

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

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Service Performance Measurement
Systems For Market Dominant Products

Docket No. PI2015-1

RESPONSE TO POSTAL SERVICE MOTION
FOR PARTIAL RECONSIDERATION OF ORDER NO. 4002

(Issued August 22, 2017)

I. INTRODUCTION

On August 11, 2017, the Postal Service filed a request asking that the Commission reconsider its Second Interim Order Concerning Service Performance Measurement Systems for Market Dominant Products, filed July 14, 2017 (Order No. 4002).¹ Order No. 4002 provides both the status of various items in Docket No. PI2015-1, and direction to the Postal Service on actions that the Postal Service must take prior to the Commission being in a position to issue a final order. In the Motion, the Postal Service challenges what it considers the standard of review that the Commission applies to its proposals in this docket, the meaning of the statement that

¹ United States Postal Service Motion for Partial Reconsideration and Partial Clarification of Order No. 4002, August 11, 2017 (Motion).

the Postal Service's systems must be "free of all major issues," and a request to provide at least two quarters of audited data. See Motion.

II. STANDARD OF REVIEW

The Commission stated: "[w]hile the Postal Service has provided some information concerning this issue, the Postal Service must present clear and convincing evidence that the differences are not the result of the proposed system being less representative than the legacy system." Order No. 4002 at 4. The Commission's statement is applicable to one specific technical aspect where the Postal Service has not fully supported its proposal. The data provided by the Postal Service thus far shows that the legacy system (which is assumed to produce reliable data) indicates different levels of service performance than those indicated by the proposed system (which at this point has an unproven level of reliability).

The Postal Service contends that the presentation of "clear and convincing evidence" is not the appropriate standard of review for this issue. It contends that the "law requires application of a standard no higher than the 'preponderance of the evidence.'" Motion at 1.

The Commission finds the Postal Service's argument premature. The Postal Service has not produced evidence that would satisfy either decisional standard at this time. The Commission's statement also was limited to one area involving a technical aspect of the Postal Service's proposal. Although the resolution of this technical issue is important, it is only one of many issues that the Commission will consider in reaching its final decision of whether to approve the Postal Service's internal service performance measurement system. Regardless, the plain meaning of "clear and convincing" should alert the Postal Service to the emphasis that the Commission is placing on this issue.

III. FREE OF ALL MAJOR ISSUES

The Postal Service seeks guidance on what the Commission means by the statement that the Postal Service's proposed systems must be "free of all major issues." Motion at 7-10.

With each of the recent quarterly data reports, the Postal Service provides what it views as "limitations" concerning the data generated for each of its measurable products.² These limitations indicate that the data are not yet complete. By "free of all major issues," the Commission expects to either have resolution to all limitations provided by the Postal Service or a demonstration that any identified limitation is not significant to the provision of accurate, reliable, and representative data.

Furthermore, the Postal Service has yet to provide the Commission with any independent audit reports associated with its systems, nor has the Commission seen a plan developed by an independent auditor to audit the measurement systems and associated data. Assuming that an audit plan is eventually developed that furthers the requirement for the systems to produce accurate, reliable, and representative data, any issues identified by the audit will either have to be resolved, or the Postal Service will have to demonstrate that any identified issue is not significant to the provision of accurate, reliable, and representative data.

IV. PROVISION OF AUDITED DATA

The Commission stated that it is "updating its previous request and asks that at least two quarters of data [of the four quarters requested] undergo auditing and be deemed acceptable by the Postal Service's external auditor (ideally with one quarter being from quarter 1)." Order No. 4002 at 4.

² The Postal Service provided additional insight into this issue in its Responses of the United States Postal Service to Questions 1-16 of Commission Information Request No. 1, June 12, 2017, question 3.

The Postal Service requests relief from the “requirement for four quarters of data ‘free of all major issues’ and simply require one quarter of such data, which would include audited data for Quarter 3 of FY 2017.” Motion at 11. It further requests that Quarter 3 audited data be provided instead of data from Quarter 1 of FY 2018. *Id.*

These requests by the Postal Service are premature given that the Commission has yet to see any documentation developed by the contractor explaining how it intends to perform audits and develop reports, or the promised “trial run” audit report to be provided by the contractor. The Commission specifically requested data from Quarter 1 because the postal system is under considerable seasonal stress during this time period. Consequently, execution of the proposed measurement systems may also face seasonal stress. The request for two quarters of audited data allows for the possibility that the auditor might identify issues during the first audit that the Commission would expect to see resolved by the time of the second audit.

It is ordered:

Additional clarity to Order No. 4002 is provided in the body of this order. The United States Postal Service Motion for Partial Reconsideration and Partial Clarification of Order No. 4002, filed August 11, 2017, is otherwise denied.

By the Commission.

Stacy L. Ruble
Secretary