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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

ANNUAL COMPLIANCE REPORT, 2017	))	Docket No. ACR2017

REPLY COMMENTS OF AMAZON.COM SERVICES, INC.

(February 12, 2018)

Amazon.com Services, Inc. ("ASI")[1] respectfully submits these reply comments. These respond to the initial comments filed by United Parcel Service, Inc. ("UPS") on February 1, 2018.

As UPS has done in the past several Annual Compliance Report dockets, UPS speculates that a variety of costing methods and assumptions used by the Postal Service may understate the costs attributed to competitive products. UPS, however, does not ask the Commission to reach the merits of these issues in the current docket, but merely asks the Commission to "initiate" *other* "appropriate" "proceedings" to study these issues. UPS Comments at 19-20. UPS adds that it "welcomes any guidance from the Commission on how best to address" the issues. *Id.* at 20.

The Commission, however, has repeatedly explained precisely how interested parties may obtain Commission review of alleged anomalies in the existing costing framework: by filing a petition for rulemaking. 2011 Annual Compliance Determination at 119; 2014

[1] ASI is the successor to Amazon Fulfillment Services, Inc. ("AFSI"). The change in corporate name took effect on January 1, 2018.

Annual Compliance Determination at 48; 2015 Annual Compliance Determination at 93. The Commission has also emphasized that a petition for rulemaking is more likely to be considered if the petition proposes specific solutions to the alleged costing anomalies:

> The Commission welcomes petitions from interested parties that not only investigate anomalies in the methodologies underlying the current cost models, but also present solutions. For example, a party could present an alternate methodology for distributing costs. The Commission encourages interested parties to continue to attempt to identify specific anomalies in conjunction with proposed solutions to correct methodologies that produce anomalous costs.

2011 ACD at 119.

UPS is free to pursue the rulemaking remedy, just as it did in Docket No. RM2016-2, *Periodic Reporting (UPS Proposals One, Two, and Three)*. *See id.*, Order No. 3506 (September 9, 2016), petition for review pending *sub nom*. *United Parcel Service, Inc. v. Postal Reg. Comm.*, No. 16-1354 (D.C. Cir.) (argued Jan. 22, 2018). UPS is also entitled to ask the Commission to reopen a previous rulemaking if it believes that the Postal Service has not complied adequately with the Commission's orders in that rulemaking. But UPS is not entitled to propose changes to the existing costing system in the Commission's Annual Compliance Review proceedings under 39 U.S.C. § 3653.

The Commission explained the basis for this policy in its Annual Compliance Determination for FY2011:

> CRA level costs are reasonably accurate for evaluating product costs and related prices. [Citation omitted.] Persuasive evidence is required to discard and replace a litigated costing framework that has been developed and refined over 40 years. Parties alleging that the CRA costing methodology is not reliable must demonstrate flaws underlying the costing methodology or cost collection in order to merit consideration. The anecdotal evidence of possible costing anomalies appearing in the results of the CRA cost models for specific types of costs, as presented in this docket, is not sufficient.

2011 ACD at 119; *accord*, 2014 ACD at 48 (same). And the Commission reemphasized this point two years ago in response to comments by an ally of UPS, the American Consumer Institute Center for Citizen Research ("ACI"), proposing that all institutional costs be fully attributed or allocated to individual products:

> The scope of the Commission's ACR review is limited to determining the Postal Service's compliance with rates and services in FY 2015. 39 U.S.C. § 3653(b). Accordingly, the issues raised by ACI relating to the costing methodology and cost attribution for Competitive products are more appropriately addressed in a separate proceeding. The Commission is currently considering two proposals submitted by United Parcel Service, Inc. (UPS) that relate to cost attribution for Competitive products. [Citation to RM2016-2 omitted.] As a result, the issues raised in ACI's comments do not warrant initiation of an additional proceeding to investigate the methodology the Postal Service uses to attribute total postal cost.

2015 ACD at 93.

Several facts underscore the soundness of continuing to place the burden of proof on those who seek to modify the existing costing system. First, the role of attributable cost estimates in this docket is narrow and specific. The issue before the Commission in an annual compliance review proceeding is whether the prices in effect during the fiscal year just ended were in compliance with "applicable provisions of this chapter"—*i.e.*, 39 U.S.C., chapter 36—"or regulations promulgated thereunder." 39 U.S.C. § 3653(b)(1). For competitive products, the relevant pricing issues are whether competitive products were subsidized by market-dominant products, 39 U.S.C. § 3633(a)(1), and whether the revenue generated by competitive products in Fiscal Year 2017 covered attributable costs (39 U.S.C. § 3633(a)(2)) plus 5.5 percent of the Postal Service's institutional costs, the minimum contribution currently required by the Commission under 39 U.S.C. § 3633(a)(3). UPS offers no evidence that the supposed anomalies in the current costing system, even assuming *arguendo* that they actually reflected errors in the system, understate the costs attributable to competitive products by more than a tiny fraction of the $6.0 billion in contribution to institutional costs generated by competitive products in Fiscal Year 2016,[2] let alone the nearly $7.2 billion in contribution generated by competitive products in Fiscal Year 2017.[3] This is a fatal omission. Without a showing that the costing errors speculated about by UPS are large enough to be material in this sense, the Commission's inquiry into competitive product pricing in this docket is at an end.

Second, the attribution errors that UPS alleges plainly have limited significance. The alleged errors involve mainly carrier costs and depreciation of investment in Mobile Delivery Devices ("MDD depreciation").[4] The former are appropriately addressed in Docket No. PI2017-1 and follow-up proceedings. The cost models proposed by UPS, however, provide ample ground for skepticism about UPS's perennial claim that delivery costs are significantly underattributed to competitive products. *See* Docket No. PI2017-1, Comments of Amazon Fulfillment Services, Inc. (filed Sept. 15, 2017).

Finally, UPS's own comments confirm that total MDD depreciation costs ($62 million in FY 2017[5]) are tiny in comparison to the $7.2 billion contribution from competitive products in the same year. Even the most extravagant increase in the share of these costs now attributed

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[2] 2016 ACD at 88.

[3] Docket No. ACR2017, USPS-FY17-1, Public_FY17CRAReport.xlsx, "Cost3", cell D22 minus F22.

[4] UPS Comments at 4-7 (peak season operations); *id*. at 7-9 (vehicle costing); *id*. at 9-11 (special purpose routes and second runs); *id*. at 11-12 (equipment depreciation costs); *id.* at 13-15 (competitive products fund); *id*. at 15-16 (city carrier street time).

[5] UPS Comments at 11, footnote 36.

to competitive products could not offset more than a small fraction of the multi-billion dollar annual contribution to institutional costs that these products generate.

CONCLUSION

The Commission should find again this year that the revenue from competitive products covers incremental costs and makes a contribution that far exceeds 5.5 percent of the Postal Service's total institutional costs, the minimum required by the Commission under 39 U.S.C. § 3633(a)(3).

Respectfully submitted,

/s/

David M. Levy
Eric S. Berman
VENABLE LLP
600 Massachusetts Avenue, N.W.
Washington, DC 20001
(202) 344-4732

Counsel for Amazon.com Services, Inc.

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