

ORDER NO. 1556

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Tony Hammond; and
Robert G. Taub

Notice of Market-Dominant
Price Adjustment

Docket No. R2013-1

NOTICE AND ORDER ON PLANNED RATE ADJUSTMENTS AND CLASSIFICATION
CHANGES FOR MARKET DOMINANT POSTAL PRODUCTS

(Issued November 27, 2012)

I. BACKGROUND

In Order No. 1541, the Commission determined provisionally that, pursuant to 39 CFR 3010.13(j), the planned adjustments do not violate the price cap in 39 U.S.C. 3622(d); are consistent with, or justified by an exception to, the workshare discount limitations in 39 U.S.C. 3622(e); and establish prices that satisfy 39 U.S.C. 3626.¹ In addition, however, the Commission found that the planned Standard Mail Flats rates failed to satisfy the applicable directives set forth in the FY 2010 Annual Compliance Determination (ACD), which were further clarified and reaffirmed in Order No. 1427 and

¹ Order No. 1541, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 16, 2012 (Order No. 1541).

Order No. 1472.² Order No. 1541 at 2. Accordingly, the Commission remanded all Standard Mail rates to allow the Postal Service to modify its planned rates to comply with the FY 2010 ACD and applicable statutory standards. In addition, the Commission requested the Postal Service to respond to certain other rate matters, each of which is discussed below.

Pursuant to Order No. 1541, on November 26, 2012, the Postal Service filed revised prices for Standard Mail Flats.³ It also addressed the miscellaneous rate matters discussed in Order No. 1541.

II. SUMMARY OF PROPOSED CHANGES TO STANDARD MAIL RATES

The revised prices for Standard Mail Flats reflect an above-average increase of 2.617 percent. No other Standard Mail prices were changed. Response at 3.

The following table presents the Postal Service's planned percentage price changes for Standard Mail products.

Standard Mail Price Changes

| Standard Mail Product | Percent Change (%) |
|---|--------------------|
| Letters | 2.610 |
| Flats | 2.617 |
| Parcels | 3.081 |
| High Density/Saturation Letters | 2.059 |
| High Density/Saturation Flats and Parcels | 2.092 |
| Carrier Route | 2.907 |
| Overall | 2.569 |

² Docket No. ACR2010, Order on Remand, August 9, 2012 (Order No. 1427); Docket No. ACR2010-R, Notice and Order Confirming Termination of Stay, September 21, 2012 (Order No. 1472).

³ United States Postal Service Response to Order No. 1541, November 26, 2012 (Response).

To achieve the above-average price increase for the Standard Mail Flats product, the Postal Service made two principal changes to its initially filed planned Standard Mail Flats price adjustments. First, it reduced the prebarcoding discount between automation and non-automation Flats from 7.5 to 5.5 cents. Second, the Postal Service used the correct avoided cost of 4.6 cents for automation 3-Digit Flats. *Id.* at 3-4. As a result of these changes, some rate cells would receive a price decrease, so a number of minor mechanical adjustments were also made to mitigate the deviation from the desired overall price increase. *Id.* at 4.

The Postal Service acknowledges that the Commission's FY 2010 ACD Order requested that the Postal Service provide "an explanation of how the proposed prices will move the Flats cost coverage toward 100 percent" (footnote omitted). *Id.* It states that given the short amount of time allowed to prepare revised rate adjustments and to obtain Governors' approval, it has not been able to assess the full impact on the revised price increase on Standard Mail Flats' projected cost coverage. *Id.* It also states that although it is complying with the Commission's directive by proposing an above-average price increase for Standard Mail Flats, it believes that the Commission has overstepped its authority by ordering such an increase. *Id.* at 5.

III. NONPROFIT DISCOUNTS

In Order No. 1541, the Commission requested that the Postal Service explain why different discount levels for Commercial and Nonprofit Standard Mail are consistent with the Postal Accountability and Enhancement Act (PAEA) and not contrary to *National Easter Seal Society v. USPS*, 656 F.2d 754 (D.C. Cir 1981). Order No. 1541 at 51. The Postal Service maintains that *National Easter Seal Society* did not hold that phasing in nonprofit discounts would necessarily be discriminatory, but rather simply required that the Postal Service have a reasonable ground for the phased in schedule. Response at 6.

The Postal Service states that "[t]he varying presort discounts among Commercial and Nonprofit Standard Mail arise from the complex task of designing rates

that comply with 39 U.S.C. 3626(a)(6),” which requires that the average revenue per piece from nonprofit products equal, as nearly as practicable, 60 percent of the average revenue per piece from the corresponding Commercial products. *Id.* The complexity of this task may “preclude[] the Postal Service from making Nonprofit presort discounts identical to Commercial presort discounts without setting the Nonprofit base rate higher than would be most efficient or preferable from a policy perspective.” *Id.* at 7.

The Postal Service points out that, in both previous rate cases and the current docket, some nonprofit discounts have varied from the corresponding Commercial presort discounts. *Id.* The Postal Service also filed updated pages reflecting worksharing discounts and benchmarks for Flats, High Density and Saturation Letters, and High Density and Saturation Flats/Parcels in Attachment B to its Response. It has shown nonprofit discounts on a separate line when they differ from Commercial discounts, along with the other discounts in the relevant category. *Id.* Attachment B. The Postal Service states that the passthroughs for nonprofit discounts are all at 100 percent or below, and can be justified the same way as the corresponding Commercial discounts.⁴ *Id.* at 8.

IV. MAIL CLASSIFICATION SCHEDULE CHANGES (MCS)

In conformance with 39 CFR 3010.14(b)(9), the Postal Service identifies changes to the Standard Mail Flats MCS. Attachment A to the Response presents price and classification changes.

V. ADMINISTRATIVE ACTIONS

Public comment period. The Commission’s rules provide a period of 10 days from the date of the Postal Service’s filing for public comment. 39 CFR 3010.13(f). The Postal Service plans to implement the planned prices on January 27, 2013. To permit

⁴ The Postal Service also refers to Order No. 1541 n.65 in Attachment C of its Response, regarding the High Density Plus rate category.

the Commission to fully consider this matter and to enable the Postal Service to provide the requisite 45 day notice before implementing the planned prices, the Commission finds it appropriate to shorten the comment period. Comments by interested persons are due no later than December 4, 2012.

Interested persons are encouraged to review the Postal Service's Response and workpapers in their entirety.

Pursuant to Commission rule 3010.13(f), comments should address subjects identified in rule 3010.13(b) and may address the substance of the Postal Service's Response.

Participation and designated filing method. Interested persons are not required to file a notice of intervention prior to submitting comments. Instead, they are to submit comments electronically via the Commission's Filing Online system, unless a waiver is obtained. Instructions for obtaining an account to file documents online may be found on the Commission's website, (<http://www.prc.gov>), or by contacting the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846.

Persons without access to the Internet or otherwise unable to file documents electronically may request a waiver of the electronic filing requirement by filing a motion for waiver with the Commission. The motion may be filed along with any comments the person may wish to submit in this docket. Persons requesting a waiver may file hardcopy documents with the Commission either by mailing or by hand delivery to the Office of the Secretary, Postal Regulatory Commission, 901 New York Avenue, NW, Suite 200, Washington, DC 20268-0001 during regular business hours by the date specified for such filing. Any person needing assistance in requesting a waiver may contact the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846. Hardcopy documents will be scanned and posted on the Commission's website.

Public Representative. Kenneth E. Richardson will continue to serve as Public Representative in this proceeding.⁵

It is ordered:

1. Comments by interested persons on the planned price adjustments are due no later than December 4, 2012.
2. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary

⁵ See Order No. 1501, Notice and Order on Planned Rate Adjustments and Classification Changes for Market Dominant Postal Products, October 15, 2012, at 16.