

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;
Mark Acton, Vice Chairman;
Ruth Y. Goldway; and
Tony L. Hammond

Annual Compliance Report

Docket No. ACR2007

NOTICE OF FILING OF ANNUAL COMPLIANCE REPORT
BY THE POSTAL SERVICE AND SOLICITATION OF PUBLIC COMMENT

(Issued December 31, 2007)

Section 3652 of title 39 of the United States Code requires the Postal Service to file a report with the Postal Regulatory Commission on the costs, revenues, rates, and quality of service associated with its products within 90 days after the close of each fiscal year. That section requires that the Postal Service's annual report be sufficiently detailed to allow the Commission and the public to determine whether the rates charged and the service provided comply with all of the requirements of title 39 of the United States Code. See 39 U.S.C. §§ 3652(a)(1) and (e)(1)(A). The Postal Service filed its annual compliance report for FY 2007 with the Commission on December 28, 2007. Appended to it are four major sets of data — the Cost and Revenue Analysis (CRA), the International Cost and Revenue Analysis (ICRA), the models of costs avoided by worksharing, and billing determinant information.¹

¹ United States Postal Service FY 2007 Annual Compliance Report, December 28, 2007 (FY 2007 Annual Compliance Report).

After receiving the FY 2007 Annual Compliance Report, the Commission is required under 39 U.S.C. § 3653 to provide an opportunity for comment to the interested public and an officer of the Commission to represent the interests of the general public. The Commission hereby solicits public comment on the degree to which the Postal Service's operations and financial results comply with the policies of title 39. Comments by interested persons are due on or before January 30, 2008. Reply comments are due on February 13, 2008.²

The Commission is aware that these are shorter comment periods than those that the Commission has provided in other recent notice and comment proceedings. The statute affords the Commission 90 days to digest the report filed by the Postal Service and evaluate the Postal Service's compliance with the broad range of policies articulated in title 39. Expediting public comment is essential if the Commission is to have sufficient time to take the public's concerns into account in making its evaluation.³

The context in which the Postal Service has filed its annual report for FY 2007 is unique in several respects. It is the first compliance report that the Postal Service has filed after passage of the Postal Accountability and Enhancement Act of 2006 (PAEA). Fiscal Year 2007 was a transition period during which the rate-setting criteria of the former Postal Reorganization Act (PRA) remained in force. The Postal Service suggests that FY 2007 rates and service should be analyzed for compliance with the rate-setting criteria of the PRA rather than the PAEA. *Id.* at 1. In its report, the Postal Service applies the rate-setting criteria of the PRA to the then-existing subclasses and concludes that FY 2007 rates and service fully complied with title 39. *Id.* at 6 and 22. Emphasizing the difficulty of developing a crosswalk between then-existing subclasses and the current list of products, the Postal Service does not offer conclusions regarding

² The officer of the Commission in this matter will be appointed shortly.

³ Expedition may have an additional benefit. There is the possibility that the Postal Service may file notice of a general rate adjustment sometime in February under the provisions of 39 U.S.C. § 3622(d)(1)(C). This possibility has been discussed informally throughout the postal community. If public comments on the Postal Service's annual report identify potential problem areas several weeks in advance of the Postal Service's rate filing, this may inform or influence the Postal Service's pricing decisions.

the extent workshare discounts in effect in FY 2007 comply with the criteria of either the PRA or the PAEA. *Id.* at 19-22.

The Postal Service identifies some information as confidential and subject to protective conditions. It explains that in the absence of new rules regarding its confidential business information, it has largely followed past practice. Thus, financial data relating to international products is in a nonpublic annex while some financial information on competitive domestic products is presented publicly. The Postal Service recognizes that the appropriate identification of confidential data will be fully explored in a future Commission rulemaking. *Id.* at 30-33.

The FY 2007 Annual Compliance Report is the Postal Service's first attempt to comply with the tight production schedule that section 3652 imposes. Consequently, its report does not contain all of the information that normally would be provided in a section 3652 report. For example, 39 U.S.C. § 3652(g) requires the Postal Service to submit its comprehensive statement together with its annual compliance report. The Postal Service explains that it expects to file its comprehensive statement in early to mid-January, 2008. *Id.* at 5.

Another reason that the FY 2007 Annual Compliance Report does not contain all of the information that may be included in a standard section 3652 report is that it was prepared without the guidance of Commission rules governing the Postal Service's periodic reporting. The Commission will issue a notice of proposed rulemaking containing its proposed periodic reporting rules in the near future.

Most of the analytical methods employed in producing the FY 2007 Annual Compliance Report appear to be consistent with established precedent. However, some are new and have not been subjected to critical evaluation by the Commission or the public either in a formal evidentiary hearing or an informal rulemaking.⁴ Examples of new methods are in the revisions to the cost model that the Commission used in Docket No. R2006-1 to design rates for Periodicals. In adopting that model, the

⁴ The Postal Service identifies methodology changes in FY 2007 Annual Compliance Report, USPS-FY07-31, Section Two.

Commission described it as more comprehensive than the Postal Service's alternative, but still dependent on a number of assumptions whose accuracy could be improved if they were based on more direct and/or more recent observation. See PRC Op. R2006-1, ¶¶ 5730-44.

The Postal Service, too, views the Periodicals cost model as a work in progress. It has revised the model "in order to resolve internal inconsistencies and permit transparent updates of the inputs." Its revisions include:

- (1) inclusion of sweeping time in a productivity adjustment, (2) removing costs from bundle sorting for bundles that have already been broken into pieces, (3) including the costs of opening containers in the cost for container handling rather than container flow, and (4) elimination of bundle sortation costs when pallets flow directly to delivery units.

FY 2007 Annual Compliance Report, USPS-FY07 11, at 1. It suggests that additional refinements are warranted as well. *Id.* at 2-5.

The methodological changes employed in the FY 2007 Annual Compliance Report should be subjected to independent critical evaluation to the maximum extent possible in the narrow window afforded by sections 3652 and 3653. To achieve that end, the Commission issued a notice on December 27, 2007, scheduling an informal technical conference to be held on January 11, 2008.⁵ At that conference, Postal Service analysts will describe the changes made to the Commission's Periodicals cost model, explain the reasons for making them, and answer related questions from the Commission's technical staff and the interested public. A follow-up technical conference to give interested parties an opportunity to discuss other possible refinements of the Periodicals cost model with Postal Service analysts will be held on January 23, 2008. Notice at 2. Other technical conferences may be scheduled as appear necessary.

⁵ Notice of Technical Conferences Supplementing Postal Service Annual Compliance Report, December 27, 2007 (Notice).

Public comments on the United States Postal Service FY 2007 Annual Compliance Report are due on or before January 30, 2008.

Reply comments on the United States Postal Service FY 2007 Annual Compliance Report are due on February 13, 2008.

By the Commission.

Steven W. Williams
Secretary