

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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U.S. DEPT. OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

Postal Rate and Fee Changes, 2001

Docket No. R2001-1

**NEWSPAPER ASSOCIATION OF AMERICA
INITIAL BRIEF IN SUPPORT OF
PROPOSED STIPULATION AND AGREEMENT
March 4, 2002**

The Newspaper Association of America ("NAA") hereby respectfully submits its initial brief in support of the proposed Second Revised Stipulation and Agreement, as filed on January 17, 2002, and as subsequently modified on February 13, 2002, in this proceeding.

NAA has joined with nearly every other party in this proceeding in supporting the proposed Stipulation and Agreement. NAA has done so in full support of the goal, as suggested by Chairman Omas at the prehearing conference, of resolving the case expeditiously in order to ameliorate the Postal Service's financial position. Improving the Postal Service's financial health is a matter of great concern to NAA's member newspapers, which rely heavily upon the Postal Service both for the delivery of their products and for receipt of the great majority of their revenues. To that end, NAA supports approval of the Stipulation and Agreement, as amended, as a vital step toward addressing promptly the Postal Service's urgent cash needs. And NAA respectfully submits that the Postal Service's urgent cash needs are the type of "other factor" under Criterion 9 (39 U.S.C. § 3622(9)) upon which the Commission may rely upon in recommending the settlement rates.

Like other intervenors that have signed the Stipulation and Agreement, NAA does not necessarily believe that every detail in the proposed rates and underlying methodology are optimal. Indeed, NAA refrained from signing the Stipulation and Agreement until certain changes were made in the rate proposals for Standard A Enhanced Carrier Route pound-rated mail that NAA believes better reflect the record as it now stands.¹

In particular, NAA believes that the adjustment upward in the rates for heavier pound-rated ECR mail in the Revised Stipulation and Agreement, as compared to the Postal Service's original filing, is warranted for several reasons. First, the Postal Service has again ignored the Commission's request – reiterated as recently as last year in Docket No. R2000-1 -- for a comprehensive study of the effect of weight on costs for Standard ECR mail. NAA believes that until such a study is done, the Commission should not accept reductions in the ECR pound rate of the magnitude proposed in the Postal Service's original request. Second, it is NAA's position that the cross-examination of witnesses Schenk and Hope identified flaws, including the thinness of tallies at critical weight ranges and the misallocation of costs from heavier flats to lighter letters, that may undermine the cost allocation and rate design decisions made by those witnesses. Accordingly, NAA respectfully submits that the revised rates for pound-rated ECR mail are more consistent with the record upon cross-examination.

While, had the case been fully litigated, NAA may well have urged the Commission to recommend different rates – it and the other stipulating parties have

¹ NAA and other parties have also chosen not to litigate other issues of cost attribution, rate design, and institutional cost assignments in light of the overriding need to ameliorate the Postal Service's cash position.

agreed that the record, including the designated cross-examination to date, provides sufficient record support for the rates set forth in the amended Stipulation and Agreement.

As an additional matter, it is also important that the Commission recognize, as the Stipulation and Agreement in this case expressly provides, that by settling the parties expressly have not necessarily agreed with the ratemaking methodologies underlying the stipulated rates. All parties have expressly reserved the right to dispute in future cases the cost attribution, pricing, and rate design issues as presented in the Postal Service's filing. For that reason, as in Docket No. R94-1, the Commission in the future should recognize the unusual posture of this case by limiting accordingly the precedential value of its forthcoming Recommended Decision.

For the foregoing reasons, the Newspaper Association of America respectfully urges the Commission to take the unprecedented step, in these unprecedented circumstances, of accepting the Stipulation and Agreement, as revised, and issuing a Recommended Decision to the Governors that embodies that settlement.

Respectfully submitted,

NEWSPAPER ASSOCIATION OF AMERICA

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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.

March 4, 2002


William B. Baker