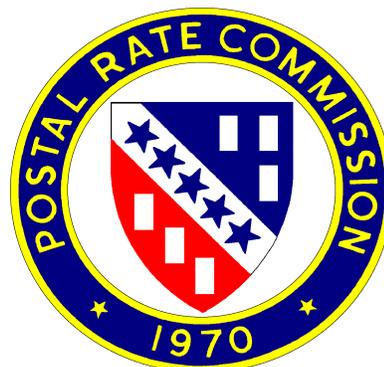


POSTAL RATE COMMISSION



PRESS BRIEFING

**POSTAL RATE AND FEE CHANGES
DOCKET NO. R2001-1**

**POSTAL RATE COMMISSION HEARING ROOM
1333 H STREET, NW, SUITE 300
WASHINGTON, DC 20268
www.prc.gov**



POSTAL RATE COMMISSION

PRESS PACKET

PRESS BRIEFING ON THE R2000-1 OMNIBUS RATE PROCEEDING

**Commission Hearing Room
Washington, D.C.
March 22, 2002
11:30 AM**

Press Release

Statement by George A. Omas, Chairman, Postal Rate Commission

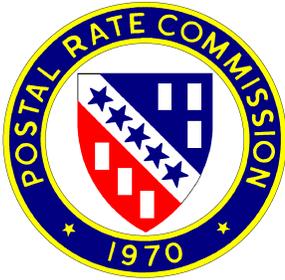
Charts:

Contribution to Institutional Costs
Average Percent Rate Changes
History of First-Class Stamp Rates
Selected Rates Used by Households
Selected Rates Used by Bulk and Worksharing Mailers
Worksharing Discount Options
First-Class Single-Piece Rate vs CPI

Biographies of Commissioners

Excerpts from Decision

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POSTAL RATE COMMISSION

NEWS RELEASE

EMBARGOED UNTIL 12:00 NOON

**Contact: Steve Sharfman
Bob Cohen
(202) 789-6800**

POSTAL RATE COMMISSION ISSUES OPINION ON POSTAL RATE INCREASE REQUEST

Washington, DC March 22, 2002 – The independent Postal Rate Commission today approved an unusual settlement that will allow postal rates to increase as early as June 30.

The settlement was offered in a Commission proceeding considering a Postal Service request for rate increases. The request had been developed before the terrorist attacks of September 11.

The Postal Service joined with mailer groups, postal employee organizations, competitors, and the Office of Consumer Advocate that represents the interests of the general public in a proposal that will increase rates by 7.7 percent. As part of the settlement, the Postal Service agreed to a schedule that would defer any additional increases until late summer of 2003.

The rates for First-Class letters will increase by 3 cents, to 37 cents. The post card rate increases two cents to 23 cents.

One of the several unions of postal employees was the only party to oppose the settlement. The union favored smaller discounts for First-Class Mail presorted by mailers. The Commission did not agree that the proposed discounts were too large.

This is the first time a postal rate case has been resolved through settlement. Normally, the numerous conflicting interests engage in complex litigation to determine whether rate increases are justified. Federal law requires the Postal Service to break even from operations. It is expected that next year the Service will need almost \$75 billion in postage revenue.

The Commission recognized that the events of September and October, in particular the disruption caused by the use of the mail to distribute lethal anthrax spores, had a significant but as yet unquantified impact on Postal Service operations and finances. It suggested at an early stage of the case that the parties consider whether under such circumstances, a rapid settlement might be in the public interest.

Chairman Omas today commended all the parties involved for their selfless and collaborative response in addressing the immediate and unprecedented challenges facing the Postal Service.

“This decision will allow the Postal Service an immediate influx of revenue, while holding rate increases to a reasonable percentage for postal customers” Omas said. He stressed the increases should provide “breathing room the Service, and those businesses that rely on it, need to successfully meet recent challenges.”

###



POSTAL RATE COMMISSION

NEWS RELEASE

Statement of the Chairman

Good Morning ladies and gentlemen, I'm pleased that you could join us today.

My name is George Omas and I am the Chairman of the Postal Rate Commission. Joining me this morning are my fellow Commissioners, Vice Chairman Ruth Goldway and Commissioner Danny Covington.

A short while ago, the Decision itself was transmitted to the Governors of the United States Postal Service and the Postmaster General. A press package has been distributed, containing a summary, charts, background materials and selected excerpts from our Opinion and Recommended Decision for Docket R2001-1. These materials will be available on the Commission's web site, www.PRC.gov.

I also want to introduce our General Counsel, Steve Sharfman and our Technical Director, Bob Cohen. At the conclusion of my remarks and any comments my colleagues may have, Steve and Bob will be available to help us respond to your more technical or specific questions.

The Postal Reorganization Act established the U.S. Postal Service and the Postal Rate Commission in 1970 and provided that the Service may request the Commission to recommend rates and fees changes that will provide sufficient revenues so that total estimated income to the Postal Service will equal as nearly as practicable its total estimated costs. The Postal Service filed the instant request on September 24.

Today's Decision recommends an overall average increase of 7.7%. Coincidentally, the average increase for First-Class letters is also 7.7%.

The one ounce First-Class stamp goes up three cents, from 34 cents to 37 cents. The post card rate increases two cents to 23 cents. Priority Mail, the Postal Service's 2 to 3 day service for heavier pieces will have among the largest increases. On average, Priority rates will increase 13.5%.

This is perhaps the most unique of all the rate cases considered by the Commission since its inception in 1970. This is due largely to the September and October terrorist events. The operational and financial ramifications of the attacks on New York and Washington, and the safety concerns arising from the use of the mail to distribute anthrax, are still being evaluated by the Postal Service.

As a result of the unknown financial impact of those events, my colleagues and I proposed at the outset that the parties in this case consider the benefits to all concerned if a settlement could be arrived at. The parties responded, and our decision approves a Stipulation and Agreement negotiated by the Postal Service and formally agreed to by 57 of the 63 participants in the case. Only one intervenor, the American Postal Worker's Union, AFL-CIO objected to the Agreement. The Commission heard opposing testimony, reviewed and evaluated the record evidence, and recommends the rate and classification schedule proposed in the settlement.

It is important to note that this request was prepared by the Postal Service before the events of September and October. Even before those events, the Postal Service estimated that without an increase in postage rates, it would lose over \$5 billion in FY 2003. I want to stress that this increase in rates is intended simply to meet the needs of the Postal Service as identified prior to the Terrorist and Anthrax attacks of last fall. The financial fallout from those attacks is still being experienced by the Postal Service.

Increases in postage rates and fees are never easy. In this case the Commission recognized the enormous stress that the Postal Service as an institution is facing. With the assistance of the intervenors, the Commission attempted to provide the “breathing room” the Service, and those businesses that rely on it, need to successfully meet recent challenges.

I can not overemphasize how extraordinary today’s decision is. Mailers of all classes of mail have agreed to a settlement that will have the effect of increasing postal rates several months sooner than would otherwise have been the case. I believe mailers cooperated in this effort because they felt that their short-term financial sacrifice would help keep the Nation’s Postal Service strong. This selfless attitude is a credit to the entire mailing industry.

The Commission expresses particular appreciation to Dan Foucheaux, the Chief Counsel – Ratemaking, of the Postal Service. Without warning I appointed him settlement coordinator in this Docket, and he successfully kept this case moving forward on our regular schedule, while arranging the extensive negotiations that led to the settlement the Commission is approving today.

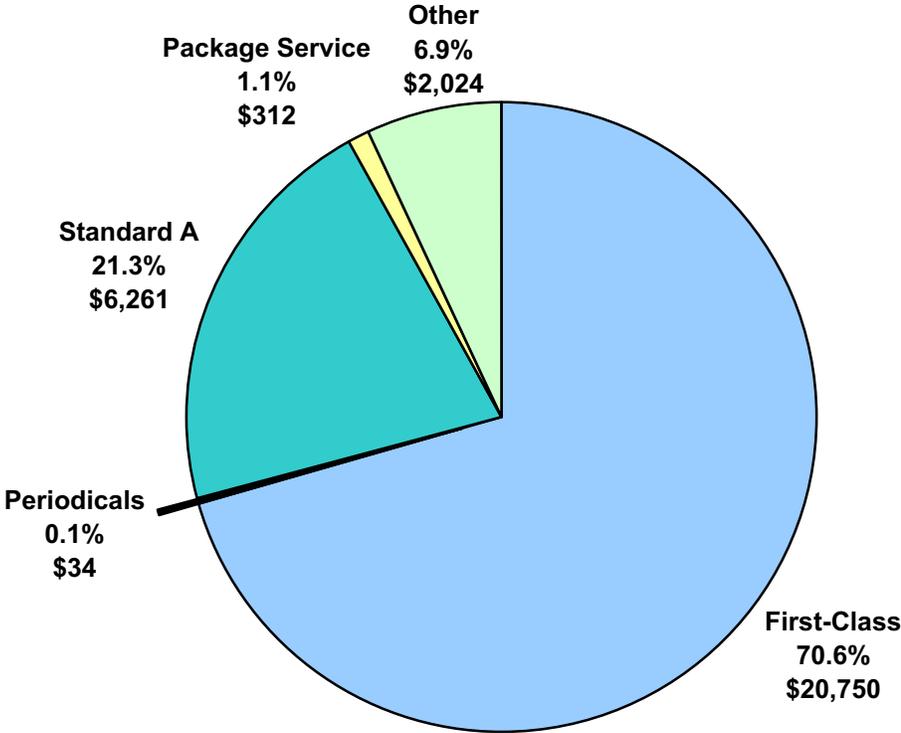
In the meantime, the additional revenue provided by these increases, which we recognize is never easy to absorb in ones budget, will allow the Postal Service to continue to provide universal service at reasonable rates to every household and business.

END

Contribution to Institutional (Overhead) Costs

PRC R2001-1

(Dollars in Millions)



	Percent Volume	Percent Revenue	Percent Contribution to Institutional Cost
First-Class ¹	49.1	60.3	70.6
Periodicals	4.7	3.5	0.1
Standard	44.9	24.9	21.3
Package Service	0.5	3.0	1.1
Other Mail	0.8	8.3	6.9
Total	100.0	100.0	100.0

1/ Includes Priority Mail

Average Percent Rate Changes

First-Class Mail:	%
Letters	7.7
Cards	9.7
Priority Mail	13.5
Express Mail	9.4
Periodicals:	
Within County	1.7
Outside County	10.3
Standard Mail:	
Regular	7.8
Nonprofit	6.6
ECR	6.2
Nonprofit ECR	6.5
Package Services:	
Parcel Post	6.4
Bound Printed Matter	9.0
Media Mail	4.0
Library Rate	3.3
Special Services:	
Certified Mail	9.5
Money Orders	2.8
P. O. Boxes	14.5
Overall Average Increase	7.7

History of First-Class Stamp Rates

Date[†]	Rate[‡]
1885-1917	2¢
1917-1919	3
1919	2
July 6, 1932	3
August 1, 1958	4
January 7, 1963	5
January 7, 1968	6
May 16, 1971	8
March 2, 1974	10
December 31, 1975	13
May 29, 1978	15
March 22, 1981	18
November 1, 1981	20
February 17, 1985	22
April 3, 1988	25
February 3, 1991	29
January 1, 1995	32
January 10, 1999	33
January 7, 2001	34

† The date specified is the first day on which the rate became applicable. In some instances, the rate introduced was temporary.

‡ The rate for the first ounce of a First-Class letter. Beginning September 14, 1975, additional ounces have been charged lower than the applicable first-ounce rate.

Selected Rates Used by Households

	Current	PRC Recommended
First-Class		
First-Class Letter		
One ounce letter	34¢	37¢
Two ounce letter	57¢	60¢
Post Card	21¢	23¢
Priority Mail		
One pound	\$3.50	\$3.85
Local (5 pound)	\$7.70	\$5.85
Distant (5 pound, 2,000 miles)	\$7.70	\$12.15
Express Mail		
8 oz. P.O. to addressee	\$12.45	\$13.65
2 lb. P.O. to addressee	\$16.25	\$17.85
Parcel Post – Inter BMC		
2 lb., Zone 5	\$3.45	\$4.14
Certified Mail	\$2.10	\$2.30
Return Receipt		
Original Signature	\$1.50	\$1.75
Electronic	NA	\$1.30
Money Orders (up to \$500)	90¢	90¢
Delivery Confirmation		
First-Class Parcels	NA	55¢
Priority	40¢	45¢
Parcel Post (except Parcel Select)	50¢	55¢

POSTAL RATE COMMISSION

Selected Rates Used by Bulk/Worksharing Mailers[†]

	Current	PRC Recommended
First-Class		
Bank Statement (3 oz.)	80.0¢	83.0¢
Department Store Bill (Nonautomation presort)	32.2¢	35.2¢
Utility Bill (Automation 5-digit)	25.5¢	27.8¢
Postcard (Automation 3-digit)	16.8¢	18.3¢
Priority Mail		
3 lbs., Zone 1	\$5.20	\$4.75
10 lbs., Zone 4	\$10.65	\$12.60
Express Mail		
Legal Documents (2 lbs.)	\$16.25	\$17.85
Regular Publications		
Weekly News Magazine (5.8 oz., dropshipped, carrier route presort, SCF entry, barcoded)	16.5¢	17.5¢
Journal of Opinion (3 oz., wide distribution, 5-digit presort, Zone 5 entry, barcoded)	18.5¢	21.3¢
National Newspaper (10 oz., dropshipped, 5-digit presort, Zone 5 entry)	27.7¢	30.3¢
Household Magazine (13.8 oz., dropshipped, carrier route presort)	25.9¢	27.4¢
Trade Publication (6.6 oz., wide distribution, 3-digit presort)	29.1¢	32.1¢
Within County Publications		
In-County Newspaper (4.5 oz., DDU entry, carrier route presort)	6.0¢	6.0¢
Nonprofit Publications		
Small Publication (4 oz., 20% adv., Zone 5, 3-digit presort)	22.7¢	26.9¢
National Magazine (14 oz., 40% adv., Zone 5, carrier route presort)	30.6¢	34.5¢
[†] See accompanying list of worksharing discount options.		

Selected Rates Used by Bulk/Worksharing Mailers

	Current	PRC Recommended
Standard Regular Rate Mail		
Highly Targeted (3-digit presort, 2 oz. letter, barcoded)	19.0¢	20.3¢
Targeted (5-digit presort, 9 oz. flat)	50.4¢	54.0¢
Local Department Store Advertisement (5-digit presort, 3 oz. flat, SCF entry)	24.2¢	26.2¢
Saturation Local Mail (CR walk sequence, 3 oz. flat, DDU entry)	12.0¢	12.8¢
Standard Nonprofit Mail		
<i>Targeted Appeal (letter)</i> (Required presort, 1 oz. letter)	15.8¢	16.5¢
Church Bulletin (5-digit presort, flat)	17.1¢	18.3¢
Package Service		
Parcel Select (2 lbs., Zone 1, DBMC entry)	\$2.13	\$2.24
Bound Printed Matter (2.5 lbs. parcel, Zone 3, basic presort)	\$1.195	\$1.435
Bound Printed Matter (2.5 lbs. flat, Zone 3, basic presort)	\$1.195	\$1.358
Media Mail (2 lbs., basic presort)	\$1.48	\$1.54
Library Mail (3 lbs., 5-digit presort)	\$1.55	\$1.56

WORKSHARING DISCOUNT OPTIONS

Mailers may obtain discounts on postage for their mail by preparing it in one or more ways to reduce the Postal Service's cost of handling.

Presort:

Basic

Automated Area Distribution Center (AADC)

Mixed AADC

3-digit zip code

5-digit zip code

Carrier route

Saturation

Automation (requires all of the following):

Barcoding

Verifying addresses

Compatible with equipment

Dropship:

Origin Bulk Mail Center (BMC)

Destination Bulk Mail Center (BMC)

Destination area distribution center (ADC)

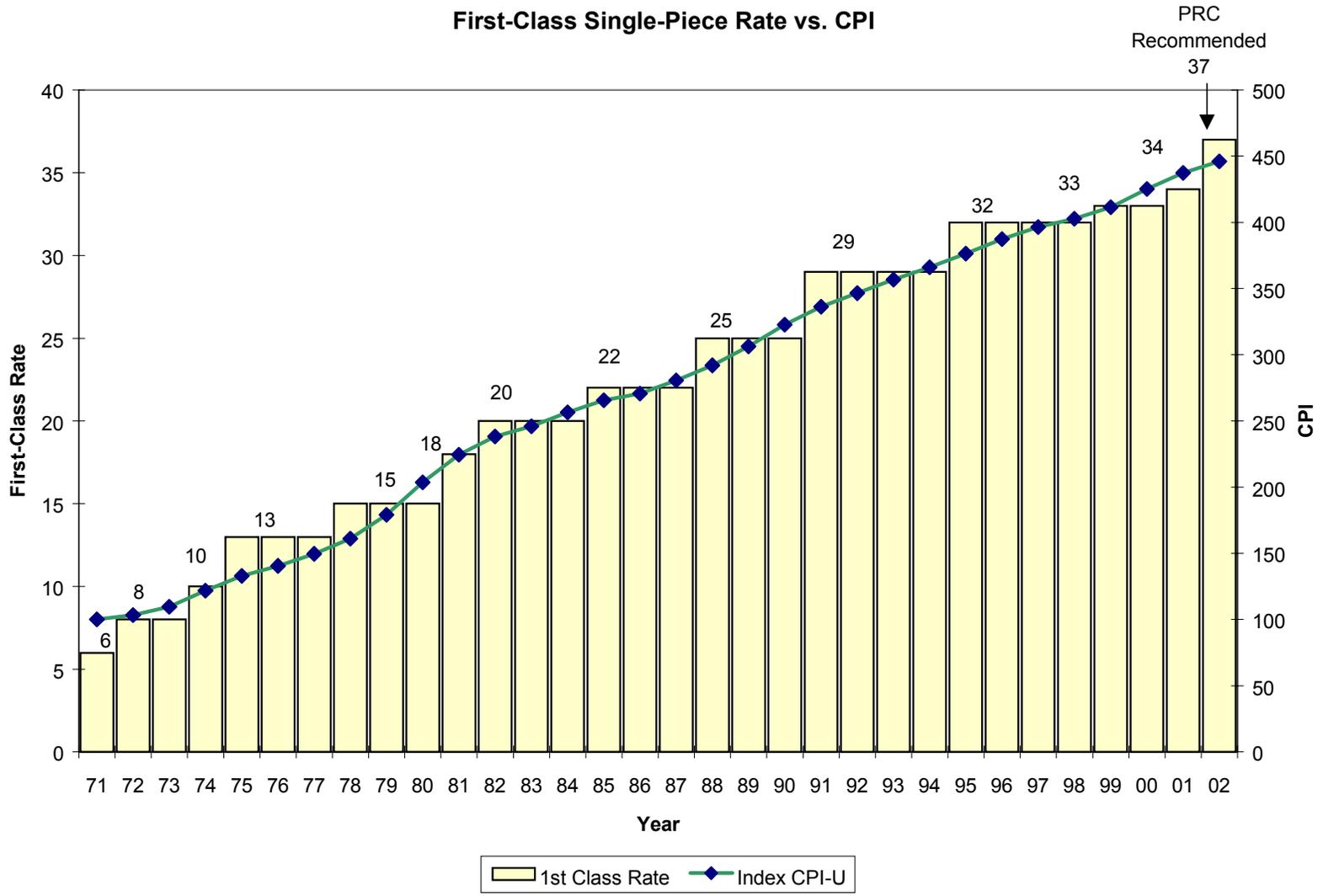
Destination sectional center facility (SCF)

Destination delivery unit (DDU)

Pallet:

Pallet instead of sacks

Pallet to destination ADC, SCF, DDU



COMMISSIONERS

George A. Omas (R) was designated Chairman by President George W. Bush on November 30, 2001. Chairman Omas, a native of Biloxi, Mississippi, was initially sworn in as a Postal Rate Commissioner on August 8, 1997. He was reappointed to a second term, which expires in October 14, 2006. Prior to joining the Commission, Chairman Omas served in the Office of the Sergeant-at-Arms in the U.S. House of Representatives. He served on the Professional staff of the former House Committee on Post Office and Civil Service for eighteen years.

Ruth Y. Goldway (D) currently serves as Vice Chairman of the Commission. She was sworn in as a Postal Rate Commissioner on April 15, 1998, following her appointment by President William J. Clinton, for a term expiring on November 22, 2002. Vice Chairman Goldway is an experienced public affairs professional with expertise in citizen participation, consumer and urban planning issues, education and the arts. Formerly she served as Assistant Director, California Department of Consumer Affairs, Mayor of Santa Monica, Director of Public Affairs at California State University at Los Angeles and Manager of Public Affairs for the Getty Trust.

Dana B. Covington (R) was confirmed by the United States Senate October 21, 1998 and sworn in as a Postal Rate Commissioner on November 2, 1998. His term expires October 14, 2004. Commissioner Covington served as the Director of Communications, Planning and Policy for the Sergeant-at-Arms of the United States Senate and worked for the National Republican Congressional Committee after running for Congress in Mississippi's 2nd Congressional District in 1996. Formerly, Commissioner Covington worked in the Bush/Quayle Administration at the Departments of Energy and Health & Human Services and was the District Director for Congressman Webb Franklin (R-MS).



POSTAL RATE COMMISSION

EXCERPTS FROM DECISION

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Introduction

SUMMARY

This Opinion and Recommended Decision completes a remarkable chapter in the history of ratemaking under the Postal Reorganization Act of 1970.

In an unfortunate coincidence, the Postal Service announced its intention to seek higher rates to raise needed revenues on September 11, 2001, at approximately the same time terrorists were attacking New York and Washington, D.C. Shortly thereafter, the mails were used to distribute lethal anthrax spores.

These events, coupled with a slowing economy, undermined many of the cost and revenue projections on which its specific rate proposals were premised. At the initial prehearing conference scheduled to discuss procedures for considering the Postal Service Request, the Commission challenged all interested parties to explore whether they could respond to these unprecedented events in a way that would help the entire mailing community get through the crisis. The Chairman stated:

I have often heard it said that there could never be a settlement in an omnibus rate case. There are too many conflicting interests, and too much money is at stake. But it seems to me that if there was ever a time when 'business as usual' was not an attractive course of action, and when cooperative efforts to promptly resolve issues through settlement might be the right course of action, that time is now.

The parties responded. In approximately two and a half months the many diverse interests that frequently bitterly contest multiple issues in postal rate cases were able to negotiate, revise, and submit a Stipulation and Agreement as a proposed settlement. The settlement allows for early implementation of higher rates, on June 30, 2002, balanced by a Postal Service undertaking to delay its next request for higher rates until at least fiscal year 2003. The agreed-upon rates, and any process used to arrive at them, are to have no precedential effect in future cases.

Participants were given ample opportunity to consider the proposed settlement and one party, the American Postal Workers Union, AFL-CIO submitted evidence in opposition. Hearings were held, briefs were filed, and the Commission has determined that the proposed settlement is consistent with the policies of the Postal Reorganization Act and in the public interest. It therefore recommends the settlement rates.

Rate increases, by class of mail, are as follows:

	Percent
First-Class Letters	7.7
First-Class Cards	9.7
Priority Mail	13.5
Express Mail	9.4
Periodicals	10.0
Standard (Advertising) Mail	7.1
Package Services	5.0
Special Services	11.4

The Commission takes this opportunity to congratulate the Postal Service, and the many rate case participants including mailers, competitors, employee organizations, and the Office of the Consumer Advocate for their willingness to put aside the potential short-term advantages of litigation to achieve this outcome. The Nation is the long-term beneficiary of their efforts.

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RECOMMENDED DECISION

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Docket No. R2000-1

I. PROCEDURAL HISTORY

[1001] *Postal Service's Request*. On September 24, 2001, the United States Postal Service filed a request for a recommended decision on changes in rates, fees, and certain mail classifications.¹ The filing, which was assigned Docket No. R2001-1, was noticed in Order No. 1324, issued September 26, 2001. *See 50 Fed. Reg. 50480 (2001)*. The Commission heard the case *en banc*, with Chairman George Omas serving as the presiding officer. Sixty-one parties, representing all classes of service, intervened. The Commission's Office of Consumer Advocate (OCA) participated representing the interests of the general public. 39 U.S.C. § 3624(a).

[1002] Using fiscal year 2000 as the base year, the Postal Service projects that at existing rates it will incur a net revenue deficiency of \$5.275 billion in fiscal year 2003, the proposed test year. USPS Exhibit 6A. It requests an increase in rates and fees sufficient to generate additional revenues of \$ 4.257 billion, which includes a 3 percent contingency allowance. USPS-T-6 at 75. The Request indicates it is seeking a systemwide average increase of 8.7 percent. USPS Exhibit 28D. To support its Request, the Postal Service submitted the testimony and exhibits of 40 witnesses, encompassing 44 testimonies, and 136 library references. Numerous other library references were filed as the case progressed.

[1003] *The National Crisis*. This omnibus rate proceeding is unlike any other heard by the Commission. Not for its substance, but for unprecedented recent events that have severely taxed the Postal Service's resources. On September 11, 2001, terrorists

¹ Request of the United States Postal Service for a Recommended Decision on Changes in Rates of Postage and Fees for Postal Services and Request for Expedition, September 24, 2001 (Request). Subsequently, the Postal Service revised the Request with two minor filings. *See United States Postal Service Notice of Filing Errata to the Proposed Changes in the Domestic Mail Classification Schedule and the Proposed Rate and Fee Schedules*, November 7, 2001; and *United States Postal Service Notice of Filing Errata to Proposed Rate Schedule 421*, November 21, 2001.

attacked the United States in New York and Washington, D.C. The effects on the Postal Service were immediate. In New York, facilities were damaged, vehicles lost, and mail service was disrupted. Nationally, airports were closed and commercial air traffic halted. The Postal Service scrambled to find alternate transportation to serve its needs. It enlarged its own fleet, engaged additional private contractors, and increased its reliance on Amtrak. See, e.g., *The Wall Street Journal*, September 12, 2001 at A4; *The Washington Post*, September 17, 2001 at A20; *PostCom Bulletin* No. 37-01, September 14, 2001 at 6; and *PostCom Bulletin* No. 38-01, September 21, 2001 at 7-8. Even as airports resumed operations, Postal Service operations could not return to normal. The Federal Aviation Administration required most cargo carried on passenger planes to be screened for explosives, causing the Postal Service to transport most of its mail via trucks or all-cargo airlines. See, e.g., *The Wall Street Journal*, October 16, 2001 at A4. In addition, the threat of terrorist attacks caused increased security measures, including removing collection boxes.

[1004] Aside from the direct costs to the Postal Service resulting from the September 11 attacks, preliminarily estimated at approximately \$61 million, the Postal Service experienced a sharp drop in revenues, at least partially attributable to these events, as mailers deferred or cut back on scheduled mailings. Preliminarily, the Postal Service estimated that for the three weeks following the September 11 attacks, a period coinciding with the final three weeks in FY 2001, revenues fell by \$300-400 million.²

[1005] Although the Postal Service may be viewed as an incidental casualty of the September attacks, it bore the full brunt of the subsequent biological terrorism. Shortly after September 11 at least five letters seeded with lethal anthrax spores were placed in the mail by persons whose identity and motives are still unknown. Within three weeks 11 people had contracted inhalation anthrax; five, including two postal workers, ultimately died. Several others contracted contact anthrax, the less dangerous form of the disease, and all have since recovered. The deadly letters had leaked spores infecting postal

² See *PostCom Bulletin* Nos. 42-01, October 12, 2001 at 2; and 43-01, October 19, 2001 at 10.

workers and customers, and contaminating buildings, equipment and other mail, everywhere they had passed in their movement through the postal system.

[1006] The attack caused the closure for decontamination of Congressional offices in Washington, the offices of TV news services, newspapers and tabloids in New York and Florida, two large metropolitan mail processing plants in New Jersey and Washington, D.C., and numerous smaller facilities where tests revealed the spores had traveled.

[1007] The medical risk of anthrax-contaminated mail to postal workers and customers is not yet fully understood, but is evidently more serious than was at first believed. The spores pass easily through the paper of ordinary envelopes and the quantity needed to cause inhalation anthrax in some susceptible individuals may be very small. As the health risks became apparent following the discovery of the letters, the Postal Service responded by testing its exposed employees for disease, offering them antibiotics as a precaution, by testing its facilities and equipment for spores, by closing the facilities for decontamination wherever the spores were found, by quarantining and irradiating large volumes of mail, by participating in an immense criminal investigation, and by candidly advising the public of appropriate precautions.

[1008] The Service has had to bear the unexpected short-run costs of disruption, decontamination and protection, and the long-run costs of reconstructing facilities, securing its personnel and customers from further attack, and restoring the shaken confidence of the public in the safety of the mail. In sum, Postal Service operations were thoroughly disrupted, causing expenses to rise sharply. In testimony before the Senate Subcommittee on Treasury and General Government of the Committee on Appropriations on November 8, 2001, the Postmaster General estimated the combined financial impact on the Postal Service of the September 11 and biological terrorism to be approximately \$3 billion.

[1009] While the slumping economy undoubtedly influenced these results, the issue, in the context of this proceeding, is the compromising effects these events may

have on assumptions underlying the Postal Service's rate filing. The longer-term impact of these events on the nation's mailing habits was, and is, unknown.

[1010] *Settlement Negotiations.* At the prehearing conference held October 25, 2001, the Presiding Officer outlined his concerns about the continuing effects of the unprecedented challenges facing the Postal Service. Tr. 1/39-42. He urged the participants to consider alternatives to litigation, suggesting that they attempt to resolve issues through settlement. Citing the benefits of a cooperative approach, he encouraged parties to respond in statesman-like fashion to the current crisis.

None of us wants to be here in May arguing about this case, knowing the Postal Service is at risk and is preparing to file an additional request to make up for losses incurred while this docket was going forward. I urge all participants to recognize that extraordinary times warrant extraordinary acts.

Id. at 41.

[1011] The Presiding Officer appointed Postal Service counsel, Daniel Foucheaux, as Settlement Coordinator, requesting he contact all participants to determine the feasibility of settlement. In addition, he requested Mr. Foucheaux to file regular reports with the Commission detailing the status of settlement negotiations.

[1012] The first informal settlement conference was convened October 30, 2001; a second followed November 16, 2001. During this period, a draft Stipulation and Agreement was circulated to all parties. In addition, the Postal Service continued to meet with participants, individually and in small groups, to consider the proposed terms of settlement. The Settlement Coordinator apprised the Commission of these ongoing negotiations in a series of reports.³

³ In all, the Settlement Coordinator filed seven reports with the Commission. The first was filed November 2, 2001; the seventh was filed January 11, 2002. In general, the reports convey a sense of optimism that settlement could be achieved among a substantial number of participants. See Second Report of the United States Postal Service as Settlement Coordinator, November 9, 2001 at 1; Fourth Report of the United States Postal Service as Settlement Coordinator, November 30, 2001 at 1; and Fifth Report of the United States Postal Service as Settlement Coordinator, December 10, 2001 at 1-2.

[1013] Litigation of the Request proceeded on a separate track. Discovery on the Postal Service continued, putting a particular burden on the Postal Service as respondent. Hearings on the Postal Service's direct case commenced December 10, 2001.

[1014] *The Stipulation and Agreement*. On December 17, 2001, the Postal Service filed a proposed Stipulation and Agreement in settlement of this proceeding. See Motion of the United States Postal Service Submitting Stipulation and Agreement and for the Establishment of a Preliminary Procedural Mechanism and Schedule, December 17, 2001 (Postal Service Motion). Subsequently, the Postal Service submitted revised versions of the Stipulation and Agreement (settlement), the latest February 13, 2002.⁴ The latter forms the basis on which the Commission issues its recommended decision.

[1015] Although each revision effects a substantive change, the underlying principles of the settlement agreement have remained intact. The principal provisions of the settlement are as follows:

- The Request, testimony, and materials filed on behalf of the Postal Service in this proceeding provide substantial evidence for establishing the proposed changes in rates, fees, and classifications. § II ¶ 3.
- The Postal Service agrees not to implement the proposed rate, fee, and classification changes prior to June 30, 2002. § II ¶ 4.
- Each signatory may withdraw from the settlement under certain conditions, including, among others, if the Commission fails to issue its Recommended Decision on the settlement by March 25, 2002; if it fails to recommend the proposed settlement rates, fees, and classification changes without modification; or if the Governors fail to approve a Commission Recommended Decision

⁴ See Motion of the United States Postal Service Submitting a Revised Stipulation and Agreement, December 26, 2001 (extending the effective date of the proposed changes to no sooner than June 30, 2002, and changing the proposed rates for Inter- and Intra-BMC parcel post to those included in the Postal Service's Request); Motion of the United States Postal Service Submitting Second Revised Stipulation and Agreement, January 17, 2002 (incorporating several minor changes in proposed rates for Enhanced Carrier Route subclass of Standard Mail); and Notice of the United States Postal Service Withdrawing Proposals and Submitting Revised Stipulation and Agreement, February 13, 2002 (withdrawing proposals affecting DMCS special service combination listings). The latter also incorporates corrections, without substantive effect, to an errata filed January 18, 2002.

adopting the settlement rates, fees, and classification changes without modification. § II ¶ 7.

- The Stipulation, which is offered in total and final settlement of Docket No. R2001-1, pertains only to this proceeding and does not bind any signatory party to any regulatory principle, e.g., ratemaking, cost of service, or rate design, or the application of any rule or interpretation of law, “that may underlie or be thought to underlie [the settlement].” § II ¶¶ 6 and 9.
- The signatories agree that none of the matters presented in this proceeding in the Postal Service’s Request, in any Commission Recommended Decision, or in any decision by the Governors shall be entitled to precedential effect in any other proceeding. § II ¶ 10.

[1016] Finally, an additional consideration leading to the settlement is the Postal Service’s commitment to forego filing its next omnibus rate request for as long as it is prudent to do so. See Letter from Postmaster General John E. Potter to All Parties of Record, Docket No. R2001-1, December 26, 2001, attached to Motion of the United States Postal Service Submitting Revised Stipulation and Agreement, December 26, 2001; see *also* Postal Service Motion at 4. Although the length of this commitment is somewhat open-ended, it represents, in the Commission’s view, an important facet of the settlement.

[1017] *Procedures to Consider the Settlement.* The Postal Service was the sole signatory to the proposed settlement as filed, not as a matter of preference, but more as a reflection of the logistical difficulties in coordinating with multiple parties. Postal Service Motion at 6-7. Given the uncertainty surrounding the number of participants who would support (or not oppose) the settlement, the Postal Service proposed preliminary procedures to allow for consideration of the settlement if it were opposed. Accordingly, the Postal Service’s motion sets forth procedural mechanisms, including a schedule, for consideration of the settlement.

[1018] P.O. Ruling R2001-1/27, issued December 31, 2001, established a revised hearing schedule and procedural mechanisms to consider the settlement and opposition, if any, to it.⁵ The procedures adopted were designed to accommodate the due process requirements of all participants by including principal safeguards. The schedule preserved the right of any participant considering opposing the settlement to cross-examine the Postal Service's witnesses. Several participants availed themselves of this opportunity: Amazon.com, American Postal Workers Union, AFL-CIO, American Bankers Association and National Association of Presort Mailers, Coalition of Religious Press Association and National Federation of Independent Publications, National Newspaper Association, and Val-Pak Direct Marketing Systems, Inc. and Val-Pak Dealers' Association, Inc.

[1019] The procedural schedule did not require any party to formally elect to oppose the settlement until following completion of hearings on the Postal Service's direct case, providing nearly a month to consider the proposed settlement. This interim period was significant as it enabled several parties to resolve their differences with the Postal Service and become signatories to the settlement.

[1020] The Presiding Officer set January 16, 2002 as the due date for any party contesting the settlement to submit a notice of opposition. P.O. Ruling R2001-1/30 at 2. Only the American Postal Workers Union, AFL-CIO (APWU) filed a Notice of Opposition. See Notice of Opposition of the American Postal Workers Union, AFL-CIO, January 15, 2002. APWU's opposition focuses on a single, narrow issue. Contending that the proposed discounts for certain First-Class Mail rate categories exceed their estimated cost savings, APWU proposes that workshare discounts be set at 80 to 100 percent of their avoided costs. In support of that position, APWU submitted the testimony of Michael J. Riley on January 30, 2002. See , for a discussion of the merits of APWU's position.

⁵ Certain dates prescribed in P.O. Ruling R2001-1/27 were subsequently modified by P.O. Ruling R2001-1/30, issued January 8, 2002.

[1021] On consideration of the scope and extent of APWU's evidentiary presentation, the Presiding Officer established a procedural schedule providing for hearings to receive into evidence APWU's testimony as well as surrebuttal testimony in opposition to it.⁶ These hearings were held February 14, and February 26, 2002, respectively.

[1022] Fourteen initial briefs were filed on behalf of 29 participants.⁷ All except APWU support the settlement and urge the Commission to adopt it as its Recommended Decision. Seven reply briefs were filed on behalf of 13 participants.⁸

[1023] On March 6, 2002, the Postal Service filed the original signatures of participants accepting the terms of the Stipulation and Agreement. See Notice of United States Postal Service Filing Signatures for Stipulation and Agreement, March 6, 2002. In

⁶ The following surrebuttal testimony was filed: Joseph D. Moeller on behalf of the Postal Service, Richard E. Bentley, who submitted two testimonies, one for the Major Mailers Association (MMA), the other on behalf of KeySpan Energy, John D. Crider for MMA, Jay Gillotte on behalf of National Association of Presort Mailers (NAPM), and James A. Clifton, jointly sponsored by American Bankers Association and NAPM.

⁷ Initial Brief of Alliance of Nonprofit Mailers, American Business Media, AOL Time Warner Inc., Coalition of Religious Press Associations, Dow Jones & Company, Inc., Magazine Publishers of America, Inc., National Federation of Independent Publications, National Newspaper Association, and The McGraw-Hill Companies, Inc.; Joint Initial Brief of American Bankers Association and National Association of Presort Mailers; Initial Brief of The American Postal Workers Union, AFL-CIO to the Postal Rate Commission; Brief of Coalition of Religious Press Associations and National Federation of Independent Publications; Initial Brief of KeySpan Corporation, Automatic Data Processing, Inc., Electronic Data Services, and Long Island Power Authority in Support of Stipulation and Agreement on QBRM Issues; Initial Brief of Mail Order Association of America; Initial Brief of Major Mailers Association in Support of Stipulation and Agreement; Newspaper Association of America Initial Brief in Support of Proposed Stipulation and Agreement; Initial Brief of the Office of Consumer Advocate; Initial Brief of Parcel Shippers Association; Initial Brief of Association for Postal Commerce, Mailing & Fulfillment Service Association, and Recording Industry Association of America; Joint Brief of the Saturation Mail Coalition and Advo, Inc.; Initial Brief of the United States Postal Service; and Initial Brief of ValPak Direct Marketing Systems, Inc. and ValPak Dealers' Association, Inc.

⁸ Joint Reply Brief American Bankers Association and National Association of Presort Mailers; Reply Brief of the American Postal Workers Union, AFL-CIO to the Postal Rate Commission; Reply Brief of KeySpan Corporation, Automatic Data Processing, Inc., Electronic Data Services, and Long Island Power Authority in Support of QBRM Issues; Joint Reply Brief of Mail Order Association of America, the Saturation Mail Coalition, and Advo, Inc.; Reply Brief of Major Mailers Association in Support of Stipulation and Agreement; Reply Brief of United Parcel Service Concerning the Proposed Stipulation and Agreement of Settlement; and Reply Brief of the United States Postal Service.

total, of the 63 participants in this proceeding, 57 are signatories; five do not oppose it; and one party, APWU, opposes the settlement. for the list of signatories.

[1024] *Due Process Issues Raised By APWU*. On brief, APWU contends that the failure to adopt its proposed procedural schedule, particularly concerning rebuttal testimony, “created serious due process issues.” APWU Brief at 23. It asserts that its due process rights were compromised because it had neither an opportunity for written discovery of testimony adverse to its position (surrebuttal testimony) nor an opportunity to submit additional testimony responsive to it. *Id.* at 23, 30. These claims, each previously considered and rejected, are without merit. See P.O. Ruling R2001-1/43 (P.O. Ruling 43), and PRC Order No. 1337, February 27, 2002. In addition, APWU adds to its due process argument the claim that the intervenors’ surrebuttal testimony was too complex to be understood in the time allotted. APWU Brief at 29. Based on its contentions, APWU concludes that if the Commission were to rely on the intervenors’ surrebuttal testimony it could taint the Recommended Decision. *Id.* at 30.

[1025] A careful review of the development of the procedural schedule dispels any notion that APWU’s due process rights have been compromised. Initially, APWU proposed a procedural schedule that would provide it with an opportunity for written discovery of any potential surrebuttal testimony as well as an opportunity to rebut it.⁹ Each of these suggestions was based on a flawed premise, namely, misreading the Commission’s Rules or mischaracterizing the nature of testimony to be submitted in response to its witness. The Presiding Officer rejected both of these suggestions as inconsistent with the Commission’s Rules, finding, *inter alia*, that “Commission practice does not provide for written discovery on surrebuttal testimony.” P.O. Ruling 43 at 4. Furthermore, the Presiding Officer specifically addressed APWU’s characterization of any responsive testimony: “The [surrebuttal] testimony to be filed on February 20, 2002

⁹ American Postal Workers Union, AFL-CIO Initial Reply to Motion of the United States Postal Service for the Establishment of a Procedural Mechanism and Schedule Governing Further Proceedings In Light of the Settlement and Suggestions for Procedural Mechanisms and Schedules, January 24, 2002 at 3-4 (APWU Suggestions).

will be limited to challenging propositions put forward in APWU-T-1. It cannot be characterized fairly as the case-in-chief of any participant.” *Ibid.*

[1026] Prior to hearings on the surrebuttal testimony, APWU moved to strike the testimony of five surrebuttal witnesses on the theory that they were not proper surrebuttal testimony.¹⁰ The Commission denied these motions, concluding that the intervenors’ testimony was directly responsive to witness Riley’s testimony. PRC Order No. 1337, February 27, 2002.

[1027] Tellingly, on brief, APWU merely recites the foregoing procedural history. See APWU Brief at 22-27. Nowhere does it address the substance of POR 43 or Order No. 1337. As the Postal Service correctly argues, APWU makes no attempt either to demonstrate that P.O. Ruling 43 is inconsistent with Commission Rules or to challenge the Commission’s substantive conclusion, in Order No. 1337, that the intervenors’ testimony is directly responsive to witness Riley’s contentions. See Postal Service Reply Brief at 14-15. Rather, its due process claim appears to be reduced to a complaint that it lacked sufficient time to understand the surrebuttal testimony. APWU Brief at 29. This claim is not persuasive.

[1028] By statute the Commission must, as a general rule, issue its recommended decision within ten months after receiving the Postal Service’s rate request. 39 U.S.C. § 3624. As a consequence, omnibus rate proceedings are conducted under exacting timetables that impose arduous demands on all participants. The settlement, too, contained timetables, including the issuance of the Commission’s recommended decision by March 25, 2002. If the Commission fails to issue its decision by that date, signatories may elect to withdraw from the agreement. In addition, that date is critical to early implementation of the proposed settlement rates. The Commission has been told

¹⁰ Motion of American Postal Workers Union, AFL-CIO to Strike Testimony of NAPM Witness Gillotte (NAPM-SRT-2), February 25, 2002; Motion of American Postal Workers Union, AFL-CIO to Strike Testimony of MMA Witness Crider (MMA-SRT-2), February 25, 2002; Motion of American Postal Workers Union, AFL-CIO to Strike Testimony of MMA Witness Bentley (MMA-SRT-1), February 25, 2002; Motion of American Postal Workers Union, AFL-CIO to Strike Testimony of ABA&NAPM Witness Clifton (ABA&NAPM-SRT-1), February 25, 2002; Motion of American Postal Workers Union, AFL-CIO to Strike Testimony of KeySpan Energy Witness Bentley (KE-SRT-1), February 25, 2002.

that action by this date is needed to provide adequate lead time for vendors to write and implement software programs essential to incorporating new rates.¹¹

[1029] These twin considerations shaped the procedural schedule. On the one hand, it had to accommodate timely review of the settlement so that if the Commission concluded that it was not a reasonable basis for a recommended decision, its energies could be focused on the Postal Service's Request in an effort to issue a recommended decision consistent with 39 U.S.C. § 3624. On the other hand, the schedule needed to take into account the implications of a Commission failure to issue its recommended decision by March 25, 2002. P.O. Ruling R2001-1/43 at 2. APWU's procedural suggestions were carefully considered. As it concedes, APWU Brief at 23, P.O. Ruling 43 did adopt several of APWU's procedural suggestions. In the Commission's view, the procedural schedule fairly balanced the need for expedition with the due process rights of all participants.

[1030] In this proceeding, the hearing on surrebuttal testimony commenced six days after the due date for such testimony. This duration, while short, compares favorably with that provided in the last two omnibus proceedings, each of which was fully litigated and involved a significantly greater number of witnesses. For example, in Docket No. R2000-1, hearings on rebuttal testimony began nine days after the submission of testimony and involved the testimony of more than 50 witnesses. P.O. Rulings R2000-1/71 and 1/120. Similarly, in Docket No. R97-1, hearings commenced seven days after rebuttal testimony was filed and involved 35 witnesses. P. O. Rulings R97-1/54 and 1/107. Plainly, the time afforded APWU is comparable to the schedule routinely employed by the Commission in proceedings distinguished by, among other things, substantially greater numbers of issues and witnesses. APWU cannot legitimately claim it has been disadvantaged by a comparable schedule, particularly given the limited scope of the surrebuttal testimony.

¹¹ PostCom Comments and Support of Motion of the United States Postal Service for the Establishment of a Procedural Mechanism and Schedule Governing Further Proceedings in Light of Settlement, January 28, 2002 at 1.

[1031] The surrebuttal testimony that is the focus of APWU complaints is based largely on data in the record and Commission precedent. In light of the limited purpose for which this testimony is intended, and considering the nature of testimony routinely submitted in rate proceedings, none of the subject testimony (Bentley MMA-SRT-1, Bentley KE-SRT-1, and Clifton ABA&NAPM-SRT-1) can be read as overly complex. The purpose of this testimony was to rebut witness Riley's contention, predicated on the Postal Service's new costing methodology, that First-Class discounts exceeded their cost savings. Clearly, given that predicate, the Riley testimony was subject to challenge based on the Commission's existing costing methodology. Unfamiliarity with currently accepted methodologies does not give rise to a valid claim of deprivation of due process.¹²

[1032] APWU's discussion of due process culminates with it cautioning the Commission against reliance on the intervenors' surrebuttal testimony, warning that it "could have the unfortunate effect of tainting the recommended decision to be issued in this proceeding." APWU Brief at 30. The Postal Service effectively rebuts this argument. Postal Service Reply Brief at 15-17. While indicating its disagreement with conclusions drawn by the intervenors, the Postal Service notes that the Commission could recommend the proposed First-Class rates relying on established methodology rather than relying explicitly on witness Miller's results. *Id.* at 17. The Postal Service observes that the Commission could have employed either option even if the subject testimony had not been filed. *Ibid.* Neither case would implicate APWU's due process rights. In any event, as discussed in , the Commission's rejection of witness Riley's rate design does not rest on any complex analyses of alternate costing theories advanced in the intervenors' surrebuttal testimony.

[1033] *Data Issues.* The record as developed to date has identified problems in data used in special studies and the techniques used to analyze data. Witness Bradley

¹² Furthermore, as both MMA and ABA&NAPM contend, APWU's claim of insufficient time is undercut by its failure to participate more actively in the early stages of this proceeding, including discovery of the Postal Service. See MMA Reply Brief at 1-4; ABA&NAPM Reply Brief at 10.

notes that the special studies used to estimate Segment 7 attributable City Carrier Street Time Costs are from the 1980s and dated. USPS T-16 at 12-13. He expresses concern about the accuracy of these estimates, as demonstrated by the high coefficients of variation in estimated values, and acknowledges that the Commission has stated the need for more timely and accurate data and analysis to estimate carrier costs. *Id.*, at 4-5. The Commission reaffirms this desire and endorses the Service's recognition of a need to develop more timely data and analysis of City Carrier Street Time Costs.

[1034] Postal Service witness Schenk has supplied the Commission with a number of FORTRAN programs used to develop Library References USPS-LR-J-58, 59, 83, and 117. However, the Commission's attempt to run these programs on a PC failed due to their incompatibility with a PC-based FORTRAN program and lack of supporting datasets. Subsequently, Chairman Omas asked witness Schenk during her oral cross-examination to provide these FORTRAN programs in a form that could be run on a PC and to include the identification of any special equipment, compilers, applications and instructions that may be required to run them on a PC, or as an alternative, to provide the program in PC SAS. Tr. 5/951.

[1035] Counsel for the Postal Service provided a written response on January 25, 2002, asserting that the Postal Service had used mainframe FORTRAN programs and noted the possibility of translating these FORTRAN programs to a PC-compatible format. The Settlement Agreement has overtaken the need for updating and revising these programs in R2001-1, nevertheless, such revisions would be required in the future. The Commission urges the Postal Service and other parties in any future proceedings to make submissions such as these FORTRAN programs and underlying data available from the outset in a PC-compatible format that can be used with publicly available applications.

[1036] *Miscellaneous Matters.* The Commission issued one Notice of Inquiry concerning proposed changes to the Domestic Mail Classification Schedule (DMCS). See Notice of Inquiry No. 1 Concerning Proposed DMCS Changes, February 1, 2002 (NOI). Briefly, the NOI was occasioned by the Postal Service's proposal to eliminate

from the DMCS the listings of combinations of special services that either must or may be used in conjunction with one another. These proposed revisions to the DMCS were incorporated into the proposed settlement. See Stipulation and Agreement filed December 17, 2001 at 3, n.1. The Commission had recently rejected a similar proposal by the Postal Service, and given its concerns with these deletions, and the limited record evidence in support of them, the Commission issued the NOI to signal its intent to retain the current special services combination listings in lieu of recommending the Postal Service's proposal. NOI at 1-3. The Commission concluded: "This expressed intent does not affect rates in any way, and does not affect classification proposals in the proposed Stipulation and Agreement that concern the substance of any special service. The only intent is to retain the current scope of descriptions of special services in the DMCS." *Id.* at 3.

[1037] The Commission further noted that its decision was necessarily an interim measure since it left unresolved potential inaccuracies in the current DMCS. As an alternative solution, the Commission attached to the NOI revised DMCS provisions that it would consider recommending if participants supported the alternative and there was no substantive objection to its implementation. *Id.* at 4. In addition, the Commission outlined potential ways to revise the DMCS in the future. Parties were invited to comment on each set of proposals.

[1038] The Postal Service essentially preempted the need for parties to comment by filing a notice withdrawing its proposed revisions to the DMCS concerning listings of combinations of special services.¹³ This notice was accompanied by a revised Stipulation and Agreement that, other than withdrawing the Postal Service's proposals, effects no change in the second revised Stipulation and Agreement filed January 17, 2002. See Notice of the United States Postal Service Withdrawing Proposals and Submitting Revised Stipulation and Agreement, February 13, 2002. While it agreed that

¹³ Comments endorsing the types of revisions suggested by the Commission were filed. Office of the Consumer Advocate Comments on Notice Of Inquiry No. 1 Concerning Proposed DMCS Changes, February 21, 2002 at 3-5.

some of the Commission's proposed changes have merit, the Postal Service opposed adoption of those changes in this proceeding, suggesting that it would be more constructive to postpone consideration of various proposals, including its own, to a later date. *Id.* at 3. "Rather than encumber the settlement with these issues," the Postal Service withdrew its proposals affecting special service combination listings and submitted a revised Stipulation. *Ibid.* The revision entails no other changes to the settlement and did not prompt any signatory to withdraw from it.

[1039] The Postal Service's expedient action obviates the need to consider the attachments to the NOI in this proceeding. The Commission looks forward to a thorough exploration of possible changes to the special services sections with the intent to simplify and clarify the DMCS, and otherwise enhance its value to the public.

[1040] A lingering procedural issue, meriting brief comment, is the increasing reliance on protective conditions for the submission of material that, on closer inspection, may not require such treatment. Prior to Docket No. R2000-1, resort to protective conditions was relatively infrequent. Requests for protective conditions accelerated sharply in Docket No. R2000-1, a trend, based on indications in this proceeding, that appears to be unabated.

[1041] Indiscriminate use of this practice burdens the parties and the Commission. It is also inconsistent with public access to data that forms the basis for Commission decisions. Proceedings before the Commission are, as a general rule, open to the public. Exceptions exist for legitimately claimed evidentiary privileges, *e.g.*, involving proprietary or commercially sensitive information. While the Postal Service competes in certain markets, it operates in others pursuant to a statutory monopoly. Privileges that routinely pertain to commercial activities may have far more limited application to Postal Service monopoly activities. The Postal Service should, therefore, be circumspect in its assertion of privilege concerning matters relating to its monopoly. More generally, all participants are cautioned to seek protective conditions only in circumstances where they are clearly necessary.

[1042] Finally, the Commission recognizes that achieving settlement was a Herculean task, straining the resources of all participants. The demands on the Postal Service were particularly intense. The case proceeded along dual tracks, with the Postal Service assuming the lead in settlement negotiations while continuing to meet the heavy demands of litigation. Meanwhile, all levels of Postal Service management were devoting substantial energies to meet the ongoing crisis.

[1043] Intervenors, representing mailers, competitors, postal unions, and the OCA, also deserve special recognition. They put aside self-interest to respond collaboratively to address the unprecedented challenges facing the Postal Service.

[1044] That settlement was achieved is a tribute to each signatory. The Commission commends them for their cooperation, vision, and selfless attitude.