

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Notice of Market-Dominant
Price Adjustment

Docket No. R2013-10

COMMISSION INFORMATION REQUEST NO. 1

(Issued October 28, 2013)

To clarify the Postal Service's planned market dominant price adjustments in its Notice of Market Dominant Price Adjustment, filed September 26, 2013, the Postal Service is requested to provide written responses to the following questions. Answers should be provided no later than November 1, 2013.

Please refer to the response to CHIR No. 3, question 1, which asked the Postal Service to explain how redefining the automation presort rate cells is accounted for in the CPI-based price cap calculations. In its response, the Postal Service asserts that "The cap does not apply to additional sources of revenue that might arise from changes in mailing rules that the Postal Service is statutorily authorized to issue." *Id.* at 2. It further asserts that 39 C.F.R. § 3010.23(d) "does not contemplate including revenue increases from other sources, such as changes in mailing rules, in the price cap calculation." *Id.*

When the Commission originally developed rules for calculating the percentage change in rates for determining compliance with the price cap, the issue of whether and how to include revenue increases from sources such as changes in mailing rules was addressed. Alliance of Nonprofit Mailers (ANM) and Magazine Publishers of American (MPA) suggested that the rules should incorporate the effects of such changes:

[T]here must be an exception or adjustment to the general rule of using the same volume weights to calculate average revenue per piece under existing and new rates when changes in mail preparation requirements have significant rate implications. For

example, an increase in the minimum number of pieces in a Carrier Route Basic bundle from six pieces to ten pieces would cause some Periodicals Outside County flats to shift from paying the lower Carrier Route Basic rate (16.9 cents) to paying the higher 5-Digit Automation rate (26.8 cents).

Such a change would be a *de facto* rate increase, and therefore must be accounted for when evaluating compliance with section 3622(d) of the PAEA.

Docket No. RM2007-1, Initial Comments of Alliance of Nonprofit Mailers and Magazine Publishers of America, Inc. on Further Advance Notice of Proposed Rulemaking (Order No. 15), June 18, 2007, at 2-3 (emphasis in original).

In response to this concern, the Postal Service suggested a means of incorporating this type of change into the determination of compliance with the price cap:

There is instead a simple way to deal with the situation discussed by ANM/MPA that does not violate the constant mix approach. Specifically, when some existing mail shifts from one category to a second category due to changes in mail preparation requirements, the solution is to create three volume groupings: (1) volume that starts in the first category and stays there, (2) volume that starts in the first category and shifts to the second category, and (3) volume that starts in the second category and stays there. When applying prices to these three groupings, volume in the first grouping is always charged the price applicable to the first category, volume in the third grouping is always charged the price applicable to the second category, and volume in the second grouping is charged the price applicable to the first category under existing rates, but the price applicable to the second category under the proposed rates. Such a process achieves the exact same objective sought by ANM/MPA – a fair process for the evaluation of compliance with the cap – but avoids the troubling prospect of allowing the volume weights to vary. The volume of each grouping remains the same at either set of prices. The identification of the contents of the three groupings in this example would constitute an illustration of an “adjustment” to historical billing determinants of the type discussed in the Postal Service’s Initial Comments on Question 2 of the Second Advance Notice. In practical terms, it requires the availability of no further inputs beyond those that would be required by the alternative approach advocated by ANM/MPA, and the computations are essentially equivalent.

Docket No. RM2007-1, Reply Comments of the United States Postal Service on the Second Advance Notice of Proposed Rulemaking, July 3, 2007, at 3-4 [footnote omitted] (Postal Service Reply Comments).

The Commission ultimately adopted the “constant mail mix” approach advocated by the Postal Service, including the adjustment procedure described above to incorporate the rate effects of adding, deleting, or redefining rate cells. In Docket No. R2011-1, the Commission followed this approach with the Move Update decision by incorporating the proposed increase in the Move Update Assessment Charge threshold into the price cap calculations as it was viewed as a redefinition of rate cells that resulted in a rate increase. Order No. 606 at 3, December 10, 2010. When revisiting rule 3010.23 in Docket No. RM2013-2, the Commission reviewed this historical background and made the revisions “[c]onsistent with the original design of the rule and its past practice[.]” Order No. 1786 at 19; *see also id.* at 16-19.

As set forth in Order No. 1786, Attachment at 10, current rule 3010.23(d) reads as follows:

The volumes for each rate cell shall be obtained from the most recent available 12 months of Postal Service billing determinants. The Postal Service shall make reasonable adjustments to the billing determinants to account for the effects of classification changes such as the introduction, deletion, or redefinition of rate cells. Whenever possible, adjustments shall be based on known mail characteristics or historic volume data, as opposed to forecasts of mailer behavior. The Postal Service shall identify and explain all adjustments. All information and calculations relied upon to develop the adjustments shall be provided together with an explanation of why the adjustments are appropriate.

In contrast to the Postal Service’s Reply Comments quoted above, page 3 of the Postal Service’s response to CHIR No. 3, question 1 states:

The Postal Service interprets 39 CFR § 3010.23(d) to require billing determinant adjustments when an MCS change moves mail from one category to another, regardless of mailer behavior. Changes to DMM standards are different. The expectation is that mailers will adjust their mail preparation to reflect the new mail standards, and thus continue to qualify for the same price cells. As

a result, there will be no price increase, and thus no price cap impact.

1. Is it the Postal Service's contention that changing the barcoding requirement for automation presort rates constitutes a change in a mail preparation requirement that is of a different nature than increasing the minimum number of pieces required for eligibility for Carrier Route Basic described by ANM and MPA? If so, please explain.
2. Is it the Postal Service's contention that changing the barcoding requirement for automation presort rates constitutes a change in a mail preparation requirement that is of a different nature than increasing the threshold below which the Move Update Assessment Charge applies to presorted mailings? If so, please explain.
3. As noted, 3010.23(d) requires adjustments to account for a redefinition of rate cells. Please explain why the Postal Service does not believe the change in the barcoding requirement for automation presort rates is "redefining rate cells."
4. Is it the Postal Service's position that "a fair process for evaluation of compliance with the cap" should reflect the rate impact of "existing mail shift[ing] from one category to a second category due to changes in mail preparation requirements"? See Postal Service Reply Comments at 3-4.
 - a. If yes, please explain how the Postal Service's treatment of the change in eligibility requirements for automation rates is consistent with this position.
 - b. If no, please explain how and why the Postal Service's position has changed.

By the Commission.

Shoshana M. Grove
Secretary