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POSTAL RATE AND FEE CHANGES, 2005

Docket No. R2005-1

JOINT REPLY BRIEF OF
AMERICAN BANKERS ASSOCIATION
AND NATIONAL ASSOCIATION OF PRESORT MAILERS
(October 3, 2005)

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The American Bankers Association (“ABA”) and the National Association of Presort Mailers (“NAPM”) file this Reply Brief in response to the Initial Briefs filed by the Office of the Consumer Advocate (“OCA”) and the American Postal Workers Union, AFL-CIO (“APWU”).

I. **OCA’s Suggested 0.8% Across-the-Board Rate Increase: Is Unsupported by Testimony or Any other Evidence of Record; Would Result in a Significant Decrease in Discounts for FCLM Automated Rate Categories Due to the Integer Constraint on FCLM Single Piece; Would Send the Wrong Pricing Signal to FCLM Workshare Mailers; and Does not Comport with the Requirements of Law.**

Without the benefit of a single witness to explain, much less support or justify its suggestion, the OCA asks in its Initial Brief that the Commission recommend an across-the-board 0.8% rate increase in this case.¹ OCA does not indicate whether the Commission should impose the integer constraint on single piece FCLM, and if so, whether it should nevertheless increase the rates for the FCLM automated rate categories by 0.8%. In the absence of any specific proposed rate schedule from the OCA, the Commission and the other parties are left to guess as to what was intended by the OCA in this regard.

However, if the OCA did intend that the integer constraint would be imposed on FCLM single piece, but that the 0.8% increase would apply to FCLM automated rate categories, then **as concerns FCLM, the result of the OCA’s suggested 0.8% increase would be anything but “across-the-board.”** In particular, the 0.8% increase to the current 37 cent FCLM single piece rate would round down so that the single piece rate would remain at 37 cents. Yet the rates for the FCLM automated rate categories would increase by 0.8%, thereby reducing the absolute value of the

¹ Initial Brief of OCA at pages 28 and 29. OCA does suggest as an alternative to such 0.8% across-the-board rate increase a deferral until August 15, 2006 of the Postal Service’s proposed 5.4% across-the-board increase. *Id.* at Page 30.

discounts for each of the FCLM automated rate categories by 0.2 cents. Such a significant reduction in the amount of FCLM workshare discounts would require FCLM workshared mail to bear an excessive share of the escrow burden, relative to FCLM single piece mail (which would bear none of the escrow burden). It would exacerbate the gap in cost coverage between FCLM workshared mail and FCLM single piece mail.² It would also send the wrong pricing signal to mailers of workshared FCLM, the very mail that should be encouraged by postal rates in light of its high cost coverage and consequent profitability for the Postal Service and in light of the potential divergence of this mail to electronic alternatives.

OCA has offered no witness or other evidence to support its suggested 0.8% “across-the-board” rate increase. It is especially noteworthy that there is no testimony or any other evidence in the record in this case which explains how a 0.8% rate increase would meet the pricing criteria of 39 U.S.C. § 3622(b). If the OCA wanted to make substantive rate proposals in this case, it should have made those proposals through a witness. Only then would the other parties whose interests are adversely affected by the OCA “proposal” have been given the opportunity to conduct discovery of such witness and to offer testimony rebutting such witness.

The Commission should not recommend such a potentially significant change in the rate structure as the 0.8% “across-the-board” rate increase suggested by the OCA, absent the benefit of testimony and the opportunity for discovery and rebuttal testimony on the merits of the OCA’s suggestion, and in particular its potential impact on mailers and on the Postal Service.

ABA and NAPM also ask the Commission to recognize that in agreeing to the settlement in this case, ABA and NAPM carefully analyzed not only the absolute rates

² The 2006 Test Year (Before Rates) cost coverage of FCM Presort and Automation Letters is projected to be 312.8%, which is well in excess of the 177.7% cost coverage projected for FCM Single Piece Letters and Sealed Parcels, and well in excess of the cost coverage for other major categories of mail (compare for example the 231.7% projected cost coverage for Standard Mail Total ECR and NECR). Direct Testimony of USPS witness Robinson (USPS T-27) at Exhibit USPS-27A (revised 06/10/05).

which result from the Postal Services proposed 5.4% across-the-board increase, but also the rate relationships between the FCLM automated rate categories, and the relationship between these and the FCLM single piece rate.

II. ABA and NAPM Strongly Disagree with APWU’s Assertion in its Initial Brief that Workshare Discounts are Excessive; But We have Found Common Ground with APWU in Recommending to the Commission that in this Unique Case it Recommend the Across-the-Board Rate Increase Proposed By the Postal Service; Such Broad Support For the Postal Service Proposal Underscores Its Fairness and Equity

Although it has not joined in the settlement agreement, the APWU does state in its Initial Brief that, “The across-the-board increase requested by the Postal Service is justified by the unique circumstances of this case; it is supported by sufficient evidence that it meets the criteria of the Act; and it is the only viable option before the Commission.”³

APWU stated such, notwithstanding its belief that the proposed rate increase would “exacerbate excessive workshare discounts.”⁴ ABA’s and NAPM’s view concerning what constitutes the appropriate level of workshare discounts is precisely the opposite of APWU’s; and we are confident that the cost avoidance of FCLM automated rate categories is substantially above the discounts being proposed by the Postal Service for such rate categories. However, notwithstanding our different views than APWU regarding the value of worksharing mail, the ABA and NAPM have reached common ground with APWU in concluding that the circumstances of this case justify recommending the rates proposed by the Postal Service.⁵

³ Initial Brief of APWU at page 2.

⁴ Id.at page 1.

⁵ We note that Major Mailers Association (“MMA”) and Pitney Bowes, Inc. also share this common ground of supporting the Postal Service’s proposed across-the-board request.

The fact that all of the parties most directly impacted by FCLM workshared discounts, with the exception of OCA, agree that the FCLM rates proposed by the Postal Service in this case should be recommended by the Commission (notwithstanding disagreement among some of those parties as to the accuracy with which cost avoidance of discounted [workshared] FCLM has been measured) provides a substantial basis upon which the Commission can conclude that the proposed rates are fair and equitable to all parties concerned and should be recommended by it.