

**BEFORE THE POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001**

Notice of Price Adjustment

Docket No. R2009-2

**COMMENTS OF THE BANK OF AMERICA CORPORATION
(March 2, 2009)**

The Bank of America Corporation (the Bank) respectfully submits these comments in response to the Postal Service's February 10, 2009 Notice of Market-Dominant Price Adjustment (USPS Notice) and PRC Order No. 180, issued February 12, 2009, related to the USPS Notice. These comments will also address some of the issues raised in Commission Information Request No. 1 (CIR No. 1), issued on February 13, 2009.

I. First-Class Mail

In CIR No. 1 the Commission observed that the USPS Notice evaluated First-Class Mail workshare discounts using a methodology that effectively "de-links" single-piece from workshare rates within First-Class Mail. CIR No. 1 at 1. The Commission further observed that the "de-linking" of single-piece and presort First-Class Mail represents a change in established methodology that was not approved since the 2007 Annual Compliance Determination (ACD). See *id.*, at 2-3.

The Postal Service disagrees. The Postal Service contends that (1) it has not changed the methodology used to calculate the relevant cost avoidances, and (2) the issues raised with respect to "delinking" do not implicate a change in

methodology, but rather are legal and definitional in nature. See USPS Response to CIR No. 1 at 1-2.

Both the Commission and the Postal Service recognize that the “de-linking” issue for First-Class Mail specifically, and the issue of whether it is appropriate to measure workshare-related cost avoidances between two distinct products, generally, will have significant and wide-ranging impacts on the Postal Service’s pricing decisions. Accordingly, both the Commission and the Postal Service suggest that these issues be considered in a separate proceeding that is not constrained by the time pressures and limited scope of the current docket. See CIR No. 1 at 3; USPS Response to CIR No. 1 at 5. The Bank agrees. Following the conclusion of the 2008 ACD, the Commission should address this issue in a separate proceeding where public comment could be fully evaluated.

Because the Commission will not have the opportunity to thoroughly examine this issue before the proposed pricing adjustments are scheduled to take effect, the Commission should not disturb the proposed pricing adjustments in this case to accommodate a “re-linked” rate design. A “re-linked” rate design would likely result in higher prices for Presort First-Class Mail letters / cards. The FY 2008 ACR data highlight how much more profitable First-Class Mail Presort letters / cards are than Single-Piece letters / cards. The FY 2008 ACR data show that the unit contribution of First-Class Mail Presort letters / cards (21.8 cents) is nearly five cents more than the unit contribution of First-Class Mail Single-Piece letters / cards (16.9 cents). Thus, First-Class Mail Presort letters / cards is much more “profitable” for the Postal Service than Single-Piece. Retaining highly

profitable First-Class Mail Presort letters / cards is especially important in view of the economic challenges facing the Postal Service and the larger economy. Accordingly, now is a particularly inopportune time for the Commission to force a rate design change that could drive out more profitable mail volume, particularly where, as here, the Commission has not yet had the opportunity to thoroughly examine the issue.

II. Standard Mail

A. The Proposed Pricing Adjustments for Standard Mail Letters Relative to Standard Mail Flats Fail to Achieve the Statutory Objective of Increased Efficiency

The Commission rules require that the USPS Notice include a discussion that demonstrates how the planned pricing adjustments are designed to help achieve the statutory objectives and properly take into account the statutory factors of the Postal Accountability and Enhancement Act (PAEA). See 39 C.F.R. § 3010.14(7). The proposed pricing adjustments fail to achieve the statutory objective of increased efficiency because they continue to impose a disproportionate burden on profitable Standard Mail letters relative to unprofitable Standard Mail flats and thereby send inefficient pricing signals.

The average unit contribution of Standard Mail letters is more than 11 cents greater than the average unit contribution of Standard Mail flats. In FY 2008, Standard Mail (non-Carrier Route) flats' attributable costs exceeded their associated revenues, yielding a unit "contribution" of negative 2.3 cents, while Standard Letters yielded a unit contribution of 8.9 cents. ACR 2008 at 22. The disparity in unit contribution between Standard Mail letters and Standard Mail

flats is inconsistent with the concept of efficient component pricing and with the Commission's previous findings that the letter-flat cost differentials should be fully reflected in rates. See PRC Op. R2006-1, Para 5593. Yet the proposed pricing adjustments for Standard Mail flats is below the price cap at 2.3 percent, whereas the proposed pricing change for Standard Mail letters is 3.8 percent.

While recognizing that Standard Mail flats failed to cover their costs in FY 2008, the Postal Service asserts that there is a continuing need to "moderate increases for catalog mailers," because of recent declines in catalog volumes and because the catalog industry is struggling in the face of the current economic recession. USPS Notice at 15. Thus, the Postal Service attempts to justify the below average increase for Standard Mail flats on the statutory factor urging consideration of "the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters[.]" See *id.*; 39 U.S.C. § 3622(c)(3). The justification offered by the Postal Service is unavailing. In essence, the Postal Service is using economic conditions that affect all mailers as an excuse to play favorites among Standard Mail customers who mail different shapes.

The Bank is not unsympathetic to the economic difficulties catalog mailers are facing, but these same challenges currently face all companies. For example, flats volume losses in the first quarter of FY 2009, approximately 17.3 percent, were substantial, but Standard Mail letter volume also declined significantly, approximately 12.8 percent. Thus, the consideration of the "effect of price increases" is shared by letter mailers as well as catalog mailers. 39 U.S.C.

§ 3622(c)(3). Thus, given the relative contribution between profitable Standard Mail letters and unprofitable Standard Mail flats, continuing to mitigate rates for catalog mailers at the expense of other mailers is inconsistent with sound economic principles and inconsistent with the overriding statutory objective for the Postal Service “to maximize incentives to reduce costs and increase efficiency.” 39 U.S.C. § 3622(b)(1).

Closing the contribution gap between letters and flats by imposing a higher rate increase on unprofitable Standard Mail flats and a lower increase on much higher profit Standard Mail letters would achieve the efficiency objectives of section 3622(b)(1) by helping the Postal Service retain high-profit mail. This is critical in an environment where the Postal Service is also struggling with the direct and indirect effects of the economic recession.

B. Catalogs Are Not Uniquely Price Sensitive, Nor Do They Exhibit a Unique Multiplier Effect

In addition to the reasons explicitly cited in the USPS Notice, two other arguments are often raised in support of moderating pricing increases on Standard Mail flats – (1) catalog volumes are sensitive to postage costs; and (2) responses to catalog solicitations result in more mail volumes (*i.e.*, the multiplier effect). Neither claim is unique to catalogs. While it is true that catalog volumes are affected by postage costs and that catalogs exhibit some multiplier effect, these two factors are also shared by many postal products, including Standard Mail letters. Because these statements are generally true of all marketing mail, they cannot justify mitigating catalog rates at the expense of other Standard Mail.

With respect to price sensitivity, we are not aware of any record evidence regarding relative elasticity of Standard Mail letters and flats.¹ However, anecdotal evidence of how catalogs make mailing decisions is not unlike that described for Standard Mail letter solicitations described in past dockets. See, e.g., PRC Dkt. No. ACR 2008, Initial Comments of ACMA at 5-7; PRC Dkt. No. MC2004-3 (BOC-T-2). Thus, there is no basis to suggest that catalogs are more price sensitive than Standard Mail letters.

As to the multiplier effect, Standard Mail letter solicitations almost certainly have a much greater multiplier effect than Standard Mail flats mailings. Unlike the multiplier effect from successful catalog solicitations (e.g., additional low or negative contribution catalogs and, potentially, package volumes that may or may not be sent via USPS), successful solicitations for financial products (which are almost entirely letters) generate a substantial amount of high-contribution First-Class Mail. For example, a positive response to a credit card solicitation generally results in monthly statements and bill payments, 24 pieces annually. These 24 pieces of First-Class Mail resulting from the successful Standard Mail letter solicitation produce nearly \$5 in profit per year.² Accordingly, if anything, the relative magnitude of the multiplier effect for Standard Mail flats vis-à-vis Standard Mail letters justifies a lower increase for letters.

Accordingly, the disparity in unit contribution between Standard Mail letters and Standard Mail flats should be rectified in this rate adjustment.

¹ This is because USPS still reports combined price elasticity for all Standard Mail Commercial non-Carrier Route pieces.

² 12 x \$0.169 unit contribution of Single-Piece Letters/Cards + 12 x \$0.218 unit contribution of Presort Letters/Cards. See ACR at 18.

Specifically, the Commission should direct the Postal Service to revise the proposed pricing adjustments to require Standard Mail flats to cover their attributable costs. This would result in an above average pricing increase for flats and a below average pricing increase for letters. Although unit contribution of Standard Mail letters would still significantly exceed the unit contribution of Standard Mail flats, requiring flats to cover their attributable costs would signal an important, incremental move toward achieving the efficiency objectives of the PAEA.

III. CONCLUSION

The Bank appreciates the Commission's consideration of these comments.

Respectfully submitted:

/s/

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