

billion revenue requirement, however they specifically state that they do not ask the Commission to reopen the record and base its decision on new facts. Governors decision at 4. Instead, they say:

Last month, the chief financial officer told us that the Postal Service stands to lose between \$2 billion and \$3 billion this fiscal year, which is the rate case test year. While we are not asking the Commission to recommend rates to eliminate this latest projected net loss, we are asking the Commission to recommend rates and fees that meet the updated cost estimates already developed on the record, including a 2.5 percent contingency provision. This would reduce the projected net loss.

Id. at 4.

D. Commission's Proposed Course of Action

The Commission will again review the record evidence on the items identified by the Governors, and respond expeditiously to the Governors' request. The issues before the Commission have been sufficiently developed in the Governors decision so that the process can be shortened by foregoing an initial explanatory statement by the Postal Service. The Commission has identified three questions that directly relate to the issues before it. All participants, including the Postal Service are invited to provide comments on these questions as well as other issues before the Commission, and to reply to comments filed by other participants.

The three questions are: (1) can the Commission lawfully recommend higher rates as requested by the Governors; (2) should the Commission recommend higher rates as requested by the Governors; and (3) if the answer to the first two questions is yes, how should higher rates be developed?

Can the Commission Lawfully Recommend Higher Rates?

The Governors now ask the Commission to recommend rates that will annually generate \$69.8 billion. The initial rate request sought rates that would annually generate \$69.0 billion. Are there any statutory or procedural impediments to a Commission recommendation of rates designed to produce the higher revenue amount?

Should the Commission Recommend Higher Rates?

Although the Governors contend that further Commission action can be based on the evidentiary record developed before September 8, 2000, their request for reconsideration is obviously predicated on their access to information on current postal finances.

See for example, "we find ourselves, almost halfway into the test year, operating under rates inadequate to meet the Postal Service's revenue needs." Governors decision at 3. See also, "the Postal Service stands to lose between \$2 billion and \$3 billion this fiscal year," id. at 4. The Governors state that a new rate case is now being prepared and that immediate additional rate increases will affect the amount of additional funds it will have to seek.

Thus, the Governors present indirectly the question of whether the Service's financial health depends to some degree on an immediate infusion of additional rate revenues. This issue certainly may play a major role in any decision the Governors make on the Commission's next recommended decision. Whether, and how, the Commission's findings in the current proceeding can be influenced by such statements is less clear. See *United Parcel Service versus U.S. Postal Service*, 184 F3d 827, 834-36 (D.C. Cir. 1999).

With regard to whether rates should be increased, participants might express a preference for an immediate small increase, if that would reduce the size of the expected, substantial increase planned for next year. On the other hand, participant comments on issues raised in the earlier request for reconsideration indicated that small increases can be so disruptive to mailing practices as to be counter-productive. See Reply of the United States Postal Service to Comments of Participants in Response to the Postal Service's Memorandum on Reconsideration, January 19, 2001, at 35-38 and 40, and comment cited therein.

How Should Higher Rates Be Developed?

The attribution methods applied in this case by the Commission are not in controversy on reconsideration. Thus, participants should be able to estimate the amount by which the attributable costs of any class of mail would increase if the Commission finds that the revenue requirement should include those additional items highlighted by the Governors.

In the memorandum of the Postal Service on reconsideration and request for expedition, December 20, 2000, at 22-26, the Service expressed the general view that there is sufficient record evidence to allow the Commission to design rates that would provide all necessary revenues and be consistent with the policies of the [Postal Reorganization] Act as required by 39 U.S.C. 3622(b). Although it chose not to suggest any specific rates, it further

advised the Commission that rate adjustments in Bound Printed Matter should not reduce workshare differentials. Id. at 31. Other participants may have suggestions of this nature.

Because the issues presented by this request for further reconsideration have already been the subject of comments to the Commission, and in light of the Governors' request for maximum expedition, only ten days will be allowed for initial comments, and seven days will be allowed for replies.

Ordering Paragraphs

Ordering paragraph No. 1 provides that participants' comments on the request for further reconsideration are to be filed on or before March 19, 2001. Ordering paragraph no. 2 provides that reply comments are to be filed on or before March 26, 2001. Ordering paragraph No. 3 provides that the acting secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Acting Secretary.

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POSTAL SERVICE

Sunshine Act Meeting; Notification of Item Added to Meeting Agenda

DATE OF MEETING: March 5, 2001.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 66 FR 11190, February 22, 2001.

ADDITION: Experimental Priority Mail Presort (Niche) Classification. At its meeting on March 5, 2001, the Board of Governors of the United States Postal Service voted unanimously to add this item to the agenda of its closed meeting and that no earlier announcement was possible. The General Counsel of the United States Postal Service certified that in her opinion discussion of this item could be properly closed to public observation.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000. Telephone (202) 268-4800.

David G. Hunter,
Secretary.

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