Postal Regulatory Commission
Submitted 6/8/2015 4:21:03 PM
Filing ID: 92508
Accepted 6/8/2015

Before The
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

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

MOTION OF THE UNITED STATES POSTAL SERVICE TO SUSPEND EXIGENT SURCHARGE REMOVAL PROVISONS OF ORDER NO. 1926 AND TO ESTABLISH REMAND PROCEEDINGS
(June 8, 2015)

In Order No. 1926, the Commission conditioned approval of the exigent surcharge upon removal of that surcharge once it was estimated to have generated additional contribution equivalent to the amount that the Commission determined was the contribution lost due to the Great Recession. The amount of lost contribution was estimated at $2.776 billion. Order No. 1926 (Dec. 24, 2013) at 193. The Postal Service sought review in the U.S. Court of Appeals of Order No. 1926, challenging various aspects of the Commission's determination that the amount of contribution lost due to the Great Recession totaled only $2.776 billion. The Court of Appeals has now granted the Postal Service's petition for review in part, and remanded the matter to the Commission for further proceedings.[1]

The Postal Service moves the Commission to expeditiously implement remand proceedings. Furthermore, while those proceedings are underway, the Commission needs to suspend the current mechanism for exigent surcharge

[1] *Alliance of Nonprofit Mailers v Postal Regulatory Commission,* No 14-1009 (DC Cir. June 5, 2015) (hereinafter, *Slip Opinion*).

removal, which is premised on the $2.776 billion estimate from Order No. 1926 that the court has now determined to be flawed. Specifically, the court found the Commission's "count once" rule "makes no sense on this record" (*Slip Opinion at 3)*, and therefore reversed and vacated that portion of the Order (*id.* at 11, 17, 20). The court rejected the "count once" rule because "the rationale that the Postal Service should have been able to identify and adjust to that downturn immediately is at war with the Commission's "new normal" holding, which openly endorsed a longer period of time for such adjustments. " *Id.* at 11. Thus, the court held, neither of the two rationales upon which the "count once" rule is premised "makes sense juxtaposed against the Commission's immediately preceding explanation [of] 'new normal'." *Id.* at 16.

The detailed quantification discussion in the next section of this pleading demonstrates that correction of the "count once" flaw, by itself, would (under the rest of the methodologies used by the Commission to generate the $2.776 billion figure) increase the lost contribution estimate to $3.957 billion. While, as noted immediately below, the Postal Service by no means agrees that $3.957 billion is the correct estimate of total contribution lost due to the Great Recession, the analysis in the quantification section provides a sufficient basis to demonstrate that the absolute floor for a revised estimate of the total contribution loss is well above the amount of $2.766 billion embedded in Order No. 1926, and is in no circumstances less than $3.957 billion. This additional amount will provide a more than adequate cushion to sustain maintenance of the surcharge while the necessary further proceedings are conducted.

Moreover, suspension now of the $2.766 billion surcharge removal target will avoid the potential situation in which rates are rolled back based on the vacated “count once” analysis, but then raised again (after the further proceedings the court has ordered) to allow necessary collection of the additional amounts required by correction of the “count once” error. The mere specter of a sequence of rate changes consisting of alternating rate decreases and rate increases, with the attendant full burden of mail classification schedule changes and software revisions, would impose a needless burden on the Postal Service, the public, the mailing industry, and its supply chain. The Postal Service, the Commission, and the mailers all share a mutual interest in avoiding such a counterproductive fiasco.[2]

In its opinion, the court left open the question of whether the totality of Order No. 1926 stated a consistent position regarding the Postal Service’s ability to reduce institutional costs through operational adjustments made in response to dramatically lower volume levels. More specifically, the issue is whether the rationale for the dates chosen by the Commission as marking the arrival of the “new normal” can be reconciled with the Commission’s analysis in a subsequent portion of Order No. 1926 concerning why relief from exigent harm meets the “necessary” prong of the statutory exigent provision. The court noted that the Commission “is free to consider the issue on remand.” *Slip Opinion* at 17,

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[2] The Postal Service notes that, in a letter to the Court of Appeals dated May 21, 2015, counsel for the Commission has already asserted that the Commission can entertain requests for relief based on the court’s opinion without awaiting formal issuance of the court’s mandate. The Postal Service agrees, and the instant motion to suspend is thus plainly ripe for immediate consideration.

footnote 3. The Postal Service maintains that the two contrasting portions of Order No. 1926 cannot be reconciled.[3] Because, in fact, the Postal Service had no realistic opportunity to make reductions in institutional costs in response to the massive volume declines, the Commission needs to reconsider its “new normal” framework. Indeed, the Commission’s 2013 Financial Analysis Report (March 18, 2014; revised April 10, 2014) at pages 23-24 explicitly showed that institutional costs, driven by operational networks sized in accordance with the Postal Service’s universal service mission, have *increased* since 2007 (even when excluding the fixed retiree health benefits prefunding obligations), not decreased as an assumed “ability to adjust” would require. Emerging from a necessary reconsideration of the “new normal” framework should be an appropriate contribution estimate that is well above $3.957 billion.

[3] The Postal Service previously articulated exactly this view very forcefully in its briefs to the court. For example, in its Petitioners’ Initial Brief (April 15, 2014) at 17-18, the Postal Service argued “the Commission’s ‘new normal’ analysis is flatly inconsistent with other parts of the Order in which the Commission correctly recognized that an exigent rate adjustment was ‘necessary’ even though USPS had been aggressively cutting costs and increasing efficiency.” A similar statement appears on page 28 of the same brief, and the supporting argument is fully presented on pages 33-36. The same position was further supported in the Postal Service Petitioner Reply Brief (July 10, 2014) at 12-15. In light of how extensively these arguments were developed by the Postal Service in its briefs, it seems clear that the court in footnote 3 is suggesting that the Commission reconsider this issue on remand. In any event, the Court clearly noted that the Commission can consider this issue on remand, and the Commission should do so to resolve the patent inconsistency between the “new normal” analysis and the Commission’s recognition, in the “necessary” analysis in Order No. 1926 and elsewhere, of the constraints on the ability of the Postal Service to reduce institutional costs.

Quantification of the Effect of Removing the Count Once Rule

It is not difficult to quantify the understatement of harm directly attributable to the "count once" flaw. Table VI-5 on page 101 of Order No. 1926 presented the Commission's year-by-estimate of lost volume, as shown below. The "total impact" was stated at 25.2708 billion pieces of mail over FY2008-FY2012.

PRC Estimates: Year-over-Year Changes due to the Great Recession
(Market-Dominant mail, millions of pieces)

	FY2008	FY2009	FY2010	FY2011	FY2012	**FY2008 - FY2012**
First-Class Mail	(582.7)	(1,863.9)	(1,043.3)	0.0	0.0	**(3,490.0)**
Standard Mail	(5,350.0)	(15,572.0)	0.0	0.0	0.0	**(20,922.0)**
Periodicals Mail	(110.3)	(377.2)	(352.3)	(15.8)	0.0	**(855.5)**
Package Services	0.0	(3.4)	0.0	0.0	0.0	**(3.4)**
TOTAL MARKET-DOMINANT MAIL	**(6,043.0)**	**(17,816.5)**	**(1,395.6)**	**(15.8)**	**0.0**	**(25,270.8)**

Table IV-8 on page 106 then converted the estimated lost volume to an estimated lost contribution of $2.766 billion. As shown below, however, merely by eliminating the "count once" rule and recognizing that the actual annual volume loss in each year is the combination of volume first lost in that year, plus annual volume lost in the previous year, the "total impact" volume loss estimate increases from 25.2708 billion pieces to **35.0877 billion pieces**. Specifically, in the table below, the 2008-2012 total for each row is the sum of the FY2008 column, plus any non-zero values in the Annual column for each of the subsequent years.

PRC Estimates: Year-over-Year Changes due to the Great Recession (Eliminate Count Once)
(Market-Dominant mail, millions of pieces)

	FY2008 First Time	FY2009 First Time	FY2009 Annual	FY2010 First Time	FY2010 Annual	FY2011 First Time	FY2011 Annual	FY2012	**2008 -12**
First-Class Mail	(582.7)	(1,863.9)	(2,446.7)	(1,043.3)	(3,490.0)	0.0	0.0	0.0	**(6,519.4)**
Standard Mail	(5,350.0)	(15,572.0)	(20,922.0)	0.0	0.0	0.0	0.0	0.0	**(26,271.9)**
Periodicals Mail	(110.3)	(377.2)	(487.4)	(352.3)	(839.7)	(15.8)	(855.5)	0.0	**(2,292.9)**
Package Serv.	0.0	(3.4)	(3.4)	0.0	0.0	0.0	0.0	0.0	**(3.4)**
TOTAL	**(6,043.0)**	**(17,816.5)**	**(23,859.5)**	**(1,395.6)**	**(4,329.7)**	**(15.8)**	**(855.5)**	**0.0**	**(35,087.7)**

As comprehensively shown in the table attached at the end of this pleading, the above increased volume loss estimate resulting from elimination of the "count once" rule directly translates into an increase in lost contribution from $2.766 billion to **$3.957 billion**. As stated, this $1.2 billion increase in the lost contribution estimate reflects nothing more than correction of the "count once" flaw, holding all other assumptions and methodologies constant.

Applying the methodology of Table VII-2 on page 184 of Order No. 1926, the additional $1.2 billion in exigent surcharge *contribution* translates into a revised exigent surcharge *revenue* target of $4.633 billion, or $1.4 billion higher than the Order No. 1926 target. The table below illustrates how the surcharge revenue calculation changes with the substitution of the revised total cumulative contribution loss input.

Revised Table VII-2 --Calculation of Revenue Surcharge Limitation			
Line No.		Order 1926	Revised
1	Annual Projected Contribution	$ 1,809	$ 1,809
2	Total Contribution Loss	$ 2,766	$ 3,957
3 & 5	Ratio	1.53	2.19
4	Annual Surcharge Revenue	$ 2,118	$ 2,118
6	Surcharge Revenue Target	$ 3,238	$ 4,633

The Postal Service anticipates that the amount of time necessary to accumulate an additional $1.4 billion in surcharge revenue will be more than sufficient to allow ample consideration of the full range of issues that need to be addressed in the remand proceeding.

Therefore, the Postal Service respectfully requests that the exigent surcharge revenue target established by Order No. 1926 be suspended during the pendency of these remand proceedings, and that the Postal Service be authorized in the interim to continue to collect the exigent surcharge embedded in the current rates and fees for Market Dominant products. The Postal Service, of course, will continue to track exigent surcharge revenue, and file quarterly reports under the same procedures it has been using currently. The next scheduled filing would be following the close of Quarter 3 of Fiscal Year 2015. The Postal Service also requests that the Commission concurrently establish a schedule and procedures by which the full range of remand issues can be considered.

Respectfully submitted,

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June 8, 2015

CORRECTED COMMISSON ESTIMATES OF "TOTAL" VOLUME AND CONTRIBUTION
LOST TO GREAT RECESSION AFTER ELIMINATION OF "COUNT ONCE" RULE

	(A)	(B)	(C)	(D)	(E)
	FY 2014 AR Unit Contribution	PRC "Total" Volume	PRC "Total" Contribution	Corrected "Total" Volume	Corrected "Total" Contribution
First-Class Mail (domestic)					
Single-Piece Letters	0.2430	(1,830.2)	(444.8)	(3,753.6)	(912.2)
Single-Piece Cards	0.1137	(100.9)	(11.5)	(208.8)	(23.7)
Presort Letters	0.2770	(1,318.7)	(365.3)	(2,104.0)	(582.9)
Presort Cards	0.1831	(87.7)	(16.1)	(140.1)	(25.7)
Flats	0.5789	(159.8)	(92.5)	(325.7)	(188.5)
International Mail	0.2064	7.3	1.5	12.8	2.6
Total First-Class Mail		(3,490.0)	(928.6)	(6,519.4)	(1,730.3)
Standard Mail					
High-Density & Saturation Letters	0.0916	(769.0)	(70.4)	(921.6)	(84.4)
H-D & Saturation Flats & Parcels	0.1033	(2,005.9)	(207.2)	(2,421.5)	(250.2)
Carrier-Route	0.0886	(1,797.7)	(159.4)	(2,176.2)	(192.9)
Letters	0.1096	(13,861.6)	(1,519.0)	(17,562.1)	(1,924.5)
Flats	(0.0271)	(2,438.9)	66.0	(3,126.9)	84.6
Non-Flat Machineables & Parcels	(0.0081)	(48.8)	0.4	(63.6)	0.5
Total Standard Mail		(20,922.0)	(1,889.6)	(26,271.9)	(2,366.9)
Periodicals Mail	(0.0611)	(855.5)	52.2	(2,292.9)	140.0
Package Services					
Bound Printed Matter Flats	0.2742	(0.8)	(0.2)	(0.8)	(0.2)
Bound Printed Matter Parcels	0.2415	(0.7)	(0.2)	(0.7)	(0.2)
Media and Library Rate Mail	(0.1405)	(1.8)	0.3	(1.8)	0.3
Total Package Services		(3.4)	(0.1)	(3.4)	(0.1)
TOTAL MARKET-DOMINANT MAIL		**(25,270.8)**	**(2,766.1)**	**(35,087.7)**	**(3,957.3)**

Sources: **(A)** PRC Lost Contribution, Library Reference PRC-R2013-11/2, Final.xls, "PRC Method" tab, Column I
(B) PRC Lost Contribution, Library Reference PRC-R2013-11/2, Final.xls , "Summary" Tab, Column B
(C) PRC Lost Contribution, Library Reference PRC-R2013-11/2, Final.xls, "Summary" tab, Column D; also Column (A) times Column (B)
(D) PRC Lost Volume Estimates, counting lost pieces each year until arrival of "new normal" for each class
(E) Column (A) times Column (D)