

UNITED STATES OF AMERICA
BEFORE THE POSTAL REGULATORY COMMISSION
Washington, DC 20268

IN RE MARKET DOMINANT PRICE
CHANGE

Docket No. R2020-1

**COMMENTS OF THE PRISON POLICY
INITIATIVE, INC. RE: POSTAL SERVICE'S RESPONSE TO REMAND**

Pursuant to the Commission's Order No. 5318, the Prison Policy Initiative, Inc. ("PPI") hereby submits the following comments in response to the Postal Service's Response to Order No. 5302, filed on November 20, 2019 (the "USPS Response"). Based on the Commission's statement that it will review the Postal Service's five-cent rounding policy as part of a later final order,¹ PPI uses this opportunity solely to respond to the Postal Service's inaccurate characterization of PPI's previous comments.

On October 29, 2019, PPI filed comments in the above-captioned proceeding objecting to the five-cent rounding policy that was vacated in *Carlson v. PRC*, 938 F.3d 337 (D.C. Cir. 2019). Among other things, PPI's comments point out that the Postal Service attempts to defend the rounding policy by dismissing the financial impact on customers as *de minimus*, yet this fails to account for the millions of incarcerated people who depend on postal mail for routine correspondence. The USPS Response claims that "PPI's affordability concerns are aimed not so much at any particular price increase, but at the overall level of Single-Piece First-Class Mail prices relative to certain customers' ability to pay." USPS Response at 18. This characterization plainly misstates the nature of PPI's argument and ignores clear language emphasizing that PPI's comments were not advocating for a strict ability-to-pay standard.²

¹ See Order No. 5302 at 24-25.

² See PPI Comments at 7 ("This is not to say that the Commission must set rates at an amount that is not burdensome to all customers. Although financial burden to the customer is a relevant factor under 39 U.S.C. § 3622(c)(1), (3), and (8), these factors must admittedly be balanced with the Postal Service's

PPI is well aware that a preferred rate for incarcerated individuals cannot be established through this proceeding and may require Congressional action. PPI's comments were narrowly tailored to address four specified PAEA factors, one PAEA objective, and the rounding policy's clear contravention of 29 U.S.C. § 3622(d)(2)(B). The Commission gave the Postal Service an opportunity to respond to these arguments, yet the Service declined to do so.³ This is precisely the type of unresponsiveness that led to the court's ruling in *Carlson*.⁴

In light of the Postal Service's failure to address PPI's stated concerns, we encourage the Commission to engage in a meaningful review of the five-cent rounding policy, as required by applicable law.

Dated: November 27, 2019

Respectfully submitted,

PRISON POLICY INITIATIVE, INC.,

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need to collect adequate revenue (§ 3622(b)(5)) and...allocate direct and indirect costs among different classes and types of mail (§ 3622(c)(2)).").

³ Order No. 5302 at 24.

⁴ *Carlson*, 938 F.3d at 343 ("We conclude that the Commission's consideration of [the 2019 first-class single-piece stamped mail] increase fell short of the APA's requirements for reasoned decisionmaking because the Commission failed to provide an adequate explanation for the stamp price hike, and, relatedly, failed to respond to public comments challenging the stamp price hike under the PAEA's statutory factors and objectives.").