

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Before:

Chairman Gleiman, Vice Chairman Omas,
Commissioners Covington, Goldway, and LeBlanc

Complaint on Charges for the
Bulk Parcel Return Service

Docket No. C99-4

OPINION AND RECOMMENDED DECISION
ON COMPLAINT OF
CONTINUITY SHIPPERS ASSOCIATION



Washington, DC 20268-0001
April 14, 2000

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RECOMMENDED DECISION

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SUMMARY

On June 9, 1999, the Continuity Shippers Association (CSA) filed a Complaint Concerning Charges and Practices Applied to Ancillary services for Standard (A) Merchandise Mail (Complaint) challenging the rate charged for the Postal Service's bulk parcel return service (BPRS). BPRS allows undeliverable, refused, or opened and resealed Standard (A) merchandise meeting certain eligibility requirements to be returned to participating senders for a flat fee of \$1.75.

The service and the current fee were established in Docket No. MC97-4 by a stipulation and agreement to which CSA was a signatory. The \$1.75 BPRS rate was based on the systemwide average cost coverage at the time, 156 percent, and an estimated total per piece attributable cost of \$1.119. The underlying agreement approved by the Commission required that the Postal Service conduct a cost study to develop more accurate measure of BPRS unit volume variable costs as the stipulation relied on proxies to estimate costs for the various mail processing operations.

In October 1998, the Postal Service submitted the BPRS cost study. As finally revised and adjusted to reflect Commission costing methodology, the study indicates a BPRS attributable cost of \$1.037 per piece. CSA, the Direct Marketing Association, and the Association for Postal Commerce now argue that the current BPRS rate should be reduced to reflect the lower actual BPRS costs. They also maintain that the 156 percent cost coverage for BPRS is too high, based on their evaluation of 39 U.S.C. § 3622 rate-setting factors, and comparison of BPRS with similar postal services. Immediate relief is requested.

The Postal Service and the Office of the Consumer Advocate (OCA) do not challenge the revised cost figure for the limited purpose of this Complaint. Nevertheless, both maintain that the \$1.75 BPRS fee continues to be consistent with

the policies of the Act, and that no circumstances have changed which would support Commission review of the BPRS rate. Both the OCA and the Postal Service also contend that CSA's rate analysis is flawed, and that its comparisons to other services (with lower cost coverages) are not valid.

During this complaint docket, the Commission has denied several suggestions by the OCA and the Postal Service to suspend or consolidate the CSA complaint with omnibus rate Docket No. R2000-1. The Postal Service also argues that the Commission is not authorized to recommend a new BPRS fee at this time, as the Governors did not initiate a rate change request. OCA and the United Parcel Service (UPS) refute this position.

As a preliminary matter, the Commission finds that it does possess the requisite authority to recommend a rate change in a Section 3662 complaint case. In fact, the plain language of the statute compels the Commission to take such action if relief is warranted.

The Commission further finds that the BPRS fee should be adjusted to reflect the costs developed in the study provided as required by the stipulation that forms the basis for the current BPRS fee. The study indicates a BPRS unit attributable cost figure of \$1.037. The Commission finds no reason for adjustment of the BPRS cost coverage outside the confines of an omnibus rate proceeding. CSA was a signatory to the Docket No. MC97-4 Stipulation and Agreement which established BPRS fees based on the systemwide average cost coverage. Accordingly, the Commission now recommends a BPRS fee of \$1.62.

I. BACKGROUND

The CSA Complaint filed on June 9, 1999 challenges the rate charged for the Postal Service's bulk parcel return service. BPRS allows for undeliverable, refused, or opened and resealed Standard (A) merchandise meeting certain eligibility requirements to be returned postage due to participating senders for \$1.75 per piece. Those requirements include minimum annual returns of 10,000 parcels which are machinable and weigh less than 16 ounces, payment of an annual permit fee, and compliance with accounting and auditing procedures. According to the CSA Complaint, the \$1.75 BPRS rate is excessive and inconsistent with the cost and non-cost criteria of the Postal Reorganization Act (Act), and does not conform to Title 39 policies.

Prior to the October 1997 establishment of BPRS, affected mailers relied upon Standard (A) single piece mail as the sole mailing option for the return of undeliverable Standard (A) merchandise. In Docket No. R94-1, significantly increased attributable costs for Standard (A) single piece mail resulted in a 43.7 percent increase in the average rate for that subclass. The rate increase adversely affected bulk merchandise mailers, as the single piece rate was an essential component of the method then used to assess forwarding and return fees for Standard (A) parcels. That method treated the forwarding and return services in combination, with return parcels assessed a weighted fee based on the Standard (A) single piece rate multiplied by a forwarding and return ratio. The ratio reflected the Service's average volume experience for forwarding mail compared to returning mail.¹

¹ The forwarding and return ratio was defined as one plus the number of third-class pieces nationwide which were successfully forwarded for every one piece which could not be forwarded and had to be returned. United States Postal Service Domestic Mail Classification Schedule (DMCS), Section 300.07, Third-Class Mail, Forwarding and Return (March 16, 1992).

On October 30, 1996, the Advertising Mail Marketing Association (AMMA, now the Association for Postal Commerce) filed a complaint which alleged that the Standard (A) single piece rate charged to mailers receiving returned Standard (A) parcels violated Title 39 policies. The AMMA Complaint was filed pursuant to 39 U.S.C. § 3662, and initiated Docket No. C97-1. Several months later, however, AMMA filed a motion to hold its complaint in abeyance, in anticipation of impending "omnibus" parcel classification reform. The Postal Service did propose the establishment of two new special postal services affecting parcels on February 21, 1997 — the Bulk Parcel Return Service and Shipper-Paid Forwarding (SPF).² But that filing later was withdrawn by the Service due to financial circumstances and an impending omnibus rate filing. In response, AMMA filed a notice of intention to proceed with its complaint, and further requested that an informal conference on the matter be scheduled. Settlement talks commenced as a result.

On June 6, 1997, the Postal Service initiated Docket No. MC97-4, which represented the culmination of the settlement discussions. Docket No. MC97-4 participants presented a proposed settlement stipulation and agreement that in relevant part set the \$1.75 fee for BPRS. The fee was based on an estimated FY 1998 BPRS total per-piece attributable cost of \$1.119 and a cost coverage of 156 percent, the systemwide average cost coverage at that time. The \$1.119 per-piece attributable cost was derived through the use of proxies for the various operations that would be involved. The underlying agreement therefore specified that the Postal Service would conduct a cost study to develop unit volume variable costs for BPRS. Cost study results were to be submitted to the Commission by October 31, 1998. The Commission accepted the proposed settlement and recommended BPRS to the Governors. The

² Docket No. MC97-2.

Docket No. C99-4
Recommended Decision on Complaint of
Continuity Shippers Association

Governors approved the decision and the new service was implemented on October 12, 1997.

The BPRS cost study, submitted by the Postal Service in October 1998, indicated an FY 1998 attributable cost of \$0.93 per piece. For the purposes of this complaint case, the Postal Service has revised this BPRS unit attributable cost figure to \$1.037. The revised cost figure reflects Commission costing methodology and minor errata to the study identified in this complaint docket.

II. PROCEDURAL HISTORY

CSA filed a complaint alleging that the \$1.75 BPRS rate violates the cost and non-cost criteria of the Act, and further does not conform to the policies set out in Title 39, on June 9, 1999. The Postal Service filed its answer on July 9, 1999. The Service requested that the Commission dismiss the complaint, as the BPRS attributable costs and markup accurately reflect both the underlying costs and the special service provided to mailers. Commission Order No. 1260, issued on September 3, 1999, denied the Service's motion and initiated formal proceedings to consider the complaint. A settlement coordinator was appointed. The Order also requested that CSA submit a statement estimating the amount of time it required to develop and file a direct case in this proceeding.

On September 24, 1999, CSA filed its responsive statement, in which CSA offered to stipulate to a BPRS attributable cost figure of \$1.09 for the year 2000. That value is based on the Postal Service's calculation of FY 1998 BPRS costs using the Commission's costing methodology, with the Consumer Price Index-Urban (CPI-U) then used as a roll-forward factor. Under these circumstances, CSA maintained that no testimony was needed on the cost of BPRS. The only remaining issue thus was the appropriate cost coverage, which CSA characterized as "a judgmental or legal issue that does not require testimony at this time."³ CSA consequently suggested that the other participants be directed to present briefs on the case by October 15, 1999.

On October 1, 1999, OCA responded to CSA's statement, identifying several objections to proceeding on brief. In particular, OCA objected to the questionable precedent the Commission could establish by examining a rate between omnibus rate cases. It pointed out that the contribution to institutional costs made by any subclass or

³ Letter of September 23, 1999, from CSA to the Commission.

service will vary year-to-year as a result of natural fluctuations in costs and revenues. Two alternative courses of action were suggested: (1) that hearings be conducted to determine the appropriate BPRS attributable costs and cost coverage; or, as preferred by OCA (2) that the complaint be held in abeyance until consideration in the forthcoming omnibus rate case.

A flurry of pleadings followed. On October 5, 1999, CSA filed a brief *sua sponte*, maintaining that the appropriate BPRS fee is \$1.48. That fee is based on a cost coverage of 136 percent (Docket No. R97-1's cost coverage for Standard (A) Mail) and the aforementioned rolled-forward BPRS unit attributable cost. On that same day, AMMA responded to OCA's objections. AMMA argued that this complaint proceeding is an appropriate venue for the Commission's limited review of the BPRS rate, in light of the cost study results. According to AMMA, fundamental fairness mandates the Commission's conduct of a timely review of the current rate, as a significant amount of rate relief may be merited. An October 7, 1999 response by CSA reiterated these points. CSA distinguished the current situation, which was prompted by a BPRS cost study specified by the Docket No. MC97-4 agreement approved by the Commission, from review of the normal flux of a particular service's costs and revenues between omnibus proceedings.

Commission Order No. 1265, issued on October 8, 1999, set forth further procedures for Docket No. C99-4. Specifically, the Postal Service was directed to file a statement regarding its interest in presenting evidence. On October 14, 1999, the Postal Service responded that it did not intend to file evidence or respond to CSA's brief. The Service asked that the Complaint be dismissed due to the lack of an evidentiary record and the Complainant's failure to meet its burden of proof.⁴

⁴ On October 25, 1999, the Postal Service filed another pleading to clarify that its October 14th response had indeed asked that the Commission dismiss the Complaint on a substantive basis.

Both AMMA and the Association of American Publishers opposed the Postal Service's renewed effort to have the Complaint dismissed. It was argued that the record is sufficient and that "this matter [appropriate BPRS rate and cost coverage] is ripe for consideration by the Commission."⁵ CSA thereafter filed a motion requesting that the Commission admit into evidence, or take official notice of, the following materials: the 1998 Postal Service BPRS cost study; the revision to the BPRS cost study distributed by the Service in September 1999; the Docket No. R97-1 approved cost and overhead percentages for the various classes of mail; and a Consumer Price Index-Urban of 2.6 percent for the 12-month period of September 1998 to August 1999. On November 15, 1999, UPS filed its opposition to this CSA motion. UPS argued that both due process and the Act mandate the opportunity for cross-examination of sponsoring witnesses prior to allowing into evidence either the BPRS cost study or the CPI-U as a roll forward factor.

On November 18, 1999, the Commission issued Order No. 1271. That Order addressed the evidentiary state of the record (acknowledged by the Commission as lacking) and provided for further procedures. The Order indicated the Commission's intent to take all affirmative steps necessary to move ahead with the complaint case (particularly as the BPRS cost study fulfilled a commitment made to the Commission). It was determined that neither the BPRS cost study nor the use of the CPI-U as a roll-forward factor was appropriate for official notice, as CSA had requested. Instead, the Postal Service was directed to provide a witness to address the study's validity, the recent revisions to that study, and adjustments needed to reflect Commission methodology. On the matter of the CPI-U, the Commission noted that it could take official notice of the index, but not of its potential application as a factor to roll-forward BPRS attributable costs. A schedule for the provision of the cost study by the Postal

⁵ Statement of Association of American Publishers (October 21, 1999).

Service, motions to admit past evidence or facts appropriate for judicial notice, and for parties' notices of intent to conduct oral cross-examination or file direct evidence was established. Dates for briefs and reply briefs also were set, in the event that no party chose to orally cross-examine the Postal Service witness or file direct evidence. Order No. 1271 also encouraged the parties to continue settlement talks.

On December 2, 1999, several pleadings were submitted by Docket No. C99-4 participants. CSA filed a motion for the Commission to take official notice of the Docket No. R97-1 cost coverages for Standard (A) Mail and Bound Printed Matter (respectively, 135 percent and 136 percent). The Office of the Consumer Advocate also submitted a motion to move into the record certain evidence from past Commission proceedings; specifically, Docket Nos. MC97-4 and MC99-4 testimony on the underlying rationale for BPRS pricing and classification, BPRS attributable costs, and the benefits and additional costs associated with classification revision. The OCA further provided notice of its intent to conduct written discovery on the BPRS cost study. Finally, the Postal Service filed its response to Commission Order No. 1271. The Service agreed to provide errata to the BPRS study already filed with Commission, as well as those changes necessary to reflect Commission cost methodology. The Postal Service also indicated that it would respond to written interrogatories concerning the study, and provide a sponsoring witness should oral cross-examination be requested.

On December 8, 1999, CSA notified the Commission of its intent to file direct evidence. On December 17, the Direct Testimony of Lawrence G. Buc on Behalf of the Continuity Shippers Association and the Direct Marketing Association was submitted. Witness Buc estimated FY 2000 BPRS unit costs of 111.2 cents by rolling forward the FY 1998 costs provided in the Postal Service's 1998 cost study. He also provided an analysis of the cost coverage factors, arguing for a 135 percent cost coverage based on Title 39 policies set out in § 3622(b).

Order No. 1275, issued by the Commission on December 22, 1999, admitted the following materials into evidence: the Docket No. R97-1 cost coverages for Standard (A) Mail and Bound Printed Matter; Docket Nos. MC97-4 and MC99-4 testimony by Postal Service witnesses Eggleston, Adra and Pham on the underlying rationale for BPRS pricing, classification and attributable costs; the Postal Service's 1998 BPRS cost study; and the BPRS cost study errata and changes reflecting Commission methodology. On that same date, CSA (in consultation with the Postal Service and OCA) filed a motion proposing a schedule for the remainder of the proceeding. The appearance of a witness to sponsor the Postal Service's BPRS cost study was not requested. The Commission essentially adopted the proposed timetable in Order No. 1276, issued on December 28, 1999. That Order established dates for the end of discovery on witness Buc's testimony, a hearing date for oral cross-examination of witness Buc (if requested), and dates for briefs and reply briefs.

On January 12, 2000, the Postal Service filed omnibus rate case Docket No. R2000-1, which in part proposes a \$1.65 fee for BPRS, and a Postal Service motion requesting either a suspension of Docket No. C99-4 proceedings, or a consolidation of the complaint case with Docket No. R2000-1. In this motion, the Postal Service again argued that Commission precedent supported suspension or consolidation, that continuation of Docket No. C99-4 proceedings would result in an inefficient duplication of efforts, and that the omnibus rate case was a better forum for consideration of the appropriate costs and cost coverage for BPRS. OCA filed a response in support of the Postal Service's motion for suspension or consolidation, while CSA submitted its opposition. CSA maintained that consolidation of the dockets would substantially prejudice BPRS users by extending the period during which an inequitable rate would be effective, as the omnibus rate case was in its infancy, while Docket No. C99-4 was near completion. Moreover, consolidation of this complaint case would thwart the complaint process. The Postal Service responded to CSA's opposition, but the

Commission found CSA's arguments well-founded, and therefore denied the Service's motion in Order No. 1281, issued on January 24, 2000.

On the same day Order No. 1281 was issued, OCA gave notice of its intent to cross-examine CSA witness Buc. OCA further informed the Commission that it expected to request oral cross-examination of any Postal Service witness on BPRS cost coverage, but that it would not submit rebuttal testimony.⁶ Also on January 24, the Postal Service filed a notice of its intention to file rebuttal testimony and requested that the Commission set a date for its filing. Commission Order No. 1282 rescheduled the date for CSA witness Buc's oral cross-examination (at the request of CSA), established *dates for the filing of rebuttal testimony and for hearings on that testimony*, and further set new dates for the submission of briefs and reply briefs. On February 2, 2000, CSA witness Lawrence G. Buc appeared for cross-examination by OCA and the Postal Service.

On February 16, 2000, the Postal Service submitted the rebuttal testimony of Susan W. Mayo. No participant requested to cross-examine witness Mayo. On March 3, 2000, the Postal Service, OCA and CSA (in conjunction with the Direct Marketing Association and the Association for Postal Commerce) filed briefs in support of their respective positions. On March 10, 2000, Reply Briefs were filed by the Postal Service, OCA, CSA and UPS.

⁶ The OCA pleading also included a motion to defer the Complaint proceeding pending a Commission ruling on the Postal Service's motion to suspend or consolidate Docket No. C99-4. That motion was rendered moot by Order No. 1281.

III. ISSUES FOR COMMISSION CONSIDERATION

A. The Commission May Recommend, and the Governors May Approve, a Rate Recommendation Arising in a § 3662 Complaint Case.

Parties' positions. The Postal Service raises a preliminary legal question. In its brief, the Service contends that the Commission lacks the authority to recommend a new BPRS fee at this time, and that the Governors lack the authority to approve a Commission recommendation, regardless of the Complaint's justification. The Postal Service cites *Dow Jones, Inc. v. United States Postal Service*, 656 F.2d 786, D.C. Cir. 1981, for the proposition that rate changes can result only from a Section 3622 proceeding initiated by a request from the Governors.⁷

Both OCA and UPS refute the Postal Service's position. According to UPS, Section 3662 empowers the Commission to recommend rate changes in a complaint proceeding alleging that certain rates do not comply with the Act. In fact, Section 3662 *compels* the Commission to issue a recommended rate decision in such justified complaint cases.⁸ UPS maintains that the *Dow Jones* case actually addresses only rate recommendations following the Commission's initiation of a classification proceeding under 39 U.S.C. § 3623(b). The Court determined only that the Commission *overstepped its authority by recommending rates in the limited circumstance of a classification proceeding not initiated by a Postal Service request.*⁹ In the instant docket, CSA initiated its complaint under 39 U.S.C. § 3662. Accordingly, UPS asserts that *Dow Jones* has no bearing on this complaint case.

⁷ Initial Brief of the United States Postal Service (March 3, 2000) (Postal Service Brief) at 13-14.

⁸ Reply Brief of United Parcel Service (March 10, 2000) (UPS Reply Brief) at 1-3

⁹ *Id.* at 3-4.

The OCA presents a similar argument supporting Commission authority to recommend a rate change in a complaint case if merited. According to OCA, it is the explicit language of Section 3662 which empowers the Commission to act in this manner in response to a justified complaint.¹⁰ Further, Section 3625 provides authority for the Governors to act on any such Commission recommendation. There is no requirement that the Postal Service first file a rate application with the Commission.

Commission Analysis. The Commission has the requisite authority to recommend a rate change in a complaint case if it is merited. The Postal Service's reliance on *Dow Jones* is misplaced. The *Dow Jones* case involved Commission initiation of a mail classification proceeding for second-class mail under 39 U.S.C. § 3623. The Commission recommended that the Governors establish a separate subclass within second class for a service providing expedited delivery of that mail, with increased rates for expedited second class and decreased rates for second class mail that was not expedited. The Governors adopted the Commission recommendation, and the decision was appealed. The federal appellate court held that the Governors acted improperly by approving a rate recommended to them in a classification proceeding initiated by the Commission, *not* at the Board of Governors' request.¹¹

According to the Service, that holding signifies that the Governors can approve only rates recommended in proceedings that were initiated by a Postal Service request. *Dow Jones* does not stand for this proposition. *Dow Jones* only analyzes the relationship between 39 U.S.C. §§ 3622 and 3623, and the Section 3625 authority of the Governors to act in response to recommendations made pursuant to those two sections. The Court in *Dow Jones* is silent regarding the Governors' obligations and authority under Section 3625 to respond to a Commission recommendation made in a 39 U.S.C. §3662 complaint case.

¹⁰ Reply Brief of the Office of the Consumer Advocate (March 10, 2000) (OCA Reply Brief) at 12.

¹¹ *Dow Jones*, 656 F.2d at 789-90.

The plain language and intent of the complaint statute indicate the Commission's authority to recommend a rate change, if so merited. Section 3662 provides in relevant part that "[I]f the Commission, in any matter covered by subchapter II of this chapter [postal rates, classes and services], determines the complaint to be justified, it *shall*, after proceeding in conformity with Section 3624 of this title, issue a recommended decision which *shall* be acted upon in accordance with the provisions of Section 3625 of this title... ." ¹² Thus, should the Commission find a complaint justified, it *must* provide a recommended decision for action by the Governors pursuant to Section 3625. That section provides that the Governors may approve, allow under protest, reject or modify a Commission recommended decision. As OCA correctly points out, Section 3625 does not require (or assume) that the Commission recommendation is predicated upon a Postal Service rate or classification request.

There is further evidence indicating the Commission's authority to recommend a rate change under 39 U.S.C. § 3662, if so merited. In crafting the statute, Congress specifically adopted language which provides that if a complaint proceeding involves a matter *not covered by subchapter II of Chapter 36*, the Commission may issue *only* an advisory opinion or public report. Similar advisory restrictions are imposed upon the Commission in Section 3661 (pertaining to Postal Service proposals for nationwide changes in the nature of postal services). Thus, a clear distinction is made between circumstances when the Commission is empowered to recommend a rate or classification adjustment, versus limited to offering an advisory opinion. To construe Section 3662 as authorizing the Commission to make rate or classification recommendations only upon the Postal Service's filing of a rate application would thwart the complaint process.

¹² 39 U.S.C. § 3662 (*emphasis added*).

One further element merits Commission comment. According to the OCA, the Commission must make an initial finding that a rate is "unlawful" before any relief may be accorded in a complaint proceeding. In this regard, OCA distinguishes a rate change recommendation made pursuant to Section 3662, from one which results from a Postal Service rate filing submitted under Section 3622. In the latter case, the Commission is not required to first find that the existing rate is in violation of the Act's policies.

There can be no argument that a rate proceeding pursuant to Section 3622 does not require an initial determination by the Commission that the existing rates are "unlawful." Rather, the Postal Service is explicitly concluding that the new rates would be *more consistent* (or would more closely conform) with the policies of the Act. The Commission views a complaint which challenges an existing rate in a similar vein. In a Section 3662 complaint, the rate at issue need not be per se "unlawful," before changes may be recommended. In each case, the Commission will evaluate the relevant facts and circumstances, and determine whether the policies of the Act, on balance, call for the recommendation of a change in rates.

In this case, the development of costs in a study mandated by a settlement agreement provides the basis for the Commission finding that the existing BPRS rate does not fairly reflect the application of Section 3622 factors, and that a change should be recommended.

B. Suspension or Consolidation of this Docket into Omnibus Rate Case
Docket No. R2000-1

Parties' Positions. Both the Postal Service and OCA have advocated that this Complaint either be consolidated with the omnibus rate case Docket No. R2000-1, or

deferred pending review of the BPRS rate in that proceeding.¹³ The primary reasons cited in support of such Commission action are: (1) review of a BPRS rate in isolation from other mail services' costs and markups deviates from even-handed, consistent and sound ratemaking policy; (2) examination of the BPRS rate in both this complaint case and Docket No. R2000-1 (the better forum for such review) would result in substantial duplication of effort; (3) recalculation of the BPRS cost coverage based on the revised per piece cost, the current \$1.75 BPRS rate and the proposed CPI-U adjustment factors for the years 1998-2000 yields a cost coverage not appreciably different from the Commission-approved cost coverage of 156 percent; and (4) the new BPRS rate would be in effect for a period of no more than ten months, in light of the expected January 2001 effective date of Docket No. R2000-1 new rates.¹⁴

Commission Analysis. BPRS was implemented as a new service on October 12, 1997 as the result of a proposed settlement between the Postal Service and several interested parties. BPRS responded directly to longstanding concerns by Standard (A) mailers about the fairness and adequacy of existing forwarding-and-return service and fees for Standard (A) parcels. The Postal Service provided testimony on the underlying costing and pricing of the service. The BPRS fee was set in an interim proceeding isolated from the consideration of other mail subclasses (in contrast to a fee established during an omnibus rate proceeding) and the Commission noted that the actual costs for BPRS remained to be determined through a subsequent Postal Service cost study.

¹³ See, e.g., Motion of the United States Postal Service for Suspension of Proceedings or Consolidation of this Docket with Docket No. R2000-1 and Motion for Expedited Consideration of this Motion (Jan. 12, 2000) (Postal Service Motion for Suspension or Consolidation) at 1. Office of the Consumer Advocate Response to United States Postal Service Motion for Suspension of Proceedings or Consolidation of this Docket with Docket No. R2000-1 (Jan. 19, 2000) (OCA Response to USPS Suspension or Consolidation Motion) at 2.

¹⁴ OCA Response to USPS Suspension or Consolidation Motion at 1-3, 5; Postal Service Motion for Suspension or Consolidation at 2.

BPRS's total attributable costs were estimated through the use of a proxy for each of its processing operations. The BPRS cost coverage was set at 156 percent, the systemwide average cost coverage at the time. Upon its determination that the proposed service met the criteria of 39 U.S.C. §§ 3622 and 3623, and conformed to the policies of the Act, the Commission adopted the stipulation and agreement.¹⁵

The current complaint proceeding seeks to adjust the BPRS rate to reflect costs of the service developed with actual data for certain BPRS operations. The \$1.75 BPRS fee which was reached through the use of cost proxies was deemed reasonable and sufficiently well-founded for the initiation of BPRS. However, at this time, improved information is available as a result of the Postal Service's completion of its promised BPRS cost study. These circumstances justify review of the BPRS rate, and are consistent with the spirit and letter of the Section 3662 complaint process.

C. Cost Analysis Utilizing Actual BPRS Operations Is Now Available

Background. The \$1.75 rate for BPRS proposed in Docket No. MC97-4 reflected a FY 1998 total attributable cost per unit of \$1.119, as developed by Postal Service witness Pham.¹⁶ Witness Pham estimated the BPRS total attributable costs through the use of proxies from similar services for BPRS collection, mail processing, transportation, postage due activities, and bulk delivery costs. The BPRS total attributable cost per unit and its derivation were included in the Settlement Stipulation and Agreement for BPRS, which was approved by essentially all participants in that docket.¹⁷ The Settlement provided that the Postal Service would initiate a new study of

¹⁵ Dockets No. MC97-4, C97-1, Opinion and Recommended Decision Approving Revised Stipulation and Agreement (Sept. 4, 1997) (MC97-4 Stipulation) at 10.

¹⁶ MC97-4 Stipulation at 4-5.

¹⁷ Only one participant in that case, David Popkin, opposed the settlement. MC97-4 Stipulation at 9.

the costs of BPRS and provide a copy of the study to the Commission and participants by October 31, 1998.¹⁸

In October 1998, the Postal Service submitted its 1998 BPRS cost study to the Commission. The cost study determined a BPRS total attributable cost of \$0.93 per piece using Postal Service costing methodology and FY 1998 costing data.¹⁹ The study was based on site specific mailstream data for four of the five aforementioned cost components, as well as additional information from plants and bulk mail centers. As in the earlier study, the 1998 cost study supplemented the actual mailstream data with the use of proxies to estimate BPRS costs.²⁰ For the purposes of this complaint case, the Postal Service revised its BPRS unit attributable cost figure to \$1.037 to reflect Commission mail processing cost methodology and Service errata to the study which were identified during earlier settlement discussions and discovery.²¹

Parties' Positions. The participants in this proceeding apparently do not challenge the revised cost figure for the limited purpose of this Complaint.²² CSA (in conjunction with DMA and APC) suggests that the revised BPRS cost figure, which reflects FY 1998 cost data, may be adjusted to estimate FY 2000 costs for purposes of establishing a rate in that year.²³ To this end, CSA witness Buc adjusts the 1998 costs

¹⁸ MC97-4 Stipulation, Appendix A at 6.

¹⁹ Bulk Parcel Return Service Cost Study (Oct. 29, 1998) (Postal Service 1998 BPRS cost study) at 7.

²⁰ Collection cost was the only cost component estimated entirely through the use of a proxy in the Postal Service's 1998 BPRS cost study. Postal Service 1998 BPRS cost study at 2.

²¹ Letter of December 2, 1999, from Daniel J. Foucheaux, Jr., Chief Counsel, Ratemaking, United States Postal Service, to the Hon. Margaret P. Crenshaw, Secretary, Postal Rate Commission, re: Dockets No. MC97-4 and C99-4 at 7 (revised).

²² See Initial Brief of the Office of the Consumer Advocate (March 3, 2000) (OCA Brief) at 8. In its brief, CSA indicates that it "accepts the Postal Service's 1998 attributable cost figure of \$1.038 per piece (for the purposes of this case only and reserving the right to challenge this cost figure and the BPRS cost study in any other proceeding)." Brief of the Continuity Shippers Association, The Direct Marketing Association and the Association for Postal Commerce (March 3, 2000) (CSA Brief) at 1.

²³ Tr. 1/9; CSA Brief at 1.

by using the Consumer Price Index-Urban of 2.6 percent for the 12-month period from September 1998 to August 1999 as the roll-forward factor. This adjustment results in a BPRS unit cost of \$1.112.²⁴

The OCA does not overtly accept the FY 2000 adjustment of the BPRS unit cost. It does, however, state in its brief that "CSA's complaint is now grounded not on low unit costs (it is agreed unit attributable costs are virtually the same as initially estimated)²⁵ The Postal Service clearly indicates that it does not agree with CSA's cost projection, although it does not contest it.²⁶ Both the Service and OCA note that at the current BPRS fee of \$1.75, the \$1.112 unit cost results in a calculated cost coverage of 157 percent (versus the current 156 percent cost coverage at issue).²⁷

Commission Analysis. The Commission deems the changed BPRS unit attributable cost resulting from the Postal Service 1998 BPRS cost study as a sufficient circumstance to merit Commission action in this complaint case. The Commission adopts the \$1.037 BPRS unit attributable cost figure, as it is based in significant part on actual FY 1998 BPRS cost data.

All postal rates now in effect are based on projections of FY 1998 costs as that was the test year in the most recent omnibus rate case, Docket No. R97-1. There is no compelling rationale or precedent to apply the CPI-U (or any other index) as a roll-forward factor to adjust the 1998 BPRS costs for FY 2000 projected cost level changes. BPRS is a new service that did not have its rates adjusted in Docket No. R97-1, as reliable data for that purpose were not available. Adjusting the BPRS rate to reflect costs that are consistent with those that support the rates and fees for other Postal

²⁴ Tr. 1/12.

²⁵ OCA Brief at 10.

²⁶ Reply Brief of the United States Postal Service (March 10, 2000) (Postal Service Reply Brief) at 1, Fn. 2.

²⁷ Postal Service Reply Brief at 4; OCA Brief at 9.

Services is in conformance with the policies of 39 U.S.C. § 3622(b)(1) and (3). In current Docket No. R2000-1, rates for services will be adjusted to reflected projected costs for the test year FY 2001.

D. Appropriate BPRS Cost Coverage

Introduction and Background. The cost coverage for a particular mail service is determined by its pricing based on Section 3622(b) factors and the policies of the Act. Those factors are as follows:

- (1) the establishment and maintenance of a fair and equitable schedule;
- (2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;
- (3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;
- (4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;
- (5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;
- (6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;
- (7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

(9) such other factors as the Commission deems appropriate.²⁸

The current rate for BPRS was set to provide a cost coverage of 156 percent. That figure was established in Docket No. MC97-4, and was the systemwide average cost coverage at the time.

Parties' Positions. According to CSA, a balancing of the Section 3622(b) factors supports a lower BPRS cost coverage. CSA indicates that the actual BPRS cost coverage now applied is 168 percent, as based on the revised costs from the Postal Service's 1998 BPRS cost study.²⁹ This figure is unfair and inequitable (factor 1) because it is higher than the coverage for other mail classes which are comparable or which may be used as return services.³⁰ CSA particularly cites Standard (A) Regular as one such "comparable" mail class, with its Docket No. R97-1 cost coverage of 135 percent. Bound Printed Matter (BPM), which currently has a 136 percent cost coverage, is offered as a similar return service. By using Standard (A) Regular's 135 percent cost coverage and a rolled-forward BPRS cost of \$1.112, CSA witness Buc asserts that the appropriate BPRS rate is \$1.50.³¹

Witness Buc maintains that the value of BPRS (factor 2) is much lower than its cost coverage indicates. BPRS parcels are subject to ground transportation, and the Postal Service determines the frequency of BPRS delivery, as well as the mailer's pickup of BPRS parcels. By comparison, the Postal Service provides a greater service for Bound Printed Matter by delivering all BPM returns to the mailer.³² Buc further

²⁸ 39 U.S.C. §3622(b).

²⁹ CSA Brief at 3.

³⁰ *Id.* at 3-7, 10-11.

³¹ Tr. 1/12, 16.

³² Tr. 1/14.

argues that the value of a BPRS parcel is even lower than that of the outgoing parcel sent under Standard (A) Regular mail. According to Buc, the value of this type of mail is at its highest during the outgoing Standard (A) leg because "the parcel represents the delivery of the merchandise to the customer closing the sale." In contrast, the BPRS parcel is the lesser-valued "by-product of an unsuccessful sales transaction."³³

CSA maintains that the proposed \$1.50 BPRS rate more than satisfies the factor 3 requirement that BPRS bear its direct and indirect attributable postal costs.³⁴

According to CSA, factor 4 consideration of the impact of rates on interested parties is better served by lowering the BPRS rate to reflect the actual cost of service. Factor 5, examining the impact of a particular cost coverage on alternative services, also favors a lower BPRS cost coverage. CSA and witness Buc state that there is no economically realistic alternative to the Service's return of BPRS parcels.³⁵

With regard to factor 6, CSA argues that BPRS parcels are processed in bulk, must be machinable and are picked up by half of the BPRS mailers (rather than delivered by the Postal Service), essentially at the Service's discretion.³⁶ Postal Service costs thus are reduced, which supports a lower BPRS cost coverage.³⁷

As for factor 7, CSA maintains that adjustment of the BPRS rate will have no effect on the simple per piece fee structure. It also states that factor 8 educational, cultural, scientific and informational considerations do not apply to the analysis of BPRS cost coverage.³⁸

³³ *Ibid.*

³⁴ CSA Brief at 4; Tr. 1/16.

³⁵ CSA Brief at 5; Tr. 1/17.

³⁶ CSA Brief at 5; Reply Brief of the Continuity Shippers Association, The Direct Marketing Association and the Association for Postal Commerce (March 10, 2000) (CSA Reply Brief) at 3.

³⁷ *Ibid.*

³⁸ CSA Brief at 5.

According to CSA, BPRS should have the same cost coverage as Standard (A) Regular mail. In support, CSA highlights the close relationship and similarities of the services, including: (1) BPRS returns meet all of the requirements of Standard (A) mail and are classified as Standard (A) mail on the outbound leg; (2) the Domestic Mail Manual indicates that only Standard (A) parcels may be returned via BPRS; (3) both Standard (A) mail and BPRS receive the same ground transportation and low level of priority; (4) the parcels are sent in bulk on both the outbound and return legs; and (5) BPRS is effectively acknowledged by the Service as Standard (A) Regular mail by its implementing regulations for the BPRS return label.³⁹ CSA also states that the recent Postal Service modifications to BPRS have not altered the relative value of the service.⁴⁰ In fact, as “the return leg of an unsuccessful business transaction,” BPRS conceivably could have a cost coverage even lower than that of Standard (A) Regular mail.⁴¹

It is CSA's position that even as a special service, BPRS does not merit its current high cost coverage. CSA cites the 128 percent cost coverage of Merchandise Return Service (MRS), characterized as the most analogous special service to BPRS.⁴² Both BPRS and the merchandise return service perform the same function; they allow customers to return parcels without paying postage. The only two minor differences between the services are that: (1) merchandise return service requires the use of a label, while BPRS presents this as an option; and (2) the merchandise return service may be used by any class of mail, whereas BPRS is limited to Standard (A) mail.

³⁹ *Id.* at 6. The “class of mail” endorsement required on the return label is “Standard Mail (A).”

⁴⁰ *Id.* at 8-10. Those modifications are the creation of a return BPRS label and the allowance of parcels opened and resealed by the customer to be redeposited into the mailstream for return to the original mailer.

⁴¹ *Id.* at 7.

⁴² *Id.* at 10-11.

Both the Postal Service and OCA counter that the current fee developed to generate the 156 percent cost coverage for BPRS is consistent with the factors of 39 U.S.C. § 3622(b).⁴³ They maintain that no circumstances have changed which would merit reconsideration of the BPRS cost coverage. However, should the Commission deem otherwise, it is argued that the current cost coverage for BPRS conforms with the pricing criteria of Section 3622(b) and the policies of the Act.⁴⁴ According to OCA and the Service, CSA's fee design analysis is flawed, and its comparisons to other services (with lower cost coverages) are not valid. Moreover, it is noted that at the current BPRS fee of \$1.75, the \$1.112 unit cost proposed by CSA witness Buc results in a cost coverage of 157 percent.⁴⁵

At the outset, Postal Service rebuttal witness Mayo maintains that CSA fails to consider the unique character of BPRS in its analysis of fairness and equity (factor 1).⁴⁶ It is the Postal Service's position that BPRS is a special service which "cannot be equated simply to another subclass of mail."⁴⁷ It is the only service which permits opened and resealed parcels to be returned without additional payment by the recipient or the mailer.⁴⁸

Postal Service witness Mayo argues that BPRS has "a value of service above and beyond the basic mail class or mail delivery" (factor 2).⁴⁹ OCA concurs.⁵⁰ With

⁴³ OCA Brief at 11; Postal Service Reply Brief at 10.

⁴⁴ USPS-RT-1 at 7-10; OCA Reply Brief at 4, 9. The Service notes that cost coverage is not an exact science, and that the Section 3622(b) factors arguably could support a slightly lower or slightly higher BPRS cost coverage. But this circumstance does not mean that the current BPRS fee is not in conformity with the Act. Postal Service Reply Brief at 10.

⁴⁵ Postal Service Reply Brief at 4; OCA Brief at 9.

⁴⁶ USPS-RT-1 at 8.

⁴⁷ Postal Service Reply Brief at 5.

⁴⁸ *Id.* at 5-6.

⁴⁹ USPS-RT-1 at 5.

⁵⁰ OCA Brief at 18-19.

BPRS mail, the original mailer has a vested interest in promptly receiving the returned merchandise and any customer information or payment which might be included in the case of opened and resealed parcels.⁵¹ Both the Postal Service and OCA dispute CSA's contention that the BPRS return service is of lower value to customers than the mail service when merchandise is first mailed to customers. On the contrary, unless there is a reliable return service, the customer has already paid for returned merchandise which he can neither use nor enjoy.⁵² Moreover, the returned parcel does not necessarily mark the conclusion of a business relationship for all BPRS mailers. The Postal Service notes that CSA witness Buc formulated his assessment of the value of BPRS as based on the experiences of only one BPRS user, Cosmetique. The nature of Cosmetique's business involves periodic mailings to customers who have consented to purchase only the first article in the series. In contrast, other BPRS mailers, such as "negative option" or "fulfillment" mailers, are more likely to continue the business relationship, and would not consider the BPRS "return leg" of lesser value.⁵³

Postal Service witness Mayo testifies that the recent enhancements to BPRS adopted as a result of Docket No. MC99-4 also add value to the special service.⁵⁴ The service now "allow[s] the use of return labels at no additional fee and authoriz[es] return of open and resealed parcels without return labels in certain circumstances."⁵⁵ CSA maintains that this enhancement adds no value to the service. However, both OCA and the Postal Service argue that CSA's assessment again is based on the experiences of

⁵¹ Postal Service Brief at 12; USPS-RT-1 at 6; OCA Brief at 18.

⁵² OCA Reply Brief at 5.

⁵³ Postal Service Reply Brief at 6-7. The Postal Service defines fulfillment mailers as businesses which mail out merchandise at the specific request of the customer. Customers of negative option mailers are usually obligated to buy a certain number of items (i.e., books, records) before membership termination. Thus, one return usually does not indicate the end of the business relationship. *Id.* at 7.

⁵⁴ USPS-RT-1 at 10.

⁵⁵ *Ibid.*

one mailer, Cosmetique, which chooses not to use the labels. The CSA analysis does not address the value of the added service to other BPRS mailers.⁵⁶

According to the Postal Service, CSA also misinterprets the factor 4 rate impact. CSA advocates lowering the BPRS rate as in the public's best interest. The Service counters that while some parties may prefer to pay lower rates, doing so may disadvantage competitors. At present, there is no economically realistic alternative to BPRS, and the service itself is noncompensatory on its outbound leg.⁵⁷ Thus, a decrease of the BPRS rate "would merely exacerbate the lack of competition."⁵⁸

With regard to factor 5, OCA maintains that higher priced alternatives, or a lack of viable alternatives, does not favor lower BPRS rates.⁵⁹ The Postal Service considers this lack of alternatives as "essentially an artificial one, caused by the noncompensatory rates charged outgoing Standard Mail (A) parcels."⁶⁰ In light of the current market, Service witness Mayo maintains that the present \$1.75 BPRS rate has a positive effect on users of the service.⁶¹ Thus, factor 5 does not support mitigation of the cost coverage.⁶²

The factor 6 degree of mailer preparation also does not favor a lower cost coverage for BPRS. The machinability of the BPRS parcels already is considered in the development of Standard (A) Regular mail rates on the outgoing leg, as well as in the cost development for processing BPRS returns.⁶³ OCA argues that the original mailer would be rewarded twice if the BPRS cost coverage were lowered based on the

⁵⁶ OCA Reply Brief at 8-9; Postal Service Reply Brief at 7.

⁵⁷ Postal Service Reply Brief at 9.

⁵⁸ *Ibid.*

⁵⁹ OCA Reply Brief at 7.

⁶⁰ Postal Service Reply Brief at 9-10.

⁶¹ USPS-RT-1 at 10.

⁶² Postal Service Reply Brief at 10.

⁶³ OCA Reply Brief at 7.

machinability of BPRS parcels.⁶⁴ The Postal Service maintains that factor 6 is generally reflected in the rate design where discounts are at issue, rather than at the rate level. The factor does not technically apply in this case. However, as a general point, the Service notes that BPRS parcels are not processed in bulk (as CSA asserts). Rather, bulk handling of BPRS parcels is limited to the postage calculation and delivery stages.⁶⁵

Although CSA stated that factor 8 does not apply to BPRS, OCA does suggest that BPRS parcels may have some educational, scientific, cultural and informational (ECSI) value. Some BPRS parcels consist of printed material, including books, or recorded music.⁶⁶ ECSI value of a service generally supports a lower cost coverage. However, OCA maintains that the limited ECSI value of BPRS only serves to temper a higher cost coverage than might otherwise be merited.⁶⁷

According to Postal Service witness Mayo and OCA, CSA's comparisons of BPRS to other mail services with lower cost coverages (such as Standard (A) Regular) are not valid.⁶⁸ Mayo describes BPRS as a special service that provides "a value of service above and beyond the basic mail class or mail delivery."⁶⁹ She distinguishes BPRS mail from Standard (A) Regular mail, noting that BPRS is "shaped differently, its contents are different, the costs are much higher, it is more welcomed by the recipient, and [on its outgoing leg] it fails to make a contribution to cover the institutional costs of the Postal Service."⁷⁰ OCA notes that parcel-shaped mail represents only a very small

⁶⁴ *Ibid.*

⁶⁵ Postal Service Reply Brief at 10.

⁶⁶ OCA Brief at 21-22.

⁶⁷ *Id.* at 22.

⁶⁸ USPS-RT-1 at 5-6; OCA Reply Brief at 4, 9-10. *See also* Postal Service Reply Brief at 10-12.

⁶⁹ USPS-RT-1 at 5.

⁷⁰ *Id.* at 6.

subset of Standard (A) Regular mail, with BPRS parcels an even smaller subset of the Standard (A) Regular parcel mailstream.⁷¹ BPRS may be returned by customers one-at-a-time via the Postal Service's collection system. Typical Standard (A) Regular mail is advertising material which must consist of at least 200 pieces (and therefore has no access to the collection system), is generally unsolicited and is of limited value, in contrast to BPRS parcels. With a BPRS parcel, the original mailer has a vested interest in the prompt return of his merchandise.⁷²

According to the Service, CSA's comparison of BPRS to Merchandise Return Service is equally invalid. Merchandise Return Service customers pay a fee as well as the postage. With BPRS, the fee is the sole source of contribution.⁷³

The Postal Service maintains that Bound Printed Matter's cost coverage also should not be applied to BPRS. The services are different. As described by the Commission, BPM is "another subclass used for bulk national mailings of (among other things) advertising materials."⁷⁴ In contrast, BPRS is a special service for the return of unwanted or undeliverable merchandise that had been requested by the recipient.⁷⁵

Commission analysis. Traditionally, the cost coverage for a particular mail subclass or service is determined in an omnibus rate proceeding initiated by the Postal Service under 39 U.S.C. §3622. In this manner, the Postal Service and all other interested parties are able to present evidence to enable the Commission to identify the appropriate attributable costs for each subclass of mail, and the fair distribution of institutional costs among all subclasses and services.

⁷¹ OCA Brief at 13.

⁷² Postal Service Brief at 12; USPS-RT-1 at 6; OCA Brief at 18.

⁷³ Postal Service Reply Brief at 11.

⁷⁴ Postal Service Reply Brief at 12, quoting PRC Op., R97-1, Vol. 1, at 434.

⁷⁵ *Ibid.*

Complaint cases may be filed under 39 U.S.C. §3662 to challenge the legality of postal rates for one or more subclasses of mail. The most frequent type of rate complaint filed with the Commission has challenged the rates of competitive services as “per se illegal” rates, because they do not cover the subclasses’ attributable costs, required by Section 3622(b)(3). The Commission also may hear complaints alleging that existing rates or services fail to meet other policies established in Title 39. Such complaints are particularly appropriate when changes in circumstances or unforeseen intervening events result in rates or services that no longer comport with Title 39.

In the instant docket, the Continuity Shippers Association has identified the Postal Service’s 1998 BPRS cost study as an intervening event requiring reevaluation of the current BPRS rate of \$1.75 per parcel. The Postal Service agreed to conduct the study to develop BPRS volume variable costs as part of the Docket No. MC97-4 stipulation and agreement which established the service. In that stipulation and agreement, BPRS’s total attributable costs were determined through the use of a proxy for each of its processing operations. The Commission adopted the settlement and agreement and recommended the service to the Governors, but it recognized that the actual costs for BPRS remained to be determined by the Service study. In October 1998, the Postal Service submitted the BPRS cost study results to the Commission, as directed.

CSA now submits in its complaint that the Postal Service 1998 BPRS cost study merits reconsideration of the BPRS rate. It further submits that the BPRS cost coverage is too high, and presents an analysis of the Section 3622(b) pricing criteria in support of its proposition. It is the Commission’s task to determine whether the “intervening events” cited by CSA justify reevaluation of BPRS attributable costs and institutional contribution outside the context of an omnibus rate proceeding.

The Commission believes that the Postal Service’s 1998 BPRS cost study represents a major change of circumstance which requires Commission action. The

Docket No. MC97-4 stipulation and agreement which established BPRS and was recommended by the Commission specifically provided for the Postal Service to conduct that cost study.⁷⁶ The cost study more accurately reflects the “true” BPRS attributable costs as it contains actual mailstream data on the service. The revised FY 1998 BPRS unit attributable cost is \$1.037. At a 156 percent cost coverage, this figure results in a significantly lower BPRS rate than the current \$1.75 fee, which is based on Docket No. MC97-4’s projected BPRS total per-piece attributable cost of \$1.119. As previously discussed, the participants in this proceeding apparently do not challenge the revised \$1.037 BPRS unit attributable cost figure, and the Commission will rely on it.

The BPRS cost coverage presents a different issue. BPRS was slightly “enhanced” as a result of Docket No. MC99-4. The service now permits the use of return labels at no additional fee, and also authorizes parcels which have been opened and resealed to be returned without return labels under certain circumstances. The Postal Service and OCA have characterized these changes as adding value to the service and supporting the current cost coverage. CSA maintains that the enhancement adds no value to BPRS, although its assessment is based on the experiences of only one mailer who chooses not to use the labels. No participants suggest that this slight enhancement, by itself, requires the Commission to adjust the contribution to institutional costs made by BPRS.

Unlike with the BPRS costs, the Commission finds no major change in the intervening period since Docket No. MC97-4 which would support reconsideration of the BPRS cost coverage in this complaint case. CSA was a party to the original stipulation and agreement which established BPRS in Docket No. MC97-4. As such, CSA had the opportunity to present the arguments which it now propounds in favor of a reduced

⁷⁶ See PRC Op. , MC97-4, and C97-1 at 6.

BPRS cost coverage. By agreeing to the stipulation and agreement, it accepted the system average coverage as a fair measure of statutory considerations vis-à-vis other then existing subclasses and services. Arguments that this balance ought to change should be made when the relative contributions of all the classes and services are considered in Docket No. R2000-1, the omnibus rate case filed by the Postal Service on January 12, 2000.

In Docket No. R-2000-1, the Postal Service in part proposes a \$1.65 fee for BPRS based on new cost and volume data. The Postal Service also has submitted testimony on its assessment of the proper institutional cost burden for BPRS, within the context of the other mail subclasses. The determination of a particular service's cost coverage involves a balancing of Section 3622(b) factors about which reasonable minds may differ. As there is no significant change in BPRS which compels immediate reexamination of its cost coverage in the current complaint proceeding, the Commission believes that this issue is best considered in Docket No. R2000-1.

E. Postal Service Implementation of the Adjusted BPRS Rate

The Commission now recommends that the current BPRS rate be adjusted to \$1.62. This new rate reflects the revised BPRS unit attributable cost of \$1.037 from the Postal Service's 1998 BPRS cost study, and the 156 percent cost coverage which was the systemwide average cost coverage adopted in the Docket No. MC97-4 settlement stipulation and agreement. As BPRS is a bulk mailing service used by "sophisticated" mailers, the Commission limits its adjustment of the new rate to rounding to the nearest penny.

Docket No. R2000-1 was filed by the Postal Service on January 12, 2000, and in part proposes a new BPRS rate of \$1.65. While mindful that the \$1.62 BPRS rate now recommended may again change as a result of Docket No. R2000-1, the Commission

believes that those mailers who use BPRS are unlikely to be significantly confused or inconvenienced by another rate change within a 12-month period. Moreover, in light of the substantial similarity between the Commission's recommended BPRS rate of \$1.62 and the \$1.65 BPRS rate proposed in Docket No. R2000-1, timely implementation of the \$1.62 fee should not be unduly difficult for the Postal Service. As discussed in detail earlier, the Commission finds that the circumstances surrounding this Complaint merit prompt action.

Thus, for the reasons discussed within the text of this decision, the Commission finds that the \$1.62 fee now recommended for the Postal Service's bulk parcel return service is consistent with both 39 U.S.C. § 3622(b) factors and the policies of the Postal Reorganization Act.

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

Before Commissioners:

Edward J. Gleiman, Chairman;
George A. Omas, Vice Chairman;
Dana B. Covington, Sr.; Ruth Y. Goldway;
and W.H. "Trey" LeBlanc III

Complaint on Charges for the
Bulk Parcel Return Service

Docket No. C99-4

RECOMMENDED DECISION

(Issued April 14, 2000)

A public hearing having been held in the above-entitled proceeding, and the Commission, upon consideration of the record, having issued its Opinion, which is attached hereto and made a part thereof,

IT IS ORDERED:


That the Commission's Opinion be transmitted to the Governors of the Postal Service and that the Governors thereby be advised that:

The fee set forth in the Appendix hereof is in accordance with the policies of title 39 of the United States Code and the factors set forth in § 3622(b) thereof;

and it is hereby recommended to the Governors for approval.

By the Commission.

(S E A L)


Margaret P. Crenshaw
Secretary

Amend Fee Schedule 935 to read as follows:

FEE SCHEDULE 935

BULK PARCEL RETURN SERVICE

	Fee
Per Returned Piece	\$1.62