:

See the "efficiency" arguments, above.

4) Effective utilization of manpower, including the Postal Service's need to assign employees across craft lines on a temporary basis:

See the "efficiency" arguments, above.

5) Integral nature of all duties which comprise a normal duty assignment:

See the "efficiency" arguments, above.

6) The contractual and legal obligations and requirements of the parties:

The relevant contractual obligation includes assigning work which is covered by standard position descriptions of the job classification. In the instant case, the duties required for the operation of the LMLM clearly are covered by the standard position description for the Mail Processor, whose functional purpose is to perform a combination of tasks required to process mail using a variety of automated mail processing equipment. "Duties and Responsibilities" of the Mail

Processor include: "Loads Mail on the transport unit for induction into the distribution system"; "Sweeps mail from bins"; and "Performs other job related tasks in support of primary duties."

The USPS asserts that the burden of proof of the Mail Handlers, as the party contesting the jurisdictional craft assignment in an RI-399 proceeding, is a "heavy burden." See Arbitrator Zumas' Award, at page 36; Arbitrator Snow's Award at pages 43 and 47. The USPS submits that the Postal Service fully complied with its commitment to make jurisdictional assignments pursuant to the principles of RI-399 and that the Mail Handlers' assertions to the contrary fail to meet the "heavy burden" required to overturn the assignment of the LMLM to the Mail Processors.

For all of these reasons, the USPS submits, the Mail Handlers' objections to the USPS's assignment of the operation of the LMLM to the Mail Processors represented by the APWU should be rejected in all respects.

### APWU

The APWU, asserts that, RI-399, read as a whole, makes it clear that Postal Service operations revolve around "distribution", the systematic breakdown of mail to destinations, ultimately to the delivery address. The APWU points out that in POM Issue 9, July 2002, Mail Processing Procedures, at 455 - Types of Distribution, three types of distribution are described: 455.1 - manual; 455.2 - mechanized, using letter sorting machines; and 455.3 - automated using available automated equipment, multiline optical character readers, MLOCR, mail processing barcode sorters MPBCS. And carrier sequence barcode, CSBCS.

The APWU asserts that, in all but one "virtually insignificant instance" - Operation 100, Outgoing Parcel Distribution is manual distribution of parcel post without scheme knowledge which primarily is assigned to the Mail Handler craft - distribution is a clerk craft function, which is a "bedrock rule in RI-399." The APWU argues that, the fact that the distribution is accomplished by a machine rather than by an individual employee is not relevant to the principle. The APWU, in this regard, relies on the following quotation from Arbitrator Zumas, in the case involving the MHU's challenge to the Postal Service's award of the then newly created Mail Processor position in the Clerk craft [Zumas Award, cited above, at page 38]:

Given the jurisdictional proprietary right of the Clerks to distribute mail and the fact that the purpose of the OCR/CS and BCS machines is to sort and distribute letter mail, it follows that the Mail Processor, while operating such machinery, is performing a distribution function reserved to the Clerks as the Primary Craft. Loading and sweeping, as part of the Mail Processor's duties are permissible under the 'allied duties' note relating to the operation of OCR machine distribution.

The APWU also relies on statements in the Awards of Arbitrator Mittenthal that manual distribution without scheme knowledge nonetheless was the work of a Level 5 Distribution Clerk; and Arbitrator Zumas quoting the Award of Arbitrator Aaron's rejection of the Mail Handlers' claim to the work of non-scheme distribution. See also the Standard Position Description Mail Processor, PS-4, "Functional Purpose: Performs a combination of tasks required to process mail using a variety of automated equipment." The APWU also relies on Arbitrator Snow's Award in the CSBCS jurisdictional case which relied, in part, on the position description.

The APWU notes that, by letter dated December 18, 1992, the Postal Service informed the Mail Handlers that:

The LMLM applies plain white, non-permanent labels to the bar code clear zone on letter mail. The LMLM is used to process verifier rejects, which are letters with bar codes that are not readable by a Bar Code Sorter (BCS). Following application of the label, the letter can then be rerun and a readable bar code applied to it. This keeps such letters in the automated mail stream. *LMLM is primarily intended to be used in support of RBCS sites.* [Emphasis added by APWU.]

The APWU notes that the Postal Service's witness, John Reid, stated that the LMLM was designed to lower "leakage", that is, the inability to finalize mail that already had been processed partially in the Remote Bar Code System (RBCS). The LMLM also processes OCR reject mail, that is, mail which is rejected by the OCR because it has an unreadable bar code. The APWU stresses that both types of mail already are mid-stream in the distribution process and, as such, it is inseparable from the automated distribution process which is operated by the Clerks. The APWU notes that the Postal Service witness Frank Jaquette testified that the LMLM is an integral part of the OCR operations and that, if it were possible to attach a LMLM to the end of the OCR, the Postal Service would do so. Mr. Jaquette also asserted that the function of applying labels is a Clerk craft function. The APWU argues, therefore, that the LMLM is performing distribution and therefore is Clerk work. The APWU submits that this work fall squarely within Operation 088-089, Optical Character Reader Distribution, which is assigned by RI-399 to the Clerk craft. The APWU maintains that the instant case can be decided on this point alone. The APWU asserts, with respect to automated mail preparation, upon which the Mail Handlers relies, that function is not mentioned in Operations 010 (Originating Mail Preparation) and 020 (Originating Meter Mail Preparation). In Operation 010, Mail Handlers cull automation-compatible mail from all the rest of the mail arriving at the office and send it to the automation operation. Similarly, Operation 020, deals with mail which, by definition is automation-compatible and the postage of which does not have to be canceled. Operation 020 also handles pre-bar-coded mail. All this metered mail is sent directly to the automation section. The tasks of Operations 010 and 020 already have been accomplished by the time the mail gets to the automation section.

The APWU argues next that, even if it is not decided herein that the LMLM, standing alone,

performs "distribution", the operation of the LMLM is an "integral part" of automated distribution and it cannot be separated efficiently from the distribution function performed by the Mail Processors on automated machinery. The APWU asserts that at this point in the analysis the "asterisk principle" comes into play. This states, in various places in RI-399: "In offices where the tasks of obtaining empty equipment, obtaining unprocessed mail, loading ledges, sweeping and containerizing is an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution." The APWU notes that Arbitrator Zumas, in holding that the Mail Processor position properly was placed in the Clerk craft, stated: "Loading and sweeping, as part of the Mail Processor's duties are permissible under the 'allied duties' note [in RI-399] relating to the operation of the OCR machine distribution."

The APWU notes also that one of the RI-399 Implementation Criteria is:

### C. Distribution Activities

Where the functions of obtaining empty equipment, obtaining unprocessed mail, loading ledges and sweeping are an integral part of the distribution function and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.

According to the APWU, under RI-399, the Clerk craft is the "default craft". The Clerk craft is supplemented by Mail Handlers - who essentially are laborers - when the (1) "allied duties" are not integral to the distribution duties and (2) these duties cannot be efficiently separated from the distribution function. The APWU adds that, when duties can be "efficiently separated", there still must be at least four hours of allied duties for a Mail Handler to perform under Criterion B in order to segregate out these duties from Clerks, which further demonstrates that the Clerk craft is the "default craft" under RI-399. The APWU relies on Arbitrator Gamser's discussion [at page 14] of the "asterisk principle" in which the APWU asserts that he indicated that the APWU had no cause for concern about the designation of Mail Handler craft for allied duties in Operation 050/055 (Priority Mail Distribution) because application of the asterisk would protect the Clerk craft where there was an "integration of the operation".

The APWU contends that the evidence presented in the instant case is overwhelming that neither condition was met. Both Mr. Jaquette and Mr. Reid explained that LMLM operations are in the midst of the flow of mail in the automated processing operation. Mr. Jaquette described the integration of the LMLM into automated mail processing as "seamless" and an integral part of the automation operation, not a separate and distinct operation. Because the LMLM was designed to work in conjunction with the RBCS system, see LMLM-OSS mail flow, the machines are intended to be located in close proximity to the OCR and BCS machines.

The APWU asserts that, although the Mail Handlers attempted to make the operation of the



LMLM appear to be so simple that a laborer could do it, the evidence fails to deal with the complex knowledge, skills and training of Mail Processors concerning automated operations, dispatch times, and mail characteristics, for example, knowing when the label must be on the address side and ID tag side. Mail Processors understand the way in which the RBCS system integrates with automated processing, for example, knowing how to get information about which RBCS mail images belonging to a staged grouping of envelopes have been fully processed and ready to run, and on which OCR, and when to do so. Mail Processor Clerks are trained for all of this knowledge and on all of these skills. Mr. Reid also testified that Mail Handlers are not capable of operating the LMLM for its intended purpose. Mr. Reid strongly recommended that Mail Processors do this work. Mr. Jaquette, who was assigned by the Postal Service to interact with the Mail Handlers so that he is familiar with their work and with RI-399, concurred with Mr. Reid's recommendation.

## DISCUSSION

This jurisdictional dispute, which arose under the Dispute Resolution Procedures of Regional Instruction 399, involves a protest filed by the Mail Handlers of the USPS's assignment to the Mail Processors, represented by the APWU, of the operation of the LMLM. There is no dispute herein that the Mail Handlers, as the Party challenging the USPS's jurisdictional determination has the burden of proof, by a preponderance of the evidence, to demonstrate that this assignment was improper under the principles set forth in RI-399 and the six guidelines. With regard to the "burden of persuasion" under the dispute resolution procedures of RI-399, Arbitrator Eischen stated in the Eischen Award: "It is not open to reasonable debate that the Party contesting a primary craft designation under RI-399 bears the overall burden of persuasion, by a preponderance of record evidence, that the Postal Service failed, in the words of the Arbitrator Gamser in the seminal case upholding the validity of RI-399, 'to abide by the [six] guidelines provided in the [1975] Memorandum [establishing the Committee on Jurisdiction] or otherwise.' Gamser Award, p.16." [Emphasis supplied.]

### The Nature of the Work to be Awarded

The Arbitrator concludes, for the following reasons, that the Mail Handlers have not met their burden of proof with respect to the assignment of the work of operating the LMLM. With regard to the nature of the work involved in this jurisdictional dispute, the Arbitrator finds that the determinative question which must be resolved in order to resolve the ultimate dispute over the propriety of the jurisdictional award by the USPS of the operation of the LMLM to the Mail Processors represented by the APWU, concerns the Mail Handlers' assertion that the USPS's jurisdictional determination must be found to have been improper because the USPS, in fact or in effect, failed or refused to take into proper account an additional source of candidate mail for the LMLM, i.e., a source in addition to that mail which has been "rejected" during processing on the OCR/BCS machines after address information has been obtained and stored, temporarily, at a remote

location, but the envelope cannot accept a sprayed bar code or ID tag. The USPS has relied on the processing of that mail through the LMLM as the basis for awarding the operation of the LMLM to the Mail Processors as work which inherently is intertwined with the distribution of mail on the OCR/BCS machines operated by Mail Processors. The other source of mail, which is relied upon by the Mail Handlers as the basis for the claim that the operation of the LMLM should have been awarded to the Mail Handlers, involves that mail which has been identified and set aside by the Mail Handlers - because, pursuant to instructions and training, such mail - prior to it being processed, "distributed", on the OCR/BCS machines, has been found by inspection by Mail Handlers to be "glossy", "slick" or otherwise not appropriate for processing by the OCR/BCS machines operated by the Mail Processors either because it is evident that the address cannot be read by those machines or because it is evident that the envelope will not accept the spraying of a bar code or ID tag. In such circumstances, a blank label must be applied before that mail can be processed, i.e., "distributed," by the OCR/BCS machines operated by the Mail Processors. The Mail Handlers argue that, because this other source of mail is so significant as a source of candidate mail for the LMLM, the operation of the LMLM properly should have been assigned to the Mail Handlers, rather than to the Mail Processors.

There is no dispute that the actual work which must be performed by an employee with respect to the operation of the LMLM essentially is the same whether the source of that mail is the "reject" mail, relied upon by the USPS, or the "glossy/slick/dark" mail relied upon by the Mail Handlers. These duties, in either case include: getting the candidate mail to the LMLM; facing the mail for the application of a label by the LMLM on the front or back of each envelope as appropriate based on whether the envelope needs a bar code or ID tag sprayed on it; loading ledges; running the mail through the LMLM; sweeping bins after labels have been applied to the envelopes; clearing jams; maintaining supplies of labels; etc. Nevertheless, although the actual duties remain the same in either case, the source of the candidate mail is significant with regard to an analysis of how that mail flows through the postal facility and the efficiency with which it can be processed on the LMLM by one group of employees versus another, which is the essence of the dispute herein.

For reasons discussed below, the Arbitrator is not persuaded that the Mail Handlers have established that the USPS's jurisdictional determination must be found improper because the USPS considered the mail "rejected" after it was processed initially on the OCR/BCS machines to be the principal source of candidate mail for processing on the LMLM and return for further processing on the OCR/BCS machines. The Arbitrator finds that the USPS has established herein that the LMLM was designed to place a blank label on mail which had been processed through the OCR/BCS machines, operated by the Mail Processors, which mail had been rejected during such processing, although information from the envelope had been read and sent to a remote location which is ready to print the appropriate information on the envelope after a blank label has been placed by the LMLM on the front or back of the envelope, as appropriate. That is, the LMLM was designed by Management so that a blank label could be applied to provide a place on the envelope for the already-created bar code and/or ID tag to be sprayed on the envelope in a timely manner by the OCR/BCS machines which operation must be accomplished within a limited time window or the information already obtained and ready for placing on the envelope will be lost. In fact, the LMLM

routinely has accomplished the task for which it was designed - placing labels on the front or back of envelopes which already had been processed on the OCR/BCS machines from the time that the LMLM first was installed in a few postal facilities and tested.

While the Mail Handlers have demonstrated herein that the LMLMs also have been utilized for another task, i.e., the application of blank labels to the other source of candidate mail - before such mail was processed through the OCR/BCS machines - but after it has been identified and separated by Mail Handlers because such envelopes are "glossy", "slick" or too dark such that the address cannot be read or a bar code/ID tag cannot be sprayed thereon and such mail is set aside before it goes through the OCR/BCS machines because it is evident that processing on these machines would result in rejection, which "wasted" processing would not be efficient. It may well be the case that this other source of candidate mail apparently was not anticipated by Management as a source of mail for the LMLM when the need for a machine to apply a blank label initially was decided upon and the LMLM initially was designed to accomplish that result. It also may be the case that this other source of candidate mail for the LMLM - to the extent that it was recognized at all as a source - was not considered to be of sufficient significance, as compared to the "reject" mail from the OCR/BCS machines, to warrant determinative consideration as the basis for an award of the work of operating the LMLM. In the Arbitrator's judgement, these considerations are not found to constitute a sufficient basis for finding that the USPS acted unreasonably, or otherwise abused its discretion, by awarding the operation of the LMLM to the Mail Processors represented by the APWU.

To the extent that this source of mail arguably should be considered to be the primary source of candidate mail for the LMLM, as the Mail Handlers urge, the arguments presented by the Mail Handlers - in support of the claim for the assignment of the operation of the LMLM to Mail Handlers - are consistent: the processing of mail, by placing a blank white label thereon, is not itself "distribution" of mail, such that there is no presumption in favor of assignment under RI-399 to Clerks represented by the APWU. Further, since the source of the candidate mail, in the Mail Handlers view, primarily is that which has been identified and separated by the Mail Handlers before processing by the OCR/BCS machines, it follows that the Mail Handlers should operate the LMLM to prepare the mail for subsequent processing on the OCR/BCS machines, all of which is "preparation" of the mail, work which traditionally has been performed by Mail Handlers. The Mail Handlers contend that, under this analysis, the operation of the LMLM, which involves the duties of loading ledges and sweeping, which tasks routinely have been performed by Mail Handlers in operations 010 and 020, such that the operation of the LMLM necessarily should have been assigned to Mail Handlers. The Mail Handlers claim that such an assignment is consistent with the overall "efficiency" of the operation, in part, because the Mail Handlers already are identifying and setting aside this candidate mail for the LMLM, loading it on carts and bringing it to the LMLM for processing.

Although there is evidence from the Mail Handler witnesses that this additional source of candidate mail for the LMLMs also has been processed through the LMLMs since the inception and initial testing of the LMLMs, i.e., during the key period prior to the jurisdictional award to the Mail

Processors, the Arbitrator, nevertheless, is not persuaded that the Mail Handlers have established that this additional source of candidate mail for the LMLM is so significant that it must be found to outweigh in importance as a source the candidate mail for which the LMLM was designed, i.e., mail which has been processed through the OCR/BCS machines and rejected. The Arbitrator is not persuaded that Management's failure to base the decision to design the LMLM on this additional source of candidate mail, instead of on the candidate mail consisting of mail rejected by the OCR/BCS machines, was unreasonable or constituted an abuse of discretion such that the USPS's determination to assign to the Mail Processors the operation of the LMLM must be set aside as improper under RI-399 and the six guidelines.

Thus, the Arbitrator cannot conclude on this record that the basis of the Mail Handlers' claim, in this regard, has been established by a preponderance of the evidence. The Mail Handlers have not presented any statistics, contemporary to the period in question, which establish that this additional source of mail was so important that it should have been considered by Management as the determinative source of mail rather than the mail rejected by the OCR/BCS machines upon which the USPS relied. The evidence presented by the Mail Handlers is in the form of testimony by several individuals, each of whom testified, in essence, that he/she could recall the relative amounts of mail from the different sources during the period prior to the jurisdictional determination, a period which occurred over a dozen years before the instant hearing. Some of these Mail Handlers operated the LMLMs, some did not. None worked all of the shifts each day during the relevant period before the jurisdictional award was made, nor did any of them work all of the shifts during that entire period or a representative number of such shifts. None of them established persuasively that the mail he or she happened to observe as destined for processing on the LMLM was representative of the actual totals during the entire period and/or that their estimates were any more probative or reliable than the observations on the source of mail for the LMLM made by Mr. Jacquette and by Mr. Reid during that same period.

While the Arbitrator finds that the Mail Handlers have established that there existed this additional source of candidate mail for the LMLM - which additional source, apparently, Management did not take into account when it made the jurisdictional determination to award the work to the Mail Processors represented by the APWU - the Arbitrator cannot find on this record that the Mail Handlers have met their burden of establishing that this additional source was so overwhelmingly important that Management's reliance on the reject mail from the OCR/BCS as the appropriate source of mail - with the analytic consequences under RI-399 and the six guidelines which flowed from that determination [discussed below] - constituted an abuse of discretion which warrants setting aside the jurisdictional determination insofar as it was based on that particular source of candidate mail to be processed on the LMLM.

In this regard the Arbitrator finds that the Management officials who were responsible for the LMLM development acted in good faith in response to a real problem for which they were able to propose a meaningful resolution, the LMLM. According to the letter, dated December 18, 1992, by which the Postal Service informed the Mail Handlers of the function of the LMLM and the proposed assignment of the LMLM to the Clerks represented by the APWU:

The LMLM applies plain white, non-permanent labels to the bar code clear zone on letter mail. The LMLM is used to process verifier rejects, which are letters with bar codes that are not readable by a Bar Code Sorter (BCS). Following application of the label, the letter can then be rerun and a readable bar code applied to it. This keeps such letters in the automated mail stream. *LMLM is primarily intended to be used in support of RBCS sites.* [Emphasis supplied.]

\* \* \*

The Arbitrator notes that Mr. Jaquette testified that, if the Postal Service could have found a way to make the LMLM an integral part of the OCR machine, it would have done so. Since that was not practical, they designed a machine, the LMLM, which physically was separated from but, nevertheless, was process-related to the OCR/BCS machines, and which solved the problem of salvaging the mail which had been rejected by the OCR/BCS machines so that such mail could be processed, "distributed," on those machines. This is not a case in which the result sought by Management could not be achieved because it had failed to take something into account which later proved significant. The fact that Management, in addition to achieving the result it sought, was able to achieve a secondary result which it had not intended or planned - upgrading mail without processing it through the OCR/BCS machines - is not considered to be a proper reason to set aside Management's jurisdictional award to the Mail Processors based to a substantial degree on the result for which it had planned.

The Arbitrator notes that the Postal Service's witness, John Reid, testified that the LMLM was designed to lower the amount of "leakage", that is, the inability to finalize mail that already had been processed partially in the Remote Bar Code System (RBCS). The LMLM also processes OCR reject mail, that is, mail which is rejected by the OCR because it has an unreadable bar code. Both types of mail already are mid-stream in the "distribution" process, such that, arguably, there is a direct relation to the automated distribution process, the OCR/BCS machines, which are operated by Mail Processors represented by the Clerks. The Arbitrator notes that Mr. Jaquette testified that the LMLM is an integral part of the OCR operations and that, if it were possible to have attached a LMLM to the end of the OCR, the Postal Service would have done so. Mr. Jaquette also asserted that the function of applying labels is a Clerk craft function. The Arbitrator does not agree with the APWU's argument that the LMLM itself is performing "distribution" such that the operation of the LMLM, as "distribution" necessarily is Clerk work. Nevertheless, for reasons discussed above, it is found that - with respect to that source of mail derived from "rejects" from the OCR/BCS machines, because that candidate mail already has been partially processed on those machines and the information from the envelopes stored and ready to be sprayed on the envelopes once the label is in place, that work is related sufficiently to the "distribution" process to be assigned appropriately to the Clerks.

There is no evidence that anyone, including members or representatives of the Mail Handlers,

called to Management's attention at the time, i.e., before the jurisdictional award was made to the Mail Processors, that there was additional source of candidate mail which routinely was identified and set aside by the Mail Handlers before processing it on the OCR/BCS machines which should be considered in determining which craft to award the operation of the LMLM. There is no probative evidence that Management was confronted by a claim concerning this additional source of candidate mail and that Management refused to consider it as controlling of the award of the work of operating the LMLM. It may well be that Management overlooked completely, discounted the significance of, or otherwise failed to consider adequately, this additional source of candidate mail, in part because it was not coordinated directly with the problem Management had set out to correct when it designed the LMLM. There is no evidence, however, that Management acted in bad faith in a manner intended to "ignore" this additional source of candidate mail for the LMLM for the purpose of depriving the Mail Handlers of an assignment which arguably should have been awarded to them because this additional source of candidate mail for the LMLM was so much more important, in terms of relative amounts of such mail handled, than was the OCR/BCS "reject" mail.

The Arbitrator notes that none of the Parties, including the Mail Handlers, has addressed the question of whether the additional source of candidate mail for the LMLM, that identified and separated out by the Mail Handlers before it is processed by the OCR/BCS machines because it is evident that such mail cannot be processed on those machines, should be considered as the basis for a separate assignment. That is, none of the Parties has analyzed whether it would be appropriate, under RI-399 and the six guidelines, because of the arguably distinct natures and handling differences of the two sources of candidate mail for the LMLM, to assign the operation of the LMLM to the Mail Processors when the source of the candidate mail is OCR/BCS "reject" mail, but assign to the Mail Handlers the processing on the LMLM of the other source of mail, i.e., that "glossy" or "slick" mail which is identified and separated out by Mail Handlers before it is processed by the OCR/BCS machines. [Since the Parties have not addressed this question in the instant record, the Arbitrator does not consider it appropriate to attempt to analyze it further or to resolve it absent a request by all three Parties to reopen the record for that purpose.]

### The Eischen Award

The Arbitrator finds that, for the reasons stated by Arbitrator Dana Eischen, Case No. H7C-NA-C 32, "Primary Craft for Spreading the Mail to Carrier Cases", the instant dispute is controlled by, and subject to analysis under, Regional Instruction 399. To the extent that there remains any dispute by the APWU with regard to Arbitrator Eischen's conclusion that the jurisdictional dispute before him properly was presented to him for decision pursuant to the directives of RI-399 Dispute Resolution Procedures [DRP herein], in the tripartite MOU dated April 16, 1992, the following is noted. Arbitrator Eischen stated in that decision, in relevant part: "This is the first case presented for National-level arbitration under the RI-399 DRP dated April 16, 1992, but it did not arise under those procedures." Arbitrator Eischen noted that the case had its genesis in a National-level grievance filed by the APWU under Article 15.3D of the consolidated 1987-1990 National Agreement between the Postal Service and a Joint Bargaining Committee comprised of the APWU

and the National Association of Letter Carriers [NALC herein].

Arbitrator Eischen, in his history of the jurisdictional dispute resolution procedures developed by the USPS, the APWU and the Mail Handlers, noted Arbitrator Gamser's "seminal decision", Case NO. AD-NAT-1311, dated October 13, 1981 [Gamser Award], which upheld the validity of RI-399 as "a touchstone for the National Jurisdictional Arbitrator called upon to review primary craft designations under the RI-399 DRP of April 1992." Arbitrator Eischen referred to Arbitrator Gamser's history of the procedures utilized by the APWU, the Mail Handlers and the USPS to resolve jurisdictional disputes. Arbitrator Eischen noted that, under the 1975 MOU, the Parties were to consider submissions of work assignment claims under "among other relevant factors" the following expressly listed criteria:

1. existing work assignment practices;
2. manpower costs;
3. avoidance of duplication of effort and "make work" assignments;
4. effective utilization of manpower, including the Postal Service's need to assign employees across craft lines on a temporary basis;
5. the integral nature of all duties which comprise a normal duty assignment;
6. the contractual and legal obligations and requirements of the parties.

Arbitrator Eischen noted, and the Arbitrator in the instant case notes also, that these same six criteria remain as Article 1.5A of the respective Agreements of each Union with the USPS. Arbitrator Eischen, after further tracing the history of the particular dispute before him, noted that the three Parties had agreed upon the following Issue to be presented to him for resolution: "Whether the Postal Service properly assigned the Mail Handler craft as the primary craft to spread mail to letter carrier cases (i.e., the taking of mail, including but not limited to sacks, trays, flat buckets, and bundles, to carrier cases), when such mail has been previously identified and marked by carrier route numbers." Arbitrator Eischen, in discussing the respective, summarized positions of the APWU, the USPS and the NPMHU, noted that, among other positions, the APWU had argued that, although that case had been submitted to Arbitrator Eischen as the National Jurisdictional Disputes Arbitrator under the RI-399 procedures, RI-399's procedures, nevertheless, were not applicable to that dispute because of the procedural history thereof.

Arbitrator Eischen directly rejected the APWU's position that RI-399 was not applicable to the dispute before him. Thus, Arbitrator Eischen noted that all three Parties had agreed on the issue, which questioned the propriety of the USPS' assignment of the work in dispute to the Mail Handler craft as the RI-399 "primary craft" to spread the mail to carrier cases. Arbitrator Eischen further stated: "It is plain that jurisdiction and authority have been properly vested in me to hear and decide the present case under the RI-399 DRP by application of the terms of RI-399."

Arbitrator Eischen also rejected the APWU's position that RI-399 was inapplicable to that dispute for the substantive reason that RI-399 applied only to Mail Processing activities and had no

application to this spreading activity which takes place only in Customer Services operations. Arbitrator Eischen acknowledged, with regard to "manuals and handbooks, custom, history and practice and arbitration precedent," that "none of those traditional sources of arbitral reference and guidance may reasonably be disregarded in work jurisdiction disputes". He concluded, however, that the APWU had not demonstrated persuasively that RI-399 was applicable only to Mail Processing activities nor that it had no application to spreading activity taking place only at Customer Service operations. Arbitrator Eischen reviewed the history of the language of RI-399 and concluded that it was applicable to the dispute before him.

Arbitrator Eischen then reviewed the work at issue in the case before him, spreading the mail, and reiterated the "narrow parameters of the question submitted for determination in this case". Arbitrator Eischen noted that all that was required of the employee who spread the mail was to match the numbers and transport that mail to the appropriate carrier case. Arbitrator Eischen stated that the "general parameters for describing the types of Postal Service work performed by clerks and the types of Postal Service work performed by mail handlers are well-established." He stated that "the transporting the mail ('movement of mail from Point A to Point B') is a function primarily assigned to and performed by the mail handler craft." He further stated, "Nor does anything in this record call into question the countervailing truism that the functional duties and responsibilities of clerks primarily are described in terms of performing different types of 'distributions.'"

Arbitrator Eischen stated, with regard to the "asterisk" requirements in RI-399:

The custom, practice and tradition of mail transportation by mail handlers and mail distribution by clerks, reflected in statutory position descriptions [Title 39, former United States Code, Sections 3514(d) and 39 U.S.C. §3515] and current positions descriptions . . . permeates the primary craft designations set forth in RI-399. Duly noted are the so-called "asterisk" function qualifications and the other qualifying language in RI-399 that where a function is "an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution." [The "asterisk" requirements that the function can be "efficiently separated" and that there be "four (4) or more hours of continuous work consisting of one or more work functions in one or more operations designated to the same primary craft" are applicable to "spreading the mail." But the "integral to distribution" qualification is inapplicable in this case because, for reasons explained *infra*, "spreading the mail", as defined in the Issue Statement, *supra*, is neither distribution of mail nor is it "an integral part of the distribution function"; rather it is transportation of mail].

\* \* \*

Arbitrator Eischen noted that, in the case before him, "spreading the mail" was not expressly listed or defined in RI-399 but stated that "transportation functions primarily assigned to mail



handlers are closely aligned with if not identical to the task of "spreading the mail", as that quoted term is defined in the Issue Statement, *supra*. In particular, the tasks of "obtaining mail from staging area[s]" and "loading ledges," both of which appear throughout RI-399 as designated to the mail handler craft, accurately describe the spreading function." Arbitrator Eischen added:

... By contrast, the "spreading is distribution" mantra so frequently and vehemently intoned by APWU throughout this proceeding turns out to be a bare assertion unsupported in this record by history, custom, practice, arbitral precedent, manuals and handbooks or RI-399 itself. To the contrary, each of the evidentiary bases typically used to resolve jurisdictional disputes among and between Postal Service unions, especially and specifically including RI-399 and the six (6) guidelines which underpin RI-399, support the appropriateness of the Postal Service assignment of mail handlers as the primary craft to perform the function of spreading the mail to carrier cases.

\* \* \*

Arbitrator Eischen concluded that "[t]here is no viable basis for concluding that the location in which such spreading of mail to carrier cases occurs should be determinative of the primary craft to be assigned to that spreading." Arbitrator Eischen rejected the APWU's reliance on statements in the USPS financial handbook implementing guidelines for National Workhour Reporting System [F-2 Handbook] which he found inapplicable to jurisdictional arguments. Arbitrator Eischen also concluded that, under the Function Four Review Process Booklet's "allied distribution" under LDC 43, "[a]ll of the items listed are typical mail handler duties, including 'spread Carrier mail'.

Arbitrator Eischen's Conclusion stated:

In summary, the Postal Service's decision to assign mail handlers as the primary craft for the spreading of mail to letter carriers is fully consistent with RI-399, *per se*. If it were necessary to go beyond the confines of RI-399 to resolve a jurisdictional dispute under the RI-399 DRP, logic and the mutual intent of the Parties support a conclusion that the appropriate principal jurisdictional standards to consider would be the six (6) criteria agreed upon by the Parties in the 1975 MOU establishing the Committee on Jurisdiction [It is noted that those six (6) criteria, used by the parties to develop RI-399, continue to be found in the collective bargaining agreements between the USPS and both APWU and NPMHU as the criteria for determining whether or not a new position was assigned to the appropriate craft]:

1. existing work assignment practices;
2. manpower costs;
3. avoidance of duplication of effort and "make work" assignments;

- 4. effective utilization of manpower, including the Postal Service's need to assign employees across craft lines on a temporary basis'
- 5. the integral nature of all duties which comprise a normal duty assignment;
- 6. the contractual and legal obligations and requirements of the parties.

The assignment of the mail handlers as primary craft for spreading the mail is supported not only by RI-399, *per se*, but also by those six (6) criteria underpinning RI-399. Claims and assertions to the contrary by APWU are not supported by probative evidence in the record before me. Accordingly, I find and hold that the Postal Service properly assigned the mail handler craft as the primary craft to spread the mail to letter carrier cases when such mail has been previously identified and marked by carrier route numbers.

\* \* \*

RI-399

The following RI-399 Implementation Criteria are relevant to the analysis of this dispute.

\* \* \*

II. IMPLEMENTATION CRITERIA

A. Efficient and Effective Operation

All actions taken relative to implementation of these guidelines must be consistent with an efficient and effective operation. . . .

\* \* \*

C. Distribution Activities

*Where the functions of obtaining empty equipment, obtaining unprocessed mail, loading ledges and sweeping are an integral part of the distribution function and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.*

\* \* \*

E. Assignment of New and/or Additional Work

Assignment of new or additional work, not previously existing in the installation, shall be made in accordance with the primary craft designations contained in this instruction.

\* \* \*

With regard to these Implementation Criteria, A. Efficient and Effective Operation, states, in relevant part: "All actions taken relative to implementation of these guidelines must be consistent with an efficient and effective operation." The Arbitrator, based on the above discussion of the nature of the work involved in this proceeding, the USPS properly acted in accordance with this guideline by assigning the duties associated with the operation of the LMLM to the Mail Processors represented by the APWU. The Arbitrator finds that the jurisdictional determination of the USPS was consistent with this Implementation Criterion insofar as the work has been shown to have been inherently tied into the distribution of mail on the OCR/BCS machines. The Arbitrator notes that the USPS, in making this jurisdictional determination, considered to be most significant the relationship between the duties performed by the employee assigned to operate the LMLM and the mail rejected by the OCR/BCS machines, based on the initial reasons for developing the LMLM and the fact that this mail already has been processed on these machines, information on the candidate mail has been transmitted to remote locations and stored, temporarily, until it can be utilized after a blank label has been placed on such mail by the LMLM within a limited time after the initial processing and the fact that the Mail Processors who handled the mail on the OCR/BCS machines are more familiar with the cause of rejections on those machines and the related facing of the mail to be processed on the LMLM, i.e., whether the blank label is to be placed on the front or back of the envelope.

In the Arbitrator's judgment, the Mail Processors who operate the OCR/BCS machines from which this candidate mail originates, as mail which has been rejected by one of these machines, are in the most advantageous position - since they are located at the OCR/BCS machines - to be aware when these machines reject such mail and it is ready for timely processing on the LMLM and how such reject mail must be faced. To the extent that the Mail Processors also must process on the LMLM mail from the other source of candidate mail for the LMLM, i.e., mail which has been identified and separated by the Mail Handlers before it is processed on the OCR/BCS machines, while the Mail Handlers are better placed to know when such mail is ready for processing on the LMLM, that mail, although it too must be processed expeditiously, is less time sensitive than the OCR/BCS reject mail which must be processed before the temporarily stored information is lost and the Mail Handlers would be less familiar with the particular reason which a given envelope was rejected and which way it must be faced. The Arbitrator, on this record, considers the question of the Mail Handlers' skills, knowledge and ability with regard to facing the mail, as compared with the Mail Processors who handle the reject mail on the OCR/BCS machines, to be one of degree, rather than a demonstrated lack of skills, knowledge and ability by the Mail Handlers to operate the LMLM, as asserted by Management's witnesses. In this regard the Arbitrator notes that, during the relevant period, Management sought volunteers to operate the LMLM from both the Clerk craft and from the Mail Handler craft, and there is no evidence in this record that any Mail Handler was unable

to accomplish this work, required special training on facing letters (as opposed to training on the operation of the LMLM itself), was reassigned, counseled, disciplined because of lack of skills, knowledge or ability, or otherwise was determined to be incapable of performing the work of operating the LMLM.

With regard to Implementation Criterion C. Distribution Activities, this states, in relevant part: “Where the functions of obtaining empty equipment, obtaining unprocessed mail, *loading ledges and sweeping are an integral part of the distribution function and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.*” The USPS and the APWU have argued persuasively that, with respect to the actual duties performed on the LMLM, insofar as these involve loading ledges and sweeping, these functions are inherently intertwined with the distribution of the candidate mail for the LMLM which already partially has taken place on the OCR/BCS machines which are operated by Mail Processors represented by the APWU. The Arbitrator agrees that there is a significant relationship between this source of the candidate mail for the LMLM, reject mail from the OCR/BCS machines, and the distribution performed by the OCR/BCS machines, particularly because this candidate mail already has been processed partially by these machines such that certain information on the rejected envelopes has been read by the machines and temporarily stored, awaiting the placement of the blank label so that the information can be transmitted and sprayed onto the envelope and the distribution process can be completed. The Arbitrator also considers significant the location of the LMLMs in close proximity to the OCR/BCS machines.

While the Arbitrator agrees with the Mail Handlers that this interconnection is not present with respect to the candidate mail from that identified and separated by the Mail Handlers before such mail is processed on the OCR/BCS machines, because it is known in advance by the Mail Handlers that such mail inevitably will be rejected by those machines and it would be inefficient to process the mail on those machines despite the anticipated rejection, for the reasons set forth above, this other source of candidate mail is not found to have been established by the Mail Handlers to be of such significance that it should be considered the controlling factor in the analysis under RI-399 and the six guidelines. Given that it is found herein that the USPS appropriately afforded controlling effect to the rejects from the OCR/BCS machines as the most significant source of candidate mail for the LMLMs and the USPS’ reliance on the close proximity of the LMLMs to these machines, it is found that the related conclusion by the USPS, that “*the entire operation will be assigned to the primary craft performing the distribution activity,*” also was appropriate. In this case, the primary craft performing the “distribution activity” is the Clerk craft, the Mail Processors represented by the APWU.

The Arbitrator also finds that the jurisdictional determination by the USPS by which the operation of the LMLM was awarded to the Mail Processors was consistent with Implementation Criterion E. Assignment of New and/or Additional Work, which states, in relevant part: “Assignment of new or additional work, not previously existing in the installation, shall be made in accordance with the primary craft designations contained in this instruction.” In this case, the Arbitrator notes the Mail Handlers’ reliance on Operations 010 and 020. This is consistent with the

Mail Handlers view that - in determining the proper work duties and operations to use as comparators to the duties involved in the work of operating the LMLM - primary significance should be afforded to the source of candidate mail for the LMLMs which has been identified and separated by the Mail Handlers before it has been processed on the OCR/BCS machines. In the Mail Handlers view, Operations 010 and 020, which in the flow of the mail through various operations which are described in the list of such operations in RI-399, occur before the mail is processed on the OCR/BCS machines and such initial processing duties as described in those operations are performed by the Mail Handlers. For the above-discussed reasons, the Arbitrator is not persuaded that the Mail Handlers have met the burden of establishing the primacy of this other source of candidate mail for the LMLM's. For this reason the Arbitrator is not persuaded that the consequences which, otherwise, logically might flow from such a conclusion, i.e., that the appropriate comparator operations are those which occur before the mail has been processed on the OCR/BCS machines, are warranted on this record. The Arbitrator, to the contrary, concludes that the USPS correctly relied on the reject mail from the OCR/BCS machines as the primary source of candidate mail for the LMLMs, such that the appropriate comparator operations are those further along in the mail flow, for example Operation 088-089, as urged by the USPS and by the APWU.

For all of these reasons, the Arbitrator finds that the USPS acted consistent with the Implementation Criteria of RI-399 when it made the jurisdictional determination awarding the work of operating the LMLM to the Mail Processors represented by the APWU.

#### The Six Guidelines

1. Existing work assignment practices: the Arbitrator finds that the USPS has demonstrated that the award of the operation of the LMLM to the Mail Processors represented by the APWU was consistent with existing work assignment practices. In this case, the USPS has shown that the assignment of this disputed work to the Mail Processors is consistent with the assignment of the work of operating the OCR/BCS machines, which machines, by rejecting certain mail, creates what the USPS found to be the most significant source of candidate mail for the LMLM. The assignment of the work of operating the LMLM also is consistent with the assignment of the work of loading ledges and sweeping to the primary craft performing the distribution work, here on the OCR/BCS machines, since such work on the LMLM has been found to be an integral part of the distribution function within the meaning of Implementation Criterion C [discussed above]. Although, as the Mail Handlers argue, there is greater consistency between work performed on the LMLM from the other source of candidate mail for the LMLM, i.e., mail which has been identified and separated by the Mail Handlers before such mail has been processed on the OCR/BCS machines because it would be rejected by those machines, the Arbitrator has concluded that that source of mail has not been demonstrated to be the primary source of candidate mail for the LMLM and, therefore, the relationship between the Mail Handlers and the work of processing such other mail is not found to be controlling.

2. Manpower costs: in this case, the Arbitrator finds, as argued by the USPS and the APWU, that the difference between the cost of assigning the work to the Mail Processors represented by the APWU versus the cost of assigning this work to the Mail Handlers is not significant. The Arbitrator notes, in this regard, that, for the most part, the assignment is on an as-needed, rather than on a full-time basis, such that fewer than a full-time equivalent position of hours per day, week, month, and year are at issue.

3. Avoidance of duplication of effort and "make work" assignments: the Arbitrator does not consider this to have been shown to have been a major consideration in the award of the work in dispute to the Mail Processors. There is no showing that there is a more efficient way to locate the OCR/BCS reject mail from all of the mail processed by these machines without processing it initially through these machines and await its rejection. Unlike the other source of candidate mail, relied upon by the Mail Handlers, there are no obvious physical characteristic which make such potential "reject" mail readily identifiable to the Mail Handlers so that it can be set aside before it is processed initially through the OCR/BCS machines. For the above-stated reasons, while the Mail Handlers' identification and setting aside of mail which is predicted by them to be rejected does avoid a "duplication of effort" by avoiding the need to process this mail twice on the OCR/BCS machines, the Arbitrator has concluded above that this other source of mail has not been demonstrated by the Mail Handlers to be of sufficient significance to be considered controlling of the award of this work.

4. Effective utilization of manpower, including the Postal Service's need to assign employees across craft lines on a temporary basis: the Arbitrator finds that the USPS has demonstrated that the assignment of the operation of the LMLM to the Mail Processors - who operate the OCR/BCS machines which, by rejecting certain mail as not capable of accepting a sprayed-on bar code or ID tag without the interim placement of a blank label thereon - is an effective utilization of manpower because these employees are familiar with the reasons for the rejection of this candidate mail and know how it must be faced on the LMLM, the Mail Processors assigned to the OCR/BCS machines are located in close proximity to the LMLM, and these employees are familiar with the time frame during which the processing through the LMLM and the re-processing through the OCR/BCS machines must be accomplished before the temporarily-stored information for this mail is lost.

5. The integral nature of all duties which comprise a normal duty assignment: the Arbitrator finds that the USPS has demonstrated that its award of this work to the Mail Processors is consistent with the integral nature of the duties of the Mail Processors on the OCR/BCS machines insofar as they are familiar with facing requirements and the timing of the processing through the LMLM and the re-processing through the OCR/BCS machines.

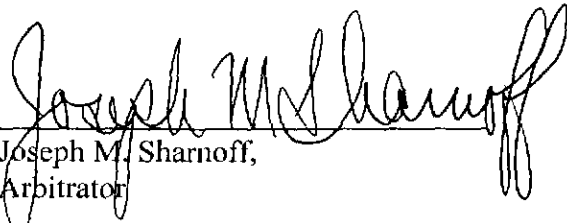
6. The contractual and legal obligations and requirements of the parties: the Arbitrator finds

that the USPS has acted in accordance with its contractual and legal obligations as expressed in RI-399 and the six guidelines, as well as these concepts have been interpreted and applied in prior Arbitration decisions, including that of Arbitrator's Eischen, Zumas, Snow and Gamser, referred to above.

Based on all of the above considerations, the Arbitrator finds that the jurisdictional award of the work of operating the LMLMs to the Mail Processors represented by the APWU was appropriate under the terms of RI-399 and the six guidelines. Accordingly, the appeal of this jurisdictional determination by the Mail Handlers must be denied in all respects.

**AWARD**

The Mail Handlers' protest, of the jurisdictional determination concerning the operation of the LMLM made by the USPS in favor of the Mail Processors represented by the APWU, is denied in all respects.

  
Joseph M. Sharnoff,  
Arbitrator

Dated: April 22, 2006  
Oakton, Virginia