REMAPPING DEBATE
Asking "Why" and "Why Not"

Congress ties Postal Service into knots

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Nov. 1, 2012 — What does a business that has perennially been short of funds do in the happy circumstance where it begins to have surpluses available? Well, it might pay off some of its debt and put some money away for a rainy day. But then, particularly if was operating within a competitive landscape, it would take the opportunity to make heavy capital investments to upgrade its plant and otherwise modernize its operations; to look to improve its competitive position; and to examine potential new lines of business, particularly those that could leverage its existing investments.

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Operating more like a business is precisely what the U.S. Postal Service has been directed to do ever since it was turned from a cabinet-level department to an independent federal agency in 1971. As the President's Commission on the United States Postal Service commented in 2003, "The Postal Service should be maintained as a public entity, but refocused and reorganized to enhance its efficiency and adaptability in the face of an uncertain, and ultimately more competitive, future."

In looking at the decisions the Postal Service has been forced to make since the early 2000s, however, it is almost as though the Bush Administration and successive Congresses had decided that the task was to make the Postal Service a *failed* business and a *failed* public service. The alternative hypothesis? That no one at the wheel knew what he or she was doing.

Although even a Postal Service not straightjacketed by counterproductive mandates would not have been immune from the economy-wide recession and from some of the consequences of declining first class mail volume, the singularly compressed retiree health benefit pre-funding requirement imposed on the Postal Service — as well as rules prohibiting the Postal Service from expanding into new businesses — figure heavily in the Postal Service's recent woes: massive deficits, default on two occasions in the payment of its excessive pre-funding obligations, and, in terms of service (the only kind of dividend that this kind of business can pay to the public, its "shareholders"), the prospect of sharply constricted service.

It didn't have to happen this way.

What to do with the pension savings?

In the spring of 2001, the General Accounting Office (GAO) released a report placing the Postal Service on its "high risk list" of federal agencies, in part because of the prospects of long-term decline in first class mail volume resulting from the growth of the internet. Also concerned with the size of the Postal Service's retiree pension liability, the GAO asked the Office of Personnel Management (OPM) to calculate whether the Postal Service had been underfunding its obligations. In November 2002, the OPM came to a surprising conclusion — the Postal Service was actually *overfunding* its obligations to the Civil Service Retirement System — possibly by as much $100 billion. The "high risk" Postal Service had received some very good news.

Dean Baker, an economist and the co-director of the Center for Economic and Policy Research, a liberal think tank, said that when a business finds itself with the opportunity that such a surplus presents, it has two basic options. If you run a company, Baker explained, you could "either reinvest in your same area [of business] to give yourself a competitive edge — you have a better product or can do it more cheaply — or, alternatively, you figure out what are the related areas [and invest in those sectors]." Often, Baker said, new possibilities for investment are found in deploying emerging technologies in ways that broaden and improve the services beyond the existing profile of a business.

REDUCED BUT STILL EXCESSIVE PENSION CONTRIBUTIONS?

The legislation passed in 2003 and 2006 attempted to resolve, in part, the overfunding of postal pension contributions and suspended Postal Service payments into the Civil Service Retirement System (CSRS) pension system (the one for employees who began work prior to 1984). Postal contributions for the Federal Employees' Retirement System (FERS), however, continue despite at $11.4 billion dollar surplus above estimated liability. When combined with a $1.7 billion surplus in the CSRS program, the Postal Service holds at least a $13.1 billion surplus in its pension fund beyond its accrued liability, as calculated by the Office of Personnel Management (OPM).

Some say the surplus is actually greater. In 2010, the Postal Service Office of Inspector General (OIG) released a report suggesting that the Postal Service had actually overfunded its obligations to CSRS by *$75 billion* between the early 1970s and 2009 (the Postal Regulatory Commission suggests the number is lower, but still significant: $50-55 billion). The OPM, designated as the agency that determines the scope of a surplus or deficit, has argued that its lower calculations accurately follow the requirements of the law.

The return of that money, as the OIG and others have pointed out, could be used to fully fund the retiree health benefit fund, pay off all Postal Service debt to the Federal Financing Bank, and give the Service more time to make changes in its operations so that it can continue to be independent.

In response to the pension overfunding, Congress passed legislation in 2003 reducing the amount of money that would be required from the Postal Service for its annual contribution to the federal Civil Service Retirement System (though an independent entity, Postal Service workers who began working prior to 1984, like other federal workers whose service began prior to that time, remained enrolled in CSRS). The 2003 Act did not, however, reduce Postal Service payments to the newer "Federal Employees' Retirement System" (the system that covers those who began government work — including Postal Service work — in 1984 or later).

But what to do with the savings? Congress did not immediately take either of the paths that Baker identified. Instead, it stipulated that, during fiscal years 2003 through 2005, the Postal Service should use the difference between the former rate of contribution and a new lower rate to pay off its debt to the Treasury's Federal Financing Bank, which had and does lend the Postal Service money to cover operational expenses and capital improvements (the net increase in indebtedness is limited to $3 billion per year; pursuant to the requirement of the 2003 Act, the Postal Service did, in fact, pay off an over $11 billion debt in the course of those three years).

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For subsequent fiscal years, Congress instructed, the pension savings — estimated to grow to about $5 billion per year by 2006 — should be temporarily held in escrow. At the same time, the Postal Service was required to put together a plan for utilizing future savings, as well as those held in escrow.

One area of Congressional concern was properly funding the Postal Service's obligations for retiree *health* benefits. While the funding of retiree *pensions* had been found not to be a problem (but, rather, had been overfunded), there was at that point no dedicated fund *at all* for the payment of retiree health benefits. Instead, the Postal Service was paying for those benefits on a current basis out of operating funds.

Congress directed that "some portion" of the savings on future pension contributions should go to the creation of a fund that would meet anticipated retiree health benefits over an extended period of time (in other words, moving from year-to-year operating budget payments to a pension-like system). At the time, the amount that was estimated to be sufficient to pay for retiree health benefits over a period of decades was $40 billion to $50 billion.

The Postal Service's plan was also supposed to consider whether and to what extent the savings should be used for debt repayment, for productivity and cost saving capital investments, for delaying or moderating postal rate increases, and for other alternatives.

The Postal Service reported back to Congress in September 2003 that its preference was to devote over 95 percent of the savings to prefunding retiree health benefits, and to utilize the balance for debt reduction. The preference prefigured, and may have reflected, the Bush Administration's desire for "budget neutrality" (see bottom box on next page). Three years later, Congress passed the Postal Accountability and Enhancement Act (PAEA), and followed the Postal Service's preference for using all of the savings for the prefunding of retiree health benefits. The PAEA "seeded" the new fund by having Postal Service overpayments for its CSRS obligations (determined by the OPM to be $17 billion) transferred to the new fund. The PAEA also specified a remarkably rapid period for prefunding the overwhelming portion of what was then estimated to be the remaining liability for retiree health benefits: only 10 years.

Why 10 years?

The idea of prefunding over a reasonable period is entirely uncontroversial; indeed, the failure to pre-fund many pensions has led to well-publicized problems. Rep. Peter DeFazio (D-Ore.), the sponsor of one of the postal reform bills currently before Congress, said, "There are a lot of pension plans or retirement systems around the country that have promised continuing healthcare benefits and a lot of them are in deep trouble…The idea of putting aside *something* to cover current employees' future retirement benefits has merit." Teresa Ghilarducci, a professor of economics at the New School for Social Research and an expert on pension and retirement issues, concurred: "If you are serious about the promise, of course [you should fund it]."

The operative question was the time schedule on which to do so.

Prefunding is typically accomplished over a matter of decades. The version of the PAEA that passed in the House in the summer of 2005 was, as DeFazio recalled, "pretty modest, and very bipartisan." It called for pre-funding retiree health benefits on a schedule where the liability would be decided by the Postal Service and the OPM "in accordance with generally accepted actuarial practices and principles." The Senate bill, passed in February 2006, stipulated specifically that the fund be amortized by 2046 — that is, 40 years after enactment.

Budget neutrality or budget malevolence?

The best treatment of the shifting budget status of the Postal Service is contained in a 2009 report of the Postal Servic Office of Inspector General, which describes the history of the status as "a matter of both contention and confusion since the 1970 Postal Reorganization Act."

In short, while the Postal Service, as an independent entity, achieved permanent "off budget" status in 1989, its contributions for its retiree obligations remain "on budget." Just as salient, its revenue and expenses remained part of the "unified federal budget," a broader measure that is intended to provide a picture of all government transactions with the public.

As a practical matter, this means that Postal Service contributions towards future pension obligations are considered revenue for the purposes of the unified federal budget. Lower contributions from the Postal Service mean lower revenues, and lower revenues — without offsetting declines in expenditures — mean an increase in the deficit of the unified federal budget.

From this perspective, any alternative use for pension savings — even delaying increases in postal rates for mailers — would be "budget negative." The OIG report's conclusion was unsparing: "[W]hat was good for the Postal Service was deemed bad for the federal budget." Or as former Rep. Tom Davis explained, the attitude of the Bush Administration and some members of Congress was that they "weren't going to spend money on the post office even if it made more sense to do it. [The attitude was,] 'you've got to keep it budget neutral.'"

Funding on such a long-term schedule was also the preference of others involved in the postal reform bill. Roger Kodat, at the time a deputy assistant secretary of the Treasury Department, recently wrote in a blog post on the website of the Postal Service Office of the Inspector General, “As a finance guy, I preferred a 30-year straight-line amortization schedule for [the] Postal [Service] to incrementally pre-fund this future obligation, in keeping with how a private sector corporation might operate. Smooth and steady contributions help ensure a more secure future for the Postal Service and its employees — a key policy objective.”

But the Bush Administration insisted that the PAEA be “budget neutral.” The only way to do that — to avoid what would have been treated as a deficit-increasing loss of revenue as far as the “unified federal budget” was concerned — was to make sure that the combined Postal Service contributions for the existing pension plan and for the PAEA-created retiree health benefit fund were, in the aggregate, *not* less than the amounts that had been contributed for pension payments alone (budget neutrality in the context of the Postal Service is deeply counterintuitive — see bottom box for an explanation).

> “The payment schedule for the first 10 years was established primarily to make the PAEA budget neutral, responding to the concerns of the Office of Management and Budget at the time the PAEA was passed, rather than corresponding to actuarial requirements or financial conditions at the Postal Service.” — 2009 House of Representatives committee report

Former Rep. Tom Davis (R-Va.), then chair of the Government Reform Committee in the House, which oversees postal matters, said, “It didn’t come from Congress, that was the administration’s price” for a postal reform bill. During the conference discussions on reconciling the House and Senate bills, Davis recalled, the Administration’s representatives said “this is what we want,” and wouldn’t budge. Likewise, Sen. Tom Carper (D-Del.), who was also involved in the negotiations, told Remapping Debate by email, “The 10 year funding schedule included in the final version of the Act was included at the insistence of the Bush administration during the final stages of our negotiations.”

The Bush Administration got its way: the final version of the PAEA directed that the Postal Service make retiree health benefit payments over the 10-year cycle of Congressional budget reporting in amounts ranging from $5.4 billion to $5.8 billion per year — a total of $55.8 billion that represented almost all of the then-anticipated unfunded liability.

According to Dean Baker, it was “way over the top to try and build it up that quickly. I can’t see any logic in why they would feel the need to build it up over such a short time period.” Moreover, he said, “they face[d] serious competition from FedEx and UPS …There was already the beginnings of [first class mail decline]…To give them that sort of hit at a time when they faced a difficult business environment in any case, was, at the very least, reckless, if it wasn’t actually malicious.”

A 2009 House of Representatives committee report conveyed the same essential message: “The payment schedule for the first 10 years was established primarily to make the PAEA budget neutral, responding to the concerns of the Office of Management and Budget at the time the PAEA was passed, rather than corresponding to actuarial requirements or financial conditions at the Postal Service.”

Remapping Debate left telephone and email messages for Michael Bopp, referred to in the Congressional Record as a Bush Administration representative in the negotiations over the shape of the PAEA, but he did not to respond.

Paying the price

The prefunding payments have had a significant impact on the Postal Service’s bottom line since the PAEA was passed. In 2012, according to the Postal Service, it was projected to lose some $14.1 billion, $11.1 billion of which represented two scheduled payments into the retiree health fund (the Postal Service has defaulted on making those payments). Steve Hutkins, an associate professor literature at New York University and curator of the blog savethepostoffice.com, which reports on and advocates for keeping the Postal Service strong, told Remapping Debate, “The core of the crisis is the [prefunding] payments.”

In the face of these losses, the Postal Service has proposed, over the last three years, a variety of cost cutting measures, including shuttering postal processing centers, closing 3,700 post offices (many in rural areas), reducing hours at 13,000 post offices, and moving to a 5-day per week delivery schedule in order to save money. (Competing bills currently before Congress would endorse or reject some or all of these proposals.)

Where were the voices of opposition in 2006?

For one thing, the significance of the change in the legislation between the House and Senate versions and the final version was not immediately apparent to members of Congress or to observers. And most people don’t want to talk about it: Remapping Debate contacted the vast majority of the members of Congress who served during 2005 and 2006, or currently serve, on the Senate and House subcommittees that oversee the Postal Service, along with a few others who have sponsored postal legislation but do not sit on these subcommittees, to enquire about the origins of the accelerated prefunding payments. Most did not reply for requests for an interview, or replied and declined to comment. A few declined an interview by referring Remapping Debate to other members; others by providing a previously prepared statement on postal reform or links to previous public statements.

A few people were prepared to speak. “I’m not aware,” said Rep. DeFazio, “of any discussion by anybody [at the time that] we were looking at a massive ten year funding obligation…I think a bunch of Democrats got suckered on that one,” a decision that was made by voice vote during the 2006 lame-duck session of Congress. “They didn’t realize how radical the changes were.” DeFazio himself acknowledged, “To tell the truth, I don’t even know if I was there for the voice vote. It was not a momentous day, no one said, ‘Oh my God, we are bringing up the Postal Service reform bill as a voice vote.’”

According to Sen. Carper’s emailed response to Remapping Debate’s inquiry, “While the payments were larger than my colleagues and I would have liked, we had no reason to believe that the Postal Service would not be able to afford them. At that time, mail volume was at its historic peak and the Postal Service indicated the payments were affordable.”

Indeed, the Postal Service had reported at the end of 2006 having delivered more mail and earned more revenue than at any time in its history. But, could the accelerated prefunding problem really have been so difficult to predict if, in February 2007, just two months after the PAEA passed, the Postal Service reported that, as a result of the prefunding requirement, it would likely end the fiscal year some $600 million in the red?

Former Rep. Davis, noting the recession’s role, along with a faster-than-expected decline in first-class mail volume, in exacerbating the Postal Service’s problems, took the position that, “It is not like the government was completely off base with this [prefunding], it is just that if you look over the short term with what has happened, could they have used that money more flexibly? Absolutely.”

> Proposing an alternative would have been “a step too far,” said William Burrus, former president of the American Postal Workers Union. Improving conditions for the membership was “our only role and responsibility.”

The postal worker unions do not appear to have been any more prescient in raising red flags about the Postal Service’s looming revenue problems or in proposing alternative uses for the savings than other participants in the process. The National Association of Letter Carriers, which currently represents 207,000 postal workers, supported the PAEA. It declined to make a representative available for an interview.

The American Postal Workers Union (APWU), which currently represents 211,000 postal workers, opposed the PAEA for reasons unrelated to the accelerated prefunding requirement. Reflecting back on the legislation, however, Sally Davidow, the union’s communications director agreed that the surplus could have been used more constructively: “Were there better uses [for the surplus]?…There are competing forms of communication that the Postal Service could have been experimenting with and trying, and modernizing to remain relevant in the digital age. It doesn’t have the capital to do any of that stuff. Had it not spent those billions of dollars, it might have had capital to pursue new and exciting ways to serve the communications needs of the nation.”

Why didn't the APWU propose such a plan? William Burrus, the president of the APWU from 2001 to 2010 told Remapping Debate that proposing an alternative would have been "a step too far," explaining that, in his view, "It is very tempting for a labor union to feel that they are a part of the administration, that they are on the inside making decisions for the industry, rather than focusing on improving conditions for the membership. That is our only role and responsibility."

Were there and are there alternative routes for the Postal Service's future?

A trio of recent Postal Service Office of Inspector General (OIG) reports makes clear that the answer is "yes." Alternatives included letting the Postal Service manage the expansion of broadband service to areas of the country that private internet service providers have not developed and letting post offices serve as a hub for offering all kinds of municipal, state, and federal government services. Other retail ideas considered by the OIG include allowing the Postal Service to offer Wi-Fi and public computer access, banking services, e-bill pay services, and insurance, as well as consumer goods like greeting cards and office products.

Davis told Remapping Debate that, "I would have given the post office a much freer hand. If it were up to me, I'd let them operate as a business and let them compete with these other guys [shippers like UPS and FedEx] a little bit. I think it brings greater competition and more innovation." Similarly, Baker said, "A private business in this situation would be trying to take advantage of the resources they have and move into other areas."

Some of the OIG's ideas came from the Postal Service's own history. From 1911 through the late 1960s, post offices offered savings accounts to Americans. Dean Baker explained that this idea still has legs: "One of the issues we are seeing, a growing issue, is a very large non-banked population, so if the post office were to offer basic banking services that would be a way that it could offer a very important service to a lot of low and moderate income people and do it at a profit…It's already in every neighborhood."

But developing these, or other possibilities, requires capital investment, and the accelerated prefunding rules contributed to the OIG's unsurprising conclusion that the Postal Service "lacks the operating capital to invest in both revenue generating and cost reducing initiatives."

The PAEA did expand and streamline the ability of the Postal Service to offer volume discounts on postal products, like overnight and parcel delivery. Stung by the unprofitability of initial Postal Service forays into non-postal services like e-commerce during the 1990s and early 2000s, however, Congress prohibited the Postal Service from offering new non-postal products.

Well, maybe *don't* act like a business

Rep. Dennis Ross (R-Fla.) is co-sponsoring a bill introduced by Rep. Darrell Issa (R- Cal.) that would allow the Postal Service to make rapid and significant cuts in service, renegotiate contracts with postal unions under terms significantly less advantageous for workers, and partially reduces the retiree health benefit payments for two years, before increasing them by the corresponding amount for the following two years. These are changes, Ross said, that are necessary to "allow the post office to operate within its anticipated revenue stream."

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The bill would not allow for the Postal Service to resume offering new non-postal products, with the exception of allowing advertising in its facilities or on vehicles. Nevertheless, Ross told Remapping Debate that "I don't think you discount or neglect innovative opportunities for the Post Office to engage [in]" that might let it expand.

Ross described how the Postal Service could be a "pioneer" by transitioning the Postal Service's vehicle fleet to natural gas, and establishing filling stations at some postal processing facilities or post offices, which could then also serve private consumers who purchased natural gas vehicles.

Yet he doesn't think that the U.S. government should have a "competitive advantage" over private business.

Take the possibility that the Postal Service would once again provide banking services to citizens. He acknowledged that "we have the outlets," that "we can do banking cheaper than anyone else," and that doing so would enable to Postal Service to "gain revenue." Nevertheless, it is a possibility that Ross foreclosed because he sees banking as an "essential function" that is "outside of government."

Elaine Kamarck, a lecturer in public policy at the Kennedy School of Government at Harvard, and a former Clinton administration official who managed the National Performance Review, or "reinventing government" initiative, has also studied postal issues. In a conversation with Remapping Debate, she was skeptical that the Congressional call for the Postal Service to operate more like a business was anything more than empty rhetoric. "Think of all the companies that are kind of in this business," she said, citing Federal Express, UPS, and their retail packing, shipping, and printing operations. Do those calling for a business-like Postal Service really want the Postal Service to compete all-out against private businesses? "When push comes to shove," Kamarck said, "I'm not sure that's the case."

Very different legislative directions

The Senate earlier this year passed a bill sponsored by Joseph Lieberman (I-Ct.), and co-sponsored by Sens. Scott Brown (R-Mass.), Thomas Carper (D-Del.), and Susan Collins (R-Me.), that would modify the required payments for the retiree health benefit fund to amortize the remaining costs over a period of 40 years, and would allow the Postal Service to offer non-postal products. The bill also provides for the establishment of the position of "chief innovation officer" who would be responsible for directing a strategy to identify new postal and non-postal products that could improve both the Postal Service's financial position and serve the public interest.

The bill, which prohibits reductions in delivery standards for three years and a reduction to five day per week delivery for two years, also seeks to moderate the scope and timing of any postal facility reductions. An alternative proposal offered by Sen. Bernie Sanders (I-Vt.), and subsequently introduced in the House by DeFazio, would have flatly and permanently prohibited any reduction to five-day-per-week delivery or an increase in expected delivery time for first-class mail.

In the House, the bill introduced by Rep. Issa, with its very different agenda, has been passed by the Oversight and Government Reform committee but has not been voted on by the full body.

Former Rep. Tom Davis, the veteran from PAEA days, meanwhile, doesn't "look for anything" in this year's lame duck session, noting the lack of interest from Congressional leadership and the White House.

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