

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

Before Commissioners:

Dan G. Blair, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Tony L. Hammond

Consideration of Workshare Discount
Methodologies

Docket No. RM2009-3

NOTICE OF PROPOSED RULEMAKING ON APPLICATION
OF WORKSHARE DISCOUNT RATE DESIGN PRINCIPLES

(March 16, 2009)

In a concurrently issued order In Docket No. R2009-2, the Commission largely approves the Postal Service's planned market dominant price changes scheduled to take effect May 11, 2009. That approval includes a commitment to institute a rulemaking proceeding to examine methodologies underlying the calculation of workshare discounts. By this Order, the Commission fulfills that commitment.

In Docket No. R2009-2, the Postal Service proposes workshare discounts for First-Class Mail and Standard Mail that are not based on established workshare cost avoidance methodologies. In First-Class, the Postal Service did not use the existing benchmark, bulk metered mail, for calculating workshare discounts and instead based the discounts on presort First-Class Mail delinked from single-piece First-Class Mail. In

Standard Mail, the Postal Service did not use the existing methodology based on costs avoided by shape between Basic and High Density, and High Density and Saturation.

In each instance, the Postal Service offers a legal rationale for its approach. It notes First-Class Mail Presort and Single-Piece Letters are separate products and contends that the reference to “each market-dominant product” in the reporting language of U.S.C. § 3652(b) therefore excludes the inter-product automation Mixed AADC presort letter discount from the limitations of U.S.C. § 3622(e).¹ With respect to Standard Mail, the Postal Service argues that density differences between Carrier Route Basic and High Density, and between High Density and Saturation are not the result of “presorting, prebarcoding, handling, or transportation” as worksharing is defined under 39 U.S.C. § 3622(e)(1).²

Numerous parties in both Docket Nos. R2009-2 and ACR2008 contest the Postal Service’s rationales.³ Some support the Postal Service’s methodologies.⁴ As the Commission explained in Order No. 191, also issued today, the expedited pre-implementation review of proposed market dominant rate adjustments under section 3622 precludes any meaningful examination of departures from established rate methodologies and analytical principles.

¹ See Docket No. R2009-2, Response of the United States Postal Service to Chairman’s Information Request No.1, February 20, 2009; and Docket No. ACR2008, Responses of the United States Postal Service to Commission Order No. 169, January 21, 2009, at 17-18 (Response to Order No. 169).

² See Docket No. R2009-2, Responses of the United States Postal Service to Questions 1-12 of Chairman’s Information Request No. 4, March 4, 2009, at 12-13; and Response to Order No. 169 at 17-18.

³ See, e.g., Docket No. R2009-2, Public Representative Comments in Response to Notice of Price Adjustment for Market-Dominant Price Adjustment, March 2, 2009, at 9-12; Initial Comments of American Postal Workers Union, AFL-CIO, March 2, 2009, at 1-5; Comments of the Greeting Card Association, March 2, 2009, at 2; Comments of Newspaper Association of America on Notice of Market-Dominant Price Adjustment, March 2, 2009, at 10-11; Docket No. ACR2008, Initial Comments of the Major Mailers Association on the Annual Compliance Report of the United States Postal Service, January 30, 2009, at 1; and Initial Comments of American Postal Workers Union, AFL-CIO, January 30, 2009, at 3-4.

⁴ See, e.g., Docket No. R2009-2, Comments of Valassis Direct Mail Inc. and the Saturation Mailers Coalition, March 2, 2009, at 5.

In Docket Nos. R2008-1 and ACR2007, various parties suggested changes to the existing workshare discount methodologies and methods for measuring cost avoidance, which, given the expedited nature of those proceedings, the Commission declined to hear. See Docket No. ACR2007, Annual Compliance Determination FY2007, March 27, 2008, at 18; Docket No. R2008-1, Review of Postal Service Notice of Market Dominant Price Adjustment, March 17, 2008, at 19.

Consequently, pursuant to 39 U.S.C. 503, 3622(a), and 3652(e), the Commission is initiating this proceeding to afford the Postal Service (and interested persons supporting its rationales) an opportunity to address the legal, factual, and economic underpinnings of the methodologies used by the Postal Service to develop its proposed First-Class Mail and Standard Mail discount rates in Docket No. R2009-2. In addition, interested persons, including the Postal Service, may submit alternative workshare discount rate design and cost avoidance calculation methodologies. Alternative methodologies must address the legal, factual, and economic bases underlying them.⁵ The foregoing presentations are due no later than 60 days after publication of this Order in the *Federal Register*.

After an opportunity to review those presentations, the Commission will issue a procedural schedule to provide interested persons an opportunity to submit responsive presentations. Depending on the breadth and complexity of issues presented, the Commission may provide an opportunity for hearings and may find it appropriate to bifurcate the proceeding.

Based on the record developed in this proceeding, the Commission will evaluate whether any change in the established workshare discount methodologies, including methods to calculate avoided costs, is warranted. While the established methodologies will continue to be employed until (and if) changed, the Commission emphasizes that the intent of this proceeding is to provide a forum for a thorough examination of these important issues.

⁵ Statements, if any, submitted in support of a party's position must comply with rule 3001.31 of the Commission's Rules of Practice and Procedure.

Pursuant to 39 U.S.C. § 505, the Commission designates Emmett Rand Costich and James Callow to serve as Public Representative to represent the interests of the general public in this proceeding.

It is Ordered:

1. As discussed in the body of this Order, initial presentations may be filed by any interested person no later than 60 days after publication of this Order in the *Federal Register*.
2. Following receipt of the initial presentations, the Commission will issue a further procedural schedule in this proceeding.
3. Pursuant to 39 U.S.C. § 505, Emmitt Rand Costich and James Callow are designated as the Public Representative in this proceeding to represent the interests of the general public.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Steven W. Williams
Secretary