

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

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

NOTICE OF THE UNITED STATES POSTAL SERVICE  
OF DECISION OF THE GOVERNORS  
(June 20, 2007)

The United States Postal Service hereby provides notice of the attached  
Decision of the Governors in Docket No. R2006-1:

**Decision of the Governors of the United States Postal Service on  
the Second Opinion and Recommended Decision On  
Reconsideration of the Postal Regulatory Commission on Changes  
in Postal Rates and Fees, Docket No. R2006-1 (June 19, 2007)**

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:

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June 20, 2007

**DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE SECOND OPINION AND RECOMMENDED DECISION ON RECONSIDERATION OF THE POSTAL REGULATORY COMMISSION ON CHANGES IN POSTAL RATES AND FEES, DOCKET NO. R2006-1**

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June 19, 2007

On February 26, 2007, the Postal Regulatory Commission issued its Opinion and Recommended Decision in Docket No. R2006-1. On March 19, 2007, we allowed the Recommended Decision to take effect, but returned three matters to the Commission for reconsideration. On April 27, 2007, the Commission issued its Opinion and Recommended Decision on Reconsideration with respect to two of those matters – the nonmachinable surcharge for First-Class Mail letters, and the rate for the Priority Mail Flat Rate Box. On May 1, 2007, we approved the Commission’s new recommendations on those two matters. With regard to the third matter, rates for Standard Mail flats, the Commission issued its Second Opinion and Recommended Decision on Reconsideration on May 25, 2007.

We appreciate the Commission’s thorough review of this matter and its creative recommendations to implement temporary rate reductions for mailers of Standard Mail flats. We are concerned, however, that approving those recommendations would not be legally sound or practically prudent. Given the passage of time and the views expressed by the Commission in its most recent Opinion, we do not seek further reconsideration. In light of our limited options under the statute and these circumstances, we have decided not to approve the Commission’s Second Opinion and Recommended Decision upon Reconsideration.<sup>1</sup>

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<sup>1</sup> Under the technical language of the statute, our decision is to “reject” the recommendation. 39 U.S.C. § 3625(d).

## STATEMENT OF EXPLANATION AND JUSTIFICATION

In our first Decision, we expressed concern about the size of the rate increases recommended for certain Standard Mail Regular and Nonprofit Regular flats, and the potential effect on mailers of catalogs and other flats. We chose to return the matter to the Commission for reconsideration, and asked the Commission to reconsider whether some rebalancing between Standard Mail letter and flat rates might be appropriate. Governors' Decision at 10.

In returning this matter to the Commission for reconsideration, we were principally concerned with the effect of some of the Commission's recommendations on the catalog industry. Our March 19 Decision noted that the Postal Service's initial proposals for these rates appropriately balanced concerns about the impact of rate increases with efficiency considerations and the long-term health of the catalog industry. Decision at 9. Concurrently, we acknowledged the Commission's judgment regarding the rate design and other principles influencing the recommended rates. *Id.* at 9-11. Furthermore, while our Decision implied preference for the Postal Service's solution to the rate design, it did not reject the Commission's solution entirely. Rather, the Governors suggested that reconsideration would benefit from giving members of the catalog industry an opportunity to comment on the record evidence that might support more moderate increases. With regard to the specific rates recommended, we stated:

[B]ased on the concerns we have expressed above, particularly regarding the vitality of the catalog industry to the economy as a whole, and the uncertainty inherent in rate increases of the magnitude recommended, we ask the Commission to reconsider whether some rebalancing between Standard Mail letter and flat rates might be appropriate, and we urge the Commission to use the opportunity to mitigate the recommended increases for catalog and other flat mailers. Returning the matter for reconsideration might also allow individual mailers and their associations to address any unique problems created by the Commission's recommendations.

*Id.* at 12.

In response, the Commission established a reconsideration process which, as we hoped, provided the opportunity for interested parties to address matters raised by its initial recommendations. The Commission granted the request for late intervention of a newly-formed coalition of catalog mailers, and received comments from a variety of parties expressing their views on whether rebalancing between flats and letters was appropriate, whether rebalancing

just within flats was appropriate, or whether some other response might be warranted. The comments of the Postal Service presented an illustrative example of broader rebalancing, with a 3-cent reduction in piece rates for Standard Regular flats offset by a 0.7-cent increase in piece rates for most Standard Regular letters. Comments of some other parties supported the approach identified by the Postal Service, while other comments argued that a reduction for flats could be implemented without the need for any increase in rates for letters. These latter comments suggested that the Commission might justify forgoing increases for letters either by implicitly reducing the amount of the provision for contingencies in the revenue requirement, or by manipulating the demand elasticities used for volume forecasting. The Commission correctly rejected both of these suggestions. Second Opinion and Recommended Decision on Reconsideration at 16-20.

Instead, by recommending temporary rate reductions for Standard flats which would expire before the test year begins, the Commission devised an approach which would avoid any direct financial consequences in the test year. Under this approach, the Commission suggested, temporary rate relief could be afforded flat mailers without any need for commensurate offsetting increases in rates for some other mailers. Specifically, the Commission recommended 3-cent per piece discounts for Standard Regular flats and 2-cent per piece discounts for Standard Nonprofit flats that would expire no later than September 29, 2007. Before reaching these alternative recommendations, however, the Commission explicitly rejected the approach for which we had sought reconsideration -- rebalancing between flats and letters.

Under the breakeven requirement of the Postal Reorganization Act, which governs the instant proceeding, postal ratemaking is essentially a zero-sum game. In general, therefore, starting from some given breakeven benchmark, lower rates for some must be offset by higher rates for others. The inescapable logic of this principle has driven the many hard choices that the Postal Service and the Commission have jointly had to make going back to the very first postal rate cases. Granted, the magnitude of the enterprise, and the consequent imprecision of the breakeven calculation, create some latitude to make minor adjustments without bringing to bear the focus on absolute symmetry. One need look no further for examples of such latitude than to the recommendations made by the Commission in April on reconsideration of the charge for the

Priority Mail flat rate box, and the scope of the non-machinable surcharge for First-Class Mail letters, both of which had *de minimis* financial consequences . Nonetheless, the general principle stands, and not adhering to its strictures can call into question the basis for the entire ratemaking process.

Our request that the Commission consider whether or not rebalancing between Standard Mail flats and letters might be appropriate was based on an expectation that the breakeven requirement of the Act must be observed. The approach suggested by the Commission would result in breakeven within the test year, but only by proposing to modify the effective dates for selected rate changes outside of the test year. This is the first time such a step has been recommended in an omnibus rate case, and even the Commission recognized that “the Governors may determine that it is necessary to reject this recommendation.” Second Opinion and Recommended Decision on Reconsideration at ii. We are troubled by the potential consequences of this approach in terms of disparate treatment for different mailers, and by the Commission’s acknowledged lack of authority to circumvent the Board’s control over the timing of rate changes.<sup>2</sup> Moreover, as the Commission estimates, the financial cost to the Postal Service would be on the order of \$100 million. That amount of money is substantial, and its financial effect cannot be discounted even though the effect comes before the test year, rather than during the test year. We understand and appreciate that, in submitting this recommendation to us, the Commission was seeking to enhance our options and to provide us the means to reach a worthwhile objective, rather than attempting to impose a result of its own choosing. See Second Opinion and Recommended Decision on Reconsideration at iii, 27-28. Nevertheless, despite our agreement that mitigation of rate shock is indeed a worthwhile objective, we are not inclined to approve the means recommended by the Commission to achieve this end.

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<sup>2</sup> We note, as did the Commission, that in *Governors of the US Postal Service v Postal Rate Commission*, 654 F2d 108 (DC Cir 1981), the Court of Appeals held that the Commission lacked the statutory authority to recommend classification and rate changes limited in time when temporary status had not been specifically proposed by the Postal Service.

In addition, it would be difficult to implement the Commission's recommendation. Given the amount of lead time necessary to develop the software changes required to support these rate changes, the actual number of weeks in which the reduced rates might be in effect would be minimal. Such a short time frame of relief, during the low mailing season of a catalog industry that makes plans months in advance, is not likely to mitigate rate shock significantly. While the Commission appears to suggest the additional possibility of administering the discounts as *post hoc* rebates (see *id.* at 29), such an approach would be difficult and would result in undue administrative burdens.

In our initial Decision, we requested that the Commission consider whether rebalancing between rates for letter and flat mail might be an appropriate means to mitigate some of the large implicit percentage rate increases imposed on Standard flat mailers by virtue of our allowance of the Commission's initial recommendations. After giving this request careful consideration, consistent with its ratemaking role under the Postal Reorganization Act, the Commission determined that it was unwilling to recommend lower flat rates at the expense of higher letter rates. See Second Opinion and Recommended Decision on Reconsideration at iii, 23-24. While we do not challenge that determination, in light of it, we perceive no appropriate means by which the Commission can recommend temporary rate reductions for flat mailers. We therefore cannot approve the recommendations in the Commission's Second Opinion and Recommended Decision On Reconsideration.

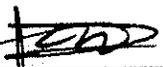
## **ESTIMATE OF ANTICIPATED REVENUE**

The provisions of former section 3625(e) of title 39 require that our Decision include an estimate of anticipated revenues. Because our Decision maintains the status quo, it does not result in any change in our previous estimate of overall test-year costs and revenues of approximately \$77.6 billion.

**ORDER**

In accordance with the foregoing Decision of the Governors, the changes in rates, fees, and mail classification set forth in the Postal Regulatory Commission's Second Opinion and Recommended Decision on Reconsideration of May 25, 2007, are not approved – or in legal terms, are rejected.

By The Governors:

  
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James C. Miller III, Chairman

## 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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