

ORDER NO. 1754

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

Before Commissioners:

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

Modification of Mail Classification Schedule  
Regarding Philatelic Sales and  
Officially Licensed Retail Products

Docket No. MC2013-49

ORDER CONCERNING MINOR CLASSIFICATION CHANGES REGARDING  
PHILATELIC SALES AND OFFICIALLY LICENSED RETAIL PRODUCTS

(Issued June 20, 2013)

I. INTRODUCTION

The Postal Service has filed notice pursuant to 39 C.F.R. § 3020.92 of a minor classification change regarding two nonpostal products, Philatelic Sales and Officially Licensed Retail Products (OLRP).<sup>1</sup> The Postal Service proposes to exempt prices established by auctions from the maximum price limits that otherwise would apply for Philatelic Sales and OLRP. Notice at 1. For the reasons provided below, the Commission incorporates the changes into the draft Mail Classification Schedule (MCS).

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<sup>1</sup> Notice of the United States Postal Service of Classification Change Related to Philatelic Sales and Officially Licensed Retail Products, May 13, 2013 (Notice).

## II. BACKGROUND

The Postal Service states that the auction process is a fair mechanism for determining a price, and that auction price results are beyond the control of the Postal Service. *Id.* It further states that it would be impractical to use auctions if they should include a maximum price limit. *Id.* The Postal Service believes the changes are not subject to 39 U.S.C. § 3642 because no product is added or removed from a product list or transferred between the market dominant and competitive product lists. *Id.* The Postal Service does not indicate a proposed effective date for the changes.

The Notice includes conforming changes to the MCS in the form of a footnote to the price schedules for Philatelic Sales and OLRP. *Id.* Attachment. The footnote states that “Maximum price limits do not apply if price is determined using an auction.”

The Commission issued notice of the Postal Service’s filing on May 15, 2013 and invited comments on matters raised by the Notice, including the consistency of the change with 39 U.S.C. § 3642.<sup>2</sup> The notice also requested the Postal Service to clarify the record by explaining “its intentions, plans and timing regarding the use of auctions for the sale of Philatelic Sales and Officially Licensed Retail Products (OLRP) nonpostal products.” Order No. 1715 at 2. The Notice requested the Postal Service’s response no later than May 20, 2013, and comments by interested persons by May 22, 2013.

In its response, the Postal Service explains that it plans to use third-party online auctions for sales of collectible Philatelic or OLRP items, such as limited edition reprinted artwork of stamp subjects OLRP or signed limited edition philatelic items. The earliest date it would use this type of auction is July 1, 2013.<sup>3</sup>

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<sup>2</sup> Notice And Order Concerning Minor Classification Changes Regarding Philatelic Sales and Officially Licensed Retail Products, May 15, 2013 (Order No. 1715).

<sup>3</sup> Response of the United States Postal Service to Order No. 1715, May 20, 2013.

### III. COMMENTS

Comments were filed by David B. Popkin and the Public Representative.<sup>4</sup> Popkin does not object to the Postal Service's plan to exclude auction prices from the maximum price in the MCS for these products. Rather, he contends that existing language in renumbered note 2 of Philatelic Sales should be clarified as to whether the custom order fee applies to the sale of press sheets.<sup>5</sup> Popkin further comments that according to his information, in some instances, an additional \$0.10 charge may be added to the fee for custom orders.<sup>6</sup>

The Public Representative agrees with the Postal Service that it would be impractical to use auctions if a maximum price limit were imposed. PR Comments at 2. She further comments that the revision is not subject to 39 U.S.C. § 3642 as it does not involve a new product, seek to add or remove a product from a product list, or transfer a product between the market dominant and competitive product lists. *Id.* The Public Representative finds the change is minor in nature, in accordance with applicable law, and in the interest of the general public. *Id.*

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<sup>4</sup> Comments of David B. Popkin, May 22, 2013. Public Representative Comments Concerning Classification Change Regarding Philatelic Sales and Officially Licensed Retail Products, May 23, 2013 (PR Comments). The Motion of Public Representative for Late Acceptance of Comments filed May 23, 2013, is granted.

<sup>5</sup> Renumbered Note 2 in Part 1702.2 of the MCS states: "There is no handling charge for philatelic items sent as part of a subscription for a series of philatelic items of a specified type, with a means of payment established in advance. The custom order fee is applied to stamp sales, including press sheets, when the customer requests configurations other than those listed for each item in the USA Philatelic catalog, specific plate positions, or specialized handling. The custom order fee does not apply to philatelic items, other than press sheets, or subscription program orders." Notice, Attachment at 1-2, n.2.

<sup>6</sup> Popkin's comments go to matters not at issue in this proceeding and are better addressed directly to the Postal Service.

#### IV. COMMISSION ANALYSIS

The proposed classification changes were filed pursuant to 39 C.F.R. §§ 3020.90 and 3020.91 applicable to changes initiated by the Postal Service to ensure product descriptions in the MCS accurately represent current product and service offerings of the Postal Service. 39 C.F.R. § 3020.90. Notices filed pursuant to rule 3020.90 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. 39 C.F.R. § 3020.91.

The threshold question is whether the Notice is properly filed under 39 C.F.R. §§ 3020.90 *et seq.* as a minor classification change. The proposed classification changes do not alter the product descriptions or the products offered for sale. Nor do they modify either the market dominant or competitive nonpostal product lists. However, the price change, eliminating the maximum price for these nonpostal products sold at auction, cannot be characterized as minor. The change is more than one merely correcting an error or description of the product being offered.

The Notice represents the first proposed “minor” classification affecting nonpostal services. The proposed change in price is not insignificant. Nevertheless, there is ambiguity as to which of the Commission’s rules applies to the instant filing.<sup>7</sup> Given that, and the fact that the Postal Service provides satisfactory justification for the change, the Commission concludes that the filing pursuant to 39 C.F.R. § 3020.90 is appropriate and sufficient. See Docket No. MC2013-48, Order No. 1718, Order Approving Minor Classification Change (Extension of GXG Promotion), May 16, 2013, at 3-4 (footnote omitted) (“In several dockets, the Commission has recognized that the scope of Rule 90 filings has been enlarged to accommodate proposals that fall beyond

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<sup>7</sup> Cf. Docket No. MC2012-30, Order No. 1417, Order Approving Express Mail International Padded Flat Rate Envelope Option, July 25, 2012; Docket No. MC2011-28, Order No. 835, Order Regarding Commercial First-Class Package Service, August 31, 2011; Docket No. MC2011-5, Order No. 667, Order Approving Mail Classification Changes, February 8, 2011; Docket No. CP2013-54, Order No. 1699, Order Approving Temporary Change in Rates of General Applicability for Global Express Guaranteed Service, April 15, 2013.

a narrow interpretation of the term ‘correction.’ And, while acknowledging that this approach has worked reasonably well, the Commission has indicated its intent to initiate a rulemaking to address filings of this nature.”) See *also* Docket No. MC2013-44, Order No. 1703, Order Approving Minor Classification Change Concerning Certain Commercial Plus Pricing Categories, April 22, 2013, at 4-5. Accordingly, the Commission will incorporate the proposed changes into the draft MCS.

V. ORDERING PARAGRAPHS

*It is ordered:*

1. The proposed changes will be incorporated into the draft Mail Classification Schedule.
2. The draft Mail Classification Schedule will be modified as shown in the Attachment to this Order.

By the Commission.

Shoshana M. Grove  
Secretary

MAIL CLASSIFICATION SCHEDULE

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Part A—Market Dominant Products

\* \* \* \* \*

1700 Nonpostal Services

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**1702 Philatelic Sales**

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1702.2 Prices

	(\$)
All items	Not less than face value of included postage, and not more than face value of included postage plus 300.00 <sup>1</sup>
Handling—Orders mailed to domestic (United States) destinations <sup>42</sup> Orders up to \$50.00 Orders over \$50.00	1.25; add \$2.00 for custom orders 1.75; add \$2.00 for custom orders
Handling—Orders mailed to non-domestic (outside the United States) destinations <sup>42</sup> Orders up to \$50.00 Orders over \$50.00	6.25; add \$2.00 for custom orders 6.75; add \$2.00 for custom orders
Expedited service	Actual Express Mail postage

**Notes**

1. Maximum price limit does not apply if price is determined using an auction.

42. There is no handling charge for philatelic items sent as part of a subscription for a series of philatelic items of a specified type, with a means of payment established in advance. The custom order fee is applied to stamp sales, including press sheets, when the customer requests configurations other than those listed for each item in the USA Philatelic catalog, specific plate positions, or specialized handling. The custom order fee does not apply to philatelic items, other than press sheets, or subscription program orders.

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Part B—Competitive Products

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2700 Nonpostal Services

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**2704 Officially Licensed Retail Products (OLRP)**

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2704.3 Prices<sup>1</sup>

	(\$)
Mail-Related Merchandise	1.00 to 125.00
Government--Service-Related Merchandise	1.00 to 20.00
Stamp-Related or Postal-Branded Merchandise	1.00 to 150.00

**Notes**

1. Maximum price limits do not apply if price is determined using an auction.