

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

REVIEW OF NONPOSTAL SERVICES

Docket No. MC2008-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE  
TO POSTCOM ET AL MOTION TO SEVER FROM THIS  
PROCEEDING THE CONSIDERATION OF THOSE PREVIOUSLY  
UNREGULATED SERVICES THAT THE POSTAL SERVICE  
ASSERTS ARE "POSTAL SERVICES"  
(December 12, 2008)

On December 5, 2008, PostCom et al. filed a motion requesting that the Commission sever from this docket its consideration of those previously unregulated services that the Postal Service has requested be added to the product lists as "postal services" (rather than as "nonpostal services"), and establish a separate docket for the consideration of those services.<sup>1</sup> These services are Address Management Services, Customized Postage, Shipping and Mailing Supplies (ReadyPost), and Greeting Cards, Stationery and Related Items. Pursuant to 39 C.F.R. 3001.21(b), the Postal Service hereby files a response to this motion.

PostCom et al.'s motion does not accurately relay the procedural history of this docket. The motion correctly notes that the Postal Service's initial filings in this docket (on March 19, 2008 and April 1, 2008) indicated that the Postal Service proposed to classify certain previously unregulated services as "postal

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<sup>1</sup> Motion of PostCom et al. to Sever Consideration of the Postal Service's October 17 Filing Into a Separate Docket for Consideration of a New Postal Product Listing, and Require Substantiation to Comply with the Commission's Rules at 1, 6 (*hereinafter* "Motion").

services,” and that the Postal Service planned to make appropriate filings concerning the services.<sup>2</sup> However, the motion ignores Order No. 74, which was issued following these filings, and among other things contained the following requirement:

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. 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.<sup>3</sup>

Thus, it was the Commission, in Order No. 74, that required the Postal Service to justify the classification of these services as “postal services” as a part of this docket. The Postal Service responded to this portion of Order No. 74 on June 23, 2008 (following an extension of the previous June 9, 2008 deadline by the Commission). In that response, the Postal Service filed sworn statements discussing and justifying the continuation of these services as “postal services.”<sup>4</sup> The Postal Service further discussed these services in later filings with the Commission, including its briefs and its October 17, 2008 filing of MCS language.

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<sup>2</sup> See United States Postal Service Submission of Sworn Statement on “Nonpostal Services” Pursuant to Section 404(e) at 7 (March 19, 2008); Response of the United States Postal Service to Motion of the Public Representative to Compel Filing of Complete List of Nonpostal Services at Attachment One (April 1, 2008). The impetus for discussing these services in the Postal Service’s initial “nonpostal” filing was to clearly explain to the Commission and other interested parties why the Postal Service was not, in that filing, proposing to “grandfather” under section 404(e) certain services that some may have expected to be grandfathered, due to the fact that they were previously unregulated.

<sup>3</sup> Order No. 74 at 14 (footnote omitted).

<sup>4</sup> See Further Response of the United States Postal Service to Order No. 74, and Notice of Filing Sworn Statements (June 23, 2008). The sworn statements were those of Tom Foti (Customized Postage), Margot Meyers (ReadyPost and Greeting Cards), Pranab Shah (International Money Transfer Service), and Alice VanGorder (Address Management Services).

Like the June 23, 2008 filing, these filings reflected the fact that Order No. 74 had made the appropriate treatment of these services part of this proceeding. As such, the motion's statement at page 1 that the Postal Service sought to "expand the scope of this proceeding" in a "belated and untimely" either in its initial brief or in its October 17 filing manner is incorrect.

Section 3642 allows the Commission to initiate a proceeding to consider whether the product lists should be expanded. Clearly, Order No. 74, which was published in the *Federal Register*, and which gave parties an opportunity to comment on the Postal Service's filings, indicated that the Commission intended to consider these services as part of this proceeding. This was an eminently reasonable decision, considering the fact that, like the "nonpostal services" being considered pursuant to section 404(e), these are pre-existing services previously unregulated by the Commission which the Postal Service wishes to continue. Furthermore, the Postal Service has in its various filings provided the general information that the Commission is required to consider when classifying a postal product as either market-dominant or competitive under section 3642. In other words, the Postal Service has in its various filings in this proceeding justified the continuation of these services, and has discussed the issues concerning their proper categorization as either market-dominant or competitive. The Postal Service does not believe there is a legal impediment to the Commission issuing a decision that these products should be added to the product lists as "postal services," and characterizing them as market-dominant or competitive, which is the purpose of a section 3642 proceeding. Considering the nature of these

activities, and their clear relationship to core postal functions, it is important for the sake of clarity that the Commission does not treat them as falling within the definition of “nonpostal service.”

PostCom et al. are principally concerned with Address Management Services. As even they noted in their Reply Brief in this docket, however, there is “no question that address quality programs and support functions are intimately connected to the “core postal mission of moving the mail.””<sup>5</sup> If this is so, their proper categorization as “postal services,” rather than as “nonpostal services,” should not be in doubt.<sup>6</sup> Furthermore, the Postal Service has not proposed any substantive changes to the Address Management Services, or any other pre-existing service, as part of this docket. The only question is their placement within the new regulatory structure of the PAEA. The Postal Service has proposed that Address Management Services be market-dominant, with three exceptions.<sup>7</sup> Furthermore, nothing prevents the Commission from deferring certain issues concerning these services and the specific provisions of chapter 36 (such as the application of the price cap to the market-dominant Address Management Services).<sup>8</sup>

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<sup>5</sup> PostCom et al. Reply Brief at 6 (quoting Postal Service Brief at 95).

<sup>6</sup> PostCom et al. raise questions about the “reasonableness” of the prices charged for “services related to those identified in the October 17 proposal” for which no price is charged, and how the costs and revenues for the Address Management Services will be reported in the Annual Compliance Report. Motion at 4. Neither of these is a relevant consideration in a section 3642 proceeding concerning the Address Management Services, which is directed to determining on what side of the aisle (market-dominant or competitive) they should fall. It is unclear what relevance the fact that “related” activities may be provided for free has to the proper classification of a postal product under section 3642. Furthermore, questions about the reporting of cost and revenue data is a matter for the reporting rules, not a section 3642 proceeding.

<sup>7</sup> Postal Service Initial Brief at 96-97.

<sup>8</sup> PostCom et al. suggest that AMS be grandfathered as a market-dominant “nonpostal service.” There is little difference between issuing such a ruling, and issuing a ruling that they are market-dominant “postal services,” since in either case they are subject to the provisions of chapter 36.

PostCom et al. also claim that the Postal Service's MCS language for Address Management Services is incomplete, because it does not mention "Advance Notification and Tracking System, MAC Batch, MAC System & MAC Gold, Mailpiece Quality Control, and PAVE System."<sup>9</sup> Appendix A discusses those activities, as well as several additional related activities. As discussed in Appendix A, those activities do not relate to address quality; rather, they are voluntary business mail acceptance activities, relating to the certification of bulk mail software and systems, the training and certification of individuals in DMM standards, the provision of reference data concerning the DMM, and the provision of free reports on the delivery progress of bulk mailings with specific in-home delivery windows.<sup>10</sup> As such, they are not address management services, meaning the description of the Address Management Services provided in the MCS language is full and complete. The fact that these activities are not included in the MCS language provides no impediment to classifying Address Management Services in this proceeding.<sup>11</sup>

Finally, one wonders why PostCom et al. waited until December 5, over five months after the Postal Service's response to Order No. 74 concerning these services, and nearly two months after the October 17 filing that is ostensibly the

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<sup>9</sup> Motion at 4.

<sup>10</sup> As voluntary programs, they are not required to receive a specific postage rate.

<sup>11</sup> Even if a section 3642 proceeding was appropriate for these activities, that does not affect the consideration of Address Management Services in this docket. However, the Postal Service does not believe that a section 3642 proceeding is appropriate for these activities. There are a large number of activities relating to core postal functions that may generate some revenue as an incidental matter, as a review of the Postal Service's Response to Order No. 74 indicates. The activities identified by PostCom et al. are of this type, as they either derive no revenue, or extremely low revenue (only three of the activities earn revenue above \$1,000). The Postal Service does not believe that the provision of such activities, which only earn revenue (if any) as an incidental matter, implicate the regulation of postal "products" under chapter 36.

motivating factor of this motion, to seek the relief it is requesting here. PostCom et al. complain that there is not enough time to address the deficiencies it perceives in the record concerning these services. Yet, the fact that the time is short is a direct consequence of the fact that PostCom waited so long to file this motion. If they had filed their motion in a timely manner, there would have been adequate time to address their concerns. Thus, if anyone has been “belated and untimely,” it has been PostCom et al.

The Postal Service therefore urges the Commission to issue a ruling that 1) concludes that Address Management Services, Customized Postage, Shipping and Mailing Supplies (ReadyPost), and Greeting Cards, Stationery and Related Items are “postal services,” and 2) adopts the MCS language proposed for those services.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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## Appendix A

### *PAVE™ System Certification (Presort Accuracy, Validation, & Evaluation)*

PAVE evaluates and certifies the accuracy of presort software that sorts mailing lists to DMM mail preparation standards. Participation in PAVE is voluntary and is only available to presort software developers. The Postal Service certifies software meeting its standards until the expiration of the applicable PAVE cycle. Software must be re-certified for each PAVE cycle. Ordinarily, a PAVE cycle extends from Mid-May through Mid-May of the next year, and permits software use until the following Mid-May date. The free-of-charge 90-day testing cycle begins Mid-April. However, a fee is charged for: (1) any product that has failed three electronic tests or two hardcopy tests in any single test category, during the test cycle; or (2) any developer initiating testing after the initial 90 day 'free' period of a cycle.

FY2007 Revenue:	\$0.00
FY2008 Revenue:	\$570.00

#### In-Testing-Cycle

First event of a third electronic attempt or second hardcopy attempt in any single test category:	\$250.00
Each additional test:	\$35.00

#### Out-of-Testing-Cycle

First attempt in any single test category:	\$250.00
Each additional test:	\$35.00

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### *MAC™ System Certification (Manifest Analysis and Certification)*

MAC evaluates and certifies manifest mailing software that accurately lists and calculates postage for non-identical piece mailings to DMM, IMM, and Manifest Mailing System (Pub. 401) standards. Participation in MAC is voluntary and is only available to manifest software developers. The Postal Service certifies software meeting its standards until the expiration of the applicable MAC cycle. Software must be re-certified for each MAC cycle. Ordinarily, a MAC cycle extends from Mid-May through Mid-May of the next year, and permits software use until the following Mid-May date. The free-of-charge 90-day testing cycle begins Mid-April. However, a fee is charged for: (1) any product that has failed three tests in any single test category, during the test cycle; or (2) any developer initiating testing after the initial 90 day 'free' period of a cycle.

FY2007 Revenue:	\$0.00
FY2008 Revenue:	\$0.00

#### In-Testing-Cycle

First event of a third attempt in any single test category:	\$250.00
Each additional test:	\$35.00

#### Out-of-Testing-Cycle

First attempt in any single test category:	\$250.00
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Each additional test: \$35.00

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*MAC™ Gold System Certification (Manifest Analysis and Certification)*

MAC Gold evaluates and certifies manifest mailing systems (software, weigh scales, and label printers) that accurately lists and calculate postage for non-identical piece mailings to DMM, IMM, and Manifest Mailing System (Pub. 401) standards. Participation in MAC Gold is voluntary and is only available to manifest system developers. The Postal Service certifies software meeting its standards until the expiration of the applicable MAC Gold cycle. Software must be re-certified for each MAC Gold cycle. Ordinarily, a MAC Gold cycle extends from Mid-May through Mid-May of the next year, and permits product use until the following Mid-May date. The free-of-charge 90-day testing cycle begins Mid-April. However, a fee is charged for: (1) any product that has failed three tests in any single test category, during the test cycle; or (2) any developer initiating testing after the initial 90 day 'free' period of a cycle.

FY2007 Revenue: \$0.00  
FY2008 Revenue: \$0.00

In-Testing-Cycle

First event of a third attempt in any single test category: \$250.00  
Each additional test: \$35.00

Out-of-Testing-Cycle

First attempt in any single test category: \$250.00  
Each additional test: \$35.00

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*MAC™ Batch System Certification (Manifest Analysis and Certification)*

MAC Batch evaluates and certifies manifest/presort mailing products that accurately list and calculate postage for presorted non-identical piece mailings to DMM and Manifest Mailing System (Pub. 401) standards. Participation in MAC Batch is voluntary and is only available to manifest/presort software developers. The Postal Service certifies software meeting its standards until the expiration of the applicable MAC Batch cycle. Software must be re-certified for each MAC Batch cycle. Ordinarily, a MAC Batch cycle extends from Mid-May through Mid-May of the next year, and permits software use until the following Mid-May date. The free-of-charge 90-day testing cycle begins Mid-April. However, a fee is charged for: (1) any product that has failed three tests in any single test category, during the test cycle; or (2) any developer initiating testing after the initial 90 day 'free' period of a cycle.

FY2007 Revenue: \$0.00  
FY2008 Revenue: \$0.00

In-Testing-Cycle

First event of a third attempt in any single test category: \$250.00  
Each additional test: \$35.00

Out-of-Testing-Cycle	
First attempt in any single test category:	\$250.00
Each additional test:	\$35.00

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*PAGE™ System Certification (Periodicals Advertising Grading and Evaluation)*

PAGE, a voluntary certification program, evaluates and certifies the accuracy of publication and print planning (PPP) software that calculates virtual copy weight and the percentage of advertising to DMM Periodicals price computation standards. PAGE also certifies users of PPP software who demonstrate threshold competency (90 percent or greater) with the software and general knowledge of Periodicals mailings based on DMM standards and applicable Customer Service Rulings (CSRs). The Postal Service certifies software products and users meeting its standards until the expiration of the applicable PAGE cycle. Ordinarily, each PPP software, obtaining PAGE certification, is certified for one year. Product cycle is determined by the date the software is certified. Each user is certified for two years. User cycle is determined by the date the user is certified.

FY2007 Revenue:	\$1,520.00
FY2008 Revenue:	\$2,200.00
Product Certification:	
Software analysis at NCSC	\$1,000.00
Software analysis at developer's site	\$2,500.00
Software recertification at developer's site	\$1,500.00
User Certification:	
User testing packet and analysis	\$ 25.00
PAGE Reference Kit (Optional)	\$ 20.00

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*MQC Certification Training Program (Mailpiece Quality Control)*

MQC is a voluntary self-study course designed to train mailers to develop mailpieces that meet the Postal Service DMM mailpiece design standards. Upon completion of training, individuals can take a certification examination. A MQC certificate is issued upon successful completion of the final exam (90 percent or greater) and certification is awarded for a two-year period.

FY2007 Revenue:	\$63,394.00
FY2008 Revenue:	\$98,092.00
Fee Schedule: (each)	
Hardcopy Final Exam (each)	\$ 25.00
On-Line Final Exam (each)	\$ 12.00
Administrator's Guide (each)	\$ 5.00
Student Guide (each)	\$ 20.00
Resource Kit (includes postal templates and guide)	\$ 5.00

