

**UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

SETH D. HARRIS,
ACTING SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,

Complainant,

v.

UNITED STATES POSTAL SERVICE,

Respondent.

AMERICAN POSTAL WORKERS UNION, AFL-CIO,

Authorized Union Representative.

OSHRC DOCKET Nos. 09-1954;
10-1102; 10-1123; 10-1037; 10-
1427; 10-1251; 10-1325; 10-1326;
10-1266; 10-1225; 10-1224; 10-
1279; 10-1433; 10-1476; 10-1507;
10-1492; 10-1656; 10-1638; 10-
1642; 10-1844; 10-1862; 10-1863;
10-2245; 10-2291; 10-2341; 10-
2340; 10-2345; 10-2449; 10-2509;
10-2510; 10-2511; 10-2526; 10-
2527; 10-2619; 10-2628; 11-0014;
11-0080; 11-0156; 11-0155; 11-
0157; 11-0158; and 11-0154

SETTLEMENT AGREEMENT

Scope and Intent of Agreement

1. Pursuant to Occupational Safety and Health Review Commission (“Commission”) Rule 100, 29 C.F.R. § 2200.100, Complainant, Seth D. Harris, Acting Secretary of Labor, United States Department of Labor (“DOL”), through the Occupational Safety and Health Administration (“OSHA”), and Respondent, the United States Postal Service (“USPS”), hereby agree to a full and complete settlement of the contested citation items referenced in the above-captioned OSHRC docket numbers. Copies of these citations are included in the attached Appendix.
2. The abatement actions and implementation schedule set forth in this Agreement apply to those contested citation items (in the citations attached in the Appendix) alleging violations of OSHA’s standards for electrical safety-related work practices, 29 C.F.R. §§ 1910.331-335. These citation items are listed in the table attached as Exhibit A. All other contested citation

items (which are not based on electrical safety-related work practices standards) are listed in the table attached as Exhibit H. The citation items listed in Exhibit H have been certified by the USPS as abated, and no further action is required.

3. In addition to settlement of the citation items listed in Exhibit A, this Agreement provides a framework for the USPS's enterprise-wide compliance with OSHA standards for electrical safety-related work practices, 29 C.F.R. §§ 1910.331-335. Unless otherwise stated herein, the terms of this Agreement apply to all USPS facilities, as defined in the USPS Electrical Work Plan ("EWP") Management Instruction ("MI") Number EL-810-2013-5, attached as Exhibit B.

Amendment of the Citations

4. The citation items listed in Exhibit A are amended to include the full terms of this Agreement, including the abatement actions and implementation dates stated herein.

5. Except for the seven willful violations contained in the citation pertaining to the USPS facility located in Providence, RI (OSHA Inspection No. 312343775, OSHRC Docket No. 10-1102, Citation 2, Items 2a-b, 3, 4a-c, 5, 6a-c, 7, and 8), all citation items listed in Exhibit A and Exhibit H originally classified as "Willful" are hereby reclassified as "Serious."

6. The proposed penalties for all contested citation items contained in the Appendix shall be amended in accordance with Paragraphs 34-39 of this Agreement.

Abatement

7. Upon the execution of this Agreement, the USPS shall immediately begin administering its OSHA Compliance Training in accordance with the Training Implementation Plan set forth in Exhibit E.

8. The USPS agrees to adopt a new EWP as of the date of the signing of this Agreement. The new USPS EWP is embodied in the following policy document and maintenance implementation

instructions, which have been revised during the parties' negotiations to ensure compliance with 29 C.F.R. §§ 1910.331-335:

A. EWP MI Number EL-810-2013-5, attached as Exhibit B; and

B. EWP Maintenance Management Order ("MMO"), Number MMO-023-13, attached as Exhibit C.

9. Implementation of the documents specified in Paragraph 8 is the foundation for abatement of the citation items listed in Exhibit A, and the USPS agrees to implement the documents (and the policies and procedures contained in the documents) in accordance with the timeframe set forth in Paragraph 13(A)-(F) of this Agreement.

10. The USPS further agrees to prohibit unqualified USPS employees from performing energized electrical work, including troubleshooting and voltage testing. Employees the USPS considered qualified under the USPS's previous EWP MI EL-810-2009-1 and EWP MMO-002-09 shall be considered qualified for a period of up to 90 days following the signing of this Agreement, at which time all such employees will have received the OSHA Compliance Training in accordance with the Training Implementation Plan (Exhibit E). Upon successful completion of the OSHA Compliance Training, employees who would have been deemed qualified for a particular task under the USPS's previous EWP MI EL-810-2009-1 and EWP MMO-002-09 will be considered qualified for the same task under the revised EWP MI EL-810-2013-5 and EWP MMO-023-13, and in compliance with the qualified employee training requirements in 29 C.F.R. §§ 1910.332-335 and 29 C.F.R. § 1910.399.

11. Affected USPS employees – those employees that are not qualified to perform energized electrical work but are likely to work in close proximity to a person performing energized electrical work – shall also receive OSHA Compliance Training, as described in the Training

Implementation Plan (Exhibit E). Such training shall be different than the training provided to qualified employees and shall be designed to apprise the affected employees of potential electrical hazards. Depending upon the facility, affected employees may include, but may not be limited to, clerks and custodians working on or near mail processing equipment.

12. Before any contractor engaged directly by the USPS begins work in any USPS facility, the USPS will require such contractor to certify in accordance with applicable procurement laws and USPS policies that: all work, including work performed by subcontractors, will be performed by qualified individuals as defined in 29 C.F.R. § 1910.399; all work will be performed in compliance with all relevant federal, state, and local laws, including but not limited to OSHA's standards on electrical safety-related work practices in 29 C.F.R. §§ 1910.331–335; and all work will be performed in compliance with the section of the revised EWP MI EL-810-2013-5 entitled "Contractors."

Abatement Implementation Schedule

13. The USPS agrees to use its best efforts to achieve all necessary training of personnel, obtaining of necessary PPE, labeling of electrical hazards, and full implementation of the EWP MI EL-810-2013-5 and EWP MMO-023-13, as soon as practicable, but no later than the dates listed in this paragraph. The schedule of EWP MI EL-810-2013-5 and EWP MMO-023-13 implementation shall be as follows, and reflects, in part, the timeline for compliance set forth in the Abatement Milestones Chart, attached as Exhibit D:

A. Within 30 days of the date of execution of this Agreement, the USPS shall:

i. inform all employees previously considered qualified by the USPS that the work practices detailed in the previous USPS EWP MI EL-810-2009-1 and EWP MMO-002-09

have been changed, and will be replaced by the new EWP MI EL-810-2013-5 and updated EWP MMO-023-13;

ii. immediately begin OSHA Compliance Training in accordance with the Training Implementation Plan (Exhibit E).

B. Within three months of the date of execution of this Agreement, the USPS shall complete OSHA Compliance Training, as described in the Training Implementation Plan (Exhibit E), for all EWP Coordinators at maintenance-capable facilities, as defined in the new EWP MI EL-810-2013-5 (Exhibit B), and all qualified employees;

C. Within six months of the date of execution of this Agreement, the USPS shall:

i. complete labeling at all maintenance-capable facilities;

ii. complete acquisition of all electrical Personal Protective Equipment (“PPE”) (as described in EWP MMO-023-13) in all maintenance-capable facilities, and require its use by trained, qualified employees performing live electrical work;

iii. complete OSHA Compliance Training for all affected employees assigned to maintenance-capable facilities;

iv. complete the EWP Coordinator Training for all EWP Coordinators and Safety Representatives at maintenance-capable facilities;

v. place the Work Category and Required PPE chart contained in the EWP MMO-023-13, Table 3-1, inside sleeves with existing Lockout procedures on equipment.

D. Within nine months of the date of execution of this Agreement, the USPS shall complete the EWP Coordinator Training for all EWP Coordinators and Safety Representatives at non-maintenance-capable facilities.

E. Within twelve months of the date of execution of this Agreement, the USPS shall:

i. complete OSHA Compliance Training for all affected employees at non-maintenance-capable facilities;

ii. complete audits at 25% of maintenance-capable facilities with automated mail processing equipment (for example, but not limited to, Processing and Distribution Centers (PDC), Processing and Distribution Facilities (PDF), National Distribution Centers (NDC), and International Service Centers (ISC)). The USPS will give the American Postal Workers Union, AFL-CIO (“APWU”) advance notice as soon as practicable to participate in the audits, but to avoid delay, it may conduct the audits with or without the APWU’s participation. In the event that the APWU does not participate in the audit, the USPS shall provide a copy of the audit to the APWU. These audits will include:

- a. a physical observation of the facility;
- b. observation of employees performing work subject to the EWP;
- c. assessment of the knowledge, skill and understanding of the employees and supervisors; and
- d. assessment of the administration of the EWP program;

iii. following the completion of the audits, the APWU reserves its right to submit comments or objections to the findings of the audits.

F. Within twenty-one months of the date of execution of this Agreement, the USPS shall:

i. complete the audits described in Paragraph 13(E)(ii) for all maintenance-capable facilities with automated mail processing equipment (for example, but not limited to PDC, PDF, NDC and ISC facilities).

ii. complete labeling in non-maintenance-capable facilities where maintenance activity has occurred and the employee would have been exposed to electrical hazards. At non-

maintenance capable facilities where maintenance has not occurred that would expose employees to the hazards of energized electrical work, the USPS will continue to appropriately label electrical equipment beyond the term of this Agreement, as maintenance is performed on that equipment, until all equipment is labeled. Continuance of labeling beyond the terms of the agreement, however, does not extend the term of the agreement. The USPS agrees to use its best efforts to achieve all necessary training of personnel, obtaining of necessary PPE, labeling of electrical hazards, and full implementation of the EWP MI EL-810-2013-5 and EWP MMO-023-13, which shall occur as soon as practicable, but no later than one year after the effective date of the Agreement, with the exception of the deadlines pertaining to auditing and labeling set forth in Paragraph 13(F). OSHA agrees that the enforceable abatement dates are those set forth in Paragraph 13.

14. The parties shall hold quarterly meetings every three months after the execution of this Agreement to discuss the status of abatement and the USPS's progress in implementation of the EWP MI EL-810-2013-5 and EWP MMO-023-13. The quarterly meetings will be held not later than fourteen calendar days after OSHA receives the most recent EWP Implementation Status Reports referred to in Paragraph 22 of this Agreement. If the fourteenth calendar day falls on a weekend or federal holiday, the quarterly meeting may be held on the first following work day. As appropriate, OSHA will notify the USPS of concerns that arise between quarterly meetings regarding the USPS's abatement progress as outlined in Paragraph 13(A)-(F). The parties shall promptly discuss those concerns, as well as any related concerns raised by the APWU, and attempt to resolve those issues. Points of contact for meetings and discussions between the parties are: Director, OSHA Directorate of Enforcement Programs; Manager, USPS Safety and OSHA Compliance Programs; and President, APWU, or their designees. However, nothing in

this Agreement precludes meeting(s) at the local level. When necessary, the parties will follow the procedures outlined in Paragraph 33 (A)-(C) to resolve any concerns.

15. This Agreement does not limit OSHA's authority to conduct inspections of USPS facilities.

16. The USPS will encourage employees to immediately notify the relevant EWP Coordinator and/or other appropriate USPS management personnel in the event that an employee becomes aware of a perceived electrical hazard or violation of the EWP program and policy and their implementation. Employees will be instructed to make such reports using the USPS Form 1767, "Report of Hazard, Unsafe Condition or Practice," which is an existing USPS form for employee hazard notification. The USPS shall not discriminate or retaliate in any manner against any employee because the employee notifies USPS management personnel or reports or otherwise provides information on any such perceived safety and/or health hazard(s) or violation.

Abatement Changes

17. During the term of this Agreement, the USPS may elect to make changes to the abatement specified in this Agreement, as follows:

A. If the USPS elects to evaluate arc flash hazards at a specific facility using an arc flash hazard analysis, the USPS agrees to notify OSHA in writing of its intent to do so. The USPS shall provide OSHA with the names and curricula vitae of three to five individuals whom it proposes to retain to perform said arc flash hazard analysis. OSHA may object to any or all of the USPS's proposed selections within fifteen calendar days of receiving their identities and curricula vitae. If OSHA objects to all of the USPS's proposed selections, the USPS shall continue the search until it selects a person to whom OSHA does not object. OSHA reserves the right to communicate to any selected consultant its views as to what criteria are appropriate to consider in performing an arc flash hazard analysis. If OSHA chooses to exercise this right, it

will promptly share with the USPS in writing the details of any such communication. The USPS will provide OSHA with a detailed report of findings and conclusions of any such arc flash hazard analysis, and will describe in detail the nature of any abatement changes it intends to make as a result of such analysis. Such abatement changes will be limited to the facility where the arc flash hazard analysis was conducted. The report and description will be furnished to OSHA not later than thirty days before the USPS plans to implement the described changes. OSHA may request a meeting with the USPS to discuss the report and the abatement changes within ten days of its receipt of this information, and the USPS will meet with OSHA prior to implementing the abatement changes. Abatement changes based on any such arc flash hazard analysis will be incorporated into the terms of this Agreement for the remaining duration of the Agreement.

B. The USPS may propose the use of different abatement measures during the term of this Agreement in order to take advantage of technological advances and/or innovation in order to maximize operational efficiencies. If the USPS wishes to make such a change, it must first notify OSHA and the APWU in writing of the proposed change and the rationale supporting the change. OSHA and the APWU will respond in writing within fifteen working days of receiving the proposal, indicating their acceptance or objection to the proposed change. If either party expresses an objection a meeting will be scheduled between the parties at the earliest possible date to discuss the proposed change and the objections thereto. The USPS will not make changes to the abatement specified in this Agreement, other than those made pursuant to section (A) of this paragraph, without the written consent of the parties.

Training

18. All employees shall be trained as specified in the revised EWP MI EL-810-2013-5 and EWP MMO-023-13, Paragraphs 10 and 11 of this Agreement, and in accordance with the OSHA standards in 29 C.F.R. Subpart S. All employee training on electrical safety-related work practices required by 29 C.F.R. §§1910.331-1910.335 shall be conducted by a person who has the knowledge, training, and experience to train employees on their respective job assignments and evaluate their competence. An example of a qualified trainer would be a person who, by possession of a recognized degree, certificate, or professional standing, or who by knowledge, training and experience, has demonstrated the ability to train and evaluate employees such as Electricians, Electronics Technicians, etc., who conduct tasks that expose them to electric shock, arc flash/blast or greater hazards. In general, the trainer will only have sufficient experience if he/she has the practical skills and judgment to be able to himself/herself conduct the tasks safely under the conditions prevailing at the specific workplace, although it is not required that the trainer has in fact done so as part of his or her general workplace duties.

19. The USPS will revise its Category Training to reflect the provisions of the EWP MI EL-810-2013-5 and EWP MMO-023-13. If an employee must complete the Category Training before all necessary revisions to the Category Training are finalized, the employee can alternatively fulfill the training requirements of the EWP MI EL-810-2013-5 and EWP MMO-023-13 by completing the Category Training that exists as of the effective date of this Agreement, along with the appropriate OSHA Compliance Training.

20. The USPS shall evaluate the safety performance of all employees performing electrical work in accordance with the implementation schedule contained in Paragraph 13(A)-(F). Where deficiencies are noted in the safety performance of any employee, that employee shall be

retrained and re-evaluated in accordance with applicable OSHA regulations to bring him/her to the level of competence appropriate to the facility, job, task and/or equipment before he/she is permitted to perform such electrical work. No employee shall be permitted to perform unsupervised electrical work until he/she has demonstrated knowledge, skills, and competency appropriate to the facility, task and equipment where the work will be performed.

Progress Demonstration, Monitoring, and Inspection

21. OSHA shall monitor progress and compliance with this Agreement in accordance with OSHA Directive CPL 02-00-152, Guidelines for Administration of Corporate-Wide Settlement Agreements. The USPS agrees that it will not require warrants for entry and inspection by OSHA, or subpoenas for documents related to compliance with this Agreement. OSHA shall designate an attorney in the Solicitor's Office with whom a USPS attorney may promptly speak in the event the USPS encounters a problem with an information request.

22. During the twenty-four months after the execution of this Agreement, the USPS shall report to OSHA every three months on progress toward national implementation of the EWP MI EL-810-2013-5 and EWP MMO-023-13 and the terms of this Agreement, as required by Paragraph 13. The USPS shall provide this information by completing the EWP Implementation Status Reports, attached as Exhibit F. These Reports provide the following information:

A. Total number of qualified employees in maintenance-capable facilities who are required to receive the OSHA Compliance training and the percentage of those employees who have already received such training;

B. The estimated training completion date for each USPS Area, the total number of qualified employees to be trained in each USPS Area by the estimated training completion date, the percentage of those qualified employees who have already received such training; and the

percentage of affected employees in maintenance-capable facilities who have received OSHA Compliance training;

C. Number and percentage of facilities, by USPS Area, that have had an EWP audit performed;

D. Number and percentage of maintenance-capable facilities with automated mail processing equipment (for example, but not limited to PDC, PDF, NDC and ISC facilities) within each Area that have passed an EWP audit, along with the follow-up action performed; and the number of qualified employees who were re-trained in Work Categories 2, 3 and 4 as a result of the EWP audit;

E. Number of electrical hazards reported, by Area, relating to Equipment, Training, PPE or "Other," and the follow-up action taken in response to the report;

F. Number of facilities, by Area, that have not yet named and/or trained EWP Coordinators; trained qualified employees; or stocked PPE, and the estimated date of full compliance with the EWP for each Area;

G. Percentage of facilities, by Area, that have completed qualified employee training; stocked PPE; and labeled their electrical equipment; and the completeness of the EWP implementation data for facilities by Area;

H. Number and percentage of maintenance-capable and non-maintenance-capable facilities, by Area, that have completed labeling of the electrical equipment; and

I. Number of maintenance-capable and non-maintenance-capable facilities, by Area, that are in full compliance with the EWP; that have administered OSHA Compliance training (where applicable); that have had an EWP audit completed (where applicable); that have named and trained an EWP Coordinator; and that have stocked the proper PPE (where applicable).

23. During the twenty-four months after the execution of this Agreement, the USPS shall also provide to OSHA every three months:

A. The number and nature of recordable injuries as defined by 29 C.F.R. § 1904 resulting from exposure to electrical hazards while performing work activities covered by this Agreement;

B. The number and nature of concerns relating to perceived electrical hazards raised by employees in USPS Form 1767; and the USPS will make a good faith effort to provide to OSHA, USPS national and Area joint labor-management safety and health (sub)committee meeting minutes, where such concerns relate to perceived electrical hazards and the actions taken by the USPS in response to such concerns;

C. The estimated number of facilities that will be brought into compliance prior to the next quarterly meeting; and

D. The USPS will notify OSHA when there are fatalities or multiple hospitalization incidents or incidents resulting in significant property damage resulting from unsafe electrical work practices.

24. The EWP Implementation Status Reports shall be completed and provided to OSHA and the APWU every three months; the first report being due three months and ten calendar days after the date of execution of this Agreement. If the tenth calendar day falls on a weekend or federal holiday, the report will be due on the first following work day.

25. The EWP Implementation Status Reports shall be posted at each facility where employees may be exposed to electrical hazards. If the USPS is notified that posted Reports have been removed, substantially ripped or covered, the USPS will have seven calendar days following such notice to ensure that replacement reports are posted. These Reports shall be made available

to employees and their representatives within a reasonable time following requests for the Reports. Information about the status of abatement implementation at a specific facility shall be made available to OSHA and employees and their representatives upon request, within a reasonable period of time.

26. If, during any inspection conducted during the two-year term of this Agreement, OSHA identifies a condition covered by this Agreement that would ordinarily result in a citation, OSHA will promptly notify the USPS of such condition and determine whether the condition is being or will be addressed as part of USPS's actions taken under this Agreement. If the condition is being addressed or will be addressed in accordance with this Agreement, no citation shall be issued. However, nothing in this Agreement limits OSHA's ability to issue citations to the USPS for working conditions that are not the subject of this Agreement.

Abatement Certification and Documentation

27. Beginning with the date of execution of this Agreement, as each cited facility completes final abatement of cited hazards, the USPS shall supply documentation of the abatement to the issuing OSHA Area Office, in compliance with 29 C.F.R. § 1903.19.

28. The USPS agrees to notify employees and their authorized employee representatives of abatement activities in accordance with 29 C.F.R. § 1903.19.

Withdrawal of Notice of Contest and Entry of Final Order

29. The USPS hereby withdraws its notices of contest to the contested citation items contained in Exhibits A and H, and the parties agree to the entry of a final enforceable order of the Commission with respect to these citation items.

Non-Admission

30. Neither this Agreement nor the USPS's agreement to the entry of a final order by the Commission shall constitute an admission by the USPS that it violated the Occupational Safety and Health Act, ("OSH Act") 29 U.S.C. §§ 651-678, or regulations or standards promulgated thereunder.

31. This Agreement, the citations contained in the Appendix, related reports, or any order entered pursuant to this Agreement may not be offered, used, or admitted into evidence against the USPS in any proceeding or litigation, except in a proceeding brought by the Secretary under the OSH Act.

Modification of Abatement Dates

32. The parties stipulate and agree that the USPS may petition OSHA for modification of abatement dates, pursuant to 29 C.F.R. § 1903.14a, if the USPS is unable to meet any abatement deadline set forth in the implementation schedule in Paragraph 13 (A)-(F) because of factors beyond the USPS's reasonable control and despite the USPS's good faith effort to comply with the required abatement dates. OSHA agrees that any such Petition for Modification of Abatement Date ("PMA") submitted by the USPS to the Directorate of Enforcement Programs in OSHA's National Office, and any extension of time approved by OSHA in response to such a PMA, need not be made specific to a single worksite, but may apply to any or all of the worksites covered by this Agreement. The parties further stipulate and agree that any extension of time approved by OSHA's National Office in response to a PMA submitted by the USPS during the term of this Agreement shall be automatically incorporated into this Agreement and binding upon the parties.

Dispute Resolution and Enforcement

33. If OSHA determines that the USPS may not be in compliance with any portion of this Agreement, including but not limited to a failure to abate a safety hazard that falls within the scope of this Agreement, the parties will take the following steps:

A. OSHA shall promptly notify the USPS, in writing, of the alleged failure to abate a safety hazard or other noncompliance with this Agreement, and the USPS shall have fifteen calendar days from receipt of OSHA's notification to provide a written response to OSHA. If the fifteenth calendar day falls on a weekend or a federal holiday, the response will be due on the first following work day. If the alleged noncompliance involves substantive abatement issues such as the training, PPE, labeling or other safety measures required under this Agreement, then the APWU will be included in dispute resolution communications and meetings.

B. Within thirty calendar days of OSHA's receipt of USPS's written response, the parties will enter into discussions to resolve the failure to abate or other noncompliance issue. If the thirtieth calendar day falls on a weekend or a federal holiday, the parties may continue their discussion until the first following work day. If agreement is reached, the USPS will submit a written plan outlining the steps it will take to be fully compliant with the Agreement and to abate any safety hazards that fall within the scope of this Agreement. The parties will then sign and implement the plan, and the plan shall be automatically incorporated into the terms of this Agreement.

C. In the event that the parties cannot reach an agreement regarding the alleged noncompliance with this Agreement, the USPS acknowledges that the Acting Secretary of Labor may in his discretion bring other enforcement proceedings as allowed by law, including and not

limited to failure to abate proceedings under section 10 of the OSH Act, and/or actions under section 11(b) of the OSH Act.

Penalties

34. The penalties associated with all the citations contained in the Appendix will be treated as an aggregate penalty. The penalty will not be proportionally assessed to each cited item or to individual cited facilities.

35. The aggregate penalty for all contested citation items listed in Exhibits A and H will be initially reduced from \$6,101,525 to \$3,100,000, and the USPS will pay to OSHA \$100,000 of that amount within thirty calendar days of the date of execution of this Agreement. If the thirtieth day falls on a federal holiday or weekend, the USPS will have until the first following work day to submit the payment.

36. Six months after the date of execution of this Agreement, the parties will meet to discuss USPS compliance with this Agreement. If OSHA determines that the USPS has met the obligations contained in Paragraph 13(A)-(C) and any incorporated abatement modifications, OSHA agrees to waive the \$1,000,000 penalty payment otherwise due six months after the date of execution of this Agreement, and to reduce the outstanding penalty amount to \$2,000,000. If the implementation schedule contained in Paragraph 13(A)-(C) has not been met, the USPS will submit to OSHA a payment in the amount of \$1,000,000 within sixty calendar days following the parties' last meeting held pursuant to Paragraph 33 to discuss the noncompliance. If the sixtieth day falls on a federal holiday or weekend, the USPS will have until the first following work day to submit the payment.

37. Fifteen months after the date of execution of this Agreement, the parties will meet to discuss USPS compliance with this Agreement. If OSHA determines that the USPS has met the

obligations contained in Paragraph 13(D)-(E) and any incorporated abatement modifications, OSHA agrees to waive the \$1,000,000 penalty payment otherwise due fifteen months after the date of execution of this Agreement, and reduce the outstanding penalty amount to \$1,000,000. If the implementation schedule contained in Paragraph 13(D)-(E) has not been met, the USPS will submit to OSHA a payment in the amount of \$1,000,000 within sixty calendar days following the parties' last meeting held pursuant to Paragraph 33 to discuss the noncompliance. If the sixtieth day falls on a federal holiday or weekend, the USPS will have until the first following work day to submit the payment.

38. Twenty-four months after the date of execution of this Agreement, the parties will meet to discuss USPS compliance with this Agreement. If OSHA determines that the USPS has met the obligations contained in Paragraph 13(F) and any incorporated abatement modifications, OSHA agrees to waive the remaining \$1,000,000 penalty payment otherwise due twenty-four months after the date of execution of this Agreement and to reduce the outstanding penalty amount to zero. If the implementation schedule contained in Paragraph 13(F) has not been met, the USPS will submit to OSHA a payment in the amount of \$1,000,000 within sixty calendar days following the parties' last meeting held pursuant to Paragraph 33 to discuss the noncompliance. If the sixtieth day falls on a federal holiday or weekend, the USPS will have until the first following work day to submit the payment.

39. If the parties disagree regarding whether the USPS has met the obligations contained in Paragraph 13 and any incorporated abatement amendments, the parties will follow the dispute resolution procedures outlined in Paragraph 33(A)-(C). If the EWP Implementation Status Reports, USPS audits, OSHA inspections or other sources of information addressing compliance with this Agreement reveal substantial compliance with the terms of this Agreement, and only

isolated or de minimus non-compliance with any particular abatement requirement, OSHA may exercise its discretion not to require payment of any outstanding penalty amounts.

Costs

40. Each party agrees to pay its own attorneys' fees, costs, and other expenses incurred in connection with any stage of the above-referenced proceeding.

Effective Date and Term of Agreement

41. This Agreement shall be effective on the date it is executed by the parties, and its term shall be two years from the effective date. Each party acknowledges that upon expiration of the two-year term of this Agreement, the USPS may modify its electrical work safety policies and procedures as long as the new policies and procedures maintain compliance with OSHA standards.

Notice and Communications

42. All notice and communications shall be to the following persons (or to the current incumbent of the position) at the following addresses:

OSHA: Thomas Galassi, Director
Directorate of Enforcement Programs
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

USPS: Linda Decarlo, Director of Safety & Health
Robert J. Brant, Manager of Safety and OSHA Compliance Programs
Eric J. Scharf, Managing Counsel, Employment & Labor Law
United States Postal Service
475 L'Enfant Plaza SW
Washington, DC 20260

APWU: Cliff Guffey, President
American Postal Workers Union, AFL-CIO

1300 L Street NW
Washington, DC 20005

Melinda Holmes
O'Donnell, Schwartz & Anderson, P.C.
1300 L Street, NW
Washington DC 20005

Service and Posting

43. The USPS certifies that the authorized employee representatives of all affected employees are: APWU and the National Postal Mail Handlers Union.

44. Pursuant to Commission Rules 7 and 100, 29 C.F.R. §§ 2200.7 and 2200.100, the USPS certifies that it served a copy of this Agreement on the authorized employee representatives by postage prepaid first class mail, by electronic transmission, or by personal delivery to the following addresses on June 28, 2013:

Cliff Guffey, President
American Postal Workers Union, AFL-CIO
1300 L Street NW
Washington, DC 20005

John F. Hegarty, National President
National Postal Mail Handlers Union
1101 Connecticut Avenue NW, Suite 500
Washington, DC 20036

45. Within ten calendar days of the execution of this Agreement, the USPS will post at all of its facilities and on the USPS intranet Blue Page a one-page notice of this Agreement with a brief summary of the Agreement's contents, attached as Exhibit G. If the tenth day falls on a federal holiday or weekend, the USPS will have until the first following work day to post the notice and summary. The notice will direct the reader to OSHA's website where the complete text of the Agreement, with all attached Exhibits, will be available for the term of this Agreement. If the USPS is subsequently notified that the posted notice and/or summary has been removed,

substantially ripped or covered, the USPS shall replace the notice and/or summary within seven calendar days of such notification.

No Alteration of Employee Rights

46. Nothing in this Agreement alters in any manner the rights afforded to USPS employees under the OSH Act.

Notice

47. Any affected employee not represented by an authorized representative who has any objection to the entry of an order as set forth in this Agreement shall communicate such objections in writing within ten calendar days of the posting of this Agreement to:

Covette Rooney
Chief Administrative Law Judge
Occupational Safety and Health Review Commission
1120 20th Street, NW, Ninth Floor
Washington, DC 20036

A copy of said objection shall also be sent to:

OSHA: Thomas Galassi, Director
Directorate of Enforcement Programs
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

USPS: Linda Decarlo, Director of Safety & Health
Robert J. Brant, Manager of Safety and OSHA Compliance Programs
Eric J. Scharf, Managing Counsel Employment & Labor Law
United States Postal Service
475 L'Enfant Plaza SW
Washington, DC 20260

APWU: Cliff Guffey, President
Melinda Holmes, Counsel
Sarah Kanter, Counsel
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington DC 20005

Signatures

FOR COMPLAINANT:

FOR RESPONDENT:

Thomas Galassi

6/28/13
Date

Thomas Galassi
Director, Directorate of Enforcement
Programs
Occupational Safety and Health
Administration
U.S. Department of Labor

Rosemarie Fernandez

6/28/13
Date

Rosemarie Fernandez
Acting Vice-President,
Employee Resource
Management
United States Postal Service

Jennifer R. Levin

6/28/13
Date

Jennifer R. Levin
Attorney, Occupational Safety and
Health Division
Office of the Solicitor
U.S. Department of Labor

**AMERICAN POSTAL WORKERS
UNION, AFL-CIO:**

Cliff Guffey

6-28-13
Date

Cliff Guffey
President
American Postal Workers Union, AFL-
CIO

List of Exhibits

Exhibit A: Table of Contested Citation Items Covered by the Settlement Agreement Abatement

Exhibit B: EWP Management Instruction EL-810-2013-5

Exhibit C: EWP Maintenance Management Order-023-13

Exhibit D: Abatement Milestones Chart

Exhibit E: Training Implementation Plan

Exhibit F: EWP Implementation Status Reports

Exhibit G: Notice and Summary of Agreement for Posting by USPS

Exhibit H: Table of Contested Citation Items Based On Standards Other Than Electrical Safety-related Work Practices, 29 C.F.R. §§ 1910.331-335 (Not Covered by Settlement Agreement Abatement Terms)

Appendix: Citations