

CONCURRING OPINION OF COMMISSIONER GOLDWAY

The new PAEA provides the Postal Service with the flexibility to adjust rates within classes of mail for market-dominant products, adopt special classifications that improve the net financial position or increase the efficiency of operations, and to price and market competitive products to accrue profits.

It also gives the PRC expanded oversight with regard to the financial soundness, efficiency, and fairness of Postal Service operations.

The negotiated service agreement (NSA) before the Commission demonstrates that the Postal Service is not yet capable of negotiating a good bargain within the framework of the PAEA. The Commission's majority opinion points out serious shortcomings in Postal Service management decision making. First, and foremost, through this NSA, the Postal Service will lose between \$25 and \$45 million and opens itself — if it is to be fair to other similarly situated mailers — to lose much more.

Second, the record of the case indicates that Postal Service negotiators did not prepare themselves with all the necessary financial and costing data when conducting the bargaining process with Bank of America. And third, the complex bureaucracy of the Postal Service has not yet been capable of identifying, analyzing, and distributing the appropriate data needed to make accurate cost-benefit decisions, nor did it pass on the data it did have to the group assigned to enter into negotiations for the NSA.¹

¹ Robinson, et al., *Negotiated Volume Discounts in a Regulated Post*, available on the Commission's website, www.prc.gov, provides an instructive analysis of the impact of previously approved negotiated service agreements.

This is the first opportunity the Commission has had to act on an NSA since passage of the new law.² I appreciate that my fellow Commissioners want to show their support for the concepts embodied in the new law and express their willingness to give the flexibility to the Postal Service provided therein. In the scheme of a \$75 billion budget, it will not be significant if the Postal Service loses \$45 million on an experimental venture. Therefore, I am willing to go along with the majority and approve the Bank of America NSA.

However, I feel obliged to emphasize that the flaws identified above in the Postal Service/business bargaining process do not bode well for the Postal Service under the PAEA regime. Unless the Postal Service takes the cautionary advice provided within the Commission's opinion, it may find it difficult to participate in a significant number of NSAs and still operate within the price cap, much less be optimistic that profits can be made in the competitive products sector.

I commend Commissioner Tisdale, the only one of my fellow Commissioners with direct operational experience at the Postal Service, for his forthright dissent. I am hopeful that his strong statement and my more detailed description of the concerns he identified will prove helpful to the Postal Service.



Ruth Y. Goldway, Commissioner

² I recognize that the PAEA system of rate regulation has not yet been implemented, so that this request arguably could have been evaluated giving less weight to the new legislation.