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

EXIGENT REQUEST, 2010	Docket No. R2010-4

COMMENTS OF THE
THE NEWSPAPER ASSOCIATION OF AMERICA
(August 16, 2010)

The Newspaper Association of America ("NAA")[1] hereby submits these comments on the Postal Service's unprecedented request under the Postal Accountability and Enhancement Act of 2006 ("PAEA") for permission to impose rate increases that substantially exceed inflation. For the reasons stated herein, NAA:

- Opposes the Postal Service's proposed exigent rate increases because the statutory requirement of "extraordinary or exceptional circumstances" is not met; and
- Supports the Postal Service's proposal to extend the "volume incentive" proposal in Standard commercial flats to include High-Density flats as well as Saturation flats.

The Postal Service's request in this case rests, at bottom, on the decline in mail volume that it has experienced during the recent economic recession, coupled with financial obligations created for it by Congress in the form of overpayments towards its Civil Service Retirement System obligations and requirements to prefund its retiree health benefits. NAA is working with other

[1] NAA represents the interests of nearly 2,000 newspapers in the United States and Canada. Its members account for nearly 90 percent of the daily newspaper circulation in the United States and a wide range of non-daily U.S. newspapers. NAA members use all classes of mail, including First Class Mail, Periodicals mail, and Standard mail.

mailers to urge Congress to rectify the statutory funding obligations, which alone could save the Postal Service more than $5 billion annually, and which would make this case entirely superfluous.

Insofar as the Postal Service's filing stems from the loss of mail volumes over the past two years, however, NAA submits that it should not be looking to mailers to ante up even more money. First, since R2005-1, mailers have already paid some $3.1 billion annually, first into an escrow for CSRS obligations and subsequently towards the retiree health benefit fund.

Second, the reason that the Postal Service has had less volume in the past two years is simple – mailers have mailed less due to economic conditions. In the case of newspapers, the entire industry saw substantial declines in advertising revenue, which meant less advertising both in the newspaper and in mailed "Total Market Coverage" ("TMC") programs reaching non-subscribers. Today, newspapers continue to focus intensely on efforts to increase revenue and cut costs. Unfortunately for the Postal Service, the higher postage rates in recent years caused many newspapers to cut costs by shifting newspaper products and efforts away from the mailstream into other delivery options, including private delivery.[2]

NAA has devoted significant resources in recent years to encouraging newspapers to make more use of the mail, and to educating the Postal Service on how newspapers can be valuable business partners. Over the past decade,

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[2] The 2009 postage increase posed particular problems for newspapers, because (as noted in more detail in Section II below) the new Standard Mail rates conferred a significant rate advantage on Saturation mailers that compete with newspapers in the market for the delivery of local advertising.

newspapers greatly expanded their use of Standard Mail, especially the High-Density and Saturation flats categories, for delivery of their TMC advertising products to households that do not subscribe to the newspaper. Raising postal rates at this time, however, could undo much of these gains. The Postal Service could hardly think of a more counter-productive strategy than the current case, in which it proposes to raise rates by an average of 5.6 percent (approximately five times the rate of inflation), including increases of 8 percent for both the Within-County and Outside County Periodicals rates paid by newspapers and above-inflation increases for the Standard Enhanced Carrier Route flats product.

At a time when all mailers are facing continuing economic storms, raising postal rates by fivefold times the rate of inflation will do little but increase the pressure on publishers to move mail away to alternate delivery. NAA has little faith that the Postal Service's volume forecasting methodologies, which rely on trends over six years, have correctly adjusted to the new economic environment spawned by the recession. NAA believes that the Postal Service's volume forecasts are overly optimistic, and that if the proposed rate hikes for Standard Enhanced Carrier Route flats and Periodicals are implemented, the volumes of those products would fall by more than the Postal Service expects.

The statutory predicate for the extraordinary relief of exceeding the rate cap – "extraordinary or exceptional circumstances" – does not exist. A loss of business due to an economic recession may be painful and difficult, but it is not "extraordinary or exceptional." Accordingly, the Commission cannot approve the rate increases. However, the Commission can and should approve the proposed modification to the Standard Mail volume incentive program, which would have the effect of both retaining existing newspaper mailings and encouraging new mailing initiatives.

I. AN "EXIGENT" RATE INCREASE IS NOT THE SOLUTION TO THE POSTAL SERVICE'S FINANCIAL PROBLEMS

The purpose of rate cap regulation is to provide the regulated entity with an incentive to operate efficiently. When Congress in the PAEA directed the Commission to replaced cost-of-service regulation with a more modern rate cap regime, it did so against a long history of the Postal Service's chronic inability to operate in a cost-efficient manner. Over the course of many years, the Postal Service developed a network that has too many facilities to handle the foreseeable volumes in an efficient manner, and has a staff that, while appropriately and commendably reduced from its peak, still accounts for far too large a share of the Service's operating costs.

At the same time, Congress recognized, as is customary in price cap regulatory regimes, that in rare and drastic circumstances it may be necessary to raise rates by amounts larger than the CPI cap. For this reason, it crafted an exception, allowing (but not requiring) the Postal Service to seek to raise rates by amounts in excess of the rate cap "in extraordinary or exceptional circumstances" where the resulting rates are "reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management" to maintain and develop the postal services needed by the nation. 39 U.S.C. §3622(d)(1)(E).

A recession, even one as painful as the recent U.S. recession, is not what Congress meant by “extraordinary” nor “exceptional.” It is simply a fact of business life with which all commercial entities, whether newspapers or the Postal Service, must deal. Nor can the financial problems associated with the obligation to prefund the retiree health benefits be considered extraordinary or exceptional – indeed, they were mandated by Congress in the PAEA itself and mailers have been paying $3.1 billion annually towards those costs since Docket No. R2005-1. The legislative history demonstrates that Congress contemplated a drastic event and abnormal event, such as the anthrax attacks or a September 11-type event. This was recently summarized by Sen. Susan Collins (R-Maine) in her letter to the Commission in this proceeding. Letter from Sen. Susan M. Collins to Ms. Shoshana Grove, Docket No. R2010-4 (August 9, 2010). Obviously nothing of that nature has occurred.

Instead of raising rates, NAA believes that the Postal Service’s financial difficulties require a legislative solution. To this end, NAA is working with other mailers for appropriate legislative reforms. NAA supports the elimination of the retiree health benefits prefunding requirement, relief from the CSRS overpayment, and better aligning of facilities with needs.

II. NAA SUPPORTS EXTENDING THE VOLUME INCENTIVE IN STANDARD MAIL TO HIGH-DENSITY MAIL

NAA supports the Postal Service’s proposal to extend the Standard Mail volume incentive program to High-Density flats mail.

A. Extending The Standard Mail Volume Incentive To High-Density Flats Is In The Public Interest

As the Commission has long understood, newspaper Total Market Coverage programs compete directly with saturation mailers in the delivery of advertising to homes. Newspapers deliver ads through a combination of in-paper delivery to subscribers and by mail delivery to nonsubscribers. TMC mailings to nonsubscribers pay either High-Density or Saturation rates, depending upon the density on a particular route. The rate paid for a particular route can vary from week to week as subscription levels change or as the Postal Service alters routes.

The Saturation mail volume incentive program introduced by the Postal Service in May 2009 conferred saturation mailers with an unwarranted competitive rate advantage over newspaper TMC programs. Newspaper TMC programs that primarily used High-Density rates, and had few Saturation-rated mailings, were effectively ineligible. As a consequence, they saw the Saturation mailers with which they competed enjoy a substantial price advantage, up to 39 percent in some circumstances.[3] Newspapers believed that this rate advantage hurt the Postal Service by encouraging third-party advertising inserts to shift from newspaper TMC mailings (at High-Density rates) to Saturation mailers (at lower postal rates). That would result in less revenue for the Postal Service and transferred mail, not organic growth.

[3] Under the 2009 incentive, "new" flats weighing less than 3.3 ounces entered at a DDU paid 10.2 cents after the "credit," 6.6 cents *less* than a High Density flat of the same weight.

The Postal Service now proposes to extend the volume incentive currently in effect for Saturation flats mailers to High-Density flats. That expansion will substantially improve the rate incentive program by making it available to newspaper TMC programs as well as for Saturation mailers. Most importantly, it provides a potentially valuable incentive to retain newspaper TMC programs in the mailstream, both by establishing a rate incentive for TMC programs to increase their use of the mail and by also narrowing the discriminatory rate advantage that Saturation-rated mail has enjoyed over High-Density mail.

In addition, newspaper TMC programs will also enjoy the flexibility offered by the revised program to qualify either their High-Density and Saturation rate mailings, or both, for the incentive program. This flexibility has the potential to make the program attractive to a larger number of newspapers, which can only benefit the Postal Service.

Accordingly, NAA urges the Commission to approve the Postal Service's proposed changes to the Standard Mail volume incentive program. And, as noted above, the Commission may do so regardless of how it disposes of the request for an exigent rate increase.

B. The New Standard Mail Rate Incentive Should Be Approved Regardless Of How The Commission Decides The Exigency Request

The Postal Service's proposal to extend the Standard Mail volume incentive program to High-Density flats is a mail classification proposal that legally can stand independently of the exigent rate request. The improved incentive program can and should take effect regardless of the Commission's disposition of the exigent rates request.

Although the improvements to the Standard Mail volume incentive program are included in the request for approval of exigent rate increases, the exigent rates are not necessary for the volume incentive improvements to take effect. Changes to the mail classification schedule for market-dominant products may be filed at any time, and are subject to section 3020.30 of the Commission's rules. 39 C.F.R. §3020.30. That provides specifies the information that the Postal Service must provide in support of its proposed change.

In its Request and the supporting statement of Mr. Kiefer, the Postal Service has provided the required information. *See Exigent Request* at Attachment A & Statement of James M. Kiefer. In particular, the Postal Service has identified the product as required by section 3020.31 of the rules and provided supporting justification required by section 3020.32. The Commission has provided the appropriate public notice and solicited public comment. 39 C.F.R. §3020.33. Accordingly, NAA submits that the Postal Service had made a sufficient showing for the proposed modification, and that it should be approved regardless of whether the Commission approves the proposed exigent rate increases.

IV. CONCLUSION

For the foregoing reasons, the Newspaper Association of America respectfully asks the Commission not to approve the proposed "exigent" rate changes, but to approve the proposed modification to the Standard Mail volume incentive extending eligibility to High-Density flats.

Respectfully submitted,

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