

For further details with respect to the proposed action, see the licensee's application dated February 21, 2007 [ML092170540], as supplemented by the letter dated November 9, 2009 [ML093410385]. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (1st Floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1-800-397-4209, or 301-415-4737, or send an e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 5th day of May, 2010.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Chief, Research and Test Reactors Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

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POSTAL REGULATORY COMMISSION

[Docket No. PI2010-3; Order No. 456]

Postal Rate Case Management

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is seeking comments relevant to management of an anticipated exigent postal rate case. It has scheduled a technical conference for a public discussion based on the submissions.

DATES: Comments are due: June 9, 2010; technical conference will be held: June 16, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

II. Public Representative

III. Ordering Paragraphs

I. Introduction

On March 2, 2010, Postmaster General John E. Potter outlined elements of a business plan designed to close a projected gap between Postal Service revenues and costs.¹ Included in the plan was a reference to a possible "modest exigent rate increase" to be effective in 2011. *Id.* The term "exigent rate increase" is commonly used to refer to rate adjustments that are due to extraordinary or exceptional circumstances. Such rate adjustments are expressly authorized by 39 U.S.C. 3622(d)(1)(E).

Following the issuance of the Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3218 (2006), the Commission adopted new rules that establish procedures for handling exigent rate cases. Docket No. RM2007-1, October 29, 2007 (Order No. 43). Those new rules (Exigent Rate Case Rules) are contained in subpart E of part 3010 of the Commission's regulations. 39 CFR part 3010, subpart E.

If filed, the potential exigent rate case referred to by the Postmaster General would be the first exigent rate case received by the Commission since passage of the PAEA. While the Commission is confident that its Exigent Rate Case Rules will provide an effective procedural framework for consideration of the currently anticipated case, the Commission believes that it would be prudent to give all interested parties an opportunity to explore and discuss procedural considerations unique to exigent rate cases before the Postal Service files such a case. This belief is grounded in part on the fact that section 3622(d)(1)(E) requires the Commission to issue a decision within 90 days after the Postal Service's filing. Advance consideration of the unique procedural aspects of the proposed exigent rate case may permit early identification of solutions to any potential issues that might otherwise complicate fair and meaningful participation by interested persons.

In light of the foregoing considerations, a technical conference is scheduled for June 16, 2010, beginning at 10:00 a.m. in the Commission's hearing room. The purpose of the conference is to give interested persons the opportunity to discuss procedures for managing the Postal Service's currently anticipated exigent rate case.

¹ Press Release No. 10-018, United States Postal Service, Postal Service Outlines 10-Year Plan to Address Declining Revenues, Volumes (March 2, 2010).

The proceedings will be transcribed, and a copy of the transcript will be posted on the Commission's website. Further procedures are under consideration and may be announced by further public notice. Finally, the Commission invites interested persons to file proposed topics for discussion at the conference not later than June 9, 2010.

II. Public Representative

Section 505 of title 39 requires the designation of an officer of the Commission in all public proceedings to represent the interests of the general public. The Commission hereby designates James Waclawski as Public Representative in this proceeding.

III. Ordering Paragraphs

It is ordered:

1. Docket No. PI2010-3 is established for the purpose of facilitating discussion of and obtaining views on, procedural matters pertaining to rate adjustments proposed to meet exigent circumstances under part 3010, subpart E of the commission's rules of practice.

2. A technical conference will be held June 16, 2010, beginning at 10:00 a.m. in the Commission's hearing room to discuss issues related to the matters that are the subject of this proceeding.

3. Interested persons may submit proposed topics for discussion on or before June 9, 2010.

4. James Waclawski is designated as the Public Representative to represent the interests of the general public in this docket.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010-11467 Filed 5-13-10; 8:45 am]

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POSTAL REGULATORY COMMISSION

[Docket No. MC2010-24; Order No. 457]

Review of Nonpostal Services Language

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is establishing a docket to consider the Postal Service's proposed nonpostal services Mail Classification Schedule language. It solicits comments to assist in this task.

DATES: Comments are due: June 4, 2010. Reply comments are due: June 18, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Postal Service Filings
- III. Notice of Filings
- IV. Ordering Paragraphs

I. Introduction

Pursuant to section 404(e) of title 39, the Commission in Order No. 154 authorized 14 activities of the Postal Service to continue as "nonpostal services."¹ By this notice, the Commission initiates Docket No. MC2010-24 to consider the Postal Service's proposed Mail Classification Schedule (MCS) language for its authorized nonpostal services.

II. Postal Service Filings

While the proceedings resulting in Order No. 154 were ongoing, the Postal Service filed proposed MCS language for six activities which the Postal Service identified as nonpostal services.² Of the six activities, Order No. 154 provisionally accepted language for four nonpostal services for insertion into the MCS.³

Further, Order No. 154 required the Postal Service to file proposed MCS

¹ Docket No. MC2008-1, Review of Nonpostal Services Under the Postal Accountability and Enhancement Act, December 19, 2008 (Order No. 154); see also Errata Notice, January 9, 2009 (Errata), petition denied, *United States Postal Service v. Postal Regulatory Commission*, 2010 WL 1189617 No. 09-1032 (CADC, March 30, 2010).

² The proposed language included the following six activities: Officially Licensed Retail Products (OLRP), Passport Photo Service, Photocopying Service, Electronic Postmark (EPM), Notary Public Services, and Stored Value Cards. Docket No. MC2008-1, United States Postal Service Notice of Filing of Proposed Mail Classification Schedule Language for Six Nonpostal Services Pursuant to Order No. 120, November 7, 2008. For the convenience of interested persons, the Mail Classification Schedule language proposed by the Postal Service in this filing and two other filings, dated March 10, 2009 and April 26, 2010 and discussed further below, is attached to this order for illustrative purposes and will not be published in the *Federal Register*. The language is available on the Commission's Web site (<http://www.prc.gov>).

³ Notary Public Services and Stored Value Cards were not authorized as nonpostal services. Order No. 154 at 40, 89.

language for the 10 other nonpostal services that it authorized. *Id.* at 90.4 In response to Order No. 154, the Postal Service filed a notice of proposed MCS language for those nonpostal services.⁵ One service, the Warranty Repair Program, had been temporarily allowed subject to review in Phase II of that proceeding. At the conclusion of Phase II, the Warranty Repair Program was ordered terminated. Therefore, consideration of the proposed language for that product is moot.⁶ The Postal Service's Notice proposes to realign and combine these authorized nonpostal services into eight products.

The eight renamed nonpostal services are classified as follows: Market Dominant—Alliances with the Private Sector to Defray Cost of Key Postal Functions, and Philatelic Sales; Competitive—Rental, Leasing, Licensing or Other Non-Sale Disposition of Tangible Property; Advertising; Mail Services Promotion; Training Facilities and Related Services; Licensing of Intellectual Property Other than OLRP; and Equipment Repair Service.

For the two market dominant nonpostal products, the Postal Service does not propose to realign Philatelic Sales. The Postal Service proposes to align the other market dominant service, MoverSource, an alliance with a private sector company to provide change-of-address assistance, with another alliance, WhitePages. For each of these latter activities, costs are defrayed through advertising solicited by the private sector entity. The Postal Service proposes to entitle this product "Alliances with the Private Sector to

⁴ Of the 10 authorized nonpostal services, Philatelic Sales and MoverSource were classified as market dominant. The remaining eight authorized nonpostal services classified as competitive were Affiliates for Website, Affiliates—Other (Linking Only), FedEx Drop Boxes, Licensing Programs Other Than Officially Licensed Retail Products, Meter Manufacturers Marketing Program, Non-Sale Lease Agreements (Non-Government), Training Facilities, and Warranty Repair Program (in part, subject to review in Phase II). See Errata at Appendix I, Part B.

⁵ United States Postal Service Notice of Filing of Proposed Mail Classification Schedule Language for Nonpostal Activities in Response to Order No. 154, March 10, 2009 (Notice).

⁶ The Warranty Repair Program failed to meet the grandfather requirement for a nonpostal service under section 404(e) of title 39 insofar as it relates to the provision of service to others. Docket No. MC2008-1(Phase II), Phase II Review of Nonpostal Services Under the Postal Accountability and Enhancement Act, January 14, 2010, at 31, 39 (Order No. 392); appeals docketed, *Le Page's 2000 Inc. and Le Page's Products, Inc. v. Postal Regulatory Commission*, No. 10-1031 (CADC, February 12, 2010) consolidated with *United States Postal Service v. Postal Regulatory Commission*, No. 10-1033 (CADC, February 12, 2010). The decision in Phase II regarding the Warranty Repair Program was not appealed and is final.

Defray Cost of Key Postal Functions." *Id.* at 7.

With respect to Philatelic Sales, the Postal Service filed a notice of amendment to its proposed MCS language to incorporate into the nonpostal Philatelic Sales product its current shipping charges for philatelic order fulfillment.⁷ The amendment reflects the Postal Service's proposed method for reflecting shipping fees in the MCS pursuant to Commission Order No. 391.⁸

Web-based linking agreements are divided into three separate categories. Agreements providing links to merchants' Web sites are styled "Advertising."⁹ Agreements to list a vendor on *usps.com* and to promote a vendor's mailing services or product are entitled "Mail Services Promotion." *Id.* at 8. The third category of web-based alliances is the aforementioned market dominant MoverSource-WhitePages alignment.

The Postal Service proposes to maintain the alignment of services described in Order No. 154 for Training Facility and Licensing of Intellectual Property Other Than OLRP.¹⁰ *Id.* at 6. The Postal Service restyles "Training Facility" as "Training Facilities and Related Services." *Id.* at Appendix A.

The Postal Service proposes to rename some competitive nonpostal services to reflect more accurately the nature of the activities within each service. *Id.* at 3. The Postal Service asserts that to reduce potential confusion, some nonpostal activities are realigned to be independent of the names of current vendors or programs, or the location of the activity. This permits the Postal Service to enter into a similar agreement with others, or to accept advertising for other products in other venues. *Id.* at 4. Some similar services are grouped together such as certain web-based agreements within the broader category of Advertising. *Id.* at 4-5. Additionally, the Postal Service

⁷ Notice of the United States Postal Service of Amendment to Mail Classification Schedule Language for Nonpostal Activities Required to be Filed by Order No. 154, April 26, 2010.

⁸ Docket No. MC2009-19, Order Approving Addition of Postal Service to the Mail Classification Schedule Product Lists, January 13, 2010, at 12-15 (Order No. 391).

⁹ The Postal Service cites as current agreements Maoponics, Label Universe, and Mail Service Provider agreements. *Id.* at 8.

¹⁰ In Order No. 392, the Commission limited the scope of its licensing authorization by denying authorization for Postal Service branding of mailing and shipping products related to Postal Service operations for general retail distribution. Order No. 392 at 39; appeals docketed, see note 6, *infra*. The Postal Service has not filed to amend its proposed language for "Licensing of Intellectual Property Other Than OLRP" to conform to Order No. 392.

requests that web-based linking agreements providing links to merchant websites be treated as price categories rather than separate products pending review in a rulemaking on the form and content of rules for nonpostal services. *Id.* at 5. The Postal Service asserts that designating the linking agreements as price categories pending further review removes uncertainty as to whether a section 3642 proceeding to add new products to the MCS would be required for any new web-based linking agreements. *Id.*

The nonpostal service described in Order No. 154 as Non-Sale Lease Agreements (Non-Government) includes leasing of parking facilities, office space, antenna towers, advertising, storage, and retail lobby space. Order No. 154 at 66. Non-sale dispositions of real property are sometimes structured as a "license" of real property. Notice at 9–10. The FedEx Drop Boxes arrangement identified in Order No. 154 as a separate nonpostal service also involves the licensing or rental of real property. *Id.* at 10.

The Postal Service notes that the Commission did not specifically address the rental of personal property in Order No. 154 and proposes to include the rental of equipment such as forklifts within this group. The Postal Service further notes that for years it has rented personal property such as exercise and audio visual equipment as part of its training facilities operations, but charges are accounted for as part of the training operations, and the Postal Service does not recommend including them in this description. *Id.* The Postal Service proposes to retitle this group of activities "Leasing, Licensing and Other Non-Sale Disposal of Tangible Property." *Id.*

III. Notice of Filings

The Commission establishes Docket No. MC2010–24 for consideration of the Postal Service's proposed language for nonpostal products attached to this order to be included in the MCS.

As noted above, the MCS language recognized by the Postal Service is attached to this order. Part 3020 of the Commission's rules provides for establishing product lists. Subpart A of the current MCS rules includes provisions for nonpostal products. 39 CFR 3020.13(a)(6) and (b)(5). Subpart B provides for changes to the product lists initiated by the Postal Service. The Commission will treat the Postal Service's filings as a unified request to modify the product lists.¹¹

Under section 3020.34 of the rules, upon review of these Postal Service filings together with comments of interested parties, the Commission may approve the requests, institute further proceedings, permit the Postal Service an opportunity to modify its request, or take other appropriate action. Pursuant to 39 U.S.C. 404(e)(5) and 39 CFR 3020.33, the Commission provides interested persons an opportunity to express views and offer comments on the planned modifications and whether they are consistent with the policies of 39 U.S.C. 3642.

Comments on the proposed nonpostal services MCS language filed by the Postal Service are due no later than June 4, 2010. Reply comments, if any, are due June 18, 2010.

Pursuant to 39 U.S.C. 505, Emmett Rand Costich is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

IV. Ordering Paragraphs

It is ordered:

1. Docket No. MC2010–24 is established to consider the Postal Service's proposed nonpostal product Mail Classification Schedule language filed with its notices of March 10, 2009 and April 26, 2010, together with the nonpostal service Mail Classification Schedule language for four nonpostal services filed November 7, 2008 referred to in the body of this order.

2. Docket No. MC2009–20 is closed.

3. Comments are due no later than June 4, 2010.

4. Reply comments are due no later than June 18, 2010.

5. The Commission appoints Emmett Rand Costich as Public Representative to represent the interests of the general public in this proceeding.

6. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,
Secretary.

[FR Doc. 2010–11512 Filed 5–13–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29265 ; File No. 812–13710]

Jackson National Life Insurance Company of New York, *et al.*

May 10, 2010.

AGENCY: The Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from the provisions of Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to permit the recapture of contract enhancements applied to purchase payments made under certain deferred variable annuity contracts.

Applicants: Jackson National Life Insurance Company of New York ("JNL New York"), JNLNY Separate Account I (the "JNLNY Separate Account"), and Jackson National Life Distributors LLC ("Distributor," and collectively "Applicants").

Summary of Application: Applicants seek an order under Section 6(c) of the Act to exempt certain transactions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture, under specified circumstances, of certain contract enhancements applied to purchase payments made under the deferred variable annuity contracts described herein that JNL New York has issued and will issue through the JNLNY Separate Account (the "Contracts") as well as other contracts that JNL New York may issue in the future through its existing or future separate accounts ("Other Accounts") that are substantially similar in all material respects to the Contracts ("Future Contracts"). Applicants also request that the order being sought extend to any other Financial Industry Regulatory Authority ("FINRA") member broker-dealer controlling or controlled by, or under common control with JNL New York, whether existing or created in the future, that serves as distributor or principal underwriter for the Contracts or Future Contracts ("Affiliated Broker-Dealers") and any successors in interest to the Applicants.

DATES: *Filing Date:* The application was filed on October 23, 2009, and amended on January 13, 2010, and April 22, 2010.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of

¹¹ Because the Postal Service's filings are pursuant to Commission orders, the filing

requirements of subpart B shall, to the extent necessary, be waived.