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

NOTICE OF PRICE ADJUSTMENT (TECHNOLOGY CREDIT PROMOTION)	Docket No. R2013-6

REPLY COMMENTS OF THE UNITED STATES POSTAL SERVICE
(June 4, 2013)

In Order No. 1702,[1] the Commission solicited comments on the United States Postal Service Notice of Market-Dominant Price Adjustment ("Technology Credit Promotion" or "Promotion"), filed on April 16, 2013.[2] At that time the Commission established May 6th as the deadline for submitting comments.[3] The deadline for submitting comments was extended in Order No. 1708 to May 9, 2013, was extended again in Order No. 1710 to May 17, 2013, and finally was set at May 24, 2013 in Order No. 1717. The Public Representative filed its comments on May 6, 2013,[4] the Calmark Group submitted its comments on May 23, 2013,[5] and six other organizations filed their comments on May 24, 2013[6] (collectively "Commenters"). The Postal Service hereby provides its reply.

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[1] Order No. 1702 – Notice and Order on Market Dominant Price Adjustment for Technology Credit Promotion ("Order No. 1702") (April 18, 2013).
[2] United States Postal Service Notice of Market-Dominant Price Adjustment ("Price Change Notice") (April 16, 2013).
[3] Order No. 1702, *supra* note 1, at 4.
[4] Public Representative Comments (May 6, 2013).
[5] Comments of the Calmark Group (May 23, 2013).
[6] *See* Comments of the Association for Postal Commerce ("PostCom Comments") (May 24, 2013); Comments of Conde Nast (May 24, 2013); Comments of National Newspaper Association, Inc. in Response to the Postal Service Proposal (May 24, 2013); Comments of the National Postal Policy Council, the Major Mailers Association, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement ("NPPC Comments") (May 24, 2013); Comments of Time Inc. on Market Dominant Price Adjustment for Technology Credit Promotion (May 24, 2013); Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc.

Given the overlapping nature of the concerns raised, this Reply will not respond to each specific issue/argument discussed by Commenters. Instead, the Postal Service has condensed the issues into representative arguments that best illuminate the Commenters' primary concerns. Accordingly, this Reply is divided into four sections. In Part I, the Postal Service responds to Commenters' arguments concerning whether the Tech Credit Promotion complies with the Commission's Rules of Practice. In particular, this section addresses whether any banked pricing authority must also include currently available CPI pricing authority, and whether a determination of the Promotion's CPI impact should be deferred until Docket No. RM2013-2 is resolved. In Part II, the Postal Service responds to Commenters' arguments concerning whether the Tech Credit Promotion is unfair, inequitable, or discriminatory. In Part III, the Postal Service argues that the Tech Credit Promotion should be approved, regardless of how the Commission resolves the Promotion's CPI impact. Finally, in Part IV, the Postal Service addresses the National Newspaper Association (NNA) argument that an additional tier be created within the Tech Credit Promotion.

I. Regardless of Commenters' Arguments to the Contrary, the Commission's Rules of Practice do not Adequately Accommodate the Unique Circumstances Presented by the Technology Credit Promotion.

In this Docket, the Postal Service has argued that the Commission's existing rules governing Market-Dominant price adjustments do not adequately address the unique circumstances (e.g. a mid-year temporary price decrease)

Comments on the United States Postal Service Notice of Market-Dominant Price Adjustment ("Valpak Comments") (May 24, 2013).

surrounding the implementation of the Tech Credit Promotion.[7] In their comments, Valpak and NPCC counter this argument by simply asserting that existing Commission procedures under Rule 3010.13 should be applied to the Technology Credit Promotion.[8] Regrettably, Commenters ignore the practical consequences of applying this rule to the Tech Credit Promotion and incorrectly assume that the rule limits the Commission's discretion to fashion an appropriate remedy in this case.

As the Postal Service has argued in this Docket, and as it argued in its reply comments in Docket No. RM2013-2, the Commission's existing rules are ill suited to deal with temporary mid-year price decreases.[9] This argument is based on the fact that such rules require the Postal Service to "bank" its unused price adjustment authority (including any accrued CPI authority) unless offsetting price increases are proposed at the same time.[10] Critically, when pricing authority is banked, the Commission's rules place restrictions on how much of that authority may be used in future price adjustment.[11] These rules place additional restrictions on the use of banked pricing authority when the overall banked amount is negative due to prior deflationary periods. Under those circumstances, the "first-in, first-out" methodology required by 39 C.F.R. § 3010.27 prevents the

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[7] Price Change Notice, *supra* note 2, at 4-5.
[8] Valpak Comments, *supra* note 6, at 16-18; NPPC Comments, *supra* note 6, at 6-7.
[9] Price Change Notice, *supra* note 2, at 4-5; Response of the United States Postal Service to CHIR No. 1, Question 6 (May 7, 2013); Docket No. RM2013-2, Reply Comments of the United States Postal Service, at 3-4 (June 3, 2013).
[10] For an example of how these rules work when there is no negative banked authority, *See* Docket No. R2013-7, Notice of Market-Dominant Price Adjustment (Priority Mail Insurance)(May 10, 2013).
[11] *See* 39 C.F.R. § 3010.28 (setting the maximum amount of unused price adjustment authority that can be used in a Market-Dominant price change).

Postal Service from accessing any positive banked authority until the preceding deflationary periods have expired (a period lasting as long as five years).[12]

Thus, even when the Postal Service decreases prices without offsetting price increases, the Commission's rules needlessly restrict the Postal Service's future use of the pricing authority generated in that case (including accrued annual CPI pricing authority) by placing it the bank.[13] Understandably, these rules create a perverse disincentive to ever decrease prices (generally or as part of a promotion) outside of the annual Market-Dominant price change.[14] The Postal Service does not believe that the Commission ever intended its rules to create such a needless disincentive.

In order to avoid the complications discussed above, the Postal Service has proposed a reasonable alternative for how the Commission could more suitably deal with the price cap implications of the Tech Credit Promotion.[15] Though Commenters suggest that decisions on the price cap implications of the Tech Credit Promotion should be deferred to Docket No. RM2013-2, the Postal Service does not believe that a gap in the Commission's rules should prejudice its ability to fairly implement this proposal. The Commission has adapted its rules to unique circumstances in the past, and the Postal Service believes that it has the discretion to do so here.

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[12] Negative banked pricing authority for all the mail classes (except Special Services) will not expire until 2016.

[13] By placing temporary pricing authority (generated by a promotion) in the bank, the Commission's rules also create practical difficulties for how such authority should be tracked, especially when its use may begin well after the promotion has ended.

[14] Alternatively, the existing rules also set up a perverse incentive to find price increases to offset any price decreases, in order to avoid banking.

[15] *See* Price Change Notice, *supra* note 2, at 4-6.

II. Contrary To Commenters' Arguments, the Technology Credit Promotion Is Designed in a Fair and Equitable Manner.

The fairness of the Tech Credit Promotion needs to be evaluated in conjunction with the IMb incentives that have been in place since 2010. The IMb incentives are per piece amounts, and therefore give the greatest incentive for Full-Service IMb implementation to large mailers.[16] Note that this IMb incentive had a price cap impact; it reduced the price increases for the qualifying volume, thereby allowing greater price increases for other volume, likely including volume for small mailers. See Docket No. R2009-2, PRC-LR-1, First-Class Mail Rate Cap Compliance Calculations. In fact, the IMb incentive has had a much greater revenue impact on mailer postage payments than the Tech Credit Promotion would, to the benefit of large mailers.[17] To the extent large mailers view the tech credits as prospectively shifting the price burden onto them (NPPC Comments at 7-8; Time Comments at 6-7; Valpak Comments at 8-9), small mailers can view the IMb per-piece incentives as already having shifted the price burden in the other direction.

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[16] A mailer with 835 million Periodicals pieces in FY 2012 would have saved $835,000 in postage from the $0.001 cent Full-service Intelligent Mail Option incentive for Periodicals. This more than offsets the $454,000 loss that Time Inc. projects from the Tech Credit Promotion. See Time Comments at 6-7.

[17] Revenue forgone from the IMb Incentive was over $109 million in FY 2012 alone, as calculated from FY 2012 Market Dominant Billing Determinants (as revised March 25, 2013): **First Class Mail -** FY 2012 FCM.xls, Worksheets: A-4 Automation Letters, Cell I40; A-6 Automation Cards, Cell G32; A-9 Automation Flats Cell I41. **Periodicals -** FY 2012 Periodicals.xls, Worksheets: Regular, Cell L132; Non-Profit, Cell L132; Classroom, Cell L132; Within County, Cell K21. **Standard Mail -** FY 2012 Standard Mail.xls, 'REG AUTO LETTERS P. C1-1', cell F56; 'NP REG AUTO LETTERS P. C3-1', cell F56; FY 2012 Standard Mail.xls, 'REG AUTO FLATS P. C1-3', cell F56; 'NP REG AUTO FLATS P. C3-3', cell F56; FY 2012 Standard Mail.xls, 'ECR LETTERS P. C2-1', cell F56; 'NP ECR LETTERS P. C4-1', cell F56; FY 2012 Standard Mail.xls, 'ECR FLATS P. C2-2', cell F82; 'NP ECR FLATS P. C4-2', cell F72. **Bound Printed Matter -** FY 2012 BPM.xlsx, Worksheets: D2 - Presort Bound Printed Matter Flats FY2012, Cell C47.

The Postal Service has now determined that the means employed to induce conversion should be augmented with an approach specifically designed to get medium-sized mailers to adopt Full-Service IMb service. Instead of a price that varies with volume, the Tech Credit Promotion uses flat dollar amounts, roughly equivalent to the costs of software needed by medium and large mailers to implement Full-Service IMb.[18]

One should not view the cap impact of any one price proposal in the abstract, or in isolation. Instead, all the price cap impacts will be presented together when the Postal Service files for its next annual CPI price change. These prices will be reviewed as a whole to determine if they are fair and equitable. Review of these prices, including their fairness and equity, needs to be deferred until the next CPI case, when a complete set of prices can be reviewed

III. Regardless of the Commission's Determination of the Promotion's Impact on the Price Cap, the Technology Credit Promotion Complies With Title 39 and Should Be Approved.

No persuasive arguments have been raised challenging the Tech Credit Promotion's ability to induce increased participation in the IMb program.[19]

[18] Response of the United States Postal Service to Chairman's Information Request No. 1, Question 9 (May 7, 2013). Despite the contrary arguments from mailers, the Technology Credit Promotion falls within the rules and procedures governing price changes. Just as with other promotions, surcharges, and discounts, the MCS changes would create new price categories specifying a dollar change to postage in the listed circumstances. A customer who receives a tech credit would see postage reduced for a qualifying Full-Service IMb mailing, but not for other mailings. Ironically, under the mailers' view, no Postal Service filing would have been called for, since price changes would not have been implicated.

[19] Calmark has questioned the need for the mechanism, presumably in light of the expectation that conversion to Full Service IMb "is going to be mandated." Calmark Comments at 3. Calmark also questions the fairness of providing technology credits to mailers who will never incur the cost of applying the IMb to a direct mailing. Neither argument presents a reason why, within the limited context in which it will operate, the technology credit will not be an effective inducement for

Furthermore, no party has established that the goal of promoting increased Full Service participation is not worthwhile or warranted. Indeed, there seems to be a general acceptance that the IMb program will have immediate benefits related to the measurement and reporting of performance, and long range benefits for effective operations and visibility.

Accordingly, regardless of its determination of the price cap issues raised by the Postal Service's proposal, the Commission should address the consistency of the Tech Credit Promotion with applicable statutory policies and provisions. In this regard, the Commission should conclude that the Tech Credit Promotion not only promotes an increase in the value of the mail, but that it is also directly supported by policies explicitly contained in the Postal Accountability and Enhancement Act. *See* 39 U.S.C. §§ 3622(c)(1), (13), (14).

IV. The National Newspaper Association's Request for an Additional Tech Credit Tier Should be Considered Separately from this Docket.

The National Newspaper Association (NNA) requests that, if the Tech Credit promotion is approved, a tier be added for smaller volume mailers (particularly newspapers).[20] NNA specifically asks the Commission to "permit the Postal Service to present a slightly amended credit schedule at a later date . . . ."

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mailers who would be challenged to convert without the financial incentive that the technology credit would provide. The Public Representative expressed support for the Tech Credit's role in helping mailers comply with Full-Service IMb requirements, but questioned whether the program could be designed better to help small mailers. Public Representative Comments at 19-20. The Postal Service is making the Intelligent Mail for Small Business tool available for small mailers, and, as described in section IV, is considering future modifications to the Tech Credit program. See Response of United States Postal Service to ChIR No. 1, Question 10 (May 7, 2013).

[20] Comments of National Newspaper Association, Inc. in Response to the Postal Service Proposal (May 24, 2013).

The Postal Service appreciates NNA's concerns, and plans further conversations with NNA about adding a new tier. But consideration of the new tier should not delay the Commission's response to the Postal Service proposal in this docket. The Postal Service wishes to move ahead with the Tech Credit promotion as proposed, as early in June as possible. In particular, the promotion period for an additional tier would need to be different from the period proposed in this docket.

A Postal Service decision to proceed with an additional Tech Credit tier would require prior internal review by Postal Service management and the Governors. Such a decision would then be presented to the Commission, in a new docket.

V. Conclusion

Based on the above, the Postal Service respectfully reiterates its request that the Commission approve the Tech Credit Promotion and allow the Postal Service to apply any resulting pricing authority during the next annual Market-Dominant price adjustment.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing & Product Support

John F. Rosato

David R. Rubin

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1135
(202) 268-7178, Fax -6187
John.F.Rosato@usps.gov
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