

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

Before Commissioners:

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

Notice of Market-Dominant  
Price Adjustment

Docket No. R2013-10

ORDER ON PRICE ADJUSTMENTS FOR MARKET DOMINANT PRODUCTS AND  
RELATED MAIL CLASSIFICATION CHANGES



Washington, DC 20268-0001

November 21, 2013

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(Issued November 21, 2013)

I. INTRODUCTION AND OVERVIEW

On September 26, 2013, the Postal Service filed notice of its planned price adjustments for most market dominant products.<sup>1</sup> The Postal Service also proposes to implement numerous mail classification changes in conjunction with the price adjustments.

The Commission has reviewed the pricing proposals for consistency with the requirements of title 39. Pursuant to 39 C.F.R. § 3010.11(j), the Commission finds that absent plans to require certain mail to comply with the Full Service Intelligent Mail

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<sup>1</sup> United States Postal Service Notice of Market-Dominant Price Adjustment, September 26, 2013 (Notice).

barcode (IMb) requirements, the planned rates 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.

However, as currently proposed, rates that include the Full Service IMb requirements would violate section 3622(d) in First-Class Mail, Standard Mail, and Periodicals. The Commission finds that the Full Service IMb requirements constitute a classification change with rate implications pursuant to 39 U.S.C. § 3622(d)(1)(A) and 39 C.F.R. § 3010.23(d). The simultaneous implementation of these changes, together with the planned rate adjustments announced in the Notice, would cause rates to increase as follows:

**Table I-1**  
**Planned Rate Adjustment**

<b>Mail Class</b>	<b>Rate Increase %</b>
First-Class Mail	4.118
Standard Mail	4.900 <sup>1</sup>
Periodicals	3.069 <sup>2</sup>
<sup>1</sup> This figure corrects the Postal Service's workpapers to reflect the exclusion of Carrier Route and High Density Flats Pieces from the Full Service IMb requirement. See PR Comments at 10. If these pieces are subject to the non-automation rate without a Full Service IMb, the Postal Service should include these rate categories in its calculations upon choosing to implement the Full Service IMb requirement.	
<sup>2</sup> See n.1.	

Each of these increases exceeds the CPI rate authority of 1.696 percent. Therefore, the Postal Service may not implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket without first adjusting the rates to comply with the price cap.

Additionally, the Commission determines that the unequal commercial and nonprofit discounts for Standard Mail 5-digit automation flats violate the requirement

that disparities between commercial and nonprofit discounts must be justified by a statutory exception. The Postal Service failed to adequately justify the proposed disparity.

If the Postal Service elects to not implement the Full Service IMb requirements in conjunction with the rate adjustments identified in this docket, it may implement those rate adjustments as planned, with the single exception identified above. Alternatively, the Postal Service may adjust the billing determinants for First-Class Mail, Standard Mail, and Periodicals in the manner it used to reflect the implementation of Full Service IMb requirements in Package Services and file amended rates. The Postal Service shall notify the Commission of its intentions and provide necessary supporting documentation, by November 27, 2013.

*Procedural history.* On September 26, 2013, the Postal Service filed its Notice with the Commission in conformance with 39 U.S.C. § 3622(d)(1)(C) and Commission rules in 39 C.F.R. part 3010. The Notice announces the Postal Service's intention to change most domestic and international market dominant prices on January 26, 2014 at 12:01 a.m. by amounts which are, on average, within a 1.696 percent statutory price cap for all classes of mail except Special Services. The annual limitation for the Special Services class is 0.636 percent due to a mid-year market dominant price adjustment that affected only that class.<sup>2</sup>

The Notice includes four attachments presenting detailed price and mail classification changes; worksharing discount calculations; and price index change calculations. Supporting workpapers address, for each class, how the planned prices comply with the price cap. First-Class Mail International data and information appear in both public and non-public workpapers, pursuant to the Postal Service's request for

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<sup>2</sup> See Docket No. R2013-7, United States Postal Service Notice of Market-Dominant Price Adjustment, May 10, 2013.

nonpublic treatment for certain material.<sup>3</sup> Commission Order No. 1842, issued September 27, 2013, provided public notice of the Postal Service's filing; established Docket No. R2013-10 to consider the planned price adjustments; and appointed a Public Representative.<sup>4</sup> Pursuant to rule 3010.11(a)(5), the Commission allowed 20 days for public comment. In response to a motion jointly filed by nine parties<sup>5</sup>, the Commission issued Order No. 1853 granting a 15-day extension to the comment period to ameliorate the impact of the lapse in appropriations that caused some federal agencies, including the Commission, to shut down.<sup>6</sup>

*Supplemental data and information.* The Commission issued, and the Postal Service responded to, one multi-part information request seeking clarification of the Full Service IMb requirements.<sup>7</sup> Eleven Chairman Information Requests were issued seeking clarification or further explanation of various other aspects of the Postal Service's filing. Appendix B provides citations to these information requests, to Postal Service's responses, and to related filings.

*Commenters.* The Commission received nine sets of formal comments in response to Order No. 1842. Appendix A provides a list of commenters and citations to their filings.

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<sup>3</sup> Notice of the United States Postal Service of Filing of USPS-LR-R2013-10/NP1, September 26, 2013, including Attachment 1, Application of the United States Postal Service for Non-public Treatment of Materials (Postal Service Application). The Postal Service Application was not opposed.

<sup>4</sup> See Notice and Order on Planned Rate Adjustments and Classification Changes for Market Dominant Postal Products, September 27, 2013 (Order No. 1842).

<sup>5</sup> Motion of MPA—The Association of Magazine Media, the American Catalog Mailers Association, Inc., Direct Marketing Association, Inc., Alliance of Nonprofit Mailers, Association of Marketing Service Providers, National Newspaper Association, Printing Industries of America, Quad/Graphics, Inc., R.R. Donnelley, and Time Inc. to Extend Comment Period, October 18, 2013, at 1 (Motion). The Motion states that the Public Representative supports the Motion. *Id.* See also Public Representative Motion for Issuance of Information Request, September 30, 2013.

<sup>6</sup> See Order Granting Motion to Extend Time for Filing Comments, October 22, 2013 (Order No. 1853).

<sup>7</sup> See Commission Information Request No. 1, October 28, 2013 (CIR No. 1); Response of the United States Postal Service to Commission Information Request No. 1, November 5, 2013 (Response to CIR No. 1).

## II. FULL SERVICE IMB REQUIREMENTS

### A. Introduction

Beginning January 26, 2014, the Postal Service will require letters, postcards, and flats (as well as trays, tubs, sacks, and containers) to bear Full Service Intelligent Mail barcodes (IMb) in order to qualify for automation First-Class, Standard, Periodicals, and Package Services rates. 78 Fed. Reg. 23137 (April 18, 2013). Mailers will also be required to submit mailing documentation electronically. *Id.* Beginning January 26, 2014, the Postal Service will perform three types of verification on Full Service IMb mailings: “existing automation verifications,” “full-service acceptance verifications,” and “full-service electronic verification.” *Id.* at 23138-9. The Postal Service will not make any assessments “as a result of any full-service electronic verification until July 1, 2014.”<sup>8</sup>

While the Postal Service states that it does not view the Full Service IMb requirements as a rate adjustment, it adjusted billing determinants to account for the effects on the price cap calculation of the Full Service IMb requirements on Package Services. However, it did not make adjustments to the billing determinants filed in this docket for First-Class Mail, Standard Mail, or Periodicals to account for the effects of the Full Service IMb requirements. *Id.* at 2.

On September 30, 2013, the Public Representative filed a motion requesting the issuance of an information request relating to the impact of the Full Service IMb requirements on the price cap calculations in this docket.<sup>9</sup> An information request concerning the Full Service IMb requirements was issued on October 18, 2013.<sup>10</sup> On

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<sup>8</sup> *Id.* at 23140; Response of the United States Postal Service to Chairman’s Information Request No. 3, Questions 1-2, and 6-7, October 24, 2013, at 2 (Response to CHIR No. 3).

<sup>9</sup> Public Representative Motion for Issuance of Information Request, September 30, 2013 (PR Motion).

<sup>10</sup> Chairman’s Information Request No. 3, October 18, 2013 (CHIR No. 3). Due to a lapse in appropriations, the Commission was required to close from October 1, 2013 through October 16, 2013.

October 18, 2013, a group of nine parties moved for an extension of the comment period to allow interested parties to submit comments on the price cap implications of the Full Service IMb requirements.<sup>11</sup> The Commission granted the MPA, et al. Motion and extended the time for comments to October 31, 2013.<sup>12</sup>

The Postal Service responded to CHIR No. 3, questions 1-2, on October 24, 2013. On October 28, 2013, the Commission issued Commission Information Request No. 1.<sup>13</sup> The Postal Service responded to CIR No. 1 on November 5, 2013.<sup>14</sup>

On November 8, 2013, the Public Representative filed a second motion for issuance of an information request concerning the availability of the prices for First-Class Automation Letters with Basic IMb listed in the MCS.<sup>15</sup>

## B. Comments

### 1. Initial comments

The Commission received several initial comments on the effects of the Full Service IMb requirements on the price cap. One group of commenters, hereinafter referred to as the Joint Commenters, argues that the failure to properly adjust for the

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<sup>11</sup> Motion of MPA—The Association of Magazine Media, the American Catalog Mailers Association, Inc., Direct Marketing Association, Inc., Alliance of Nonprofit Mailers, Association of Marketing Service Providers, National Newspaper Association, Printing Industries of America, Quad/Graphics, Inc., R.R. Donnelley, and Time Inc. to Extend Comment Period, October 18, 2013, at 3 (MPA, et al. Motion). The parties also requested that the Commission issue the information request proposed by the Public Representative. *Id.* at 1. CHIR No. 3 rendered that portion of the MPA, et al. Motion moot.

<sup>12</sup> Order Granting Motion to Extend Time for Filing Comments, October 22, 2013 (Order No. 1853).

<sup>13</sup> Commission Information Request No. 1, October 28, 2013 (CIR No. 1).

<sup>14</sup> Response of the United States Postal Service to Commission Information Request No. 1, November 5, 2013 (Response to CIR No. 1). The Postal Service's Response to CIR No. 1 was accompanied by a Motion for Late Acceptance of the Response of the United States Postal Service to Commission Information Request No. 1, November 5, 2013. That motion is granted.

<sup>15</sup> Public Representative Motion for Issuance of Information Request, November 8, 2013 (PR Second Motion).

Full Service IMb requirements results in rates that violate the price cap.<sup>16</sup> A second group asserts that the Postal Service's revenue projections for rate categories affected by the Full Service IMb requirements fail to comply with 39 C.F.R. § 3010.23(d). MPA, et al. Motion at 2. Pitney Bowes points to the need for additional information to help the Commission assess the price cap impact of Full Service IMb.<sup>17</sup>

## 2. Comments in response to Order No. 1853

Five parties filed comments in response to Order No. 1853. Four of these express concerns regarding the Postal Service's failure to include the impact of the mandatory requirements of Full Service IMb in its price cap calculation.<sup>18</sup>

*Public Representative.* The Public Representative argues that the Postal Service's price cap calculation must account for Full Service IMb and urges the Commission "to reject the current proposal and require the Postal Service to file new prices." PR Comments at 1. He asserts that "[i]f the Postal Service can increase revenue through changes in mailing rules, the Postal Service will be able to contrive, without limit, mailing rules that can drive mailers to more costly rate categories or classes of mail so that revenues will increase significantly without regard to the price

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<sup>16</sup> Comments of the National Postal Policy Council, the Major Mailers Association, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement, October 17, 2013, at 1 (Joint Comments). Collectively, the parties that filed the Joint Comments will be referred to as the Joint Commenters.

<sup>17</sup> Comments of Pitney Bowes Inc., October 17, 2013, at 2-3 (Pitney Bowes Comments). The Public Representative also requested further information concerning the effects of the Full Service IMb requirements. PR Motion at 1-2. On the basis of the information submitted by the Postal Service in response to CHIR No. 3, the Public Representative later concluded that the Postal Service's proposed rates do not comply with applicable law. See Public Representative Comments, October 31, 2013, at 1, (PR Comments).

<sup>18</sup> Several commenters also discuss other concerns that have arisen over the course of this proceeding. See, e.g., PR Comments at 11-19; Valpak Direct Market Systems, Inc. and Valpak Dealers' Association Supplemental Comments Pursuant to Order No. 1853, October 31, 2013, at 1-2 (Valpak Supplemental Comments); Comments of Alliance of Nonprofit Mailers on USPS Response to Chairman's Information Request No. 5, Question 4, October 31, 2013. These comments are discussed *infra*, in conjunction with the topics they address.

cap limitations.” *Id.* at 1-2. In short, he believes acceptance of the Postal Service’s position would “render[] the Price Cap limitation in the PAEA moot.” *Id.* at 1.

In support of his position, the Public Representative states that as of January 26, 2014, a mailing previously eligible for automation prices will be required to pay the substantially higher non-automation rates. *Id.* at 4. Although the Postal Service has incentivized mailers to adopt Full Service IMb, the Public Representative argues that, for many mailers, the cost of participation has been higher than the value of the incentives offered. *Id.* at 5-6. He asserts there is “a long tail of mailers who have not been incentivized to participate,” (footnote omitted) and that “even if 5 percent of mailers do not adopt Full Service IMb, the price cap will be exceeded.” *Id.*

The Public Representative emphasizes that the Commission’s rules require a backward weighted volume index to be used to calculate the price cap impact and that the effect of the IMb requirement should be accounted for using available billing determinants without assuming any change in mailer behavior. *Id.* at 6-7. The Public Representative contests the Postal Service’s argument that changes to the Domestic Mail Manual (DMM) are not price changes and points out that this position is inconsistent with the Postal Service’s prior acknowledgement of the potential impact of mail preparation rules on the price cap calculation. *Id.* at 7-8.

The Public Representative is concerned that the Postal Service’s representation that there will be no Full Service IMb-related assessments until July is misleading. *Id.* at 8. He states that there are many components of Full Service IMb implementation and the current process of ensuring that mailpieces meet automation requirements will still be used. *Id.* at 9. Therefore, mailers that continue to enter volume with Basic IMb barcodes will be penalized starting January 26, 2014 under the Postal Service’s proposal. *Id.* The Public Representative is also troubled by the fact that the Postal Service did not provide Full Service IMb volume by rate category and had varying interpretations of how the new mandate will apply to Standard Mail and Periodicals. *Id.* at 9-10.

The Public Representative concludes that the Full Service IMb mandate must be delayed in order to allow the Postal Service to implement the other prices proposed in this proceeding. *Id.* at 11. He believes the Full Service IMb mandate could be included with the Postal Service's exigent request, or the Postal Service could redesign its request in this proceeding to conform with the Postal Accountability and Enhancement Act (PAEA)<sup>19</sup> and Commission rules. PR Comments at 11.

*Joint Commenters.* The Joint Commenters contest the Postal Service's assertions that the price cap does not apply to additional sources of revenue that might arise from changes in mailing rules and that changes to the DMM are excluded from price cap consideration.<sup>20</sup> The Joint Commenters emphasize that the PAEA gave the Commission authority to establish rules concerning the price cap and that 39 C.F.R. § 3010.23(d), adopted with the support of the Postal Service, contemplates changes like the Full Service IMb mandate being included in the price cap calculation. *Id.* at 3-4. The Joint Commenters cite to various Commission orders and Postal Service statements concerning how billing determinants must be weighted when mail is shifted from one category to another to ensure price cap compliance. *Id.* at 4-5.

The Joint Commenters state that the Full Service IMb mandate "could cause the noticed rates to exceed the cap" and note that it is highly unlikely that all mailers will convert to Full Service IMb prior to January 26, 2014. *Id.* at 6. The Joint Commenters urge the Commission to determine whether the price cap increase has been accurately calculated, based on historical billing data and taking into account the implementation of Full Service IMb. *Id.* at 7-8. They assert that the Postal Service's plan to delay assessments is not an adequate solution, because "refraining from issuing assessments does not affect the cap calculations." *Id.* at 7.

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<sup>19</sup> Pub. L. 109-435, 120 Stat. 3198 (2006).

<sup>20</sup> Further Comments of the National Postal Policy Council, the Major Mailers Association, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement, October 31, 2013, at 3 (Joint Supplemental Comments).

The Joint Commenters are concerned that the Postal Service assumes that all current presort mailers will implement Full Service IMb by January 26, 2014. *Id.* at 2. They assert that since the Postal Service proposes to change the eligibility rules, the Commission must determine whether the Postal Service's proposed rates exceed the price cap. *Id.*

*MPA, et al.* A second group of commenters also asserts that the Postal Service has failed to comply with section 3010.23(d) because it assumes that all mail volume entered at automation rates will remain eligible for those rates after the new Full Service IMb requirements take effect.<sup>21</sup> The commenters discuss the history of section 3010.23(d), stating that Docket Nos. RM2007-1 and RM2013-2 make clear that the Postal Service must use historical billing determinants to project after-rates revenue for purposes of compliance with the price cap. *Id.* at 3-8. The commenters assert that mailer behavior, and not assumed revenue, must be held constant under section 3010.23(d). *Id.* at 9. They also challenge the Postal Service's assertion that section 3010.23(d) does not apply to changes in the DMM, arguing that the Commission had both MCS and DMM language in mind when adopting section 3010.23(d). While they believe the Postal Service has overstated the impact of the Full Service IMb mandate, these commenters nevertheless calculate that the Postal Service's proposal would produce revenues exceeding the CPI cap by close to \$1 billion per year. *Id.* at 2, 10-11.

*Valpak.* Valpak states that the Postal Service's current stance contradicts the approach proposed by the Postal Service and adopted by the Commission in Docket No. RM2007-1. Valpak Supplemental Comments at 2-4. Valpak emphasizes that,

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<sup>21</sup> Comments of MPA—The Association of Magazine Media, Association for Postal Commerce, Direct Marketing Association, Inc., Alliance of Nonprofit Mailers, Association of Marketing Service Providers, Major Mailers Association, National Newspaper Association, Printing Industries of America, Quad/Graphics, Inc., R.R. Donnelley, and Software & Information Industry Association/American Business Media on Price Cap Implications of Rule Mandating Use of Full Service Intelligent Mail Barcode, October 31, 2013, at 2 (MPA, et al. Comments).

although changes in mailing standards can allow more efficient and less expensive mail processing, such changes can impose real costs on mailers. *Id.* at 2.

### C. Postal Service Position

The Postal Service argues that 39 U.S.C. § 3622(d)(1)(A) does not apply to “additional sources of revenue that might arise from changes in the mailing rules that the Postal Service is statutorily authorized to issue.” Response to CHIR No. 3 at 2. The Postal Service expects that, in response to changes to the DMM, mailers will change their behavior to reflect new mailing standards applicable to current rate cells and so will not experience a rate increase. *Id.* at 3.

The Commission requested that the Postal Service explain its position more fully, particularly with respect to issues raised by the commenters. CIR No. 1. The Commission asked the Postal Service to reconcile its Response to CHIR No. 3 with statements it made in Docket No. RM2007-1 and the requirements of 39 C.F.R. § 3010.23(d). *Id.* at 2-3.

In response, the Postal Service addresses and distinguishes its statements in Docket No. RM2007-1 about a hypothetical minimum piece requirement for Carrier Route Basic from its position on the Full Service IMb requirement. It argues that, while the minimum piece requirement would alter the basic density and volume characteristics of mailings necessary to qualify for a rate, the Full Service IMb requirement would not require mailers to change the underlying characteristics of their mailings. Response to CIR No. 1 at 2. It asserts that, unlike the minimum piece requirement, the Full Service IMb requirement “provides clear benefits to mailers.” *Id.* at 3.

The Postal Service argues that the POSTNET barcode requirement, not the hypothetical minimum piece requirement, provides “an informative illustration” of how mailer behavior will change in response to the IMb requirement and the efforts the Postal Service has made to reach out to mailers about the requirement. *Id.* It states

that approximately 96 percent of commercial mailers had adopted the Basic IMb by March 2013 and that it expects a similar response to the Full Service IMb requirement and related outreach efforts. *Id.* It points out that neither the Commission nor any mailer argued that changing the POSTNET barcode requirement to a requirement to use Basic IMb had an effect on the price cap. *Id.*

The Postal Service's response also refers to its request to revive the Move Update requirements.<sup>22</sup> It states that the Move Update Assessment Charge can fairly be characterized as a rate change rather than a mail preparation change because the Move Update requirements were "primarily designed to raise a price." Response to CIR No. 1 at 5. It reiterates that it does not expect mailers to be charged higher prices as a result of the Full Service IMb requirements. *Id.*

Further, the Postal Service argues that 39 C.F.R. § 3010.23(d) does not apply to the Full Service IMb requirement. *Id.* at 6. It interprets section 3010.23(d) to apply only to classification changes, which it would limit to cases "when modifications are made to the Mail Classification Schedule[]." (footnote omitted). *Id.*; *see also id.* at 8-9. It concludes that "[s]ince the Full-Service IMb requirement does not change any rates or definitions listed within the MCS, it does not represent a redefinition of rate cells as specified in rule 23(d)." *Id.* at 6. It bases this conclusion on several statutory references to a classification schedule, which it believes refers solely to the MCS and not to the DMM. *Id.* at 6-7. It notes that chapter 36 of title 39, United States Code, does not mention applying the price cap to changes in mail preparation standards. *Id.* at 8. It argues that the Commission has not required the Postal Service to file rate cases when it changes DMM rules without changing rates, and speculates that if the Commission began reviewing all mail preparation changes under the DMM, the Commission would take on a "much broader role than the PAEA contemplated." *Id.* at 7.

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<sup>22</sup> See Docket No. R2011-1, Order Approving Market Dominant Classification and Price Changes, and Applying Price Cap Rules, December 10, 2010, at 3 (Order No. 606).

In addition, the Postal Service argues that if the Commission does determine that mail preparation changes like the Full Service IMb requirement should be evaluated under the price cap, the Commission should not engage in “the unthinking use of prior year billing determinants, especially in the face of past experience and/or reasonable evidence to the contrary.” (footnote omitted). *Id.* at 9. Rather, it argues that it should be permitted to make adjustments to billing determinants using “[r]easonable expectations based on demonstrated mailer activities and reliable trends.” *Id.*

Finally, the Postal Service cautions that a determination that the Full Service IMb requirements have an impact on the price would “severely distort the financial and operations choices” Postal Service management must make. *Id.* at 10. It argues that a finding that mail preparation requirements have rate effects that would create a “perverse incentive” not to make processing changes that increase efficiency but require mail preparation changes. *Id.* It also predicts that review of mail preparation changes by the Commission would create an additional burden on the Postal Service and the Commission that is inconsistent with the pricing and classification flexibility given to the Postal Service by the PAEA. *Id.*

#### D. Commission Analysis

The question of whether the Full Service IMb mail preparation requirements constitute a classification change is one of first impression for the Commission. The Commission appreciates the Postal Service’s ongoing efforts to incorporate intelligent mail elements into its operations. However, the Commission’s support of intelligent mail improvements does not diminish its responsibility to enforce the requirements of section 3622(d) in a manner consistent with its rules and its past decisions. As explained in greater detail below, the Commission concludes that the Full Service IMb requirements can be characterized as both the redefinition and deletion of rate cells, either of which must be included in the calculation of the percentage change in rates.

The Full Service IMb requirements result in the deletion of rate cells because, following implementation, the non-Full Service IMb automation rates will no longer be available. The deletion of these rate cells occurs because of the current rate structure in First-Class Mail, Standard Mail, Periodicals, and Package Services. In each class, automation rates are available to pieces that do not bear a Full Service Intelligent Mail barcode, and separate, lower automation rates are available to mail that complies with the additional requirements of Full Service Intelligent Mail. When the Full Service IMb requirements are implemented, the automation rates available to mail that does not comply with Full Service Intelligent Mail requirements will no longer be available. The lower rates for mail that does meet the additional Full Service Intelligent Mail requirements will still be available.

The Postal Service properly accounted for the deletion of the non-Full Service IMb rates in Package Services, but did not do so in the other classes of mail. If the current rate structure had not included separate automation rates for Full Service IMb and non-Full Service IMb pieces, the new Full Service IMb requirements would have resulted in the redefinition of rate cells.

The following numerical example is provided for reference.<sup>23</sup> There is currently a rate cell for Mixed AADC First-Class automation letters with a rate of \$0.405. Automation compatible letters with basic IMb preparation qualify for this rate. Automation compatible letters with Full Service IMb preparation qualify for this rate as well. There is also a current discount of \$0.003 that applies only to the Mixed AADC automation compatible letters with Full Service IMb preparation.

There is proposed, a rate cell for Mixed AADC First-Class automation letters with a rate of \$0.415. This cell has been redefined so that automation compatible letters with basic IMb preparation no longer qualify for this rate. Automation compatible letters with Full Service IMb preparation continue to qualify for this rate. The discount of

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<sup>23</sup> Source: USPS-LR-R2013-10/1-Errata.

\$0.003 for automation compatible letters with Full Service IMb preparation remains, and in fact now applies to all pieces in the Mixed AADC rate cell. Thus one could characterize this as the deletion of the separate automation compatible non-Full Service IMb rate.

Whether one characterizes the change as a redefinition or a deletion, or both, it is a classification change with rate effects that must be recognized in calculating whether the proposed changes in rates comply with the annual limitation established in 39 U.S.C. § 3622(d)(1)(A).

Given that the focus of the comments has been on the redefinition of rate cells, the following section explains the legal framework the Commission uses to determine whether a change results in the redefinition of rate cells. The second section applies the legal framework to the Full Service IMb requirements to conclude that the Full Service IMb requirements are a change that results in the redefinition of rate cells. It also explains the Commission's conclusion that the Full Service IMb requirements result in the deletion of rate cells and that the effects of the redefinition and deletion of these rate cells must be included in the calculation of the percentage change in rates under 39 C.F.R. § 3010.23. The final section describes the Postal Service's options in light of these conclusions.

1. Legal framework for determining when a change results in the redefinition of a rate cell
  - a. Statutory requirements

The Commission's analysis of this issue is part of its ongoing efforts to carry out 39 U.S.C. § 3622 in a manner that provides clear guidance to the Postal Service and its customers about the scope and contours of the price cap requirements.

Section 3622 of title 39, United States Code, as amended by the PAEA, directs the Commission to establish a "modern system for regulating rates and classes for

market-dominant products.” 39 U.S.C. § 3622(a). In addition to describing the factors and objectives the Commission must take into consideration in designing, establishing, and revising the system, section 3622 establishes a discrete set of requirements for the system. Chief among these is the requirement to establish “an annual limitation on the percentage change in rates to be set by the Postal Regulatory Commission” that is based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) over the most recent 12-month period. *Id.* at § 3622(d)(1)(A). This limitation (together with the provision allowing the Postal Service to use a certain amount of unused or “banked” rate adjustment authority)<sup>24</sup> is commonly referred to as “the price cap.”

Section 3622(d)(1)(A) does not specify the manner in which “the annual limitation on the percentage change in rates” is to be calculated, and it does not further define the term “change in rates.” Rather, it provides that the annual limitation on the percentage change in rates is “to be set by the Postal Regulatory Commission.” *Id.* § 3622(d)(1)(A). This is consistent with 39 U.S.C. § 3622(a), which requires that the Commission “by regulation establish ... a modern system for regulating rates and classes for market-dominant products.” The responsibility for setting an annual limitation on the percentage change in rates resides with the Commission.<sup>25</sup> Ensuring the Postal Service does not exceed the annual limitation is likewise fundamental to that statutory responsibility.<sup>26</sup>

Setting and enforcing the annual limitation are not the Commission’s only statutory responsibilities. The Commission must also ensure that the system for

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<sup>24</sup> *Id.* § 3622(d)(2)(C).

<sup>25</sup> “Through snow and rain and heat and gloom of night, the Postal Service delivers the mail. But the Postal Service does so under the watchful eye of a separate independent agency, the Postal Regulatory Commission. As relevant here, the Commission regulates the rates that the Postal Service may charge for mail.” *U.S. Postal Service v. Postal Regulatory Commission*, 717 F.3d 209, 210 (D.C. Cir. 2013).

<sup>26</sup> See Docket No. RM2009-3, Order Adopting Analytical Principles Regarding Workshare Discount Methodology, September 14, 2010, at 16 (Order No. 536) (describing the Commission’s responsibility for enforcing the “clear ‘out-of-bounds’ lines drawn by the PAEA,” including the price cap).

regulating rates and classes, among other objectives, “maximize[s] incentives to reduce costs and increase efficiency,” “allow[s] the Postal Service pricing flexibility,” and “assure[s] adequate revenues...to maintain financial stability.” 39 U.S.C. § 3622(b)(1), (4), and (5). Balancing the need to provide predictable and stable rates for mailers and to preserve the Postal Service’s pricing flexibility is a delicate undertaking, but it is one that is key to “help[ing] the Postal Service meet the expected challenges from expanding forms of alternative communications in the new century.”<sup>27</sup> Nevertheless, the price cap remains the central requirement of the rate system envisioned by the PAEA.<sup>28</sup> It is intended to protect mailers by promoting predictable and stable rates and to allow the Postal Service to retain profits realized by reducing costs. *Id.* at 11-12.

b. Regulatory requirements

The Commission carries out the requirements of section 3622 while giving appropriate recognition to the objectives and factors established by that section. The Commission undertakes its responsibility to set and enforce the annual limitation on the percentage change in rates with an awareness of the effect of its rules and decisions on the system envisioned by section 3622 as a whole.

The Commission’s rules require the Postal Service to include the effects of classification changes that result in the redefinition or deletion of rate cells in its calculation of the percentage change in rates. The relevant paragraph of the Commission’s rules provides:

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,

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<sup>27</sup> Docket No. R2010-4, Order Denying Request for Exigent Rate Adjustments, September 30, 2010, at 6 (Order No. 547) (explaining that the PAEA “provided new pricing flexibility to the Postal Service balanced by increased regulatory oversight to ensure transparency and accountability.”)

<sup>28</sup> Order No. 547 at 13-14 (describing the “central role of the price cap”).

deletion, or redefinition of rate cells. Whenever possible, adjustments shall be based on known mail characteristics or historical 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.<sup>29</sup>

The central issue presented is whether the Full Service IMb mail preparation requirements constitute a classification change resulting in the redefinition of rate cells.<sup>30</sup> After considering the parties' comments, including most specifically the Postal Service's arguments concerning the scope of 39 C.F.R. § 3010.23(d), Commission precedent, and its statutory responsibilities, the Commission finds that the new mail preparation requirements redefine rate cells because they require mailers to alter a basic characteristic of a mailing in order for the mailing to qualify for the same rate category for which it was eligible before the change in requirements.<sup>31</sup>

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<sup>29</sup> 39 C.F.R. § 3010.23(d). A clerical error resulted in the misprinting of this provision in the *Federal Register* and the Code of Federal Regulations; the error has since been corrected. See 78 Fed. Reg. 67951 (November 13, 2013). See also Docket No. RM2013-2, Notice of Corrections to a Federal Register Document, November 6, 2013; Docket No. RM2013-2, Order Adopting Final Rules for Determining and Applying the Maximum Amount of Rate Adjustments, July 23, 2013, Attachment at 10 (Order No. 1786).

<sup>30</sup> A broader inquiry, e.g., what constitutes a redefinition of rate cells, is neither necessary nor possible within the 45-day period prescribed for review of Postal Service planned price changes. The specific issue before the Commission is relatively straightforward. A rulemaking proceeding might be beneficial, in that it would afford all interested persons an opportunity to comment on such issues and provide a suitable record on which the Commission may be able to prescribe a rule of general applicability. However, the Commission need not speculate about how to handle future issues while specific requests are pending. A careful analysis of the pending issue is sufficient. The Postal Service and other interested parties may petition the Commission to initiate such a proceeding, which, as discussed below, could also provide a forum for reexamination of the currently used backward-weighted index.

<sup>31</sup> 39 C.F.R. § 3010.23(a) defines the term "rate cell" to mean "each and every separate rate identified in any applicable notice of rate adjustment for rates of general applicability." Seasonal and temporary rates are identified and treated as rate cells separate and distinct from the corresponding non-seasonal or permanent rates. *Id.*

c. Development of price cap rules and application of the rules to rate changes

In 2007, the Commission issued rules establishing the system required by 39 U.S.C. § 3622.<sup>32</sup> The rules have been amended twice since they were issued: once to allow the Commission to calculate the price cap using three decimal places rather than one decimal place<sup>33</sup> and once, earlier this year, to provide greater certainty about how the rules apply to a variety of planned rate changes.<sup>34</sup>

Most of the changes proposed by the Postal Service either clearly result in a rate adjustment subject to 39 C.F.R. part 3010 or clearly do not result in a rate adjustment. For instance, there has never been any doubt that if the Postal Service proposes to increase the rate for single-piece First-Class letters by 1 cent, it must file a notice of rate adjustment pursuant to 39 C.F.R. part 3010 and calculate the percentage change in rates pursuant to 39 C.F.R. § 3010.23. Similarly, the Commission does not consider the frequent changes the Postal Service makes to its carrier routes to be covered by 39 C.F.R. part 3010. Those are the simple cases. Not surprisingly, other changes raise more complex questions.

In developing the price cap rules, the Commission considered the possibility that the Postal Service could make a change in mail preparation requirements that would have price cap implications. In Docket No. RM2007-1, the Alliance of Nonprofit Mailers (ANM) and Magazine Publishers of America (MPA) argued:

[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

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<sup>32</sup> Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43); 72 Fed. Reg. 63691 (November 9, 2007). The rules appear at 39 C.F.R. part 3010.

<sup>33</sup> Docket No. RM2009-8, Order No. 303, Order Amending the Cap Calculation in the System of Ratemaking, September 22, 2009; 74 Fed. Reg. 49327 (September 28, 2009).

<sup>34</sup> Order No. 1786; 78 Fed. Reg. 52694 (August 26, 2013). See *supra* n.29.

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.<sup>35</sup>

In response to this argument, the Postal Service advocated a means of incorporating a change in mail preparation requirements 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

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<sup>35</sup> Docket No. RM2007-1, Order No. 15, Initial Comments of Alliance of Nonprofit Mailers and Magazine Publishers of America, Inc. on Further Advance Notice of Proposed Rulemaking, June 18, 2007, at 2-3 (emphasis in original).

determinants of the type discussed in the Postal Service's Initial Comments on Question 2 of the Second Advance Notice.<sup>36</sup>

The Commission's price cap rules continue to take the approach suggested by the Postal Service's comments in Docket No. RM2007-1. The rules reflect a "constant mail mix" approach, wherein the volumes used in the weighted index used to calculate the percentage change in rates stay constant but the current rates are different than the planned rates.<sup>37</sup> Although the total volumes stay constant, 39 C.F.R. § 3010.23(d) provides that, "[t]he 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." *Id.* at 124. This is precisely the approach suggested by the Postal Service in Docket No. RM2007-1. When a change in mail preparation requirements causes some mail to shift to another rate category and thereby pay different rates, the price cap rules require that the Postal Service identify the volume of mail sent in the previous year that would continue to pay the old rate and the volume of mail sent in the previous year that would have to pay the new rate if it were sent under the new mail preparation requirements. The Full Service IMb requirements effect such a change.

In Docket No. R2011-1, the Postal Service changed the threshold for its Move Update Assessment Charge, a requirement that caused mail to shift from one rate category to another.<sup>38</sup> It filed a notice of rate adjustment that included the effects of the change in the calculation of the percentage change in rates. *Id.* The Postal Service explained that the "change affects both which mailings are subject to the Move Update assessment charge and the amount charged." Docket No. R2011-1 Notice at 6. The

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<sup>36</sup> 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 (footnote omitted and emphasis added) (Docket No. RM2007-1 Postal Service Reply Comments).

<sup>37</sup> See Order No. 43 at 52-53 ¶¶ 2158-9.

<sup>38</sup> Docket No. R2011-1, United States Postal Service Notice of Market Dominant Price Adjustment, November 2, 2010, at 6 (Docket No. R2011-1 Notice).

workpapers filed with the Docket No. R2011-1 Notice indicate that the amount of the charges did not change.<sup>39</sup> Although no rates specified in the Mail Classification Schedule (MCS) changed, the Postal Service made adjustments to its billing determinants to reflect the volume of mail that would be subject to the new threshold (and, as a result of the new threshold, be charged a penalty).

- d. Postal Service's attempt to limit classification changes to changes it proposes to the MCS is unsupported

The Postal Service does not disagree with the general principle that some changes to mail preparation requirements result in the redefinition of rate cells. However, the Postal Service attempts to narrowly circumscribe the types of changes in mail preparation requirements that result in the redefinition of rate cells. Specifically, it contends that "a 'classification change' occurs only when modifications are made to the Mail Classification Schedule (MCS)."<sup>40</sup> In support of this principle, the Postal Service attempts to distinguish its filing in Docket No. R2011-1 concerning the Move Update Assessment Charge (that its primary purpose was to raise a price), *id.* at 5, and to distinguish what it previously acknowledged would constitute a price change (*i.e.*, when the new requirements change the underlying characteristics of a mailing). *Id.* at 1.<sup>41</sup> The Commission agrees that modifications to the MCS can result in the redefinition of rate cells. However, it declines to narrow the range of changes that could be considered to result in the redefinition of rate cells as proposed by the Postal Service.

The Postal Service now argues that the only changes in mail preparation requirements that should be considered to have an effect on the price cap are those

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<sup>39</sup> The charge for "Move Update Assessment @ 70%" is listed as \$0.070 and the charge for "Move Update Assessment @ 75%" as \$0.070." See, e.g., Docket No. R2011-1, Library Reference USPS-R2011-1-1\_FCM\_Worksheets tab "Presort Ltrs & Crds."

<sup>40</sup> Response to CIR No. 1 at 6 (footnote omitted); see also Response to CHIR No. 3, question 1 at 3 ("The Postal Service interprets 39 C.F.R. § 3010.23(d) to require billing determinant adjustments when an MCS change moves mail from one category to another, regardless of mailer behavior.").

<sup>41</sup> The underlying characteristics the Postal Service notes were limited to density and volume. *Id.*

that result in changes to the MCS that are requested by the Postal Service. Response to CIR No. 1 at 6; 8. It contends that “[s]ince the only rate and classification schedule mentioned in Chapter 36 is the MCS, the plain reading of the statute indicates that the CPI price cap applies only to adjustments in rates listed in the MCS and noticed by the Postal Service.” *Id.* at 8. It further argues that because 39 U.S.C. § 3622(d)(1)(A) refers to “an annual limitation on the percentage change in rates,” the Commission may not consider any “other changes in revenue beyond a change in rates” to be subject to the annual limitation.

The Commission finds nothing in the plain language of 39 U.S.C. § 3622(d)(1)(A) indicating that Congress intended to limit the scope of the “annual limitation on the percentage change in rates” to rate adjustments noticed by the Postal Service. The definition of “rates” provided by 39 U.S.C. § 102(7) does not limit the term to those sources of revenue considered by the Postal Service to be rates or identified by the Postal Service in a notice as such. This point was explicitly recognized in the adoption of 39 C.F.R. § 3010.23(d).<sup>42</sup> Moreover, section 3622(d)(1)(A) gives the authority to set and enforce the annual limitation on the percentage change in rates solely to the Commission, not to the Postal Service. The Commission’s interpretation of what constitutes a percentage change in rates in the context of section 3622(d)(1)(A) is controlling.<sup>43</sup>

The Commission’s rules carry out the intent of Congress with respect to the price cap: to protect mailers by providing predictable and stable rates that at the class level do not rise more quickly than the annual rate of inflation. See Order No. 547 at 12. The Commission has determined that, in order to accurately and efficiently include the effects of the changes in rates across an entire class of mail, the Postal Service must

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<sup>42</sup> See Docket No. RM2007-1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at 34-36 ¶¶ 2073-78 (Order No. 26).

<sup>43</sup> 39 U.S.C. § 3622(d)(1)(C)(iii); see also *U.S. Postal Service v. Postal Regulatory Commission*, 717 F.3d 209, 210 (D.C. Cir. 2013).

use a weighted index to calculate the percentage change in rates.<sup>44</sup> After considering input from the Postal Service and mailers, the Commission determined to use mail volume to weight its index. *Id.* As a result, the calculation of the percentage change in rates required under 39 C.F.R. § 3010.23 includes not only the current and planned rates published by the Postal Service but also the historical volume, as noted in the billing determinants, of mail to which each of those rates is applied. As a consequence, setting and enforcing the annual limitation in the percentage change in rates involves an examination of both rates and volumes.

In Response to CHIR No. 3, the Postal Service argues “[t]he 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.” Response to CHIR No. 3, question 1 at 3. Further, it contends that “[f]or full service IMb, Rule 23(d)’s requirement to use historical data only would produce absurd results....” *Id.*

The Postal Service expresses further concern that the “unthinking” use of historical billing determinants to ascertain the impact of the Full Service IMb requirements (rather than “a close examination of whether mailers are likely to modify their behavior”) could dissuade the Postal Service from making operational changes that increase efficiency but result in different mail preparation requirements. Response to CIR No. 1 at 9-10. As an example, it offers a scenario in which the Postal Service develops a new mail processing machine that “greatly increased efficiency but required that mail be prepared in a different way.” *Id.* It concludes that a broad reading of 39 C.F.R. § 3010.23(d) would “create a perverse incentive not to deploy the new machine, since it would cost the Postal Service price cap space.” *Id.* A backwards-weighted index like the one established by section 3010.23 necessarily

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<sup>44</sup> See Order No. 26 at 33-36 ¶¶ 2069-78.

relies on historical volumes.<sup>45</sup> Although it is possible that a situation could arise in which the historical billing determinants required by section 3010.23(d) would distort the Postal Service's incentives, that is not the case in this docket. The Commission will not speculate on how its rules might apply to a hypothetical case except to note that, in such case, the Commission's rules would require "reasonable adjustments." See 39 C.F.R. § 3010.23(d)(2).

Additionally, some of the Postal Service's concern about disincentives to make operational improvements appears to be rooted in the belief that deeming some new mail preparation requirements to result in rate adjustments will lead to deeming all new mail preparation requirements to result in rate adjustments. The Commission has not and will not indiscriminately treat all new mail preparation requirements as rate adjustments.

Likewise, the Postal Service's attempt to limit the term "classification changes," as used in 39 C.F.R. § 3010.23(d), to changes to the MCS finds no support in 39 U.S.C. § 3622. Notwithstanding the use of the term "classification" elsewhere in section 3622, section 3622(d)(1)(A) does not require that the Commission set the "annual limitation on the percentage change in rates" with reference to classification generally or to the MCS specifically.

The Commission's rules use the general phrase "classification changes such as the introduction, deletion, or redefinition of rate cells" to describe the types of changes that can result in mailers paying a different rate than they would have before the change. The Commission's rules do not define the term "classification change." The illustrative examples of what is meant by "classification change" ("such as the introduction, deletion, or redefinition of rate cells") emphasize that the analysis of what

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<sup>45</sup> The Commission will continue to review, and attempt to improve the price cap rules. The Postal Service, and other interested persons, are invited to submit comments on how the Commission might use its backward-weighted index to better capture the effects on mail volumes of new mail preparation requirements or replace the backward-weighted index with a forward-weighted index.

constitutes a classification change will be made with reference to the effect on particular rates paid by mailers. This is consistent with the Postal Service's use of the general term "category" in its Reply Comments, a term that it continues to use to describe changes that are not precisely changes to classes or products.<sup>46</sup>

The Postal Service's treatment of Package Services in this proceeding is consistent with this straightforward reading of 39 C.F.R. § 3010.23(d). Moreover, it is also consistent with the Postal Service's treatment of the Move Update Assessment Charge threshold adjustment. The MCS language proposed by the Postal Service in that docket only changed the language concerning the threshold; it did not change the \$0.07 per-piece Move Update Assessment Charge or the \$0.07 per-piece Move Update Noncompliance Charge specified in the MCS. Docket No. R2011-1 Notice, Appendix A; see *also* Order No. 606 at 31 ("The Mail Classification Schedule is modified to ... change the Move Update Assessment charge threshold.").

The Postal Service attempts to distinguish the treatment of the Move Update Assessment Charge from the current situation by arguing that a change in mail preparation requirements can be considered to have an effect on the price cap calculation if the Postal Service's primary purpose in designing the requirement is to raise a price. Response to CIR No. 1 at 5. In effect, the Postal Service argues that its choice to publish notice of a mail preparation change in the *Federal Register* rather than to file a notice of rate adjustment or a request to modify the MCS with the Commission should control the analysis. Such an approach would shift the responsibility for setting and enforcing the annual limitation on the percentage change in rates from the Commission to the Postal Service. If the Postal Service's subjective intent in making a mail preparation requirement change controls the analysis of the effect of the change on the price cap, the Postal Service – not the Commission – will decide what constitutes a

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<sup>46</sup> Docket No. RM2007-1 Reply Comments at 2-3. See *also*, Notice at 18-20 (describing the proposed metered and stamped rates as new "categories"); Response to CHIR No. 3, question 1 at 3 ("billing determinant adjustments [are required] when an MCS change moves mail from one category to another, regardless of mailer behavior.").

rate change. That is surely not the result contemplated by the PAEA in directing the Commission to set and enforce the annual limitation on the percentage change in rates.<sup>47</sup> The Commission cannot cede its statutory responsibility to enforce the price cap to the Postal Service by allowing the Postal Service's subjective intent or how it formats its proposals to control. The Commission looks instead to the effect of a change on the rates paid by mailers, an approach that is more consistent with the Commission's statutory duty to set the annual limitation on the percentage change in rates and enforce that limitation.

The Postal Service's analysis of the hypothetical change to a carrier route minimum piece requirement is consistent with its comments in Docket No. RM2007-1. In the carrier route example, the Postal Service concluded that a change in mail preparation requirements that would require mailers to alter "the underlying characteristics of their mailings (e.g. density or volume)" to preserve their rate eligibility results in some mail shifting from one rate category to another. Response to CIR No. 1 at 2; Docket No. RM2007-1 Postal Service Reply Comments at 2-3. This conclusion is inconsistent with the Postal Service's contention that classification changes consist only of changes to the MCS, since the change in the carrier route example would only have required a change in the DMM, not the MCS. The Commission's rules incorporate the approach recommended by the Postal Service in its explanation of how to treat the hypothetical change to a carrier route minimum piece requirement.

In its Response to CIR No. 1, the Postal Service objects that it does not believe that it is fair to characterize its response to the carrier route hypothetical as having endorsed the inclusion of mail preparation changes in the price cap calculation. Response to CIR No. 1 at 2 n.2. Rather, it was "merely outlin[ing] how the 'constant

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<sup>47</sup> See Joint Supplemental Comments at 4 ("A price cap system does not work properly if the regulated entity can impose costs or raise prices by restricting eligibility to certain rates."). See *also* PR Comments at 1-2 (warning that, under the Postal Service's approach, "the Postal Service will be able to contrive, without limit, mailing rules that can drive mailers to more costly rate categories or classes of mail so that revenues will increase significantly without regard to the price cap limitations").

mail mix' approach to calculating price cap compliance *could* be used to account for such changes." *Id.* (emphasis added). The Commission is not convinced that the Postal Service's comments were a hypothetical exploration of potential uses of the constant mail mix approach. A closer look at the Postal Service's comments in Docket No. RM2007-1 demonstrates that the Postal Service advised the Commission that it "*should* use a constant mail mix assumption when calculating the cap" (emphasis added) and that "there is a compelling need to maintain a constant mail mix." Docket No. RM2007-1 Postal Service Reply Comments at 2. Further, it argued that "[b]asing cap compliance on anything other than a 'constant mail mix' would invite contentious litigation and would be inconsistent with the need for a transparent, predictable price cap mechanism." *Id.* at 3. There is no indication that the Postal Service was unaware that the constant mail mix approach it was advocating would have an effect on the price cap "when some existing mail shifts from one category to a second category due to changes in mail preparation requirements." *Id.*

The Commission concurs with the Postal Service that an evaluation of the impact of a mail preparation requirement on the underlying characteristics of a mailing, such as density or volume, necessary to qualify for a particular rate is central to determining whether the new requirement results in the redefinition of a rate cell. However, neither the Postal Service nor the Commission has previously limited the definition of a mail characteristic to density and volume.<sup>48</sup>

In sum, the Full Service IMb mail preparation requirements result in the redefinition of rate cells because they necessitate a change in the basic characteristics of a mailing in order for the mailing to qualify for the same rate category for which it was eligible before the new requirements. The Postal Service must adjust its billing determinants to account for the redefinition of rate cells.

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<sup>48</sup> Among characteristics previously identified as basic characteristics of mail are weight, shape, volume, density, and address hygiene. See, e.g., Order No. 536 at 45 (address hygiene).

## 2. Analysis of Full Service IMb Requirements

In keeping with the legal framework described in the previous section, the Commission determines that the Full Service IMb mail preparation requirements scheduled to take effect January 26, 2014, are classification changes that result in the redefinition of rate cells. Alternatively, Full Service IMb requirements could be viewed as the deletion of rate cells for automation rates for pieces with Basic IMb. Finally, in taking into consideration the effects of the redefinition and deletion of rate cells, the Postal Service may not rely on vaguely supported forecasts of mailer behavior.

### a. Redefinition of rate cells

The Postal Service acknowledged from the outset that the Full Service IMb initiative “requires significant changes for those mailers who currently benefit from automation discounts but are not presenting full-service mailings.” 78 Fed. Reg. 23137. As a result of the requirements, mailers must make changes to the basic characteristics of their mailings in order to continue to qualify for the automation discounts for which they are currently eligible. Not only must mailers apply a unique Intelligent Mail barcode to each mailpiece, they must also apply barcodes to trays, tubs, sacks, and containers. 78 Fed. Reg. 23137-8. The barcodes applied at each of these levels must be interconnected so as to allow tracking between mailers, containers, and individual mailpieces. *Id.* Additionally, the mailers must use the FAST system to schedule appointments and include electronic documentation deemed appropriate by the Postal Service. *Id.* at 23138.

Full Service IMb is, in effect, a unique “signature” that identifies the sender of each mailpiece in each tray, tub, sack, and/or container in which the mailpieces are presented to the Postal Service. *Id.* at 23142. At present, mailers may avail themselves of automation rates without uniquely identifying the sender of each mailpiece and container. The Postal Service proposes to require mailers to conform to the new Full Service IMb requirements in order to continue to be eligible for those same

automation rates. That is, the new automation eligibility requirements compel mailers to change their mailing practices in order to qualify for the same rates they currently qualify for. Consequently, the new identification requirements change the basic characteristics of a mailing.

In its recent filings, the Postal Service has attempted to minimize the scope of the requirements associated with Full Service IMb. It now asserts that “the Full-Service IMb change only requires mailers to adopt a new barcode format when preparing their existing mailings.” Response to CIR No. 1 at 2. However, as discussed above and as the Postal Service’s extensive *Federal Register* notice demonstrates, Full Service IMb requires much more than a new barcode format. 78 Fed. Reg. 23137-49.

The Postal Service urges the Commission to compare Full Service IMb to the recent decision to discontinue the eligibility of mailpieces with POSTNET barcodes for automation rates for letters and flats and for Qualified Business Reply Mail. Response to CIR No. 1 at 3, 9; see *also* 77 Fed. Reg. 26185, May 03, 2012. Although not dispositive, it is not insignificant that neither the Postal Service nor any mailer brought the POSTNET barcode change to the attention of the Commission as a requirement with price cap implications. See Response to CIR No. 1 at 3. While it is somewhat speculative how the Commission may have ruled had the issue been presented, there are clear distinctions between the two.

The Postal Service now requires these mailpieces to include a Basic Intelligent Mail barcode to qualify for automation rates. *Id.* This change from one type of barcode to another type of barcode is far less extensive than the proposed Full Service IMb requirements, which affect not only individual mailpieces but the nature of the mailing as a whole. The Postal Service does not attempt to compare the scope of the changes required by the POSTNET-to-Basic IMb change to the scope of the changes required by the new Full Service IMb requirement. It argues that both requirements are “technological changes,” that it conducted similar outreach efforts for both changes, that it expects similar adoption rates for both changes, and that it would have objected to

including the effects of the POSTNET changes in the calculation of the percentage change in rates, but it offers no evidence that the changes are of similar magnitude or have similar implementation costs for mailers. *Id.*

The Postal Service's expectations about Full Service IMb adoption rates may be a useful tool for its business planning purposes, but they have no place in evaluating the impact of the requirement on the price cap. The Commission cannot conclude that adoption rates for Full Service IMb will be equivalent to adoption rates for Basic IMb. The Postal Service has not offered persuasive evidence to support its incorporation of forecasts of mailer behavior into the calculation of the percentage change in rates.<sup>49</sup>

b. Deletion of rate cells

The Full Service IMb requirements can also be characterized as the deletion of the rate cells for current categories requiring barcodes, but not Full Service IMb. For example, the current MCS provides a set of First-Class automation rates for letters, postcards, and flats that have Intelligent Mail barcodes. There is no requirement to comply with Full Service IMb to access these rates. In addition, there is a \$0.003 discount available for automation letters, postcards, and flats that comply with Full Service IMb requirements.<sup>50</sup> Notice, Attachment A at 8, 14. However, when the Postal Service implements its Full Service IMb requirements, a mailpiece will not be able to

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<sup>49</sup> The Commission also notes that the Postal Service is careful to frame its predictions concerning adoption rates in terms of the number of "commercial mailers" who have adopted Basic and Full Service IMb rather than the percentage of mail volume that includes Basic or Full Service IMb. Response to CIR No. 1 at 3. The Postal Service stated that 96 percent of commercial mailers had adopted the Basic Intelligent Mail barcode by March 2013, after the requirement had been implemented, but it did not provide the percentage of mail volume that carried the Basic IMb barcode. It is the volume, and not the percentage of mailers, that is the relevant factor in calculating the price cap implications. Nevertheless, as the Public Representative notes, even if the Commission were to assume that 96 percent of mailpieces would convert to Full Service IMb, as predicted by the Postal Service, there is a strong likelihood that the effects of the IMb requirement would still exceed the price cap.

<sup>50</sup> The other classes of mail affected by the Full Service IMb requirement offer similar discounts for meeting Full Service IMb requirements. The only substantive difference is the size of the discounts; whereas First-Class offers a \$0.003 discount per qualifying piece, Standard Mail, Periodicals, and Package Services offer a \$0.001 discount per qualifying piece.

qualify for the basic automation rates without meeting the Full Service IMb requirements. Consequently, the non-Full Service IMb automation rates that are currently available will no longer be available to any mailer. Because no mailpiece will be eligible for the non-Full Service IMb automation rate at that time, the Postal Service has effectively proposed to delete these rate cells.<sup>51</sup> Where there are currently two levels of barcoded rates available, only one will remain.

In contrast to the other classes of mail affected by the proposed Full Service IMb requirements, the Postal Service presents the deletion of the non-Full Service IMb rates in Package Services explicitly, and makes reasonable adjustments to the billing determinants that incorporate the rate effect of the higher rates to be paid by pieces that are currently eligible for the deleted rate cell.<sup>52</sup> The adjustment maps the historical volumes sent at the current non-Full Service IMb and Full Service IMb rates to the corresponding planned rate for which they would qualify. Thus, pieces that qualify for a current non-Full Service IMb rate are assigned to the (higher) planned non-barcoded rate.<sup>53</sup>

This adjustment is consistent with the Commission's rules and accordingly the rates for Package Services proposed by the Postal Service, including the implementation of the Full Service IMb classification changes, are consistent with the price cap limitation. 39 C.F.R. § 3010.23(d). The deletion of non-Full Service IMb rates in all classes have parallel effects on the rates paid by mailers, but the Postal Service

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<sup>51</sup> The Public Representative alludes to this effect in its second motion, asking if the requirements "eliminated the availability of prices for First Class Mail Automation Letters with Basic Intelligent Mail Barcodes" and whether "the portion of the table relating to Basic IMb prices should be removed from the MCS." PR Second Motion at 3.

<sup>52</sup> The deleted barcode discount is for Bound Printed Matter (BPM) Flats. See Notice, Attachment A at 76; Library Reference USPS-LR-R2013-10/4 (Revised October 18, 2013).

<sup>53</sup> In Package Services, the Postal Service presents its rates in the form of a set of non-barcoded rates and separately lists the discount for non-Full Service barcoded mail, where the barcoded rates can be inferred by subtracting the discount from the non-barcoded rates. This is mathematically equivalent to presenting a set of non-barcoded rates and a set of barcoded rates where the discount(s) can be inferred as the difference(s) between the two sets of rates. The presentation of rates and discounts in one form or the other does not alter the determination of compliance with the price cap.

made no equivalent adjustment to incorporate these rate effects in the First-Class Mail, Standard Mail, and Periodicals calculations.

c. The use of forecasts of mailer behavior

The Commission has repeatedly emphasized that, for purposes of calculating the percentage change in rates, whenever possible, adjustments to billing determinants shall be based on known mail characteristics or historical volume data, as opposed to forecasts of mailer behavior.<sup>54</sup>

This approach was first proposed, and until recently, supported by the Postal Service. In response to the Commission's advance notice of proposed rulemaking inviting comments on its initial price cap rulemaking,<sup>55</sup> the Postal Service outlined the basic concept that eventually formed the basis of section 3010.23(d).<sup>56</sup> The Postal Service proposed a method of calculating the average price change for each class using a fixed weight index of prices, where the prior year's billing determinants served as the weight for each rate cell that was proposed by the Postal Service, and allowing for adjustments to reflect changes in the rate design structure. *Id.*

The Postal Service distinguished between "mail characteristics which appear in the mailstream, but for which billing determinants are not available because those characteristics previously were not associated with distinct rate treatment" and "those characteristics which do not appear at all within the existing mailstream."<sup>57</sup> It explained that in either case, "[t]o maintain consistency with historical billing determinants, of

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<sup>54</sup> Order No. 606 at 19; see also Docket No. R2013-1, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 16, 2012, at 17, 37 (Order No. 1541).

<sup>55</sup> Docket No. RM2007-1, Order No. 2, Advance Notice of Proposed Rulemaking on Regulations Establishing a System of Ratemaking, January 30, 2007.

<sup>56</sup> Docket No. RM2007-1, Reply Comments of the United States Postal Service, May 7, 2007, Appendix C at 7-8.

<sup>57</sup> See Docket No. RM2007-1, Initial Comments of the United States Postal Service on the Second Advance Notice of Proposed Rulemaking, June 18, 2007, at 6-7.

course, the focus must remain on the volume proportions as they exist without any rate distinction.”<sup>58</sup> (footnote omitted). *Id.* at 8. It described the adjustments as a process whereby “the Postal Service would ‘map’ the historical volumes to the noticed price structure using the best data available. These data could include historical volume data (e.g., for shape distribution) that were not previously needed for postage calculation; the results of mail characteristics or market research studies; or, observed volume patterns for a recent period (shorter than a full year) for which the price structures were in effect.” *Id.* at 9.

The Postal Service characterized its proposal as “a sensible way to calculate compliance for new rate structures by the use of historical volumes, without the need for forecasts and rollforwards.”<sup>59</sup> And, as previously noted, the Postal Service also described how billing determinant adjustments would be applied to ensure that a change in mail preparation requirements that shifts some mail into a different price category is fairly evaluated for compliance with the cap. *Id.* at 3.

In Docket No. RM2013-2, the Commission proposed rules to express more strongly the Commission’s preference for using historical data in the calculation of percentage change in rates.<sup>60</sup> Although the Postal Service objected to the proposed change, now characterizing it as requiring the “unthinking use of prior years’ billing determinants,”<sup>61</sup> the Commission found that the change was consistent with the original design of the rule and its past practice. Order No. 1786 at 19. The Commission discussed at length, the potential difficulties with using forecasts of mailer behavior that

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<sup>58</sup> The Postal Service further explained that estimating the volume change in response to new price incentives may be useful for other purposes, but that such an exercise should not be used “for purposes of calculating compliance with the cap.” *Id.* at n.5.

<sup>59</sup> See Docket No. RM2007-1, Reply Comments of the United States Postal Service on the Second Advance Notice of Proposed Rulemaking, July 3, 2007, at 4 (footnote omitted).

<sup>60</sup> See Docket No. RM2013-2, Notice of Proposed Rulemaking Requesting Comments on Proposed Commission Rules for Determining and Applying the Maximum Amount of Rate Adjustments, March 22, 2013, at 10 (Order No. 1678).

<sup>61</sup> Response to CIR No. 1 at 9.

had been identified in Docket No. RM2007-1 and determined that those difficulties remained. *Id.* at 14-20. The Commission's rules now state: "[w]henver possible, adjustments shall be based on known mail characteristics or historical data, as opposed to forecasts of mailer behavior. See 39 C.F.R. § 3010.23(d)(3).

Because the Postal Service has data on the volume of mail sent using Full Service IMb, it is possible to use historical data to make reasonable adjustments to the billing determinants. In fact, the Postal Service did just that in its Response to CHIR No. 3. Here, the Commission finds that historical data are available, and reasonable to use. Consequently, the Postal Service must rely on historical volumes rather than on speculation about the likelihood of a certain percentage of mail volume being sent using Full Service IMb.<sup>62</sup>

#### d. Conclusion

The Commission concludes that the Full Service IMb requirements result in the redefinition and deletion of rate cells. Because historical billing determinants concerning the use of Full Service IMb are available, it is possible for the Postal Service to make reasonable adjustments to billing determinants to account for the Full Service IMb requirements. Consequently, as it did with Package Services, the Postal Service is required to make reasonable adjustments to billing determinants to account for the Full Service IMb requirements.

### 3. Postal Service Options

The rates proposed in this docket for First-Class Mail, Standard Mail, and Periodicals, when combined with adjustments to billing determinants to take into account the Full Service IMb requirement, exceed the price cap and are inconsistent with the annual limitation calculated under 39 C.F.R. part 3010. See PRC-LR-R2013-

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<sup>62</sup> As discussed above, this treatment is consistent with the price cap treatment the Postal Service requested for the Move Update Assessment Charge in Docket No. R2011-1.

10/1; PRC-LR-R2013-10/2; PRC-LR-R2013-10/3. The Postal Service may not implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket for those three classes without first adjusting the rates proposed in this docket to comply with the price cap.<sup>63</sup>

The Postal Service has options in response to this Order, some of which include the following. First, if the Postal Service elects to implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket, the calculation of the percentage change in rates must include billing determinants adjusted to take into account the effects of the Full Service IMb requirement. This will necessitate a change in the rates proposed in this proceeding. If the Postal Service intends to implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket, the Postal Service must notify the Commission of its intent and submit an amended notice of rate adjustment and related workpapers not later than 7 days after the issuance of this Order. See 39 C.F.R. § 3010.11(f). Upon receipt of the amended notice, the Commission will allow a period of 7 days for public comment and within 14 days issue an order announcing its findings. *Id.* at §§ 3010.11(g) and (h).

Second, if the Postal Service elects not to implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket, the rates proposed in this docket may take effect without further adjustment, except as described in chapter V. E. of this Order. In that event, the Postal Service shall notify the Commission of its intent not to implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket not later than 7 days after the issuance of this Order.

Upon submission of a notice that it does not intend to implement the Full Service IMb requirements contemporaneously with the rates proposed in this docket, the Postal

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<sup>63</sup> There may be other methods of implementing the Full Service IMb requirements that properly account for their effects. See *also* Renewed Exigent Request of the United States Postal Service in Response to Commission Order No. 1059, September 26, 2013, at 15, n.24.

Service has legal options with respect to implementation of the Full Service IMb requirements. For example, the Postal Service may implement the Full Service IMb requirements at a later date, provided that it submits a notice of any price adjustment resulting from the implementation of the requirements not less than 45 days before the proposed implementation date as required by 39 U.S.C. § 3622(d)(1)(C).

### III. FIRST-CLASS MAIL

#### A. Introduction

There are six products assigned to First-Class Mail: Single-Piece Letters/Postcards, Presorted Letters/Postcards, Flats, Parcels, Outbound Single-Piece First-Class Mail International, and Inbound Single-Piece First-Class Mail International. The Postal Service proposes to increase the price of First-Class Mail, on average, by 1.587 percent. Notice at 5. The Postal Service does not use any of its -0.544 percent banked pricing authority. *Id.* at 6. The Postal Service calculates a new unused pricing authority of -0.435 percent. *Id.*

Table III-1 shows the percentage price changes for individual products within First-Class Mail.

**Table III-1**  
**First-Class Mail Price Changes (By Product)**

First-Class Mail Product	Price Changes (%)
Single-Piece Letters/Postcards	1.138
Presorted Letters/Postcards	1.619
Flats	1.220
Parcels	6.335
Outbound Single-Piece First-Class Mail International and Inbound Single-Piece First-Class Mail International (Combined)	7.380
Source: PRC-LR-R2013-10/1.	

In this price adjustment, the Postal Service creates a new mail category for metered letters. The price of the first ounce, single-piece stamped letter, is increased by 1 cent to 47 cents while the price of a metered letter remains 46 cents. *Id.* at 17.

The Postal Service retains the single-piece additional ounce price of 20 cents and the single-piece postcard price of 33 cents. *Id.* Attachment A at 3, 5. The price of the first ounce for a single-piece flat is increased from 92 cents to 94 cents. Notice at 18.

The retail First-Class Mail Parcels price will be \$2.23. *Id.* at 18. Only the Retail Parcels price category remains within the First-Class Parcels product.

The handling charge for foreign-origin, inbound direct entry letters, postcards, flats, and parcels increases from \$0.001 to \$0.01.

Most other First-Class Mail prices are adjusted accordingly to achieve the average 1.615 percent price change.

The Postal Service proposes a new rate structure for single-piece residual letters weighing up to 2 ounces.<sup>64</sup> The proposal would charge a 48-cent rate to residual pieces weighing up to 2 ounces that derive from mixed weight presort mailings. *Id.* at 21. Residuals from uniform 1 ounce and uniform 2 ounce presort mailings will pay the single-piece metered letter rate of 46 cents and 66 cents, respectively. *Id.*

*Comments.* The comments received by the Commission reflect divergent views on the question of whether the proposed First-Class Mail rates comply with the price cap. The Association for Postal Commerce (PostCom) states that the Postal Service's proposed rate increases generally comply with the First-Class Mail price cap requirements of 39 U.S.C. § 3622(d)(1).<sup>65</sup> The Joint Commenters state that the rate increases "broadly adher[e] to the cap," but characterize the rates as "something of a mixed bag on closer examination." Joint Comments at 1. Although they support several aspects of the proposed rates, such as the new rate for single-piece metered

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<sup>64</sup> *Id.* at 20-21. Residual letters are mailpieces prepared as part of a First-Class Mail Presorted Letters/Postcards mailing that remain after completion of a presort sequence and do not qualify for First-Class Presorted Letter/Postcards prices.

<sup>65</sup> Comments of the Association for Postal Commerce, at 1, October 17, 2013 (PostCom Comments).

letters, the Joint Commenters argue that the failure to properly adjust for the new requirements to use Full Service IMb in order to qualify for automation rates results in rates that violate the price cap, and that the proposed rates for single-piece residual letters violates several provisions of law. *Id.*

A second group of commenters asserts that the Postal Service's revenue projections for rate categories affected by the Full Service IMb requirements fail to comply with 39 C.F.R. § 3010.23(d).<sup>66</sup> The Public Representative also argues that the Postal Service's price cap calculation must account for Full Service IMb and urges the Commission to "reject the current proposal and require the Postal Service to file new prices...." PR Comments at 1. Pitney Bowes points to the need for additional information to help the Commission assess the price cap impact of Full Service IMb.<sup>67</sup>

The other commenters addressing First-Class Mail—Stamps.com, the Greeting Card Association (GCA), and the American Postal Workers Union, AFL-CIO (APWU)—offer no opinion on the Postal Service's compliance with the price cap.<sup>68</sup>

*Commission analysis.* The Commission's analysis of the proposed rates' compliance with 39 U.S.C. § 3622 and 39 C.F.R. part 3010 below does not take into account the effects of the Full Service IMb requirements scheduled to take effect in January 2014. Those effects are discussed in chapter II. The Commission has

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<sup>66</sup> See Motion of MPA—The Association of Magazine Media, the American Catalog Mailers Association, Inc., Direct Marketing Association, Inc., Alliance of Nonprofit Mailers, Association of Marketing Service Providers, National Newspaper Association, Printing Industries of America, Quad/Graphics, Inc., R.R. Donnelley, and Time, Inc. to Extend Comment Period, October 18, 2013, at 2 (MPA, et al. Motion).

<sup>67</sup> Pitney Bowes Comments at 2. The Public Representative also requested further information concerning the effects of the Full Service IMb requirements. Public Representative Motion for Issuance of Information Request, September 30, 2013, at 1-2 (Public Representative Motion). On the basis of the information submitted by the Postal Service in response to CHIR No. 3, the Public Representative later concluded that the Postal Service's proposed rates do not comply with applicable law. PR Comments at 1.

<sup>68</sup> Comments of Stamps.com, October 17, 2013 (Stamps.com Comments); Comments of the Greeting Card Association, October 17, 2013 (GCA Comments); Comments of the American Postal Workers Union, AFL-CIO, October 21, 2013 (APWU Comments).

developed percentage price changes that are slightly different than those developed by the Postal Service. The Commission has made four notable adjustments to the Postal Service's workpapers.

First, the Postal Service's price changes did not incorporate the volumes or rates for three proposed continuing First-Class Mail promotions in the calculation of the rate change for the class. These promotions—the Branded Color Mobile Technology Promotion, the Mail and Digital Personalization Promotion, and the Earned Value Reply Mail Promotion—are included in the billing determinants in the Commission's calculation of the percentage change in rates for First-Class Mail. See PRC-LR-R2013-10/1.

Second, the Commission's workpapers reflect a rate increase because First-Class Mail is no longer eligible for the Emerging Technology Promotion. *Id.*

Third, the Postal Service's workpapers exclude volumes and rates for Round-Trip DVD mailers from the calculation of the percentage change in rates for the associated First-Class Mail products (*e.g.*, First-Class Presort Flats, First-Class Presort Letters). The change in rates for Round-Trip DVD mailers is reflected in the Postal Service's workpapers as an adjustment in the calculation of the percent change in rates for the class. 39 C.F.R. § 3010.23(b) requires that the Postal Service use the same method to calculate the percentage change in rates for products as it uses to calculate the percentage change in rates for classes.<sup>69</sup> Consequently, the Commission recalculates the percentage change in rates for the First-Class Mail products associated with Round-Trip DVD mailers, taking into account revenue from Round-Trip DVD mailers. See PRC-LR-R2013-10/1.

Fourth, the Postal Service's workpapers do not take into account its proposal to change prices for single-piece residual letters derived from uniform 1 ounce and uniform

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<sup>69</sup> See *also* Docket No. RM2013-12, Notice of Proposed Rulemaking Requesting Comments on Proposed Commission Rules for Determining and Applying the Maximum Amount of Rate Adjustments, March 22, 2013, at 10 (Order No. 1678); Order No. 1541 at 36, 46.

2 ounce presort mailings. The Commission's workpapers include the Postal Service's proposed price change for those letters. *See id.*

The Commission finds the Postal Service's planned price adjustments for First-Class Mail comply with the price cap limitations specified by 39 U.S.C. § 3622(d). The Commission finds that the planned prices for individual components of First-Class Mail result in an increase in the price for First-Class Mail, as a class, of 1.615 percent. This creates 0.081 percent for new unused rate authority. The sum of all unused rate adjustment authority for First-Class Mail, from the instant price adjustment and previous price adjustments, is -0.463 percent. *See* PRC-LR-R2013-10/1.

#### B. First-Class Mail Worksharing

First-Class Mail offers 14 workshare discounts. 39 U.S.C. § 3622(e) requires the Commission to ensure workshare discounts do not exceed estimated avoided costs unless justified by a statutory exception. To determine if workshare discounts comply with section 3622(e), the Commission analyzes the passthroughs (discounts divided by cost avoidances).

*Single-Piece Letters and Postcards.* The Postal Service offers a Qualified Business Reply Mail Barcoding (QBRM) discount for single-piece letters and single-piece postcards. The QBRM workshare discount passthroughs are 100 percent of costs avoided for both letters and postcards. Notice, Attachment B at 1.

*Bulk Letters and Postcards.* The Postal Service offers nine total discounts for bulk letters and postcards. The Postal Service calculates the following passthroughs of avoided costs for automation letters: Mixed automated area distribution center (AADC), 100.0 percent; AADC, 89.7 percent; 3-digit, 0.0 percent; and 5-digit, 82.1 percent. *Id.* at 2. The Postal Service calculates passthroughs of avoided costs for automation cards. These include Mixed AADC, 136.4 percent; AADC, 130.0 percent; 3-digit,

0.0 percent; and 5-digit, 66.7 percent. *Id.* Non-automation presort letters has a passthrough of 30.2 percent of avoided costs. *Id.*

The Postal Service asserts that for Mixed AADC automation cards and AADC automation cards, the passthroughs exceed 100 percent pursuant to 39 U.S.C. § 3622(e)(2)(D).<sup>70</sup> The Postal Service states that the Mixed AADC and AADC automation cards discounts are designed to encourage mailers to enter pre-barcoded mail; therefore, it is concerned that sudden reductions in the discounts could result in unexpected increases in non-barcoded mail. Such increases in non-barcoded mail would have a cascading effect to other downstream automation and manual piece-sorting operations that would impact operational efficiency. *Id.*

*Automation Flats.* The Postal Service calculates passthroughs of avoided costs for automation flats. These include Area Distribution Center (ADC), 112.3 percent; 3-digit, 100.0 percent; and 5-digit, 118.8 percent. Notice, Attachment B at 3.

The Postal Service asserts the ADC automation flats discount is permissible pursuant to 39 U.S.C. § 3622(e)(2)(D). Like the Mixed AADC and AADC automation cards discounts, the Postal Service is concerned that a sudden reduction in the ADC automation flats discount would lead to an increase in non-barcoded mail. Response to CHIR No. 5, question 1. Again, the Postal Service states that such an increase in non-barcoded mail would have a cascading effect to other downstream automation and manual piece-sorting operations that would impact operational efficiency. *Id.*

The Postal Service asserts that for 5-digit automation flats, the passthrough exceeds 100 percent pursuant to 39 U.S.C. § 3622(e)(2)(B). The Postal Service cites the large decrease in the avoided cost between FY 2012 and FY 2013 as the reason for the excessive passthrough. The Postal Service's proposal reduces the discount from 18.8 cents to 18.3 cents, partly by increasing the 5-digit automation flats price by

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<sup>70</sup> Response of the United States Postal Service to Questions 1-3 and 5-6 of Chairman's Information Request No. 5, October 25, 2013, question 1 (Response to CHIR No. 5).

3.2 percent, bringing the passthrough closer to 100 percent. Notice at 42. The Postal Service contends that a further reduction in the discount would cause rate shock and states that it will continue to move the passthrough to 100 percent in future price adjustment proceedings. *Id.* at 42, 43.

*Worksharing comments.* Both Pitney Bowes and the Joint Commenters are concerned by the reduction in the discount for 5-digit automation letters. Pitney Bowes Comments at 4; Joint Comments at 11. Pitney Bowes believes the Postal Service has not adequately justified the 82.1 percent passthrough as required by 39 C.F.R. § 3010.12(b)(6). Pitney Bowes Comments at 4. Pitney Bowes also asserts that the failure to passthrough 100 percent of avoided costs results in inefficiency, increases mailer costs, is inequitable, and is inconsistent with the objectives and factors of 39 U.S.C. §§ 3622(b) and (c). *Id.* at 5-6. The Joint Commenters state that in failing to passthrough the full costs avoided for 5-digit automation letters, the Postal Service is missing an opportunity to encourage mail volume growth and increase Postal Service competitiveness. Joint Comments at 11-12.

In addition, the Joint Commenters contend that the passthroughs for automation cards and flats have been sufficiently justified by the Postal Service and should be approved by the Commission. *Id.* at 12. Pitney Bowes supports the continued offering of the discount for automation letters that comply with the requirements of Full Service IMb because the pricing incentives will continue to drive widespread adoption of Full Service IMb. Pitney Bowes Comments at 6.

The Commission concludes that the Postal Service has adequately explained why the First-Class Mail worksharing discounts with passthroughs that exceed 100 percent are justified by the referenced statutory exceptions.

### C. Classification Changes

The Postal Service proposes four notable changes to the MCS for First-Class Mail products. The MCS changes: (1) affect the price structure for single-piece residual letters; (2) create new rate categories for stamped and metered letters; (3) impact the description of Inbound Letter Post; and (4) is a nomenclature change that affects several classes of mail. The Commission approves these changes.

#### 1. Single-Piece Residual Letters

The Postal Service introduces a new price structure for single-piece residual letters weighing up to 2 ounces. Notice at 21. Currently, all single-piece residual letters weighing up to 2 ounces pay a 48-cent rate. The Postal Service proposes to limit the 48-cent rate to residual pieces derived from mixed weight presort mailings, which contain both 1 ounce and 2 ounce mailpieces. *Id.* Residual pieces from uniform 1 ounce presort letter mailings will pay the 1 ounce metered letter rate of 46 cents, and residual pieces from uniform 2 ounce presort letter mailings will pay the 2 ounce metered letter rate of 66 cents. *Id.*

The Joint Commenters urge the Commission to reject the proposal because the Postal Service did not request conforming changes to the MCS. Joint Comments at 8, 9. They also state that the Postal Service fails to account for the increased rate for 2 ounce residual pieces derived from uniform 2 ounce presort mailings in its price cap calculation. *Id.* at 9, 10. PostCom does not object to the new price structure, but seeks clarification of the single-piece residual letter price table in the MCS. PostCom Comments at 6. PostCom also requests that the Commission urge the Postal Service to work with mailers to develop implementing regulations and changes to the MCS and requests that the Commission closely review any changes proposed by the Postal Service concerning residual letters. *Id.*

Chairman's Information Request No. 8, question 1, sought additional information concerning the price cap impact of the increased rate for 2-ounce residual letters

derived from uniform 2-ounce mailings.<sup>71</sup> In response, the Postal Service provided adequate information for the Commission to incorporate the proposed price changes for single-piece residual letters in its workpapers.<sup>72</sup> In its Response to CHIR No. 8, question 2, the Postal Service clarified its single-piece residual letters price table and agreed that a modified version of the MCS price table for single-piece residual letters accurately captured its proposal.

The Commission finds that the new price structure for single-piece residual letters is reasonable and will incorporate the clarified price table into the draft MCS.

## 2. Metered Letters Rate Category

The Postal Service proposes to establish new rate categories for single-piece metered letters and stamped letters. The metered letter rate category would consist of single-piece letters with postage affixed by meter, information-based indicia (IBI), permit imprint, or pre-cancelled stamps. Notice at 18. The stamped letter rate category would consist of mailpieces bearing non-cancelled stamps or postal validation imprint (PVI) indicia. *Id.* The Postal Service proposes to maintain a rate of 46 cents for metered letters and raise the rate for stamped letters to 47 cents. *Id.* at 17. It states that the purpose of the new metered letter rate is to encourage small businesses to convert from stamps to meters. *Id.* at 20. The Postal Service lists several advantages it expects, based on the experience of foreign posts, to realize from a lower metered letter rate. *Id.* These advantages are customer convenience, operational savings for the Postal Service, lower risk associated with stamp theft, and more cross-selling opportunities. *Id.*

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<sup>71</sup> Chairman's Information Request No. 8, October 30, 2013 (CHIR No. 8).

<sup>72</sup> Response of the United States Postal Service to Chairman's Information Request No. 8, November 5, 2013, question 1 (Response to CHIR No. 8) and accompanying workpaper "ChIR8.Qu1.Response.xls." See also PRC-LR-R2013-10/1.

*Comments on Metered Letters.* Pitney Bowes, Stamps.com, the Joint Commenters, and the Public Representative support the proposed metered letter category and the proposed rates. Pitney Bowes Comments at 3; Stamps.com Comments at 2, 3; Joint Comments at 6; PR Comments at 18.

Stamps.com requests that the MCS language for metered and stamped letters include information about the indicia required to qualify for each price category. Stamps.com Comments at 4. The Commission finds that such information would be useful to mailers and will incorporate the language proposed in CHIR No. 8 question 3, in the MCS.<sup>73</sup>

GCA opposes the metered letters proposal. It characterizes the proposed rate as a classification change and asserts that the Postal Service has failed to meet the filing requirements under 39 C.F.R. part 3020 for classification changes or to meet fully the general filing requirements of 39 C.F.R. § 3010.12(b)(7). GCA Comments at 2-3. It argues that the proposal does not satisfy the objective of 39 U.S.C. § 3622(b)(8), which requires that the system of rate regulation take into consideration the establishment and maintenance of a just and reasonable schedule for rates and classifications. *Id.* at 3-7. Finally, it concludes that the proposed rate is irrational because “there is no need for the differential [between Stamped and Metered Letters] to affect more than the first ounce.” *Id.* at 8.

APWU objects to the methodology used by the Postal Service to calculate workshare discounts, with particular reference to the use of the metered letter rate to calculate other workshare discounts. APWU Comments at 1.

*APWU Motion.* APWU filed a motion requesting that the Commission “establish a new schedule and timetable for examination of the Postal Service’s decision to set its

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<sup>73</sup> The Postal Service confirms that this language accurately describes the requirements for the stamped and metered letter price categories. Response to CHIR No. 8, question 3.

Workshare Discounts by using a new Base Rate for First-Ounce Metered Mail.”<sup>74</sup>

APWU asserts that the new metered letters rate is a “proposed new workshare discount rate that must be evaluated, justified and certified by the Postal Service to be in compliance” with 39 U.S.C. § 3622(e). *Id.*

The Postal Service, Pitney Bowes, Stamps.com, and the Joint Commenters oppose the APWU Motion.<sup>75</sup> They argue that the proposed rate for metered letters does not meet the statutory definition of “workshare discount” as described in 39 U.S.C. § 3622(e)(1). Pitney Bowes Opposition at 2; Stamps.com Opposition at 2; Joint Commenters Opposition at 2; Postal Service Opposition at 2, 3. The Postal Service argues that the APWU Motion fails to “even allege the existence of any nexus between worksharing and any form of postage payment.” Postal Service Opposition at 3. The parties also rely on the Commission’s statement that “there does not appear to be any obvious legal barrier to the Postal Service exercising its pricing flexibility by setting the rate for the metered mail Base Group at a different level than the remainder of single-piece First-Class letters” to argue that the Commission has already signaled its approval of separate rates for metered and stamped letters.<sup>76</sup> Stamps.com expresses

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<sup>74</sup> Motion of the American Postal Workers Union, AFL-CIO for Acceptance of its Initial Comments and to Establish a Schedule to Consider the Use of a New Separate Metered Mail Price in Setting Workshare Discounts for First Class Mail, October 21, 2013, at 2 (APWU Motion). Although the APWU Motion is dated October 18, 2013, it was submitted electronically at approximately 11:40 pm on a Friday evening and was not accepted for filing until the following Monday morning. The APWU Motion also contains a motion for late acceptance of the APWU Comments. No party objects to that portion of the APWU Motion. The motion for late acceptance is granted.

<sup>75</sup> Reply of the United States Postal Service to APWU Comments and Motion Regarding Metered Single-Piece First-Class Mail Price, October 28, 2013 (Postal Service Opposition); Response of Pitney Bowes Inc. in Opposition to the Motion of the American Postal Workers Union, AFL-CIO to Establish a Separate Proceeding to Consider the Metered Mail Price, October 25, 2013 (Pitney Bowes Opposition); Answer of Stamps.com to APWU Motion, October 28, 2013 (Stamps.com Opposition); Response of the National Postal Policy Council, the Major Mailers Association, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement in Opposition to Motion of American Postal Workers Union, October 28, 2013 (Joint Commenters Opposition).

<sup>76</sup> Docket No. RM2010-13, Order Resolving Technical Issues Concerning the Calculation of Workshare Discounts, April 20, 2012, at 11, n.22 (Order No. 1320).

concern about the effect of establishing a separate proceeding on the notice to mailers of impending rate changes. Stamps.com Opposition at 5.

The Public Representative states that he is uncertain whether there is a worksharing relationship between single-piece stamped letters and single-piece metered letters. PR Comments at 19. He suggests that the Commission open a rulemaking proceeding to determine if single-piece stamped letters should be linked to single-piece metered letters in a worksharing relationship. *Id.*

*Commission analysis.* The APWU Motion is based on the assumption that the proposed rates for metered and stamped letters establish a workshare discount that is subject to the requirements of 39 U.S.C. § 3622(e). However, before applying section 3622(e) to the proposed rates for metered and stamped letters, the Commission must find: (1) that the proposed rates involve a workshare activity described in 39 U.S.C. § 3622(e)(1); and (2) that there is a worksharing relationship between metered and stamped letters. The APWU Motion provides no support for the contention that the proposed rates establish a workshare discount “for the presorting, prebarcoding, handling or transportation of mail” within the meaning of 39 U.S.C. § 3622(e)(1). It does not argue that metered and stamped letters have similar demand characteristics because they target the same market or that the two categories cost the Postal Service different amounts to handle and deliver because of differing amounts of preparation that the mailer has elected to do, as would be required to establish that there is a worksharing relationship between the two categories.<sup>77</sup>

Additionally, the APWU Motion fails to explain why the Commission should revisit its conclusion that metered mail, as opposed to bulk metered mail or single-piece First-Class Mail, is the appropriate benchmark for calculating the costs avoided by presort First-Class Mail. Order No. 1320 at 11. The Commission recently, and after

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<sup>77</sup> Order No. 1320 at 2; Docket No. RM2009-3, Order Adopting Analytical Principles Regarding Workshare Discount Methodology, September 14, 2010, at 7-8 (Order No. 536).

extensive consideration, determined that “the broad metered mail category that includes metered, IBI, and PVI letters best satisfies” the criteria for selecting a benchmark for presort First-Class mail. *Id.* The APWU Motion does not attempt to distinguish the metered mail category discussed in Order No. 1320 from the metered letter rate category proposed in this docket. The Commission notes that the Postal Service’s proposed rate categories shift PVI letters from the metered to the stamped category, but no party has asserted that this shift is sufficient to alter the Commission’s factual analysis in Order No. 1320.<sup>78</sup>

Consequently, there is no basis at this time for establishing a separate proceeding to consider whether the metered letters rate complies with 39 U.S.C. § 3622(e). The APWU Motion is denied.<sup>79</sup>

The Commission finds that the Postal Service has satisfied the requirements of 39 C.F.R. § 3010.12(b)(7) with respect to the proposed rate categories by its response to Chairman’s Information Request No. 6, question 2.<sup>80</sup> The Commission also notes that the only filing requirement with respect to changes to the MCS resulting from a notice of rate adjustment is that the Postal Service filed a schedule identifying every change to the MCS that will be necessary to implement the rate adjustment. 39 C.F.R.

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<sup>78</sup> The Postal Service asserts that it now has the ability to report mail processing and delivery costs for PVI and other unstamped mail separately, but not carrier costs. Notice at 18-19. It states that it expects to have that ability by the time the proposed rates take effect. *Id.* at 19, n.12.

<sup>79</sup> If APWU believes that it can show that the metered letters rate establishes a workshare discount, it may want to consider filing a petition with the Commission to initiate a proceeding to consider the appropriate analytical principles for calculating workshare discounts using the new metered letters rate. At the Commission’s suggestion in the FY 2011 ACD, Pitney Bowes filed a petition pursuant to 39 C.F.R. § 3050.11 to initiate a proceeding to consider the proper calculation of cost avoidance for Automated 5-digit Letter Mail. Petition of Pitney Bowes Inc. for the Initiation of a Proceeding to Consider Proposed Changes in Analytic Principle, July 12, 2012. In response, the Commission established Docket No. RM2012-6. Docket No. RM2012-6, Order No. 1510, Notice of Proposed Rulemaking on Analytical Principle Used in Periodic Reporting (Pitney Bowes Inc. Proposal One), October 23, 2012.

<sup>80</sup> Response of the United States Postal Service to Chairman’s Information Request No. 6, Questions 1-2, October 29, 2013, question 2 (Response to CHIR No. 6).

§ 3010.12(b)(9). The Postal Service's Response to CHIR No. 8, question 3 satisfies this requirement.

Finally, the Commission finds that the question of whether the proposed rate categories are consistent with 39 U.S.C. § 3622(b)(8) is best answered in the course of its ACD. As the Commission explained in Order No. 536, the Commission has concluded that the application of the qualitative factors and objectives in subsections (b) and (c) of 39 U.S.C. § 3622 "must largely be deferred to post-implementation compliance review under section 3653, except in circumstances that exhibit blatant disregard for a given standard." Order No. 536 at 34; see also Order No. 43 at 12-13. In its Response to CHIR No. 6, question 2, the Postal Service explained how the proposed rates satisfy the factors and objectives of section 3622. Because the Postal Service has shown regard for the factors and objectives, the Commission will defer further examination of this issue to future ACDs.

### 3. Inbound Letter Post Content Restrictions

The Postal Service proposes to remove the content restrictions applicable to Inbound Letter Post by deleting section 1130.1(b) of the MCS. As it now appears, this section requires the use of Inbound Letter Post (or Inbound Priority Mail Express International (EMS)) service for inbound mail matter "containing personal information, partially or wholly hand-written or typewritten matter, or bills or statements of account...."<sup>81</sup>

The Postal Service states that deleting section 1130(b) reflects "changes in the Universal Postal Convention effective in January 2010 that allow certain correspondence in air and surface parcels." Notice at 56. According to the Postal Service, the 24th Universal Postal Union (UPU) Congress of 2008 deleted paragraph 5 of Article 15 of the Universal Postal Convention, which removed "the prohibition

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<sup>81</sup> Notice, Attachment 2, Changes to Mail Classification Schedule, section 1130.1(b).

concerning the insertion in international Parcel Post of ‘documents having the character of current and personal correspondence.’” CHIR No. 8, question 4(a). The Postal Service also states that it does not know of any impact on competitors arising from deletion of section 1130.1(b) because international Parcel Post is not subject to the letter monopoly. *Id.*

There were no comments related to this proposed classification change.

The Commission approves the deletion of MCS section 1130.1(b). Removing the Inbound Letter Post content restrictions is consistent with recent changes to the Universal Postal Convention and does not appear to disadvantage any mailer or competitor of the Postal Service.

#### 4. Nomenclature Change

The Postal Service proposes to change “Universal Postal Union Convention” to “Universal Postal Convention” where it appears in several places in the MCS. With the exception of Inbound Surface Parcel Post (at UPU rates), this nomenclature change would affect Outbound Single-Piece First-Class Mail International and/or Inbound Letter Post. The change would appear in the following sections of the MCS<sup>82</sup>

- Section 1410 Inbound Surface Parcel Post (at UPU rates),
- Section 1510.2 International Registered Mail,
- Section 1535 International Reply Coupon service, and
- Section 1540 International Business Reply Mail Service.

The Postal Service states that the rationale for this change is “to reflect generally used terminology,” including “references to the ‘Universal Postal Convention’ throughout the UPU Letter Post Manual.” *Id.* The change also reflects the Postal Service’s general

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<sup>82</sup> Response to CHIR No. 8, question 4(b).

view that “the term ‘Universal Postal Convention’ should be used throughout the MCS.” CHIR No. 8, question 4(b) n.4.

There were no comments related to this proposed change in nomenclature. The Commission accepts the Postal Service’s change that harmonizes the language of the MCS with the UPU nomenclature.

#### D. Promotional Pricing

The Postal Service proposes to offer five seasonal pricing promotions within First-Class Mail: (1) Branded Color Mobile Technology Promotion (February 1, 2014 to March 31, 2014); (2) Color Printing in First-Class Mail Transactions Promotion (April 1, 2014 to December 31, 2014); (3) Mail and Digital Personalization Promotion (May 1, 2014 to June 30, 2014); (4) Premium Advertising Promotion (April 1, 2014 to June 30, 2014); and (5) Earned Value Reply Mail Promotion (April 1, 2014 to June 30, 2014).

*Mobile Technology Promotions.* The Postal Service proposes three promotions intended to “integrate direct mail with mobile technology using best practices in mobile marketing.” Notice, Attachment D at 1. Of those three promotions, one—the Branded Color Mobile Technology Promotion—applies to First-Class Mail.

The Branded Color Mobile Technology Promotion provides a 2-percent discount on First-Class presort and automation letters, cards, and flats that include print mobile technology and creative elements such as color and graphics inside or on the mailpiece. *Id.* at 6.

The Postal Service characterizes this promotion as a continuation of similar mobile technology promotions approved in Docket No. R2013-1. Notice at 10. However, it did not include volumes or rates from this promotion in its price cap calculation. In its revised response to Chairman’s Information Request No. 4, the Postal Service provided revised workpapers that calculate the percentage change in rates

using calendar year 2013 billing determinants.<sup>83</sup> The revised workpapers use the billing determinants from the mobile technology promotions approved in Docket No. R2013-1 as a proxy for this promotion.<sup>84</sup>

Although First-Class Mail was eligible for the Emerging Technologies Promotion approved in Docket No. R2013-1, First-Class Mail will not be eligible for the Emerging Technology Featuring Near Field Communication (NFC) Promotion proposed in this proceeding. The Postal Service's workpapers did not account for this change.

*Innovative technology promotions.* The Postal Service proposes two promotions intended to "leverage the value of innovative direct mail techniques" that increase the effectiveness of direct mail campaigns. Notice, Attachment D at 1.

The Color Print in First-Class Mail Transactions Promotion provides a 2-percent discount on First-Class presort and automation letters sent as part of a Full Service IMb mailing that contains bills or statements with dynamic variable color messaging. *Id.* at 2. The Postal Service does not seek to recover the revenue forgone from this promotion.

The Mail and Digital Personalization Promotion provides a 2-percent discount on First-Class presort and automation letters, cards, and flats that include print mobile technology leading the recipient to a customized or personalized URL/webpage and that use a mailpiece customized to the recipient. *Id.* at 5. As with the Branded Color Mobile Technology Promotion, the Postal Service characterizes this promotion as a continuation of similar mobile technology promotions approved in Docket No. R2013-1.

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<sup>83</sup> Revised Response of the United States Postal Service to Chairman's Information Request No. 4, Question 5, October 31, 2013 (Revised Response to CHIR No. 4).

<sup>84</sup> The Postal Service's workpapers combine the billing determinants from the First-Class mobile technology promotions approved in Docket No. R2013-1 (Direct Mail Mobile Coupon and Click-to-Call Promotion, Emerging Technology Promotion, and Mobile Buy-It-Now Promotion) and use those combined billing determinants as a proxy for the similar promotions proposed in this docket (Branded Color Mobile Technology Promotion, and Mail and Digital Personalization Promotion). The Postal Service uses billing determinants from the 2012 Holiday Mobile Shopping Promotion as a proxy for the Mobile Buy-It-Now promotion because the Mobile Buy-It-Now promotion did not begin until November 1, 2013.

Notice at 10. It did not include volumes or rates from this promotion in its price cap calculation. In its Revised Response to CHIR No. 4, the Postal Service provided revised workpapers that calculate the percentage change in rates using calendar year 2013 billing determinants. The revised workpapers use the billing determinants from the mobile technology promotions approved in Docket No. R2013-1 as a proxy for this promotion.

*Promotions intended to slow declining volume.* The Postal Service proposes two promotions intended to slow the declining volume trends for First-Class Mail. *Id.* Attachment D at 1.

The Premium Advertising Promotion provides a 15-percent discount on First-Class presort and automation letters sent as part of a Full Service IMb mailing that consists entirely of marketing or advertising content and does not contain any material required to be mailed as First-Class Mail. *Id.* at 3. In order to qualify for the promotion, a mailer must have mailed a volume providing \$6 million or more in Standard Mail letter postage from October 1, 2012 through September 30, 2013. *Id.* Mail service providers are not eligible for this promotion. *Id.* The Postal Service does not seek to recover the revenue forgone from this promotion.

The Earned Value Reply Mail Promotion provides a per-piece rebate on Business Reply Mail and Courtesy Reply Mail pieces that are returned to the registered customer during the promotional period. *Id.* at 4. Mailers who participated in the 2013 Earned Value Reply Mail Promotion and whose total Business Reply Mail and Courtesy Reply Mail volume increases in 2014 will receive a 3-cent rebate per piece. Other mailers will receive a 2-cent rebate per piece. *Id.* The rebate will be calculated at the end of the promotional period and will be applied to the mailer's permit imprint account. *Id.* It will be available for future mailings of First-Class Mail presort and automation cards, letters, and flats and Standard Mail letters and flats. *Id.* The Postal Service characterizes this promotion as a continuation of the Earned Value Reply Mail Promotion approved in Docket No. R2013-1. Notice at 10. However, it did not include

volumes or rates from this promotion in its price cap calculation. In its Revised Response to CHIR No. 4, the Postal Service provided revised workpapers that calculate the percentage change in rates using calendar year 2013 billing determinants. The promotional prices in these workpapers reflect a 2.1-cent discount, which reflects a weighted average of the 2- and 3-cent discounts proposed in this proceeding.

*Comments on promotional pricing.* The Commission received three comments on the proposed First-Class promotions. Pitney Bowes supports the proposed promotions as an “innovative use” of the Postal Service’s pricing flexibility and commends the Postal Service for providing a schedule of promotions for the full calendar year in its Notice. Pitney Bowes Comments at 6.

The Joint Commenters also commend the Postal Service for providing advance notice of its promotions. Joint Comments at 14. However, they argue that including promotions in the price cap calculation in an annual rate case allows the Postal Service to attempt to recover revenue leakage from the promotions by establishing higher prices elsewhere within the class or by banking unused rate adjustment authority. *Id.* They contend that the Commission should not allow the Postal Service to include temporary promotions in its price cap calculation because doing so requires non-participating mailers to pay for promotional discounts and shifts the risks of failed discounts. *Id.* at 15, 16.

PostCom urges the Commission to promulgate rules to address the treatment of promotions and incentives. PostCom Comments at 2. It asserts that such rules are necessary in order to: (1) ensure the Postal Service treats its incentive programs consistently; (2) establish a true-up mechanism; and (3) restrict price cap authority created by a promotion or incentive to the product to which the promotion or incentive applies. *Id.* at 2-3. It encourages the Commission to establish a default rule requiring the Postal Service to exclude temporary promotional rates and incentives from the price cap calculation. *Id.* at 5.

*Commission analysis.* The Postal Service argues that it is not required to include volumes or rates from three of its proposed promotions in the calculation of the percentage change in rates for First-Class Mail because “no price cap calculation is needed if the Postal Service simply continues promotions from one year to the next.”<sup>85</sup> This argument appears to be premised on a misreading of Order No. 1743<sup>86</sup> and is inconsistent with the Commission’s previous statements on the treatment of promotional rates.

In Docket No. R2013-1, the Postal Service proposed for the first time to include revenue foregone due to promotional pricing in its price cap calculations. Order No. 1541 at 14-18. For First-Class Mail, the promotions include the Direct Mail Mobile Coupon and Click-to-Call Promotion, the Emerging Technology Promotion, and the Mobile Buy-It-Now Promotion (collectively referred to as “mobile technology promotions”).<sup>87</sup> The Commission found that the Postal Service’s proposed price cap treatment of the promotions was permissible. *Id.* at 18. This determination was based, in part, on the availability of historical volume data that could be used to calculate the percentage change in rates consistent with 39 C.F.R. § 3010.23(d).<sup>88</sup>

The Commission gave further consideration to the price cap treatment of promotions and incentives in Docket No. RM2013-2. See Order No. 1678; see also Order No. 1786. The issue generated significant debate, and the Commission determined to open a separate docket to more fully consider the issues raised by commenters. Order No. 1786 at 33. The Commission intends to issue a notice of proposed rulemaking concerning the treatment of promotions and incentives. That

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<sup>85</sup> Revised Response to CHIR No. 4 at 2. See also Notice at 10-11.

<sup>86</sup> Docket No. R2013-6, Order Approving Technology Credit Promotion, June 10, 2013 (Order No. 1743).

<sup>87</sup> See Docket No. R2013-1, United States Postal Service Notice of Market-Dominant Price Adjustment, October 11, 2012, Attachment D.

<sup>88</sup> *Id.* at 17 (citing Order No. 606 at 19). The billing determinants for these promotions were based on historical billing determinants from the 2011 Mobile Barcode Promotion.

docket will allow interested persons the opportunity to comment further on the issues raised by the Joint Commenters and PostCom.

In this proceeding, the Postal Service seeks to offer three promotions that it characterizes as continuations of the mobile technology promotions from Docket No. R2013-1: (1) the Branded Color Mobile Technology Promotion, (2) the Mail and Digital Personalization Promotion, and (3) the Earned Value Reply Mail Promotion (collectively referred to as Continuing Promotions). Notice, Attachment D. Although the Emerging Technology Promotion approved in Docket No. R2013-1 will continue for Standard Mail, First-Class Mail will no longer be eligible. The Postal Service's initial workpapers did not include volumes or rates for the Continuing Promotions in the calculation of the price change for the class. They also did not account for the change in eligibility for the Emerging Technology Promotion. In its Revised Response to CHIR No. 4, question 5, the Postal Service provided revised workpapers, including billing determinants from the mobile technology promotions approved in Docket No. R2013-1.<sup>89</sup> In a revised answer, the Postal Service cited Order No. 1743 to argue that "no price cap calculation is needed if the Postal Service simply continues promotions from one year to the next." Revised Response to CHIR No. 4, question 5.

The Postal Service's argument appears to conflate the Commission's statements about the proper treatment of promotions available only to a limited group of mailers with its statements about the mobile technology promotions the Postal Service seeks to continue to offer in this proceeding. Order No. 1743 concerned a Postal Service proposal to offer a Technology Credit Promotion to a limited group of mailers (those who had mailed a specific volume during the preceding year). Order No. 1743 at 15-16. There, the Commission noted that it had previously found that a promotion available only to a limited group of mailers could be treated like a Type 2 rate adjustment resulting from a negotiated service agreement. *Id.* at 16. The Commission explained

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<sup>89</sup> See Response of the United States Postal Service to Chairman's Information Request No. 4, October 25, 2013, question 5.

that it had excluded these types of promotions from the calculation of the percentage change in rates in previous rate cases in order to protect ineligible mailers from higher rates that could result from the increased cap room created by including these types of promotions in the calculation of the percentage change in rates. *Id.*

The Continuing Promotions are not the type of limited-availability promotions at issue in Order No. 1743. In fact, in that order, the Commission explicitly contrasted its treatment of limited-availability promotions with its treatment of the first iteration of the Continuing Promotions:

In contrast to this treatment, when the Postal Service proposed to extend certain promotions into future years (Docket No. R2013-1), the Commission allowed the Postal Service to begin recovering revenue forgone from those promotions. In Docket No. R2013-1, the mobile technology promotions became permanent. *If the Postal Service terminates the Docket No. R2013-1 promotions in future years it must treat the termination like a price increase, which triggers the price cap rules.*<sup>90</sup>

The Postal Service will not be able to treat the termination of the Continuing Promotions like a price increase in a future rate case if it is permitted to remove the volumes and rates associated with the promotions from the calculation of the percentage change in rates in this rate case.

Consistent with Order No. 1743, the volumes and rates from the Continuing Promotions must be included in the price cap calculation. This approach protects First-Class mailers by ensuring that the Postal Service will be accountable for the price cap effects of terminating these promotions in the future. Because the proposed percentage discounts for each of these promotions will be equal to the percentage discount for the promotions approved in Docket No. R2013-1, the effects of this requirement on the Postal Service's available CPI-U authority are minimal.

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<sup>90</sup> Order No. 1743 at 16 (emphasis added) (citations omitted).

The Commission finds that the volumes and revenues from the continuing Branded Color Mobile Technology Promotion, Mail and Digital Personalization Promotion, and Earned Value Reply Mail Promotion must be included in the price cap calculation for First-Class Mail.

The workpapers provided by the Postal Service in its response to Chairman's Information Request No. 4 do not accurately capture the effects of continuing the Branded Color Mobile Technology Promotion and the Mail and Digital Personalization Promotion while terminating the eligibility of First-Class Mail for the Emerging Technology Promotion. The Postal Service's workpapers use billing determinants from all three mobile technology promotions (Direct Mail Mobile Coupon and Click-to-Call Promotion, the Emerging Technology Promotion, and the Mobile Buy-It-Now Promotion) as a proxy for the effects of the two mobile technology-related Continuing Promotions (Branded Color Mobile Technology Promotion and the Mail and Digital Personalization Promotion).<sup>91</sup> They do not include a price increase for First-Class Mail to reflect the change in eligibility for the Emerging Technology Promotion.

The Direct Mail Mobile Coupon and Click-to-Call Promotion and the Mobile Buy-It-Now Promotion approved in Docket No. R2013-1 are appropriate proxies for the effects of the Branded Color Mobile Technology Promotion and the Mail and Digital Personalization Promotion. The Postal Service characterizes the Branded Color Mobile Technology Promotion and the Mail and Digital Personalization Promotion as continuations of the Direct Mail Mobile Coupon and Click-to-Call Promotion and the Mobile Buy-It-Now Promotion. Notice at 10. The two groups of promotions offer the same percentage discount and are offered for similar periods of time. However, the Emerging Technology Promotion billing determinants should not be used to calculate the percentage change in rates for the two First-Class Continuing Promotions. Instead, as explained in Order No. 1743, the workpapers should include a price increase in the

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<sup>91</sup> The 2012 Holiday Mobile Shopping Promotion continues to be an appropriate proxy for the Mobile Buy-It-Now Promotion, which is scheduled to begin November 1, 2013.

percentage change in rates calculation to account for the termination of the Emerging Technology Promotion for First-Class Mail. The effect of the price increase due to the termination of the Emerging Technology Promotion is minimal. Corrected workpapers that include a price increase for the termination of the Emerging Technology Promotion are included with this Order.

Additionally, the Postal Service's workpapers submitted in its Revised Response to CHIR No. 4 reflect a 2.1-cent discount for the Earned Value Reply Mail Promotion. The 2.1-cent discount is a weighted average of the 2- and 3-cent discounts proposed in this proceeding and was obtained by projecting the number of mailers that will send higher volumes next year in order to qualify for the 3-cent discount. This is inconsistent with the Commission's preference for adjustments that rely on historical mail characteristics, and there is no persuasive evidence to support the Postal Service's forecast of how mailer behavior will change in response to the incentive. Accordingly, the Commission uses the 2-cent rate as the planned rate when calculating the percentage change in rates for this promotion. Corrected workpapers are included with this Order.

The Postal Service's price cap treatment of the Color Print in First-Class Mail Transactions Promotion and the Premium Advertising Promotion is permissible.

#### E. International First-Class Mail

International First-Class Mail consists of two products: Outbound Single-Piece First-Class Mail International (FCMI) and Inbound Letter Post.<sup>92</sup> The Postal Service calculates a combined price increase for International First-Class Mail of 7.735 percent.<sup>93</sup> The calculated price increase for letters and flats in the Outbound

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<sup>92</sup> Inbound Letter Post was formerly known as Inbound Single-Piece First-Class Mail International.

<sup>93</sup> Library References USPS-LR-R2013-10/1 (Revised 10-18-13), First-Class Mail Workpapers, Excel File CAPCALC-FCM-R2013-10\_Rev.10.18.13.xls, and worksheet tab FCM International.

Single-Piece First-Class Mail International product is 2.192 percent.<sup>94</sup> There is no change in price for Outbound Single-Piece International Cards. Notice at 22. In addition, the non-machinable surcharge of \$0.20 for Outbound Single-Piece First-Class Mail International letters is unchanged. For the Inbound Letter Post product, the percentage change in price is 15.217 percent. *Id.*

The Postal Service observes that the price increase for outbound single-piece letters and flats is “significantly greater” than the First-Class Mail average price increase of 1.618 percent. *Id.* It states that this above-average price increase is “necessary to increase contribution and improve cost coverage for FCMI Flats (Factor 2, Factor 12).” *Id.*

The price increases for Inbound Letter Post, International First-Class Mail, and First-Class Mail as a whole reflect a Postal Service revision to the price change calculation for Inbound Letter Post.<sup>95</sup> The revision updates the CY 2013 charge for internal air conveyance initially used in calculating CY 2014 internal air conveyance revenue with the CY 2014 charge in response to a recent announcement by the UPU.<sup>96</sup>

The price change calculation for Outbound Single-Piece First-Class Mail International letters, cards, and flats is based upon the hybrid fiscal year developed from quarterly outbound volumes reported in the International Market Dominant Products

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<sup>94</sup> *Id.* The Postal Service states that it “is increasing [Outbound Single-Piece First-Class Mail International (FCMI)] prices by 2.192 percent *overall,....*” (Emphasis added). Notice at 22. The Commission calculates an overall price increase for the FCMI product, which consists of outbound letters and flats, cards, and non-machinable letters, of 2.059 percent ( $\$311,397,267 / \$305,114,011 - 1$ ), *i.e.*, the sum of revenue at the Docket No. R2013-10 proposed prices for outbound letters and flats, cards, and non-machinable letters divided by the sum of revenue at the Docket No. R2013-1 prices for such items, minus 1. Library Reference USPS-LR-R2013-10/1 (Revised 10-18-13), First-Class Mail Workpapers, Excel File CAPCALC-FCM-R2013-10\_Rev.10.18.13.xls, worksheet tab FCM International.

<sup>95</sup> See Notice of Revisions to United States Postal Service Notice of Market-Dominant Price Adjustment – Errata, October 18, 2013 (Revision Notice); United States Postal Service Notice of Revisions to USPS-LR-R2013-10/NP1, October 18, 2013 (Library Reference Revision Notice).

<sup>96</sup> Revision Notice at 2; see *also* UPU IB Circular 189, October 14, 2013.

Billing Determinants.<sup>97</sup> Because quarterly inbound data are not available for Inbound Letter Post, the price change calculation is based upon FY 2012 inbound volume and weight totals presented in the International Cost and Revenue Analysis (ICRA) report.<sup>98</sup>

The Postal Service's price change calculation for the Outbound Single-Piece First-Class Mail International product conforms to the Commission's accepted methodology. For the Inbound Letter Post product, the Postal Service modifies the accepted methodology to calculate the inbound price change. That modification excludes kilograms associated with Inbound Letter Post from new target system countries from the calculation of CY 2014 internal air conveyance revenues.<sup>99</sup> In response to a Chairman's Information Request, the Postal Service further adjusts the number of kilograms used in its calculation of internal air conveyance revenues.<sup>100</sup>

The Postal Service uses UPU transition system terminal dues rates for Inbound Letter Post from new target system countries in the inbound price change calculation rather than the new target system terminal dues rates.<sup>101</sup> For Inbound Letter Post from transition system countries, the Postal Service uses transition system provisional

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<sup>97</sup> International Market Dominant Products Billing Determinants are one of several Postal Service periodic reports generally filed with the Commission on a quarterly or monthly basis that provide information on the financial or operational status of the Postal Service. See <http://www.prc.gov/prc-pages/library/usps-periodic-reports/default.aspx?gridpart=periodic>.

<sup>98</sup> See Docket No. ACR2012, Library Reference USPS-FY12-NP2 (Revised 2-8-13).

<sup>99</sup> Library References USPS-LR-R2013-10/1 (Revised 10-18-13), "Summary of First-Class Mail International Price Changes," at 4-5.

<sup>100</sup> See Notice of the United States Postal Service of Filing of USPS-R2013-10/NP2, October 28, 2013, referencing the Non-Public Annex, "Nonpublic Material Provided in Response to Chairman's Information Request No. 6, Questions 3-5", question 5(b) (Notice of Response).

<sup>101</sup> Terminal dues rates are paid by foreign postal operators to the Postal Service for delivery of Inbound First-Class Mail International (letterpost) in the United States. Such rates consist of a per item and per kilogram charge, or a kilogram charge, depending upon the country group classification of each country—target, new target, or transition system.

terminal dues rates for all transition system countries rather than base terminal dues rates for all but three such countries.<sup>102</sup>

*Commission analysis.* The Commission approves the price changes proposed by the Postal Service for the Outbound Single-Piece First-Class Mail International product and accepts the Postal Service's explanation for above-average increases for that product. With respect to the price change calculation for the Inbound Letter Post product, the Commission approves the Postal Service's modification of the accepted methodology to exclude certain Inbound Letter Post kilograms from the calculation of CY 2014 internal air conveyance revenues. The Postal Service provides its interpretation of two articles of the Universal Postal Convention in support of the modification. Notice of Response, question 4. In addition, the Commission approves the Postal Service's further adjustment of Inbound Letter Post kilograms used in the calculation of CY 2014 internal air conveyance revenues. *Id.* question 5(b).

For Inbound Letter Post from new target system and transition system countries, the Commission uses provisional and transition system terminal dues rates, respectively, obtained from UPU IB Circular 111, July 1, 2013, that differ from the terminal dues rates used by the Postal Service in its inbound price change calculation. The Postal Service confirms that the provisional and base terminal dues rates identified by the Commission are applicable to Inbound Letter Post from new target system and transition system countries during CY 2014.<sup>103</sup>

Applying the accepted methodology results in a price change of 7.380 percent for International First-Class Mail compared to 7.735 percent calculated by the Postal

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<sup>102</sup> Provisional terminal dues rates are applicable to target, new target, and certain transition system countries that participate in the quality of service linked measurement system, while base terminal dues rates are applicable to all other countries.

<sup>103</sup> Notice of the United States Postal Service of Filing of USPS-R2013-10/NP3, November 5, 2013, referencing the Non-Public Annex, "Nonpublic Material Provided in Response to Chairman's Information Request No. 9."

Service. This small decrease in price has little impact on the overall percentage change in price for First-Class Mail as a whole.<sup>104</sup>

F. Additional Comments

*Discount for PC Postage.* Stamps.com proposes that the Commission give further consideration to a potential rate category for “Qualified PC Postage (QPCP).” Stamps.com Comments at 4-6.

*Timing of Implementation.* Pitney Bowes commends the Postal Service for continuing to provide more notice of new rates than is statutorily required under the PAEA. Pitney Bowes Comments at 2. Pitney Bowes is concerned that uncertainty associated with the Postal Service’s exigent request will challenge the ability of the mailing community to prepare for the proposed price adjustments. *Id.* Pitney Bowes urges the Commission to recommend to the Postal Service that it work with mailers to give them sufficient time to prepare for price changes. *Id.* at 2-3.

The PAEA gives the Postal Service the flexibility to propose new rate categories and mandates the notice deadlines for the implementation of new rates. The Postal Service has complied with these statutory obligations. The Commission encourages the Postal Service to continue to collaborate with mailers and consider mailer concerns and suggestions.

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<sup>104</sup> Additional explanation and supporting calculations appear in Library Reference PRC-LR-R2013-10/NP1.

#### IV. STANDARD MAIL

##### A. Introduction and Price Adjustments

This section discusses the proposed Standard Mail product price adjustments, mail classification changes,<sup>105</sup> and the worksharing relationships between Standard Mail discounts and associated avoided costs.

The Commission's analysis of the proposed rates' compliance with 39 U.S.C. § 3622 and 39 C.F.R. part 3010 below does not take into account the effects of the Full Service IMb requirements scheduled to take effect in January 2014. Those effects are discussed in chapter II.

**Table IV-1**  
**Standard Mail Product Price Changes<sup>1</sup>**

Product	Price Changes %
Letters	1.613
Flats	1.810
Parcels	1.820
High Density/Saturation Letters	1.325
High Density/Saturation Flats and Parcels	1.124
Carrier Route Letters, Flats and Parcels	1.671
Every Door Direct Mail–Retail	5.000
Overall	1.607
<sup>1</sup> These price changes differ from the percentage change in rates calculated by the Postal Service due to corrections made to the Postal Service's workpapers. See PRC-LR-R2013-10/2.	
Source: PRC-LR-R2013-10/2.	

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<sup>105</sup> Proposed Flats Sequencing System (FSS) Preparation and Prices, for Periodicals, and BPM Flats are also discussed in section VB1 of this chapter.

The Standard Mail class consists of seven products: (1) Letters; (2) Flats; (3) Parcels; (4) High Density and Saturation Letters; (5) High Density and Saturation Flats and Parcels; (6) Carrier Route; and (7) Every Door Direct Mail–Retail. The Postal Service calculates a price adjustment authority for the Standard Mail class of 1.696 percent, and proposes to increase rates for Standard Mail, on average, by 1.607 percent. Notice at 24. The Postal Service does not use any of the -0.441 percent banked pricing authority. *Id.* at 6. Table IV-1 shows the percentage price changes for Standard Mail individual products.

The Commission finds the Postal Service’s planned price adjustments for Standard Mail comply with the price cap limitations specified in 39 U.S.C. § 3622(d). New unused authority created in this proceeding equals the unused portion of the annual limitation of 0.089 percent. The sum of all available unused rate adjustment authority for Standard Mail, from the instant price adjustment and previous price adjustments, now equals -0.352 percent.

Price adjustments for Standard Mail products range from 1.124 percent to 5.000 percent. Flats and Parcels products did not generate sufficient revenues in FY 2012 to cover attributable costs. The Postal Service has proposed that both products receive above-average price increases in this docket. The above-average price increase for the Flats product is consistent with the Commission’s FY 2010 ACD section 708 Directive (Directive) requiring the Postal Service to “increase the cost coverage of the Standard Mail Flats product through a combination of above-average price adjustments, consistent with the price cap requirements, and cost reductions until such time that the revenues for this product exceed attributable costs.”<sup>106</sup> The proposed price increase for Flats is CPI-U x 1.067, which exceeds the Postal Service’s schedule presented in the FY 2012 ACR of CPI-U x 1.05. The Postal Service explains that it intends to maintain this schedule in FY 2014 and FY 2015. Response to CHIR

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<sup>106</sup> Docket No. ACR2010, Annual Compliance Determination, at 106, March 29, 2011 (FY 2010 ACD); see also Docket No. ACR2010, Order No. 1427, Order on Remand, August 9, 2012, at 10-14.

No. 3, question 6 at 9. The Postal Service estimates that due to this price adjustment, as well as its projected cost reductions, the cost coverage for Flats is expected to increase to 87 percent in FY 2013 and almost 90 percent in FY 2014. *Id.*

*Comments.* Valpak and the Public Representative filed comments on the proposed price increase for Standard Mail Flats. In its initial comments, Valpak expresses concern that once promotional incentives are factored into Standard Mail Flats rates, those rates may fall below the above-average price increase required by the FY 2010 ACD Directive. Valpak Comments at 2-3. Valpak's Supplemental Comments expands on this point stating that the Postal Service's Response to CHIR No. 3, question 6, does not adequately explain how the proposed Standard Mail Flats rates will move the product towards 100 percent cost coverage. It asserts that the cost savings claimed by the Postal Service are too speculative to justify the "tiny" increases in rates given to Standard Mail Flats. *Id.* Valpak is also concerned that the Postal Service's pricing proposal includes price changes that are within a narrow band around the average price increase for the class with little regard to cost coverage and elasticity. *Id.* at 4.

The Public Representative echoes Valpak's concern that the proposed price increase for Standard Mail Flats will do little to impact the intra-class cross-subsidy present within Standard Mail and may fall below the price increase required by the FY 2010 ACD. PR Comments at 11-12. The Public Representative also notes that in the last rate adjustment (Docket No. R2013-1), the Postal Service over-estimated the cost coverage of Standard Mail Flats, stating that for FY 2012, the product's cost coverage would be 82.7 percent when actual cost coverage was 80.7 percent. The Public Representative states that he is hopeful that the Postal Service's cost coverage estimates will prove accurate in the FY 2013 ACD. *Id.* at 13.

*Commission analysis.* The Commission finds that the Postal Service's proposed price increase for Standard Mail Flats is consistent with the Commission's Directive. In Response to CHIR No. 3, question 5, the Postal Service filed updates to Standard Mail

workpapers that incorporate promotions into Standard Mail rates. The inclusion of these promotions does not cause Standard Mail Flats rates to diverge from the above-average price increase schedule. In addition, the Commission finds that the Postal Service's Response to CHIR No. 3, question 6, is sufficient. The Postal Service has provided an explanation of how the proposed increases will move the product toward 100 percent cost coverage and, as a consequence, reduce the intra-class cross-subsidy.

## B. Classification Changes

The Postal Service proposes three mail classification changes for Standard Mail products. First, it introduces new FSS preparation requirements and new FSS pricing. Second, it creates an additional price category for Every Door Direct Mail–Commercial. Finally, it seeks approval for promotions including the continuation of four Mobile Barcode Promotions for CY 2014: (1) Branded Technology Promotion, (2) Mail and Digital Personalization Promotion, (3) Emerging Technology Promotion Featuring NFC,<sup>107</sup> and (4) Mail Drive Mobile Commerce Promotion. The Postal Service also proposes a High Density and Saturation Incentive Program, and an Every Door Direct Mail (EDDM) Coupon Promotion. The Branded Color Mobile Technology Promotion and Digital Personalization Promotion involve both First-Class Mail and Standard Mail. They are discussed in the First-Class Mail section of this Order.

### 1. FSS preparation and prices

The Postal Service has outlined three steps it plans to take in order to increase efficiency gains from the FSS: (1) require previously optional FSS preparation for all flat-shaped mailpieces destinating in FSS zones; (2) introduce new FSS pricing for presorted Standard Mail, Outside County Periodicals, and BPM Flats destinating in FSS

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<sup>107</sup> Unlike the continuing Standard Mail Emerging Technology Promotion, the First-Class Mail Emerging Technology Promotion was discontinued.

zones; and (3) introduce new FSS discounts for mail on FSS scheme pallets that is entered at a destinating FSS (DFSS) facility. Notice at 16.

These three changes are intended to improve the efficiency of FSS machines. *Id.* The Postal Service explains that most flats destinating in FSS zones are not prepared to maximize FSS efficiency. These steps are designed to encourage more properly prepared mail to be entered into FSS machines.

a. FSS preparation requirements

The Postal Service plans to make current optional FSS preparation mandatory for Standard Mail, Outside County Periodicals, and BPM Flats,<sup>108</sup> as a means to maximize FSS efficiency. *Id.* at 16. The currently optional FSS preparation involves mailers creating bundles of equal height. These bundles can range in size from 3.0 inches to 6.0 inches, but all bundles must be of equal height, except for one residual bundle. Currently, most flats destinating within ZIP Codes served by FSS machines have not been prepared to maximize FSS efficiency, *i.e.*, bundles are not of equal height. *Id.*

A possible reason that mailers are not adopting the optional FSS preparation is because of the current minimum piece requirements for bundles. For example, currently Carrier Route Bundles require at least 10 pieces. See Postal Service DMM section 345.6.3b. In Response to CHIR No. 8, question 6, the Postal Service explains that under the new FSS preparation requirements, FSS bundles can include flats from multiple products within a class. For example, FSS bundles on a pallet can include Standard Mail 5-digit Flats, Standard Mail Carrier Route Flats, and Standard Mail High Density Flats, and the piece minimums are eliminated. This change allows mailers to adapt their mailings to meet the new FSS preparation requirements. The Postal Service

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<sup>108</sup> In Response to CHIR No. 8, question 5, the Postal Service explains that First-Class Mail flats will not have to meet the new FSS preparation requirements.

states that the required FSS “preparation actually would reduce their preparation costs, by allowing mailers to create fewer bundles.” Response to CHIR No. 3, question 3.

*Comments.* The Public Representative and the American Catalog Mailers Association (ACMA) filed comments regarding the new FSS preparation requirements. The Public Representative states that the new preparation requirements may result in some mailers paying higher prices, but he views the proposed change to be more akin to a carrier route scheme change than a price increase. PR Comments at 18. ACMA observes that regulations for the implementation of FSS preparation may be material to the cost of FSS service. ACMA Comments at 5.

*Commission analysis.* Several Chairman’s Information Requests obtained information to consider the new FSS preparation requirements proposal further and to examine whether the new FSS preparation requirements constitute a price change. The Commission has determined that the proposed FSS preparation requirements are not a price change requiring a percentage change in rates calculations because the proposed FSS preparation requirements do not change the basic characteristics of a mailing.

FSS preparation requirements require mailers to rearrange their current bundles to meet the new FSS preparation requirements. This is similar to the adjustments that are made when carrier route schemes change. It is also similar to changes made to accommodate findings that machine tolerances are greater or less than previously believed. Such changes are not viewed by the Commission as price changes. These types of changes require mailers to adapt to Postal Service machinery and carrier routes, which could result in mailers paying higher, lower, or equal prices; however, they do not require a change to a basic mail characteristic. Rather, these changes are operational in nature, and the Commission does not view them as price changes.

When the Postal Service modifies its carrier routes, mailers must adjust their mailings to match the new carrier route schemes. These modifications may cause

particular mailpieces that were eligible to receive Carrier Route prices to now pay higher 5-digit prices. At the same time, some pieces that were not previously eligible to receive Carrier Route prices may now shift into carrier route bundles. In contrast, as long as the FSS preparation requirements are met, pieces in the bundles are still eligible for the prices they were previously eligible to receive. All 5-digit pieces in the bundles will continue to pay 5-digit, and all Carrier Route pieces will continue to pay carrier route regardless of whether the bundles themselves include both 5-digit and carrier route.

The new FSS preparation requirements are also similar to the requirements regarding address placement. The Postal Service has specific requirements for address placement that enable postal machines to effectively read addresses. If the Postal Service shifted the required placement of an address slightly to accommodate actual mail processing experience, the Commission would likely not view this as a price change. FSS preparation requirements are similarly designed to allow the Postal Service to more effectively use machines to handle flat-shaped mail.

These altered bundling rules do not require mailers either to change mailpieces or the basic characteristics of their mailings. Rate cells are not redefined. These changes only require mailers to make minor modifications to their existing practices to meet the operational realities of the Postal Service. The Commission does not consider these types of mail preparation changes classification changes. Therefore, the Commission finds that the new rates associated with the FSS preparation requirements are acceptable and have no impact on the price cap calculation.

b. FSS prices and discounts

The Postal Service has proposed structural changes to Standard Mail, Outside County Periodicals, and BPM Flats to incorporate new FSS prices into the rate schedules. The proposed changes are twofold.

First, the Postal Service proposes to establish new price categories for mail that is presorted to an FSS zone. Second, it establishes dropship discounts for mail entered at destination FSS (DFSS) facilities.

*Standard Mail prices.* FSS prices are incorporated into Flats, Carrier Route, and High Density and Saturation Flats and Parcels. These proposed FSS presort prices are equivalent to the existing prices for 5-digit flats, High Density flats, High Density Plus flats, and Carrier Route flats. Notice at 24-25.

The Postal Service also establishes a 0.01 cent discount for pieces brought to a destination FSS facility. *Id.* at 25. It calculates an 87 percent passthrough for this discount, using mail dropshipped to a destination sectional center facility (DSCF) as a proxy. *Id.*

*Periodicals prices.* The new FSS price proposals for Periodicals are similar to those for Standard Mail. The Postal Service proposes the DFSS pound prices to equal DSCF pound prices. *Id.* at 28. In addition, to encourage destination entry, the Postal Service proposes a price of zero for DFSS pallets.

*BPM Flats prices.* The Postal Service proposes FSS pricing for presort and carrier route presort at originating entry, destination network delivery center entry, DSCF entry, and DFSS entry. The Postal Service proposes the same prices for FSS pieces as non-FSS prices at each presort and destination entry level. *Id.* at 30.

*Worksharing.* The Postal Service provides adequate support for its establishment of dropship discounts. It has not provided support for establishing presort discounts.<sup>109</sup> However, the current presort prices match corresponding presort prices within each product. When the Postal Service decides to differentiate the FSS presort prices from existing prices by offering discounts, the Postal Service must file the

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<sup>109</sup> See United States Postal Service to Chairman's Information Request No. 7, November 1, 2013, question 2 (Response to CHIR No. 7).

necessary information for the Commission to review the discounts. See 39 C.F.R. § 3010.12(c).

*Adjustments to billing determinants.* The Postal Service adjusted its hybrid year Standard Mail and Periodicals billing determinants to account for the pieces that would have qualified for the FSS presort prices and dropship discounts. The Postal Service uses mail.dat data to make these adjustments. See Response to CHIR No. 3, question 4.<sup>110</sup> The Postal Service has not adjusted the BPM Flats billing determinants because the prices are identical to non-FSS prices. *Id.*

*Comments.* Only the Public Representative commented regarding the new FSS pricing. He finds that the new pricing structure is a step in the right direction. PR Comments at 15.

*Commission analysis.* The Commission approves the proposed FSS pricing structure for Standard Mail, Outside County Periodicals, and BPM Flats. This new price structure reflects the Postal Service's goal of maximizing FSS efficiency.

## 2. Every Door Direct Mail—Commercial

The new EDDM—Commercial price category applies to mailpieces with a simplified address entered at a Business Mail Entry Unit. Response to CHIR No. 7, question 1. These pieces previously paid Saturation Mail prices. The Postal Service proposes to increase the prices for EDDM—Commercial to equal Saturation prices, plus \$0.001. See Notice, Attachment A. During the hybrid billing determinant year, the Postal Service collected volume data on the EDDM—Commercial rate category. This

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<sup>110</sup> For Standard Mail, the Postal Service assumes that 87.34 percent of FSS volume will qualify for FSS facility prices, and 12.66 percent will qualify for FSS scheme prices. See Response to CHIR No. 3, question 4. The Postal Service provides similar estimates for Periodicals. While the Postal Service provided the method used to calculate the percentages, it did not provide the source data used to derive these percentages. Due to the fact that most FSS prices equal existing prices, the impact of the disaggregated FSS volumes is small. However, the Postal Service should always fully support adjustments made to billing determinants pursuant to 39 C.F.R. § 3010.23(d).

price change is appropriately accounted for in the Postal Service's Standard Mail price cap workpapers. See USPS-LR-R2010-10/2.

### 3. Calendar Year 2013 Promotions

The Emerging Technology Promotion Featuring NFC is designed to build on the CY 2013 Emerging Technology Promotion to promote awareness of how technology can be integrated with direct mail. Notice at 9. This promotion will be in effect in August and September 2014. *Id.*

The Mail Drives Mobile Commerce Promotion is designed as a continuation of the CY 2013 Mobile-Buy it Now Promotion. *Id.* at 10. It will be used in mobile print technology to facilitate purchases on mobile devices. *Id.* This promotion will be in effect in November and December 2014.

The High Density and Saturation Incentive Program is designed to increase letter and flat volumes in CY 2014. A volume baseline (CY 2013 volume + 2.0 percent) will be created for customers who increase their letters and flats volume above the volume baseline. As a result, they will receive a 20 percent rebate for incremental Saturation Mail and a 15 percent rebate for incremental High Density and High Density Plus Mail. *Id.* at 7. Nonprofit incremental pieces will receive a 5 percent rebate. *Id.* This promotion is not included in the percentage change in rates calculations for Standard Mail.

The EDDM Coupon Program allows the Postal Service to give \$50 or \$100 coupons to new EDDM-Retail and EDDM-Commercial customers. In Response to CHIR No. 3, question 7, the Postal Service explains that "the USPS Sales representatives will, based on an understanding of customer needs, determine the credit amount." The Postal Service also explains that not all customers eligible for a coupon will receive a coupon, and that it has no plan to identify all potential recipients who meet the criteria to receive a coupon. The Postal Service states that it will limit

coupon redemption to \$3 million by utilizing a coupon management system to track coupon redemptions. *Id.* This promotion is not included in the Postal Service's percentage change in rates calculations.

*Comments.* Valpak was the only commenter to remark on promotions for Standard Mail.<sup>111</sup> It expresses concern that the EDDM Coupon Program will not be offered to mailers under any objective criteria, thereby allowing the Postal Service to arbitrarily choose which mailers receive coupons. Valpak suggests that this program be considered in a separate docket. Valpak Comments at 7.

*Commission analysis.* In this proceeding, the Postal Service seeks to continue to offer mobile barcode promotions that are similar to Docket No. R2013-1 mobile barcode promotions. These new promotions for Standard Mail are: (1) Branded Color Mobile Technology Promotion, (2) Mail and Digital Personalization Promotion, (3) Emerging Technology Featuring NFC Promotion, and (4) Mail Drives Commerce Promotion (collectively, Continuing Promotions). The Postal Service uses the Holiday Mobile Shopping Promotion, the Emerging Technology Promotion, and the Mobile Coupon Click to Call Promotion as proxies for these continuing promotions.

The Postal Service's initial workpapers did not include volumes or rates for the Continuing Promotions in the calculation of the price change for the class.<sup>112</sup> In Response to CHIR No. 4, question 5, the Postal Service provided revised workpapers that included volumes and rates for these three CY 2013 promotions. Consistent with the First-Class Mail section of this Order regarding Continuing Promotions, the Commission includes Continuing Promotions in its Standard Mail workpapers (PRC-R2013-10-LR2). The Commission approves the proposed Continuing Promotions.

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<sup>111</sup> The remainder of Valpak's comment regarding promotions is discussed in the First-Class Mail chapter of this Order.

<sup>112</sup> See Response of United States Post Service to Chairman's Information Request No. 4, October 25, 2013 (Response to CHIR No. 4).

The Commission appreciates Valpak's concern regarding the lack of objective criteria for determining mailer eligibility for the EDDM Coupon Promotion. It has weighed this concern with the understanding that the Postal Service should be encouraged to develop innovative promotional programs to raise awareness of EDDM among mailers.

To ensure that all potential users of the EDDM Coupon Promotion are aware of the EDDM Coupon Promotion, the Postal Service should make a public announcement of the coupon program, and must allow all potential EDDM customers requesting a coupon to receive one. This announcement could come in forms at little cost to the Postal Service, such as a posting on the *eddm.usps.com* website. This modification will help ensure that all potential customers have access to this promotion. Additionally, the Postal Service is advised to appropriately manage mailer expectations by including a disclaimer in its public announcement that coupon availability is limited to a certain pre-determined number of redemptions. That way, customer goodwill is maintained and redemptions will not exceed the \$3 million redemption cap.

#### C. Statutory Preferential Rates

Nonprofit rates are set to yield per-piece revenues that equal, as nearly as practicable, 60 percent of commercial revenues. 39 U.S.C. § 3626(a)(6)(A). No commenter challenges the Postal Service's compliance with this requirement. The Commission finds that the Postal Service's planned nonprofit rates conform to this statutory preference.

#### D. Workshare Discounts

The Commission is required to ensure that workshare "discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity" unless the discount falls within a specified exception. 39 U.S.C. § 3622(e).

Commission rules require the Postal Service to justify any proposed workshare discount that exceeds 100 percent of the avoidable costs by explaining how it meets one or more exceptions under the PAEA. The Postal Service must also identify and explain discounts that are set substantially below avoided costs, and explain any relationship between discounts that are above and those that are below avoided costs. 39 C.F.R. § 3010.14(b)(6).

In its filing, the Postal Service identifies 13 planned rate discounts within the Standard Mail class that have passthroughs exceeding 100 percent, and one negative passthrough.

**Table IV-2**  
**Standard Mail Passthroughs Exceeding 100 Percent**

	<b>Discount</b>	<b>Passthrough %</b>
1	Non-automation ADC Non-machinable Letters	116.3
2	Non-automation 3-digit Non-machinable Letters	114.8
3	Non-automation 5-digit Non-machinable Letters	120.8
4	Automation Mixed AADC Letters	-366.7
5	Non-automation 5-digit Flats	127.6
6	Automation Mixed ADC Flats	119.5
7	Automation 5-digit Flats (Commercial)	105.7
8	Automation 5-digit Flats (Nonprofit)	103.4
9	NDC Irregular Parcels	219.7
10	NDC Marketing Parcels	130.2
11	SCF Marketing Parcels	108.4
12	Mixed NDC Machinable Barcoded Parcels	164.1
13	Mixed NDC Irregular Barcoded Parcels	164.1
14	NDC Marketing Barcoded Parcels	164.1

The Postal Service's stated statutory justifications for these proposed passthroughs are discussed below.

*Mixed Network Distribution Centers (NDC) irregular barcoded parcels; Mixed NDC machinable barcoded parcels; and NDC marketing barcoded parcels.* These passthroughs support discounts by requiring the mailer to affix a barcode to mailpieces, eliminating the need for the Postal Service to barcode the pieces.

The Postal Service justifies these three excessive passthroughs as necessary to maintain the prebarcoding of parcels and the efficiencies resulting from a barcoded mailstream (39 U.S.C. § 3622(e)(2)(D)). Notice at 51-52. The Postal Service also anticipates implementing a requirement for all ground parcels to have a barcode, stating it is inappropriate to reduce the incentive to voluntarily barcode parcel-shaped pieces. *Id.*

*NDC irregular parcels, NDC marketing parcels, and SCF marketing parcels.* These passthroughs support discounts that encourage the presortation of parcels. The Postal Service justifies these excess passthroughs as needed to ensure long-run operational efficiency in its parcel mail processing system. See 39 U.S.C. § 3622(e)(2)(D)). Notice at 45.

The Postal Service explains that more than half of the NDCs no longer perform outgoing parcel distribution. Less finely presorted parcels dropped at an NDC that no longer performs outgoing distribution would incur additional handling and transportation costs. Response to CHIR No. 3, question 3c. While the Commission accepts this justification, the Commission also encourages the Postal Service to review its Standard Mail Parcel avoided cost model to ensure that it continues to accurately measure cost avoidances. In this case, the Postal Service properly continues the trend of reducing the passthrough to better align with avoidable costs.

*Automation 5-digit Commercial Flats; Automation 5-digit Nonprofit Flats.* The Postal Service justifies the passthroughs for each of these discounts pursuant to

39 U.S.C. § 3622(e)(2)(D). The Postal Service explains that these discounts are designed to encourage mailers to enter pre-barcoded mail. Response to CHIR No. 5, question 1. The Postal Service explains that failures in barcoding would increase manual operations, and thus impact the efficient operations of the Postal Service. *Id.* The Commission encourages the Postal Service to investigate the additional costs it has listed to ensure the avoided costs model accurately reflects the additional cost savings associated with barcoded mail.

*Non-automation ADC Non-machinable Letters; Non-automation 3-digit Non-machinable Letters; and Non-automation 5-digit Flats.* The Postal Service justifies the passthroughs for each of these discounts pursuant to 39 U.S.C. § 3622(e)(2)(D). The Postal Service explains that these discounts encourage mailers to enter more finely presorted mail. *Id.* Given the fewer number of processing plants, reduction of the passthroughs could lead to additional allied operations, manual processing, and transportation costs. *Id.* The Commission encourages the Postal Service to investigate the additional costs it has listed to ensure the avoided costs model accurately reflects the additional cost savings for having more finely presorted mail.

*Non-automation 5-digit Non-machinable Letters.* The Postal Service justifies the passthrough for this discount pursuant to 39 U.S.C. § 3622(e)(2)(B). The Postal Service explains that to align this discount with avoided costs would result in rate increases of 9.0 percent. Response to CHIR No. 3, question 3. The Postal Service indicates that it is committed to aligning the discount with avoided cost in the future. *Id.*

*Automation Mixed ADC Flats.* This passthrough supports a discount for having the mailer affix a barcode to mailpieces, eliminating the need for the Postal Service to barcode the pieces.

The Postal Service justifies the excess passthrough under 39 U.S.C. § 3622(e)(2)(D) as aiding in the implementation of the FSS program by encouraging

barcoding to the maximum extent possible. Notice at 48. The Postal Service anticipates gradually phasing out the excess discount. *Id.*

*Automation Mixed AADC Letters.* The avoided cost estimate for Automation Mixed AADC is negative. In the FY 2012 ACD, the Commission requested that the Postal Service investigate this anomalous cost. FY 2012 ACD at 123. The Postal Service explains that as a result of an adjustment made in Docket No. RM2012-2, Proposal 17, changes in barcoding and sorting productivities led to the negative avoided costs. Response to CHIR No. 5, question 5. The Postal Service plans to conduct field studies to properly capture and represent the mail flow in the letter avoided cost model. *Id.* The Postal Service also explains that it is increasing the discount for Automation Mixed AADC Letters from 0.8 cents to 1.1 cents to ensure automation mailings receive a lower overall price increase than non-automation mailings. *Id.* Intuitively, automated letters should be less costly to process than non-automated letters. The Commission is hopeful that the new field studies will correct the anomalous costs. For this reason, the Commission approves the proposed Automation Mixed AADC Letter discount.

*Comments.* Only the Alliance of Nonprofit Mailers (ANM) filed comments regarding Standard Mail workshare discounts. ANM points out that the nonprofit and commercial cost avoidances are based on the same data. ANM Comments at 1. ANM asks that the Commission align the commercial and nonprofit 5-digit Automation Flat rate in this case. *Id.* at 1-3.

*Commission analysis.* The Commission approves all the proposed commercial workshare discounts as consistent with the law or adequately justified. The Commission supports the reduction, over time, of those discounts with excess passthroughs. The Postal Service is also encouraged to adjust discounts with passthroughs well under 100 percent as a way of sending efficient price signals to mailers. In instances where the Postal Service is concerned that the avoided cost estimates do not include certain costs due to the redesigned mail processing network or

the restructured parcel product, the Postal Service is encouraged to review the associated models to ensure the models reflect current configurations.

#### E. Nonprofit Discounts

The Commission discussed the legal requirements governing disparate nonprofit and commercial discounts in Docket No. R2013-1. In its initial filing, the Postal Service proposed several discounts that were smaller for nonprofit mail than for its commercial counterparts. ANM expressed concern that the Postal Service had not given any rational justification for the different discounts in violation of 39 U.S.C. § 403(c) and the ruling in *National Easter Seal Society vs. USPS*, 656 F.2d 754 (D.C. Cir. 1981), where the court held that disparities between commercial and nonprofit discounts are impermissible unless supported by rational justification that differential treatment is “specifically authorized” by another section of the statute. In Order No. 1541, the Commission directed the Postal Service to either revise the discounts or “to provide a justification as to why it views the different levels of discounts to Standard Mail consistent with the PAEA and not contrary to *National Easter Seal Society*.” *Id.* at 51.

The Postal Service’s response to that order stated 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] precludes the Postal Service from making Nonprofit presort discounts identical to Commercial presort discounts without setting the Nonprofit base rate higher than would be efficient or preferable from a policy perspective.”<sup>113</sup> The Commission found that the Postal Service’s justification was reasonable and specifically justified by sections 3622(b)(4) and 3622(b)(8).<sup>114</sup> It directed the Postal Service to “continue to identify in its workpapers when nonprofit workshare discounts differ from their commercial

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<sup>113</sup> Docket No. R2013-1, United States Postal Service Response to Order No. 1541, November 26, 2012, at 6-7.

<sup>114</sup> Docket No. R2013-1, Order No. 1573, Order on Standard Mail Rate Adjustments and Related Mail Classification Changes, December 11, 2012, at 8-9.

counterparts and to justify deviations from the discounts applied to commercial mail” in future rate adjustment proceedings. *Id.* at 9.

In response to CHIR No. 10, question 1, the Postal Service stated that lowering the nonprofit presort automation 5-digit flat commercial discount, currently proposed at 9.2 cents, to match the nonprofit discount, currently 9.0 cents, would cause the price gap between Carrier Route Flats and 5-digit flats to increase even further than the 8.5 cents proposed in this price filing. It determined that increasing the gap would decrease net revenue by incenting mailers to present Carrier Route Flats in FSS zones. It also explains that aligning the discounts would have pushed the nonprofit passthrough even further above 100 percent. It cites the small differential between the two discounts and states that it will be mindful to align these discounts in future price adjustments. *Id.*

*Commission analysis.* The Postal Service provides two justifications for not equalizing the commercial and nonprofit discounts. The Commission finds neither persuasive.

The Postal Service states that it did not increase the nonprofit discount to align with the commercial discount because doing so would increase the nonprofit passthrough further above 100 percent (from 103 percent to 105 percent). Notice at 47. However, as discussed above, the Commission has accepted the Postal Service’s justification for the excessive commercial passthrough (105 percent), and that finding would also apply to an equalized nonprofit passthrough. Therefore, the rationale for failing to increase the nonprofit discount is not persuasive.

The Postal Service states that decreasing the commercial discount would cause the price gap between Carrier Route Flats and 5-digit flats to increase beyond 8.5 cents. See Response to CHIR No. 10. The rationale does not justify the disparity in pricing.

First, it does not hold true for non-FSS zones. While the cost of handling 5-digit automation flats and Carrier Route Flats may be the same in FSS zones, the costs are different in non-FSS zones, which the Postal Service reflects in the price differences for

5-digit automation flats and Carrier Route Flats. In addition, in Docket No. R2013-1, the Postal Service stated that it wished to maintain an 8.3 cent price gap between 5-digit automation flats and Carrier Route Flats, and did not want to increase the price gap any further. Docket No. R2013-1, Notice at 24. However, in this case, the Postal Service proposes to *increase* the gap to 8.5 cents, contrary to its earlier assertions. If the Postal Service decreased the commercial 5-digit discount to be equal to its nonprofit counterpart, the price gap between 5-digit flats and Carrier Route Flats would be 8.3 cents, which was the Postal Service's target price gap in Docket No. R2013-1.

Finally, the Postal Service's claim that some mailers may shift to Carrier Route due to a change in the 5-digit price, which will reduce Postal Service net revenue, is unsupported. It is also feasible that if the Postal Service only reduced the 5-digit discount, it could increase its revenue due to an increase in the price for 5-digit.<sup>115</sup> The discounts in question concern commercial and nonprofit presort automation 5-digit flats. There is a workshare relationship between 3-digit and 5-digit automation flats. The Postal Service has informed the Commission there is no workshare relationship between 5-digit automation flats and Carrier Route Flats.<sup>116</sup> Therefore, it is not appropriate to rely on the price gap between 5-digit and Carrier Route to support different commercial and nonprofit discounts between 3-digit and 5-digit flats.

The Commission remands the commercial and nonprofit 5-digit automation discounts to the Postal Service. Having failed, to date, to provide a reasonable justification for the disparity consistent with the PAEA, the Postal Service may either raise the nonprofit discount or lower the commercial discount, or some combination of both. Alternatively, the Postal Service may choose to alter other Standard Mail prices to accomplish the equalization of the nonprofit and commercial discount.

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<sup>115</sup> However, if the Postal Service wishes to maintain its proposed percentage change in rates for Standard Mail, it can adjust other rates within Standard Mail to remain revenue neutral.

<sup>116</sup> Docket No. R2013-1, Responses of the United States Postal Service to Questions 1-6 of Commission Information Request No. 1, October 23, 2012, question 5.

## V. PERIODICALS

### A. Introduction

*Products.* The Periodicals class, which includes publications such as magazines and newspapers, consists of two products: Within County and Outside County. Notice at 26.

The Commission's analysis of the proposed rates' compliance with 39 U.S.C. § 3622 and 39 C.F.R. part 3010 below does not take into account the effects of the Full Service IMb requirements scheduled to take effect in January 2014. Those effects are discussed in chapter II. New FSS preparation requirements and prices are discussed in the Standard Mail Chapter.

### B. Price Adjustments

*Postal Service's planned adjustments.* The Postal Service plans to increase Within County Periodicals prices by an average 1.705 percent and Outside County Periodicals prices by an average 1.662 percent. The proposed overall average increase for the Periodicals class is 1.664 percent. See Revision Notice. This percentage increase is 0.032 percentage points less than the Postal Service's current annual limitation authority of 1.696 percent. The Postal Service does not apply any unused rate authority to the pricing of Periodicals. *Id.* Cumulative unused pricing authority for the Periodicals class following this change is 0.524 percent. *Id.* at 6.

Table V-1 summarizes the planned average percentage price changes for Periodicals.

**Table V-1****Summary of Planned Average Percentage Price Increase for Periodicals**

<b>Product</b>	<b>Price Changes %</b>
Outside County	1.662
Within County	1.705
Overall	1.664
Source: PRC-LR-R2013-10/3.	

*Postal Service's position.* The Postal Service states that the Periodicals class has been “challenged” in terms of cost coverage, and that it did not cover its attributable costs in FY 2012 (Factor 2, Objective 8). Notice at 28. The Postal Service says it is cognizant of Periodicals’ value to the public (Factor 8, Factor 11). *Id.* It says this price change refines price relationships to encourage efficiency and containerization, while limiting the price increases for individual publications. *Id.*

*Adjustments to billing determinants.* The Postal Service identifies several adjustments to the hybrid year billing determinants of Periodicals. First, the hybrid billing determinants are adjusted to account for the introduction of destinating FSS (DFSS) pounds for Advertising, Editorial, and Science and Agriculture. *Id.* at 29. Second, adjustments are made to account for new presort prices for FSS Facility Pallets and FSS Scheme Pallets. *Id.* Third, adjustments are made to account for a new DFSS pallet entry level. *Id.* Finally, the billing determinants were adjusted to account for a new Mixed ADC Carrier Route bundle price. *Id.*

*Commenters' views.* Several parties submitted comments related to the implications of IMb for the Periodicals price cap. Those comments are discussed in Chapter II. The Public Representative observes that in the FY 2012 ACD, the Commission recommended that the Postal Service leverage its pricing flexibility to

improve Periodicals' pricing options and worksharing passthroughs to incentivize more efficient mailer preparation and increase contribution from Periodicals. The comments also stressed that the Postal Service should exercise initiative to identify and implement solutions to Periodicals' worsening net revenue. *Id.* citing FY 2012 ACD at 100.

The Public Representative presents a chart addressing the 136 individual rate categories, and draws two conclusions about what it reveals: (1) that 111 of the 136 rate categories have price increases of less than 1.66 percent, the class average. PR Comments at 14; and (2) that revenue from the 25 rate categories receiving a higher than average increase is \$3.6 million, or 0.2 percent of the total revenue of the class. *Id.* In the second component of this analysis, the Public Representative breaks out the overall planned price increase by rate element, and, as shown in Table V-2, presents his findings.

**Table V-2**  
**Overall Planned Price Increase by Rate Element**

Element	Average Price Increase (%)
Pounds	1.57
Pieces	1.70
Bundles	1.62
Sacks	1.64
Pallets	1.59

*Id.*

These results lead the Public Representative to conclude that, contrary to the Commission's FY 2012 ACD recommendations, the Postal Service "has not made any attempts to 'leverage its pricing flexibility' to 'implement solutions to Periodicals' worsening net revenue results.'" *Id.* at 15. Instead, the Public Representative observes that, as the Postal Service states in its Notice, it uses the flexibility of the container-

bundle-piece price structure to limit the extent to which price increases for individual publications differ from the average. *Id.* citing Notice at 54.

In addition, the Public Representative notes that the Postal Service did not appropriately account for the new rate for DFSS pallets. He observes the 13,081 pallets that currently pay SCF prices would qualify for a rate of zero under the proposed DFSS pallet rate.

*Commission analysis.* The Postal Service's planned price adjustment of 1.664 percent for the Periodicals class is 0.032 percentage points less than the current annual limitation authority. The Commission finds this adjustment in compliance with the annual price cap limitation.

The Postal Service has made reasonable adjustments to account for the new prices related to the FSS and the new mixed ADC Carrier Route bundle price. As the Public Representative points out, the Postal Service did not accurately reflect the current price for the DFSS pallets. This correction does not impact the overall percentage change in rates for the products. See PRC-LR-R2013-10/3.

The Public Representative accurately identifies the FY 2012 ACD recommendations the Commission made with respect to Periodicals. His analysis shows that the Postal Service's continued adherence to a pricing policy that elevates minimizing the impact of adjustments on individual publications over cost considerations is hindering Periodicals' ability to improve cost coverage. The Commission modified the Periodicals pricing structure in Docket No. R2006-1 by adding container and bundle charges to make it more cost based and thereby improve pricing decisions for the long-term financial health of the class. The Postal Service makes changes to reflect the addition of FSS to the flats processing environment. However, the Postal Service has chosen not to use differential price adjustments to leverage the many rate elements within the Periodicals class. The Postal Service should investigate how it can increase cost coverage with its new FSS prices. Despite this, the planned prices are within the

statutory parameters. For this reason, the Commission accepts the Postal Service's planned adjustments for Periodicals. However, the Commission encourages the Postal Service to heed their findings in the FY 2012 ACD and review its pricing strategy for Periodicals to determine how to incentivize additional mailings that can be more efficiently processed by current or planned operations. 2012 ACD at 89.

### C. Statutory Preferential Rates

*Postal Service's position.* The Periodicals class is accorded several statutory pricing preferences. The Postal Service says it implements these preferences in the same manner as in Docket No. R2012-3.<sup>117</sup> Postal Service Comments at 35. It notes that the Commission's conclusion in that case was that the Postal Service's approach reflected an appropriate interpretation of 39 U.S.C. § 3626. *Id.*

*Within County.* 39 U.S.C. § 3626(a)(3) requires that the prices for Within County Periodicals reflect this product's preferred status relative to the prices for regular rate (Outside County) Periodicals. The Postal Service says the price adjustment in this case "continues to recognize the preferential status of Within County Periodicals by setting prices below those of regular Outside County Periodicals." Notice at 35.

*Outside County—Nonprofit and Classroom.* 39 U.S.C. § 3626(a)(4)(A) requires that Nonprofit and Classroom Periodicals receive, as nearly as practicable, a 5 percent discount from regular rate postage, except for advertising pounds. Consistent with past practice, the Postal Service maintains this rate preference by giving Nonprofit and Classroom pieces a 5 percent discount on all components of postage except for advertising pounds and ride-along pieces. *Id.* at 35-36.

*Outside County—Science of Agriculture Periodicals.* 39 U.S.C. § 3626(a)(5) requires that Science of Agriculture Periodicals be given preferential treatment for

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<sup>117</sup> Docket No. R2012-3, United States Postal Service Notice of Market Dominant Price Adjustment, October 18, 2011.

advertising pounds. The Postal Service says it continues to provide these publications with advertising pound rates for destination delivery unit (DDU), DSCF, destination area distribution center (DADC), and Zones 1 & 2 that are 75 percent of the advertising pound rates applicable to regular Outside County Periodicals. *Id.* at 29. This treatment extends to the new pound price of DFSS. *Id.*

*Limited circulation discount.* 39 U.S.C. § 3626(g)(4) provides preferential treatment for Outside County pieces of a Periodicals publication with fewer than 5,000 Outside County pieces and at least one Within County piece. The Postal Service notes that it implemented a “limited circulation” discount in 2008 giving these mailers a discount equivalent to the Nonprofit and Classroom discount. It retains that discount in this case. *Id.* at 30.

*Commenters’ views.* No commenter addresses the consistency of the Postal Service’s Periodicals pricing plan with statutory preferences.

*Commission analysis.* Commission review of the Postal Service’s filing confirms its consistency with statutory preferences for mail in the Periodicals class. Comparable categories of automation and non-automation Within County Flats have rates that are approximately 65 percent less than comparable Outside County Flats prices. This satisfies 39 U.S.C. § 3626(a)(3). The proposed “limited circulation” discount is approximately 5 percent, in line with 39 U.S.C. § 3626(g)(4). Nonprofit and Classroom publications receive a 5 percent discount from regular, Outside County pieces, bundle, sack, and pallet prices, and editorial pounds consistent with 39 U.S.C. § 3626(a)(4)(A). Science of Agriculture advertising pound rates are 25 percent less than regular Periodicals, thereby satisfying 39 U.S.C. § 3626(a)(5). Finally, the discount for editorial pounds is between 16 and 72 percent. This exceeds the minimum 5 percent discount required under 39 U.S.C. § 3626(4)(a).

D. Worksharing Discounts and Cost Passthroughs

*Exception to statutory requirement on avoided costs for Periodicals.* 39 U.S.C. § 3622(e) generally requires the Commission to ensure that worksharing discounts do not exceed avoided costs with certain exceptions. One exception applies when the discount is provided in connection with subclasses of mail consisting exclusively of educational, cultural, scientific, or informational (ECSI) value. 39 U.S.C. § 3622(e)(2)(C). Commission rule (39 C.F.R. § 3010.14(b)(6)) requires the Postal Service to explain discounts set substantially below avoided costs.

*Postal Service's position.* The Postal Service presents worksharing-related data for Periodicals in Attachment B to the Notice. Notice at 54. The Outside County table shows discounts or surcharges, cost differentials, and passthroughs for presorting. *Id.* at 4. The Within County table shows the same information for presorting, prebarcoding, and dropshipping. *Id.* at 6. Another table shows bundle and container pricing developed consistent with Docket No. R2006-1, by passing through part of the respective costs, rather than cost differentials. *Id.* at 5. It therefore shows bottom-up costs, with price as a percentage of costs. *Id.* The Postal Service states that this reflects the price structure for Periodicals, which implicitly includes many incentives for cost-reducing mail preparation behavior, but has some elements that cannot be viewed as traditional "passthroughs." Instead, percentages are used to describe how much of a cost is recognized in a given price element. The Postal Service states that it uses the flexibility of the container-bundle-piece price structure to limit the extent to which price increases for individual publications differ from the average. At the same time, it states that incentives for efficient preparation are strengthened by reflecting a higher percentage of costs in prices that have minimal impact on those publications that are likely to experience above-average increases. *Id.* at 48. The Postal Service states that this helps further the goal of more efficient containerization, while being mindful of the impact on those publications that cannot easily change preparation. *Id.*

*Commenters' views.* The Public Representative states that IMb for Periodicals results in automation and non-automation machinable prices at the Mixed AADC, AADC, 3-digit, and 5-digit presort levels. He identifies the price difference as roughly 2 cents for each presort level. PR Comments at 10. He states that as with all Periodicals worksharing passthroughs, there is little relationship between the cost avoidance to the Postal Service and the discount provided to the mailer. He says the Postal Service's institutional preference for barcoded mail is understandable, but is not based on cost avoidances. He adds that "anomalous" cost data have long suggested that non-automation volume is less costly for the Postal Service to process than automation volume. In addition the Postal Service could have easily designed rates that incorporated the impact of the full service mandate and also allowed for increased prices within the price cap. *Id.* at 11. The fact that the Postal Service has not done so, should not force the Commission to approve price adjustments that disregard statutory standards. *Id.*

*Commission analysis.* The Postal Service's pricing appears to reflect its longstanding interest in keeping price increases for individual publications close to the annual price cap limitation. The Postal Service did not provide information detailing how the planned price adjustments will impact mailers or improve pricing efficiency. Because most prices increase by the annual price cap limitation, the planned prices generally result in passthroughs and price/cost ratios for bundles, sacks, and pallets similar to those critiqued in the FY 2012 ACD. The Commission continues to believe that aligning prices more closely with costs would improve the Postal Service's financial situation; however, because the Periodicals class consists exclusively of mail matter with some ECSI content, the Commission finds that the worksharing discounts proposed by the Postal Service for the Periodicals class comply with statutory requirements.

E. Other Mail Classification Changes

*Zone 9 pricing.* The Postal Service proposes the addition of Zone 9 prices for Periodicals. See Notice, Attachment A, at 78-79 (MCS 1310.6 Prices). The Postal Service explains that the addition of Zone 9 prices is a programming necessity, and that Zone 9 prices are the same as Zone 8 prices. Response to CHIR No. 7, question 4.

The Commission finds the classification change for Periodicals reasonable and shall incorporate the substance of these changes into the draft MCS.

## VI. PACKAGE SERVICES

### A. Introduction

The Package Services class contains five products: (1) Alaska Bypass Service; (2) Bound Printed Matter Flats (BPM Flats); (3) Bound Printed Matter Parcels (BPM Parcels); (4) Media Mail/Library Mail; and (5) Inbound Surface Parcel Post (at UPU rates).<sup>118</sup>

### B. Price Adjustments

For Package Services, the Postal Service proposes an average price increase of 1.453 percent.<sup>119</sup> Based on the available inflation-based price adjustment authority, the instant proceeding creates new unused rate authority of 0.243 percent.<sup>120</sup> Summing the new unused rate adjustment authority with the existing rate adjustment authority produces a total unused rate adjustment authority of -0.312 percent.<sup>121</sup>

Table VI-1 shows the average price increase given to each Package Services product. The Postal Service proposes above-average price increases for Alaska Bypass Service, BPM Parcels, and Media Mail/Library Mail. For all other products, the Postal Service proposes below-average class price increases.

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<sup>118</sup> The prices for Inbound Surface Parcel Post are determined by the UPU, not the Postal Service. Notice at 31-32.

<sup>119</sup> Notice of the United States Postal Service of Revisions to USPS-R2013-10/4—Errata, October 18, 2013. The errata shows a revised average price increase of 1.453 percent.

<sup>120</sup> The Postal Service chose not to use any unused rate authority in this filing.

<sup>121</sup> The -0.312 percent in total unused rate adjustment authority is calculated by adding the 0.243 percent in new unused authority from the instant docket to the -0.555 percent in existing unused authority.

In Docket No. MC2012-13, the Commission approved the Postal Service's Request to transfer Parcel Post to the competitive product list.<sup>122</sup> The Postal Service proposed to leave Alaska Bypass Service on the market dominant product list as a Package Services product offering.<sup>123</sup> The addition of Parcel Post to the competitive product list and Alaska Bypass Service to the market dominant product list occurred on January 27, 2013. At that time, the prices for Alaska Bypass were delinked from the Parcel Post prices, and Alaska Bypass now stands as an independent product.

**Table VI-1**  
**Package Services Price Changes (By Product)**

Package Services Product	Price Change %
Alaska Bypass Service	2.440
BPM Flats	0.314
BPM Parcels	1.680
Media Mail/Library Mail	2.061
Inbound Surface Parcel Post (at UPU rates)	-1.597
Source: USPS-LR-R2013-10/4--Errata, Revised October 18, 2013.	

*Comments.* No commenter opposes the planned price changes for Package Services. The Public Representative notes that Alaska Bypass Service is receiving the highest increase among the Package Services products. He encourages the Commission to continue to evaluate the Postal Service's pricing policy to ensure that

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<sup>122</sup> Docket No. MC2012-13, Order Conditionally Granting Request to Transfer Parcel Post to the Competitive Product List, July 19, 2012 (Order No. 1411). In Docket No. CP2013-3, the Commission determined that the Postal Service satisfied the conditions of Order No. 1411. See Docket No. CP2013-3, Order No. 1536, Order Approving Changes in Rates of General Applicability for Competitive Products, November 8, 2012, at 16.

<sup>123</sup> Alaska Bypass Service allows shippers to send shrink-wrapped pallets of goods within Alaska from designated "hub points" to designated "bush points."

Alaska Bypass Service is fairly priced in the future since its prices are no longer linked to single-piece Parcel Post. PR Comments at 17 n.31.

The Commission finds that the price adjustments for Package Services are consistent with 39 § U.S.C. § 3622(d).

#### C. Statutory Preferential Rates

39 U.S.C. § 3626(a)(7) requires that Library Mail prices be set at 95 percent of Media Mail prices. The Postal Service explains that it satisfies this requirement by setting each Library Mail price element equal to 95 percent of its corresponding Media Mail price element. Notice at 36-37.

The Commission finds that the prices for Media Mail and Library Mail comply with 39 U.S.C. § 3626(a)(7).

#### D. Worksharing

39 U.S.C. § 3622(e) requires the Commission to ensure workshare discounts do not exceed estimated avoided costs unless justified by a statutory exception. To determine if workshare discounts comply with section 3622(e), the Commission analyzes the passthroughs (discounts divided by cost avoidances) for each discount.

Three Package Services products offer workshare discounts: (1) Media Mail/Library Mail; (2) BPM Flats; and (3) BPM Parcels.

*Media Mail/Library Mail.* There are four discounts offered for Media Mail/Library Mail.<sup>124</sup> The workshare discount passthroughs for Media Mail and Library Mail basic presort are 156.7 percent and 150.0 percent respectively.<sup>125</sup> The Commission

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<sup>124</sup> Notice, Attachment B at 15.

<sup>125</sup> See Response of the United States Postal Service to Chairman's Information Request No. 7, November 1, 2013, at question 5 (Response to CHIR No. 7) and accompanying workpaper "ChIR7.Response.AttachmentB.xls."

concludes that these discounts are justified pursuant to 39 U.S.C. § 3622(e)(2)(C) because the Media Mail/Library Mail product consists exclusively of mail matter of educational, cultural, scientific, or informational value.

*BPM Parcels.* There are 12 discounts for BPM Parcels.<sup>126</sup> All workshare discounts are equal to or less than their avoided costs. *Id.*

*BPM Flats.* There are 16 discounts offered for BPM Flats. *Id.* Attachment B at 16. The Postal Service proposes a new dropship discount for DFSS. The cost avoidance of DSCF is used as a proxy for the costs avoided by DFSS dropship, and the DFSS discount is set equal to the DSCF dropship discount. Notice at 56. All workshare discounts are equal to or less than their avoided costs. *Id.* Attachment B at 16. The Commission anticipates that as data are collected for the new FSS rate categories, the use of a proxy for the costs avoided by DFSS dropship will be revisited.

The Commission finds that the workshare discounts for the Package Services class are consistent with 39 U.S.C. § 3622(e).

#### E. Classification Changes

The Postal Service proposes classification changes for BPM Flats and BPM Parcels.<sup>127</sup> No commenters oppose the classification changes.

*FSS.* As discussed previously, the Postal Service proposes a new price category and price schedule changes to reflect FSS pricing for BPM Flats.<sup>128</sup> The Postal Service proposes corresponding MCS changes to reflect the FSS pricing proposal. In response to CHIR No. 8, question 9, the Postal Service clarifies that “BPM flats destinating at FSS locations that currently qualify for the DDU discount will continue receiving it.”

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<sup>126</sup> Notice, Attachment B at 17.

<sup>127</sup> The Postal Service also proposes to replace “Universal Postal Union Convention” with “Universal Postal Convention”. For additional information on this change, see *supra* chapter IV.C.4.

<sup>128</sup> See *supra* chapter V.B.

Response to CHIR No. 8, question 9. In response to CHIR No. 11, question 1, the Postal Service further clarifies that the MCS price tables for Carrier Route FSS and Presorted FSS could be modified to retain the column with DDU Destination entry prices.<sup>129</sup> The Commission will revise the BPM price tables in the MCS to clarify that DDU prices remain available for qualified BPM flats destinating at FSS locations.

*Barcoding discounts.* The Postal Service proposes to remove a barcode discount previously available for both presorted and non presorted automation compatible BPM Flats. The discounts were available to customers using POSTNET barcodes and were previously eliminated for other Package Services products in Docket No. R2012-3. Response to CHIR No. 8, question 8. The discounts are now being phased out to encourage customers to switch to IMb barcodes. *Id.*

*Zone 9 pricing.* The Postal Service proposes the addition of Zone 9 prices for both BPM Flats and BPM Parcels. The Postal Service explains that the addition of Zone 9 prices is a programming necessity, and that Zone 9 prices are the same as Zone 8 prices for BPM Flats and BPM Parcels. Response to CHIR No. 7, question 4.

*Commission analysis.* The Commission approves the classification changes concerning BPM Flats and BPM Parcels. The changes proposed to BPM Flats reflect the FSS pricing and DFSS discount proposed by the Postal Service and approved in this Order.<sup>130</sup> Having previously approved the elimination of similar barcode discounts for BPM Parcels and Media/Library Mail, the Commission finds a similar change to BPM

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<sup>129</sup> Response of the United States Postal Service to Chairman's Information Request No. 11, question 1, November 8, 2013.

<sup>130</sup> See *supra* chapter V.B.

Flats permissible.<sup>131</sup> The addition of Zone 9 pricing for BPM Flats and BPM Parcels reflects a programming change. Since Zone 9 prices are set equal to the prices for Zone 8, the change should have little to no effect on mailers. The Commission finds the classification changes for Package Services reasonable and shall incorporate the substance of these changes into the draft MCS.

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<sup>131</sup> Docket No. R2012-3, Order No. 987, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 22, 2011, at 42-43.

## VII. SPECIAL SERVICES

### A. Introduction

The Special Services class consists of 11 products: (1) Ancillary Services;<sup>132</sup> (2) International Ancillary Services;<sup>133</sup> (3) Address Management Services; (4) Caller Service; (5) Credit Card Authentication; (6) International Reply Coupon Service (Inbound); (7) International Business Reply Mail Service; (8) Money Orders; (9) Post Office Box Service; (10) Customized Postage; and (11) Stamp Fulfillment Services.

### B. Price Adjustments

For the Special Services class, the Postal Service proposes an average price increase of 2.500 percent. Notice at 5. At the time of filing, the Postal Service had 0.636 percent in inflation-based price adjustment authority for the Special Services class.<sup>134</sup> The price increase for Special Services exceeds the price cap by 1.864 percent. The Postal Service used the unused rate adjustment authority from Docket No. R2012-3 to cover this overage. Special Services has 1.814 percent of unused rate

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<sup>132</sup> The Domestic Ancillary Services product includes 22 services: (1) Address Correction Service; (2) Applications and Mailing Permits; (3) Business Reply Mail; (4) Bulk Parcel Return Service; (5) Certified Mail; (6) Certificate of Mailing; (7) Collect on Delivery; (8) USPS Tracking; (9) Insurance; (10) Merchandise Return Service; (11) Parcel Airlift; (12) Registered Mail; (13) Return Receipt; (14) Return Receipt for Merchandise; (15) Restricted Delivery; (16) Shipper-Paid Forwarding; (17) Signature Confirmation; (18) Special Handling; (19) Stamped Envelopes; (20) Stamped Cards; (21) Premium Stamped Stationery; and (22) Premium Stamped Cards.

<sup>133</sup> The International Ancillary Services product includes six services: (1) International Certificate of Mailing; (2) International Registered Mail; (3) International Return Receipt; (4) International Restricted Delivery; (5) International Insurance; and (6) Customs Clearance and Delivery Fee.

<sup>134</sup> The inflation-based price adjustment authority for all other mail classes is 1.696 percent. Notice at 3. The differential in inflation-based authority for the Special Services class and all other classes is due to a rate adjustment proceeding for Insurance. See Docket No. R2013-7, Order No. 1756, Order Granting Market Dominant Price Adjustment for Insurance, June 21, 2013. The inflation-based authority for the Special Services class represents the authority for the period that begins on the date that the Insurance price adjustment proceedings were initiated (May 10, 2013) and ends on the date that the instant price adjustment proceedings were initiated (September 26, 2013). See Docket No. R2013-7, United States Postal Service Notice of Market-Dominant Price Adjustment, May 10, 2013.

adjustment authority remaining (0.25 percent from Docket No. R2012-3 and 1.564 from Docket No. R2013-7).

The Postal Service asserts that for most Special Services products, it designed the fee increases to be close to 2.509 percent, consistent with historical rounding constraints. Notice at 32. Table VII-1 displays the average price increase proposed for each product.

**Table VII-1**  
**Special Services Price Adjustment**

<b>Special Services Product</b>	<b>Price Changes %</b>
Domestic Ancillary Services	2.687
Address Management Services	4.097
Caller Service	2.441
Credit Card Authentication	0.000
Customized Postage	3.175
Money Orders	0.017
Other Services*	2.174
Post Office Box Service	2.621
Stamp Fulfillment Services	0.000
International Ancillary Services	1.521
International Business Reply Mail Service	2.901
* Other Services include Standard Mail Weighted Forwarding and Return. This service is not part of the Special Services class in the MCS. However, the service is comparable to ancillary services and is included with the Special Services class.	
Source: USPS-LR-R2013-10/5.	

Two Special Services products do not receive price increases—Stamp Fulfillment Services and Credit Card Authentication. The Postal Service states that Stamp

Fulfillment Services will not receive a price increase (1) in recognition of the 25 to 75 percent price increase it received in a prior proceeding, and (2) because of the cost savings associated with fewer retail stamp purchases.<sup>135</sup> *Id.* at 33. The Postal Service states that it did not increase the price of Credit Card Authentication in recognition of the cost savings avoided by not having a postal clerk perform the same transaction. *Id.* at 34.

The price increases for Post Office Box Service, Caller Service, and International Business Reply Mail are each within half a percentage point of the 2.500 Special Services class-wide average price increase. USPS-LR-R2013-10/5. On average, proposed prices for Post Office Box Service increase 2.621 percent. *Id.* Prices for Caller Service will increase 2.441 percent. *Id.* Prices for International Business Reply Mail will increase 2.901 percent. *Id.*

Customized Postage prices increase 3.175 percent, slightly higher than the average increase for the class. The Postal Service explains that this is a result of its efforts to maintain historical rounding constraints. *Id.*

Address Management Services prices increase 4.097 percent. Within Address Management Services, Computerized Delivery Sequence (CDS) has the largest price increase of 12.5 percent. However, this is the result of a minimal price increase of \$0.001. *Id.*;USPS-LR-R2013-10/5.

Money Orders prices increase 0.017 percent. The Postal Service indicates that the lower-than-average increase is proposed in order to keep this resource available for individuals with poor access to other financial services and because the product already

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<sup>135</sup> In its Notice, the Postal Service indicates that the 25 to 75 percent price increase was approved in Docket No. R2013-1. This statement is incorrect. The price increase to which the Postal Service refers was approved in an earlier docket. See Docket No. R2012-3, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 22, 2011, at 45.

has adequate cost coverage. *Id.* at 35. The cost coverage for Money Orders in FY 2012 was 149.4 percent.<sup>136</sup>

The Postal Service proposes a number of price changes for services that comprise the Ancillary Services products. It suggests increasing the price of Collect on Delivery (COD) 4.156 percent to ensure that COD continues to cover its costs.<sup>137</sup> The Postal Service also indicates that it has discontinued Notice of Nondelivery, Alteration of COD charges, and Designation of new addressee. These services were previously available for a fee of \$4.15. Notice at 57, Attachment A at 92. In calculating the price increase for COD, the Postal Service excluded the prices for these discontinued services. It contends that because no alternative market dominant prices are available, these changes do not constitute a rate adjustment. Response to CHIR No. 5, question 6.

Some price increases within the Ancillary Services product are somewhat higher than the class-wide average price increase. Special Handling prices increase 5.530 percent. USPS-LR-R2013/5. The Postal Service indicates that this increase reflects the high value the service provides to mailers that use it. USPS Tracking prices increase 10.405 percent. The Postal Service states that because electronic tracking is being included at no charge with several package offerings, there is a reasonable likelihood that USPS Tracking is no longer covering its costs. Notice at 33. Prices for International Certificate of Mailing, a service within the International Ancillary Services product, will increase 5.483 percent. The Postal Service states that it is setting the fee for this service so that it is equal to the fee for the equivalent domestic service. *Id.* at 32.

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<sup>136</sup> Docket No. ACR2012, Annual Compliance Determination, March 28, 2013, at 136.

<sup>137</sup> The cost coverage for COD has historically varied due to unstable cost data. However, FY 2012 COD had a cost coverage of 164.5 percent. *Id.* at 138.

Stamped Envelopes prices will increase 1.240 percent while Stamped Cards prices remain unchanged. The Postal Service indicates that the below-average price increase for Stamped Cards is due to the fact that it received a price increase of 33.3 percent last year. *Id.* at 34. Stamped Envelopes experienced a price increase of 6.2 percent last year. Order No. 1541 at 75. International Ancillary Services has an overall price increase of 1.521 percent.

*Comments.* No comments were received on the proposed Special Services price increases.

*Commission analysis.* The Commission finds that the planned rates for Special Services are consistent with 39 U.S.C. § 3622(d).

### C. Classification Changes

The Postal Service eliminated three options for COD: (1) Notice of Non-Delivery, (2) Alteration of COD charges, and (3) Designation of new addressee.<sup>138</sup> The Postal Service announced that the three COD services would be discontinued when it filed a notice in the *Federal Register* on July 10, 2013. The changes took effect July 28, 2013. The changes to the three COD services that were discontinued in July 2013 should have been submitted to the Commission, per Commission rules, prior to those changes taking effect. The Postal Service recognizes that these changes should have been submitted to the Commission as mail classification changes. CHIR No. 5, question 6 (October 25, 2013). The Postal Service indicates that it will work to ensure that similar changes are appropriately communicated to the Commission in the future. *Id.* The Postal Service now proposes to amend the MCS to reflect the elimination of the three service options. Notice at 57. It also proposes to amend the MCS to indicate that

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<sup>138</sup> 78 Fed. Reg. 41305 (July 10, 2013).

mailers seeking to designate a new addressee may do so using Package Intercept Service, a competitive product. *Id.*; Attachment A at 92.

The Postal Service also proposes to reformat the Registered Mail Price Schedule, replacing much of the schedule with a formula for determining rates for Registered Mail with a declared value greater than \$5,000. *Id.* at 57; Attachment A at 98. The Postal Service proposes to amend the MCS so that mailers who use approved electronic payment methods are not charged a Permit Imprint Application fee. *Id.* at 57.

*Comments.* No comments related to these classification changes were received.

*Commission analysis.* The Commission approves the proposed mail classification changes for Special Services.

## VIII. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission finds the disparity between commercial and nonprofit workshare discounts for Standard Mail 5-digit automation flats proposed in the United States Postal Service Notice of Market Dominant Price Adjustment, filed September 26, 2013, unlawful as set forth in the body of this Order.
2. The Commission remands the commercial and nonprofit workshare discounts for Standard Mail 5-digit automation flats proposed in the United States Postal Service Notice of Market Dominant Price Adjustment, filed September 26, 2013, to the Postal Service to resolve the disparity between the nonprofit and commercial discounts for Standard Mail 5-digit automation flats.
3. The Commission finds that the planned price adjustments for First-Class Mail, Standard Mail, and Periodicals, as proposed in the United States Postal Service Notice of Market Dominant Price Adjustment, filed September 26, 2013, would violate 39 U.S.C. § 3622(d), because the simultaneous implementation of the Full Service IMb requirements, together with the planned price adjustments, would cause rates to increase by more than the maximum rate adjustment calculated in accordance with 39 C.F.R. § 3010.20.
4. If the Postal Service elects to not implement the Full Service IMb requirements in conjunction with the planned price adjustments identified in the United States Postal Service Notice of Market Dominant Price Adjustment, filed September 26, 2013, it may implement the price adjustments identified in the Notice, with the exception of the commercial and nonprofit discounts for Standard Mail 5-digit automation flats. Alternatively, the Postal Service may elect to adjust the billing determinants for First-Class Mail, Standard Mail, and Periodicals in the manner it

used to reflect the implementation of Full Service IMb requirements in Package Services and file amended rates.

5. Not later than November 29, 2013, the Postal Service shall notify the Commission of its election and provide any supporting documentation necessary to comply with Ordering Paragraph Nos. 2 and 4.
6. In all other respects, the Commission provisionally finds that the Postal Service planned price adjustments identified in the United States Postal Service Notice of Market Dominant Price Adjustment, filed September 26, 2013, are consistent with 39 U.S.C. 3622(d), 3622(e), and 3626, and may be put into effect, as planned.
7. The Commission finds the classification changes described in the United States Postal Service Notice of Market Dominant Price Adjustment, Appendix A, filed September 26, 2013, are consistent with title 39, United States Code, and may be implemented with the changes to the proposed Mail Classification Schedule language described in the body of this Order. The appropriate language will be added to the Mail Classification Schedule.
8. Except to the extent granted or otherwise disposed of herein, all outstanding motions in this docket are denied.

By the Commission.

Shoshana M. Grove  
Secretary