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BEFORE THE

POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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SPECIAL SERVICES FEES AND CLASSIFICATION]

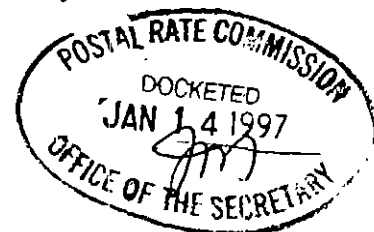
DOCKET NO. MC96-3
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

BRIEF

1. David B. Popkin, a limited participant in the above referenced Docket, hereby submits his Brief to the Commission.
2. This case appears to be unique in the cases that I have participated in. It appears to me that the United States Postal Service has not provided any cost data to justify their proposed request for a rate increase. It just appears that they have chosen a number of special services and raised the rates in them selectively because they perceive that the public will find that the value that they receive will be worth the additional price. The new rates appear to have been chosen at the whim of the pricing witness. Some of the rate increases are associated with what the Postal Service claims will be an enhanced service. This is a specious claim since the Postal Service does not appear to be interested in service, only the added revenue that can be developed.
3. The members of the mailing public, as a captive audience, must be protected against the arbitrary increases being proposed.
4. I will discuss each of the proposals being made by the Postal Service.

NON-RESIDENT POST OFFICE BOX FEE

5. This proposal is probably the most controversial fee being proposed by the Postal Service. The Postal Service is proposing a \$36.00 additional fee per year for boxholders who are non-residents of the office at which the box is held. This fee is arbitrary, Witness Needham picked the \$3 a month fee because \$1 and \$2 a month didn't sound like they were enough. No cost data has been provided to indicate whether or not there will be additional cost to provide the service to non-residents over residents. The fee is discriminatory. The United States Postal Service appears to be overlooking its responsibility to serve all the residents of the United States. Where will the Postal Service institute another non-resident fee? Will it be to buy stamps at other than your own post office; will it be to send mail to other than one's own post office? What will be next? It appears that the Postal Service is making an assumption that non-residents will be more likely to want or need their box and therefore are a good source of added revenue.



6. If the Postal Service is claiming that non-resident boxholders are a source of problems, one can wonder why they are promoting individuals to obtain box service at their place of business [an office likely to be one which would require payment of the non-resident fee] as noted in Publication 201, Consumer's Guide to Postal Services and Products [July 1996].

7. Witness Needham attempts to show that Arlington and Fairfax Counties in Virginia charge extra or give discounts which benefit the resident over the non-resident. Witness Needham fails to indicate whether the operating fees cover all of the operating expenses of the activity. She also fails to relate the costs involved with the building and maintaining of the infrastructure utilized with the activity. In any case, it is the object of county governments to provide services to residents of their county. The United States Postal Service is established to serve all of the residents of the United States.

8. Witness Landwehr attempted in his testimony to show the problems that were related to serving non-resident box holders. His testimony related a number of anecdotal stories about alleged problems such as requiring more custodial labor related to cleaning up after non-residents who open their mail in the lobby. Following numerous interrogatories and cross examination at the hearing, it was indicated that no study [neither of residents vs. non-residents nor the costs that might be related to them] was even done for the four post offices listed in the testimony let alone any attempt at showing that what was observed at these four offices might be representative of the remainder of the country.

9. It is noted that the Postal Service is not consistent in their proposals and actions. It would have been interesting to see the Postal Service "attack" their own witness Landwehr in a matter similar to their objections raised when the Niagara Telephone Company made a proposal for a local delivery rate in several previous omnibus cases and did not do a full countrywide study.

10. Seven months into this case and the Postal Service has yet to establish anything that resembles an indication of how this proposal will be implemented should it be approved. As Chairman Gleiman indicated, the Commission is being asked to accept a "pig in a poke". Even though there have been two status reports following the original testimony, the method of implementation is still well up in the air. Participants in this Docket have been forced to base their activity on a vague, undefined, and ever changing proposal.

11. There are still many anomalies and holes in this proposal. How will the proposal be applied to boxholders who are not individuals? All of the implementation activity seems to be associated with individual boxholders. How will it apply to businesses? Can a business obtain a "resident" box at any post office where they have a business facility located or where they have an officer residing? Can an officer or employee obtain a personal box at his business location? How will it apply to clubs and other organizations? Can they obtain the box where they have at least one member residing?

12. How will the rate be implemented when subsequent status changes take place? These changes can be both those which are under the control of the boxholder as well as those which are not under the control

of the boxholder. One's box rent can change just because of a change in postal facilities is made by the Postal Service. Once established, will a boxholder be required to continually meet the residency requirements?

13. The proposed proximity rule adds more confusion. Is the distance measured on an airline basis or on a road travel basis? Does the change in the specific postal facility [all of which would have the same finance number] from which delivery is made change the distance to which I would be able to utilize to pick a nearer facility? For example, my residential letter carrier was moved a few months ago from the main post office [about one mile away] to the annex post office [about two miles away]. Which distance would apply and will it change with a condition which was not under my control? Furthermore, airline or driving distances may not be representative of convenience.

14. What is the significance of the change between the first and second status reports of utilizing finance numbers rather than post offices? Will this eliminate boxholders utilizing boxes at mail processing facilities? The use of finance numbers rather than post offices will be confusing to the public since it is an internal postal number.

15. The use of the same finance number still leads to many anomalies and inconsistencies. Residents of Wake Island are some 1900 miles away from their parent post office of Honolulu, HI. Coldfoot is a branch of the Fairbanks AK office and is some 150 airline miles away. What about all of the "No Office Points" that are located in Alaska?

16. How is the resident of a non-delivery office established? The proposal which would allow a "resident" of Alpine NJ [a nearby non-delivery office] to obtain a resident box at San Luis AZ makes no sense whatsoever. How is residency determined for those individuals who reside beyond any existing rural or city delivery route? Residents who have rural carriers from two or more post offices pass by their residence are at the mercy of the Postal Service to pick which route will serve them and therefore be the one where the resident box fee may be obtained. This is another case where a change may be made by the Postal Service which is not under the control of the boxholder.

17. The requirement for 30 continuous days to establish residency at a second location can lead to unfair conditions. One could qualify with only 8.22% of the year [a single 30-day stay] and not qualify with 96.71% of the year [a missed day after each 29-day stay]. Being away from a primary residence for 30 continuous days or more can also introduce exclusions in one's homeowners insurance policy.

18. Leaving it up to local postmasters to make the determination of resident vs. non-resident will only lead to more confusion and uneven implementation. A nationwide implementation policy is needed and, as I believe everyone will agree by now, it is becoming very difficult to achieve.

19. This proposal is discriminatory, confusing, and still has not been well thought out. Granting this request would appear to be in conflict with Title 39, United States Code, Section 403[c] which prohibits the Postal Service from rates and fees which make undue and unreasonable discrimination among users of the mails.

BOX RENT INCREASE

20. The Postal Service proposes significant increases in box rental rates. This is independent of the resident / non-resident question and is being proposed to apply to all boxes at city delivery offices. There has been no cost data provided to justify the need for increasing the rates. The Postal Service's rationale seems to be that their rates are well below those charged by CMRAs and that boxholders receive value from their box. The Postal Service fails to take into account the difference between their own box service and that which is provided by a CMRA. This should be very obvious to the Commission. If the CMRAs are able to charge the rates that they are in areas where there is no shortage of Post Office boxes, it should be obvious that they are not providing the same service as the Postal Service. If they were, they would have no customers. Since they have customers, the Postal Service cannot compare their service with that which is provided by a CMRA. It may be similar, but it is not the same [some of these differences might be greater access, the ability to call in to determine receipt of mail, the use of a physical address, greater privacy, and the ability to send and receive other carrier's services]. Since there are higher rates charged by CMRAs, it would appear that they are just taking advantage of their boxholders and raising their rates. The Postal Service also fails to take into account that they are saving money by providing box service over other forms of delivery.

21. It is noted in the December 6, 1996 letter to all Postmasters and Station Managers from the Manager Retail Products and Services [part of the Post Office Box Awareness Campaign Materials - Library Reference SSR-162] states, in part, "Currently, we're considering the option of adjusting P.O. Box rates to better reflect the cost of doing business. This may mean an increase in rates." This letter would appear to be misleading since there was no cost data provided in these proceedings to show the "cost of doing business" and I hope that the "may mean an increase in rates" relates to the Postal Service's realizations that the request may not be approved by the Commission.

22. The changes to the quarter-mile rule [which is a half-mile for the smallest offices] needs revision to meet the Postal Service's claim that all residents of the United States will be provided one free method of obtaining delivery.

23. The Postal Service claims that they will utilize the extra box rent money to provide for an increase in box service. There is no guarantee that this will take place. There is no indication that the extra money which is received from boxes which are located at facilities which have sufficient boxes will be utilized for box service. There is no effort to improve the level of box service so as to keep the lobbies of Post Offices open whenever there are employees on duty in the facility. There is no effort to keep lobbies open at other times to improve the level of service. This is nothing more than get the money and cut the costs. There is no effort to improve the service.

FEE FOR POSTAL CARDS

24. The Postal Service proposes to charge a two-cent fee for the actual postal or stamped card [in addition to the postage]. While the cost of processing stamped cards is less than for post cards and whether or not the fee should be one or two cents might be argued. However, the bottom line with this proposal is plain and simple, selling postal or stamped cards at other than the price of the stamp imprinted on them is in violation of Section 1721 of Title 18 of the United States Code.

25. On August 6, 1996, I filed a motion to dismiss this request for a two-cent fee. This was denied by the Commission on September 11, 1996. The law appears to be very plain and clear on its face. The Postal Service claims that the legislative history is such as to allow their proposal. However, a reading of the legislative history indicates just the opposite.

26. In 1905, 25 Op. Atty. Gen. 354, it states that, "No postmaster or other person connected with the postal service shall sell or dispose of postage stamps for any larger sum than indicated on their faces."

27. The modifications made to 18 USC 1721 in the Postal Reorganization Act [Public Law 91-375] only made changes to update the section for the change from Post Office Department to United States Postal Service and have no discussion relative to the issue at hand.

28. Likewise, Senate Report No. 2720 dated July 20, 1956 to accompany H.R. 5417 has no discussion relative to the issue at hand.

29. The law is very clear on its face. Twenty-cent postal/stamped cards must be sold for twenty cents - no more and no less. The law states that and there is no legislative history to indicate otherwise.

30. The legislative history claimed in the Postal Service in their August 16, 1996 Answer in Opposition to Motion apparently relates to an unnamed predecessor statute. Section 1721 does not have any legislative history to change the meaning of the otherwise very clear law.

31. The sale of philatelic card products must be made at the same price as regular stamped cards, namely, their face value. Witness Needham indicated that philatelic card products meet all of the requirements of the Classification Schedule for stamped cards. To sell them for any other price would contravene 18 USC 1721 and subject the employee selling them to the penalties provided.

CERTIFIED MAIL

32. The Postal Service is requesting a 36% increase for the Certified Mail fee. They have failed to provide any cost data to justify this increase. On page 73 of her testimony, Witness Needham indicated that the \$1.50

Certified Mail fee coupled with the \$1.50 Return Receipt fee would be simple and easy to remember. In response to DBP/USPS-T8-7, she responded to my question wouldn't 34 cents each [making the one ounce total fee of \$1.00] be even easier to remember, "No more so than a penny or \$100.00." This appears to be the amount of evaluation that went into the determination of this and other rates. She claims that there are alternatives for Certified Mail. The only alternatives are to utilize an expedited service. Certified Mail may only be used with First-Class Mail for which the Postal Service has a monopoly. This is nothing more than taking advantage of the public who has no other practical alternative but to use Certified Mail and pay the 36% increase.

33. The Postal Service claims that Certified Mail is a quality service. Yet, as of September 9, 1996, they have installed Certified Mail detectors at only 52% of the bar code sorters and have not even established an implementation schedule for installing them at the remaining units. Without the installation of these detectors, the ability to trap Certified Mail in the automated mail processing system is non-existent and the mailer will not be receiving the service that they are paying for unless the delivering letter carrier happens to notice the letter [See response to DBP/USPS-T8-19].

RETURN RECEIPTS

34. Presently, the Postal Service has two categories for return receipts. For a \$1.10 fee one can obtain the signature of the addressee and the date when delivered; for a \$1.50 fee, one can obtain the address where delivered in addition to the signature and date. The Postal Service proposes to simplify the service by eliminating one of the categories, namely, the "regular" \$1.10 return receipt. Since the great majority of the users of this service use the "regular" return receipt service, this proposal is nothing more than forcing a 36% price increase on the great majority who are not interested in knowing the address where delivered.

35. The Postal Service has not provided any cost data to justify a 36% increase. There is no reasonable alternative available to mailers. The Postal Service's only justification for the \$1.50 fee was that it would be convenient to the public if it was the same as the Certified Mail fee.

36. The Postal Service claims that return receipts are a quality service and are utilized to provide an independent confirmation of delivery. In spite of this claim, it appears that the Postal Service is not interested in service but is only interested in the additional revenue. Even though the Commission recommended the Postal Service evaluate the quality of return receipt service [On page V-405 of the Opinion and Recommended Decision in Docket No. R90-1, footnote 110 - paragraph 6576 indicated, "... it is appropriate to note Popkin's concerns about the quality of return receipt service. Popkin's submissions in this proceeding suggest a deterioration of service which should be of concern to the Service."], in the intervening six years, the Postal Service has made no effort to do so and passes the problem off as anecdotal [Response to DBP/USPS-T8-23[f]]. The letter sent to the 83 Postal Service District Managers on August 1, 1996 [response to DBP/USPS-T1-3] appeared to allow these managers the ability to retain arrangements which allow delivery of accountable mail with the completion of the return receipt being made at a later, more convenient time. These

arrangements would appear to reduce the value of the return receipt to nothing more than a postal/stamped card being completed by the addressee. This does not provide the claimed independent confirmation of delivery. The Postal Service appears only interested in receiving the return receipt fee without providing the service as mandated by its own regulations. The Postal Service should be required to indicate that there must be no arrangements for completion of return receipts at a later, more convenient time.

37. On December 3, 1996, I sent a letter to all 83 District Managers requesting information on their implementation of the Headquarters policy with respect to the August 1, 1996 letter as provided in the revised response to DBP/USPS-T1-3. As of January 6, 1997, responses have been received from approximately one-half of the Districts. Most of the responses received only acknowledged receipt of my letter and indicated that it was forwarded to Headquarters for response. I am somewhat at a loss to understand how Headquarters can respond to how a policy is being implemented within a specific District. It is also noted that almost all of the District Managers did not follow the requirements of Section 165.1 of the Postal Operations Manual requiring that an acknowledgment be sent within 24 hours and within 14 calendar days a final response must be sent which is comprehensive. Each functional area must resolve inquiries within its area of responsibility. It would appear to me that in spite of the August 1, 1996 Headquarters letter, there are still many arrangements which allow for the delivery of accountable mail with the return receipts still attached for completion at a later, more convenient time. This is another example of getting revenue without providing the service.

38. During these proceedings, recommendations were made to the Postal Service to improve the quality of the service. They have ignored these suggestions and requests. The proposed return receipt service is to provide the address where delivered if it is different than that to which the article was addressed. It was pointed out that if a return receipt was received without a new address indicated on it, it could mean one of two conditions; namely, there was no new address or the new address was not provided [due to the error of the delivering employee]. It was suggested that a box be placed on the card to indicate "article delivered to original address." For want of checking the added box, the Postal Service is more interested in getting the 36% increase in the fee without improving the reliability of the service.

39. Furthermore, the Postal Service has failed to reinstate the use of the red validating stamp on return receipts so as to provide a more reliable indication of the date of delivery and a level of validation as to the authenticity of the return receipt.

RETURN RECEIPT FOR MERCHANDISE

40. All of the comments made above for regular return receipts also apply to return receipts for merchandise other than the 36% increase would be a 38% increase.

41. The Postal Service also proposes to eliminate the ability to utilize this service for merchandise weighing less than 11 ounces to be paid at the First-Class Mail rates rather than the Priority Mail rates. This forces such a mailer to either pay the additional \$0.38 to \$2.68 postage to utilize Priority Mail at \$3.00 or to

send the article by Standard Mail [at the same price as First-Class Mail but obviously receiving a much deferred delivery service]. The Postal Service claims that they are not able to limit this service to merchandise only by regulation and therefore are eliminating the perceived problem by requiring the use of Priority Mail at the increased postage rate.

INSURANCE

42. While no one can object to the Postal Service raising the limits for insurance from a maximum liability of \$600 to \$5000, they have failed to provide any cost data to justify such a high rate as 90 cents per \$100. This rate appears to have been chosen at the whim of the pricing witness. This is far more than competitors charge. It is even far more than what the Postal Service itself charges for Registered Mail. A mailer having a parcel valued at \$5000 will virtually always find that sending the article by Priority Mail - Registered will cost less than Standard Mail - Insured. Not only will the cost be less, but the delivery standards for Priority Mail are far better than those for Standard Mail and the protection afforded to Registered Mail is greater than that afforded to Insured Mail.

EXPRESS MAIL

43. The Postal Service make two proposals with respect to Express Mail. This first is to increase the maximum insurance liability from \$500 to \$5000. While no one can object to the Postal Service raising the limits for insurance from a maximum liability of \$500 to \$5000, they have failed to provide any cost data to justify such a high rate as 90 cents per \$100. This rate appears to have been chosen at the whim of the pricing witness. This is far more than competitors charge. It is even far more than what the Postal Service itself charges for Registered Mail. A mailer having a parcel valued at \$5000 will be forced by the price differential to make the decision to send the article by the slower Priority Mail - Registered rather than by the more expensive Express Mail - Insured.

44. The second proposal is to decrease the maximum liability for document reconstruction from \$50,000 down to only \$500. Based on the data provided, a more reasonable approach would be to reduce the amount to somewhat more than \$500. There was no explanation as to why \$500 was chosen other than it sounded good.

REGISTERED MAIL

45. The Postal Service is proposing to simplify the Registered Mail rates by eliminating the ability to send Registered Mail having a value over \$100 without also purchasing postal insurance. This is another case of a rate increase under the guise of simplification. Registered Mail has two separate components in its rate structure. There is the cost for providing the secure transmission for the article [including the acceptance and delivery costs] which is the same for all articles; the second cost component is for providing and processing insurance claims which obviously will vary with the value. The two components are separate and distinct.

46. The requirement to declare the full value of an article is not contained in the Classification Schedule. There is no justification for requiring this. Witness Needham was not able to indicate any added costs that were associated with the handling of the registered article based on its value. The ability to charge more based on the value of the article should only be associated with the potential need for a higher insurance claim. There should be a flat fee for handling a registered article without postal insurance. The cost for handling it in the normal secure manner is the same whether the article has a value of one cent or \$25,000. A mailer should not be required to purchase duplicate insurance.

47. Other than the mailer's "honesty" in declaring the full value on registered mail being sent without postal insurance, there is no way for the Postal Service to enforce this regulation. No claim will be made for insurance and since the article is First-Class Mail it is not subject to postal inspection. When the Postal Service was in a similar situation with respect to ensuring that the Return Receipt for Merchandise service was only used in connection with a shipment of merchandise, they chose to eliminate the ability to mail it by First-Class Mail since they could not ensure compliance [the article would not be subject to postal inspection]. They can't have it both ways to serve their desire to get greater revenue.

SPECIAL DELIVERY

48. I am still somewhat unable to understand how the Postal Service can handle its competitive Express Mail Service for the acceptance, transportation, and delivery at a cost approximately equal to the delivery cost only for Special Delivery when both are reasonably similar methods of delivery. The Postal Service's raising of the Special Delivery fees obviously has been the much of the reason for its decline.

49. While the use is dropping, there still is a need for a Special Delivery system in place. It is required for both those that desire same day delivery and for delivery of international Express [Special Delivery] mail.

SUMMARY

50. In Ruling No. MC-96-3/22, the Commission indicated that they wanted to give the inspection of library references a chance to work [Page 8]. The Postal Bulletin dated December 5, 1996 [Page 3] indicated a Post Office Box Campaign. One of the two contacts for further information was John Landwehr. I left messages for Mr. Landwehr on December 17 and 26, 1996. No response was received. On January 3, 1997, I was able to reach Mr. Landwehr and he indicated that since he was a witness in this Docket, I should contact either Mr. Hollies or Mr. Rubin. I left a message for Mr. Hollies and I spoke with Mr. Rubin. He indicated that the material was a library reference and that it was about ten pages. I asked him if he would send me a copy or since it was so short if he could fax it to me. He indicated that he would discuss it with Mr. Hollies and get back to me. I did not receive the fax or a telephone response from either Mr. Hollies or Mr. Rubin. The material was mailed to me so that it was not available for me to utilize over the weekend. Apparently the ability to utilize library

references is biased against those who are some distance from Washington. Changes in this procedure appear to be ripe for rulemaking.

51. The Postal Service has not provided any cost data to justify the rate increases, they have chosen the amount of the fee at the whim of the pricing witness, they have made rate increases under the guise of service improvements, yet based on their actions and testimony they are not even interested in providing the service, and their only justification seems to be that they are making these only as a means of increasing revenue and that the captive mailer will feel that they are getting value for the increased fee. If any other participant came before the Commission with a proposal that had as little backing as this case has, the Postal Service would not stand for it and take vigorous opposition to it. The same should apply to them. For the reasons stated above, I request that the Postal Rate Commission take the actions requested for each of the services.

Respectfully submitted,



David B. Popkin, PO Box 528, Englewood, NJ 07631-0528

January 14, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the rules of practice.



David B. Popkin

January 14, 1997