

ORDER NO. 2

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

Before Commissioners:

Dan G. Blair, Chairman;
Dawn A. Tisdale, Vice Chairman;
Mark Acton; Ruth Y. Goldway;
and Tony Hammond

Regulations Establishing System
of Ratemaking

Docket No. RM2007-1

ADVANCE NOTICE OF PROPOSED RULEMAKING
ON REGULATIONS ESTABLISHING A SYSTEM
OF RATEMAKING

(Issued January 30, 2007)

The Postal Accountability and Enhancement Act, Public Law 109-435 (PAEA), directs that the Postal Regulatory Commission (Commission) shall by regulation establish a modern system for regulating rates and classes for market dominant postal products. The PAEA further directs that the Commission shall promulgate regulations to bound Postal Service discretion in setting rates for competitive postal products. Both of these tasks are to be completed by June 19, 2008.

Interested persons are invited to provide written comments and suggestions as to how the Commission can best fulfill these responsibilities to achieve the purposes of the PAEA. Comments are due within 60 days of the date of publication of this notice in the *Federal Register*. All comments and suggestions received will be available for review on the Commission's website, <http://www.prc.gov>. Interested persons are further invited to review these submissions and provide follow-up comments and suggestions within 30

additional days, that is, within 90 days of the publication of this notice in the *Federal Register*.

Commenters are requested to specifically explain how suggestions will comport with the specific applicable statutory directions as set out below.

I. MODERN RATE REGULATION OF MARKET DOMINANT PRODUCTS

The PAEA reforms the postal laws of the United States. Among other things, it alters the method by which the rates and fees for postal products may be changed. Separate rules are to apply for market dominant, as opposed to competitive, postal services. The Commission is given 18 months to develop and implement this system. In fulfilling this responsibility, the Commission is to effectuate the following specific policies set forth in the PAEA.

A. Requirements

The system for regulating rates and classes for market dominant products shall:

1. establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;
2. include an annual limitation on the percentage changes in rates, to be set by the Commission, that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;
3. establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitation;

4. provide that not later than 45 days before the implementation of any adjustment in rates subject to this limitation, including special rates pursuant to factor (10), below:
 - (a) require the Postal Service to provide public notice of the adjustment;
 - (b) provide an opportunity for review by the Commission;
 - (c) provide for the Commission to notify the Postal Service of any noncompliance of the adjustment with this annual limitation;
 - (d) require the Postal Service to respond to the notice provided under the previous clause and describe the actions to be taken to comply with this annual limitation; and

5. establish procedures to allow rate adjustments in excess of the annual limitation on an expedited basis due to either extraordinary or exceptional circumstances, provided:
 - (a) there is not sufficient unused rate authority as defined in 39 U.S.C. § 3622(d)(2)(C); and
 - (b) the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

B. Objectives

The system for regulating rates and classes for market dominant products shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

1. to maximize incentives to reduce costs and increase efficiency;
2. to create predictability and stability in rates;
3. to maintain high quality service standards established under 39 U.S.C. § 3691;
4. to allow the Postal Service pricing flexibility;
5. to assure adequate revenues, including retained earnings, to maintain financial stability;
6. to reduce the administrative burden and increase the transparency of the ratemaking process;
7. to enhance mail security and deter terrorism;
8. to establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail; and
9. to allocate the total institutional costs of the Postal Service appropriately between market dominant and competitive products.

C. Factors

In establishing the system for regulating rates and classes for market dominant products, the Commission shall take into account:

1. the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;
2. the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;
3. the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;
4. the available alternative means of sending and receiving letters and other mail matter at reasonable costs;
5. the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;
6. simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;
7. the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

8. the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;
9. the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;
10. the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of Title 39, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that
 - (a) either improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or enhance the performance of mail preparation, processing, transportation, or other functions; and
 - (b) do not cause unreasonable harm to the marketplace;
11. the educational, cultural, scientific, and informational value to the recipient of mail matter;
12. the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;
13. the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

14. the policies of this title as well as such other factors as the Commission determines appropriate.

D. Additional Consideration

The system for regulating rates and classes for market dominant products must enable the Commission to ensure that workshare discounts, as defined in 39 U.S.C. § 3622(e)(1), do not exceed the cost that the Postal Service avoids as a result of workshare activity unless:

1. the discount is
 - (a) associated with a new postal service, a change to an existing postal service, or with a new workshare initiative related to an existing postal service; and
 - (b) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time; or
2. The amount of the discount above costs avoided
 - (a) is necessary to mitigate rate shock; and
 - (b) will be phased out over time; or
3. the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

4. reduction or elimination of the discount would impede the efficient operation of the Postal Service.

Application of these standards shall not require that a workshare discount be reduced or eliminated if the reduction or elimination of the discount would:

1. lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or
2. result in a further increase in the rates paid by mailers not able to take advantage of the discount.

II. PROVISIONS APPLICABLE TO RATES FOR COMPETITIVE PRODUCTS

With regard to competitive products, regulations are to be established that:

1. prohibit the subsidization of competitive products by market dominant products;
2. ensure that each competitive product covers its costs attributable; and
3. ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

It is ordered:

1. Docket No. RM2007-1 is established for the purpose of receiving comments in advance of developing regulations effectuating a modern system of ratemaking.

2. Interested persons may submit comments no later than 60 days from the date of publication of this notice in the *Federal Register*.
3. Reply comments also may be filed no later than 90 days from the date of publication of this notice in the *Federal Register*.
4. Shelley S. Dreifuss, Director of the Office of the Consumer Advocate, is designated to represent the interests of the general public in this docket.
5. The Secretary shall arrange for publication of this Notice in the *Federal Register*.

By the Commission.

Steven W. Williams
Secretary