

DOCKET SECTION

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

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U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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POSTAL RATE AND FEE CHANGES, 1997)
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Docket No. R97-1

**MAJOR MAILERS ASSOCIATION'S
REPLY BRIEF**

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April 10, 1998

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Appendix A

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**MAJOR MAILERS ASSOCIATION'S
REPLY BRIEF**

Major Mailers Association (MMA) hereby presents its reply brief.

**I. The Commission Is Not Required To Choose Between
Rejecting USPS' Rate Request Or Accepting the Postal
Service's Outmoded Estimate Of Its Revenue Requirement**

Like Ulysses, the Commission must try to steer a course between Scylla and Charybdis, represented here by certain diametrically opposed recommendations about how to account for the Postal Service's unexpected test-year prosperity. At one extreme, some parties want the Commission to reject the Service's rate request in its entirety. At the opposite extreme, the Postal Service and its supporters urge the Commission to make only minor adjustments in the Service's requested revenue requirement.

MMA does not recommend either of these two options. There are two additional options, one of which has the virtue of preserving traditional test-year concepts while preventing windfall profits.

**A. Contrary To the Postal Service and Standard Mailers' View,
the Commission Cannot Accept the Service's Proposed
Revenue Requirement Without Significant Reductions**

Like the Postal Service, a phalanx of Standard (A) mailers do not want the

Service's revenue requirement to be trimmed back by use of current profits. Instead, these mailers ask that the Service get most of its requested rate increase, but that the Governors be asked to postpone the increased rates' effective date. (See *e.g.*, MOAA I. Br., pp. 3-6; AMMA/DMA/MOAA *et al.* I. Br., *passim.*)

This recommendation is improper for three reasons. First, it would preserve a rate structure that burdens First-Class Mail with an excessive share of institutional costs. In case after case, the Commission has objected to this inequity, but has tolerated it in order to protect other mail classes against rate shock. (See MMA I. Br., p. 8.) Now, the Commission can move closer to achieving its goal of "roughly equivalent markup indices" for the two biggest mail types, without significant rate hikes for anyone (*Id.* at 12, 22).

Secondly, the record will not justify such reliance upon the Service's cost-and-revenue projections. Under the Administrative Procedure Act (5 U.S.C. §706(2)(E)), the Commission's rate recommendations must be supported by substantial evidence. The Commission has already found that the Service's test-year projections are outmoded and do "not sufficiently reflect actual events..." (Feb. 24 letter).

Lastly, the Act requires that postal rates be set to "provide sufficient revenues so that [income and appropriations] will equal as nearly as practicable total estimated costs...." (39 U.S.C. §3621). With the Service's actual 1998 profit approaching \$1 billion or more, the Service's proposed rate increase would be far in excess of its "break-even" need.

Contrary to the Standard (A) mailers' apparent belief, the Commission cannot

counter these objections by asking the Governors to postpone the new rates' effective date. The Act does not permit the Commission to give the Service an excessive rate increase, to be put "on the shelf" until justified. No one can know whether those higher rates will ever be needed or, if so, when. Nor should the Governors be given the power, at some unknown future date, to impose such rates without proof that they are needed for the Service to break even.

B. Denying the Rate Increase In Its Entirety, Based On Current Revenue Reports, Would Be Unorthodox

OCA and the nonprofit mailers cannot be blamed for wanting to deny the Service any rate increase whatsoever. (See OCA I. Br., 1st Sec.; ANM I. Br., pp. 8-9; ALA I. Br., p. 1.) With the Service awash in unexpected profits, there is an understandable temptation to treat the test year's *actual* operating results as proving that current rates are ample.

But the Commission must ask itself how such a precedent would affect its test-year regulations for rate-setting. Under Subpart B of the Commission's Rules of Practice and Procedure, the Service must base its rate requests upon a projected test year beginning up to two years after the the filing date (§3001.54(f)(1)-(2)). The regulations do not preclude the test-year filing being updated when (as here) the original filing becomes outmoded. But OCA's preferred approach does not update the 1998 test year; it overrides the projected 1998 test year data with actual 1998 results. *Query:* If the Service's *actual* revenues were *less* than those projected in its July 10, 1997 filing, would OCA recommend rates *higher* than the Service proposed?

Even if OCA's recommendation is legal, it is very unorthodox, to say the least.

C. Asking For the Record To Be Updated Is A Theoretical But Unrealistic Option

In theory, the Commission would be justified in insisting that the Postal Service update the test year. The Commission has already found that the current record “does not sufficiently reflect actual events,” and that rates based on that record would be “flawed” and “may caus[e] many mailers to pay inappropriate rates” (Feb. 24 letter to Governors). In these circumstances, if the Service refused to update the record, the Commission could lawfully postpone its decision until after the Service complied. (See 39 U.S.C §3624(c)(2)); 39 CFR §3001.56.)

But the Governors have already refused the Commission’s request for updated test year information. If the Commission invokes its §3624(c)(2) powers, it will provoke a confrontation with the Governors. The Commission will recognize the futility of a clash that can result in an acrimonious stalemate.

D. The Commission Can Preserve the Test-Year Concept And Avoid Excessive Rates By Making Very Significant Reductions In the Service’s Projected Revenue Requirement

In its Response to Notice of Inquiry No. 5, MMA suggested that the Commission can “true-up” the Postal Service’s test-year projection by making major adjustments in the revenue requirement. OCA also proposes this option as a fall-back position (OCA I. Br., 2d §, pp. 28-42, 43-44),

There are various techniques for making such adjustments. OCA, for example, offers detailed calculations which reduce the Service’s proposed revenue requirement

by \$1.117 billion (*Id.* at 44). The Commission can make its own calculations based on sources such as USPS witness Porras' rebuttal testimony and Postal Service publications that are subject to official notice.

The Commission can make these adjustments without doing violence to the test-year concept or to judicial precedents. The Standard (A) mailers are mistaken in arguing that the *Newsweek*¹ and *MOAA*² decisions outlaw such adjustments (See Joint Brief of AMMA, DMA, MOAA, Advo *et al.*, p. 4). In a case such as this, where the Service refuses to produce information that is known to it and would update its now-outmoded presentation, the Commission is not obliged by due process to blind itself to the "new information" and to adhere to the Service's now-discredited test year. *Cf. Market Street Railway Co. v. Railroad Comm'n*, 324 U.S. 548, 561-62 (1945). Instead, the Commission is entitled to infer that the requested information would be adverse to the Service.³

¹ *Newsweek, Inc. v. USPS*, 663 F.2d 1186 (2d Cir. 1981).

² *MOAA et al. v. USPS*, 2 F.3d 408 (D.C. Cir. 1993).

³ See 2 Wignore on Evidence §§285-291 (Chadbourn Rev. 1979) ("*Failure to produce evidence, as indicating unfavorable tenor of evidence:....The failure to bring before the tribunal some circumstance, document, or witness, when either the party himself or his opponent claims that the facts would thereby be elucidated, serves to indicate, as the most natural inference, that the party fears to do so; and this fear is of some evidence that the circumstance or document or witness, if brought, would have exposed facts unfavorable to the to the party....[T]he propriety of such an inference in general is not doubted. ...The nonproduction of evidence that would naturally be produced by an honest and therefore fearless claimant permits the inference that its tenor is unfavorable to the party's cause.*") (Italics in original). Compare the statement in the Service's document entitled Docket R97-1 Revenue Requirement Updating Strategy for Rebuttal Testimony: "[a] complete revenue requirement update...would probably result in a further reduction in test year costs" (POR R97/121, p. 2.)

Indeed, the Commission cannot lawfully ignore the new information and adhere to the Service's outmoded projections. As Mr. Justice Cardozo said for the Supreme Court in an analogous situation (*West Ohio Gas Co. v. Comm'n*, 294 U.S. 79, 81-82 (1935):

The earnings of later years were exhibited in the record and told their own tale as to the possibilities of profit. To shut one's eyes to them altogether, to exclude them from the reckoning, is as much arbitrary action as to build a schedule upon guesswork with evidence available. There are times, to be sure, when resort to prophecy becomes inevitable in default of methods more precise. At such times, "an honest and intelligent forecast of probable future values made upon a view of all the relevant circumstance" [citations] is the only organon at hand, and hence the only one to be employed in order to make the hearing fair. But prophecy, however honest, is generally a poor substitute for experience. [citation]....A forecast gives us one rate. A survey gives another. To prefer the forecast to the survey is an arbitrary judgment.

As an alternative to making detailed calculations, the Commission can treat the unquantified increase in the Service's test year income as a substitute for a contingency allowance. The Commission knows with certainty that the Service's net income for the interim year (1997) exceeded the Service's projection by \$628 million; and that the Service's actual 1998 income has so far exceeded the 1997 results (OCA I. Br., 2d §, pp. 25-26). A logical inference is that the revenue understatement for the test year (1998) will exceed the \$628 million understatement for the interim year (1997). Since that understatement exceeds the Service's requested \$605.5 million requested contingency allowance, the Commission could treat the understatement as a proxy for the contingency allowance, eliminating the need for a separate allowance.

II. Val-Pac and DMA Are Mistaken In Seeking To Perpetuate First-Class Mail's Excessive Cost Coverages and Markups

After the Commission decreases the Service's revenue requirement, it should

allocate the resulting rate relief to long-suffering First-Class mailers. The Service's proposed rates result in First-Class Mail making an excessive contribution to institutional costs, as compared with Standard (A) Regular mail's contribution (MMA I. Br., p. 10):

**Measurements of Coverage, Markups, and Markup Indices
For USPS Proposed Rates in Docket No. R97-1 Under PRC Costs ⁴**

	<u>Coverages</u>	<u>Markups</u>	<u>Markup Indices</u>
First-Class Letter	166%	66	119
Comm. Std. A	158%	58	106

Val-Pac tries to defend these relative contributions on the ground that the disparity has lessened since previous proceedings (VP/CW I. Br., pp. 71-72). But the inequity is still too great. In past cases, the Commission has not simply objected to the past disparities, but has insisted that the two major mail types "should have roughly *equivalent* markup indices." (See MC95-1 Op., p. I-8. Italics supplied.) Mr. Bentley explained why that goal is not met when the disparity in markups remains as large as

⁴ Under the Service's proposed cost methodology, the "coverage indices" for First-Class Letters and Standard Mail Regular are 112 and 98, respectively. The markup indices are 128 and 95 respectively.

the Service has proposed here (Tr. 21:11305).⁵

Val-Pac also argues that the disparity in coverages is justified by differences between the two mail types in “service commitments,” “deferred delivery,” “mailer preparation,” and the like (VP/CW I. Br., pp. 72-73). But, as MMA witness Bentley testified, these differences are all reflected in attributable costs (See MMA I. Br., p. 12, n. 4). Val-Pac would apparently have First-Class Mail pay for these differences in treatment twice: once in higher attributable costs; then again in higher institutional costs.

Val-Pac also tries to justify higher coverages for First-Class Mail letters on the ground that Standard (A) mail faces competition from other advertising media (VP/CW I. Br., p. 73). But it is not First Class Mail's function to subsidize Standard (A) Mail's rate war with newspapers, radio and TV.

If Val-Pac is content with the Service's proposed allotment of institutional costs between First-Class Mail and Standard (A) mail, DMA is not. DMA insists that Standard

⁵ Val-Pac's alternative position is that First-Class Mail's cost coverage should not be compared with the coverage of Standard (A) Regular mail, but only with the coverage of Standard (A) ECR (VP/CW I. Br., p. 71). But DMA (I. Br., p. 39, n. 32) “acknowledges the appropriateness of comparing the relative contribution to institutional costs of First-Class as a whole with Standard (A) as a whole,” citing MMA witness Bentley's explanation (at Tr. 21:11277-79) why the MC95-1 Opinion requires this.

(A) mail's contribution to institutional costs, "as compared to that of First Class, is too great" (DMA I. Br., pp. 37-41). DMA's contention is a refurbishing of old arguments that the Commission has rejected in prior cases. Stripped to its essentials, DMA's position (*Id.* at 41-46) is that the Commission wrongly decided its prior Opinions.

Finally, Val-Pac and DMA argue that the discrepancy in contributions is authorized by "non-cost" factors. (See VP/CW I. Br., p. 72; DMA I. Br., pp. 38-40.) First-Class mailers recognize that the Act's criteria allow some discrepancy in coverages because of those factors, though not as much as the Postal Service seeks. And the Commission's "roughly equivalent" goal allows enough compensation for non-cost factors.

III. Only the Service Opposes MMA's Proposal For First-Class Automation Discounts, And the Service's Position Misreads MMA's Testimony

Only the Postal Service opposes MMA witness Bentley's proposal for First-Class Automation discounts (MMA I. Br., pp. 12-16).

A. The Service Misunderstands MMA's Testimony

The Service is correct about one difference between Postal Service witness Fronk's proposed Automation discounts and MMA witness Bentley's proposed discounts. Mr. Fronk used the Bradley methodology for calculating the variability of mail processing labor costs; Mr. Bentley used the Commission's established methodology.

The Service errs, however, when it argues that--if Mr. Bentley had used the Bradley methodology--"he would have obtained the same measured cost savings as

witness Fronk” (USPS I. Br., p. V-51). Mr. Bentley testified that the USPS/Fronk proposal “fails to include additional First-Class Automation cost savings attributes” and that, if he had used the Bradley methodology, “I would have attempted to include those additional cost savings attributes in my analysis of First-Class Automated cost savings” (Tr. 21:11225).

What would have been the effect of adding those cost savings? In Mr. Bentley’s words (21:11226) :

“Together, ...two [of those added cost savings] corrections would increase First-Class Automated unit cost savings, as computed under the Postal Service’s cost methodology, by almost one full cent.”

Since every one of MMA’s recommended increases in the Postal Service’s proposed discounts is less than one cent, Mr. Bentley could have supported MMA’s proposed discounts even if he had used the Service’s methodology.

B. Other Mailers’ Briefs Do Not Criticize MMA’s Proposal

MOAA acknowledges that “the overall rates for presorted First-Class Mail appear to be excessive” (MOAA I. Br., p. 44). And the other Standard (A) mailers apparently withdrew their opposition after MMA’s cross-examination of MOAA/AMMA/DMMA witness Andrew showed that his criticism of Mr. Bentley’s proposal is misplaced (Tr. 36:19772-78).

IV. There Is No Substance To the Criticisms Of MMA’s Proposal To Reduce the Rate For Two-Ounce Letters

The Postal Service is also the only real opponent of MMA’s proposal to reduce the rate for letters weighing between 1.1 ounce and 2.0 ounces.

A. The Postal Service's Opposition Is Not Based On Any Evidence of Record

For the second consecutive proceeding, the Postal Service has proposed to continue its existing rates for additional-ounce letters without presenting any cost evidence to support those rates. This is also the second consecutive case in which MMA has presented evidence showing that certain additional-ounce rates are far above costs--and the Service has failed to submit a single word of rebuttal testimony in reply. None of the Service's (or other parties') criticisms on brief is justified.

The reasons for the Service's testimonial silence are clear. The Service's staff experts have reported again and again that these additional-ounce rates are far above costs (MMA I. Br., pp. 18-19). Its witnesses have acknowledged in past proceedings that Automation machinery can process two-ounce (and probably three-ounce) letters at no extra cost (Tr. 4:1440-43). The Service's rates for Standard (A) mail demonstrate the Service's belief that there is no added cost for processing letters weighing up to three ounces (MMA I. Br., pp. 19-20). In the face of these concessions, no Service witness could testify that its rates for two-ounce and three-ounce letters have any cost justification.

B. Without Any Record Support, the Service Has Had To Concoct Arguments of Dubious Validity

1. The Current MMA Proposal Is Not Subject To Concerns Made In the Docket MC95-1 Opinion

In Docket No. MC95-1, when MMA witness Bentley proposed to reduce the additional-ounce rate for both two-ounce *and* three-ounce letters, the Commission expressed four concerns about the proposal.

In this proceeding, Mr. Bentley's proposal is limited to two-ounce letters. The Service does not disagree that this change eliminates one of the four Commission concerns--namely, that the proposal could complicate existing rate relationships between First-Class and Priority Mail. (See USPS I.Br., p. V-59 to V-60. See also Bentley, Tr. 21:11180-81.)

The Postal Service also does not question the accuracy of Mr. Bentley's explanation why his current proposal eliminates the three other concerns that the Commission expressed in Docket No. MC95-1. (See Bentley, Tr. 21:11181-82).

The Service argues, however, that Mr. Bentley's current proposal is still afflicted by "over-complication" (USPS I. Br., pp. V-59 and V-60). The Postal Service's "example" is that "Bentley's revised proposal would apply only to letters, not to flats or any other First-Class Mail pieces" (*Id.*). But the Postal Service itself charges rates for letters weighing one ounce or less that are different than its rates for flats and SPRs of identical weight. If the Postal Service's own rates are not unduly confusing in this regard, then Mr. Bentley's proposed rates are not either.

2. The Postal Service's "Inexplicable Complication" Argument Reflects A Tortured Misconception

The Service also finds "inexplicable complication" in the fact that, under Mr. Bentley's proposal, the Service would "charg[e] the second ounce of a 2-ounce letter a different rate than the second ounce of a 3-ounce letter" (USPS I. Br., p. V-60). This is a false conception. As Mr. Bentley noted (Tr. 21:11285), when Aunt Minnie mails a letter:

she doesn't have to know [the rate for each ounce of the] incremental weight.

She has to know the rate for a one ounce piece, the rate for a two ounce piece and the rate for a three ounce piece.

Thus, from the mailer's viewpoint, the Postal Service would not be charging different rates for different parts of any additional-ounce letters: it would be charging a two-ounce letter \$.55 (under Mr. Bentley's proposal) and \$.56 (under USPS' proposal); it would be charging a three-ounce letter \$.79 under either proposal (Tr. 21:11181).⁶

There is nothing confusing about that. If given the choice, any rational mailer would chose the savings produced by Mr. Bentley's recommendations in preference to the supposed non-complexity of the Service's proposed rates.

3. The Postal Service And Advertising Mailers Exaggerate Their Concerns About the Revenue Impact Of the MMA Proposals For Reducing Additional-Ounce Rates

In principle, no mailers other than the Postal Service oppose MMA's proposals. MOAA may sum up the other parties' views by stating that "it is exceedingly difficult to defend the rates for First-Class mail weighing two and three ounces" (MOAA I. Br., p. 44). Similarly, AMMA says that it "has no principled objection" to "a sharp decrease" in the additional-ounce rate (AMMA I. Br., p. 6).

Several mailers, however, worry about the revenue impact of MMA's proposals. (See AISOP I. Br., pp. 3-4, 10; Val-Pac I.Br., p. 72.) AMMA chides Mr. Bentley for giving "no guidance as to where [the Commission] should recover the revenue

⁶ All these postage rates assume that the Postal Service's rate for a one-ounce letter is increased to 33 cents, as the Service requests.

decrement that would result from adoption of his proposals” (AMMA I. Br., p. 8). None of these mailers should be concerned, however. As Mr. Bentley testified (Tr. 21:11173): “Postal revenues will be reduced by [only] about \$26 million for each penny that the second ounce [rate] is reduced, “ citing the detailed calculation at Transcript Volume 21, page 11192.

Because of the Postal Service’s enormous overstatement of its revenue requirement (see Part I of this Reply Brief), there is little likelihood that the Commission will have to raise rates for other mail classes in order to fund MMA’s additional-ounce proposal. And, even if other rates had to be raised, the increase would be insubstantial, creating no major impact.

4. The Service’s Engineering Department Study Is Not Relevant

In Docket No. MC95-1, the Postal Service contended that an Engineering Department Study somehow buttressed the Service’s position about the additional-ounce rates. The Postal Service did not rely upon the study in either its direct testimony or its rebuttal testimony in this proceeding.

Nonetheless, in his written cross-examination in this proceeding, Postal Service counsel implied that Mr. Bentley’s position was inconsistent with that Engineering Department Study (Tr. 21:11257). Although the Postal Service did not allude to that study in its initial brief, it may do so in its reply brief. In that event, the Commission can refer to Appendix A to this MMA Reply Brief, where we explain the reasons that the study does not detract from Mr. Bentley’s analysis and recommendations.

C. The Postal Service's Only Real Concern Is Revenue Generation

In the final analysis, the Postal Service's only real defense of the existing level of additional-ounce rates is that they "continue...to be an important source of revenue..." (USPS I. Br., p. V-16).

MMA's proposal is solicitous of this. The Commission has recognized that "letters processed with automation incur minimal or possibly no extra cost for letters weighing up to three ounces." (See MMA I. Br., pp. 17-18, quoting R94-1 Op., p. V-9.) If MMA had made a cost-based recommendation, therefore, it could have proposed a very large reduction in the additional-ounce rates; and it could have applied those reductions to rates for three-ounce letters as well as for two-ounce letters. Instead, MMA proposed a much less drastic proposal.

For over ten years, the Commission has established a "goal" of "set[ting] a digressive rate which reflects cost incurrence." (See R87-1 Op., p. 439; R94-1 Op., p. V-9.) The current proceeding--with a prosperous Postal Service proposing only minimal increases in rates--presents an ideal opportunity for the Commission to take "a conservative first step" towards that goal. (See MMA I. Br., p. 17.) *If not now, when?*

V. There Is No Merit To the Service's Contentions About MMA'S Use Of the Commission's Traditional Costing Methodology

In MMA's discussion of First-Class Automation letters (MMA I. Br., p. 4-6, 12-15), MMA witness Bentley offered a comparison that showed the discounts, *first*, under the Service's proposed costs and, *second*, with those costs computed according to the Commission's traditional costing methodology. The Service itself supplied the

information showing *both* sets of costs. The Service, however, criticizes Mr. Bentley's use of the costs as computed according to the Commission's methodology (USPS I. Br., p. III-187).

The Postal Service has two complaints about this use of its own computation of costs under Commission's costing methodology. First, the Postal Service argues, the Commission should sponsor its own cost model (*Id.* at III-185) because the Service is supposedly "unable to either make or understand certain mechanics" required by the Commission (*Id.* at III-187). The Commission has, however, already rejected that contention. In granting MMA's request to compel the Service to make these computations, the Commission ruled that the needed calculations were either an "essentially mechanical exercise" or "routine" (Order No. 1197, pp. 6, 10) and so important as not to be excessively burdensome (*Id.* at 8-9).

The Service also contends that it was not obligated to provide the information required by Order No. 1197 because the Service had previously filed other information that satisfied Rule 54(a)(1). (See USPS I. Br., pp. III-185 to III-187.) The Commission should not let that assertion go unchallenged. As the Commission knows, the Service's Rule 54(a)(1) filing in this case was grudging and, even after it was supplemented, passed muster only because "this is the first case in which the [revised] rule 54(a) is applicable" (POR No. 97-1/8, p.4). In any event, in Order No. 1197, the Commission ruled that the Service was obliged to provide the calculations of its costs under the Commission's methodology "independent of Rule 54(a)" (Order No. 1197, p. 5).

MMA witness Bentley was thus correct in using the Service's computation of

costs under the Service's methodology.

VI. The Stralberg/Cohen Proposal To Treat Certain Attributable Costs As Though They Are Institutional Would Force First-Class Mailers To Pay For Costs Unrelated To Them

MMA has no opinion regarding the Periodical Mailers' contentions that they are being burdened with excessive and unexplained increases in mail-processing costs (the so-called not-handling and mixed-mail costs). But MMA objects to the Stralberg/Cohen recommendation that much of those costs be "treat[ed]...as institutional" (ANM/ABP *et al.* I. Br., p. 32).

First-Class Mail pays more than sixty percent of the Service's institutional costs (under both the Commission's methodology and the Service's proposed methodology) (Tr. 21:11188-89). So, under the Stralberg/Cohen recommendation, First-Class mailers would pay more that sixty cents of every dollar that is switched from the Publication Mailers' attributable costs to the institutional category.

There is no reason for First-Class mailers to be charged a single penny of those costs. None of those costs was caused by First-Class Mail. And the Stralberg/Cohen thesis that some of those cost are due to "automation refugees" (who might once have been assigned to First-Class Mail) is still no more than an unproven supposition, a supposition that the Postal Service vigorously disputes (USPS I. Br., III-108 to III-112). Nor can First-Class mailers be expected to shoulder any of those costs as a matter of equity, for they already pay far more than their fair share of institutional costs (MMA I. Br., pp. 7-8, 10-12).

For the foregoing reasons, MMA requests that the Commission recommend that

the Service's rate proposal be modified by:

- (A) Continuing the 32-cent rate for the first ounce of First-Class letters, if possible, and
- (B) Increasing the Service's proposed First-Class Automation letter discounts and reducing the rate for First-Class letters weighing between 1.1 ounce and 2.0 ounces, in any event.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Littell", written over a horizontal line.

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April 10, 1998

**REASONS THAT THE POSTAL SERVICE'S ENGINEERING STUDY
IS IRRELEVANT IN DETERMINING WHETHER THE SERVICE'S
ADDITIONAL-OUNCE RATES HAVE ANY COST JUSTIFICATION**

In Docket No. MC95-1 and again in this proceeding (Tr. 4:1769-70), the Postal Service has referred to a 1995 Engineering Department Study. In Interrogatory USPS/MMA-T1-13 (Tr. 21:11257) in this proceeding, MMA witness Bentley was asked to explain how his "claim" that the processing of a two-ounce letter costs no more than the costs of processing a one-ounce letter "is consistent" with the Engineering Department study. Mr. Bentley answered the Interrogatory in the following words (and his answer was not the subject of any oral cross-examination):

During the classification case, Docket No. MC95-1, USPS witness Pajunas produced an engineering study which, as stated in this interrogatory, purports to show that "heavier" letters reduce the "throughput" in automation machinery.

There are several reasons why the engineering study does not show that the Service incurs any extra costs for processing two-ounce letters. The first reason is that the study does not purport to say anything about costs at all. The study is an *engineering* study, not a *cost* study. Based upon an unrepresentative sample (as I will explain next), the engineering study reported that, although the throughput rate decreases only gradually as a letter's weight increases to about

2.5 ounces, throughput decreases at a faster rate as a letter's weight increases from 2.5 ounces to 4.5 ounces.

But the engineering study does not include any statement that the reported decrease in throughput will increase unit costs. The Postal Service's costing witnesses in Docket No. MC95-1 also admitted that they had no data quantifying whether "heavyweight" letters weighing even up to 2.9 ounces are more costly to handle than letters weighing one ounce.

There is a second defect in the engineering study. That study examined heavyweight samples that are unrepresentative of the actual mailstream. For example, the reported throughput of 34,100 resulted from a test run of letters consisting of "typical #10 enveloped pieces", without defining the weight of such an envelope. On the other hand, the reported throughput of 24,710 resulted from a test run of letters all weighing 1.75 ounces. In fact, however, only a tiny fraction of First-Class letters weighs between 1.75 and 2.0 ounces. (Indeed, only about 3% of First-Class letters weigh between 1.1 and 2 ounces.)

In order to test the significance of the service's engineering study, during Docket No. MC95-1, I performed my own sensitivity study, using the unrepresentative assumption that all pieces in the mailstream weigh the same "heavy" amount. I testified about my study on the record in Docket No. MC95-1.

Even on that “worst case” basis, I demonstrated in my sensitivity study that the “unit attributable costs would increase very little.”

Additionally, the engineering study showed that throughput decreases by only 2% when the percent of “heavier mailpieces” “intermixed with typical #10 enveloped pieces” is 3%. “Heavier mailpieces” are not defined and could weigh as much as 4.5 ounces. Since (as I said) only about 3% of First-Class letters weigh between 1.1 ounces and 2 ounces, it appears to me that the 2% throughput reduction and the resulting cost increase is inconsequential.

Finally, when heavier pieces are intermixed with typical letters, there is virtually no impact on throughput rates. This was shown by the engineering study’s test of heavyweight letters that made up one percent of the test set of letters (which is more representative of the actual mailstream). In that test, the heavyweight letters decreased throughput by only six-tenths of one percent.

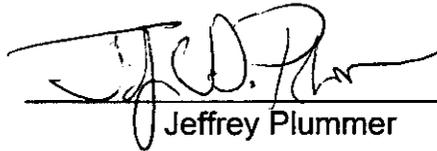
For these reasons, I believe that my “claim” is perfectly consistent with the results found by the engineering study.

(End of Interrogatory Response)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document, by First-Class Mail, upon the participants in this proceeding.

April 10, 1998



Jeffrey Plummer