

**James C. Miller III**

Chairman, Postal Board of Governors  
U.S. Postal Service  
475 L'Enfant Plaza, SW, Room 3436  
Washington, DC 20260-3436

Dear Sir:

We write to you today on a matter of great urgency. The recent decision of the Postal Service Board of Governors (BOG) to accept the startling periodical rate recommendations of the Postal Regulatory Commission (PRC) undermines the historic foundation of our national mail system. These new rates will have grave consequences for disseminating the very type of information our founding fathers strove to protect and foster when they first established the public postal service.

As the publishers of small magazines, we are distressed at the draconian increases imposed on small circulation titles, increases that will no doubt threaten, in many instances, our very existence.

As you know, the United States Postal Service (USPS) had proposed a rate increase for periodicals of about 11.7% in May of 2006, an increase which would have affected all periodicals more or less equally. While this would have been a very large increase, small magazines were budgeting for and preparing for its implementation in 2007.

Instead, in its February, 2007 decision, the PRC recommended a version of the Time Warner (the largest publisher in the industry) rate proposal that had previously been explicitly rejected by the Postal Rate Commission and strongly opposed by USPS, and that had a disproportionately adverse effect on small national publications, while easing the postal burden on the largest magazines. The PRC ignored its own precedent and instead accepted a proposal from a segment of the industry that fundamentally changes the historic ethos of our postal system.

While in theory interested parties could participate in the rate case between the USPS recommendation and the PRC decision, and those (unlike us) with very substantial resources did, it was impossible for us to judge how the Time Warner plan would affect individual small titles, and frankly, most of us did not think an industry-generated plan that had previously been rejected would be chosen over the USPS proposal. After the dramatic and unexpected PRC decision, there was an industry "comment period" of only 8 working days. This was an impossible amount of time for small magazines to digest changes so complex that to this day there is no definitive computer model to fully assess the actual new charges. The Postal Service in this instance appears to have had no idea as to how the industry actually works, *i.e.* how long it would take to access a computer model to calculate the proposed changes and to then comment on them in a meaningful way.

We now know that small titles will be devastated. According to an analysis done by McGraw Hill (but not, inexplicably, by the PRC or BOG) and presented to the Governors in its comments, about 5,700 publications (almost all of small or medium circulation) will incur rate increases exceeding 20%, with another 1,260 publications seeing increases above 25%, and hundreds more incurring increases above 30%. Some small magazines will no doubt go out of business. Some will be forced to produce a lesser product to pay for these increases. Meanwhile, the largest magazines will enjoy the benefit of much smaller increases or in some cases (1,260 publications) actual rate decreases.

To make matters even worse, the PRC-recommended rates also, for the first time in recent history, will charge editorial content based on how far it travels in the postal system, not by virtue of the oft-rejected zoned editorial pound rate but by virtue of a shift in weight-related cost recovery to the various container charges, which are themselves heavily discounted for those who can drop ship. This preference for the dissemination of editorial content has existed since our country's founding and seems to have been summarily dismissed by the PRC, and then by the Governors, with little thought as to its future impact.

These increased rates will also raise the barriers-to-entry for prospective new publishers to such an extent that they will all but kill off the launching of any new periodicals, unless associated with the largest conglomerates, for the foreseeable future. This is a measure therefore that destroys competition in the periodical market and locks in the privileged positions of the largest firms. While it is understandable that Time Warner would relish the idea of making it much more difficult for new competitors to enter publishing, there is no reason to think that it is in the interest of the American people or the market economy. This is an issue the BOG and the PRC have not considered at all, yet the implications are certain to be grave.

Since its inception, the United States Postal System has recognized small magazines like ours as serving a vital function in American politics and culture. And while the realities of the marketplace have no doubt required some adjustments to postal costs, the PRC's new rates turn the ideals of Jefferson and Madison on their head: we will now have an entirely cost-based system. Cost-averaging for the periodical class was dismissed. Incremental implementation of higher rates was rejected. Small mailers were told to change their editorial (just a simple "business decision") or to co-mail or co-palletize (even while the BOG recognized the implausibility of these options for many titles, not to mention the demonstrated inability of the market to handle even all current co-mailing requirements).

Even if the argument can be made that a cost-based system trumps all other interests, the USPS remains in effect a government monopoly. Small publishers were totally blindsided by this decision. We are, for the most part, small businesses - to raise costs so dramatically without our input and with no recourse is devastating. No trade organization or high-priced consultants and lawyers defended our interests. Comments on how these changes would affect small titles were heard only from companies that could afford to provide them, via expert testimony and top-notch legal advice. No one from the PRC

even analyzed the effects these new rates would have on the thousands of magazines like us, at least as far as we can tell. No one considered how a small business would accommodate a 30% increase in one of its most expensive, if not the most expensive, line items in their budgets. This rate case process was unorthodox and unaccountable to the very industries most affected.

Instead of the preference periodicals were entitled to throughout this country's history, the PRC has adopted the most burdensome requirements for magazine mailers, with the most complex rate structure of any class of mail and surcharges for containers not found anywhere else in the postal system. What is the justification for changing a historically preferred mail class into the most bureaucratically burdened and cost-based of all mail classes in the span of a single rate case? Periodicals rates ought to be the least cost-based, because it is a class that exists for content.

It appears as if the PRC and the BOG have in fact completely dismissed the ideals that the country's founders articulated when they instituted the national mailing system, ideals that have been eloquently defended in almost every past rate case. Instead we get throw away lines in the BOG decision, *e.g.* "We express some reservation about the wide variations in rate changes...and that some publications face substantial rate increases even though they have limited options to become more efficient or to mitigate the increase".

In accepting the Time Warner rate plan, the PRC and the Governors have allowed the cost-based proposal of one of the country's largest mailers to trump all public and small business concerns. Small magazines that have historically contributed to the diversity of voices and opinions and have an out-sized effect on our public discourse (vs. their relatively small circulations) are now potentially silenced so that the likes of Time Warner can mail *People* more cheaply.

We appreciate that costs increase and mail technologies change. However, the mail system is a public system, and the dissemination of small magazines remains a public good. Accordingly, any changes should be implemented gradually and on a cost-averaged basis so as not to threaten the very existence of the small magazines that have always been considered, at least until this latest rate decision, absolutely essential to a vibrant democracy.

We would ask that:

1. The Board of Governors moves quickly to delay the implementation of these new rates, allowing an additional period of public comment and
2. A full assessment and justification of the new rates and their impact on the public good is completed. And if the new rates cannot be adequately assessed and justified at this time, that the decision of the BOG is revised and the new rates revoked.

3. Whether it exercises its right to file another case under the old reform law, or whether it moves right to the new law's provisions, the Postal Service shifts some of the added burden from the smaller circulation publications that manage to survive until then.

Sincerely,