

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

Before Commissioners:

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

Modification of Mail Classification Schedule
Regarding Combined Mailings
of Standard Mail and Periodicals

Docket No. MC2011-5

ORDER APPROVING MAIL CLASSIFICATION CHANGES

(Issued February 8, 2011)

I. INTRODUCTION

This Order approves limited revisions to Periodicals price category provisions appearing in the draft Mail Classification Schedule (MCS). The revisions modify the method of calculating bundle and pallet charges for Outside County Periodicals flats that are co-mailed or co-palletized with Standard Mail flats (Mixed Class mailings). Under these revisions, Periodicals in co-mailed bundles will pay a proportional charge based on the percentage of Periodicals in the bundle. Periodicals in co-palletized mailings will pay a proportional charge based on weight.

II. PROCEDURAL HISTORY

On November 5, 2010, the Postal Service, pursuant to Commission rules 3020.90 and .91, filed a notice with the Commission announcing that the Governors had established a classification change affecting the calculation of bundle and pallet charges for Outside County Periodicals pieces in combined mailings of Standard Mail and Periodicals.¹ The filing category the Postal Service invoked was established by the Commission following enactment of the Postal Accountability and Enhancement Act (PAEA) for consideration of minor editorial revisions and technical corrections to the MCS.

On November 10, 2010, the Commission issued Order No. 583 to establish Docket No. MC2011-5 for consideration of the proposed MCS changes and to address related procedural matters, including the establishment of a period for public comment.² Subsequently, the Commission sought additional data and information through a Chairman's Information Request.³ On December 1, 2010, the Postal Service filed a response to the information request including, among other things, draft proposed implementation regulations to appear in the Domestic Mail Manual and confirmation of the existence of a pilot program.⁴ The Commission received comments from the Public Representative addressing the requested MCS revision.⁵

¹ Notice of the United States Postal Service of Classification Change Related to Combined Mailings of Standard Mail and Periodicals, November 5, 2010 (Notice). Conforming revisions to the draft MCS appear in an attachment to the Notice (Attachment). The revisions affect the Periodicals price category descriptions. They do not affect any Standard Mail sections in the MCS, nor do they affect any Within County MCS sections.

² See Order No. 583, Notice and Order Concerning Classification Changes Affecting Outside County Periodicals in Combined Standard Mail and Periodicals Mailings, November 10, 2010.

³ See Chairman's Information Request No. 1, November 22, 2010 (CHIR No. 1).

⁴ Response of the United States Postal Service to Chairman's Information Request No. 1, December 1, 2010 (Response to CHIR No. 1).

⁵ Comments of the Public Representative, November 24, 2010 (PR Comments).

III. THE POSTAL SERVICE'S REQUEST

The MCS revisions identified in the Notice affect the Outside County Periodicals price category provisions in the draft MCS. The Postal Service proposes to add a provision to the bundle rate price category to indicate that: "For bundles containing both Periodicals and Standard Mail pieces, the bundle rate is multiplied by the proportion of pieces in the bundle that are Periodicals pieces." Notice, Attachment. The Postal Service proposes to add a provision to the container rate price category to indicate that: "For containers containing both Periodicals and Standard Mail pieces, the container rate is multiplied by the proportion of weight on the container contributed by the Periodicals pieces." *Id.* These modifications alter existing methods for assessing postage by allowing proportional pricing based on either the percentage of Periodicals in co-mailed bundles or the weight of Periodicals on a co-mailed pallet. The Postal Service asserts that the practical effect of the modification is to allow:

[M]ailers using the Mixed Class preparation option may combine Standard Mail and Periodicals mailpieces within the same bundle (comail), or combine separate same-class bundles on the same pallet (copalletize), to maximize presorting or to qualify for deeper destination entry discounts.

Notice at 1.

Each flat in a Mixed Class mailing will retain its original identity in terms of being a Periodicals publication or a Standard Mail item, and must meet the respective eligibility requirements. The Standard Mail minimum per-mailing requirements, which require 200 pieces or 50 pounds, will apply. Bundle minimums will be as follows: a "pure" Periodicals bundle, consistent with existing regulations, must continue to have six Periodicals pieces; a "pure" Standard Mail bundle, also consistent with existing regulations, must continue to have 10 Standard Mail pieces; however, a mixed bundle may have any combination of 10 pieces of Periodicals and Standard Mail pieces. *Id.*

The Postal Service's draft Domestic Mail Manual regulations address numerous notice, documentation, labeling, machinability, and compatibility with full-service IMb automation requirements. See Response to CHIR No. 1, Attachment 1. The notice requirements are directed primarily at ensuring that participating senders of Periodicals are aware of the application of Standard Mail service standards to all pieces in Mixed Class mailings, including Periodicals publications that otherwise are entitled to preferential treatment. *Id.*

The Postal Service confirms that it has been conducting a pilot program involving what it characterizes as "a very limited number of mailers." A "sunset date" for the program will be announced if the requested MCS revisions are approved. Response to CHIR No. 1 at 4.

IV. COMMENTS

The Public Representative was the only interested person to file comments. He believes that "the underlying program...has considerable merit," and says the program, "if managed and implemented properly and effectively, could encourage the laudable goal of increased presorting and deeper destination entry for Periodicals mailpieces." PR Comments at 11 (footnote omitted). However, he opposes the filing of the proposal under 39 CFR 3020.90 *et seq.*, and objects to the limited amount of data and information provided in the initial filing and the lack of opportunity for meaningful public review. *Id.* at 2-3. Moreover, he asserts that the program "appears to raise material issues concerning rate increase calculations, service standards and measurements, and product definitions." *Id.* at 1.

Given these concerns, the Public Representative urges the Commission "to dismiss this proceeding and direct the Postal Service to refile this case under the appropriate Commission rules providing sufficient information to allow the Commission and the public to make reasonably informed decisions about the program." *Id.* at 12-13. Alternatively, the Public Representative asks, in the interests of due process, that the

Commission permit supplemental comments following receipt of Postal Service responses to all information requests. *Id.* at 13.

V. COMMISSION ANALYSIS

The Postal Service's revised, optional mail preparation requirements are designed to achieve more efficient mail preparation and processing of Periodicals by encouraging the co-mailing and co-palletization of Periodicals and Standard Mail flats. The change will promote deeper dropshipping and presorting of Periodicals, reduce the number of Periodicals in sacks, and increase the number of Periodicals on pallets. The Commission approves the classification change.

While recognizing the merits of the proposal, the Public Representative objects to the filing principally on two grounds: first, that the proposal is not adequately supported by the Postal Service. *Id.* at 2-7. Second, he contends that the proposal was not filed properly with the Commission. *Id.* at 12-13.

Regarding the latter, one significant consideration is that presently no other category in the Commission's rules suits the nature of this request, which involves preparation changes and limited adjustments to postage assessment. This means that the data and information that otherwise would accompany filings under those categories might not yield information directly on point, might produce information that is not needed, or might require motions for waiver. The Commission has employed rule 3020.90 *et seq.* to accommodate review of Postal Service requests when an appropriate filing category is not apparent. While this process has worked reasonably well, the Commission will take under advisement the need to consider revising its rules to address proposals that fall between mere technical corrections to the MCS and rate and product changes.

The Commission shares the Public Representative's concern that the proposal, as originally filed, lacked adequate supporting information. Until (and if) the Commission adopts regulations regarding hybrid proposals such as the one before it in this proceeding, the Postal Service is requested to include in its initial filing sufficient

detail to adequately support its proposal.⁶ Doing so will expedite analysis and facilitate informed public participation.

In this instance, the Postal Service provided supplemental data and information in response to CHIR No. 1. This information also appears to address some of the questions the Public Representative raises, especially in terms of how service standards will be applied. It also helps address concerns about the public having adequate information about the nature of the requested revision and its broader implications. Moreover, in considering the instant proposal, the Commission has the ability to draw upon:

- extensive familiarity with co-mailing and co-palletizing, which are the preparation techniques at the heart of this case;
- expert knowledge of the pricing structure differences that pose postage assessment challenges for participating senders of Periodicals;
- awareness of differences in service standards for the two classes of mail involved in Mixed Class mailings;
- confidence that participating mailers are likely to be among the most sophisticated users of the postal system, and thus well-positioned to make decisions about acceptable service standard tradeoffs and the efficacy of partnering with other mailers; and
- supplemental information that has improved the decisional record. This includes confirmation that a pilot program involving Mixed Class mailings is now underway, and indications that it is apparently successful.

The Public Representative suggests that the revisions might involve a new product. PR Comments at 8. Based on the record developed in this proceeding, the Commission finds that the revised, optional mail preparation requirements for Periodicals do not create a new product. Thus, evaluating the proposal under “new product” standards of section 3642 is not warranted.

⁶ At a minimum, the Postal Service should provide the type of information that was requested in CHIR No. 1.

Each mailpiece in a Mixed Class mailing will retain its original identity as a Periodicals publication or Standard Mail item. Pieces in Mixed Class mailings must continue to meet the eligibility requirements for their respective class. Preparation and processing may change, but the related practices do not appear to create a new product in the eyes of the senders or receivers.

Similarly, the change in service standards for co-mailed and co-palletized Periodicals flats does not rise to the level of creating a new product. The Standard Mail service standards will apply to all pieces, including Periodicals pieces.⁷ This is a consequence of taking advantage of an optimal opportunity to combine Periodicals with Standard Mail flats in the interests of achieving a better presort profile and/or entering mail closer to its final destination.

Instead, the modifications simply provide an opportunity for more mailers to adopt existing practices. The activities involved are more appropriately viewed as mail preparation practices that facilitate Postal Service processing. Moreover, to the extent there are immediate postage ramifications, they are limited to participating Periodicals pieces; methods for assessing Standard Mail postage and postage paid by other Periodicals mailers are not changed.

Collectively, the MCS revisions will remove current barriers to preparing and processing Mixed Class mailings, which stem from key differences in rate structures and service standards. For example, Periodicals pieces pay bundle and pallet charges, while Standard Mail pieces do not. Similarly, Periodicals pieces are entitled to preferential treatment in processing and delivery, while Standard Mail pieces may be deferred.

Without the MCS revisions, rate structure differences mean that Periodicals, if allowed to be sent in Mixed Class mailings, might be assessed a disproportionate share of postage. Proportional methods of assessing postage on these Periodicals pieces will promote fair pricing. The revisions will not change the method of assessing postage on

⁷ Response to CHIR No. 1, question 2.

Periodicals that are *not* included in Mixed Class mailings, or the method for assessing postage on Standard Mail pieces in any type of mailing.

Co-mailing and co-palletization generate processing efficiencies and facilitate mailer access to lower prices through deeper presort levels and destination entry. Authorizing postage assessment alternatives for Periodicals pieces in optional Mixed Class mailings through limited revisions to the MCS will promote fairness in assessing postage and should encourage senders of Periodicals to seek out opportunities to combine their mailings with Standard Mail. The revised mail preparation requirements are entirely optional. As a prerequisite to participating, Periodicals mailers must acknowledge in writing that their Periodicals mailpieces will not be subject to Periodicals services levels. *Id.*

Approval of these limited MCS revisions, along with the related changes in applicable service standards and adoption of new or revised postal regulations, should expand opportunities to realize significant benefits in terms of postage savings and postal operating efficiencies. Thus, the MCS revisions should prove advantageous to participating mailers, service providers, and the Postal Service. Absent the change, Periodicals mailers would have no incentive to co-mail or co-palletize mailings with Standard Mail flats. The optional mail preparation requirements will promote more efficient postal processing and provide opportunities for postage savings through deeper presort levels and destination entry.

In sum, the Commission finds that the proposed MCS revisions for Mixed Class mailings of Standard Mail and Periodicals are reasonable and consistent with 39 U.S.C 3642. The changes will be incorporated into the draft MCS.⁸

⁸ The Commission directs the Postal Service to file no later than June 1, 2011 a report discussing the interim and long-term procedures it has adopted (or, if applicable, plans to adopt) to obtain accurate measurement of the use of mail processing resources by co-mailed and co-palletized Periodicals as distinct from the use of mail processing resources by co-mailed and co-palletized Standard Mail.

VI. ORDERING PARAGRAPHS

1. The Commission, having considered the Mail Classification Schedule revisions identified in the Postal Service Notice filed November 5, 2010 finds the revisions not inconsistent with 39 U.S.C. 3642 or other pertinent postal policies, as addressed in the body of this Order.
2. The Outside County Periodicals bundle rate price category appearing in the draft Mail Classification Schedule shall be modified as follows: For bundles containing both Periodicals and Standard Mail pieces, the bundle rate is multiplied by the proportion of pieces in the bundle that are Periodicals pieces.
3. The Outside County Periodicals container rate price category appearing in the draft Mail Classification Schedule shall be modified as follows: For containers containing both Periodicals and Standard Mail pieces, the container rate is multiplied by the proportion of weight on the container contributed by the Periodicals pieces.
4. No later than June 1, 2011, the Postal Service shall file a report with the Commission discussing the interim and long-term procedures it has adopted (or, if applicable, plans to adopt) to obtain accurate measurement of the use of Postal Service mail processing resources by co-mailed and co-palletized Periodicals as distinct from the use of Postal Service mail processing resources by co-mailed and co-palletized Standard Mail.

By the Commission.

Shoshana M. Grove
Secretary