

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

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

(Issued December 6, 2019)

In Order No. 5302, the Commission remanded the Postal Service's planned First-Class Mail price adjustments¹ for non-compliance with certain legal requirements.² Specifically, the Commission determined that the Postal Service's planned First-Class Mail price adjustments would exceed the price cap because the Postal Service made impermissible adjustments to the billing determinants related to Inbound Letter Post. Order No. 5302 at 2. On November 20, 2019, the Postal Service filed its Response to

¹ United States Postal Service Notice of Market-Dominant Price Change, October 9, 2019 (Notice); Notice of Correction to Attachment A (Mail Classification Schedule) – Errata, October 10, 2019 (October 10, 2019 Errata).

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

Order No. 5302 proposing to set the price for 5-Digit Automation Presort Letters as \$0.389, instead of \$0.391 as previously proposed.³ 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. Response to Order No. 5302 at 1, 20.

The Postal Service presents three alternative scenarios for how to calculate the percentage change in rates and total unused price adjustment authority. *See id.* at 9-13. All of the planned prices for First-Class Mail are the same under all three scenarios. *See id.* at 11. Each scenario differs based on what, if any, billing determinant adjustments are made for Inbound Letter Post. *See id.* at 9-13. Therefore, each scenario would result in a different amount of unused price adjustment authority that would be available for use in future First-Class Mail price adjustments. *See id.*

No commenters dispute that the planned price adjustments for First-Class Mail, as amended, comply with the price cap. The Commission concludes that the amended planned price adjustments do not violate the price cap limitations specified by 39 U.S.C. § 3622(d). Additionally, because no planned First-Class Mail workshare discounts exceed their avoided costs, all proposed workshare discounts comply with 39 U.S.C. § 3622(e). Further, the planned First-Class Mail price adjustments do not implicate the pricing requirements appearing in 39 U.S.C. §§ 3626, 3627, and 3629.

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, as previously observed, 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 will take additional time.⁴ Accordingly, a separate order will apply the requirements of the Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006) (PAEA),

³ United States Postal Service Response to Order No. 5302, November 20, 2019, at 11-12 (Response to Order No. 5302).

⁴ *See* Order No. 5302 at 3; Notice and Order on Amended Price Adjustments and Classification Changes for First-Class Mail, November 21, 2019, at 4 (Order No. 5318).

the Administrative Procedure Act, Pub. L. 79-404, 60 Stat. 237 (1946) (APA), and the Commission's regulations to determine whether the First-Class Mail pricing proposal, as amended, is consistent with applicable law. See *Carlson*, 938 F.3d at 345. Further, issues affecting the exact amount of unused price adjustment authority for First-Class Mail remain pending before the Commission, including the Postal Service's request to accelerate the transfer of Inbound Letter Post Small Packets and Bulky Letters and associated International Registered Mail services to take effect on January 1, 2020.⁵ Therefore, the Commission reserves final disposition of issues not addressed in this Order, including consistency with the statutory objectives and factors, billing determinant adjustments, the amount of unused price adjustment authority for First-Class Mail, the Postal Service's request to accelerate the transfer, and comments.

ORDERING PARAGRAPHS

It is ordered:

1. The Commission finds that the Postal Service's planned price adjustments relating to First-Class Mail as identified in the United States Postal Service's Notice of Market-Dominant Price Change, filed October 9, 2019, corrected on October 10, 2019, and amended on November 20, 2019, comply with the price cap limitations specified by 39 U.S.C. § 3622(d), comply with the workshare discount requirements of § 3662(e), and do not implicate the pricing requirements appearing in §§ 3626, 3627, and 3629.
2. The Commission reserves final disposition of issues not addressed in this Order, including consistency with the statutory objectives and factors, billing determinant

⁵ See Docket No. MC2019-17, Motion of the United States Postal Service to Effectuate Transfer on January 1, 2020, and Application for Non-Public Treatment, November 20, 2019; Docket Nos. MC2019-17 and CP2019-155, Notice and Order of Proposed Revised Transfer Date and Price Adjustment for Inbound Letter Post Small Packets and Bulky Letters, November 26, 2019 (Order No. 5323).

adjustments, the amount of unused price adjustment authority for First-Class Mail, the Postal Service's request to accelerate the transfer, and comments.

By the Commission.

Darcie S. Tokioka
Acting Secretary