

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

REMOVAL OF RETURN RECEIPT FOR
MERCHANDISE SERVICE FROM THE MAIL
CLASSIFICATION SCHEDULE

Docket No. MC2015-8

REPLY COMMENTS OF THE UNITED STATES POSTAL SERVICE
(December 17, 2014)

In Order No. 2254, the Postal Regulatory Commission (“Commission”) established a deadline of December 3, 2014 for the submission of comments on the United States Postal Service’s proposal to eliminate Return Receipt for Merchandise Service from the Mail Classification Schedule, pursuant to 39 U.S.C § 3642. In Order No. 2270, the Commission extended the comment deadline to two days after the Postal Service filed a complete response to Chairman’s Information Request No. 1. The Postal Service filed its response to the information request on December 10, 2014. On December 11, 2014, the Public Representative (“PR”) and Mr. David B. Popkin submitted comments. The Postal Service hereby provides its reply comments, addressing the PR’s assertion that the elimination of Return Receipt for Merchandise constitutes a rate adjustment.

The Postal Service Has Not Proposed a Price Change

The PR asserts that the proposed “discontinuance of Return Receipt for Merchandise service is a rate adjustment,” and thus is subject to the price cap, “because the current rates for Return Receipt for Merchandise will no longer be

available if the change is approved.”¹ But the Postal Service has not proposed changing the rates charged for the service in question; it has proposed eliminating the service altogether. Accordingly, the proposal is not a “change in rates” under 39 U.S.C. § 3622(d)(1)(A) or the Commission’s regulations set forth in 39 C.F.R. Part 3010 (governing rate adjustments). Instead, it is at most a proposal to change the market-dominant product list under 39 U.S.C. § 3642, governed by the Commission’s regulations set forth in 39 C.F.R. Part 3020 (for product list changes).²

The PR’s attempt to analogize the instant proposal to the proposal at issue in Docket No. MC2013-30 (involving a proposed amendment to the price table for Single-Piece Residual Machinable Letters) is unavailing. In that case, the Commission found that the Postal Service’s revised proposal – adding language to the Mail Classification Schedule to provide that “Retail prices for Single-Piece Machinable Letters will apply if the residual letters presented with a mixed-weight Presort mailing are purely two-ounce items” – was a “rate change” because it increased by 18 cents per piece the amount charged for “residual mailings consisting of solely two ounce pieces from a mixed presort mailing.”³ In other words, the Commission found that the Postal Service’s proposal would alter the rates charged for an existing service. The Postal Service disagrees with that finding, but the instant proposal is different in any event. Here, the

¹ Docket No. MC2015-8, Public Representative Comments, at 4 (Dec. 11, 2014).

² The Postal Service chose to file this case under the section 3642 rules even though the filing does not seek to change the market-dominant product list. Request of the United States Postal Service to Remove Return Receipt for Merchandise Service from the Mail Classification Schedule, at 1, n.1 (November 17, 2014). The rules proposed for “changes to product descriptions” (proposed rules 3020.80 et seq.) in Docket No. RM2014-6 would appear to be a better fit. Order No. 2250 at 9-12, 17-19 (November 14, 2014).

³ See Docket No. MC2013-30, Order No. 1661, at 6, 9-10 (Feb. 15, 2013). Note, however, that mailers could avoid this increase by preparing residual one-ounce and two-ounce pieces together. Also, the Commission rejected the Postal Service’s revision to its initial proposal in that docket. The initial proposal had simply attempted to clarify the MCS language resulting from the previous price change case (Docket No. R2013-1), while the revised proposal involved a more substantive change. Response of United States Postal Service to Chairman’s Information Request No. 1, Questions 4 and 8 (January 18, 2013).

Postal Service is not even arguably proposing to change the price charged for the Return Receipt for Merchandise service. It proposes discontinuing the service.

Also inapposite is the Commission's holding in Docket No. R2013-10, which the PR cites in a footnote as involving a "similar" situation. In that docket, the Commission held that the Postal Service's change to a mail-preparation requirement – namely, its rule requiring mailers to switch from Basic to Full-Service Intelligent Mail barcodes in order to qualify for automation rates of various products – was a rate increase subject to 39 U.S.C. § 3622(d)(1)(A). Although the barcode rule did not itself change any rates, the Commission held that the rule required mailers to alter the characteristics of their mailpieces in order to continue paying the same price for a given service, meaning that mailers who refused to alter their mailpieces would be forced to pay higher prices for that service.⁴ By contrast, this case does not involve a change to the preparation requirements for using a given service. Mailers presently using Return Receipt for Merchandise service will not have the option of keeping that service because it is being discontinued.⁵

Chairman's Information Request No. 1, Question 2, appears to be premised on the assumption that the elimination of Return Receipt for Merchandise service is subject to 39 C.F.R. Part 3010, the rules governing rate changes. While the Postal Service

⁴ As the Commission knows, the Postal Service has sought review of that decision in the United States Court of Appeals for the D.C. Circuit. See *U.S. Postal Serv. v. Postal Regulatory Comm'n*, No. 13-1308 (D.C. Cir. filed Dec. 20, 2013). That case remains pending.

⁵ The PR is also incorrect that treating the elimination of Return Receipt for Merchandise service as a classification change rather than a rate change somehow deprives the public of a full opportunity to review and comment on the proposal. The Commission has established a 20-day period for public comment for rate increases. See 39 C.F.R. § 3010(a)(5). The Commission set the comments deadline, and the PR filed its comments, more than 20 days after the Postal Service's proposal was filed. Moreover, rate change proceedings are subject to a 45-day statutory review period. 39 U.S.C. § 3622(d)(1)(C). No time limits have been established for section 3642 cases. 39 U.S.C. § 3642; 39 C.F.R. § 3020.30 *et seq.* It therefore seems disingenuous to argue that treating this case as a rate increase rather than a product list change would afford the public a greater opportunity to participate.

answered the Chairman's question without challenging its premise, it did not (and does not) concede that the premise is correct. By its terms, Section 3010.23 (including subsection (d)) applies when the Postal Service has proposed a rate adjustment, and sets forth rules for calculating the percentage change in rates. Here, no rates are being adjusted, so Part 3010 does not apply.

To be sure, if Return Receipt for Merchandise service were discontinued as proposed, mailers may choose to use other services that provide some of the features formerly provided by Return Receipt for Merchandise service, as well as features (such as online tracking) that the outmoded service does not provide. The Commission retains the power to evaluate the adequacy and availability of such alternatives – as well as, for example, the value of such services and the benefits of eliminating the outmoded Return Receipt service – under the objectives and factors of the modern system for regulating rates and classes for market dominant products, 39 U.S.C. § 3622(b) & (c), and the criteria governing changes to product lists, *id.* § 3642(b)(3). As discussed in our request of November 17, 2014, and in our response to Chairman's Information Request No. 1, question 1, the proposed elimination of Return Receipt for Merchandise service satisfies the relevant standards.⁶ However, the price cap is not a standard that applies to this request.

⁶ In this regard, the Postal Service also notes its objection to the PR's characterization of the instant proposal as forcing mailers to choose "between higher prices or lesser service." That statement could not be further from the truth. As the Postal Service explained in its response to Chairman's Information Request No. 1, the only practical difference between Signature Confirmation and Certified Mail with Return Receipt is that the former provides evidence of mailing and the recipient's signature electronically, while the later provides the same features using hardcopy materials. See Response of the United States Postal Service to Chairman's Information Request No. 1, at 2-3 (December 10, 2014). Nothing about this distinction inherently suggests that users of Signature Confirmation service would receive lesser service in exchange for a lower price. Indeed, the PR offers no evidence to support such a claim.

Conclusion

Based on the above, the Postal Service reiterates its request that the Commission approve the removal of Return Receipt for Merchandise Service, pursuant to 39 U.S.C. § 3642 and 39 C.F.R. 3020.30.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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