Postal Rate Commission
Submitted 4/15/2004 3:39 pm
Filing ID: 40241
Accepted 4/15/2004

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268–0001

Reporting Requirements for Nonpostal Services	Docket No. RM2004-2

INITIAL COMMENTS OF THE UNITED STATES POSTAL SERVICE
(April 15, 2004)

On March 5, 2004, the Postal Rate Commission issued Order No. 1394 (Order), soliciting comments on a proposed amendment to its rules to establish additional reporting requirements for nonpostal services.[1] As requested by that Order, the Postal Service hereby offers its initial comments on the proposed new provisions of the rules.

The fundamental thrust of the proposed new provisions is to require the Postal Service to identify specific nonpostal commercial activities and to submit financial information regarding each individual nonpostal service. By comparison, the existing rules, 39 C.F.R. §§ 3001.54(b)(4), (h)(1), allow reporting of financial information regarding nonpostal services on an aggregate basis. The Postal Service remains unconvinced that a disaggregated reporting requirement would aid the ratemaking process, or is required under the statutory scheme of the Postal Reorganization Act (PRA), and therefore it opposes the proposed amendment to the rules.

[1] Proposed Rulemaking Concerning Reporting Requirements for Nonpostal Services, Order No. 1394 (March 5, 2004).

The Order asserts that, without accurate cost and revenue information regarding both jurisdictional domestic postal services and non-jurisdictional, nonpostal (and international) services, the net revenue requirement for domestic postal services needed to achieve financial breakeven cannot reasonably be determined. Order No. 1394 at 10. Similarly, the Order asserts that, without reliable estimates of non-jurisdictional revenues and expenses, it is not possible to ensure that costs properly attributable to non-jurisdictional services are not reflected in rates for jurisdictional services. *Id*. What Order No. 1394 does not explain, however, is why information is needed on a disaggregated basis in order to achieve these objectives. In fact, information does *not* need to be reported on a disaggregated basis. The current rule, which for over thirty years has directed the Postal Service to provide information on an aggregate basis, remains adequate under the existing statutory scheme.

The Commission implies (Order No. 1394 at 10) that the Postal Service agrees with the "principles" supporting detailed inquiry into non-jurisdictional activities in proceedings initiated under 39 U.S.C. § 3622.[2] The Postal Service submits that none of the precedent cited by Order No. 1394 represents Postal Service agreement that detailed evaluation of individual nonpostal or international services, which are not within

[2] As support, it cites to its own Opinion and Recommended Decision in Docket No. R94-1 (at I-26 – 27, n. 12) which, in turn, cites testimony by the Postal Service in Docket No. R87-1 regarding international mail costs and revenues. It also refers to Postal Service statements made in Docket No. R90-1, where the issues included the Postal Service's disagreement with Commission action reducing the Postal Service's revenue requirement, as a result of miscalculating international mail revenues.

the purview of the Commission's authority over domestic postal services, is either necessary or required. The statute simply does not contemplate or authorize this level of review by the Commission, and the respective functions embodied in the statutory scheme do not justify or require this intrusion into Postal Service decisions regarding the appropriate levels of international or nonpostal services.

Furthermore, the Postal Service would categorically reject any conclusion that it seeks or expects to be immune from scrutiny or external review, with respect to its nonpostal activities. On the contrary, the Postal Service continues to provide information and cooperate fully with inquiries that are consistent with the legislative scheme. Such review begins, in the first and most important instance, with consideration by the Postal Service's own Board of Governors. The General Accounting Office (GAO) also has dedicated substantial attention to the Postal Service's nonpostal activities over the last few years, and has published several reports on the topic. With respect to eCommerce activities, the Postal Service provides the GAO with financial details on individual programs and initiatives on an annual basis. Additionally, the Office of the Inspector General (OIG) has scrutinized individual nonpostal services, and is likely to continue to do so in the future, as circumstances warrant. Thus, not only would intrusion by the Commission into the details of nonpostal services be unauthorized, it would also be unnecessary.

On a more specific level, the Postal Service does not agree that application of incremental cost tests to individual nonpostal services is either required or authorized

under the Commission's limited authority in the statutory scheme.[3] Nor do we agree with the Commission's suggestion that the Commission is not precluded from "examining the performance of individual nonpostal services for purposes of considering claims of unfair competition." *Id.* at 12. Such assessments and considerations in proceedings governed by Rule 54 legitimately extend only to those domestic services under the Commission's jurisdiction in 39 U.S.C. Chapter 36.

The purpose of Rule 54 overall is to identify the information necessary for the Commission to conduct proceedings in which the Postal Service has requested changes in rates or fees for jurisdictional postal services. Aggregated information on non-jurisdictional, nonpostal services, as required by the current rule, helps meet those needs. Disaggregated information on nonpostal services, as would be required by the proposed rule, is not necessary. The Postal Service therefore opposes

[3] The Commission apparently agrees with arguments asserted by Consumer Action and the Office of the Consumer Advocate that "the incremental cost test would be an appropriate vehicle for testing the existence of cross-subsidies" in evaluating individual products, services, and other activities. See Order No. 1394, at 10.

the proposed amendment to Rule 54(h).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux
Chief Counsel
Ratemaking

Eric P. Koetting

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260–1137
(202) 268-2992/ Fax: -5402
April 15, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice.

Eric P. Koetting

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260–1137
April 15, 2004