

ORDER NO. 74

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

Review of Nonpostal Services

Docket No. MC2008-1

ORDER GRANTING MOTION TO COMPEL  
AND REVISING THE PROCEDURAL SCHEDULE

(Issued April 29, 2008)

I. BACKGROUND

The Postal Accountability and Enhancement Act (PAEA), Pub. L. No. 109-435, 120 Stat. 3198 (2006) limits the Postal Service's authority to provide nonpostal services to those it offered as of January 1, 2006 and directs the Commission to review each nonpostal service offered by the Postal Service on the date of the PAEA's enactment, December 20, 2006, within two years of that date. 39 U.S.C. §§ 404(e)(2) and (e)(3). The term "nonpostal service" is defined in section 404(e)(1) as "any service that is not a postal service defined under section 102(5)[,]" which, in turn, defines the term "postal service" to mean "the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto[.]" *Id.* § 102(5).

The purpose of the Commission's review under section 404(e)(3) is to determine which nonpostal services should continue, taking into account the public need for the service and the private sector's ability to meet that need. Any nonpostal service that the Commission concludes should not continue shall terminate. *Id.* § 404(e)(4). Any nonpostal service that the Commission authorizes to continue "shall be regulated under this title as a market dominant product, a competitive product, or an experimental product." *Id.* § 404(e)(5).

On December 20, 2007, the Commission initiated this proceeding to fulfill its responsibilities under section 404(e)(3), adopting a procedural schedule which, among other things, directs the Postal Service to submit a sworn statement by no later than March 19, 2008, "identify[ing] and provid[ing] a complete description of each nonpostal service" [it offered] on the date of enactment of the PAEA."<sup>1</sup> The "complete description" is to include the current status of each nonpostal service, the Postal Service's proposed classification of service it believes it should continue to offer (as market dominant, competitive, or experimental), and a sworn statement by a knowledgeable person (or persons) addressing, at a minimum, the public need for each such service. *Id.*<sup>2</sup>

*The Postal Service's filings.* In response to Order No. 50, the Postal Service filed two documents: Statement of Tina M. Lance on Behalf of the United States Postal Service (Lance Statement), and United States Postal Service Notice of Submission of Sworn Statement on "Nonpostal Services" Pursuant to 39 U.S.C. § 404(e) (Postal Service Notice). The Lance Statement discusses five nonpostal services, offered on January 1, 2006, which the Postal Service proposes it be authorized to continue ("grandfathered") pursuant to section 404(e)(2). Lance Statement at 12. The five nonpostal services are: passport photo service,<sup>3</sup> photocopying service, notary public

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<sup>1</sup> PRC Order No. 50, December 20, 2007, at 2 (footnote omitted).

<sup>2</sup> In the event the services identified differed from the nonpostal services offered as of January 1, 2006, the Postal Service was instructed to identify those services no longer offered, provide a brief description of such services, and indicate their current status. *Id.*, n.2.

<sup>3</sup> The Postal Service takes the position that it need not seek to grandfather passport application acceptance service since that service is provided pursuant to 39 U.S.C. § 411. *Id.* at 3, n.2.

service, stored value cards, and official licensed retail products. The Postal Service proposes that these five nonpostal services be added to the Mail Classification Schedule (MCS) and be classified as competitive products. Postal Service Notice at 3-4.

The Postal Service Notice does more than simply notice the Lance Statement. Its larger purpose is a platform for the Postal Service to discuss its interpretation of section 404(e) and its division of nonpostal services into three categories, namely: (1) services discussed by Ms. Lance which it seeks to grandfather; (2) services not previously regulated by the Commission, but which the Postal Service believes should be classified as postal services;<sup>4</sup> and (3) services that are not postal services but are separately authorized under title 39, *e.g.*, section 411 (cooperation with other government agencies) and section 404(a)(5) (philatelic services). *Id.* at 11-27.<sup>5</sup> This latter category also includes activities that the Postal Service contends are not services, but rather are simply revenue generating arrangements executed pursuant to its authority to undertake general business activities under section 401, *e.g.*, to enter into

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<sup>4</sup> The Postal Service indicates that there are “many” such services, identifying, presumably illustratively, three such services, including: Address Management Services, ReadyPost, and International Money Transfer Service (IMTS). *Id.* at 5-10. The Postal Service states that it intends to “take appropriate actions, in the near future, to add [the former two] to the MCS.” *Id.* at 7. It distinguishes IMTS, which, it notes, was included in the MCS in Order No. 43, stating its belief that IMTS should be considered a postal service. *Id.* at 7-10. The inclusion there, however, does not preclude the Commission, on review in this proceeding, from determining, if appropriate, whether IMTS is a postal product or a nonpostal product and, if the latter, whether it should continue.

<sup>5</sup> The Postal Service identifies three current services it provides pursuant to section 411, including Passport Application Acceptance, Selective Service Registration, and distributing pamphlets for the Federal Emergency Management Agency. *Id.* at 12. Whether this listing is illustrative is unclear.

contracts, sell and acquire property, and construct, operate, or lease facilities and equipment. *Id.* at 27-30.<sup>6</sup>

In an effort to buttress its legal theory regarding nonpostal services, the Postal Service argues that the scope of the Commission's authority under section 3653 (annual compliance determination) and section 3662 (complaints) "helps to demonstrate that certain services and revenue-producing activities fall outside of the Commission's remedial authority." *Id.* at 31. The Postal Service contends that because section 3662 does not enumerate section 401 (other than section 401(2)), the Commission lacks authority to review Postal Service activities undertaken pursuant to section 401. It also argues that the Commission cannot "review the 'terms and conditions' that 'the Postal Service and the head of the agency concerned shall deem appropriate' with respect to section 411 service." *Id.*<sup>7</sup>

*Public Representative's motion to compel.* The Public Representative moves for an order compelling the Postal Service to file a complete response to Order No. 50, asserting that it failed to comply with the Commission's directive that it provide a complete list and description of all nonpostal services offered as of December 20, 2006.<sup>8</sup> The Public Representative briefly summarizes the Postal Service's legal theory, noting its division of "nonpostal" services into three categories, *i.e.*, services heretofore not regulated by the Commission that should be classified as postal services, nonpostal services that should be grandfathered, and separately authorized services that are neither postal nor nonpostal services. *Id.* at 2. The Public Representative takes no

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<sup>6</sup> Examples cited by the Postal Service include "retail agreements" involving FedEx and Pitney Bowes, agreements involving intellectual property such as Moversguide, branding and licensing agreements (Electronic Postmark), and affiliate linking agreements (involving a link on the Postal Service's website).

<sup>7</sup> The Postal Service also requests that, if the Commission believes that nonpostal services not included in the Lance Statement should be reviewed in this proceeding, it issue its decision sufficiently before December 20, 2008 "to allow the Postal Service to consider its options, including seeking to get those services approved before that deadline." *Id.* at 33-34.

<sup>8</sup> Public Representative Motion to Compel United States Postal Service to File Complete List of Nonpostal Services, March 25, 2008 (Motion).

position on the Postal Service's legal arguments, but does observe that it has provided descriptions for only the five grandfathered nonpostal services discussed in the Lance Statement. *Id.*

The Public Representative seeks a complete list of nonpostal services, arguing that, under the PAEA, it is the Commission's responsibility, not the Postal Service's, to determine which "offerings are nonpostal services and which of those offerings should continue." *Id.* He concludes that the Postal Service's unilateral exclusion of numerous nonpostal services from the review process attempts to usurp the Commission's jurisdiction over nonpostal services and thus is contrary to section 404(e). Therefore, the Public Representative requests the Commission to direct the Postal Service to file a complete list "identifying and providing a complete description of those offerings the Postal Service is describing in its Notice and any other offerings which a reasonable person could read as being a nonpostal service offered by the Postal Service." *Id.* at 4.

*Postal Service response to Motion.* The Postal Service response to the Public Representative's Motion includes two attachments.<sup>9</sup> Attachment One, following the practice employed in the Postal Service Notice, divides nonpostal services into three categories as follows: (1) services "treated as 'nonpostal' in the past, but which the Postal Service in the future wishes to add to the MCS and treat as 'postal services[;]'"<sup>10</sup> (2) grandfathered nonpostal services discussed in the Lance Statement; and (3) services "treated as 'nonpostal' in the past, but which the Postal Service submits are authorized under separate grants of statutory authority." *Id.* at 2-3. The latter category identifies services provided pursuant to section 411 (e.g., Selective Service Registration and Migratory Bird Stamps), philatelic services provided pursuant to section 404(a)(5), and seven services provided pursuant to section 401(5) (e.g., FedEx drop boxes, Electronic Postmark, and Hybrid Mail Services).

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<sup>9</sup> Response of the United States Postal Service to Motion of the Public Representative to Compel Filing of Complete List of Nonpostal Services, April 1, 2008 (Postal Service Response).

<sup>10</sup> The Postal Service adds Greeting Cards to the list of services in this category identified in the Postal Service Notice. *Id.*, Attachment One.

Attachment Two provides program descriptions for the services listed in Attachment One, except for several of those addressed in the Lance Statement.

The Postal Service argues that its response “should provide the Public Representative with the information he apparently believes to be lacking.” *Id.* at 3.<sup>11</sup> Perceiving no need for further relief, the Postal Service requests that the Public Representative’s Motion be denied as moot. *Id.* at 4.

## II. COMMISSION RULING

The Public Representative’s Motion is granted. The impetus for the motion was the Postal Service’s failure to identify and describe the various nonpostal services it provides. Although it supplements the Postal Service’s initial filings, the Postal Service Response does not cure that failure because it is predicated on the unsustainable theory that the Postal Service, not the Commission, is authorized to determine which services, that are *not* postal services, offered by the Postal Service on December 20, 2006 constitute nonpostal services that, under the PAEA, are subject to the Commission’s authority to terminate or continue. The Postal Service characterizes those services it identifies as “examples” giving the impression that it sells other services that it has chosen not to mention. The Commission is required by law to review a complete list.

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<sup>11</sup> The Postal Service states that, by providing the additional information, it does not intend to waive any arguments concerning how each such service identified should be treated under the PAEA, regardless of how each may have been classified under the Postal Reorganization Act. *Id.*

A. Section 404(e) Requires the Commission to Review All Services that are not Postal Services

Under the Postal Reorganization Act (PRA), Pub. L. 91-375, 84 Stat. 719 (1970), the Commission had no authority over nonpostal services offered by the Postal Service.<sup>12</sup> The PAEA changes that.

Section 404(e)(3) requires the Commission to review *each* nonpostal service — defined, in section 404(e)(1), as “any service that is not a postal service” — offered by the Postal Service on December 20, 2006. Under the PAEA, the term “postal service” means “the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto[.]” See section 102(5).<sup>13</sup> Thus, under the PAEA, the Postal Service is limited to offering only postal services or nonpostal services. There is no provision for a third category of services which is neither “not postal” nor “not nonpostal,” or, as the Postal Service would have it, not services at all but merely sources of revenue.

In enacting section 404, Congress intended for the Commission to review each nonpostal service offered by the Postal Service as of December 20, 2006 and determine whether it should be terminated or continued based on the public need for the service and the ability of the private sector to meet that need. By limiting the Postal Service to grandfathered nonpostal services and requiring that every nonpostal service be subject to review before being allowed to continued (or alternatively being terminated), Congress ensured that the Postal Service could not, as it had under the

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<sup>12</sup> Under the PRA, the Postal Service adopted an expansive interpretation of its authority to provide nonpostal services. Notwithstanding that it lacked jurisdiction over nonpostal services, the Commission found it necessary to address the Postal Service’s interpretation because of its jurisdictional implications concerning postal services, a matter over which the Commission has undisputed jurisdiction. See, e.g., PRC Order No. 1424, Docket No. RM2004-1, November 12, 2004.

<sup>13</sup> Under the PRA, the term postal service was not defined. In response to growing concerns about the jurisdictional implications of various nonpostal services offered by the Postal Service and to provide guidance to the Postal Service and the public, the Commission adopted a definition of the term “postal service” in Docket No. RM2004-1. PRC Order No. 1449, January 4, 2006. The PAEA imposes a more limited definition.

PRA, deviate from “its basic function [which is] the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.” 39 U.S.C. §101(a); see *also* section 403(a) (“The Postal Service shall plan, develop, promote, and provide adequate and efficient postal services at fair and reasonable rates and fees.”).

The Postal Service devotes a lengthy discussion to various bills introduced prior to the passage of the PAEA intended to show that these earlier bills, as relates to the issue of nonpostal services, were “limited in scope to eliminating former section 404(a)(6).” Postal Service Notice at 19; see *also id.* at 19-24. It reaches this conclusion because the prior bills defined the term “postal service,” eliminated section 404(a)(6), and included a provision that would either preclude the Postal Service from providing any “special nonpostal or similar services,”<sup>14</sup> or as an exception to that, grandfather “special nonpostal or similar services” provided as of a specific date.<sup>15</sup> The Postal Service’s discussion fails to demonstrate that Congress intended something different than what it expressly adopted in section 102 of the PAEA (codified at 39 U.S.C. § 404(e)).

The Postal Service characterizes the PAEA as a compromise between two bills before the 109<sup>th</sup> Congress — the House version (H.R. 22) that included a grandfather provision and a Senate version (S. 662) that did not, but that did exempt section 411. According to the Postal Service, the PAEA embodies a compromise of these two bills because section 102 (of the PAEA) includes a grandfather clause, but requires the Commission to review any services authorized by the grandfather clause. *Id.* at 22.

The introduction of the wholly new concept of Commission review and authorization (or termination) of each nonpostal service is in no sense a compromise between competing provisions, particularly when the PAEA makes no exceptions to the scope of the review and specifically defines the term “nonpostal service” to mean “*any*

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<sup>14</sup> See former 39 U.S.C. § 404(a)(6).

<sup>15</sup> Postal Service Notice at 19-22. Some bills also included an exception for section 411. *Id.* at 22, n.53.

*service* that is not a postal service defined under section 102(5).” 39 U.S.C. § 404(e)(1) (emphasis added). In the face of this straightforward definition, the Postal Service’s claim that it is “vague”<sup>16</sup> is unpersuasive. In the end, the Postal Service can only urge that the definition in section 404(e)(1) of the PAEA “should not be viewed as a deliberate decision by Congress . . . .” *Id.*

The Commission declines to interpret section 404(e) in that fashion, but rather will give the words their ordinary meaning and will, as required by section 404(e)(3), review each nonpostal service provided by the Postal Service as of December 20, 2006. Reading the PAEA in this fashion is consistent with the fundamental underpinnings of the PAEA, namely, flexibility, transparency, and accountability. The increased flexibility afforded the Postal Service under the PAEA, *e.g.*, setting prices and reducing costs, is coupled with appropriate oversight by the Commission to ensure the transparency of Postal Service finances and operations (subject to reasonable safeguards) and that the Postal Service remains accountable to the public.<sup>17</sup> Section 404(e) makes it plain that Congress intended to limit the Postal Service’s nonpostal services and left it to the Commission to determine which ones should continue. Congress, in short, wanted the Postal Service to focus on its core responsibilities to provide “adequate and efficient postal services at fair and reasonable rates and fees.” Section 403(a).<sup>18</sup>

The Postal Service’s argument (Postal Service Notice at 11-19) that section 404(e) does not encompass nonpostal services provided for under sections 404(a)(5) (philatelic services) and section 411 (cooperation with other government agencies) is

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<sup>16</sup> Postal Service Notice at 22.

<sup>17</sup> See, *e.g.*, H.R. Rep. 109-66, part 1, at 43. (“The bill mandates transparency in the Service’s finances, costs, and operations.”); and at 44 (“Under the legislation, the Postal Service will compete on a level playing field, under many of the same terms and conditions as faced by its private sector competitors, albeit with stronger controls, oversight, and limitations in recognition of its government status.”).

<sup>18</sup> The Commission recognizes the Postal Service’s desire to continue to generate revenues from various sources. Authority to attempt to do so, however, is subject to the reasonable two-part test in section 404(e)(3).

unavailing. First, the services at issue, particularly those under section 411, are indisputably nonpostal.<sup>19</sup> Second, section 404(e) does not exempt any nonpostal service from the review process. As the Postal Service notes, various postal reform bills introduced prior to the PAEA did exempt section 411. That the PAEA does not, affirms that such services fall within the purview of section 404(e). Third, review does not restrict the Postal Service's right to enter into arrangements with other agencies.

The Postal Service implies that review will prevent it from fulfilling Congressional expectations that it will continue to cooperate with other government agencies. There is no basis for any such concerns. The Postal Service currently provides Services for Other Government Agencies; for example, passport applications are processed at certain Postal Service facilities for an established fee. The presumption is the Postal Service can represent that the agencies involved believe that there is public need for these services that can best be met by the Postal Service. Under such circumstances, Services for Other Government Agencies would continue. Should agencies request the Postal Service to furnish property or services in the future, the Postal Service would continue to have authority to provide it, and assuming it did so, the service would be identified in the MCS, with its revenues and costs included in periodic reports filed with the Commission.

Lastly, the Postal Service's claim (*id.* at 27-30) that, pursuant to section 401, it may engage in an unfettered variety of revenue generating activities that are not "services" is untenable and unconvincing. To be sure, section 401 grants the Postal Service general powers necessary to operate as a going concern. These general powers include, for example, authority to sue and be sued, execute contracts, buy and

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<sup>19</sup> The Postal Service uses the term "nonpostal" to describe section 411 arrangements in its implementing regulations. 39 C.F.R. § 259.1(b). "The Postal Service establishes reasonable fees and charges for nonpostal services performed for agencies of the Federal as well as State governments." Philatelic services (or some component thereof), reevaluated in light of the PAEA, could possibly be classified as a postal service. The Commission mentions this, not to suggest that result, but only to indicate that otherwise philatelic services must be nonpostal in nature.

sell property, and operate, lease, and maintain buildings necessary or convenient in the transaction of its business.

The Postal Service provides several examples of these revenue generating activities that it claims are not services and thus, under its theory, are shielded from any oversight. These include, for example, the arrangement with FedEx to place its drop boxes outside certain Postal Service facilities, the licensing of intellectual property to interested parties, *e.g.*, Electronic Postmark (EPM) and its trademark “Moversguide,” which is licensed to a company that produces pamphlets containing information and advertisements for residents who have recently relocated, and affiliate linking arrangements on its website for which, typically, the Postal Service receives revenues based on the number of click-throughs. *Id.* at 28-30.

The examples may plausibly be characterized as convenient outgrowths of the provision of postal services to the nation. But section 401(5) does not authorize revenue generating activities that are not outgrowths of “its business” — providing postal services to the nation. For example, purchasing an apartment building for the purpose of leasing residential property would appear to be outside the scope of section 401(5). To assure compliance, Congress wanted an independent review of all of the Postal Service’s nonpostal activities, and an evaluation of whether there was public need for continuing Postal Service participation in that market.

Every revenue generating arrangement executed by the Postal Service entails either a postal service or nonpostal service. Regarding the latter, each such agreement necessarily involves a *quid pro quo* by the Postal Service. It agrees to provide a product or a service to a third party in return for a fee, the opportunity to earn revenues, or perhaps some other benefit. It is providing a service regardless whether, for example, it makes lobby space or its brand available.

The notion that the Postal Service may evade oversight of such arrangements simply by characterizing them as sources of revenue is inimical to the principles of transparency and accountability on which the PAEA rests. With its clear definition of the term “nonpostal service” and the directive to the Commission to review each one,

section 404(e) was designed to avoid the situation that occurred under the PRA when the Postal Service claimed broad authority to engage in commercial, nonpostal services while arguing that the Commission lacked authority to determine the scope of its own jurisdiction.<sup>20</sup> In sum, the Postal Service must provide details of each nonpostal revenue generating arrangement regardless of the statutory authority on which it is premised. Without this information, the Commission will be unable to fulfill its responsibilities under the PAEA and will, in essence, have ceded its jurisdiction to the Postal Service.

B. The Commission's Complaint Authority Extends to Continuing Nonpostal Services

The Postal Service argues that the Commission's complaint authority does not extend to nonpostal services provided pursuant to sections 404(a)(5) and 411 or to what it calls "revenue-producing activities" entered into pursuant to section 401. *Id.* at 31. The Postal Service asserts that, since these sections are not enumerated in section 3662, the Commission lacks authority over them. The argument has no merit.

Under Section 404(e), the Commission is required to review each nonpostal service and, based on the public need for the service and the private sector's ability to satisfy that need, direct the Postal Service to terminate the service or authorize it to continue. Those authorized to continue are to "be regulated under this title as a market dominant product, a competitive product, or an experimental product." Section 404(e)(5). The requirement that continuing nonpostal services be regulated under title 39 and be designated as market dominant, competitive, or experimental subjects such services to chapter 36 of title 39, which is one of the enumerated provisions in

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<sup>20</sup> As an example, the Postal Service recasts EPM service as provided pursuant to section 401, whereas previously that service was justified under former section 404(a)(6). While the arrangement may have changed, the Postal Service is nonetheless still providing a service in the form of branding (lending its name) to those with whom it contracts.

section 3662. Thus, continuing nonpostal services are subject to the Commission's complaint jurisdiction.<sup>21</sup>

Moreover, contrary to the Postal Service interpretation, the Commission's authority extends to matters outside the complaint provision. These would include, for example, appeals of post office closing (section 404(d)(5)), rules developed in response to the Treasury Department's report (section 2011(h)(2)(B)), and the report on cooperative mailings (section 711 of the PAEA).

In discussing its various revenue generating arrangements, the Postal Service argues that "[t]he Commission in the past has not intervened in such revenue-producing transactions involving Postal Service real and personal property (whether tangible or intangible), and the provisions of the PAEA would not lead to a change in this regard." Postal Service Notice at 28; see also *id.* at 31. Neither element of this statement has merit. This statement ignores fundamental differences between the Commission's jurisdiction under the PRA — which precluded the Commission from "intervening" in such arrangements — and its jurisdiction under the PAEA — which specifically requires that the Commission review nonpostal services.

Under the PRA, the Commission made it clear on numerous occasions that "[t]he lawfulness of the Postal Service's nonpostal activities is not an issue for resolution by the Commission."<sup>22</sup> Thus, the inference that the Commission's "failure" to "intervene" in such matters carries no weight. More importantly, however, the PAEA mandates that the Commission review each nonpostal service and determine which ones are to continue. Thus, the claim that "the provisions of the PAEA would not lead to a change in this regard" is badly misplaced. The PAEA represents a jurisdictional sea change.

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<sup>21</sup> Terminated nonpostal services would not be subject to the Commission's complaint jurisdiction. Since they could no longer be offered by the Postal Service, there would be no basis for a complaint.

<sup>22</sup> PRC Order No. 1449, January 3, 2006, at 21 (footnote omitted). See also PRC Order No. 724, December 2, 1986, at 11; PRC Order No. 1239, May 3, 1999, at 13; and PRC Order No. 1424, November 12, 2004, at 3 (emphasis in original) ("Nothing in the proposed rule affects the lawfulness of Postal Service products or services that are *not* postal.").

In sum, the Postal Service has not complied with the directives of Order No. 50, including, among other things, that it “identify and provide a complete description of each nonpostal service offered by the Postal Service on the date of enactment of the PAEA.”<sup>23</sup> Therefore, the Postal Service is directed to file by no later than June 9, 2008 a complete listing and comprehensive description of each nonpostal service provided as of December 20, 2006, including all existing agreements (contracts, arrangements, or however characterized) that generate revenues (or for which the Postal Service otherwise receives compensation) regardless of the statutory authority claimed for such agreements. For those it wishes to continue, the Postal Service should provide a sworn statement by a knowledgeable person (or persons) addressing the public need for each such service and such other matters, if any, the Postal Service deems relevant (collectively, Postal Service statement).

With respect to nonpostal services that it now wishes to have classified as postal services, the Postal Service is directed to file a list of such services by no later than June 9, 2008 accompanied by a sworn statement by a knowledgeable person (or persons) in support of and justifying the proposal.<sup>24</sup> The Postal Service may, if it wishes, submit its proposal to have certain nonpostal services reclassified as postal prior to June 9, 2008. Any nonpostal service that the Postal Service does not seek to reclassify must be included in the nonpostal services listing, also due no later than June 9, 2008, as discussed above.

Finally, on or before June 9, 2008, the Postal Service shall also provide the total annual revenues for FY 2006 and FY 2007 for each nonpostal service (whether subject to reclassification or not). The Postal Service may submit revenue information in a non-public annex.

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<sup>23</sup> PRC Order No. 50, December 20, 2007, at 2 (footnote omitted).

<sup>24</sup> The listing should also include any unreported agreements (contracts or other arrangements) with customers, mailers, users of the mails, or their agents (collectively mailers) which involve mailers paying a discounted rate (or rates), receiving a rebate (or rebates) in some form from the Postal Service, or otherwise receiving some benefit from the Postal Service.

### C. Revised Procedural Schedule

As discussed above, the materials to be submitted by the Postal Service are due on or before June 9, 2008. The procedural schedule adopted in Order No. 50 is modified as follows:

- By no later than July 16, 2008, any interested person (party) may respond to the Postal Service statement by submitting a sworn statement from a knowledgeable person (or persons) addressing, at a minimum, the ability of the private sector to meet the public need for any nonpostal service that the party asserts should not be offered by the Postal Service (party's statement). A party may also address such other matters, if any, the party deems relevant.
- By no later than July 30, 2008, the Postal Service and any interested person may submit a reply to any party's statement. Such reply shall be in the form of a sworn statement by a knowledgeable person (or persons).
- Initial briefs are due August 27, 2008; and
- Reply briefs are due September 9, 2008.

*It is ordered:*

1. The Public Representative Motion to Compel United States Postal Service to File Complete List of Nonpostal Services, filed March 25, 2008, is granted.
2. As set forth in the body of this Order, the materials to be submitted by the Postal Service are due no later than June 9, 2008.
3. The procedural schedule is revised as set forth in the body of this Order.

By the Commission.

Steven W. Williams  
Secretary