

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

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO MOTION OF THE COALITION OF CATALOG MAILERS TO REOPEN
AND SUPPLEMENT THE RECORD
(April 19, 2007)

On April 12, 2007, the Coalition of Catalog Mailers (CCM) moved to reopen the evidentiary record to be relied upon by the Commission in its reconsideration of the rate recommendations for Standard Mail flats and letters. The Postal Service hereby provides its response to that motion. The Postal Service maintains the view that it is not necessary to reopen the record in order to provide rate relief for Standard Mail flats, but neither supports nor opposes CCM's motion to do so.

As noted in the Postal Service's Initial Statement on Reconsideration, filed on March 28, the Governors, in their Decision of March 19, expressed concern about the size of the rate increases recommended for certain Standard Mail Regular and Standard Nonprofit Regular flats, and the potential effect on mailers of catalogs and other flats. The Governors chose to return the matter to the Commission for reconsideration of whether some rebalancing between Standard Mail letter and flat rates might be appropriate.

As likewise indicated in its Initial Statement at 11, the Postal Service sees the requested reconsideration of rebalancing as largely a question of policy, rather than one

involving more technical or factual matters. The policy perspective was plainly set forth on the record in the rebuttal testimony of Postal Service witness Kiefer (USPS-RT-11). Witness Kiefer was addressing the rate increases for flats proposed by Valpak witness Mitchell, who was espousing the same basic approach to the letter/flat differential ultimately incorporated into the Commission's recommended Standard Mail rates. Reviewing the proposals advanced by witness Mitchell, Dr. Kiefer articulated the policy reasons why, in his view, increases in rates for Standard flats of the magnitude suggested by Mr. Mitchell would not reflect an appropriate balancing of all of the statutory ratemaking factors. Although the Standard Mail rates recommended by the Commission do not exactly match those proposed by witness Mitchell, the rebuttal testimony of witness Kiefer provides a record basis that would amply support rebalancing of the flat and letter mail rates, if the Commission chose to respond to the reconsideration requested by the Governors in that fashion. In light of Dr. Kiefer's testimony, the Postal Service concludes that it is not necessary to reopen the record in order to justify potential rate adjustment of the type contemplated by the Governors.¹

¹ Put somewhat differently, the Postal Service submits that, given the record as a whole, including the testimony of witness Kiefer, it would have been entirely proper for the Commission to have initially recommended somewhat higher letter rates and somewhat lower flat rates. Such hypothetical alternative recommendations would have been more in the direction of the rates proposed by the Postal Service, and would also have been fully in accord with the discretion afforded the Commission to balance all of the competing ratemaking factors. While letter mailers might understandably have viewed such an alternative set of recommendations as less attractive than the rates actually chosen by the Commission, the Postal Service cannot discern any viable legal basis on which such alternative recommendations, if approved by the Governors, could have been successfully challenged in court. Yet if the record was sufficient to support such alternative recommendations initially, as the Postal Service submits, then, upon

To the extent that the CCM motion to reopen the record suggests that there might have been a *legally* deficient opportunity for catalog mailers to develop an adequate record on the consequences of Standard Mail flat rates of the magnitude recommended by the Commission (see, e.g., Motion to Reopen at 1, 6, 9), the Postal Service does not agree. On the other hand, to the extent that the Commission might benefit from further argument based on the existing record, the Postal Service, like the Governors, submits that further input from both letter and flat mailers could be useful. For example, arguments could be heard on why the situation with respect to Standard Mail flats is, or is not, similar to the situation with respect to Periodicals mail that did motivate the Commission to temper its rate recommendations. See Postal Service Initial Statement at 10. Lastly, to the extent that CCM is arguing (e.g., Motion to Reopen at 6-8) that the Commission's assessment of rate shock and the potential for catalog mailers to avoid rate shock might have been based on an understanding of opportunities for mailers that does not fully conform with actual circumstances in the catalog industry, it is conceivable that very narrowly focused testimony which sheds light specifically on those circumstances may have some utility. In particular, given the Governors' request for reconsideration and the views expressed in their Decision, if the Commission is disinclined to attempt to rebalance the rates without reopening the record, the Postal Service believes that giving CCM an opportunity to be heard further

reconsideration, there is no necessity to reopen the record merely in order to support an alternative set of rates which would have been entirely within the Commission's discretion to recommend initially, based on the existing record.

might enhance complete understanding of the issue. The merits of reopening the record to receive any further testimony, however, would have to be carefully weighed against the variety of costs associated with additional litigation.

In conclusion, the Governors in their Decision expressed the hope that allowing more input from Standard Mail letter and flat mailers would assist the Commission in responding to the Governors' request for reconsideration. Such input, however, could be obtained without reopening the record. On that basis, the Postal Service takes no position on the CCM motion to reopen and supplement the record.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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