As arbitration begins NALC makes its case

Inside a packed Hutchings Hall at NALC Headquarters in Washington, the National Association of Letter Carriers opened interest arbitration proceedings for a new National Agreement with the United States Postal Service on Sept. 6.

Formal talks between the NALC and USPS began in August 2011, three months before the expiration of the 2006-2011 contract. However, following several extensions, USPS announced on Jan. 20 that it was declining to continue its collective-bargaining negotiations with the NALC, an impasse that triggered mediation proceedings. The parties were unable to reach an agreement by the April 8 mediation deadline, so the process moved to interest arbitration.

The process begins

The chairman of the three-person arbitration board is Shyam Das, a member of the American Arbitration Association's labor panel and a full-time labor arbitrator since 1977. Das has served on national arbitration panels involving postal workers since 1996 and has been chairman of arbitration proceedings involving United Steelworkers as well as the Major League Baseball Players Association.

Das made a few brief remarks on Sept. 6 and then introduced the other members of the board: Bruce Simon, representing the NALC, and Robert Dufek for USPS.

Simon, in turn, recognized Keith Secular, the attorney who serves as NALC advocate for the arbitration proceedings. Among those seated at the table with Secular were NALC President Fredric Rolando, Executive Vice President Timothy O'Malley and Chief of Staff Jim Sauber. Also in attendance in a show of support were the other members of the NALC Executive Council—the other eight resident national officers, the 15 national business agents and the three national trustees.

Seated across from the NALC contingent were managers and staff members from the Postal Service, as well as attorney Thomas Reinert, the USPS advocate.

After noting that preliminary briefs had been filed and that there were no preliminary matters that needed attention, Secular began his statement.

"Mr. Chairman, members of the Board, let me cut right to the chase," he said. "NALC readily acknowledges that the United States Postal Service is in great trouble. Financially, in a classic sense, it is insolvent."

Secular said that the NALC understands the impact that electronic diversion of the mail has had on First Class mail volumes, but he said that a distinction must be made between the Postal Service's more immediate fiscal crisis—the congressional mandate to pre-fund 75 years' worth of future retiree health benefits within just 10 years, at a cost of about $5.5 billion a year—and the long-term decline of First Class mail volumes.

"Recognition that these are two separate issues is essential to understanding the Postal Service's problems and the potential solutions," he said. "While we agree with the Postal Service that it is in great trouble, we strongly disagree with the Service about how to deal with that trouble. And that difference is at the heart of this arbitration.

"The Postal Service has thrown in the towel," Secular said. "Its current

Opposite page: The three-person arbitration board listens to arguments from USPS attorney Thomas Reinert during the opening hearing held on Sept. 6.

management believes that further decline is inevitable; that the Internet has, in effect, destroyed the Postal Service as we know it. It believes that the only thing to do is to phase itself out."

However, NALC believes that future postal growth is not only possible, Secular said, but likely, thanks to the explosive expansion of Internet commerce. "All those Internet orders to Amazon, eBay and the rest have to be delivered. That's what letter carriers do."

Doing our part, and more

Secular noted that NALC has worked hard on the Postal Service's behalf to bring greater clarity to the agency's problems. For example, the attorney cited the Sept. 27, 2011, rallies in support of H.R. 1351 held at the home offices of nearly every member of the House of Representatives. H.R. 1351, introduced in early 2011 by Rep. Stephen Lynch (D-MA), calls for returning to USPS the estimated $50 billion to $75 billion in postal pension account surpluses within the Civil Service Retirement System—surpluses that have been confirmed by two independent audits conducted at the request of the USPS Office of the Inspector General and the Postal Regulatory Commission. *(For more on that and other legislative solutions, see page 12.)*

Also, he said, letter carriers collected, within just 12 weeks last fall, 1 million petition signatures from customers who support maintaining six-day mail delivery service. And Secular touted the NALC's retention of private consultants who have helped the union create grassroots campaigns to get the word out about the truth behind the Postal Service's financial problems. One such campaign brought about the launching of the special "Delivering for America" website, which provides visitors with a clearer perspective about what's at stake for the Postal Service in the 21st century.

Secular also noted that the NALC has retained the services of Ron Bloom, vice president of U.S. investment banking at the consulting firm Lazard. Bloom was President Barack Obama's so-called "car czar," and he is credited with helping to save both the auto industry and, a few years earlier, the steel industry.

"Bloom and Lazard have engaged in an intensive due diligence exercise," Secular said, adding that they met with Postal Service leaders and and interviewed outside postal experts and users of USPS products and services.

The conclusion reached, he said, is that there is and will be a viable Postal Service, but "not without a dramatic restructuring of the institution and its governance, which would be far more extensive than is contemplated by either the Postal Service's present plan or any pending legislation."

A history lesson

Secular also provided the arbitration panel with some background and facts about letter carriers and the NALC.

"Prior to the dramatic impact of automation, which began in the 1990s and continues to the present day, the basic duties of letter carriers had remained stable for decades," he said, noting how advances in mail-sorting automation over the last 20 years have reduced the amount of time letter carriers must spend in the office but have, at the same time, increased the more strenuous—yet quite valuable—time that letter carriers spend on their routes delivering the mail.

"Letter carriers are agents of the United States government," he said, who do far more than deliver the mail. "They are often the first individuals to realize that a customer is in trouble because of mail piling up. In addition, carriers are often cited for rescuing people when they notice homes on fire; stop runaway vehicles with children inside; take action to halt muggings and other criminal acts; and numerous other acts of heroism." These acts are so commonplace, he said, that NALC sponsors an annual "Heroes of the Year" ceremony recognizing carriers for on-the-job heroism and community service.

Secular also called attention to the NALC's Stamp Out Hunger National Food Drive as well as the union's long history of raising money for the Muscular Dystrophy Association.

He then quoted a report by the Postal Service's inspector general, which noted that letter carriers interact with customers while delivering mail, promote other postal products and services, and provide customers with a familiar presence.

"They rightly view themselves as professionals performing a public service, and they deserve to be treated as such," he said.

Recognizing effort

Following passage of the 1970 Postal Reorganization Act, Secular said, the USPS has operated much more like a business. "Reorganization has been, overall, a resounding success," he said. "It improved service and reduced the cost of mailing letters in America substantially. Today, the Postal Service

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delivers nearly twice as much mail to more than twice the number of delivery points than it did in 1971, with 11 percent fewer employees."

Secular also gave a brief history of letter carriers' salaries, noting how pay and semiannual cost-of-living adjustments are set with each contract. He then reviewed the NALC's contract proposal, which is for a seven-and-a-half year bargaining agreement that includes preservation of 2 percent annual general wage increases as well as cost-of-living adjustments. It also calls on the Postal Service to recognize that, with the increase in street time, the letter carrier job has become harder and deserves an upgrade in pay.

The NALC proposal also would retain, as is, the no-layoff clause, and it includes language that insists on preservation of six-day mail delivery service—"a legitimate issue for collective bargaining, as well as an issue of public policy," Secular said.

Above: The entire NALC Executive Council was on hand for the hearing. Earlier in the week, the Council had held a thorough meeting to discuss strategy for the arbitration.

Top right: NALC attorney Keith Secular gives the union's opening statement at the hearing.

And a new contract needs to preserve the memoranda of understanding against the contracting out of letter carrier work to low-paid, non-union and unskilled workers. "Contracting out will be harmful to the Postal Service and its customers, as well as bad public policy," Secular said.

Also on the table are money-saving health benefits proposals that the NALC stands ready to help the Postal Service define but that probably would require congressional legislation before they could become part of letter carriers' benefit package.

"NALC has already made substantial contributions to address the Postal Service's financial problems," Secular said, pointing out how jointly agreed-to route adjustment programs saved USPS $1.3 billion, while the Customer Connect program has generated more than $1.5 billion in new revenue since it was created in 2003. "NALC, in short, is doing its fair share," he said.

Meanwhile, Secular said that USPS' plan to reduce its workforce and close facilities is flawed. He quoted from Lazard's report: "The core idea behind the Postal Service's plan can be summarized as 'shrink to survive'.... This strategy undermines the Postal Service's key strategic asset—its unparalleled last-mile delivery network that touches 150 million homes and businesses six days each week. We believe that the current Postal Service plan will not create a sustainable enterprise."

In closing his statement, the attorney said that a lot of what happens with the Postal Service over the next months and years depends on Congress. "It is too early to know what Congress will do about the mess it has created at the Postal Service," Secular said.

"We acknowledge that the Postal Service's financial situation is as dire as the agency says it is," President Rolando remarked after the hearing, "but the main source of the problem is not the pay and conditions of letter carriers, but the Congress of the United States.

"The arbitration panel cannot solve the financial crisis by helping the Postal Service dismantle itself," Rolando said. "Congress must act and the arbitrators must give the parties the chance to do what's necessary to adapt to the needs of the 21st century."

The next arbitration hearing is set to take place on Oct. 29, with sessions scheduled for several dates through January. ✉

Game over?

USPS acts as if technology equals obsolescence

USPS attorney Thomas Reinert's opening statement at the opening of interest arbitration between the NALC and the Postal Service on Sept. 6 might have started out in a genial and friendly fashion, but shifted quickly toward an adversarial tone as his hour-long remarks kicked into gear.

"USPS is insolvent, in a financial crisis that is drawing a lot of attention," Reinert said. "The Postal Service has responded to this," he added, with what he referred to as "structural changes and consolidations."

"First Class mail volume used to be cyclical," Reinert said, "but now, thanks to the Internet, it seems to be in a permanent decline. Times have changed, thanks to technology."

Leaning heavily on terms favored by the private sector—where "restructuring" often is code for "cuts" and "layoffs"—Reinert said that the Postal Service "needs a restructured, two-tier workforce, the ability to contract out mail delivery services, and a larger non-career workforce of temporary employees.

"Deliveries have been restructured as well," he said.

To an extent, Reinert conceded NALC's position that there is growth to be had thanks to Internet sales, but he said that USPS believes such growth will be small.

Reinert, a senior partner at the Morgan Lewis law firm, also returned several times to a shopworn theme that has come up in past contract negotiations and arbitration hearings: comparability between Postal Service employees and private-sector workers in terms of pay and benefits, a statutory requirement of the 1970 reorganization law. How comparability is measured, however, has been a hotly debated matter for decades.

The USPS attorney claimed that the agency's employees enjoy a significant wage and benefit premium over private-sector workers, and that the cost-

A large crowd from the ranks of USPS management was in attendance.

of-living adjustments agreed to in negotiated and arbitrated bargaining agreements dating back to 1973 have helped to perpetuate this.

"We need to restructure our labor costs to align with the statutory comparability standard," Reinert said—as well as to account for what he insultingly—and erroneously—termed "the diminished revenue contribution of employed letter carriers."

Reinert then laid out USPS' proposals, which include moving the letter carrier craft toward a workforce made up of as much as 25 percent of temporary, non-career carriers; creating a two-tier workforce by moving toward a single pay grade for all new hires; reducing pay-raise rates and eliminating COLAs, on top of a 42-month wage freeze retroactive to the expiration of the last bargaining agreement; substantially modifying the no-layoff clause, which Reinert said would be necessary if the Postal Service's proposal to move to five-day delivery is approved by Congress; and returning to another old idea, contracting out mail delivery service to low-paid, non-union and unskilled workers.