Postal Regulatory Commission

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PRC Resolves Issues on Remand in Exigent Rate Case

Washington, DC – Today the Postal Regulatory Commission issued Order No. 2623 to address issues presented in the exigent rate case that was recently remanded to the Commission by the United States Court of Appeals for the District of Columbia Circuit. *Alliance of Nonprofit Mailers v. Postal Regulatory Commission,* 2015 WL 3513394 (D.C. Cir. June 5, 2015).

Order No. 2623 authorizes the Postal Service to collect an additional $1.191 billion in contribution as an exigent rate adjustment. Together, this additional amount and the $2.766 billion in contribution previously authorized by the Commission in Order No. 1926 produce a total exigent rate adjustment of $3.957 billion in contribution.

On appeal, the Court upheld most of Order No. 1926 by leaving undisturbed the Commission's conclusions that the Great Recession of 2007-2009 constituted an extraordinary or exceptional circumstance warranting exigent rate relief; that the Great Recession remained an extraordinary or exceptional circumstance until the Postal Service had an opportunity to adjust to the "new normal" in the mail economy; and, that the relief awarded the Postal Service was "reasonable equitable and necessary." However, the Court vacated that portion of Order No. 1926 that found that mail volume lost due to the exigent circumstance should be counted only once in calculating the contribution loss that the Postal Service was entitled to recover through exigent rates (the "count once" rule).

In its order, the Commission addresses five areas raised by participants in the remand proceedings:

- The Postal Service's "New Normal" Arguments
- The "Count Once" Rule and Alternative Approaches
- The Unit Contribution Calculation
- Application of the Reasonable and Equitable and Necessary Standard
- Requests by Mailers for Additional Protection from Overcollection

The Commission declines a request by the Postal Service to revisit the "new normal" analysis and to make adjustments to the "new normal" cutoff for each class of Market Dominant mail. The

Court deemed the "new normal" rule to be well-reasoned and grounded in the evidence before the Commission in previous proceedings.

The Commission accepts the Postal Service's methodology for counting mail volume losses due to the Great Recession and rejects alternative methodologies proposed by other participants. Using the Postal Service's methodology to replace the "count once" rule increases total estimated mail volume losses due to the Great Recession to 35.088 billion pieces from the 25.271 billion pieces originally estimated by Order No. 1926.

In Order No. 2623, the Commission also declines to revisit its prior analysis to adopt a proposal by several participants to revise the unit contribution methodology that was used by Order No. 1926 to translate volume losses into financial losses eligible for recovery by means of an exigent rate adjustment. That unit contribution methodology was not disturbed by the Court and the Commission finds no compelling reason to revise its earlier decision. When applied to the increased mail volume losses calculated under the Postal Service's methodology, the unit contribution methodology previously used by Order No. 1926 entitles the Postal Service to collect $1.191 of additional contribution through the exigent rate adjustment.

The Commission also determines the additional contribution to be reasonable, equitable, and necessary.

Given its expedited action on remand, the increase in the amount authorized for recovery by the exigent rate surcharge, and the reimposition of a 45-day notice requirement for removal of the surcharge, the Commission finds it unnecessary to take further steps to protect mailers from overcollection.

In accordance with the Commission's reporting requirements, the Postal Service must continue to report incremental and cumulative surcharge revenue 45 days after the end of each quarter, notice the removal of the exigent surcharge 45 days in advance of its removal, and provide bi-weekly estimates of the incremental and cumulative surcharge revenue beginning the quarter in which the Postal Service anticipates removing the surcharge.

A complete explanation of the Commission's decision can be found on its website, www.prc.gov.