



Postal Regulatory Commission
Submitted 6/18/2007 1:47:56 pm
Filing ID: 56967
Accepted 6/19/2007

ADVOCACY GROUP

Regulatory & Housing Policy

June 18, 2007

Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, DC 20268-0001

SUBMITTED ELECTRONICALLY

Docket No. RM2007-1; Order No. 15

Comments of the National Association of Home Builders

The National Association of Home Builders (NAHB) welcomes the arrival of the Postal Regulatory Commission (PRC) and its efforts to establish a system of ratemaking. NAHB asks that the PRC be mindful of its treatment of the overlooked user of the postal system—the residential mail recipient. Receiving mail is as much a right as sending it, and both the recipient and the sender are equally postal patrons. Yet in recent years, the Postal Service has degraded delivery service to the point that it no longer delivers mail at all to homes in densely occupied new subdivisions, preferring instead to deposit the mail in some locked receptacles under the euphemism “centralized delivery.” NAHB contends that this system is a discrimination against new housing that is not based on the cost of serving such housing; rather it is an attempt to lower total costs by degrading service to an arbitrarily chosen group. The Postal Service must resume curbside service to all homes that meet the safety criteria in the Domestic Mail Manual.

Known as “The Voice of the Housing Industry,” NAHB has more than 235,000 members through more than 800 state and local organizations. NAHB members produce about 80 percent of the new homes built every year. The people who live in those homes have a right to the same high level of postal service that is delivered to every other home with the same cost of service. The inability to get full postal service for market dominant products makes those homes less attractive to prospective buyers, and it makes use of the U.S Postal Service (USPS) less attractive to the residents, who may substitute toward electronic delivery or private competitive products, who show no reluctance to deliver to the addressee.

Because NAHB’s comments are directed primarily at market dominant products, reference will be made to the points enumerated in the Federal Register notice of February 5, 2007, which addresses market dominant products with greater specificity. Most of the subsequent debate has been about how to set price levels. NAHB offers no specific input on national rate levels at this time; however, NAHB reminds the PRC that whatever the rates may be, the mail recipients be treated fairly, without undue discrimination.

As currently constituted, the PRC was created by the Postal Accountability and Enhancement Act (PAEA) of 2006.¹ Though that law changed many aspects of the pre-existing Postal reorganization Act, it did not alter the text of 39 USC 403(c), which states:

(c) In providing services and in establishing classifications, rates, and fees under this title, the Postal Service shall not, except as specifically authorized in this title, make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user.

PAEA allows USPS to charge different amounts within and among classifications, but it cannot do so without proper basis. It is still forbidden to make undue discrimination. According to the February 25, 2007 Notice, one of the factors to be considered in pricing is:

...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;²

No justification has ever been offered that homes in new subdivisions are more costly to serve on a curbside basis than equivalent homes existing in an equal density in existing subdivisions or neighborhoods. If the only reason for the discrimination is that it will save money, and not that there is any causal relationship between the age of a home and the cost of serving it, then this factor has been violated. The discrimination is undue, and it is an example of the kind of monopolistic practice that the PRC is charged to curtail.

USPS has established new residential subdivisions as a classification by treating mail delivery there different from existing neighborhoods with the same residential density, though it did so without seeking or obtaining the consent of the Board or Governors or the PRC's predecessor Postal Rate Commission. The first set of factors USPS must consider is:

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.³

Centralized Delivery eliminates delivery to the new home addressees. Instead, the mail is deposited in a specified container in the addressee's vicinity. Obviously, the movement of the mail to the addressee's premises still takes place, but it is no longer done by USPS; it is done by the addressee. USPS saves money because it is no longer doing all the work. Part of the work is shifted forward to the addressee, making this a compulsory

¹ P.L 109-435

² 72 Fed. Reg. 5230 at 5231, February 5, 2007.

³ Ibid.

workshare arrangement. Workshare arrangements with senders save costs for USPS in many circumstances, and they save money for the senders in those agreed cases, as well. However, there is seldom any saving for the residential addressees, who must burn the gasoline and take the risks necessary to go retrieve their mail from wherever it has been left. By forcing this workshare arrangement on the occupants, USPS has effectively raised the postal rates for these homeowners. They pay the same first class postage as everyone else, but they do not receive service on the same cost-attributable basis.

Centralized Delivery is also a failure to complete the promises made to commercial mailers, especially direct mail advertisers. If the residential addressee fetches mail at a Central Box Unit (CBU), there is time to sort the mail before going into the house. The recipient can drop the promotional materials, unopened, into the trash on the way into the house. Direct mail is less likely to make it into the home when "delivery" is effected through the use of CBUs. Furthermore, if residents have some impediment to checking their mail, and they feel less urgency to do so because personal communications have shifted so greatly to electronic modes, advertising may sit in the CBU for several days, reducing its timeliness and effectiveness.

There are negative aspects to CBUs that do not pertain directly to movement or pricing of mail. CBUs are inherently less safe for the residents than curbside delivery. It is an obvious spot for criminals to loiter in order to steal checks when someone opens a receptacle. It is a spot removed from the home where residents must get out of their cars, losing the personal security the car provides, and expose themselves to the risks that are in the neighborhood inherently or that have been attracted there by the concentration of mail theft opportunities in the CBU. Perhaps no one has broken open a CBU, but there are no such assurances about the physical safety of the CBU users. Then there is the risk from weather, especially icy conditions. USPS used to pride itself on its refusal to be deterred by weather, but now the residents of new housing must face rain, snow, or dark of night to fetch their mail.

In this time of heightened concern about exhaust emissions and the possible greenhouse effect of those gases, it is at least ironic that an arm of the federal government should be instituting and enforcing a policy that raises emissions. It is true that USPS will use less fuel, since the letter carrier only needs to drive to the CBU instead of all around the neighborhood. However, now the residents all have to drive to the CBU. Instead of one drive around the neighborhood to fifty or sixty curbside boxes, there could be as many as fifty or sixty drives to the CBU. Most people will be unlikely to want to send their children on such an errand, if it takes the child out of site of the home, and there is no guarantee the CBU will be situated on the route home from work or school. It is entirely possible that stopping delivery short of the addressee's premises will entail an increase in total energy consumption, and a probable increase in exhaust gases.

People have a right to have the mail delivered.⁴ If they have to go fetch it, it is not being delivered to them. Treating people in this way can be justified only if the costs directly and causally attributable to them justify the difference in treatment. Every homeowner

⁴ Currier v. Henderson, 190 F.Supp.2d 1221 (WD Wash, 2002).

deserves delivery which is like that received by other citizens who are similarly situated, who have the same cost of service.

Normally, one doesn't think of the recipient as paying to receive mail, but they do pay for the service. The work that people must do is part of the price of mail service, such as erecting a mailbox or putting address numbers on the house. Requiring extra effort, time, risk, and tangible resources like gasoline raises the cost to the recipient while decreasing the service to the sender. Centralized "Delivery" is a price hike levied on recipients. If it is not allocated on a cost-justified basis, the price hike is unfair and unauthorized. NAHB insists that the USPS restore curbside delivery to every neighborhood currently served by centralized delivery, unless a majority of the residents vote to keep centralized delivery. NAHB insists even more strongly that USPS provide curbside delivery to new platted, locally recognized and permitted subdivisions as soon as it is safe to do so, according to the safety criteria in the Domestic Mail Manual and the Postal Operations Manual, and stop requiring that 50 percent of the addresses be improved before mail can be delivered to the addressees.

Thank you for your attention to these comments. Most of these comments would apply much less strongly to competitive products, as private delivery services do not think it is too costly to deliver to actual homes. If you have any questions, please feel free to contact me at aholliday@nahb.com, 202-266-8305, or fax 202-266-8056.

Sincerely,

A handwritten signature in black ink that reads "Andrew J. Holliday". The signature is written in a cursive style with a large, stylized initial "A".

Andrew Jackson Holliday, J.D., Ph.D.
Regulatory Counsel
National Association of Home Builders