

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Tony L. Hammond, Vice Chairman;
Mark Acton;
Dan G. Blair; and
Nanci E. Langley

Annual Compliance Report

Docket No. ACR2009

NOTICE OF FILING OF ANNUAL REPORTS
TO THE COMMISSION BY THE POSTAL SERVICE AND
SOLICITATION OF PUBLIC COMMENT

(Issued January 5, 2010)

Section 3652 of title 39 of the United States Code requires the Postal Service to file several reports with the Postal Regulatory Commission. Section 3652(a)(1) requires a report on the costs, revenues, rates, and quality of service associated with its products within 90 days after the close of each fiscal year. That section requires that the Postal Service's annual report be sufficiently detailed to allow the Commission and the public to determine whether the rates charged and the service provided comply with all of the requirements of title 39.

The Postal Service filed annual reports to the Commission in compliance with 39 U.S.C. 3652 on December 29, 2009, referred to comprehensively as the Annual Compliance Report (ACR) FY 2009. Appended to it are four basic data reports: (1) the Cost and Revenue Analysis (CRA); (2) the International Cost and Revenue Analysis (ICRA);

(3) the models of costs avoided by worksharing; and (4) billing determinant information.¹ A full list of materials supporting the FY 2009 ACR accompanies the report as Attachment One.

The Postal Service observes that all four basic data reports (CRA, ICRA, avoided cost studies, and billing determinants) have traditionally been filed with the Commission on an annual basis, and therefore are familiar to the Commission, both from prior rate cases and the previous two ACRs. It notes that there has been a significant change in the format of some of these materials. Where the CRA formerly presented financial data for competitive products as a single line item, it now presents data for five competitive product groups, consistent with the new format in which the Postal Service presents the public version of the Revenue, Pieces, and Weight report. In addition, the non-public annex filed by the Postal Service for the first time presents detailed financial data for competitive product NSAs. The supporting documentation for this new level of detail in these areas also remains in its non-public annex. *Id.* at 83-85. Finally, the Postal Service has filed a public and a non-public version of its Cost Segments and Components Reconciliation to Financial Statements and Account Reallocations report. Financial accounts relating to competitive products have been redacted from the public version. In the FY 2008 ACR, this was filed as an unredacted public document.

Section 3652(g) of title 39 requires that the Comprehensive Statement of Postal Operations mandated by 39 U.S.C. 2401(e) and performance and program plans mandated by sections 2803 and 2804 be included as a part of the Postal Service's annual compliance report. The Postal Service's Comprehensive Statement is filed as USPS-FY09-17 and is also available on its website: http://www.usps.com/strategicplanning/cs09/CSPO_09.pdf.

After receiving the FY 2009 ACR, the Commission is required under 39 U.S.C. 3653 to provide interested persons with an opportunity to comment on these reports and to appoint a Public Representative to represent the interests of the general public. Kenneth E. Richardson serves as the Public Representative in this docket.²

¹ United States Postal Service FY 2009 Annual Compliance Report, December 29, 2009 (FY 2009 ACR). Public portions of the Postal Service's filing are available at the Commission's website, www.prc.gov.

² See Notice of Appointment of Public Representative, October 28, 2009.

The Commission hereby solicits public comment on these reports, and on whether any rates or fees in effect during FY 2009 (for products individually or collectively) were not in compliance with applicable provisions of chapter 36 of title 39 (or regulations promulgated thereunder). Commenters addressing market dominant products are referred in particular to applicable requirements (39 U.S.C. 3622(d), (e) and 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing competitive products are referred to 39 U.S.C. 3633.

The Commission also solicits public comment on whether any service standards in effect during FY 2009 were not met. Commenters addressing the achievement of service standards for products within the market dominant classes of mail or special services are referred to 39 CFR parts 121 and 122, adopted 72 FR 72216 *et seq.*, December 19, 2007.

Additionally, the Commission solicits public comment on whether the Postal Service has met the goals established in the annual Comprehensive Statement and program and performance plans included in the Comprehensive Statement, which will assist the Commission in developing appropriate recommendations to the Postal Service related to the protection or promotion of the public policy objectives of title 39.

Comments by interested persons are due on or before February 1, 2010. Reply comments are due on or before February 16, 2010. After completing its review of the FY 2009 ACR, public comments, and any other information submitted in this proceeding, the Commission will issue an Annual Compliance Determination (ACD).

This is the third compliance report filed by the Postal Service since passage of the Postal Accountability and Enhancement Act (PAEA). Some of the issues raised by transitioning from the Postal Reorganization Act to the PAEA were resolved in FY 2009, easing the task of the Postal Service in preparing its report, and the task of the Commission and the public in evaluating it. The Commission has adopted rules prescribing the form and content of the Postal Service's periodic reports, including its annual compliance report.³ In its

³ See Docket No. RM2008-4, Notice of Final Rule Prescribing Form and Content of Periodic Reports, April 16, 2009.

FY 2009 ACR, the Postal Service presents costs and revenues aligned (for the most part) with the market dominant and competitive product lists in the Mail Classification Schedule.

In FY 2009, the Commission also adopted rules governing the treatment of commercially sensitive information. Those rules require the Postal Service to apply for non-public treatment of information required in periodic reports. Its application must specify its reasons for concluding the particular information is commercially sensitive and in need of non-public treatment, and describe with particularity the nature of the competitive harm that public disclosure is likely to cause.⁴ Accordingly, the Postal Service has accompanied its FY 2009 ACR with an application for non-public treatment of certain competitive product information, including its supporting rationale in Attachment Two. There, the Postal Service argues that costs at the level of individual competitive products and below are generally commercially sensitive, and that volume and revenue at the level of billing determinants are commercially sensitive. In its domestic CRA, the Postal Service has aggregated competitive products into five groups that it views as appropriate for public disclosure—Total Express Mail, Total Priority Mail, Total Ground, Total International Competitive, and Competitive Services. In its FY 2008 domestic CRA, it had presented comparable data in a single competitive products line item.

Among the materials submitted by the Postal Service as part of its filing is a document identified as USPS-FY09-9 which serves as a roadmap summarizing other materials submitted as part of the FY 2009 ACR and discussing changes in methodologies from those used in the FY 2008 ACD. The Postal Service explains that methodological changes are discussed in general terms in a separate section of the roadmap document (USPS-FY09-9), and in more detail in the narrative preface accompanying each of the appended materials.

The Postal Service explains that to the extent feasible it has adhered to the methodologies used in the FY 2008 ACD or approved by the Commission in informal rulemakings subsequent to the FY 2008 ACD. On pages 5 and 6 of the FY 2009 ACR, the Postal Service provides a list of dockets in which it has proposed changes to analytical

principles used in periodic reporting, and identifies those rulemakings that have been completed and those that are still pending. With respect to those that are still pending, the Postal Service observes that in some instances, use of a changed analytical principle was necessary to reflect changed circumstances. In all other instances, the Postal Service explains that it has provided “toggle switches” in the documentation to allow the impact of the proposed change to be separately identified and reversed, if necessary. FY 2009 ACR at 6.

The Postal Service’s FY 2009 ACR discusses the evolution of its measurement of service standards to meet the mandate of 39 U.S.C. 3652(a)(2)(B)(i). The Postal Service reports that its hybrid IMb-based system for obtaining service performance results for bulk market dominant products is still under development. The Postal Service intends to use data from this system to measure service performance of its bulk mail products in the future. *Id.* at 9-10. Also of interest is the expansion of the coverage of the Postal Service’s EXFC system for measuring the service performance of single-piece First-Class Mail from 463 3-digit ZIP Code areas to 892 3-digit ZIP Code areas. It notes that on-time performance in the expansion ZIP Codes initially lagged the on-time performance of the legacy ZIP Codes by 13.5 percent, but that management initiatives reduced that gap to less than 1 percent by the end of FY 2009. *Id.* at 12-13.

In its most recent compliance determination, the Commission raised concerns about the customer satisfaction measurement survey used by the Postal Service in its FY 2008 ACR. The Postal Service describes new modifications it made to improve that system, *id.* at 16-17, and customer satisfaction measurement instruments it has developed and is implementing for use in its FY 2010 ACR. *Id.* at 19.

Generally, market dominant products that were flat shaped or parcel shaped failed to cover their attributable costs in FY 2009. For example, Periodicals lost \$642 million, earning revenues that were only 76 percent of attributable costs. *Id.* at 40, Table 3. Standard

⁴ See Docket No. RM2008-1, Final Rule Establishing Appropriate Confidentiality Procedures, June 19, 2009.

Regular flats, and Standard Regular parcels and NFMs together lost \$830 million. Flats were roughly 82 percent of attributable costs, and revenues for parcels and NFMs were roughly 75 percent of attributable costs. *Id.* at 26, Table 2. Package Services, as a class, lost \$53 million. Among package services products, only Bound Printed Matter flats and Inbound Surface Parcel Post covered their attributable costs. *Id.* at 42-43, Table 4. Four Special Services failed to recover their attributable costs—Registered Mail, Stamped Cards, International Ancillary Services, and Confirm. *Id.* at 52-53, Table 5. Finally, International Inbound Single-Piece First-Class Mail failed to cover its costs, earning revenues that were approximately 60 percent of attributable costs. *Id.* at 22. Additionally, the Postal Service provides a discussion of the competing policy considerations that impact workshare discounts and the reasons a substantial number of workshare discounts may have exceeded avoided costs in FY 2009. *Id.* at 58-73.

With respect to competitive products, seven international products failed to recover their attributable costs—Inbound International Expedited Services 1 and 2; Inbound Surface Parcel Post at Non-UPU Rates; International Money Transfer Service; Competitive Registered Mail; Competitive Insurance; Competitive Return Receipt; and Competitive International Business Reply Service negotiated service agreement contracts. *Id.* at 77-79.

The Postal Service estimates that competitive products as a whole covered their incremental costs, calculated two alternative ways, and therefore pass the test for identifying cross-subsidy of competitive products by market dominant products. It, therefore, concludes competitive products were in compliance with 39 U.S.C. 3633(a)(1).

It is Ordered:

1. The Commission establishes Docket No. ACR2009 to consider matters raised by the Postal Service's FY 2009 Annual Compliance Report.
2. Comments on the United States Postal Service FY 2009 Annual Compliance Report to the Commission, including the Comprehensive Statement of Postal Operations and other reports, are due on or before February 1, 2010.

3. Reply comments are due on or before February 16, 2010.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary