

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

POSTAL RATE AND FEE CHANGES, 2005)

Docket No. R2005-1

COMMENTS OF
VALPAK DIRECT MARKETING SYSTEMS, INC. AND
VALPAK DEALERS' ASSOCIATION, INC.
IN RESPONSE TO NOTICE OF INQUIRY NO. 1
(May 10, 2005)

The Commission issued Notice of Inquiry No. 1 Concerning Registered Mail on April 26, 2005, requesting participants to submit comments on deferred implementation dates of rates for Registered Mail. Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. hereby submit the following comments regarding the Commission's Notice of Inquiry.

The Postal Reorganization Act addresses the issue of timing of implementation of rate changes at 39 U.S.C. § 3625(f):

The Board [of Governors] shall determine the **date** on which the new rates, fees, the mail classification schedule, and changes in such schedule under this subchapter shall become effective. [Emphasis added.]

Consistent with the statutory language, the Board of Governors' bylaws provide that one of the powers reserved for the Board is the “[d]etermination of an effective **date** for changes in postal rates or mail classification.” (39 C.F.R. § 3.3(h), emphasis added.) A plain reading of that statute and that regulation indicates that the Board of Governors must set **one** effective date (*i.e.*, not multiple dates) for the entire set of Commission-recommended rates.

The Postal Service appears to be assuming authority for what could be analogized to a “line item veto,” to cherry-pick the Commission’s recommended rates and implement the rates it wants, whenever it wants. Although delaying the implementation of a rate increase for Registered Mail may seem reasonable at first blush vis-a-vis the apparent intended purpose, it is difficult to see any principled difference between the Board of Governors implementing all rates except the one it vetoes, and vetoing all rates except the one it implements.

Valpak believes that if problems underlie Registered Mail’s “operations, costs, customer needs, and fee structure” (USPS-T-1, p.7, ll. 2-3), they should be identified and resolved in this proceeding.

The problem of unexplained excessive costs for Registered Mail is not entirely a new phenomenon. In Docket No. R87-1, a 35.3 percent rate increase was requested for Registered Mail. An intervenor in that docket, the Industry Council for Tangible Assets, submitted interrogatories and developed testimony on the record regarding the costing of Registered Mail — particularly the issue of specific fixed costs. The Commission recommended rates much lower than the Postal Service had requested.

If it appears that no intervenor expresses an interest in taking the lead to contest the Postal Service’s request regarding Registered Mail, Valpak suggests that the Office of the Consumer Advocate be asked to review the Registered Mail issue particularly since it is a product used by the general public. 39 U.S.C. § 3624(a). As always, having an adversarial proceeding focused on the matter improves the quality of the record and allows the Commission to better resolve costing, fee structure, and other issues that may require review.

Respectfully submitted,

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