

In the Matter of Arbitration  
Between

UNITED STATES POSTAL SERVICE

And.

NATIONAL POST OFFICE MAIL HANDLERS,  
WATCHMEN, MESSENGERS AND GROUP  
LEADERS DIVISION OF THE LABORERS'  
INTERNATIONAL UNION OF NORTH  
AMERICA, AFL-CIO

And

AMERICAN POSTAL WORKERS UNION,  
AFL-CIO

OPINION AND AWARD

Nicholas H. Zumas, Arbitrator

Case Number: H1M-NA-C 14

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JUL 16 1986

Grievance and Arbitration Division  
Labor-Relations Department

INTRODUCTION

This is an arbitration proceeding pursuant to the collective bargaining agreements between United States Postal Service (hereinafter "Service"), the National Post Office Mail Handlers, Watchmen, Messengers and Group Leaders Division of the Laborers' International Union of North America, AFL-CIO ("Mail Handlers"), and American Postal Workers Union, AFL-CIO (hereinafter "APWU"). Hearings were held in Washington, D.C. on July 31, October 22, October 23, and November 26, 1985, at which times testimony was taken, exhibits offered and made part of the record, and oral argument was heard. The transcript of the proceedings numbered 585 pages.

APPEARANCES

For the Service: Edward F. Ward, Jr., Esq.  
For the Mail Handlers: William B. Peer, Esq. and  
Lawrence E. Gold, Esq.  
For the APWU: Arthur M. Luby, Esq.

STATEMENT OF THE CASE

This grievance involves a jurisdictional dispute between two Unions representing Postal Employees with respect to the question of whether a new position of Mail Processor, PS-4 was assigned to the more appropriate craft.

The Mail Handlers challenged the jurisdictional assignment by the Service of this position to APWU. The Mail Handlers contend that the Service erred in awarding the Mail Processor position to the Clerk Craft (represented by APWU), and that this position must be assigned to the Mail Handler Craft.

Both the Service and APWU contend that the assignment by the Service of this position to the Clerks is clearly appropriate under the National Agreement as well as the guiding principles for craft assignment of all mail processing functions.

## ISSUE

The parties have stipulated that the only issue to be resolved in this dispute is whether the bargaining-unit position entitled, Mail Processor, SP 2-37 was assigned to the appropriate national craft unit.

## BACKGROUND

On June 14, 1982, then Assistant Postmaster General, James C. Gildea informed the Presidents of APWU and Mail Handlers of the creation of two new bargaining unit positions, that of Mail Processor, SP 2-37, PS-3 (the position in dispute in this proceeding), and that of Mail Distributor, SP 2-200, PS-4. In this notification, Gildea advised the parties that, based on its preliminary review, the Service believed that the new positions "should most appropriately be assigned to the Clerk Craft of the [APWU]," and urged consultation with the Unions within the next 30 days. Discussions were held between the Service and the APWU concerning the pay level of both positions; and discussions were held between the Service and the Mail Handlers concerning the preliminary assignment of the positions to the Clerk Craft.

On July 14, 1982, Gildea informed the Unions that both bargaining unit positions would be assigned to the Clerk Craft, and that the pay levels of the two positions would remain unchanged.

As a consequence, four grievances were filed and scheduled for arbitration separately. Two grievances were filed by the APWU over the pay level of the two positions, and two tripartite arbitrations were filed by the Mail Handlers over Craft jurisdiction.

The first arbitration was the Mail Handler grievance over the assignment of the Mail Distributor position to the Clerk Craft. This dispute was heard by Arbitrator Benjamin Aaron.<sup>1</sup> On August 31, 1983, Arbitrator Aaron denied the grievance, and held:

"The evidence is overwhelmingly to the effect that this work has traditionally performed by Clerks. Regional Instruction 399, which has been incorporated in the Mail Handlers' and the Clerks' 1981 - 1984 National Agreements, assigns this work to Clerks. Occasional assignments of this work to Mail Handlers in some post offices, if it has occurred, has no

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<sup>1</sup>Both the jurisdictional disputes were assigned to Arbitrator Howard Gamser. As a result of his untimely death in April 1983, Arbitrator Aaron was assigned to resolve the Mail Distributor case; and this Arbitrator was assigned to the Mail Processor case.

effect on the issue in this case. Even if the nonscheme manual distribution of mail sometimes incidentally involves heavy lifting, it is clear that such work nevertheless belongs to the Clerks".

Arbitrator Richard Mittenthal resolved the APWU grievance over the pay level of the Mail Distributor. On May 17, 1984, Arbitrator Mittenthal sustained the grievance on the grounds that the Level 5 pay classification had "been applied consistently to non-scheme separation of mail [by Level 5 Distribution Clerks] through long established practice".

In April 1985, Arbitrator Aaron rendered his decision on the APWU grievance over the wage level of the Mail Processor. In elevating the Mail Processor position from a Level 3 to a Level 4, Aaron agreed with the APWU that, "the position description of OCR-I Operator is much closer to that of Mail Processor than are any of the key position descriptions [including Mail Handler] considered by the Postal Service". Aaron held:

"Whether the Mail Processor position, despite its similarity to that of OCR-I, should be ranked at Level 4, rather than Level 5, is a much closer question; a decision to place the position at either Level 4 or Level 5 would not be demonstrably unfair. The Postal Service has emphasized that the new OCR/CS and BCS machines are far more sophisticated than the old OCR-I machines, and that, consequently, the duties of the Mail Processors are less complex and easier than those of the former OCR-I Operator".

As indicated earlier, the Arbitration of the present grievance over Craft jurisdiction was commenced in March 1983 before the late Arbitrator Howard Gamser shortly before his death. This Arbitrator granted the Mail Handlers request, previously denied by Arbitrator Gamser, for access to all exhibits, transcripts and evidence developed in the pay level cases.

#### STATEMENT OF FACTS

##### A. Development and Deployment of the Optical Character Reader System

Commencing in the late 1960's, the Service installed an innovative mail processing system to support a Service program called Batch Mail Processing. Because certain large volume mailers were utilizing machine printed mail with a limited number of fonts (a font is defined as a full assortment of printing type of a particular face and size), it was decided by the Service that it would be advantageous to use Optical Character Readers (OCRs) to recognize the relatively few types of printing styles used on envelopes at that time. Thus, the OCR-I equipment was installed at only 21 sites because these were cities that had high volume mailers with a mail base that could support the

OCR-I. Additionally, with the introduction of the Pre-sort program, it eliminated the originating processing step for that mail base. Like all subsequent generations of OCR's, the OCR-I automatically scanned and sorted the mail, and no keying or manual distribution was required of the operator. When the OCR-I was installed as standard equipment, the Service established a new standard position to operate the OCR-I, the OCR Operator, Level 5, and was assigned to the Clerk Craft. This assignment was grieved by the Mail Handlers. In an Advisory Opinion, Arbitrator Sam Jaffee ruled against the Mail Handlers, finding that the duties relied upon, e.g., loading and sweeping were "incidental or peripheral items" in the position description; and that the position was more appropriate in the Clerk Craft than the Mail Handlers.

In 1976, the Service purchased and installed the OCR-II and the Advanced Optical Character Reader (AOCR), new varieties of the OCR-I. These machines could read four lines of information, rather than two, and became standard equipment in several major offices. They were operated by Clerks who held the OCR Operator, Level 5 position. Despite better performance than the OCR-I, these machines were too costly and complex for widescale use. At about this time, Bar Code Sorters (BCS) were also installed as standard equipment, and were assigned to the Clerks.

In September 1978, the Service publicly announced its intention to increase ZIP Codes from five to nine digits.

By letter dated August 3, 1979, then Assistant Postmaster General Gildea advised the Unions that the Service "intends to undertake the evaluation of additional Optical Character Recognition (OCR) systems in a live mail processing environment", and that this equipment was to be obtained under a loan arrangement with various manufacturers. Gildea went on to state:

"These OCR systems differ from the type of OCR equipment we have utilized. The equipment will not sort directly to a letter sorting machine, but rather mail will be read by the OCR, Bar Coded and directed to 10 to 30 Pre-Sort Stacker Separations depending on equipment configuration. We anticipate the need for two or three employees for each machine engaged in feeding and sweeping functions with an additional three to four employees assigned data collections sweep side verification responsibilities. Within the limits of operational practicality, loading and sweeping functions will be staffed during the period of testing with Clerks or Mail Handler volunteers regardless of category or present pay level. The data collection function will be performed by Clerk<sup>2</sup> Craft employees with appropriate scheme knowledge".<sup>2</sup>

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<sup>2</sup>APWU grieved the use of Mail Handlers at the Boston facility. Operator Aaron denied the grievance holding that a pre-purchase testing of new machines was not covered by the Agreement, and that the use of Mail Handlers during the final eight weeks of the test period was not prohibited. It should be noted that the other four Postal facilities involved in the program where Clerk Craft employees were assigned to operate the  
(Footnote Continued)



The Service, in the June 3, 1980 issue of the Federal Register, stated how the expanded ZIP Codes, together with more advanced automated mail processing equipment, would improve mail delivery, as follows:

"The ability to direct mail to the appropriate letter carrier simply by reference to the ZIP Code will make possible additional economy, speed and accuracy and mail processing. These benefits can most readily be maximized through the planned use of advanced mechanization and mail processing. When this advanced mechanization is put into place, an Optical Character Reader (OCR) will read the nine-digit ZIP Code on letter mail, which has a typed or printed address, at the office where such mail first enters the Postal system. A printer attached to the OCR will then print a machine readable representation of the ZIP Code, in Bar Code form, on the lower right hand corner of the envelope and the mail will then be directed to the Postal facility serving the addressee. At this Facility, the mail can be processed by a Bar Code Reader (BCR), which is a low cost, highly reliable automated distribution system. The BCR will direct the mail to the appropriate delivery route".

On May 18, 1981, Gildea advised the Unions that a test of four small BCSs in Chicago would be conducted, and that both Mail Handlers and Clerks would be used for the loading and sweeping functions, and further to use Clerks for data compilation.

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(Footnote Continued)  
machines during the final eight weeks of the test period, no grievances were filed by the Mail Handlers.

On June 5, 1981, the Service informed the Unions of specific plans to install the Optical Character Reader/Channel Sorters (OCR/CS) and Bar Code Sorters (BCS) at particular Postal facilities.

On October 27, 1981, the Service announced the award of contracts for the OCR/CS to Pitney Bowes and Burroughs and the BCS to Bell & Howell. The Service also announced that deployment would occur between September 1982 and July 1984.

As indicated earlier, the Service announced on June 14, 1982 the creation of the new Mail Processor position. The Service also decided in early 1982 that the "Mail Handler Examination" (O/M 450) would be utilized to test for the new position. The mail processor was initially a Level 3 position (later increased to Level 4 by Arbitrator Aaron). The annual pay for Level 4 Clerks is \$75.00 less than for Level 4 Mail Handlers.

As of October 1985, the Service has deployed 252 OCR/CS and 248 BCS machines, and planned to deploy approximately 400 more of each within 18 months. There were approximately 6,000 Mail Processors then working with an anticipated eventual increase to a 15,000 Mail Processor complement. At least during the time of

the wage level dispute, the "vast majority" of Mail Processors were new hires "off the street".

The Mail Processor position description reads:

**"BASIC FUNCTION"**

Performs a combination of tasks required to process mail using a variety of automated mail processing equipment.

**ORGANIZATIONAL RELATIONSHIP**

Reports to the Supervisor having responsibility for the operation.

**DUTIES AND RESPONSIBILITIES**

1. Starts and stops the equipment.
2. Culls out non-processable items.
3. Loads mail on the transport unit for induction into the distribution system.
4. Clears jams not requiring use of hand tools.
5. Sweeps mail from bins, separations, or runouts; rubber bands or ties as necessary; places mail into the trays, carts, racks, pouches, etc.
6. Notifies Supervisor or maintenance when malfunctions occur.
7. Performs other job related tasks in support of primary duties".

According to the Automation & Mechanization brochure, the OCR/CS processes 25,000 to 30,000 pieces of mail per hour. The machine locates and reads the city, state and ZIP Code of the address. The machine provides ZIP Code read verification by using a computer memory. Mail passes from a feeder unit, which receives the mail, to a scanner unit, which reads the mail, to a

Bar Code printer which sprays a bar code corresponding to the ZIP Code if the mail piece does not have a pre-printed bar code. The machine then sorts each piece into one of 32, 44, or 60 separations (channels). The letters are then dispatched for delivery or for additional sortation by the BCS.

The BCS is a companion machine that receives mail from the OCR. Letter mail is transported past the Bar Code reader that detects and reads the Bar Code applied by the OCR/CS. The mail is then sorted to approximately to 100 separation for dispatch or input to other BCSs. It processes 20,000 to 30,000 pieces of mail per hour.

Two Mail Processors operate the OCR/CS, and they work with a Supervisor who is responsible for two of the machines. Essentially, one Mail Processor loads mail onto the system, and the other Mail Processor "sweeps" mail from the separations and places the sorted mail into trays or carts. Both employees cull out non-processable mail. They rotate their respective duties at least once every hour. On the two occasions when this Arbitrator observed the operation of the OCR/CS, the Mail Processors would periodically "riffle" the mail, or otherwise ascertain whether the mail was being properly directed to the pre-labeled channels. The tasks performed are relatively simple. As stated by the

Service, "the sophistication is in the machine and not in the employee". As indicated earlier, the Service uses the Mail Handler Examination to test perspective Mail Processors. This examination essentially tests understanding simple word meanings, checking names and numbers, and following oral directions. William Downes, Director - Office of Programs and Policies in the Labor Relations Department, primarily involved in the decision to assign the Mail Processor position to the Clerk Craft, testified that the entrance examination was not a consideration in that decision.

B. Article 1,5.A and Regional Instruction Number 399

Article 1, Section 5 of the both Crafts' National Agreements establish the procedures by which the Service assigns newly created positions to the more appropriate National Craft. It provides:

- A. Each newly created position shall be assigned by the Employer to the National Craft Unit most appropriate for such position within thirty (30) days after its creation. Before such assignment of each new position, the Employer shall consult with all of the Unions signatory to this Agreement for the purpose of assigning the new position to the National Craft Unit most appropriate for such position. The following criteria shall be used in making this determination:

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

B. All Unions party to this Agreement shall be notified promptly by the Employer regarding assignments made under this provision. Should any of the Unions dispute the assignment of the new position with thirty (30) days from the date the Unions have received notification of the assignment of the position, the dispute shall be subject to the provisions of the grievance and arbitration procedure provided for herein".

The criteria set forth above in Article 1, Section 5.A. are identical to those set forth in a 1978 Memorandum of Understanding on Jurisdictional Disputes, providing that disputed work assignments would be referred to a Committee on Jurisdiction for resolution such Committee was required to consider these six criteria, among other relevant factors, such as past practice, previous arbitration decisions dealing with conflicting jurisdictional claims, and the desire by the Service to achieve greater efficiency and economy of operations.

For many years, internecine warfare had been ongoing between the Mail Handlers and APWU over the appropriate Craft assignment of certain positions and mail processing. The jurisdictional

battles began to interfere with the efficiency of Postal operations, and threatened the collapse of the negotiations leading up to the 1975 National Agreement. This led to the establishment of the Jurisdictional Committee referred to above. Joint efforts, through a special sub-committee comprised of all of the parties, were unsuccessful in reaching accord on the overlapping claims of the Mail Handlers and APWU. In January 1977, at the request of these Unions, the Service assembled a team to develop comprehensive mail processing jurisdictional guidelines, in an effort to establish an efficient and cost effective way of resolving the jurisdictional claims while creating the least amount of confusion in the field. As part of its study, the team categorized the mail processing operation into its component functions. After evaluating the skill level involved, productivity, past practice, and efficiency and economy needs, it was recommended that either the Mail Handlers or the Clerks be assigned as the "Primary Craft" to each respective function in each mail processing operation. The team deliberately designated one or the other Craft as the "Primary Craft" in order to allow the Service flexibility in cross utilizing employees and as a way of integrating its operations.

After consultation with officials from both the APWU and the Mail Handlers, the Service team came up with a determination as

to which craft would be considered primary in making assignments, and where necessary, where the other Craft could be assigned as a supplemental or secondary Craft. There was no agreement. The Service issued revised guidelines that were submitted again to the Unions for comment. After receiving Union comments as well as comments from its own operating officials, the Service issued Regional Instruction No. 399 (RI 399) on February 16, 1979. This document was captioned "Mail Processing Work Assignment Guidelines", which provides in pertinent part:

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

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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...

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".

Attached to and made part of RI 399 is a list of Primary Craft Designations, dated November 15, 1978, and include the following:

<u>Operation</u>	<u>Function</u>	<u>Primary Craft</u>
	* * *	
080-087 MPLSM Distribution	Machine distribution of all classes letters.	Clerk
Note:	Allied labor required is normally performed by Clerks because of the rotation system employed.	
088-089 Optical Charac- ter Reader Distribution	OCR machine distribution of all classes of mail.	Clerk

(Note: See 080-087 note".)

Also included in RI 399 is a footnote marked by an asterisk that is virtually identical with the language of Paragraph C of the Implementation Criteria quoted above. It reads:

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

After consideration of the criteria set forth in Article 1, Section 5.A. and the fact that the Function of "OCR Machine Distribution of all Classes of Letter Mail" was assigned to the Clerks as the Primary Craft, the Service assigned the position of Mail Processor to the APWU.

#### POSITION OF MAIL HANDLERS

The Mail Handlers contend that analysis of the criteria set forth in Article 1, Section 5.A. demonstrate the Service erred in awarding the mail processor position to the Clerk Craft, and that this position must be assigned to the Mail Handler Craft.

With respect to Existing Work Assignment Practices, the Mail Handlers point to RI 399 which explicitly designates the Mail Handler Craft as the Primary Craft for the loading and sweeping functions which comprise the "virtual entirety" of the Mail Processor position. Even assuming that RI 399 had application to the OCR/CS and BCS, the Mail Handlers contend that reliance by the Service and the APWU on the asterisk footnote is misplaced asserting that with the OCR/CS and the BCS, no primary craft

actually "performs" the distribution. Instead, the machines themselves performed all the distribution functions that "in earlier times were divided into manual or less automated steps to which the Clerk Craft could lay claim". The Mail Handlers argue that the Clerks' performance of work associated with the OCR-I is not an "existing work assignment practice" which dictates the Primary Craft assignment for the OCR/CS and BCS. The Mail Handlers argue that the OCR reference to Operation 088-089 is not a generic reference intended to comprehend all mail processing machinery with an Optical Character Reader capability; that RI 399 was intended to apply only to the technology then operational; and that with the introduction of the OCR/CS and BCS, the Service was compelled to introduce new operation number to cover this work, and did not consider it to be part of the old 088-089 Operation. As such, Operation 088-089 did not designate the Clerk Craft as the primary Craft for all future technological advances in mail processing machinery with optical character reader capabilities. The Mail Handlers assert that the Mail Processor functions, loading and sweeping, are uniquely those assigned to the Mail Handler Craft under RI 399; and where they are not of necessity performed as an integral part of distribution or other function, or in a rotation with such functions, the parties must honor the primary craft designations in RI 399. The Mail Handlers argue that the work performed by

the Mail Processor most closely resembles that performed by the Mail Processing Machine Operator on the Mark-II and M-36 facer/canceller machines. The linear design and the essential loader-sweeper dual operator rotation of the Mark-II and the M-36 precisely match those of the OCR/CS and the BCS.

The Mail Handlers argue that assignment of the Mail Processor position to the Mail Handler Craft is also appropriate in light of the fact that the Service uses a pre-existing examination, the Mail Handler examination, for the Mail Processor position. The Mail Handlers contend that it "seems peculiarly inappropriate to assign to the Clerk Craft a position for which the appropriate test is an existing examination used exclusively for the Mail Handler Craft".

With respect to the second criterion, Manpower Cost, the Mail Handlers recognize that the pay rate for a Level 4 Mail Handler exceeds that of a Level 4 Clerk, but points out the difference, namely \$75.00 per year, is negligible. The Mail Handlers also argue that substantial savings could be realized by accepting bids for the mail processor position from Mail Handlers who had already taken the O/N-450 examination. The Mail Handlers speculate that these savings "would at least reduce whatever infinitesimal difference exists between the basic salary costs of

an assignment of the Mail Processor position to the Clerk rather than the Mail Handler Craft, and might well make the assignment of this position to the Mail Handlers Craft cheaper than assigning it to the Clerk Craft".

With respect to the next two criteria, Avoidance of Duplication of Effort and "Make Work" Assignments, and Effective Utilization of Manpower, the Mail Handlers point to the fact that the Service determined there was little or no distinction between the Clerk and Mail Handler Craft and it did not predicate its assignment on these criteria.

The Mail Handlers contend that the next criterion, an examination of the Integral Nature of All Duties Which Comprise a Normal Duty Assignment, is limited to an analysis of the "duties" which comprise the normal assignment for the new position and not the "activity" or "function" of a particular job or machine. The ledger loading and sweeping duties of a Mail Processor are Mail Handler duties under RI 399 and the position should be assigned to Mail Handlers.

The Mail Handlers reject any contention by the Service or APWU that there are contractual and legal obligations necessitating the assignment to the Clerk Craft of the Mail

Processor position under Operation 088-089. The Mail Handlers argue, "this is an erroneous and disingenuous attempt to extend RI 399 to work it was never intended to reach ..."

POSITION OF THE APWU

The APWU argues that the Clerk Craft has traditionally had primary jurisdiction over all letter mail distribution -- by hand or machine -- and that the Mail Handler Craft has never had primary jurisdiction over such activity. The APWU contends that the assignment by the Service of the Mail Processor position to the Clerk Craft was clearly appropriate under RI 399, and in accordance with the Craft determination principles set forth in Article 1, Section 5 of the National Agreement.

The APWU submits that RI 399, setting forth the mandatory principles for determining jurisdiction of mail processing work, specifically provides that the Optical Character Reader is referred to and is identified as a work "function", designating the Clerk Craft as the primary craft designated for "OCR Machine distribution of all classes of mail," and vigorously argues that this provision of RI 399 is not limited to certain peripheral physical tasks associated with the operation of the machines. As such, the Service had no choice but to give the Clerk Craft

primary jurisdiction of the Mail Processor, namely, "OCR Machine Distribution", and, accordingly assign the Mail Processor position to the Clerks. Moreover, the APWU maintains, there is no showing that the jurisdictional grant to OCR distribution to the Clerks was limited to any prototypes or varieties of the OCR. In this connection, it points to Mail Handler testimony during this proceeding to the effect that the OCR-I was the only machine referred to in "OCR distribution" in RI 399; and that this is belied by the fact that there were at least three varieties of OCR -- the OCR-I, the OCR-II, the AOCR, and one Bar Code Sorter -- in operation prior to the final issuance of RI 399 in June 1979; that all of these machines were operated by Clerks; and that operation of all of these machines was considered to be embraced by the work function "OCR distribution of all classes of mail". As with the OCR/CS operation, there was no "keying" or other manual distribution activity necessary on the earlier generations of the OCRs or the BCSs.

APWU rejects the suggestion that the OCR-BCS system was not contemplated by the parties when they adopted the term, "OCR" in RI 399, pointing out that as early as 1976, the Service established a special task force which concluded that development of an OCR-BCS system was necessary, not only to improve mail processing, but to provide for the expansion of the ZIP Code to

nine digits. In this connection, APWU points to the fact that the Committee's major recommendation that the ZIP Code should be expanded to nine digits to take full advantage of the new automated system was made public in the Federal Register in September 1978.

With equal vigor, APWU argues that RI 399 was intended to be a comprehensive and far reaching solution to the destructive jurisdictional infighting between the Clerks and the Mail Handlers over mail processing work; and that it was a reaction to the revolutionary changes in mail processing that had already taken place, and to the further changes that all parties knew would occur in the future. Accordingly, APWU argues, the implementation criteria issued with RI 399 require compliance with its "principles", not just to the specific assignments made at the time of issuance. To accept the position of the Mail Handlers, the APWU argues that, given the rate at which new mail processing machinery or new revisions of present machinery was being introduced into the mail stream, would quickly render RI 399 obsolete. Acceptance of such a premise, would virtually guarantee a destructive and costly jurisdictional fight each time a new machine was procured and each time changes were made to approve an existing piece of equipment.



Aside from the direct contractual obligation imposed by RI 399, APWU argues that the factors set forth in Article 1, Section 5.A. for assignment of new positions must be construed in favor of the Clerk Craft.

With respect to Existing Work Assignment Practices, APWU points to the fact that every single established position, the basic function of which is the distribution of letter or flat mail, is within the jurisdiction of the Clerk Craft. Moreover, APWU argues, the OCR-BCS system replaces traditional clerk work, namely, manual and keying based distribution; and that it has been an unbroken practice to assign positions created by technological or mechanization changes to the craft whose work or jobs were eliminated or replaced by those changes.

With respect to the second criterion, Manpower Costs, APWU points out, while it is not the most important factor, Level 4 Mail Handlers received \$75.00 per year more than Level 4 Mail Processors.

With respect to the third and fourth criteria set forth in Article I, Section 5.A. paragraph (Avoidance of Duplication of Effort and "Make Work" Assignments, and Effective Utilization of Manpower), APWU recognizes that the Service took the position

that these factors did not favor either craft. However, APWU asserts that it is the burden of the Mail Handlers to provide evidence that the Service was erroneous, and that these considerations "cut in their favor". Additionally, APWU points out that the OCR-BCS operation is normally in much closer proximity to other Clerk operations than to Mail Handler operations, and that it would be more efficient to use Mail Processors in this fashion.

With respect to the fifth criterion, Integral Nature of All Duties Which Comprise a Normal Duty Assignment, the APWU points to the testimony of William Downes who testified, without contradiction, that this factor basically refers to the purpose or function of the position; and that the basic function of the Mail Processor is distribution of letters, "performed, particularly of single piece letters and flats by Clerks ...," and that the basic function of the Mail Handler is to handle mail in bulk and to prepare it for distribution by the Clerk Craft. In response to the contention made by the Mail Handlers that they perform comparable work to the OCR Operation by operating the Mark II and M-36 facer-cancellers, the APWU argues that these are not distribution machinery, but rather mail preparation machinery. No distribution is made by mail preparation machinery, the APWU maintains, and that the purpose of such

operations is to cancel postage and otherwise prepare the mail so it can be distributed by the Clerks.

With respect to the sixth criterion, the Contractual and Legal Obligations and Requirements of the Parties, APWU argues that there is a fundamental contractual obligation imposed by RI 399 to assign "OCR distribution of all classes of mail" to the Clerks; and that this obligation was recognized by William Downes, who made the final decision to assign the Mail Processor the Clerks when he testified that the Service had an obligation, pursuant to RI 399, to assign the Mail Processor position to the Clerk Craft which was designated as the Primary Craft for "OCR distribution of all classes of mail". APWU argues that the "replacement principle" is an additional contractual obligation which dictates that, as a general rule, new positions created by changes in technology should remain in the Craft which performed the same function prior to the onset of the new technology. Not only is this an accepted practice, but is embodied in Article 4 of the APWU and the Mail Handler Agreements. APWU also points to the fact, that the Mail Handlers, when attempting to protect their own jurisdiction in another case, argued that the Service had an obligation to assign a new job of monitoring the Driverless Tractors to the Mail Handlers because such job was

created by a "Tech/Mec" change in the Mail Handler position of Toll Motor Operator.

APWU argues that there is no question in this dispute as to which Craft's work and positions are being replaced by the OCR/BCS operations, asserting that the OCR Operator position no longer exists because of the installation of this new machinery, and that the express purpose of installing the OCR/BCS system was to reduce reliance on the MPLSM and manual distribution. APWU states:

"In the absence of any showing that inefficiencies will result, there is absolutely no reason under the contract, or as a matter of basic equity, why the new job, the 'Mail Processor' should not be assigned to the Clerk Craft, which has had both work and a standard position replaced due to its creation".

Finally, the APWU dismisses as irrelevant and inaccurate the testimony of Joseph Kilgallon, the Mail Handler expert, who testified that since the tasks of verification, riffling, and dispatching were eliminated by the OCR/CS and BCS machinery, that the Mail Processor position should be assigned to the Mail Handlers because only Mail Handler functions remained, namely, loading and sweeping. The APWU argues that Kilgallon's premise, a comparison of duties, was essentially a pay level and classification approach; and failed to consider the specific and

mandatory work function assignments in RI 399. Moreover, APWU argues, that there is nothing in RI 399 or the practices of the parties which make loading and sweeping cases or distribution equipment the exclusive preserve of the Mail Handlers. Even though Mail Handlers are given jurisdiction over ledge loading and sweeping of manual distribution cases in RI 399, APWU argues that Clerks have jurisdiction over such work when it is integrated with the distribution function, in accordance with the "Asterisk footnote" to Operation 030. In any event, APWU argues that this footnote is not applicable to machine distribution operations..

Kilgallon's testimony, APWU argues, completely ignored the most significant work assignment principle in the contract, namely, the assignment of OCR distribution by RI 399 to the Clerks; and also ignores the fact that, as the Mail Handlers explicitly acknowledged in another contemporaneous dispute, that RI 399 "applies to work functions not to job titles or descriptions".

## POSITION OF THE SERVICE

The Service contends that its assignment of the new position of Mail Processor to the Clerk Craft of the APWU was the appropriate National Craft unit was in accordance with the provisions of Article 1, Section 5 of the 1981 National Agreements.

The Service asserts that the Mail Handlers have failed to show that the decision made by William Downes, Director of the Office of Programs and Policies, approving the designation of the Clerk Craft of the APWU as the most appropriate National Craft unit for the Mail Processor position, was erroneous. To the contrary, the Service maintains that Downes, in testimony unrebutted by the Mail Handlers, clearly demonstrated that the Service's reasons for selecting the Clerk Craft was based upon a sound analysis of the criterion set forth in Article I, Section 5.

Additionally, the Service points to the fact that after the Service issued RI 399, it was accepted in its totality by the Mail Handlers as a "document that would put to rest the internecine jurisdictional disputes" between the Clerks and the Mail Handlers. Further, the Service contends, at no time until

this proceeding have the Mail Handlers advanced any restrictions on the use of the term OCR in RI 399; and that the Mail Handlers had never contended that "OCR" only met "OCR-I".

With respect to the Existing Work Assignment Practices criterion, the Service argues that Downes' finding in favor of the APWU was appropriate because the Clerk Craft has historically performed work on all of the OCRs, as well as the manual or machine distribution of single piece letter and flat mail, and because RI 399 designates the Clerk's as the Primary Craft for OCR distribution.

As to the Manpower Costs criterion, the Service points to the fact that the Mail Handler, PS-4 position receives \$75.00 more annually than the Mail Processor, PS-4 position.

While the A3 (Avoidance of Duplication of Effort and Make Work Assignments) and A4 (Effective Utilization of Manpower) criteria were not critical to Downes, the Service notes the testimony of one of its witnesses to the effect that, from an operational standpoint, it is easier to place the Mail Processors in the Clerk Craft; and that generally, mail preparation activities of the Mail Handlers are physically separated from the mail sortation and distribution activities of the Clerks.

With respect to the Integral Nature of All Duties Which Comprise a Normal Duty Assignment criterion, the Service argues that RI 399 applies to work functions, not to job titles or job descriptions; that a Mail Handler's basic function is to handle mail in bulk, including the loading and unloading of such bulk mail; and that the basic function of a Clerk is mail distribution, and that the operating of the new OCR equipment was a distribution function, and appropriately assigned to the Clerk Craft. The Service further maintains that the loading or sweeping of letter mail is assigned by RI 399 to the Clerks when it is an integral part of the distribution function as authorized by the asterisk footnote. Additionally, the Service points to the other footnote relating to machine distribution ("allied labor required is normally performed by clerks because of the rotation system employed") and argues that this requirement is satisfied because the loader and sweeper on the OCR/CS or BCS rotate duties at least once each hour.

As to the sixth criterion (The Contractual and Legal Obligations and Requirements of the Parties), the Service asserts that it was contractually obligated to assign the Mail Processor position to the Clerk Craft and that such obligation was mandated because RI 399 established the Clerk Craft as the Primary Craft for OCR activities; and that "RI 399 was meant to put to bed once



and for all the jurisdictional strife that had beset the parties  
...."

With respect to the assertion by the Mail Handlers that applicants for the Mail Processor position are required to take the Mail Handler examination (O/N 450), the Service asserts that such selection device played no role in the assignment of the Mail Processor position to the Clerk Craft. Similarly, the Service rejects the Mail Handler effort to show that the qualification standards, or their development, affected the appropriate Craft decision. The Service points out that the Qualification Standard for Mail Handler in no way compares with the Qualification Standard for Mail Processor; and further points to the testimony of Downes that Qualification Standards played no role whatever in his Article 1, Section 5 analysis. In its conclusion, the Service states in its post-hearing brief:

"All in all, when the smoke clears from the Mail Handler's presentation, what is left is yet another attempt by the Mail Handlers to secure jurisdiction over OCR work which they lost in 1970 (Jaffee Award), unsuccessfully tried to reclaim in 1978 (Jurisdictional Committee), remained silent in 1978 and 1979 (development and arbitration of RI 399) and resurrected in 1981 (National negotiations demand). They have been unsuccessful to date and should be again"!

## FINDINGS AND CONCLUSIONS

After review of this rather extensive record, this Arbitrator finds that this grievance must be denied. Not only has there been a failure by the Mail Handlers to meet a heavy burden of showing that the Service erred in assigning the Mail Processor position to the Clerk Craft, but an analysis of the contractual mandates of Article 1, Section 5 and RI 399, when considered under the facts and circumstances of this dispute, warrant a finding that the Service was correct in its decision.

The Mail Handlers assert that: since this new OCR/CS and BCS technology was developed after the issuance of RI 399, it was never intended that the new technology be included and made part of the RI 399 Craft assignments; there is no distribution function to be performed by a Primary Craft, since the distribution is performed by the machinery itself (which in earlier times was divided into manual or less automated steps to which the Clerk Craft could lay claim); the last "vestiges" of the distribution function formerly performed by employees -- verification, riffling and dispatch -- are now performed by the machinery; and that RI 399 explicitly designates the Mail Handler Craft as the Primary Craft for the loading and sweeping functions which "undeniably comprise the virtual entirety of the Mail Processor Position."

This Arbitrator finds that reliance on these contentions is misplaced.

It must be recognized at the outset, that RI 399 was the result of an effort of many years to put an end to the "unseemly family quarrels", quoting Arbitrator Gamser, between the Clerks and Mail Handlers that had a pervasive and deleterious effect on the efficiency of Postal operations. After many years of negotiation and consultation, the Service issued RI 399, with the explicit purpose of putting an end to the strife and internecine warfare that continually plagued the parties.

The essence of RI 399 was a recognition that the mail distribution and sorting functions belong to the Clerks as the Primary Craft; and that the bulk mail handling, preparation and pre-distribution functions were reserved to the Mail Handlers as the Primary Craft. RI 399 also recognized the economy and efficiency needs of the Service when it was allowed to utilize employees of another Craft to perform certain duties that were part of the jurisdictional function and framework of the other. Hence, the "asterisk footnote" relating to manual distribution and the "allied labor" note relating to machine distribution, giving the Clerks the right and obligation to load ledges and sweep where such loading and sweeping were an integral part of

the distribution function. It is correct, as the Service and APWU contend in this dispute and as the Mail Handlers asserted in another and contemporaneous dispute (involving its own jurisdictional claim), that RI 399 "applies to work functions and not to job titles or [job] descriptions".

The Mail Handlers took no issue with the jurisdictional divisions of RI 399; it was satisfied that Clerks were designated as the Primary Craft for all distribution functions;<sup>3</sup> and the Mail Handler Craft was satisfied for many years, until this dispute, that "OCR machine distribution of all classes of mail" was a jurisdictional function that belonged to the Clerks as the Primary Craft. Recognition by all parties, including the Mail Handlers, that OCR machine distribution of mail was a jurisdictional function belonging to the Clerks was unqualified and unequivocal; and there is nothing in this record to suggest that OCR distribution was confined to the OCR-I or any other machinery then in operation at the time of the issuance of RI

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<sup>3</sup>Distribution is defined in Postal Handbooks as:

"Mail sorted by address into machine bins, pigeon hole cases, trays, sacks or pouches to group pieces with a common destination for transportation to the Post Office of address".

399, or that it was conditioned and dependent on the duties performed by the Operators of this kind of distribution machinery -- then or in the future.

With one exception, the APWU also accepted the jurisdictional functions imposed and delineated in RI 399. The exception referred to is the grievance filed by the APWU protesting the assignment of certain operations to the Mail Handler Craft. In resolving that dispute, Arbitrator Gamser in AD-NAT-1311 recognized the jurisdictional purpose of RI 399 and the right of the of the Service to cross-utilize where certain duties were an integral part of a jurisdictional function. To this point, as specifically concerning loading and sweeping duties, Arbitrator Gamser held:

"[W]here, as is most prevalent, distribution is performed by the Clerk Craft, considerations of efficiency and economy as well as the rational integration of operations would dictate that ledge loading and sweeping be primarily assigned to the Clerk Craft".

It is within this functional context of RI 399 that an analysis of the relevant provisions of Article 1, Section 5.A allows the conclusion that the determination by the Service was correct with respect to the assignment of the new Mail Processor position.

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. In this connection, it should be noted that while riffling, verification and dispatching - incidental unwritten duties of the former OCR Operator - are now being performed by the new machinery, there is, nevertheless, a need for the mail processor to be able to perform these duties if required. It is also noted that, during the two site inspections at the main Post Office in Washington, D.C., this Arbitrator observed occasional "riffling" by the Mail Processors and their monitoring the sortation process to ensure that the machine was feeding mail into the appropriate channels and trays. Additionally, the Mail Processor does more than load and sweep. At the feed end, the Mail Processor is also responsible to cull out non-processable mail, monitor the acceptance rate, notify the Supervisor when such rate falls below standard and to clear jams. At the sweep end, the Mail Processor not only "riffles" as necessary, but has the continuing

obligation to ensure, according to Arbitrator Aaron, the "proper movement of output to downstream processing ...".

It is also clear that the Service satisfied its obligation to consider "the integral nature of all duties which comprise a normal duty function". Within the parameters and requirements of RI 399, this criterion realistically, logically, and as a practical matter relates to the jurisdictional division of work between the Clerks and the Mail Handlers; it mandates an evaluation of functional requirements of a new position, and is not restricted to a mere comparison of duties. In this regard, a comparison of the OCR/CH and BCS with the Mark II and M-36 facer-cancellers does not aid the Mail Handlers. The Mark II and M-36 facer-cancellers are mail preparation machinery, not distribution machinery; the purpose of such machinery is to cancel postage and otherwise ready the mail for later distribution.<sup>4</sup>

As to the obligation of the Service to consider and apply "the contractual and legal obligations and requirements of the

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<sup>4</sup>The Clerks acknowledged that the facer-canceller operation was Mail Handler work in Number AD-NAT-1311 before Arbitrator Gamser.

parties" criterion in assigning the most appropriate national craft unit, this Arbitrator finds that this obligation, under the circumstances, was real, and that it was satisfied by the assignment of the Mail Processor position to the Clerk Craft. There was, as witness Downes testified, a fundamental contractual obligation imposed by RI 399 to assign "OCR distribution of all classes of mail" to the Clerks. Additionally, as the APWU persuasively points out, Article 4 of the National Agreements of both Unions is predicated on the principle that new jobs created by technological changes should be performed by the craft previously performing similar work prior to the introduction of the new technology.

As to "manpower costs," witness Downes testified that this was a criterion that favored the Clerk Craft because the Level 4 Mail Handler was paid \$75.00 a year more than a Level 4 Clerk<sup>5</sup>. Both Unions minimized the importance of this criterion. However, the fact remains that the Service considered, as it was obligated to do, the financial impact of the new job assignment.

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<sup>5</sup>As noted earlier, the Mail Processor position was initially a Level 3 position which the APWU unsuccessfully attempted to elevate to Level 5. As far as this dispute is concerned, the APWU efforts to elevate the position in the pay level grievance is irrelevant.

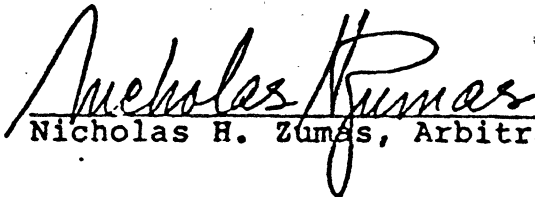


While the difference of \$75.00 a year may seem "negligible," as the Mail Handlers suggest, when such sum is multiplied by 15,000 Mail Processor positions, the result is a difference of over one million dollars in salaries.

Finally, it is this Arbitrator's finding that the fact that applicants for the Mail Processor position were required to take the Mail Handler examination (O/N 450) is of no consequence insofar as a jurisdictional decision is concerned. There has been no showing in this record that such requirement was, or should have been, a factor in support for the argument that jurisdiction of the Mail Processor should be transferred to the Mail Handler Craft.

AWARD

Grievance denied. The bargaining-unit position entitled Mail Processor, SP 2037 was assigned to the appropriate national craft unit.

  
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Nicholas H. Zumas, Arbitrator

Date: July 14, 1986