

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

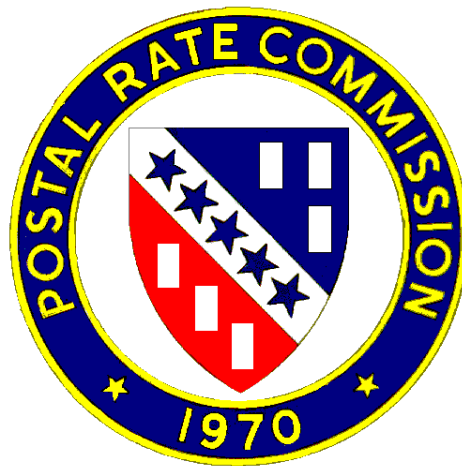
Before:

Chairman Omas,
Vice Chairman Covington,
Commissioner Goldway and
Commissioner Hammond

Customized Market Mail
Minor Classification Changes

Docket No. MC2003-1

OPINION AND RECOMMENDED DECISION
APPROVING
STIPULATION AND AGREEMENT



Washington, DC 20268-0001
June 6, 2003

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	1
A.	Commission Decision	1
B.	Procedural History	3
II.	SUMMARY OF PROPOSAL	6
A.	Current Mailing Requirements	6
B.	Proposed CMM Features	7
C.	Mail Classification Change Status	9
D.	Pricing	10
E.	Data Considerations	11
F.	Proposed DMCS Changes and Consistency with Applicable Statutory Criteria .	13
III.	SUMMARY OF STIPULATION AND AGREEMENT	15
IV.	GROUND FOR ACCEPTANCE OF CASE AND COMMISSION	
	RECOMMENDATION	18
	A. Opponents' Arguments.....	18
	B. Supporters' Arguments.....	21
	C. Commission Analysis and Findings.....	25

RECOMMENDED DECISION

APPENDIX ONE

APPENDIX TWO

APPENDIX A

APPENDIX B

I. INTRODUCTION AND SUMMARY

A. Commission Decision

The Commission adopts a Stipulation and Agreement (settlement) as the basis for an opinion and recommended decision approving a new Standard Mail category referred to as Customized Market Mail (CMM).

This case has two distinguishing features. One relates to operations; the other to evidence. Operationally, CMM pieces will not be subject to the size and shape criteria that have barred — and will continue to bar — most non-rectangular, irregularly-shaped, and relatively thin items from the mailstream. This is an acknowledged departure from longstanding policy, but the record convincingly demonstrates it entails essentially no risk of financial loss to the Postal Service. Eligible volume for this new niche classification is expected to be small, and a set of CMM-specific conditions will establish reliable controls.

Operational controls include mail preparation requirements (regulating payment and verification methods, containers, address styles, and delivery instructions); dropshipping to the destination delivery office; and ineligibility for special services and ancillary services, such as forwarding and return. Collectively, these conditions eliminate exposure to postal processing (where the existing dimensional standards retain their importance and applicability to most other pieces) and minimize or avoid undue delivery-related costs.

This is the first case the Service has filed under the minor classification change rules since their reissuance in 2001. There is no dispute that these rules allow the Service to seek relief from typical (and usually comprehensive) data requirements, but several participants expressed concern about the extent of waiver sought here. They asserted that it allowed the Service to forgo presenting any CMM-specific data, in conflict with statutory directives, case precedent and Commission rules. There was also concern about the adequacy of post-implementation data collection.

Under other circumstances, these concerns might be valid, and they highlight legitimate interests in the role pre- and post-filing data collection should play in mail classification change cases. However, the evidentiary record shows that developing data to support CMM is likely to have been relatively costly. Moreover, there are several convincing qualitative benchmarks that confirm the Commission's confidence in its decision to accept CMM as a minor classification change case, waive data requirements, and approve a non-unanimous settlement. Significantly, the absence of quantitative data does not mean cost implications have not been considered. CMM rate elements reflect studied, logical and conservative choices from the existing classification array. Coupled with market research indicating volume will be extremely low, this supports the conclusion that there will be no significant alteration in the relative contribution in Standard Mail, and no harm to other senders of Standard Mail.

The effective rate for CMM reflects the basic minimum rate for a non-letter, non-destination piece in the applicable Standard Mail subclass, plus the residual shape surcharge. Under the current schedule, this equates to 46 cents per piece for Standard Nonprofit and 57.4 cents per piece for Standard Regular.¹ Mandatory dropshipping — via Express Mail, Priority Mail or plant verified dropshipment (PVDS) — entails additional, mailing-specific costs.

As part of the settlement and this decision, the Service will provide annual data on CMM mailings, so some post-implementation assessment will be possible. The Commission also requests that the Service file an interim report on market interest, along with representative examples of CMM pieces.

¹ Based on 23 cents for Standard Nonprofit and 34.4 cents for Standard Regular, plus the residual shape surcharge of 23 cents.

B. Procedural History

The Postal Service filed a Request and related Notice seeking a recommended decision approving CMM as a permanent minor classification change on March 14, 2003. It also filed a contemporaneous Motion for Waiver of certain data filing requirements.² This is the first case filed under the minor classification change rules since the Commission reissued them in October 2001. These rules (39 CFR 3001.69-69c) generally allow greater expedition than other procedural options, notwithstanding the permanent nature of the proposed classification change, and contemplate a Commission decision within 90 days.

The filing includes the supporting testimony of witnesses Ashe and Hope (USPS-T-1 and USPS-T-2, respectively) and two library references. USPS-LR-1 presents examples of CMM prototypes; USPS-LR-2 contains market research materials. The filing also includes proposed amendments to the Domestic Mail Classification Schedule (DMCS) and a compliance statement addressing standard data requirements.

In Order No. 1365, the Commission informed the public of the Service's Request and addressed other preliminary legal and administrative matters. These included authorization of settlement discussions, as requested by the Service in its Notice; appointment of the Postal Service as settlement coordinator; and designation of the director of the Office of the Consumer Advocate (OCA) as the representative of the interests of the general public. The order also established deadlines for intervention and for comments on application of the minor classification change rules, the Motion for Waiver, and the Service's interest in additional expedition. Notice and Order on Filing of Request for Expedited Decision on Minor Classification Change Implementing Customized Market Mail (March 19, 2003), 68 FR 14435.

² See Request of the United States Postal Service for a Recommended Decision on Customized Market Mail Minor Classification Changes; Notice of United States Postal Service of the Filing of a Request for the Establishment of Customized Market Mail Minor Classification Changes to be Considered under 39 CFR §§ 3001.69 through 69c; and Motion of United States Postal Service for Waiver, all filed March 14, 2003, and referred to respectively as Request, Motion for Waiver and Notice.

Fifteen notices of intervention were filed on or before the April 9, 2003 deadline. Motion practice centered on two central and inter-related issues — mail classification change status and waiver of data requirements — and included the OCA's counter proposal for suspension of proceedings.³

The Commission determined, in Order No. 1368, that it was appropriate to consider the request under the minor classification change rules; granted the Service's Motion for Waiver; and asked participants to address the question of whether formal hearings would be necessary or desirable. A subsequent ruling noted that no participants had requested a hearing and found that there were no issues of genuine material fact requiring a formal hearing. P.O. Ruling No. MC2003-1/1 (April 23, 2003).

Settlement and prehearing conferences were held at the Commission on April 9, 2003. See Tr. 1. The Service filed a motion for consideration of a settlement on April 30, 2003. Therein, it stated that a majority of intervenors had indicated that they would sign a draft stipulation and agreement and that a few intervenors had indicated that they probably would not be opposed to settlement. Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, April 30, 2003. In addition to all material provisions in the Request, the settlement includes a commitment on the part of the Postal Service to collect data and file annual reports (through the conclusion of the next omnibus rate case) on CMM volume and revenue via the submission of billing determinants.

The Postal Service, the OCA, and Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (filing jointly as Valpak) submitted initial briefs on May

³ See OCA Response to Motions for Waiver, Expedition, and Settlement Procedures and Motions to Reject Request to Apply Minor Classification Rules, Suspension of Proceedings, and to Defer the Time to Request Hearing, April 3, 2003; United States Postal Service Answer in Opposition to Office of the Consumer Advocate Motions to Reject Request to Apply Minor Classification Rules, Suspension of Proceedings, and to Defer the Time to Request Hearing, April 10, 2003; Reply of Mail Order Association of America to OCA Response to Motions for Wavier, Expedition and Settlement Procedures and Motions to Reject Request to Apply Minor Classification Rules, Suspension of the Proceedings, and to Defer the Time to Request Hearing, April 10, 2003; Valpak Response to OCA Motions to Reject Request to Apply Minor Classification Case Rules, for Suspension of Proceedings, and to Defer the Time to Request Hearing, April 10, 2003; and American Postal Workers Union, AFL-CIO Comments on OCA Motions, April 10, 2003.

8, 2003. The same participants filed reply briefs, as did the Association for Postal Commerce and the Mailing Fulfillment and Services Association (filing jointly as Postcom) and, in a separate joint brief, Advo, Inc., American Spirit Graphics Corporation, AOL Time Warner Inc., Direct Marketing Association, Inc., Magazine Publishers of America, Inc., Mail Order Association of America, and Parcel Shippers Association (Advo et al.).

In addition to the Postal Service, eleven participants signed the settlement. Three participants (the OCA and Valpak) opposed the Request and the settlement offer. OCA Brief at 34; Valpak Brief at 1.

In a ruling issued May 30, 2003, Presiding Officer Omas entered the supporting testimony and designated responses written to cross-examination into the record and closed the record.

II. SUMMARY OF PROPOSAL

A. Current Mailing Requirements

The Postal Service has implemented a basic “condition of mailability” to foster effective and efficient mail handling and delivery. This condition is expressed as a requirement that mail pieces ¼-inch thick or less must be rectangular in shape. Related administrative rulings have interpreted this requirement to mean that such relatively thin pieces are not rectangular (for postal purposes) if they do not have four right-angle corners and four straight and regular edges, or if they have any holes or other voids within their dimensions. USPS-T-1 at 1-2, citing DMCS § 6020 and DMM § C010.1.1; USPS-T-2 at 1.⁴

The Service contends that this situation has left some mailers who want to send unusual and creative advertising messages without a postal option. It proposes bridging that gap through adoption of CMM as a permanent, minor classification change. There apparently is no documented record of demand for CMM, but witness Ashe asserts that Headquarters personnel recall expressions of interest over the years. He also says that participants in recent focus groups expressed interest in a CMM-type offering. *Id.* at 5-6, citing USPS-LR-2/MC2003-1.⁵ *See also* Tr. 2/55-59.

Ashe considers CMM a response to a specialized marketing interest and, as such, a “niche” classification within the Service’s broader offerings. He expects that CMM’s characteristics — and related costs for preparation and mailing — are likely to make it suitable only for low-volume, targeted, carefully developed promotional messages to a selected audience. *Id.* at 6.

⁴ Mail pieces that are ¼-inch thick or less typically also meet the dimensional standards for categorization as “letters” or “flats.” Letters and flats comprise the vast majority of mail pieces carried for delivery by carriers. USPS-T-1 at 1-2.

⁵ The Service’s market research, described as qualitative, was conducted in September and October 2002 by National Analysts.

B. Proposed CMM Features

Under the Service's proposal, CMM will differ from other mail that is ¼-inch thick or less primarily in terms of its shape and preparation requirements. Qualifying Standard Mail pieces will be allowed to be nonrectangular or irregular in shape, and to have holes or other voids.⁶ Design approval will not be required, and physical or graphic content will be subject to existing standards and statutes. CMM pieces will be able to be constructed of any material that is safe for handling by postal personnel, as long as they are flexible enough to withstand movement in the mailstream, normal handling for casing and delivery, and folding or rolling to fit in a small mail receptacle. *Id.* at 10–11; Tr. 2/44.

Because CMM pieces will be incompatible with equipment and methods used in the sorting and handling steps that occur between the point of mailing and the delivery post office, they will have to be prepared in containers that move directly to the delivery unit, so that all intermediate processing steps are bypassed. *Id.* at 2-3 (footnote omitted). Piece distribution to carriers, if necessary, will be accomplished by sorting the CMM pieces into letter or flat cases, appropriate to their physical size and shape, prior to placing them at the carrier cases. The carrier would then handle the piece in the manner deemed most efficient.⁷ *Id.* at 8. *Id.* at 2.

Postage verification for CMM will take place either at origin (as part of plant-verified or Priority/Express Mail dropshipments) or at destination. *Id.* at 7. Regardless of the verification procedure, however, CMM mailings will have to be physically entered at the destination delivery unit (DDU). *Ibid.* Minimum volume requirements will apply to the entire mailing, rather than the quantity for each DDU.

⁶ Ashe indicates that a circular piece with a thickness of ¾-inch and a 12-inch diameter will be eligible for CMM, assuming other applicable mailing requirements are satisfied. The smallest permissible diameter for a circular CMM piece will be 5 inches. Tr. 2/71.

⁷ The Service published proposed standards at 68 FR 27760 (May 21, 2003).

Containers and packaging. CMM pieces will have to be prepared in packages to maintain their integrity and inhibit their movement in transit, but the number of pieces in each package and the method of packaging will be left to the mailer's discretion, subject to basic standards for security and safety. *Id.* at 8. No sacks will be allowed, but mailers will be able to use containers such as trays, pouches, Priority Mail or Express Mail envelopes, or mailer-provided envelopes or cardboard boxes. *Id.* at 8. To minimize the complexity of verification procedures, mailers will be limited to a maximum of three different types of containers per mailing. Tr. 2/60.

Addressing and delivery. CMM will have to be marked as required for Standard Mail, and carry an additional marking identifying it as Customized Market Mail. Also, because CMM is to be delivered to or left at the address shown on the mailpiece, and not returned to the delivery office for customer pick-up, several additional requirements will be in force. First, detached address labels will not be permitted. Second, no special services or ancillary services, such as forwarding and return, will be available. To ensure that none are mistakenly provided, mailers must address each piece using the exceptional address format and a carrier release notation indicating that a deliverable CMM piece is to be left in a practical location near the recipient's mail receptacle if it cannot be placed inside the receptacle because of its size or inflexibility.⁸ Finally, undeliverable as addressed (UAA) CMM will be discarded. *Id.* at 12; Tr. 2/62.

⁸ The exceptional address format includes the phrase "or current resident." The carrier release practice was introduced in December 1990. Tr. 2/74. It allows letter carriers to leave uninsured parcels in a safe location protected from the weather when no one is available at the address to receive the parcel. The sender requests this service by endorsing the parcel "Carrier – Leave if No Response" or by using Label 235. Carriers are not liable for loss or damage under these circumstances. *Id.* at 73, citing Postal Bulletin No. 22096 (2-20-03).

C. Mail Classification Change Status

Witness Ashe asserts that the proposal is consistent with the Commission's rule 69 criteria. He notes that CMM will be subject to existing Standard Mail rates and fees, so no new rates, fees or surcharges are requested. Eligibility standards will not be restricted in any way; instead, the proposal will "make existing mail classifications more inclusive" for pieces less than or equal to ¼-inch thick and, for pieces more than ¼-inch thick but less than or equal to ¾-inch thick, will establish optional entry and handling procedures. *Id.* at 13. Ashe also notes that witness Hope explains that CMM will not cause a significant impact on the contribution of Standard Mail toward institutional costs. *Id.* at 14.

D. Pricing

In keeping with the mail classification change criteria, the Service proposes establishing CMM eligibility for pieces weighing 3.3 ounces or less in the basic nonletter rate categories in the Standard Mail Regular and Nonprofit subclasses, subject to minimum quantity and content restrictions. CMM pieces will be subject to the residual shape surcharge, but will not be eligible for any automation, destination entry, or other presort discounts or rates. This is the case even if they are part of mailings that would otherwise have the requisite geographic density or volume for eligibility for a destination entry discount or another presort rate. *Id.* at 8-9.

The rationale for applying the residual shape surcharge is based on the expectation that CMM generally will not be prepared as a letter or a flat, nor satisfy the specifications for letters or flats. USPS-T-2 at 7; Tr. 2/82. Foreclosing CMM from discount eligibility is based on the expectation that CMM pieces will be part of low-volume, low-density, targeted mailings, so qualifying for such discounts will be rare. Simplicity and ease of use are deemed to outweigh the potential benefits of developing the requisite standards and mailing statements. *Id.* at 9.

E. Data Considerations

Absence of quantitative data on costs, volume and revenue. In support of the Motion for Waiver filed at the outset of this case, the Service cited the minor nature of the classification changes at issue and the expectation that these changes would not have a substantial effect on the volume, revenue, and cost estimates and relationships of mail. Motion for Waiver at 1-2. It also claimed that production of such data would be unduly burdensome, particularly given the absence of a proposed change in rates and the “limited value of the quantitative data called for in evaluating the Postal Service’s proposal.” *Id.* at 3.

The Service’s witnesses confirm that no quantitative studies isolate the cost effects of rectangularity versus non-rectangularity; identify specific costs for accepting and handling CMM pieces at the DDU; or provide volume or revenue estimates. Tr. 2/66; Tr. 2/76; and USPS-T-2 at 8. However, both witnesses point to various reasons why the absence of such data is not critical. Witness Ashe, for example, does not believe entry of CMM pieces will have any noticeable impact on DDU handling and processing. He says the operating plan for CMM that is larger than letter-sized is to follow procedures currently in effect for flat size mail, and if necessary, for parcels. Tr. 2/24.

Witness Hope points to several considerations supporting the conclusion that prices are “reasonable with regard to costs” and that the addition of CMM pieces will not significantly alter the relative contribution of Standard Regular. Tr. 2/76-77. She notes that the Service expects CMM to be a highly-targeted, low-density, low-volume Standard Mail option for mailers. Accordingly, it is not anticipated to significantly change the overall institutional contribution or dynamics of Standard Mail as currently configured. *Id.* at 76, citing USPS-T-2 at 3. She also states that the rate elements in Standard Regular and Nonprofit subclasses, as applied to CMM, help to assure that CMM will generate a positive contribution. *Id.* at 2/78.

With respect to volume, witness Hope contends that it is clear that CMM, as one of many available advertising vehicles, is likely to be used in limited circumstances. USPS-T-2 at 8. As to revenue, she says CMM "... must be viewed in the context of the revenue profile of Standard Mail Regular and Nonprofit subclasses in aggregate, which amounts to \$10.8 billion in revenue for the Postal Service from approximately 55 billion pieces of mail." *Ibid.*

F. Proposed DMCS Changes and Consistency with Applicable Statutory Criteria

CMM-related DMCS amendments are focused in three areas: product description, implementation and rate application.⁹ USPS-T-2 at 3. Witness Hope identifies each of the proposed changes and notes that collectively, they will allow, in limited circumstances, nonrectangular mail to be present in the mailstream where it is currently prohibited; identifies restrictions on forwarding and return options intended to keep CMM out of mail processing operations; and describes CMM's place in the current rate structure. *Id.* at 3-5.

Hope also asserts that the proposal is consistent with the classification criteria of section 3623 of title 39, U.S. Code.¹⁰ She maintains that "CMM fits logically into the Standard Mail Regular subclass and its counterpart, the Standard Mail Nonprofit subclass." *Id.* at 6. It is designed as a direct mail vehicle for advertisers who want to target specific customer groups by subject or product area, rather than by geographically-defined area. Thus, target customers are likely to be dispersed throughout various regions and not concentrated in 3 or 5 digit ZIP Code areas or on specific carrier routes. *Ibid.*

Hope cites several reasons why CMM is fair and equitable (criterion 1). She notes that CMM will be available to all Standard mailers. She also says the basic category is appropriate because each CMM mailing will be subject to the Standard Mail

⁹ The basic product description for CMM appears in DMCS § 321.22.

¹⁰ These factors, found in 39 U.S.C. § 3623(c)(1) through (c)(6), are summarized and referred to as follows: the establishment and maintenance of a fair and equitable classification system for all mail (39 U.S.C. § 3623(c)(1) — criterion 1); the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail (39 U.S.C. § 3623(c)(2) — criterion 2); the importance of providing classifications with extremely high degrees of reliability and speed of delivery (39 U.S.C. § 3623(c)(3) — criterion 3); the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery (39 U.S.C. § 3623(c)(4) — criterion 4); the desirability of special classifications from the point of view of both the user and the Postal Service; and such factors as the Commission may deem appropriate (39 U.S.C. § 3623(c)(5) — criterion 5) and such factors as the Commission may deem appropriate (39 U.S.C. § 3623(c)(6) — criterion 6 — other factors).

minimum volume requirements. *Id.* at 6-7. Given the nature of CMM, Hope believes it is “quite unlikely” that the density of a CMM mailing will allow for the significant level of presortation that is required for discounts in the Regular and Nonprofit subclasses. Moreover, presortation is not required, so the least presorted category is appropriate. *Id.* at 7. Hope also says the RSS is appropriate because CMM “in most incarnations would not be (1) prepared as either a letter or a flat or (2) satisfy the specifications of letter or flats as prescribed in the DMM.” *Ibid.* CMM does not unfairly impact users of other Standard mail options, nor adversely affect users of other classifications. *Id.* at 7.

With respect to criterion 5, Hope says special classifications that are of relative value to some subsets of mailers can be desirable from the point of view of both the user and the Postal Service. *Id.* at 7-8. She says market research suggests some advertisers and advertising agencies are enthusiastic about the prospect of using CMM, and that desirability from the user’s viewpoint is discussed in detail in USPS–LR–2. *Id.* at 8. Hope says CMM is also desirable from the Service’s perspective, since it readily fits into the existing rate design and structure of Standard Regular and Nonprofit Mail and expands postal offerings without burdening mail processing operations with highly inefficient pieces or requiring additional investment. Thus, CMM will be mutually beneficial to both the mailing and advertising industries and the Postal Service. *Ibid.*

Moreover, Hope says the proposal demonstrates that the Service recognizes the needs of some Standard mailers and other direct marketers for unique and innovative marketing methods, and serves as an example of the Service’s flexibility in meeting the changing demand of the marketplace. *Ibid.* In particular, she says it builds on current offerings without detracting from or changing what is already available; and serves as an additional tool for direct mail and potential direct mail advertisers to consider in their advertising plans. *Ibid.*

III. SUMMARY OF STIPULATION AND AGREEMENT

Participants' positions. The Postal Service submitted a settlement for the Commission's consideration in late April. See Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, April 30, 2003. Eleven other participants signed the agreement. They are: AOL Time Warner, Advo, Inc., Alliance of Nonprofit Mailers, American Postal Workers Union, AFL-CIO, American Spirit Graphics Corporation, Association for Postal Commerce, The Direct Marketing Association, Inc., Magazine Publishers of America, Inc., Mail Order Association of America, Mailing and Fulfillment Service Association, and Parcel Shippers Association. The OCA and Valpak oppose the settlement. Participants Douglas F. Carson and David B. Popkin have not expressed a formal position.

Description. The settlement submitted by the Postal Service on behalf of itself and other signatories consists of two parts. Part I, captioned Background, identifies the filing date of the instant request and references the supporting direct testimony of Postal Service witnesses Ashe and Hope (USPS-T-1 and USPS-T-2, respectively).

Part II, Terms and Conditions, consists of 11 numbered paragraphs. Paragraph No. 1 states the settlement represents a negotiated settlement of all issues raised in this docket. Paragraph No. 2 notes that the signatories stipulate and agree, for purposes of this proceeding only, that certain referenced materials provide substantial evidence supporting and justifying a decision recommending the proposed changes to the DMCS and Rate Schedules 321A and 323A. These materials include: the Request and attachments thereto; the direct testimony of Postal Service witnesses Ashe (USPS-T-1) and Hope (USPS-T-2), and documents incorporated therein, as well as materials filed in support of the Request; and written cross-examination, as revised and supplemented, that are designated before the record closes. This paragraph also notes that the proposed DMCS changes and proposed rate schedule change are attached to the settlement.

Paragraph No. 3 provides that on the basis of the record identified in Paragraph No. 2, for purposes of this proceeding only, the signatories agree that the DMCS and Rate Schedule changes set forth in the attachment to the settlement are in accordance with the policies of title 39, United States Code and, in particular, the criteria of 39 U.S.C. § 3623.

Paragraph No. 4 states that the settlement is offered in total and final settlement of this proceeding and identifies limits on the submission of further pleadings.

Paragraphs No. 5 through No. 8 address various rights and obligations of the signatories. Paragraph No. 5 constitutes a reservation of rights allowing each signatory to withdraw from the settlement if the Commission adopts a recommended decision that materially differs from the classification changes set forth therein, or if the Governors of the Postal Service fail to approve a recommended decision adopting the classification changes as filed by the Postal Service. It provides that a signatory exercising this right must provide written notice of the intention to withdraw to all participants within 5 business days of the event giving rise to the right to withdraw. It also states that exercise of such right shall not affect operation of the settlement as to other signatories.

Paragraph No. 6 states that the settlement applies only to the instant proceeding. Paragraph No. 7 provides that signatories shall not be bound or prejudiced by the settlement in any future negotiation or proceeding (other than proceedings related to the settlement). It states that no participant shall rely for any purpose on the fact that another participant entered into or did not oppose the settlement. Further, it states that participants agree that to the extent matters presented in the Docket No. MC2003-1 Request, in any Commission Recommended Decision on that Request, or in any decision of the Governors in this proceeding, have not actually been litigated, the resolution of such matters will not be entitled to precedential effect in any other proceeding.

Paragraph No. 8 reiterates that the settlement is intended to relate exclusively to the specific changes reflected in the proposed DMCS and Rate Schedule provisions attached to the settlement, and is not intended to bind or prejudice those participants in

any other proceeding. It notes that the understanding of the intended consequences of the agreement applies equally to all constituent parts.

Paragraph No. 9 expresses the signatories' request that the Commission expeditiously issue a decision recommending adoption of the DMCS and Rate Schedule provisions submitted with the settlement.

Paragraph No. 10 addresses data collection and reporting. It provides that for the indefinite future, the Postal Service agrees to amend mailing statements to include line items for pieces entered as CMM. Also, until the conclusion of the next omnibus rate proceeding, the Postal Service further agrees to file, on an annual basis, volume and revenue figures for CMM based on mailing statement data. These reports will be part of the Service's annual filing of billing determinants.

Paragraph No. 11 indicates that the settlement represents the entire agreement of the signatories, and supercedes any understandings or representations not contained therein.

IV. GROUNDS FOR ACCEPTANCE OF CASE AND COMMISSION RECOMMENDATION

Issues addressed on brief primarily concern the standards that should guide the Commission's acceptance of, and recommendation in, this case. These arguments focus, to a large extent, on the implications of the absence of data. Participants also address, among other things, application of the residual shape surcharge to CMM pieces, the adequacy of post-implementation data collection and case precedent.

A. Opponents' Arguments

Opponents of the settlement — the OCA and Valpak — argue that submission of quantitative data is an absolute requirement. They contend that the Commission's issuance of a decision recommending CMM as a permanent change without cost, volume and revenue data would run afoul of statutory requirements, particularly section 3622(b)(3) of title 39, Commission precedent, and Commission evidentiary standards. Initial Brief of the OCA at 1, 7-9, and 16-29; Valpak Brief at 3. The OCA also opposes CMM based on a broader argument regarding the residual shape surcharge. In general, this argument reflects the OCA's position — expressed in previous cases — that Standard Mail pieces subject to the residual shape surcharge are undercharged. Given this position, the OCA opposes allowing additional pieces of surcharged mail into the class. *See, generally*, OCA Brief at 7–9.

In essence, opponents' main statutory argument is that the absence of hard data necessarily means the Commission cannot determine whether the CMM proposal is consistent with 39 U.S.C. § 3622(b)(3), which requires that rates recover estimated costs and contribute to the institutional costs of the Postal Service.¹¹ OCA Brief at 11; Valpak Brief at 3. Valpak asserts that even if this section is deemed to apply only to subclasses, "each subclass is the sum of its parts." *Ibid*. It claims that without some

¹¹ OCA suggests that CMM may be priced too low, while Valpak suggests it may be priced too high. OCA Brief at 7–8. Valpak Brief at 9-11.

estimate, however rough, about anticipated costs, it is impossible to establish an equitable rate of postage. It suggests that “fairness to existing products” requires that the Service not simply rely on the assumption that any losses would be small when compared to the totality of the subclass. *Id.* at 3-4.

Valpak also raises a concern that some features of CMM may violate 39 U.S.C. § 403(c), which forbids “any undue or unreasonable discrimination among users of the mails, [or] any undue and unreasonable preference to any such user.” *Id.* at 3. The features Valpak finds suspect are CMM’s ineligibility for various discounts and application of the residual shape surcharge. With respect to the latter, Valpak concludes that the record does not establish that the physical characteristics of CMM will resemble those of parcels more than flats. *Id.* at 12-13.

Both the OCA and Valpak question the Service’s decision to seek consideration of CMM under the minor classification change rules, but acknowledge Order No. 1368’s acceptance of CMM within that procedural framework.¹² However, the OCA asserts, that determination required only a threshold showing, and was not a disposition on the merits of whether CMM met Postal Reorganization Act standards for a favorable recommendation. OCA Brief at 10. Valpak goes somewhat further in asserting that the case should not even have been filed under the minor classification case rules without quantitative data. Valpak Brief at 3.

With respect to previous cases, Valpak says the Commission generally has declined to determine at the outset of a docket that a request is insufficient as a matter of law, but also has acknowledged that under the right circumstance it must do so, in accordance with the Administrative Procedure Act and pertinent Commission rules. *Id.* at 5-6.

The OCA asserts that notwithstanding the inclusion of a data reporting provision in the settlement, the Service is not likely to separately analyze the unique costs of CMM for future cases. OCA Brief at 8. Valpak contends that “instituting a permanent

¹² In fact, Valpak says if the Service had elected to file under another set of rules for temporary changes, lack of cost data might have been more understandable.

Docket No. MC2003-1

change without any record cost estimate is unacceptable and dangerous for all mailers.”
Valpak Brief at 9 (footnote omitted).

B. Supporters' Arguments

The Postal Service, PostCom and Advo et al. — supporters of the CMM proposal and signatories to the settlement — generally regard Commission Order No. 1365 as dispositive on the application of the minor classification change rules and, by extension, on the consequences of absence of quantitative data. See United States Postal Service Initial Brief Commenting on Stipulation and Agreement (Postal Service Brief) at 4; and Advo et al. Reply Brief at 1-2. In addition, they generally note that the OCA and Valpak do not challenge the conclusion that CMM is, in concept, desirable. See PostCom Reply Brief at 3, citing OCA Brief at 9 and Valpak Brief at 1; Advo et al. Reply Brief at 4; PostCom Reply Brief at 2. They directly challenge the opponents' contention that the absence of quantitative data is a critical and material deficiency. They suggest several tests that can guide the Commission's deliberations, none of which uses quantitative data as a litmus test. Instead, the hallmark of their approaches is the Commission's exercise of reasoned judgment within the framework of the Postal Reorganization Act. The Postal Service also asserts that the Commission should have no reservations about relying on a non-unanimous settlement. Postal Service Brief at 13-15.

Decisionmaking standards. On brief, the Service asserts that the record conclusively demonstrates that CMM "has been adequately analyzed and reasonably designed." *Id.* at 1. It maintains that CMM "fits well" within the definition of an expedited minor classification case; will have a limited impact on operations, given how it has been structured; will have minimal effect in terms of considerations, such as cost and volume; and complies with and furthers the statutory classification criteria. *Id.* at 4-11. In particular, the Service contends that witness Hope's conclusion regarding CMM's "negligible" impact on institutional costs is reasonable and based on substantial record evidence. *Id.* at 10. It also says that her further assertion that CMM should yield positive contribution is reasonable, particularly given her detailed analysis of CMM's physical characteristics, entry profile, and special and ancillary service restrictions. *Ibid.*

The Service also maintains that the settlement provides a sound basis for acceptance of the CMM proposal. *Id.* at 13. It notes that there is no requirement that settlements be unanimous to form the basis for regulatory action, and states that the Commission has previously issued recommended decisions based on nonunanimous settlements and on settlements that are opposed. *Id.* at 12, citing Docket No. R2001-1 and referencing Initial Brief of the Postal Service, Docket No. R2001-1 at I-6 through I-8.

Advo et al. state that the issue before the Commission is whether the Service's evidence is probative. They proceed to assert that it is, based on the Service's demonstration that the rate, cost of piece preparation and other factors "ensure that volumes will be low and that those volumes will cover costs." Advo et al. Reply Brief at 1-3. In particular, they assert that the Postal Service has adopted a conservative pricing approach and has presented persuasive testimony about the market for CMM. They also say the Service has properly classified CMM within Standard Mail parcels, thus making application of the residual shape surcharge appropriate. *Id.* at 4.

Advo et al. are also confident that CMM will not result in any negative revenue consequences. In particular, they point out that because CMM will be limited to pieces weighing no more than 3.3 ounces, will be entered at the DDU, and will be ineligible for any discounts, it "assuredly will incur less cost than other RSS pieces." *Ibid.*

Supporters also take issue with contentions that CMM must cover its attributable costs and that the absence of data places the Commission in the position of violating § 3622(b)(3). Advo et al., for example, says "it is beyond argument" that this requirement pertains only at the subclass level and has no application to particular types of mail within subclasses. Advo Reply Brief at 6. It asserts that a contention otherwise is "clearly erroneous." *Ibid.*

Postcom concedes that this proceeding "is not a paradigm of the customary cases before the Commission." PostCom Reply Brief at 2. It acknowledges that the absence of more finely developed data on CMM costs and volumes creates some risk, but argues that recognition of this possibility "should not foredoom" the CMM proposal. *Ibid.* It suggests that the Commission balance two considerations. One is the power of

the Service to offer new postal services “when it candidly conceded that the cost of measuring rigorously derived cost and volume information for a new service would outweigh the utility of the service itself.” *Ibid.* The other is the likelihood that the absence of good or better data on costs and volumes will lead to an outcome “flatly prohibited” by the Act. *Id.* at 2-3. PostCom observes that, in essence, the Postal Service has assumed that the costs of CMM will not exceed the undiscounted rate for Standard Mail letters weighing up to 3.3 ounces when the residual shape surcharge is applied. It notes that this is an “effective rate of CMM pieces in the Regular Subclass [of] 57.4 cents per piece, which constitutes the highest rate element combination in Standard Mail for piece-rated pieces.” *Id.* at 3, citing Postal Service Initial Brief at 2.

PostCom asserts that there is no reason to believe that this assumption is ill-founded, and says:

When gauging the extent to which reasonable-appearing facts assumed by the Postal Service ought to be credited by the Commission, also consider one additional elemental consideration: if an assumption only indirectly bolstered by facts runs the risk of fostering statutorily prohibited cross-subsidies, the Commission should proceed with considerable caution. When that condition is not threatened, however, the Commission ought to extend greater generosity to the Service’s assumptions.

Id. at 3.

In this instance, PostCom asserts that “every available shard of evidence” suggests that the volumes of CMM mail likely to be produced by the new-found eligibility of such mail pieces for entry into the mailstream will be extraordinarily small. Recognition of this fact, which is not seriously disputed in the OCA brief, secures the conclusion that, even if the Postal Service is substantially wrong in its costing analysis for the new service, there will be no significant adverse impact on other Standard Mail mailers. *Id.* at 4.

In addition, PostCom discounts the OCA’s position. It says the assumption that every piece of mail that touches the mailstream must have its eligibility for entry “festooned with elaborate proof that the rates charged for that piece defray its

attributable cost and make some contribution to institutional cost raises formalism to too high a plane.” *Id.* at 4. In this case, it says “...CMM mail will not have any cognizable prospect for increasing the costs of other Standard Mail. That secure conclusion is a sufficient basis for the Commission to recommend the CMM rates proposed by the Postal Service.” *Ibid.*

Finally, PostCom contends that to the extent the OCA’s brief might be read as a collateral attack on the residual shape surcharge, it should be summarily rejected as well beyond this proceeding’s boundaries. It says that using a minor classification case to seek to re-litigate prior adjudications with which the OCA is dissatisfied runs the risk of perpetual reconsideration of settled standards in proceedings ill-equipped to bear such burdens. PostCom says that when changes in the residual shape surcharge are proposed by the Service, the OCA will have every opportunity to voice its theories as to the appropriate level of those charges. *Id.* at 4. *See also*, Advo Reply Brief at 5.

C. Commission Analysis and Findings

At the outset of this case, Order No. 1368 found that the Service's filing satisfied the standards for consideration under a set of rules developed for minor classification change cases. The order left open the question of whether the Service's testimony was probative on the merits. Participants have suggested several ways the Commission should approach that determination. Having considered all relevant facts and arguments, the Commission finds, under the unique circumstances associated with this niche classification case, that one proposed standard — which entails insistence on quantitative data — reflects legitimate concern with evidentiary standards, but discounts the weight of the significant qualitative evidence presented on this record. Therefore, it is not an appropriate test for this case.

An inherent aspect of the ratemaking and classification process is the Commission's exercise of reasoned judgment. Thus, in certain limited and well-defined circumstances, it may be appropriate to rely on qualitative benchmarks in assessing consistency with statutory requirements. To do otherwise would inappropriately elevate an "estimate, however rough" over a logical and reasoned demonstration of the sufficiency of a proposal.

As CMM pieces do not currently exist as distinct advertising materials, it follows that it may be virtually impossible for the Service to undertake typical pre-filing data collection activities of representative mail pieces. This is a problem not encountered in other recent filings, such as the Ride-Along case, where numerous candidate products were already in use. CMM, therefore, poses a singular difficulty in terms of compliance with the standard data filing requirements.

Perspective and proportionality are also considerations in Commission decisionmaking. Here, all indications are that CMM will be an extremely low-volume offering, especially in the context of overall Standard Mail volume. Thus, even under a "worst case" scenario in which CMM fails to recover its costs, the impact would, as witness Hope maintains, be negligible. At the same time, there are many reasons to

conclude that the Service has adopted a conservative pricing approach with respect to CMM; therefore, it is far more likely that there is virtually no danger of a negative impact on other Standard Mailers. Thus, while opponents of the settlement are correct that the record is devoid of traditional quantitative support, it is not devoid of other sufficient, reliable indications that the proposal satisfies the statutory criteria.

To the extent concerns about the residual shape surcharge reflect CMM-related rate design issues, the Commission notes that CMM pricing in this case was constrained by the dictates of the minor classification change rules. For now, application of the surcharge is acceptable, given that CMM pieces are not likely to be prepared as a letter or a flat or to satisfy letter or flat specifications. To the extent arguments concerning the residual shape surcharge reflect a broader concern about impact on other mailers, the Commission finds that issue better suited to consideration in an omnibus case.

The Commission finds that CMM appropriately qualifies as a permanent minor classification change. Its particular “niche” as the Service notes, is within Standard Mail. Pricing reflects a conservative approach and the constraints of the minor classification rules. Given the basic nonletter minimum Standard Mail rate and the residual shape surcharge, the effective rate of CMM pieces in the Regular subclass will be 57.4 cents per piece, or the highest rate element combination in Standard Mail for piece-rated pieces. The comparable Nonprofit rate for the Nonprofit subclass is 46 cents per piece. Pricing in general and application of the residual shape surcharge may warrant reconsideration once evaluation of actual mail pieces becomes possible.

Record evidence, in the form of the results of market research, points to some interest and enthusiasm for CMM. At the same time, volume is likely to be relatively low, given the expense of developing and mailing these “customized” pieces. These factors bolster the conclusion that CMM will result in no significant change to the overall institutional contribution of Standard Mail as currently configured.

The Commission relies on the underlying settlement as the basis for its recommendation in this case. This settlement, unlike many recent ones, is opposed by

several participants. The preceding discussion indicates that the Commission has considered and evaluated the reasons for this opposition, but has concluded that this is not a bar to acceptance. The Commission also has independently reviewed the proposal, and finds that it comports with the applicable classification criteria.

With respect to fairness and equity (criterion 1), CMM fills a gap in the classification that has foreclosed most irregularly-shaped pieces from the postal system. With the operational controls that are part of the product design, the presence of these pieces in the mailstream will not be unfair to other mailers. Moreover, CMM will be an option for any sender of Standard Mail presenting qualifying pieces; no mailer will be required to use this new category. With respect to relative value and special classifications (criterion 2), CMM will fill a marketing void for advertisers whose target audience may be comparatively small and geographically dispersed. Criteria 3 and 4 pertain to classifications where speed and reliability either are important factors, or are not particularly important considerations. For CMM, speed of delivery is not necessarily a significant consideration, but high reliability is, especially in terms of ensuring that these relatively expensive pieces reach the addressee without damage. Again, the operational controls that will be in place should provide mailers and the Postal Service with a high level of confidence regarding intact delivery. CMM satisfies criterion 5 — the desirability of special classifications from the point of view of both the Service and the user — by allowing the Service to respond to advertisers' interest in mailing more creative pieces. The broad support the proposal gained from the mailing community serves as a strong indication of its desirability to users. In this case, the absence of quantitative data is a factor that has required the Commission to rely on qualitative determinations about the proposal's impact. In this case, which presents a seemingly unique situation, the Commission finds that the absence of quantitative data is not a material defect.

Inclusion of a data reporting requirement in the settlement is a positive development. The Commission is interested in CMM's acceptance in the marketplace and the range of CMM products that may be mailed under this new classification. It

Docket No. MC2003-1

therefore requests that the Service also provide periodic reports on market response, along with representative examples of CMM pieces.

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

Before Commissioners:

George Omas, Chairman;
Dana B. Covington, Sr., Vice Chairman;
Ruth Y. Goldway; and Tony Hammond

Customized Market Mail
Classification Changes

Docket No. MC2003-1

RECOMMENDED DECISION

(Issued June 6, 2003)

The Commission, having considered the Postal Service Request, and the Stipulation and Agreement filed and entered into the record of this proceeding, has issued its Opinion thereon. Based on the Opinion, which is attached hereto and made a part hereof,

IT IS ORDERED:

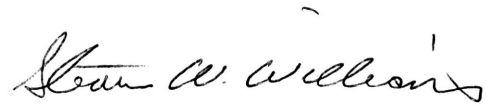
1. The Postal Service's April 30, 2003 Motion for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision is granted. The Stipulation and Agreement filed by the Postal Service is accepted.
2. The Commission's Opinion shall be transmitted to the Governors of the Postal Service and the Governors shall thereby be advised that the proposed rates and surcharges (set forth in Appendix One) and the proposed amendments to the DMCS (set forth in Appendix Two) are in accordance with the policies of title 39, United States Code, including the

Docket No. MC2003-1

factors set forth in § 3622(b), and § 3623(c) thereof, and they are hereby recommended to the Governors for approval.

By the Commission.

(SEAL)

A handwritten signature in cursive script, reading "Steven W. Williams".

Steven W. Williams, Secretary

Docket No. MC2003-1

RECOMMENDED CHANGES IN RATE SCHEDULES

The following changes represent the rate schedule recommendations of the Postal Rate Commission in response to the Postal Service's Docket No. MC2003-1 Request. Revisions are underlined.

**STANDARD MAIL
RATE SCHEDULE 321A
REGULAR
PRESORTED CATEGORIES**

	Rate
Letter, minimum piece rate	
Piece Rate	
Basic	\$ 0.268
3/5-digit	0.248
Destination Entry Discounts	
BMC	0.021
SCF	0.026
 Nonletters, minimum piece rate	
Piece Rate	
Basic	0.344
3/5-digit	0.288
Destination Entry Discounts	
BMC	0.021
SCF	0.026
 Nonletters, piece and pound rate	
Piece Rate	
Basic	0.198
3/5-digit	0.142
Pound Rate	0.708
Destination Entry Discounts (off pound rate)	
BMC	0.100
SCF	0.125

SCHEDULE 321A NOTES

1. A fee of \$150.00 must be paid each 12-month period for each bulk mailing permit.
2. Residual shape pieces are subject to a surcharge of \$0.23 per-piece. For parcel barcode discount, deduct \$0.03 per-piece (machinable parcels only).
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.
4. Nonmachinable letters are subject to a \$0.04 nonmachinable surcharge.
5. Pieces entered as Customized Market Mail, as defined in DMCS section 321.22, are subject to the nondestination entry, nonletter minimum per-piece basic rate and the residual shape surcharge.

**STANDARD MAIL
RATE SCHEDULE 323A**

**NONPROFIT
PRESORTED CATEGORIES**

	Rate
Letters, minimum piece rate	
Piece Rate	
Basic	\$ 0.165
3/5-digit	0.153
Destination Entry Discounts	
BMC	0.021
SCF	0.026
 Nonletters, minimum piece rate	
Piece Rate	
Basic	0.230
3/5-digit	0.183
Destination Entry Discounts	
BMC	0.021
SCF	0.026
 Nonletters, piece and pound rate	
Piece Rate	
Basic	0.110
3/5-digit	0.063
Pound Rate	0.584
Destination Entry Discounts (off pound rate)	
BMC	0.100
SCF	0.125

SCHEDULE 323A NOTES

1. A fee of \$150.00 must be paid each 12-month period for each bulk mailing permit.
2. Residual shape pieces are subject to a surcharge of \$0.23 per-piece. For parcel barcode discount, deduct \$0.03 per-piece (nonmachinable parcels only).
3. For nonletters, the mailer pays either the minimum piece rate or the pound rate, whichever is higher.
4. Nonmachinable letters are subject to a \$0.02 nonmachinable surcharge.
5. Pieces entered as Customized Market Mail, as defined in DMCS sections 321.22 and 323.22, are subject to the nondestination entry, nonletter minimum per-piece basic rate and the residual shape surcharge.

RECOMMENDED CHANGES IN RATE SCHEDULES

The following material represents changes to the Domestic Mail Classification Schedule recommended by the Postal Rate Commission in response to the Postal Service's Docket No. MC2003-1 Request. Revisions are underlined. CMM is defined in § 321.22, which addresses Basic rate categories in the Regular subclass in Standard Mail. In the Nonprofit subclass in Standard Mail, § 322.22 incorporates by reference the definition of CMM in § 321.22.

**FIRST-CLASS MAIL
CLASSIFICATION SCHEDULE**

210 DEFINITION

Any matter eligible for mailing, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22, may, at the option of the mailer, be mailed as First-Class Mail. The following must be mailed as First-Class Mail, unless mailed as Express Mail or exempt under title 39, United States Code, or except as authorized under sections 344.12, 344.23 and 443:

- a. Mail sealed against postal inspection as set forth in section 5000;
- b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 312, 313, 520, 544.2, and 446;
- c. Matter having the character of actual and personal correspondence except as specifically permitted by sections 312, 313, 520, 544.2, and 446; and
- d. Bills and statements of account.

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**STANDARD MAIL
CLASSIFICATION SCHEDULE**

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320 DESCRIPTION OF SUBCLASSES

321 Regular Subclass

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321.2 Presort Rate Categories

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321.22 Basic Rate Categories.

The basic rate categories apply to presort rate category mail not mailed under section 321.23, and to all mail entered as Customized Market Mail (CMM). CMM must be marked and bear endorsements as specified by the Postal Service, and must meet the preparation, addressing, and acceptance requirements specified by the Postal Service. Notwithstanding section 6020, Customized Market Mail may be nonrectangular in shape. The following size standards apply to Customized Market Mail:

- a. Thickness: at least 0.007 inch and no more than 0.75 inch,
- b. Length: at least 5 inches and no more than 15 inches, measured for nonrectangular shapes as specified by the Postal Service.
- c. Height: at least 3.5 inches and no more than 12 inches, measured for nonrectangular shapes as specified by the Postal Service.

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321.4 Destination Entry Discounts.

The destination entry discounts apply to Regular subclass mail, except Regular Presort category mail entered as Customized Market Mail under section 321.22, prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.5 Residual Shape Surcharge.

Regular subclass mail is subject to a surcharge if it is entered as Customized Market Mail under section 321.22 or is prepared as a parcel or if it is not letter or flat shaped.

321.6 Barcode Discount.

The barcode discount applies to Regular Subclass mail, except Regular Presort category mail entered as Customized Market Mail under section 321.22, that is subject to the residual shape surcharge in 321.5, is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service, and meets all other preparation and machinability requirements of the Postal Service.

321.7 **Nonmachinable Surcharge.**

The nonmachinable surcharge applies to Regular presort category letter-sized pieces, except Regular Presort category mail entered as Customized Market Mail under section 321.22, (i) that do not meet the machinability requirements specified by the Postal Service; or (ii) for which manual processing is requested.

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323 **Nonprofit Subclass**

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323.2 **Presort Rate Categories**

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323.22 **Basic Rate Categories.**

The basic rate categories apply to presort rate category mail not mailed under section 322.23, and to all mail entered as Customized Market Mail, as defined in section 321.22.

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323.4 **Destination Entry Discounts.**

Destination entry discounts apply to Nonprofit subclass mail, except Nonprofit Presort category mail entered as Customized Market Mail under section 323.22, prepared as specified by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility) or sectional center facility (SCF) at which it is entered, as defined by the Postal Service.

323.5 **Residual Shape Surcharge.**

Nonprofit subclass mail is subject to a surcharge if it is entered as Customized Market Mail under section 323.22 or is prepared as a parcel or if it is not letter or flat shaped.

323.6 **Barcode Discount.**

The barcode discount applies to Nonprofit subclass mail, except Nonprofit Presort category mail entered as Customized Market Mail under section

323.22, that is subject to the residual shape surcharge in 323.5, is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service and meets all other preparation and machinability requirements of the Postal Service.

323.7 Nonmachinable Surcharge.

The nonmachinable surcharge applies to Nonprofit presort category letter-sized pieces, except Nonprofit Presort category mail entered as Customized Market Mail under section 323.22, (i) that do not meet the machinability requirements specified by the Postal Service; or (ii) for which manual processing is requested.

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330 PHYSICAL LIMITATIONS

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340 POSTAGE AND PREPARATION

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344 Attachments and Enclosures

344.1 General

First-Class Mail may be attached to or enclosed in Standard Mail, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22. The piece must be marked as specified by the Postal Service. Except as provided in section 344.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

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350 DEPOSIT AND DELIVERY

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353 Forwarding and Return

Undeliverable-as-addressed Standard Mail, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections

321.22 and 323.22, will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard Mail pieces will be returned as specified by the Postal Service. Except as provided in section 935, the applicable First-Class Mail rate is charged for each piece receiving return only service. Except as provided in section 936, charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in sections 935 and 936, the charge for those returned pieces is the appropriate First-Class Mail rate for the piece plus that rate multiplied by a factor equal to the number of Standard Mail pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

360 ANCILLARY SERVICES

361 All Subclasses

All Standard Mail, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22, will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	911
b. Certificates of mailing indicating that a specified number of pieces have been mailed	947

Certificates of mailing are not available for Standard Mail when postage is paid with permit imprint.

362 Regular and Nonprofit

362.1 Regular and Nonprofit subclass mail, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22, will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	935
b. Shipper-Paid Forwarding	936

362.2 Regular and Nonprofit subclass mail subject to the residual shape surcharge in 321.5 and 323.6, respectively, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22, will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Insurance	943
b. Return Receipt (merchandise only)	945
c. Delivery Confirmation	948

Bulk insurance may not be used selectively for individual pieces in a multi-piece Standard Mail mailing unless specific methods approved by the Postal Service for determining and verifying postage are followed.

363 Regular

Regular subclass mail, except Regular Presort category mail entered as Customized Market Mail under sections 321.22, will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. <u>Netpost</u> Mailing Online	981

365 Nonprofit

Nonprofit subclass mail, except Nonprofit Presort category mail entered as Customized Market Mail under sections 323.22, will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. <u>Netpost</u> Mailing Online (starting on a date to be specified by the Postal Service)	981

* * * * *

**PACKAGE SERVICES
CLASSIFICATION SCHEDULE**

510 DEFINITION

511 General

Any mailable matter may be mailed as Package Services mail except:

- a. Matter required to be mailed as First-Class Mail;
- b. Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22; and
- [b]c. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail (currently Periodicals class mail) forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

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**SPECIAL SERVICES
CLASSIFICATION SCHEDULE**

910 ADDRESSING

911 ADDRESS CORRECTION SERVICE

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911.2 Availability

911.21 Address Correction service is available to mailers of postage prepaid mail of all classes, except for mail addressed for delivery by military personnel at any military installation and Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22. Address Correction Service is mandatory for Periodicals class mail.

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940 ACCOUNTABILITY AND RECEIPTS

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943 INSURANCE

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943.2 General Insurance

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943.22 Availability

943.221 General Insurance is available for mail sent under the following classification schedules:

- a. First-Class Mail, if containing matter that may be mailed as Standard Mail or Package Services;
- b. Package Services;
- b. Regular and Nonprofit subclasses of Standard Mail, for Bulk Insurance only, for mail subject to residual shape surcharge, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22.

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945 RETURN RECEIPT

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945.2 Return Receipt For Merchandise

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945.22 Availability

945.221 Return Receipt for Merchandise is available for merchandise sent under the following sections or classification schedules:

- a. Priority Mail;
- b. Standard Mail pieces subject to the residual shape surcharge, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22;
- c. Package Services.

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947 CERTIFICATE OF MAILING

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947.2 Availability

947.21 Certificate of Mailing service is available for matter sent using any class of mail, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22.

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948 DELIVERY CONFIRMATION

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948.2 Availability

948.21 Delivery Confirmation service is available for First-Class Letters and Sealed Parcels subclass mail that is parcel-shaped, as specified by the Postal Service; Priority Mail; Standard Mail, in the Regular and Nonprofit subclasses, that is subject to the residual shape surcharge, except Regular and Nonprofit Presort category mail entered as Customized Market Mail under sections 321.22 and 323.22; and Package Services mail that is parcel-shaped, as specified by the Postal Service.

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GENERAL DEFINITIONS, TERMS AND CONDITIONS

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6000 MAILABLE MATTER

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6020 Minimum Size Standards

Except as provided in sections 321.22 and 323.22, [T]the following minimum size standards apply to all mailable matter:

- a. All items must be at least 0.007 inch thick, and
- b. all items, other than keys and identification devices, which are 0.25 inch thick or less must be
 - i. rectangular in shape,
 - ii. at least 3.5 inches in width, and
 - iii. at least 5 inches in length.

* * * * *

PARTICIPANTS AND COUNSEL

(Italicized boldface type indicates that participants signed the Stipulation and Agreement underlying the Commission's recommendation)

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USPS-T-1

Laraine B. Hope

USPS-T-2