

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

**Regulations Establishing System
Of Ratemaking**

Docket No. RM2007-1

**REPLY 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
(Jly 3, 2007)**

We observe that the National Postal Policy Council (NPPC) and the Major Mailers Association (MMA) have each reasserted in this proceeding arguments that they advanced – and that the Commission rejected – in R2006-1. We file this Reply to point out the redundant and untimely nature of these arguments and to emphasize that these issues should not be addressed in a rulemaking proceeding.

The NPPC asserts (Comments in Response to Order 15, at 9-10) that the passage last December of the Workshare Discounts provision of the PAEA (39 U.S.C. § 3622(e)) requires the Commission to abandon its longstanding precedent concerning the appropriate means of calculating workshare discounts. Contrary to this assertion, the PAEA ratified and codified the principles embodied in the line of Commission decisions that developed the parameters of workshare discounts. Abandonment of those principles now would be contrary to the PAEA.

In any event, the NPPC's argument that the Commission should abandon the Bulk Metered Mail letter benchmark used for calculating workshare discounts, and that large business mailers should be given workshare discounts for

“differences in mail characteristics” other than those produced by worksharing, have no merit and have been rejected by the Commission repeatedly – most recently in its February 26, 2007, decision in R2006-1. *E.g.*, Opinion and Recommended Decision, Docket No. R2006-1, ¶ 5109. The Commission’s decision was entirely in keeping with the Workshare Discounts provisions of the PAEA. See, e.g., Initial Brief of the APWU in R2006-1, at 6, 10-12 and n. 4, 18-19; and APWU Reply Brief in N2006-1 at 6-7.

The Commission’s Decision is also consistent with the fact that, in the PAEA, Congress re-confirmed the requirement of universal service at uniform rates for First Class letter mail.¹ Certainly, in enacting the PAEA, Congress did not intend that the Commission would adopt rules that would de-link single piece and workshared First Class rates, with the effect of shifting costs to single piece mailers.

NPPC seeks to reverse Commission precedent in its rules implementing the PAEA. Such a change would be contrary to the PAEA. Furthermore, it would be anomalous given the Commission’s repeated decisions examining and maintaining the use of the BMM benchmark and limiting workshare discounts to cost savings due to the substitution of work by mailers for work the Postal Service would otherwise have to do. As the Commission observed in its most recent omnibus rate case decision, the Commission first established the bulk

¹ In Section 1010(e) of the PAEA, Congress moved this requirement from Section 3623(d) to Section 404(c) of the Act. This provision requires, as it did before, that “[t]he Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories and possessions... .”

metered mail benchmark in MC95-1 (Docket No. MC95-1, ¶ 4302) and it has now reconsidered and reconfirmed the use of that benchmark in Docket No. R2000-1 and in Docket No. R2006-1. (Docket No. R2000-1, ¶ 5089; see *also* Docket No. R97-1, ¶ 5089.). As the Commission will recall, Dr. Panzar acknowledged in his testimony in R2006-1, the NPPC proposal to abandon the BMM benchmark would cause a major leakage of revenue due to additional discounts paid to mailers who do no additional worksharing, and would shift costs to individuals and small businesses. See APWU Initial Brief in R2006-1, at 12, n. 4; and 18-19.

For all the reasons considered and articulated by the Commission in its previous decisions, it would be wrong to issue a workshare discount regulation that would shift costs onto mailers who are not in a position to take advantage of those discounts. A rulemaking is not the place to deal with the merits of this issue, much less to reverse the Commission's well-considered and recently reconfirmed decisions on the issue.

Likewise, the NPPC and the MMA, by advocating that the Commission rule that discounts should include credit for "all the cost sparing attributes of their high quality mail pieces" (MMA Initial Comments at 3) and for "associated cost savings resulting from other differences in mail characteristics" (NPPC Initial Comments at 10), seek to re-argue points rejected by the Commission only last February in R2006-1. As the Commission observed, allowing large mailers "credit" for such mail characteristics would effectively de-link rates for individual and workshared First Class letters and would "allow many costs that are not worksharing related to be avoided by worksharing mailers. The burden of these costs [would be] shifted

to the single-piece mailers. The Commission believes that these non-worksharing-related costs should be shared by all mailers within the subclass.” Docket No. R2006-1 ¶ 5086.

In light of the strength of the Commission’s reasoning and the temporal proximity of its decision in R2006-1, the Commission certainly will not choose to reverse direction on these major and complex issues in the context of a rulemaking abstracted from the analyses that have informed its long line of decisions on these issues.

Respectfully submitted,

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