

**BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001**

**Stamped Stationery and Stamped Cards
Classifications**

Docket No. MC2006-7

**DOUGLAS F. CARLSON
REPLY BRIEF**

May 14, 2007

In my initial brief,¹ I stated my position on the legal issues in this proceeding. In this reply brief, I will respond to certain arguments raised in the briefs of other parties.

OCA Position

The Office of the Consumer Advocate's initial brief² provides a comprehensive, thoughtful analysis of the evidence and legal issues in this proceeding. The OCA reaches the same central conclusion as I do: The fee ranges that the Postal Service proposes for premium stamped stationery and premium stamped cards are too high. Although I reached a slightly different acceptable range of cost coverages than the OCA did, our proposed fee ranges are nonetheless similar, and both are well below the cost coverages that the Postal Service proposes.³

¹ Douglas F. Carlson Initial Brief, filed May 4, 2007.

² Initial Brief of the Office of the Consumer Advocate, filed May 4, 2007.

³ Slight variances in parties' conclusions are normal when parties are independently applying a list of sometimes-subjective pricing criteria.

Fairness and Equity

In my initial brief, I noted that the Postal Service's proposed fee range for stamped stationery would allow a cost coverage for *The Art of Disney: Friendship* stamped stationery ranging from 456 percent to 559 percent. Initial Brief at 2. The cost coverage of the Garden Bouquet stationery would range from 300 percent to 342 percent. *Id.* I argued that cost coverages higher than any cost coverages approved in the 36-year history of the Postal Reorganization Act are not justified for premium stamped stationery and premium stamped cards. *Id.* at 4–5.

Witness Yeh wants the Commission to believe that the fees are fair and equitable simply because she says they are. USPS-T-1 at 8. Witness Yeh offers no explanation. In its initial brief,⁴ the Postal Service similarly offers no explanation for why the proposed fee for premium stamped stationery and premium stamped cards would be fair or equitable. The Postal Service briefly refers to fairness and equity only in the context of the proposed *classifications*. Postal Service Brief at 8. The proposed classifications are not controversial. The dispute lies in the proposed fee range, which will result in fees that are decidedly unfair, inequitable, unreasonable, and unjust. I explained in my initial brief why the proposed fee range would not meet the statutory requirements. As the proponent of the fee ranges, Postal Service failed to satisfy its burden of proving that the fee ranges comport with the pricing criteria in the Act.

Indeed, the Postal Service's own evidence suggests that the products are priced too high. The first stationery item, *The Art of Disney: Friendship* stationery, sold 17,037 packages out of 40,000 printed. DBP/USPS-1. Sales dipped sharply for the follow-up product, the Garden Bouquet stationery. The Postal Service sold only 10,990 packages out of 30,000 printed. *Id.* The substantial unsold volume from each production run suggests that the price is too high, and overall profit may increase if the price is lowered to a reasonable

⁴ Initial Brief of the United States Postal Service, filed May 4, 2007.

level to which the public has become accustomed during 36 years of regulated pricing.

Differential Treatment of Institutional Costs Is Not Justified

The Postal Service attempts to justify the high fee range proposed for premium stamped stationery and premium stamped cards by identifying institutional costs associated with the products. The Postal Service argues that “it can be assumed that the costs of the research, design, and contracting process are included in the institutional costs of the Postal Service and therefore provide additional support for a higher-than-traditional cost coverage.” Postal Service Brief at 7. Witness Yeh’s testimony does not mention this new theory for justifying an exorbitant proposed cost coverage. While the costs undoubtedly are institutional, the Postal Service has not explained why the Commission should treat premium stamped stationery and premium stamped cards differently than any other products. Institutional costs are not attributed to particular products. The statement quoted above reflects a backdoor attempt to break with a long history and charge customers of premium stamped stationery and premium stamped cards for institutional costs without an explanation for why the Commission should afford these products differential treatment. The Commission should reject the Postal Service’s proposed fee ranges.

The Price of Stamped Stationery Must Be Lowered

The OCA asserts that the price of stamped stationery should not be reduced until current stocks are sold or destroyed. OCA Brief at 21. I strongly disagree. The Postal Service broke the law when it sold stamped stationery without seeking Commission approval for the classification and price. The Postal Service had plenty of opportunity throughout earlier phases of the litigation to admit that stamped stationery is a postal service subject to regulation. The party engaging in illegal activity must accept some responsibility or consequence. The OCA’s suggestion would reward or, at best, acquiesce in bad behavior. Moreover, by demonstrating that no consequences attach to illegal activity, the

OCA's suggestion would reduce the incentive of members of the public to seek Commission redress pursuant to 39 U.S.C. § 3662.

The Commission should ignore the OCA's suggestion and mandate that the price of stamped stationery immediately be fixed at an amount within the fee range that the Commission recommends and the Governors implement.

Respectfully submitted,

Dated: May 14, 2007

DOUGLAS F. CARLSON