

UNITED STATES OF AMERICA  
Before The  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

Complaint on Charges for the )  
Bulk Parcel Return Service )

Docket No. C99-4

OFFICE OF THE CONSUMER ADVOCATE RESPONSE  
TO CONTINUITY SHIPPERS ASSOCIATION  
STATEMENT ON PROPOSED SCHEDULE  
(October 1, 1999)

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The Office of the Consumer Advocate (OCA) hereby responds to the statement by Continuity Shippers Association (CSA) filed on September 23, 1999, concerning the amount of time CSA will require to develop and file a direct case in this proceeding and its proposal for an immediate briefing schedule.<sup>1</sup> Because of the shortened time proposed by CSA for a briefing schedule, the Office of the Consumer Advocate believes it is necessary to express concerns at this time about the proposed procedures

OCA sees several objections to moving forward with briefing of the issue for a Commission recommendation at this time. There are two other alternatives-(1) hearings on the issues to determine the attributable costs and the appropriate cost coverage for an interim rate change and (2) deferring the issues raised by the complaint for consideration in the forthcoming omnibus rate case. OCA favors deferring the issue

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<sup>1</sup> Letter filed pursuant to the Commission's order of September 3, 1999. CSA proposes to file its brief by October 1, 1999, and others shall file briefs within 14 days, by October 15, 1999.

until the omnibus rate case when the costs for BPRS can be more fully considered and the cost coverage can be considered in connection with consideration of the cost coverages for other services.

#### I. Introduction

The Commission's order noticing these formal proceedings designated OCA as settlement coordinator to encourage parties to reach settlement of CSA's complaint.<sup>2</sup> It allowed until September 17, 1999 for participants to explore the potential for settlement. OCA's report on the settlement discussion indicated that despite frank and thorough settlement discussions and release of additional costing information by the Postal Service, as well as further attempts to reconcile the views of the parties, a settlement could not be reached prior to September 17, 1999.<sup>3</sup> OCA noted it was encouraging discussions between the Postal Service and CSA to alleviate the need for hearings on the issues raised by the complaint pending filing of the next omnibus Postal Service rate case. No agreements have been reached and participants have reserved their rights as to the appropriate procedures to follow in this case.

CSA has now proposed, without the agreement of the parties, to stipulate to the cost estimates presented by the Postal Service, as adjusted by CSA for inflation, and to brief the issue of the appropriate cost coverage applicable to the BPRS. CSA proposes, for purposes of the complaint only, to accept the Postal Service's most recent attributable cost calculation of \$1.039 for 1998 for BPRS. CSA rolls this amount

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<sup>2</sup> Order No. 1260, "Order Denying Motion of United States Postal Service to Dismiss Complaint and Notice of Formal Proceeding," September 3, 1999.

<sup>3</sup> Office of the Consumer Advocate Report on Potential for Settlement to Resolve Complaint. September 17, 1999.

forward using the Consumer Price Index-Urban (CPIU) for 1999 and '2000, to reach an attributable cost of \$1.063 for 1999, and \$1.09 for 2000. CSA concludes the issue of the cost coverage is a judgmental or legal issue that does not require testimony at this time and, therefore, proposes to brief the issue of the appropriate cost coverage of BPRS. However, CSA reserves the right to challenge the attributable cost and the cost forward factor in other proceedings.

In view of the failure of the participants to reach a settlement at this time of the issues raised in the complaint and all of the other circumstances surrounding the BPRS study, OCA has considered CSA's position in how to proceed in the case. OCA does not agree with CSA that the cost coverage is necessarily a legal issue that does not require testimony. A review of the BPRS rate by the Commission at this time would be wasteful and would not yield a result any more consistent with the policies of the Postal Reorganization Act than the current rate. Even if the infirmities of the CSA procedure that are detailed below are overlooked, at best, the BPRS rates might be adjusted for about one year, and perhaps considerably less. OCA submits that the better approach for the Commission in administering its responsibilities under the Postal Reorganization Act is to hold the complaint proceedings in abeyance in order to defer the issues raised by the complaint until a meaningful recommendation for rates can be made at the time of the decision on the next omnibus rate case.

II. Recommending a change in the BRPS rate on the basis of a separate review of the cost coverage would be inappropriate and unusual

OCA favors rates that reflect direct and indirect attributable costs and a reasonable assignment of institutional costs. Unfortunately, CSA's proposal to determine a new rate for BPRS for an interim period would not further this goal nor would it further any other statutory objectives which must be considered under §3622(b) of the Postal Reorganization Act, 39 U.S.C. § 3622(b). There are also several other problems with the proposed procedure.

It is not sound rate-making policy to separate out a particular service for review when the cost of other services are not being reviewed. Normally, the Commission does not review rates between omnibus rate cases or open proceedings to modify existing effective postage rates for short periods of time.<sup>4</sup> Costs and revenues are in constant flux. Between rate cases there is a continual change in anticipated costs and revenues. The Commission cannot respond to each change that does not conform to the estimates that established the rate being collected. Otherwise, the administration of the rates would devolve into an administrative morass as each interested party sought a change favorable to its own interests,

Certainly mailers would benefit if the BPRS rate is lowered, even temporarily. Some may even enjoy significant savings over even a short period of time, but that is always the situation between rate proceedings. The benefits of a temporary rate change have not traditionally been viewed as outweighing the harm to the

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<sup>4</sup> See discussion, Special Services Fees and Classifications, "Opinion and Recommended Decision," April 2, 1997, Docket No. MC96-3 at 6.28.

Commission's need for consistent, even-handed and orderly administration of its rate recommendations pursuant to the policies of the Postal Reorganization Act. For this reason, the Commission does not attempt to recommend changes in rates between major rate proceedings, particularly where there is no agreement among all interested participants or other special circumstances that might permit a change in rates "without presenting a serious conflict with other policies of the Act."<sup>5</sup>

OCA recognizes that the Commission has never determined the BPRS rate on the basis of a study of actual costs or actual operating history. BPRS was instituted as a new service without benefit of a full rate proceeding and the initial rates were based on estimates.<sup>6</sup> Later, pursuant to the order of the Commission when it approved the rate, the BPRS study was prepared by the Postal Service and filed in October 1998. The attributable costs were determined in the study to be 93 cents with a coverage of 188 percent as compared to the coverage of 156 percent when the rates were initially established.<sup>7</sup> Subsequent recalculations by the Postal Service based upon Commission methodology used in the last omnibus rate case have increased the costs to \$1.039. The disparity between the attributable costs underlying the current rate and the newly calculated attributable costs is therefore 8 cents. A mechanical application of the difference in attributable costs while retaining the same coverage would reduce the \$1.75 BPRS rate by 8 cents to approximately \$1.67.

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<sup>5</sup> Special Services Fees and Classifications, Docket No. MC96-3, April 2, 1997 at 17.

<sup>6</sup> "Opinion and Recommended Decision Approving Revised Stipulation and Agreement," September 4, 1997 at 3.

<sup>7</sup> Ibid.

Although it may at first appear attractive procedure to brief the cost coverage issue, there would be little or no benefit as the newly calculated cost coverage is very close to the original coverage. Even assuming the correctness of the most current cost estimates, this is not a circumstance warranting review. The Commission has recognized that an adjustment in the rate might be justified where the “actual cost coverage *differs greatly* from the cost coverage intended when current rates were adopted, due to a mistake in the method used to calculate subclass costs or revenues.”

The recently recalculated cost coverage, however, does not significantly vary from the cost coverage initially approved by the Commission. The Commission originally approved a cost coverage of 156 percent. If attributable costs are assumed to be \$1.039 for 1998, the cost coverage at a BPRS rate of \$1.75 is 168 percent. For 1999, the proposed stipulated costs are \$1.063 with a coverage of 165 percent. If costs are assumed to be \$1.09 for the 2000 test year as CSA proposes, the coverage is 160 percent. These coverages represent only an increase from the initial coverage by between 2.26 percent and 7.69 percent, not materially different and not warranting review at this time under the circumstances

Any justification for a special interim review is further mitigated because the Commission will soon be reviewing the cost coverage for this service in the next rate case. Determining the coverage issue now will not eliminate the need to rehear, re-brief, and reconsider the issue during the next rate case. The cost coverage should be

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<sup>8</sup> Special Services Fees and Classifications, Docket No. MC96-3, April 2, 1997 at 19. (Emphasis supplied).

resolved in the context of the coverage to be recommended for all Standard (A) mail, taking into consideration other coverages determined appropriate for similar services that may be proposed by the Postal Service for other classes of service.

Additionally, if CSA, or other participants, choose to contend that the initial coverage was too high and that the coverage should be lower than in the initial BPRS rate, additional testimony may be needed to fully explore that issue. The lack of experience with actual costs dictated a system average cost approach, even though it was higher than might otherwise be warranted and especially higher than the legislatively favored Standard (A) subclasses. However, there may be good reasons for maintaining the cost coverage at a level above that of other Standard (A) mail. It could be readily explained that the BPRS service provides a significantly higher value of service than that received by most Standard (A) mail and that this should be reflected in the cost coverage. Testimony regarding the Commission's past policies and the value of BPRS service as compared to other Standard (A) service would be relevant. In short, the appropriate level can best be determined in the context of reviewing coverages for the entire class.<sup>9</sup>

The only purpose of briefing the issue now is to apply a cost coverage during a brief interim period before the Commission visits the issue during the next rate case.

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<sup>9</sup> For a discussion of quantifying the "value of service" see Special Services Fees and Classifications, Docket No. MC96-3, "Opinion and Recommended Decision," April 2, 1997 at 24. ("Quantifying 'value of service' is an inherently comparative exercise.").

As stated above, that is not a desirable approach. Review of the coverage for a brief temporary period without benefit of a full record would be premature and of little value.

III. Recommending a BPRS rate change on the basis of partial cost analysis is not sound rate-making policy

It is not clear that the cost estimates to which CSA is willing to stipulate at this time (but to which it reserves the right to contest later) provide a sound basis to recommend what is essentially a temporary rate. OCA is not convinced that the costs determined in the BPRS study as updated and modified by the Postal Service are necessarily correct. OCA pointed out one error at the technical conference that was corrected by the Postal Service. The study has not yet been subjected to intensive interrogatories or cross-examination.” Under the procedures proposed, careful examination of the cost data would not be possible, and the Commission could not be confident that a temporary rate recommendation would determine the correct costing and coverage more precisely than the current rate.

IV. Conclusion

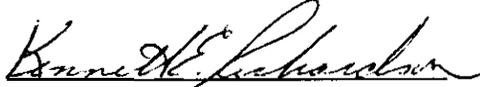
For all of the above reasons, in the absence of a stipulation and agreement among the participants, the Commission should hold the complaint proceeding in abeyance pending review of the issue in the forthcoming omnibus rate case.

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<sup>10</sup> The study was the subject of some interrogatories in Docket No. MC99-4, however, the settlement in that case led to withdrawal of several of the OCA interrogatories and eliminated the opportunity for cross-examination or OCA testimony on the BPRS study.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE

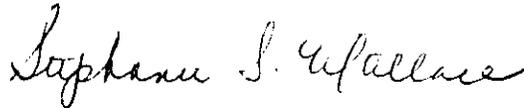


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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.



Stephanie S. Wallace

Washington, D.C. 20268-0001  
October 1, 1999