

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

RATE ADJUSTMENT DUE TO)
EXTRAORDINARY OR EXCEPTIONAL) Docket No. R2013-11
CIRCUMSTANCES)
)

**VALPAK DIRECT MARKETING SYSTEMS, INC. AND
VALPAK DEALERS' ASSOCIATION, INC.
REPLY COMMENTS ON REPORT OF
THE UNITED STATES POSTAL SERVICE
REGARDING SURCHARGE REMOVAL PLAN
(August 26, 2014)**

Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (hereinafter "Valpak"), hereby submit these reply comments pursuant to Commission Order No. 2089 on the Report of the United States Postal Service in Response to Order No. 1926 Regarding Surcharge Removal Plan ("Report"). Order No. 2089 set the deadline for Reply Comments for August 26, 2014.

REPLY COMMENTS

I. Quality of the Postal Service's Report

The Magazine Publishers Association, *et al.* ("MPA *et al.*") aptly described the Postal Service's Report in Response to Order No. 1926 as "a non-response response." *Id.* at 1.

MPA *et al.* countered the Postal Service's excuses for its sketchy report by stating "the requirements for removal of the exigent surcharge are clear." *Id.* at 2.

Likewise, the Public Representative ("PR") addressed the Postal Service's excuses, concluding that it "is not persuaded by the Postal Service's argument.... None of the factors cited by the Postal Service prevent or influence the development of a plan to remove this

surcharge.... At most, the cited factors will influence the timing, but not the methodology, for reversing the surcharge.” PR at 2.

Accordingly, the PR:

urges the Commission to **settle upon a methodology** for reversing the exigent surcharge at this time. The Commission has provided the Postal Service with **ample opportunity** to provide a plan of its own for review and comment. The Postal Service has not taken full advantage of this opportunity. Thus, the Commission should consider all alternatives presented in comments (or outline a methodology of its own) and provide guidance to the Postal Service and the mailing community regarding the reversal of the exigent surcharge. [PR at 3 (emphasis added).]

Valpak concurs with both MPA, *et al.* and the PR. The Postal Service has waived its opportunity to make a substantive proposal for removal of the surcharge. Although the Postal Service has some options with respect to imposing a future CPI-based price adjustment, it has no option but to remove the exigent surcharge when it has served its function. Even its recurrent claim to unbridled “pricing flexibility” does not trump Commission Order No. 1926 (December 24, 2013). The Commission order approving the surcharge was limited, and once the revenue limit is reached, the Postal Service is not entitled to recover any further revenue pursuant to the exigent circumstances.¹

II. Calculation of Unused Rate Adjustment Authority

Several parties commented that removal of the exigent surcharge should be a simple matter of restoring prices to those established in Docket No. R2013-10 (or to the level of an

¹ Valassis’ suggestion of allowing the surcharge to continue after its function is served appears to violate Order No. 1926. *See* Valassis comments at 2.

intervening CPI increase). GCA and the PR both take note of and endorse the Postal Service's first proposal for rescinding the surcharge, which is simply to file with the Commission a notice that rescinds it shortly before the exigent revenue target is reached. GCA Comments at 2; PR Comments at 2; *see* also PR Comments at 7-9. NPPC Comments likewise state that "the appropriate [surcharge] removal process is straightforward." *Id.* at 2.

Absent any other rate changes made pursuant to Title 39, simple removal of the surcharge, *per se*, would restore prices to the status quo ante. Such action, however, would not address restoration of the unused rate adjustment — *i.e.*, the negative banked pricing authority — which existed at the time the Postal Service filed for the exigent rate increase in this docket. As Valpak discussed in its Initial Comments (pp. 3-5), Commission Order No. 1926 failed to resolve this aspect of surcharge rescission. Eliminating the pre-existing negative banked authority and leaving the unused rate authority at zero would be an illegal gift to the Postal Service at mailers' expense.² As Valpak stated in its Initial Comments:

One can be sure that if the Postal Service had any significant positive unused rate authority, it would insist that it either (i) only be required to remove the exigent surcharge up to the unused authority it had before it was "exhausted," or (ii) return the unused authority back to the "bank" so it would not lose such authority for use at a later time. [at 5.]

Some unused rate authority (either positive or negative) usually will exist when an exigent rate case is filed. The question of what happens to unused rate authority could be a recurring issue because the Postal Service doubtless will search for and develop new rationales

² By the same token, elimination of any positive banked authority could be viewed as a gift to mailers, perhaps as slight recompense for imposition of an exigent increase.

to support yet more requests for further exigent rate increases if it cannot cut costs to live within the rate cap. The question of what happens to unused rate authority after an exigent increase therefore should be resolved in this docket.

III. Forever Stamp and PIHOP

MPA, *et al.* and the PR raise an interesting issue with respect to the Forever stamp and Postage in the hands of the Public (or “PIHOP”). See MPA, *et al.* at 4-6 and PR at 14-15. The Postal Service's first quarterly report on revenue recovered by the surcharge adjusted the revenue recovered based on Forever stamps purchased prior to the exigency, decreasing the amount recovered by \$119.39 million. That prompted the Commission to question the Postal Service about adjustments for Forever stamps **purchased during** the exigency, but **used subsequently**. Unsurprisingly, the Postal Service has taken the position that it is unable to estimate such amount.³

When increasing the price of the Forever stamp, the Postal Service attitude could be described as “it’s only pennies, and most of the public is unaffected by and cares little about the increase.” However, prior to expiration of the surcharge, few Forever stamps will be purchased for subsequent use while the public draws down its existing inventory of Forever stamps. MPA, *et al.* believe the Postal Service should not be allowed to have it both ways, and urges the Commission either to (1) disallow the deduction, or (2) require the Postal

³ Interestingly, the Postal Service’s \$119.39 million estimate is quite “precise” to two digits (in millions). That would indicate that the adjustment procedure is not especially speculative. Nevertheless, the Postal Service refuses to offer even a rough estimate of likely postage purchases prior to expiration of the surcharge and estimate the amount likely to be used subsequent to expiration.

Service to make a credible adjustment for Forever postage used after the exigent expiration. Valpak concurs with MPA, *et al.* that the Postal Service cannot have it both ways. Since the Postal Service disclaims any ability to make an estimate under option (2), the deduction for PIHOP should be disallowed under option (1). The PR likewise argues that no Forever stamp adjustments should be allowed. *See* PR Comments at 15.

IV. Independent Docket for Surcharge Removal

Greeting Card Association firmly believes that an exigent surcharge removal should be entirely **independent from** any other rate change, handled in a discrete rate docket, and not merged into one rate case with a CPI increase.⁴ GCA Comments at 1. One reason articulated by GCA is that the exigent increase was across-the-board with no consideration given to the § 3622 factors and objectives. *See id.* at 2-6. GCA cites Valpak's opposition to the across-the-board increase vis-a-vis underwater products (at 4) as the principal objection to the across-the-board pricing. GCA also points out the Commission's deference to the Postal Service's position that it need not seek "optimal" pricing in a exigent increase. GCA further recommends that the exigent surcharge removal docket and the next CPI increase docket be implemented so that the rate changes are concurrent.

NPPC likewise argued that a simultaneous exigent rate removal and CPI increase should involve separate notices in separate dockets. NPPC Comments at 6. Finally, NPPC

⁴ MPA, *et al.* concur with GCA. "For purposes of Commission review, however, the Postal Service's compliance with the Commission's surcharge removal requirement should be documented by the Postal Service and reviewed by the Commission in a separate docket from any Postal Service request for other rate changes." MPA, *et al.* Comments at 3.

explained that any CPI increase prior to exigent removal must be based on prices approved in Docket No. R2013-10, with the exigent surcharge added on top of the resulting prices. The resulting combined prices then would be subject to 3622 review.

Valassis explained the difficulties inherent in price changes, and expressed its overall objective of “rate stability.” Apparently Valassis would prefer the Postal Service forgo a January 2015 increase, and implement any CPI increase at the same time as it removes the exigent surcharge, although they should be done in separate dockets. Valassis Comments at 1. Valassis also makes a proposal that is likely illegal — “in the spirit of fostering rate stability,” that it would be amenable with allowing the exigency to continue until January 2016 — but only if any revenue above the target is “banked” and is used to decrease the CPI increase. While rate stability is an important goal, it does not authorize the Postal Service to continue the surcharge beyond the terms of PRC Order No. 1926. *See* footnote 1, *supra*.

Valpak concurs with GCA, MPA *et al.*, NPPC, and Valassis that rescission of the surcharge should be an independent filing, and not involve any other issues. Valpak also recognizes though, that the Postal Service has the flexibility under PAEA to file for a permitted CPI rate increase when it so desires. Making the decision whether to rescind the surcharge concurrent with the next CPI increase is one for the Postal Service to make, not the Commission.

Respectfully submitted,

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