

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

PERIODICALS NOMINAL RATE
MINOR CLASSIFICATION CHANGE

Docket No. MC2006-5

SECOND STATUS REPORT ON SETTLEMENT NEGOTIATIONS
(August 14, 2006)

After the further discussion mentioned in the August 4, 2006, status report, the Postal Service can now report that it does not expect any formal opposition to settlement, and that most parties will support settlement. The Postal Service is therefore requesting that participants wishing to support settlement file signatures to the attached Stipulation and Agreement. Next, the Postal Service is prepared to move for consideration of the Stipulation and Agreement as the basis for a Recommended Decision, as well as move for the admission of the testimony of witness Yeh

(USPS-T-1) into the record. Finally, the Postal Service notes that the next Postal Service Board of Governors' meeting is scheduled for September 12, 2006.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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DOCKET NO. MC2006-5 STIPULATION AND AGREEMENT

This Stipulation and Agreement is submitted pursuant to Rule 29 of the Rules of Practice and Procedure of the Postal Rate Commission, 39 C.F.R. § 3001.29, by and between the undersigned participants or through their respective attorneys. It is a negotiated settlement of all issues raised in the above-captioned docket. The undersigned participants hereby stipulate and agree to the following:

I. BACKGROUND

On July 6, 2006, pursuant to 39 U.S.C. § 3623, the United States Postal Service filed with the Postal Rate Commission a request for a decision recommending a minor classification change in Domestic Mail Classification Schedule (DMCS) section 412.33b to change the definition of “nominal rate.” Specifically, the Postal Service proposes to change from 50 percent to 70 percent the reduction in subscription price that would constitute a nominal rate. The request was designated as Docket No. MC2006-5 by the Commission. The basis for the request is explained in the direct testimony of witness Nina Yeh (USPS-T-1).

II. TERMS AND CONDITIONS

1. This Stipulation and Agreement represents a negotiated settlement of all issues raised by the Docket No. MC2006-5 Request of the United States Postal Service for a Recommended Decision on Definition of Periodicals Nominal Rate.

2. The undersigned participants stipulate and agree, for purposes of this proceeding only, that the following materials provide substantial evidence supporting and justifying a Recommended Decision recommending the change to DMCS § 412.33 proposed by the Postal Service in Docket No. MC2006-5: the Docket No. MC2006-5 direct testimony and materials filed in support of the Postal Service's Request, and library reference 1 filed in Response to Order No. 1470. The proposed DMCS language change is attached to this Stipulation and Agreement.

3. On the basis of such record, for purposes of this proceeding only, the undersigned participants stipulate and agree that the DMCS change set forth in the Attachment to this Stipulation and Agreement are in accordance with the polices of title 39, United States Code, and in particular, the criteria and factors of 39 U.S.C. § 3623.

4. This Stipulation and Agreement is offered in total and final settlement of this proceeding. The undersigned participants agree that they will file no further pleadings or testimony with the Commission in this proceeding, with the exception of:

(a) pleadings or testimony explicitly requested by the Commission or in reply to such pleadings; (b) pleadings or testimony opposing pleadings or testimony filed in opposition to this Stipulation and Agreement; or (c) pleadings, testimony or comments in support of this Stipulation and Agreement.

5. If the Commission adopts a Recommended Decision that materially differs from the classification change filed in this Stipulation and Agreement, or if

the Governors of the Postal Service fail to approve the Commission's Recommended Decision adopting the classification change as filed by the Postal Service, then each signatory reserves the right to withdraw from this Stipulation and Agreement. Any signatory withdrawing under the terms of this paragraph must provide written notice of its intention to withdraw to all participants within five (5) business days of the occurrence of the specific event giving rise to the right to withdraw. Any exercise of such right by one or more signatories shall not affect the operation of this Stipulation and Agreement as to other signatories.

6. This Stipulation and Agreement pertains only to the instant proceeding. The undersigned participants shall not be considered as necessarily agreeing with or conceding the applicability of any ratemaking principle, any method or principle of classification, any terms and conditions of service, any method of cost of service determination, any principle or method of rate or fee design, the validity or use of any data relied upon by the Postal Service in this docket for any other purposes or in any other classification or ratemaking proceeding, or the application of any rule or interpretation of law, that may underlie, or be thought to underlie, this Stipulation and Agreement.

7. In any future negotiation or proceeding (other than any proceedings involving the honoring, enforcement, or construction of this Stipulation and Agreement), the undersigned participants shall not be bound or prejudiced by this Stipulation and Agreement, nor shall any participant rely for any purpose on the fact that another participant entered into or did not oppose this Stipulation and Agreement. The undersigned participants also agree that, to the extent that

matters presented in the Docket No. MC2006-5 Request, in any Commission Recommended Decision on that Request, or in any decision of the Governors of the Postal Service in this proceeding, have not actually been litigated, the resolution of such matters will not be entitled to precedential effect in any other proceeding.

8. The undersigned participants request that the Commission expeditiously issue a decision recommending adoption of the DMCS change appended to this Stipulation and Agreement.

9. This Stipulation and Agreement represents the entire agreement of the signatories, and supersedes any understandings or representations not contained herein.

* Signature pages are attached.

PROPOSED CHANGE TO DOMESTIC MAIL CLASSIFICATION SCHEDULES

**PERIODICALS
CLASSIFICATION SCHEDULE**

* * * * *

412 General Publications

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412.3 Paid Circulation

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412.33 Nominal Rates. As used in section 412.31, nominal rate means:

- a. A token subscription price that is so low that it cannot be considered a material consideration.
- b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 70~~50~~ percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail value, or the represented value, whichever is highest.