

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Postal Rate and Fee Changes

Docket No. R2006-1

PRESIDING OFFICER'S RULING ON MATTERS RELATED TO  
PRESIDING OFFICER'S INFORMATION REQUEST NO. 19  
(UPDATED PERIODICALS DATA SET)

(Issued October 13, 2006)

This ruling addresses the Postal Service's inquiry into the acceptability of an alternative approach to providing a subset of the Periodicals data sought in Presiding Officer's Information Request No. 19. It also addresses related matters, such as burden and deadlines.<sup>1</sup>

The Information Request's focus is admittedly extensive, but also carefully defined, familiar to participants interested in Periodicals issues, and highly relevant in this case, where the impact of several rate design proposals on a variety of mailers is a central consideration. The Information Request, in pertinent part, asks the Postal Service to produce certain mailing characteristics data for the set of 251 small, medium and large Periodicals publications sampled in the recent Time Warner Inc. et al. Complaint, updated to reflect the relatively recent introduction of a 24-piece minimum sacking requirement.<sup>2</sup> This update has been requested because, as the Service

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<sup>1</sup> The filings under consideration in this ruling include Preliminary Response of the United States Postal Service to Presiding Officer's Information Request No. 19, October 6, 2006 (Preliminary Response); Status Report on Response of the United States Postal Service to Presiding Officer's Information Request No. 19, October 11, 2006 (Status Report); and Comments of Time Warner Inc. on Preliminary Response of the United States Postal Service to Presiding Officer's Information Request No. 19, October 12, 2006 (Time Warner Comments).

<sup>2</sup> Presiding Officer's Information Request No. 19, issued October 2, 2006, seeks the updated data set from the Postal Service and related analyses from Time Warner and (jointly) from Magazine Publishers Association and the Alliance of Nonprofit Mailers.

acknowledges, the referenced sacking change “could have a bearing on the impact of proposed rates in the current proceeding, because the data already provided might not reflect the mailing characteristics of the 251 publications under the new rule.”

Preliminary Response at 1-2.

The Service’s Preliminary Response and related Status Report, considered together, usefully review the progress the Service has made in complying with the Information Request, including the contractor’s efforts to conduct a field study; raise a concern about the ability to produce certain data; reiterate concerns about burden; solicit comments on a suggested alternative approach; and question the continued feasibility of certain deadlines.

In terms of data submission, these filings make clear the Service already has made substantial progress: it anticipates being able to provide data for about 150 medium and large publications and for 20 to 25 small publications by October 16, 2006, the original deadline. It expects to provide data for all but 10 to 20 of the remaining publications by October 27, 2006. Status Report, *supra*. For the remaining 10 to 20 publications, it states that there will be greater delay, and that for some, it may not be able to provide data “in a reasonable time period.” *Id.* The Service further states that it will focus on “getting the data for those publications which had an average pieces-per-sack ratio of less than 24.” *Id.*

The Status Report’s reference to focusing on publications with an average ratio of less than 24 pieces echoes reservations the Service initially raised about its ability to produce certain data in its Preliminary Response, and its inquiry into the acceptability of an alternative which would involve limiting collecting data through field surveys to those publications whose mailings are likely to have been affected significantly by the new 24-piece requirement. In connection with this proposal, the Service estimates that only about 30 of the approximately 100 publications in the field study have mailing profiles with an average pieces-per-sack characteristic below 24 pieces. It therefore suggests: “If the aim of requesting the information is to assess the impact of proposed rates on

publications likely to have been affected by the 24 piece rule, it might be possible to look at only these publications.” Preliminary Response at 5-6.

At the outset, I note that my colleagues share my appreciation of the Service’s efforts to date in compiling comprehensive data to assist in the analysis of rate impacts on Periodicals mailers. This commitment of resources appears to reflect postal management’s recognition of the critical role that accurate data and information play in important policy decisions affecting the Nation’s mailers. I also note that I was not unmindful of the burden entailed in production of the updated data set sought in Presiding Officer’s Information Request No. 19, nor insensitive to the Service’s concerns about the related effort, expense and production deadlines. Instead, it appeared that the burden, as substantial as it might be, was far outweighed by the importance of the updated data set to a fair and reasoned class-wide impact analysis.

Thus, while the Commission welcomes proposals that would reduce the burden associated with data requests and encourages the Service and others to broach such possibilities, these proposals must not unduly compromise analytical needs. In this instance, regrettably, it appears that the proffered alternative is likely to interfere with the comprehensive assessment the Commission believes is needed. This is mainly because the focus on publications with average pieces-per-sack of fewer than 24 pieces might unwittingly mask or ignore a publication’s sack usage, and this characteristic emerges as a key factor in evaluating impact.

Time Warner’s view of the need for a data set that is similar to the existing set, but for the impact of the sacking rule change, is similar. It explains the reason for its opposition to the Service’s proposed alternative this way:

[T]he data collection that would result from such an approach would be far from satisfactory for estimating rate impacts across a broad spectrum of publications. It is not the case that publications ‘with an average pieces-per-sack characteristic below 24 pieces’ are the only publications ‘likely to have been affected by the 24 piece rule’ or even ‘to have been affected significantly.’ The fact that a publication may have an *average* of more than 24 pieces per sack by no means indicates that it

does not have sacks, even a substantial number of sacks, with fewer than 24 pieces.

Time Warner Comments at 2-3 (emphasis in original; footnote omitted). Time Warner then states that since assessments of the various Periodical rate designs have centered on issues of impact on various types of publications, it believes that assembling a representative set of current mail characteristics data that will permit accurate assessments of impact is of the highest importance. It urges the Postal Service to pursue that objective, even at the cost of some additional delay, and to devote whatever resources are necessary for completion in sufficient time to make possible a reliable comparison in this docket of the impact of the Periodicals rate proposals that are before the Commission. *Id.* at 4.

Given these considerations, the Service is directed to compile a data set that is as similar as possible to the existing set, without adopting the sack usage assumption referred to its Preliminary Response and Status Report. The trade-offs in additional effort on the part on the Postal Service and loss of time in a tight procedural schedule must be accepted under the circumstances.

Accordingly, the deadline for the approximately 150 publications referred to in the Status Report remains October 16, 2006. The deadline for submission of the remaining publications, except for the 10 to 20 referred to in the Status Report, is extended to October 27, 2006. The deadline for submission of the remainder of the publications is extended to a date to be determined, following consideration of information provided in a further Status Report to be filed by the Postal Service on October 27, 2006. The October 23, 2006 deadline for submissions by Time Warner and MPA/ANM stands with respect to data the Service submits on October 16, 2006. The deadline for submissions responsive to the Postal Service's anticipated October 27, 2006 filing is November 6, 2006. Deadlines for responses to further Postal Service submissions will be 10 days following the date of filing.

## RULING

1. The Postal Service is directed to file the data set described in Presiding Officer's Information Request No. 19 without the sack usage assumption referred to in the Preliminary Response or Status Report.
2. The deadline for the Postal Service's submission of data responsive to Presiding Officer's Information Request No. 19 remains October 16, 2006 for the approximately 150 medium and large publications referred to in the Postal Service's October 11, 2006 Status Report, as well as for 20 to 25 of the small publications.
3. The deadline for the Postal Service's submission of data for all but 10 to 20 of the remainder of the publications referred to in Presiding Officer's Information Request No. 19 and in the Postal Service's October 11, 2006 Status Report, is extended to October 27, 2006.
4. The Postal Service is to provide a further status report on the estimated date of production of any outstanding data responsive to Presiding Officer's Ruling No. 19 on October 27, 2006.
5. The deadline for submission of analyses from Time Warner and from Magazine Publishers of America and the Alliance of Nonprofit Mailers (jointly) remains October 23, 2006 with respect to Postal Service data submitted on October 16, 2006.
6. The deadline for submission of analyses from Time Warner and from Magazine Publishers of America and the Alliance of Nonprofit Mailers (jointly) with respect to Postal Service data submitted on October 27, 2006 is November 6, 2006.

7. The deadline for submission of analyses from Time Warner and from Magazine Publishers of America and the Alliance of Nonprofit Mailers (jointly) with respect to any other responsive data filed by the Postal Service will be 10 days after the data of the Service's submission.

George Omas  
Presiding Officer