

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

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SPECIAL SERVICES REFORM, 1996

Docket No. MC96-3

OPPOSITION OF UNITED STATES POSTAL SERVICE TO
NASHUA PHOTO INC. AND MYSTIC COLOR LAB MOTION
TO ENLARGE SCOPE OF PROCEEDING FOR CONSIDERATION OF
CLASSIFICATION MODIFICATION WITH RESPECT TO BUSINESS REPLY MAIL
(July 24, 1996)

The United States Postal Service hereby opposes the July 15, 1996, Nashua Photo Inc. and Mystic Color Lab Motion to Enlarge Scope of Proceeding for Consideration of Classification Modification with Respect to Business Reply Mail (Motion). The Postal Service's Request in this docket embodies the Board of Governors' judgment concerning the rate and classification objectives that are desirable and feasible at this time, given the Postal Service's financial and business goals and policies, its current and future operations, and the available information concerning the categories of mail and special services for which changes are being sought. In this regard, the Board has chosen to limit the current proceeding to selected special services, not including business reply mail (BRM). As a matter of reasonable interpretation of the ratemaking scheme, as well as a very important practical matter, this proceeding should not be permitted to be used to pursue any proposal that might be advocated by a participant, simply because it might fall within the broad grouping of special services. In other words, this docket is not, nor was it ever intended to be, the equivalent of an "omnibus special services rate case." Furthermore, as discussed below, the Postal Service has already begun a comprehensive review of its BRM program within the broad context of its operational, financial, and business policies. That undertaking is still ongoing and has not yet

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produced specific conclusions or objectives. At the least, consideration of the Nashua Photo Inc. (Nashua) and Mystic Color Lab (Mystic) proposal in this proceeding would be premature, and would risk interference with the expeditions and efficient evaluation of the objectives that as a matter of policy the Board has chosen to pursue at this time.

Nashua and Mystic urge the Commission to expand the current docket to consider a proposal to create a new category of business reply mail (BRM).¹ This new BRM category would be for "non-automatable bulk" BRM. Motion at 4. Presumably, BRM recipients would qualify for the new category if they "have developed systems to handle large volumes of incoming non-automatable mail," so that the Postal Service avoids manual handlings for the counting, rating, and billing needed for BRM. Motion at 2. Nashua and Mystic recognize that "the Postal Service's request does not encompass any reclassification of BRM." Motion at 5. Nevertheless, they suggest that under the general rubric of "special services reclassification" this proceeding should become a vehicle for pursuing their particular proposal.

The Commission should not expand the current docket to consideration of proposals that are unrelated to those requested by the Board of Governors. The Postal Reorganization Act (Act), as codified, clearly leaves within the Postal Service's discretion the decision to seek recommended decisions on particular proposals to

¹ Currently there are three categories of BRM. Customers who do not have an advance deposit account pay a fee of 44 cents per piece. Customers with a BRM advance deposit account pay a 10-cent fee, unless they qualify for the BRMAS category, with its 2-cent fee. That fee is limited in the Domestic Mail Classification Schedule (DMCS) to customers who prepare "prebarcoded" BRM envelopes, and is intended for mail that can be processed using BCS machines equipped with BRMAS counting, rating, and billing software.

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change "a rate or rates of postage or in a fee or fees for postal services" or "changes in the mail classification schedule." 39 U.S.C. §§ 3622, 3623. Notwithstanding the Commission's authority to submit recommendations on changes in the classification schedule on its own initiative, the mere fact that the Postal Service has submitted a specific, and particularly a limited request, should not be interpreted as a license to convert a proceeding into a vehicle for changing any rate or classification that a participant, but not the Postal Service, advocates. Even in an omnibus rate case, when the Postal Service typically proposes changes in all rates and fees, or a broad classification case such as Docket No. MC95-1, the Commission has in the past recognized the sound practical and policy reasons for needing to restrict consideration of issues relating to rates and classifications generally. In this docket, where the Postal Service has requested changes in only a limited set of special services, proposals to change mail classifications or special services that the Postal Service has chosen *not to include within its request, such as business reply mail and First-Class Mail*, should be beyond the scope of the proceeding. As a practical, as well as a legal matter, the mere circumstance that the Postal Service has not chosen to seek revisions of BRM at this time, and regards addressing such matters as premature, could result in a situation where an underdeveloped record constructed after much effort would result in a Commission recommendation on a classification change that would only be rejected by the Governors as an unauthorized rate recommendation, or as a classification recommendation that as a matter of policy they are unwilling to consider at this time.

Alternatively viewed, Nashua's motion to enlarge the scope of this proceeding does not satisfy the criteria the Commission has established for determining whether the scope of a proceeding includes changes to an existing mail classification for

which no substantive changes have been proposed in the Request. In Docket No. MC95-1, the Commission denied a motion by UPS to extend the scope of discovery to transportation and delivery costs for the Priority Mail subclass.² The Commission reasoned that the case already involved complex issues affecting numerous mailers and mail-related industries; the Postal Service had not proposed substantive changes to Priority Mail; and the Postal Service had indicated that it was developing proposals for Priority Mail in other dockets.

An evaluation of these factors in the instant proceeding weighs against Nashua's motion. First, this proceeding already involves complex issues pertaining to various users of several special services other than BRM. Indeed, support for the post office box classification and fee changes is complex in and of itself, with 7 witnesses providing related testimony. Additionally, unlike BRM, which involves interactions between customers and the Business Mail Acceptance and mail processing units of the Postal Service, all of the proposals here are predominantly sold through retail outlets. Second, the Postal Service has not requested any changes in BRM classifications or rates. Rather, this proceeding involves a set of discrete proposals to a selected number of other special services. Finally, as explained in the Statement of United States Postal Service on Plans for Business Reply Mail Reform (Statement), filed July 19, 1996, the Postal Service has indicated that it has begun a comprehensive review of its BRM program. The Postal Service is thus developing BRM reforms separately, and plans to be in a position to take appropriate action later this year.

² Order Denying UPS Motion to Compel, Order No. 1064, Docket No. MC95-1 (June 30, 1995).

Furthermore, BRM issues, if similar to those in previous dockets, should be expected to be contentious and could significantly delay these proceedings. Significant concerns about the non-BRMAS category have rarely been raised in Commission proceedings, particular in the specific context raised by Nashua and Mystic, so this whole area might raise novel issues, or issues well beyond the scope of the Postal Service's limited request.

Limiting the scope of the current docket does not leave Nashua and Mystic without relief. Nashua and Mystic state that "[t]his is the only reclassification case for special services that the Postal Service has indicated it would file this year, or in the foreseeable future." Motion at 5. However, the Statement opens the possibility that there soon will be a BRM reclassification case. Even if the Postal Service does not propose the new classification sought by Nashua and Mystic, a docket in which some BRM changes are proposed would likely extend to the Nashua and Mystic proposal.

It would therefore be premature to consider BRM issues in this docket. Data needed to consider the merits of BRM reclassification are not yet available, but are expected to be developed during the coming months. Moreover, the Postal Service would need to consider issues such as the administrative difficulties and costs for approving the handling and accounting systems that would qualify for the Nashua and Mystic classification, and whether a different category should instead be established, such as for all bulk BRM, whether non-automatable or automatable. A proceeding initiated by the Postal Service for a completely different set of purposes should not be artificially transformed into a vehicle designed to induce the Postal Service to make such practical and policy choices prematurely.

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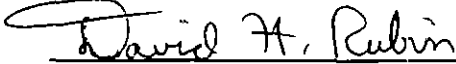
For the foregoing reasons, the Postal Service requests the Commission to deny the motion of Nashua and Mystic to expand the scope of this docket to include their BRM proposal.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

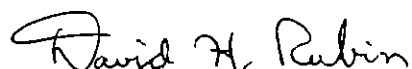


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July 24, 1996

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



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