

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

Periodic Reporting (Proposal Seven)

Docket No. RM2021-1

COMMENTS OF AMAZON.COM SERVICES, INC.
(March 5, 2021)

Amazon.com Services, Inc. (ASI) respectfully submits these comments in response to the Commission’s Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Seven) (Notice).¹

The Notice initiates a rulemaking proceeding to consider a Postal Service proposal to update the variabilities for certain types of purchased highway transportation contracts.² Specifically, the proposal seeks to update cost-to-capacity variability estimates for Christmas routes based on data from the Transportation Contract Support System, and to re-estimate the variability of Dynamic Route Optimization (“DRO”) contracts in comparison with traditional purchased highway transportation contracts. The analysis is provided pursuant to the Commission’s suggestion that the Postal Service “update its variabilities the earlier of every 10 to 15 years or following completion of any major structural reorganization.”³

The Postal Service’s proposal is supported by an analysis provided by Professor Michael D. Bradley, and the Postal Service has provided the analysis data set used to estimate the econometric models, all programs for, and results from, the econometric analyses, and a public

¹ Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Seven) (Nov. 18, 2020) (Notice); Order No. 5835 granted an extension of time to March 5, 2021 to file comments.

² Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Seven)(Nov. 9, 2020) (Petition).

³ See Order No. 3973, Docket No. RM2016-12, at 40 (June 22, 2017).

version of the impact analysis. The Postal Service has also provided a non-public folder that includes the Excel workbook used to calculate the impact of the new study on competitive product costs, and responded to various information request from the Chairman. The analysis concludes that estimation of these variabilities has resulted in higher overall variabilities and higher attributable costs, adding \$191.5 million in attributable transportation costs in all.⁴

The Postal Service's proposal to update and improve its existing variability estimates, consistent with the Commission's direction, should not be controversial. As ASI noted in its recent comments on the Annual Compliance Review, the Postal Service's costing models are developed through a participatory and transparent regulatory process, their accuracy is subject to continuous review and refinement, and the Commission's process is open to all stakeholders.⁵ Proposal Seven is part of this salutary process by which the Postal Service improves its costing methodologies to attribute costs through "reliably identified causal relationships" as required by statute, affirmed by courts, and supported by the consensus of economic thought. *See* 39 U.S.C. §§ 3631(b), 3633(a)(2). ASI notes that in its initial comments even United Parcel Service, Inc. (UPS), which has regularly sought changes to Postal Service costing methodologies in order to increase the level of attributable costs to UPS' own competitive benefit, supports Proposal Seven as a "step in the right direction."⁶

UPS's support for Proposal Seven, however, is conditioned on the Commission adopting an "alternative approach" to estimating incremental costs. The remainder of UPS's comments thus go beyond Proposal Seven and urge the Commission to arbitrarily attribute additional costs to Postal Service competitive products. The UPS comments seek to insert into this docket issues

⁴ Michael D. Bradley, Research on Updating Purchased Highway Transportation Variabilities to Account for Structural Changes (Nov. 9, 2020) ("Bradley Report") at 53-54.

⁵ *See* Reply Comments of Amazon.com Services, Inc., Docket No ACR2020 (February 12, 2021) at 3.

⁶ Initial Comments of United Parcel Service, Inc. on Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Seven)(Feb. 26, 2021)("UPS Comments") at 17.

that UPS has raised in other dockets, including the seasonality docket (RM2020-9) and others. *See, e.g.,* UPS Comments at 4, 11-12, 18 (referring to UPS’ positions in these other dockets.). As in the Annual Compliance Review, where UPS has likewise regularly sought to raise grievances with Commission-approved costing methods that are outside the scope of those annual compliance proceedings,⁷ the Commission should decline UPS’ invitation to import issues from other dockets into this one.

Attempting to incorporate by reference arguments it has made in the separate seasonality petition docket, UPS proposes that the Commission “should conservatively assume that all of the costs for these routes are caused by competitive products.”⁸ UPS likewise submits that the Postal Service should use a 100 percent capacity-to-volume variability for DROs.⁹ UPS does not explain why attributing *all* such costs to competitive products would be “conservative.” In fact, UPS’s alternative approach would be a radical departure from the statutory causality requirement imposed by 39 U.S.C. §§ 3622(c)(2), 3631(b), and 3633(a)(1) and (2) by attributing costs to products that do not cause those costs. UPS’s “conservative” proposal repeats a tired refrain of its consistent call for fully distributed costing methods and other proposals designed to improve its competitive position by forcing the Postal Service to raise prices on its competitive products to cover costs that have no economic relationship with those products.¹⁰ The Commission should reject UPS’ attempt to revive those efforts here.

⁷ *See* Docket No. ACR2018, Annual Compliance Determination (Apr. 12, 2019) at 117-124 (stating that UPS’ concerns were outside the scope of the proceeding).

⁸ UPS Comments at 5.

⁹ *Id.*

¹⁰ *See, e.g.,* Docket No. RM2017-1, Order No. 4742 (Aug. 7, 2018) at 37-41, *aff’d sub nom. United Parcel Serv., Inc. v. Postal Regulatory Comm’n.*, 890 F.3d 1053 (D.C. Cir. 2018), *cert. denied*, 139 S. Ct. 2614 (2019)(rejecting various UPS cost attribution proposals as discredited variations of fully distributed costing proposals).

UPS concedes that there is a “regrettable” lack of distribution key data on Christmas and DRO contracts,¹¹ and notes that its seasonality petition asks the Commission to conduct a study to assess these costs more accurately.¹² UPS concedes there is no evidence the costs are exclusively caused by competitive products; it describes these costs as “largely, if not fully, incremental to competitive products,”¹³ yet suggests that “conservatively” the Commission should assume that all of them are attributable. This is not a legitimate approach to cost attribution, which requires causal relationships to be “reliably identified” before costs may be attributed. *See* 39 U.S.C. § 3631(b).

ASI also notes that a brief review of the information UPS presents in its comments does not, on its face, support its assertion that because Christmas costs and what UPS calls the competitive product volume “spike” have increased from 2012 to 2020 competitive products are solely responsible for the cost increase.¹⁴ The graph UPS provides to support that assertion shows that year-to-year Christmas costs and the competitive product volume “spikes” appear to move in opposite directions as often as they move in the same direction. Virtually all of the increases occurred in several years in the middle of the period, and in the past two years the competitive volume spike has increased while Christmas costs have declined. Moreover, even if UPS could show a correlation between Christmas costs and changes in competitive volume that would not itself establish causation, and the relationship between competitive volumes and Christmas costs appears to be more complex than UPS suggests. This highlights, at the very least, the wisdom of adopting the Postal Service’s proposal rather than accepting UPS’s suggestion to “conservatively” attribute all Christmas costs to competitive products.

¹¹ UPS Comments at 14.

¹² *Id.*, at 11-12, citing Petition of United Parcel Service, Inc. for the Initiation of Proceedings to Make Changes to Postal Service Costing Methodologies, Docket No. RM2020-9 (May 29, 2020) at 38-39.

¹³ *Id.*, at 6.

¹⁴ *Id.*, at 7 & Fig. 1.

ASI supports the adoption of Proposal Seven as an improvement to the current variability estimates. The Commission should reject UPS's alternative non-causal approach of attributing all costs to competitive products as unsupported on the record and contrary to law.

Respectfully submitted,

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