

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

Before Commissioners:

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

Rate Adjustment Due to Extraordinary  
or Exceptional Circumstances

Docket No. R2013-11

NOTICE AND ORDER ON THE POSTAL SERVICE'S  
EXIGENT SURCHARGE REMOVAL PLAN

(Issued June 11, 2014)

I. INTRODUCTION

On December 24, 2013, the Commission authorized the Postal Service to collect a 4.3 percent exigent price increase until it had recovered approximately \$3.2 billion in additional revenue.<sup>1</sup> The Commission also required the Postal Service to file a proposed plan to remove the exigent rate surcharge “with a complete explanation of how the plan will operate.” Order No. 1926 at 185. The Commission signaled its intent to seek public comment on the plan before issuing a “further order approving or modifying the plan.” *Id.* This Order provides an opportunity for public comment on the Postal Service’s plan to remove the exigent rate surcharge.

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<sup>1</sup> Order Granting Exigent Price Increase, December 24, 2013 (Order No. 1926).

## II. BACKGROUND

On December 24, 2013, the Commission issued Order No. 1926 and approved the exigent price adjustment as a surcharge, set a maximum amount the Postal Service could recover, and ordered the Postal Service to report quarterly on the amount of revenue collected pursuant to the exigent surcharge as well as share its plan to remove the surcharge. See Order No. 1926 at 193.

On January 23, 2014, the Postal Service petitioned the United States Court of Appeals for the District of Columbia Circuit to review Order No. 1926.<sup>2</sup>

On April 23, 2014, 120 days after the Commission issued Order No. 1926, the Postal Service filed its Motion seeking to stay the reporting requirements of the order.

On May 2, 2014, the Commission issued Order No. 2075, denying the Postal Service's request for a stay, and establishing a revised schedule for required reports.<sup>3</sup>

Pursuant to the revised schedule, on May 15, 2014, the Postal Service filed its quarterly report on the amount of revenue collected pursuant to the exigent surcharge,<sup>4</sup> and on June 2, 2014, it filed its report concerning plans to remove the exigent surcharge.<sup>5</sup>

## III. POSTAL SERVICE REPORT

The Postal Service contends that while it is “not in a position to present a definitive ‘plan’ at this time...it can best comply with the Commission’s order...by discussing options that it is preparing for the Governors to consider.” Postal Service

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<sup>2</sup> See *U.S. Postal Service v. Postal Regulatory Commission*, No. 14-1010 (D.C. Cir. 2014).

<sup>3</sup> Order Denying Stay and Establishing Schedule for Reporting Requirements, May 2, 2014 (Order No. 2075).

<sup>4</sup> Response of the United States Postal Service to Order No. 2075, May 15, 2014.

<sup>5</sup> Report of the United States Postal Service in Response to Order No. 1926 Regarding Surcharge Removal Plan, June 2, 2014 (Postal Service Report).

Report at 1-2. The Postal Service further explains that the options will help the Commission and the mailers better appreciate the challenges in producing such a plan when the substance of the plan will depend on future events and choices by the Postal Service. *Id.* at 2. The Postal Service points out that the removal need not occur until the \$3.2 billion surcharge revenue limit is reached, which will depend upon actual mail volumes and mail mix. *Id.* at 2-3.

The Postal Service identifies several ways it could remove the exigent surcharge, including simply noticing the rescission “shortly before the point at which” the surcharge revenue limit is reached, or delaying the next Consumer Price Index (CPI) rate adjustment and substituting a CPI adjustment for the exigent surcharge. *Id.* at 3-4. The Postal Service also identifies that the Governors may utilize pricing flexibility by altering the prices, in a CPI adjustment, of different classes by different rates, and banking unused rate adjustment authority to apply towards a later increase coinciding with the rescission of the exigent surcharge. *Id.* at 4.

The Postal Service avers that it will finalize the plan at a future date after “decisions are made” and will convey details “sufficiently in advance so as to allow any necessary discussion to occur.” *Id.*

#### IV. SPECIFIC ISSUES

The Commission requests that commenters address several specific areas, in addition to any issues or suggested alternatives that are relevant.

*Applicability of 39 U.S.C. § 3622.* If the Commission adopts the Postal Service’s first option, which the Postal Service identified as rescission of the exigent rate surcharge when it meets the surcharge revenue limit, does such a rescission require the Postal Service to demonstrate that the resulting prices comply with 39 U.S.C. § 3622(e)?

Similarly if the second option, which the Postal Service identified as absorbing the exigent rate surcharge, in whole or in part, coincident with a CPI rate adjustment, is utilized, must the Postal Service submit two filings: one to remove the surcharge and another pursuant to 39 C.F.R. part 3010?<sup>6</sup> Please elaborate.

In addition, if there is a CPI rate adjustment before the exigent surcharge revenue limit is reached (*e.g.*, a rate adjustment during FY 2014) must the Postal Service address the total rate paid by ratepayers (the CPI base and increase plus the exigent surcharge) for compliance with 39 U.S.C. § 3622, or only address the base rate and CPI increase?

*Notice required.* The Commission identified 45 days in Order No. 1926 as the appropriate time for the Postal Service to file prior to the effective date of the surcharge removal. See Order No. 1926 at 185. Is 45 days sufficient notice? Does the amount of notice required depend upon the details of the removal plan the Commission approves?

*Other issues and alternatives.* Interested parties may also suggest alternate proposals for removing the exigent surcharge and comment on any other issues relating to the removal of the exigent surcharge that may assist the Commission in adopting or modifying the Postal Service's removal plan.

## V. NEXT STEPS

Interested parties may submit comments no later than July 28, 2014, and reply comments no later than August 26, 2014.

After reviewing the comments and reply comments, including any alternate plans proposed by interested parties, the Commission may either schedule a technical conference if required to explore technical details of the plan, issue a further order

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<sup>6</sup> The Postal Service's second option for removing the surcharge appears to be both a removal of the surcharge coupled with the Postal Service's use of its pricing authority under the price cap.

approving or modifying a plan for the Postal Service to remove the exigent rate surcharge, or take other action as needed.

Pursuant to 39 U.S.C. § 505, James Waclawski, previously designated as Public Representative in this proceeding, will continue in that capacity.

## VI. ORDERING PARAGRAPHS

*It is ordered:*

1. Interested parties may submit comments on or suggested alternatives to the Postal Service's plan to remove the exigent rate surcharge no later than July 28, 2014.
2. Interested parties may submit reply comments no later than August 26, 2014.
3. Pursuant to 39 U.S.C. § 505, James Waclawski shall continue to serve as Public Representative in this proceeding.

By the Commission.

Shoshana M. Grove  
Secretary