

**ACTION:** Notice and order allowing comments.

**SUMMARY:** This document informs the public that the Postal Service has filed a report on an internal review of certain nonpostal offerings. This report is relevant to a Consumer Action petition for a rulemaking. The document also reviews initial comments and authorizes a further round of comments.

**DATES:** Submit comments by April 18, 2003.

**ADDRESSES:** Submit responsive documents electronically via the Commission's Filing Online system, which may be accessed at <http://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharmfan, General Counsel, 202-789-6818.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

67 FR 71843 (December 3, 2002).

**Background**

In Order No. 1353, issued November 21, 2002, the Commission gave notice of a petition filed by Consumer Action requesting that proceedings be instituted to review the jurisdictional status of 14 specified services and to establish rules to require a full accounting of all non-jurisdictional domestic services. The order noted that while the Commission was considering the petition, the Chairman received a letter from the Chairman of the Board of Governors indicating that the Postal Service was conducting an internal review of its "non-postal service offerings."<sup>1</sup> Chairman Rider expressed the hope that, prior to addressing the request for a formal proceeding, the Commission would afford the Postal Service an opportunity to comment on the issues and further that it first be able to complete its internal review.<sup>2</sup> Among other things, Chairman Rider indicated that "[t]he results of this review will also bear substantially on the representations in the petition."<sup>3</sup> It was anticipated that this review would be completed in early January 2003.

Concluding that a brief deferral would not prejudice the petitioner, the Commission deferred action on the petition pending completion of the Postal Service's internal review.

Accordingly, the Commission set January 30, 2003 as the due date for comments from interested persons to advise the Commission on the most appropriate way to proceed. PRC Order No. 1353, November 21, 2002, at 3.

**Summary of Initial Comments**

Six sets of comments were received. Each is identified below, along with a brief summary of that commenter's recommendation of how the Commission should proceed.

- Association for Postal Commerce (PostCom)—PostCom takes no position on the Commission's jurisdiction over the 14 services identified in the petition, but urges the Commission to initiate a rulemaking to examine establishing accounting conventions applicable to Postal Service offerings that are not subject to regulated rates.<sup>4</sup>

- Computer & Communications Industry Association (CCIA)—CCIA endorses the petition and urges the Commission to initiate the proceeding requested.<sup>5</sup>

- Council for Citizens Against Government Waste (CCAGW)—CCAGW endorses the petition and urges the Commission to initiate the proceeding requested.<sup>6</sup>

- Pitney Bowes, Inc.—Pitney Bowes, while expressing some general concerns, noted that at the time its comments were filed no person had an opportunity to review the results of the Postal Service's internal evaluation. Thus, Pitney Bowes requests that the Commission provide interested persons an opportunity to comment on "the appropriate scope and manner of proceeding" after having time to consider the results of the Postal Service's internal review.<sup>7</sup>

- Washington Legal Foundation (WLF)—WLF supports the petition and urges the Commission to act favorably on it.<sup>8</sup> Among other things, WLF also

<sup>4</sup> Comments of PostCom, January 30, 2003, at 1–2.

<sup>5</sup> Comments of the Computer & Communications Industry Association on the Motion of the Office of the Consumer Advocate to Request that the Commission Institute a Proceeding to Consider the Postal/Nonpostal Character of Specified Services and the Establishment of Rules to Require a Full Accounting of the Costs and Revenues of Nonpostal Services, January 28, 2003, at 1 and 9.

<sup>6</sup> Comments of the Council for Citizens Against Government Waste on the Motion of the Office of the Consumer Advocate to Request that the Commission Institute a Proceeding to Consider the Postal/Nonpostal Character of Specified Services and the Establishment of Rules to Require a Full Accounting of the Costs and Revenues of Nonpostal Services, January 30, 2003, at 1.

<sup>7</sup> Comments of Pitney Bowes, Inc., January 30, 2003, at 2.

<sup>8</sup> WLF letter addressed to the Commission's Secretary, Steven W. Williams, January 30, 2003, at 1.

requests that interested persons be afforded an opportunity to comment on the results of the Postal Service's internal review. *Id.* at 5.

- Postal Service—The Postal Service opposes the petition and requests that the Commission decline to adopt the proposals contained in the petition and accompanying joint letter.<sup>9</sup>

**Postal Service Report**

On March 10, 2003, the Postal Service submitted a report that generally describes the results of its internal review.<sup>10</sup> The report briefly summarizes the business review process, including the procedures used to monitor the various services offered by the Postal Service. In addition, the report discusses each of the services identified in the Petition. The report and comments are available on the Commission's Web site, <http://www.prc.gov>.<sup>11</sup>

**Additional Round of Comments**

The requests by Pitney Bowes and WLF that interested persons be afforded an opportunity to comment on the report are well taken. The report provides information not available to commenters at the time initial comments were filed. Providing interested persons an opportunity to comment on the report will assist the record. Comments on the report are due April 18, 2003. In addition to addressing the substantive aspects of the report, interested persons may also respond to positions and arguments contained in the initial comments of any commenter.

**Ordering Paragraphs**

*It is ordered:*

1. Notice is hereby given that interested persons may submit comments, as more fully described in the body of this order, concerning the Postal Service's "Report on Nonpostal Initiatives," filed March 10, 2003.

2. Comments from interested persons authorized by this order are due no later than April 18, 2003.

<sup>9</sup> Comments of United States Postal Service on Consumer Action Petition, January 30, 2003, at 45; see also *id.* at 20 *et seq.* Concurrently with the filing of its Comments, the Postal Service requested leave to file a report summarizing the internal review referenced by Chairman Rider. United States Postal Service Request for Leave to File Report, January 30, 2003. At that time, the Postal Service anticipated filing the report in early February. The request to file the report is granted.

<sup>10</sup> See Notice of United States Postal Service of Filing Report, March 10, 2003. Attached to the notice is the "Report on Nonpostal Initiatives."

<sup>11</sup> On the Commission's homepage, this material can be accessed by clicking on "Contents" and then either on "Docketed Cases & Matters," or on "Pending Cases & Matters." It can be found under "Other Matters," where it is listed separately.

<sup>1</sup> Letter to the Honorable George A. Omas from the Honorable Robert F. Rider, Chairman of the Board of Governors, November 14, 2002, at 1 (Rider Letter). Effective January 2003, S. David Fineman succeeded Mr. Rider as Chairman of the Board of Governors.

<sup>2</sup> Rider Letter at 2.

<sup>3</sup> *Id.* at 1.