Postal Rate Commission
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BEFORE THE

POSTAL RATE COMMISSION

WASHINGTON, DC 20268-0001

Docket No. R2005-1

Postal Rate and Fee Changes

INITIAL BRIEF OF THE DMA NONPROFIT FEDERATION

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The DMA Nonprofit Federation hereby respectfully submits its brief in this proceeding. In summary, the Postal Rate Commission ("Commission") should recommend that the Postal Service postpone the effective date of its proposed across-the-board rate increase of 5.4 percent, if Congress amends Public Law ("P.L.") 108-18 to strike the requirement that the Postal Service establish a $3.1 billion escrow fund before this ten-month rate case clock tolls.

(1) DMANF represents mailers who are vital to the social fabric of our country yet vulnerable to postage rate increases even on the order of magnitude of 5.4 percent.

The Direct Marketing Association Nonprofit Federation ("DMANF") represents a broad cross section of 200,000 nonprofits that are authorized to mail at the nonprofit rates of postage. The DMANF's more than 400 members consist of nonprofit religious, educational, and charitable organizations and professional fund raising consultants with particular expertise in direct response fund raising. Altogether, nonprofit mailers account for about twelve percent of the total mail volume that the Postal Service processes.

The DMANF membership consists of very large national organizations whose names are household words; smaller but still good-sized nonprofits with a high level of name recognition nationwide; and medium-sized, small, and local nonprofit organizations, even individual churches and synagogues.

The nonprofit community that the DMANF represents is vital to the well being of this Nation both at this very moment and in the future. These organizations are committed to provide safety net social and spiritual services, to support education, and foster the arts and science without any government funding or in the face of government cutbacks.

The United States Mails, particularly Nonprofit Standard and Periodical Mail, as well as First Class Mail, is the lifeblood of these organizations. Nonprofits use the mail to solicit contributions from the public, disseminate news and information, and communicate with donors, supporters, and the public at large. The public uses First Class Mail to remit contributions to these organizations.

Nonprofit organizations that deliver public benefits encompass churches and synagogues, colleges and other educational institutions, health organizations, children's homes, youth organizations, hospitals, self-help groups, museums, libraries, arts and cultural institutions that offer enrichment activities or provide opportunities for charitable pursuits and overall improvement in the quality of life.

Many of these nonprofit organizations deliver services in lieu of government-funded programs (e.g. children's homes, emergency food and shelter for the growing ranks of the homeless). Nonprofit mail rates enabled our nonprofit community to serve the families of unemployed during the deep recessions of 1974-76, 1980-82, and 1990-92 and during the economic slump of the past several years.

Nonprofit mail rates also enabled charities, churches, colleges and universities to fill the gaps in discretionary non-defense programs left by deep cuts in federal and state funding for social programs and education during the 1980s. And it appears that the federal government is counting on this Nation's nonprofit community now to fill the breach as Congress again reallocates the federal budget in line with the President's spending priorities and state fiscal realities.

Our Nation finds itself once again in the guns-versus-butter struggle just at the time when federal and state budgets are strained. Americans will be left without vital services unless the longstanding federal policy of affordable mail rates is preserved for nonprofits with missions that benefit the public good.

The importance of nonprofit organizations goes beyond the service they provide. They are essential to our democratic, pluralistic society. Nonprofits educate and advocate; they inject new ideas into the marketplace from medical research to public policy.

Rate increases produce deleterious consequences. Suffice it point out that at any given rate of increase, some mail will be priced out of the system. Volume declines beget new postage rate increases which perpetuates the so-called "death spiral."

For most mailers, postage is the single largest expense item when it comes to direct mail marketing and publishing. It is particularly difficult for most nonprofit mailers to absorb an across-the-board increase of "only" 5.4 percent in postage.

Nonprofits do not yet enjoy alternate media or technology to solicit contributions from the public, disseminate news and information, and communicate with donors, supporters, and the public at large from public health information to results of scientific studies.

Mailers that sell goods and services may be able to offset some of the postage increase by raising the price of the goods or services they sell through the mail. Nonprofits, however, do not sell goods or services to raise funds.

The only way that nonprofits can respond to higher postal rates is to mail fewer solicitation appeals, cut back service, curtail new programs, and reduce staff. It would be unconscionable to permit a 5.4 percent increase to take effect at a time when the United States Postal Service is generating a huge net income knowing that such an increase would result in an enormous loss of public benefits and significantly weaken the nonprofit sector financially.

That is why we respectfully urge the Commission to recommend that the Postal Service deny any increase if Congress amends P.L. 108-18 to strike the requirement that the Postal Service establish a $3.1 billion escrow fund before this ten-month rate case clock tolls.

(2) <u>Absent the $3.1 billion required escrow payment, the</u>

<u>Postal Service's net income should be sufficient for postal management to break even in its Fiscal Year 2006</u>.

Postal management has accumulated a record net income ($2.54 billion). If Congress eliminates the $3.1 billion escrow requirement, postal management should have sufficient revenues to operate in the black for well into 2006, if not through the end of its fiscal year 2006.

At the end of the first quarter of its fiscal year 2005, postal management announced, "better-than-expected First Quarter results with a significant increase in mail volume and net income of $1.7 billion." [1] Since then, net income has catapulted again. By the end of February 2005, net income was better than $2.3 billion. By the end of April, net income was $2.9 billion.

Heretofore, the Postal Service has filed for a new rate case only because it was losing money with no prospect to move into the black except if the Commission were to authorize the Postal Service to raise mail rates. In the current instance, the Board of Governors endorsed postal management's recommendation to petition the Commission for 5.4 percent increase in recognition of a federal statutory obligation.

In its publication, <u>Memo To Mailers</u>, postal management pointed out the unique nature of R-2005:

> The filing is unique in that the decision to seek a rate increase is due solely to the require-

[1] United States Postal Service, <u>Postal News</u>, "November Numbers Raise Postal Service Quarter 1 Bottom-Line," February 17, 2005.

ment of Public Law 108-18 that the Postal Service establish a $3.1 billion escrow fund. The law does not stipulate how the funds are to be used.

. . . Should legislation be enacted that eliminates the escrow fund requirement, this rate case will be withdrawn. [2]

In this proceeding, Postmaster General John E. Potter himself advised as follows: "Should legislation be enacted that relieves the Postal Service of this $3.1 billion obligation before a recommended decision is issued in this docket, we will withdraw this request." Potter (USPS-T-1) at 7. Ironically, the huge net income that postal management has amassed is the result of P.L. 108-18. It reduced payments that the Postal Service had been required to deposit with the U.S. Treasury earmarked for the Civil Service Retirement System ("CSRS"). P.L. 108-18 corrected the overcharge that an outdated actuarial formula caused postal ratepayers to pay into the CSRS over the years.

(3) <u>Absent the requirement to fund a $3.1 billion escrow and having amassed huge net income, it would be inconsistent with the policy of the Postal Reorganization Act if the Commission were to recommend a 5.4 percent increase at this time</u>.

The ratemaking policy of the Postal Reorganization Act is clear: "Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable

[2] May 2005 at 7.

total estimated costs of the Postal Service."[3] The statutory definition of "total estimated costs" does not include profit. It does provide for a "reasonable provision for contingencies."

In its analysis of the Postal Service's filing in this rate case, the DMANF urges the Commission to account directly for the availability of this accumulated net income as a source of funds to offset the revenue shortfall that Postal Service Witness Tayman (USPS-T-6) presented in exhibits.

If Congress removes the $3.1 billion escrow "contingency" prior to the time that the ten-month clock tolls, net income of $2 billion or more would seem more than sufficient to cover total estimated costs. Moreover, the outlook for fiscal year 2006 calls for net income to remain in positive territory.

The economy as a whole is on track to grow at the rate of 3.5 percent in 2005. That takes us through the first quarter of the Postal Service's Fiscal year 2006. The remainder of FY 2006 bodes well too with unemployment at 5 percent of the workforce, wage rates and long-term interest rates relatively stable, and businesses adding modestly to their capacity.

Thus, a mail rate increase as large as 5.4 percent across the board could be postponed, particularly at a time when the rate of increase of inflation across the board is less than 3 percent.

(4) <u>P.L. 108-18 mandates that savings it generates for the</u>

[3] 39 U.S.C. §3621

Postal Service " . . . be used to continue holding postage rates unchanged . . ..”

P.L. 108-18 contains a second congressional directive that bears on this question. Congress’ clear policy direction to the Postal Service was to use the "savings" it realized as a result of reduced payments into the CSRS in order to " . . . continue holding postage rates unchanged and to reduce the postal debt . . .." Thus, if Congress relieves the Postal Service of its earlier obligation to pay the $3.1 billion savings into a special escrow account, then the Commission’s recommendation should be consistent with the clear congressional policy directive to use the savings in order to hold mail rates unchanged.

The inevitable consequence of a postal rate increase is that it puts a lid on volume growth. That is exactly the opposite of what we want to accomplish. The postal system needs stable volume in order to continue to thrive economically. Stable rates beget stable volume. Absent the statutory mandate to the contrary, there isn’t any policy or economic justification to extract another $3.1 billion from mailers at a time when postal management has amassed well over $2 billion in net income.

Respectfully submitted,

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July 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document participants of record in accordance with section 12 of the Commission's Rules of Practice.

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Senny Boone

July 14, 2005