
UNITED STATES OF AMERICA
Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE

Complaint on Charges for the)
Bulk Parcel Return Service)

Docket No. C99-4

INITIAL BRIEF
OF
THE OFFICE OF THE CONSUMER ADVOCATE

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The Office of the Consumer Advocate ("OCA") pursuant to Rule 34 of the Rules of Practice and Procedure of the Postal Rate Commission ("Commission"), 39 C.F.R. §3001.34, and pursuant to Order No. 1282,¹ hereby submits its Initial Brief on the complaint of the Continuity Shippers Association ("CSA") on the rate for Bulk Parcel Return Service ("BPRS").

EXECUTIVE SUMMARY

This proceeding arises from a complaint filed by CSA, an association of shippers, some of whom utilize the Postal Service's Bulk Parcel Return Service. This service permits large mailers to arrange, in advance, with the Postal Service for the return of parcels for a fee of \$1.75 per piece. Otherwise, the recipient either must pay for return postage or, if the piece is returned without postage, the mailer must recover

¹ "Order Scheduling Hearings and the Submission of Testimony," January 28, 2000.

the parcel from a mail recovery center and pay a much higher postage rate. CSA objects that the BPRS rate of \$1.75 is too high because it includes a cost coverage for institutional costs that is set at the systemwide average for cost coverage rather than a lower amount similar to that of other services which CSA believes are comparable.

The Commission recently approved the BPRS service and set the rate based upon estimated costs. The Postal Service subsequently filed a cost study that appeared to indicate much lower attributable costs than originally estimated but subsequent adjustments and rollforwards to the current FY 2000 indicate that the attributable cost for the service is now almost exactly as originally estimated.

Nevertheless, the complainant still argues for a lower rate of \$1.48 based on the cost coverage of 135 percent provided for Standard (A) Mail. The Postal Service and the OCA both seek rejection of the complaint on two grounds: first, that CSA has failed to meet its burden to justify changing the rate outside of the pending omnibus rate case because nothing has changed since the Commission's approval of the BPRS rate; and, second, that the BPRS service is very different from, and of higher value, than both Standard (A) Mail and Standard (B) Mail to which CSA also points in justification for a lower rate.

STATEMENT OF THE CASE

This proceeding arises from the complaint of the CSA filed June 8, 1999, alleging that the current BPRS rate is excessive and contravenes the policies of the Postal

Reorganization Act ("Act"), most specifically, Section 3622, 39 U.S.C. §3622.² CSA alleges that the current BPRS rate of \$1.75 provides a cost coverage exceeding that for comparable services, specifically, Standard (A) Mail and Special Standard (B) Mail. In support of the complaint, CSA also cited an October 1998 Postal Service study which determined the unit BPRS costs for 1998 to be \$.93 cents.³ This, CSA contends, implies a cost coverage of 188 percent at the \$1.75 rate. CSA argues that a 188 percent coverage is excessive as compared to Special Standard (B) service and that it significantly exceeds the 156 percent cost coverage assumed when the Commission initially approved the \$1.75 rate for BPRS in 1997. From this, CSA concludes that the BPRS rate is not based upon a reasonable allocation of institutional costs and is not "fair and equitable" in contravention of Sections 3622(b)(1) and 3623 (c)(1) of the Act.

The Commission instituted formal proceedings to hold hearings on the complaint pursuant to Section 3662 of the Act, 39 U.S.C. §3662.⁴ The order rejected the Postal Service's motion to dismiss the complaint.⁵ The Commission's order noted that CSA requested proceedings "to review the adequacy and accuracy of the cost studies underlying the BPRS rate and to consider whether the BPRS rate properly reflects the

² "Complaint of the Continuity Shippers Association Regarding Charges for the Bulk Parcel Return Service," June 8, 1999 ("Complaint").

³ Bulk Parcel Return Service Cost Study, October 29, 1998. This study was filed pursuant to the direction of the Commission in its order approving the BPRS service in Docket No. MC97-4, "Opinion and Recommended Decision Approving Revised Stipulation and Agreement," September 4, 1997.

⁴ "Order Denying Motion of United States Postal Service to Dismiss Complaint and Notice of Formal Proceedings," Order No. 1260, September 3, 1999.

⁵ The Postal Service primarily disputed the Complaint's comparisons to other mail services but the Commission determined the "Service has failed to provide adequate justification for dismissal of the Complaint without hearings." Order at 5.

service's costs and its value to the sender and recipient."⁶ Because the Postal Service has recently filed an omnibus rate change application in Docket No. R2000-1, the remedy sought by CSA in this case is now limited to only the period from the date any Commission's recommendation in this case is implemented until the new rates in Docket No. R2000-1 become effective, probably January 2001.

Pursuant to the Commission's direction in its notice, the parties conducted settlement negotiations that proved unsuccessful.⁷ However, for purposes of decision in this case, CSA unilaterally offered to stipulate to an attributable FY 2000 cost amount of \$1.09 (since increased to \$1.112) for the BPRS service.⁸ Thereafter, CSA on its own initiative filed a brief on October 1, 1999, arguing the remaining issue, the appropriate cost coverage for BPRS service. CSA's brief proposed a cost coverage of 136 percent based on the coverage allowed for Standard (A) Mail resulting in a BPRS rate of \$1.48. CSA argues that this would properly reflect the value of service when compared to rates for other products used for returns (specifically, Special Standard (B), Bound Printed Matter, and Standard (A) Mail) and that such a rate would comport with other policies of the Act.

⁶ Order at 3, citing the Complaint at 5-6.

⁷ "Office of the Consumer Advocate Report on Potential for Settlement to Resolve Complaint," September 17, 1999.

⁸ CSA agreed to this in its brief filed October 1, 1999 at 1,2, and 5. Also, CSA's witness Buc agreed to this. Tr. 1/9, 109, 111.

CSA subsequently presented testimony by witness Buc who rolled forward the BPRS study, as revised,⁹ to estimate a FY 2000 BPRS unit cost of \$1.112. Tr. 1/12, Table 2; Tr. 1/111. Witness Buc further considered the appropriate pricing for BPRS in light of the factors enumerated in Section 3622(b) of the Act by comparing the BPRS service to other services that he contended are comparable. Witness Buc concluded that the Act's policies "support the lower cost coverage of 135%." Tr. 1/17.

Further procedural orders were issued by the Commission providing for filing of additional evidence and for hearings held on February 2, 2000. In the meantime, several orders denied motions to suspend the complaint proceeding or consolidate the complaint for review of the BPRS rate in the omnibus rate case filed in Docket No. R2000-1.¹⁰ Thereafter, the Postal Service presented rebuttal testimony of witness Mayo. She responded to the testimony of witness Buc pointing out the high value characteristics of BPRS, how BPRS is a special service and should be treated as such and the real comparison between Standard (A) Mail and BPRS, and concluded that the current cost coverage for BPRS is reasonable. USPS-RT-1 at 1. CSA waived cross-examination of witness Mayo.¹¹

⁹ The Postal Service revised the study to reflect the mail processing costing methodology of the Commission adopted in Docket No. R97-1. Tr. 1/9.

¹⁰ "Order on Further Procedures," Order 1265, October 8, 1999; "Order on Further Procedures," Order 1271, November 18, 1999; "Order Admitting Materials into Evidence and on Further Procedures," Order No. 1275, December 22, 1999; "Order Revising Procedural Schedule," Order No. 1276, December 28, 1999; and "Order Denying Postal Service Motion to Suspend or Consolidate Docket No. C99-4," Order No. 1281, January 24, 2000.

¹¹ "Notification of the Continuity Shippers Association, Office of Consumer Advocate, Direct Marketing Association of Intent Not to Cross-examine USPS Rebuttal witness Susan Mayo," February 18, 2000

STATEMENT OF POSITION
OF THE OFFICE OF THE CONSUMER ADVOCATE

The issues initially raised by the complaint and cited by the Commission in its order noticing this proceeding have been significantly narrowed. The issue cited by the Commission as to the "adequacy of the cost studies underlying the BPRS rate" is no longer contested by CSA for purposes of this complaint. Likewise, the issue of whether the BPRS rate properly reflects the service's costs is no longer in issue in this case. The sole questions are whether CSA has met its burden under Section 3662 of the Act to justify modification of the currently approved rate and, further, to demonstrate that the BPRS rate does not properly reflect the policies of the Act, particularly through a comparison of the special BPRS service with that of other classes of mail.

The OCA's position is as follows:

1. CSA has not met its burden under Section 3662 of the Postal Reorganization Act to demonstrate that the current cost coverage is unreasonable and in violation of the statute. The cost coverage today in FY 2000 is virtually the same as estimated by the Commission in 1997 and no circumstances have changed that justify a change in the cost coverage for BPRS service.
2. If the Commission determines that CSA has met its burden of going forward, or otherwise determines to review the BPRS cost coverage in relation to other mail services or mail return services, the Commission should find that the BPRS service is not comparable to other services cited by CSA for comparison. The appropriate cost coverage for BPRS service is the systemwide average or higher. The current rate of

\$1.75 is based upon the present systemwide coverage and is reasonable and appropriate.

ARGUMENT

I. CSA HAS NOT MET ITS BURDEN TO DEMONSTRATE THAT THE EXISTING BPRS RATE IS UNREASONABLE AND CONTRARY TO THE PROVISIONS OF THE POSTAL REORGANIZATION ACT

The BPRS rate was first approved by the Commission in September 1997, just over two years ago. In approving the rate, the Commission relied upon cost estimates presented in that record by witness Pham and the testimony of witness Adra as to pricing the BPRS service with a cost coverage of 156 percent.¹² The Commission concluded after “an independent review of the costing and pricing testimony of Postal Service witnesses Pham and Adra” that the proposed classification and fee changes “meet the criteria of 39 U.S.C. §§3622 and 3623, and conform to the policies of the Postal Reorganization Act.” PRC Op. MC97-4 at 7. Thus, the Commission determined that the rate is consistent with the policies of the Act. The order did not suggest that the new BPRS rate would be temporary, subject to further review before the next rate proceeding; nor did it indicate the rate would be reviewed after the completion and filing of the BPRS study requested in the order. Indeed, the study was filed with the Commission and no action was taken by the Commission to review the rate, even

¹² Their testimony from Docket No. MC97-4 has been admitted into this record, “Order Admitting Material into Evidence and on Further Procedures,” December 2, 1999. See witness Pham (USPS-T-1) and witness Adra (USPS-T-1).

though the attributable cost initially determined by the study was substantially below the cost estimated by the Commission in establishing the BPRS rate.

Justification to change the rate pursuant to a complaint must include a demonstration that the underlying conditions on which the Commission acted in approving the rate have changed sufficiently to require a modification of the rate, or that the Commission erred in approving the initial rate in contravention of the policies of the Act. The Administrative Procedure Act states that “[e]xcept as statutes otherwise provide, the proponent of a rule or order shall have the burden of proof.” 5 U.S.C. §556(d).¹³ CSA has neither demonstrated any significant change since the rate became effective nor has it contended the Commission erred in the first instance in approving a BPRS rate based upon the average systemwide cost coverage.

The CSA complaint initially contended that the cost coverage of 188 percent based upon the BPRS cost study with a \$0.93 unit cost is unreasonable. Subsequently, after revision of the BPRS study to conform to Commission methodology (which is uncontested in this proceeding), and rolling forward to FY 2000 by simply

¹³ Having the burden of proof establishes very specific requirements for CSA's evidence and the criteria against which that evidence is to be measured. As explained in 4 STEIN, MITCHELL, MEZINES, (emphasis added, footnotes omitted):

The term “burden of proof” often contemplates what the litigating proponent must establish in order to persuade the trier of the facts of the validity of his claim or affirmative defense, and, at times, is referred to as the “burden of persuasion” . . . [I]t is a burden derived from substantive law which becomes an active factor in the context of litigation when all of the evidence has been submitted. . . . It is imperative to note that the burden of proof remains fixed throughout the litigation on the proponent, *who must sustain his burden of persuasion in a qualitative manner, specifically with credible evidence.*

In order to support its position, CSA must provide qualitative, credible evidence that the BPRS rate no longer is lawful, and that the rate proposed by CSA is fair and equitable. CSA has failed to meet this standard.

using the Consumer Price Index-Urban (CPIU), CSA contended that the unit cost of \$1.09 nevertheless resulted in an unreasonable cost overage of 168 percent. Next, CSA witness Buc reviewed the unit costs. He accepted the BPRS cost study for purposes of this case. Tr. 1/9, 109, 111. He carefully rolled them forward using DRI forecasts and the best information available to him (uncontested on this record), and concluded that his best estimate for the FY 2000 unit attributable cost is \$1.112. Tr. 1/9-12.

However, having determined this unit cost, witness Buc ignored it in his prepared testimony, neglecting to point out that the unit cost of \$1.112 yields a cost coverage of 157.37 percent ($\$1.75/\1.112). This is virtually the same as the 156 percent cost coverage found reasonable and in conformity with the policies of the Act by the Commission for the BPRS service when it approved that service in Docket No. MC97-4. Instead, witness Buc focused on the cost coverage of 168 percent using the lower revised 1998 BPRS unit cost of \$1.038. He stated in his prepared testimony:

Under the 1998 BPRS cost study (as revised), the actual coverage is 168%. The application of the Title 39 policies and the nine factors show that the current cost coverage for the BPRS of 168% is too high.
Tr.1/13.

Moreover, witness Buc admitted that his FY 2000 rollforward estimate is just that, an estimate, which by his estimation can vary by a penny or two. Tr. 1/111. Thus, he estimates that the current attributable unit cost estimate could be as much as \$1.122 or \$1.132. This is greater than the unit cost of \$1.119 that the Commission assumed when it approved the BPRS rate as reasonable. PRC Op. MC97-4 at 3.

Thus, nothing has changed since the Commission approved the BPRS rate except that the initial estimate of attributable costs underlying the BPRS service is now verified by study, rather than estimated. CSA has not put forward any justification for modifying the coverage approved in Docket No. MC97-4. CSA has cited no significant facts which have become known since the initial Commission order approving the rate warranting a finding that the 156 percent cost coverage is no longer reasonable and is not consistent with the policies of the Act. Indeed, witness Buc said, when asked what facts have come out since the Commission approved the BPRS rate stated, "I can not think of one single factor." Tr. 1/115. He could only point to the BPRS study as providing new information. As already discussed, that study not only does not prove the coverage is more excessive than originally anticipated, it verifies that the cost coverage is as expected.

CSA's position in this case has evolved. Originally, the complaint was based on the claimed relatively low unit attributable cost for the BPRS service. CSA's complaint is now grounded not on low unit costs (it is agreed unit attributable costs are virtually the same as initially estimated), but grounded only upon a comparison of the BPRS service to other return services and an appeal for reduced cost coverage.

CSA has effectively bootstrapped its argument to obtain review of the BPRS cost coverage and rate beyond the confines of an omnibus rate proceeding. In the OCA's view, that approach is not appropriate in the administration of the Act.¹⁴ However, if the

¹⁴ See "Office of the Consumer Advocate Response to Continuity Shippers Association Statement on Proposed Schedule," October 1, 1999 and "Office of the Consumer Advocate Response to United States Postal Service Motion for Suspension of Proceedings or Consolidation of the Docket with Docket No. R2000-1," January 19, 2000.

Commission chooses to review now the BPRS rate *ab initio*, CSA's proposal to utilize the coverage afforded Standard (A) Mail as a basis for the coverage for BPRS must be rejected. CSA's proposal relies upon incorrect comparisons of BPRS service and other characteristics with the service and characteristics of other mail classes.

II. THE RECORD DEMONSTRATES THE COST COVERAGE MUST BE MUCH HIGHER THAN THE COST COVERAGE FOR STANDARD (A) MAIL REGULAR AS PROPOSED BY CSA

A. Cost Coverage Is Established At A Level Consistent With The Factors Listed In Section 3622(b) Of The Postal Reorganization Act

The appropriate level of cost coverage is determined by the pricing of a mail service which considers the policies of the Act and the nine factors set forth in Section 3622(b) of the Act. The factors most significant in this case relate to the maintenance of fair and equitable rates (criterion 1); the value of the mail service to both the recipient and the sender (criterion 2); and available alternative means of sending and receiving mail matter (criterion 5). The OCA will discuss each of the relevant factors in turn.

CSA contends that the BPRS rates are unfair and inequitable because the coverage for BPRS service is greater than the coverage for other classes of mail which it claims are comparable or which might be used as return services. On those grounds, CSA contends the Act requires the Commission to modify the current coverage rate and apply the rate applicable to Standard (A) Mail. For the reasons set forth below, the OCA believes there are significant differences between those services and the special BPRS service.

B. Neither The Cost Coverage Of Standard (A) Mail, Nor Comparison To Other Subclasses, Is Relevant To The Cost Coverage Of Bulk Parcel Return Service

CSA witness Buc maintains that the cost coverage for BPRS should be 135 percent. Tr. 1/13. In his opinion, the cost coverage for BPRS should be the same as the cost coverage for Standard (A) Mail Regular established by the Commission in Docket No. R97-1. See PRC Op. R97-1, ¶ 5514. Witness Buc also maintains that the cost coverage for “[o]ther similar return services,” such as Bound Printed Matter, are relevant to the determination of the cost coverage for BPRS. Tr. 1/14. CSA further compares the cost coverage of Special Standard Mail with the current cost coverage of BPRS to support the assertion that the rate (and cost coverage) for BPRS is “excessive.” CSA Complaint at 1, 4.

There is no basis for comparing the cost coverage of Standard (A) Mail and the Standard (B) subclasses to BPRS. The cost coverage of Standard (A) Mail, and comparison of BPRS to Standard (B) Mail subclasses, is not relevant to the determination of the cost coverage for BPRS.

1. Parcels returned via Bulk Parcel Return Service are not Standard (A) Mail

BPRS parcels are not Standard (A) Mail Regular. The simple truth is that Standard (A) Mail parcels mailed to customers cannot be returned to the mailer via any subclass of Standard (A) Mail, or at any Standard (A) Mail rate. Tr. 1/94. Witness Buc confirms this fact. Tr. 1/32. Nevertheless, he maintains that because parcels returned under BPRS meet all the requirements of Standard (A) Mail Regular, and pay Standard

(A) Mail Regular rates when originally mailed to customers, such parcels must be considered as Standard (A) Mail Regular when returned. Tr. 1/41.

Contrary to witness Buc's assertion, Standard (A) Mail Regular and BPRS parcels should not be considered the same. Witness Buc ignores the fact that the BPRS service effectively deaverages the Standard (A) Mail Regular parcel mailstream with respect to the return of such parcels. Tr. 1/92. Parcel shape mail represents only a small subset of Standard (A) Mail Regular.¹⁵ Moreover, Standard (A) Mail Regular parcels that are returned BPRS parcels represent an even smaller subset of the Standard (A) Mail Regular parcel mailstream.¹⁶ The reality is that Standard (A) Mail Regular consists almost entirely of unsolicited advertising mail that is either letter or flat-shaped. Tr. 1/90. Being largely unsolicited, neither the DMCS nor the DMM authorize a service specifically dedicated to the return of Standard (A) Regular letter or flat-shaped mail. Tr. 1/91. This contrasts markedly with Standard (A) Regular parcels, which consist of merchandise solicited by the recipient and may, if authorized by the mailer, be returned using BPRS. As a result, parcels returned using BPRS in no way represent the "average" Standard (A) mail piece on which the Standard (A) Mail cost coverage is based. It would therefore be wrong to consider the cost coverage of Standard (A) Mail to be appropriate for BPRS—a service specifically designed to serve

¹⁵ USPS-RT-1, footnote 2, at 5. According to the Postal Service, "[o]nly 2.8 percent of the Regular subclass was expected to be subject to the Residual Shape Surcharge." Based upon the most recent (FY1999) annual volume data, Standard (A) Mail Regular parcels would total 2,009,063,000 (71,752,247,000 * 0.028). See USPS FY1999 Revenue, Pieces and Weight (RPW) Report.

¹⁶ The Postal Service estimates that, based upon the number of known users of the BPRS service, the average annual volume of parcels returned via BPRS would total 1,250,060 (24,055 * 52). See USPS "Bulk Parcel Return Service Cost Study," October 29, 1999 (revised 12-21-99), Exhibit A, at 1.

only a small subset of parcels that are significantly different in terms of content and shape from that of the Standard (A) Mail Regular subclass.

BPRS parcels are different from Standard (A) Mail Regular parcels in another respect. BPRS parcels may be returned by customers one-at-a-time using the Postal Service's collection system. By contrast, access to the collection system is not available for Standard (A) Mail Regular. Standard (A) Mail Regular, by definition, must be prepared and entered in a mailing of at least 200 addressed pieces. DMCS §321.221.

2. Bulk Parcel Return Service parcels differ from parcels eligible for Bound Printed Matter and Special Standard Mail

The Standard (B) Mail subclasses of Bound Printed Matter (BPM) and Special Standard Mail are not relevant to, and should have no bearing on, the cost coverage of BPRS. The Bound Printed Matter ("BPM") subclass must consist of printed material that is securely bound together weighing at least 16 ounces, but no more than 15 pounds. DMCS § 322.31. Witness Buc admits that none of the BPRS parcels returned to CSA member companies can qualify as BPM. Tr. 1/29. The reasons are straightforward. The BPM subclass is not designed exclusively as a service to mailers for the return of material originally mailed in bulk using BPM. Tr. 1/119. Material eligible as BPM can be returned via Merchandise Return Service, and Parcel Post, as well as single-piece BPM. Tr. 1/29. Unlike BPRS, material eligible for BPM need not be machineable. Id. These features distinguish BPM from BPRS and are reasons contributing to the low cost coverage of BPM.

More importantly, even if weight was not a limiting factor for BPM, BPRS parcels returned to CSA companies do not consist exclusively of printed material that is bound. Tr. 1/27. The nature of the material eligible for BPM also requires the consideration of the “educational, cultural, scientific, and informational” (“ECSI”) value of the service. See 39 U.S.C. §3622(b)(8). With respect to BPM, the consideration of ECSI has traditionally manifested itself in a cost coverage below the systemwide average. PRC Op. R97-1, ¶ 5722.

Similarly, Special Standard Mail is a “content-limited” subclass only for mailing materials of an educational or informational nature. PRC Op. R97-1, ¶ 5746. Eligible materials include books, films, printed music, and sound and video recordings, among others. DMCS §323.11. The prescribed content of the Special Standard subclass to educational and informational material, among other considerations, has produced a cost coverage far below the systemwide average, consistent with Section 3622(b)(8) of the Act. PRC Op. R97-1, ¶ 5754. As with BPM, BPRS parcels do not qualify as exclusively “educational or informational” and therefore should not be considered comparable to Special Standard Mail. Consequently, BPRS does not warrant a cost coverage similar to the cost coverage of Special Standard Mail.

C. The Lowest Appropriate Cost Coverage For Bulk Parcel Return Service Is At Least As High As The Systemwide Average

The assignment of institutional costs to a subclass or service involves consideration of the nine pricing criteria of the Postal Reorganization Act. See 39 U.S.C. §3622(b). The resulting cost coverage, especially when viewed in relation to the

average or "systemwide" cost coverage for all mail classes and services, suggests something about the relative value of a subclass or service.

As revealed in this proceeding, BPRS exhibits numerous characteristics and economic attributes which make it much more desirable than Standard (A) Mail. BPRS should, therefore, be assigned a cost coverage at least as high as the systemwide average. Additionally, with the recent classification change in Docket No. MC99-4 that further increases the value of the BPRS service, a cost coverage even higher than the systemwide average can be justified for BPRS.¹⁷

1. The cost coverage for Bulk Parcel Return Service should reflect its very high value of service to mailers and recipients

Section 3622(b)(2) of the Act requires consideration of the "value of service" actually provided to mailers and recipients (criterion 2). There are generally two aspects to value of service—"economic" value and "intrinsic" value. Economic value considers customer perceptions of the value of service, and the availability of alternative services, measured by elasticity of demand. Intrinsic value considers the actual service levels and features such as delivery, collection, and transportation.

With respect to both aspects of "value of service," BPRS provides a very high value of service to both mailers and recipients.¹⁸ According to witness Buc, BPRS has a low price elasticity of demand, Tr. 1/31, since "[t]here is no economically realistic

¹⁷ Bulk Parcel Return Service Expedited Minor Classification Case, "Opinion and Recommended Decision Approving Stipulation and Agreement," August 19, 1999.

¹⁸ The Postal Service also concludes that "[b]ased upon the characteristics of the [BPRS] service, the value to users, both mailers and recipients, should be high to very high (Criterion 2)." See USPS-RT-1 at 10.

alternative to the Postal Service return of BPRS parcels.” Tr. 1/17. In general, a low price elasticity of demand indicates a high value of service. Tr. 1/30.

The reasons for this very high value of service are clear. BPRS has been “very good” for Cosmetique, one of CSA’s member companies, and other continuity shippers. Tr. 1/127. In particular, BPRS has improved mailers’ business relationships with their customers, with the result that the “customer is probably happier.” Tr. 1/126-27. BPRS has facilitated customer payments for prior purchases. Tr. 1/33. BPRS permits mailers to update customer accounts “sooner.” Tr. 1/45. Clearly, the customer has a strong interest in having a convenient method of returning unwanted merchandise. Tr. 1/136. Customers can avoid “dunning” letters by utilizing the convenience of BPRS to return merchandise. Tr. 1/127.

The very high value of service that mailers place on BPRS cannot be overstated. Witness Buc maintains that, “at about three dollars,” Cosmetique would consider BPRS to be uneconomic. Tr. 1/120. BPRS also provides a very high value of service when considered from another perspective. Witness Buc presented an example showing that Cosmetique would have sizeable per return cost savings if it were to receive all of its returned parcels directly from Mail Recovery Centers (“MRCs”), where the parcels are containerized and delivered using Standard (B) Mail. Tr. 1/35. On a return via a container holding 55 returns weighing 50 pounds, the cost savings would be \$61.76 (\$96.25-\$34.49). *Id.* This translates into cost savings of more than \$1.12 (\$61.76/55) per item returned. Nevertheless, such cost savings are insufficient to induce Cosmetique to rely solely on MRCs—the system that existed prior to BPRS. Even at the present rate, return via BPRS is preferable. Tr. 1/123.

Turning to the actual level of service provided, a number of characteristics of BPRS reveal a very high value of service to the mailer. BPRS has served to remove uncertainties associated with the return of products and merchandise, as compared to the period prior to establishment of BPRS. Witness Buc claims that Cosmetique prefers to receive its returns via BPRS for several reasons. Cosmetique receives returns directly from customers without going through the Postal Service's MRCs. Tr. 1/45. Consequently, there is less handling by the Postal Service. Id. Also, Cosmetique receives the returns in a more timely fashion. Tr. 1/126. Moreover, Cosmetique has greater certainty that it will receive the returns. Id. According to witness Buc, there is "a concern that merchandise may be auctioned or sold if it goes to a Mail Recovery Center." Tr. 1/45. In effect, BPRS facilitates the prompt return to inventory of Standard (A) Mail parcels containing valuable products or merchandise. Tr. 1/34. In so doing, merchandise can be more quickly utilized for subsequent sales.

The actual level of service provided is very high for another reason. As indicated previously, customers can now utilize the Postal Service's collection system when returning BPRS parcels. Since BPRS parcels weigh under a pound, they can be deposited anywhere with the Postal Service. Such a level of service is very convenient and is of very high value to customers.

Moreover, the recent classification changes recommended by the Commission for BPRS in Docket No. MC99-4 further increased the value of the BPRS service to mailers. Those changes permit the use of return labels at no additional fee and authorize return of opened and resealed parcels without return labels in certain circumstances. The Postal Service maintains that these "recent enhancements . . . add

considerably to the value of [the BPRS] service.” See USPS-RT-1, at 10. Even witness Buc concedes that these classification changes eliminated the “legal uncertainty” with respect to the treatment by the Postal Service of Standard (A) Mail Regular parcels that have been open, resealed, and re-deposited into the mail. Tr. 1/42.

Several other points about BPRS also suggest a high value of service to mailers. The Commission, when it recommended the Postal Service’s proposed classification for BPRS, clearly identified BPRS as a special service. PRC Op. MC97-4, at 1. In general, special services provide (and their pricing reflects) added value above and beyond the basic classes of mail. USPS-RT-1 at 5. Moreover, BPRS was the Postal Service’s response to the urgings of mailers for an effective and economical bulk parcel return service.¹⁹ The demand of mailers for a cost-effective method of retrieving refused or otherwise undeliverable-as-addressed parcels, which resulted in the establishment of BPRS, alone suggests it is a needed and highly valuable service.

2. Consideration of the other pricing criteria also support the systemwide average as the minimum cost coverage for Bulk Parcel Return Service

The BPRS service and its associated fee is fair and equitable, consistent with the first criterion of Section 3622(b). The fee proposed for BPRS and recommended by the Commission in Docket No. MC97-4 was determined to be fair and equitable. According to witness Buc, there have been no intervening facts or circumstances that have changed since the Commission adopted the system average cost coverage of 156 percent when the service was established. Tr. 1/117. The Postal Service concurs with

¹⁹ See “Complaint of the Advertising Mail Marketing Association Regarding Charges for Standard (A) Merchandise Returns,” October 30, 1996, Docket No. C97-1.

witness Buc in this regard. See USPS-RT-1 at 10. Moreover, the BPRS service was proposed by the Postal Service directly in response to mailer desires for a convenient and low-cost method of receiving refused or undeliverable parcels. *Id.* To underscore this fact, there was significant support for establishment of the BPRS service and no party objected to the Commission's use of the system average cost coverage in recommending the \$1.75 rate for BPRS in Docket No. MC97-4.²⁰

The second criterion, relating to the value of service, has already been discussed.

As required by the third criterion, the current BPRS fee not only covers the cost of the service, but provides a reasonable contribution to institutional costs. See USPS - RT-1, at 7. The cost coverage recommended by the Commission in Docket No. MC97-4 was 156 percent. Witness Buc's updated cost estimate results in a cost coverage of 157 percent. Tr. 1/40. This 1 percent difference does not warrant a reduction in the BPRS fee or cost coverage to 156 percent (or lower), in light of the absence of any intervening circumstances since the establishment of BPRS that would make a lower cost coverage appropriate. See Section I, above. In fact, as discussed previously, there are intervening circumstances, specifically, the recent enhancements to the BPRS service, that would justify a cost coverage even higher than 156 percent. See Section II.C.1, above.

With respect to criterion four, there has been no fee increase to mailers. In fact, the current BPRS fee represented a substantial decrease in fees for mailers paying for

²⁰ See "Motion for Consideration of Revised Stipulation and Agreement," USPS, August 12, 1997, at 1-2.

the return of parcels. USPS-T-2 (Adra), at 16, Docket No. MC97-4. A higher fee (and cost coverage), however, is not only justified, but would have minimal effect on mailers. As discussed previously, BPRS is a service of very high value, as reflected in its low elasticity of demand and an "upper bound" of about \$3.00 for Cosmetique. For these reasons, a higher fee would have only a minimal effect on mailers and would be justified.

BPRS is far less expensive than the available alternatives, and thus provides an attractive alternative service at reasonable cost—a consideration required by the fifth criterion. BPRS is an "optional" special service; mailers who send their merchandise via Standard (A) Mail are not required to receive returns via BPRS. In fact, mailers have the option to pay available private parcel carriers for the return of their parcels. While these alternative exist, witness Buc does not consider them to be economically realistic alternatives to the BPRS service. Tr. 1/17.

The sixth criterion directs attention to the degree of preparation of mail, and its effect on the Postal Service. BPRS parcels must be machineable. This in turn affects the cost and amount of time associated with mail processing. Tr. 1/95. Their machineability is a consequence of being prepared by the mailer as Standard (A) Mail Regular. The mailer thus performs no further operations to improve the processing of parcels returned via BPRS.

The current BPRS fee structure is straightforward and simple, consistent with the seventh criterion. Tr. 1/44. A higher fee, resulting from a higher cost coverage, would similarly be straightforward and simple.

Contrary to the testimony of witness Buc,²¹ the educational, scientific, cultural and informational value of BPRS parcels should be a consideration in the pricing of BPRS, consistent with the eighth criterion—albeit a small one. Consistent with his view that BPRS parcels are Standard (A) Mail, witness Buc maintains that considerations of ECSI value should not be applied to material returned using BPRS. Tr. 1/54. However, both the Commission and the Postal Service have determined BPRS to be a special service. As a result, considerations of ECSI are appropriate. While some merchandise returned using BPRS has no ECSI value, other parcels consist of printed material, including books. Tr. 1/27. Still other merchandise returned via BPRS consists of recorded music. See USPS-T-2 (Adra), at 4, Docket No. MC97-4. Considerations of ECSI value should temper a higher cost coverage that might otherwise be warranted for the BPRS service, but certainly do not suggest a cost coverage below the systemwide average.

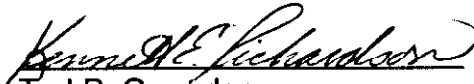
²¹ Witness Buc testified that because CSA believes factor 8 does not apply to Standard (A) Mail, CSA is claiming no educational, cultural, scientific and informational value set forth in factor 8 for BPRS. Tr. 1/109.

CONCLUSION

For all the above reasons, the OCA respectfully requests the Commission to deny the relief requested by CSA and dismiss the complaint. The BPRS rates will, in any event, be reviewed shortly in Docket No. R2000-1 where the Postal Service has applied to revise most of its other rates and is proposing a small reduction in the BPRS rate.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE



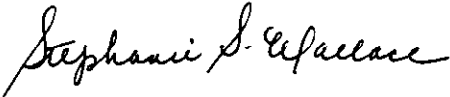
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CERTIFICATE OF SERVICE

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


Stephanie S. Wallace

Washington, D.C. 20268-0001
March 3, 2000