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

Rate Adjustment Due To Extraordinary Or Exceptional Circumstances	**Docket No. R2010-4**

ANSWER OF THE SATURATION MAILERS COALITION, VALASSIS DIRECT MAIL, INC., VALPAK DIRECT MARKETING SYSTEMS, INC. AND VALPAK DEALERS' ASSOCIATION TO MOTION OF THE AFFORDABLE MAIL ALLIANCE TO DISMISS REQUEST

(August 2, 2010)

On July 26, 2010, a newly-formed group called the Affordable Mail Alliance (AMA) filed a motion to dismiss the Postal Service's request for an exigent rate increase pursuant to section 3622(d)(1)(E) of the Postal Accountability and Enhancement Act (the PAEA). The motion argues not only that the Postal Service has failed to demonstrate that its request satisfies the "extraordinary or exceptional circumstances" test of the law, but furthermore, that the request should be rejected because the Postal Service's poor financial condition is primarily due to its own mismanagement. The Saturation Mailers Coalition, Valassis Direct Mail, Inc., Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association hereby submit their answer to that motion.

Although the answering parties have some differences of opinion on the extent to which the Postal Service's filing satisfies the "extraordinary or exceptional circumstances" test, we all agree that an exigent rate increase at this time is particularly problematic for mailers and ultimately the Postal Service because of the still-fragile condition of the nation's economy and the marketplace. Consumers and businesses are guarding their pocketbooks and are not receptive to price increases. That, along with the Postal Service's poor financial condition and the prospect of greater-than-CPI rate increases, are creating a crisis of confidence in postal distribution that could precipitate a steeper downward cycle in mail volumes.

We also believe that the first priority must be to legislatively fix the pension and retiree health overfunding problems that are drowning the Postal Service in red ink. The exigency filing is a symptom of that more serious problem which, if rectified, would obviate the need for an exigency rate increase.

However, we disagree with the AMA motion's contention that the blame for the Postal Service's financial woes can be placed primarily at the doorstep of postal management. The motion, for example, cites as evidence of mismanagement the contention that the Postal Service failed to respond to the recession as quickly and aggressively as its private-sector competitors, FedEx and UPS. This private-sector comparison is inapt. As described in joint comments submitted to the Federal Trade Commission in 2007 by several of the answering parties, the Postal Service is subject to a myriad of legal, regulatory, and political constraints and burdens that impair its ability to manage and place it at a disadvantage with private-sector competitors, including the restructuring and labor issues cited by AMA as evidence of mismanagement.[1]

While it is always easy to criticize management for its various actions or inactions, often with cause, the primary cause of the Postal Service's immediate

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[1] *See* Joint Comments Of The Mail Order Association Of America, Advo, Inc. (now Valassis), And Valpak Direct Marketing Systems, Inc. Concerning The Different Application Of Laws To The United States Postal Service And Private Competitors, August 6, 2007, FTC Docket P071200. Because these comments to the FTC are germane but may not be readily available, we have attached them to this answer.

financial woes is not mismanagement but rather the onerous and unfair burden imposed upon the Postal Service by Congress in the PAEA to prefund the retiree health benefits obligation on an extremely aggressive payment schedule. In total, these obligations amount to a cash drain well in excess of $7 billion annually, representing a staggering 11% of the Postal Service's total expenses.[2] Not only is this prefunding requirement unique among American business, but the Postal Service has absolutely no control over these expenses. They are etched into law, and can only be changed by an act of Congress. Significantly, absent these payments, the USPS would be profitable even in this era of declining mail volume.

Fortunately, Congress also included in the PAEA a new section 802(c) allowing the Postal Service to appeal determinations by the Office of Personnel Management concerning its pension and retiree health obligations to the Postal Regulatory Commission. The Commission has just concluded its watershed review of the Postal Service's appeal of OPM's pension determination in Docket SS2010-1, issuing the report of its independent actuarial consultant, the Segal Group. That report concurred with the USPS Office of Inspector General's contention that the Postal Service had been overcharged in the allocation of pension costs for employees of the old Post Office Department who continued employment with the USPS, concluding that under a "fair

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[2] This $7 billion annual figure includes over $5 billion in prefunding and $2 billion for current retiree health premium payments. This aggressive prefunding schedule was written into the PAEA at the insistence of the Administration for purposes of maintaining "budget neutrality," a burden made even worse by a late amendment that the annual premium payments also be paid by the Postal Service rather than being drawn from the Retiree Health Benefits Fund.

and equitable" allocation based on generally accepted accounting principles, the Postal Service has indeed overpaid its pension obligations in the magnitude of $50-55 billion.

The priority now should be obtaining corrective legislative relief. That task will require the cooperative effort of all interested parties – mailers, management, and labor groups working together – to credit the pension overfunding to the retiree health benefit prefunding obligation, thus placing the Postal Service on sounder financial footing so that it will be better able to manage in the difficult times ahead.[3]

From that standpoint, we are concerned that some of the rhetoric in the AMA motion sends the wrong message. In particular, at page 6 of the motion, AMA presents a "leaking bucket" analogy, claiming that:

> "Without effective cost control, trying to make the Postal Service solvent through financial infusions will be like trying to fill a bucket with a hole in its bottom. The Postal Service will lurch from one financial crisis to the next." Motion at 6.

This statement is overbroad and counterproductive. The biggest "hole in the bucket" by far is the $7 billion annual payment the Postal Service is required to make for retiree health benefits under the PAEA. Absent that payment, the Postal Service would be profitable, and this exigency rate case would be unnecessary. Relief from that excessive and debilitating payment is clearly outside management control, resting entirely with Congress.

We are concerned that statements like this – simplistically blaming the Postal Service for "mismanagement" – may undermine the efforts and urgency in Congress to

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[3] We recognize that such funding legislation is not a long-term panacea. The USPS must continue its restructuring and cost-cutting efforts, and needs further relief on other constraints that impair its ability to manage.

obtain this essential legislative relief from the pension and retiree health overfunding. That would be disastrous for all mailers and the entire postal community, especially since such relief may well be the surest means of avoiding this and perhaps subsequent exigency rate increases that are of such concern to AMA's members and ourselves. We should all be marching together on that common cause.

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