REGULAR ARBITRATION PANEL

National Association of Letter Carriers, AFL-CIO,		Grievant:	Class
		USPS Case No.:	4E-19N-4E-C 24412884
and		NALC Case No.:	24C-490
		NALC DRT No.:	01-67336
		Post Office:	SDC-Navajo Station, CA
United States Postal Service.			

Before: Carl C. Bosland, Esq.

Appearances:

For the Union:	Christopher Reed NALC National Assigned Advocate
For the Agency:	Rebecca Eckert Labor Relations Specialist
Place of Hearing:	Riverfront Station 2600 Camino Del Rio N., San Diego, CA
Date of Hearing:	September 30, 2025
Date Record Closed:	November 29, 2025
Date of Award:	December 12, 2025
Contract Year:	2019-2023
Grievance Type:	Contract
Relevant Contract Provisions:	3, 5, 15, 19, Handbook M-39, Section 122, USPS-NALC Joint Statement of Expectations, NLRA

AWARD SUMMARY

The grievance is sustained

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Carl C. Bosland, Esq.
Arbitrator

I. STATEMENT OF THE CASE

The dispute addresses the propriety of Management's July 8, 2024, change to the Navajo Station starting time for carriers on the overtime desired list from 7:00 a.m. to 7:30 a.m., and whether Management failed to timely provide the Union with requested information.

The arbitration was heard on September 30, 2025, at a postal facility in San Diego, California. At that time, the parties were afforded the full opportunity to present testimony and evidence, to examine and cross-examine witnesses, all of whom were sworn, and to make arguments in support of their respective positions. An audio recording of the hearings was taken. The Union elected to close orally with a right to file a reply brief. The Service filed its post-hearing Brief on November 21, 2025. The record closed on November 29, 2025, with the Arbitrator's receipt of the Union's Reply Brief.

II. APPEARANCES, EXHIBITS, STIPULATIONS, CASE LAW

The parties entered three joint exhibits: the 2019–2023 National Agreement (Joint Ex. 1), the JCAM (Joint Ex. 2), and the Moving Papers (Joint Ex. 3). The Union also offered 12 exhibits:

- National Labor Relations Act
- Emails between NAA Reed, Javier Juarengul, and Ricardo Guzman
- Postal Policy Letter (M-01517)
- Emails- Union witness list
- *Mayberry*, Case No. 4B 19N-4B-C
- *Hedison*, *Hessey*, *Pepsi* NLRB decisions
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- *Klein*, Case No. 4E 19N-4E-C 24035652
- *Wolitz*, Case No. F06N-4F-C 12281454

Management did not offer additional exhibits.

The Parties stipulated that the witness statements contained in the Grievance File accurately reflected the testimony the witnesses would provide if called. In addition, the Service presented

the testimony of Station Manager Mark Lugue and Labor Relations Specialist Phoebe Hood. The Union presented the testimony of Steward Javier Jauregui.

The Union elected to close orally at the conclusion of the hearing with a right to submit a reply brief, which was received on November 29, 2025. The Service elected to submit a post-hearing brief, which was received on November 22, 2025.

III. STATEMENT OF THE ISSUES

The parties did not agree on the statement of the issues. The Union defined the issues as:

> Did Management violate Articles 3, 5, 15, and 19 (via Section 122 of Handbook M-39) of the National Agreement, including the USPS-NALC Joint Statement of Expectations (M-01492), when they unilaterally changed the "Overtime Desired" list (ODL) carriers' start time from 7:00 AM to 7:30 AM?
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> Did Management violate Articles 3, 5, 15, 17, and 31 of the National Agreement, including USPS-NALC Joint Statement of Expectations (M-01492) and prior Step B Decisions and Arbitration Awards when they failed to provide requested information within 48 hours of the Union submitting such requests?

The Service defined the issues as:

> Whether the Union met their burden of proof thru preponderance of evidence that Articles 3, 5, 8, 15, and/or 19 of the National Agreement via M-39, section 122, and the USPS-NALC Joint Statement of Expectations (M-01492) were violated, when after considering the factors of the M-39 section 122, management decided to permanently change the Navajo Station's starting time for the Overtime Desired List city Carrier's from 7:00 a.m. to 7:30 a.m. on July 8, 2024, to run an efficient operation.
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> Whether the Union met their burden of proof thru preponderance of evidence that Articles 3, 5, 8, 15, and/or 19 of the National Agreement via M-39, section 122, and the USPS-NALC Joint Statement of Expectations (M-01492) were violated, when Management provided the requested time and information in accordance with Step B decisions and arbitration awards.

The Arbitrator defines the issues as:

- Whether Management violated the National Agreement by unilaterally changing the ODL carriers' start time from 7:00 a.m. to 7:30 a.m.

- Whether Management violated the National Agreement by failing to provide the Union with requested information within 48 hours.

IV. BACKGROUND

The material facts are not in dispute. Effective Saturday, June 8, 2024, Management at the Navajo Station changed the start time for carriers on the Overtime Desired List (ODL) from 7:00 a.m. to 7:30 a.m. Management verbally notified the affected carriers of the change on June 3, 2024. On June 4, 2024, Management posted a written notice confirming that the ODL city carrier start time would change from 7:00 a.m. to 7:30 a.m., effective June 8, 2024.

The Union submitted requests for information seeking identified records and interviews of ODL carriers as follows:

- Friday, June 7, 2024, at 9:07 a.m.
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- Friday, July 5, 2024, at 11:37 p.m.

On June 13, 2024, the Union interviewed Station Manager Mark Lueue, the manager who changed the ODL start time.

The Union initiated a grievance at Informal Step A on June 17, 2024. The parties met at Formal Step A on August 22, 2024. Unable to resolve the matter, the Union advanced the grievance to Step B. On September 24, 2025, the Dispute Resolution Team issued a Step B Decision declaring an impasse, and the Union subsequently advanced the dispute to arbitration.

V. CONTENTIONS

A. UNION

The Union contends that the Service violated Article 5 of the National Agreement by unilaterally implementing a permanent change in the start time from 7:00 a.m. to 7:30 a.m. The Union argues

that Article 5 prohibits unilateral action that is inconsistent with Section 8(d) of the National Labor Relations Act, which forbids employers from altering wages, hours, or working conditions during the term of a collective-bargaining agreement without first bargaining with the Union.

According to the Union, the Service's change in reporting time constitutes a direct modification of employees' "hours of work," the precise type of action that both Article 5 and federal law prohibit absent bargaining. The Union further asserts that National Labor Relations Board determinations—holding that employers must bargain with the union before implementing changes to hours of work to avoid violating the NLRA—are dispositive of the issue and control the outcome in this case. Contrary determinations by arbitrators that a change in employee start times does not affect hours, wages, or working conditions are not controlling.

The Union argues that Management violated Handbook M-39, Section 122, because Management did not consider that 80% of the caseable mail was at the carriers' case at 7:00 a.m. The Union asserts that the Route Detail Volume Feedback Reports support its position that a 7:00 a.m. start time is appropriate and consistent with operational needs. The Union contends further that, regardless of Management's interpretation of those reports, the controlling fact is that the Service was legally and contractually obligated to bargain with the Union before implementing any change to ODL carriers' start times. According to the Union, Management's failure to engage in the required bargaining renders the change improper under both the National Agreement and applicable labor law.

The Union asserts that the Service failed to provide the Union with information it requested within the required 48-hour timeframe. It rejects the Service's explanation that the Union routinely submitted Requests for Information (RFIs) in bad faith at the end of the day—particularly on Fridays after 4:00 p.m. or on the eve of scheduled days off or holidays. According to the Union, the factual record does not support that claim. Of the nine RFIs submitted in this case—most of which were follow-up requests prompted by incomplete responses to the initial requests—three were submitted in the morning, four were submitted before 4:00 p.m., and the remaining two were submitted before 4:21 p.m., neither of which fell on a Friday. The Union contends that the Service failed to identify the scheduled days off of local management, undermining its justification for delay.

Accordingly, the Union requests the following remedy:

1. Sustain the grievance;

2. Acknowledge the violations in this instant case;

3. Order the Service to cease-and-desist violating Articles 3, 5, 15, and 19 (via Section 122 of Handbook M-39) of the National Agreement, including the National Labor Relations Act and USPS-NA:C Joint statement of Expectations (M-01492);

4. Order the Service to return the start time for letter carriers on the ODL back to 7:00 a.m..

5. Compensate the Grievants with Out-of-Schedule Pay/Premium for all hours worked outside of their schedule;

6. Order the Service to cease-and-desist violating Articles 3, 5, 15, and 19 (via Section 122 of Handbook M-39) of the National Agreement including the National Labor Relations Act and USPS-NA:C Joint statement of Expectations (M-01492), prior Step B Decisions, and arbitration awards as it pertains to providing the Unio with requested information no later than 48 hours after such request is submitted by the Union;

7. Order the Service to compensate the Grievants with a lump sum payment of $500.00 due to the violations as it pertains to the San Diego installations' failure to provide requested information to the Union within 48 hours of such request;

8. Retain jurisdiction for a period of 60 days to enforce compliance;

9. And/or any other remedy deemed appropriate. ;

B. SERVICE

The Service contends that the Union did not establish that the National Agreement required Management to confer with the Union before changing ODL carrier start times. It asserts that Section 122.11 of the *Management of Delivery Services* Handbook (M-39) provides guidance—not a contractual mandate—regarding when schedule changes may be made to ensure efficient mail delivery. According to the Service, Station Manager Lugue testified that he considered the relevant factors before implementing the change. The Service further maintains that nothing in Section 122.11 requires Management to consult with the Union or to demonstrate that each factor was expressly considered prior to adjusting start times.

The Service argues that the Union misinterprets Section 122.11 of the M-39 Handbook in asserting that carriers must be scheduled to report at 7:00 a.m. because that is when the Union claims 80% of the mail is available. According to the Service, Section 122.11 merely provides that carriers should not begin work before 80% of the mail is at their cases; it does not require management to set start times to coincide precisely with the moment the 80% threshold is met. The Service further contends that Arbitrators MacLean and Duffy have expressly rejected the Union's interpretation of Section 122.11, supporting the Service's view that the provision affords management reasonable discretion in establishing carrier reporting times.

The Service argues that Article 3 of the National Agreement vests Management with broad authority to direct operations, subject only to specific limitations contained in the Agreement and in handbooks, manuals, and published regulations directly relating to wages, hours, or working conditions. Because the National Agreement contains no provision restricting Management from adjusting employee start times, the Service asserts that such decisions fall within Management's discretion so long as they are not arbitrary or capricious. The Service maintains that it provided a reasonable, work-related justification for changing the start time, and therefore the burden rests with the Union to demonstrate that the decision was arbitrary or capricious—something the Service contends the Union has failed to establish.

The Service argues that it acted in good faith and responded to all Requests for Information in a timely and expeditious manner. It contends that the Union routinely submitted such requests at the end of the day on the eve of scheduled days off or holidays, a practice the Service characterizes as evidencing bad-faith intent to secure undue enrichment. According to the Service, this pattern of late-day submissions created avoidable delays in Management's ability to respond within the expected timeframes.

The Service contends that the Union failed to meet its burden of proving any violation of the National Agreement. Accordingly, the Service requests that the grievance be denied in its entirety.

VI. FINDINGS AND DECISION

In this contract case, the Union bears the burden of establishing by a preponderance of the evidence that the Employer violated the National Agreement. As explained in *The Common Law of the Workplace: The Views of Arbitrators* (Theodore J. St. Antoine ed., 2d ed. 2005), the preponderance standard requires that the evidence show that the claim is "more likely than not." *Id.* ch. 1, § 1.93 & cmt. If the party bearing the initial burden of proof satisfies that burden, the burden shifts to the responding party to establish any affirmative defense by a preponderance of the evidence. *Id.* § 1.94; Elkouri & Elkouri, *How Arbitration Works* 471, 449 & n.220 (Marlin M. Volz & Edward P. Goggin eds., 5th ed. 1997).

A. Management violated the National Agreement by unilaterally changing the ODL carriers' start time from 7:00 a.m. to 7:30 a.m.

The threshold question is whether the Postal Service was required to bargain with the Union before implementing a permanent change in the start time for ODL carriers from 7:00 a.m. to 7:30 a.m. The Arbitrator finds that it was.

Article 5 of the National Agreement prohibits Management from taking unilateral action affecting wages, hours, or working conditions, and it expressly incorporates the obligations defined in Section 8(d) of the National Labor Relations Act. Section 8(d) provides that employers and unions must meet and confer in good faith with respect to "wages, hours, and other terms and conditions of employment." 29 U.S.C. § 158(d). The Supreme Court has long held that unilateral changes to mandatory subjects—including work schedules—violate Section 8(a)(5) unless the employer has bargained to an agreement or impasse or the union has clearly and unmistakably waived its statutory right to bargain. *Metro. Edison Co. v. NLRB*, 460 U.S. 693, 708 (1983); *NLRB v. Katz*, 369 U.S. 736, 743 (1962); *Endurance Environmental Solutions*, 373 NLRB No. 141 (Dec. 10, 2024). The NLRB has held that work schedules are a mandatory subject of bargaining. See e.g., *Our Lady of Lourdes Health Center*, 306 N.L.R.B. 337, 339 (1992).

The Postal Service argues that Article 3 (Management Rights) and Article 19 (Handbooks and Manuals) authorize unilateral adjustment of ODL carrier start times. However, Article 3 is

expressly limited by the remainder of the Agreement. Article 5 specifically restricts unilateral changes to hours of work, and under standard principles of contract interpretation applied in labor arbitration, the specific limitation in Article 5 prevails over the more general reservation of managerial authority in Article 3. *The Common Law of the Workplace,* supra*,* § 2.8.

The Service relies on Article 19 and Handbook M-39, Section 122.11, as authority to change carrier start times. Article 19 incorporates handbook provisions that "directly relate to wages, hours, or working conditions." See *USPS & NALC*, Case No. C16N-4C-C 19003021, at 5 (Aug. 22, 2019) (citing Nat'l Arb. Briggs, Case No. B94N-4B-C 97105300). Regional arbitrators are divided on whether the factors in Section 122.11 are contractually enforceable. Compare *USPS & NALC*, Case No. F98N-4F-C 02062648 (Snow, Arb. 2003), with *USPS & NALC*, Case No. E16N-4E-C 18309681 (Duffy, Arb. Mar. 25, 2019). For purposes of Article 5, however, whether Section 122.11 is mandatory or advisory is not dispositive of Management's right to unilaterally change ODL carrier start times.

The Supreme Court and the Board require a "clear and unmistakable" waiver before an employer may rely on contract language to justify unilateral changes to mandatory bargaining subjects. See *Metro. Edison Co.,* supra*,* 460 U.S. at 709. A waiver cannot be inferred from broad or general management-rights language, nor from silence in contractual or incorporated materials. Id.; *Provena Hosps*., 350 N.L.R.B. 808, 810-812 (2007). The Arbitrator, therefore, examines whether Section 122.11 of Handbook M-39, invoked by the Service, satisfies this strict standard.

Section 122.11 provides only that management "should consider" certain listed factors when establishing carrier schedules. The provision is advisory in nature. It does not reference bargaining, confer unilateral authority, or purport to override Article 5 of the National Agreement or the National Labor Relations Act. Accordingly, it does not satisfy the "clear and unmistakable waiver" standard articulated by the Supreme Court in *Metro. Edison Co.,* supra 460 U.S. at 708. Section 122.11, therefore, cannot be construed as a waiver of the bargaining rights expressly protected by Article 5.

The National Labor Relations Board has consistently held that even minimal changes in starting or quitting times constitute changes in hours of work that require bargaining. In *Hedison Mfg.*

Co., the Board held that a five-minute change in reporting time required bargaining. 260 N.L.R.B. 590, 592–94 (1982). In *Quality Engineered Prods. Co.*, the Board held that a unilateral thirty-minute change in employee start times, implemented without bargaining to impasse or waiver, violated the Act. 267 N.L.R.B. 593 (1983). Likewise, in *Xidex Corp.*, the Board found a violation where the employer unilaterally reduced lunch periods from thirty minutes to fifteen minutes, notwithstanding discussions with union members and the brief duration of the change. 297 N.L.R.B. 110 (1989), *enfd.*, 974 F.2d 245, 253 (D.C. Cir. 1991). In *Pepsi-Cola Bottling Co.*, the Board held that a fifteen-minute change to employee start times and changes to break periods required bargaining. 330 N.L.R.B. 900, 902–03 (2000).

To the extent that some regional arbitrators have reached a contrary conclusion, this Arbitrator respectfully disagrees. See *U.S. Postal Serv. & NALC*, Case No. E16N-4E-C 18309681 (Duffy, Arb. Mar. 15, 2019) (finding no violation where start time changed from 7:00 a.m. to 8:00 a.m.); *U.S. Postal Serv. & NALC*, Case No. 4B-19N-4B-C 23179960 (Casciano, Arb. Sept. 28, 2023) (concluding that management was not required to bargain over a one-half-hour schedule change).

Against this legal framework, a permanent 30-minute change in start time—from 7:00 a.m. to 7:30 a.m.—constitutes a material change in hours of work, a mandatory subject of bargaining. The credible evidence of record establishes that Management did not bargain with the Union to agreement or impasse before unilaterally implementing the change to ODL carrier start time, and because no contractual provision clearly and unmistakably waives the Union's right to bargain over start-time changes, the Arbitrator finds that the unilateral implementation violated Articles 3 and 5 of the National Agreement and the bargaining obligations incorporated from Section 8(d) of the NLRA.

B. Management violated the National Agreement by failing to provide the Union with information it requested within 48 hours.

The Service does not dispute that prior Step B Decisions required it to provide the Union with requested information within 48 hours, nor does it dispute that it failed to meet that obligation here. Instead, the Service argues that the Union acted in bad faith and sought undue enrichment by routinely submitting information requests late in the day or immediately before scheduled

days off or holidays. The Service, however, presented no evidence that the 48-hour response requirement excluded requests submitted late in the day or before days off or holidays, nor did it define what it regarded as "late in the day," identify managers' days off, or show that any of the requests were made immediately before a federal holiday. Of the Union's requests, three were submitted in the morning, four before 3:30 p.m., and only two after 4:00 p.m., one on a Thursday and one on a Saturday. On this record, the Service did not establish that the Union's requests were made in bad faith.

AWARD

For the reasons set forth above, the grievance is SUSTAINED.

1. Management shall immediately, retroactively reinstate the original 7:00 a.m. start time for the ODL carriers at the Navajo Station.

2. Management is directed to compensate affected ODL carriers with out-of-scheduled pay for all hours worked outside of their 7:00 a.m. start-time schedule from the effective date of the change to a 7:30 a.m. start time until the 7:00 a.m. start time is reinstated in accordance with this Award. The calculation of back pay will be made in accordance with Postal Service policy.

3. Management is directed to timely provide the Union with information it requests in accordance with the established 48-hour limitations period.

4. The Arbitrator shall retain jurisdiction of this case for a period of 60 calendar days following issuance of the Award.

REGULAR ARBITRATION PANEL

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IV. BACKGROUND

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Accordingly, the Union requests the following remedy:

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9. And/or any other remedy deemed appropriate. ;

B. SERVICE

The Service contends that the Union did not establish that the National Agreement required Management to confer with the Union before changing ODL carrier start times. It asserts that Section 122.11 of the *Management of Delivery Services* Handbook (M-39) provides guidance—not a contractual mandate—regarding when schedule changes may be made to ensure efficient mail delivery. According to the Service, Station Manager Lugue testified that he considered the relevant factors before implementing the change. The Service further maintains that nothing in Section 122.11 requires Management to consult with the Union or to demonstrate that each factor was expressly considered prior to adjusting start times.

The Service argues that the Union misinterprets Section 122.11 of the M-39 Handbook in asserting that carriers must be scheduled to report at 7:00 a.m. because that is when the Union claims 80% of the mail is available. According to the Service, Section 122.11 merely provides that carriers should not begin work before 80% of the mail is at their cases; it does not require management to set start times to coincide precisely with the moment the 80% threshold is met. The Service further contends that Arbitrators MacLean and Duffy have expressly rejected the Union's interpretation of Section 122.11, supporting the Service's view that the provision affords management reasonable discretion in establishing carrier reporting times.

The Service argues that Article 3 of the National Agreement vests Management with broad authority to direct operations, subject only to specific limitations contained in the Agreement and in handbooks, manuals, and published regulations directly relating to wages, hours, or working conditions. Because the National Agreement contains no provision restricting Management from adjusting employee start times, the Service asserts that such decisions fall within Management's discretion so long as they are not arbitrary or capricious. The Service maintains that it provided a reasonable, work-related justification for changing the start time, and therefore the burden rests with the Union to demonstrate that the decision was arbitrary or capricious—something the Service contends the Union has failed to establish.

The Service argues that it acted in good faith and responded to all Requests for Information in a timely and expeditious manner. It contends that the Union routinely submitted such requests at the end of the day on the eve of scheduled days off or holidays, a practice the Service characterizes as evidencing bad-faith intent to secure undue enrichment. According to the Service, this pattern of late-day submissions created avoidable delays in Management's ability to respond within the expected timeframes.

The Service contends that the Union failed to meet its burden of proving any violation of the National Agreement. Accordingly, the Service requests that the grievance be denied in its entirety.

VI. FINDINGS AND DECISION

In this contract case, the Union bears the burden of establishing by a preponderance of the evidence that the Employer violated the National Agreement. As explained in *The Common Law of the Workplace: The Views of Arbitrators* (Theodore J. St. Antoine ed., 2d ed. 2005), the preponderance standard requires that the evidence show that the claim is "more likely than not." *Id.* ch. 1, § 1.93 & cmt. If the party bearing the initial burden of proof satisfies that burden, the burden shifts to the responding party to establish any affirmative defense by a preponderance of the evidence. *Id.* § 1.94; Elkouri & Elkouri, *How Arbitration Works* 471, 449 & n.220 (Marlin M. Volz & Edward P. Goggin eds., 5th ed. 1997).

A. Management violated the National Agreement by unilaterally changing the ODL carriers' start time from 7:00 a.m. to 7:30 a.m.

The threshold question is whether the Postal Service was required to bargain with the Union before implementing a permanent change in the start time for ODL carriers from 7:00 a.m. to 7:30 a.m. The Arbitrator finds that it was.

Article 5 of the National Agreement prohibits Management from taking unilateral action affecting wages, hours, or working conditions, and it expressly incorporates the obligations defined in Section 8(d) of the National Labor Relations Act. Section 8(d) provides that employers and unions must meet and confer in good faith with respect to "wages, hours, and other terms and conditions of employment." 29 U.S.C. § 158(d). The Supreme Court has long held that unilateral changes to mandatory subjects—including work schedules—violate Section 8(a)(5) unless the employer has bargained to an agreement or impasse or the union has clearly and unmistakably waived its statutory right to bargain. *Metro. Edison Co. v. NLRB*, 460 U.S. 693, 708 (1983); *NLRB v. Katz*, 369 U.S. 736, 743 (1962); *Endurance Environmental Solutions*, 373 NLRB No. 141 (Dec. 10, 2024). The NLRB has held that work schedules are a mandatory subject of bargaining. See e.g., *Our Lady of Lourdes Health Center*, 306 N.L.R.B. 337, 339 (1992).

The Postal Service argues that Article 3 (Management Rights) and Article 19 (Handbooks and Manuals) authorize unilateral adjustment of ODL carrier start times. However, Article 3 is

expressly limited by the remainder of the Agreement. Article 5 specifically restricts unilateral changes to hours of work, and under standard principles of contract interpretation applied in labor arbitration, the specific limitation in Article 5 prevails over the more general reservation of managerial authority in Article 3. *The Common Law of the Workplace,* supra*,* § 2.8.

The Service relies on Article 19 and Handbook M-39, Section 122.11, as authority to change carrier start times. Article 19 incorporates handbook provisions that "directly relate to wages, hours, or working conditions." See *USPS & NALC*, Case No. C16N-4C-C 19003021, at 5 (Aug. 22, 2019) (citing Nat'l Arb. Briggs, Case No. B94N-4B-C 97105300). Regional arbitrators are divided on whether the factors in Section 122.11 are contractually enforceable. Compare *USPS & NALC*, Case No. F98N-4F-C 02062648 (Snow, Arb. 2003), with *USPS & NALC*, Case No. E16N-4E-C 18309681 (Duffy, Arb. Mar. 25, 2019). For purposes of Article 5, however, whether Section 122.11 is mandatory or advisory is not dispositive of Management's right to unilaterally change ODL carrier start times.

The Supreme Court and the Board require a "clear and unmistakable" waiver before an employer may rely on contract language to justify unilateral changes to mandatory bargaining subjects. See *Metro. Edison Co.,* supra*,* 460 U.S. at 709. A waiver cannot be inferred from broad or general management-rights language, nor from silence in contractual or incorporated materials. Id.; *Provena Hosps*., 350 N.L.R.B. 808, 810-812 (2007). The Arbitrator, therefore, examines whether Section 122.11 of Handbook M-39, invoked by the Service, satisfies this strict standard.

Section 122.11 provides only that management "should consider" certain listed factors when establishing carrier schedules. The provision is advisory in nature. It does not reference bargaining, confer unilateral authority, or purport to override Article 5 of the National Agreement or the National Labor Relations Act. Accordingly, it does not satisfy the "clear and unmistakable waiver" standard articulated by the Supreme Court in *Metro. Edison Co.,* supra 460 U.S. at 708. Section 122.11, therefore, cannot be construed as a waiver of the bargaining rights expressly protected by Article 5.

The National Labor Relations Board has consistently held that even minimal changes in starting or quitting times constitute changes in hours of work that require bargaining. In *Hedison Mfg.*

Co., the Board held that a five-minute change in reporting time required bargaining. 260 N.L.R.B. 590, 592–94 (1982). In *Quality Engineered Prods. Co.*, the Board held that a unilateral thirty-minute change in employee start times, implemented without bargaining to impasse or waiver, violated the Act. 267 N.L.R.B. 593 (1983). Likewise, in *Xidex Corp.*, the Board found a violation where the employer unilaterally reduced lunch periods from thirty minutes to fifteen minutes, notwithstanding discussions with union members and the brief duration of the change. 297 N.L.R.B. 110 (1989), *enfd.*, 974 F.2d 245, 253 (D.C. Cir. 1991). In *Pepsi-Cola Bottling Co.*, the Board held that a fifteen-minute change to employee start times and changes to break periods required bargaining. 330 N.L.R.B. 900, 902–03 (2000).

To the extent that some regional arbitrators have reached a contrary conclusion, this Arbitrator respectfully disagrees. See *U.S. Postal Serv. & NALC*, Case No. E16N-4E-C 18309681 (Duffy, Arb. Mar. 15, 2019) (finding no violation where start time changed from 7:00 a.m. to 8:00 a.m.); *U.S. Postal Serv. & NALC*, Case No. 4B-19N-4B-C 23179960 (Casciano, Arb. Sept. 28, 2023) (concluding that management was not required to bargain over a one-half-hour schedule change).

Against this legal framework, a permanent 30-minute change in start time—from 7:00 a.m. to 7:30 a.m.—constitutes a material change in hours of work, a mandatory subject of bargaining. The credible evidence of record establishes that Management did not bargain with the Union to agreement or impasse before unilaterally implementing the change to ODL carrier start time, and because no contractual provision clearly and unmistakably waives the Union's right to bargain over start-time changes, the Arbitrator finds that the unilateral implementation violated Articles 3 and 5 of the National Agreement and the bargaining obligations incorporated from Section 8(d) of the NLRA.

B. Management violated the National Agreement by failing to provide the Union with information it requested within 48 hours.

The Service does not dispute that prior Step B Decisions required it to provide the Union with requested information within 48 hours, nor does it dispute that it failed to meet that obligation here. Instead, the Service argues that the Union acted in bad faith and sought undue enrichment by routinely submitting information requests late in the day or immediately before scheduled

days off or holidays. The Service, however, presented no evidence that the 48-hour response requirement excluded requests submitted late in the day or before days off or holidays, nor did it define what it regarded as "late in the day," identify managers' days off, or show that any of the requests were made immediately before a federal holiday. Of the Union's requests, three were submitted in the morning, four before 3:30 p.m., and only two after 4:00 p.m., one on a Thursday and one on a Saturday. On this record, the Service did not establish that the Union's requests were made in bad faith.

AWARD

For the reasons set forth above, the grievance is SUSTAINED.

1. Management shall immediately, retroactively reinstate the original 7:00 a.m. start time for the ODL carriers at the Navajo Station.

2. Management is directed to compensate affected ODL carriers with out-of-scheduled pay for all hours worked outside of their 7:00 a.m. start-time schedule from the effective date of the change to a 7:30 a.m. start time until the 7:00 a.m. start time is reinstated in accordance with this Award. The calculation of back pay will be made in accordance with Postal Service policy.

3. Management is directed to timely provide the Union with information it requests in accordance with the established 48-hour limitations period.

4. The Arbitrator shall retain jurisdiction of this case for a period of 60 calendar days following issuance of the Award.