

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

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Notice of Market Dominant
Price Adjustment

Docket No. R2020-1

NOTICE AND ORDER ON AMENDED PRICE ADJUSTMENTS AND
CLASSIFICATION CHANGES FOR FIRST-CLASS MAIL

(Issued November 21, 2019)

I. INTRODUCTION AND OVERVIEW

In Order No. 5302, the Commission remanded the Postal Service's planned First-Class Mail price adjustments¹ for non-compliance with certain legal requirements. On November 20, 2019, the Postal Service filed a Response to Order No. 5302 proposing to set the price for 5-Digit Automation Presort Letters as \$0.389, instead of \$0.391 as previously proposed.² The Postal Service proposes to maintain all other prices and associated classification changes previously proposed for First-Class Mail

¹ Order Remanding Price Adjustments for First-Class Mail, November 13, 2019, at 2, 25-26 (Order No. 5302).

² United States Postal Service Response to Order No. 5302, November 20, 2019, at 11-12 (Response to Order No. 5302).

and the intended effective date of January 26, 2020. Response to Order No. 5302 at 1, 20.

II. BACKGROUND

On October 9, 2019, the Postal Service filed a notice of inflation-based price adjustments affecting market dominant domestic and international products and services, along with temporary mailing promotions and associated proposed classification changes to the Mail Classification Schedule (MCS).³ On November 13, 2019, the Commission determined that the Postal Service's planned First-Class Mail price adjustments would exceed the price cap limitations specified by 39 U.S.C. 3622(d), as calculated in accordance with 39 CFR 3010.21. Order No. 5302 at 2. The Commission identified that the Postal Service made impermissible adjustments to the billing determinants related to Inbound Letter Post, resulting in the Postal Service miscalculating the percentage change in rates for First-Class Mail. *Id.* Accordingly, the Commission remanded all planned First-Class Mail price adjustments to allow the Postal Service to modify its proposal to comply with applicable law. *Id.* at 2, 25-26.

Additionally, the Commission corrected other technical issues with the Postal Service's supporting workpapers and described issues raised by commenters concerning the Postal Service's compliance with the requirements of 39 CFR 3010.12(b)(6), (7) and (12). *Id.* at 2-3, 20-21, 23-25. The Commission reserved final disposition of issues, including comments, relating to First-Class Mail pending review of the Postal Service's revised proposal. *Id.* at 2, 25-26. The Commission also reserved discussion of the planned price adjustments and mail classification changes for USPS Marketing Mail, Periodicals, Package Services, and Special Services for a separate order. *Id.* at 1.

³ United States Postal Service Notice of Market-Dominant Price Change, October 9, 2019 (Notice).

III. RESPONSE TO ORDER NO. 5302

In its Response to Order No. 5302, the Postal Service proposes to set the price for 5-Digit Automation Presort Letters as \$0.389, instead of \$0.391 as previously proposed. Response to Order No. 5302 at 11-12. The Postal Service proposes to maintain all other prices and associated classification changes previously proposed for First-Class Mail and the intended effective date of January 26, 2020. *Id.* at 1, 20. The Postal Service asserts that its discussion of the section 3622 objectives and factors provided in its Notice continues to apply. *Id.* at 13. It also discusses how the new price for 5-Digit Automation Presort Letters complies with section 3622 objectives and factors. *Id.* at 13-16. In addition, the Postal Service responds to comments relating to other First-Class Mail products. *Id.* at 16-18.

However, because the Postal Service disagrees with the Commission's rejection of the billing determinants adjustment for Inbound Letter Post to reflect the expected July 1, 2020 transfer of Inbound Letter Post small packet and bulky letter mailpieces, it requests that the Commission reconsider. *Id.* at 1, 9. The Postal Service asserts that the fundamental premise upon which the Commission's rejection of the Inbound Letter Post adjustment rests, that 39 CFR 3010.23(d)(2) does not permit for billing determinant adjustments for classification changes that occur after a price change, is illogical and unsound. *Id.* at 3-10. The Postal Service claims that the Commission's treatment of the Inbound Letter Post adjustment in Order No. 5302 contradicts its treatment of promotions and the plain language of 39 CFR 3010.23(d)(2). *Id.* at 4-6, 8. The Postal Service filed workpapers that reflect the inclusion of the Inbound Letter Post adjustment. *Id.* at 1-2.

In the alternative, the Postal Service requests that the Commission accelerate the transfer of Inbound Letter Post small packet and bulky letter mailpieces from the stated expected July 1, 2020 implementation date to January 1, 2020. *Id.* at 2, 10. To reflect a January 1, 2020 transfer of these mailpieces, the Postal Service filed workpapers that remove Inbound Letter Post small packets and bulky letters from the First-Class Mail price cap calculation entirely. *Id.* at 10.

IV. INITIAL ADMINISTRATIVE ACTIONS

Pursuant to 39 CFR 3010.11(g), the Commission invites comments from interested persons on whether the Response to Order No. 5302 is consistent with the applicable statutory and regulatory requirements, including 39 U.S.C. 3622 and 39 CFR part 3010. Comments are due no later than November 27, 2019.⁴

The public portions of the Postal Service's filing are available for review on the Commission's website (<http://www.prc.gov>). Comments and other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on non-public materials (including access to documents filed under seal) appear in 39 CFR part 3007.

Pursuant to 39 U.S.C. 505, Anne C. O'Connor continues to be designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.⁵

V. ORDERING PARAGRAPHS

It is ordered:

1. Comments on the planned price adjustments and related classification changes for First-Class Mail, as amended, are due no later than November 27, 2019.

⁴ As stated previously, the Commission continues to use the 7-day comment period as set forth in 39 CFR 3010.11(g). Order No. 5302 at 3. The Commission acknowledges that the Postal Service seeks issuance of a final order by December 12, 2019. See Response to Order No. 5302 at 21. However, the Commission notes that in order to sufficiently address the issues identified in *Carlson v. Postal Reg. Comm'n*, 938 F.3d 337 (D.C. Cir. 2019), the Commission's determination may exceed the 14-day deadline set forth in 39 CFR 3010.11(h). Order No. 5302 at 3.

⁵ See Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products, October 10, 2019, at 4, 5 (Order No. 5273).

2. Pursuant to 39 U.S.C. 505, Anne C. O'Connor will continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the *Federal Register*.

By the Commission.

Darcie S. Tokioka
Acting Secretary