

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN POSTAL)	
WORKERS UNION, AFL-CIO)	
)	
Plaintiff,)	
)	Civil Action No. 14-1847 APM
v.)	
)	
UNITED STATES POSTAL)	
REGULATORY COMMISSION,)	
)	
Defendant.)	

JOINT STATUS REPORT

The parties have conferred to address the matters raised in the Court’s February 9, 2015 Order.

1) Status of Plaintiff’s FOIA request

On May 30, 2014, Plaintiff American Postal Workers Union (APWU) requested that the Defendant Postal Regulatory Commission (PRC) provide the “docket numbers of any proceedings involving the Postal Service’s negotiated service agreement(s) with Staples, Inc.” and any documents in the file. (Answer, Doc. 9, ¶¶ 9-10, admitting Complaint, Doc. 1, ¶¶ 9-10 and Ex. B, Doc. 1-2).

On June 11, 2014, the PRC rejected the APWU’s FOIA request in its entirety. The PRC’s June 11, 2014 letter stated in relevant part:

As any request for the docket numbers of proceedings involving negotiated service agreements with any contracting partner would necessarily reveal the identity of the contracting partner if such contract exists, the Commission cannot provide such information without potentially releasing confidential business information that it obtained from the Postal Service. Such information is exempt from disclosure pursuant to Exemption #4 of the FOIA, 5 U.S.C. § 552(b)(4). Likewise, the Commission cannot provide the “documents in the file” that you request, as producing such documents as to the specific contracting partner would reveal the identity of the contracting partner and other confidential commercial information. Such information is exempt from disclosure under Exemption #4 of the FOIA, 5 U.S.C. § 552(b)(4).

(Answer, Doc. 9, ¶ 11, admitting Complaint, Doc. 1, ¶ 11 and Ex. C, Doc. 1-3).

On August 8, 2014, the APWU administratively appealed the PRC’s decision to reject its FOIA request. (Answer, Doc. 9, ¶ 12, admitting Complaint, Doc. 1, ¶ 12 and Ex. D, Doc. 1-4). On September 2, 2014, the PRC rejected the APWU’s administrative appeal.

Based on information attached to the Complaint, the PRC has now concluded that information concerning the Postal Service’s agreement with Staples, Inc. has been publicly acknowledged. Accordingly, the PRC will now process information in its possession responsive to the APWU’s request.

2. Anticipated number of documents responsive to FOIA request

The PRC estimates that it has approximately 75 documents responsive to the APWU’s request.

3. Anticipated date for release of documents

The PRC estimates that it will need 30 days, to and including March 25, 2015, in which to process the responsive records and produce for the APWU a declaration and/or index pursuant to *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973).

4. Motion for stay under *Open America*

No motion will be filed under *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).

5. Summary judgment briefing

The parties anticipate that summary judgment briefing is likely to be necessary in this case. However, they also believe that a schedule for such briefs is premature before the APWU has an opportunity to see and evaluate the results of the PRC's processing and the *Vaughn* document PRC will be produce.

Accordingly, the parties request that the APWU have to and including April 8, 2015, in which to evaluate the results of the PRC's processing and the *Vaughn* document the PRC will produce. The parties further ask that they be given to April 16, 2015, in which to file a proposed briefing schedule. This will enable them to have an opportunity after the APWU reviews the results of the PRC's processing and preparation of a *Vaughn* document to confer in case the issues may be

narrowed for the Court in any summary judgment briefing.

Dated: February 23, 2015

Respectfully submitted,

/s/ Michael T. Anderson
Michael T. Anderson (459617)
Lorrie E. Bradley (996379)
Murphy Anderson PLLC
1701 K Street NW, Suite 210
Washington, DC 20006
(202) 223-2620
(202) 223-8651 (fax)
manderson@murphypllc.com
lbradley@murphypllc.com

Attorneys for Plaintiff
American Postal Workers Union AFL-CIO

Ronald C. Machen Jr. D.C. Bar # 447889
United States Attorney

Daniel F. Van Horn, D.C. Bar # 924092
Chief, Civil Division

/s/ Marina Utgoff Braswell
Marina Utgoff Braswell, D.C. Bar #416587
Assistant United States Attorney
U.S. Attorney's Office, Civil Division
555 4th Street, N.W.
Washington, D.C. 20530
(202) 252-2561
marina.braswell@usdoj.gov

Attorneys for Defendant
U.S. Postal Regulatory Commission