

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

SEMI-PERMANENT EXCEPTION FROM  
PERIODIC REPORTING OF SERVICE  
PERFORMANCE MEASUREMENT

Docket No. RM2011-4

**UNITED STATES POSTAL SERVICE REQUEST FOR SEMI-PERMANENT  
EXCEPTION FROM PERIODIC REPORTING OF SERVICE PERFORMANCE  
MEASUREMENT OR, IN THE ALTERNATIVE, PETITION FOR RULEMAKING  
CONCERNING 39 C.F.R. § 3055.45(a)**  
(November 23, 2010)

Pursuant to the Commission's Order No. 465,<sup>1</sup> the United States Postal Service (Postal Service) hereby submits a request for a semi-permanent exception from the periodic reporting of service performance measurement. This request concerns First-Class Mail Flats, to the extent that 39 C.F.R. § 3055.45(a)(1)-(2) requires quarterly reporting of such items' performance at the district level. Alternatively, if the Commission deems such a request not to be warranted under its current rules, the Postal Service asks the Commission to amend 39 C.F.R. § 3055.45(a) to lift the requirement for district-level reporting of First-Class Mail Flats on a quarterly, basis.

**I. Procedural History**

In its initial comments in Docket No. RM2009-11, the Postal Service apprised the Commission of the products and product components for which the Postal Service did

---

<sup>1</sup> PRC Order No. 465, Order Establishing Final Rules Concerning Periodic Reporting of Service Performance Measurements and Customer Satisfaction, Docket No. RM2009-11, May 25, 2010.

not anticipate being able to report statistics in the near term, including First-Class Mail Flats.<sup>2</sup> The Postal Service cautioned that

This capability [to provide annual reports of national-level data] is conditioned, however, by the limitations explained above, with regard to First-Class Mail Flats, Standard Mail, Periodicals, and certain Special Services. The Postal Service is willing to work with the Commission to overcome these limitations and provide useful performance data, assuming a reasonable assessment of the Commission's, the mailers', and the public's needs. In the meantime, the periodic reporting rules should be drafted to permit flexibility in reporting data in these categories. Furthermore, the exception procedure, if employed, should accommodate the evolution of the Postal Service's practical capacities to provide the needed data. In this context, the basic requirements for reporting and documenting performance results should take into consideration cost, feasibility, and any constraints that might be created by the Postal Service's financial condition and its overall economic needs during the course of developing viable measurement systems. In other words, the requirements themselves should embody a realistic assessment of the Postal Service's capabilities, rather than relying exclusively on the exception mechanism.

Any other course is likely to cause considerable confusion and interfere with the Postal Service's ability to comply. Adopting the rules as proposed will create financial burdens on the Postal Service and its customers, especially if performance reporting creates pressures to adapt measurement systems to provide a frequency and level of data that are not needed.<sup>3</sup>

The Commission acknowledged this aspect of the Postal Service's comments in Order No. 465.<sup>4</sup> Among other things, the Commission established a formal process for the Postal Service to apply for "semi-permanent exceptions from reporting" in "instances that . . . should be readily identifiable and justifiable."<sup>5</sup> Specifically, the Postal Service must demonstrate that one of the following applies:

---

<sup>2</sup> United States Postal Service Comments in Response to Order No. 292 (hereinafter "USPS Initial Comments"), Docket No. RM2009-11, November 2, 2009, at 30-32. The relevant assertions and averments contained therein are incorporated by reference in this Request.

<sup>3</sup> *Id.* at 41-42.

<sup>4</sup> Order No. 465 at 18-21.

<sup>5</sup> *Id.* at 22.

- The cost of implementing a measurement system would be prohibitive in relation to the revenue generated by the product or product component;
- The product or product component defies meaningful measurement; or
- The product or product component is a negotiated service agreement with substantially all agreement components included in the measurement of other products.<sup>6</sup>

On October 1, 2010, the Postal Service requested a temporary waiver from quarterly service performance reporting for First-Class Mail Flats at the district level, pursuant to Order No. 465.<sup>7</sup> In that request, the Postal Service explained that First-Class Mail Flats account for a relatively small portion of EXFC test mailpieces due to their small volume relative to that of other First-Class Mail components. Therefore, the statistical precision for the service performance measures would vary greatly for Flats at the postal district level. Such wide variability in statistical precision levels means that reporting service performance currently would not provide meaningful results. The Postal Service, in an echo of its initial comments in Docket No. RM2009-11, pointed out that “[i]ncreasing the EXFC sample size to overcome this problem would be very costly, an expense increase that would have to be passed on to the Postal Service’s customers” and estimated the cost of the necessary EXFC modifications at approximately \$4 million per year.<sup>8</sup> Nevertheless, the Postal Service represented that it was developing plans to expand the measurement of First-Class Mail Flats, with reporting expected as early as Quarter 2 of FY2011.

---

<sup>6</sup> 39 C.F.R. § 3055.3(a)(1)-(3). As explained in Order No. 465, a product “component” means either a standalone service grouped under an umbrella product for administrative purposes (such as Stamped Cards within the Ancillary Services product) or a feature or service provided as part of a recognized product (such as forwarding or return services within the Single-Piece First-Class Letters/Postcards product). Order No. 465 at 34.

<sup>7</sup> United States Postal Service Response Request for Temporary Waivers from Periodic Reporting of Service Performance Measurement (hereinafter “USPS Waivers Request”), Docket No. RM2011-1, October 1, 2010, at 3-4.

<sup>8</sup> *Id.* at 4 fn.10 (quoting USPS Initial Comments at 32 fn.18).

On November 12, 2010, the Postal Service filed a response to Chairman's Information Request No. 1 regarding the temporary waivers request. In that response, the Postal Service advised that "[a]t this time, it does not appear that the necessary contract modifications will be in place in time to allow reporting on that schedule. It is currently unclear when the modifications will be finalized and reporting will begin for this category."<sup>9</sup> Simultaneous with this request for a semi-permanent exception, the Postal Service is submitting a notice in Docket No. RM2011-1 of the provisional withdrawal of its request for a temporary waiver.

## **II. Request for Semi-Permanent Exception**

The Postal Service respectfully requests a semi-permanent exception for reporting of service performance measurement for First-Class Mail Flats. As explained throughout the Postal Service's previous filings described above, reporting in such minute detail is not currently possible from existing measurement systems. Data with an acceptable level of statistical precision and reliability are available at greater levels of aggregation, in the form of either quarterly area-level data or annual district-level data. It is far from clear how appreciably the public or the Commission would benefit from quarterly reports of district-level First-Class Mail Flats performance, as opposed to the other options for this specific product component. At the same time, the Postal Service anticipates that the requisite contract modification would add \$4 million to its costs per year.

The Postal Service recognizes that this proposition likely does not, strictly speaking, meet the cost test under 39 C.F.R. § 3055.3(a)(1): the cost of implementing

---

<sup>9</sup> Responses of the United States Postal Service to Chairman's Information Request No. 1, Docket No. RM2011-1, November 12, 2010, at 3.

this measurement system is small in relation to the revenue generated by First-Class Mail Flats.<sup>10</sup> The cost is nevertheless prohibitive to the Postal Service at a time when it is undergoing unprecedented losses in overall volume, revenue, and profitability. With all due respect to the Commission's considered rulemaking in Docket No. RM2009-11, 39 C.F.R. § 3055.3(a)(1) falls short in its attempt to create a safety valve for new measurement costs out of proportion to their benefit. As the Postal Service observed in that rulemaking,

proposed reporting requirements should be proportionate to the Commission's and the public's realistic needs for detailed information about performance and customer satisfaction. It must be remembered that reporting is not an end in itself. . . . Nevertheless, assessment of the proposed reporting rules must keep in perspective the needs for particular information in relation to the burdens created.<sup>11</sup>

While the current exception rule is sensible enough as far as it goes, it does little to account for the current climate, in which postal stakeholders across the spectrum are being forced to reevaluate plans and forgo new expenditures, and in which the Postal Service is hampered in its ability to raise prices to offset newly-imposed regulatory costs. In this connection, too, the Postal Service's past submissions sadly retain their force:

The third principle is that the rules must carefully balance the legitimate objectives for reporting performance, and the need for information, against the cost an effort that will be needed to achieve compliance. The Commission's discussions in Order No. 292 and elsewhere demonstrate that the Commission understands the substantial expense of designing, building, perfecting, and maintaining data an measurement systems. Furthermore, the Commission has acknowledged the particular circumstances facing the postal system currently. Order No. 292 notes: "The Commission recognizes that these proposed rules are being published at a time when the Postal service is experiencing unprecedented fiscal challenges." This observation cannot be

---

<sup>10</sup> Nor does the Postal Service assert that 39 C.F.R. § 3055.3(a)(2) or (3) are applicable.

<sup>11</sup> USPS Initial Comments at 4.

overemphasized. The economic and other conditions that have challenge business and society generally have hit the Postal Service particularly hard. These realizations must be kept firmly in mind in deciding what reporting requirements to impose as a burden on the Postal Service's time and limited resources.<sup>12 13</sup>

At this time, no other reporting requirement for First-Class Mail Flats presents an issue of EXFC contract modification and multi-million-dollar expense. The Postal Service even anticipates that district-level First-Class Mail Flats reporting would pose no additional burden if it were required on an annual, rather than quarterly, basis.

In this connection, the Postal Service reminds the Commission that the Postal Service was amenable to quarterly reports at the *class* level, notwithstanding its questions about the Commission's statutory authority to require quarterly reports; however, quarterly reports at the *product* level "fundamentally change[d] the calculus" and "dramatically increase[ ] the burden on the Postal Service."<sup>14</sup> The Postal Service acknowledges, of course, that the Commission ultimately reached a different view in Order No. 465. As evidenced by the relatively limited scope of its requests for semi-permanent exceptions to date, the Postal Service is committed to complying with the Commission's quarterly reporting rules for the overwhelming majority of market dominant products, in spite of the Postal Service's concerns about expense and administrative burden. The Postal Service therefore stresses that it is only compelled to request exceptional relief and renew its previously-voiced concerns in this sole instance, where the implementation cost is extraordinary relative to the level of detail and likely

---

<sup>12</sup> *Footnote in original:* It is important to understand that extra costs from additional reporting would be imposed on the Postal Service's already substantial expenditures for data systems and studies needed to comply with the Commission's existing reporting rules. The Postal Service spends scores of millions of dollars on costing and revenue data systems. For existing performance measurement, the Postal Service spends more than \$38 million on EXFC alone.

<sup>13</sup> USPS Initial Comments at 5-6.

<sup>14</sup> USPS Initial Comments at 15-16.

public interest. Even as the Commission declined to consider such considerations in promulgating its reporting rules, the Commission allowed that “[a]s the Postal Service develops its plan to achieve compliance with these rules, it will have other opportunities to bring concerns that can be identified with specificity to the attention of the Commission, and possibly to suggest less costly or burdensome alternatives.”<sup>15</sup> The identification of a specific concern and less costly or burdensome alternatives is the very object of this request.

Therefore, the Postal Service requests that the Commission grant one of the following extraordinary remedies:

- (1) Allow a semi-permanent exception for quarterly, district-level reporting of First-Class Mail Flats under 39 C.F.R. § 3055.3(a)(1), on the basis of the undue burden that a \$4 million measurement cost would impose on the Postal Service’s financial position;
- (2) Allow a semi-permanent exception on an extraordinary basis, not under 39 C.F.R. § 3055.3(a)(1), for the same reason; or
- (3) Amend 39 C.F.R. § 3055.45(a)(1) and (2) to delete the word “District.”

Any of these remedies would relieve the disproportionate reporting burden. The Postal Service notes, as a background consideration, that quarterly reporting of service performance is not required by statute,<sup>16</sup> whereas Congress intended that such reporting not result in “excessive burden to the Postal Service.”<sup>17</sup> If the Commission nevertheless finds that district-level reporting of First-Class Mail Flats performance is necessary to fulfill its regulatory obligations, the Postal Service would be able to provide annual reporting of district-level First-Class Mail Flats performance without any EXFC system modification or added expense.

---

<sup>15</sup> Order No. 465 at 13.

<sup>16</sup> See USPS Initial Comments at 12-17.

<sup>17</sup> S. Rep. No. 108-318, at 19 (2004); see also 39 U.S.C. § 3652(e)(1)(B).

**III. Conclusion**

For the reasons discussed above, the Postal Service respectfully requests a semi-permanent exception from periodic reporting for First Class Mail Flats at the district level or, in the alternative, an amendment to 39 C.F.R. § 3055.45(a)(1) and (2) that has the same effect.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

R. Andrew German  
Managing Counsel, Pricing & Product  
Development

---

Jacob Howley

475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260-1137  
(202) 268-8917, Fax: -5628  
November 23, 2010