OFFICE OF THE SECRETARY
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

RECEIVED
JAN 12 3 08 PM '01
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000	:	Docket No. R2000-1

COMMENTS OF AMERICAN BANKERS ASSOCIATION AND NATIONAL ASSOCIATION OF PRESORT MAILERS UPON DECISION OF BOARD OF GOVERNORS REQUESTING RECONSIDERATION

(January 12, 2000)

The American Bankers Association ("ABA") and the National Association of Presort Mailers ("NAPM"), participants in R2000-1, file these Comments pursuant to Commission Order No. 1301, upon the Postal Service Board of Governor's Decision Requesting Reconsideration.

For the reasons explained herein, ABA & NAPM urge the Commission to decline the Postal Service request to increase the revenue requirement originally recommended by the Commission. If the Commission nevertheless decides that the revenue requirement must be increased, we urge the Commission not to recommend any increases in First Class Mail, which already bears a disproportionately high institutional cost burden. Any further increase in First Class rates would only exacerbate this disproportionate institutional cost burden borne by First Class Mail. Furthermore, a second round of rate increases for First Class Mail, coming immediately on the heels of the January 7, 2001 increases, would accelerate the downward impact which electronic diversion is having upon First Class Mail volume.

I. The Revenue Requirement Recommended By The Commission Is The Product Of Reasoned Administrative Judgment, And Should Not Be Modified on Remand

In its December 20, 2000 Memorandum On Reconsideration, the Postal Service objects to the Commission's $100 Million reduction in supervisor costs. In particular the Postal Service objects to the Commission's utilization of a Library Reference which dealt with cost changes caused by mail volume changes, as opposed to cost changes caused by operating program changes. The Postal Services does not contest the proposition relied upon by the Commission that supervisor costs will ultimately be reduced in proportion to the cost of the employees managed by supervisors; rather, the Postal Service asserts that the Commission did not rely upon an appropriate document in making its calculation of this reduction. However, the Postal Service would have the Commission ignore the potential for supervisor cost reductions, merely because the Commission had not arrived at a precise measurement of such cost savings to the satisfaction of the Postal Service. The case law is clear that faced with an imperfect record in the form of inaccurate data, the Commission may fashion its own adjustments within reasonable limits. Association of American Publishers, Inc. v. Governors of U.S. Postal Service, 45 F. 2d 768, 773 (1973). Therefore, the Commission's $100 Million reduction in supervisor costs was a reasonable exercise of its administrative authority based on the record before it.

The Postal Service also asserts in its December 20, 2000 Memorandum that the Commission erred when it treated a $200 Million "field reserve" as part of the contingency provision. In support of this position, the Postal Service points to the following testimony of its witness, Strasser:

"A field reserve is an actual budget expense item that the Postal Services projects it will spend during the test year. It is as real as any other expense in the Postal Service's budget. It has not yet been assigned to a particular expense account, pending evaluation in the field of the particular needs of each location as the year progresses." *(emphasis supplied)*[1]

The Postal Service is engaging in verbal hair-splitting in the extreme. The Postal Service claims that the field reserve expense is somehow different than the contingency expense because the Postal Service projects that it will spend such unassigned amounts at some point during the year pending evaluation of the particular needs of various locations. In other words, only if it needs the money will the Postal Service spend it. Reasonable people would conclude that this is within the contingency provision. .

Perhaps more importantly, even if the Commission were to conclude that the field reserve were not properly part of the contingency provision, the resulting reduction of the contingency provision to 1.2 percent instead of 1.5 percent would still be a reasonable contingency level based upon the record before the Commission.

Concerning the authority of the Commission to reduce the contingency at all, the Postal Service clearly overstates its authority with respect to the contingency when it states, "The Commission has substituted its judgment for that of the Board in fixing the contingency provision. Absent some extraordinary showing of unreasonableness in the Board's judgment, the

1 December 20, 2000 Postal Service Memorandum on Reconsideration at page 9.

Commission may not do so."[2] Even the case most favorable to the Postal Service on this issue did not go so far. *See* Newsweek, Inc. v. U.S.P.S. 663 F.2d 186 (2d Cir. 1981), aff'd sub nom. National Association of Greeting Card Publishers, 361 U.S. 810. Rather, the court in Newsweek supra, held that the Commission's reduction in the contingency provision in R80-1 was "arbitrary" and was, based upon that finding, an unlawful intrusion on the Postal Service policy-making domain. Newsweek supra at 1205.

The cases do not say that the Commission can only modify the contingency provision if the Postal Service's proposed contingency provision constitutes an "extraordinary showing of unreasonableness" as suggested by the Postal Service in its December 20, 2000 Memorandum. Rather, the case law states that the Commission cannot arbitrarily reduce the contingency. We submit that the rationale set forth by the Commission in its 40-page discussion of the contingency provision negates any claim that the Commission acted arbitrarily with respect to the contingency provision.

In summary, the revenue requirement calculated, justified and recommended by the Commission in its Opinion And Recommended Decision is the product of sound and reasonable administrative decision-making.

II. If The Commission Does Increase Its Recommended Revenue Requirement, It Should Not Do So On The Back Of First Class Letter Mail

A. First Class Mail Continues To Carry A Highly Disproportionate Institutional Cost Burden Under The Commission Recommendation

---

2 *Id.* at page 21.

Having stated that it is not in the position to make specific rate recommendations, the Postal Service then states that the Commission, "has simply given much of the benefit of the reduced revenue requirement to First Class Mail."[3] Nothing could be further from the truth.

Under the Commission's Opinion and Recommended Decision, First Class Mail continues to carry a highly disproportionate percentage of the institutional cost burden. In particular, First Class Mail would represent 51.4% of mail volume under the Commission Recommendation and would contribute 71.45% of the total institutional cost; this compares with the next highest contributor, Standard Mail, which would under the Commission Recommendation represent 42.4% of total mail volume, yet contribute only 20.5% of total institutional cost.[4]

Furthermore, the 78.8% markup resulting for First Class letters under the Commission's Recommendation in R2000-1 represents an increase over the 72.4% markup for First Class letters under R97-1.[5] Clearly, under the Commission's recommendation, First Class Mail would bear a highly disproportionate percentage of the institutional cost burden, and an increased attributable costs markup. This belies any claim that First Class Mail received any excess benefit from the Commission's reduced revenue requirement.

It is also important to note that to increase First Class rates, as suggested by the Postal Service, would be directly contrary to the position of the Postal Service that the Commission should move rates in a direction which is consistent with the attributable cost increases reflected

3 December 20, 2000 Postal Service Memorandum On Reconsideration at page 26.

4 See the pie chart from the Commission's November 13, 2000 press briefing, attached hereto as Exhibit A.

5 Commission Opinion and Recommended Decision in R2000-1 at Appendix G, Schedule 3, page 34 of 36.

in Appendix J to the Commission Opinion and Recommended Decision.[6] That Appendix J, at page 7 of 7, demonstrates that unit attributable costs for First Class Single Piece letters rose only 1.15% from their R97-1 level, that unit attributable costs for First Class Presort letters rose only 1.37% from their R97-1 level, and that unit attributable costs for all First Class Letters actually decreased by 1.78% from their R97-1 level. At the same time, under the Commission Opinion and Recommended Decision in R2000-1, rates would increase for First Class Letters by 1.8% over their current level.

Clearly, to increase First Class letter rates still further would be inconsistent with the change in First Class letter attributable costs since R97-1, and inconsistent with the position taken by the Postal Service that rate changes should be consistent with attributable cost changes.

B. Further Increase In First Class Rates Would Increase Electronic Diversion Of First Class Mail

Any attempt to raise additional revenue by increasing First Class Mail rates will only increase electronic diversion of First Class Mail, thereby reducing the volume of the very class of mail which is most lucrative for the Postal Service and which the Postal Service can least afford to lose. The issue of electronic diversion of First Class Mail is no longer "whether" but rather "when." The Postal Service itself has acknowledged that this is a very real threat.[7] Indeed, the downward effect which electronic diversion has upon First Class Mail volumes may already be occurring. First Class Mail volume for the first three accounting periods of the current Postal

6 *See* December 20, 2000 Postal Service Memorandum On Reconsideration at page 24.

7 *See* Library Reference - I-179 filed in R2000-1 for the Statement of PMG Henderson bemoaning the potential loss of $17 billion of revenue as invoices, payments, banking statements and the like are increasingly conducted on-line and outside of the Postal Service's mail stream.

Service fiscal year was actually down 0.3% from the first three accounting periods of a year ago.[8] This decrease in First Class Mail volume is very dangerous for the Postal Service, since it can ill afford to lose volume of that class of mail which makes by far the largest contribution to institutional costs. It would not be sufficient for the Postal Service to simply replace lost First Class Mail volume with mail volume from other classes, since no other class makes a contribution to institutional costs anywhere near that of First Class Mail.

In short, First Class Mail's high contribution to institutional costs, coupled with the very real impact of electronic diversion of First Class Mail, makes First Class Mail the last place the Commission or Postal Service should look to raise revenue through further increases.

C. The Postal Service Focus Upon The First Class Letters Additional Ounce Rate As A Source Of Additional Revenue Is Misguided

Although conceding that it is not in a position to recommend specific rates to achieve the additional revenue requested by it, the Postal Service seems to target First Class additional ounce letters as a potential source for rate increases. This position ignores the fact that even with the modest one cent reduction proposed by the Commission for additional ounce First Class letters, First Class letters still bear a 78.8% markup which is up from 72.4% in R97-1 and is well above the system-wide average, and First Class Mail as a whole still contributes a highly disproportionate percentage (71.45%) to institutional costs relative to any other class of mail. Any increase in the First Class letters additional ounce rate originally recommended by the Commission would only exacerbate this problem, and would move cost coverages for First Class letters and First Class Mail as a whole in the wrong direction.

---

8 USPS Financial & Operating Statements, Accounting Period 3, PFY, November 4-December 1, 2000, page 3, filed herein on January 2, 2001.

It is also important to recognize that the modest reduction recommended by the Commission for the First Class letters additional ounce rate benefits all First Class Mail users, not only the high volume business mailers such as banks, but also mailers of Single Piece First Class letters.

Perhaps most important, it is clear that the modest one cent reduction in the First Class letters additional ounce rate recommended by the Commission is cost-justified. Not even the Postal Service can claim that costs of First Class additional ounce letters justify a higher rate than the 21 cents level recommended by the Commission. Attempting to put the best possible face on its argument, the Postal Service claims that the cost information in the record is "inconclusive" as to whether the additional ounce rate should be 21 cents, 22 cents or 23 cents.[9] We submit that the only doubt concerning the First Class letter additional ounce rate is whether it should in fact be lower than the 21 cents recommended by the Commission.

The Commission correctly noted that the cost numbers of USPS witness Daniel were biased upward, but that even taking Daniel's average additional ounce cost of 12.42 cents for Single Piece First Class Mail and 14.8 cents for Presort First Class Mail, this supported a 21 cents additional ounce rate.[10] For the past 10 years, the Postal Service has been getting away with an overpriced First Class letter additional ounce rate by declining to update cost studies. Common sense indicates that such updates would have shown that such First Class letter additional ounce mail was grossly overpriced. In R2000-1 Postal Service Witness Daniel produced a cost study for First Class additional ounce letters. However, ABA & NAPM witness

---

9 December 20, 2000 Postal Service Memorandum On Reconsideration at page 25.

10 Commission Opinion and Recommended Decision in R2000-1 at ¶ 5120.

Clifton demonstrated that this data was highly flawed, and that the more meaningful data was that produced by Daniel for Standard A additional ounce mail, which Standard A additional ounce cost data suggests that Daniel's First Class additional ounce cost data was significantly overstated.[11] In short, the cost studies in the record fully support the 21 cents First Class letter additional ounce rate recommended by the Commission.

D. Not Even The Postal Service Suggests That First Class Workshare Discounts Are A Potential Source Of Additional Revenue

We note that although the Postal Service suggested in its December 20, 2000 Memorandum that additional revenue might be obtained from First Class Mail, nothing in the Postal Service Memorandum suggests that First Class worksharing discounts should be reduced. Obviously, to reduce First Class workshare discounts would only exacerbate the problems discussed above concerning the excessive institutional cost burden of First Class Mail and the need to protect against electronic diversion of First Class Mail. Furthermore, the Postal Service suggestion at Page 24 of its December 20, 2000 Memorandum that the Commission give particular consideration to the 39 U.S.C. §3622(b)(4) criterion and its focus upon business mail users clearly dictates against any reduction in First Class workshare discounts.

Perhaps most importantly, it would be improper to attempt to increase revenue by reducing workshare discounts which are based on cost savings over non-workshared mail. The First Class workshare discounts are covered 100% by cost savings, which cost savings were determined by the Commission on the basis of the record in this case. Indeed, at Page 31 of its December 20, 2000 Memorandum, the Postal Services advised the Commission that if the

---

11 Direct Testimony of Clifton (ABA&NAPM-T1) at Tr. Vol. 26, pages 12442-12454.

Commission changed its Bound Printed Matter Rate Recommendations, the Commission should not reduce the worksharing differentials reflected in such rates. Presumably this is because the Postal Service recognizes that such worksharing differentials are based upon cost savings and, of course, the same rationale dictates against any reduction in First Class worksharing discounts.

III. If The Commission Should Recommend, Erroneously In Our View, An Increase In The First Class Additional Ounce Rate, the Resulting Adverse Impact On First Class Mailers Should Be Mitigated By Extending the 4.6 Cents Heavyweight Presort Discount To First Class Letters And Flats Weighing Between One and Two Ounces

For all of the reasons explained above, ABA & NAPM firmly believe that the Commission should not increase its recommended revenue requirement, and that in any event it should not attempt to do so by raising rates on First Class Mailers. However, if the Commission nevertheless does attempt to generate additional revenue by recommending an increase in the First Class Additional Ounce Rate to 22 cents, then the Commission should at least mitigate the adverse impact which such action would have upon First Class Mailers, by recommending an extension of the 4.6 cent Heavyweight Presort Discount to letters and flats weighing between one and two ounces. We refer the Commission to the comments of Major Mailers Association filed herein on this date and to the September 13, 2000 Joint Initial Brief of ABA & NAPM filed herein for a detailed explanation of the merits of this proposal.

Respectfully submitted,

AMERICAN BANKERS ASSOCIATION
NATIONAL ASSOCIATION OF PRESORT MAILERS

By:________________________

Henry A. Hart, Esq.
Reed Smith Shaw & McClay LLP
1301 K Street N.W.
Suite 1100 - East Tower
Washington, DC 20005
Ph: 202-414-9225
Fax: 202-414-9299

Counsel for
National Association
of Presort Mailers

Irving D. Warden
Assoc. General Counsel
American Bankers Association
1120 Connecticut Ave., NW
Washington, DC 20036
Ph: 202-663-5035
Fax: 202-828-4548

Counsel for
American Bankers Association

January 12, 2001

Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

Henry A. Hart

1301 K Street, N.W.
Suite 1100
Washington, D.C. 20005
Ph: (202) 414-9225
fax: (202) 414-9299

email: hhart@rssm.com

January 12, 2001

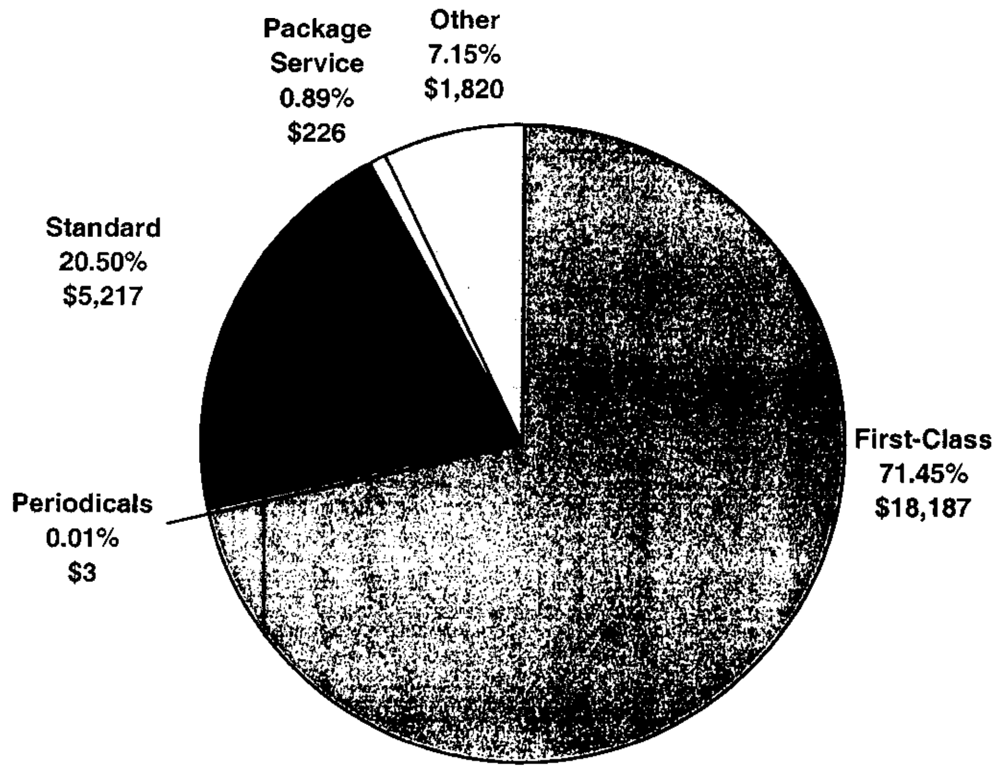
EXHIBIT A

Contribution to Institutional Costs

PRC R2000-1

(Dollars in Millions)

Total Contribution to Institutional Costs: $25,453



	Percent Volume	Percent Revenue	Percent Contribution to Institutional Cost
First-Class[1]	51.4%	61.7%	71.45%
Periodicals	5.0%	3.5%	0.01%
Standard	42.4%	23.3%	20.50%
Package Service	0.5%	3.1%	0.89%
Other Mail	0.7%	8.4%	7.15%
Total	100.0%	100.0%	100.00%

1/ Includes Priority Mail