

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

MODIFICATION OF MAIL CLASSIFICATION SCHEDULE FOR
EXPRESS MAIL INTERNATIONAL FLAT RATE ENVELOPES

Docket No. MC2012-30

MOTION FOR PARTIAL RECONSIDERATION
(August 1, 2012)

On July 25, 2012, the Postal Regulatory Commission (Commission) issued Order No. 1417 in this docket, approving the addition of the Express Mail International (EMI) Padded Flat Rate Envelope as another Flat Rate Envelope option in the existing EMI product category.¹ The Commission ruled that “the proposed change” that the United States Postal Service (Postal Service) filed in this docket “is relatively minor”; however, the Commission stated that “it nonetheless constitutes a price change, offering a new service albeit at a rate for a similar service, and should have been filed pursuant to 39 CFR part 3015.”² The Commission further advised that:

While the change may be characterized as minor and potentially amenable for filing under 39 CFR 3020 subpart E, the proposal cannot fairly be characterized as a “correction” to a product description. It does not simply involve a “mistaken” product description that should be addressed in the interests of maintaining an accurate MCS. Nor is it a clarification of an existing description.³

The Postal Service respectfully requests that the Commission reconsider its statement in Order No. 1417 that the revision to the Mail Classification Schedule (MCS) that is the subject of this docket “should have been filed pursuant to 39 CFR part

¹ Order No. 1417, Order Approving Express Mail International Padded Flat Rate Envelope Option, PRC Docket No. MC2012-30, July 25, 2012.

² *Id.* at 2.

³ *Id.* at 6.

3015.”⁴ The Postal Service also requests the Commission to reconsider its statements concerning the scope or magnitude of an update allowable under 39 CFR 3020 subpart E (39 CFR §§ 3020.90-93). Such statements are inconsistent with prior precedent and other authority.

Subpart E of 39 Part 3020 was promulgated as part of Docket No. RM2007-1, which concerned the establishment of regulations to administer various provisions of the Postal Accountability and Enhancement Act (PAEA).⁵ Section 3020.91 of 39 CFR states that:

The Postal Service shall submit corrections to product descriptions in the Mail Classification Schedule that do not constitute a proposal to modify the market dominant product list or the competitive product list as defined in § 3020.30 by filing notice of the proposed change with the Commission no later than 15 days prior to the effective date of the proposed change.⁶

In Order No. 26 in Docket No. RM2007-1, the Commission noted that Section 3020.90 *et seq.* was intended to be a rule of procedure for minor classification changes that “provides a simplified path for the Postal Service to provide necessary updates to the Mail Classification Schedule.”⁷ The Commission stated that:

There are inherent limits on the scope or magnitude of any update allowable under subpart E. Specifically excluded are updates that would modify the market dominant or the competitive product lists. Implicitly excluded are updates that might be governed by other rules such as changes to rates and fees. A proposed update may not change the nature of a service to such an extent that it effectively creates a new product or eliminates an existing product.⁸

⁴ *Id.* at 2.

⁵ Pub. L. No. 109-435, 120 Stat. 3198 (December 20, 2006).

⁶ 39 CFR § 3020.91.

⁷ PRC Order No. 26, Order Proposing Regulations to Establish a System of Ratemaking, Docket No. RM2007-1, August 15, 2007, at 97.

⁸ *Id.*

In Order No. 43 in the same docket, the Commission explained that:

The purpose of subpart E is to keep the Mail Classification Schedule up to date when product changes are made below the 39 U.S.C. 3642 level. This facilitates the Commission's maintenance of the product lists and makes it possible for the Commission to undertake its other statutory responsibilities. Subpart E was not intended to provide an avenue for comprehensive pre-implementation review of classification changes.⁹

Thus, in Docket No. RM2011-7, in Order Nos. 26 and 43, the Commission established 39 CFR 3020 subpart E as a simplified path for the Postal Service to provide updates to the MCS. Subpart E was intended to be used for classification changes made below the 39 U.S.C. § 3642 level, for changes that do not add new products to, remove products from, or transfer products between, the market dominant product list and the competitive product list.

Since the drafting of 39 CFR 3020 subpart E, the Postal Service has filed a number of minor classification changes with the Commission. For example, in Docket No. MC2011-24, the Postal Service gave notice of adding another dimensional option to the large Flat Rate Box for Priority Mail and Outbound Priority Mail International (PMI) services. The proposed new option had different dimensions, but was the same cubic size and had the same rate as the existing Large Flat Rate Box for Priority Mail and Outbound Priority Mail International Services.¹⁰ The Commission concluded in Order No. 723 that such a proposed addition was "minor."¹¹ Furthermore, the Commission

⁹ PRC Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, Docket No. RM2007-1, October 29, 2007, at 108.

¹⁰ See changes to Mail Classification Schedule attached to Notice of United States Postal Service of Classification Changes, Docket No. MC2011-24, April 8, 2011, at 3-6, which are included as Attachment 2 to this motion.

¹¹ Order No. 723, Order Approving Mail Classification Changes, Docket No. MC2011-24, May 4, 2011, at 3.

stated that “[n]otices filed pursuant to rule 3020.90 *et seq.* are limited to changes in the MCS that are relatively minor in nature and that do not entail modifying either the market dominant or the competitive product list.”¹²

The addition of the new option at issue in this docket is no less minor than the change introduced in Docket No. MC2011-24. The minor nature of such changes is evident if one examines the proposed MCS revisions accompanying the Postal Service’s initial notices in this docket and in Docket No. MC2011-24. Attachment 1 to this motion, which was included as Attachment 1 to the Postal Service’s initial notice in this docket,¹³ shows an underlined addition to the MCS of a padded option within Flat Rate Envelopes for EMI. Attachment 2 to this motion consists of pages 3 to 6 of the Postal Service’s initial notice in Docket No. MC2011-24.¹⁴ Attachment 2 includes on pages 3 and 6 an underlined addition of a different dimensional option to Priority Mail Large Flat Rate Box, and to Priority Mail International Large Parcel Flat Rate Box. The underlined addition to the MCS set forth in Attachment 1 is as minor as the underlined additions to the MCS set forth in Attachment 2. Therefore, the addition of the new dimensional option at issue in this docket is no less minor than the change introduced in Docket No. MC2011-24. In both cases, existing rates for flat rate offerings were assigned to a new dimensional offering that were closely akin to the existing offering.

Consistent with past Commission precedent, the addition of the EMI Padded Flat Rate Envelope option that is the subject of this docket, is accordingly a relatively minor revision to the MCS. The addition of the EMI Padded Flat Rate Envelope option does

¹² *Id.*

¹³ See Notice of United States Postal Service of Classification Changes, Docket No. MC2012-30, June 25, 2012, at Attachment 1.

¹⁴ See Notice of United States Postal Service of Classification Changes, Docket No. MC2011-24, April 8, 2011, at 3-6.

not “entail modifying either the market dominant or the competitive list,”¹⁵ particularly because the new dimensional option is subject to the same rate as the existing flat rate envelope, and the new dimensional option is only one option among many in the larger sphere of the Express Mail International product.

In response to Order No. 1386, the Postal Service distinguished this change from the domestic counterpart of the EMI Padded Flat Rate Envelope.¹⁶ In that response, the Postal Service explained that, according to the Management Analysis attached to Governors’ Decision No. 12-01 concerning the Establishment of Rate and Class of General Applicability for Express Mail Padded Flat Rate Envelope, “[i]nitially, the Express Mail Padded Flat Rate Envelope will be offered at the same prices currently available for the Regular and Legal Flat Rate Envelopes.... The pricing for these items may differentiate in future price adjustments.”¹⁷ The response noted that “[b]ecause the Postal Service plans for the EMI Padded Flat Rate Envelope option and the EMI Flat Rate Envelope and EMI Legal Flat Rate Envelope options to have the same price, the Postal Service does not consider that the addition of the EMI Padded Flat Rate Envelope option in the EMI product category constitutes a change in rates of general applicability.”¹⁸ Thus, in no way does the addition of the EMI Padded Flat Rate Envelope within the existing EMI product constitute the addition of a product to the competitive product list or a price change. In all respects, the change is trivial when one considers the scope of this change in the context of the larger product grouping.

¹⁵ Order No. 723, at 3.

¹⁶ Response of the United States Postal Service to Information Request in Order No. 1386, Docket No. MC2012-30, July 5, 2012.

¹⁷ *Id.* at 3.

¹⁸ *Id.*

Therefore, the Postal Service respectfully requests that the Commission reconsider its statements in Order No. 1417 concerning the scope or magnitude of any update allowable under 39 CFR 3020 subpart E. Specifically, the Postal Service requests the Commission to determine that the change that is the subject of this docket was appropriately filed pursuant to 39 CFR 3020 subpart E.¹⁹

Respectfully submitted,

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¹⁹ This would be consistent with Order No. 723, where the Commission explained that “[n]otices filed pursuant to rule 3020.90 *et seq.* are limited to changes in the MCS that are relatively minor in nature and that do not entail modifying either the market dominant or the competitive product list.” *Id.*

PART B

COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

2001 COMPETITIVE PRODUCT DESCRIPTIONS

2300 International Products

2305 Outbound International Expedited Services

2305.2 Size and Weight Limitations

Express Mail International¹

	Length	Height	Thickness	Weight
Minimum	Large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	79 inches			70 pounds
	108 inches in combined length and girth			
Flat Rate Envelopes	Nominal Sizes: Regular: 9.5 x 12.5 inches Legal: 9.5 x 15 inches Padded: 9.5 x 12.5 inches			20 pounds
Flat Rate Boxes	Sizes: Various sizes as defined in the IMM. – not to exceed .35 cu. ft.			20 pounds

Notes

1. Country-specific restrictions may apply as specified in the International Mail Manual.

MAIL CLASSIFICATION SCHEDULE

PART B COMPETITIVE PRODUCTS

2100 Domestic Products

2110 Priority Mail

2110.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum				70 pounds
Flat Rate Envelope	Nominal Sizes: Regular: 9.5 x 12.5 inches Padded: 10 x 13 inches Legal: 9.5 x 15.0 inches			
Flat Rate Box	Nominal Sizes: Large: 12.25 x 12.25 x 6.0 inches <u>or</u> <u>11.875 x 3.125 x 24.0625 inches</u> – approximately 1/2 cu. ft. Medium: 11.875 x 3.375 x 13.625 inches <u>or</u> 11 x 8.5 x 5.5 inches – approximately 1/3 cu. ft. Small: 8.625 x 5.375 x 1.625 inches – approximately 1/20 cu. ft.			
Regional Rate Box A	Outside Dimensions: Top Loaded: 10.125 x 7.125 x 5.0 inches Side Loaded: 13.0625 x 11.0625 x 2.5 inches			15 pounds
Regional Rate Box B	Outside Dimensions: Top Loaded: 12.25 x 10.5 x 5.5 inches Side Loaded: 16.25 x 14.5 x 3 inches			20 pounds
Commercial Plus Cubic	½ cubic foot			20 pounds

All Others	108 inches in combined length and girth	70 pounds
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2110.6 Prices

Retail Flat Rate Box

Size	Delivery to Domestic Address (\$)	Delivery to APO/FPO/DPO Address (\$)
Small Flat Rate Box	5.20	5.20
Medium Flat Rate Boxes	10.95	10.95
Large Flat Rate Boxes	14.95	12.95

Commercial Base Flat Rate Box

Size	Delivery to Domestic Address (\$)	Delivery to APO/FPO/DPO Address (\$)
Small Flat Rate Box	5.00	5.00
Regular Flat Rate Boxes	10.50	10.50
Large Flat Rate Boxes	14.20	12.20

Commercial Plus Flat Rate Box

Size	Delivery to Domestic Address (\$)	Delivery to APO/FPO/DPO Address (\$)
Small Flat Rate Box	4.95	4.95

Medium Flat Rate Boxes	9.97	9.97
Large Flat Rate Boxes	13.67	11.67

2300 International Products

2200 Outbound International Expedited Services

2305.2 Size and Weight Limitations

Global Express Guaranteed¹

	Length	Height	Thickness	Weight
Minimum	Must be able to hold the shipping label with pouch and postage			none
Maximum	46 inches	35 inches	46 inches	70 pounds
	108 inches in combined length and girth			

Express Mail International¹

	Length	Height	Thickness	Weight
Minimum	Large enough to accommodate postage, address, and other required elements on the address side			
Maximum	36 inches			
	79 inches in combined length and girth			
Flat Rate Envelopes	Nominal Size: Regular: 9.5 x 12.5 inches Legal: 9.5 x 15 inches			

Notes

- Country-specific restrictions may apply as specified in the International Mail Manual.

2315 Outbound Priority Mail International

2315.2 Size and Weight Limitations^{1, 2}

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inch	none	none
Maximum Parcels	42 inches			70 pounds
	79 inches in combined length and girth			
Flat Rate Envelopes	Nominal Sizes: 9.5 x 12.5 inches Priority Mail Gift Card: 10 x 7 inches Priority Mail Legal: 15 x 9.5 inches Priority Mail Window: 10 x 5 inches Priority Mail Small: 10 x 6 inches Priority Mail Padded: 12.5 x 9.5 inches			4 pounds
Parcel Flat Rate Boxes	Nominal Sizes: Large: 12.25 x 12.25 x 6.0 inches <u>or</u> <u>11.875 x 3.125 x 24.0625 inches</u> Medium: 11.875 x 3.375 x 13.625 inches <u>or</u> 11 x 8.5 x 5.5 inches			20 pounds
Letter Post Flat Rate Boxes	Nominal Sizes: Small: 8.625 x 5.375 x 1.625 inches DVD Box: 7.5625 x 5.4375 x 1.375 inches Large Video Box: 9.25 x 6.25 x 2			4 pounds

Notes

1. Weight and other exceptional size limits based on shape and destination country restrictions may apply.
2. Items must be large enough to accommodate postage, address, and other required elements on the address side.
