

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

Before Commissioners:

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

Critical Entry Time (CET) Changes  
For Periodicals, 2022

Docket No. N2022-2

ADVISORY OPINION ON CHANGES TO THE CRITICAL ENTRY TIMES  
FOR CERTAIN CATEGORIES OF PERIODICALS

(Issued November 30, 2022)

I. EXECUTIVE SUMMARY

The Postal Service has requested an advisory opinion on its proposal to revise the critical entry times (CETs) for certain categories of Periodicals.<sup>1</sup> “The CET is the latest time of day that a mail piece can be tendered to the Postal Service” and have that

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<sup>1</sup> United States Postal Service’s Request for an Advisory Opinion on Changes in the Nature of Postal Services, September 2, 2022 (Request). The Postal Service filed the instant Request at the direction of the Commission, following the Postal Service’s initial presentation of these proposed changes as part of revisions to the Market Dominant Service Performance Measurement Plan. See Docket No. PI2022-3, Order Directing the Postal Service to Request an Advisory Opinion Prior to Implementing Its Proposed Change to the Critical Entry Times for Periodicals and Approving the Other Proposed Revisions to Market Dominant Service Performance Measurement Plan, July 18, 2022 (Order No. 6232).

day count when measuring its service performance.<sup>2</sup> Periodicals CETs subject to the proposed changes currently range from 0800 to 1400. *Id.* at 3. The Postal Service plans to standardize four of the five CETs for Periodicals mail (*i.e.*, the CETs for all non-palletized Periodicals) by moving three CETs to the current earliest Periodicals mail CET of 0800. *Id.* at 2-3. The Postal Service avers that this change would “promote simplification of mail processing operations, and hence more effective allocation and use of processing personnel and equipment.” *Id.* at 4-5.

The Postal Service is required, pursuant to 39 U.S.C. § 3661(b), to request an advisory opinion from the Commission prior to implementing a change in the nature of postal services that will generally affect service on a nationwide or substantially nationwide basis.<sup>3</sup> The Commission’s advisory opinion is nonbinding, and the Commission does not have the authority to enforce its advice regarding the Postal Service’s proposed changes to the CETs of the affected Periodicals. The following are the Commission’s key findings.

First, the Commission finds that the proposed changes will likely enable the Postal Service to project more easily and accurately the Periodicals volumes and, therefore, will likely improve Periodicals processing. However, the Commission questions the necessity of the Postal Service’s proposed changes related to workload planning. Historical data illustrate that reasonably accurate daily volume projections are possible without these changes.

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<sup>2</sup> Request at 2. For example, when a mailpiece with a 2-day service standard is tendered on Monday prior to the CET, it would have an expected delivery on Wednesday, and when this mailpiece is tendered after the CET, it would have an expected delivery on Thursday. *See id.*

<sup>3</sup> 39 U.S.C. § 3661(b) (requiring the Postal Service to “submit a proposal [to change the nature of postal services that will generally affect service on a nationwide or substantially nationwide basis], within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change”); 39 C.F.R. § 3020.112 (requiring the Postal Service to file a request for an advisory opinion on any proposed changes to the nature of postal services that will generally affect service on a nationwide or substantially nationwide basis at least 90 days in advance).

Second, the Commission finds that the proposed changes are likely to result in more efficient utilization of the Postal Service's equipment, particularly its bundle/package sortation machines. These machines require considerable resources to change between configurations for processing bundles and packages, and some are held in reserve to process later-arriving Periodicals. The proposed changes should mitigate these issues and create cost savings. However, it is possible that the cost savings due to this particular issue will be limited due to the fact that two of the three CETs being changed by the Postal Service's proposal apply to Periodicals where the mailer has already completed the bundle sortation.

Third, a subset of Periodicals mailers have indicated that they will not be able to achieve the revised CETs and are likely to have an additional service day added to the delivery of their mailpieces. Periodicals industry representatives indicate that the Postal Service's proposal will have a significant impact on the costs and production schedules for this subset of the industry.

Fourth, the Commission finds that the Postal Service has not analyzed how the expected impact on Periodicals mailers would affect Periodicals volumes, worksharing, or the recipients of Periodicals mail.

Based on these findings, the Commission provides the following recommendations to the Postal Service for consideration before implementing its plan to change the CETs for Periodicals. The Postal Service should:

- Continue to evaluate whether the proposed changes are necessary to achieve more effective workload planning.
- Balance a number of competing factors—On one side, the multiplicity of CETs is contributing to the inability of the Postal Service to move the mail as efficiently as it should, which is impacting service performance. At the same time, the Postal Service needs to continue to work diligently with the impacted groups on efforts to ameliorate any negative financial or service impacts of the new CETs.
- Monitor implementation of the proposed changes to ensure that increased bundle/package sortation equipment capacity is utilized as planned. Specifically, the Postal Service should ascertain whether the

expected spillover efficiencies for other flats and parcel processing are realized. If these anticipated benefits are not realized, the Postal Service should consider further steps, such as purchasing additional equipment, to minimize service failures associated with equipment capacity.

- Acknowledge that the revised CETs will likely add an additional service day for a portion of the affected Periodicals mailers.
- Monitor and add sufficient Facility Access and Shipment Tracking (FAST) appointments to respond to shifts in mailer behavior and work with mailers to ensure that they are not hindered in tendering their mail.
- Develop more granular data around tender times and consider how to mitigate the impacts of the proposed changes on the particularly vulnerable segments of Periodicals mailers.
- Analyze potential behavioral changes for Periodicals mailers and the potential impact of those changes on the expected net financial benefits and efficiency gains.

## II. PROCEDURAL HISTORY

### A. Pre-Filing

On August 12, 2022, the Postal Service filed a notice of its intent to conduct a pre-filing conference regarding its proposed changes to the CETs for certain categories of Periodicals.<sup>4</sup> On August 16, 2022, the Commission issued Order No. 6251, which established Docket No. N2022-2 to consider the Postal Service's proposed changes, notified the public concerning the Postal Service's pre-filing conference, and appointed a Public Representative.<sup>5</sup> The Postal Service held its pre-filing conference virtually on August 25, 2022.<sup>6</sup>

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<sup>4</sup> Notice of Pre-Filing Conference, August 12, 2022, at 1.

<sup>5</sup> Notice and Order Concerning the Postal Service's Pre-Filing Conference, August 16, 2022 (Order No. 6251).

<sup>6</sup> See Notice and Order on the Postal Service's Request for an Advisory Opinion on Changes in the Nature of Postal Services, September 6, 2022, at 2 (Order No. 6268).

## B. The Postal Service Request

On September 2, 2022, the Postal Service filed its request for an advisory opinion from the Commission regarding planned changes to the CETs for certain categories of Periodicals. See Request. The intended effective date of the planned changes is no earlier than 90 days after the filing of the Request. *Id.* at 4. The Postal Service certifies that it has made a good faith effort to address the concerns of interested persons about the Postal Service's proposal raised at the pre-filing conference. *Id.* at 6.

In support of its Request, the Postal Service provided the direct testimonies of two witnesses: Jake Campbell (USPS-T-1) and Thomas J. Foti (USPS-T-2).<sup>7</sup> The Postal Service identified a third individual, Sharon Owens, to serve as its institutional witness and provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses. Request at 7. Additionally, the Postal Service filed 10 library references, 7 of which are available to the public and 3 of which are designated as non-public material.<sup>8</sup>

Witness Campbell describes the current CETs for Periodicals and the issues that the Postal Service has experienced with these CETs and the CETs for other Postal Service products. See USPS-T-1 at 1-6. He also explains how the CETs will be revised and describes the improvements in service and reliability that these new proposed CETs are expected to enable. *Id.* at 6-11.

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<sup>7</sup> Direct Testimony of Jake Campbell on Behalf of the United States Postal Service, September 2, 2022 (USPS-T-1); Direct Testimony of Thomas J. Foti on Behalf of the United States Postal Service, September 2, 2022 (USPS-T-2).

<sup>8</sup> Library Reference USPS-LR-N2022-2-1, September 2, 2022; Library Reference USPS-LR-N2022-2-2, September 2, 2022; Library Reference USPS-LR-N2022-2-3, September 2, 2022; Library Reference USPS-LR-N2022-2/4, September 22, 2022; Library Reference USPS-LR-N2022-2/5, September 22, 2022; Library Reference USPS-LR-N2022-2/6, September 23, 2022; Library Reference USPS-LR-N2022-2/7, September 22, 2022; Library Reference USPS-LR-N2022-2\_NP1, September 2, 2022; Library Reference USPS-LR-N2022-2-NP2, September 22, 2022; Library Reference USPS-LR-N2022-2/NP3, October 3, 2022. On October 6, 2022, the Postal Service filed a modified Library Reference USPS-LR-N2022-2/7. Library Reference USPS-LR-N2022-2/7, October 6, 2022.

Witness Foti examines the trends in Periodicals volumes and the different types of Periodicals mailers. See USPS-T-2 at 1-3. He then discusses the impacts of the proposed changes on Periodicals mailers and how the Postal Service intends to mitigate those impacts. *Id.* at 3-6.

### C. Commission Action and Evidentiary Record

On September 6, 2022, the Commission issued Order No. 6268, which set forth a procedural schedule and designated Commissioner Ashley E. Poling as Presiding Officer. Order No. 6268 at 7-8, 20; *id.* Attachment 1. Subsequently, there were several revisions to the schedule, including removing the dates for the hearing on the Postal Service's direct case, as well as dates for a rebuttal case, a surrebuttal case, and an oral argument hearing.<sup>9</sup>

Three parties intervened in this proceeding.<sup>10</sup> The News/Media Alliance (N/MA) and the Public Representative propounded discovery to clarify the Request and witness testimony. Three Presiding Officer's Information Requests (POIRs), containing 19 questions, many of which included multiple subparts, were issued to further develop the record.<sup>11</sup> The Postal Service provided responses to each POIR.<sup>12</sup> In accordance with

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<sup>9</sup> Presiding Officer's Ruling Adjusting Procedural Schedule, October 7, 2022; Order Adjusting Procedural Schedule, October 12, 2022 (Order No. 6297). In line with past Commission practice in nature of service cases, the procedural schedule was adjusted when no party requested oral cross-examination of Postal Service witnesses or provided testimony from rebuttal witnesses.

<sup>10</sup> Notice of Intervention of the Association for Postal Commerce, September 14, 2022; Notice of Intervention National Newspaper Association, Inc., September 14, 2022; Notice of Intervention by the News/Media Alliance, September 14, 2022.

<sup>11</sup> Presiding Officer's Information Request No. 1, September 16, 2022; Presiding Officer's Information Request No. 2, September 29, 2022; Presiding Officer's Information Request No. 3, October 13, 2022.

<sup>12</sup> Responses of the United States Postal Service to Questions 1-7 of Presiding Officer's Information Request No. 1, September 23, 2022 (Response to POIR No. 1); Responses of the United States Postal Service to Questions 1-10 of Presiding Officer's Information Request No. 2, October 6, 2022 (Response to POIR No. 2); Responses of the United States Postal Service to Questions 1-2 of Presiding Officer's Information Request No. 3, October 20, 2022 (Response to POIR No. 3).

Order No. 6268, the Postal Service filed a motion to admit into evidence the direct testimonies and associated library references of Postal Service witnesses Campbell and Foti.<sup>13</sup> In addition, N/MA and the Public Representative filed notices designating certain responses to interrogatories and POIRs as the written cross-examination to be included in the evidentiary record.<sup>14</sup> The Presiding Officer granted the Postal Service's motion and designated additional materials and material officially noticed in this proceeding.<sup>15</sup>

N/MA, National Newspaper Association, Inc. (NNA), and the Public Representative filed statements of position, and the Postal Service filed initial and reply briefs.<sup>16</sup>

The evidentiary record in this docket closed on November 1, 2022. See POR No. N2022-2/4 at 2.

### III. COMMISSION LEGAL AUTHORITY

The Postal Service is required to request an advisory opinion from the Commission for proposed changes in the nature of postal services on a nationwide or substantially nationwide basis. See 39 U.S.C. § 3661(b). The Commission's rules require the Postal Service to file its request "not less than 90 days before the proposed effective date of the change in the nature of postal services involved." 39 C.F.R. § 3020.112.

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<sup>13</sup> Motion of the United States Postal Service to Admit into Evidence the Direct Testimonies and Associated Library References of Postal Service Witnesses Jake Campbell (USPS-T-1) and Thomas J. Foti (USPS-T-2), October 13, 2022.

<sup>14</sup> News/Media Alliance Notice of Designations, October 7, 2022; Public Representative Notice of Designations of Written Cross-Examination, October 7, 2022.

<sup>15</sup> Presiding Officer's Ruling Granting Motion to Admit Evidence, Designating Additional Materials in the Evidentiary Record, and Closing the Record, November 1, 2022 (POR No. N2022-2/4).

<sup>16</sup> News/Media Alliance Statement of Position, October 21, 2022 (N/MA Statement of Position); Statement of Position of National Newspaper Association, Inc., October 21, 2022 (NNA Statement of Position); Statement of Position of the Public Representative, October 21, 2022 (PR Statement of Position); Initial Brief of the United States Postal Service, October 21, 2022 (Postal Service Brief); Reply Brief of the United States Postal Service, October 27, 2022 (Postal Service Reply Brief).

Users of the mail are afforded a hearing on the record before the Commission's review is complete. 39 U.S.C. § 3661(c). The Commission's advisory opinion, based on evidence developed during hearings in accordance with 5 U.S.C. §§ 556 and 557, considers the policies of section 3661 and the remainder of Title 39. "The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in [their] judgment the opinion conforms to the policies established under [Title 39]." *Id.* The advisory opinion process is intended to better inform the Postal Service in its decision-making process, provide an opportunity for the public to question and challenge Postal Service assumptions, provide transparency into the decision-making and policy-development processes the Postal Service undertook, and provide a different perspective for the Postal Service's consideration.<sup>17</sup>

#### IV. SUMMARY OF POSTAL SERVICE PROPOSAL

##### A. Postal Service Request

The Postal Service seeks to revise the CETs for certain categories of Periodicals. *See generally* Request; Order No. 6232. "The CET is the latest time of day that a mail piece can be tendered to the Postal Service" and have that day count when measuring its service performance.<sup>18</sup> The Postal Service defines when the mail has been "tendered" as the time it "determined the mail to have arrived," the rules of which vary by facility type. Response to POIR No. 1, question 5.a. This determination is used to establish the actual entry time (AET), which is compared with the CET to determine whether a mailpiece has arrived early enough to have that day count for service measurement purposes. *Id.* question 7.a-b.

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<sup>17</sup> See Docket No. N2014-1, Advisory Opinion on Service Changes Associated with Standard Mail Load Leveling, March 26, 2014, at 7.

<sup>18</sup> Request at 2. For example, when a mailpiece with a 2-day service standard is tendered on Monday prior to the CET, it would have an expected delivery on Wednesday, and when this mailpiece is tendered after the CET, it would have an expected delivery on Thursday. *See id.*



The Postal Service currently applies five different CETs for Periodicals mail ranging from 0800 to 1700 based on the sorting machine used—e.g., Flats Sequencing System (FSS) or non-FSS—and whether a bundle sort is required. Request at 2-3. The proposed changes standardize four of the five CETs for Periodicals mail (i.e., CETs for all non-palletized bundles) by moving three CETs to the current earliest Periodicals mail CET of 0800 (the affected CETs currently range from 0800 to 1400). *Id.* As a result of the proposed changes, two CETs would move up by 3 hours and one CET would move up by 6 hours. *Id.* Table IV-1 below compares the current and the new proposed CETs.

**Table IV-1  
Current and Planned CETs for Periodicals Mail**

Periodicals Mail (Origin and Destination)		Current CET	Planned CET
FSS	No Bundle Sort Required 5-Digit/Scheme Container	1100	<b>0800</b>
	Bundle Sort Required 3-Digit and Up Container	0800	0800
Non-FSS	No Bundle Sort Required 5-Digit/Scheme Container	1400	<b>0800</b>
	No Bundle Sort Required Pure Carrier Route Pallet	1700	1700
	Bundle Sort Required 3-Digit and Up Container	1100	<b>0800</b>

Source: Request at 3.

The Postal Service asserts that the proposed changes would promote simplification of mail processing operations, which will allow for more effective allocation and use of processing personnel and equipment, as well as result in improved service performance, for Periodicals and other products, and provide cost savings. *Id.* at 4-5. The Postal Service contends that the current CETs impede the effective processing of mail in three ways. USPS-T-1 at 4-6. First, the Postal Service avers that the current CETs impede effective workload planning for flat mail and result in ineffective staff allocation because Periodicals can arrive up to 6 hours later than other flat mail. *Id.* at 5. Second, the Postal Service states that the current CETs result in suboptimal use of mail processing equipment at various stages of the mail processing cycle, thereby giving rise to delays. *Id.* at 5-6. Third, the Postal Service contends that the current CETs result in ineffective use of bundle/package sortation machines. *Id.* at 6.

The Postal Service asserts that the proposed changes would “confer a range of benefits,” including simplified workload planning, more effective use of bundle/package sortation machines, service improvements, and simplified acceptance of the mail. *Id.* at 10-11. The Postal Service estimates that the proposed changes would increase the productivity values for bundle sorting operations by 22.1 percent due to an anticipated reduction in the runtime of these operations.<sup>19</sup> The Postal Service estimates the impact of the proposed changes will be a cost savings of \$26 million. *Id.* PR/USPS-T-1/1.a., PR/USPS-T-1/1.d.

The Postal Service asserts that the proposed changes will continue to achieve the broader policies of Title 39, United States Code. Request at 4-6. The Postal Service discusses how the proposed changes would continue to satisfy the universal service provisions appearing in 39 U.S.C. §§ 101, 403, and 3661(a) under the proposed service standards. *See id.* The Postal Service further asserts that the proposed

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<sup>19</sup> Response of United States Postal Service Institutional Witness Sharon Owens to the Public Representative’s First Set of Interrogatories Redirected from Witness Jake Campbell, September 22, 2022, PR/USPS-T-1/1.a.

changes will not cause any undue or unreasonable discrimination against any users of the mail. *Id.* at 5.

The Postal Service states that the proposed service standard changes would not be implemented any sooner than 90 days after the filing of its Request. *Id.* at 4.

#### B. Witness Jake Campbell Testimony

Witness Jake Campbell is the Executive Manager of the Letter and Flat Planning and Implementation group within the Postal Service. USPS-T-1 at i. He reports to the Vice President of Mail Processing and Maintenance Operations and “is in charge of the strategic planning, implementation, and support of mail processing systems and applications that enable letter and flat mail to be processed effectively through the Postal Service network.” *Id.* In the past, witness Campbell has held such roles as the Senior Manager of In-Plant Support in the Suncoast District; Operation Specialist within Headquarters Processing Operations; Program Manager for Mail and Tracking Technology within Enterprise Analytics; Postmaster in Gibsonton, Florida; and Manager of Workforce Analytics and Research within Human Resources at the Postal Service. *Id.*

Witness Campbell states that the purpose of his testimony is “to describe the critical entry times (CETs) for Periodicals Mail currently in place and explain the benefits of the simplified and consistent CETs that the Postal Service plans to implement.” *Id.* at 1. His testimony first describes the current CETs for Periodicals and the issues that the Postal Service has experienced with these CETs and the CETs for other Postal Service products. *Id.* at 1-6. Witness Campbell then describes the new proposed CETs and explains the improvements in service and reliability that these new proposed CETs are expected to enable. *Id.* at 6-11.

### C. Witness Thomas J. Foti Testimony

Witness Thomas J. Foti is the Vice President of Product Solutions for the Postal Service. USPS-T-2 at ii. In that capacity, he is responsible for “leading the strategic development and management of enterprise-wide market dominant product solutions to address customer needs.” *Id.* He currently oversees the management of product lines and services, including the development of strategies, policies, and business plans. *Id.* He has more than 33 years of experience with the Postal Service working in many functional areas, including executive leadership roles in product management and development, domestic and international package strategy, and technology planning and analysis. *Id.*

Witness Foti states that his testimony is offered to “provide an understanding of Periodicals Mail as it pertains to the proposed critical entry time (CET) changes that are the subject of these proceedings.” *Id.* at 1. He first gives an overview of Periodicals volume trends and the different types of Periodicals mailers. *Id.* at 1-3. Witness Foti then discusses the impacts of the proposed changes on Periodicals mailers and how the Postal Service intends to mitigate those impacts. *Id.* at 3-6.

### V. BRIEFS AND STATEMENTS OF POSITION

N/MA, NNA, and the Public Representative filed statements of position, and the Postal Service filed initial and reply briefs.<sup>20</sup> The statements of position and briefs are summarized below.

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<sup>20</sup> See generally N/MA Statement of Position; NNA Statement of Position; PR Statement of Position; Postal Service Brief; Postal Service Reply Brief.

## A. N/MA

N/MA states that it opposes the proposal because the proposed CET changes “will present serious problems to any publisher currently using the 1100 and 1400 CETs.” N/MA Statement of Position at 2. N/MA explains that these publishers will have to advance their publishing schedules by several hours, sacrificing late-breaking news and information, or they will have a day’s delay in processing and delivery. *Id.* N/MA notes that it previously presented these concerns in Docket No. PI2022-3. *Id.*

N/MA states that, despite industry concerns, the Postal Service moved forward with its proposal to change CETs without any documentation of how cost savings would be achieved or any rate incentive. *Id.* at 3. It further states that the Postal Service has downplayed these concerns by suggesting that only a small number of mailpieces will be affected and has offered solutions of limited practical value. *Id.* N/MA asserts that changing the CETs will make service performance appear better even though actual service will slow down. *Id.* at 3-4.

It also contends that the Postal Service is unconcerned with the effect of the proposal on Periodicals mailers. *Id.* at 4. N/MA asserts that publishers will bear the costs of accelerated production schedules, less time for editorial work, and additional preparation and entry costs. *Id.* In addition, N/MA states that the Postal Service “has presented no evidence of the costs that mailers would incur in making changes in their preparation” or whether the Postal Service’s suggestions for alternatives are viable as a practical or business matter. *Id.* at 6.

N/MA comments that the proposed CET changes will result in improvement in reported service but notes that the Postal Service admits that the delivery for at least 20 percent of Periodicals volume will be delayed by a day. *Id.* at 7. Although the Postal Service expects to increase the availability of early morning appointments, N/MA avers that this change should happen anyway and without requiring CET changes. *Id.* N/MA notes that its members report “problems in securing the necessary appointments and, even when trucks arrive on time, mailers often must endure waits” during unloading. *Id.*

N/MA argues that the Periodicals volume affected by the proposed changes is likely higher than the volume asserted by the Postal Service. *Id.* at 8-9. It states that the volumes presented by the Postal Service omit both non-full-service and full-service mailpieces not in measurement, which amounts to more than half of the total Periodicals mailpieces in FY 2021. *Id.* at 9.

Additionally, N/MA states that the Postal Service likely overestimated its cost savings, finding that “the savings estimate depends on an unrealistic assumption.” *Id.* at 11. It states that the improvement in productivities used to calculate the cost savings compares the current throughputs experienced in actual operations to theoretical throughputs. *Id.* N/MA asserts that “[c]ost savings based on practically unobtainable theoretical machine throughputs are unlikely.” *Id.* N/MA takes issue with the Postal Service’s contention that the proposal will result in other benefits, such as simplified workload planning, simplified acceptance, and more effective use of package sorting machines, finding them “purely speculative.” *Id.* at 11-12.

In conclusion, N/MA states that the CET changes “would adversely affect Periodicals editorial and production operations, delay *actual* service while appearing to improve nominal service performance, and would accrue, at most, a minimal amount of projected cost savings.” *Id.* at 12 (emphasis in original). For these reasons, N/MA urges the Commission to advise against proceeding with the proposed CET changes. *Id.* at 13.

## B. NNA

NNA states that it is unable to establish a position on the Postal Service’s request at this time because there is a lack of information on how NNA members will be affected by the change. NNA Statement of Position at 1. In addition, NNA states that “the Commission cannot provide a fair analysis of the impact of the proposed change” and suggests several proposed findings for the Commission to consider. *Id.*

NNA avers that the Commission cannot review the Postal Service's analysis of impact on affected mailers because the Postal Service did not perform one. *Id.* It asserts that "the high percentage of unmeasured Periodicals mail is somewhat obscured in the record of the case." *Id.* at 2. NNA notes that witness Campbell states that the Postal Service has not analyzed mail out of measurement because its service performance measurement system has not produced any data for such analysis. *Id.* Highlighting that it has addressed the problem of unmeasured mail in other Commission proceedings, NNA states that it believes that much of its members' mail volumes are outside the scope of USPS measurement. *Id.* at 3. With this context, NNA asserts that the Commission, at best, can "accept the Postal Service's estimate that minimal impact upon *measured* Periodicals would result and that the effect upon nearly half the class cannot be estimated." *Id.* (emphasis in original).

NNA comments that the true impact of the proposed CET changes will be unknown until the anticipated sorting and delivery centers come into operation in late 2022 when the CET changes will affect a broader range of local Periodicals mail. *Id.* at 4. NNA notes that the industry is "uneasy" due to the Postal Service's earlier intention to change CETs without seeking Commission review, and publishers are now on notice that substantial changes could happen "without much warning or regulatory review." *Id.*

NNA states that the proposed change will add an additional delivery day for publishers' mail that cannot adapt to an earlier entry time. *Id.* NNA offers several reasons for this, including inflexible printer schedules, the inability to set earlier internal deadlines, traffic concerns, lack of operating windows for mail acceptance in early morning hours, and restricted ability to do cross-dock transfers of 5-digit pallets. *Id.* at 4-5.

NNA asserts that the impact on time-sensitive newspaper mail "could be hugely out of proportion to the net gain" in cost savings to the Postal Service. *Id.* at 6. NNA explains that although the proposed change is expected to net savings of less than \$27 million for the Postal Service, newspapers could lose hundreds of subscribers. *Id.*

Because it contends that it cannot assess how publishers will be affected on this record, NNA “requests that this docket be held open for reevaluation at least until a better estimate of impact on the entire mail class is known, and, even more critically, the operational impacts of the oncoming [sorting and delivery center] system can be evaluated.” *Id.*

### C. Public Representative

The Public Representative supports setting a standardized 0800 CET for non-palletized Periodicals mail because she finds this change will likely achieve cost savings and improve operations and mail processing, service performance, and productivity. PR Statement of Position at 10.

She comments that the proposed change will likely improve operations and mail processing because it would, among other things, simplify mail acceptance processes and reduce errors, allow the Postal Service to adapt to the changing mail mix, and allow the Postal Service to generate reliable processing plans. *Id.* at 14-15.

She finds the Postal Service’s assertions regarding improved service performance to be reasonable but also states that factors such as successful training of staff, reliability of vehicles, and efficacy of contractors make it difficult to determine how much the change would impact service performance. *Id.* at 20.

The Public Representative states that “the 0800 CET would likely improve the productivity of bundle sorting operations because of the reduced runtime, workhours saved, and other factors.” *Id.* at 22. However, she notes that “the model does not consider issues such as staffing or machine uptime” and thus, she cannot conclude that the change would improve productivity by 22.1 percent. *Id.*

Similarly, she states that the methodology for estimating expected cost savings is reasonable, but the estimates do not consider factors such as fewer worksharing arrangements or night differential pay to accommodate the changes. *Id.* at 24.



Finally, she states that the “improved service performance would allow the general public to receive more mail on time” but notes that the change “would adversely affect time-sensitive . . . publishers that incur additional costs or lose a service day when adjusting to the new CET.” *Id.* at 34. However, the Public Representative asserts that, on balance, the negative impact on these publishers “is outweighed by the benefits likely resulting from the 0800 CET.” *Id.*

#### D. Postal Service

The Postal Service reiterates the assertions presented in its Request and testimonies. *See generally* Postal Service Brief; Postal Service Reply Brief. It contends that its proposed CET changes would “promote simplification of mail processing operations, more effective allocation and utilization of processing personnel and equipment, [and] improved service performance, and would result in cost savings.” Postal Service Brief at 2. The Postal Service states that the proposal is also consistent with the Postal Service Reform Act of 2022’s requirement that the Postal Service maintain an integrated network for the delivery of Market Dominant and Competitive products because the proposal allows for “more effective use of processing equipment and resources for both mail and packages.” *Id.* The Postal Service acknowledges that some mailers may face difficulties adjusting to the proposed CETs but states that these publications represent a small portion of Periodicals mail volume. *Id.* The Postal Service maintains that all customers will benefit from more reliable service because the benefits of the proposal (*i.e.*, increased operational effectiveness and service reliability) create a better balance of the applicable statutory policies. *Id.*

In its brief, the Postal Service provides an overview of Periodicals mail, market trends, and details of the planned CET changes. *Id.* at 3-12. The Postal Service further provides the anticipated benefits of the planned changes over its current operations. *Id.* at 12-15. For example, the Postal Service explains that having multiple CETs for Periodicals impedes workload planning for flat mail, whereas a consistent 0800 CET

would provide clear insight into the committed volume for each day. *Id.* at 12. The Postal Service also states that the current CETs for Periodicals mail cause delays in package processing, and the proposed changes would allow additional package sorting capacity without adding machines. *Id.* at 13. Finally, the Postal Service describes service improvement, simplified acceptance, and reduced costs as a result of improved productivity as other benefits of the proposal. *Id.* at 13-14.

As far as the customer impact, the Postal Service asserts that the planned CET changes were proposed and discussed with Flats industry members, including Periodicals mailers, between May and August of 2021 and then further discussed in subsequent meetings over the following several months. *Id.* at 15. From these discussions, the Postal Service concludes that “there appeared to be only a material direct business impact to a limited subset of periodicals mailers; specifically, weekly and daily periodicals publishers who tend to have time sensitive production and delivery schedules would be the most vulnerable segment to be potentially impacted.” *Id.* at 15-16.

The Postal Service also describes industry concerns regarding proposed CET changes received through comments in Docket No. PI2022-3 and in an N/MA letter to the Postal Service’s Board of Governors. *Id.* at 16-17. Although recognizing that Periodicals mailers that currently enter mail after 0800 and prior to their preferred CET would need to adjust to the CET change to ensure their mail is processed on the entry date, the Postal Service maintains that such mailings constitute only a fraction of all Periodicals mail volume (20.3 percent). *Id.* at 17-18. In addition, the Postal Service contends that the CET has little impact on when Periodicals mail arrives at the postal processing facility and, after examining data, the Postal Service infers that Periodicals mailers have adapted their work processes so that they are still able to meet delivery expectations. *Id.* at 18. In support of this inference, the Postal Service cites the success the industry had in adapting to the 0800 CET at locations with FSS machines.

*Id.* at 19. For mailers unable to adjust, the Postal Service encourages consideration of the 1700 CET option for direct 5-digit carrier route pallets. *Id.*

The Postal Service also notes an industry concern regarding the availability of FAST appointments and acceptance personnel and responds that it will expand the drop window for appointments at relevant facilities to ensure Periodicals mailers will have sufficient appointment opportunities prior to 0800. *Id.* at 19-20. The Postal Service states that the CET changes would not impact the delivery of destination-entered Periodicals mail deposited at destination delivery units (DDUs) or impact local Periodicals mailers' arrangements with DDUs. *Id.* at 20-21. Finally, the Postal Service states that it will monitor the impact of the CET changes and asserts that the planned changes accord and conform with applicable statutory policies. *Id.* at 21-25.

In response to statements of position from N/MA and NNA, the Postal Service states that neither commenter "presented any rebuttal evidence to support the extent of any impact on affected mailers" even though this evidence "is uniquely within the knowledge and understanding" of N/MA's and NNA's members. Postal Service Reply Brief at 2. While recognizing that some mailers may face challenges adjusting to the proposed CETs, the Postal Service reiterates that such publications "represent a small and diminishing part" of Periodicals mail volume and that because of this proposal, all customers will benefit from more reliable service. *Id.*

The Postal Service also states that both N/MA and NNA rely on new evidence in their statements of position that was not presented in this proceeding. *Id.* at 3. The Postal Service asserts that, in accordance with 39 C.F.R. § 3020.123(g) and because consideration would be unfairly prejudicial, certain statements regarding mailer challenges related to the proposal should not be considered by the Commission. *Id.* at 3-5.

The Postal Service contends that NNA and N/MA "[m]ischaracterize and [u]ndervalue" the anticipated benefits of the planned CET changes. *Id.* at 5. In particular, the Postal Service states that N/MA fails to explain why differing volumes,

equipment sets, and operating parameters would cancel the benefits identified by the Postal Service. *Id.* at 6. The Postal Service further states that where it lacked data to quantify a benefit, it detailed the expected benefits and explained its reasons for expecting them. *Id.* at 7. With regard to criticism of its methodology used to calculate the productivity gains, the Postal Service states that application of “theoretical” throughputs to “actual” machines is necessary for the productivity computation. *Id.* at 8. The Postal Service further states that the calculations “were derived by comparing end-of-run data to machine capabilities at a national level,” inputs which the Postal Service claims are grounded in actual practice. *Id.* It notes that while N/MA and NNA take issue with the identified cost savings, the Public Representative acknowledges that the methodology is reasonable and the assumptions made are sound. *Id.* at 9.

In addition, the Postal Service responds to N/MA and NNA regarding the estimated impact analysis, specifically the contentions that the data set inadequately represents mail that is not full-service and not in measurement. *Id.* at 9-10. The Postal Service states that the data capture the percentage of mailers likely to be affected by the proposed changes, namely mail that is processed in plants and not mail entered at delivery units or under exceptional dispatch. *Id.* at 10. The Postal Service contends that the assertions by NNA and N/MA of mailer hardships are uncorroborated and unsupported by the record. *Id.* at 10-11. However, the Postal Service states that it considered exempting daily and weekly Periodicals from the 0800 CET but dismissed the idea as counterproductive due to the hardship on the Postal Service in identifying such publications. *Id.* at 11. While continuing to acknowledge that some mailers would be affected by the proposed changes, the Postal Service states that neither NNA nor N/MA has shown any impact to mailers that would rebut the Postal Service’s conclusion that the proposal appropriately balances the statutory policies of Title 39. *Id.* at 12.

Finally, the Postal Service states that NNA’s request to hold open the docket is “[b]aseless,” explaining that the record adequately demonstrates the extent of the potential impact of the proposed changes on mailers. *Id.* at 12-13. It further states that

it will monitor the impact and collaborate with customers to optimize the customer experience and to strive to improve the effectiveness of the entire supply chain. *Id.* at 15. The Postal Service submits that the record as to the potential impact on Periodicals mailers “compels a favorable Commission opinion.” *Id.*

Based on the record, the Postal Service provides its proposed findings and conclusions. Postal Service Brief at 25-29; Postal Service Reply Brief at 16-17.

## VI. COMMISSION ANALYSIS

### A. Roadmap of Analysis

The following sections of this Advisory Opinion analyze the effect of the proposed changes on the Postal Service’s workload planning and equipment utilization, and the impact on Periodicals mailers and recipients of Periodicals mail.<sup>21</sup> Based on the Commission’s analysis, the Commission provides recommendations for the Postal Service to consider if it chooses to implement its proposal.

#### 1. Overarching Conclusion

The Postal Service has the authority, pursuant to Title 39, to proceed with the CET changes for certain categories of Periodicals as identified in its proposal. The Commission offers the following pursuant to its responsibility to offer the Postal Service an advisory opinion that comports with the policies of Title 39. First, the proposed changes allow the Postal Service to more accurately plan for committed daily Periodicals volumes, which may result in a more efficient allocation of staff and utilization of equipment. Second, the proposed changes are likely to increase

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<sup>21</sup> The Commission considered statements supported by evidence and analyzed the effect of the planned changes based on the record before it. To the extent that certain positions rely on evidence not presented in this proceeding, participants are reminded that briefs and statements of position should be based on the existing record and shall not include any new evidentiary material. See 39 C.F.R. § 3020.123.

equipment utilization efficiency by reducing the number of required bundle/package sortation machine change overs and idle time for these machines, which should result in increased productivity for bundle sorting operations and create cost savings. In order to process Periodicals, bundle/package sortation machines must be converted or “changed over” to or from their bundle sorting or package sorting configurations. USPS-T-1 at 6. This “time-consuming process” includes “tear down and setup,” during which “all mail product must be removed from the machine and staff must perform various tasks, including removing containers from the machine, staging and/or dispatching these containers, setting up new containers, and relabeling.” *Id.* As explained below, despite increased efficiencies, these changes are likely to result in an additional service day for many of the affected Periodicals mailers.

The proposed changes will likely allow the Postal Service to more accurately plan for its daily operations because they will provide a complete picture of the committed daily volume of affected Periodicals by the 0800 CET. This change directly addresses several of the challenges that the Postal Service has identified in this proceeding related to fluctuations of Periodicals volumes. However, the Commission finds that historical data should allow the Postal Service to project these volumes reasonably accurately without the proposed changes. Distributions of Periodicals volumes by hour of acceptance and by day of the week are sufficiently consistent for this purpose. Nevertheless, the proposed changes will likely enable the Postal Service to project more easily and accurately the Periodicals volumes and, therefore, will likely improve Periodicals processing.

The proposed changes are likely to increase equipment utilization efficiency because the uncertainty regarding Periodicals volumes leads to bundle/package sortation machines being held idle in anticipation of potential Periodicals volumes. As explained below, changing over these machines from bundle sorting to package sorting functions can be resource-intensive, which leads to the Postal Service holding these machines idle. These factors lend credibility to the Postal Service’s contention that the

proposed changes should result in additional functional capacity for bundle/package sortation machines without the purchase of additional equipment.

However, the Commission is concerned that the proposed changes will result in an additional service day for affected Periodicals mailers. Although the Postal Service is “optimistic” that mailers “can adapt” to a CET of 0800, 87 percent of Periodicals mailers currently subject to that CET have an AET after 0800. Response to POIR No. 1, question 7.a-b. The fact that such a high percentage of Periodicals mailers currently assigned an 0800 CET do not meet that CET suggests that either the Postal Service’s optimism is not objectively reasonable or the behavior of the mailers that could be affected by the proposed changes would be significantly different from the behavior of the currently affected mailers.

Given that the affected mail volume consists entirely of workshared categories of Periodicals mail, the Commission is also concerned that the equalization of CETs with non-workshared mail and diminution in time for mailers’ presortation activities could lead to changes in mailer behavior that mitigate the expected efficiency benefits for the Postal Service. A subset of affected Periodicals volume consists of daily and weekly Periodicals, the time-sensitivity of which may make them particularly sensitive to the choice between accelerated production time frames and delayed delivery, either of which would risk compromising such publications’ educational, cultural, social, and informational value to consumers.

## 2. Workload Planning Findings

The Commission finds that the Postal Service has not presented sufficient information to demonstrate that the proposed changes to the CETs will provide the estimated benefits and that these benefits could not be achieved under the current CETs. The Commission accepts the proposition that overall volumes for Periodicals fluctuate significantly. However, despite the challenges caused by these fluctuations, the Postal Service should still be able to project Periodicals volumes using its detailed

historical mail processing data that describe the AET of Periodicals by hour of acceptance and by day of the week. See, e.g., Library Reference USPS-LR-N2022-2/6. Consequently, it is not clear how the proposed changes will improve the Postal Service's ability to project daily committed volume.

The Commission recommends that the Postal Service evaluate the methodology it used to calculate the expected benefits, including its assumptions regarding Periodicals mailer behavior, analysis input parameters, and data time periods used.

### 3. Equipment Utilization Findings

The Commission finds that the current CETs result in inefficient utilization of bundle/package sortation machines. Currently, the Postal Service holds package/bundle sortation machines idle for periods of time so that these machines are available to sort later-arriving Periodicals. The Postal Service claims that it does this because changing over the machine from the bundle sortation configuration to the package sortation configuration requires significant resources in terms of personnel and work time. As a result, these machines are not currently run at capacity.

These capacity issues can result in delays, which can cause service failures. For instance, when Periodicals processing runs late, these mailpieces are sometimes sent downstream to retail or delivery units unprocessed. These unprocessed Periodicals require manual sortation at those facilities, which can also result in human error.

The Commission finds that the Postal Service is reasonable to conclude that the proposed changes will increase its bundle/package sortation machine capacity without the need for additional equipment because of the significant resources expended to change over these machines and the resulting stretches of idle processing time. The revised CETs would address these issues by allowing the Postal Service to process its committed daily Periodicals volumes at one time.



#### 4. Impact on Stakeholders Findings

The Commission finds that the proposed changes will affect a significant number of Periodicals mailers. Furthermore, the Commission finds that it is unclear whether the subset of Periodicals mailers—particularly mailers of daily and weekly Periodicals—that will be affected by the proposed changes will be able to mitigate the impacts of those changes.

Although the Postal Service is “optimistic” that Periodicals mailers “can adapt” to the proposed CETs, the bulk of Periodicals volume currently assigned an 0800 CET has an AET after 0800. This provides a strong indication that affected Periodicals mailers either cannot or will not choose to tender their mail by 0800.

The Postal Service argues that it can be inferred that Periodicals mailers that are currently assigned a CET of 0800 have adapted because those mailers have not reported that the CET adversely impacts their, or their customers’, delivery expectations. The Postal Service avers that most of the Periodicals tendered after the 0800 CET are actually being tendered early for the next day.

Despite mailer concerns over the impact of an additional delivery day due to the change, the Postal Service does not explain how a shift from the current CETs to 0800 would not add an additional service day for the affected mailers. The Postal Service’s contention that the CET is not a major driver of mailer behavior makes adding an additional service day even more likely. The Commission further finds it troubling that the Postal Service has not analyzed how the expected impact on Periodicals mailers would affect Periodicals volumes or the recipients of Periodicals mail.

The Commission finds that, to the extent that affected Periodicals mailers cannot or will not adapt their logistical and work processes to achieve the revised CETs, the effect of the proposed changes for those mailers will be to add a service day for their affected volumes. Furthermore, the Commission finds that the Postal Service’s optimism is not objectively reasonable unless the behavior of the mailers that would be

affected by the proposed changes is significantly different than that of the currently affected mailers.

Additionally, the Commission is concerned that the Postal Service appears not to have accounted for the potential for the proposed changes, which would equalize the CET for both non-presorted and certain presorted Periodicals mail, to discourage presortation notwithstanding the incentive of workshare discounts. This potential effect could be particularly pronounced among mailers of daily and weekly publications, the editorial and advertising content of which may be more time-sensitive and less amenable to either accelerated production or delayed delivery than that of other publications. If mailers opt to forgo presortation in the interest of time, that could drive volume from more to less efficient price categories, mitigating the expected efficiency benefits for the Postal Service and reducing overall productive efficiency in the market.

## B. Workload Planning Analysis

### 1. Overview

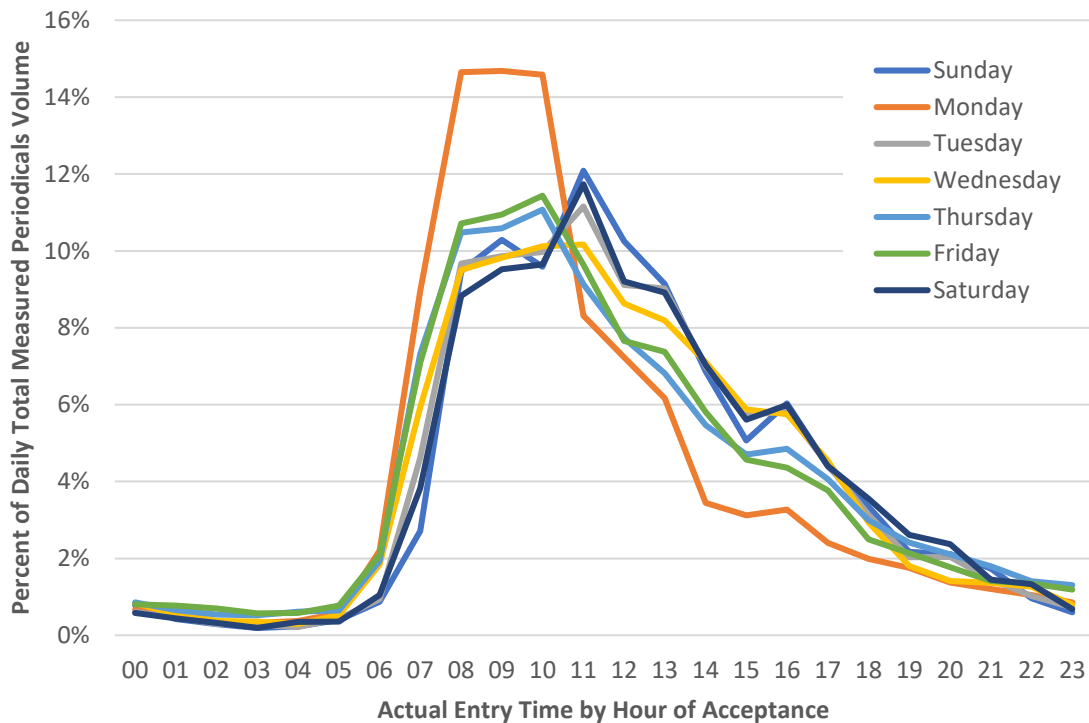
The Postal Service states that the current CETs impede effective workload planning for flat mail because certain Periodicals arrive up to 6 hours later than other flat mail. USPS-T-1 at 5. The Postal Service avers that a consistent 0800 CET would “provide a clear picture of the committed volume for each given day.” *Id.* at 10. Committed volume is defined as “volume that must be processed on any given day in order to meet its assigned expected delivery day.” Response to POIR No. 1, question 1.a. The Postal Service contends that “plans based on known facts (i.e., how much volume *has* arrived), rather than assumptions (i.e., how much volume *may* arrive), would improve the Postal Service’s ability to assess the number of manhours required to process mail.” Response to POIR No. 2, question 1.a.i. (emphasis in original). The Postal Service claims that this proposal will enable it “to generate reliable processing plans and to allocate staff accordingly.” USPS-T-1 at 10.

## 2. Commission Analysis

The Postal Service asserts that overall volumes for Periodicals fluctuate significantly throughout the day due to different CETs and that a consistent CET of 0800 for the proposed Periodical categories would “provide a clear picture of the committed volume for each given day, allowing the Postal Service to generate reliable processing plans and to allocate staff accordingly.” *Id.* It is not clear, however, why the proposed changes are necessary for the Postal Service to develop and implement reliable processing estimates and allocate staff using those estimates as operational guides. As noted above, the Postal Service has a significant amount of detailed historical processing data that describe the AET of Periodicals by the hour of acceptance and by day of the week. See, e.g., Library Reference USPS-LR-N2022-2/6. In addition, the business models of Periodicals mailers are often inherently subscription-based, which means that their AETs follow recurring patterns and total volumes should be projectable. The Postal Service, however, argues that “Periodicals mailers’ supply chains tend themselves to be variable” and that the subscription model “is not the entire story.” Response to POIR No. 2, question 1.a.ii.

The Postal Service argues that it is not able to develop a clear understanding of committed Periodicals volume for any given day due to the 6-hour difference between the current CETs of 0800 and 1400. USPS-T-1 at 5. As Figure VI-1 presents, however, the distribution of measured Periodicals volume by AET is consistent. It is not clear how normalizing several of the CETs would address the Postal Service’s stated problem of unpredictable Periodicals volumes.

**Figure VI-1  
Distribution of Measured Periodicals Volume by Day of the Week:  
Actual Entry Time by Hour of Acceptance,  
FY 2021**

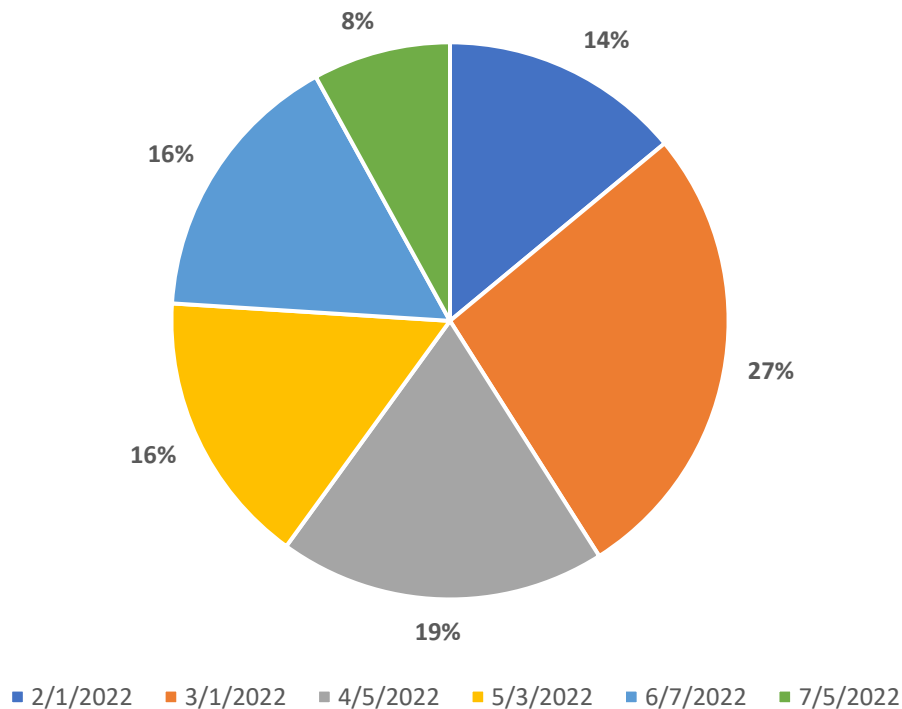


Source: Library Reference USPS-LR-N2022-2/6.

The Postal Service asserts that historical Periodicals processing data may be reasonably accurate on a macro level but that volumes can vary substantially on a plant level. Response to POIR No. 1, question 1.c. The Postal Service further argues that plants vary substantially in volumes accepted and processed, equipment utilized, and operating parameters, and this variation contributes to the challenge of forecasting Periodicals volume. *Id.* The Postal Service, however, does not provide any data supporting this assertion of inter-plant variability in its Response to POIR No. 2, question 1.

The Postal Service presents Periodicals volumes from February 1, 2022, through July 31, 2022, to demonstrate the nationwide variation in these volumes by day of the week and AET. Library Reference USPS-LR-N2022-2-2. The Postal Service selects Tuesdays within that sample period and compares the maximum and minimum Periodicals volumes on the first Tuesday of the month to present the range of volumes. The Commission observes that at the aggregate level, there is a significant variation in Periodicals volumes throughout the selected 6-month sample period: Periodicals volumes on the first Tuesday of the month range from approximately 2.09 million mailpieces to 7.17 million mailpieces. Response to POIR No. 1, question 1.c.i.

**Figure VI-2  
Distribution of Periodicals Volume Accepted on First Tuesday of Month  
February–July 2022**



Source: Response to POIR No. 1, question 1.c.i.

As noted above, the Postal Service argues that differences between plants, including variations in volumes accepted and processed, equipment utilized, and operating parameters present challenges in forecasting processing volume. However, volumes still should be consistent for each plant, irrespective of how that plant may differ from other plants. The Postal Service argues that “[p]lant-level historical data do not on their own afford reliable projections of volumes” that would permit the Postal Service to forecast variation, which it argues fluctuate as a function of supply and demand. Response to POIR No. 2, question 1.a.i. The Postal Service does not provide data to support this assertion. *See id.*

### 3. Conclusion

The Commission finds that the Postal Service has not presented sufficient evidence to demonstrate that the proposed CET changes will provide the estimated benefits and that these benefits could not be achieved under the current CETs. The Commission agrees that fluctuations in overall Periodicals volumes by AET might present challenges to the Postal Service’s workload planning efforts. However, under current circumstances, the Postal Service should still be able to project Periodicals volumes given the consistency in distribution of Periodicals volumes by day of the week and hour of acceptance. *See* Figure VI-1. It is also not clear how the adjustment in CETs will allow for more efficient workload planning. The observed consistent distribution of Periodicals volumes by hour of acceptance under the current CETs should allow the Postal Service to estimate daily committed volumes based on earlier accepted volumes.

The Commission recommends that the Postal Service further analyze whether the proposed CET changes will provide the expected benefits. Specifically, the Postal Service should evaluate the methodology it applied to calculate the expected benefits, revisit its assumptions regarding Periodicals mailer behavior and analysis input

parameters, and reconsider the time period used for its data analysis, as a 6-month sample may not be representative.

### C. Equipment Utilization Analysis

#### 1. Overview

The Postal Service states that the current CETs result in suboptimal utilization of its equipment, thereby causing delays and service failures. USPS-T-1 at 5-6. Primarily, the Postal Service argues that the current CETs cause issues related to capacity and utilization of bundle/package sortation machines. *Id.* However, the Postal Service also avers that these problems affect other Postal Service products, such as packages and other flat-shaped mail. *Id.* at 1.

In order to process Periodicals, bundle/package sortation machines must be converted or “changed over” to or from their bundle sorting or package sorting configurations. *Id.* at 6. This “time-consuming process” includes “tear down and setup,” during which “all mail product must be removed from the machine and staff must perform various tasks, including removing containers from the machine, staging and/or dispatching these containers, setting up new containers, and relabeling.” *Id.* As a result, the Postal Service must hold bundle/package sortation machines in reserve, so that they are available to sort later-arriving Periodicals. *Id.*

The Postal Service also contends that insufficient bundle processing capacity caused by these issues can cause processing to run late, sometimes resulting in Periodicals mail being sent unprocessed to retail and delivery units for sortation. *Id.* at 5. The Postal Service reports that the consequent manual sortation causes bottlenecks, delays, and service failures. *Id.* It can also result in human error, such as the

assignment of incorrect start-the-clock days.<sup>22</sup> The Postal Service avers that the proposed changes will address these issues by increasing machine capacity, which in turn will reduce the need for manual sortation and prevent unsorted Periodicals from being pushed to other facilities. The Postal Service reports that the proposed changes “would enable more effective operations and provide more reliable service.” USPS-T-1 at 10.

## 2. Commission Analysis

The Commission acknowledges that the current CETs contribute to bundle/package sortation machine capacity issues, which can cause service failures. These capacity issues are the result of the significant resources required to change over bundle/package sortation machines, which impede the Postal Service’s efforts to utilize its equipment efficiently.

The number of employees and time required to change over bundle/package sortation machines varies by machine and is based on the number of bins, size of the machine, and container type. Response to POIR No. 1, question 2.b.i. The Postal Service reports that the process can require between 4 and 14 employees and between 45 minutes and 1 hour of work time. *Id.* question 2.b.ii. Each processing run of Periodicals mail requires at least two change overs. *Id.* question 2.a. Each additional, non-consecutive run requires an additional two change overs. *Id.*

As a result, the Postal Service holds bundle/package machines in reserve to remain available for processing later-arriving Periodicals. USPS-T-1 at 6. The Postal Service’s throughput data indicate that its bundle/package sortation machines “fall well below machine capacity, indicating that stretches of ineffective processing time arise while machines are reserved for bundles of Periodicals Mail.” Response to POIR No. 1,

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<sup>22</sup> Response of United States Postal Service Witness Jake Campbell to the Public Representative’s First Set of Interrogatories Directed to Postal Service Witness Jake Campbell, September 22, 2022, PR/USPS-T-1/2.a.2., a.4.



question 2.d. However, it is worth noting that two of the three CETs being changed by the Postal Service in this proposal apply to Periodicals for which the mailer has already performed bundle sortation prior to Postal Service acceptance.

The Commission finds that the Postal Service has established that the current CETs contribute to bundle/package sortation machine capacity issues due to the significant expenditure of time and personnel required for each change over. This, in turn, explains the Postal Service's decision to reserve bundle/package sortation machines to process later-arriving Periodicals, which creates stretches of idle processing time for these machines. The resulting capacity issues can cause service failures due to processing delays, which can necessitate more expensive manual sortation.

### 3. Conclusion

The current CETs contribute to bundle/package sortation machine capacity issues, which can cause service failures. The Postal Service is reasonable to conclude that the proposed changes will increase its bundle/package sortation machine capacity without the need for additional equipment because of the significant resources expended to change over these machines and the resulting stretches of idle processing time.

The Commission recommends that the Postal Service monitor implementation of the proposed changes to ensure that increased bundle/package sortation equipment capacity is utilized as planned. Specifically, the Postal Service should ascertain whether the expected spillover efficiencies for other flats and parcel processing are realized. If these anticipated benefits are not realized, the Postal Service should consider further steps, such as purchasing additional equipment, to minimize service failures associated with equipment capacity.

## D. Impact on Stakeholders Analysis

### 1. Overview

The proposed changes will affect a significant amount of Periodicals volumes and mailers, particularly publishers of weekly and daily Periodicals. The Postal Service reports that the proposed changes will affect approximately 20.3 percent of Periodicals mail volume. USPS-T-1 at 8-9; Postal Service Brief at 17-18. The Postal Service frames this impact in terms of overall flats volume, stating that the current CETs are “hoops that we jump through to accommodate only approximately 4.8 percent of the overall volume of flat mail[.]” *Id.* at 9. However, mailers are concerned that the Periodicals volume affected by the proposed change is likely higher than the volume asserted by the Postal Service due to unmeasured Periodicals mail not being included in the estimate. See N/MA Statement of Position at 8; NNA Statement of Position at 2. N/MA states that the volumes omitted from the Postal Service’s estimate amount to more than half of the total Periodicals mailpieces in FY 2021. N/MA Statement of Position at 9. Similarly, NNA contends that the effect of the planned changes upon nearly half of the Periodicals class is unknown. See NNA Statement of Position at 2-3.

Furthermore, the proposed changes are expected to disproportionately affect publishers of daily and weekly Periodicals. USPS-T-2 at 3-4. The Postal Service reports that its meetings with industry representatives revealed that these Periodicals mailers represent the “most vulnerable segment to be potentially impacted.” *Id.* Daily and weekly Periodicals publishers accounted for 28.2 percent of Periodicals volumes in FY 2021 and represented 40.6 percent of publishers. *Id.* at 3. In FY 2021, daily Periodicals volumes comprised 5.5 percent of Periodicals volumes and weekly publishers represented 22.7 percent of Periodicals volumes.<sup>23</sup> The Postal Service is

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<sup>23</sup> Response of United States Postal Service Witness Thomas J. Foti to the Public Representative’s Second Set of Interrogatories to Postal Service Witness Thomas J. Foti, September 29, 2022, PR/USPS-T-2/4.b.

hopeful that these mailers will adapt to the revised CETs and tender their mailpieces prior to 0800 or overnight, using FAST appointments. USPS-T-2 at 6; Postal Service Brief at 19.

Mailers have expressed concerns about being able to adapt to these changes. In opposing the changes, N/MA states that the Postal Service did not consider the costs that mailers would incur in changes to mail preparation or whether the Postal Service's suggestions for alternatives are viable as a business or practical matter. N/MA Statement of Position at 6. It claims that publishers will face burdens related to accelerated production schedules, less time for editorial work, and additional preparation and entry costs. *Id.* at 4. Similarly, NNA contends that the CET change will add an additional delivery day for publishers' mail that cannot adapt to an earlier entry time, citing reasons such as inflexible printer schedules, the inability to set earlier internal deadlines, and traffic concerns. NNA Statement of Position at 4-5. Mailers assert that losing a day of service will have a devastating impact on publishers. Response to POIR No. 2, question 4, Attachment 1 at 2.

Mailers also have expressed concerns over the availability of FAST appointments. See, e.g., Response to POIR No. 2, question 4, Attachment 1 at 2; N/MA Statement of Position at 7. FAST appointments are an initiative from the Postal Service designed to improve its "drop shipment and Origin Entry appointment scheduling processes through allocating appointment availability and decreasing dock wait times."<sup>24</sup> Several Periodicals mailers have expressed concerns that their FAST appointments have not been honored or otherwise have experienced issues with the FAST process. See Response to POIR No. 2, question 4, Attachment 1 at 2; N/MA Statement of Position at 7. Those issues are relevant here because the affected Periodicals mailers are likely to avail themselves of the FAST process if they seek to achieve the revised 0800 CET.

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<sup>24</sup> United States Postal Service, Facility Access and Shipment Tracking (FAST), available at <https://fast.usps.com/fast/main.action>.

Although the Postal Service states that it is “not aware of specific recent instances of insufficient available FAST appointment opportunities for Periodicals Mail,” it has signaled that it will address issues related to FAST appointments. Postal Service Brief at 20. Specifically, the Postal Service has committed to: (1) creating availability for FAST appointments prior to 0800; (2) ensuring adequate platform staffing to accept and process FAST appointment mailings; (3) continuing standard operating procedures outside bulk mail operating hours; and (4) ensuring acceptance processes are in place for early morning drop off locations. USPS-T-2 at 5.

More broadly, the Postal Service has stated that it will “[s]trive to [m]itigate the [i]mpact” of the proposed changes on mailers. *Id.* The Postal Service states that these changes will “facilitate more effective staff allocation[,]” which would “better enable the Postal Service to provide appropriate personnel” for FAST appointments. *Id.*

## 2. Commission Analysis

The Commission finds that the proposed changes will affect a significant number of Periodicals mailers. Although the Postal Service seeks to frame the impact of this change in terms of the percentage of overall flats volume affected, the more appropriate frame of reference is the percentage of Periodicals mailers and volume affected. Periodicals is a separate class of mail that is discrete from other categories of flat-shaped mail and that is unique in its educational, cultural, social, and informational value, and the proposed changes are estimated to impact more than 20 percent of Periodicals volumes. USPS-T-1 at 8-9. Moreover, mailers assert that more than half of Periodicals mail volume is not measured and thus, the impact of these changes on that volume is unknown.

The Commission also finds that it is unclear whether the significant percentage of Periodicals mailers that will be affected by the proposed changes will be able to mitigate the impacts of the changes. The Postal Service states that it is “optimistic” that Periodicals mailers “can similarly adapt” to the proposed CETs. USPS-T-2 at 6. The

Postal Service appears to base this optimism on “the success that the entire periodicals mailers industry has had in adapting to the 0800 CET at locations with Flat[s] Sequencing System machines.” *See id.*

However, the Postal Service reports that 87 percent of Periodicals mail volume currently subject to an 0800 CET have an AET after 0800. Response to POIR No. 1, question 7.a-b. This strongly indicates that Periodicals mailers already assigned a CET of 0800 either cannot or choose to not tender their mail by 0800. Importantly, even some mailers that have been able to achieve the 0800 window at FSS locations are concerned that they cannot do so on a nationwide basis.<sup>25</sup>

The Postal Service argues that “it can reasonably be inferred that these periodicals mailers have adapted their logistical and other work processes” because “periodical mailers have not reported that the current FSS 0800 CET adversely impacts their or their customers’ delivery expectations.” Response to POIR No. 2, question 2.a. The Postal Service contends that “such a significant failure rate would be far too great to reasonably be ascribed to periodicals mailers’ logistical difficulties.” *Id.* question 2.b. The Postal Service concludes that “absent such complaints” it is more likely that Periodicals mailers currently subject to the 0800 CET “are in fact early for the following day’s CET.” *Id.* In essence, the Postal Service takes the position that mailers have already adapted their logistical and work processes because mailers have not complained that the existing 0800 CET at FSS facilities adversely impacts their or their customers’ delivery expectations. The Postal Service then attempts to rebut arguments that a CET of 0800 is too logistically difficult for these mailers to be attainable with evidence that most mailers that are currently affected instead choose to accept an additional service day.

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<sup>25</sup> Response of United States Postal Service Witness Thomas J. Foti to the Public Representative’s First Set of Interrogatories to Postal Service Witness Thomas J. Foti, September 22, 2022, PR/USPS-T-2/3 (Response to PR/USPS-T-2/3).

Furthermore, the Postal Service contends that the “CET is not the major driver in influencing when Periodicals Mail actually arrives . . . .” Response to PR/USPS-T-2/3. The Postal Service states that its data “suggest[ ] a minimal impact to arrival times from the proposed CET change” and “indicate that the CET is not the major driver in influencing when Periodicals Mail actually arrives at a postal processing facility[.]”<sup>26</sup> This evidence indicates that, even if it was logistically possible to adapt, the effect of the proposed changes might still be to add an additional service day.

This is especially problematic given that the record does not indicate that the Postal Service has considered the particular schedules of the affected Periodicals mailers. Response to POIR No. 2, question 4, Attachment 1; see *generally* Docket No. PI2022-3. These mailers contend that they are constrained by a “tight production schedule [and] long lead times for establishing and changing manufacturing schedules . . . .” Response to POIR No. 2, question 4, Attachment 1 at 2. Although the Postal Service has conferred with these mailers, it is unclear how the Postal Service evaluated the impact on their ability to accelerate these schedules or the potential for these proposed changes to result in reducing mailing activity due to delayed delivery.

The Postal Service also does not appear to have considered that the proposed changes may discourage worksharing to some degree, nor has it apparently studied the differential impact on Periodicals volumes of varying publication frequency. See Response to POIR No. 2, questions 3, 6. Notably, all of the volume that would experience a CET change is in price categories that require the mailer to perform certain presortation functions in addition to the basic work, shared by non-presort Periodicals mail, of production and transportation to the facility. Whereas the current CETs provide presort mailers with additional increments of time to perform progressively rigorous presortation tasks, the proposed CETs would require the first two

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<sup>26</sup> Response of United States Postal Service Witness Thomas J. Foti to the News/Media Alliance’s First Set of Interrogatories to United States Postal Service Witness Thomas J. Foti, October 3, 2022, N/MA/USPS-T2-5.b.

levels of presort mail to arrive at a facility by the same 0800 CET as non-presort mail or else experience a deferred start of the service clock. In essence, presort mailers would have to do even more work than non-presort mailers by the same cutoff time in order to receive the same expected level of service. Although price would continue to differentiate the different presort levels and to serve as an incentive to presortation, the equalization of CETs with non-presort mail—and the attendant shortening of the clock for presortation or other pre-entry tasks—could serve as a disincentive for some mailers to engage in one or both of the affected levels of presortation. This potential could be pronounced for Periodicals volume that is especially time-sensitive: namely, daily and weekly publications, the educational, cultural, social, and informational value of which may depend on the shortest possible turnaround from editorial closure to delivery. Any reduction in presortation would tend to decrease operational efficiency and increase Postal Service costs. This effect could diminish the expected efficiency gains from the proposed changes. It would also diminish productive efficiency in the overall delivery market by shifting volume from more efficient third-party presort operations to less efficient Postal Service sortation operations.

Additionally, the Postal Service “has not conducted an evaluation of the impact of an additional service day on either the value of Periodicals mailpieces or on consumers of periodicals.” Response to POIR No. 1, question 7.a-b. It has also not conducted any formal analysis on the impact of these changes on Periodicals volumes in urban and rural areas. Response to POIR No. 2, question 10.a-b. The Commission is also concerned that the views of Periodicals mail recipients have not been taken into account. The evidence in the record indicates that the proposed changes are likely to have a significant impact on these recipients and the lack of analysis on how these changes will affect those members of the general public provides another concern.

The Commission finds that, if affected Periodicals mailers cannot or will not adapt their logistical and work processes to achieve the revised CETs, the effect of the proposed changes will be to add a service day for much of the affected portion of

Periodicals volumes. If the CET is not a major driver of mailer behavior, as the Postal Service suggests, this impact is significantly more likely to occur. The Commission does not accept the Postal Service's contention that these conclusions regarding the practical effect of this change "lack[ ] logical support." See Response to POIR No. 2, question 2.b. The Postal Service does not explain why it expects that the mailers affected by this change will not act in a similar manner, effectively adding a service day to delivery of their mailpieces. For the above reasons, the Commission finds that the Postal Service's optimism is not objectively reasonable unless it can establish that the behavior of the mailers that would be affected by the proposed changes is significantly different than that of the currently affected mailers.

### 3. Conclusion

The proposed changes are likely to have a significant impact on a substantial percentage of Periodicals volumes. The proposed changes are expected to affect more than 20 percent of Periodicals volumes and more than 40 percent of Periodicals publishers. The Postal Service must make good on its promise to "[s]trive to [m]itigate" the impact on those mailers.

First, the Postal Service should acknowledge the possibility that the revised CETs may add an additional service day for many of the affected mailers. The weight of the evidence indicates that Periodicals mailers are either unwilling or unable to adapt their logistical and work processes to achieve a CET of 0800. As explained above, 87 percent of Periodicals mailers currently assigned an 0800 CET do not achieve it. Although the Postal Service states that it expects affected mailers to adapt, it does not explain what adaptations it anticipates, nor does it provide evidence that mailers will adapt in any way other than accepting an additional service day.

Second, the Postal Service must ensure that FAST appointments are available and that mailers are not hindered in tendering their mail. The Commission is concerned about the availability of these appointments, given that the Postal Service has



established that Periodicals volumes are subject to fluctuations that can cause the current service failures. The Postal Service needs to monitor and add sufficient FAST appointments to respond to shifts in mailer behavior and to work with mailers in order for the proposed changes to represent a service improvement that accords with Title 39.

Third, the Postal Service should develop more granular data around tender times and consider how to mitigate the impacts of the proposed changes on the particularly vulnerable segments of Periodicals mailers.<sup>27</sup> The Postal Service should also analyze potential behavioral changes for Periodicals mailers and the potential impact of those changes on the expected net financial benefits and efficiency gains.

Finally, the Commission recommends that the Postal Service weigh the expected benefits of the proposed changes against the significant impact on affected Periodicals mailers in determining if the proposed changes represent an overall service improvement in the Periodicals class as a whole.

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<sup>27</sup> For example, the Postal Service could develop data that would enable analysis of Periodicals mail by publication frequency, CET, and AET. The Postal Service asserts that it does not maintain such data. Response to POIR No. 2, question 3. However, publication frequency is attested on every piece of documentation associated with Periodicals mail, including the postage statements that the Postal Service uses to account for Periodicals mail tendered to it. *E.g.*, United States Postal Service, PS Form 3541, Postage Statement—Periodicals (July 2022), <https://about.usps.com/forms/ps3541.pdf>. The postage statement also specifies the price categories of the relevant mail, which are predicated on the degree of presortation and therefore should permit association with the relevant CETs. It is unclear from the record why, at least with respect to full-service mail, the same mailing documentation cannot be correlated with scan data about when the mail is actually entered (*i.e.*, the AET). The Commission encourages the Postal Service to explore feasible means of associating these available data elements in the interest of developing data that would help the Postal Service, the Commission, and Periodicals mailers to better understand mailer needs and behavior with respect to Periodicals with different publication frequencies.

## VII. CERTIFICATION

In the current proceeding, the Commission has analyzed the proposed changes and their purported benefits. The Commission has also considered filings by the News/Media Alliance, National Newspaper Association, Inc., the Public Representative, and the Postal Service.

It is the opinion of each of the Commissioners listed below, pursuant to 39 U.S.C. § 3661(c), that this Advisory Opinion conforms to the policies established under Title 39, United States Code.

Michael Kubayanda, Chairman

Ann C. Fisher, Vice Chairman

Mark Acton, Commissioner

Ashley E. Poling, Commissioner

Robert G. Taub, Commissioner