

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

REPOSITIONABLE NOTES PROVISIONAL SERVICE

Docket No. MC2004-5

NOTICE OF THE UNITED STATES POSTAL SERVICE
OF DECISION OF THE GOVERNORS
(January 12, 2005)

The United States Postal Service hereby provides notice of the attached

Decision of the Governors:

Decision of the Governors of the United States Postal Service
on the Recommended Decision of the Postal Rate Commission
on Repositionable Notes Provisional Service Change,
Docket No. MC2004-5.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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January 12, 2005

**DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE
ON THE RECOMMENDED DECISION OF THE POSTAL RATE COMMISSION
ON REPOSITIONABLE NOTES PROVISIONAL SERVICE CHANGE,
DOCKET NO. MC2004-5**

January 11, 2005

On December 10, 2004, the Postal Rate Commission issued its Opinion and Recommended Decision in Docket No. MC2004-5. The Commission recommends a provisional service to implement what the Postal Service requested: a one-year test allowing bulk mailers of non-parcel shaped mail to attach a Repositionable Note (RPN)¹ to the outside of each mailpiece. The Commission also recommends, as the Postal Service requested, a rate of 1½ cents per piece for attaching an RPN to Standard Mail or Periodicals and ½ cent for attaching an RPN to First-Class Mail.

For the reasons set forth below, we have concluded that the provisional service as recommended is in accordance with the Postal Reorganization Act and is fully supported by the record before the Commission. Therefore, we approve the provisional service change and attendant rates recommended by the Commission. By resolution, the Board of Governors has today set April 3, 2005, as the effective date of the provisional service and attendant rates.

¹ "A Repositionable Note ('RPN') is a Post-it™-type self-adhesive note that mailers can affix to the outside of a mailpiece. Because RPNs are applied as part of a mechanical process using air pressure, and may have an adhesive strip that is wider than on notes typically used in office settings, they are unlikely to become detached from the mailpiece.... RPNs typically display advertising, product offerings, or marketing messages designed to encourage recipients to open, read, and respond to the internal contents of the mailpiece.... RPNs can extend the life of the message, since the recipient can remove the note and re-attach it to a computer, telephone, day-timer, or refrigerator.... For catalog mailers, RPNs can be used as a mechanism to correct minor errors in catalogs, instead of the expensive process of reprinting replacement pages. In these various ways, RPNs may increase response rates to the mailpiece."

STATEMENT OF EXPLANATION AND JUSTIFICATION

The Postal Service's request for a test of RPNs, though limited in effect and potential financial impact, was, nevertheless, controversial before the Commission. This was partly due to the fact that extensive testing by the Postal Service had shown that RPNs do not increase handling costs and, thus, attachment of an RPN to the outside of a mailpiece has no discernible effect on the attributable costs of that mailpiece. A group of mailer associations claimed that the Commission does not have the authority to recommend a classification and rates on this basis. The Commission rightly rejected this claim.²

The Postal Reorganization Act does not require cost differences for the establishment of classifications and rates. The provisional RPN service satisfies the classification and ratemaking criteria of the Act and is supported on the record by the testimony of the Postal Service's witnesses.

As the Commission's Opinion indicates, "value pricing" or "demand pricing" for regulated utilities is generally regarded as lawful.³ In the case of postal rates, the value of the mailpiece is specifically embraced by the statute as a ratemaking criterion.⁴ Value is balanced subjectively, along with the other statutory criteria, including fairness and equity, in developing rates on a case-by-case basis. There is nothing new here in that regard.

With regard to the abstract issue of whether this pricing proposal "maximizes" what is alternately called "consumer surplus" or "consumer welfare," the Commission characterizes the record as "meager."⁵ We do not find this troubling. As noted above, the Postal Service's pricing testimony provides adequate support for its very limited

² PRC Order No. 1417 (August 30, 2004).

³ PRC Op. at 13.

⁴ 39 U.S.C. § 3622(b)(2).

⁵ See PRC Op. at 13, 22.

proposal, analyzed in terms of the statutory criteria. The record shows that the proposed service met all of the relevant statutory classification and rate criteria.⁶

In contrast to the Postal Service's support for its proposal, the parties opposing the proposed service and rates before the Commission did not add to the record in a meaningful way, such as by filing testimony to address the wider economic issues that they raised. We note that the Commission indicates that it is planning to engage an economist to write a paper to address these broader issues.⁷ Although such analysis might be an interesting supplement to a future record, the central issue here is, and in a permanent classification request would be, whether a particular proposal satisfies the criteria of the Act. Both we and the Commission have concluded in this case that it does.⁸

We conclude that it is also established on the record that RPN service could yield a net benefit to Postal Service customers as a whole. RPN provisional service will allow RPNs on a variety of mail; it will have no effect on other rates and classifications; and it will impose no restrictions. Since its revenues are expected to contribute entirely toward postal overhead, postal customers overall will benefit, whatever the actual level of demand.

Despite its concern regarding maximizing consumer surplus, the Commission notes that the data needed to address the issue are "not available ..., for the obvious reason that RPN prices have not yet been charged."⁹ The Commission is willing to let the provisional service proceed both because it will "do little harm if implemented" and in recognition of the "lighter burden" that the Postal Service has in seeking a provisional service, as opposed to establishment of a permanent service.¹⁰ While the same

⁶ See Initial Brief of the United States Postal Service at 10-11; Reply Brief of the United States Postal Service at 5-7.

⁷ PRC Op, at 3, 19.

⁸ See PRC Op. at 20-23.

⁹ PRC Op. at 13.

¹⁰ PRC Op. at 22-23.

statutory provisions govern both, the limited nature of the provisional service is certainly a relevant consideration in the Commission's evaluation of the potential effects of a particular proposal. The Commission's explicit acknowledgement that it should give the Postal Service "considerable deference when it attempts to test the operational aspects or the market acceptance of innovative products" is most welcome.¹¹

Overall, we find that the record evidence adequately supports the test proposed by the Postal Service and recommended by the Commission.¹² The price structure is explained by the Postal Service's witness, and the prices themselves were discussed by the mailers who participated in the market research. The questions raised by the Commission in its Opinion concerning the relative impact of RPN charges on various rate categories as well as the possibility of constructing alternative rate structures are worthy of further consideration.¹³ They do not in any way detract from the support that actually exists in the record for the structure proposed by the Postal Service and recommended by the Commission, which the Commission acknowledges.¹⁴ Clearly, if it is appropriate, on a provisional basis, to charge a price for RPNs, then it is appropriate to create provisional classifications for them, regardless of the degree to which the grouping is analogous to already established classification groupings, since classifications are, at their essence, groupings of mail for the purpose of assigning prices.¹⁵

Much of the Commission's discussion of the classification status of RPNs relates to the standards and precedent the Commission has followed supporting the establishment of subclasses of mail and special services.¹⁶ While we find that these references certainly create a relevant context in which to consider the RPN proposal, we do not believe they

¹¹ PRC Op. at 2.

¹² See Initial and Reply Briefs of the United States Postal Service.

¹³ See PRC Op. at 23-27.

¹⁴ PRC Op. at 23.

¹⁵ *National Retired Teachers Assoc. v. U.S. Postal Service*, 430 F. Supp. 141, 146 (D.D.C. 1977), *affirmed*, 593 F.2d 1360 (D.C. Cir. 1979).

¹⁶ PRC Op. at 15-17.

necessarily express or exhaust the statutory standards under which the limited RPN proposal should be evaluated. In that regard, we find that the limited classification change proposed and recommended, namely, the Domestic Mail Classification Schedule (DMCS) language needed to establish the rate differential applied to mail with RPNs, distinguishes RPNs sufficiently as a classification that is justified as a framework for the separate rates applied. We believe this conclusion is fully supported by statutory authority and judicial opinion, as well as longstanding Commission precedent. We, furthermore, agree with the Commission that the RPN proposal is supported and justified by consideration of the relevant statutory classification criteria, and is in no way inconsistent with the Act.

The Commission notes that: "It might be undesirable from the standpoint of regulatory policy if unbundling cost-free features of the mail for separate 'value' pricing were to become commonplace."¹⁷ Whatever the merits of this concern, it should be emphasized that the Postal Service regards RPNs as an optional, supplemental, product feature (more analogous, as the Commission notes, to special services¹⁸) and not as an unbundled existing design option. Our decision today is limited to the facts of this case. It approves a modest attempt to test an apparently worthy service concept. It is not intended to reflect a broad new pricing policy. Future application of value pricing may be appropriate on a case-by-case basis for certain unique features, such as RPNs, Ride-Alongs, and high-technology based innovations that are in the nature of supplemental or special services. As always, pricing proposals in future cases will be evaluated based on the particular facts of those cases.

¹⁷ PRC Op. at 18.

¹⁸ PRC Op. at 16-17. Ride-Along enclosures or attachments for Periodicals is another good analogy cited by the Commission. (In its discussion, however, the Commission misstates that the cost for the additional weight of the Ride-Along is covered by the ounce charge for the host Periodical. Actually, that cost is covered by the Ride-Along charge itself: "[T]he 10-cent per-copy rate should comfortably cover any additional cost due to incremental weight" Docket No. MC2000-1, USPS-T-1, at 5.)

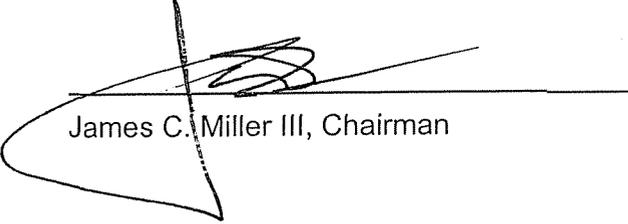
ESTIMATE OF ANTICIPATED REVENUE

Since a main purpose of the provisional service is to gather data regarding volume of RPNs, the information needed to determine anticipated revenue is not available. The record shows that the effect on revenues of the provisional service is not expected to be significant.¹⁹

ORDER

In accordance with the foregoing Decision of the Governors, the changes in rates set forth in Attachment A and the changes in classification set forth in Attachment B, are hereby approved and ordered into effect. In accordance with Resolution 05-2 of the Board of Governors dated January 11, 2005, the changes will take effect at 12:01 a.m. on April 3, 2005.

By The Governors:



James C. Miller III, Chairman

¹⁹ See PRC Op. at 20.

**FIRST-CLASS MAIL
RATE SCHEDULE 221
LETTERS AND SEALED PARCELS**

SCHEDULE 221 NOTES

3. Add \$0.005 per piece for Presorted, Automation Letters and Automation Flats pieces bearing a Repositionable Note as defined in Classification Schedule 221.221, 221.326, and 221.336.

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

SCHEDULE 321A NOTES

6. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 321.8.

**STANDARD MAIL
RATE SCHEDULE 321B
REGULAR
AUTOMATION CATEGORIES**

SCHEDULE 321B NOTES

4. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 321.8.

**STANDARD MAIL
RATE SCHEDULE 322
ENHANCED CARRIER ROUTE**

SCHEDULE 322 NOTES

6. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 322.8.

**STANDARD MAIL
RATE SCHEDULE 323A
NONPROFIT
PRESORTED CATEGORIES**

SCHEDULE 323A NOTES

6. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 323.8.

**STANDARD MAIL
RATE SCHEDULE 323B
NONPROFIT
AUTOMATION CATEGORIES**

SCHEDULE 323B NOTES

4. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 323.8.

**STANDARD MAIL
RATE SCHEDULE 324
NONPROFIT ENHANCED CARRIER ROUTE**

SCHEDULE 324 NOTES

6. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 324.8.

**PERIODICALS
RATE SCHEDULE 421
OUTSIDE COUNTY (INCLUDING SCIENCE OF AGRICULTURE)**

SCHEDULE 421 NOTES

8. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 424.

**PERIODICALS
RATE SCHEDULE 423
WITHIN COUNTY**

SCHEDULE 423 NOTES

3. Add \$0.015 per piece for pieces bearing a Repositionable Note as defined in Classification Schedule 424.

**FIRST-CLASS MAIL
CLASSIFICATION SCHEDULE**

221 Letters and Sealed Parcels Subclass

221.22 Presort Rate Category.

221.221 Repositionable Notes. Repositionable Notes may be attached to the exterior of letter-size and flat-size Presort rate category mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 3 to Rate Schedule 221. This provision expires on April 3, 2006.

221.3 Automation Rate Categories – Letters and Flats

221.32 Letter Categories

221.326 Repositionable Notes. Repositionable Notes may be attached to the exterior of Automation letter rate category mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 3 to Rate Schedule 221. This provision expires on April 3, 2006.

221.33 Flats Categories

221.336 Repositionable Notes. Repositionable Notes may be attached to the exterior of Automation flats rate category mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 3 to Rate Schedule 221. This provision expires on April 3, 2006.

**STANDARD MAIL
CLASSIFICATION SCHEDULE**

321 Regular Subclass

321.8 **Repositionable Notes.** Repositionable Notes may be attached to the exterior of letter-size or flat-size Regular subclass mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 6 to Rate Schedule 321A or note 4 to Rate Schedule 321B. This provision expires on April 3, 2006.

322 Enhanced Carrier Route Subclass

322.8 **Repositionable Notes.** Repositionable Notes may be attached to the exterior of letter-size or flat-size Enhanced Carrier Route subclass mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 6 to Rate Schedule 322. This provision expires on April 3, 2006.

323 Nonprofit Subclass

323.8 **Repositionable Notes.** Repositionable Notes may be attached to the exterior of letter-size or flat-size Nonprofit subclass mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 6 to Rate Schedule 323A or note 4 to Rate Schedule 323B. This provision expires on April 3, 2006.

324 Nonprofit Enhanced Carrier Route Subclass

324.8 **Repositionable Notes.** Repositionable Notes may be attached to the exterior of letter-size or flat-size Nonprofit Enhanced Carrier Route subclass mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 6 to Rate Schedule 324. This provision expires on April 3, 2006.

**PERIODICALS
CLASSIFICATION SCHEDULE**

424

Repositionable Notes. Repositionable Notes may be attached to the exterior of letter-size and flat-size Periodicals mail, as specified by the Postal Service. The additional charge for the Repositionable Note is specified in note 8 to Rate Schedule 421 or note 3 to Rate Schedule 423. This provision expires on April 3, 2006.

**RESOLUTION OF THE BOARD OF GOVERNORS
OF THE
UNITED STATES POSTAL SERVICE**

Resolution No. 05-2

Effective Date of New Classification and Rates

RESOLVED:

Pursuant to Section 3625(f) of Title 39, United States Code, the Board of Governors determines that the classification and discounts that were ordered to be placed into effect by the Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Rate Commission on Repositionable Notes Provisional Service Change, Docket No. MC2004-5, adopted on January 11, 2005, shall become effective at 12:01 a.m. on April 3, 2005.

The foregoing Resolution was adopted by the Board of Governors on January 11, 2005.



William T. Johnstone, Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

Scott L. Reiter

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January 12, 2005