

# NPPC

National Postal Policy Council



## NPPC Annual Report 2020 – 2021

This past year has seen developments and challenges of enormous consequence to the postal system and its users, in particular including the members of the National Postal Policy Council. From the appeal of the Postal Regulatory Commission’s unfortunate decision in the ten-year review of the rate setting system, through postal legislation that promises substantial change, to the Delivering for America Plan, not to mention “smaller” proceedings such as the advisory opinion on First Class service degradation, all in the midst of an ongoing pandemic, few years have approached the pivotal impact of this one.

As has been characteristic for our association, NPPC has played an active, if not lead, role within the mailing (shipping and postal supply chain, where there is common cause) industry. We have also, of course, been active in some smaller in scope, yet nonetheless important, matters. As we contemplate our 2022 FY, NPPC remains fully committed to engaging on these matters as we press collaboratively, where possible, for outcomes mutually beneficial to the system, NPPC members and mail users more generally, and the American public.

Principal efforts in FY 2021 include:

- Taking an active role in the appeal of the decision in the PRC “10-Year Review”
  - NPPC has spearheaded multi-association efforts to demonstrate to the DC Circuit Federal Court of Appeals that the decision was inconsistent with the law, and was also arbitrary and capricious;
  - We also were an active participant in the Advisory Opinion on service changes before the PRC, which found USPS plans to be problematic in a number of ways;
- Leading, through the Coalition for a 21<sup>st</sup> Century Postal Service, in postal community efforts to:
  - Repeal the “prefunding” of postal retiree health benefits and integrate non-Medicare retirees into Medicare
  - Include codification of the 6-day delivery requirement through an integrated mail and packages network;
  - Seek a “second review” by the PRC of its rate-setting system through the appropriations process;
- Maintaining relationships with senior USPS executives, including the Postmaster General, while providing critical commentary on the DFA Plan

The summary below sets forth the issues and our actions from the 2021 Fiscal Year.

## **CAPITOL HILL**

As in prior years, NPPC extensively advocated to Congress the pressing need to move legislation to sustain and improve the postal system. NPPC remained a key voice and part of the unified industry legislative group, the Coalition for a 21<sup>st</sup> Century Postal Service (C21), advocating for postal reform, especially financially. A bill that has passed the House Oversight and Reform Committee, the Postal Service Reform Act, HR 3076, achieves two major goals for the industry: 1) repealing retiree health prefunding and integrating postal retiree non-Medicare subscribers into Medicare, saving USPS some \$44 billion over ten years; and 2) codifying the requirement for six days of delivery through an integrated mail and packages network. That bill is awaiting Floor action expected this Fall, and has a companion bill, S. 1720, that enjoys considerable bipartisan support.

C21 continued an intensive campaign to achieve reform. Among other things, that campaign started with a broad range of visits with Senate and House offices on both sides of the aisle, including directly with the Chairwoman and Ranking Member of Oversight and the Ranking Member of the counterpart Senate committee. It included:

- an extensive social media campaign that generated 10s of thousands of emails to Congress in support of reform;
- extensive interaction with the media, including op-eds;
- commissioning a nationwide survey that showed some real danger signs for USPS among the public;
- sponsoring the only industry witness to appear at the sole postal oversight hearing in 2021; and
- spearheading several letters to both Committees, and some to the entire Congress, some signed by multiple businesses and trade associations, and more.

All of that has helped drive success to date of this legislation. We are relatively optimistic that it can pass and be signed by the President before year-end.

What was left out of the reform legislation was any means to address the punishing rate increases permitted by the PRC and put into place by USPS. C21 and NPPC are pursuing a strategy through the appropriations process to require the Commission to conduct a “second review” of the rate-setting system, this time considering everything that occurred to USPS finances since March of 2020, when the Commission closed the record for its previous review. We have made modestly encouraging progress as of this writing.

Nonetheless, no discussion of pursuing relief for USPS can neglect to consider the complications from the cluster of issues surrounding the DFA Plan, and policies pursued by the new Postmaster General, Louis DeJoy. Marking likely the most fundamental transformation of the postal system in two generations, DFA has drawn surprisingly little examination and criticism outside postal customers. That includes Congress, where there has been little to no public oversight of that Plan. Based on the year of controversy engendered around USPS by unprecedented service problems, ballot mail and more, that is particularly surprising.

## **POSTAL REGULATORY COMMISSION**

Of necessity, NPPC maintains a very active program before the Postal Regulatory Commission. We participate in virtually any proceeding where there would be significant impact

on NPPC members, and this year required an overwhelming, but hardly exclusive, focus on the appeal from the 10-year review decision. A summary of our actions follows:

*NPPC's submissions to the PRC continued to observe our two principal aims: (1) specific results in certain cases; and (2) raising issues to lay the groundwork for desirable outcomes in the future. That is a strategy with which we have had some noticeable success over the past few years, and was vitally important in the 10-year review proceeding. In 2020, that resulted in holding off much higher rates for the year, moderating the index adjustment at the 5-Digit Automation level, and solid contributions on other issues.*

RM2017-3 Review of Market-Dominant Rate-making System (10-Year Review): The Commission issued a final order in this long-standing proceeding on November 30, 2020. NPPC joined other mailers in seeking a stay of the Commission's order, filed on December 28, 2020. The Commission denied the stay request.

National Postal Policy Council v. Postal Regulatory Commission (D.C. Circuit): NPPC's petition for review, filed in the United States Court of Appeals for the District of Columbia Circuit, of the Commission's December 1, 2017, order finding that the current system for regulating the rates of market-dominant postal products is not achieving the objectives established by Congress, remained in abeyance until the Commission adopted final order (No. 5763) in November 2020. NPPC then filed a new petition for review of Order No. 5763 and that petition was consolidated with the previously filed petition.

On January 26, 2021, NPPC, joined by other mailers, filed a motion for stay or, in the alternative, expedited briefing of the review of Order No. 5763. NPPC and the other mailers filed a reply in support of the motion of February 26, 2021. The Court denied the request for stay but granted expedition.

NPPC, again jointly with other mailers, filed its initial brief in the consolidated petitions on April 13, 2021. On June 28, 2021, NPPC and the other mailers filed a separate brief as intervenors in support of the Commission and opposing the Postal Service's petition for review of Order No. 5763 that sought even higher rate authority. NPPC, jointly with other mailers, filed a reply brief in support of their petition on July 19, 2021.

NPPC, jointly with other mailers, filed a renewed motion for stay on July 23, 2021, after the Postal Regulatory Commission had approved the rate changes scheduled to take effect on August 29. NPPC, again jointly with other mailers, filed a reply in support of the stay motion on August 9, 2021. The Court denied the motion.

On September 13, 2021, oral argument was conducted by NPPC counsel on behalf of the mailers.

The case is under consideration by the Court.

R2021-1 Market-Dominant Price Adjustments: NPPC filed Comments (October 29, 2020) on the Postal Service's notice of price-cap rate increases. NPPC criticized the Postal Service's imposition of above-inflation increases for Automation letters and the reduction in the Metered Mail rate differential. NPPC supported the renewal of the promotional incentives and introduction of a Seamless Acceptance incentive.

The Commission approved the noticed rates.

Annual Compliance Review 2020: NPPC filed reply comments (February 12, 2021) supporting those commenters on the Postal Service's Annual Compliance Report that had urged the Service to take proactive steps to encourage the use and promote the value of First-Class Mail, to enforce its new worksharing discount rules, and expressed concerns about service quality.

The Commission approved the market test and encouraged the Postal Service to take NPPC's comments into account as the test progresses.

RM2021-5 Regulations Pertaining to 39 U.S.C. §601: NPPC filed comments jointly with MMA, NAPM, and AMEE (April 6, 2021) opposing an application for waiver by the Postal Service which sought permission to set the workshare discount for Automation 5-Digit Letters at a less economically efficient price than required by Commission regulations.

The Commission denied the Postal Service's application for waiver.

RM2021-4 Periodic Reporting (Proposal Two): NPPC filed comments jointly with MMA, NAPM, and AMEE (May 14, 2021) opposing a change proposed by the Postal Service to the costing methodology used to calculate the costs avoided by presorting to the 5-Digit level.

The rulemaking remains pending.

MC2021-104 Large-size First-Class Postcards: NPPC filed comments (July 8, 2021) in support of the Postal Service's request to increase the permissible dimensions of Presorted First-Class Mail postcards to 9 inches by 6 inches.

The Commission approved the change.

Docket No. N2021-1 First-Class Mail and Periodicals Service Standard Changes: NPPC participated in the Commission proceeding to review the Postal Service's proposed reductions in service standards for First-Class and Periodicals mail. NPPC submitted interrogatories to Postal Service witnesses and filed a brief (June 21, 2021). NPPC stated that the Postal Service's plan to degrade First-Class Mail service fundamentally departed from the Service's statutory mandate, that history shows that the Postal Service may not realize even its projected cost savings, and that the reduced service standards will harm users of remittance mail.

The Commission issued an advisory opinion that expressed skepticism that the Postal Service could achieve the expected cost savings and noted particular concern about the impact of the change on mailers of remittance mail.

R2021-2 Market-Dominant Price Change: NPPC filed comments (June 28, 2021) on the Postal Service's notice of price-cap rate increases. NPPC argued that the price increases exceeded the annual limit, pointed out that the Postal Service's disregard for the schedule of regular and predictable rate changes is highly disruptive to mailers; that the Service had not justified the rates under statutory criteria, that the Postal Service appears to lack a clear long-term pricing strategy for First-Class Presort Mail, and that

the new workshare discounts demonstrated the need for stronger regulations to govern workshare discount passthroughs.

The Commission approved the noticed rates.

## U.S. POSTAL SERVICE

In 2021, NPPC once again worked as closely as it could with the USPS leadership team, and other executives. Complicated by both the pandemic and a new, more inward focus at USPS, we nonetheless had quite a number of interactions.

*The following bullet points summarize the efforts made to both achieve NPPC's goals and enhance its relationship with the senior team at USPS. We have focused on these issues in the NPPC way: as a matter of collaboration and mutual respect. This remained true, as always, whether the discussion concerned rates, operational issues or legislation.*

- Maintained near-constant outreach and contacts throughout headquarters staff on macro issues, and legislative concerns.
- Raised and pursued concerns about rate increases, particularly in light of the Commission's 10-year review decision.
  - NPPC was one of two associations invited to discuss the DFA Plan's changes in general and on rates, specifically, with both the Postmaster General and the Board of Governors. To no visible impact, unfortunately.
  - Encouraged continued innovation among Promotions
- Similarly raised concerns in its DFA presentation about downgrading service and its potential impact. Again to no visible impact.
- Expressed continued concerns – and support for the concepts -- re Informed Visibility, Informed Delivery and other programs;
- Maintained consistent contact with the USPS Inspector General over a number of key issues;
- Participated in multiple forums conducted by the IG;
- Full MTAC participation, with our enhanced team building on the able efforts of their predecessors across a broad range of working groups, user groups and MTAC leadership;
- Participated in bimonthly association executive meetings with PMG and senior staff until they were suspended by USPS in the Spring of 2021, that ranged through USPS initiatives on the 10-Year Plan, current financial projections, service, legislative status and coordination, and more, and provided serious opportunity for discussion and feedback;
- Conducted NPPC-only webinars on important topics, such as an update on the 10-year review, a panel on legislation, a session devoted to trying to untangle the many challenges buffeting the Postal Service, and more;
- Frequent and regular reports from the weekly USPS COVID Briefing

## **QUARTERLY MEETINGS**

As always, NPPC quarterly meetings drew informative guest speakers, and were well-attended by NPPC members. What was new was that, because of COVID, all of our meetings were virtual starting in the past year. Among other matters, legislation, the many proceedings at the Commission – the ten-year review, indexed rates, the annual compliance review, Move Update, the IMb rates and exigency court cases -- as well as USPS initiatives on Informed Visibility, Informed Delivery, innovative products, service revisions downward, special promotions and many more, and more than any, the application of the Commission's Ten-Year Review of the rate and classification setting system by USPS were the subjects of discussion. All were thoroughly presented, and subject to NPPC member questions and comments to the principals involved from the postal agencies or key congressional staff.

These meetings featured a number of USPS senior executives, starting with Postmaster General Louis DeJoy, twice, and including Executive VPs Isaac Cronkhite, Scott Bombaugh, Kristin Seaver, and Steve Monteith. It also included VPs Sharon Owens and Tom Foti, and:

- Inspector General of USPS Tammy Whitcomb;
- PRC Commissioners Mark Acton and Ashley Poling;
- Prominent postal staff from Capitol Hill; and
- The President of the American Postal Workers Union, Mark Dimondstein

## **A Brief Look Forward to 2022**

NPPC will continue to move ahead vigorously with its efforts on priority issues, including the appeal of the rate and classification setting review, and participating in other proceedings at the Commission, legislation on postal reform and addressing rate setting, specific issues at USPS and a lively and informative program at our quarterly meetings. Members can expect to be consulted, as well as updated, all along the way, because our positions represent the best consensus interests of NPPC's membership. We look forward, as always, to your participation and your input.