

ADDITIONAL VIEWS OF COMMISSIONER LANGLEY

Although I concur generally with the result of this Order, I am compelled to express my serious concern over two aspects of it. The first is the Postal Service's departure from established methodologies when designing workshare discounts for both First-Class and Standard Mail. The second is the lack of evidence presented by the Postal Service in its justification of First-Class automation discounts under 39 U.S.C. § 3622(e)(2)(D).

My support for the majority opinion is heavily influenced by the deep and on-going recession, which is severely impacting the Postal Service, its employees, and its customers. Ensuring the short- and long-term viability of the Postal Service is critical as the Commission exercises its discretion and takes into consideration extenuating circumstances in determining responsible actions. I have also taken into account the public comments on this matter, which indicates a general consensus for evaluating those methodologies in the separate rulemaking the Commission initiates today.

The Postal Accountability and Enhancement Act of 2006 (PAEA) imposes an expedited and less-than comprehensive pre-implementation review of proposed rates, coupled with after-the-fact annual compliance review. The PAEA also provides for an enhanced complaint process to enable interested persons to obtain compliance with the Act.

This pre-implementation review seeks to ensure that Postal Service rate adjustments conform to the legal requirements intended to protect the mailing public and provide accountability and transparency of postal finances and operations. The two key requirements are that increases for each class of mail, on average, are not higher than the Consumer Price Index (§3622(d)), and the second is that workshare discounts do not exceed 100 percent of the avoided costs, with certain exceptions (§3622(e)).

In order for this nascent ratemaking system to work, it is essential that previously vetted rate-setting methodologies and analytical techniques are used when designing proposed rate adjustments. The lack of adherence to accepted methodologies reflects outright disregard for the goal of predictable increases and frustrates the goal of transparency. Such actions lead to uncertainty and confusion, substantial disruption to mailing practices, and potentially significant adverse financial impact on both the Postal Service and its customers.

In the present case, the Postal Service made significant and unexpected changes in the methodologies used to calculate worksharing adjustments. It did so in full knowledge of existing standards, the admonitions of the Commission in the FY 2008 Annual Compliance Determination, and ample opportunity to seek approval of its proposed changes prior to filing adjusted rates.

Timely and effective rate review under the PAEA does not preclude changes in rate-setting methodologies. Proposed changes should, however, be presented in an orderly fashion outside the context of an expedited rate proceeding. The Commission has shown itself willing and able to promptly review proposed changes to costing methodologies as demonstrated by its action on the 13 changes suggested by the Postal Service over the past year.

The public has a right to advance notice of proposed methodological changes and should be given an opportunity to review and comment on those changes prior to their appearance in a rate filing. In addition, the Commission has the responsibility to adequately review such proposals in order to give full consideration to the views of both the Postal Service and those who wish to comment, prior to their use in a rate case. This practice is essential for the PAEA to succeed.

I consider this Commission action to be a one-time accommodation of the extraordinary financial situation facing both the Postal Service and the mailing community.


Commissioner Nanci E. Langley