Postal Regulatory Commission
Submitted 6/18/2007 4:26:36 pm
Filing ID: 56875
Accepted 6/18/2007

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

Regulations Establishing System Of Ratemaking **Docket No. RM2007-1**

INITIAL COMMENTS OF THE AMERICAN POSTAL WORKERS UNION, AFL-CIO, IN RESPONSE TO SECOND ADVANCE NOTICE OF PROPOSED RULEMAKING ON REGULATIONS ESTABLISHING A SYSTEM OF RATEMAKING
(June 18, 2007)

Pursuant to Commission Order No. 15, issued on May 17, 2007, the American Postal Workers Union, AFL-CIO (APWU) respectfully submits its comments on the Commission's Second Advance Notice of Proposed Rulemaking on Regulations Establishing a System of Ratemaking.

I. Introduction

On January 30, 2007 the Commission issued its First Advance Notice of Proposed Rulemaking on Regulations Establishing a System of Ratemaking.[1] Thirty participants, including the APWU, submitted initial comments in response to this order. An additional twenty-one sets of reply comments were also filed. As recognized by the Commission, many of the comments, while comprehensive and useful, were "general in nature, taking a more global view of the type of regulations to be implemented."[2] Thus the current notice poses specific questions pertinent to the implementation of the Postal Accountability and Enhancement Act ("PAEA" or

---

[1] See Order No. 2
[2] Order No. 15 Second Advance Notice of Proposed Rulemaking on Regulations Establishing a System of Ratemaking, p. 1.

"the Act"). The APWU appreciates the opportunity to provide additional, specific comments to assist the PRC in developing and implementing its regulations. In that regard, we offer comment on Section II and Section III Questions 6-8 of Order No. 15.

II. Regulations Concerning Market Dominant Products

1. Order No. 15, Question 1 asks for comments on alternative methods for calculating the CPI-U cap limitation. In Appendix C of its Reply Comments, the Postal Service proposes a point-to-point method whereby a twelve month change in the CPI-Uis calculated by comparing the CPI -U for a specific month to its value in the same month a year ago.[3] In Order No. 15, the Commission proposes an alternative method, referred to as the moving average method.[4] This method is calculated by averaging the most recent twelve months of the CPI-U and comparing it to the average of the twelve months prior to those months.

While there are benefits and drawbacks to both methods the point-to-point method is preferred. The point-to-point method most closely adheres to the objectives and factors enumerated by the PAEA. Forexample , Section 3622(b)(6) provides that the system of ratemaking established shall be designed "to reduce the administrative burden and increase the transparency of the ratemaking process"[5] and "to create predictability and stability in rates".[6] The PAEA also requires that the system "allow the Postal Service pricing flexibility."[7] The point-by-

[3] Reply Comments of USPS, Appendix C, pp 9-10.
[4] PRC Order No. 15, pp. 2-4.
[5] 39 U.S.C. § 3622(b)(6).
[6] 39 U.S.C. § 3622(b)(2).
[7] 39 U.S.C. § 3622(b)(4).

point method is the most transparent method and is easy for all mailers to understand. It also allows for adjustments to more closely coincide in time with the change in costs that the Postal Service might experience, thus providing the Postal Service with the required pricing flexibility.

The point-to-point method has the disadvantage of being more volatile than the moving average method; therefore, there is a somewhat larger risk that the change in costs experienced by the Postal Service will not match the change in measured inflation. However, this one drawback should not be viewed as a sufficient reason to implement the moving average method, thus forfeiting the point-to-point method's ease and transparency.

2. In Question 2 of Order No. 15, the Commission asks the parties to "comment on the method of calculating the annual changes in rates under section 3622(d).[8] In Appendix C of its Reply Comments, the Postal Service proposes the use of a weighted average determined by the most recent 12 months of available data. The APWU agrees that the use of fixed historical weights is the most appropriate way of weighting all the different price changes together within a class in order to test the overall change against the cap. The Postal Service's proposal for using the most recent 12-months of data at the billing determinant level seems an appropriate method of calculating those weights so long as the lag in the months of data available for use is no more than the two months the Postal Service suggests in its response.

[8] PRC Order No. 15, pp. 4-5.

New products or services might be excluded from the calculations in the first year of their introduction (since no volume data would be available for them in the base period). Since the volume of most new products is relatively small when they are first introduced, those products would tend to have a very small impact on the weighted average anyway.[9] A more significant problem is the circumstance where the rate design is so altered that the old billing determinants do not provide the appropriate components with which to estimate the new product design categories, such as with the upcoming change to the periodicals schedule. In that case, estimates will have to be used to make a good-faith guess as to the components needed for the new elements of the rate design, possibly using as a control total the old total for the class.[10]

3. Question 3 of Order No. 15 seeks comments on the type of information or data needed to ensure that workshare discounts do not exceed the costs avoided.[11] The APWU asserts that to test that all workshare discounts do not exceed the cost that the Postal Service avoids as a result of the workshare activity, per piece costs for each of the workshare rates and the benchmark piece, if it exists for that class, are required. However, a simple presentation of a unit cost number is not sufficient to assure that the workshare discounts are in compliance. The data that produce the unit costs must also be supplied so that it is

[9] Of course a new product that was expected to attract a large part of a sizable old product might be an exception requiring an estimate of the new product's volume based on the expected shift from the old product.
[10] If the cap is tested only on a class by class basis this may be less of an issue than it would be if a test had to be conducted for all the classes weighted together. On a class by class calculation, the lack of data within one class does not impact its relationship to other classes.
[11] PRC Order No. 15, p. 5.

possible to understand how each number is derived. Ideally, the best operational cost data should be used to develop the unit cost numbers.

While at the beginning, that may be data similar to what has been used by the Postal Service in its previous rate filings, it should not be so closely tied to the old methods that better sources of data can not be introduced into the system. As the Postal Service moves forward in making better use of the operational data it receives from its wide array of automation equipment and "smart" systems, it should develop better measures of costs that are more closely tied to each specific type of product or service for which costs must be calculated.[12]

III. Regulations Concerning Competitive Products

6. In Question 6, the Commission seeks guidance on how to prevent subsidization of competitive products by market dominant products and to ensure that competitive products cover their attributable costs and an appropriate share of institutional costs.

As long as products within the competive products category cover their attributable costs, there is no problem with cross subsidization. Existing data systems are adequate but they should not be set in the regulations so firmly that there is no opportunity to use better data as the Postal data collection systems are better aligned to collect operational data that might provide more accurate measures of costs. The annual compliance report should contain all the data

[12] This does not mean that the policies associated with traditional rate averaging should be ignored but hopefully will lead to more precisely measured costs for a base or benchmark piece.

necessary to enable the Commission to determine compliance. More frequent reporting is not and should not be required.

In order to determine what costs are attributable the regulations should focus on the causality of the costs. Thus, unless there is reliable information that clearly shows that the class or product causes a particular cost, it should not be attributed to the class or product. Moreover, since the Postal Service does not have a large share of the competitive products market, these products should not be overburdened with institutional costs. If an adjustment to the institutional cost share is later deemed necessary, the allocation can be revisited during the five year review required under Section 3633(b) of the PAEA.

7. Question 7 of Order No. 15 asks how the assumed Federal Income Tax on competitive products income should be classified and assigned.[13] This tax will be assessed after the fact based on the income of the competitive products as a whole. Therefore, the tax can not easily be assessed at the product level. It would also be difficult to determine a reliable causal relationship with which to make the attribution.

8. In Question 8 of Order No 15, the Commission seeks comment on what should be classified as costs attributable and whether the current system of cost attribution needs to be changed. The PAEA does not on its face call for a recalibration of what costs are considered institutional and what costs are fairly described as attributable. The APWU believes that the current system should be continued until an actual, not hypothetical, problem occurs.

[13] PRC Order No. 15 p. 8

Subpart (c) of this question asks how the Retiree Health Benefit costs should be classified. This is an exception that may require special treatment regarding cost allocation. However, the Commission paints this question in too broad a stroke. The retiree health costs associated with *past service* are an unfunded liability produced over a number of years, to be paid off over a number of years. This obligation should not be attributed to any product or service. The proper question is how the *future* retiree health costs associated with current employees providing current service should be attributed, if at all. Unlike the health costs for past services, those associated with present services are at least arguably attributable. However, the APWU believes that these costs would still be very difficult to allocate and should not be attributed to a product or service.

Respectfully submitted,

Darryl J. Anderson
Jennifer L. Wood
Counsel for American Postal Workers Union, AFL-CIO