

RI 399 HISTORY

[Note: This discussion was prepared by NBA Steve Zamanakos, and has been modified to correspond to current Tab #'s]

Jurisdictional disputes have existed between APWU & NPMHU for over fifty years. The following are my notes of a review of the known historical documents in the APWU's possession. The opinions expressed are my own after serving on the RI 399 committee for twenty years.

In 1955, Congress passed Public Law 68, the Postal Field Service Compensation Act. Congress ordered the Post Office Department to create position descriptions. The Department created 49 such positions. Distribution Clerk was listed as Key Position 12 and Mail Handler, Key Position 8. These position descriptions are currently listed in the EL 201.

A review of KP 12 reveals in the section titled – “Functional Purpose”:
“Separates mail....in accordance with established schemes....”

A review of KP 8 reveals in the section titled – “Functional Purpose”:
“...performs other duties incidental to the movement and processing of mail.”

NPMHU quickly adopted the theory that the only work a Level 5 clerk should perform in mail processing is scheme distribution. Everything else was “incidental to the movement and processing of mail” and was mail handler work.

In some respects, RI 399 is the story of David vs. Goliath with Goliath asleep while David grabbed Goliath's work.

TAB 1

1/25/68 - The first known regional instruction was titled “staffing post offices”. It should be noted that this document was written before postal reorganization and collective bargaining with the various unions.

At page 10 are some important arguments:

First – It limits mail handler work to those duties described in KP 8.

Second – It states mail handlers usually are only justified in large post offices.

Third – It prohibits assigning of clerical duties to a mail handler.

Fourth – It prohibits mail handlers from performing distribution of mail matter except “outside parcels” for incoming mail and “non scheme” parcels for outgoing.

TAB 2

1/31/68 – The second regional instruction was titled “Positive Evaluation – Guides for Ranking Specific Types of Positions”.

At page 3 the Post Office Department begins to define the “Functional Purpose” of KP 8. At page 4 it allows mail handlers to “cull, face, cancel, and sweep boxes as well as work incidental to the movement and processing of bulk mail”. It also allowed mail handlers to distribute non scheme parcel post full time instead of “occasionally”.

TAB 3

6/15/70 – Case #268-PO-13 This is the first in a series of awards regarding jurisdiction. It is an “advisory opinion” because it was issued prior to collective bargaining. It has no precedent value, but does have historic value as to the intent of the parties.

Background – NPMHU brought the case forward. NPMHU was challenging the Employer’s decision to assign three position descriptions to clerks; Postal Service Data Technician, Data Collection Technician and Optical Character Reader.

At page 6 of the opinion, Arbitrator Jaffee memorializes the intent of Executive Order 10988. 10988 is the guiding law for KP 8 & KP 12. At page 6 Jaffee quotes Section 6 (a) of 10988 regarding “bargaining units”. Jaffee emphasizes the term “community of interest” calling it the “essential ingredient in every unit”. Jaffee goes on to say “simple overlapping of duties is not enough”. “The question rather is which bargaining unit comes closest.”

In part II of the merits Jaffee reviews KP 8 and notes the “Functional Purpose” is “essentially a physical task” and KP 12 is “mental”. Jaffee also notes the complexity of the equipment involved. He awards the work of the three positions to the clerk craft.

TAB 4

3/10/71 – MH-5 This is a key historical document. It was presented by NPMHU during the 1971 negotiations that led to the ’71-’73 CBA. It seeks the assignment of non scheme distribution to mail handler employees. It is an **unachieved demand**. Also, it recognizes the existence of the overlapping of duties in the KP 8 and KP 12 position descriptions and seeks to remove them from KP 12. This also was unachieved. This overlapping issue would become central in future jurisdictional battles including those being fought today. NPMHU is still claiming exclusivity of overlapping duties.

TAB 5

Case #242-PO-9 This is the USPS brief for this case. The case was heard before Arbitrator Powers and is an advisory opinion. The hearings were held on 3/25 & 3/26/71 just prior to the first CBA.

Background – The case was filed by a predecessor union of APWU, the United Federation of Postal Clerks (UFPC). UFPC sought unit clarification of the position description “Sack Sorter Machine Operator”; Levels 4 & 5 and the “Mail Handler Technician; Level 5.

At page 8 USPS raises for the first time the argument that the introduction of a piece of mechanized equipment does not change the craft designation of the employees performing the work manually.

TAB 6

11/8/71 Case #242-PO-9 This is the advisory opinion of Arbitrator Powers. At page 6, UFPC attempts to make a distinction between “movement” of mail and “distribution” of mail. Arbitrator Powers assigns all three position descriptions to mail handlers. In my opinion he talks out of both sides of his mouth in making the assignment of Level 5 Sack Sorter. He finds a way to ignore the law and side with the Employer. Note the proximity of this award and the MOU (TAB 3). The sellout of APWU has begun between NPMHU & USPS.

TAB 7

11/30/71 – NPMHU & USPS enter into a Memorandum of Understanding on MH-5. The memo calls for USPS to review all offices of 25 or more employees in customer services and mail processing. The memo goes on to state that USPS will review all work practices to determine if clerks are performing mail handler work. The memo orders local managers to assign the work to mail handlers. Finally, it is the first known mention of the “four hour criteria”.

TAB 11

8/27/73 Letter from APWU President Filbey to USPS regarding the 1971 MOU (TAB 3). President Filbey complains that postmasters across the country were taking work away from clerks and awarding the work to mail handlers.

TAB 12

12/18/73 USPS response to President Filbey; USPS offered the first dispute resolution mechanism in a MOU. All three parties signed MOU on 12/14/73. It called for tri partite Step 4 meetings and binding arbitration.

TAB 13

1/9/74 Collective Bargaining Report (CBR) 74-1. APWU strategy paper published by then Director of Industrial Relations, Emmet Andrews. It was designed to combat the loss of clerk jobs to mail handlers. It was clear by now, that NPMHU was taking any and

all overlapping duties from clerks and using a very liberal interpretation of the KP 8 to gain work from clerks. What is puzzling is why headquarters APWU didn't launch a Step 4 case under the MOU (TAB 7). APWU Locals were left to fend for themselves. The CBR contains NPMHU's battle plan for gaining work from clerks. NPMHU still uses this plan today. The APWU strategy follows in the CBR. For whatever their reasons, most APWU Locals did not pursue cases. Some of the national union's inaction may be attributed to the fact that APWU at that time had a mail handler division and mail handler members. APWU had just lost representation of mail handlers to LIUNA before the NLRB.

TAB 14

5/31/74 Case A-NAT-5750 APWU generated this jurisdictional challenge regarding Seattle, Washington. Parcel post distribution and dispatching were taken from clerks and awarded to mail handlers. As a result, APWU lost clerk jobs. The case was sent to Step 4 where USPS gave their position regarding KP 8 & KP 12. USPS supported NPMHU's claim that mail handler duties may be separated out of clerk jobs and added to mail handler jobs. However, 17 clerk jobs were ordered by Step 4 because the jobs involved more than "occasional distribution of parcel post".

TAB 15

6/6/74 NPMHU appeals A-NAT-5750 to arbitration along with AW-NAT-5753 Oakland, CA and A-NAT-2964 San Francisco, CA.

TAB 16

6/25/74 NPMHU challenges the new P-1. The P-1 was the predecessor of the current EL 201. NPMHU filed under the mail handler craft article. The position descriptions challenged were:

- Guard – Level 4
- Watchman – Level 4
- File Clerk – Level 4
- Typist – Label Printing
- Typist – Level 4
- Seasonal Assistant
- Postal Trainee
- Custodial Elevator Operator
- Transfer Clerk – AMF

TAB 21

1/29/75 USPS brief in cases 5750/5753/2964 (TAB 10). Page 3 USPS establishes its criteria for the assignment of work to a craft:

1. Evaluation of skills
2. Evaluation of the work involved

3. Past assignments made locally and nationally
4. Efficient operation
5. Tradition for new positions and new duty assignments.

At page 5 USPS addresses the MOU now found in Article XLIII, Section 12B of the '73 – '75 CBA. This section was NPMHU's attempt to "back door" MH-5 (TAB 3) into the CBA. At page 6 USPS makes it clear that in order for a full or part time assignment to be awarded to a mail handler, it must consist entirely of mail handler work. The work must be listed in KP 8. This is a key admission against interest. Currently, USPS has taken the position that a mail handler may perform distribution under the "primary purpose" argument. At page 7, USPS makes another important admission. In arguing against NPMHU's position that Article XLIII, Section 12B did not grant mail handlers the right to take all work from clerks, USPS acknowledges they cannot negotiate such a subject without the presence of APWU. This of course should be use in all bilateral settlement cases. At page 9, USPS argues MH-5 is an unachieved demand of the 1971 negotiations. Page 12 is a good example of how to describe the work in question when making an opening statement, or referencing work in a brief. Arbitrators want to know how mail arrives at the section in dispute; how it is processed; and where it goes after leaving the section. At page 20, USPS argues in the San Francisco AMF case that the processing of "preferential mail" is clerk work. USPS also argues that full time distribution of parcel post is clerk work in view of the language of KP 8 (occasional distribution). This work in the Seattle case was non scheme distribution of parcel post. Beginning at page 24, the history of the creation of the mail handler position and Key Position 8 are described. It goes on to discuss the introduction of zip codes in 1963. According to the brief, the post office department couldn't find enough employees willing to learn schemes for \$3,000/yr. Zip Code was designed to eliminate or reduce the need for schemes.

According to USPS, APWU began a campaign to secure more non scheme work from the mail handlers. At page 37, the brief quotes a Gamser award, AB-NAT-1009 establishing the definition of a post office:

"A post office or postal installation is a mail processing and delivery activity under the head of a single manager."

Page 45 includes an unachieved demand from APWU's 1973 craft negotiations. NPMHU or USPS may use this against us in future hearings.

TAB 23

4/2/75 Garrett Award, A-NAT-5750 Seattle, WA; AW-NAT-5753 Oakland, CA; A-NAT-2964 San Francisco, CA. This case was filed by NPMHU protesting the assignment of the above described work to the clerk craft. Seattle dealt with a "twin multi-slide" parcel sorting unit. There was no scheme work involved. The work was awarded to the clerks via Step 4 because the work went beyond "occasional" distribution of parcel post. Oakland dealt with a keying job for outside parcels. Keyers read the zip code or address. No scheme was needed to perform the work. The work was awarded to

clerks via Step 4 because the work went beyond “occasional” distribution of parcel post. San Francisco dealt with a sack sorter located at the AMF. Step 4 had awarded the work to clerks because 80% of the mail was “preferential”. At page 48 Arbitrator Garrett states that the intent of Article I, Section 1 is to “bar the transfer of existing work assignments from one national craft bargaining unit to another (absent any change in conditions affecting the nature of such regular work assignments) except in conformity with Article VII.” Arbitrator Garrett also stressed APWU is not bound by memos between USPS & NPMHU. At page 51, Arbitrator Garrett says history of office plays a more important role than a key position. Jurisdiction is established by reviewing the history of the work in a post office history of the work in a post office. Arbitrator Garrett denied all three NPMHU grievances.

TAB 25

'75 – '78 CBA Memorandum of Understanding signed by all four unions; APWU, NPMHU, NALC, & NRLCA. The MOU establishes a national jurisdictional dispute committee. MOU establishes six criteria to use when deciding jurisdictional matters:

1. Existing work practices
2. Manpower costs
3. Avoidance of duplication of effort & “make work” assignments
4. Effective utilization of manpower including temporary cross craft assignments
5. The integral nature of all duties which comprise a normal duty assignment
6. The contractual & legal obligations of the parties.

The MOU also created a dispute resolution procedure and final & binding arbitration.

The MOU carried forward to the '75 – '78 CBA. The '78 – '81 CBA was the first negotiations without NRLCA. The '81 – '84 CBA was negotiated without NPMHU. It also resulted in the loss of the MOU.

TAB 27

12/1/75 NPMHU lays claim to various operation descriptions:

1. Platform acceptance & weighing unit
2. Originating mail- preparation, culling, canceling
3. Outgoing & Incoming – distribution of mail (non scheme by zip code)
4. Combined outgoing airmail & airmail letters distribution (non scheme by zip code)
5. Outgoing flat, mixed-state, preferential or non-preferential mail distribution (non scheme)
6. Letter sorting & OCR distribution (non scheme)
7. Outgoing & incoming parcel post (non scheme by zip code)
8. Platform, transfer office – outgoing & incoming mail processing at stations & branches (all non scheme activities & all non scheme distribution)

9. Outgoing preferential and non preferential (non scheme distribution)
10. Security

Needless to say, NPMHU had made a declaration of war with APWU!

Tab 28

12/3/75 APWU's claim of jurisdiction. APWU lays claim to all work in small offices that is not clearly designated as carrier work. APWU also challenges NPMHU claim to "single piece distribution". In my opinion, TABs 14, 15, 16 and 17 were a moving force for USPS to draft RI 399.

TAB 29

12/4/75 Addendum to TAB 27 clarifying the position descriptions NPMHU considers being mail handler. Note #s 7 & 8 – Mail Processing Machine Operator.

TAB 31

1/30/76 NALC response. NALC wants USPS to draft a proposal of which craft performs work per the 1975 MOU (TAB 13).

TAB 32

2/11/76 APWU clarification letter to its 12-3-75 statement (TAB 16).

TAB 33

6/22/76 NALC letter serving notice that they will lay claim to "overlapping" duties in dispute.

TAB 35

4/12/77 NALC challenges two work duties awarded to clerks and mail handlers:

1. Withdrawing and transporting mail from cases.
2. Transporting of undeliverable mail to "throwback" cases.

TAB 36

5/2/77 NRLCA letter raising same challenges as NLCA. NRLCA cites the M 37 Rural Carrier's Instruction Handbook.

TAB 37

9/14/77 First USPS position paper regarding jurisdictional disputes between clerks and mail handlers. USPS says it needs six skill levels in the distribution and separation of mail. The highest being #1 and lowest #6:

OPTION #1

1. ZMT operator with a scheme
2. ZMT operator without a scheme
3. SPLSM operator & parcel post machine operator with a scheme
4. Manual distributor with a scheme
5. Manual distributor without a scheme
6. Manual separation of any kind

Below #6 is general labor such as loading and unloading, in-house mail transportation and watchman.

OPTION #2 – USPS goes on to say if Option #1 is not attainable, they recommend two categories of Level 4 employee: non scheme clerk and mail handler. USPS throws out a carrot to APWU that the Level 4 clerk will perform culling, facing, and canceling. USPS also wants to give a mail handler the same duties including “general distribution”.

OPTION #3 – Use traditional determinations for mail handler work. In offices with over 1,500 employees, allow some cross craft flexibility. In offices with fewer than 1,500 employees, allow for ratios of cross craft through local negotiations.

OPTION #4 – Use the MOD Handbook and:

1. Determine primary skill level by MOD operation number.
2. Match #1 with position description found in the P-1 Handbook.
3. Add a supplemental craft again using the P-1.

To determine the above use three rules:

1. Four or more hours of continuous work.
2. Consider total operation in determining primary craft, i.e. distribution operation.
3. Consider – Volume, Processing Times Frames, Service Standards, Operating Plan, Cut-Off Time, and Composition of Present Work Force.

USPS then uses Option #1 and makes assignments. USPS then goes on to define at “Attachment B” the terms “separation”, “simple distribution”, “general distribution” and “scheme distribution”. USPS then goes back to their “three rules” to determine primary craft. This document would eventually evolve into RI 399.

TAB 38

4/17/78 (Amended 7/15/78) – This is a refinement of TAB 22. There is no way to determine who made the “pen & ink” changes to the document.

TAB 39

4/19/78 – Informal Draft of RI 399. This is yet another draft that USPS shared with the Unions. Note: The only “General Criteria” listed at the beginning of the draft is the “four hour” criteria of continuous work.

TAB 40

NPMHU PROPOSAL – This proposal mimics the USPS proposal in TAB 22 regarding “separation”, “simple distribution”, etc, but attempts to make it part of Article XLIII, Section 12 of the CBA. Also, it adds that work described above is mail handler work and lays claim to various additional tasks.

TAB 41

7/15/78 – The amended draft of RI 399 as mentioned in TAB 38.

TAB 43

7/15/78 – Tentative Agreement signed by Conway (USPS), Vaca (NALC), Andrews (APWU) and Johnson (NPMHU). This document establishes the rules of review and binding arbitration.

TAB 44

7/16/78 – Informal Draft designed exclusively for Bulk Mail Centers.

TAB 46

8/11/78 – USPS letter to Emmet Andrews. First formal exchange of RI 399. Parties are still trying to make it a joint agreement.

TAB 47

’78 – ’81 CBA: Memorandum of Understanding on resolving disputes among the parties. This was carried forward from previous CBAs.

TAB 48

11/13/78 – Implementation Criteria for RI 399. The “four hours of continuous work” criteria is added. Additional changes to the document found in TAB 46 are also made.

TAB 49

11/14/78 – APWU to USPS: APWU protests changes made that appear in TAB 48. APWU informs USPS the APWU has not been given a chance to review the changes prior to the implementation date. APWU also protests the “bilateral” meetings that took place between NPMHU & USPS in violation of the MOU (TAB 30).

TAB 50

11/15/78 – USPS issues another draft of RI 399.

TAB 51

11/16/78 – Letter from NPMHU President Lonnie Johnson distributing the RI 399 draft to his field officers and locals. This was an obvious ploy on the part of Johnson to put pressure on USPS & APWU to accept the draft as written. Johnson references the fact that USPS has sent the draft to their regional offices ordering implementation. APWU does not distribute the draft to its locals.

TAB 54

1/9/79 – APWU president Andrews writes to USPS’s Gildea. Two months after NPMHU has disseminated RI 399 to the field, APWU is sending USPS a limited protest regarding operations 010/020/080-087/100/109/160/168-169. APWU locals are still in the dark regarding RI 399. What is interesting about this challenge is that we have not argued from the Garrett award regarding “status quo” (AW-NAT-5753, TAB 11).

TAB 55

1/17/79 – USPS response to APWU’s letter. Gildea says he will set up a meeting at a future date. Meanwhile, USPS is implementing RI 399 in the field.

TAB 56

2/16/79 – Official notification of the implementation of RI 399. Three months after it was sent to the field by USPS & NPMHU.

TAB 57

4/10/79 – First revision of RI 399.

TAB 58

4/10/79 – APWU letter to USPS: APWU requests arbitration of issues raised in TAB 37. Case # AD-NAT-1311 is assigned. Still no word to APWU locals.

TAB 59

5/?/79 – APWU’s DIR reports to locals. Note title of article, “How to **Recover** Work”. An acknowledgement that APWU has already lost jobs to NPMHU. Frosty Newman cites a Boston local grievance settlement with no further guidance of how it is to be used.

TAB 62

5/24/79 – USPS letter to APWU: USPS now wants to follow same MOU they ignored in November 1978. USPS claims that APWU’s request for arbitration is premature. Meanwhile, USPS & NPMHU are still taking jobs from APWU.

TAB 63

6/15/79 – USPS letter to APWU: This is a response to a May 31st letter from APWU that is not in our historical records. USPS agrees to arbitrate the limited issue of whether or not APWU’s request to arbitrate is premature. Of interest is a reference by president Andrews that the clerk craft is being decimated. Yet, there still has been no advice to APWU locals of how to fight this battle.

TAB 65

7/6/79 – Further revisions to RI 399 (including 6-15-79 original).

TAB 67

9/12/79 – USPS letter to APWU: Response to an August 1st letter from APWU that is not in our historical records. APWU requested information regarding implementation instructions of RI 399 to the field. USPS denied the request.

TAB 68

9/28/79 – APWU letter to USPS: This is an APWU response to USPS. It sets out the Union’s issues in the 010/020/050/055/100/105/109/168/169/180/189/200/210/239. In addition, APWU requested more information for the case.

TAB 71

12/?/79 – APWU newsletter to the field. The DIR finally tells APWU locals what is going on regarding RI 399. He calls on locals to pursue RI 399 cases.

TAB 75

4/23/81 – Post hearing brief of NPMHU in case AD-NAT-1311. The presentation of the case lasted almost two years. Page 3 of the brief references an APWU argument that the implementation of RI 399 violated the Garrett award. APWU would eventually withdraw

this argument which was fatal to the case for APWU. That left the only challenges as those listed in TAB 49. At page 9 of the brief it references how APWU walked out of negotiations regarding jurisdictional issues. NPMHU & USPS continued negotiations which led to an agreement. Another error in judgment on APWU's part.

TAB 76

4/23/81 – Post hearing brief of USPS in case AD-NAT-1311. Pages 8 & 9 reveals the members of the USPS RI 399 team. Advocates should be mindful of the fact that USPS has since attempted to bring others forward as being part of the same team. At page 11, USPS defines the term “primary craft”. This definition is still useful today since NPMHU often claims exclusivity of certain work. At page 43, USPS claims we negotiated Garrett away from '75-'78 when we agreed to craft changes. At page 54, USPS witness acknowledges use of the MOD system in writing RI 399. USPS has since denied the MOD handbook had anything to do with the drafting of RI 399.

TAB 77

4/23/81 – Post hearing brief of APWU in case AD-NAT-1311. APWU's first argument is that NPMHU & USPS entered into a bilateral agreement that resulted in USPS drafting the predecessor to RI 399 into the field in November 15, 1978 (TAB 35). However, APWU drops this argument in stipulation at page 4. This is a classic case of how a Union loses a case through stipulation and should be a lesson to all advocates regarding stipulations. At page 5, APWU puts forward its thirteen challenges to RI 399. At pages 6 & 7 APWU develops the clear standard used by the NLRB in such cases. The crux of this case boils down to which craft will perform non scheme distribution of single pieces of mail.

TAB 78

10/31/81 – Arbitrator Gamser's award in case AD-NAT-1311. At page 8, Arbitrator Gamser states he used:

1. The MOU
2. Other arbitration awards
3. The changes taking place in USPS mail processing

as his criteria for reviewing this case. He goes on to state that congress charged USPS with emphasizing “efficiency & economy” under Postal Reorganization. At page 11, Gamser describes the USPS team:

“The team deliberately designated one or the other craft as the primary craft so management would have some flexibility in making assignments.”

(Advocates should be aware that this position is opposite of what NPMHU argues today. NPMHU now argues exclusivity to certain work. This award contradicts this theory. It

also shows exclusivity was never the position of the Employer when they drafted RI 399). In addition, Arbitrator Gamser makes another important point at page 14 regarding the asterisk. He orders the Employer to comply in operations 050/055 when incidental duties have to be added to distribution in order to provide clerks with eight hours of work. This is significant and shows the true intent of the asterisk when coupled with the above finding regarding “primary craft”. However, Arbitrator Gamser also hurts us at page 14 regarding non scheme distribution of parcel post. He deliberately ignores the word “occasional” in the mail handler position description and awards the work to NPMHU. This would inspire NPMHU to continue to use MH 5 in future cases. At page 17, the arbitrator awards ledge loading and sweeping to clerks because it is an integral part of distribution. We have not taken advantage of this language. At page 19, Arbitrator Gamser again talks about “primary craft” and the Garrett award. He stresses there is “no entitlement” bestowed on either craft. As mentioned previously, this is still relevant today in defending NPMHU arguments that they have exclusivity to work. Arbitrator Gamser denied the APWU’s grievance but not without making the above mentioned important points.

TAB 81

4/12/83 – USPS defines “vacant through attrition” as mentioned in RI 399. There may still be a very few isolated circumstances where this language is still relevant because senior employees never bid from their jobs since 1979. Advocates should review older cases dealing with bilateral settlements between USPS & NPMHU. Many times sweeping changes are made in an entire section to award work previously held by clerks to mail handlers. These settlements may not have taken into consideration that certain employees had attrition protection.

TAB 82

4/15/83 – See TAB 81: USPS promulgates “attrition” letter to the field. USPS goes on to clarify that a “reposting” is not attrition.

TAB 85

9/12/83 – HIM-NA-C 13: Award by Arbitrator Aaron dated 8/31/83. This was a NPMHU grievance with APWU intervening. USPS created a new position description, “Mail Distributor, SP – 200, Level 4”. The essence of the position description is “non scheme distribution of all classes of mail and duties incidental to mail processing”. We as advocates do not push this case hard enough in present day jurisdictional disputes. It has valuable rulings which can help defeat NPMHU exclusivity arguments and USPS primary purpose arguments. It should be noted for example that the second portion of the position description, “duties incidental to mail processing”, is in fact the “asterisk” listed in RI 399. At page 8, Arbitrator Aaron states RI 399 assigns non scheme distribution to the clerk craft. He denies the mail handler grievance. What should be noted is that the Employer did not immediately withdraw this position description and neither did the arbitration award. Consequently, it can be argued that “...duties incidental to mail

processing” became the work of the clerk craft through this national level award. Further in this TAB, APWU challenges a bilateral settlement in the central region on 9/1/83 between USPS & APWU. (Note: Page 1 of this settlement is missing and should be retrieved to be used in bilateral settlement cases)

TAB 88

1/31/84 – The USPS filed seeks guidance on two issues. First, how to apply the attrition principle when mail handlers have jobs that list multiple operations. Second, may management send priority mail to an operation staffed by mail handlers based on volume (i.e. Xmas)? Further in the TAB, is a 2/24/84 USPS letter to NPMHU. USPS takes an interesting position that the 4 hour criteria is by operation and not a mix of operations. To my knowledge, this has never been pursued by APWU. Also, is a 2/27/84 letter from USPS (Downes) responding to the field letter (1/31/84) regarding attrition? He states that attrition is by section and increased mail volume can be handled by clerks. Downes goes on to state that the distribution of priority mail is an Article 7 issue. I agree, since distribution of priority mail is clerk work and the work described in the field letter is of a temporary nature.

TAB 91

2/28/84 – USPS to APWU & NPMHU: These are additions to RI 399 for 110-129, Opening and Traying. The term “makes basic local/out-of-town splits is added. The letter goes on to state that if the above is not part of distribution, it is mail handler work. This letter would be the beginning of the “battle” over how many “splits” were involved. One key is to determine what happens to the mail after it leaves the operation. If it leaves the building, or is sent to the secondaries it is not a basic split. The letter also adds 140-149 to RI 399 and awards the work to clerks on the MPFSM. Operations 180-189 are also added using the same logic as 110-129.

TAB 92

Same as TAB 91

TAB 93

3/6/84 – NPMHU to field representatives: President Johnson “spins” the USPS 2/28/84 letter to mean that “culling” can be separated out using RI 399 II C, Distribution Activities. He ignores II A & B, Efficiency and the Four Hour Criteria. He also ignores Arbitrator Gamser’s dicta about “allied duties” being added to distribution in order to create a clerk assignment.

TAB 94

3/14/84 – Also at this Tab is APWU’s notes regarding a meeting with the Employer about the subject matter in Tab 59.

TAB 95

3/22/84 – USPS letter to NPMHU: Step 4 answer to grievance generated by NPMHU involving circumstances behind “Tab 58”. The Employer argues the 4 hour criteria doesn’t stand alone and that all criteria must be used. This position would cut both ways depending on the fact circumstances of the case. It should only be used as a last resort.

TAB 96

5/18/84 – H1C-NA-C 28: An award from Arbitrator Mittenthal. APWU challenged the Employer’s unilateral decision to assign Level 4 pay to a new position description titled – “Mail Distributor”. NALC intervened in this case. Note: Arbitrator Aaron had already ruled that NPMHU had no right to intervene in this case because NPMHU was not part of the JBC when the position description was drafted. Aaron’s ruling should be used when NPMHU argues they can perform non scheme distribution. The Employer downgraded thousands of clerks after promulgating this new position description to the field. In hindsight, an error we made was to request that the position description be rescinded. It would have been helpful to still have it at Level 5 for RI 399 purposes. The award gives the history of schemes vs. zip codes in the postal service and how the FLSA lawsuit pushed the postal service in the direction of zip codes because FLSA forced the Employer to pay for training on schemes. At page 5, the awards states that the Employer first proposed a Level 4 Distribution Clerk to APWU in 1977. The Employer did not pursue this subject in either ’78 or ’81 negotiations. At page 6, the Employer drafts the position description in 1979 but doesn’t send it to APWU until 1982. At page 7, the arbitrator notes that there were 37,000 non-scheme distribution clerks nationwide. At page 11, Arbitrator Mittenthal states that the “position” is not new as defined in Article 1, Section 5. He goes on to state that past practice prevails and the Employer has used distribution clerks in non-scheme distribution for at least 15 years. At page 14, he states the duties of the mail distributor are now part of KP 12. This is an important finding for RI 399 purposes since NPMHU is constantly claiming non-scheme distribution is their work.

TAB 97

6/28/84 – USPS Headquarters to USPS Field: RI 399 revisions, “Opening & Traying” are added to operations 110-129. This notice is the same as TAB 59 except it informs filed managers that the Unions have been notified of the change.

TAB 98

11/7/84 – APWU CBR 84-7: APWU’s synopsis of case H1C-NA-C 104 (A1-NAT-104). APWU challenged TAB 59 at Step 4. APWU wanted “segregate” changed to “separate”.

8/30/84 – Step 4 answer: First, USPS states changes refer to mail being processed in “bulk”. This is important and should be applied against NPMHU challenges today. Second, USPS agrees to the word “separate”. Third, USPS agrees RI 399 has not been

changed. This also is an important admission for today's cases given that NPMHU takes this language out of context.

TAB 100

2/15/85 – APWU internal memo, Tom Neill to Ranny Erskine. The Director informs the NBA that NPMHU may not intervene in an APWU case. He urges the case go to Step 4 noting that the '84 NPMHU CBA contains old RI 399 w/o revisions.

TAB 101

3/25/85 – USPS to APWU: The Employer notifies us that the NPMHU's, "Letter of Intent" negotiated in their CBA was not a change to RI 399.

TAB 103

8/20/85 – USPS to Field Managers: USPS interpretation of RI 399 Operations 110-129 & 180-189. USPS references the 2/28/84 revision (TAB 59). Clearly tells NPMHU mail handlers cannot distribute mail by zip code. USPS also reiterates that breaking mail eight ways is clerk work. APWU position is Local/Out of Town is a binary split.

TAB 104

8/19/85 – USPS references 6/85 L/M meeting with NPMHU. Stresses previous Step 4 (TAB 62).

TAB 105

9/30/85 – USPS to Field Managers: Subject – 4 Hour Criteria. USPS announces that the field will be trained on the intent and implementation of the language.

TAB 106

NPMHU implementation manual – RI 399. Note at page 5, NPMHU states that the 4 hour criteria only applies to a facility where no mail handler exists. At pages 15 & 16, NPMHU states the Union doesn't need attrition principal if a clerk job encompasses a large section (See TAB 88).

TAB 107

7/14/86 – H1M-NA-C 14: Award of Arbitrator Zumas. NPMHU filed this grievance with APWU intervening. This case challenged the Employer's decision to award the position description of Mail Processor, Level 4 to the clerk craft. The Employer awarded the position description to the clerk craft on 6/14/82. At page 32 of the award, the Employer takes the position that a mail handler's job is to "move mail in bulk". Also, that RI 399 applies to work functions and not job titles. The Employer also

acknowledges the use of the MOD handbook in the drafting of RI 399 (Something they have walked away from since). Finally, the Employer argues that the OCR is a distribution function. Further, at page 35, Arbitrator Zumas states that mail distribution and sorting functions are clerk work and that preparation and pre-distribution are mail handler work. At page 40, Arbitrator Zumas states that Article 4 mandates the work to go to the craft impacted by the introduction of the OCR. This, in my estimation is an important finding and should be used in any case new automation is being introduced that has a negative impact on clerk jobs. Arbitrator Zumas would deny the NPMHU grievance and the Mail Processor position description was awarded to the clerk craft.

TAB 108

6/19/87 – Letter of Intent: This was negotiated between USPS & NPMHU. Contrary to TAB 103, regarding the term Basic Local/Out of Town splits. It allows mail handlers to distribute mail by zip code contrary to the letter sent to APWU President Biller on 3/25/85 (TAB 101). In my estimation, it also violates Arbitrator Mittenthal’s decision regarding non-scheme distribution (TAB 96).

TAB 109

1987 MOU in CBA: Draft of APWU answer to TAB 108. APWU declares to the Employer that we are not bound by TAB 108.

TAB 110

Actual MOU with APWU as it appears in 1987 CBA.

TAB 112

9/29/87 – USPS to APWU: The Employer sees no conflict between the two documents, Letter of Intent (TAB 71) and the MOU (TAB 73).

TAB 113

10/22/87 – Internal memo from APWU attorneys. These are the notes from the 10/22/87 meeting with USPS.

TAB 114

11/2/87 – USPS to NPMHU: Case H4M-NA-C 29. NPMHU challenged the Employer’s assignment of Air Records Processor position description to the clerk craft. The Employer awards allied labor to mail handlers, noting that allied labor is:

1. Facing and Loading.
2. Off loading – no distribution.
3. Scanning.

4. All staffing beyond Air Records Processor.

APWU was not part of the discussions that led to this settlement.

TAB 115

10/22/87 – USPS to Field Managers: Employer interpretation of RI 399. They state that attrition only applies to employees holding jobs prior to 2/16/79. Leave replacements should be from the same craft as the employee occupying the assignment. As an added note, this Employer admission should be used when carriers replace clerks on leave from VOMA jobs.

TAB 116

12/10/87 – USPS to Field Managers: The Employer sends TABS 108 & 110 to the field noting that they do not change the intent of RI 399.

TAB 117

12/29/87 – APWU to USPS: APWU President Biller notifies USPS Fritsch that managers in the field are improperly assigning the wrong operation number to work in order to award the work to mail handlers.

TAB 118

1/13/88 – NPMHU to Locals: The national gives its position on attrition reemphasizing the information appearing in TAB 115.

TAB 119

1/27/88 – APWU to USPS: APWU President Biller informs USPS Fritsch that mail handlers have been improperly assigned to operations 110-129 & 180-189.

TAB 120

3/4/88 – USPS to APWU attorneys: Non precedent pre-arbs for cases: N1C-IJC 25680/25497/26343 & N4C-IJC 232. Awards jurisdiction of work in Conn. I'm not sure why it has been included in the history.

TAB 121

3/28/88 – USPS to APWU: USPS Mahon notifies President Biller that the above is inappropriate. This issue still exists today and advocates should be mindful of this when first viewing an operation.

TAB 122

4/5/88 – APWU to USPS: APWU DIR, Tom Neill letter to USPS Downes. Brother Neill wants to know why Downes is touring the country with NPMHU, Joe Amma.

TAB 123

4/13/88 – USPS to APWU: USPS response to TAB 80. The Employer states “purpose and efficiency” are keys in determining craft assignments in operations 110-129 & 180-189. The Employer is telling APWU that mail handlers can distribute mail. Again, I can’t emphasize enough that this position violates a national level award by Arbitrator Mittenthal (TAB 96).

TAB 124

4/22/88 – USPS to Field Managers: Another memo regarding 110-129 & 180-189. Same as TAB 123.

TAB 125

4/27/88 – Pre-Arb settlement in Phoenix, AZ.: APWU gained 45 jobs in operations 185 Belt; 186 Tray; 187 Belt; 187 Tray; 187 FSM Maze.

TAB 127

5/13/88 – USPS to APWU: USPS Downes responds that he reviewing operational diagrams. Joe Amma would eventually land a job with USPS headquarters.

TAB 128

5/13/88 – USPS to APWU: Yet another meeting on the subject of 110-129 & 180-189. No new developments as a result of the meeting.

TAB 129

6/8/88 – APWU to USPS: APWU makes it clear to the Employer that mail handlers cannot perform distribution.

5/24/88 – Philadelphia BMC USPS to APWU Local President Gallagher: Employer is abolishing 65 clerk jobs on the 115 & 190 belts effective 6/18/88. The Employer cites the Letter of Intent with NPMHU (TAB 71) as authorization for its actions.

5/6/88 – USPS bilateral settlement with NPMHU awarding work to mail handlers. Also listed are cases out of Manchester, N.H.; Tucson, AZ.; and Colorado Springs, CO.

TAB 130

7/12/88 – USPS to APWU: Employer response to TAB 88. The Employer refuses to answer question regarding “distribution”.

TAB 131

7/28/88 – USPS to APWU: Employer makes first offer to have a Tripartite meeting at headquarters level regarding the Philadelphia BMC.

TAB 132

8/25/88 – APWU to USPS: APWU accepts Employer’s offer to meet regarding Philadelphia BMC.

TAB 133

9/8/88 – USPS to APWU: Employer wants assurances from APWU that the meeting will be tripartite with NPMHU.

TAB 135

9/19/88 – APWU internal memo: Assistant Director, Clerk Division Cliff Guffey to President Biller. Brother Guffey’s minutes of meetings with USPS & NPMHU on 9/8/88 & 9/16/88. Note that NPMHU changes their position between meetings.

TAB 137

10/21/88 – USPS review of Louisville, KY: This review was conducted on a bilateral basis with NPMHU & USPS.

TAB 138

10/24/88 – APWU initiates first Step 4 on staffing of operations 110-129 & 180-189.

10/31/88 – Actual Step 4 appeal.

TAB 140

11/2/88 – USPS to Pittsburgh, PA. Managers: Another bilateral review between USPS & NPMHU.

TAB 141 & 142

11/15/88 – USPS to APWU & NPMHU: First known position paper of USPS regarding the spreading of mail to carriers. The Employer states that the work belongs to the mail handler craft and absent a mail handler, no union has a claim to the work.

TAB 143

11/18/88 – APWU to USPS: APWU initiates a Step 4 grievance challenging the Employer's position that spreading of mail is mail handler work.

TAB 144

11/21/88 – NPMHU to Locals: NPMHU acknowledges NPMHU had bilateral meetings with USPS regarding "spreading mail". NOTE: NPMHU states the Employer's position paper does not address "carrier presort mail". However, this would be the work eventually arbitrated before Arbitrator Eischen.

TAB 145

12/23/88 – USPS to APWU: Employer refuses to acknowledge APWU's Step 4 appeal.

TAB 146

4/12/89 – USPS to Field Managers: Tampa & Orlando, FL. USPS/NPMHU bilateral review.

TAB 147

4/12/89 – Same as TAB 102 for Denver, CO. GMF & BMC.

TAB 148

7/17/89 – Same as TAB 102 for Shreveport, LA.

TAB 158

2/9/90 – USPS to Field Managers: Employer positions on:

1. Containerization – Tubs & Trays.
2. OCR mail preparation.
3. Dock Connection Transfer.
4. Pallet Separation.
5. Containerization – Mail off ACDCS.

TAB 162

3/13/90 – NPMHU position paper regarding above.

TAB 163

3/14/90 – APWU to USPS: APWU wants issues in TAB 158 arbitrated at the regional level.

3/30/90 – USPS says issues are interpretative.

TAB 164

9/21/90 – Jurisdictional review of Tampa, FL. APWU, NPMHU & USPS review operations. Team also reviews St. Petersburg, FL.

TAB 165

8/30/91 – APWU to USPS: APWU wants a tripartite review of Northern Virginia facility.