

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

Review of Nonpostal Services

Docket No. MC2008-1

INITIAL BRIEF OF PITNEY BOWES INC.

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I. INTRODUCTION

Pitney Bowes Inc. (Pitney Bowes) submits this initial brief in response to PRC Order No. 50, the Postal Regulatory Commission's (Commission) Notice and Order Concerning Review of Nonpostal Services (Docket No. MC2008-1).

This is an important proceeding that reflects Congress' intent in enacting the Postal Accountability and Enhancement Act (PAEA)¹ to focus the Postal Service on its core responsibilities to provide "adequate and efficient postal services at fair and reasonable rates and fees." 39 U.S.C. § 403(a). Congress recognized that the Postal Service, like any other successful business, must focus on its core mission. The core mission of the Postal Service is to provide trusted, affordable, universal postal services. Accordingly, the Postal Service ought to focus on its core postal functions as a means of enhancing the value and ensuring the constant, vigorous improvement of the mail.

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[.]" 39 U.S.C. § 102(5). The term "nonpostal service" is defined derivatively as "any service that is not a postal service defined under section 102(5)." 39 U.S.C. § 404(e)(1).

Section 404(e) of the PAEA expressly limits the Postal Service's authority to provide nonpostal services to those it offered as of January 1, 2006. *See* 39 U.S.C. § 404(e)(2). Section 404(e) further directs the Commission to review each nonpostal service offered by the Postal Service. *See* 39 U.S.C. § 404(e)(3). The purpose of the

¹ *See* Pub. L. No. 109-435, 120 Stat. 3198 (Dec. 20, 2006). The PAEA amends various sections of title 39 of the United States Code. Unless otherwise noted, section references in these comments are to sections of title 39.

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. *See id.* Any nonpostal service that the Commission concludes should not continue shall terminate. *See* 39 U.S.C. § 404(e)(4). For any nonpostal service that the Commission authorizes to continue, the Commission "shall designate whether the service shall be regulated . . . as a market dominant product, a competitive product, or an experimental product." 39 U.S.C. § 404(e)(5).

On December 20, 2007, the Commission initiated this proceeding and directed the Postal Service to submit a sworn statement listing each nonpostal service that it offered on the date of enactment of the PAEA, to identify the current and proposed classification of the service, and to describe the public need for each service. *See* PRC Order No. 50, at 2. On June 9, 2008, the Postal Service filed a complete list of all the activities and programs not currently classified as postal services that the Postal Service wished to continue.² On June 23, 2008, the Postal Service filed sworn statements providing the factual background and supporting justification for continuation of all of the activities and programs not currently classified as postal services.

Among the activities and programs listed as "core business-related activities" is the MoverSource Program. This brief supports the Postal Service's request to continue the MoverSource Program because of its important role in helping the Postal Service perform a key governmental function.

² As noted in PRC Order No. 74 and subsequent Postal Service filings, there is a difference of opinion between the views of the Postal Service and the views of the Commission regarding the scope and nature of this proceeding and the bases and terms upon which certain activities and programs are permitted to continue.

II. DISCUSSION

The sworn statements of Patrick R. Donahoe and Alice VanGorder provide the factual background and supporting justification for the continuation of the MoverSource Program.

A. Factual Background of the MoverSource Program

As recognized in the statements filed by the Postal Service, the annual processing of approximately 46 million change-of-address orders is a “vital and necessary part” of maintaining basic postal services to the American public. *See* Donahoe Decl., at 16; VanGorder Decl., at 8. To manage and enhance this “vital and necessary” function, the Postal Service and Imagitas formed a Strategic Alliance to develop and implement an innovative and integrated program called the MoverSource Program. *See* Donahoe Decl., at 17; VanGorder Decl., at 9. Under this arrangement, the Postal Service provides limited access to certain intellectual property to Imagitas for the purpose of assisting the Postal Service in carrying out the change-of-address function.

1. The Change-of-Address Process

Movers have two options when filing a change of address. They may either change their address by completing a hard copy P.S. Form 3575 that is either mailed in or given to a Postmaster or complete a change-of-address on a web-based application located via a link on USPS.com.

In order to provide a high-quality, effective, and secure address change process, movers are provided a Mover’s Guide that includes P.S. Form 3575 – Change of Address Order and a variety of move-related information, including a postcard that the mover can use to notify catalog mailers of his or her new address. *See* VanGorder Decl., at 9.

Under the MoverSource Program, movers receive three separate mailings to confirm that a particular change-of-address order from a P.S. Form 3575 is valid: (1) a Move Validation Letter (MVL) is sent to the mover's old address; (2) a Customer Notification Letter (CNL), if applicable, is sent to the secondary member(s) of the household at the new address; and (3) a Welcome Kit™ is sent to the mover at his or her new address. *See id.*, at 9-10; Donahoe Decl., at 17. No other mailings are sent beyond those necessary to ensure a high-quality, effective, and secure change-of-address process.

The P.S. Form 3575 is available in post office retail lobbies as part of the Postal Service Official Change of Address Kit (Mover's Guide™) produced under the MoverSource Program. The Mover's Guide™ provides: instructions for completing the P.S. Form 3575; answers to frequently asked questions regarding the change-of-address process; information regarding mail forwarding rules; and select move-related advertisements. The hardcopy P.S. Form 3575 bears the return address of the "Postmaster, United States Postal Service," and contains an intelligent barcode that routes the card directly to the nearest Postal Service processing facility where the information on the card is scanned into the Postal Service database.

Upon filing the change-of-address form, the Postal Service sends to a mover's old address an MVL, which is an "Official Notice From Your Postal Service." *See VanGorder Decl.*, at 9. The purpose of the MVL is to confirm the validity and accuracy of the information submitted on the P.S. Form 3575 and to prevent fraudulent changes of address by confirming that the person intended to change his address. The MVL includes a telephone number (1-800-ASK-USPS) for movers to call if the change-of-address

information is incorrect or if the individual did not ask the Postal Service to forward his or her mail.

Within five to ten days of the scheduled move date (or the date the P.S. Form 3575 was received if filed after the move date), the first mover in the household receives a Welcome Kit™ at his or her new address. *See id.* The Welcome Kit provides the “Official Change-of-Address Confirmation.” Like the MVL, the Welcome Kit prompts the mover to confirm that the mail forwarding information is correct or, alternatively, to notify the Postal Service if the information is inaccurate or fraudulent. The Welcome Kit also includes information regarding the dates when the mail forwarding service expires, a Mover Directory listing public resources such as the address of the closest post office and information on how to locate the public library, the names and telephone numbers for local Congressional representatives and other government resources (e.g., IRS, Social Security Administration, and Voter Registration) and select move-related advertisements.

If there is more than one household member, the secondary household member(s) receive a separate Change-of-Address CNL at their new address. *See VanGorder Decl.*, at 9. The CNL is an “Official Notice From Your Postal Service.” The purpose of the CNL is to confirm that the Postal Service has received a change-of-address order from the mover and to notify the mover that the Postal Service will begin forwarding mail to the new address on the date provided by the mover. Like the MVL sent to the old address, the CNL includes a telephone number (1-800-ASK-USPS) for customers to report errors or fraudulent change-of-address orders. The CNL also includes select move-related advertisements.

Mover's Guide Online™ is a web-based change-of-address application. *See* VanGorder Decl., at 10. Movers are able to fill out an on-line “Official Change of Address Form” via the Mover's Guide Online™ interface which is a link from the Postal Service's home page (www.usps.com). *See id.* Similar to the hardcopy Mover's Guide, the on-line version provides links to move-related coupons, tips, and information. *See id.* Movers who change their address via Mover's Guide Online receive a follow up e-mail to confirm receipt of the request and to prevent fraudulent change of address requests. *See id.* Unlike the hardcopy Mover's Guide, movers are charged a \$1.00 fee for using the on-line change-of-address process. The \$1.00 fee is associated with the credit card verification necessary to authenticate the on-line change-of-address. Because there is a fee charged to the mailing public in connection with the on-line change-of-address service, the \$1.00 fee is currently classified as a Special Service under the Domestic Mail Classification Schedule (DMCS). *See* DMCS § 913, Fee Schedule 1000.

2. The MoverSource Program

By facilitating the Postal Service's change-of-address function, the MoverSource Program is serving an important public need. As discussed in the sworn statements of the Postal Service, the efficient, effective, and secure administration of the 46 million change-of-address orders each year is a “vital and necessary” part of maintaining basic postal services to the American public. *See* Donahoe Decl., at 16; VanGorder Decl., at 8.

Under the MoverSource Program, Imagitas pays for and manages the costs of the change-of-address program, including the costs of printing, paper, processing, distribution, postage and overhead, using revenue generated from the advertising of move-related products and services. *See* Donahoe Decl., at 17. Imagitas is responsible

for acquiring the move-related advertising. *See id.* The Postal Service does not have a direct relationship with the companies providing the move-related advertising, but all move-related advertisements are approved by the Postal Service. Under the program neither Imagitas nor the advertisers have access to mover data. To the extent that the revenue from the move-related advertising exceeds the costs of the Strategic Alliance, Imagitas and the Postal Service share the net revenue. *See id.*

B. The MoverSource Program Should Be Continued

The Postal Service maintains that the MoverSource Program is an activity or program offered under a grant of statutory authority independent of former section 404(a)(6). Thus the Postal Service contends that the MoverSource Program is beyond the scope of the current section 404(e)(3) and, therefore, the program may continue without the Commission's review or approval. *See* Further Response of the United States Postal Service to Order No. 74 and Notice of Filing of Sworn Statements, dated June 23, 2008, at 5-8. To the extent the Commission accepts this view, no review is required and no justification is necessary for the continuation of the MoverSource Program. However, to the extent the Commission declines to interpret section 404(e) in that fashion, the sworn statements filed by the Postal Service provide an adequate justification for the Commission to authorize the continuation of the MoverSource Program either as a function "ancillary" to a postal service, *see* 39 U.S.C. § 102(5), or under the "grandfather" authority of section 404(e)(3). *See* 39 U.S.C. § 404(e)(3).

The sworn statements submitted by the Postal Service establish that the annual processing of approximately 46 million change-of-address orders is a "vital and necessary part" of maintaining basic postal services to the American public. *See*

Donahoe Decl., at 16; VanGorder Decl., at 8. The statements further confirm that to manage this “vital and necessary” function, the Postal Service and Imagitas created this innovative and integrated program. *See* Donahoe Decl., at 17; VanGorder Decl., at 9. Thus the MoverSource Program represents a unique public/private partnership in which Imagitas’ role is intrinsic to the change-of-address process.

Moreover, the improvements to the Postal Service’s change-of-address process, as measured by increased customer satisfaction and cost savings were only possible through this public/private partnership. The improvements to the change-of-address process also further the Postal Service’s sustainability initiatives by reducing undeliverable-as-addressed mail and reducing the carbon footprint of the mail. As noted in the sworn statements of the Postal Service, the MoverSource Program has been recognized and celebrated with a Hammer award by the National Partnership for Reinventing Government as an example of an innovative and unique public/private arrangement to improve upon an inherently governmental function. *See* Donahoe Decl., at 18; VanGorder Decl., at 10. Accordingly, the Postal Service has conclusively established the value of and public need for the MoverSource Program.

The sworn statements of the Postal Service also establish that the private sector could not independently meet the public need for the change-of-address service in the way that the MoverSource Program can. The change-of-address function is an inherently governmental function and the Postal Service serves as the single repository of move update information. Therefore, the program can only be administered as an innovative, cooperative public/private arrangement.

Finally, if the MoverSource Program is reviewed and approved by the Commission as a postal service or as a grandfathered nonpostal service, the Commission must further determine whether the MoverSource Program will be designated as a market dominant, competitive, or experimental product. Because the MoverSource Program is an arrangement that facilitates a core function of the Postal Service, the program may appropriately be construed as a market dominant product. As such, any revenue generated by the MoverSource Program would be included in the Postal Service Fund and would be reported to the Commission.

Beyond the financial reporting obligations, however, the nature of the Commission's regulation of this and similar activities and programs remains unresolved. Consistent with the increased flexibility afforded to the Postal Service under the PAEA, the Commission should resist any invitation to micromanage the operations of the Postal Service.³ The Commission may exercise appropriate oversight to ensure the transparency of the Postal Service's finances and operations while confining the exercise of its regulatory authority to rate and service issues with broad implications or unfair competition issues.

For example, a defining feature of market dominant products is the annual limitation on the percentage changes in rates under section 3622(d)(1)(A). *See* 39 U.S.C. § 3622(d)(1)(A). The annual limitation was intended to protect postal rate payers from unpredictable changes in rates, and is limited by its terms to "rates" and "fees for postal services" as defined in section 102(7). *See* 39 U.S.C. § 102(7). With the exception of the

³ The draft complaint regulations recently published by the Commission appropriately recognize the need to balance the Commission's regulatory authority with the expanded "independence and flexibility" afforded to the Postal Service under the PAEA. *See* PRC Order No. 101, Notice and Order of Proposed Rulemaking Establishing Rules for Complaints (Docket No. RM2008-3) (August 21, 2008), at 4-5.

\$1.00 credit card verification fee in connection with the on-line change-of-address process, there is no “rate” or “fees for postal services” for the change-of-address service administered through the MoverSource Program. 39 U.S.C. § 102(7). Thus while the \$1.00 on-line fee, as a fee charged to the mailing public, is appropriately classified as a market dominant product within the Special Services class (and is subject to the annual percentage change in rates), there are no other “rates” or “fees” charged to the mailing public in connection with the MoverSource Program. Nor is the pricing that Imagitas negotiates with its print vendors and advertisers properly subject to the annual limitation because these prices are not charged for postal services and are not borne by rate payers. Again, the annual limitation was intended to protect postal rate payers from unpredictable changes in rates and (other than the \$1.00 credit card verification fee) there is no applicable “rate” or “fee,” as defined in section 102(7), that is implicated by the MoverSource Program.

III. CONCLUSION

For the reasons stated above, Pitney Bowes strongly supports the Postal Service's request to continue the MoverSource Program.

Respectfully submitted:

/s/

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