

ORDER NO. 220

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

Before Commissioners:

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

Notice of Price Adjustment for
Standard Mail High Density Flats

Docket No. R2009-4

NOTICE AND ORDER CONCERNING PRICE ADJUSTMENT FOR
STANDARD MAIL HIGH DENSITY FLATS

(Issued June 4, 2009)

I. OVERVIEW

On June 1, 2009, the Postal Service filed with the Commission a notice announcing its intention to adjust prices for Standard Mail High Density flat pieces pursuant to 39 U.S.C. 3622 and 39 CFR Part 3010.¹ The proposed adjustment has a planned implementation date of July 19, 2009. The Postal Service submits that this proposal represents a way that it can take advantage of its greater pricing flexibility for market dominant products under the Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3218 (2006), to “respond quickly and flexibly to perceived needs in the mailing community.” *Id.* at 3.

¹ United States Postal Service Notice of Market-Dominant Price Adjustment, June 1, 2009 (Notice).

II. POSTAL SERVICE FILING

Price adjustment. The proposed price adjustment reduces prices for the Standard Mail High Density flats price categories for both commercial and nonprofit mailpieces. *Id.* at 2. The adjustment decreases the minimum per-piece prices for commercial and nonprofit High Density flats by 0.1 cent, and decreases the pound price element for commercial and nonprofit High Density flats to match the Standard Mail Saturation flats pound price element. The per-piece price element for pound rated pieces increases by 0.7 cents per piece to “ensure a smooth transition at the breakpoint,” according to the Postal Service. *Id.* at 3. Dropship discounts for High Density flats do not change under this proposal.

In support of the proposal, the Postal Service explains that it has heard the concerns expressed by High Density flats mailers on the detrimental impact that the above-average price increases implemented on May 11, 2009 will have on their businesses. After taking this concern into consideration, the Postal Service determined that High Density flat prices that reflect an increase from the previous year similar to the average Standard Mail increase are more appropriate at this time. *Id.* at 2.

Conformance with 39 CFR 3010. The Postal Service’s proposed schedule of prices appears in Appendix A as draft Mail Classification Schedule language, which is attached to the Notice. *Id.* at 1. It also represents, in conformance with the notice requirements of 39 CFR 3010.14(a)(3), that it will issue public notice of the price changes at least 45 days before the effective date via several additional means, including issuing notice of the price changes on the Postal Service’s website (<http://www.usps.com>), the *Postal Explorer* website (<http://www.pe.usps.com>), the *DMM [Domestic Mail Manual] Advisory*, and the *P&C [Producers and Consumers] Weekly*, and a press release announcing the changes. The Postal Service identifies Joseph Moeller, Manager, Pricing, as the official available to provide prompt responses to requests for clarification from the Commission. *Id.* at 2.

Impact on the price cap. Because the proposed High Density flat price adjustments are decreases and not part of the annual CPI cap price change, the Postal

Service considers this price adjustment to be outside the Commission's current rules. *Id.* at 3. The Postal Service "proposes that the adjustments have no impact on price cap issues, but would welcome other views." *Id.* Accordingly, the Postal Service has made no calculation of cap or price changes described in Commission rule 3010.14(b)(1) through (4). The Postal Service "is not claiming any new unused rate adjustment authority as a result of this price decrease." *Id.*²

Objectives and factors. The Postal Service lists and discusses what it considers the relevant objectives and factors of 39 U.S.C. 3622 as to their relationship to the proposed price adjustment. *Id.* at 4-8. It believes at most, the price reductions will cause only a modest decrease in Postal Service revenues, and could potentially avoid diversion of large volumes of mail currently paying High Density flats prices to non-postal delivery.

Workshare discounts. The Postal Service maintains its view that the price differences between the High Density categories and the Saturation and Carrier Route categories are not workshare discounts. It recognizes that the Commission has instituted Docket No. RM2009-3 to consider that issue. In this case, the Postal Service provides in Appendix B (and an associated Excel file) a table showing the cost and price differences, as well as passthroughs for Carrier Route, High Density, and Saturation flats (both commercial and nonprofit) following the adjustments to the prices of High Density flats. The Postal Service notes that none of the passthroughs exceeds 100 percent, so the limitations of section 3622(e) do not apply. It explains that all of the passthroughs for the High Density/Carrier Route relationship are slightly higher, and the passthroughs for the High Density/Saturation relationship are slightly lower than those reported in Docket No. R2009-2 due to the instant proposed High Density flats price reduction.

Preferred rates. The Postal Service explains that nonprofit High Density flats receive the same price reductions as commercial flats. Due to the fact that the

² The Postal Service submits that the unused price adjustment authority for Standard Mail should remain at 0.081 percent. *Id.* at 3. See Order No. 191, Order Reviewing Postal Service Market Dominant Price Adjustment, May 16, 2009.

proposed price changes apply to both commercial and nonprofit flats and due to the small volumes of High Density nonprofit flats, the Postal Service submits that the required 60 percent ratio, required under 39 U.S.C. 3626, between commercial and nonprofit prices is not altered as a result of the proposed price adjustment.

III. COMMISSION ACTION

The Commission establishes Docket No. R2009-4 to consider all matters related to the Notice as required by 39 U.S.C. 3622.

Comments. The Commission's rules provide for a 20-day comment period starting from the date of the filing of the Notice. See 39 CFR 3010.13(a)(5). Interested persons may express views and offer comments on whether the planned changes are consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010. In particular, the Commission requests that interested parties (including the Postal Service) address the following topics:

1. This is the first Postal Service request for a permanent rate decrease in rates of general applicability. The Postal Service states that it "proposes that the adjustments have no impact on price cap issues, but would welcome other views." *Id.* at 3. Title 39 U.S.C. 3622(d)(1)(A) states that the Commission's system of rate regulation must include regulations that include an annual limitation calculation from the last date that "the Postal Service files its notice of its intention to *increase* rates." 39 U.S.C. 3622(d)(1)(A) (emphasis added). Does this provision suggest that permanent rate decreases in rates of general applicability do not require an analysis under section 3622(d)(1)(A)?
2. If the price cap under section 3622(d)(1)(A) does not apply to this case, is an analysis under section 3622(d)(2)(C) (relating to unused rate adjustment authority) also not required?
3. Notwithstanding the potential application of section 3622(d)(2)(C) to this case, can the Postal Service waive some or part of its unused rate adjustment authority? Can the Commission enforce such a waiver?

4. The Notice states that “the Postal Service is not claiming any new unused rate adjustment authority as a result of this price decrease.” *Id.* at 3. Should this statement be construed as an intention by the Postal Service to waive any resulting additional unused rate adjustment authority that may result due to the rate decreases from the instant rate adjustment?

Comments are due no later than June 22, 2009.

Public representative. The Commission appoints Kenneth E. Richardson to represent the interests of the general public in this proceeding. See 39 U.S.C. 505. Pursuant to rule 3010.13(c), the Commission will issue its determination in this proceeding by July 6, 2009.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. R2009-4 to consider matters raised by the Postal Service’s June 1, 2009 filing.
2. Interested persons may submit comments on the planned price adjustments. Comments are due June 22, 2009.
3. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth E. Richardson to represent the interests of the general public in this proceeding.
4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this Notice in the *Federal Register*.

By the Commission.

Steven W. Williams
Secretary