

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20068-0001**

Postal Rate and Fee Changes, 2006

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Docket No. R2006-1

**RESPONSE
OF THE NATIONAL NEWSPAPER ASSOCIATION
TO THE COMMISSION'S NOTICE OF INQUIRY NO. 1
(JUNE 16, 2006)**

On June 5, 2006, the Commission issued a Notice of Inquiry on the appropriate methodology to be used in determining the markup for the Periodicals Within County subclass. The NOI noted that the Commission had adjusted the Postal Service's proposal in Docket R2005-1 to repair what it considered to be defects in the formula used by the Postal Service. The Postal Service Governors noted the adjustment and accepted the result. Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Rate Commission on Changes in Postal Rates and Fees Pursuant to Public Law 108-18, Docket No. R2005-1 (November 14, 2005) at 19-20. In this docket, USPS witness Tang repeats the methodology used in Docket No. R2005-1. The Commission here seeks comments on the appropriate approach to be used in this instance.

R2005-1 was unusual in many respects. Although it was described as a simple case, streamlined by the absence of proposed classification changes and filed expressly to recover revenues required by P.L. 108-18, it also introduced new costing presentations and procedures to which some parties objected. Opinion and Recommended Decision of the Postal Rate Commission, Docket R2005-1, November 1, 2005, at 20. Although some examination of the changes occurred, the case was far from the usual robust omnibus rate case examination. It is appropriate, therefore, for the Commission to treat R2005-1 as a dress rehearsal rather than a precedent for costing issues that have yet to see a full test, and to subject each of them to proper scrutiny in this docket.

The Postal Service proposed in R2005-1 a 5.4 percent increase for most mail. However, it proposed a 5.4 percent decrease for Within County periodicals mail. The decrease was mandated by the operation of 39 U.S.C. §3626, which prescribes the manner by which the contribution of Within County Periodicals to Postal Service overall costs is established. Although the statute does not refer directly either to "institutional costs" nor "markups"--two parts of the common rate lexicon before this Commission--the common shorthand explanation of the statute is that it limits the markup of direct and indirect costs owed by the subclass for the institutional costs of the Postal Service to one-half the markup of the most closely corresponding class of mail, for Within County periodicals mail is Outside County periodicals mail. Opinion and Recommended Decision at 147.

To comply with this statute, the Postal Service establishes a markup for the Periodicals class overall--of which the dominating subclass is the Outside County subclass--and then applies one half of that markup to Within County.

In R2005-1, the Postal Service proposed that Within County's statutory markup should be one half of 8.26%--the Outside County markup--or 4.18%. *Id.* The Commission took issue with two key assumptions made by the Postal Service in arriving at its proposal. First, the Commission found that the Postal Service had calculated the total revenue for the class without subtracting a 5% discount for nonprofit and classroom mail, also mandated by 39 USC §3626, from gross prices. Second, the Postal Service had relied upon the Postal Service's own methodology for calculating incremental costs, rather than the methods used by the Commission. The Commission substituted the PRC methodology, using incremental costs. The result was a cost coverage of 1.4%, but a higher overall rate for Within County mail. *Supra at 148.* Inexplicably, although it disturbed the settlement of the USPS proposal to adjust the Within County rates, the Commission did not interfere with the proposed settlement for the larger Periodicals class.

The result of the Commission's alteration was that final rates for Within County mail were designed to yield \$70,726 million to the Postal Service instead of the \$67,318.5 million proposed--an additional \$3,407.5 million. The Commission's recommendation was still a decrease for Within County mail, thus the outcome perhaps seemed equitable compared to the system-wide basis. But if the methodology was wrong, the outcome was wrong, and it created an overcharge for Within County mailers.

If, in fact, it was wrong, and the same methodology in a different rate environment--such as the one in this docket--is used, it could produce much harsher results for a small subclass that is already facing a daunting proposed increase. Thus, it is important for the Commission to re-examine the path it took in 2005.

NNA here comments only upon the first of the adjustments in that case: the revenue basis for the parent class. The second adjustment involves attribution assumptions for periodicals that have been in dispute for some time. (See for example Initial Brief of Alliance of Nonprofit Mailers et al, Postal Rate and Fee Changes, 2000, Docket R2000-1 at 36.) That discussion will undoubtedly be regenerated in this docket in its usual energetic fashion. As NNA continues to believe that mail processing costs are not 100 percent attributable, NNA will participate in that discussion on the record and in briefs.

The first adjustment, however, raises an important question for Within County mailers if its effect is to set a higher revenue basis for the overall class markup. Continuing to set the institutional cost contribution on that basis could create higher rates for this subclass, as well as the other dominant subclass.

The Postal Service's rationale for choosing a gross revenue basis for the Outside County markup was not explained in R2005-1 by witness Robinson. Nor is it explained by witnesses Tang and O'Hara in this docket, although the governors accepted the Commission's recommendation in R2005-1 to use a basis with the 5% discount removed. Decision of the Governors at 18.

The 39 U.S.C §3626 does not specify exactly how the markup for periodicals mail should be calculated. It defines the institutional cost contribution as follows:

"the term "institutional costs contribution" as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer." 39 USC §3626(a)(2)(C).

It then directs the Postal Service to derive the institutional cost contribution for the affected mail by:

"multiplying... (i) the percentage which, for the most closely corresponding regular-rate category, the institutional costs contribution for such category represents relative to estimated costs attributable to such category of mail, times.... (VI) one half, for any fiscal year after fiscal year 1998."

Neither the section nor the legislative history explains what "estimated revenues" are. In that case, the traditional tools of statutory construction should be employed, giving the statute its plain meaning. See, eg., [United States v. Gonzales, 520 U.S. 1, 4, 137 L. Ed. 2d 132, 117 S. Ct. 1032 \(1997\)](#)

To find a plain meaning, the Commission need look no further than the most authoritative source for federal accounting: the Federal Accounting Standards Advisory Board (FASAB). FASAB describes "revenue" in its Executive Summary of the Statement of Federal Accounting Standards, Statement of Recommended Accounting Standards No. 7 in subsections (2) and (3) (1996) :

"2. Revenue is an inflow of resources that the government receives, demands or earns by donation. Revenue comes from two sources: exchange transaction and non-exchange transactions. Exchange transactions arise when a government entity provides goods or services to the public or another government entity.

3. These regulations recognize exchange revenue at the time the government entity provides goods or services to the public or another government entity. The revenue is measured at the price likely to be received."

The FASAB principles explain "revenue" further in accounting principle No. 38 and indicate how discounts should be treated in No. 41:

38. The measurement basis for revenue from exchange transactions should be the actual price that is received or receivable under the established pricing arrangements. *Statement of Recommended Accounting Standards No. 7 at 15 (1996)*

41. To the extent that realization of the full amount of revenue is not probable due to returns, allowances, price redeterminations, or other reasons apart from credit losses, the revenue that is recognized should be reduced by separate provisions if the amounts can be reasonably estimated. The amounts of such provisions should be reflected as revenue adjustments, rather than costs of operations, and should be separately shown. *Statement of Recommended Accounting Standards No. 7 at 16 (1996)*

The Postal Service's rationale for its revenue base for the §3626 markup might be justified if the statute referred to "gross revenue," or "revenue to be received notwithstanding this section." Congress could have used those terms. But it did not. And it is clear that the nonprofit discount is money never received by the Postal Service, but rather is an allowance provided to the mailers at the retail level because of the operation of the statute. It is hard to understand any definition of revenue that would include this forgone postage.

Ironically in this circumstance, by unjustifiably reading "gross" revenue into the statute, the Postal Service is recovering some of the loss created by the nonprofit discount from the revenue from another preferred mailer, the Within County mailer. It creates a taller base for the overall periodicals markup and, by so doing, gives itself a higher markup for the Within County mail as well. The desire to recoup some of the "loss" is a possible explanation for this peculiar construction of the statute, but it is not one permitted under §3626.

The Commission should return to its rationale for the revenue basis employed in Docket No. R2005-1 and direct the Postal Service to recalculate the markup for both subclasses within Periodicals class.

Respectfully submitted,

Tonda F. Rush
Counsel for
NATIONAL NEWSPAPER ASSOCIATION,
INC

King & Ballow
PO Box 50301
Arlington, VA 22205
(703) 812-8989; (703) 812-4555 fax
trush@americanpressworks.com

CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing document online in accordance with the Commission's Rules of Practice.

Tonda F. Rush
Counsel for National Newspaper Association,
Inc.

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Arlington, VA 22205