

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

Before Commissioners:

Robert G. Taub, Chairman;  
Michael Kubayanda, Vice Chairman;  
Mark Acton;  
Ann C. Fisher; and  
Ashley E. Poling

Procedures Related to  
Commission Views

Docket No. RM2020-3

ORDER ADOPTING FINAL RULES RELATED TO COMMISSION VIEWS

(Issued February 24, 2020)

I. INTRODUCTION

On December 17, 2019, the Commission issued a notice of proposed rulemaking that proposed revisions to its procedural rules related to the issuance of Commission views on certain international mail matters pursuant to 39 U.S.C. § 407(c)(1).<sup>1</sup> The proposed revisions reflect the Commission's experience participating in recent Universal Postal Union (UPU)<sup>2</sup> activities over the last several years and are intended to enhance transparency and accountability within the Commission views process and improve

---

<sup>1</sup> Notice of Proposed Rulemaking to Amend Procedures Related to Commission Views, December 17, 2019 (Order No. 5353).

<sup>2</sup> The UPU is a United Nations specialized agency comprising 192 member countries, including the United States. Member countries negotiate international agreements governing the exchange of international mail, including applicable rates for the delivery of international mail.

public accessibility to related documents. For the reasons discussed below, the Commission adopts the rules as proposed in Order No. 5353.

## II. BACKGROUND

Under section 407(c)(1) of the Postal Accountability and Enhancement Act (PAEA), the Secretary of State, before concluding a treaty, convention, or amendment establishing a market dominant rate or classification, shall request the Commission's views on the consistency of such rate or classification with the modern rate-setting criteria of 39 U.S.C. § 3622.<sup>3</sup> Commission views are developed mainly in the context of the United States' membership in the UPU, the Secretary of State's lead role in foreign policy related to international postal services, and UPU procedures for regulating international mail. Commission views entail the review and analysis of numerous proposals from the UPU councils and UPU member countries. The UPU posts these proposals on its website following submission and finalization.<sup>4</sup> Since enactment of the PAEA, the Secretary of State has requested — and the Commission has transmitted<sup>5</sup> —

---

<sup>3</sup> See Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006), section 405(a); see also 39 U.S.C. § 407(c)(1). Section 407(c)(1) refers to products subject to subchapter I of chapter 36 of the title 39, United States Code, which are market dominant products. Section 407(c)(1) also refers to the standards and criteria established by the Commission under section 3622.

<sup>4</sup> The UPU has established deadlines for member countries to submit proposals or amendments to proposals in accordance with Article 29 of the UPU Constitution, Berne 2017, and Article 138 of the UPU General Regulations, Berne 2017. See [http://www.upu.int/uploads/tx\\_sbdownloader/actsActsOfTheExtraordinaryCongressGenevaEn.pdf](http://www.upu.int/uploads/tx_sbdownloader/actsActsOfTheExtraordinaryCongressGenevaEn.pdf). Proposals from either the UPU Councils or UPU member countries are finalized by the UPU councils at their last session before the Congress.

<sup>5</sup> See, e.g., Docket No. IM2018-1, Notice of Posting of Views, September 10, 2018, and Notice of Posting of Views, November 7, 2018; see also Docket No. IM2019-1, Notice of Filing Correspondence, July 8, 2019, and Notice of Filing Correspondence and the Second Additional Proposal to the Universal Postal Convention, October 17, 2019.

its views on several relevant proposals considered at UPU Congresses.<sup>6</sup>

In Docket No. RM2015-14, the Commission adopted rules formalizing its procedures related to Commission views submitted pursuant to 39 U.S.C. § 407(c)(1).<sup>7</sup> The adopted rules reflected the Commission's commitment to both transparency and improved public accessibility by establishing dockets that informed the public about the availability of relevant proposals, Commission views, and other related documents, and by allowing all documents to be incorporated into one comprehensive record. *See id.*

In the years since the procedures related to Commission views were established, the Commission has participated in both traditional UPU Congresses as well as two extraordinary Congresses. In light of that experience, in Order No. 5353, the Commission proposed minor improvements to enhance transparency and accountability within the Commission views process as well as to improve the accessibility of relevant proposals, Commission views, and related documents. *See generally* Order No. 5353.

### III. COMMENTS

The Commission received comments in support of the proposed revisions from the Public Representative.<sup>8</sup> No other interested persons filed comments. The Public Representative "concur[s] that the revised rules represent 'clarifying changes' that retain the core procedures related to Commission views." PR Comments at 2. He also states that the "proposed revisions [ ] appear to strengthen the Commission's commitment to posting pending UPU proposals." *Id.* Finally, he interprets certain rule revisions as the

---

<sup>6</sup> In accordance with Article 14 of the UPU Constitution, the UPU Congress is the UPU's supreme body and consists of the representatives of member countries meeting no later than four years after the end of the year in which the previous Congress was held, unless exceptional circumstances justify the convening of an extraordinary Congress. *See* [http://www.upu.int/uploads/tx\\_sbdownloader/actInThreeVolumesConstitutionAndGeneralRegulationsEn.pdf](http://www.upu.int/uploads/tx_sbdownloader/actInThreeVolumesConstitutionAndGeneralRegulationsEn.pdf). Functions of the UPU Congress can be found in Article 103 of the General Regulations. *See id.*

<sup>7</sup> *See generally*, Docket No. RM2015-14, Order Adopting Final Rules on Procedures Related to Commission Views, December 30, 2015 (Order No. 2960).

<sup>8</sup> Public Representative Comments, January 16, 2020 (PR Comments).

Commission's intent to solicit comments that focus more on specific relevant proposals than on the general principles that should guide the Commission's development of its views. *Id.* at 3. He suggests that these proposed revisions "should result in comments that are more productive." *Id.*

#### IV. COMMISSION ANALYSIS

After consideration of the comments submitted, the Commission finds that the revisions proposed in Order No. 5353 implement improvements to the Commission views process that will enhance transparency and accountability as well as improve the accessibility of relevant proposals, Commission views, and related documents. Additionally, in response to the Public Representative's comments, the Commission clarifies that its solicitation of comments continues to focus on both comments that relate to specific relevant proposals as well as general principles that should guide the development of Commission views (and any other materials posted). See Order No. 5353 at 4.

Due to Commission action in another proceeding, the Commission notes several non-substantive changes to the rules as proposed in Order No. 5353. These changes do not affect the text of the rules themselves and largely relate to the numbering of the rules. In Order No. 5353, the Commission proposed rule revisions to 39 C.F.R. part 3017 on December 17, 2019. See section I, *supra*; see also Order No. 5353. On January 16, 2020, the Commission issued a final rulemaking in a separate proceeding that, among other things, renumbered several parts in title 39.<sup>9</sup> In Order No. 5407, 39 C.F.R. part 3017 was redesignated as 39 C.F.R. part 3025. Order No. 5407 at 24. In addition, the Commission redesignated §§ 3017.1 through 3017.5 as §§ 3025.101 through 3025.105 and revised the part's heading to "Procedures Related to Commission

---

<sup>9</sup> Docket No. RM2019-13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407).

Views Submitted to the Secretary of State.”<sup>10</sup> The revisions set forth in Order No. 5407 go into effect on April 20, 2020. *Id.* at 21-22. In order to avoid any confusion that may be associated with these overlapping changes, the final rules adopted in this Order will go into effect on April 21, 2020, after the renumbering of parts in title 39 is complete. As such, the remainder of this Order and the rule revisions herein reflect the numerical and heading changes adopted as part of Order No. 5407.

Accordingly, the Commission adopts the revisions to 39 C.F.R. part 3025, as set forth below the signature this Order.

#### V. REGULATORY FLEXIBILITY ACT

The Regulatory Flexibility Act requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. See 5 U.S.C. § 601 *et seq.* (1980). If the proposed or final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities, the head of the agency may certify that the initial and final regulatory flexibility analysis requirements of 5 U.S.C. §§ 603 and 604 do not apply. See 5 U.S.C. § 605(b).

In the context of this rulemaking, the rules that are the subject of this rulemaking have a regulatory impact on the Commission, but do not impose any regulatory obligation upon any other entity. Based on these findings, the Chairman of the Commission certifies that the rules that are the subject of this rulemaking will not have a significant economic impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. § 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. §§ 603 and 604.

---

<sup>10</sup> *Id.* at 26; 85 FR 9656 (February 19, 2020).

VI. ORDERING PARAGRAPHS

*It is ordered:*

1. Part 3025 of title 39, Code of Federal Regulations, is revised as set forth below the signature of this Order.
2. The Secretary shall arrange for publication of the amended rules and general statement as to the basis and purpose of the amended rules in the *Federal Register*.
3. The revisions adopted by this Order shall take effect on April 21, 2020.

By the Commission.

Erica A. Barker  
Secretary

**List of Subjects for 39 CFR Part 3025**

Administrative practice and procedure, Postal Service, Treaties.

For the reasons stated in the preamble, the Commission to amends chapter III of title 39 of the Code of Federal Regulations as follows:

1. Revise part 3025 to read as follows:

**PART 3025—PROCEDURES RELATED TO COMMISSION VIEWS SUBMITTED TO THE SECRETARY OF STATE**

Sec.

- 3025.101 Definitions in this part.
- 3025.102 Purpose.
- 3025.103 Establishment and scope of docket.
- 3025.104 Comment deadline(s).
- 3025.105 Issuance of Commission views.

Authority: 39 U.S.C. 407; 503.

**§ 3025.101 Definitions in this part.**

(a) *Commission views* refers to the opinion the Commission provides to the Secretary of State pursuant to 39 U.S.C. 407(c)(1) on the consistency of a relevant proposal with modern rate regulation.

(b) *Modern rate regulation* refers to the standards and criteria the Commission has established pursuant to 39 U.S.C. 3622.

(c) *Relevant proposal* means a proposed change to a treaty, convention, or amendment that establishes a market dominant rate or classification.

**§ 3025.102 Purpose.**

The rules in this part are intended to facilitate public participation in, and promote the transparency of, the development of Commission views.

**§ 3025.103 Establishment and scope of docket.**

(a) On or about 150 days before a Universal Postal Union Congress convenes or such advance time as the Commission determines for any other 39 U.S.C. 407(c)(1) matter, the Commission shall establish a docket in order to solicit public comments as part of the development of Commission views.

(b) The Commission shall post relevant proposals in the applicable docket established pursuant to paragraph (a) of this section and may also include other materials related to the development of Commission views, such as other documents or related actions.

(c) Public comments should focus on the specific relevant proposals posted by the Commission and the general principles that should guide the development of Commission views as well as any other materials posted in the applicable docket pursuant to paragraph (b) of this section.

(d) The Commission shall arrange for publication in the **Federal Register** of the notice establishing each docket authorized under this part.

**§ 3025.104 Comment deadline(s).**

(a) The Commission shall establish a deadline for comments upon establishment of the docket that is consistent with timely submission of Commission

views to the Secretary of State. The Commission may establish other deadlines for comments as appropriate.

(b) The Commission may suspend or forego solicitation of comments if it determines that such solicitation is not consistent with timely submission of Commission views to the Secretary of State.

**§ 3025.105 Commission views.**

(a) The Commission will review timely filed comments responding to a Commission solicitation pursuant to § 3025.103(a) prior to submitting its views to the Secretary of State.

(b) After Commission views are developed, the Commission shall post Commission views in the applicable docket established pursuant to § 3025.103(a) and submit Commission views to the Secretary of State pursuant to 39 U.S.C. 407(c)(1).