

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

POSTAL RATE AND FEE CHANGES
PURSUANT TO PUBLIC LAW 108-18

Docket No. R2005-1

UNITED STATES POSTAL SERVICE NOTICE OF FILING OF ERRATA TO THE
TESTIMONY OF REBUTTAL WITNESS KIEFER (USPS-RT-1) [ERRATA]
(September 14, 2005)

The United States Postal Service hereby gives notice that it is filing errata to correct typographical errors and to clarify several sentences in the Rebuttal Testimony of James Kiefer (USPS-RT-1). The changes are listed below.

<u>Page</u>	<u>Line</u>	<u>Change</u>
4	5	“is based on” to “based its position on”
	7	”and” to “and that”
5	6	“in beginning” to “beginning in”
13	24	“USPS-t-6” to “USPS-T-6”
16	12	“Tr. 9/5409-10)” to “Tr. 9/5409-10.”
29	4	“mail” to “and other carrier route sorted Standard Mail”
31	8	“has” to “as”
	11	“largely, unspecific” to “ largely unspecific,”

Revised pages accompany this notice and supersede the pages of USPS-RT-1 originally filed on September 8, 2005.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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1 costs and cost recovery cannot provide. In my opinion, the Commission has the
2 discretion to craft such a solution, and the Postal Service's proposals in this case
3 represent a reasonable balancing of the interests of all parties and all issues that
4 should be adopted by the Commission. In contrast, as discussed below, the only
5 participant in this docket to present an alternative proposal (ValPak) based its
6 position on an extremely narrow focus on costs and cost coverages that is
7 required by the Act and that unduly limits the Commission's discretion. This
8 testimony addresses the most salient assertions made by Robert W. Mitchell
9 (VP-T-1), testifying on behalf of Valpak.

10
11 **III. WITNESS MITCHELL HAS ESTABLISHED NO RATEMAKING**
12 **PRINCIPLES OR POLICIES THAT WARRANT REJECTION OF THE**
13 **POSTAL SERVICE'S PRICING PROPOSALS**
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15 Mr. Mitchell has taken broad aim at the Postal Service's ATB pricing
16 proposals. He challenges them on several legal and policy grounds.
17 Fundamentally, he contends that they are inconsistent with the statutory scheme
18 for postal ratemaking. As discussed below, I demonstrate why he is wrong.

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20 **A. The Postal Service's Request and Proposals Represent Sound**
21 **Policy Choices For Meeting the Escrow Obligation Under**
22 **Public Law 108-18**
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24 This case was filed as the result of a policy choice by the Board of
25 Governors. For the first time ever in an omnibus postal rate case, the
26 Postmaster General testified to explain the Board's policy decision. Mr. Potter
27 stated:

28 The Postal Service's decision to seek changes in postal
29 rates and fees at this time represents a policy judgment about the

1 most reasonable, practical, and effective way to meet a currently
2 unavoidable financial obligation in Fiscal Year 2006. Otherwise,
3 the Postal Service would not have filed this request now.

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5 USPS-T-1, p. 2. He explained that the financial obligation to be met was the
6 requirement to place approximately \$3.1 billion annually in escrow beginning in
7 Fiscal Year (FY) 2006, as the result of Public Law (PL) 108-18. He also
8 summarized the thinking that led to the Postal Service's proposed ATB pricing
9 approach. He stated:

10 We have determined, however, that acting now to secure the funds
11 needed through moderate rate and fee increases would be
12 responsible stewardship. In particular, while appropriately
13 spreading the burden to all postal customers, this approach creates
14 the prospect of encouraging settlement of issues among usually
15 very contentious rate case participants. It is my hope that efforts to
16 settle this case will lead to an early Recommended Decision and
17 permit implementation early enough in 2006 to meet the lion's
18 share of the escrow obligation.

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20 *Id.* p. 2-3.

21 **1. Formalistic Concepts Of Causation Do Not Restrict The**
22 **Postal Service Or The Commission In Postal**
23 **Ratemaking**
24

25 Testifying for Valpak, witness Mitchell attempts to sever the relationship
26 between the Board's policy and the Postal Service's proposal by erecting an
27 imaginary restriction in the Postal Reorganization Act (Act). Essentially, Mr.
28 Mitchell seems to contend that the Postal Service is not *entitled* to adopt a policy
29 and a pricing approach regarding the appropriate funding of a particular financial
30 obligation created by statute, because, under the Act and the Commission's rules
31 and practice, there is no basis for treating the escrow differently from any other

1 In this regard, Mr. Mitchell appears to go farther than objecting that
2 consideration of such reasons would be inappropriate. As shown in the above
3 quotation, he apparently also objects to the Postal Service's timing of its rate
4 request, and suggests that, if it needed money sooner rather than later, the
5 Postal Service should have borrowed the funds. In fact, although he denied that
6 Valpak's position challenged the timing of the case, or the decision to seek rate
7 and fee increases to fund the escrow, rather than through borrowing, that is the
8 clear implication of his testimony. He states:

9 My view is (i) if a rate case had to be filed, it should
10 have been a full, normal case, (ii) there is no basis
11 for, and no real way to fund, one category of
12 expenses one way and another category of expenses
13 another way, and (iii) the Postal Service should have
14 had no real difficulty in working out any associated
15 problems of timing and financing.

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17 See response to USPS/VP-T1-8.

18 Mr. Mitchell is entitled to his opinion, but his criticisms have no merit, nor
19 are his suggestions of an alternative policy and approach supported by informed
20 reasoning. It is fully within the prerogatives of the Board, in the exercise of its
21 statutory authority, to manage the Postal Service and to determine when, how
22 and for what purposes to request recommendations on changes in rates and
23 fees. Postmaster General Potter's testimony and the testimony of the Postal
24 Service's revenue requirement witness, Mr. Tayman, USPS-T-6, fully explain the
25 Board's financial policy choices, including the reasons supporting the Board's
26 decision to request rate and fee increases to cover the escrow cost. Among
27 those reasons was the desire to shorten the usual time between the filing of a

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2 Response to USPS/VP-T1-6(a). He states further:

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Nothing in the section of my testimony you cite argues that any specific principle of law has been violated. However, it is my view that the case does not appropriately honor the regulatory scheme that has evolved under the Act and that I believe to be encompassed by the Act. For example, I believe it is better to use current costs than historic costs to set rates, a view the Commission has expressed in the past. See Docket No. R94-1, *Op. & Rec. Dec.*, p. 1-5, ¶ 1017.

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Response to DMA/VP-T1-8(b), Tr. 9/5409-10.

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Mr. Mitchell's claim that the Postal Service's proposals should be rejected because the Act intends or "encompasses" a particular "ratemaking scheme" or "regulatory scheme," as he defines it, is wrong and misleading. While the Act prescribes a legal process, as guaranteed under statutory guidelines implemented by Commission rules of procedure, it does not dictate any particular course for any proceeding initiated by the Postal Service; nor does it dictate the form or contents of the record developed to review any particular proposal. The Commission's rules, furthermore, do not specify or limit the Postal Service's proposed pricing approach in any case, or require participants to disagree with the Postal Service, if an acceptable settlement can be reached. Rather, as noted above, the Commission's rules specifically governing omnibus rate cases, for the most part, merely set out the type of information and explanations that the Postal Service must provide when it requests rate and fee changes. 39 C.F.R. § 3001.54. Far from proscribing settlement efforts the rules are constructed to facilitate them. 39 C.F.R. § 3001.29.

1 results is fundamentally his own assumptions about what would have happened.
2 And here witness Mitchell can offer nothing more than speculation.

3 Witness Mitchell assumes that without a separate subclass for saturation
4 and other carrier route sorted Standard Mail, passthroughs of estimated cost
5 differentials between carrier route and regular rate mail would have moved to
6 100%. Yet he offers no evidence—only his opinion—to bolster this claim.

7 Mr. Mitchell has also provided no evidence that the Postal Service or the
8 Commission would have viewed the trajectory of saturation mail rates (beyond
9 the rate relief obtained in Docket No. MC95-1 and subsequent rate cases) any
10 differently if the ECR subclass had not been created and saturation mail rates
11 could only be lowered by making certain passthroughs closer to 100%.

12 Witness Mitchell's testimony on this subject, resting only on his
13 assumptions about how the Postal Service and Commission would have acted
14 had there been no ECR subclass, lacks any merit and should be disregarded.

15 In short, the Postal Service has evaluated its proposal against the
16 requirements of the Act and, as testified by witnesses Potter and Robinson, the
17 proposed prices represent a reasonable policy response to a unique financial
18 challenge, a response that is fair and equitable and meets all the Act's
19 requirements.

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21 **B. WITNESS MITCHELL'S RATE DESIGN CONCEPTS LACK**
22 **SUFFICIENT MERIT TO BE THE BASIS FOR SUPPLANTING**
23 **THE PROPOSED SETTLEMENT RATES**

24 Witness Mitchell's discussion of alternative rate design sets forth
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26 three principal concepts: (i) that ECR cost coverage should be reduced 10

1 shape surcharge, the parcel barcode and the pound rates to conform with
2 the subclass average rate increase; (iii) set the drop-ship discounts using
3 the Docket No. R2001-1 passthroughs; and (iv) set the rates for Standard
4 Mail Nonprofit and NECR such that the average revenue ratio of Public
5 Law 106-384 is 60% with only deviations for rounding conventions
6 permitted. These concepts are presented as an afterthought and Mr.
7 Mitchell has failed to provide the support that would be needed if they
8 were to be used by the Commission as the basis for redesigning the rates.
9 They lack merit and should be disregarded.

10 To summarize, Mr. Mitchell's specific rate design proposals are
11 largely unspecific, unsupported and unhelpful. Their common themes are
12 that they are self-serving, and they do not provide the Commission with
13 either the specificity or the information it would need to implement them on
14 a fair and defensible basis. They should be rejected.

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16 **V. THE POSTAL SERVICE IS ALREADY IN THE PROCESS OF**
17 **EXPANDING ITS DATA COLLECTION EFFORTS WITH RESPECT**
18 **TO DALs**

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20 On pages 25 and 80 of his (revised) testimony, Dr. Haldi makes the point
21 that the sheer number of DALs in the postal system warrants enhanced attention
22 in the data collection process. Although I am not a data system witness, I have
23 been asked to update the Commission on relevant developments regarding this
24 subject.