

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

NOTICE OF MARKET-DOMINANT
PRICE ADJUSTMENT

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Docket No. R2015-4

**MOTION OF
MPA—THE ASSOCIATION OF MAGAZINE MEDIA,
ALLIANCE OF NONPROFIT MAILERS
AND ASSOCIATION FOR POSTAL COMMERCE
FOR EXTENSION OF TIME TO FILE COMMENTS
(January 26, 2015)**

The undersigned parties respectfully move to extend the deadline for mailer comments on the Postal Service's proposal from February 4, 2015, until two weeks after the Postal Service has produced a complete set of the workpapers required by 39 C.F.R. §§ 3010.14(b)(3) and 3010.23(d). Until this information is filed, the Postal Service has not submitted a *prima facie* case.

The foremost responsibility of the Commission in this case and other Type 1 rate cases is to ensure that added revenue sought by the Postal Service does not exceed the CPI cap imposed by 39 U.S.C. § 3622(d). 39 C.F.R. §§ 3010.11(b), 3010.13(b) and (c), and 3010.20 through 3010.24. To allow interested parties and the Commission to verify that the proposed prices comply with this statutory constraint, the Commission's rules require the Postal Service to accompany its notice of rate adjustment with "supporting technical information and justifications," including:

The percentage change in rates for each class of mail calculated as required by § 3010.23. *This information must be supported by workpapers in which all calculations are shown, and all input values*

including current rates, new rates, and billing determinants are listed with citations to the original sources.

39 C.F.R. § 3010.14(b)(3) (emphasis added).

Moreover, if the Postal Service proposes “classification changes such as the introduction, deletion, or redefinition of rate cells,” the required supporting analysis must include “reasonable adjustments to the billing determinants to account for the effects of [these] classification changes.” 39 C.F.R. § 3010.23(d). These adjustments also must be supported by complete workpapers:

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.

Id. (emphasis added).

These requirements are not trivial or obscure. To the contrary, they were the focus of litigation in the last CPI-based rate case, and are the subject of a review proceeding still pending in the Court of Appeals. See Order No. 1890, Docket No. R2013-10, *Notice of Market-Dominant Price Adjustment* (Nov. 21, 2013), petition for review pending *sub nom. USPS v. PRC*, No. 13-1308 (D.C. Cir.) (argued Nov. 20, 2014).

The Postal Service, however, has not complied with these requirements in this case. It proposes a number of changes to the Mail Classification Schedule, including the “eliminat[ion of] some price cells and add[ition of] some new price cells, to reflect the new price structure for flat-shaped pieces prepare for and entered at FSS locations, in Standard Mail High Density and Saturation Flats/Parcels, Carrier Route, and Flats, and

in Periodicals Outside County and Bound Printed Matter Flats.” USPS Notice of Market-Dominant Price Adjustment (January 15, 2015) at 14-15, 53. The Postal Service asserts that it properly adjusted the billing determinants used to demonstrate price cap compliance to reflect these classification changes. *Id.* at 28-29 (Periodicals Mail); *id.* at 25-26 (Standard Mail). As the Commission recognized last week, however, many of the purported adjustments are unsupported by workpapers sufficient to replicate and verify what adjustments were made, let alone whether they were justified. Chairman’s Information Request No. 1 (Jan. 23, 2015), Question 3. The Postal Service has compounded these omissions by failing to disclose the DMM rules that will determine eligibility for the new rate cells (e.g., FSS rates, rates for pieces on 5-digit pallets with only Carrier Route bundles). Until this information is available to mailers and the Commission, any adjustments to the billing determinants are necessarily speculative. These omissions are clear violations of 39 C.F.R. § 3010.23(d), which, as noted above, directs that “[a]ll information and calculations relied upon to develop the adjustments [to billing determinants] shall be provided together with an explanation of why the adjustments are appropriate.”

Although Chairman’s Information Request No. 1, Question 3, seeks some of the missing information, answers to the questions are not due until January 30, 2015, only five calendar days (and three business days) before the February 4 due date for mailer comments. In addition, past experience with the Postal Service’s responses to Commission information requests suggests that many of the Postal Service’s answers will be incomplete, requiring one or more rounds of follow-up questions. Finally, an informed review of the Postal Service’s proposed adjustments to the billing

determinants is impossible until the Postal Service discloses the specific mail preparation requirements for use of the new rate cells.

For the foregoing reasons, the undersigned parties respectfully request that the Commission order the Postal Service to produce the missing information described above, and extend the deadline for mailer comments on the rate changes proposed by the Postal Service until two weeks after it has produced all of the missing information. For the truncated procedural deadlines established by 39 C.F.R. § 3010.13 to work properly, the clock for the comment period should not be allowed to start running until the Postal Service has filed the entire case required by the Commission's rules. To allow otherwise would deprive the Commission of the record it needs, and deprive mailers of due process.

Respectfully submitted,

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