

FORMAL FILES

Docket No. N75-2
Changes in Operating Procedures
Affecting First-Class Mail
and Airmail

SEP 8 1975

MEMORANDUM TO FILES:

The attached Advisory Opinion was sent to all persons on the service cards and the Senate and House Post Office and Civil Service Committees.

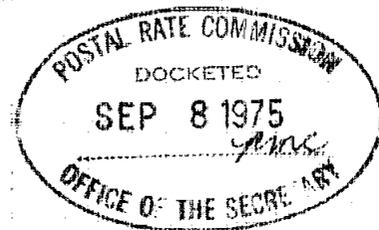
TRANSMITTAL LETTERS (copies attached) sent to:

No. 1 - Benjamin F. Bailar, Postmaster General, USPS

No. 2 - All Parties

cc: OGC

pmc
9/8/75



POSTAL RATE COMMISSION
Washington, D.C. 20268

Office of the Secretary

September 8, 1975

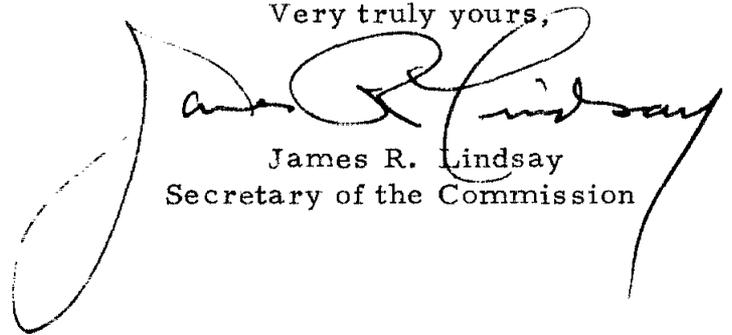
Docket No. N75-2
Changes in Operating
Procedures Affecting
First-Class Mail
and Airmail

TO THE PARTY ADDRESSED

Gentlemen:

There is enclosed, pursuant to §3001.12 of the Rules of Practice and Procedure, the advisory opinion of the Postal Rate Commission on a proposed change in the nature of postal services by the United States Postal Service for Changes in Operating Procedures Affecting First-Class Mail and Airmail, filed in Docket No. N75-2 on May 1, 1975.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read "James R. Lindsay". The signature is written over the typed name and title.

James R. Lindsay
Secretary of the Commission

Enclosure

POSTAL RATE COMMISSION
Washington, D.C. 20268

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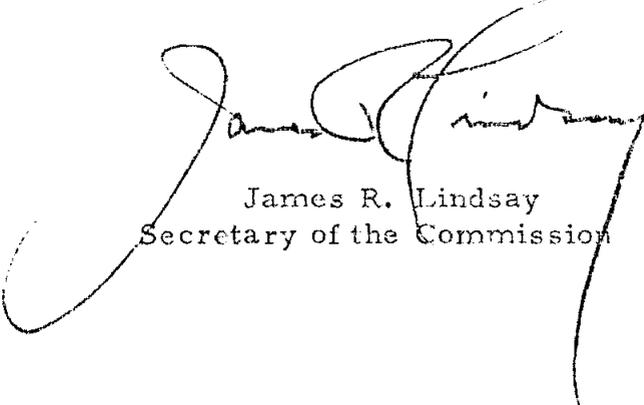
Docket No. N75-2
Changes in Operating
Procedures Affecting
First-Class Mail
and Airmail

Benjamin F. Bailar
Postmaster General
United States Postal
Service
Washington, D. C. 20260

Dear Mr. Bailar:

Pursuant to Section 3601 of the Postal Reorganization Act, the Commission is submitting to the United States Postal Service an advisory opinion on a proposed change in the nature of postal services for Changes in Operating Procedures Affecting First-Class Mail and Airmail, filed in Docket No. N75-2 on May 1, 1975.

BY DIRECTION OF THE COMMISSION



James R. Lindsay
Secretary of the Commission

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UNITED STATES OF AMERICA
POSTAL RATE COMMISSION

Before Commissioners: Clyde S. DuPont, Chairman
Paul A. Miltich; Kieran O'Doherty;
Frank P. Saponaro; Carlos C. Villarreal

Changes in Operating Procedures)
Affecting First-Class Mail) Docket No. N75-2
and Airmail)

ADVISORY OPINION
CONCERNING A PROPOSED CHANGE IN
THE NATURE OF POSTAL SERVICES

Washington, D. C. 20268
September 8, 1975



POSTAL RATE COMMISSION
WASHINGTON, D. C. 20268

Before Commissioners: Clyde S. DuPont, Chairman;
Paul A. Miltich; Kieran O'Doherty;
Frank P. Saponaro; Carlos C. Villarreal

Changes in Operating Procedures) Docket No. N75-2
Affecting First-Class Mail and Airmail)

ADVISORY OPINION

On May 1, 1975, the United States Postal Service (Postal Service or Service) filed a Request For An Advisory Opinion on changes in its operating procedures affecting first-class mail and airmail pursuant to § 3661 of the Postal Reorganization Act (Act).^{1/} 39 U. S. C. §§ 101 et seq. (1970). On May 8, 1975, the Commission issued a Notice of that Request and designated the Assistant General Counsel, Litigation (AGC), to represent the interests of the general public.

The Commission subsequently permitted Dow Jones & Company, Inc., American Business Press, Inc., First Class Mailers Association, and Mail Order Association of America to intervene. Also,

^{1/} Section 3661 provides the following:

"(a) The Postal Service shall develop and promote adequate and efficient postal services.

"(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change.

[Footnote cont'd.]

American Retail Federation, Mr. Kenneth G. Levin, and Post Card Manufacturers Association were permitted to appear as limited participants. A number of informal conferences were held at which time all the parties agreed that it was unnecessary to convene a hearing in this proceeding.^{2/} The parties have also entered into a stipulation which, for the most part, we are adopting and which forms the factual basis for our Advisory Opinion.

[Footnote cont'd.]

"(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title."

2/ The Commission's Rules of Practice, 39 C.F.R. § 3001.18(c), establish procedures for "nonhearing cases." The rules were established pursuant to § 3624(b)(5) of the Act which provides, as follows:

(b) In order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties, the Commission may * * * adopt rules which provide for --* * *

(5) the conduct of the entire proceedings off the record with the consent of the parties.

Since this is the first advisory opinion issued by this Commission, a few preliminary comments concerning procedures are in order. In this regard, we note that 39 U. S. C. § 3661(b) states that the proposal shall be submitted "within a reasonable time prior to the effective date of such proposal." The Postal Service filed this case on May 1, 1975, indicating that it expected to implement its program on August 1, 1975.^{3/} We believe that we have expedited this case to the greatest extent possible, while still affording the parties due process, consistent with the requirements of the statute. In this regard, no hearings were held and the parties were able to settle most of their differences in a stipulated report to the Commission. Yet, even under this expedited procedure, the case was not concluded until the filing of the Service's reply comments on August 8, 1975. The Commission requires sufficient time to hold hearings^{4/} and issue a well-reasoned opinion that will assist the Postal Service in implementing its service programs. What constitutes a reasonable amount of time depends upon

^{3/} On July 23, 1975, the Postal Service notified the Commission that the August 1, 1975 implementation date had been postponed indefinitely. While the Service gave no reason for the postponement, we note that the Service now will have an opportunity to consider our Advisory Opinion.

^{4/} Absent a settlement agreement, § 3661(c) dictates that a hearing be held.

the circumstances of each case, but it seems to us that three months is prima facie unreasonable. After further experience under § 3661, we believe that a rulemaking proceeding would be the proper forum for setting related ground rules. But until that occurs, we request that whenever possible the Postal Service file its § 3661 requests at least six months prior to the proposed implementation of the programs.

We turn next to the substance of the case. Our findings below are taken from the Stipulation and Report (hereinafter cited as Rep. ___) filed on July 29, 1975, and signed by all parties of record. In a few instances, the Commission has modified or deleted parts of that Report from this Advisory Opinion. The findings include a summary of the program as well as the areas of agreement and disagreement among the parties. The Commission's own advisory recommendations follow these findings.

I. SUMMARY OF THE POSTAL SERVICE'S PROPOSAL TO CHANGE THE NATURE OF SERVICE: RELATIONSHIPS BETWEEN FIRST-CLASS LETTER MAIL AND AIRMAIL.

At the present time, the Postal Service provides a programmed one-to-three day service in the continental United States for ordinary first-class mail, in terms of delivery standards published by the Service. Airmail, by contrast, is nominally entitled to a one-to-two day service in the continental United States, in terms of delivery standards

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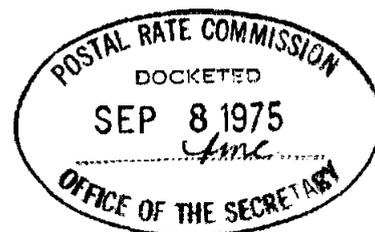
UNITED STATES OF AMERICA
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Changes in Operating Procedures)
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and Airmail) Docket No. N75-2

ADVISORY OPINION
CONCERNING A PROPOSED CHANGE IN
THE NATURE OF POSTAL SERVICES

Washington, D. C. 20268
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on the change.

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published by the Service. The major distinguishing feature of the two services lies in differences in speed of delivery. The Postal Service proposes to change the nature of ordinary domestic first-class mail service from one designed to provide a somewhat slower service, vis-a-vis airmail, to a service designed to provide essentially the same or better service to piece rate and ounce rate items as is currently actually being provided to airmail piece rate and ounce rate items (Rep. 2-3).

Approximately 80 to 90 percent of all stamped and metered airmail items are actually delivered within two days; approximately 25 percent of the stamped and metered volume receives next-day service. Measured achievement for committed overnight airmail service for qualified mail is approximately 70 percent. This committed overnight measured achievement involves mail flowing between the 77 largest cities, forming approximately a "1600 city pair matrix" (Rep. 3).^{5/}

The actual service differences between ordinary first-class mail and airmail exist largely for mail traveling long distances. At present, approximately 16 percent of stamped and metered first-class mail is

^{5/} Overnight service is not provided between every city in the 77 city matrix. (See Direct Testimony of Robert H. Yattaw, p. 3.)

programmed for delivery on the third day, approximately 27 percent is programmed for second-day service, and approximately 57 percent is programmed for next-day service. Under the present service commitments, first-class mail committed for third-day service is, generally, mail traveling the longer distances. Actual service achievement, in relation to service standards, regularly exceeds 90 percent (Rep. 3-4).

In upgrading the quality of service provided to first-class mail, the Postal Service intends to provide second-day service or better to the vast majority of the presently committed third-day mail. Third-day service will remain for mail destined for delivery in certain areas. Those areas either have no air transportation arrivals that will permit completion of incoming operations in time for second-day delivery, or the departures from originating points do not connect with timely flights into those areas (Rep. 4).

In the first phase of the Service's program to upgrade first-class service generally to the level currently achieved by airmail service, mail originating in the 77 largest cities is involved. These offices generate over half of the volume of the Service's first-class mail, approximately half of the volume of airmail, and all of the measured committed next-day airmail volume. Where an average daily volume of approximately 65 thousand pieces of stamped and metered airmail flowing in

the "1600 city pair matrix" received next-day delivery in P.Q. III of FY 1975, the Postal Service intends to provide next-day first-class mail service in that matrix to approximately 50 times that volume. Over 90 percent of the first-class mail originating in these 77 cities will be delivered within two days (Rep. 4-5).

The Postal Service is completing adjustments for similar improvements in service accorded to the first-class mail that originates in other offices performing outgoing distribution of airmail so that first-class mail originating in the other offices will generally receive service equal to or better than the present service actually accorded the airmail originating in these other offices. According to the Postal Service, these plans for their other offices, as well as those for the major 77 offices will be implemented no earlier than one week following the date when notice is given to the public that the service improvement program will be implemented (Rep. 5).

II. ISSUES AND PARTIES' RECOMMENDED DISPOSITIONS.

There are three issues that are significant and merit specific attention, because present airmail users undoubtedly will wish to shift to ordinary first-class mail as soon as this program is implemented. These issues and recommendations are set forth in the parties' Stipulation and Report. The parties' agreements, however, do not reflect all

of the recommendations the Commission believes are appropriate in this case. See, infra, pp. 12-18.

Inventory of Airmail Stationery. First, the public presently has invested sums of money in the distinctive red and blue bordered airmail stationery. It is reasonable to assume these investments are sufficiently large to warrant adoption of a policy designed to insure that present stores of this stationery need not be discarded. While international airmail is not affected by this service improvement program, it does not appear reasonable to ask the public to hold the present stores of airmail stationery for use only on international airmail. The parties believe that the public should be permitted to use this airmail stationery for ordinary first-class mail. The Postal Service has agreed to allow use of this stationery for ordinary first-class mail; items with the distinctive airmail markings bearing postage at the ordinary first-class rate will not be considered short-paid mail. Under this policy, a mail piece with the distinctive markings will be considered to be airmail only if it bears airmail postage. Similarly, business reply mail pieces bearing airmail indicia will be considered to be ordinary first-class mail (Rep. 6).

Exchanging Airmail Stamps. Second, the public has purchased airmail stamps and embossed cards and envelopes bearing airmail postage from the Postal Service. Customers who wish to replace these

items with equivalent but less expensive stamps and embossed cards and envelopes should be permitted to do so at no financial loss, for example, through exchange or revaluation. The Postal Service has agreed to establish procedures concurrently with implementation of the program that will afford such customers the opportunity to trade down to ordinary first-class at no financial loss to the customer (Rep. 7).

The Dual Rate Structure. Third, the primary reason for the existence of the two separate rate categories and two separate rates for ordinary first-class mail and airmail is that each is entitled to different levels of service, measured in speed of delivery. The Postal Service's proposal is intended to eliminate that distinction, for all practical purposes, which calls into question the propriety of continuing the two separate rate categories. However, under the present circumstances, the parties (including the Postal Service) believe it is appropriate to retain the two rate categories for the present time pending an analysis of the results of the program, subject to the following conditions:

FIRST: Public Notice of Change. The parties, including the Service, agree that the public should be advised that, upon implementation of the Service's program to upgrade first-class mail service, payment of airmail postage on domestic items will not result in service that is any faster than would be received were ordinary first-class postage paid. The objective of the service improvement program is to pro-

vide essentially the same level of service to both airmail and ordinary first-class mail. On implementation of the service improvement program any remaining airmail in the system will receive the same service as ordinary first-class mail receives. All reasonable efforts should be taken to assure the public is so advised. The Postal Service plans extensive public service and other media announcements, both local and national, as well as information dissemination by window clerks, customer services personnel, and Post Office lobby notices.

All parties other than the Postal Service agree the Postal Service should supplement its publicity efforts with a mailing to postal customers, similar to that made under the Service's mail-early Christmas programs. Such a mailing would advise postal customers not only of the features of the service improvement program, but in particular that use of airmail postage will not result in faster service. The Postal Service objects on the grounds that the users of airmail will be adequately informed without such a mailing, and that expenditures for such a mailing, estimated to exceed one-half million dollars merely for paper and printing, are excessive in these circumstances (Rep. 7-8).

SECOND: Future Action on Dual Rate Anomaly. All parties agree that the existence of two separate rate categories (ordinary first-class and airmail) should continue for no longer than is absolutely necessary when each rate category is receiving essentially the same level of service.

The parties also agreed that steps should be taken to eliminate this anomaly following a reasonable opportunity to implement the program and to assess its service achievement. The Postal Service agrees that within 9 months from the date of implementation, the program will be evaluated to determine whether the upgraded service to first-class mail has been sufficiently successful to warrant further action to eliminate the anomalous situation. This is an acceptable response to the requirement that two separate rate categories, receiving the same service, continue for no longer than is absolutely necessary (Rep. 8-9).

Accordingly, within 9 months the Postal Service promises to take affirmative action to address the anomaly, based on an assessment of (1) whether the program has succeeded in increasing the speed of delivery for first-class mail to the point where a need for the presently constituted airmail service no longer exists, (2) whether additional steps should be taken to improve the speed of delivery for first-class mail, and (3) whether some form of separately processed mail, such as an express service, is warranted (Rep. 9).

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III. COMMISSION'S ADVISORY RECOMMENDATIONS.

While we have accepted the participants' stipulation as the basis for our Advisory Opinion and a statement of what the Postal Service is willing to undertake at this time (see "conditions," supra pp. 9-11), our recommendations would go further in some areas. As a preliminary matter, the goal of expediting the processing of first-class mail is laudable, and the Postal Service should be encouraged to implement changes in operating procedures affecting any class of mail whenever changes can be made which will improve the service received by that class of mail without adverse impact upon the mail-using public.

However, we agree with the AGC and other parties that the Postal Service's notice proposal is inadequate in both its timing and scope.

Since first-class mail will be receiving the same service now accorded airmail, we see no reason why the public should be buying airmail stamps during this phase of the program. At least thirty days notice should be given the public since it seems plausible to assume that people ordinarily buy stamps in sufficient quantity to last a reasonable length of time. While no evidence has been submitted concerning the buying habits of the stamp-consuming public, nevertheless one week's notice appears insufficient to prevent the unnecessary use of airmail stamps.^{6/} With respect to the type of notice

^{6/} The public also needs the additional time to exchange preprinted cards and envelopes and stamps.

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given, we are sympathetic with the viewpoint that a mailing to postal customers is the method best designed to reach all the mailing public. However, under the circumstances, we are not convinced that such a mailing is cost justified.^{7/} As noted (supra, p. 10), the estimated cost is in excess of one-half million dollars for paper and printing alone. It would appear that proper notices in all post offices, combined with press and media announcements, would be sufficient to apprise the public of the new program and would be a reasonable solution to the problem. Consequently, we are recommending that, at a minimum, large signs should be placed in all post offices, indicating clearly that it is no longer necessary to purchase airmail stamps, and that mail clerks should be instructed to notify every patron attempting to purchase airmail stamps that use of those stamps will not result in service faster than ordinary first-class mail.^{8/} These public notices and instructions to clerks should also be designed to inform mailers that (1) distinctive

^{7/} Of course, the Postal Service should consider the possibility of combining its notice of this program with its regular notice in the mail-early Christmas program.

^{8/} Although the Postal Service has agreed to post notices in post office lobbies and disseminate information via window clerks, the exact nature of the notice and information is undisclosed. The signs and the clerks should affirmatively state that there is no need to use airmail stamps, not merely that airmail will receive the same service as ordinary first-class mail.

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airmail stationery may be used for ordinary first-class mail, and (2) that preprinted airmail cards and envelopes and airmail stamps may be exchanged.

Additionally, the Commission is concerned about the anomalous and inappropriate condition that will exist when the Postal Service implements its proposal. Two separate classes will exist--first-class and airmail--which offer exactly the same service, but which have entirely different rates. While we can appreciate the Service's reluctance to request a classification change until it evaluates the results of this new program, it does appear that a de facto classification change will have taken place as airmail is phased out. We do not reach the question of whether this de facto change would be consistent with the mail classification provisions of the Act. 39 U.S.C. § 3623. That question may be raised at a future time, but our concern in this regard dictates that we monitor this program until such time as the Postal Service determines what action is required to address the anomaly.

This brings us to the question of what data, if any, the Postal Service should be requested to file with the Commission, and, concomitantly, the broader issue of the nature and scope of a § 3661 proceeding, and the Commission's responsibilities in connection

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therewith. The AGC takes the position that whenever a proposal of this magnitude is made, the Commission and interested parties should be able to examine detailed cost data which will show the projected cost and revenue effect of the proposed change on the separate classes of mail as well as the Postal Service as a whole.^{9/} The Postal Service, on the other hand, claims that § 3661 proceedings are service oriented and that cost considerations are irrelevant unless they are significant, citing Buchanan v. United States Postal Service, 508 F.2d 259 (5th Cir. 1975) (See USPS Reply Comments, August 8, 1975). Furthermore, it is argued that § 3661 proceedings can only focus on the nature of the change in services and that other factors, such as the fact that airmail will no longer be processed separately, is of little or no concern to the public.

^{9/} The AGC also attempts to build a case for the proposition that the Postal Service's net revenue position will be improved as a result of implementation of the program, based on cost data taken from AGC exhibits in MC73-1. It is not appropriate to consider such data for a number of reasons. First, these data are untested by the hearing process. Second, there is no showing as to which costs attributed to airmail are fixed and will remain after airmail is eliminated. In any case, however, we assume that the Postal Service believes that in the long run there will be a cost-revenue benefit resulting from this program or else the Service would not be embarking on it. We take the Postal Service's statement that the net revenue effect will be negligible as a characterization of the short-term results of this program.

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We begin by rejecting any implication that Buchanan, supra, prevents the Commission from examining the cost and revenue effects of a service change. The Court's language that § 3661 only applies to "changes of significance" is not material to this issue since the Postal Service has mooted the question of "significance" by requesting an advisory opinion. It is admitted that a significant change will take place. Furthermore, to argue that cost and revenue considerations are irrelevant is to ignore the raison d'etre of this agency--its ratemaking and mail classification functions. The Commission must not take a narrow view in considering a § 3661 request. It must examine the effects on rates and classification of the change in service.^{10/} Moreover, the Postal Service's managers--including the Governors--would normally be expected to need a cost analysis of major changes for their own evaluation before deciding upon an implementation program. While the Postal Service may be correct that no significant cost changes are involved here, its position in

^{10/} The Commission is also not bound by the Postal Service's characterization of this case--the omission of the word "airmail" from the Postal Service's caption does not shift the emphasis of the program from airmail to first-class. We note that the Postal Service's filings fail to conform to the way the Commission has captioned this case: "Changes in Operating Procedures Affecting First-Class Mail and Airmail." Instead, the Postal Service has characterized the program as a "Change in the Nature of Ordinary First-Class Mail Service."

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that regard prejudices the question. Until there are cost, revenue, volume and service data showing the impact of the program, neither we nor the Service's management can know whether there will be significant financial impact.

Accordingly, we are requesting that the Postal Service provide quarterly data to the Commission on days-to-delivery for first-class mail and airmail as well as data on the revenue, pieces and weights of first-class mail and airmail which flow through the postal system during the test period. Additionally, the Postal Service is requested to file data on relevant cost, revenue and volume changes resulting from the changes in operating procedures, as it becomes available.

Finally, we wish to emphasize that our request for data is not an attempt to infringe on management prerogatives or second-guess management decisions. It is in this belief, and in our desire to fulfill our statutory obligations, that we recommend these procedures.

Wherefore, the Commission recommends:

(1) That the Postal Service's proposed changes in operating procedures affecting first-class mail and airmail be implemented.

(2) That at least one month prior to implementation of the program the Postal Service should install notices in all post offices that there will be no service difference between airmail and first-class,

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and that, even if airmail-bordered envelopes are used, it is unnecessary to use airmail stamps. Window clerks receiving requests for airmail stamps should be instructed to give out the same information. The Postal Service should also give any other notice through the media and the press that is appropriate. In addition, adjustments should be available to mail patrons holding airmail stamps or airmail-embossed cards and envelopes, if they so desire.

(3) That Postal Service cost, revenue, volume and service data should be furnished to the Commission on a regular basis, as noted above, supra pp. 16-17. Furthermore, any interim evaluations of this program should be provided to the Commission as they are prepared.

(4) That within nine months of the implementation of the service changes, the Postal Service shall provide the Commission with its final evaluation of the program and an indication concerning the steps ^{11/} to be taken to eliminate the airmail/first-class dual rate anomaly.

^{11/} If, at the end of the experimental nine month period, it is determined that a need for the presently constituted airmail service no longer exists, we expect the Postal Service to file a request for classification change under § 3623. Of course, such a filing would show how the classification change satisfied the § 3623(c) criteria. In the event of such a filing, we will permit the Postal Service to incorporate by reference all or part of the record in this case, as appropriate.

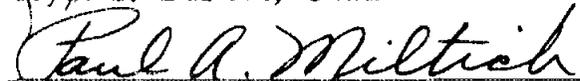
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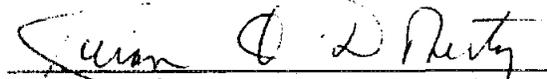
By the Commission.

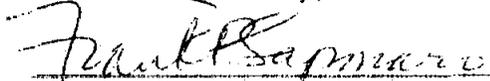
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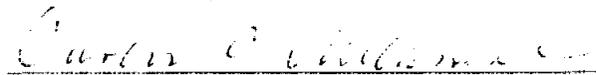
Each of the undersigned Commissioners, pursuant to § 3661(c) of the Postal Reorganization Act, certifies that in his judgment the opinion conforms to the policies established under title 39, United States Code.


Clyde S. DuPont, Chairman


Paul A. Miltich, Commissioner


Kieran O'Doherty, Commissioner


Frank P. Saponaro, Commissioner


Carlos C. Villarreal, Commissioner