U.S. POSTAL REGULATORY COMMISSION

ANNUAL REPORT TO THE PRESIDENT AND CONGRESS

Fiscal Year 2013

Postal Regulatory Commission Mission Statement

Ensure transparency and accountability of the United States Postal Service and foster a vital and efficient universal mail system.

Guiding Principles

The Commission is committed to and operates by the principles of:

Openness

– Public participation

Integrity

– Fairness and impartiality

– Timely and rigorous analysis

Merit

– Commitment to excellence

– Collegiality and multi-disciplinary approaches

Adaptability

– Proactive response to the rapidly changing postal environment

SEN. CARPER
CHAIRMAN

CHAIRMAN'S MESSAGE

JANUARY 2014

I am pleased to present the Postal Regulatory Commission's Annual Report to the President and Congress for Fiscal Year 2013 on its accomplishments and activities as the regulator of the United States Postal Service.

The Postal Service is the engine of a nearly $1 trillion industry in the United States and is the world's largest postal partner among the 192 members of the Universal Postal Union. Our nation's Postal Service is a noble enterprise that is beloved and trusted. Yet, because of its size, its impact on all citizens and industries, and because of the privileges and protections it has as a government-owned monopoly, there are strong reasons for oversight of its operations.

The Commission, with fewer than 75 employees and a $14 million budget, is charged with reviewing and approving Postal Service rates, reviewing formal and informal complaints, examining proposals for new products and services, and ensuring the Postal Service complies with title 39. During these times of fast-paced technological transition and fluctuations in the economy, the Commission's role is especially important to provide transparency and accountability while the Postal Service makes needed operational changes, implements cost reductions and pursues new opportunities for growth.

This year's activities include several Commission decisions that aid the Postal Service in developing new business opportunities and partnerships, and simultaneously protect users of the mail. The Commission approved a Negotiated Service Agreement between the Postal Service and Valassis designed to expand saturation mail advertising. Its rate increase findings resulted in the Postal Service agreeing to adjust the rates of commercial and non-profit Standard Mail to ensure that the non-profit community's rates and discounts are exactly 60 percent of commercial mail as required by law. The Commission also issued a decision approving the experimental product, MetroPost, which tests same-day package delivery; a decision upholding the Postal Service's offering of enhanced Post Office Box services; and a favorable decision in the first-ever filing by mailer Pitney Bowes that proposed to alter a key benchmark for First-Class Mail rates.

The Commission also undertook several new initiatives to improve the efficiency of its operations and to provide interested parties with helpful and timely guidance. The Commission issued a Notice of Proposed Rulemaking that would streamline its procedures for analyzing Postal Service proposals to make nationwide changes in the

nature of services and set a 90-day time limit for providing Advisory Opinions, while preserving procedural due process. Acknowledged by the Postal Service as valuable, the Commission's Advisory Opinion process allows for public input and increases the transparency and accountability of Postal Service operational decisions.

In September 2013, I was honored to testify before the Senate Committee on Homeland Security and Governmental Affairs regarding the Commission's views on proposed and necessary postal reforms. The Commission believes that the current law has been successful at balancing pricing flexibility and at providing both stable rates and strong incentives for cost reductions and improved efficiencies. It supports efforts to resolve the Postal Service's burden of prefunding its Retiree Health Benefit Fund obligations. A framework that preserves the Commission's role in pre-implementation review of market dominant rates and of change in service proposals has worked well, and protects all interested parties.

That protection is even more vital for the general public as a whole. The Commission takes seriously its responsibility to designate an officer to protect the interests of the public through our Public Representative Program. This year alone, a Public Representative has participated in more than 200 cases and dockets before the Commission.

Also, in FY 2013, the Commission began a project to modernize its website to improve ease of use and transparency of its operations, making it easier for mailers and the general public to access Commission orders and decisions, and to provide more robust information on how to participate in Commission proceedings.

In closing, I want to emphasize that the Commission is strongly committed to working with the President, Congress, the Postal Service, mailers and the general public as critical decisions are made to assist and sustain the Postal Service. Of course, the activities and accomplishments described in this report are made possible by the hard work and dedication of my fellow Commissioners and the Commission's talented staff.

The Commission looks forward to building on its FY 2013 accomplishments and continue to fulfill its mission in the most efficient and responsive manner possible.

Ruth Y. Goldway
Chairman

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Chapter I

Fiscal Year 2013 Highlights

In addition to fulfilling its other primary responsibilities, Commission initiatives in FY 2013 focused on improving those regulations that enable it to carry out its mission of ensuring the transparency and accountability of Postal Service activities, and ensuring universal service.

- Issued several Notices of Advance Proposed Rulemakings affecting the Postal Service and the postal community, including:
  - Streamlining procedures for the issuance of Advisory Opinions in Nature of Service cases (RM2012-4);
  - Clarifying the procedures for unfair competition complaints (RM2013-4); and
  - Clarifying the filing requirements for market tests and experimental products (RM2013-5).
- Finalized a rulemaking (RM2013-2) that provided additional pricing flexibility for the Postal Service by improving the manner in which the Commission implements statutory directives and clarified previous Commission policies on the price cap.
- Finalized two rulemakings updating the Commission's rules of practice and procedure.
- Issued the FY 2012 Annual Compliance Determination assessing the U.S. Postal Service's financial and service performance in which the Commission found that:
  - Nine market dominant products failed to raise sufficient revenue to cover attributable costs;
  - Untapped potential pricing flexibility was available to the Postal Service;
  - The Postal Service met its on-time service performance targets for First-Class Mail Letters and cards, and made improvements to meeting its delivery service targets for other products.

- Provided testimony to the Senate Committee on Homeland Security and Governmental Affairs at a hearing focused on reforming the U.S. Postal Service.
- Launched an initiative to modernize the Commission's external website to ensure transparency of postal operations and efficiency in information gathering.
- Participated as part of the U.S. delegation to the Universal Postal Union, and provided Commission views to the Department of State on 300 Postal Operations Council proposals to amend the UPU Convention.
- Approved three cases resulting in rate and classification changes, and approved seven rate promotions filed with a notice of rate adjustment thereby, promoting two Postal Accountability and Enhancement Act (PAEA) goals of allowing pricing flexibility and generating adequate revenue.
- Approved 88 Negotiated Service Agreements, (83 Competitive and 5 Market Dominant), proven to be of financial or operational benefit to the Postal Service without undue harm to the market.
- Reviewed 10 post office closing appeals.
- Responded to more than 4,500 inquiries from consumers, business owners, federal, state and local governments and postal employees.
- Forwarded 2,060 rate and service complaints to the Postal Service and followed up to measure consumer satisfaction.

Chapter II

About the Commission

The Postal Regulatory Commission is an independent establishment of the executive branch that has exercised regulatory oversight over the U.S. Postal Service since its creation by the Postal Reorganization Act of 1970 (PRA), with expanded responsibilities under the Postal Accountability and Enhancement Act of 2006 (PAEA). The Commission is composed of five Commissioners, each appointed by the President, with the advice and consent of the Senate, for a term of six years. The Chairman is designated by the President and serves as the head of the agency. A Commissioner may continue to serve after the expiration of his or her term for up to one year. No more than three members of the Commission may be from the same political party.

Ruth Y. Goldway, Chairman

First appointed as a Commissioner on April 7, 1998. Designated Chairman by President Barack Obama on August 6, 2009. Term expires November 22, 2014. Former Manager of Public Affairs for the Getty Trust. Former Director of Public Affairs, California State University, Los Angeles. Former Council Member and Mayor, City of Santa Monica. Founder and former Chairperson, Santa Monica Pier Restoration Corporation. Former Assistant Director of California's Department of Consumer Affairs. Cofounder of Women in Logistics and Delivery Services.

Robert G. Taub, Vice Chairman

Appointed as a Commissioner in October 2011. Term expires October 14, 2016. Former Special Assistant to Secretary of the Army, John McHugh. Former Chief of Staff to U.S. Representative John McHugh. Served for 12 years on the House of Representative's Oversight & Government Reform Committee in a series of senior positions, including service as Staff Director of its former Postal Service Subcommittee. Former Senior Policy Analyst with the U.S. Government Accountability Office (GAO). Staff member for three Members of Congress, a Member of the British Parliament, and state and county officials in upstate New York.

Mark Acton

Appointed as a Commissioner on August 3, 2006. Term expires October 14, 2016. Served as Vice Chairman from 2007 to 2008 and again from 2011 to 2012. Served as Special Assistant to former Postal Rate Commission Chairman George Omas. Former Staff Director, Republican National Committee (RNC) Counsel's Office. Former Deputy to the Chairman of the 2004 Republican National Convention. Served as Special Assistant to the RNC Chief Counsel as well as RNC Counsel's Office Government Relations Officer and Redistricting Coordinator. Formerly served as both Executive Director, Republican National Convention, Committee on Permanent Organization and Deputy Executive Director, Committee on Rules. Former Executive Director of the RNC Redistricting Task Force.

Tony Hammond

Appointed as a Commissioner on August 15, 2002. Served as Vice Chairman from 2003 to 2005 and again from 2009 to 2010. Sworn in on May 1, 2012, for a third term as a Commissioner. Term expired October 14, 2013. Former owner and managing member, T. Hammond Company, LLC. Former Senior Consultant to Forbes 2000, Incorporated. Former Senior Vice President of the direct marketing firm, FL&S. Served as Director of Campaign Operations for the Republican National Committee for the 1998 election cycle. Former Executive Director and Finance Director, Missouri Republican Party. Also served as staff of former U.S. Representative Gene Taylor (R-MO).

Nanci E. Langley

Appointed as a Commissioner on June 6, 2008. Served as Vice Chairman from January 2012 to December 2012, and October 2008 to 2009. Term expired November 22, 2013. Former Director of Public Affairs and Government Relations, Postal Regulatory Commission. Former Deputy Staff Director to Senator Daniel K. Akaka (D-HI), U.S. Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia. Communications Director to former U.S. Senator Spark M. Matsunaga (D-HI). Elected as Fellow of the National Academy of Public Administration in 2009.

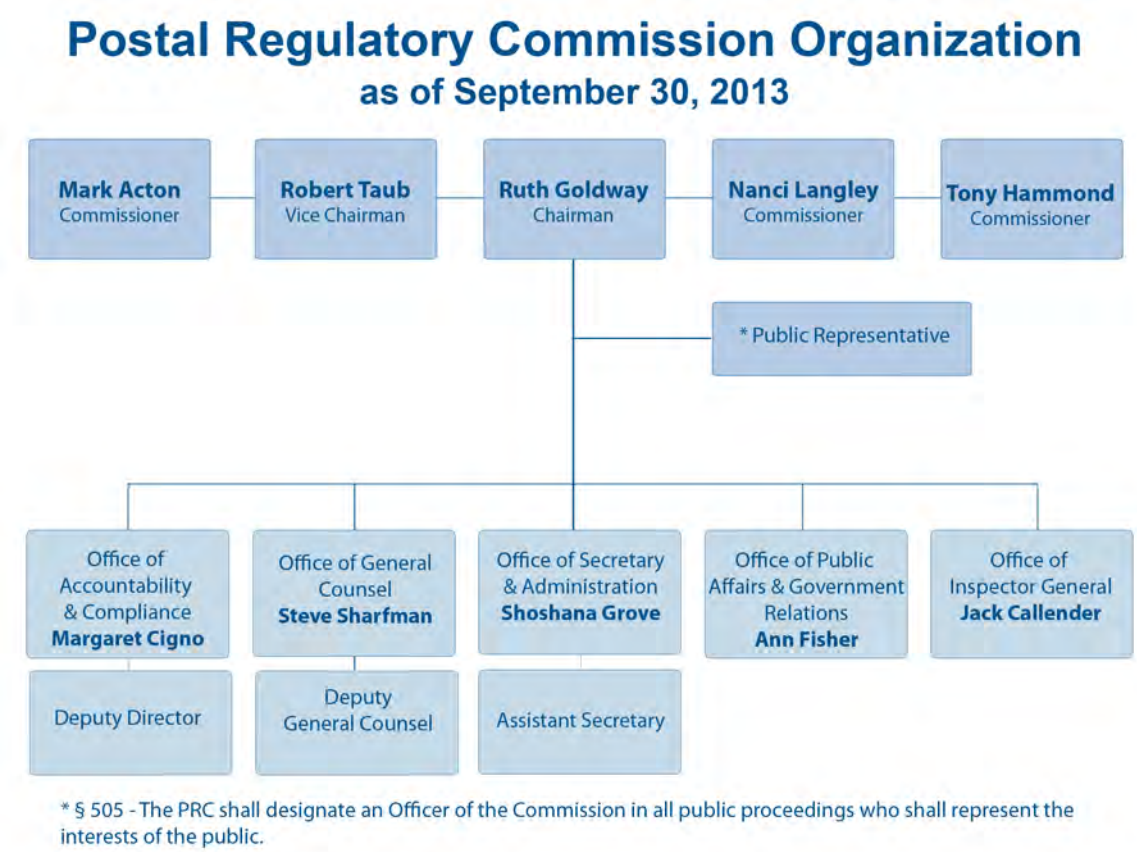
STAFF

Assisting the Commission is a staff with expertise in law, economics, finance, statistics, and cost accounting. The Commission is organized into four operational offices:

- Accountability and Compliance;
- General Counsel;
- Public Affairs and Government Relations; and
- Secretary and Administration.

The Commission maintains an independent office for its Inspector General.

ORGANIZATIONAL STRUCTURE



* § 505 - The PRC shall designate an Officer of the Commission in all public proceedings who shall represent the interests of the public.

COMMISSION'S MISSION AND STRATEGIC PLAN

The Commission's mission is to ensure the Postal Service complies with title 39; provide transparency and accountability into Postal Service operations and finance; and issue Advisory Opinions on changes in the mail that are at least substantially nationwide in scope.

The Commission's Strategic Plan for 2012-2016 is based upon the Commission's realistic and forward-looking assessment of the challenges ahead. As the primary regulator of the Postal Service, the Commission provides a window on the quality of service and the general operations of the Postal Service to the Congress, stakeholders and the general public. The Strategic Plan begins with the Commission's Mission and Guiding Principles, which direct all Commission actions, and outlines Strategic Goals and Implementation Strategies to help the Commission fulfill its mission.

On a quarterly basis, the Commissioners meet with the Office Heads to gauge the agency's

progress in meeting its goals and carrying out its mission, and to ascertain where challenges might exist and the plan of action to address those challenges. Office Heads are responsible for presenting Commissioners with updated departmental Action Plans for discussion. As the principal executive officer of the Commission, Chairman Goldway may then use these Action Plans to implement the Strategic Plan.

The Strategic Plan can be viewed in its entirety on the Commission's website at *www.prc.gov*.

REPRESENTING THE INTERESTS OF THE GENERAL PUBLIC

The Commission is unique among regulatory agencies in that it is required to assign a Public Representative to each of its public proceedings to represent the interests of the general public. The Commission's Public Representative program is managed by an Attorney-Administrator. The program continues to provide staff serving as Public Representatives with relevant training, resource assistance, and strategic feedback to maximize their role of representing the interests of the general public on issues ranging from post office closings to nature of service changes. This year, Public Representatives, comprised of attorneys and analysts who apply their professional expertise and knowledge to postal matters, provided comments in over 200 dockets before the Commission reflecting their opinions, findings and conclusions.

PUBLIC ENGAGEMENT

PUBLIC AFFAIRS AND GOVERNMENT RELATIONS

The Commission's Office of Public Affairs and Government Relations (PAGR) is a significant resource both in support of public outreach and education, complaint processing, media relations and liaison with the U. S. Congress, the Administration, the Postal Service and other government agencies. This office informs and advises Commissioners and Commission staff on legislative issues and policies related to the Commission and the Postal Service in addition to coordinating the preparation of both congressional testimony and responses to congressional inquiries concerning Commission policies and activities. PAGR is the primary office providing assistance to the general public.

During FY 2013, the Commission received over 4,500 inquiries, questions, suggestions complaints, and comments. Table II-1 illustrates

Table II-1
Consumer Inquiries by Method

Method of PAGR Contact	FY 2013	FY 2012	FY 2011	FY 2010	FY 2009
PAGR Website	3035	2387	2777	12978	513
Phone	979	601	771	694	311
Mail	379	2702	1848	3790	308
Email	103	151	204	216	263
Fax	19	35	48	488	245
Total	**4515**	**5876**	**5648**	**18173**	**1800**

the number of consumer inquiries during the last five years and the method by which they were received. Inquiries were received largely through the Commission's website link, "Contact PRC," found on the top banner of the home page at *www.prc.gov.*

Of the inquiries received, more than 4,000 comments were from consumers, 224 from business owners, 92 from postal employees and organizations, 72 from federal, state and local governments, 48 from the news media, and 16 from business mailers.

The top consumer issues in Figure II-1 included concerns about missing mail (600), undelivered mail (520), and delayed mail (468). PAGR received over 3,600 complaints, representing a substantial increase from the less than 1,700 complaints received in FY 2012.

Commission Order No. 195 established that rate and service complaints forwarded to the Postal Service's Office of the Consumer Advocate requires a response by the Postal Service to the inquirer and the Commission within 45 days. In FY 2013, the Commission forwarded 2,060 rate and service complaints to the Postal Service. The Order also requires the Postal Service to file a monthly report summarizing the general nature of these inquiries. The reports are filed on the Commission's website under "What's New" and with Postal Service Periodic Reports.

In FY 2013, the Commission implemented a new Customer Resolution system for measuring customer satisfaction levels of informal complaints referred to the Postal Service. Of the 2,060 rate and service inquiries referred to the Postal Service, a sampling of 322, or 15 percent of the inquiries, were contacted. The Commission received 35 responses, or an 11 percent response rate. Of those contacted, 4.35 percent indicated that their complaints were not resolved to their satisfaction. The Commission will continue to assess customer satisfaction in FY 2014.

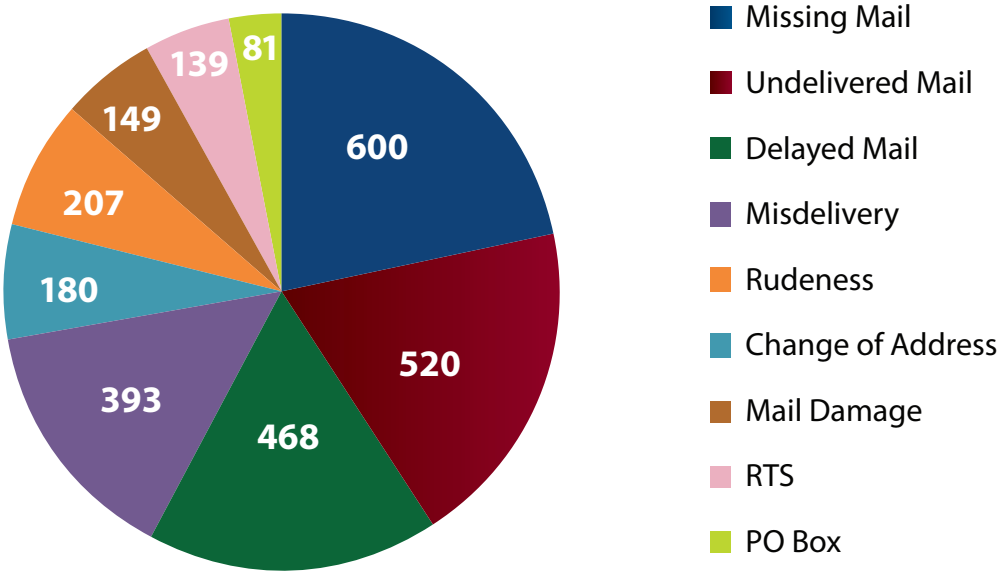
Congressional Testimony

On September 19, 2013, Chairman Goldway testified before the Senate Committee on Homeland Security and Governmental Affairs at a hearing entitled "Outside the Box – Reforming and Renewing the Postal Service." The hearing, one of two segments, focused on maintenance of services, reduction of costs, and increasing revenue through innovation and modernization. The Chairman's testimony emphasized the importance of transparency and accountability in the efficient provision of postal services. The Commission's experiences with potential changes to the Postal Service's delivery schedule

Courtesy of USPS.

Chairman Goldway testifying before the Senate Committee on Homeland Security and Governmental Affairs.

Figure II-1—Top Consumer Issues



and service standards were also addressed, demonstrating the value of examination by an independent third party. Finally, the Chairman discussed the Commission's views regarding the benefits to date of a rate-cap regime, the Commission's role in rate regulation, and the need for adequate safeguards should the Postal Service be authorized to offer new, nonpostal services.

Modernized Website

In FY 2013, the Commission began an initiative to audit and modernize its external website to ensure accessibility of content and transparency of Commission and Postal Service operations to all stakeholders. The project is expected to be completed in FY 2014.

Some of the main features of the Commission's updated website will include:

- A "Consumer Assistance" button on the homepage simplifying the process for the general public by making it easier to locate information;
- An "Active Cases" option on the homepage that takes the user to all of the open cases currently before the Commission;
- A "How to Participate" tab that provides consumers with information on how to participate in Commission hearings and other activities of interest; and
- Intuitive menu options simplifying the manner in which stakeholders access information.

ADMINISTRATION

The Commission's Office of the Secretary and Administration (OSA) ensures that the Commission has the physical, financial, information technology, and human capital infrastructures needed to accomplish its mission by providing financial management, records management, organizational support, planning and human capital resources. The Commission's administrative staff identifies and proposes process improvements, implements strategic plans, and provides support to ensure the success of the Commission's mission.

The Commission is committed to enhancing a system that fosters recruitment, development, and retention of a talented, skilled, diverse and adaptable workforce as part of its 2012-2016 Strategic and Human Capital Plan. In line with the President's guidance, the Commission continued to support its Flexible Work Program to include alternate work schedules and telework opportunities. During FY 2013, 69 percent of those eligible participated. The Commission ended FY 2013 accident free with no on-the-job injuries or lost workdays.

Commission staff participating in one of many Feds Feed Families events.

Employee Engagement

In FY 2013, the Commission again participated in the Federal Employee Viewpoint Survey (FEVS). The Commission's response rate was 87 percent compared with the government-wide rate of 48 percent. This compares favorably to the FY 2012 response rate of 89 percent and the FY 2012 government-wide response rate of 46 percent. The Commission is committed to developing actionable plans based on the feedback received in the FY 2013 FEVS.

In Table II-2, responses from Commission staff are compared with other small federal agencies. In six survey categories, the Commission reflects a higher degree of satisfaction and a more positive staff view.

Over the last several years, the Commission has successfully managed a rapidly increasing workload within a challenging budgetary climate. In response to these challenges, the Commission has developed programs for training and professional development directed at employee engagement and retention.

Equal Employment Opportunity (EEO)

During FY 2013, the Commission had no formal EEO complaint filings. To sustain the Commission's commitment to maintain a diverse and competent workforce, the Commission requires annual EEO, Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR), and whistleblower training of all staff.

Table II-2
FY 2013 FEVS Scores Compared to Other Small Agencies

Index	PRC Positive Response (%)	All Small Agencies' Positive Response (%)
Talent Management	73	59
Employee Engagement	71	66
Leadership and Knowledge Management	69	60
Diversity and Inclusion	66	59
Results-Oriented Performance Culture	66	56
Global Satisfaction	64	61

Source: Office of Personnel Management.

Diversity

In FY 2013, the Commission continued its commitment to support initiatives to recruit, develop and retain a skilled, high-achieving, and diverse workforce. Women represent 63 percent of the Commission's overall workforce, and minorities represent 29 percent. Women comprise 50 percent of executive positions while minorities comprise 12.5 percent.

The Commission provides internship opportunities to aid in the recruitment and development of professionals with diverse backgrounds, and will continue to monitor and offer opportunities to new hires, including the use of formal recruitment channels, such as: local universities, the Veterans' Administration, and other organizations and groups that target under-represented populations.

Training

The Commission offers a year-round training program to all employees that allows for skills training, professional development and student loan reimbursement. As part of its 2012-2016 Human Capital Plan and training goals, the Commission has been developing an enhanced leadership development program that includes mentoring, coaching and competency development, to be implemented in early 2014. This will provide employees with greater access to Office Heads and managers than is generally offered in traditional government hierarchies.

Transparency and Open Government

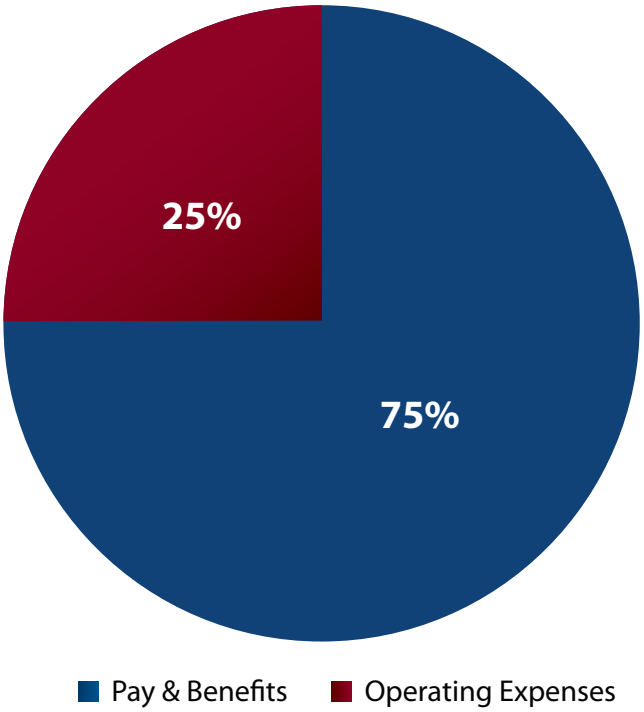
The Commission continued its commitment to transparency, accountability, and openness through its Freedom of Information Act (FOIA) program. In FY 2013, the Commission received a favorable review on the Assessment of Agency Progress from the Department of Justice.

As part of its mission of ensuring transparency, accountability and openness, the Commission continued to provide live audio-casts of hearings, technical conferences and public meetings. These audio-casts are available at *www.prc.gov.* In FY 2013, the Commission continued to enhance its network, website, and security measures.

Budget and Finance

The Commission's FY 2013 appropriation of $14,275,000 was obligated to maintaining staffing levels of 75 full-time employees and to

Figure II-2—PRC Annual Budget Expenditures



operating expenses. Figure II-2 illustrates that the majority of the Commission's annual budget covers pay and benefits for staff ($10,712,000), in contrast to the much smaller pool of funds for operating expenses ($3,563,000). This amount includes the Office of Management and Budget's (OMB) required 2 percent across-the-board cut put in place for all federal agencies for FY 2013. The Commission's prudent management of appropriated funds allowed the Commission to end FY 2013 under budget.

In response to the 2009 Presidential Memoranda regarding government contracting, and in line with the President's subsequent Executive Order 13576–Delivering an Efficient, Effective, and Accountable Government, the Commission continued to improve its contracting policy, processes and procedures, resulting in increased accountability and cost savings to the Commission. The Commission continues to work within budget, making more improvements in accounting and contracting processes to ensure cost effectiveness and efficiency.

The Commission has also successfully partnered with women and minority-owned businesses. In FY 2013, 8 percent of Commission contracts were awarded to women and minority-owned businesses.

Information Technology

Improvements to the Commission's Docket infrastructure are nearly complete and will facilitate public access and ease of use, as well as maintain the integrity of Commission records. Building on last year's infrastructure update, the Commission is converting most employees to virtual desktops to better ensure security and stability of the Information Technology infrastructure and improve employee productivity. The Commission is currently modernizing the design of its website to make it more user-friendly and to address accessibility issues, thus continuing the Commission's commitment to openness and transparency.

Docket Section

Staff has begun the training process for records management under the guidance of the National Archives and Records Administration (NARA). The Commission continues to improve its records management program, including submitting a comprehensive record schedule to NARA and completing a records management evaluation for FY 2013.

Chapter III

Effectiveness of Commission Rules to Achieve Objectives of the PAEA

39 U.S.C. 3651 requires the Commission to submit an annual report to the President and the Congress that includes an analysis of "the extent to which regulations are achieving the objectives under sections 3622 and 3633" of the PAEA. Those objectives include increased pricing flexibility, predictability in rates, and financial stability for the Postal Service tempered with greater accountability and transparency.

The statute establishes a tension between the restrictions of an inflation-based price cap on market dominant rate increases and the objective that the Postal Service must be self-sufficient and maintain financial stability. Further, while the PAEA provides incentives in the form of the price cap to reduce costs and increase efficiency, it also imposes new personnel-related expenses requiring the pre-funding of future healthcare costs for Postal Service retirees.

INCREASED PRICING FLEXIBILITY

Commission rules provide a means to assist the Postal Service in meeting the goals of section 3622 of the PAEA while also increasing pricing flexibility. During FY 2013, the Commission's assistance included approving Postal Service requests for changes in postal rates and classifications. The Commission also allowed price reductions associated with promotional rates, market tests and experimental products to further enhance pricing flexibility.

Rate and Classification Cases

During FY 2013, the Commission approved several Postal Service rate and classification changes, as well as market tests.

Notice of Increase for Rates of General Applicability

In FY 2013, the allowable annual increase for rates of general applicability under the Consumer Price Index All Urban (CPI-U) price cap was 2.570 percent.[1] The Postal Service proposed increasing prices for rate categories of each class of mail by different percentages.[2]

Before approving this price adjustment, the Commission remanded the Standard Mail rates to the Postal Service.[3] The Postal Service was ordered to comply with the directives of the 2010 and 2011 Annual Compliance Determinations (ACDs) which required the Postal Service to take remedial steps to improve the cost coverage of Standard Mail Flats through cost cutting and above-average price increases. On remand, the Postal Service filed an above-average price increase of 2.617 percent for Standard Mail Flats, which is 1.02 times the CPI-U.[4] This helped promote PAEA Objective 5, which assures the Postal Service generates adequate revenues.

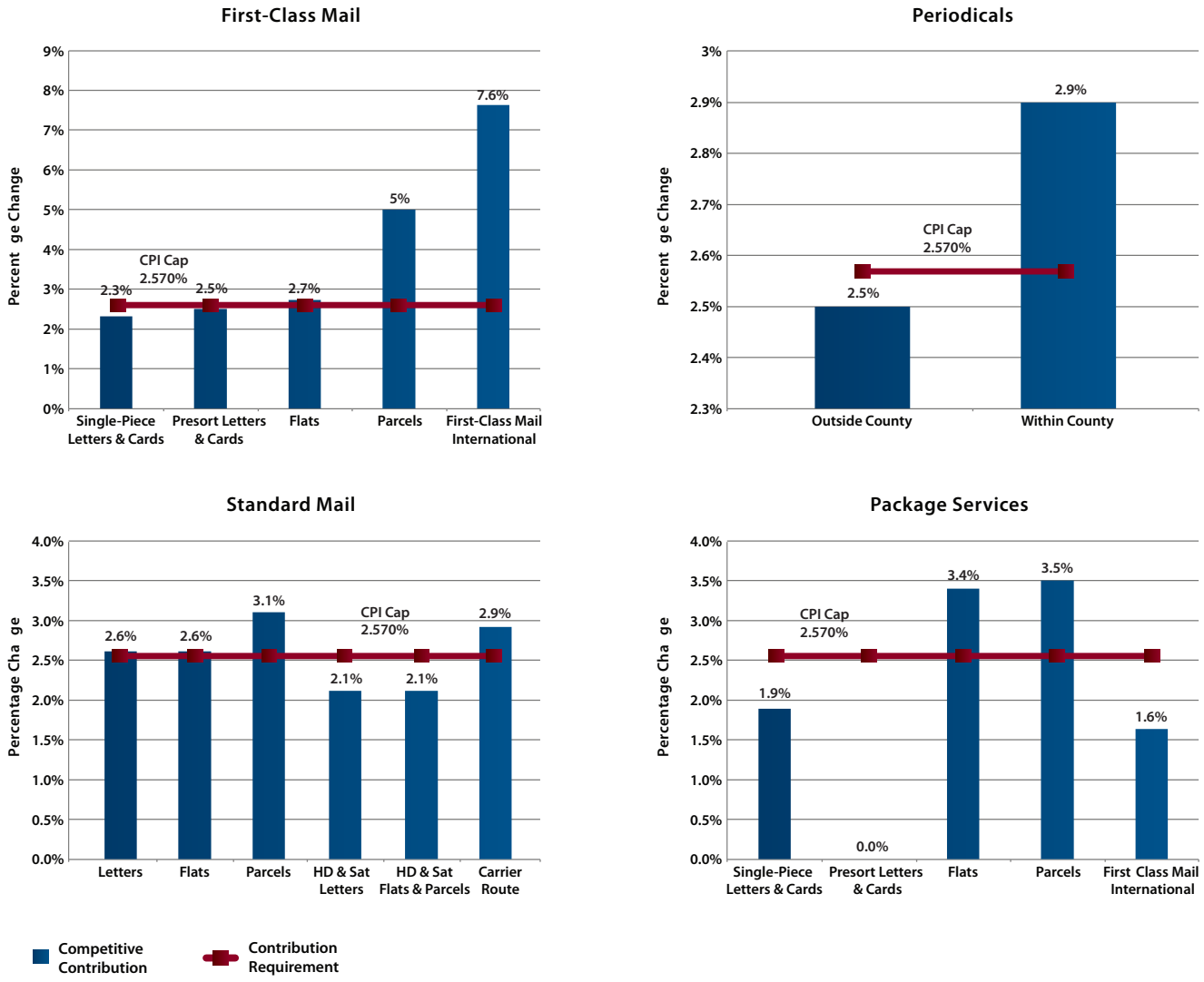
Figure III-1 illustrates the application of pricing flexibility. The red line is the overall percentage available at the class level under the CPI-U rate cap. The columns represent individual products in each class. The Postal Service exercised its pricing flexibility by applying different percentage increases to products while staying within the overall class level price cap.

In furtherance of both the goals of pricing flexibility and generating adequate revenue, the Commission's rules allow price reductions associated with rate incentives to be included in the calculation of the CPI rate cap.[5] This gives the Postal Service an incentive to use promotions to maintain or increase volume. The Commission approved six rate promotions filed with the notice of rate adjustment: (1) Mobile Coupon/Click-to-Call; (2) Earned Value Reply Mail Promotion; (3) Emerging Technologies; (4) Picture Permit Promotion; (5) Mobile Buy-It-Now Promotion; and (6) Product Samples Promotion.[6]

The Postal Service's pricing flexibility is subject to restrictions on workshare discounts. Workshare discounts are reduced rates for mail prepared or

[1] Docket No. R2013-1, Notice of Market-Dominant Price Adjustment, October 11, 2012, at 3.
[2] Docket No. R2013-1, November 16, 2012 (Order No. 1541).
[3] *Id.* at 2.
[4] Response to Order No. 1541, November 26, 2012.
[5] 39 C.F.R. 3010.23 Docket No. RM2013-2, Order No. 1786, July 23, 2013.
[6] Order No. 1541 at 57.

Figure III-1—Percentage Changes in Category Rate by Mail Class



entered so as to avoid certain activities the Postal Service would otherwise have to perform. These discounts are based on the costs that the Postal Service estimates to avoid as a result of the mailer performing the activity.

39 U.S.C. 3622(e)(2) directs the Commission to ensure that workshare discounts do not exceed the costs avoided by the Postal Service as a result of the worksharing activity, unless at least one of four exceptions are met. This provision effectively limits the Postal Service's ability to set worksharing discounts that exceed 100 percent of avoided costs.

To date, Commission rules have been effective in balancing the Postal Service's pricing flexibility with the statutory requirements related to

worksharing discounts. This has been accomplished through adjusting discounts, reviewing the Postal Service's justification for its exceptions, or in some cases, initiating rulemakings intended to clarify worksharing relationships.

In the FY 2013 price adjustment, the Commission highlighted the fact that some nonprofit mailers were receiving lower discounts than their commercial counterparts.[7] In response to the Commission's final Order, the Alliance of Nonprofit Mailers came to a settlement with the Postal Service to realign commercial and nonprofit discounts.

Technology Credit Promotion

The Commission's rules relate to application of the Postal Service's price cap balance of pricing flexibility with the objective of maintaining a just and reasonable rate schedule by mitigating the impact of promotions on mailers that are not eligible for such promotions. In Docket No. R2013-6,[8] the Postal Service proposed a Full-Service Intelligent Mail Barcode Technology Credit Promotion (Technology Credit Promotion) for users of First-Class Mail, Standard Mail, Periodicals, and Package Services. The Postal Service proposed to recoup the cost of the promotion by claiming unused rate adjustment authority that could be included in the calculation of the rate price cap in the next CPI rate adjustment.

While the Commission approved the Technology Credit Promotion,[9] it did not allow the proposed price cap treatment. It found that the treatment would violate the First-In First-Out restriction on use of unused rate adjustment authority. In addition, the Commission found that the Technology Credit Promotion was not clearly a rate of general applicability because eligibility is based on past mailer behavior; therefore, it was not appropriate to include the discount in the percentage change in rates for the applicable classes.[10] Instead, the Commission required that the Postal Service treat the Technology Credit Promotion like a NSA for price cap purposes. This meant that no additional increases will be available for other rate categories.

Discover Financial Services Negotiated Service Agreement

Commission rules regarding market dominant NSAs are designed to encourage the pricing flexibility envisioned in the PAEA.[11] The amendment to the market dominant Discover Financial Services (DFS) NSA is an example of the Postal Service exercising its pricing flexibility.[12] Here, the amendment allowed DFS to add a portion of its Priority Mail volume to the calculation of the adjusted revenue threshold under the NSA.

To ensure that the amendment to the DFS NSA did not conflict with any pricing regulations, the Commission concluded it: (1) met the necessary requirements of the PAEA; (2) was not a rate

[7] Docket No. R2013-1, Order No. 1573, Order on Standard Mail Rate Adjustments and Related Mail Classification Changes, December 11, 2012, at 6.

[8] Docket No. R2013-6, United States Postal Service Notice of Market-Dominant Price Adjustment (Technology Credit Promotion), April 16, 2013.

[9] *Id.;* Order No. 1743, Order Approving Technology Credit Promotion, June 10, 2013.

[10] Including the discount in the price cap calculation increases would be available for other rate categories within First-Class Mail and Standard Mail.

[11] Notice of Proposed Rulemaking Requesting Comments on Proposed Commission Rules for Determining and Applying the Maximum Amount of Rate Adjustments, March 22, 2013, at 10 (Order No. 1678); Attachment at 11, proposed rule 3010.40.

[12] Docket Nos. MC2011-19/R2011-3, Order No. 1720, May 17, 2013.

adjustment; and (3) was not considered to be a new product. The Commission considered whether the amendment violated the prohibition against using market dominant products to subsidize competitive products.[13] This was found not to be the case in this instance.[14]

Free Insurance for Priority Mail

Concerns about the interaction of market dominant and competitive products were also considered in Docket No. R2013-7.[15] The Postal Service proposed including a limited amount of free insurance in the base rate of eligible Priority Mail pieces. Insurance is currently classified as a market dominant special service and Priority Mail is a competitive product. The Commission considered whether it was appropriate to treat services that are used by both market dominant and competitive products as market dominant. Although the Commission determined that the proposal would not violate existing rules, it is considering initiating a separate proceeding to allow interested persons to comment on the appropriate treatment of Ancillary Services.[16]

International Merchandise Return Service—Non-Published Rates

On August 12, 2013, the Commission approved a market test for International Merchandise Return Service—Non-Published Rates (IMRS-NPR). The experiment will last approximately two years. It is designed to facilitate the international return service process. It will provide consumers outside the United States who have purchased merchandise from online retailers in the United States an easy method to return unwanted merchandise by using shipping labels and postage payment indicia.

Commission approval of IMRS-NPR, including the model contract, was based on the Postal Service successfully demonstrating applicable regulatory criteria for market tests of experimental products.[17] These criteria require that the product is significantly different from all products offered within the past two years; does not create an unfair or inappropriate competitive advantage for the Postal Service or any mailer, particularly with respect to small business concerns; and is correctly categorized as either a market dominant or competitive product. The Postal Service is asked to provide quarterly updates on agreements entered into under the experiment pursuant to a data collection plan.

First-Class Tracer

On December 9, 2012, the Commission approved a market test for First-Class Tracer. The experiment is expected to last two years. It is designed to provide customers with a means of tracking the

[13] 39 U.S.C. 3633(a)(1).

[14] Docket Nos. MC2011-19/R2011-3, Order No. 1720, Order Approving Proposed Amendment to Discover Financial Services 1 Negotiated Service Agreement, May 17, 2013, at 13.

[15] Docket No. R2013-7, Notice of Market-Dominant Price Adjustment, May 10, 2013.

[16] Ancillary service endorsements are used by mailers to request an addressee's new address and to provide the Postal Service with instructions on how to handle undeliverable-as-addressed mailpieces. The endorsements consist of one key word: "Address," "Return," "Change," or "Forwarding," followed by two words "Service Requested." Use of an ancillary service endorsement on a mailpiece obligates the mailer to pay any applicable charges for forwarding, return, and separate address notification charges.

[17] 39 U.S.C. 3641(b).

Courtesy of USPS.

Postal employee scans package.

transportation and processing of single-piece First-Class Mail using a barcode label, tracing number, and QR Code and a uniform resource locator (URL) pointing users to a website. The Postal Service intends to offer First-Class Tracer to individual mailers and businesses as a five-label package or a ten-label package at 50 locations around the Washington, DC metropolitan area in retail locations that already carry gift cards.

Commission approval of First-Class Tracer was based on a finding that the Postal Service successfully satisfied applicable regulatory criteria for market tests of experimental products. These criteria are the same as those that apply to the International Merchandise Return Service-Non-Published Rate market test.

Metro Post

On November 14, 2012, the Commission approved a year-long market test for Metro Post. Metro Post is an experimental competitive product and applies to same-day package delivery service from participating locations within San Francisco. The test is designed to support online e-commerce companies and their associated retailers by delivering products in a timely manner to buyers. Commission approval of Metro Post was based on a finding that the Postal Service successfully satisfied applicable regulatory criteria for market tests of experimental products.[18] These criteria are the same as those that apply to the International Merchandise Return Service-Non-Published Rate market test.

Rulemakings Related to Pricing Flexibility

There were two key FY 2013 Commission rulemakings related to pricing flexibility.

Clarifying Price Cap Calculations

Rule changes regarding the price cap were finalized in Docket No. RM2013-2.[19] These rule changes provide the Postal Service additional flexibility, ensure predictability and stability, increase transparency in the ratemaking process, and ensure a just and reasonable rate schedule.

The Commission's rule changes reflect efforts to clarify the method for calculating the maximum rate adjustment authority available to the Postal Service in any given price adjustment request and the appropriate use of billing determinants in the percentage change in rates calculations.[20] In addition, the rules were reorganized to eliminate duplicative information and to ensure consistency of terms. Definitions for terms used throughout the rules were also added.

[18] Docket No. MT2013-1, Order No. 1539, Order Approving Metro Post Market Test, November 14, 2012.
[19] Order No. 1678, Attachment at 10, proposed rule 3010.25.
[20] *Id.* Attachment at 8, proposed rule 3010.23(d).

The final rules clarify that the Postal Service does not have to sum unused rate adjustment authority although it must adhere to the statutory requirement that unused authority must be used in the order it is incurred.[21] Previously, the Commission's rule required that the maximum amount of unused rate adjustment authority the Postal Service could use in a rate adjustment was the lesser of 2 percent added to the sum of all unused rate adjustment authority. The purpose of the initial rules was to allow the Postal Service the maximum increase under the PAEA. The Commission did not foresee that negative unused rate adjustment authority could exist in the bank. The current rule now reads: "Unused rate adjustment authority used to make a Type 1-B rate adjustment for any class in any 12-month period may not exceed 2 percentage points[.]"[22]

The Commission also finalized rules relating to the appropriate billing determinants used in percentage changes in rate calculations.[23] The Commission clarified that adjustments to billing determinants should not be based on anticipated changes in mailer behavior.[24] The Commission also clarified that the percentage change in product rates should be calculated in the same manner as for a mail class.[25]

These rule changes were designed to clarify the Commission's existing rules as well as provide the Postal Service with additional pricing flexibility and provide transparency and simplicity for the mail community.

[21] *Id.* Attachment at 11, proposed rule 3010.28.
[22] *Id.*
[23] *Id.* Attachment at 8, proposed rule 3010.23.
[24] Docket No. RM2013-2, Order No. 1786, Order Adopting Final Rules for Determining and Applying the Maximum Amount of Rate Adjustments, July 23, 2013, at 19.
[25] *Id.* at 3.

Pitney Bowes Proposal on Benchmarking

Docket No. RM2012-6 was the first Commission rulemaking initiated by a mailer.[26] Pitney Bowes proposed changing the current workshare benchmark for First-Class 5-Digit Letters. Workshare benchmarks are used to determine the cost avoided between levels of worksharing. The costs avoided provide a standard for determining the maximum amount of workshare discounts. Consistent benchmarks foster predictability and stability in rates.

At the time of Pitney Bowes' filing, the benchmark for First-Class 5-Digit Letters was First-Class 3-Digit Letters. Noting that the Postal Service was no longer offering a 3-Digit rate, Pitney Bowes proposed that the cost avoided benchmark be replaced by one that included letters entered at an Automated Area Distribution Center as those mailpieces were most likely to convert to a 5-Digit rate in the absence of a separate 3-Digit rate.

The Postal Service asserted that Pitney Bowes' petition was not an authorized use of periodic reporting rule 11,[27] which authorizes the Postal Service, the Commission, or interested persons to request an informal rulemaking to change an accepted analytical principle.[28]

The Commission rejected the Postal Service's argument that an analytical principle must be a mathematical model or formula by noting that an analytical principle includes a "theory, precept,

[26] Petition of Pitney Bowes Inc. for the Initiation of a Proceeding to Consider Proposed Changes in Analytic Principle, July 12, 2012.
[27] Docket No. RM2012-6, Order No. 1253, Order Revising Benchmark Used to Calculate the Costs Avoided by Automation First-Class 5-Digit Letter Mail, June 18, 2013.
[28] 39 C.F.R. 3050.11(a).

or assumption."[29] The Commission concluded that Pitney Bowes' petition was appropriate because it requests the Commission to re-examine the specific economic assumption that 3-Digit mail is the group of less workshared mail that is most likely to convert to 5-Digit mail. The Commission found that adjusting the benchmark would not jeopardize the stability of the presort First-Class Mail discount structure, or make the administration of those discounts overly complicated or unwieldy.[30]

The Commission also concluded that there are no legal obstacles to adjusting the benchmark for 5-Digit Letters to reflect the elimination of the discount for 3-Digit Letters and the resulting changes in customers' mailing patterns.

Further Rulemaking Changes Related to Benchmarking

In January 2013, the Postal Service stopped offering a discount for First-Class Mail cards and Standard Letters sorted to the 3-Digit level. Following the adoption of a hybrid benchmark for 5-Digit automation First-Class Mail Letters, the Commission solicited public comments on extending the hybrid approach to First-Class Mail cards and Standard Letters.[31]

Commenters noted the benefit of bringing consistency to this area of pricing workshared mail. The Commission extended the hybrid approach to calculating the benchmark for automation First-Class Mail 5-Digit Letter mail adopted in Order No. 1753 to calculating the benchmarks for automation First-Class Mail 5-Digit Cards and Standard Mail 5-Digit Letters.[32]

Market Tests and Experimental Products

Market tests and experimental products are another means for the Postal Service to exercise pricing flexibility. On August 9, 2013, the Commission issued proposed rules governing market tests of experimental products.[33] Present rules establish, among other things, conditions for testing products authorized under its terms; requires the Postal Service to meet certain advance notice and filing requirements; and generally limits testing to 24 months and revenue to not more than $10 million in any year. Certain conditions also allow cancellations of a market test.

The proposed rules better balance the Commission's oversight authority over market tests with the Postal Service's need for flexibility to expand the scope of its products.

The Commission anticipates issuing final rules in FY 2014.

MAINTAINING ADEQUATE REVENUE

Since the passage of the PAEA, the Postal Service has sustained over $46 billion in losses. Factors contributing to those losses include sustained volume losses, mail mix changes that have lowered overall contribution, required payments

[29] Docket No. RM2012-6, Order No. 1510, Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Pitney Bowes Inc. Proposal One), October 23, 2012; 39 C.F.R. 3050.1(c).

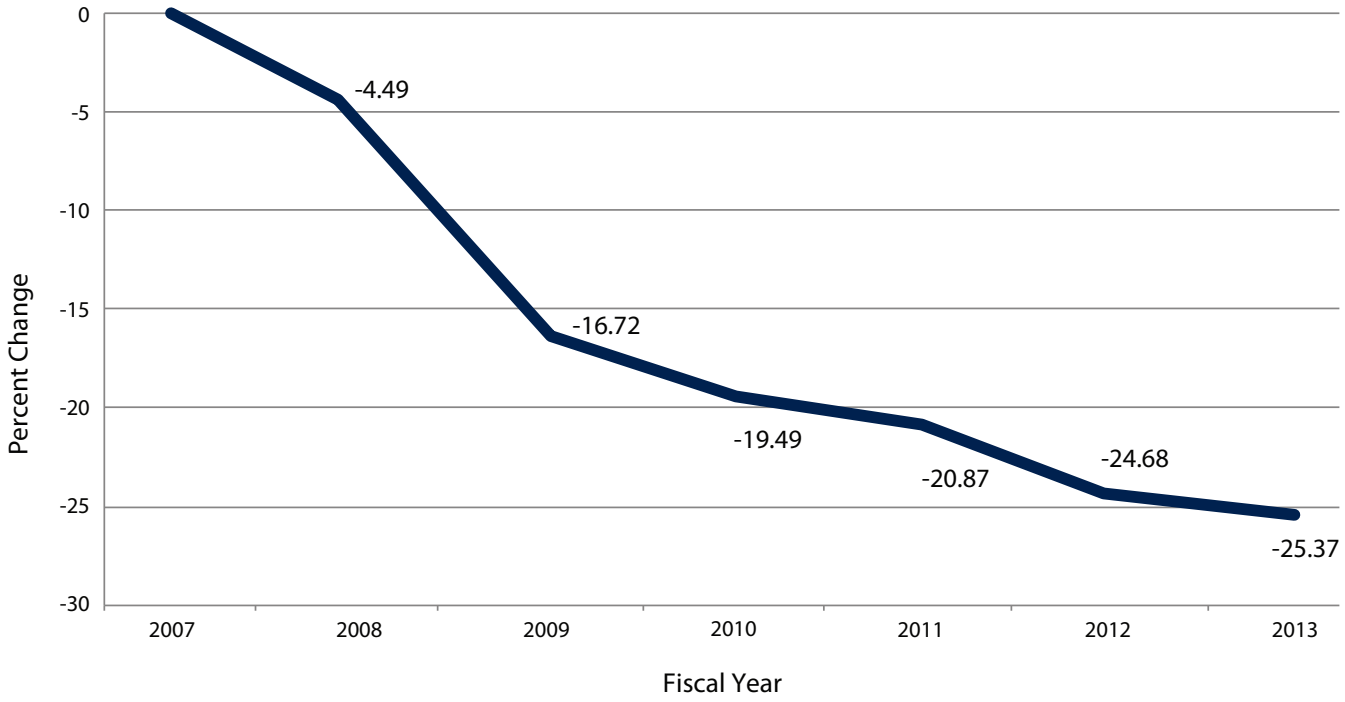
[30] *Id.*, Order Revising Benchmark Used to Calculate the Costs Avoided by Automation First-Class 5-Digit Letter Mail, June 18, 2013. (Order No 1753).

[31] Docket No. RM2012-6, Order Revising Benchmark to Calculate the Costs Avoided by Automation First-Class 5-Digit Cards and Standard Regular 5-Digit Letter Mail, July 29, 2013 (Order No. 1793).

[32] Docket No. RM2012-6, Order Revising Benchmark Used to Calculate the Costs Avoided by Automation First-Class 5-Digit Letter Mail, June 18, 2013.

[33] Docket No. RM2013-5, Order No. 1803, Notice and Order of Proposed Rulemaking Establishing Rules for Market Tests of Experimental Products, August 9, 2013.

Figure III-2—Cumulative Total Mail Volume Percent Change Since FY 2007



into the Retiree Health Benefits Fund (RHBF) that were overly ambitious, and an inability to raise sufficient revenue.

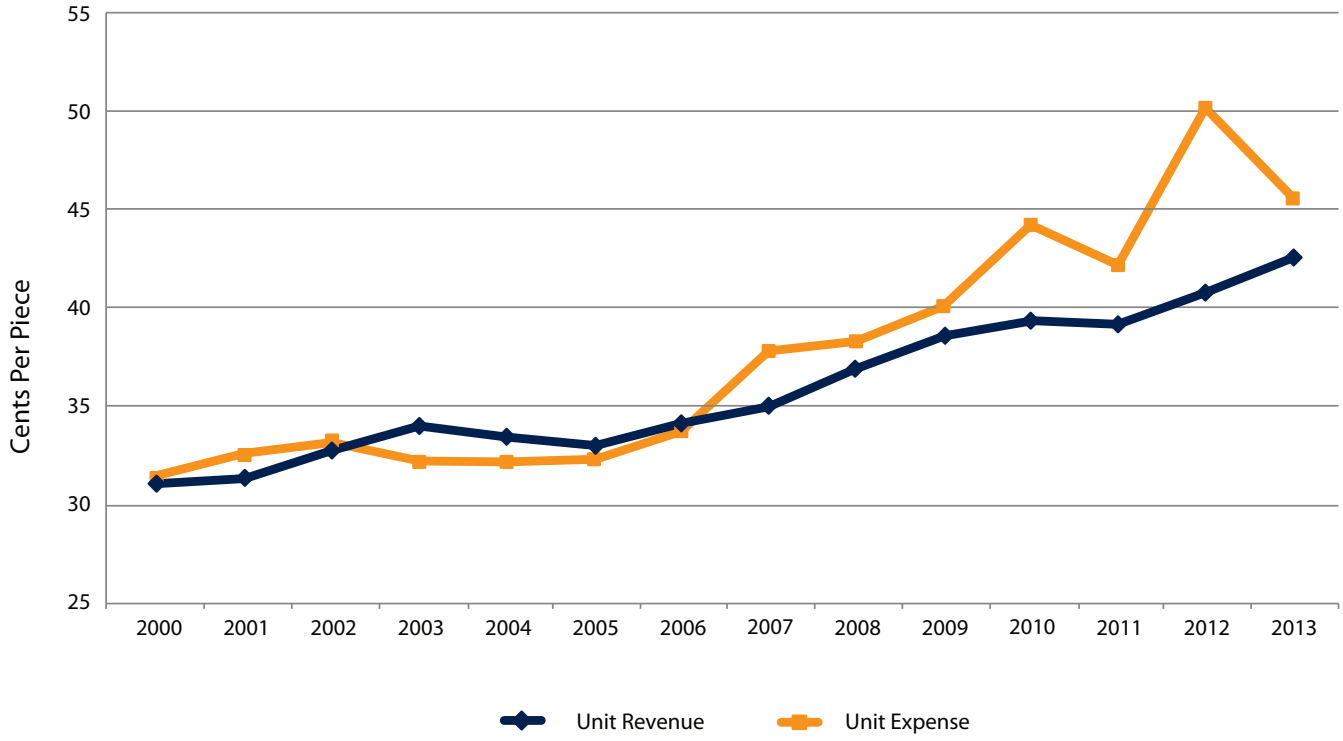
As seen in Figure III-2, Postal Service volumes have declined 25.37 percent since FY 2007.

These volume declines have significantly impeded the Postal Service's ability to generate enough revenue to cover costs.

In FY 2013, the Postal Service lost $5 billion, including $5.6 billion in RHBF expenses and a one-time revenue adjustment of $1.3 billion to reflect new data on the usage of the Forever Stamp. This loss was 3.1 cents per mailpiece. The average revenue per piece was 42.5 cents. For the Postal Service to break even, the average revenue per piece would have to increase to 45.7 cents. This equates to a 9.6 percent average increase in revenue per piece. To cover only operating costs, without the RHBF payment and the one-time revenue adjustment, a 1 percent increase in revenue would have been sufficient to break even. The actual CPI-U capped average rate increase was 2.570 percent.

Although the Postal Service is able to shed certain costs as volume declines, it is difficult for it to reduce fixed costs in the short run. Prior to FY 2010, the Postal Service generated revenues in excess of operating costs not including the payments to RHBF. However, in FY 2013, the loss

Figure III-3—Unit Operating Expense and Revenue



even without the RHBF payment and one-time revenue adjustment was $700 million. In real terms, from FY 2008 to FY 2012, both the variable and total unit cost per mailpiece has increased while revenue per mailpiece has declined. This is shown in Figure III-3.

First-Class Mail has been declining more rapidly than Standard Mail. This has resulted in a loss in overall contribution since First-Class Mail has a much higher per-piece contribution. The average contribution from First-Class Mail is 22.16 cents. Standard Mail is 6.89 cents. The Commission required the Postal Service to improve the cost coverage of Standard Mail Flats, and the Postal Service has maintained a schedule of above-CPI increases for Standard Mail Flats while pursuing cost reductions. At the end of FY 2013, the Standard Mail Flats product remains below cost.

The Postal Service has the pricing flexibility to introduce new products and incentives. However, the three experimental products in effect in FY 2013 may only generate up to $70 million in revenue, and it is unlikely that the FY 2013 rate incentives generated a significant amount of additional contribution. These new initiatives have not generated enough revenue or contribution to recover the losses from volume declines.

Courtesy of the USPS.

Postal worker accepting Priority Mail and Prioirty Mail Express boxes from a customer.

TRANSPARENCY AND ACCOUNTABILITY

The Annual Compliance Determination report is an important tool for enhancing financial transparency and ensuring Postal Service compliance with statutory pricing and service policies. Pursuant to the PAEA and regulations adopted by the Commission, the Postal Service has 90 days after the close of a fiscal year to collect, audit, and submit data determined by the Commission to be necessary for the report.[34] The Commission has an additional 90 days to solicit comments from the public, evaluate the data, and prepare a written determination of Postal Service compliance with applicable statutory policies.[35]

On March 28, 2013, the Commission issued its 2012 ACD. This report, the sixth since enactment of the PAEA, assessed the financial and service performance of the Postal Service during FY 2012.

The Commission concluded that the Postal Service's FY 2012 loss further eroded its already precarious financial condition. The loss was primarily due to the statutorily-mandated Retiree Health Benefit Fund expense, plus a workers' compensation liability adjustment and the loss in mail operations under management control. The Commission also found that the Postal Service exhausted its statutory borrowing authority and fully utilized two revolving lines of credit in order to fund operations and meet financial obligations. As a result, the Commission expressed concern that the Postal Service risked impairment of the ability to fulfill its most basic function of providing postal services to the nation.

In reviewing products for compliance with statutory pricing and service policies, the Commission identified nine market dominant products that did not generate sufficient revenues to cover attributable costs. Of those products, Standard Mail Flats and Outside County Periodicals accounted for a substantial portion of the loss in mail operations. The Commission concluded that the Postal Service had not fully used its pricing flexibility to improve the financial performance of Outside County Periodicals and Standard Mail Flats.

While competitive products as a whole generated a profit, the Commission identified four international competitive products that failed to cover attributable costs—Global Plus 2B, Global Plus 2C, Inbound Air Parcel Post (at non-UPU rates), and Inbound International Expedited Services 3. The Commission determined that each of these products, which consist of NSAs, did not comply

[34] 39 U.S.C. 3652(a).
[35] 39 U.S.C. 3653(b).

with the PAEA. The Postal Service was directed to review current versions of those agreements and report its findings to the Commission.

The Commission determined that reported service performance met delivery service targets for single-piece and Presort First-Class Mail letters and cards. For a majority of market dominant products, however, reported service performance did not meet delivery service targets, despite significant improvement during the year. Of particular concern, the Commission found that the Postal Service is also currently unable to identify the majority of Standard Mail pieces by product. This results in service performance for most Standard Mail volume was reported as mixed product categories. The Postal Service is taking steps to address this problem and is expected to discuss its progress in identifying Standard Mail pieces by product in its next Annual Compliance Report to the Commission.

Competitive products, which are not constrained by the price cap, have received average price increases that were approximately 5 percent per year. Higher prices did not discourage mailers and volumes have increased over the past three years. These products are not yet a significant part of total Postal Service volumes, and constitute only about 1 percent of total volumes. However, they have provided an increasing revenue stream and have the potential to offset the losses in market dominant products to some degree in the future.

COMPETITIVE PRODUCTS

Three statutory requirements, incorporated into the Commission's rules, apply to competitive products.[36]

First, competitive products must not be cross-subsidized by market dominant products. The Commission uses an incremental cost test to validate compliance with the cross-subsidy requirement that revenue generated from competitive products equals or exceeds the incremental costs of such products.

Second, each competitive product must cover its attributable cost. The Commission reviews each product in its ACD to ensure the requirement of competitive price changes is met.

Finally, competitive products must collectively cover an appropriate share of the Postal Service's institutional costs. The Commission has determined, subject to adjustment in the future, that the minimum contribution must be 5.5 percent of the Postal Service's total institutional cost.

Within the constraints of these statutory requirements, the Commission's rules provide the Postal Service with the flexibility to develop prices for its competitive products. The Commission has 30 days to determine if the Postal Service's proposed rates for competitive products satisfy the requirements of section 3633 of the PAEA and the Commission's implementing regulations.

In FY 2013, the Commission reviewed competitive NSAs in 83 docketed proceedings. These NSAs consist of negotiated prices for both competitive

[36] 39 U.S.C. 3633(a).

domestic and international mail services. Competitive NSAs include Domestic—Express Mail, Priority Mail, and Parcel Select, Priority Mail–Non-Published Rates (Priority Mail–NPR); International—Global Direct Contracts, Global Plus Contracts, and Global Expedited Package Services–Non-Published Rates (GEPS–NPR). Table III-1 shows the number of competitive domestic and international NSAs, and total NSAs, approved from FY 2009 to FY 2013.

Table III-1
Competitive NSA Dockets Approved by the Commission

	FY 2013	FY 2012	FY 2011	FY 2010	FY 2009
Total Competitive Domestic	52	32	14	13	32
Total Competitive International	31	23	50	112	34
Total Competitive NSA Dockets	**83**	**55**	**64**	**125**	**66**

Since FY 2010, when the Commission approved 125 NSAs, there has been a reduction in the total number approved by the Commission. This decrease largely reflects implementation of the non-published rates (NPR) procedures. Most GEPS agreements that normally would have been filed for prior approval have now been filed after implementation under GEPS–NPR products.

Table III-2 shows the number of GEPS–NPR and Priority Mail–NPR contracts filed by the Postal Service since NPR contracts were introduced in FY 2011. During FY 2012, there were 141 GEPS–NPR contracts and 3 Priority Mail–NPR contracts filed with the Commission. In FY 2013, there were 129 GEPS-NPR contracts and 0 Priority Mail-NPR contracts.

Table III-2
Non-Published Rates Contracts Filed With the Commission

	FY 2013	FY 2012	FY 2011
GEPS–NPR[1]	129	141	168
Priority Mail–NPR	0	3	3
Total NPR Contracts	**129**	**144**	**171**

[1] The GEPS–NPR figures reflect the number of contracts filed under the GEPS–NPR 2, GEPS–NPR 3 and GEPS-NPR 4 products. No contracts were filed under the GEPS–NPR 1 product.

SEN. CARPER
CHAIRMAN

Chapter IV

Universal Service Obligation and Mail Monopoly

Background

The PAEA required that by December 20, 2008, the Commission 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 access to mailboxes. The Commission's Report on Universal Service and the Postal Monopoly (Report) was issued on December 19, 2008. The Report included 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 United States public.

Five years have passed since the Commission completed its initial Report. In 2008, the impact of the Great Recession was just beginning to be recognized. Then-Chairman Blair stated:

> Issuance of this report comes at a critical time in the history of the Postal Service. When we began this report, economic circumstances were significantly different than they are today. The ongoing economic slowdown has contributed to a large decline in mail volumes; and the Service is faced with a second consecutive year of multi-billion dollar losses, with the Postmaster General predicting a similar scenario for next year as well. Through this report, the Commission has painted a portrait of the landscape up until this time, but the events of the last several months signal continued changes and future challenges.

Those challenges have not abated. Economic growth remains slow and alternative communication options continue to emerge. Mail volume in FY 2013 was 158.4 billion pieces, the lowest level since 1988 and 25 percent lower than mail volume was when the 2008 Report was issued.

In this chapter, the Commission provides its annual estimate of the cost of the Universal Service Obligation (USO) and the value of the monopoly. The estimate of the cost of the USO is required by statute while the value of the monopoly is not. The Commission provides the estimate of the value of the monopoly to give a balanced perspective on the trade-offs between maintaining a monopoly and providing universal service. The Commission used the same methodology in FY 2013 as it did in previous years. Since data for FY 2013 is not yet available, the new estimates reflect FY 2012 data.

The changing postal environment may necessitate a reassessment of the Commission's current methodology. The Commission plans to explore this issue further in FY 2014.

ESTIMATED COST OF THE UNIVERSAL SERVICE OBLIGATION

Section 3651(b) of Title 39 requires an estimate of the costs incurred by the Postal Service for three separate elements:

(A) "Postal services to areas of the Nation where… the Postal Service either would not provide services at all or would not provide such services… if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities;"

(B) Free or reduced rates for postal services as required by the PAEA; and

(C) "Other public services or activities which… would not otherwise have been provided by the Postal Service but for the requirements of law."

The Commission estimate of element (A) includes the cost of maintaining small post offices, the Alaska air subsidy, and Group E post offices. The Postal Service uses Cost Ascertainment Group (CAG) classifications (A - L) to categorize post offices by the amount of revenue they generate. CAG K - L represent the smallest revenue generating post offices. The cost estimate for these post offices include the fixed portion of salaries, benefits, rents, utilities and other operating costs.

The Alaska air subsidy is the difference in the cost of flying mail to remote areas and the average cost of highway transportation. As a USO, it serves areas that otherwise cannot be reached by Parcel Post service. Because it is a USO, part of the domestic Alaska air transportation expense for parcels is treated as an institutional rather than attributable expense. Consequently, this portion of the expense is included in the estimated cost of the USO.

Group E post office boxes are offered free of charge to postal patrons who do not receive mail delivery. In FY 2012, the Commission approved treating Group E Post Office Box Service costs as

Table IV-1
Estimated Cost of Providing Services to All Areas of the Nation as Required by Title 39
($ in Billions)

	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
Maintaining Small Post Offices	0.529	0.583	0.566	0.536	0.549
Alaska Air Subsidy	0.122	0.123	0.118	0.121	0.124
Group E Post Office Box Service	0.034	0.036	0.038	0.037	N/A
Total	**0.685**	**0.742**	**0.722**	**0.694**	**0.673**

institutional to more equitably distribute the costs of universal service. The Commission also concluded that this treatment is analogous to and consistent with the treatment of intra-Alaska air transportation.[1] Consequently, the costs, which are primarily facility related, have been added to the estimated cost of the USO. Table IV-1 compares the cost of element (A) for FY 2008 through FY 2012.

Given recent changes in Postal Service operations, including POStPlan, consolidations of delivery routes, and the transfer of some package services from market dominant to competitive products, future refinements to the cost estimate for element (A) may be appropriate.

Element (B) quantifies the difference in revenue between mail that is required by statute to receive a discount and the revenue that would have been received if these mailpieces were not discounted. It also includes the losses on Periodicals.

The Postal Service provides statutorily discounted rates for nonprofit rate categories in Periodicals, Standard Regular Mail, and Standard Enhanced Carrier Route Mail. Additionally, discounts are given to Periodicals, Classroom and Science of Agriculture, and to Library/Media Mail. The Postal Service also provides free postage for blind and disabled persons, and balloting materials under the Uniform and Overseas Citizens Absentee Voting Act. If these discounts were not offered, the rate for these mailpieces would be higher resulting in the loss of some volume, and consequently, costs. Therefore, the impact of the discounts is calculated as the difference in revenue generated at the higher price and costs incurred by these mailpieces.

The CPI cap constraint imposed by the PAEA makes it difficult to fully recover Periodicals costs through rate increases. Therefore, the estimated loss on Periodicals mail is considered a USO and included in the cost estimate. Table IV-2 shows a comparison of the revenue not received from FY 2008 to FY 2012. Losses on market dominant products are not included as the Postal Service has the flexibility to raise their rates within the class-level rate cap.

[1] Docket No. RM2011-9, Order No. 744, Order Concerning Analytical Principles Used in Periodic Reporting (Proposal One), June 9, 2011, at 4.

Table IV-2
Estimated Revenue Not Received FY 2008–2012
($ in Billions)

	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
Impact of Nonprofit Mail Discounts Net of Costs	0.974	1.329	1.284	1.322	1 223
Losses on Market Dominant Products	0.670	0.609	0.611	0.642	0.437
Total	**1.645**	**1.938**	**1.895**	**1.964**	**1.660**

Table IV-3
Other Services Not Provided Absent Requirements of the PAEA

	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
Six-Day Delivery Instead of Five-Day Delivery	2.496	2.480	2.427	2.080	2.160
Unzoned Package Services Rates	0.071	0.115	0.098	0.096	0.094
Unzoned First-Class Mail Rates	0.117	0.122	0.078	0.081	0.212
Total	**2.684**	**2.717**	**2.603**	**2.257**	**2.466**

The impact of nonprofit mail discounts declined significantly in FY 2012 due to (1) volume decreases and (2) product transfers. Standard Mail volume decreased by 6 percent from FY 2011 to FY 2012 compared to a decrease of 3 percent from FY 2010 to FY 2011. With lower volume, less overall revenue is generated from increasing prices.

In addition, in the last year, products were transferred from market dominant to competitive products. While the volumes and revenues seem to be adequately represented, all of the attributable costs may not have been transferred.[2] Transferring products out of the market dominant classification results in less revenue generated from the hypothetical increased rates. A potential mismatch in revenues and costs would lower that hypothetical revenue even more.

Element (C) includes the estimated cost of delivering mail six days a week rather than five days a week, and the estimated lost revenue from unzoned rates in Package Services and First-Class Mail as shown in Table IV-3.

For FY 2008 and FY 2009, the USO cost of six-day delivery is based on the George Mason University method used in the Report on universal service and previous annual reports. For the FY 2010, 2011 and 2012 Reports, these costs have been updated to reflect the Commission's findings in Docket No. N2010-1, Advisory Opinion on the Elimination of Saturday Delivery. These updates

[2] The Commission found a 52 percent increase in the attributable costs of Standard Mail Non-Profit from FY 2011 to FY 2012.

Table IV-4
Estimated Combined Cost of the USO

	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
Services to All Areas of the Nation	0.685	0.742	0.722	0.694	0.673
Revenue Not Received	1.645	1.938	1.895	1.964	1.660
Other Service that Would Not Be Performed	2.684	2.717	2.603	2.257	2.466
Total	**5.014**	**5.397**	**5.220**	**4.915**	**4.799**

consist of additional components, including mail processing and transportation-related USO costs of six-day delivery and other refinements, such as improvements in calculating average wage rates and overhead costs.

The current interpretation of section 3651(b)(C) of the PAEA may be narrow. A broader interpretation could include the net cost of activities such as the Inspection Service or the Postal Service Office of Inspector General. It could also include cost estimates of services such as the addressing system or emergency response.[3] The Commission will review the issue of cost estimate refinements of other services in FY 2014.

Table IV-4 compares the combined cost of elements (A), (B) and (C) for FY 2008 to FY 2012.

ESTIMATED VALUE OF THE MONOPOLY

The Commission updated its combined and mailbox monopoly values for FY 2013 using the base assumptions and methodology outlined in its 2008 Report. The value of the monopoly estimates the profit lost by the Postal Service if potential competitors were allowed to compete with the Postal Service's letter monopoly and mailbox monopoly.

The base case assumptions applying to competitors include (1) full diversion of local contestable mail when discounting existing Postal Service rates by at least 10 percent; (2) competitors incur only delivery costs, and deliver three times a week under the combined monopoly, and once a week under the mailbox monopoly; and (3) competitors are 10 percent more cost efficient than the Postal Service. Other than differences in delivery frequency, mail subject to diversion under the mailbox monopoly is more restricted in scope compared to the combined monopoly, as explained in the Commission's Report.

The method employed to estimate each monopoly value is much the same as that used in FY 2012. The Commission's model estimates competitor profits for all routes based on contestable volumes, discounted rates and adjusted delivery costs. Entry occurs only on routes where the competitor would earn positive profits. The monopoly value is estimated as the sum of the contribution lost to the Postal Service from routes which competitors find profitable and capture

[3] House Report No. 109-66, 109th Cong., 1st Sess., Part 1 (April 28, 2005), at 50.

Table IV-5
Value of the Monopoly
($ in Billions)

	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
Mailbox Monopoly	0 70	0.91	0.69	0 79	1.07
Combined Monopolies	1.80	1.66	1 55	2.11	2.96

volume. The updated and previous year values are shown in Table IV-5.

The values of the combined and mailbox monopoly for FY 2012 are respectively $1.80 billion and $0.70 billion.

There is a higher-than-average chance that monopoly values will increase if volume on rural routes does not fall significantly. In contrast, it is probable that monopoly values will decline if mail entered at a sectional center facility or a destination delivery unit falls at a rate similar to that of all mail, and if volume declines do not significantly reduce fixed costs.

The Commission is concerned that its model evaluates entry for each route regardless of the extent of route clustering. The model also does not capture the cost of Carrier Route Mail sorting required by potential 5-Digit Letter mail entering the system at the plant or delivery unit level. In addition, the model does not include switching costs or brand loyalty.

The Commission will be reviewing these issues in FY 2014.

Chapter V

Other Legal Actions and Proceedings

The Office of the General Counsel (OGC) supports the Commission in the timely and efficient resolution of matters falling within practice areas defined by the PAEA. These include rulemakings, complaints, appeals of post office closings, review of postal products and services (including market tests) for consistency with statutory criteria, advisory opinions in Nature of Service cases, and related litigation. The OGC also advises the Commission on the conduct of agency business in conformance with the Freedom of Information Act, the Government in the Sunshine Act, government contracting requirements, and other laws.

In FY 2013, the OGC fostered greater transparency and speedier resolution of issues through a series of major rulemaking initiatives; an emphasis on expeditious resolution of complaints; and use of revised rules of practice adopted in late FY 2012 in appeals of post office closing cases. The Commission issued the revised rules in late FY 2012 in recognition of the Postal Service's implementation of POStPlan.

Rulemaking Dockets

The Commission's rulemaking authority derives from 39 U.S.C. 503, which provides that the Commission "shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5...." These chapters reference administrative procedure and judicial review.

The Commission conducts its rulemaking proceedings in conformance with the Administrative Procedure Act's "notice and comment" requirements. This typically means that the Commission issues a notice (or advance notice) of proposed rulemaking. The notice describes the proposed new rules or revisions to existing rules and the related rationale for proposing them; invites public comments; and

appoints a Public Representative. The Commission then issues a final rulemaking following consideration of comments.

During FY 2013, the Commission focused on rulemakings in two significant categories. One category includes several special topics related to the postal community's ongoing interest in the efficient and effective implementation of the PAEA. These include the first comprehensive review of the rules concerning requests for an advisory opinion in Nature of Service cases since their adoption during the Postal Reorganization Act era; the first comprehensive review of the price cap rules since their adoption shortly after enactment of the PAEA; and consideration of rules to supplement and complement the Commission's long-standing formal complaint rules in light of new PAEA mandates.

The second category includes comprehensive updates to the rules of practice and the Commission's organizational description. These changes provide the postal community with a clearer perspective on how the PAEA affects Commission operations.

In addition, the Commission dealt with a series of rulemakings related to the periodic reporting rules for Postal Service submissions of financial data and other information. These rulemakings typically address important technical issues or assumptions in methodologies underlying the determination of postal rates and fees. Rulemakings related to the pricing that were under consideration in the current fiscal year are described in Chapter III.

PAGR Director Ann Fisher presenting at the Commission monthly public meeting.

Special Topics

Modern Rules of Procedure for Nature of Service Cases

On May 31, 2013, the Commission issued a Notice of Proposed Rulemaking revising procedures for addressing Postal Service requests for an advisory opinion on a nationwide change in the nature of service. Order No. 1738. This action followed up on a notice and order of advance rulemaking issued in FY 2012 seeking public comment on this topic. Order No. 1309.

The proposed rules allow issuance of an Advisory Opinion within 90 days of the date the request is filed, while preserving procedural due process. Some elements of the proposed new format include a pre-filing phase; expedited deadlines; and limits on the number of written interrogatories, and length of briefs. Other elements include a restriction limiting the scope of rebuttal cases to material issues relevant to the specific proposal presented by the Postal Service; a limitation on the filing of surrebuttal cases;

the elimination, in most cases, of field hearings; revised hearing procedures; and adoption of a policy of issuing advisory opinions targeted more precisely to the Postal Service's proposals and, when appropriate, instituting special studies that explore related subjects. The Commission anticipates issuing final rules in FY 2014.

Rules Pursuant to 39 U.S.C. 404a

On June 5, 2013, the Commission issued a notice of proposed rulemaking designed to enhance the formal complaint process in cases involving alleged violations of section 404a of the PAEA. Order No. 1739. Section 404a is comprised of three main provisions addressing Postal Service, Commission, and parties' obligations and rights. Section 404(a) precludes the Postal Service from (1) establishing regulations that have the effect of harming competition; (2) compelling private entities to disclose information about their intellectual property; and (3) using information obtained from a person without his or her consent and then offering any postal product that uses (or is based on) such information. Related section 404a(b) directs the Commission to establish regulations to carry out the requirements of section 404a(a). Section 404a(c) allows parties to file a complaint with the Commission for adjudication of violations of 404a(a).

The proposed rules, organized into three parts, supplement and complement 39 C.F.R. part 3030, which contains the Commission's existing complaint procedures. Proposed part 3032 establishes substantive rules that implement the statutory prohibitions in 39 U.S.C. 404a. Proposed part 3033 suggests creating an optional accelerated procedure designed to have the Commission adjudicate certain types of 39 U.S.C. 404a complaints in 90 days. The Commission anticipates issuing final rules in FY 2014.

Updates to Organization Rules of Practice and Procedure

Amendments to the Rules of Practice

On June 10, 2013, the Commission issued a notice of proposed rulemaking to update the Commission's general rules of practice and procedure, which address matters such as participation in Commission proceedings, filing requirements, and other aspects of practice at the Commission. Order No. 1677. The proposed updates concern nomenclature changes, citation changes, and other minor editorial and technical corrections.

The Commission issued a notice and order adopting the proposed amendments, with minor modifications, reflecting several points raised in the comments. Order No. 1742. The amendments took effect June 28, 2013.

On April 26, 2013, the Commission issued a notice and order updating 39 C.F.R. part 3002, which addresses agency organization. Order No. 1705. The updates recognize changes in the Commission's jurisdiction, organizational structure, and seal since the enactment of the PAEA. The amendments took effect June 10, 2013.

COMPLAINT PROCEEDINGS

Complaint Regarding Competitive Post Office Box Service Enhancements

On March 15, 2012, organizations representing Commercial Mail Receiving Agencies (CMRAs), businesses which operate private mail box stores, filed a complaint with the Commission. In Docket No. C2012-1, the complainants claimed that the Postal Service, by offering customers certain enhanced services at competitive Post Office Box Service locations without first obtaining Commission approval, challenged sections 3633, 3642, and 3661. The enhanced services are: (1) the option to receive electronic notification when mail is delivered to the post office box; (2) the option to use the post office street address and a "#" designation rather than a "P.O. Box" address designation; and (3) for customers who elect to use the post office street address, the option to receive packages from private carriers.

On June 13, 2012, the Commission issued an Order granting the Postal Service's motion to dismiss. The Commission found that although the introduction of the enhanced services does not implicate section 3661, it was unclear whether the complaint raised material issues of law or fact. Because the Postal Service had not submitted a filing describing these enhanced services, the Commission determined that it could not accurately evaluate their impact. In the interests of efficiency and to afford the complainants and the Postal Service a venue to air their views, the Commission established Docket No. MC2012-26. This permits the Postal Service to make an elective filing to inform the Commission and the public of the nature, scope, and significance of the enhanced services.

In response to the Commission's Order, the Postal Service made an elective filing to provide the Commission with additional information about the enhanced services at competitive Post Office Box Service locations. The Postal Service contended that the enhanced services did not constitute new products and thus did not require a filing under 39 U.S.C. 3642. This filing prompted 478 comments from stakeholders, many of whom are CMRAs.

On February 14, 2013, the Commission issued Orders in both dockets. In Order No. 1657 (Docket No. MC2012-26), the Commission concluded that the addition of the enhanced services did not so alter competitive Post Office Box Service as to create a new product. However, because the enhanced services introduce significant features to the competitive Post Office Box Service product, the Commission concluded that the Mail Classification Schedule language for that product should be amended to include those features and to recognize the separate fee schedule for Post Office Box Service at locations that offer the enhanced services.

In Order No. 1658 (Docket No. C2012-1), the Commission denied the complainants' remaining claims and dismissed the complaint. In both Orders, the Commission found that the contested CMRA regulations and potential elimination of Saturday delivery were outside the scope of the respective dockets.

Complaint of AdvoCare, Inc.

On October 31, 2012, AdvoCare, Inc. filed a complaint alleging that POStPlan, by reducing window service hours at approximately 13,000 post offices nationwide, unfairly discriminates against the customers of small, rural post offices that earn a profit. Complainant also alleged that in applying POStPlan to the Great Cacapon, West Virginia post office, the Postal Service violated procedures that the Commission approved in POStPlan and that it improperly led customers to believe that they were not permitted to choose to maintain their current window service hours.

The Commission granted the Postal Service's motion to dismiss on January 29, 2013. It found that the plan to reduce hours at POStPlan post offices is rationally related to the Postal Service's statutory mandate to provide adequate and efficient postal services, including an efficient system of collection, processing, and delivery of mail nationwide. The Commission concluded that POStPlan does not constitute undue discrimination against small, rural post offices that earn a profit. With respect to the Great Cacapon, West Virginia post office, the Commission found that because maintaining their current window service hours was not an option available to the customers of this post office, allegations of procedural violations are inaccurate. The Commission found that the Postal Service's implementation of POStPlan was consistent with the advice it provided in its Advisory Opinion that the Postal Service offer customers a clear choice between keeping the post office open with reduced hours or closing the post office and providing replacement delivery service.

Courtesy of USPS.

Keene Valley, New York Village Post Office.

Complaint of the American Postal Workers Union Locals

On April 8, 2013, the Mid-Hudson Area Local of the American Postal Workers Union (APWU) filed a complaint alleging violations related to the Postal Service's accelerated closure and consolidation of certain mail processing plants. Between April 8 and April 19, 2013, six additional complaints were filed by local chapters of the APWU that were substantially similar.

Specifically, complainants argued that the Area Mail Processing (AMP) studies for 55 mail processing plants whose consolidations were being accelerated had not been revised and updated. Complainants also asserted that the Postal Service failed to provide documentation showing the actual costs and effects of consolidating the plants, as well as unredacted copies of the AMP studies.

The Commission dismissed the complaints on June 26, 2013 finding that complainants failed to establish any legal connection between the alleged violations and the Postal Service's accelerated closure and consolidation of certain mail processing plants.

Complaint of the American Postal Workers Union

On September 5, 2013, the APWU filed a complaint alleging that the Postal Service failed to adhere to the service standards established under the Mail Processing Network Rationalization initiative. The APWU identified a number of different geographic areas in which mail is allegedly not being delivered in accordance with service standards.

On September 25, 2013, the Postal Service filed a motion to dismiss. It argued that the APWU lacks standing to pursue any claim because it has alleged no injury-in-fact. It contended that the APWU failed to state any claim upon which the Commission can issue a remedy and that the allegations regarding 39 U.S.C. 3691(d) are not ready to be decided. It asserted that the APWU is precluded from presenting claims pursuant to 39 U.S.C. 3661 and 3691(d). As of the end of FY 2013, the complaint is pending before the Commission.

POST OFFICE CLOSING APPEALS

The Commission is required to review the Postal Service's determination to close or consolidate a post office on the basis of the Postal Service's record at the time the appeal is filed. The Commission is empowered to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence on the record.

Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. However, the Commission is not permitted to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

FY 2012 post office closing appeals totaled 208, significantly more than in FY 2013. The large decrease in post office appeals during FY 2013 is due to fewer post office closures nationally as a result of the POStPlan changes that reduced post office operating hours in certain locations in lieu of closures.

An appeal of a Postal Service decision to close or consolidate a post office must be filed no later than 30 days after the Postal Service's Final Determination is made available to persons served by the facility under consideration. The dispositions in the Freistatt, Missouri and Somerset, New Jersey cases reflect this statutory requirement. Dispositions in the other completed cases reflect the Commission's statutory mandate to review a determination to close a post office on the basis of the record before the Commission.

Table V-1
Status of FY 2013 Post Office Closing Appeals

Docket No.	Name	Disposition	Order No.
A2012-127	Tyner, IN	Dismissed	1581
A2013-1	Santa Monica, CA	Dismissed	1588
A2013-2	Evansdale, IA	Affirmed	1674
A2013-3	Climax, GA	Dismissed	1693
A2013-4	Francitas, TX	Dismissed	1737
A2013-6	Bronx, NY	Dismissed	1802
A2013-7	Fernandina Beach, FL	Remanded	1880
A2013-8	Freistatt, MO	Dismissed	1839
A2013-9	Berkeley, CA	Dismissed	1817
A2013-10	Somerset, NJ	Docket Closed	N/A

Of the 10 post office closing appeals shown in the list above, seven post office closing appeals were dismissed. Of the seven, three were dismissed on the basis that the appeal did not meet the requirements of section 404(d) of the PAEA; one was dismissed because of lack of jurisdiction; and another was dismissed as Petitioner withdrew the appeal. The remaining two were dismissed as the post office was either maintained at the same location or was relocated.

One post office closing appeal affirmed the Postal Service's conclusions to close the post office. In that case, the Commission found that (1) the Postal Service satisfied the requirement of cost savings; (2) on remand, the record, including the Revised Final Determination, satisfied section 404(d) closing procedures; and (3) the Postal Service provided enough information to satisfy the requirements of economic savings.

COMMISSION'S ROLE IN INTERNATIONAL POSTAL POLICY

39 U.S.C. 407 establishes an ongoing role for the Commission in international postal matters. Section 407(b)(2)(A) addresses one aspect of this authority by generally requiring the Secretary of State, in exercising foreign policy authority with respect to international postal-related matters, to coordinate with other agencies as appropriate, and, in particular, to give full consideration to authority vested by law in several named agencies, including the Postal Regulatory Commission. More specifically, sections 407(c)(1) and 407(c)(2) address the Commission's role and the Secretary of State's obligations with respect to aspects of international treaties, conventions, or amendments that concern market dominant rates or classifications.

Section 407(c)(1) requires the Secretary of State, before concluding any treaty, convention, or amendment that establishes a rate or classification for a product the Commission submits its view on the consistency of such rate or classification with standards and criteria the Commission has established under section 3622. Section 407(c)(2) further provides that the Secretary of State shall ensure that each treaty, convention or amendment is consistent with the views of the Commission, except pursuant to the Secretary of State's written determination that it is not in the foreign policy or national security interest of the United States to ensure consistency with the Commission's views.

The Department of State has lead responsibility for international postal policy, which includes United States policy in the Universal Postal Union (UPU). The UPU is a United National specialized agency that facilitates the seamless flow of international mail among its 192 member countries.

In April 2013, the UPU deliberated over 300 proposals to amend the UPU Convention, many of which impacted rates and classifications for international postal products. These proposals implemented amendments to the UPU Convention adopted at the UPU Congress in Doha, Qatar in the fall of 2012.

The Commission provided its written views to the Department of State on 12 of these proposals to amend the UPU Convention that established a rate or classification for market dominant products. Most of these proposals related to revenue, also known as terminal dues, that the Postal Service receives from other postal operators for the delivery of inbound international letter mail. Effective in 2014, the Postal Service will receive an additional 12 percent in revenue for the delivery of such mail as a result of these amendments.

Throughout FY 2013, the Commission took an active role in the UPU Letters and Parcels Remuneration Groups on international letter mail and parcel delivery rates and assumed the chairmanship of the UPU Regulatory Issues Project Group on behalf of the United States Government.

The Commission furthered its long-standing commitment to build solid working relationships with other postal regulators in the promotion of a quality, affordable universal service network for citizens worldwide. The Commission also continued engagement in the Department of State's Federal Advisory Committee on International Postal and Delivery Services and supported such government agencies as the Office of the U.S. Trade Representative in the negotiation of trade agreements on postal and express delivery services.

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