

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

ANNUAL COMPLIANCE REVIEW, 2019

Docket No. ACR2019

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
STEVE HUTKINS' MOTION FOR ISSUANCE OF INFORMATION REQUEST NO. 3**
(August 28, 2020)

Pursuant to 39 CFR § 3010.160(b), the United States Postal Service (Postal Service) hereby files this Response to Steve Hutkins' Motion for Issuance of Information Request No. 3 filed on August 21, 2020 ("August 21, 2020 Motion").¹ The Postal Service respectfully requests that the Postal Regulatory Commission (PRC or Commission) deny Mr. Hutkins' August 21, 2020 Motion.

As an initial matter, the Commission should deny Mr. Hutkins' August 21, 2020 Motion because it is filed in a proceeding in which the Commission has already issued the Annual Compliance Determination. Pursuant to 39 CFR § 3010.170(e), motions for information requests "that do not result in the issuance of an information request prior to the Commission's final decision in the docket shall be deemed denied." By Order No. 5381, the Commission established Docket No. ACR2019 "to consider matters raised by the United States Postal Service's FY 2019 Annual Compliance Report."² The

¹ Although Mr. Hutkins files his August 21, 2020 Motion pursuant to "39 C.F.R. § 3001.21(a)," the Postal Service treats this as a motion filed under 39 CFR § 3010.160(a). August 21, 2020 Motion, at 1; see PRC Order No. 5407, Order Reorganizing Commission Regulations and Amending Rules of Practice, PRC Docket No. RM2019-13 (January 16, 2020), at Appendix A, p. 2.

² PRC Order No. 5381, Notice of Postal Service's Filing of Annual Compliance Report and Request for Public Comments, PRC Docket No. ACR2019 (December 30, 2019), at 6.

Commission specifically noted in this order that the Postal Service's FY 2019 Annual Compliance Report "begins a review process that results in an Annual Compliance Determination (ACD) issued by the Commission to determine whether Postal Service products offered during FY 2019 were in compliance with applicable title 39 requirements."³ The Commission issued its final decision in this matter, the ACD, on March 25, 2020.⁴ Mr. Hutkins' August 21, 2020 Motion was filed after the Commission issued the ACD in Docket No. ACR2019 and must, therefore, be denied. Any alternative course of action by the Commission would serve to undermine its own regulations.

Mr. Hutkins' request is also beyond the scope of the Annual Compliance Report (ACR) 2019 docket. The aim of Mr. Hutkins' request is more recent SPM data occurring in specified periods in FY 2020. The ACR docket was created for review of activity during FY 2019.⁵ To allow the ACR docket to become some sort of standing docket for consideration of new matters would be contrary to statutory intent, which was to provide the public with the opportunity to participate in a fixed, time-limited period of review of the prior fiscal year's performance data.⁶

Mr. Hutkins' August 21, 2020 Motion should further be denied because the Commission has established appropriate timetables for the Postal Service to report its Service Performance Measurement (SPM) data in order to fulfill the Commission's specific statutory responsibilities. Mr. Hutkins notes in his August 21, 2020 Motion that

³ *Id.* at 2.

⁴ Docket No. ACR2019, *Annual Compliance Determination*, March 25, 2019.

⁵ See PRC Order No. 5381.

⁶ See 39 U.S.C. § 3652.

the requested information “would be beneficial to the Commission’s important annual evaluation of the Postal Service’s compliance with the provisions of 39 U.S.C. § 3652 and in particular 39 C.F.R. § 3055.”⁷ Indeed, the Commission’s evaluation pursuant to 39 U.S.C. § 3652 is done on a preset timetable on an annual basis. The Commission’s regulations do not compel more frequent reporting and the Postal Service, therefore, reports service performance data to the Commission pursuant to 39 CFR Part 3055 on an annual and quarterly basis. Adhering to all these well-established timetables allows the Postal Service to properly review and finalize all its data and ensure its accuracy before the Postal Service files these data with the Commission. These processes and procedures are employed at the end of each quarter. The Commission’s Rules of Practice do not require and the Commission does not need the data requested by Mr. Hutkins in his August 21, 2020 Motion to fulfill its statutory responsibilities, which are to access the Postal Service’s service performance compliance on an annual basis as a legal matter. This assessment should only be done using data that the Postal Service has properly reviewed and verified rather than data that has not been finalized using the processes and procedures noted above. The current requirements in 39 CFR Part 3055 for the Postal Service to report its SPM data on an annual and quarterly basis are reasonable for the Commission’s purposes, and the Commission should accordingly deny Mr. Hutkins’ August 21, 2020 Motion seeking additional reporting for specified

⁷ August 21, 2020 Motion, at 1.

periods in FY 2020.

Respectfully submitted,

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