

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

Before Commissioners:

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

Competitive Products Price Changes  
Rates of General Applicability

Docket No. CP2016-9

ORDER DENYING MOTION FOR RECONSIDERATION

(Issued January 5, 2016)

I. INTRODUCTION

On December 14, 2015, David B. Popkin filed a motion for reconsideration of Order No. 2814, which approved changes to rates of general applicability for competitive products.<sup>1</sup> Mr. Popkin alleges that the Postal Service recently amended its regulations in a manner that eliminates small individual mailers' abilities to access Priority Mail Express and Priority Mail at Commercial Base prices. Motion at 2. For the reasons discussed below, the Motion is denied.

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<sup>1</sup> Comments and Motion for Reconsideration of David B. Popkin, December 14, 2015 (Motion). Mr. Popkin also filed a motion for late acceptance of the Motion. Motion of David B. Popkin for Late Acceptance, December 14, 2015. Because the discussion in the Motion supports the request for reconsideration of Order No. 2814, the Commission views it in that light and finds the motion for late acceptance of comments is moot.

## II. PROCEDURAL HISTORY

On October 16, 2015, the Postal Service filed notice with the Commission concerning changes in rates of general applicability for competitive products.<sup>2</sup> The Notice included related mail classification changes, such as eliminating price categories, combining price categories, and rebranding products or product components.

On October 19, 2015, the Commission provided notice of the Postal Service's filing, established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations, appointed a Public Representative, and provided the public with an opportunity to comment.<sup>3</sup>

On November 13, 2015, the Commission approved the proposed price adjustments and related classification changes.<sup>4</sup> The Commission reviewed the competitive product price adjustments pursuant to 39 U.S.C. § 3633(a) and Commission regulations under 39 C.F.R. part 3015. Order No. 2814 at 8. The Commission found that the new competitive product prices and related classification changes comply with applicable statutory and regulatory requirements. *Id.* at 8-9.

On December 14, 2015, David B. Popkin filed the Motion. Mr. Popkin states that the Postal Service failed to notify the Commission that the Postal Service planned to restructure Click-N-Ship to offer only Retail prices, and Click-N-Ship would no longer be an authorized payment method for Priority Mail Express and Priority Mail Commercial Base price categories. Motion at 2-3. Mr. Popkin alleges that this failure prevented the Commission from evaluating the effect of these changes and prevented members of the public from commenting on these changes. *Id.* at 3. Mr. Popkin argues that the Postal Service should have included these regulation changes in the Notice in this docket and

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<sup>2</sup> Notice of the United States Postal Service of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision No. 15-1, October 16, 2015 (Notice).

<sup>3</sup> Order No. 2767, Notice and Order Concerning Changes in Rates of General Applicability for Competitive Products, October 19, 2015.

<sup>4</sup> Order Approving Changes in Rates of General Applicability for Competitive Products, November 13, 2015 (Order No. 2814).

the failure to include such information makes the Notice incomplete. *Id.* Mr. Popkin requests that the “Commission reconsider its approval of the wording in [Mail Classification Schedule] Section 2110.4.” *Id.*

### III. COMMISSION ANALYSIS

*Approval of classification changes in section 2110.4.* In the Motion, Mr. Popkin requests that the Commission reconsider its approval of classification changes in section 2110.4 of the Mail Classification Schedule (MCS). *Id.* In Order No. 2814, the Commission approved one classification change in section 2110.4 of the MCS, which reflected the elimination of Critical Mail as a category under Priority Mail at Commercial Plus prices. Order No. 2814, Attachment at 15. In the Motion, Mr. Popkin provides no arguments in support of reconsideration of the Commission’s approval related to the elimination of Critical Mail as a category under Priority Mail at Commercial Plus prices.

*Price increase concerns.* Unrelated to the elimination of Critical Mail as a category under Priority Mail at Commercial Plus prices, the Motion discusses recent revisions to Postal Service regulations that result in an effective price increase.<sup>5</sup> In a recent *Postal Bulletin*, the Postal Service stated that it planned to restructure Click-N-Ship so that it offered only Retail prices for Priority Mail Express and Priority Mail.<sup>6</sup> In addition, the Postal Service stated that Click-N-Ship would no longer be an approved payment method for Priority Mail Express and Priority Mail at Commercial Base prices. *Id.* at 8-9. As Mr. Popkin observes, Click-N-Ship customers may currently access Priority Mail Express and Priority Mail Commercial Base prices, but after January 17, 2016, when the revised regulations become effective, these same customers may only access the higher Priority Mail Express and Priority Mail Retail prices. Motion at 2. He states that it will cost him approximately 80 percent more to

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<sup>5</sup> Motion at 2-3. The Motion references Postal Service changes to its *Domestic Mail Manual (DMM)*. *Id.* at 2. See *Postal Bulletin*, Issue 22430, December 10, 2015, at 6. The *DMM* contains Postal Service regulations. 39 C.F.R. § 211.2(a)(2).

<sup>6</sup> *Postal Bulletin*, Issue 22430, December 10, 2015, at 6.

ship a “13 pound Priority Mail package with a length plus girth of over 84 inches to New York City.” *Id.*

Mr. Popkin is correct that the regulation changes will cause Click-N-Ship customers to pay the higher Retail price for Priority Mail Express and Priority Mail. He is also correct that the Commission and stakeholders would have been able to more fully understand the impact of the Postal Service’s competitive product price changes if the Click-N-Ship regulation change had been announced in the Postal Service’s Notice. Ultimately, however, the Commission’s review of competitive product price adjustments is limited to whether the adjustments comply with 39 U.S.C. § 3633 and 39 C.F.R. part 3015 – in other words, whether each competitive product will cover its attributable costs, whether competitive products as a whole will not be subsidized by market dominant products, and whether competitive products will cover an appropriate share of the Postal Service’s institutional costs.

In this docket, four small businesses raised similar issues in their comments when they expressed concern that the competitive price adjustments may negatively impact their mailing operations.<sup>7</sup> In Order No. 2814, the Commission acknowledged the validity of those concerns, but went on to find that the Postal Service’s proposed changes would not result in a violation of 39 U.S.C. § 3633 and 39 C.F.R. part 3015. While the concern that Mr. Popkin has brought to light is valid as well, it does not alter that finding.

#### IV. CONCLUSION

The Motion presents no arguments of fact or law that warrant reconsideration of Order No. 2814. Therefore, the Motion is denied.

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<sup>7</sup> Order No. 2814 at 8. For example, Mystery Tackle Box, Inc., commented that the proposed price increase of approximately 23.5 percent for Lightweight Parcel Select would cripple it and other small businesses. Letter from Jeremy Gwynne Director of Production-Mystery Tackle Box, Inc., November 2, 2015, at 1. Additionally, Landis Refining Co., Inc. commented that the proposed price increase of 50 percent for First-Class Package Service would have serious negative impacts on its ability to conduct its business. Comments of Landis Refining Co., Inc., November 3, 2015, at 1.

V. ORDERING PARAGRAPH

*It is ordered:*

The Motion for Reconsideration, filed by David B. Popkin on December 14, 2015, is denied.

By the Commission.

Stacy L. Ruble  
Secretary