

Mailers Hub News

June Summary *From the June 5 and 19 issues*

PRC Approves USPS-Proposed Price Increase for Market Dominant Products

In an order issued May 31, the Postal Regulatory Commission approved as filed the higher prices proposed by the Postal Service on April 10. The commission approved all of the promotions proposed by the Postal Service, but corrected some of the errors in the filing. Most consequential for commercial mailers and their customers, the PRC revised the effective dates for the calendar year 2024 promotions to next January 1, not July 9, 2023, when the other price increases take effect.

The PRC's order also reviewed comments received; those generally opposed the price increase, the size and pace of recent increases, and the Postal Service's use of the "adders" authorized by the commission in 2020, and asserted that semi-annual price increases are driving away volume. Unfortunately those comments fell on deaf ears, as the PRC defended the "adders" it implemented, dismissed claims of lost volume because of higher rates as unproven, and deferred to the USPS Board of Governors about the wisdom of current pricing policy.

The PRC made it a point to note that the USPS filing had errors, but did not endorse the speculation of some commenters that such errors were attributable to the pace and workload of semi-annual price changes.

For ratepayers, the commission's decision means the prices proposed by the Postal Service will take effect as planned on July 9, albeit with a handful of minor changes to reflect USPS calculation errors.

Likely in early October, the Postal Service's governors, dutifully implementing Postmaster General Louis DeJoy's obsessive demand for more revenue at all costs, will seek another price increase to be effective in January 2024. While it's unknown what the CPI will allow, the "adders" for "density" and "retirement" will not be available. Usable only once per calendar year, their 2024 value won't be calculated by the Postal Service until late this year and approved by the PRC until next spring; they'll be part of the mid-2024 increase. However, the 2% for "non-compensatory" will apply.

Given the number of errors found in the April filing, it will be interesting to read the Postal Service's explanation in the report the commission requires by July 31. With no additional resources, the USPS costing and pricing staff now has no chance to factor in the results of one price increase before having to prepare for another. Regardless, in the search for a scapegoat, anyone involved from law or finance likely will step aside so the blame bus can have a clean target.

White Paper Urges PRC Reform

In a paper released May 22, three individuals experienced in the regulatory environment urged reforms be undertaken to revitalize the Postal Regulatory Commission.

Authored by Tom Davis, who served in Congress from 1995 through 2008 and was chairman of the House Oversight and Government Reform Committee, David Williams, formerly USPS Inspector General and a Postal Service governor, and Michael Kubayanda, the current chair of the PRC, *A Next-Generation, Proactive Postal Regulatory System* focused on the "capacity gap" between the current resources supporting the PRC's activities and the level that should be provided if the commission is to better fulfill its obligations and become more "proactive" in the future. The authors provided a plan to address this gap:

"1) Phase One: Foundation of Information Infrastructure and Personnel. ... This foundational phase is underway at the Commission and is starting to ramp up, though more slowly than appropriate

"2) Phase Two: Make Information More Accessible to Stakeholders and the Public. ...

"3) Phase Three: Collaborative Regulatory Platform(s) ...

"Observers might describe a Commission using modern infrastructure and systems in this manner as accelerating the continued evolution from the pre-2006 Postal Rate Commission, a regulator centered on all-consuming cost-of-service rate cases that took place every three years and could last several months. The post-2006 Postal Regulatory Commission presides over far more frequent, shorter rate proceedings and has the critical statutory authority to redesign price regulation. ...

"The next-generation Commission should be better able to meet expectations in multiple ways:

- Greater speed and agility, a common concern of the Postal Service and stakeholders. ...
- Better user experience and user interfaces, including the new website and new dockets system with enhanced searchability ...
- Collaborative, data-driven transparency as a supplement ...
- Better informed postal policy, both inside and outside of the Commission. ...

The commission's annual budget is a mere fraction of a percent of the Postal Service's, so whatever could be done to improve that ratio, and to equip a modernized PRC with what it needs to execute its mission, would be welcomed indeed by ratepayers, though maybe not by the USPS.

USPS Updates Status of S&DC and RDC/LPC Implementation

In documents provided last month to labor groups – but not to ratepayers or commercial mail producers – the Postal Service gave an update of its deployment of sorting and delivery centers in several sites across the country.

As reported by *Save the Post Office*, the USPS stated that 18 S&DCs will be launched in June and September of this year, bringing the total in operation to 24 by the end of FY 2023. The May 4 update also listed S&DC sites not previously identified: Terre Haute (IN) Rose Station, Tulsa (OK) Donaldson and Sheridan Stations, and Waco (TX) Downtown Station.

However, at the same time, other planned S&DCs have been “postponed or cancelled” because none of the anticipated spoke offices passed the “Financial Rigor Test.” The S&DCs affected were Columbia (SC), Morgantown (WV), Owensboro (KY), Rockford (IL), Stockton (CA), and Williamsport (PA). The USPS did not explain the criteria used in the FRT but added that, even though the proposed spoke offices failed to meet the test criteria, the planned S&DC facilities are “still being modified with all the S&DC equipment updates.” Why the modifications would be needed if the planned spoke offices didn't meet criteria wasn't explained, nor was what was being done to find replacement offices to fold into the S&DC.

Given the skepticism that the S&DC format will not reduce overall costs for delivery in the areas involved, the FRT likely consider changes in transportation costs from the local processing plant and changes in cost for delivery vehicles and carriers. Not surprisingly, the Postal Service provides no transparency into any of the assessments being conducted.

Meanwhile, as part of the realignment of the processing network, the USPS has advertised internally for volunteer maintenance craft employees to “remove and/or relocate an undefined number of Mail Processing Equipment throughout the country” in FY 23 and FY24. As reported by *Save the Post Office*, “volunteers may need to travel to other parts of the country for up to three weeks” and “must provide their own work clothes, hard hats, and safety equipment.” The posting added that “volunteers will be expected to work ten hours a day six days a week maximum and overtime will be paid.” The full range of processing equipment is involved, including facer/cancellers and sorters for letters, flats, and parcels.

The work will start in Atlanta and Charlotte, suggesting some of the equipment will go to the new regional distribution centers in Palmetto (GA) and Gastonia (NC), respectively. Over the next few years, processing equipment will be relocated among hundreds of facilities that will be retasked to serve as RDCs, local processing centers, or S&DCs; some functions may be co-located within a single building. Eventually, according to past comments from the USPS, there would be about 60 RDCs and about 120 LPCs, replacing the current matrix of NDCs, P&DCs, and other facilities.

PRC Reopens 2021 Docket on USPS Service Performance, Seeks New Comments

On June 12, the Postal Regulatory Commission reopened a docket initiated in 2021 but later suspended while a related matter was being reviewed in federal court. Docket RM2021-2, opened January 15, 2021, was to consider a “Performance Incentive Mechanism” to motivate improved Postal Service performance. As stated in the original Advance Notice Of Proposed Rulemaking, the PRC sought

“... input from the public about what additional regulations promulgated by the Commission may be necessary to achieve the objectives of the Postal Accountability and Enhancement Act (PAEA) over the longer-term, particularly related to maximizing incentives to increase efficiency and reduce costs, maintaining high-quality service standards, and assuring financial stability (including retained earnings).”

After multiple proposed rules during a protracted rulemaking – whose result later was challenged in court – the PRC issued a final rule in November 2020 that implemented the now infamous density, retirement, and non-compensatory “adders” to enable generation of additional revenue. However, that final rule omitted a provision contained in earlier proposals that would have given the USPS further rate authority based on “performance,” perhaps because of the complexity of defining the criteria for “performance” and how it could be tied to rate authority:

“The Commission intends to open a separate rulemaking to further study potential modifications to the ratemaking system that link financial incentives and/or consequences to efficiency gains, cost reductions, and the maintenance of service standards. ... A separate rulemaking focused on these issues will permit the Commission to evaluate whether, when, and how to introduce a performance incentive mechanism. ...”

On the day the final rule took effect, while the “adders” were being reviewed by the Court of Appeals, the PRC

opened the rulemaking about a “Performance Incentive Mechanism,” offering a lengthy list of matters on which it sought comments.

By June, as the court case continued, the USPS sought to hold the rulemaking “in abeyance” until the litigation concluded and commenters could have a clearer picture of the ratesetting process. The PRC agreed and, on July 1, 2021, put the rulemaking on hold. The petition for review of the PRC’s November 2020 final rule was denied by the Court of Appeals on November 12, 2021.

In reopening the docket, the PRC did not restate the topics on which comments were being sought, instead referring interested parties to the list issued in 2021.

Since the proposed rule was first issued, the Postal Service – zealously implementing Postmaster General Louis DeJoy’s 10-Year Plan – has sought – and ignored – four PRC Advisory Opinions about reductions in service standards. The *Postal Reform Act of 2022* has been enacted, eliminating the prefunding mandate and all related obligations, and the USPS has increased prices for market-dominant products by almost 23% (or 31% for “underwater” products) –topping 13.987% in CPI authority with another 8.902% from the density and retirement “adders” and yet another 8% for underwater products. At the same time, significant volumes of mail remain excluded from service measurement for a variety of reasons, with the resulting performance figures set against service standards substantially lower than in 2006. Despite this, the USPS has issued a litany of windy claims of improved service based on selective calculations and homogenized data.

With all of this in mind, reopening the 2021 rulemaking – now with the benefit of history since the 2020 final rule and experience with the policies and practices of the PMG – provides commenters with a “target rich” environment. While the PRC likely will limit its review of comments to only those it considers within the scope of the rulemaking and its listed topics and questions, commenters nonetheless have a broad range of areas on which to offer input. Under the circumstances, that license should be exercised energetically. **Comments are due by September 15.**

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