Postal Regulatory Commission
Submitted 11/1/2016 12:29:33 PM
Filing ID: 97715
Accepted 11/1/2016

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Notice of Market-Dominant-
Price Adjustment

Docket No. R2017-1

PUBLIC REPRESENTATIVE COMMENTS

(November 1, 2016)

I. Introduction

In accordance with Order No. 3565,[1] the Public Representative comments on the Postal Service's proposed price adjustment.[2] Commission rules direct public comments to "focus primarily" on whether the proposed rate adjustments measured using the formula established in 39 C.F.R. § 3010.23(c) are at or below (1) the annual limitation calculated under §§ 3010.21 or 3010.22 and (2) the limitation on the use of unused (banked) rate adjustment authority under § 3010.29. 39 C.F.R. § 3010.11(b). "Public comments may also address other relevant statutory provisions and applicable Commission orders and directives." *Id.* § 3010.11(c).

II. Annual Limitation Calculation

The system for regulating rates and classes for market dominant products must:

> include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates.

[1] Notice and Order on Rate Adjustments and Classification Changes, October 13, 2016 (Order No. 3565).

[2] United States Postal Service Notice of Market Dominant Price Adjustment, October 12, 2016 (Notice).

See id. § 3622(d)(1)(A).

This annual limitation applies to each class of mail (adjusted price cap). *Id.* § 3622(d)(2)(A). The Postal Service's proposed adjustments do not exceed its adjusted price cap authority for each class. The Postal Service's proposed rate adjustments also do not use more than 2 percentage points of banked authority for any class of mail in any 12-month period. *See* 39 C.F.R. § 3010.29.

The Postal Service's proposal to change the name of Standard Mail[3] to USPS Marketing Mail does not appear to have price cap implications. Based on the Postal Service's representation that mailers of Standard Mail will not be required to change the mail piece indicia to USPS Marketing Mail until at least July 2017 and would be given a 12 to 18 month transition period,[4] this proposed mail preparation change does not significantly change a basic characteristic of the mailing.[5]

The Commission has done a commendable job to resolve technical issues promptly. Audio streaming the technical conference allows interested persons to listen without attending the conference in person. Allowing listeners to view the slides in real time along with the presentation (similar to a WebEx format) would enhance this process.

III. Effect of Promotions on Price Change and Banked Authority Calculation

On June 16, 2016, in Docket No. R2016-5, the Commission approved several promotions for First-Class Mail and Standard Mail that will go into effect during calendar year 2017.[6] Taking into account these promotional prices generated additional banked rate authority for the Postal Service in First-Class Mail and Standard Mail. In Docket

[3] Consistent with the Postal Service's filings in this docket, the Public Representative continues to use the name "Standard Mail" in this docket. *See* Notice at 1, n.1.

[4] *See* Response of United States Postal Service to Questions 2-8 of Chairman's Information Request No. 4, October 26, 2016, question 5.

[5] *See* Docket No. R2013-10R, Order No. 3047, Order Resolving Issues on Remand, January 22, 2016, at 15.

[6] Docket No. R2016-5, Order on Price Adjustments for Market Dominant Products, June 16, 2016, (Order No. 3373).

No. R2016-5, the Postal Service's price cap compliance calculations for promotional discounts relied on the undiscounted prices (base prices) in Docket No. R2015-4 to calculate the promotional prices.[7] The Commission noted that there was the possibility that an intervening rate adjustment (a rate adjustment going into effect after June 16, 2016, and before the effective date for the promotion) could change the base prices. *See* Order No. 3373 at 11. If base prices changed because of an intervening rate adjustment, the promotional prices would also change. *See id.* The Commission stated that "[t]hese types of changes must be appropriately accounted for in any future price adjustments that impact the promotional prices." *Id.*

In Docket No. R2017-1 the Postal Service proposes for its rate adjustments to become effective on January 22, 2017. Two First-Class Mail promotions approved in Docket No. R2015-4 provide a discount as a percentage off of the proposed prices in calendar year 2017: (1) the Emerging and Advanced Technology Promotion will be effective March 1, 2017, through August 31, 2017, and (2) the Personalized Color Transpromo Promotion will be effective July 1, 2017, through December 31, 2017.[8]

The Postal Service states that including the promotions in the First-Class Mail price change calculation has no effect on the price change for the class "because the impact of using Docket No. R2017-1 prices is lost in the rounding to three digits." Notice at 5 n. 5. However, the Postal Service failed to demonstrate this claim.

It is not obvious that the promotional prices in Docket No. R2017-1 do not use any additional cap space. Both promotions offer a two percent discount off the applicable base prices that are in effect at the time of the promotion. Effective January 22, 2017, the Postal Service proposes price increases for all the base prices from which the discounted prices are determined, except First-Class Mail automation 5-Digit Letters. For the First-Class Mail automation 5-Digit Letter category, the Postal Service

[7] Promotional prices equal the base price less the promotional discount.

[8] *See* Order No. 3373, Attachment at 2-3. The third First-Class Mail promotion, the Earned Value Reply Mail Promotion, effective January 1, 2016, through June 30, 2017, offers $0.05 credit for eligible mail pieces. *Id.* at 3. Because this promotion is not percentage-based, it remains unaffected by changes to the base prices.

proposes a price reduction, resulting in the decrease of the promotional price from what was calculated in Docket No. R2016-5. Consequently, reducing this promotional price represents a rate increase from Docket No. R2016-5 prices.

The automation 5-Digit Letters category has the most volume qualifying for the promotions. Therefore, without doing the calculation, it is unclear whether the increases in the promotional prices for the other categories would offset the price increase resulting from decreasing the 5-digit rate.

The Public Representative updated the First-Class Mail workpapers to include promotions. *See* Attachment A. Taking into account the promotional prices in the price change calculation decreases the price change from 0.770 to 0.769 percent for First-Class Mail. As a result, the banked rate adjustment authority for First-Class Mail increases from 0.034 to 0.035 percent. Therefore, by not including the promotions, the Postal Service is forgoing 0.001 percent cap room. The Postal Service should confirm that it intends to forgo this additional cap space. Additionally, the Commission should require the Postal Service to include promotions in its price change calculation if any of the proposed base prices decrease for a category of mail included in the promotions.

The Postal Service accounted for the Docket No. R2016-5 Standard Mail promotions in its price change calculation for Standard Mail. All the proposed base prices for those promotions increased in the Docket; No. R2017-1 price adjustment. Therefore, all the promotional prices also increased from Docket No. R2016-5. The Postal Service accounted for this change to the base prices, which generated additional banked authority for Standard Mail. The Public Representative confirms that Postal Service's results regarding the promotions for Standard Mail are accurate.

IV. Workshare Discounts

Workshare discounts may not "exceed the cost that the Postal Service avoids as a result of workshare activity, unless" a statutory exception applies. 39 U.S.C. § 3622(e)(2). The Public Representative believes that the discounts proposed by the

Postal Service in this docket that exceed avoided costs (passthroughs)[9] based on the Postal Service's reliance on the exception for mail matter of educational, cultural, scientific, or informational value are compliant. *See id.* § 3622(e)(2)(C).

The Postal Service proposes workshare discounts exceeding the Postal Service's avoided costs for two First-Class Mail worksharing categories: Mixed AADC Automation Letters (112.1 percent) and 5-Digit Automation Flats (115.7 Percent). Notice at 42. The Postal Service relies on the rate shock exception (§ 3622(e)(2)(B)) to justify both passthroughs over 100 percent. *Id.* at 43-45. The Postal Service does not appear to explicitly represent that it will phase out the excessive discounts over time, as required by § 3622(e)(2)(B)(ii), but has demonstrated progress in reducing both passthroughs compared to the end of fiscal year (FY) 2015. *See id.* The Postal Service should be required to explain its plans for phasing out these two excessive discounts.

Seventeen proposed Standard Mail worksharing discounts exceed avoided costs. Of these, two passthroughs did not improve: Automation Mixed AADC Letters and Non-automation AADC Machinable Letters, which remain the same as reported in the FY 2015 Annual Compliance Determination (ACD). The proposed worksharing discounts that moved toward 100 percent passthroughs better align with efficient component pricing. The Postal Service complied with the Commission's directives to reduce the excessive discounts for Non-automation 5-Digit Non-Machinable Letters and NDC Irregular Parcels.[10]

As to the Standard Mail worksharing discounts for which the Postal Service relies on the rate shock exception, the Postal Service states that "[c]ontingent on price cap availability, operational efficiencies, and changes in cost avoidance, the Postal Service will be mindful to reduce these passthroughs in subsequent market dominant price adjustments." Notice at 47, 48, 49, 51. Noting the importance of encouraging pre-

[9] The passthrough is calculated by dividing the workshare discount by the avoided costs and expressing the result as a percentage. Passthroughs above 100 percent indicate discounts that are greater than avoided costs, which requires a statutory justification.

[10] *See* Docket No. ACR2015, Annual Compliance Determination Report, March 28, 2016, at 27, 33 (FY 2015 ACD).

barcoding, the Postal Service relies on § 3622(e)(2)(D) ("reduction or elimination of the discount would impede the efficient operation of the Postal Service") to justify the remaining excessive Standard Mail worksharing discounts. *See id.* at 47-48, 50.

With respect to five worksharing discounts (DNDC dropship, DSCF dropship, Nonprofit Mixed NDC Machinable Barcoded Parcels, Nonprofit Mixed NDC Irregular Barcoded Parcels, and Mixed NDC Barcoded Marketing Parcels), the Commission stated "if the discounts are not set at avoided costs in the next general Market Dominant price adjustment, the Commission expects the Postal Service to file a plan to align discounts with avoided costs." FY 2015 ACD at 27 and 33. The Postal Service states that it plans "[c]ontingent on price cap availability, operational efficiencies, and changes in cost avoidance, . . . to decrease [these passthroughs] by at least 10 percentage points . . . in each subsequent market dominant price adjustment."[11] This plan appears to comply with the Commission's directive, although the three qualifying contingencies render it difficult to ascertain how likely this plan will be implemented.

V. Reduced Rates, Free Rates, and Voter Registration Rates

The Postal Service represents that the proposed rate adjustment complies with the statutory provisions for reduced rates. *See* Notice at 39-42 (citing 39 U.S.C. §§ 3626(a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (g)(4)). The Postal Service's representations appear reasonable. The Postal Service does not propose to adjust free rates or reduced rates for voter registration. *See* 39 U.S.C. §§ 3627, 3629.

VI. Classification Changes

Proposing *major* classification changes in rate dockets, such as the creation (Docket No. R2015-4) and unwinding (this docket) of FSS pricing, which are expedited proceedings, provide less opportunity for meaningful review.[12] Therefore, the Public

---

[11] Notice at 46-47 and 50; *see also* Notice of Revisions to United States Postal Service Notice of Market-Dominant Price Adjustment, Attachment A, and Attachment B—Errata, October 28, 2016, at 3. As of the close of business on October 31, 2016, the revised pages of the Notice have not been filed.

[12] *See* Docket No. R2015-4, Public Representative Comments in Response to United States Postal Service Notice of Market-Dominant Price Adjustment, February 19, 2015 at 2 ("suggest[ing] that

Representative suggests that the Commission modify its market dominant rate adjustment rules either to prohibit the inclusion of major classification changes altogether or to require the proponent of a major classification change during a rate adjustment to justify the reason for expedited review.

The Postal Service also changes the Mail Classification Schedule regarding Collect on Delivery (COD) in a way that reduces the service offering. *See* Notice at 37. Although no evidence is presented as to the proportion of COD that is manifested through home delivery, the changes will negatively affect those who rely on home delivery and payment together. The changes may fall especially hard on those living in smaller communities that rely on rural carrier service. There is no indication in the Notice that the Postal Service considered these potential unintended consequences. The Commission should consider whether an annual rate adjustment docket is the correct proceeding to make this change.[13] The Commission should also consider whether this change is contrary to the policy of “provid[ing] a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.” 39 U.S.C. § 101(b).

VII. Proposed First-Class Mail Pricing

The Postal Service’s rate adjustment notice must include “[a] discussion that *demonstrates how* the planned rate adjustments are designed to help achieve the objectives listed in 39 U.S.C. § 3622(b) and *properly take into account* the factors listed in 39 U.S.C. § 3622(c).” 39 C.F.R. § 3010.12(b)(7) (emphasis added). The Postal Service’s justifications of two of its First-Class Mail pricing proposals are not fully developed. The Commission should consider whether the discussions contained in the Notice are sufficient.

The Postal Service proposes to extend its “Second Ounce Free” initiative to presort letters weighing up to 3.5 ounces. *See* Notice at 21. However, in considering

---

the Commission modify its rules to only allow minor classification proposals that have no significant price structure impact to be presented within annual rate adjustment dockets.”).

[13] The Public Representative does not object to the proposed pricing adjustment to COD.

whether "the 'Second Ounce Free' initiative has been effective at keeping bills and statements in the mail," correlation should not be confused with causation. *See id.* Although the volume trend for First-Class Mail presort letters finally leveled out in FY 2015, this may be more attributable to the preferences of the recipients of this type of mail (consumers receiving these statements and bills that do not convert to paperless options) than the pricing incentive offered to senders.[14] Also, if additional piece weight adds value to a mail piece, this proposal seems contrary to taking into account the value of the service to the sender and the recipient.

The Postal Service also proposes to set the rate for metered mail three cents below the rate for stamped mail. *See* Notice at 16-17. The Postal Service does not quantify the operational savings that it would gain by converting users from stamps to meters. *See id.* Although the Postal Service claims that it aims "to encourage small- and medium-sized businesses to convert from stamps to meters" (*id.* at 17), the proposal also reduces the price paid by current meter users. It is unclear whether meter volume will increase enough and stamp volume will remain stable enough to offset the reduction in revenue to the Postal Service resulting from the decreased meter price. Further, the Postal Service primarily attributes any potential increase in meter volume to the convenience of using a meter, rather than reduced rates. *See id.* A targeted promotional rate aimed at mailers converting from stamp use to meter use would have been an alternative that used less cap space (thereby minimizing the need to raise the stamp rate as an offset under the adjusted price cap) and minimized the reduction of revenues that may result from the price reduction to current meter users.

[14] *See* United States Postal Service Office of Inspector General, *Will the Check Be in the Mail? An Examination of Paper and Electronic Transactional Mail*, RARC-WP-15-006, February 9, 2015, at 6 ("Despite strong business desire to drive these communications to electronic-only delivery, consumers continue to prefer receiving paper bills in the mail.").

Respectfully submitted,

Lauren A. D'Agostino
Public Representative

Katalin K. Clendenin
Joseph D. Moeller
Public Representative Technical Team for
Docket No. R2017-1

901 New York Ave. NW, Ste. 200
Washington, DC 20268-0001
202-789-6837, FAX 202-789-6861
lauren.dagostino@prc.gov