

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Mail Classification Schedule Change
(Negotiated Service Agreements)

Docket No. MC2012-1

ORDER APPROVING MAIL CLASSIFICATION CHANGES

(Issued January 4, 2011)

On December 20, 2011, the Postal Service filed a notice pursuant to 39 CFR 3020.90 and 3020.91 concerning a classification change related to negotiated service agreements (NSAs).¹ The Commission accepts the classification changes described in the Postal Service's Notice with the clarification that to the extent the option is available in NSAs it must be presented clearly.

Description of classification change. The Postal Service proposes to clarify that it may offer alternative postage payment methods for customers of market dominant and competitive NSAs. *Id.* at 1. Changes would only apply to customers that sign an NSA with the Postal Service which includes a customer-specific postage payment term. *Id.*

¹ Notice of Minor Classification Changes, December 20, 2011 (Notice).

The Notice includes proposed revisions to the Mail Classification Schedule (MCS). *Id.* at 3. The classification changes would become effective on January 5, 2012. *Id.* at 1.

Comments. Comments were filed by the Public Representative.² The Public Representative states that the current practice for the payment of NSAs involves low risk because the mailer prepays into an account, which guarantees funds available to the Postal Service. PR Comments at 2. She also states that the new method of payment would increase operational risk from Automated Clearing House (ACH) transactions, and that the Postal Service should put processes in place to ensure it receives authorizations and to validate transactions. *Id.* In addition, the Public Representative raises the concern that the added language does not specify the alternate methods of payment, and that it could be broadly interpreted to allow payment methods involving more risk. *Id.* at 3. The Public Representative recommends that the Commission deny the proposed classification change. *Id.*

Comments were also filed by the Direct Marketing Association (DMA).³ DMA states that requiring postage payment at the time mail is entered at a postal facility is inconsistent with the practice of suppliers providing trade credit, and that the current requirement could increase cash flow issues and prevent an increase in mail volume. DMA Comments at 1. It argues that alternative postage payment methods should be encouraged in order to grow mail volume. *Id.*

Commission analysis. Rule 3020.90 requires that the Postal Service ensure that product descriptions in the MCS accurately reflect its current offerings. Notices filed pursuant to rule 3020.90 *et seq.* must be relatively minor in nature and may not entail modifying either the market dominant or the competitive product list.

While the Postal Service's proposal represents a significant change from its current practice as it will no longer be receiving payment up front, it does not constitute a modification of the product lists. As the Public Representative points out, the alternate

² Public Representative Comments Concerning Negotiated Service Agreements Classification Schedule Change, December 29, 2011 (PR Comments).

³ Comments of the Direct Marketing Association, December 29, 2011 (DMA Comments).

payment methods, including ACH transactions, are not without risk. As DMA notes, however, the practice is followed in other industries. The Commission is unaware of any prohibition which would bar its use by the Postal Service. Moreover, under 39 U.S.C § 404(a)(2), the Postal Service has the specific power to prescribe, in accordance with title 39, “the amount of postage and the manner in which it is to be paid.” Accordingly, the Commission accepts the classification changes specified in the Postal Service’s Notice and shall make conforming modifications to the draft MCS.

To ensure the changes are implemented without confusion, future NSAs should specify the alternative postage payment method being utilized.

It is ordered:

1. The proposed changes are in accordance with 39 CFR § 3020.90 *et seq.* and are not inconsistent with 39 U.S.C. § 3642.
2. Conforming modifications will be made to the draft Mail Classification Schedule.
3. Future NSAs should specify the alternative postage payment method being utilized.

By the Commission.

Shoshana M. Grove
Secretary