Dated: April 24, 2008.

Charles E. Brooks,

Chairman, Federal Prevailing Rate Advisory Committee.

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POSTAL REGULATORY COMMISSION

[Docket No. PI2008–3; Order No. 71]

Universal Service Obligation

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: A recent law requires the Commission to submit to Congress, by late December 2008, a report on the universal service obligation. This notice informs the public of the Commission's obligation to prepare the report, provides background information, and seeks comments from the public.

DATES: Initial comments due June 30, 2008; reply comments due July 29, 2008. See **SUPPLEMENTARY INFORMATION** section for field hearing dates.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*.

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

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 702 of the Postal Accountability and Enhancement Act, Public Law 109–435 (PAEA) requires the Postal Regulatory Commission (PRC or Commission) to submit a report to the President and Congress on ''universal postal service and the postal monopoly in the United States * * * including the monopoly on the delivery of mail and on access to mailboxes.'' The report is to be submitted not later than December 19, 2008.[1]

In preparing its report, the PRC is required by section 702(c) to ''consult with the Postal Service and other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of the mail, and the general public[.]'' Section 702(c) provides further that the Commission shall address in its report any written comments that it receives.

As part of its effort to fulfill these obligations, the Commission is initiating this docket to solicit comments on universal postal service and the postal monopoly. This notice also includes a Discussion Memorandum intended to provide background information and to present questions intended to elicit data and views that will assist the Commission in preparing its report.[2] The views set forth in the Discussion Memorandum do not necessarily reflect the opinions or positions of the Commission or any individual Commissioner. They are provided solely for the purpose of stimulating discussion of relevant subjects and of providing an organizational framework for obtaining comments and suggestions.

While commenters are free to organize their submissions in any manner they choose, it will facilitate analysis by the Commission and by other commenters if submissions follow the suggested topic outline in this notice and the Discussion Memorandum as much as possible. Commenters should, of course, feel free to address only such portions of the topic outline, and only the specific questions, they wish.

This notice also includes a brief guide to sources of information that may be of use to commenters in preparing their submissions. Commenters are encouraged to use additional reference materials. The Commission requests that, if possible, reference materials not available from the Internet or readily available electronic databases (such as Westlaw, Lexis-Nexis, the Library of Congress, the Government Printing Office, and Journal Storage) be provided in a searchable pdf format.

Initial comments are due 60 days after publication of this notice in the **Federal Register**. Reply comments are due 90 days after publication of this notice in the **Federal Register**. All comments and suggestions received will be available for review on the Commission's Web site at *http://www.prc.gov*.

In addition to this solicitation of comments, the Commission intends to hold several public hearings at locations outside of Washington, DC in order to obtain further information. The dates and locations for those hearings are as follows: May 21, 2008 (2 p.m.), Flagstaff City Hall, 211 West Aspen Avenue, Flagstaff, AZ 86001; June 5, 2008 (10 a.m.), City Hall/Court House Building, City Council Chambers, 3rd Floor, 15 Kellogg Boulevard, St. Paul, MN 55102; and June 19, 2008 (2 p.m.), City Hall, 1 Junkins Avenue, Portsmouth, NH 03801.

Additionally, the Commission intends to sponsor an open workshop in Washington, DC during May 2008 to receive public comment.

Further details on the field hearings and other steps to be taken in this docket will be posted on the Commission's Web site at *http://www.prc.gov*.

II. Required Contents of the Commission's Report

Section 702(a)(2) of the PAEA requires that the following subjects be included in the Commission's report:

1. A comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the nation and its urban and rural areas;

2. The scope and standards of universal service and the postal monopoly provided under current law * * *, and current rules, regulations, policy statements, and practices of the Postal Service;

3. A description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

4. The scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the . . . public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

PAEA section 702(b) provides further that if the Commission decides to recommend any changes to universal service and the postal monopoly (whether those changes could be made under current law or would require changes in current law), then the Commission must provide estimated effects of each recommendation on the service, financial condition, rates, and security of mail provided by the Postal Service. Finally, with respect to each recommendation concerning the universal service obligation or postal monopoly made in the reports required by PAEA sections 701 and 702, the Commission is required to include:

[1] Section 702 of the PAEA requires that the report be submitted ''[n]ot later than 24 months after the date of enactment * * *.'' The PAEA was enacted on December 20, 2006. Since the final day of the 24-month period for completing and submitting the report falls on a Saturday and since the PAEA does not provide for an extension to the next business day, the report must be submitted not later than December 19, 2008.

[2] *See* section IV. Discussion Memorandum For Use In Preparing Comments On Universal Postal Service and the Postal Monopoly Laws (Discussion Memorandum).

1. An estimate of the costs * * * attributable to the obligation to provide universal service under current law;

2. An analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

3. Any additional topics and recommendations the Commission deems appropriate, together with estimated effects on service, financial condition, rates, and the security of mail.

III. Issues for Comment

''Universal postal service'' is the term commonly used to refer to postal service to all parts of the country. *See United States Postal Serv.* v. *Flamingo Indus. (USA) Ltd.*, 540 U.S. 736 at 741 (2004) (*citing* 39 U.S.C. 101, 403). The Postal Service's obligation to provide such ''universal service'' is often referred to as the universal service obligation (USO). Although the USO lacks an express statutory definition, it often is thought of as an obligation with characteristics or features such as: (1) Geographic scope; (2) range of product offerings; (3) access to postal facilities and services; (4) frequency of delivery; (5) rates and affordability; and (6) quality of service. A USO is generally supported by granting exclusive rights to the postal administration to provide selected services—*i.e.*, a postal monopoly. A number of countries, mostly in Europe, have begun to reduce or eliminate the postal monopoly over the past 10 years, while at the same time taking care to ensure some minimum level of service to each citizen. It is against this background that the United States Congress mandated the Commission's report.

The Commission solicits comments from interested persons, including other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of the mail, and the general public, on any or all aspects of the subjects to be included in the Commission's report and any additional topics and recommendations. Topics and specific questions that persons may wish to address include, but are not limited to, the following:

Topic No. 1—scope of ''universal postal service'' and ''universal service obligation.'' Section 702(a)(2)(B) of the PAEA requires the Commission to include in its report ''the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service.'' Thus, one of the Commission's fundamental tasks in preparing its report will be to define the concept of ''universal postal service''—or, more simply, ''universal service.'' The essential problem is that the term ''universal service'' is undefined in U.S. postal laws. In other industrialized countries that have addressed postal reform, the concept of universal postal service is linked to a second, closely related concept, that of a ''universal service obligation'' or USO. The USO is thus a legal obligation whereas ''universal postal service'' is a set of postal services. While title 39 includes standards that relate to the concept of ''universal service,'' neither title 39, nor other Federal statutes, define ''universal service obligation.''

In the absence of explicit statutory definitions, do the six factors listed above (*i.e.*, geographic scope, range of product offerings, access to facilities and services, frequency of delivery, rates and affordability, and quality of services) adequately set forth the parameters of universal service and a universal service obligation? If not, what factors should, or legally must, be considered? In addressing these issues, commenters should consider the information in the Discussion Memorandum. Additional questions related to this topic also can be found in the Discussion Memorandum.

Topic No. 2—historical development of universal service, the USO and monopoly laws. Section 702(a)(2)(A) of the PAEA requires the Commission's report to include ''a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas * * * .'' Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 3—universal service: geographic scope. Section 702(a)(2)(C) of the PAEA requires the report to include ''a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.'' Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 4—universal service: range of product offerings. Commenters are invited to comment on their anticipated needs and expectations with respect to the *range of products* that should be included in the concept of universal service. Commenters may wish to discuss their needs and expectations, as well as the needs and expectations of others—for example, all companies in the same sector or society generally. In providing their views, it would be helpful if commenters could provide general, non-confidential information on their current use of postal services, describing, if possible, current use by subclass, shape, and weight. In particular, it would be helpful if associations representing industrial sectors could provide estimates of the current use of universal services by their sectors and a summary of the needs and expectations of the sector for universal services in the future. Questions related to this topic can be found in the Discussion Memorandum.

Topic No. 5—universal service: access to postal facilities and services. Commenters are invited to express their views on the need for access to post offices, the types of services that require access to post office facilities, the adequacy of existing post office facilities, and the adequacy of substituting contract post offices or other types of retail outlets for Postal Service post offices. In this connection, commenters may also wish to address the mailbox monopoly and its relationship with universal service and the universal service obligation. Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 6—universal service: frequency of delivery. In most parts of the United States, mail is delivered six days a week.[3] Exceptions include delivery in certain remote areas in places such as Alaska where deliveries are less frequent. In other areas, deliveries of Express Mail are, for example, made seven days a week. Commenters may wish to address the question of what level of frequency is appropriate for universal services. Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 7—universal service obligation: rates and affordability of service. The rates for universal services are of importance to both the Postal Service and the customers who rely upon those services. Rate levels play a critical role in determining what services are offered and the affordability of those services. Specific questions

[3] Congress has, for a number of years, included a requirement of six-day-a-week delivery in various appropriation bills.

related to the issue of rates and affordability of service can be found in the Discussion Memorandum.

Topic No. 8—universal service: quality of service. Prior to the PAEA, the services of the Postal Service were not subject to service standards that defined the percentage of items that must be delivered within specified periods after posting. Although the PAEA required the Postal Service to adopt such service standards, these standards are not the same as an externally defined USO requirement because they are devised by the Postal Service and subject to revision by the Postal Service. On the other hand, the PAEA did, for the first time, require the Postal Service to introduce external measurement of performance under these service standards (or an internal measurement approved by the Commission). In the European Union (EU), the regulator is typically required to both (1) establish quality of service standards, and (2) ensure independent monitoring of performance. Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 9—methods of calculating the cost of the universal service obligation and postal and mailbox monopolies. The PAEA and implementing regulations issued by the Commission introduced a modern system of rate regulation. Under the PAEA, the Commission is not scheduled to conduct an overall review of the modern system of regulation insofar as it applies to market dominant products until 2016. 39 U.S.C. 3622(d)(3). Nonetheless, a revision of the USO and/or monopoly laws could imply modifications to recently adopted procedures for regulation of rates. Commenters are invited to provide any views and analyses with respect to such economic relationships. Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 10—the implications of the universal service obligation for the postal monopoly. Section 702(a)(2)(D) of the PAEA requires the Commission's report to include ''the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the * * * public * * *.'' In addition, section 702(b) requires the Commission to provide the estimated effects of any recommended changes to universal service and the postal monopoly, as well as an analysis of the likely benefit of the current postal monopoly to the Postal Service to sustain the current scope and standards of universal service.

Previous topics identified in this notice have focused on the implications of the postal monopoly and mailbox monopoly for the universal service obligation.[4] This topic focuses on the implications of the universal service obligation for the postal and mailbox monopolies. In addressing this topic, commenters should discuss how their conception of the universal service obligation would affect the need for, and parameters of, the postal monopoly and mailbox monopoly. Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 11—universal service, the universal service obligation and the postal monopoly in other countries. Commenters are invited to provide any views and analyses of the evolution of universal service, the USO, and the postal monopoly in other industrialized countries and to comment upon the possible relevance, or lack of relevance, of such examples for the current study. Specific questions related to this topic can be found in the Discussion Memorandum.

Topic No. 12–other issues. Commenters are invited to provide any views and analyses on subjects not covered by the preceding topic headings, including, for example, views and/or analyses on broader social, economic, and technological trends that may affect the future needs and expectations of society generally with respect to universal service in 3 years, 5 years, 10 years, and 15 years. Specific questions related to this topic can be found in the Discussion Memorandum.

Commenters are reminded that if the Commission recommends any changes to universal service and the postal monopoly, the Commission must provide estimated effects of each recommendation on the service, financial condition, rates, and security of mail provided by the Postal Service. Those recommending changes would assist the Commission if they also provide information on these effects.

IV. Sources of Information

This section provides a brief guide to sources of additional information about universal postal service, the USO, and monopoly laws for commenters who are not familiar with these topics. The following discussion focuses on selected official proceedings and reports prepared for U.S. and foreign government agencies that are readily accessible in English. Within these proceedings and reports, readers will find references to the far richer array of academic studies and advocacy papers that illuminate the issues presented by the present study.

Four earlier Commission proceedings appear to address issues related to the present proceeding. In Regulations Implementing Private Express Statutes, Docket No. RM76–4 (1976), the Commission concluded that the postal laws did not at that time grant the Commission jurisdiction over regulations defining the postal monopoly. In Monopoly Theory Inquiry, Docket No. RM89–4 (1989), the Commission concluded a general inquiry into the economics of the postal monopoly and issued a lengthy report on its findings. Records of these proceedings may be found in the archives section of the Commission's Internet site. In addition, the Commission has recently initiated two public inquiries related to service standards for market dominant universal services. In Service Standards and Performance Measurement for Market Dominant Products, Docket No. PI2007–1 (2007), the Commission developed comments on service standards proposed by the Postal Service. In Service Performance Measurement Systems For Market Dominant Products, Docket No. PI2008–1 (ongoing), the Commission is reviewing service performance measurement procedures proposed by the Postal Service.

Commission staff and subcontractors for the Commission have also prepared several papers on the economics of universal service and the postal monopoly. These are posted on the Commission's Internet site under ''Speeches and Papers, Papers, PRC Staff.'' Professor Richard B. Kielbowicz prepared a study on the history of universal postal service under contract with the Commission; it can be found under ''Speeches and Papers, Papers, Kielbowicz.'' More generally, the Commission's Internet site includes a wealth of legislative histories, judicial decisions, and economic data pertaining to the period after enactment of the Postal Reorganization Act of 1970 (PRA).

Other U.S. governmental analyses of universal service and the postal monopoly include the following: in

[4] *See* Topic No. 2 (the history, development, and evolution of the universal service obligation and the postal monopoly); Topic No. 4 (the effect of the postal monopoly on the range of universal service product offerings); Topic No. 5 (the role of the mailbox monopoly in supporting universal service and the universal service obligation); Topic No. 6 (the implication of the postal monopoly for the frequency of delivery of universal services); Topic No. 7 (the relationship between the monopoly laws and rates for universal service); and Topic No. 9 (the relationship between benefits and costs of the postal monopoly, the mailbox monopoly, and the universal service obligation).

2003, the President's Commission on the United States Postal Service undertook an extensive review of postal policy in the United States; much of the analyses, testimonies, and studies prepared for the President's Commission bear directly on issues presented by the current study.[5] The General Accounting Office has prepared many reports on postal service and postal policy; two of these specifically address the monopoly laws: *Postal Service Reform Issues Relevant to Changing Restrictions on Private Letter Delivery* (1996) (2 volumes), and *U.S. Postal Service: Information About Restrictions on Mailbox Access* (1997). In 1973, the Board of Governors of the Postal Service issued a report on the postal monopoly law, *Statutes Restricting Private Carriage of Mail and Their Administration,* required by the PRA.[6] The Postal Service also offers a history of the postal service in the United States on its Internet site.[7]

Outside the United States, several governments have undertaken official inquiries similar to the present study. In particular, PostCom, the postal regulator in the United Kingdom, has conducted extensive consultations into the appropriate scope of universal service and the need for the postal monopoly. Documents posted on PostCom's Internet site include detailed economic and legal analyses, although it should be noted that postal laws in the United Kingdom differ significantly from those in the United States.[8] The Commission of the EU has also contracted for, and posted on, the Internet numerous analyses of universal service, the postal monopoly, and economics of postal services.[9] In Australia, the National Competition Council issued a detailed review of the postal law in 1989, *Review of the Australian Postal Corporation Act.*[10] In New Zealand, a lively account of postal reform is provided by Vivienne Smith, *Reining in the Dinosaur: The Remarkable Turnaround of New Zealand Post* (1989), a book published by *New Zealand Post* and available from Internet book sellers.

V. 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 Emmett Rand Costich to serve as the Public Representative, representing the interests of the general public. Pursuant to this designation, he will direct the activities of Commission personnel assigned to assist him and, will, upon request, provide their names for the record. Neither he nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

VI. Discussion Memorandum for Use in Preparing Comments on Universal Postal Service and the Postal Monopoly Laws

Section 702 of the PAEA requires the Postal Regulatory Commission to prepare a report on ''universal postal service and the postal monopoly in the United States * * * including the monopoly on the delivery of mail and on access to mailboxes.'' Public Law 109–435, § 702, 120 Stat. 3198, 3243. This report on universal postal service and the postal monopoly laws is to be submitted to Congress and the President by December 19, 2008.

The purpose of this memorandum is to stimulate discussion by identifying a number of topics and specific questions that commenters may wish to address. The list of topics and questions is not intended to exclude commenters from presenting views or opinions on other topics or issues.[11]

A. Topic No. 1: Scope of ''Universal Postal Service'' and ''Universal Service Obligation''

1. Topic No. 1.1: ''Universal Postal Service''

At the beginning of the 21st century, it is readily apparent that the United States is served by a national system of collection and delivery services that is ''universal'' in many respects. Almost every person in every corner of the country can send a letter or document or parcel to almost anyone in every corner of the country and expect the addressee to receive the letter, document, or parcel. Indeed, in many cases, the sender may choose among different price/service options offered by the Postal Service and private delivery services. Which of these services should be regarded as ''universal services'' and which should be regarded as non-universal delivery services? Are only services offered by the Postal Service to be considered ''universal services'' despite the national reach of several private delivery services individually and the network of private delivery services collectively? Put differently, should an evaluation of the ''needs and expectations of the United States public'' consider only services provided by the Postal Service? Indeed, considering the Postal Service alone, are all its services ''universal services'' or only some?

''Universal service'' does not appear at all in the U.S. Code. Nor does the PAEA separately define ''universal service.'' The PAEA uses ''universal service'' in only two places, neither is included in the U.S. Code; the section requiring a study of universal service and the postal monopoly (section 702) and the section requiring a study of the future business model of the Postal Service (section 710). Nonetheless, for purposes of the current report, the term ''universal service'' must be defined in some manner and that definition must be consistent with the requirements of section 702 of the PAEA and the intent of Congress in requiring this report.

The text of the PAEA is one potential starting point for interpreting the term ''universal service.'' Section 702 employs ''universal service'' or ''universal postal service'' nine times. From its context, ''universal service'' could be characterized by scope and constrained by legal standards set out in current laws, including rules, regulations, policy statements, and/or practices of the Postal Service. ''Universal service'' may be said to ''cover'' geographic areas and/or groups of persons, and some areas or groups may be said to be not now covered by universal service. An obligation to provide ''universal service'' may result in costs for the Postal Service. Section 710, the only other provision of the PAEA to refer to ''universal service,'' uses the phrase twice, most significantly in reference to ''continued availability of affordable, universal postal service throughout the United States.''

Sections 101 and 403 of the U.S. Code can also be read to provide standards for ''universal service.'' A review of these two sections suggests ''universal service'' could be read to refer to a postal service or set of postal services that is characterized by several features or service elements that are attained to such a degree or in such a manner that postal service may be considered

[5] *See http://www.treasury.gov/offices/domestic-finance/usps* for the final report and documents of the Commission.

[6] Also reprinted in House Comm. on Post Office and Civil Service, 93d Cong., 1st Sess., Comm. Print No. 93–5 (1973).

[7] *See http://www.usps.com/postalhistory/welcome.htm.*

[8] *See http://www.psc.gov.uk/universal-service/defining-the-universal-service.html* and *http://www.psc.gov.uk/policy-and-consultations/consultations/market-opening-timetable.html.*

[9] *See http://ec.europa.eu/internal_market/post/studies_en.htm* for a list of all postal studies prepared for the European Commission.

[10] *See http://www.ncc.gov.au/index.asp* under ''Communications, Australia Post.''

[11] The views set forth in this section do not necessarily reflect the opinions or positions of the Commission or any individual Commissioner.

''universal.'' Together sections 101 and 403 identify service elements and the level of attainment which could be used to define a ''universal service'':

a. *Geographic scope.* ''Universal service'' provides services ''throughout the United States'' (section 403(a)) that serve ''all areas'' and ''all communities'' (section 101(a)), especially rural areas (section 101(b)) and ''as nearly as practicable the entire population of the United States'' (section 403(b)(1)) and also provides services to or from military personnel abroad (section 403(a)).

b. *Range of products.* ''Universal service'' transmits a range of postal items including ''written and printed matter, parcels, and like materials'' (section 403(a)) suited to ''the needs of different categories of mail and mail users'' (section 403(b)(2)).

c. *Access facilities.* ''Universal service'' provides mailers ''ready access'' to the postal system through an appropriate level of post offices and other access facilities ''consistent with reasonable economies'' (section 403(b)(3)), especially in rural areas (section 101(b)).

d. *Delivery services.* ''Universal service'' provides for the receipt, transmission, and delivery of postal items (section 403(a)).

e. *Rates and affordability of service.* ''Universal service'' charges prices that are fair, reasonable (section 403(a)), non-discriminatory (section 403(c)), and based on a ''fair and equitable'' apportionment of costs (section 101(d)).

f. *Quality of service.* ''Universal service'' provides for the prompt, reliable, efficient (section 101(a)), and adequate (section 403(a)) transmission of postal items, with particular attention to the ''most expeditious'' transmission of letters (section 101(e)).

Such a six-pronged concept of universal service would appear to be fully consistent with the manner in which the term ''universal service'' is used in section 702.

At a conceptual level, a proposed definition of ''universal service'' may be similar to the concept of universal service formally adopted in the EU. In the EU, the Postal Directive [12] refers to universal service as the ''permanent provision of a postal service of specified quality at all points in their territory at affordable prices for all users.'' The six service elements derived from sections 101 and 403 of the U.S. law seem to be reflected in the elements of universal service described in the EU Postal Directive. The EU Postal Directive includes a seventh service element, users' rights of complaint and redress, which has no counterpart in sections 101 and 403. A broad similarity in how the term ''universal service'' is used in the PAEA and EU Postal Directive also appears to be plausible since it appears possible that the postal reform debate in Europe in the late 1980s and early 1990s led to use of the term ''universal service'' in the somewhat later postal reform debates in the United States.

On the other hand, the six-pronged approach towards defining ''universal postal service'' described above does not include all of the public service activities of the Postal Service nor all of the characteristics of the postal services offered by the Postal Service. This concept does not, for example, include the assistance that the Postal Service provides to the Department of State in the processing of passport applications (other than the provision of postal services for such applications). Likewise, it does not include law enforcement activities of the Postal Inspection Service. Such activities are certainly ''public services,'' but they do not seem to be ''universal postal service'' as that term is used in section 702 of the PAEA.[13]

Likewise, the foregoing approach to ''universal postal service'' would not include attributes of the Postal Service which are not elements of the services actually provided the public. For example, section 101 refers to at least two objectives of national postal policy that are not included in the six-pronged approach described above: (1) Fair conditions of employment (sections 101(c) and 101(g)), and (2) a fair and equitable distribution of mail transportation contracts (section 101(f)). While these goals affect the manner in which the Postal Service operates, they do not seem to relate to the ''service'' provided to mailers and addressees. According to common usage, a ''service'' is the ''helping or doing work for someone else.'' [14] Preliminarily, it would appear that the term ''universal service'' as used in section 702 of the PAEA refers to *services* provided by the Postal Service and not to non-service attributes of the Postal Service. This view appears to be supported by a review of legislative history. Committee reports leading to the PAEA treat universal service and employment as separate issues. The U.S. House of Representatives report refers to ''The legislation creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Postal Service's *universal service obligation* and the scope of the mail monopoly, and institutes *improvements to the collective bargaining process.*'' (Emphasis added.) H.R. Rept. No. 109–66 (2005) at 43. Thus, the universal service obligation seems distinguishable from the collective bargaining process. Likewise, the U.S. Senate report refers to ''the basic features of universal service—affordable rates, frequent delivery, and convenient community access to retail postal services.'' S. Rept. No. 108–318 (2004) at 1. Likewise, in Congressional debates, leaders in the preparation of the PAEA also seemed to indicate an understanding that universal service and employment practices were different matters of concern. *See, e.g.*, 152 Cong. Rec. H6512 (July 26, 2005) (remarks of Mr. T. Davis of Virginia) (''For consumers it preserves universal service, maintains high-quality standards, and eliminates unfair mailing costs so that they have an affordable and reliable means of communication. For workers it protects collective bargaining and offers whistleblower protections that are needed to ensure safe employment.''); 152 Cong. Rec. H6513 (July 26, 2005) (remarks of Mr. T. Davis of Virginia) (''Universal service. First and foremost, the bill preserves the Postal Service's commitment to universal service, the guaranteed delivery 6 days a week to each and every address in the United States.''); 152 Cong. Rec. H9179 (December 8, 2006) (remarks of Mr. Waxman of California) (''This bill has many highlights. It provides for ratemaking flexibility, rate stability, universal service, high quality standards, and collective bargaining.''); 152 Cong. Rec. H9180 (December 8, 2006) (remarks of Mr. McHugh of New York) (''The universal service mission of the Postal Service remained the same, as stated in title 39 of the U.S. Code: 'The Postal Service shall have as its basic function

[12] Directive 1997/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of community postal services and the improvement of quality of service, OJ L 15, 21 Feb. 1998, p. 14, *as amended by* Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to further opening to competition of community postal services, OJ L176, 5 July 2002, p. 21 and Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of community postal services, OJL 52, 27 February 2008, p. 3.

[13] Section 3651(c) of title 39, added by the PAEA, appears to draw a similar distinction when it refers to ''other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.''

[14] *See The New Oxford American Dictionary* 2001.

the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities.'''')

It should also be noted that although the foregoing definition of ''universal postal service'' and EU Postal Directive address similar service elements, they differ significantly in the level of attainment or manner of implementation. As a result, a broadly defined definition of ''universal service,'' like the one set forth above, is quite different from the more specifically defined definition of ''universal service'' set out in the Postal Directive. For example, the EU definition of ''universal service'' excludes express services and parcel services for parcels weighing more than 20 kg. (44 pounds), while section 702 makes no such distinction. Similarly, the EU definition includes within the universal service area services provided by private operators, whereas section 702 is unclear about the applicability of the concept to private delivery services.

A working definition of universal service for purposes of the study. In light of the preceding discussion, one possibility would be for the Commission to use a working definition of universal service like the following:

Universal service refers to a postal service or set of postal services that is characterized by six features or service elements that are attained to such a degree or in such a manner that postal service may be considered ''universal.'' The six service elements are as follows, and in each case the level or manner of attainment presently considered characteristic of universal service are noted: (1) *Geographic scope.* Universal service provides services throughout the United States, serving all areas and all communities, especially rural areas, and as nearly as practicable the entire population of the United States and also providing service to or from military personnel abroad. (2) *Range of products.* Universal service transmits a range of postal items including written and printed matter, parcels, and like materials suited to the needs of different categories of mail and mail users. (3) *Access.* Universal service provides mailers ready access to the postal system through an appropriate level of post offices and other access facilities consistent with reasonable economies, for both urban and rural areas. (4) *Delivery services.* Universal service provides for the receipt, transmission, and delivery of postal items. (5) *Rates and affordability of service.* Universal service charges prices that are fair, reasonable, non-discriminatory, and based on a fair and equitable apportionment of costs. (6) *Quality of service.* Universal service provides for the prompt, reliable, efficient, and adequate transmission of postal items, with particular attention to the most expeditious transmission of letters.

Such a definition is self-evidently imprecise and open-ended in several respects. Different observers could come to different conclusions, such as when universal postal service was first attained in the United States or whether the Postal Service presently provides prompt, reliable, efficient, and adequate services in all cases or serves as nearly as practicable the entire population of the United States. This definition leaves unresolved whether private operators may be considered to provide a portion of the universal service. Nonetheless, this open-endedness would seem to be generally consistent with the way the term ''universal service'' is used in the PAEA. Under such a definition, ''universal service'' would refer to a general concept and not to specific pattern of service.

Even if open-ended, such a working definition of ''universal service'' (or an alternative) would offer guidance for the report required by section 702 of the PAEA. For example, such a definition would permit a determination of what aspects of national postal service should be included in the ''history and development'' and ''scope and standards'' of universal service. Guided by such a definition, the study can focus on the history, development, standards, and future of the six service elements identified and the concept of universal service generally.

It bears emphasis that a working definition of ''universal postal service'' is proposed only *for the purposes of putting bounds on the scope of the report required by section 702.* The proposed definition should *not* be interpreted as a proposal for a statutory definition of ''universal postal service,'' still less as a definition of the scope of a ''universal service obligation'' (*see* next section).

Commenters should carefully consider the foregoing definition of the concept of ''universal postal service'' and should comment on whether this, or some other, definition should be used in preparing the Commission's report. Questions that should be addressed include: What factors should be included/excluded from the definition of ''universal postal service?'' What specific statutory text, legislative history or other considerations support the commenter's proposed definition of ''universal postal service''?

2. Topic No. 1.2: ''Universal Service Obligation''

The USO is a *legal measure* that guarantees availability of, in the words of the EU Postal Directive, ''a universal postal service encompassing a minimum range of services of specified quality to be provided in all Member States at an affordable price for the benefit of all users, irrespective of their geographical location.'' [15] The USO may take the form of a statutory command to government as a whole or to its public postal operator. If government is the object of the USO, then government will typically direct an independent postal regulator or ministry to administer a licensing system that obliges one or more postal operators to provide universal services.

The USO seeks to insure that a *basic* level of universal postal services will be maintained. The USO does not have to be a set of objectives for the services actually provided. For example, the scope of universal postal service actually provided by the public postal operator (and perhaps other postal operators obliged to provide universal services) could exceed minimum standards set by a USO. For example, in a given country, the USO might require a delivery to all addresses at least five days per week, but the public postal operator might deliver six days a week to some or all addresses because it considers six-day service good business. Similarly, the USO might require that at least 80 percent of postal items be delivered by the end of the first business day after posting, whereas the public postal operator might in fact deliver 90 percent of postal items within that period. Viewed in this way, ''universal service'' would be an operational concept, whereas ''universal service obligation'' would be a legal concept.

It should be noted that the foregoing definition of the universal service obligation would not include several things. While the Postal Service was established by law to provide postal services to the nation generally, it must supply these services in accordance with a host of statutory requirements. According to the foregoing definition, however, not all of these requirements would necessarily be ''universal service'' requirements. Many requirements, for example, treatment of employees according to certain governmental standards or standards with respect to Federal contracting, do

[15] Directive 1997/67/EC, OJ L 15, 21 February 1998, p. 14, Recital 11.

not relate to the six service elements of universal service identified in section 1. They would remain even if the Postal Service were not obliged to provide universal service. Hence, such requirements, although admittedly legal constraints imposed on the Postal Service, would not be considered universal service requirements or part of the universal service obligation. Nor would this approach include within the concept of ''universal service obligation'' requirements which the Postal Service imposes on itself. By its nature, an ''obligation'' seems to refer to an externally-imposed requirement.

The ''universal service obligation,'' if so defined, would include all legal obligations imposed on the Postal Service relating to the six service elements of universal service: the geographic scope of services, the range of products, access facilities, delivery services, level and structure of rates (including non-discrimination), and quality of service. This definition of the USO would reach well beyond the language of sections 101 and 403. Under current law, there are four main sources of legal standards for universal postal service: the U.S. Code, appropriations bills for the Postal Service, the Universal Postal Convention, and regulations adopted by the Commission.

The U.S. Code includes numerous standards which relate the six prongs of ''universal service'' as provided by the Postal Service. For example, section 407 makes clear that universal service should include collection and delivery of international mail as well as domestic mail. On the other hand, the scope of universal service is limited by sections 3001 to 3010, 3014, and 3015, which prohibit carriage of certain non-mailable items, and section 3682, which places size and weight limits on mailable matter. Section 3691 establishes standards for quality of service. Several provisions of the U.S. Code regulate rates. Section 404(c) requires uniform national rates for letters, while section 3638 requires uniform rates for books and films. Sections 3403, 3404, 3626, and 3629 provide for free or reduced rates for certain items. Sections 3621 to 3634 require the Postal Regulatory Commission to control rates according to certain standards. Section 404(d) requires the Postal Service to follow certain procedures before closure of post offices. Whatever net costs the Postal Service incurs as a result of such legal restrictions might be properly considered costs of the USO.

The annual appropriations bill for the Postal Service can affect the provision of universal service in two ways. First, the amount of money provided affects the scope of services that can be offered by the Postal Service. Second, the appropriations bill may include substantive provisions (called ''riders'') that direct how the Postal Service is to spend the money appropriated. For example, in the 2006 postal appropriations bill, Congress included two riders related to universal service: (1) That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level; and (2) that none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2006.

In the Universal Postal Convention (2004), the United States agreed with other member countries of the Universal Postal Union to provide certain universal services under certain conditions until December 31, 2009. These commitments relate primarily to the geographic scope of services, the quality of services, and the rates charged.

The Postal Regulatory Commission adopts regulations which create standards for universal services, primarily in the area of rates and accounting for the costs that underlie rates.

Commenters should consider the foregoing approach to the concept of ''universal service obligation'' as an interpretation of section 702 of the PAEA. Other approaches can be considered as well. Commenters are invited to address such questions as:

a. What specific legal provisions constitute a complete statement of the current USO?

b. What should be included/excluded from the concept of USO?

c. What specific statutory text, legislative history, or other basis exists to support a USO concept?

d. What is the precise scope of the postal monopoly under current law?

e. What is the precise scope of the mailbox monopoly under current law?

B. Topic No. 2—Historical Development of Universal Service, the USO, and Monopoly Laws

Specific questions regarding the historical development of universal service, the USO, and monopoly laws which appear to be relevant to the present study and which commenters may wish to address include, but are not limited to, the following:

1. When were the specific provisions of the monopoly laws adopted? In each case, what was the intent of Congress?

2. How has the precise scope of postal monopoly law changed over the years?

3. How did the pattern of service provided by the Post Office Department and later the Postal Service evolve into the present universal service?

4. How did the legal authority of the Post Office Department and later the Postal Service develop with respect to the six service elements of universal service?

5. How and when did the general concept of a USO evolve?

6. How are the monopoly laws and USO related historically?

7. How has use of universal services changed over the last five years, both in terms of volumes and mail mix?

8. What have been the major factors influencing demand for universal services over the last five years both in terms of volumes and mail mix?

9. What has been the effect of the Internet on demand?

C. Topic No. 3—Universal Service: Geographic Scope

Specific questions regarding the geographic scope of universal service and the postal monopoly which appear to be relevant to the present study and which commenters may wish to address include, but are not limited to, the following:

1. What geographic areas, populations, communities, organizations, or other groups or entities, if any, are not currently covered by the USO identified above?

2. What other gaps or deficiencies, if any, exist in the current USO? For example, a commenter may consider that the current USO fails to address a subject that should be addressed or sets a standard inappropriately.

3. What geographic areas, populations, communities, organizations, or other groups or entities, if any, are currently receiving universal services that are deficient in some manner? How should the word ''deficient'' be interpreted in this context?

D. Topic No. 4—Universal Service: Range of Product Offerings

Specific questions regarding the range of product offerings which appear to be relevant to the present study and which commenters may wish to address (either in terms of their own experience or in terms of their views regarding the needs of others) include, but are not limited to, the following:

1. What postal products should be legally assured service by a USO? What products should be supplied according to normal market arrangements between mailers and sellers of postal services?

2. Should express services be covered by the USO? Advertisements? First-Class Mail such as statements and invoices? Bulk First-Class

advertisements? Single-Piece First-Class Mail? Personal correspondence only? Newspapers and magazines? Bulk parcels? Single-piece parcels? Competitive products generally? With respect to each product covered by the USO, what public policies require coverage of that product?

3. How does the postal monopoly affect the range of universal service product offerings?

4. How should the postal monopoly affect the range of universal service product offerings?

5. Should universal service include special services such as Registered Mail, Certified Mail, and insurance for some or all universal services (as in the EU)? Should the USO require provision of such special services?

6. Should universal service include a lower priority, lower priced alternative for the delivery of letters (as in the United Kingdom and many other countries)? Should the USO require introduction of such a ''second priority'' letter service?

7. For parcels, is there an appropriate weight limit for the USO?

8. In the case of each product, what special considerations, if any, support inclusion or exclusion of the international postal products?

9. How should changes in mail volumes and mail mix over the next 3, 5, 10, or 15 years affect the USO?

10. To what extent, if any, should the universal service obligation permit the Postal Service (and/or other operators engaged in provision universal service) to expand or contract the *geographic scope* of universal service compared to that presently served by the Postal Service?

E. Topic No. 5—Universal Service: Access to Postal Facilities and Services

Questions regarding access to postal facilities and services which appear to be relevant to the present study and which commenters may wish to address (either in terms of their own experience or in terms of their views regarding the needs of others) include, but are not limited to, the following:

1. To what extent will the need for access facilities (including post offices, contract post offices, and collection boxes) expand or contract in 3 years, 5 years, 10 years, and 15 years?

2. What types of transactions require mailers to come to a post office in order to post a postal item? To what extent will changing technologies modify the demand for such retail services in 3 years, 5 years, 10 years, and 15 years?

3. What types of transactions require mailers to come to a post office in order to receive postal items? To what extent will changing technologies modify the demand for such services in 3 years, 5 years, 10 years, and 15 years?

4. To what extent do contract post offices (*i.e.*, stores providing postal services operated by non-USPS personnel) serve as satisfactory substitutes for USPS post offices? Under what circumstances do they not?

5. To what extent should access facilities be assured by inclusion in a universal service obligation in 3 years, 5 years, 10 years, and 15 years? To what extent should USO access requirements, if any, apply differently to different universal service products?

6. To what extent should the Postal Service be permitted by the USO to substitute contract post offices for USPS post offices? [16]

7. To what extent should the USO in the future (*i.e.*, in 3 years, 5 years, 10 years, and 15 years) require delivery to each address in the nation (as in the EU)?

8. To what extent should the USO in the future (*i.e.*, in 3 years, 5 years, 10 years, and 15 years) include requirements for delivery of postal items to persons without an address? [17]

9. Does the mailbox monopoly still serve a useful role in supporting universal service and the universal service obligation?

10. What changes, if any, should be made to the mailbox monopoly to enhance the ability of mailers to reach mail recipients or to broaden the range of services available to mail recipients?

F. Topic No. 6—Universal Service: Frequency of Delivery Commenters Are Invited To Comment on Their Anticipated Needs and Expectations With Respect to Frequency of Universal Services

1. What are the major factors that influence the needs and expectations of mailers with respect to delivery frequency?

2. What are the major factors that influence the needs and expectations of addressees with respect to delivery frequency?

3. To what extent would it be appropriate for universal service in the future (*i.e.*, in 3 years, 5 years, 10 years, and 15 years) to provide for a delivery frequency of 7, 6, 5, 4, 3, or 2 days per week, *i.e.*, more or less than currently provided by the Postal Service?

4. To what extent should the legal standards set out in the USO permit a delivery frequency of 7, 6, 5, 4, 3, or 2 days per week, *i.e.*, more or less than currently provided by the Postal Service?

5. To what extent would it be appropriate for universal service in the future (*i.e.*, in 3 years, 5 years, 10 years, and 15 years) to vary delivery frequency by the volume and characteristics of mail, by, for example, providing more frequent delivery for letters than for advertisements or more frequent delivery in areas that receive high volumes of mail than in areas that receive low volumes of mail?

6. To what extent should the legal standards set out in the USO permit universal service in the future to vary delivery frequency by the volume and characteristics of mail?

7. To what extent would mailers be interested in a discount service that provides less than six days per week? To what extent would mailers be interested in a higher priced service that includes Sunday delivery?

8. What implications, if any, does the postal monopoly have for the frequency of delivery of universal services?

G. Topic No. 7—Universal Service Obligation: Rates and Affordability of Service

1. Should the USO in the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years) require that rates for universal service are ''affordable'' (as in the EU)? To what extent should affordability assurances, if any, apply differently to different universal service products? How should ''affordable'' be defined?

2. Should the USO in the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years) require that rates for universal services are not unduly or unreasonably discriminatory (*see* 39 U.S.C. 403(c))? To what extent should such prohibitions, if any, apply differently to different universal service products?

3. Should the USO in the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years) require that increases in rates for market dominant universal services are limited to increases in the Consumer Price Index applied at the class level (*see* 39 U.S.C. 3622)? To what extent should such controls apply differently to different market dominant universal service products?

4. To what extent, if at all, should the USO in the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years) regulate rates for personal correspondence or single-piece postal items in a different manner from

[16] In some countries, like the United Kingdom, more than 90 percent of post offices are contract post offices.

[17] *See, e.g., Currier* v. *Potter,* 379 F.3d 716 (9th Cir. 2004) in which the court upheld an order by the Postal Service denying homeless individuals no-fee postal mailboxes and refused to provide them general delivery service anywhere but a at main, downtown post office.

regulation of rates for bulk market dominant products? [18]

5. To what extent, if at all, should the USO in the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years) require that rates for each class of mail for the transmission of letters be uniform throughout the United States (*see* 39 U.S.C. 404(c))?

6. To what extent, if at all, should the USO in the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years) permit introduction of rates for market dominant bulk mail that vary according to the cost of delivery? According to the costs of transportation from origin? For example, for bulk mail, the Postal Service might charge more for delivery in high-cost areas and less for the delivery in low-cost areas.[19]

7. What effect do the monopoly laws have on the rates for universal services?

8. In the future (*i.e.*, 3 years, 5 years, 10 years, and 15 years), if the monopoly laws are repealed, how should the net costs resulting from imposition of the USO on the Postal Service (and perhaps other postal operators) be paid for? By a tax on letters delivered to low-cost delivery areas by all postal operators? [20] By a tax on all letters delivered by all postal operators? By a tax on other postal products? By public funds appropriated by Congress?

H. Topic No. 8—Universal Service: Quality of Service

Specific questions regarding quality of service which appear to be relevant to the present study and which commenters may wish to address (either in terms of their own experience or in terms of their views regarding the needs of others) with respect to the *quality of service* of universal services include, but are not limited to, the following:

1. How should the quality of service be measured for universal service?

2. Is security of the mail, such as ''sealed against inspection for First-Class Mail,'' a part of universal service quality?

3. Should the USO include quality of service requirements for universal services established by the Commission? For which products?

4. Should the USO require monitoring of the performance of the universal services by the Commission? For which products?

5. Do types of mail delivery service (*e.g.*, curb box, door slot, or corner cluster box) present universal service quality issues?

I. Topic No. 9—Methods of Calculating the Cost of the Universal Service Obligation and Postal Monopoly

Specific questions which appear to be relevant to the present study and which commenters may wish to address (either in terms of their own experience or in terms of their views regarding the needs of others) include, but are not limited to, the following:

1. What mathematical methodologies exist for calculating the net cost of the USO? Which methodology is to be preferred? Why?

2. What have been the most significant efforts to calculate the net cost of the USO in the U.S. and abroad? What were the results?

3. What is the current net cost, if any, of the USO in the United States? Under what assumptions?

4. How can the net benefit of the postal monopoly and mailbox monopoly be calculated?

5. What is the net benefit to the Postal Service, if any, of the postal monopoly and mailbox monopoly in the United States? Under what assumptions?

6. To what extent do net benefits from the postal monopoly and/or the mailbox monopoly (if any) cover the net costs resulting from the USO (if any)? How? Precisely who benefits and who is disadvantaged by such a transfer of funds?

7. To the extent that there is a net cost resulting from the USO what funding mechanisms exist to cover this cost? What are the pros and cons of each?

J. Topic No. 10—The Implications of the Universal Service Obligation for the Postal and Mailbox Monopolies

Specific questions which address the possible implications of the USO for the postal and mailbox monopolies include, but are not limited to, the following:

1. What is the authority of the Postal Service to adopt regulations to further define or affect the scope of the USO?

2. What is the authority of the Commission to adopt regulations to further define or affect the scope of the USO?

3. What is the authority of the Postal Service to adopt regulations to further define the scope of the postal monopoly and mailbox monopoly? [21]

4. What is the authority of the Commission to adopt regulations to further define the scope of the postal monopoly and mailbox monopoly?

5. Would changes in the universal service obligation require changes in the postal monopoly or the mailbox monopoly? If so, how and why?

K. Topic No. 11—Universal Service, the Universal Service Obligation, and the Postal Monopoly in Other Countries

The effect of postal reform laws on the USO and postal monopoly laws in other industrialized countries may provide valuable insights into the potential implications of changes in the USO and postal monopoly laws in the United States. Commenters may wish to provide views and analyses of the evolution of universal service, the USO, and the postal monopoly in other industrialized countries and to comment upon the possible relevance, or lack of relevance, of such examples for the current study.

L. Topic No. 12—Other Issues

Commenters may also desire to provide any views and analyses on subjects not covered by any of the preceding topic headings:

1. What will be the most important factors influencing the demand for universal services over the next 3, 5, 10, or 15 years?

2. What effects will it have on the demand for universal services over the next 3, 5, 10, or 15 years?

3. What effect will environmental issues have on demand over the next 3, 5, 10, or 15 years?

4. To what extent will new technologies increase or alter the demand for universal service by changing the nature of postal services?

5. What factors affect the decision to use alternative means of communications, either electronic (*e.g.*, Internet for bill presentment, bill payment, and advertising) or physical (*e.g.*, newspapers, alternative delivery services for advertising, private express companies)?

6. In particular, what would be the effect on demand of changes in the rates of universal services relative to changes in the Consumer Price Index? Consider large changes as well as small and price reductions as well as price increases.

7. What is the importance of universal postal service relative to the universal telephone system? Universal Internet service? Private delivery services? Newspaper advertising? Other media?

[18] For example, in the United Kingdom, PostCom has grouped market dominant products into two baskets for purposes of administering price caps. The first basket includes ''captive'' single-piece items, and the second basket includes ''non-captive'' bulk items. *See* PostCom, *2006 Royal Mail Price and Service Quality Review: Initial Proposals* (June 2005) at paras. 3.24 *et seq.*

[19] Bulk mail rates that vary by cost of delivery are becoming accepted in the European Union. For a discussion of policy implications, *see* PostCom, *Royal Mail's Retail Zonal Pricing Application: PostCom's Proposals* (August 2007).

[20] Such a tax would seemingly mimic the economic effect of the postal monopoly.

[21] *See* Federal Trade Commission, *Accounting for Laws That Apply Differently to the United States Postal Service and Its Private Competitors* (2007) at 16 (''The PAEA also repealed the statutory authority for the USPS to issue regulations to define the scope of its monopoly.'').

8. What broader social, economic, and technological trends may affect the future needs and expectations of society generally with respect to universal service over the next 3 years, 5 years, 10 years, and 15 years?

VII. Ordering Paragraphs

It is ordered:

1. As set forth in the body of this notice, Docket No. PI2008–3 is established for the purpose of receiving comments regarding universal postal service and the postal monopoly.

2. Interested persons may submit comments no later than June 30, 2008.

3. Reply comments also may be filed no later than July 29, 2008.

4. Emmett Rand Costich is designated as the Public Representative representing the interests of the general public in this proceeding.

5. The Secretary shall cause this notice to be published in the **Federal Register**.

By the Commission.

Garry J. Sikora,

Acting Secretary.

[FR Doc. E8–9464 Filed 4–29–08; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28252; 812–13508]

Thrivent Mutual Funds, et al.; Notice of Application

April 24, 2008.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from rule 12d1–2(a) under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: Thrivent Mutual Funds (''TMF''), Thrivent Series Fund, Inc. (''TSF,'' together with TMF, the ''Funds''), Thrivent Asset Management, LLC (''TAM''), Thrivent Financial for Lutherans (''TFL'') and Thrivent Investment Management Inc. (''TIMI'').

FILING DATES: The application was filed on February 20, 2008, and amended on April 22, 2008.

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 Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 19, 2008 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants, c/o David S. Royal, Thrivent Financial for Lutherans, 625 Fourth Avenue, South, Minneapolis, MN 55415.

FOR FURTHER INFORMATION CONTACT: Lewis Reich, Senior Counsel, at (202) 551–6919, or Nadya B. Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–1520 (telephone (202) 551–5850).

Applicants' Representations

1. TMF is organized as a Massachusetts business trust, and TSF is organized as a Minnesota corporation; both are registered as open-end management investment companies under the Act and each offers separate investment portfolio series (''Funds'') that may invest in other registered investment companies (''Underlying Funds''). Applicants request an exemption to the extent necessary to permit the Funds and any other existing or future registered open-end management investment companies and their series advised by TAM or TFL or any entity controlling, controlled by, or under common control with, TAM or TFL (included in the term ''Funds'') that may invest in other Funds in reliance on section 12(d)(1)G) of the Act or rule 12d1–2 under the Act to also invest in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'') consistent with their investment objectives, policies, strategies and limitations. A Fund eligible to rely on section 12(d)(1)G) of the Act or rule 12d1–2 is referred to as a ''Fund of Funds.''

2. TAM serves as the investment adviser to each portfolio of TMF, and TFL serves as the investment adviser to each portfolio of TSF. Both TAM and TFL are registered as investment advisers under the Investment Advisers Act of 1940 (the ''Advisers Act''). TAM, a limited liability company organized under the laws of Delaware, is a wholly owned indirect subsidiary of TFL. TIMI, the distributor of TMF, is a wholly owned indirect subsidiary of TFL registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act''), and as an investment adviser under the Advisers Act.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company (''acquiring company'') may acquire securities of another investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment