

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

Before Commissioners:

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

Semi-Permanent Exceptions from
Periodic Reporting of Service
Performance Measurement

Docket No. RM2010-14

ORDER APPROVING SEMI-PERMANENT EXCEPTION FROM PERIODIC
REPORTING OF SERVICE PERFORMANCE MEASUREMENT
FOR APPLICATIONS AND MAILING PERMITS

(Issued October 27, 2010)

On September 30, 2010, the Postal Service filed a request for a semi-permanent exception from periodic reporting of service performance measurement for Applications and Mailing Permits, pursuant to Commission Order No. 465 and 39 CFR 3055.3.¹

The Commission subsequently issued Order No. 550 which established Docket No. RM2010-14 for consideration of matters related to the proposed semi-permanent

¹ United States Postal Service Request for Semi-Permanent Exception From Periodic Reporting of Service Performance Measurement, September 30, 2010 (Request); see *also* Docket No. RM2009-11, Order Establishing Final Rules Concerning Periodic Reporting of Service Performance Measurements and Customer Satisfaction, May 25, 2010, at 22.

exception identified in the Postal Service's Request.² The Order also appointed a Public Representative, and set October 15, 2010 as the filing deadline for interested persons to comment.

The Commission grants the Postal Service's Request for a semi-permanent exception for Applications and Mailing Permits.

Statutory requirements. The Commission's Rules of Practice and Procedure acknowledge that certain products, or components of products, should be excluded from measurement because requiring such measurements would be unnecessary, impractical, or would not further the goals and objectives of the Postal Accountability and Enhancement Act (PAEA). Rule 3055.3 provides the Postal Service the opportunity to request that a product, or component of a product, be excluded from service performance measurement reporting upon demonstration that:

- (1) The cost of implementing a measurement system would be prohibitive in relation to the revenue generated by the product, or component of a product;
- (2) The product, or component of a product, defies meaningful measurement; or
- (3) The product, or component of a product, is in the form of a negotiated service agreement with substantially all components of the agreement included in the measurement of other products.

39 CFR 3055.3(a)(1)—(3).

Once granted, exceptions are semi-permanent in nature. The Postal Service is not required to reapply for exceptions on a regular basis, barring changed circumstances. However, the Postal Service is required to periodically identify the products, or components of a product, granted exceptions and certify that the rationale for originally granting the exception remains valid.

² Notice and Order Concerning Filing of Postal Service Request for Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement, October 1, 2010.

The Postal Service shall identify each product or component of a product granted an exception in each report required under subparts A or B of this part, and certify that the rationale for originally granting the exception remains valid.

39 CFR 3055.3(b).

Comments. Comments were received from the Public Representative.³ No other interested person filed comments. The Public Representative contends that the Postal Service should have followed 39 U.S.C. 3691(a), the requirements for establishing service standards, prior to requesting a semi-permanent exception from reporting pursuant to 39 CFR 3055.3(a)(2). The Public Representative notes that the Postal Service is authorized to update the list of service standards, and it has not done so since December 2007.

Analysis. The Commission finds that the Request is appropriately filed under the reporting exception rule 39 CFR 3055.3(a)(2). The intent of this rule is to provide an exception from reporting for products, or components of products, that defy meaningful measurement. Products, or components of products, that defy meaningful measurement include cases where it is not practicable to define and implement a meaningful service standard in furtherance of the goals of the PAEA. As it appears that a meaningful service standard for Applications and Mailing Permits is not practicable, there is no point in deferring action on the Postal Service's request. The Postal Service should follow the requirements of 39 U.S.C. 3691(a) and maintain a schedule identifying service standards for all of its products, but delays in updating Postal Service regulations can inadvertently occur.

The Public Representative also infers that the 39 U.S.C. 3691(a) process provides public notice of why a service standard is not being established for a particular product. The Commission notes that interested persons are provided with substantially

³ Public Representative Comments in Response to United States Postal Service Request for Semi-Permanent Exception From Periodic Reporting of Service Performance Measurement, October 15, 2010 (Public Representative Comments).

the same notice, along with an opportunity to comment and an opportunity to challenge Postal Service proposals, under 39 CFR 3055.3(a).

The Public Representative has provided a useful service by identifying other new products for which service standards have not yet been established. The Postal Service is encouraged to promptly develop standards for its products or indicate why standards are unnecessary or infeasible.

The Postal Service explains that Applications and Mailing Permits “comprises nothing more than a transaction intended to establish or renew permission for a mailer to enter bulk mailings that meet applicable specifications.” Request at 3. Therefore, the Postal Service contends that this service defies meaningful measurement and falls within the 39 CFR 3055.3(a)(2) exception from reporting of service performance measurements. *Id.*

The Commission finds that Applications and Mailing Permits defies meaningful measurement and falls within the parameters of 39 CFR 3055.3(a)(2) for an exception from performance measurement reporting. Applications and Mailing Permits only involves a transaction for a mailer to obtain permission to enter bulk mailings. It is a service that is not susceptible to meaningful service performance measurement. The request for a semi-permanent exception from reporting is granted.

It is Ordered:

Applications and Mailing Permits is granted an exception from annual and periodic reporting of service performance achievements under 39 CFR part 3055, subparts A and B, pursuant to 39 CFR 3055.3.

By the Commission.

Shoshana M. Grove
Secretary