

ORDER NO. 1475

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

George Omas, Chairman;
Dawn A. Tisdale, Vice Chairman;
Mark Acton; Ruth Y. Goldway; and
Tony Hammond

Complaint on Stamped Stationery

Docket No. C2004-3

ORDER CONCERNING STAMPED STATIONERY

(Issued August 24, 2006)

This proceeding concerns a complaint filed, pursuant to 39 U.S.C. § 3662, by Douglas F. Carlson (Carlson or Complainant) concerning stamped stationery.¹ The threshold issue presented is whether stamped stationery is a postal service. Neither the Complainant nor the Postal Service requested a hearing, and the Commission found that this docket presents no genuine issues of material fact.²

Based upon a review of the record, the Commission concludes that stamped stationery is a postal service. The Commission will initiate a mail classification proceeding for the purpose of receiving a request from the Postal Service to establish a classification and fee schedule for stamped stationery. The Commission identifies stamped stationery as a candidate for new, flexible pricing techniques. The Postal Service is urged to explore such options, although the proceeding will sunset if a request is not received in timely fashion.

¹ Douglas F. Carlson Complaint on Stamped Stationery, June 24, 2004 (Complaint).

² See PRC Order No. 1465, May 18, 2006.

I. BACKGROUND

Stamped stationery, the subject of Carlson's complaint, is sold in pads consisting of 12 sheets of quality stock paper, featuring a design and imprinted with matching postage stamps. Each pre-stamped sheet has room for the name and address of the recipient and, on the reverse side, lines for writing a message. Each sheet is designed to be folded, sealed, and mailed.³

The gravamen of the Complaint is that stamped stationery is a postal service within the meaning of 39 U.S.C. §§ 3621, 3622, and 3623.⁴ In support, Carlson compares stamped stationery to stamped envelopes and stamped cards, both of which are postal services. *Id.* at 3, ¶¶ 14-15. He observes that section 960 of the Domestic Mail Classification Schedule (DMCS) is entitled "Stamped Paper" and that it includes stamped envelopes and stamped cards. *Ibid.* ¶¶ 16-17. He contends that stamped stationery is a form of stamped paper within the meaning of section 960 of the DMCS. *Ibid.* ¶ 21. In addition, Carlson notes that the Postal Service describes stamped stationery in terms of its value as a means for sending correspondence.

Upon a preliminary review of the Complaint, the Commission invoked informal procedures designed to encourage the resolution and settlement of complaints.⁵ When settlement efforts proved fruitless, the Postal Service was directed to file its answer to the Complaint.⁶

The Postal Service moved to dismiss the Complaint contending, as it had in its answer, that stamped stationery is a philatelic item distinguishable from "utilitarian"

³ The specific stationery in question consists of sheets of 6.25" x 14.31" paper imprinted with "*The Art of Disney: Friendship*" postage stamps. The Complaint, however, concerns stamped stationery generally, not that Disney stamped stationery alone is a postal service. See PRC Order No. 1460, April 13, 2006, at 4, n.10.

⁴ Complaint at 2, ¶ 10. While the Complaint raises several claims, e.g., that stamped stationery constitutes a change in the mail classification schedule, each is premised on the contention that stamped stationery is a postal service and thus does not go to the nature of the product (or service) itself.

⁵ PRC Order No.1412, July 8, 2004, at 2-3.

⁶ PRC Order No.1416, August 19, 2004. See Answer of United States Postal Service, August 31, 2004 (Answer).

stamped envelopes and stamped cards.⁷ It argues that stamped stationery's use for correspondence has no bearing on the jurisdictional question, inferring comparability between stamped stationery and packaging products over which the Commission does not exercise jurisdiction.⁸

In Order No. 1460, the Commission found that the facts, as alleged in the pleadings, did not warrant dismissal of the Complaint.⁹ Pursuant to section 3624 of the Postal Reorganization Act, the Commission initiated a formal proceeding affording participants an opportunity to address the question of whether or not genuine issues of material fact were presented in the case. No participant contends that any genuine issues of material fact remain which require a hearing.¹⁰ In Order No. 1465, the Commission agreed, thereby obviating the need for hearings in this proceeding.¹¹ The Commission established a briefing schedule to give participants an opportunity to address the issues raised by the Complaint. Briefs were filed by Carlson, the Office of the Consumer Advocate (OCA), the Postal Service, and David B. Popkin.¹²

⁷ Motion of the United States Postal Service to Dismiss Complaint, January 18, 2006 at 1-3 (Motion to Dismiss). See Answer, at 8.

⁸ Motion to Dismiss at 5.

⁹ PRC Order No. 1460, April 13, 2006, at 6.

¹⁰ See Douglas F. Carlson Response to Order No. 1460, April 27, 2006; Office of Consumer Advocate Statement as to Issues of Material Fact, April 27, 2006; see also Reply of United States Postal Service to Statements as to Material Facts Filed Pursuant to Order No. 1460 and Motion to Suspend the Proceeding, May 4, 2006.

¹¹ PRC Order No. 1465, May 18, 2006. In that Order, the Commission denied a Postal Service motion to suspend the proceeding. *Id.* at 2-4.

¹² Popkin's brief essentially duplicates an earlier pleading of his concerning the Postal Service's addition of 12 two-cent stamps to Disney stamped stationery pads. Initial Brief of David B. Popkin, June 8, 2006 (Popkin Brief).

II. PARTICIPANTS' ARGUMENTS

Carlson. In support of his contention that stamped stationery is a postal service, Carlson advances several arguments. First, he argues that stamped stationery falls within the plain meaning of the term postal service adopted by the Commission in Order No. 1449.¹³ That definition provides that “postal service means the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services incidental thereto.”¹⁴ Carlson argues that stamped stationery is a service incidental to the receipt, transmission, and delivery by the Postal Service of correspondence, noting that each sheet includes an affixed postage stamp or indicia, a graphically identifiable space for the name and address of the recipient, lines for writing a message on the reverse side, and that each sheet is designed to be folded, sealed and mailed. Carlson Brief at 5.

To corroborate that stamped stationery is intended to be mailed, Carlson states that, following implementation of increased rates in January 2006, the Postal Service included 12 two-cent stamps in each package to supplement the 37 cent pre-stamped Disney stamped stationery. *Ibid*.

Complainant argues that because stamped cards and envelopes are postal services, stamped stationery must be as well since they serve similar functions. *Id.* at 6. He cites Postal Service rate case testimony discussing the characteristics of stamped cards and stamped envelopes, *e.g.*, convenience and value, that facilitate correspondence through the mail. *Id.* at 6-7.

Finally, Carlson takes issue with the Postal Service’s claim, made in its Motion to Dismiss, that no jurisdictional implications can be read into its pronouncements encouraging the use of stamped stationery for correspondence. Instead, the Postal Service attempts to equate stamped stationery with packaging materials, arguing that

¹³ Douglas F. Carlson Initial Brief, June 8, 2006, at 4 (Carlson Brief).

¹⁴ PRC Order No. 1449, January 4, 2006, at 4, 31.

the latter, which are not subject to Commission jurisdiction, presumably encourage customers to mail packages. *Id.* at 8, citing Motion to Dismiss at 5. Carlson counters that the distinction between stamped stationery and packaging supplies is manifest — the pre-affixed postage gives value to stamped stationery (and stamped cards and envelopes) that is absent from packaging materials (and plain envelopes and post cards). Only the Postal Service sells stamped stationery, whereas numerous providers sell packaging supplies. *Id.* at 8-9.

Office of the Consumer Advocate. OCA dismisses as unpersuasive the Postal Service contention that stamped stationery is a philatelic product based on its artistic value and the quality of the paper on which it is printed.¹⁵ In support, OCA argues that the Commission’s definition of postal service “looks to the function of the product,” e.g., whether the item is correspondence or a mailable package, and not the “intrinsic or market value of a challenged product to discern its postal nature.” *Id.* at 5.

Second, OCA notes that the Postal Service’s authority to sell “stamped paper, cards and envelopes” under section 404(a)(4) of the Act is distinct from its authority to provide philatelic services pursuant to section 404(a)(5). *Ibid.* In addition, OCA argues that the value differences that Postal Service contends distinguish Disney stamped stationery from more “utilitarian” stamped cards and envelopes are properly considered, pursuant to section 3622(b)(2), in establishing rates for the service. *Id.* at 5-6.

Finally, OCA reiterates a point made in early pleadings, namely, that the Postal Service supplemented Disney stamped stationery packets with 12 two-cent stamps to reflect the current first ounce First-Class Mail rate. *Id.* at 6. Doing so, OCA argues, citing limited intervenor Popkin’s comments, confirms that stamped stationery is intended for mailing correspondence and is therefore a postal service. *Ibid.*

Postal Service. On brief, the Postal Service argues that whether Disney stamped stationery is a postal service cannot be answered definitively “by simple reference to statute, regulation, precedent, or practice.”¹⁶ Instead, it advocates resolution based on

¹⁵ Office of the Consumer Advocate Initial Brief, June 8, 2006, at 3-4 (OCA Brief).

¹⁶ Brief of the United States Postal Service, June 8, 2006, at 1 (Postal Service Brief).

three “practical and equitable considerations” which, in its view, militate against regulatory oversight of stamped stationery.

The Postal Service argues that precedent regarding special services appears to be inconsistent and that the jurisdictional question could be better analyzed by considering whether regulation is needed to protect the mailing public and competitors from potential cross-subsidization of the service. *Id.* at 3-4. It suggests that packaging supplies and photocopying services, “which logically could have been found to be incidental to the provision of other postal services,” were not found to be jurisdictional because there was no need for regulatory oversight. *Id.* at 4.

To give substance to its contention, the Postal Service distinguishes between stamped envelopes (and cards) and Disney stamped stationery. It argues that regulation of stamped envelopes and stamped cards is appropriate since no alternatives exist. *Id.* at 5. According to the Postal Service, the stamp provides the value and drives the demand for stamped envelopes, whereas for stamped stationery the stamp is “almost incidental, because the main feature and the principal source of demand is the stationery itself, including the unique artwork.” *Ibid.*

The Postal Service states that it is unaware of any other complaint from either mailers or stationery manufacturers regarding stamped stationery or its price. As a consequence, it suggests that regulation is not needed. Moreover, it argues that concerns voiced by some philatelists, even if justified, are insufficient to justify Commission regulation, particularly given the “Postal Service’s unilateral authority over philatelic services.” *Id.* at 6.

Furthermore, the Postal Service asserts that Commission jurisdiction is not in the public interest because it might stifle the stamped stationery market. *Id.* at 7. The Postal Service suggests that if the Commission were to assert jurisdiction it may cause the Postal Service to repackage stamped stationery to avoid the regulatory process by no longer having the postage pre-printed on the stationery, a result that may have negative consequences, including reduced consumer convenience, product value, and revenues. The Postal Service also foresees difficulties if it were to proceed before the

Commission because “the issue of appropriate pricing would come to a public forum.” *Id.* at 8. It criticizes Complainant’s contention that artistic value would be irrelevant to pricing, asserting that failure to consider “the value of the intellectual property itself” would, as a practical matter, preclude new issuances of stamped stationery. *Ibid.*

III. STAMPED STATIONERY IS A POSTAL SERVICE

A. The Purpose of Stamped Stationery is for Mailing

In Docket No. RM2004-1, the Commission proposed to define the term “postal service” because uncertainty surrounded the jurisdictional status of numerous relatively new services initiated unilaterally by the Postal Service. By codifying the term in its rules, the Commission intended to provide guidance to the Postal Service and the public for evaluating services that are subject to sections 3622 and 3623 of the Postal Reorganization Act. Following lengthy deliberations, including an in-depth review of the statute, precedent, and legislative history, the Commission defined the term postal service to mean “the receipt, transmission, or delivery by the Postal Service of correspondence, including, but not limited to, letters, printed matter, and like materials; mailable packages; or other services incidental thereto.”¹⁷

Stamped stationery, a product only available through the Postal Service, provides a means of corresponding through the mails. Its very purpose is to be mailed. Demonstrable proof of this includes its design, function, and the Postal Service’s own actions in promoting its use. Plainly, stamped stationery is a postal service.

Stamped stationery is designed to be mailed. Disney stamped stationery, issued in June 2004, is the first domestic stamped stationery, generically known as letter sheets, issued since the early 1900s.¹⁸ Sold in pads of 12 sheets, each sheet is intended for correspondence and designed to facilitate mailing. Each sheet:

is pre-stamped with the (then) current first ounce First-Class Mail rate;

¹⁷ PRC Order No. 1449, Docket No. RM2004-1, January 4, 2006, at 4, 32.

¹⁸ Douglas F. Carlson Answer in Opposition to the Postal Service Motion to Dismiss Complaint, January 24, 2006, at 3 (Carlson Answer in Opposition).

has an identifiable space for the name and address of the recipient and, on the reverse side, lines for a written message; and is designed to be folded, sealed, and mailed.

Its all-in-one design simplifies matters for mailers, enabling customers to purchase, in a single transaction, means to mail correspondence immediately.

Stamped stationery functions as a communications tool. In addition to stamped cards and stamped envelopes, both of which are subject to the Commission's jurisdiction, the Postal Service is authorized to sell stamped paper. See 39 U.S.C. § 404(a)(4). Stamped stationery is a form of stamped paper.¹⁹ The common thread of these postal products is that each is pre-stamped, a fact that distinguishes them from packaging supplies. This makes these products unique. It is not the lack of substitutes, but rather that these products are available only from the Postal Service that sets them apart.²⁰

In particular, stamped stationery has attributes similar to stamped cards and serves the same function. Both include an identifiable space for the name and address of the recipient as well as space for a written message. Both are pre-stamped. These features provide a convenient means to correspond via the mails. Differences in their appearance are inconsequential to their postal function. Such differences, *e.g.*, that stamped stationery is sealed against inspection, its higher quality paper, and its artistic embellishments, go to the value of the product, not its underlying function as a communications tool.

On brief, the Postal Service draws comparisons between stamped stationery and stamped envelopes, noting, among other things, some equivocation in the

¹⁹ Complainant notes that the DMCS § 960 is entitled "Stamped Paper" and includes both stamped cards and stamped envelopes. Complaint, *supra*, at 3 ¶¶ 16-21. See also Carlson Answer in Opposition, at 2-3. The Postal Service counters that the heading has no substantive meaning beyond envelopes and cards. Motion to Dismiss, at 2.

²⁰ The Postal Service recognizes this distinction when discussing the Commission's jurisdiction over stamped envelopes and stamped cards. "In so doing [maintaining jurisdiction], the Commission ensures that the fees for stamped envelopes and stamped cards are based on the costs related to those utilitarian items, for which no alternatives exist." Postal Service Initial Brief at 5.

Commission's Docket No. R76-1 discussion of its jurisdiction over stamped envelopes.²¹ The Postal Service appears to read too much into the Commission's initial thoughts on that topic, essentially ignoring what has transpired in the 30 years since that case of first impression.²² More significant, however, is the comparison the Postal Service virtually ignores, namely, between stamped stationery and stamped cards. As noted above, they share common attributes and function. Since the very first rate case, stamped cards, then called postal cards, have been considered a postal service, thus properly subject to Commission jurisdiction.²³ The result has not been controversial, nor has it changed under the Commission's definition of the term. Stamped cards, a unique Postal Service product, are incidental to the receipt, transmission, or delivery of correspondence; so too is stamped stationery.

Postal Service actions confirm that stamped stationery is intended to be mailed.

Finally, the Postal Service's actions, both when issuing stamped stationery and subsequently, speak volumes; they underscore the postal qualities of stamped stationery. At the outset in promoting the product, the Postal Service emphasized the advantages of using stamped stationery to correspond via the mails. For example, when the Garden Bouquet stamped stationery was issued, a Postal Service representative highlighted its purpose:

Writing a personal note on this beautiful stationery certainly shows the recipient you care, said David Failor, Executive

²¹ Postal Service Initial Brief at 4-5.

²² Beginning in Docket No. R77-1 and each subsequent omnibus rate case, the Commission has recommended fees for stamped envelopes. Thus, the jurisdictional issue is not in doubt. Moreover, as Carlson argues, in numerous rate cases the Postal Service has sponsored testimony in support of proposed fee increases for stamped envelopes and stamped cards without any suggestion that they were not postal services. Carlson Brief at 6-7.

²³ In Docket No. R71-1, the cost of printing postal cards was estimated at approximately 0.1 cent per card. Action of the Governors, U.S.P.S. in the Matter of Postal Rate and Fee Increases, 1971, Docket No. R71-1, Vol. 1 at 1-18, n.65. In Docket No. R76-1, the Post Card Manufacturers Association proposed a one-cent fee for postal cards to recover manufacturing costs. The Commission rejected this proposal. PRC Op. R76-1 at 173. In Docket No. MC96-3, the Postal Service proposed to rename postal cards stamped cards and that they be made a special service classification subject to a two-cent per card fee. Direct Testimony of Susan W. Needham, Docket No. MC96-3, USPS-T-8, at 94-95. The Commission did not recommend the fee in that proceeding, but did recommend a one-cent fee for stamped cards In Docket No. R97-1. PRC Op. R97-1, ¶ 6005.

Director, Stamp Services United States Postal Service. This pre-stamped stationery is ideal for thank you notes, Mother's Day wishes and expressions of love and friendship. It's also easy to use. Just write a note, seal the stationery and drop it in the mail.

United States Postal Service, Postal News, March 6, 2005.²⁴

Subsequently, after the first ounce rate for First-Class Mail increased to \$0.39 in January 2006, the Postal Service supplemented Disney stamped stationery pads with 12 two-cent stamps to allow mailing at the current rate.²⁵ As several participants correctly note, this action would not have been necessary if stamped stationery were not intended to be used for correspondence.²⁶ Plainly, aside from considerations of customer convenience, the additional postage serves no other purpose but to ensure that stamped stationery is mailed at current First-Class Mail rates.

B. The Postal Service's Arguments are not Persuasive

Initially, the Postal Service argued that Disney stamped stationery was intended to be a philatelic item.²⁷ On brief, it does not press that view, instead urging the

²⁴ See http://www.usps.com/communications/news/stamps/2005/sr05_013.htm. Disney stamped stationery was promoted by the Postal Service similarly. "Add more character to your mail with this pre-stamped stationery. Plug in your message and address, then just fold, seal and mail. It's fun and easy, especially for kids." Postal Bulletin 22129, May 27, 2004. <http://www.usps.com/cpim/ftp/bulletin/2004/pb22129.pdf> See also Carlson Brief at 4-5.

²⁵ Notwithstanding the addition of the 12 two-cent stamps, the price of Disney stationery remained \$14.95. Office of Consumer Advocate Reply to Statement in Response to Commission Order No. 1460, May 4, 2006, at 2. In March 2005, the Postal Service began selling another stamped stationery product, Garden Bouquet stationery, that in all relevant respects is identical to the Disney stamped stationery. When introduced, it sold for \$14.95 and, apparently was not supplemented with the additional two-cent stamps at the same time Disney stationery was. *Ibid*. It appears, however, that the Postal Service has now updated the Garden Bouquet stationery to include the additional postage necessary for mailing at current First-Class Mail rates. See <http://shop.usps.com/webapp/wcs/stores/servlet/ProductDisplay?catalogId=10152&storeId=10001&categoryId=11822&productId=11527&langId=-1> In addition, the price has also apparently changed, selling for \$14.00. The price for Disney stationery has also apparently been reduced to \$14.00. See <http://shop.usps.com/webapp/wcs/stores/servlet/ProductDisplay?catalogId=10152&storeId=10001&categoryId=11822&productId=20655&langId=-1>.

²⁶ See Carlson Brief at 5; OCA Brief at 6; Popkin Brief.

²⁷ See Answer, *supra*, at 8; Motion to Dismiss, *supra*, at 1, 4.

Commission to forego jurisdiction based on “practical and equitable considerations.”²⁸

This position is premised on the theory that determining whether stamped stationery is a postal service cannot “be definitively answered by simple reference to the statute, regulation, precedent, or practice.” *Ibid.*

The practical considerations advanced by the Postal Service ignore the statute and the Commission’s recent clarification of the term postal service. Instead, the Postal Service argues that stamped stationery is more comparable to services found not to be jurisdictional than to other forms of pre-stamped mail. *Id.* at 3-5. In addition, it suggests that a dearth of complaints about stamped stationery and the “potential effects” on possible future stamped stationery offerings should dissuade the Commission from asserting jurisdiction. *Id.* at 5-9. These considerations are insufficient to cause the Commission to turn a blind eye to its responsibilities under the Act.

In developing a definition of the term postal service, the Commission analyzed the statute, legislative history, and precedent in depth. The parties’ comments were carefully considered, as evidenced by the several rounds of comments and changes adopted in the definition. The final rule is consistent with the statute, legislative history and precedent.²⁹

An underlying purpose of the rule is to narrow the debate in proceedings in which the jurisdictional status of a service offered by the Postal Service is at issue. Thus, any inquiry whether a service or product is (or is not) a postal service should begin with the definition. This is not to say that precedent should not also be considered. Nonetheless, the failure to address the definition directly is a serious flaw that the Postal Service does not overcome.

Stamped stationery is clearly incidental to the receipt, transmission, or delivery of correspondence. Its pre-stamped qualities make it unique, a product only available from the Postal Service. Thus, it is distinguishable from packaging supplies and

²⁸ Postal Service Brief at 1. *Compare* Motion to Dismiss at 4 with Postal Service Brief at 5. In the latter, the Postal Service diminishes the significance of the Disney stamp, declaring it to be “almost incidental,” while suggesting that the stationery’s artwork is “philatelic in nature.” *Id.* at 5.

²⁹ PRC Order No. 1449, Docket No. RM2004-1, January 4, 2006, at 9-21.

photocopying services, both of which are available from numerous suppliers.³⁰ Like stamped envelopes and stamped cards, stamped stationery provides a unique combination of services.³¹

The remaining practical considerations proffered by the Postal Service are irrelevant to the jurisdictional issue.³² Neither the absence of complaints about the product nor hypothesized effects of regulation by the Commission justify misclassifying stamped stationery as nonpostal. Furthermore, the Postal Service's claim that Commission jurisdiction would not be in the public interest is rebutted by the Act itself. In enacting the Postal Reorganization Act, Congress determined that the public interest is best served by Commission oversight of postal rate and classification matters. Failure to assert oversight would be to ignore those responsibilities.

IV. DEVELOPMENT OF JUSTIFIED CLASSIFICATION AND FEES

The Complainant requests that the Commission, upon finding stamped stationery to be a postal service, issue a recommended decision establishing a classification and fees for stamped stationery or, alternatively, a shell classification.³³ Under the circumstances presented in this case, the Commission declines to take either action at this time. Instead, the Commission will commence a mail classification proceeding for the purpose of receiving a request from the Postal Service to establish a Stamped Stationery classification and fee schedule.

The Commission is pursuing this approach after careful consideration of various options. The focus of this complaint has been on determining whether Disney stamped stationery is legally a postal service. Complainant requests Commission action designed to perpetuate the Postal Service sale of stamped stationery to the public at an approved rate. However, little attention has been given to whether provision of this

³⁰ See Postal Service Brief at 3-4.

³¹ See Douglas F. Carlson Reply Brief, June 22, 2006, at 2; *see also* Office of the Consumer Advocate Reply Brief, June 22, 2006, at 4-5.

³² Postal Service Brief at 5-9.

³³ Carlson Brief at 9.

service in the public interest, or to the cost and value issues that impact the proper price, or range of prices, to charge for it.

Under these circumstances, the appropriate course is to initiate action most likely to lead to the prompt development of a record to enable the Commission to send a recommended decision to the Governors so that a classification and fee schedule for stamped stationery that meets the requirements of 39 U.S.C. 3622 and 3623 can be established.

Stamped stationery is a specialty item. Comparable substitutes abound; no mailer is required to purchase it; no competitor is complaining about the product; and the volumes and revenues at issue appear to be relatively insignificant. While these factors do not render stamped stationery a nonpostal product, they lend support to extending the status quo for a brief interim period to enable the Postal Service time to prepare a request for inclusion of stamped stationery in the Domestic Mail Classification Schedule.

In its pleadings in this case, the Postal Service has expressed concerns that the review process might chill motivation to develop and market specialty products such as Disney stamped stationery. The Commission urges the Service to resist negative preconceptions about this process. The rate designs for the current classes of mail and special services incorporate a wide variety of features. There is every reason to expect that innovative, lawful fee structures can be developed for services such as stamped stationery. The Postal Service (and other interested persons) can and should explore creative ways to address these issues.

The Commission is mindful of the distinctions between stationery and, using the Postal Service's term, more "utilitarian" pre-stamped products. For this reason the existing price for stamped stationery does not appear, *a priori*, unreasonable. The distinctions between this type of specialty product and market dominant essential communications services may justify substantially different rates as well as a variety of novel pricing approaches.

It appears that the Postal Service recently changed the price of Disney stamped stationery. *See, supra*, n.25. A premium specialty product might be a good vehicle for testing the concept of rate bands. Hypothetically, the fee structure might include a floor, *e.g.*, recovering costs, including a not-nominal contribution to overhead, and a cap, *e.g.*, a multiple of the existing first ounce First-Class Mail rate. Under such an approach, the Postal Service would have authority, upon notice, to alter the price, in a non-discriminatory manner, between the minimum and maximum depending on market conditions. Thus, if demand for a particular design of stamped stationery fails to meet expectations, or has receded, the Postal Service could adjust the price to “move” the product.

The Postal Service and the Commission have previously considered employing such alternative pricing approaches. In the mid-90s, the Postal Service proposed that the Commission adopt new procedural rules applicable to rate and classification matters, including limited scope rate cases, rate bands, and negotiated service agreements.³⁴ Generally, these proposals reflected recommendations of an earlier effort by the Joint Task Force on Postal Ratemaking.³⁵ Because of the timing of the proposals as well as concerns involving implementation, the Commission deferred consideration of those initiatives.³⁶ The breadth of the earlier rate band proposal, applicable to high volume “competitive services,” raised concerns, *e.g.*, what constituted a competitive service, that would appear to be inapplicable in the context of a single, specialty item. Similarly, the difficulty of projecting the revenues from such an alternative fee structure, and its implications for assuring break-even rates would be substantially less far reaching in the current context.

In the past decade, the Commission has successfully implemented numerous procedural and substantive innovations. Procedures applicable to requests for

³⁴ See Advance Notice of Proposed Rulemaking, Docket No. RM95-4, April 24, 1995, 60 Fed. Reg. 22017-19, May 4, 1995.

³⁵ See Postal Ratemaking in a Time of Change, A Report by the Joint Task Force on Postal Ratemaking, June 1, 1992.

³⁶ PRC Order No. 1084, Docket No. RM95-4, October 13, 1995.

negotiated service agreements have been successfully developed and applied. While no rate band proposals have been presented, the Commission has shown itself willing to consider innovative pricing approaches. See, e.g., Confirm, Docket No. MC2002-1 and Repositionable Notes, Docket Nos. MC2004-5 and MC2006-2.

To be clear, the foregoing is merely illustrative. Other innovative pricing approaches may be suitable under the circumstances.

The procedural approach adopted herein strikes a balance among interested stakeholders. Continuing the status quo for an interim period affords the Postal Service an ample opportunity to prepare its request without disrupting the stamped stationery market. While the Postal Service is, of course, free to develop its request unilaterally, it may be worthwhile to consult with participants in an effort to fashion a broadly acceptable pricing approach.³⁷

For reasons previously discussed, the Commission finds this approach to be in the public interest. However, as a precaution the Commission will establish a sunset date in the contemporaneously issued mail classification docket, Docket No. MC2006-7. If the Postal Service fails to act within six months, by February 26, 2007, Docket No. MC2006-7 will be terminated. Thereafter, the Commission will issue a final order in this proceeding.

³⁷ At the outset of this proceeding, the Commission invoked informal procedures to spur settlement efforts. Those efforts did not achieve the hoped for results. Nonetheless, with the threshold issue resolved, the Commission does not believe that the remaining issues are immune from settlement.

It is ordered:

1. The Commission concludes that stamped stationery is a postal service.
2. The Commission will initiate a mail classification proceeding contemporaneously herewith for the purpose of receiving a request from the Postal Service to establish a classification and fee schedule for stamped stationery.
3. The record in this proceeding will remain open pending disposition of the aforementioned mail classification proceeding.

By the Commission
(SEAL)

Steven W. Williams
Secretary