

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

REGULATIONS PERTAINING TO 39 U.S.C. § 601

Docket No. RM2020-4

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
CHAIRMAN'S INFORMATION REQUEST NO. 2**
(April 3, 2020)

The Postal Service hereby responds to Chairman's Information Request No. 2, issued on April 1, 2020. Each question is stated verbatim and is followed by the response.

Respectfully submitted,
UNITED STATES POSTAL SERVICE

By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business & Service
Development

Jeffrey A. Rackow

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1101
(202) 268-6687, FAX: -5418
jeffrey.a.rackow@usps.gov
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1. Please refer to the Response to CHIR No. 1. Question 3.b. asked if the Postal Service believed that it may continue to suspend the operation of section 310.2(b) of the Postal Service's regulations without Commission authority pursuant to regulations promulgated under 39 U.S.C. 601(c), and if so, to explain.¹ Unlike the unambiguous answer to question 3.a., the Postal Service answered question 3.b. by explaining that it understood the question to be asking whether it may continue to promulgate via rulemaking new suspensions to the Private Express Statutes. To clarify, the question was also exploring whether the Postal Service may continue to execute and enter into alternative payment agreements pursuant to section 310.2(b).
 - a. How many written agreements are in effect pursuant to section 310.2(b)?
 - b. Have any written agreements pursuant to section 310.2(b) been issued since the effective date of section 601(c) of title 39? If so, how many?
 - c. If any written agreements have been issued since the effective date of section 601(c) of title 39, did the Postal Service obtain approval, coordinate, or otherwise communicate with the Postal Regulatory Commission regarding those written agreements? If not, please explain.
 - d. How much revenue did the Postal Service receive pursuant to these written agreements in fiscal year 2019?
 - e. Please identify where in the Annual Compliance Report the revenue from these written agreements is reported.

RESPONSE:

- a. Ten (10) agreements.
- b. Yes, the Postal Service has entered into approximately 35 such payment agreements with customers (including the 10 agreements in the response to question (a) above), some of which were also subject to subsequent addenda or amendment.

¹ The original question incorrectly referenced section 310.6. The question should have referred to section 310.2 as was done correctly in the other parts of question 3, given that there is no subsection (b) of section 310.6.

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- c. No. As an initial matter, the Postal Service did not “suspend the operation of section 310.2(b)” when it entered into the agreements referenced in the response to questions 1(a)-(b) above; to the contrary, the Postal Service *applied* the provisions of 39 C.F.R. § 310.2(b)(2) when it entered into the agreements referenced above.

As stated in 39 C.F.R. § 310.1(f), “[t]he *Private Express Statutes* are set forth in 18 U.S.C. [§§] 1693-1699 and 39 U.S.C. [§§] 601-606.” The Commission, of course, has no rulemaking authority with respect to Title 18. Section 1696 of Title 18 makes illegal certain private carriage of letters, but it also expressly provides that it does not “prohibit any person from receiving and delivering to the nearest post office, postal car, or other authorized depository for mail matter any mail matter properly stamped.” Section 601(a) of Title 39 provides for the private carriage of a letter when, among other things, “the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope,” and “any stamps on the envelope are canceled in ink by the sender.” Section 601(b)(3) codified Postal Service regulations in effect on July 1, 2005, which permit private carriage of letters by suspension of the operation of Section 601 itself as then in effect. While the Commission has the authority to promulgate certain regulations if necessary to implement Section 601, it has never done so.

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Section 310.2(b) provides for alternative postage payment in written agreements between customers and the Postal Service consistent with 39 U.S.C. § 601(a). Such agreements and terms are a convenience to avoid the cumbersome and inefficient tasks of affixing and canceling postage stamps on lawful, privately carried mail pursuant to the Private Express Statutes. No provision of law conditions the Postal Service's authority to enter into such postage payment agreements with customers upon Commission approval, or requires the Postal Service to provide the Commission with notice of such agreements.

- d. Approximately \$204,628.
- e. Based on how the revenue is posted, the revenue from these agreements would have been included in the materials submitted with the Annual Compliance Report in the amounts shown in the Revenue, Pieces, and Weight (RPW) Report (e.g., USPS-FY19-42) on page 2 in the Other Market Dominant Revenue line, and in the Cost and Revenue Analysis (CRA) Report (e.g., USPS-FY19-1) on page 3 in the Miscellaneous Items row.