Postal Regulatory Commission
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**BEFORE THE POSTAL REGULATORY COMMISSION**
**WASHINGTON, DC 20268-001**

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| Regulations Establishing System Of Ratemaking<br>Docket No. RM2007-1 | ) |

**STAMPS.COM'S REPLY COMMENTS IN RESPONSE TO ORDER No. 26**

Pursuant to the Commission's August 29, 2007 Order, Stamps.com is pleased to present these reply comments concerning the Postal Regulatory Commission's August 15, 2007 proposed rules for implementing a modern system of rate regulation. Our reply comments are primarily directed to addressing the comments submitted by other parties on the Commission's proposed rules.

**National Postal Policy Council**

The National Postal Policy Council (NPPC) has identified a key aspect of the Commission's proposed rule at 3100.14(c)(3) that should be deleted or amended.[1] (NPPC Comments at p. 4.) The current draft of 3100.14(c) provides:

> *New workshare discounts*. Whenever the Postal Service establishes a new workshare discount rate, it must include with its filing:
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> * * *

[1] These Reply Comments make reference to the numbering system used in PRC Order 26 as initially filed.

(3) A certification based on comprehensive, competent analyses that the discount *will not adversely affect either the rates or service levels of users of postal services who do not take advantage of the discount.* [Emphasis added.]

We agree with NPPC that nothing in existing law or the PAEA requires such a certification, nor would it be appropriate for the Commission to require it. As NPPC correctly points out, mailers who previously benefited from an internal cross-subsidy will inevitably be adversely impacted by a new workshare discount which effectively removes this cross-subsidy. Thus, it would be counter-productive, and inconsistent with the purpose of the PAEA, to require the Postal Service to certify that a new workshare discount will have no adverse impact on the rates of users who do not perform the new worksharing activities.

For example, under the PAEA, the Postal Service could properly offer a new workshare discount to single-piece mailers who perform address-cleansing activities and pre-barcode their mail. Indeed, the PAEA specifically defines "Workshare Discounts" to include "prebarcoding." See 39 U.S.C. § 3622(e)(1). Under PC Postage technologies offered by Stamps.com and other companies, even single-piece mailers can now perform these activities. This type of worksharing discount is not presently offered, so it could constitute a "new" workshare discount and thus come within the purview of the Commission's proposed rule at 3100.14(c). Under the current rate structure, single-piece mailers who cleanse and prebarcode their mail pay the same amount as mailers who do not, even though these activities reduce USPS costs and Undeliverable As Addressed (UAA) mail. If the Postal Service were to introduce a new workshare discount for this effort, it should not be required to certify that mailers who do not perform these workshare activities will see no adverse impact. Currently, single-piece mailers who cleanse and prebarcode their mail are, in effect, subsidizing mailers who do not do so. If the

Postal Service were to offer such a new workshare discount, it should not be required to certify that mailers who previously received a subsidy by not performing these activities will not be adversely impacted. As NPPC points out at page 4 of its comments, the Commission itself has rejected the argument that mailers who have obtained preferential treatment in the past are entitled to retain such preferential treatment forever.

Alternatively, the Commission could make clear that the certification contemplated by proposed rule 3100.14(c)(3) is not intended to cover the impact that would occur by the elimination of cross-subsidies that existed prior to the new workshare discount. Under the example discussed above, the certification requirement would be met so long as the Postal Service did not penalize mailers who did not take advantage of the new workshare discount. The Postal Service would, however, be free to adjust rates within the class to eliminate cross-subsidies that existed prior to the new workshare discount.

**Parcel Shippers Association**

We agree with the Parcel Shippers Association (PSA)'s suggested revision to proposed rule 3110.3, concerning decreases in rates of general applicability for competitive products. (PSA Comments at p. 8.) Under the Commission's proposed rule, USPS is subject to greater substantiation requirements when it determines to make a decrease in a rate of general applicability than an increase. We agree with the PSA that this additional burden should apply only when the *average* rate for a product will decrease, not when a rate in a particular rate cell will decrease. This is in keeping with the general philosophy employed by the Commission that CPI price caps for market dominant products should apply only at the class level and not at the subclass level. The Postal Service should be afforded the flexibility of making rate adjustments

within a class, which might include some decreases in particular cells, without being burdened with the additional requirements that apply to general rate decreases.

**Pitney Bowes**

We concur with Pitney Bowes' suggested revision to proposed rule 3100.14(b), which describes when the Postal Service must provide justification for proposed workshare discounts. (Pitney Bowes comments at 2.) As proposed by the Commission, the Postal Service is to provide justification for workshare discounts that: (1) exceed avoided costs or (2) that are "set substantially below avoided costs." The term "substantially" is not defined and is subjective, so its use may lead to uncertainty and potential litigation over whether the justification requirement applies. We thus agree with Pitney Bowes' suggestion that the term "substantially" be removed from the proposed rule.

We also concur with Pitney Bowes's suggestion that time limits be added to the review process for USPS requests to modify product lists within the Mail Classification Schedule under proposed rule 3200.34. (Pitney Bowes Comments at 14-15.) As currently drafted, no time limits are set out for the review process. This omission could lead to long, indefinite periods of uncertainty about USPS requested changes to its product lists. We therefore agree with Pitney Bowes's suggested addition of a 45-day period to the Commission review process set out in 3200.34. We also agree with the proposed addition of new subsection (e) to 3200.35, which would state that the Commission's consideration, or any further proceedings, cannot delay a determination on USPS's request for longer than 90 days after the date of the initial request.

## PostCom

We agree with the Association for Postal Commerce (PostCom) that classification changes enacted concurrently with CPI rate increases should be reviewed only for compliance with the PAEA's CPI adjustment limitations. (PostCom Comments at 5-7.) PostCom notes that the Commission's proposed rules could be considered ambiguous as to whether updates to the Product List made in conjunction with a CPI rate increase are subject to the additional review provisions in Part 3200. We concur that the Commission should clarify this point by explicitly stating that changes otherwise covered by Section 3642 of the PAEA enacted as part of a CPI increase should be reviewed only as to their compliance with the annual CPI limitation.

## Conclusion

Overall, the comments submitted by the parties demonstrate that the Commission is on the right course and has prepared draft ratemaking rules that require only a few revisions and adjustments, with no wholesale changes in the fundamental principles guiding the Commission. As noted in our initial comments, we encourage the Commission to promptly issue proposed regulations to implement section 203 of the PAEA on new and experimental products.

We look forward to working with the Postal Service and the Commission to ensure that PAEA's goals of a successful, nimble, and businesslike Postal Service are achieved.

Respectfully submitted,

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