OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Federal Salary Council will meet on October 19, 2009, at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

At the October 19 meeting, the Council will hear requests for changes in locality pay areas, review the results of pay comparisons and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay area boundaries for 2011. The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to submit testimony or present material to the Council at the meeting.

DATES: October 19, 2009, at 10 a.m.

Location: Office of Personnel Management, 1900 E Street, NW., Room 1350, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Office of Personnel Management, 1900 E Street, NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–4264; or e-mail at *pay-performance-policy@opm.gov*.

For the President's Pay Agent.

John Berry,

Director.

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POSTAL REGULATORY COMMISSION

[Docket No. R2009–5; Order No. 299]

Postal Service Incentive Pricing Program

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Postal Service has prepared, and the Commission has approved, a special program offering reduced rates on certain presorted First-Class Mail. This document addresses related issues and provides pertinent details.

DATES: Effective September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov*.

SUPPLEMENTARY INFORMATION: *Regulatory History,* 74 FR 41947 (August 19, 2009).

I. Introduction

A. Overview

The Postal Service proposes to offer eligible companies a 20 percent postage rebate on qualifying presorted First-Class letter, flat, and card volumes mailed between October 1, 2009 and December 31, 2009.[1] Under the proposal, which the Postal Service calls the First-Class Mail Incentive Program (Incentive Program), qualifying volume is defined as a single company's First-Class Mail volume over and above a predetermined threshold. Notice at 3. For reasons discussed below, the Commission approves the Incentive Program.

The Incentive Program is designed as ''a short-term incentive to use the mail and stabilize or grow'' presorted First-Class Mail volume in response to the current economic downturn and declining mail volumes. *Id.* The Postal Service estimates that the Incentive Program will generate additional revenue of $43 million with a net contribution of about $24 million. *Id.* at 7.

The Commission recognizes the serious circumstances giving rise to this proposal and finds it to be a worthwhile effort to generate new volumes of First-Class Mail, the Postal Service's flagship product. The Postal Service cites the Incentive Program as ''an example of the increased flexibility provided to the Postal Service under the [PAEA].'' *Id.* at 10. The Commission agrees.

The Commission must comment however, that the Postal Service's filing, including its responses to Chairman Information Requests, unnecessarily delayed this decision.[2] For example, the Postal Service initially failed to provide basic information needed to verify its volume and revenue projections, and it provided an imprecise and thereby confusing description of program eligibility, questionable volume assumptions, and a less-than-complete risk analysis. These problems hampered prompt Commission review.

The revamped ratemaking process mandated by the PAEA assigns complementary roles to the Postal Service and the Commission. The Postal Service's pricing flexibility with its attendant shortened review period requires that pricing adjustment filings be fully documented at submission and supported throughout the course of review to permit the Commission to analyze such filings adequately during the accelerated review periods. The failure to provide full documentation at the outset compromises the Commission's ability to thoroughly and expeditiously evaluate proposals.

The Commission's rules implementing 39 U.S.C. 3622 require filings to be fully supported. Moreover, the Commission has too frequently had to reiterate the need for Postal Service pricing proposals to be adequately supported and to adhere to accepted analytical principles. While not disqualifying in this instance, the Commission finds it necessary to underscore that future pricing adjustment filings must be fully supported and documented to enable the Commission to adequately assess their merits in timely fashion. Otherwise, the Commission will be obliged to defer action on such proposals pending the development of a more complete record.[3]

[1] United States Postal Service Notice of Market-Dominant Price Adjustment, August 11, 2009 (Notice) and Notice of United States Postal Service of Filing Supplemental Information, August 14, 2009 (Supplemental Notice). The latter provides a spreadsheet with additional data on the Incentive Program's financial impact. The Postal Service published implementing regulations in the **Federal Register** on September 2, 2009. *See* 74 FR 45325 (September 2, 2009).

[2] The Notice was filed pursuant to 39 U.S.C. 3622, as amended by the Postal Accountability and Enhancement Act (PAEA) of 2006, and 39 CFR part 3010, the Commission's regulations governing market dominant price adjustments.

[3] As discussed below, the Postal Service's responses to Chairman's Information Requests, including its last, late response filed September 10, 2009, were deficient in several respects and hindered the Commission's ability to evaluate the Incentive Program fully. Although still within the statutory deadline, this order was delayed, and issued two days later than planned.

B. Procedural History

The Postal Service filed a Notice announcing the Incentive Program with the Commission on August 11, 2009. As supplemented, it describes basic aspects of the Incentive Program, discusses compliance with the price cap, assesses consistency with the objectives and factors of § 3622, and provides the Postal Service's perspective of the impact on workshare discounts and preferred rates. Proposed Mail Classification Schedule language and a schedule of new prices appear in Appendix A.

In Order No. 276, the Commission provided public notice of the filing, established Docket No. R2009–5 to consider matters raised therein, appointed a public representative pursuant to rule 3010.13(a)(4), and set August 31, 2009 as the deadline for submission of comments.[4]

The Chairman issued three Information Requests.[5] The Information Requests, to which the Postal Service responded, pursued theoretical and technical aspects of the Postal Service's risk analysis.[6]

Parcel Shippers Association, Pitney Bowes Inc., and the Public Representatives filed formal comments.[7] Several persons filed informal comments through the Commission's Office of Public Affairs.

II. Description of the Incentive Program

The Incentive Program gives eligible participants a 20 percent postage rebate on qualifying presort First-Class letters, flats, and cards mailed between October 1, 2009 and December 31, 2009. Notice at 1. Qualifying volume is defined as a single company's First-Class Mail volume over a predetermined threshold. *Id.* at 3. To be eligible to participate in the Incentive Program, a company must have mailed 500,000 or more non-parcel presorted First-Class Mail pieces between October 1 and December 31 in both 2007 and 2008 through company-owned permit accounts or through permits set up on the company's behalf by a Mail Service Provider (MSP). *Id.* Participants must then exceed a company-specific threshold during October 1, 2009 through December 31, 2009 to qualify for the incentive rebate.[8] The incremental volume mailed by an eligible, participating company above the calculated threshold will earn a 20 percent rebate.

Rebate calculation; credit. The rebate will be calculated as 20 percent of the average revenue per piece for all eligible mail volume during the program period multiplied by the incremental volume above the threshold during the program period. It will be credited to the company's permit trust account. *Id.*

Incentive Program intent. The stated intent of the Incentive Program is to provide an incentive for customers to increase non-parcel First-Class Mail presorted volume above the volume they otherwise would have sent. To protect this core element of the Incentive Program, the Postal Service includes provisions to address the possibility of strategic shifting or withholding of volume. *Id.* at 4.

Incentive Program administration. The Notice addresses several aspects of program administration, including methods for contacting eligible mailers; procedures for establishing company thresholds and crediting rebates to permit trust accounts; data collection and reporting (including filing some data under seal); financial impact; and risk. *See generally id.* at 4–8. Importantly, further clarification was provided when implementing regulations were published in the **Federal Register.** 74 FR 45325 (September 2, 2009). The implementing regulations further describe the process the Postal Service will follow to notify potential participants, how mailers who are not contacted can apply, and provide details on development of both of the volume threshold requirements. They also clarify that metered mail will be eligible and that some customers of MSPs can participate. *See* Pitney Bowes Comments at 4.

Under the Postal Service's proposed data collection plan, the Postal Service would submit Incentive Program-related data to the Commission 90 days after the payment of incentive rebates. The Notice describes specific components of the plan, notes that some participant data will be filed under seal, and states that actual administrative costs will be identified. *Id.* at 6.

With respect to the financial aspects of the Incentive Program, the Postal Service expects, based on the 20 percent rebate and the expressed interest of customers, a contribution increase of around $24 million and a revenue increase, net of the 20 percent rebate, of $43 million. It anticipates new volume of about 103 million pieces, which it says will generate about $31 million in additional revenue and $16 million in contribution. It also expects about 103 million pieces to ''buy up'' from Standard Mail, providing an additional $12 million in revenue and $8 million in contribution. *Id.* at 7. Administrative costs are expected to total $809,000, and to be easily covered by the contribution generated from additional volume. *Id.*

The Postal Service's primary measure of success will be incremental revenue and volume growth over the threshold for participating customers, but qualitative aspects, such as the Postal Service's ability to efficiently and effectively administer the program and customer feedback, also will be monitored. *Id.* at 5–6.

III. Comments

In separate filings, PSA, Pitney Bowes and the Public Representatives advocate Commission approval of the Incentive Program; commend the Postal Service for exercising its § 3622 authority in developing the Incentive Program; and note that the Incentive Program may provide experience to build on in the future. *See generally* PSA Comments at 1; Pitney Bowes Comments at 1–2; and Public Representatives' Comments at 4.

PSA does not condition its approval on further clarifications or additional information, but reiterates a concern it raised in the Summer Sale over the lack of lead time, given the planning time needed to produce mailings.[9] PSA Comments at 1. However, Pitney Bowes' and the Public Representatives' support is qualified, conditioned on either clarifications or submission of additional explanation, data and information. Pitney Bowes Comments at

[4] PRC Order No. 276, Notice and Order Concerning Incentive Pricing Program for Certain Presorted First-Class Mail, August 13, 2009. 74 FR 41947 (August 19, 2009) (Order No. 276).

[5] Chairman's Information Request No. 1, August 14, 2009 (CHIR No. 1); Chairman's Information Request No. 2, August 27, 2009 (CHIR No. 2); and Chairman's Information Request No. 3, September 4, 2009 (CHIR No. 3).

[6] Responses of the United States Postal Service to Chairman's Information Request No. 1, August 21, 2009 (Response to CHIR No. 1); Responses of the United States Postal Service to Chairman's Information Request No. 2, September 2, 2009 (Responses to CHIR No. 2); Response of the United States Postal Service to Chairman's Information Request No. 3, Question 2 (September 9, 2009) (Response to CHIR No. 3, Question 2); Response of the United States Postal Service to Chairman's Information Request No. 3, Question 1, September 10, 2009 (Response to CHIR No. 3, Question 1); and Motion of the United States Postal Service for Late Acceptance of Response to Chairman's Information Request No. 3, Question 1, September 10, 2009.

[7] Comments of the Parcel Shippers Association (PSA Comments); Comments of Pitney Bowes Inc. (Pitney Bowes Comments); and Comments of the Public Representatives (Public Representatives' Comments), all filed August 31, 2009.

[8] This threshold is determined by computing the ratio of the October 1–December 31, 2008 non-parcel First-Class Mail presorted volume to the October 1–December 31, 2007 non-parcel First-Class Mail presorted volume. The result is then multiplied by the company's October 1–December 31, 2008 non-parcel First-Class Mail presorted volume. *Id.*

[9] *See* Docket No. R2009–3, Notice of Price Adjustment (Summer Sale).

1 and 4; Public Representatives' Comments at 12.

Pitney Bowes seeks two clarifications, which it considers important in terms of allaying confusion and ensuring that all eligible mailers take advantage of the program. One would make it clear that metered mail counts toward satisfying the initial volume eligibility threshold and as qualifying volume during the sale period. The other would make it clear that metered mailings are also eligible for the rebate. Pitney Bowes Comments at 4. Apart from this, Pitney Bowes says it plans to encourage customers to participate, and plans to provide assistance in validating the volume data required for program participation. *Id.* at 3. It also expresses interest in working with the Postal Service on developing additional incentive programs, including ones in which MSPs can directly participate, to increase the use and value of mail and improve the future profitability of the Postal Service. *Id.*

The Public Representatives affirmatively support many aspects of the Incentive Program, but seek some additional clarification, explanation and data (before issuance of the Commission's order) and a more robust data collection plan. The material requested before approval consists of:

(1) Clarification of an alleged inconsistency (in the Postal Service's discussion of protection against migration) between statements in this case and in the Summer Sale with respect to cross-elasticities;

(2) An explanation for the choice of different periods to determine volume thresholds for this Incentive Program and the Summer Sale; and

(3) Information and data required in the rules for negotiated service agreement (NSA) filings, based on Postal Service references to ''NSA treatment'' for certain matters in this case.

Public Representatives' Comments at 4–6 and 9.

The Public Representatives also urge the Commission to require the Postal Service's final report to include, in addition to what the Postal Service offers to provide:

(1) An analysis that permits the analysis described in PRC Op. MC2004–3 [10] (Bank One Reconsideration) and later cases;

(2) A narrative explanation of problems experienced with implementation of the Incentive Program;

(3) Identification of any necessary or desirable improvements to Postal Service data systems identified as a result of implementing the Incentive Program;

(4) A summary of customer expressions of satisfaction or dissatisfaction with the Incentive Program;

(5) A discussion of any generic weaknesses with, or strengths associated with, the Incentive Program concept; and

(6) Identification or discussion of any other information gained from the Incentive Program the Postal Service deems relevant or pertinent. *Id.* at 9–11.

IV. Commission Analysis

Preliminary consideration: type of classification. It has been asserted that the Postal Service should be required to meet filing and reporting requirements for NSAs because, among other things, it has invoked the treatment accorded NSAs for purposes of assessing price cap compliance in this case. *Id.* at 8–9. While elements of the Incentive Program may have characteristics in common with an NSA, which is a type of ''special classification'' referred to in 39 U.S.C. 3622(c)(10), the facts on this record support viewing it as a generic special classification under this section, as it is available ''on public and reasonable terms to similarly situated mailers.'' In this sense, it is more closely analogous to a ''niche classification'' under the Postal Reorganization Act of 1970 than to an NSA.

Impact on the price cap. The Postal Service proposes that for purposes of assessing price cap compliance in this case, the Incentive Program be treated as mathematically analogous to negotiated service agreements in rule 3010.24, as occurred in Docket No. R2009–3, the Summer Sale. Notice at 8. Accordingly, it does not intend to include calculation of the effect of the price decrease resulting from the Incentive Program on the price cap for both future and current prices, and therefore, it did not calculate the cap or price changes described in rule 3010.14(b)(1) through (4). *Id.* No opposition has been raised on this record to using the Postal Service's proposed approach.

As the Postal Service correctly notes, the question of whether a rate decrease should affect the cap calculation and unused rate adjustment authority arose in the recent Summer Sale docket. The Commission again finds it appropriate to accept the Postal Service's approach to price cap compliance, given the Incentive Program's short duration and uncertainty over the amount of new volume that will be generated.

Assessment of consistency with statutory objectives and factors. The Notice provides, in compliance with Commission rules, the Postal Service's assessment of how the Incentive Program helps achieve the objectives of 39 U.S.C. 3622(b) and properly takes into account the factors of 39 U.S.C. 3622(c).[11] *Id.* at 8–13. With respect to section 3622(b) objectives, the Postal Service asserts that the Incentive Program either does not substantially alter the degree to which First-Class Mail prices already address these objectives, or the objectives are addressed by the design of the system itself (Objectives 1, 2, 3, 6, 7, 8 and 9). *Id.* at 10. It says the Incentive Program is an example of the increased flexibility provided to the Postal Service by the PAEA (Objective 4). It also says that the objective of ensuring adequate revenues to maintain financial stability (Objective 5) would be furthered by the Incentive Program's increase in mail volumes and its support for a key customer segment. *Id.*

With respect to § 3622(c), the Postal Service says the Incentive Program does not substantially alter the degree to which First-Class Mail prices address most of the factors (Factors 1, 4, 5, 6, 8, 9, 10, 11, 12, 13, and 14). *Id.* at 10. Pursuant to § 3622(c)(10), a special classification's consistency with the statute is to be evaluated in terms of whether it improves the net financial position of the Postal Service through increasing overall contribution to the institutional costs, and does not cause unreasonable harm to the marketplace. 39 U.S.C. 3622(c)(10)(A)(i) and (B). The Commission finds that there is a reasonable likelihood that the Incentive Program will meet both prongs of this test. It also concludes that the Postal Service's references to NSA-style treatment for some aspects of reviewing this Incentive Program do not trigger application of NSA reporting and filing requirements.

As to other factors, the Postal Service asserts that the Incentive Program addresses Factor 3 (effect on business mail users) by providing assistance to a key customer segment during the severe economic downturn; and that the Incentive Program will not affect the ability of First-Class Mail to cover attributable costs. *Id.* at 12–13. It adds that the Incentive Program is ''a prime example of how the Postal Service can utilize the pricing flexibility provided under the PAEA in order to encourage increased mail volume.'' *Id.* at 12. It maintains that the Incentive Program will help to counteract the effect of the current recession on business mailers,

[10] The Public Representatives cite the analysis that appears at PRC Op. MC2004–3, paras. 5001–38.

[11] *See* Commission rules 3010.14(b)(5) through 3010.14(b)(8).

and provide a boost to a key customer segment. It also says that although the rebates are material, the Incentive Program will not affect the ability of First-Class Mail to cover its attributable costs (Factor 2), and that as a result of the Incentive Program, First-Class Mail as a whole will make an increased contribution toward overhead costs (Factor 10). *Id.* at 12–13.

The Commission accepts the Postal Service's reasoning with respect to the statutory objectives and factors, and finds the Incentive Program consistent with those that are applicable.

Workshare discounts. The Postal Service states that to the extent the Incentive Program affects discounts between presort categories, it will shrink them, but asserts that the Incentive Program itself is not worksharing, nor should its effects be considered a modification of, or change to, First-Class Mail worksharing discounts. *Id.* at 13. It asserts that the Incentive Program is a temporary incentive intended to drive additional First-Class Mail presort volume and, as such, is not tied to any specific mail preparation or induction practice. *Id.* It suggests that the discounts, in this sense, are similar to the incremental discounts the Commission has approved in a number of negotiated service agreements or the Intelligent Mail barcode discount that will take effect in the fall. *Id.*

The worksharing issue is the subject of a pending docket, RM2009–3. For purposes of this case, the Commission finds that the rebates, given the brief duration of the program, could have only a *de minimis* impact. Thus, it finds that the Incentive Program is not inconsistent with § 3622(e) requirements.

Preferred rates. The Commission agrees with the Postal Service's assertion that the Incentive Program will have no impact on any preferred rates.

Financial impact. The Postal Service estimates that the Incentive Program will increase revenues by approximately $43 million, and increase contribution by about $24 million. It also expects to incur $809,000 in administrative expenses related to the Incentive Program. *Id.* at 7.

In response to CHIR No. 1, the Postal Service explains that its estimates are based on an assumed 2 percent increase in eligible mail volume in response to the discount, split evenly between new First-Class Mail (own-price response) and volume shifted from Standard Mail to First-Class Mail (cross-price response). These assumptions are based on conversations with mailers and inferences from Summer Sale data. The response also indicates that the projected own-price volume response is distributed among letters, flats, and cards based on the FY 2008 First-Class Mail presort volumes for those shapes, and that the cross-price response is similarly distributed, except that cards are excluded from the distribution key. Response to CHIR No. 1, Question 1.a.

The Postal Service provides the aggregate volumes used to establish eligible mailers' volume trends and discount thresholds in response to CHIR No. 3, Question 1.[12] The spreadsheet attached to the response shows the share of total First-Class Mail presort sent by eligible mailers (91 percent), the trend in eligible mailers' volumes from fall 2007 to fall 2008 (a 7.1 percent decline), and the key used to distribute the own-price volume response to letters, flats, and cards. Response to CHIR No. 3, Question 1.

The Commission finds the Postal Service's estimates deficient in several ways. The initial filing and responses did not present the calculations and assumptions needed to verify the results asserted by the Postal Service. It was only in response to the third information request that the basic data needed for this task was provided, and upon review of that data, questions remain.

One concern relates to the source of the volumes sent by eligible mailers, identified as the Corporate Business Customer Information System (CBCIS). Previously, the Postal Service indicated that 40 percent of presorted First-Class Mail volume captured in the CBCIS is comprised of volume from MSPs and, therefore, could not be identified with a particular mail owner. Response to CHIR No. 2, Question 1.a. It is not clear how the Postal Service is able to determine how much of that mail was sent by eligible mailers if it has not determined by whom it was sent.

The key used to distribute the forecast volume response between letters, flats, and cards also raises questions. The Postal Service indicates that the key is the distribution of FY 2008 presorted First-Class Mail volumes. Using volume figures from the FY 2008 Revenue, Pieces, and Weight (RPW) report, the Commission calculates a distribution that is substantially different. For example, RPW data indicate that presort flats are about 1.5 percent of total presort letters, flats, and cards, and not 7.6 percent as in the key used by the Postal Service. This discrepancy manifests in the Postal Service's FY 2010 first quarter (before-rates) eligible flats volume forecast of 779 million pieces. This represents a 477 percent increase over the same period in FY 2009 (135 million pieces).

The distortion caused by this distribution key is compounded by the treatment of the volume projected to shift from Standard Mail (cross-price response). Instead of distributing this volume on a key that excludes cards, the Postal Service divides the volume that its key would distribute to cards evenly between letters and flats.

Another problem in the Postal Service's forecast lies in its use of an assumed total volume response to the Incentive Program of 2 percent, evenly divided between own-price and cross-price response. This assumption is based solely on conversations with mailers rather than available empirical information about the price sensitivity of presorted First-Class Mail. The Postal Service asserts that the available estimated price elasticities cannot be applied to the Incentive Program discounts because they apply only to marginal volume. It believes that the volume response implied by the elasticities should only be applied to the marginal volume, which is unknown beforehand. Response to CHIR No. 1, Question 1.b.

This theoretical question was thoroughly explored in the first case before the Commission involving marginal discounts as an incentive for increased volume. In support of the joint Postal Service/Capital One proposal, Capital One witness Elliott estimated the volume response by applying available elasticities to the marginal discounts in the same manner as if the price change was for the entire volume. When questioned about the use of total volume, he defended his approach by explaining that "it is essential to understand that the resulting price elasticities are estimates about *marginal* changes in behavior. The importance of examining the behavior of economic decision makers at the margin is one of the basic insights of modern microeconomics." [13] He further explained that a marginal discount "allows the Postal Service to provide the same marginal incentive for volume growth as with a single-price discount on all mail, while requiring that the discount be paid on only part of that mail." *See* Docket No. MC2002–2, Tr. 2/223–24. (Emphasis in original.)

[12] The Postal Service's forecast assumes that the thresholds are equal to the volume that would have been sent absent the Incentive Program (before-rates volumes).

[13] *See* Docket No. MC2002–2, Experimental Changes to Implement Capital One NSA, Direct Testimony of Stuart Elliott on Behalf of Capital One Services, Inc., September 19, 2002.

In the same case, the method of applying elasticities to total volume for marginal price changes was adopted in the testimony of Postal Service witness Eakin.[14] The Commission accepted this Postal Service analysis.

The Commission has continued to use the elasticity-based approach to estimating the response to marginal pricing incentives. *See* Opinions and Recommended Decisions, Docket Nos. MC2002–2, MC2004–3, MC2004–4, MC2005–2, MC2005–3, MC2007–4, MC2007–5 and R2009–3; *see also* NSA sections of ACD2007 and ACD2008.[15] This basic method is an accepted analytical principle described in Order No. 104 as ''the analytical principle that the financial impact of price incentives to increase mail volume or shift mail volume between products should be based on the Postal Service's best estimate of the price elasticity of the discounted product.''[16]

The First-Class Mail presort letter price elasticities[17] most relevant to evaluating the likely effects of the Incentive Program are the current own-price elasticity (which measures the change in volume in response to a change in the price, without the lag effects of quarters subsequent to the price change) and the Standard Mail discount elasticity (which measures the change in volume in response to a change in the difference between the price of First-Class Mail presort letters and Standard Regular letters). The values of these are −0.025 and −0.079, respectively. *See* United States Postal Service FY 2008 Demand Analysis Materials Market Dominant, January 16, 2009. These elasticities are not estimated specifically for the eligible mailers or other unique aspects of the price change embodied in the Incentive Program. However, the Postal Service estimates that more than 90 percent of presorted First-Class Mail (non-parcels) is sent by eligible mailers, making it a very large subset of the mail reflected in the elasticity. Using an empirically derived price elasticity to estimate the response to a price change is superior to anecdotal information gleaned from conversations with individuals.

The low current own-price elasticity suggests that the Incentive Program is unlikely to generate a substantial volume of new mail. This is especially true in light of the low (−0.365) t-statistic of the coefficient.[18] *Id.* The discount elasticity and the relatively large percentage change in the difference between First-Class Mail presort rates and Standard Regular Mail rates for eligible mailers suggest that there is likely to be a meaningful shift of Standard Regular Mail letters to First-Class Mail presort letters. The Postal Service will benefit significantly from this response where eligible mailers' thresholds are set low enough to be achievable and high enough to avoid excessive discounts on mail that would have been sent even in the absence of the agreement.

Risk assessment. The Postal Service identifies two sources of potential risk: The possibility for a smaller than expected volume response to the Incentive Program discounts and that administrative costs could be higher than anticipated. Notice at 7–8.

When asked about the risk of revenue leakage on discounts paid on mail that would have been sent regardless of the Incentive Program discounts, the Postal Service replied that it had not formally analyzed the risk. It stated that the risk was mitigated by the use of a mailer-specific volume trend to set each mailer's threshold and by targeting mail owners, rather than MSPs. Response to CHIR No. 1, Question 2.

The risk of revenue leakage due to a threshold that is below the volume that would have been sent absent the Incentive Program is of concern. Post hoc analysis of data from NSAs suggests that the difficulty of accurately forecasting before-rates volumes has prevented the volume incentive provisions of NSAs from achieving their full potential. In some cases, significant revenue leakage has occurred, while in others, mailers' volumes have fallen far short of their discount thresholds. *See* ACD2008 at 83–84.

The use of each mailer's individual volume trend in setting the thresholds is likely to reduce the risks, as compared with other methods such as applying an average trend to all mailers or assuming no change from the previous year. The adjustment for shortfalls in mailers' September and January volumes also should provide some protection against volume shifting by participants. Nevertheless, no forecasting method is flawless, and given the relatively low sensitivity of presorted First-Class Mail volume to price changes, and its relatively higher sensitivity to non-price variables (*e.g.,* employment), the potential for the Incentive Program to fall short of expectations due to threshold-related risks is real. The success of the program cannot be measured simply by assuming that all volume above the thresholds is increased volume attributable to the discount, as the Postal Service proposes. Notice at 5.

An additional source of risk is the potential for discounts to be paid on mail that has merely been shifted from one permit to another. The most likely way for this to occur is if the mail owner is not properly identified for each time period used to determine thresholds and discounts. Therefore, it is important to properly identify all mail volumes for each participating mailer, including volumes sent through MSPs. The recent spate of mergers and/or acquisitions in the financial industry are an example of the challenges in identifying all mail owned by participating mailers. The Postal Service plans to identify all of the use of MSPs and mergers by participants. *See id.,* and Response to CHIR No. 2, Question 2.

The Commission's prescribed data collection plan is intended to monitor these risks and generate information that will inform the risk analysis and risk mitigation mechanisms of future proposals of a similar nature.

Conclusion. The Commission is unable to confirm the Postal Service's estimated financial impact, in part, due to the lack of information until very late in the proceeding and the remaining issues with the Postal Service's estimate, which are described above. However, available data suggest that Postal Service contribution will be increased by the migration of Standard Regular Mail to presorted First-Class Mail. The amount of offsetting revenue leakage in the form of discounts paid for presorted First-Class Mail that would have been sent regardless of the Incentive Program is an empirical matter that cannot be forecast with the available information. The data collection plan, described below, will provide information which will enable a more complete post hoc analysis of the financial effects of the Incentive Program. The results of the analysis will

[14] *See id.,* Rebuttal Testimony of B. Kelly Eakin on Behalf of United States Postal Service, February 25, 2003.

[15] *See* Docket No. ACR2007, FY 2007 Postal Regulatory Commission Annual Compliance Determination, United States Postal Service Performance FY2007, March 27, 2008 (ACD2007); and Docket No. ACR2008, FY 2008 Annual Compliance Determination, March 30, 2009 (ACD2008).

[16] *See* Docket No. RM2008–4, Notice of Proposed Rulemaking Prescribing Form and Content of Periodic Reports, August 22, 2008, at 9 (Order No. 104). The order further explains that ''with the appropriate justification and explanation, reasonable proxies may be used for [elasticities] and other mailer-specific traits.'' *Id.*

[17] The Postal Service's price elasticity estimates are developed for four categories of First-Class Mail: Single-piece Letters and Sealed Parcels, Presort Letters and Sealed Parcels, Single-piece Cards, and Presort Cards.

[18] The t-statistic indicates that the own-price volume response may not be significantly different from zero. This contrasts with the t-statistic of the Standard Regular Mail discount elasticity (−1.885), which indicates that the coefficient is, statistically speaking, significantly different from zero.

inform the design and risk analysis of future volume incentives, thereby increasing their benefits and reducing their risks. In future proposals of this nature, the Commission expects the Postal Service to apply accepted analytical principles and fully present all calculations, document all inputs, and explain all assumptions in the initial filing.

Data collection. The data collection plan for the Incentive Program established by the Commission balances the need to avoid imposing excessive regulatory burden on the Postal Service with the need for the Commission and the public to have sufficient information to perform the effective regulatory oversight contemplated by the PAEA. The data provision requirements established herein should not impose any burden on mailers taking advantage of the Incentive Program.

The Postal Service proposes to file the following data 90 days after the payment of rebates to qualifying mailers. Notice at 6.

1. For each eligible mailer, monthly volume and revenue figures for First-Class Mail letters by product, flats by product, and cards by product for the months of September 2007 to January 2008, September 2008 to January 2009, and September 2009 to January 2010; [19]

2. Information on rebates paid, with supporting calculations;

3. For each eligible mailer, monthly permit volumes for Standard Mail letters and flats; [20]

4. The monthly information identified in paragraph 1 above, on an aggregated basis; and

5. The actual administrative costs of the Incentive Program.

The Commission concludes that to fully evaluate the Incentive Program, the Postal Service's proposed plan should be enhanced in certain respects to parallel data collection requirements adopted in Docket No. R2009–3 concerning the volume incentive pricing program for Standard Mail. *See* Docket No. R2009–3, PRC Order No. 219, Order Approving Standard Mail Volume Incentive Pricing Program, June 4, 2009, at 14.

Information necessary for evaluating the Incentive Program shall be provided within 15 days after crediting of rebates to qualifying mailers.[21] The Postal Service offers no explanation for delaying reports beyond the due dates established in the Summer Sale. If the Postal Service can justify additional delay, it may request an adjustment of this requirement. Mailer-specific data may be filed under seal. The Postal Service shall report the following data:

1. For each eligible mailer, the Postal Service shall provide monthly volumes and revenues for all presorted First-Class Mail letters, flats, and cards, including residual mailpieces entered as part of presort mailings, for the period October 2006 through January 2010;

2. Information on rebates paid to each qualifying mailer, with supporting calculations;

3. To account for acquisitions and mergers, data are to be reported separately for each company involved on (i) a pre-acquisition or pre-merger basis, and (ii) for the combined company, on a post-acquisition or post-merger basis, with appropriate links between the sheets for each company involved in the acquisition or merger; [22]

4. For each eligible First-Class Mail user, the Postal Service shall provide monthly permit volumes for Standard Mail Letters and Flats for the periods identified in paragraph 1, above;

5. The monthly information identified in paragraphs 1 and 4 above, on an aggregated basis; and

6. The actual administrative costs of the Incentive Program.

The data collected is designed to provide stakeholders and the public with the ability to evaluate the program's impact on Postal Service volumes, revenues, and costs. Like the Summer Sale, the Incentive Program is largely experimental. Thus, data reporting is perhaps the most critical output of the proposal and, as such, it must be robust enough to enable the Commission (and others) to reasonably measure the merits of the instant program. What is learned may guide the design and analytical review of any future Postal Service programs of a similar nature.

V. Ordering Paragraphs

It is ordered:

1. The Commission approves the First-Class Mail Incentive Program.

2. Within 15 days after crediting rebates to qualifying mailers, the Postal Service shall file with the Commission data to be reported on the First-Class Mail Incentive Program as set forth in this order.

3. The Motion of the United States Postal Service for Late Acceptance of Response to Chairman's Information Request No. 3, Question 1, filed September 10, 2009, is granted.

4. The Secretary of the Commission shall arrange for publication of this Order in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

Appendix A—First-Class Mail Incentive Data Collection Plan and Rebate Calculation Information

This Appendix contains an outline of the First-Class Mail Incentive Data Report contents as specified in this order. The template is presented to help clarify the disaggregation by product, shape, and time period as described in the order.

The specific format of the report may be tailored to fit the presentation format of the data generation programs of the Postal Service, but should be in a broadly available electronic format such as Microsoft Excel.

Workbook (1), Mailer Information, contains the disaggregated Volume and Revenue information to be reported for each mailer eligible for the Incentive Program. This tab and the Incentive Rebate calculations contained therein should be replicated for each eligible mailer. For mailers party to a merger or acquisition, separate tabs for each pre-merger (or pre-acquisition) entity are to be provided, with links to the tab for the post-merger (or post-acquisition) entity.

Workbook (2), Aggregate Information, contains the Volume and Revenue categories as they appear in tab (1). The Incentive Aggregate Incremental Volume and Aggregate Rebate should be a summation calculation linked to each Mailer Information tab so that each volume and revenue figure represents the total for all eligible mailers for the relevant month.

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[19] The Postal Service defines eligible mailer as ''a company [that has] mailed 500,000 or more non-parcel First-Class Mail pieces between October 1 and December 31 in both 2007 and 2008, through permit accounts owned by the company, or through permits set up on behalf of the company by a Mail Service Provider (MSP).'' *Id.* at 3.

[20] The Postal Service proposes that the information reported in paragraphs 1, 2, and 3 be filed under seal with mailers' identities masked. *Id.* at 6.

[21] *See* Appendix A for a tabular representation of the content and form of the data to be provided.

[22] Mailers' identities may be masked using a generic identification number. Whenever that convention is used, however, the Postal Service shall file a companion document under seal that provides a crosswalk between the generic identification number and the identity of each mailer.

WORKBOOK (1): MAILER INFORMATION

Mailer name	Month (for each month)			
	October-06	November-06	December-09	January-10
Volume				
First Class Presort				
Letters.				
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Revenue				
First Class Presort				
Letter.				
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Rebate Calculation for each Mailer	Formula		Calculation	
Threshold				
Incremental Volume				
Volume Shift Adjustment				
Volume Eligible for Discount				
Average Revenue Per Piece				
Rebate				

[1] Formulas used in the determination of Volume Threshold, Incremental Volume, October 2009 Adjustment, Average Revenue Per Piece, and Summer Sale Rebate should be shown on each mailer page. Only mailer input data should be hardcoded.

* Presort Residual refers to mail entered with bulk presort mailings that does not qualify for presort rates.

WORKBOOK (2): AGGREGATE INFORMATION

Eligible mailer information	Month (for each month)			
	October–06	November–06	December–09	January–10
Volume				
First Class Presort				
Letters.				
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Revenue				
First Class Presort				
Letter.				

WORKBOOK (2): AGGREGATE INFORMATION—Continued

Eligible mailer information	Month (for each month)			
	October–06	November–06	December–09	January–10
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Rebate Calculation for each Mailer	Formula		Calculation	
Threshold				
Incremental Volume				
Volume Shift Adjustment				
Volume Eligible for Discount				
Average Revenue Per Piece				
Rebate				

[1] Formulas used in the determination of Volume Threshold, Incremental Volume, October 2009 Adjustment, Average Revenue Per Piece, and Summer Sale Rebate should be shown on each mailer page. Only mailer input data should be hardcoded.

* Presort Residual refers to mail entered with bulk presort mailings that does not qualify for presort rates.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Director for Reports Clearance to the addresses or fax numbers shown below.

(OMB), Office of Management and Budget, *Attn:* Desk Officer for SSA, *Fax:* 202–395–6974, *E-mail address: OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCBFM, *Attn:* Director, Center for Reports Clearance, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, *Fax:* 410–965–0454, *E-mail address: OPLM.RCO@ssa.gov.*

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than November 23, 2009. Individuals can obtain copies of the collection instrument by calling the SSA Director for Reports Clearance at 410–965–0454 or by writing to the above e-mail address.

1. *Application for Widow's or Widower's Insurance Benefits—20 CFR 404.335–404.338, 404.603—0960–0004.* SSA uses the information on the SSA–10–BK to determine whether the applicant meets the statutory and regulatory conditions for entitlement to widow(er)'s Social Security Title II benefits. The respondents are applicants for widow's or widower's benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 341,560.

Collection method	Number of respondents	Average burden per response (minutes)	Burden hours
MCS	162,241	15	40,560
MCS/Signature Proxy	162,241	14	37,856
Paper	17,078	15	4,270
Totals:	341,560		82,686

Estimated Annual Burden: 82,686 hours.

2. *Substitution of Party upon Death of Claimant—20 CFR 404.957(c)(4) and 416.1457(c)(4)—0960–0288.* SSA collects information on Form HA–539