

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Tony L. Hammond, Vice Chairman;
Mark Acton;
Dan G. Blair; and
Nanci E. Langley

Notice of Price Adjustment and
Classification Changes Related to
Move Update Assessments

Docket No. R2010-1

ORDER REVIEWING PRICE ADJUSTMENT AND CLASSIFICATION CHANGES
RELATED TO MOVE UPDATE ASSESSMENTS

(Issued November 25, 2009)

I. INTRODUCTION AND SUMMARY

On October 15, 2009, the Postal Service filed with the Commission a notice announcing its intention, pursuant to 39 U.S.C. 3622 and 39 CFR part 3010, to establish a Move Update assessment charge for First-Class Mail.¹ The Notice prescribes related pricing and classification information. It also announces classification changes which revise the way the Move Update assessment is applied to Standard Mail. The Postal Service intends to implement these changes on January 4, 2010.

The Commission approves the proposal, in part, and rejects it, in part. It approves the application of the 7-cent Move Update Assessment Charge to Presort

¹ United States Postal Service Notice of Market Dominant Price Adjustment and Classification Changes, October 15, 2009 (Notice).

First-Class Mail mailings that fail the Performance Based Verification (PBV) test and cannot demonstrate compliance with Move Update requirements. Similarly, it approves the Move Update Assessment Charge for Standard Mail. The Commission rejects the proposal to apply single-piece First-Class rates to Move Update noncompliant Standard Mail mailings. The Move Update Noncompliance Charge of 7 cents per piece remains the approved charge for Standard Mail noncompliance.

Parties express a variety of concerns and frustrations with respect to the proposal. While the Commission authorizes the proposed rate structure, it urges the Postal Service to consider alternatives which may accomplish its Move Update objectives in a more equitable fashion.

Most parties appear to support the Postal Service's efforts to improve address quality and reduce undeliverable-as-addressed mail. The Move Update program is designed to achieve these goals. Developing clear standards to achieve those goals would not appear to be insurmountable. Many parties, however, express frustration with the procedures announced by the Postal Service, *e.g.*, involving specific types of moves, false positive failures, and combined mailings. The Commission is sympathetic to these views, yet notes the Move Update Assessment charge serves a legitimate purpose. Given the contrasting views, it is imperative that the standards used to enforce the Move Update Assessment Charge and the Move Update Noncompliance Charges be reasonably clear prior to implementation of the proposed Move Update fees.

Finally, while several parties urge rejection of the proposal, the Commission is not persuaded that rejection is warranted. In the end, the parties have not shown the proposal to be unlawful. Moreover, if the proposal were rejected, the Postal Service may, at its discretion, implement more taxing Move Update Noncompliance Charges. Operational issues with respect to standards would presumably persist. In that regard, concerns over the PBV process are operational in nature. With respect to those operations, the Postal Service is entitled to some leeway in the acceptance process. That is not to suggest, however, that arbitrary or inconsistent application of the potential

charges is acceptable. To the extent that any mailer believes that charges are being imposed inappropriately, relief may be sought via the Commission's complaint process. See 39 CFR part 3030.

The Postal Service filed follow-up materials to the November 12, 2009 technical conference providing additional guidance on documentation to support claims of compliance. While the information is useful, the Commission reiterates that the Postal Service should take the necessary steps to ensure that its standards on whether a given address will pass or fail are plainly stated and clearly known to mailers.

II. POSTAL SERVICE FILING

Background. In Docket No. R2009-2, Notice of Market Dominant Price Adjustment, filed February 10, 2009, the Postal Service provided notice that, at acceptance, Standard Mail mailings that fail a Move Update verification would be assessed an additional 7 cents per piece for each piece in the mailing. No change was proposed for Presort First-Class Mail, which has long been subject to Move Update verification, paying the single-piece rate on all pieces in a noncompliant mailing. In March 2009, the Postal Service notified the Commission of its decision to delay the implementation of the Standard Mail Move Update assessment until January 2010. *Id.* at 2-3.

Price and classification description. In this docket, the Postal Service proposes to revise Move Update assessments at acceptance. First, the Postal Service indicates that the 7-cent per-piece Move Update assessment will be applicable to First-Class Mail. *Id.* at 3.

Second, for both First-Class Mail and Standard Mail, the Postal Service intends to apply the Move Update assessment to a smaller percentage of a mailing (above an established tolerance) than was previously proposed in Docket No. R2009-2.² At acceptance, a sample of mail will be used to calculate the ratio of addresses that the mailer failed to update based on customer-supplied Change of Address orders, to the number of Change of Address orders on record. If the ratio is above the specified tolerance, an assessment would apply based on the percentage of the sample above this tolerance. In this proceeding, the Postal Service proposes to use a tolerance of 30 percent which, stated otherwise, is equivalent to a threshold of 70 percent. The Postal Service indicates that it intends to reduce the tolerance over time after providing appropriate public notice. *Id.* at 3-4.

Revenue. The Postal Service estimates that 0.096 percent of Standard Mail volume will be subject to the assessment. This would result in an estimated \$4.6 million in additional Standard Mail revenue. This estimate is a downward revision from the \$7 million estimated revenue provided in Docket No. R2009-2. *Id.* at 4.

The Postal Service estimates that 0.136 percent of presorted First-Class Mail volume will be subject to the assessment. This would result in an estimated \$4.4 million in presorted First-Class Mail revenue. This is less than what would have been paid at the full single-piece rate. *Id.* at 4-5.

Mail Classification Schedule. The Postal Service proposes Mail Classification Schedule (MCS) language to add the 7-cent per-piece assessment to the appropriate First-Class Mail sections and to change Standard Mail sections. Language changes are also proposed to indicate that the application of the assessment is only to a percentage of the pieces that fail a Move Update verification. In addition, the Postal Service changes the name of the charge from “Move Update Noncompliance Charge” to “Move

² The Postal Service indicates that these assessments are applicable only to customers who certify that their mail meets Move Update requirements. Customers who do not certify that their mail meets Move Update requirements or are determined not to have met the requirements are subject to single-piece First-Class Mail prices on all pieces in the mailing. *Id.* at 2, n.1.

Update Assessment Charge.” The Postal Service states that the change is intended to indicate that PBV by itself does not establish compliance or noncompliance with Move Update standards. *Id.* at 5.

Impact on the price cap. The Postal Service asserts that the proposed adjustments have no impact on price cap issues. Therefore, it makes no calculation of cap or price changes described by rule 3010.14(b)(1) through (4). For First-Class Mail, the Postal Service explains that the new price represents a price decrease. Previously, First-Class Mail that failed a PBV test would pay the First-Class Mail single-piece rate which is greater than the newly proposed 7-cent per-piece assessment. Furthermore, the Postal Service contends that the adjustments are outside of the annual CPI-cap price change, and that the Commission’s price cap rules do not specifically address the case of a price decrease. For Standard Mail, the Postal Service argues that cap compliance calculations are even less appropriate. Thus, the Postal Service asserts that the adjustments have no impact on price cap issues. *Id.* at 5-7.

Statutory objectives and factors. The Notice further provides, in compliance with rules 3010.14(b)(5) through 3010.14(b)(8), the Postal Service’s assessment of how the planned program helps achieve the objectives of 39 U.S.C. 3622(b) and properly takes into account the factors of 39 U.S.C. 3622(c). *See generally id.* at 8-12.

With respect to statutory objectives, the Postal Service concludes that the price adjustment and classification changes do not substantially alter the degree to which First-Class Mail and Standard Mail prices already address the statutory objectives, or how they are addressed by the design of the system itself. It argues that by mitigating the assessments, the proposed changes reflect the Postal Service’s use of pricing flexibility (Objective 4) to address mailer concerns, and at most, only cause a slight decrease in revenue while still providing proper incentives (Objective 5). The Postal Service argues that high quality service will improve by encouraging use of Move Update (Objective 3). Finally, parallel assessment of 7 cents per piece for both First-Class Mail and Standard Mail is transparent and keeps administration of the assessment simple (Objective 6). *Id.* at 9.

In terms of statutory factors, the Postal Service asserts that, as with the objectives, the price and classification changes do not substantially alter the degree to which First-Class Mail and Standard Mail address the factors of 39 U.S.C. 3622(c). The Postal Service asserts that the Move Update adjustments will encourage mailers to adopt Move Update while reasonably taking the impact of price changes into account (factors 3 and 7). The Postal Service uses the adjustments as an example of enhancing operational efficiency by reducing undeliverable-as-addressed mail through the use of customer supplied Change of Address orders (factors 7 and 12). Finally, the Postal Service contends that the adjustments should not materially affect the cost coverage of either First-Class Mail or Standard Mail (factor 2). *Id.* at 12.

Workshare discounts. The Postal Service asserts that the Move Update assessment revisions do not constitute a change to workshare discounts. The Postal Service states that all passthrough values should be similar to those reviewed in Docket No. R2009-2. *Id.* at 12-13.

Preferred rates. The Postal Service contends that the program will have no impact on preferred rates in Standard Mail, and is not expected to affect the 60 percent ratio between nonprofit and commercial Standard Mail prices. *Id.* at 13.

III. COMMENTS

Eight parties filed initial comments.³ The most extensive comments were filed by the consortium of the Association for Postal Commerce, Direct Marketing Association, and Association of Nonprofit Mailers (PostCom, *et al.*). Their comments raise the largest number of issues. Two parties, National Association of Presort Mailers and

³ Comments of the Association for Mail Electronic Enhancement, November 4, 2009 (AMEE Comments); Comments of the Association for Postal Commerce, Direct Marketing Association, Inc. and Alliance of Nonprofit Mailers, November 4, 2009 (PostCom, *et al.* Comments); Comments from Data-Mail, November 4, 2009 (Data-Mail Comments); Comments of Major Mailer's Association, November 4, 2009; Comments of National Association of Presort Mailers on Order No. 318, November 4, 2009, and Notice of Errata of the National Association of Presort Mailers, November 5, 2009 (NAPM Comments); Comments of the National Postal Policy Council, November 3, 2009 (NPPC Comments); Comments of Pitney Bowes Inc., November 5, 2009 (Pitney Bowes Comments); and Comments of the Public Representative, November 4, 2009.

Data-Mail, endorse the comments of PostCom, *et al.* NAPM Comments at 13; Data-Mail Comments at 1.

Following the technical conference held November 12, 2009, the Postal Service submitted additional materials for the record.⁴ PostCom, *et al.* filed supplemental comments in response to these materials.⁵

In addition, the Postal Service responded to Chairman's Information Request No. 1.⁶

Price Cap compliance. PostCom, *et al.* assert that the Postal Service has failed to demonstrate that the rate changes for First-Class and Standard Mail are not a rate increase that violates the price cap. PostCom, *et al.* Comments at 18-21. According to PostCom, *et al.*, "[b]ecause the Postal Service imposes new, unavoidable penalties, it imposes an effective price increase on First-Class and Standard [M]ail at a time when the current CPI permits no increases." *Id.* at 18. (Footnote omitted.) PostCom, *et al.* urge the Commission to reject the rate changes. Pitney Bowes expresses similar concerns, but does not ask for rejection. Pitney Bowes Comments at 3.

Verification procedure. Most comments are directed at the techniques proposed by the Postal Service for verifying that mailers have updated their address lists as required. PostCom, *et al.* assert that "the Postal Service has failed to disclose many of the most critical rules and definitions that will determine whether a given address will pass or fail." PostCom, *et al.* Comments at 3. The primary problem identified by PostCom, *et al.* is the existence of "[i]nconsistencies between the MERLIN/PBV database and the Move Update databases that the Postal Service requires mailers to

⁴ See Follow-up Materials Related to November 12, 2009 Technical Conference, November 13, 2009 (Follow-Up Material); and Additional Item of Follow-up Material Related to November 12, 2009 Technical Conference, November 16, 2009.

⁵ Supplemental Comments of the Association for Postal Commerce, Direct Marketing Association, Inc. and Alliance of Nonprofit Mailers, November 23, 2009 (PostCom, *et al.* Supplemental Comments).

⁶ Response of the United States Postal Service to Chairman's Information Request No. 1, November 3, 2009, and Notice of Supplement to Response of the United States Postal Service to Chairman's Information Request No. 1, November 9, 2009.

use....” *Id.* Some examples of inconsistency include the treatment of pieces addressed to closed post office boxes or to residents who have moved and left no forwarding address. *Id.* at 9. There are four approved methods for meeting Move Update requirements. However, the MERLIN/PBV method is fully consistent with only one of the four. *Id.* at 12. Difficulties also arise when a single member of a family moves, but the Move Update software assumes the entire family has moved. *Id.* at 6. “[M]ailers with mailings that have been subjected to Performance Based Verification testing report inconsistent results from consecutive mailings to the same address; these errors were not attributable to an intervening move.” *Id.* at 11.

Tolerance level. Some parties argue that the formula that the Postal Service proposes to use to calculate a tolerance level produces illogical results. For example, the fewer Change of Address orders on file in a particular sample, the more difficult it is for a mailing to stay under the tolerance level. According to PostCom, *et al.*

Th[e] definition of the error rate bears no relationship to the percentage of undeliverable as addressed mail . . . in the mailing as a whole. Assume, for example, a mailing consisting of 100,000 pieces, from which a sample of 1,000 pieces is drawn for the MERLIN/PBV test. Of the 1,000 sampled pieces, assume that 12 have addresses identified in the MERLIN/PBV database as changed, and six of those changes having been implemented in the sampled addresses. Six unimplemented address changes out of 1,000 addresses is an error rate of 6/10 of one percent—a low error rate, and one clearly below current Move Update thresholds. Under the proposed ‘tolerance’ limit, however, the mailing would have a ‘failure’ rate of 50 percent ($6 \div 12$), a failure rate that would exceed the 30 percent tolerance threshold by 20 percentage points.

Id. at 8.

Mail Classification Schedule. Several parties comment on the Postal Service’s intent to reduce the 30 percent tolerance level without, apparently, first filing notice of the change with the Commission. For example, PostCom, *et al.* complains that “[l]owering the tolerance level, for instance, would drastically increase the number of mailers that fail to meet the PBV standards and thus must pay the Move Update Assessment Charge. Such a change would be tantamount to a rate and classification

change in its own right, and must be subject to Commission review.”⁷ NPPC complains that if the tolerance level is tightened, mailers will need to incur significant expense and will need substantial lead time to comply. NPPC Comments at 6.

IV. COMMISSION ANALYSIS

The Postal Service’s filing raises several issues which, broadly, may be identified as follows: (1) price cap compliance, (2) application of charges, (3) rate structure, and (4) MCS language. Each is addressed in turn below. Preliminarily, however, a brief discussion of current Move Update charges is appropriate.

A. Current Move Update Charges

First-Class Mail. Compliance with Move Update standards has long been required for mailings to qualify for First-Class Mail presort rate categories; mailings not Move Update compliant have been subject to paying higher single-piece rates on the entire mailing. The Move Update Noncompliance Charge approved for Standard Mail in Docket No. R2009-2 does not apply to First-Class Mail.

Standard Mail. In November 2008, the Postal Service changed mail preparation standards to include a requirement that Standard Mail mailings comply with Move Update standards. Consequently, customers not in compliance with Move Update standards would be ineligible for Standard Mail rates, and would be charged First-Class Mail single-piece rates on the entire mailing.

In Docket No. R2009-2, the Postal Service proposed to establish a 7-cent per piece Move Update noncompliance charge in Standard Mail so that customers who fail to meet the Move Update standard would not be required to pay First-Class Mail single-

⁷ *Id.* at 30-31; see also PostCom, *et al.* Supplemental Comments at 14-15.

piece rates.⁸ This new charge, which the Postal Service styled as an increase and which would apply to the entire mailing, was scheduled to take effect May 11, 2009.

The Commission approved this proposal in Order No. 191.⁹ Subsequently, the Postal Service indicated that it would postpone implementation of the new noncompliance charge from May 11, 2009 to January 4, 2010.¹⁰ The deferral, which had price cap consequences, was approved by the Commission.¹¹

B. Price Cap Compliance

The Postal Service contends that compliance with the price cap is not implicated by its proposal because, with respect to First-Class Mail, the assessment charge represents a decrease in rates, and with respect to Standard Mail, the proposal “does not include any price increases.” Notice at 6. Parties take issue with the Postal Service’s characterization of the price changes as decreases, arguing that application of a new fee to First-Class Mail represents a price increase and that, in any event, the Postal Service has failed to submit sufficient data to determine compliance with the price cap. See PostCom, *et al.* Comments at 18-22; PostCom, *et al.* Supplemental Comments at 12.

Given the current rate adjustment authority, rate increases would not be allowable under the CPI-U cap.¹² However, in this case, the Postal Service states that it is seeking to reduce prices, not to increase them. Notice at 6.

⁸ See Docket No. R2009-2, United States Postal Service Notice of Market-Dominant Price Adjustment, February 10, 2009, at 18.

⁹ PRC Order No. 191, Docket No. R2009-2, Order Reviewing Postal Service Market Dominant Price Adjustments, March 16, 2009, at 55-56 (Order No. 191).

¹⁰ See Docket No. R2009-2, Notice of United States Postal Service of Filing Amended Notice of Market Dominant Price Adjustment, March 26, 2009, at 2.

¹¹ PRC Order No. 201, Docket No. R2009-2, Order Approving Revisions in Amended Notice of Market Dominant Price Adjustment, April 9, 2009, at 3-5.

¹² The CPI-U available when the Postal Service filed its proposal in September was -0.713 percent. For Standard Mail, the banked authority is 0.103 percent, resulting in an allowable price increase of -0.610 percent for First-Class Mail, the allowable price increase is -0.669 (-0.713 + 0.044).

First-Class Mail. The proposal does not represent a price increase for First-Class Mail. Currently, Move Update noncompliant Presort First-Class Mail is subject to an assessment equal to the single-piece rates on each piece in a mailing. At the technical conference, the Postal Service clarified that Move Update Assessment Charges paid at acceptance would be refunded if the mailing was subsequently shown to comply with Move Update requirements. In other words, only Move Update noncompliant mailings are ultimately subject to the assessment charge. The current assessment equal to single-piece rates for every piece in a mailing is greater than the application of the Move Update Assessment Charge to a portion of the mailing. Therefore, under the proposal, a lower assessment charge would be applied to a portion of Move Update noncompliant Presort First-Class Mail, while leaving prices for all other mail unchanged.

The Postal Service has not provided the information necessary to determine the size of the decrease. However, it does not seek what would presumably be an upward adjustment of banked rate authority as a result of the price reduction.

Standard Mail. The Postal Service proposal for Standard Mail in its current form may result in an impermissible rate increase. Under the proposal, noncompliant mailings are subject to two charges, a 7-cent charge on a portion of the mailing, and potentially an alternate charge equal to First-Class Mail single-piece rates on the entire mailing.¹³

The application of a 7-cent assessment for failing the PBV test poses no difficulties with regards to the cap. The charge is assessed on a smaller percentage of the pieces in the failed mailing based on the formula described in previous sections of this order. This 7-cent charge would apply only to a portion of the pieces in the failed mailing as opposed to every piece in a noncompliant mailing. Therefore, the revised 7-cent charge represents a rate decrease.

¹³ As noted above, the charges are not additive.

The Postal Service also proposes to assess single-piece First-Class Mail rates on all the pieces in mailings of customers who do not certify that they meet the Move Update requirement or are determined not to have met this requirement. The Postal Service states that “Performance Based Verification does not by itself establish compliance or noncompliance with the Move Update standards.” *Id.* at 5. It also states that mailings that do not meet the Move Update requirement will be subject to single-piece First-Class Mail prices. *Id.* at 2, n.1. The Postal Service appears to assume that it is still authorized to apply single-piece First-Class Mail rates to noncompliant mailings of Standard Mail. The implicit assumption is unfounded.

In Docket No. R2009-2, the Commission approved the 7-cent Move Update noncompliance charge for Standard Mail. Order No. 191 at 55-56. That change supplanted application of First-Class Mail single-piece rates to noncompliant Standard Mail as imposed by the Postal Service as of November 2008. Thus, assessing single-piece First-Class Mail rates for Move Update noncompliant Standard Mail would constitute a price increase. The Postal Service fails to demonstrate that the proposed changes comply with the cap. Moreover, data are not available for the Commission to determine cap compliance independently. Therefore, it cannot be determined if the decrease in the Move Update Assessment Charge outweighs the increase in the Move Update noncompliance charge.

Consequently, the Commission rejects the proposal to apply single-piece First-Class Mail rates to Move Update noncompliant Standard Mail mailings. The Commission approves the Move Update Assessment Charge for Standard Mail mailings that fail the PBV test and cannot demonstrate compliance with Move Update requirements. The Move Update Noncompliance Charge of 7 cents per piece remains the approved charge for Standard Mail noncompliance.

Modified as described above, the proposal results in the reduction of prices for some Move Update noncompliant mail, while the prices for all other mail remain unchanged. The Commission finds that the modified price changes do not violate the CPI-U price cap.

C. Application of Charges

Several parties express concern that the Postal Service's proposal does not clearly define the distinction between the conditions that subject a mailing to Move Update Assessment Charges and those that would subject it to the steeper penalties associated with a finding of noncompliance. See Pitney Bowes Comments at 2; NPPC Comments at 10-12; AMEE Comments at 3; MMA Comments at 2-3; and Data-Mail Comments at 3-4. Discussions at the technical conference helped to elucidate the Postal Service's position somewhat, but the Commission finds that the proposal lacks clarity as to which charge would be assessed to a mailing that fails the PBV test and for which the mailer cannot show compliance with Move Update standards.

Under the proposal, a mailer appears to be at risk that two charges may be imposed on the same mailing for the same reason, *i.e.*, for being Move Update noncompliant. While the charges are not cumulative, there appears to be uncertainty when (and if) the Move Update Noncompliance Charge would supersede the Move Update Assessment Charge. Each charge serves a legitimate purpose. To distinguish between these charges, the Commission finds that the Move Update Noncompliance Charge is limited to mailers who demonstrate a lack of good faith effort to comply with the Move Update requirements. Failures to adhere to non-Move Update requirements would continue to be subject to applicable postage rates and/or other penalties.

In its follow-up materials, the Postal Service elaborated on the PBV process, noting, among other things, that a mailer's past performance would be taken into account. "PBV accordingly focuses verification on mail preparers who submit inadequately prepared mail, while reducing verification performed on mail of preparers who consistently submit adequately prepared mail." Follow-Up Materials at 3. Focusing on those submitting demonstrably inadequately prepared mail is reasonable. Mailers who consistently submit inadequately prepared mail are at risk of being charged Move Update Noncompliance Charges. The lack of good faith effort standard should apply to those mailers.

The Commission is confident that this standard can be applied reasonably. Where mailers can demonstrate their good faith attempt to comply with Move Update requirements, only the Move Update Assessment Charge would apply. When remedial efforts fail and problems persist, the mailer is subject to Move Update Noncompliance Charges.

D. Rate Structure

The Postal Service's proposal uses a formula to determine which mailings are subject to the Move Update Assessment Charge, and to calculate the portion of the mailing that the charge is to be applied. The formula is based on "the ratio of the addresses that the mailer failed to update based on customer-supplied Change of Address orders, to the number of addresses with Change of Address orders on record. If this ratio is greater than the tolerance, an assessment would be applied based on the percentage of the sample above the tolerance." Notice at 3. (Footnote omitted.)

NAPM and PostCom, *et al.* express several concerns with this formula. Because it uses Change of Address orders on record as the denominator, mailings that are addressed to lists with fewer Change of Address orders on file have a smaller margin for error in terms of the absolute number of non-updated addresses. This leads to the counterintuitive result of placing the strongest emphasis of the incentive to comply with Move Update on the mailings that exhibit the fewest address problems. NAPM Comments at 5-6; and PostCom, *et al.* at 8.

The formula also calculates the portion of the mailing subject to the assessment charge using the ratio of non-updated addresses to Change of Address orders on file. Therefore, the total charges applied to a mailing do not directly relate to the number of non-updated addresses in the mailing. PostCom, *et al.* present examples showing that the share of a mailing to which the assessment charge is levied can, in many cases, far exceed the share of the mailing with non-updated addresses. They cite case law in support of their argument that this result, as a significant diversion of rates from the

costs that result from noncompliance, is unjust and unreasonable. PostCom, *et al.* Comments at 22-29.

The table below presents an example of how the Postal Service’s formula can result in the diversion of rates from the driver of Postal Service costs (non-updated addresses). It compares two similar mailings, one with 2,000 non-updated addresses and another with 1,600 non-updated addresses. It shows the potential for a “cleaner” mailing to be assessed with significantly higher charges (\$2,380 vs. \$700).

Revenue from Move Update Assessment (Examples)
(Bold figures are inputs that vary by scenario)

Total Mailing Volume	100,000	100,000	100,000	100,000
Sample	1,000	1,000	1,000	1,000
Change of Addresses on File (for Sample)	50	50	25	25
Change of Addresses Not Updated (in Sample)	16	20	16	20
Percentage of Change of Addresses Not Updated (in Sample)	32%	40%	64%	80%
Tolerance	30%	30%	30%	30%
Percentage of Mailings Subject to Surcharge	2%	10%	34%	50%
Non-updated Addresses in Mailing	1,600	2,000	1,600	2,000
Pieces Assessed with Surcharge	2,000	10,000	34,000	50,000
Amount of Surcharge	\$ 140	\$ 700	\$ 2,380	\$ 3,500

The Postal Accountability and Enhancement Act (PAEA) of 2006 grants the Postal Service considerable pricing flexibility in the design of rates and allows for a very brief pre-implementation review of price changes by the Commission. As the Commission has noted before, the pre-implementation review of price changes typically must focus on specific (often quantitative) statutory limitations on the Postal Service’s pricing flexibility, due to the time limits and the inherent complexity of resolving disputes over the more general (often qualitative) limitations. Commission rule 3010.13(j)

reflects this dichotomy. See Order No. 43 at 13, n 8.¹⁴ In the instant case, the Commission is not persuaded that the fee structure is unlawful.

Nonetheless, the Commission is concerned that the formula for determining the amount of the mailing to be assessed is not well designed to achieve the Postal Service's stated goals of "enhanc[ing] operational efficiency by reducing Undeliverable As Addressed (UAA) mail" and reducing Postal Service costs. See Notice at 12. A more equitable approach would appear to be the alternative suggested by PostCom, *et al.* whereby the surcharge would be applied only to the portion of the mailing with non-updated addresses. PostCom, *et al.* Comments at 27. This modification would likely also require other aspects of the assessment to be modified as well, *e.g.*, the fee and tolerance levels.

The Commission encourages the Postal Service to continue to work with mailers to refine the application of the assessment charge with the goal of relating the size of the assessment with the number of non-updated addresses in the mailing. This would more closely align the rate incentive with the mail characteristics that drive Postal Service costs. Nevertheless, these weaknesses in the design of the Move Update Assessment Charge do not compel the Commission to reject the proposal.

E. Mail Classification Schedule

The Postal Service indicates that it intends to reduce the 30 percent tolerance "as necessary to ensure that address quality improves (after providing the appropriate public notice)." Notice at 4. Several parties oppose the Postal Service's implied suggestion that it may unilaterally reduce the tolerance level, arguing that any reduction would represent a rate increase (and classification change) requiring Commission review. See, *e.g.*, PostCom, *et al.* Comments at 29-31; and Pitney Bowes Comments at 3.

¹⁴ Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

The Postal Service indicates that prior to any change, it would provide appropriate public notice. While the forum in which the notice would be given is not specified, given the nature of the Move Update Assessment Charge and recognizing that any reduction in the tolerance may affect the relevant mails' average revenue per piece (and thus have an impact on the cap), the Commission finds that any such changes shall be filed with the Commission for its review.¹⁵

Turning to the proposed draft MCS language, the Commission, in the interest of transparency, will give effect to the changes proposed in this docket by incorporating their threshold eligibility requirements, *i.e.*, the fee assessed and the tolerance level, in the MCS. Moreover, codifying the tolerance in the MCS language preserves the opportunity for parties to make arguments about the applicability of the price cap to future changes in the tolerance level at the time such changes are proposed by the Postal Service. Specific language is discussed below.

For First-Class Mail, the list of price categories and the list of prices for the Presorted Letters/Cards, Flats, and Parcels products in the draft MCS will read as follows. For each product, "Move Update Assessment Charge" will be inserted in the list of price categories, and the following description will be added to the list of prices:

Move Update Assessment Charge

Add \$0.07 per assessed piece, for mailings with less than 70 percent of mailpieces passing a Performance Based Verification at acceptance and which cannot demonstrate compliance with Move Update requirements.

For Standard Mail, the list of price categories and the list of prices for each product in the draft MCS will read as follows: "Move Update Assessment Charge" will

¹⁵ While the Postal Service characterizes its Standard Mail proposal as representing a classification, not price change, it nonetheless argues that "the effect of the classification change is to lower the amount of postage that mailers subject to the assessment must pay...." Notice at 7, n.7. Stated otherwise, the Postal Service is effectively proposing a decrease in rates. In essence, the Postal Service introduces a tolerance level which gives rise to the decrease. Conversely, it would appear that any subsequent change in the tolerance would, for the same reasons, represent a change in rates that may or may not have cap compliance implications.

be inserted in the list of price categories and the current “Move Update Noncompliance Charge” will remain in the list.¹⁶ The following language, which adds the description of the Move Update Assessment Charge and retains description of the Move Update Noncompliance Charge will be included in the list of prices for each product:

Move Update Assessment Charge

Add \$0.07 per assessed piece, for mailings with less than 70 percent of mailpieces passing a Performance Based Verification at acceptance and which cannot demonstrate compliance with Move Update requirements.

Move Update Noncompliance Charge

Add \$0.07 per piece in a mailing that does not comply with the Move Update standards.

V. DATA COLLECTION

The parties express concerns about the application of the PBV test and the appeal process. The Postal Service’s responses do not appear to have adequately ameliorated those concerns. The Postal Service indicates that the Move Update program is designed to encourage compliance with cleaner addresses, and is not intended as a source of revenue. To determine if the program is working as intended, the Commission will require certain details of the program to be reported for the first year in which the program is operational. Thereafter, details should be available in the annual compliance review. The following items are to be reported no later than 30 days after the passage of (a) six months from the date of implementation of the changes, and (b) one year from the date of implementation of the changes. Figures are to be reported separately for First-Class Mail and Standard Mail.

¹⁶ The Noncompliance Charge, which applies to every piece in Move Update non-compliant mailings, shall apply to mailings for which no good faith effort to comply with Move Update Standards was made.

- An estimate of the number of mailings potentially subject to PBV testing;
- Number of mailings actually tested by PBV;
- Number of mailpieces in mailings tested by PBV;
- Average size of samples tested by PBV;
- Number and volume of mailings that fail PBV testing, and number of pieces assessed with the Move Update Assessment Charge;
- Number of appeals of PBV failed mailings;
- Number of successful appeals of PBV failed mailings, identifying the number of mailings that used each of the approved Move Update methods to achieve compliance;
- Number and volume of mailings assessed with single-piece postage for First-Class Mail presort noncompliance; and
- Number and volume of mailings assessed with the Move Update Noncompliance Charge for Standard Mail noncompliance.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Commission adopts a 7-cent Move Update Assessment Charge for Presort First-Class Mail and Standard Mail as described in the body of this Order.
2. The Commission rejects application of single-piece First-Class Mail rates to Move Update Noncompliant Standard Mail as described in the body of this Order.
3. The Commission adopts the Mail Classification Schedule language set out in the body of this Order.

4. The Commission adopts the data collection plan set out in this Order.

By the Commission.

Shoshana M. Grove
Secretary