

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA, :
ET AL. :**

v. :

CIVIL ACTION NO. 20-4096

**LOUIS DeJOY :
IN HIS OFFICIAL CAPACITY AS :
UNITED STATES POSTMASTER GENERAL, :
ET AL. :**

ORDER GRANTING, IN PART, DEFENDANTS’ MOTION TO CLARIFY

This 9th day of October, 2020, it is hereby **ORDERED** that Defendants’ Motion for Clarification/Reconsideration, (ECF No. 66) is **GRANTED IN PART**, as follows:

1. The supplemental orders of September 25, 2020 and September 29, 2020, entered by the United States District Court for the Southern District of New York in *Jones v. United States Postal Service*, No. 20 Civ. 6516 (S.D.N.Y. Sept. 29, 2020) are adopted and deemed incorporated within this Court’s orders.
2. Paragraph 3 of this Court’s Order of September 28, 2020 (ECF No. 63), making reference to the action pending in the Eastern District of Washington is hereby **VACATED** and superseded by the specific provisions of this Order.
3. Paragraph 4 of this Court’s order of September 28, 2020 (ECF No. 63) is hereby **CLARIFIED** as follows:

For the purposes of paragraphs 4b and 4c of this Court’s Order, Defendants shall be deemed in compliance if they commit to and enforce the following:

- Transportation, in the form of late and extra trips is authorized and shall be used where reasonably necessary to meet service standards and service performance targets. While the Postal Service is not required to delay a trip when that delay will cause an overall degradation in service (e.g., a truck should not be delayed to ensure timely delivery of a small amount of mail when doing so would cause a larger amount of mail to be delayed) the Postal Service shall use extra trips to minimize the effect of such delays and to meet service commitments, except when not feasible. Managers shall use their best business judgment to meet service commitments and to not leave mail behind.

- Extra transportation resources are authorized and shall be used to ensure that Election Mail reaches its intended destination in a timely manner. This includes, but is not limited to, extra trips from all points of processing and delivery (e.g., retail units and plants), as necessary to connect Election Mail to its intended destination or the next stage in Postal Service processing. Late and extra trips that would facilitate the on-time delivery of Election Mail are authorized and encouraged—the Postal Service is committed to using such trips to deliver Election Mail on time.
- Extra delivery and collection trips are authorized and shall be used to ensure, to the best of the Postal Service’s ability, that completed ballots entered on Election Day reach the appropriate election official by the state’s designated deadline. This includes, but is not limited to, early collections the week before Election Day to ensure all collected ballots are processed timely, and delivery of ballots found in collections on Election Day to election boards within states requiring ballots to be returned by a designated time on Election Day.
- The Postal Service shall make all reasonable efforts to ensure that all mail, including Election Mail, committed for a particular day is delivered that day. All requirements regarding carrier start and stop times should be consistent with the Postal Service’s handbooks and manuals, all of which predate June 15, 2020.

Defendants will ensure that all USPS employees, via their supervisors and managers, are notified of the provisions of this Order and the Postal Service’s commitment to and enforcement of them. To the extent that they conflict, the provisions of this Order shall supersede any prior guidance, including Guidelines regarding transportation sent by Robert Cintron to Area Vice Presidents and other agency representatives on July 11, 2020 and July 14, 2020.

For the purposes of paragraph 4.d., Defendants shall be deemed in compliance with the Order (ECF No. 63) if they commit to and enforce the following:

- The Postal Service will approve overtime, including penalty overtime, for the purpose of meeting service standards and service performance targets.
- Overtime, including penalty overtime, is authorized and shall be used to support all additional resources necessary to ensure that Election Mail is prioritized and delivered on time.

Defendants will ensure that all USPS employees, via their supervisors and managers, are notified of these provisions and the Postal Service’s commitment to and enforcement of them. These provisions shall supersede any prior guidance, to the extent they conflict.

4. By October 16, 2020, Defendants shall provide Plaintiffs and this Court with an affidavit detailing their efforts to notify all USPS employees, via their supervisors and managers, of these provisions and the Postal Service's commitment to and enforcement of them.
5. The Court hereby schedules a telephonic status hearing for **December 3, 2020**, at 1:30 p.m. to review the operational effect of Defendants' ongoing implementation of the Court's Order of September 28, 2020 (ECF No. 63).

/s/Gerald Austin McHugh
United States District Judge