

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

Before Commissioners:

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

Notice of Market Dominant
Price Adjustment

Docket No. R2015-4

ORDER GRANTING, IN PART, MOTION FOR EXTENSION OF
COMMENT DEADLINE

(Issued February 2, 2015)

Introduction. On January 26, 2015, MPA—the Association of Magazine Media, Alliance of Nonprofit Mailers, and Association for Postal Commerce (collectively, the Mailer Coalition) filed a motion for extension of the comment deadline.¹ For the foregoing reasons, the Commission grants the Motion in part.

Background. On January 15, 2015, the Postal Service filed notice of a market dominant price adjustment in accordance with 39 U.S.C. § 3622 and 39 C.F.R. part 3010.² On January 20, 2015, Order No. 2327 established the procedural schedule for

¹ 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 (Motion).

² United States Postal Service Notice of Market-Dominant Price Adjustment, January 15, 2015.

this proceeding, requiring comments be filed no later than February 4, 2015.³ On January 26, 2015, the Mailer Coalition filed the Motion, requesting that the Commission extend the deadline for comments in this proceeding until two weeks after the Postal Service has produced a complete set of workpapers required by 39 C.F.R. §§ 3010.12(b)(3) and 3010.23(d).⁴ The Mailer Coalition asserts that the missing information is necessary to allow interested parties and the Commission to verify that the proposed prices comply with 39 U.S.C. § 3622(d). *Id.* The Postal Service opposes the Motion, arguing that the request is premature because the Postal Service has not yet filed the requested information and, until such time, the Mailer Coalition will not know whether it will need additional time to comment on that filing.⁵ The Postal Service suggests that the Commission direct the Mailer Coalition to file timely comments on all other issues and then supplement its comments, if necessary, on issues related to the requested additional information filed by the Postal Service at a later date. *Id.* at 2.

Analysis. Market dominant rate adjustments are governed by 39 U.S.C. § 3622 and the Commission's regulations in 39 C.F.R. part 3010. 39 C.F.R. § 3010.12(b)(3) requires that the Postal Service include with its notice of rate adjustment "[t]he percentage change in rates for each class of mail calculated as required by § 3010.23." It further requires that this information "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. § 3010.12(b)(3). 39 C.F.R. § 3010.23(d)(2) requires that the Postal Service "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." In

³ Notice and Order on Rate Adjustments, Classification Changes, and Temporary Promotions for Market Dominant Products, January 20, 2015, at 5 (Order No. 2327).

⁴ Motion at 1. The Mailer Coalition moves for relief under 39 C.F.R. § 3010.14(b)(3). 39 C.F.R. § 3010.14(b)(3) was renumbered as 39 C.F.R. § 3010.12(b)(3) in Docket No. RM2013-2.

⁵ United States Postal Service Response in Opposition to the Motion of the MPA for the Extension of the Deadline for Comments, January 29, 2015 at 1-2 (Opposition).

making those adjustments, the Postal Service is required to “identify and explain all adjustments” and provide “[a]ll information and calculations relied upon to develop the adjustments...with an explanation of why the adjustments are appropriate.” 39 C.F.R. § 3010.23(d)(2).

In this proceeding, the Postal Service failed to provide workpapers and other information necessary to comply with the requirements of 39 C.F.R. § 3010.12(b)(3) and 39 C.F.R. § 3010.23(d)(2) for billing determinant adjustments it made in various price cells in Standard Mail, Periodicals, Package Services, and Special Services. Without this information and the related corrected workpapers, the Postal Service’s filing is incomplete for those classes of mail, and commenters and the Commission are left without the information necessary to evaluate the proposed new rates’ compliance with 39 U.S.C. § 3622. Notwithstanding, the Postal Service suggests that the Commission require comments to be filed by the original comment deadline but also allow later filed supplemental comments on issues related to the requested additional information. Opposition at 2-3. While this approach worked in Docket No. R2013-10, as the Postal Service notes, the missing and incomplete information in this proceeding differs from the IMb issue in Docket No. R2013-10 because it is not related to a single pricing proposal. In this case, the missing information impacts the annual limitation calculations related to the vast majority of rate changes proposed in this proceeding for Standard Mail, Periodicals, Package Services, and Special Services. Such information is essential to the Commission’s ability to carry out its fundamental responsibilities under 39 U.S.C. § 3622 and determinations of compliance with the annual limitation for those market dominant classes of mail.

Under the Commission’s rules, the public is required to receive 20 days to file comments from the date the Postal Service files notice of the adjustment in rates. 39 C.F.R. § 3010.11(a)(5). As the Mailer Coalition notes, if the Postal Service files a complete response to Chairman’s Information Request No. 1 in a timely manner, the Mailer Coalition and other commenters would only receive five calendar days (three business days) to consider the information prior to the comment deadline. Motion at 3.

Given the importance of the missing information to the issues in this proceeding, the Commission finds that commenters would be significantly prejudiced if they were only provided three business days to provide comments based on a complete record when the Commission's regulations require 20 days.

There are four Chairman's Information Requests currently pending in this proceeding, three of which contain requests that the Postal Service correct its workpapers and provide other information necessary to comply with 39 C.F.R. § 3010.12(b)(3) and 39 C.F.R. § 3010.23(d)(2). Chairman's Information Request No. 1 was issued on January 23, 2015 and requested corrected workpapers and additional information for Standard Mail, Periodicals, and Package Services.⁶ Responses were due no later than January 30, 2015.⁷ Chairman's Information Request No. 3 was issued on January 28, 2015 and requested additional information and corrected workpapers concerning Special Services.⁸ Responses are due no later than February 4, 2015. On January 29, 2015, Chairman's Information Request No. 4 was issued and requested additional information concerning various proposed changes to additional Special Services.⁹ Responses to CHIR No. 4 are due no later than February 5, 2015.

The Commission grants the Motion in part because the information requested in CHIR No. 1, question 3, CHIR No. 3, question 6, and CHIR No. 4, questions 1-4 is necessary to determine compliance with relevant statutory provisions and bring the Postal Service's initial filing into compliance with 39 C.F.R. § 3010.12(b)(3) and 39 C.F.R. § 3010.23(d)(2) for rate adjustments related to Standard Mail, Periodicals, Package Services, and Special Services. After the Postal Service files complete responses to these CHIR questions, the filing of its "adjustment in rates" would appear to be complete and the statutorily required 45-day notice period would begin for rate

⁶ Chairman's Information Request No. 1, January 23, 2015, question 3 (CHIR No. 1).

⁷ Response of the United States Postal Service to Questions 1-5 of Chairman's Information Request No. 1, January 30, 2015. Aspects of this response have not yet been filed.

⁸ Chairman's Information Request No. 3, January 28, 2015, question 6 (CHIR No. 3).

⁹ Chairman's Information Request No. 4, January 29, 2015, questions 1-4 (CHIR No. 4).

adjustments related to those classes of mail.¹⁰ 39 U.S.C. § 3622(d)(1)(C); 39 C.F.R. § 3010.12. As requested by the Mailer Coalition, comments on issues related to Standard Mail, Periodicals, Package Services, and Special Services will be due 14 days after the Postal Service files complete responses to those questions. This is a reasonable period of time for commenters to consider the missing information and formulate comments. The Commission notes that this 14-day period is less time than parties ordinarily receive. 39 C.F.R. § 3010.11(a)(5).

First-Class Mail. The issues related to the missing information do not implicate First-Class Mail. As such, the Commission does not find any reason to deem the filing incomplete or change the comment deadline for issues related to First-Class Mail. The Commission will expeditiously consider the Postal Service's price adjustment request as related to First-Class Mail consistent with the Commission's statutory and regulatory responsibilities.

Other considerations. The Postal Service plans to implement the proposed market dominant rates on April 26, 2015. While the Commission's decisional schedule will likely be impacted by the extended comment deadline, the Commission is mindful of mailers' needs for sufficient advance notice to plan for and implement the new rates in their software and hardware programs. The Commission strongly encourages the Postal Service to expeditiously file complete responses to the outstanding CHIRs to minimize impacts on the mailers' planning and implementation efforts.

It is ordered:

1. The Motion of MPA—the Association of Magazine Media, Alliance of Nonprofit Mailers and Association for Postal Commerce for Extension of Time to File Comments, filed on January 26, 2015, is granted, in part, as discussed in the body of this Order.

¹⁰ Nothing in this Order is intended to call into question the sufficiency of the remainder of the Postal Service's January 15, 2015 filing in this proceeding.

2. Comments in this proceeding related to all issues other than those impacting First-Class Mail will be due no later than 14 days after the Postal Service files complete responses to CHIR No. 1, question 3, CHIR No. 3, question 6, and CHIR No. 4, questions 1-4.

By the Commission.

Shoshana M. Grove
Secretary