

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

REGULATIONS ESTABLISHING SYSTEM )  
OF RATEMAKING ) Docket No. RM2007-1

**REPLY COMMENTS OF NATIONAL POSTAL POLICY COUNCIL  
AND NATIONAL ASSOCIATION OF PRESORT MAILERS  
IN RESPONSE TO  
FURTHER ADVANCE NOTICE OF PROPOSED RULEMAKING  
(ORDER NO. 15)**

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July 3, 2007

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The National Postal Policy Council (“NPPC”) and National Association of Presort Mailers (“NAPM”) respectfully submit these reply comments in response to Order No. 15, the further Advanced Notice of Proposed Rulemaking (“ANPR”) issued by the Commission on May 17, 2007, and published in the Federal Register at 72 Fed. Reg. 29284 (May 25, 2007). These comments respond to Questions 2, 3 and 9(b) posed by the Commission. NPPC also joins the separate comments sponsored by Association for Postal Commerce (“PostCom”) that rely specifically to the initial comments of the Office of Consumer Advocate.

**I. QUESTIONS 2 AND 9(b): ACCOUNTING FOR NEGOTIATED SERVICE AGREEMENTS UNDER THE SECTION 3622(d) INDEX.**

Several parties have commented on the most appropriate way to segregate rates set under Negotiated Service Agreements from rates for other services subject to the Section 3622(d) rate adjustment mechanism. One method of doing so would be to treat service under an NSA as a separate product from non-NSA mail. NPPC at 10-11. Advo has proposed a similar approach: excluding NSA revenue and billing

determinants from the NSA index calculations. Advo at 4-5. This is also a reasonable approach. Participation in an NSA is voluntary: a mailer that finds the terms proposed by the Postal Service unattractive always has the option of using the existing rates of general availability instead.<sup>1</sup>

## **II. QUESTION 3: WORKSHARING DISCOUNTS AND AVOIDED COSTS (39 U.S.C. § 3622(e))**

The comments filed on June 18 reflect a general consensus that the Commission's oversight of worksharing discounts should balance two central goals of PAEA. First, the Postal Service should be given sufficient pricing flexibility to offer innovative prices and services, with the least possible regulatory oversight and burdens. Second, however, the Commission should establish safeguards to ensure that the Postal Service does not leverage its remaining market power to impair competition for products, services or elements where competition from other suppliers is feasible. See NPPC 2-9; Advo 8-9; MOAA 2; MMA (*passim*); NAPM 2-4, 8-9; Pitney Bowes 4-6; PostCom 6-9.

(1) For the reasons explained by several parties, full pass-through of worksharing-related cost avoidances is essential to enable competition to develop for

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<sup>1</sup> PSA expresses concern that treatment of NSAs as separate products could subject the Postal Service to burdensome obligations of proving that NSA rates cover attributable costs. PSA at 11-13. NPPC agrees that this would be an undesirable outcome. To date, however, NSAs have involved heavily workshared mail categories with high coverage ratios. This is hardly surprising: it is entirely rational for the Postal Service to focus its NSA development resources primarily on relatively high-contribution mail. While disputes have arisen over whether proposed NSA rates would *increase* the Postal Service's contribution from the volume at issue, no one has seriously claimed that the resulting revenue would fail to cover attributable cost. Under the circumstances, the Commission can safely presume that NSA rates cover attributable costs.

the sorting, handling and transportation—services that represent a large share of the total cost of end-to-end postal service. Stated otherwise, worksharing rate differentials should satisfy the Efficient Component Pricing Rule (“ECPR”). NPPC (June 18, 2007) at 3-6; *accord*, NAPM at 4; Pitney Bowes at 5-6.

(2) The term “workshare discounts,” as defined in 39 U.S.C. § 3622(e)(1), covers only a subset of the potential competitive alternatives to services provided by the Postal Service. For example, the following activities by mailers or third-party vendors, while properly subject to ECPR pricing, do not constitute “presorting, barcoding, handling, or transportation of mail” within the meaning of Section 3622(e)(1):

- More efficient methods of purchasing and applying postage and evidencing of postage.
- More efficient methods of mail acceptance.
- Use of more efficient mailpiece shapes (e.g., letters vs. flats).

The proper pricing of these and similar activities should be governed by the judgment of the Postal Service and the Commission under ECPR principles, rather than the Section 3622(e)(2) statutory cap. NPPC 7; *accord*, Pitney Bowes 4-5.

(3) The exceptions set forth in 39 U.S.C. § 3622(e)(2) and (3) to the statutory cap on workshare discounts serve important ratemaking policies, and should be given full effect. NPPC at 2-3, 7-8; *accord*, Advo at 8-9; MOAA at 2; NAPM at 2-3.

(4) The sources of cost data that were used to determine worksharing cost avoidances under the Postal Reorganization Act can also be used to set rate

differentials under PAEA. See Pitney Bowes at 5-6.<sup>2</sup> When worksharing cost differentials are determined through a top-down (“discount”) rather than bottom-up method of cost analysis, however, the Commission should rule out any presumption that cost pools not modeled by the Postal Service do not vary with worksharing. Treating non-modeled cost pools as unaffected by worksharing is anticompetitive. It allows the Postal Service to block potential competition by setting rate differentials that are less than actual avoided costs, and thus violate ECPR. NPPC at 8-9; *accord*, MMA, *passim* (detailed analysis of how top-down costing methods, as traditionally applied, have systematically understated actual worksharing cost avoidances).

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<sup>2</sup> The private parties which argue most vigorously to the contrary are clearly motivated by a desire to *restrict* competition, whether from alternative suppliers of sorting and other upstream services (APWU at 4-5), or from the Postal Service itself in delivering advertising content to households (NAA at 5-10).

## CONCLUSION

NPPC and NAPM respectfully request that the Commission adopt the standards and procedures proposed herein.

Respectfully submitted,

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