

ORDER NO. 6234

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

Before Commissioners:

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

Transferring Selected Post Office Box
Service Locations to the Competitive
Product List

Docket No. MC2022-46

ORDER APPROVING REQUEST TO TRANSFER
ADDITIONAL POST OFFICE BOX SERVICE LOCATIONS
TO THE COMPETITIVE PRODUCT LIST

(Issued July 21, 2022)

I. INTRODUCTION

On March 16, 2022, the Postal Service filed a request to transfer Post Office (PO) Box service in selected additional locations from the Market Dominant product list to the Competitive product list.¹ The Commission approves the Request and will update the draft Mail Classification Schedule (MCS) to reflect the relevant changes.

¹ Request of the United States Postal Service to Transfer Post Office Box Service in Selected Locations to the Competitive Product List, March 16, 2022 (Request).

II. BACKGROUND

A. Previous Transfers

The Commission has previously approved two Postal Service requests to transfer PO Box services to the Competitive product list.² In Order No. 473, the Commission approved the Postal Service's Initial Request to transfer a small segment of PO Box service locations to the Competitive product list.³ Specifically, the request was limited to select locations with alternative private mailbox (PMB) services within one-half mile.⁴ The Commission directed the Postal Service to file supporting financial data in any future request to transfer additional PO Box service locations to the Competitive product list. *Id.* at 14.

In Order No. 780, the Commission approved the request to transfer PO Box service at approximately 6,800 locations from the Market Dominant to the Competitive product list. Order No. 780 at 15. In selecting these locations, the previous one-half mile criterion was amended to 5 miles. These affected locations comprise approximately one-fifth of all PO Box service locations and almost 44 percent of all PO Boxes used by customers. *Id.* at 2.

After those filings, based on the Commission-approved criteria the Postal Service added an additional PO Box service location to the Competitive product list in 2013.

² Docket No. MC2010-20, Request of the United States Postal Service, March 12, 2010 (Docket No. MC2010-20, Request); Docket No. MC2011-25, Request of the United States Postal Service to Transfer Post Office Box Service in Selected Locations to the Competitive Product List, May 13, 2011 (Docket No. MC2011-25, Request). The Docket No. MC2010-20, Request covered 49 PO Box service locations. Docket No. MC2010-20, Request, Attachment B at 4. See Docket No. MC2011-25, Order Approving Request to Transfer Additional Post Office Box Service Locations to the Competitive Product List, July 29, 2011, at 2 n.1 (Order No. 780). The Docket No. MC2011-25, Request covered approximately 6,800 PO Box service locations. Order No. 780 at 2.

³ Docket No. MC2010-20, Order Approving Request to Transfer Selected Post Office Box Service Locations to the Competitive Product List, June 17, 2010, at 15 (Order No. 473).

⁴ PMB service providers are commercial mail receiving agencies, which are private businesses that act as the mail-receiving agent for specific clients by providing a delivery address and other services. See United States Postal Service, *Publication 32 - Glossary of Postal Terms*, available at https://about.usps.com/publications/pub32/pub32_terms.htm (last visited July 21, 2022).

Request at 2. It moved an additional 1,625 locations effective August 27, 2014, and moved another 227 locations effective August 29, 2021. *Id.*

B. Proposed Transfer

Upon reevaluation of the criteria applied to determine Competitive status, the Postal Service seeks to transfer an additional 297 PO Box service locations to the Competitive product list. *Id.* To support its Request, the Postal Service filed Resolution No. 21-12 of the Board of Governors, a Statement of Supporting Justification, and proposed MCS language. *Id.* at 3. Also, attached to the Request is a list of the 297 locations by city and state proposed to be transferred. *Id.*

The Postal Service asserts that the proposed transfers constitute approximately 1.31 percent of the 23,090 current Market Dominant PO Box service locations. *Id.* Attachment B at 8. One of the criteria for transferring locations is based on whether customers have sufficient access to PMB service providers. The Postal Service asserts that in the two previous cases on this subject there was “sufficient access” where the affected PO Box service locations were within a certain distance of a current or recent PMB service provider and that the Commission subsequently approved both requests. *Id.* at 2. The current request seeks to revise the current metric from 5 miles to 8 miles. Request at 2; *id.* Attachment B at 2. The Postal Service asserts that more recent evolution and growth of market competitors and current consumer travel habits indicate Postal Service PO Box service locations within 8 miles of PMBs face competition sufficient to satisfy the requirements of 39 U.S.C. § 3642.⁵ With this modification and transfer of 297 locations, the proportion of Market Dominant PO Box service locations would shift from 71.1 percent to 70.1 percent. *Id.*

The affected locations exclude some PO Box service locations that would otherwise qualify as Competitive under the Postal Service’s 8-mile Competitive criterion.

⁵ Request, Attachment B at 2. Currently, of 31,977 total PO Box service locations, 22,421 are Market Dominant and 9,254 are Competitive. *Id.*

Id. at 7. The Postal Service omitted locations that restrict customer access such as military reservations or those requiring a badge to gain access, and locations that have 250 or fewer PO Box service customers.⁶ Those locations will remain on the Market Dominant product list despite their proximity to a PMB service provider. Request, Attachment B at 8.

The Postal Service states that the Request is not inconsistent with 39 U.S.C. § 3622(d) regarding the process for raising rates because the Request does not include any price increases for PO Box service.⁷ It also asserts that, if approved, the Competitive PO Box service product cost coverage will remain virtually the same, “well above 100 percent.” Request, Attachment B at 3.

The Postal Service advances reasons to demonstrate the changes comply with 39 U.S.C. § 3642 because the Postal Service does not exercise sufficient market power that “it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.”⁸

The Postal Service notes that several independent businesses and franchises offer services of a paid receptacle for the receipt of correspondence and packages (PMBs) similar to PO Box service.⁹ PMBs also offer ancillary services such as e-mail notifications, mail addressed to a PMB’s street address, receiving packages from

⁶ *Id.* The criterion of 250 or fewer PO Box service customers is not included in the proposed MCS language, which refers to a “small customer base” without a specific definition. Request, Attachment C. In Docket No. MC2011-25, the Postal Service explained that it needs flexibility in the MCS language to prevent PO Box service locations from switching back and forth between the Market Dominant and Competitive product lists if the number of PO Box service customers exceeds or falls below 250. Docket No. MC2011-25, Request, Attachment B at 10 n.14. See Order No. 780 at 3 n.6.

⁷ Request, Attachment B at 1-2. See 39 C.F.R. § 3040.132(b).

⁸ See 39 U.S.C. § 3642(b)(1); 39 C.F.R. § 3040.132(d). Also, as required by 39 C.F.R. § 3040.132(e), the Postal Service explains the PO Box service is not concerned with the carriage of letters and is therefore not covered by the postal monopoly reserved to the Postal Service under 18 U.S.C. § 1696 subject to the exceptions in 39 U.S.C. § 601. Request, Attachment B at 8.

⁹ Request, Attachment B at 3. Examples cited are The UPS Store, Associated Mail & Parcel Center, PostNet, AIM Mail Center, PakMail, and others. *Id.*

carriers other than the Postal Service, shipping services, and notary and facsimile services. *Id.* Yet overall, the services are “close substitutes” for one another. *Id.* at 3-4 (citing Order No. 780 at 11). The Postal Service notes that in Order No. 780 issued in 2011, the Commission determined the Postal Service’s market power was restricted by the availability of PMB services located within 5 miles of consumers serviced by PO Box service locations and was further constrained by its own alternative services of carrier delivery and nearby Market Dominant PO Box service locations. Request, Attachment B at 5 (citing Order No. 780 at 9).

The Postal Service states that PMB competitors have dramatically expanded nationally. Request, Attachment B at 6. It cites a market research report finding that in 2021 there were approximately 5,046 PMB companies and that PMBs had an annual growth rate of 6.4 percent over the last 3 years. *Id.* It contends that these competitors are not constrained in their offerings or delivery points and that free access points offered by competitors add additional pressure on PO Box service. *Id.* They are also free to establish partnerships with retail stores to offer additional products. *Id.* at 6-7.

To assist in reevaluating the criteria for determining Competitive status, the Postal Service commissioned a survey of business and residential customers in November and December 2020 to collect a statistically valid sample size of 2,500 respondents (PO Box Survey). Data were collected from current PO Box service customers, PMB customers, and Postal Service customers using alternative delivery services.¹⁰ Based on the results of the survey, the Postal Service “posits 8 miles as a reasonable criterion” for a Competitive service. Request, Attachment B at 6. In support, it refers to survey findings that 42 percent of PMB customers and 36 percent of PO Box service customers surveyed travel more than 5 miles to access their mailbox. *Id.* at 5. The survey found that 60 percent of existing residential customers and 79

¹⁰ Request, Attachment B at 5. See Request, PDF file “MC2022-46_MarketResearchPacket_Flat Summary.pdf,” available at https://www.prc.gov/docs/121/121133/MC2022-46_MarketResearchPacket_Flat%20Summary.pdf (PO Box Survey). The Postal Service refers to this study as the Flat Survey. In this Order, the Commission refers to this study as PO Box Survey.

percent of business PO Box service customers are willing to travel more than 5 miles “to access flexible package services and other features offered at Competitive locations.” *Id.* at 5-6. In addition, 4 of 10 customers surveyed chose PMBs because their services were better suited to their needs, such as being able to receive a package from any shipper. *Id.* at 5.

Determination of 297 locations. The Postal Service explains that it determined the 297 locations by a three-step process with two further adjustments. Request, Attachment B at 7. First, a list of all PMBs was compiled. *Id.* Second, the populations residing within 5 to 8 miles of each PMB was mapped. *Id.* Third, a list was made of PO Box service locations serving those populations. *Id.* Then, that list was reviewed for two potential downward adjustments: first, to ensure none of the locations were on either a military installation or otherwise had restricted access; and second, to remove any locations having fewer than 250 PO Box service customers. *Id.* The Postal Service explains that it intends to enhance service at the newly Competitive locations, such as making building improvements to expand lobby hours, and that such investments at smaller-sized locations of 250 PO Boxes or less would not be cost-effective. *Id.*

C. Procedural History

The Commission issued an order on March 18, 2022, noticing the Request, appointing a Public Representative, and providing interested persons with an opportunity to submit comments and reply comments.¹¹

¹¹ Notice and Order Concerning Request to Transfer Selected Post Office Box Service Locations to the Competitive Product List, March 18, 2022 (Order No. 6122).

D. Chairman's Information Request No. 1

On May 18, 2022, the Commission issued Chairman's Information Request No. 1.¹² The Postal Service responded to CHIR No. 1 on May 25, 2022.¹³

CHIR No. 1 sought to clarify details of the Request. Specifically, the Commission wanted more information on the market research, the rationale behind the increase from 5 miles to 8 miles, the history of the Postal Service's treatment of smaller locations that have been excluded from transfer from the Market Dominant product list to the Competitive product list, the relevant services that differentiate Market Dominant and Competitive PO Box service, and geographic information of affected offices. See *generally* CHIR No. 1.

In its Response to CHIR No. 1, the Postal Service provided answers to the Commission's questions. In justifying why it chose 8 miles, rather than 7 miles or 9 miles, the Postal Service states that it "exercised its business judgment." Response to CHIR No. 1, question 2.

Seeking clarification on the extent of the Postal Service's research, the Commission asked a variety of questions about the market research used to justify this Request. In its response, the Postal Service states "[t]he purpose of the market research was to examine the behavior of active consumers of mailbox services, not the behavior of non-consumers." *Id.* question 9.e.

When asked about the services offered between Market Dominant and Competitive PO Boxes, specifically what prevents the Postal Service from offering all of its services to both types of boxes, the Postal Service describes the issue as "not a legal one but a practical one." *Id.* question 4.d. The Postal Service justifies its answer by explaining that it is only where it faces "competitive pressure" that it has "more

¹² Chairman's Information Request No. 1, May 18, 2022 (CHIR No. 1).

¹³ Responses of the United States Postal Service to Chairman's Information Request No. 1, May 25, 2022 (Response to CHIR No. 1).

incentive and ability to invest in value-added services.” *Id.* It notes that the price cap may disincentivize it from “gratuitously increasing attributable costs.” *Id.*

Seeking specifics as to the geographic breakdown of the relevant offices, the Commission asked the Postal Service to provide the percentage breakdown of the 297 PO Box service locations. CHIR No. 1, question 7.f. The Postal Service replies that of the 297 PO Box service locations, 43 are rural (14.5 percent); 242 are suburban (81.5 percent); and 12 are urban (4.0 percent). Response to CHIR No. 1, question 7.f.

When asked about what would prevent the Postal Service from moving the excluded sites—specifically, those with 250 or fewer PO Box service customers, to the Competitive product list—in the future, the Postal Service states it is “aware of no legal impediment to modifying them in the future.” *Id.* question 3.d. This response compelled further clarification.

E. Chairman’s Information Request No. 2

On June 1, 2022, the Commission issued Chairman’s Information Request No. 2.¹⁴ The Postal Service responded to CHIR No. 2 on June 8, 2022.¹⁵ It filed some of the requested information under seal. Response to CHIR No. 2, Attachment 1.

CHIR No. 2 sought to build on the responses of CHIR No. 1 and provide additional information to enable the Commission to review the Request. Specifically, the Commission wanted to review the raw data of additional market research the Postal Service used to support its responses to CHIR No. 1 and receive clarification on the Postal Service’s historical treatment of locations with fewer than 250 customers. See *generally* CHIR No. 2.

In its Response to CHIR No. 2, the Postal Service provided the market research information as a non-public file. Response to CHIR No. 2, question 1. The Postal

¹⁴ Chairman’s Information Request No. 2, June 1, 2022 (CHIR No. 2).

¹⁵ Responses of the United States Postal Service to Chairman’s Information Request No. 2, Notice of Filing Non-Public Material, and Application for Nonpublic Treatment, June 8, 2022 (Response to CHIR No. 2).

Service also clarifies that of the locations that had 250 or fewer PO Box service customers at the time that Order No. 780 was published, 0 have been transferred to the Competitive product list. *Id.* question 2.c.

III. COMMENTS

On April 29, 2022, the Commission received comments on the Request from the Public Representative.¹⁶ The Postal Service submitted reply comments on May 13, 2022.¹⁷

A. Public Representative Comments

The Public Representative regards as settled the Commission's previous findings that PO Box service and PMBs are close substitutes for each other. PR Comments at 3. However, he concludes that the Postal Service has not demonstrated that the requested revision of the existing 5-mile criterion to 8 miles satisfies the market power requirements of 39 U.S.C. § 3642(b)(1). *Id.* at 9. The Public Representative therefore recommends that the Commission deny the Postal Service's Request. *Id.*

The Public Representative contends that the Postal Service has not demonstrated that a PMB within 8 miles of customers' residences sufficiently constrains the Postal Service's market power over PO Box service at the location that serves those customers. *Id.* at 3-9. First, he argues that the Postal Service's method for identifying locations for transfer is inconsistent with the Postal Service's argument that customer willingness to travel up to 8 miles to access PO Box service demonstrates that the Postal Service lacks market power over the identified locations. *Id.* at 3.

He is also concerned that not all of the population served by the identified locations will necessarily live within 8 miles of a PMB (*e.g.*, the PO Box service location may be farther than 8 miles from the PMB or may have a service area that extends

¹⁶ Public Representative Comments, April 29, 2022 (PR Comments).

¹⁷ Reply Comments of the United States Postal Service, May 13, 2022 (Reply Comments).

outside the 8-mile radius from the PMB).¹⁸ Accordingly, the Public Representative argues that even if the supporting data showed that existing customers of Market Dominant PO Box service were willing to travel up to 8 miles to receive service, there is no evidence in the record indicating the proportion of the population served by the identified locations actually lives within 8 miles of a PMB. PR Comments at 4. Nor does he find any indication in Order No. 780 that this method is consistent with the approved 5-mile criterion. *Id.* His position is based on the wording of the survey questions, the aggregation of data that does not isolate the relevant subgroup, and the data suggesting the survey may be unreliable. *Id.* at 5.

1. Issues of Question Wording

The Public Representative contends the relevant question under 39 U.S.C. § 3642(b)(1) is not whether customers will travel farther for additional services, but whether the PMB is close enough to existing PO Box service customers to provide a viable alternative that constrains the Postal Service's market power. *Id.* He claims that, as worded, the questions do not directly address how far away a PMB can be located and still constrain the Postal Service's market power. *Id.* He references MCS § 2640.1(g) (describing additional services available at some Competitive PO Box service locations), MCS § 2640.3 (describing possible additional services available at locations that offer Enhanced service), and 39 U.S.C. § 3642(b)(1) (defining market power in terms of the ability to raise prices or cut service without risk of losing substantial volume). *Id.* at 5 nn.7-8.

¹⁸ *Id.* at 4. The Postal Service states that upon further review, the 297 reclassification candidates were derived based on distances of 5 to 8 miles between the PO Box service location and the nearest PMB(s), "and not on the distances between PMBs and their customers." Response to CHIR No. 1, question 5.

2. Aggregation of Travel Data

The Public Representative argues that even if one were to assume how far and how long customers would travel to avoid price hikes and service cuts is the same as how far and how long customers would travel to access additional services, there is still the problem that the travel data is aggregated across PO Box service customers, PMB customers, and customers with neither PO Box service nor PMB service. *Id.* at 6. He states the PO Box Survey does not isolate PO Box service customers or the Market Dominant PO Box service customers. *Id.* He concludes that any apparent increase in the distance customers overall are willing to travel does not necessarily imply that Market Dominant PO Box service customers in particular are willing to travel farther to avoid price hikes and service cuts. *Id.*

3. Data Showing Decreased Travel Time Tolerance

The Public Representative states that customer tolerance for trips of 20 minutes as in Order No. 780 is not demonstrated by the supporting data in this docket. *Id.* For residential customers, only between 4 percent and 16 percent of respondents reported being willing to tolerate travel of 20 minutes to a PO Box service location or a PMB. *Id.* (citing PO Box Survey at 14). For business customers, the range was only between 6 percent and 26 percent. *Id.* Accordingly, the survey respondents' tolerance for travel time has decreased since Order No. 780, even as survey respondents' tolerance for travel distance has increased. *Id.* at 6-7. The Public Representative asserts that there is no outside evidence that travel speeds have increased in the last decade to calculate the distance of travel. *Id.* at 7. The Public Representative concludes that the decrease in respondents' tolerance for travel times of 20 or more minutes undermines the reliability of the increase in respondents' tolerance for travel distances farther than 5 miles. *Id.*

He also argues that explanations of both the larger discrepancy between time and distance on the questions concerning respondents' tolerable travel time and travel distance, and the smaller discrepancy between time and distance on the questions

concerning respondents' current travel time and distance, would be necessary to resolve apparent contradictions that may undermine the reliability of the increase in respondents' tolerance for travel distances exceeding 5 miles. *Id.* at 6-7.

4. Single Data Source

The Public Representative cautions that the 5-mile criterion in Order No. 780 was determined using both the Postal Service's 2003 study and the data-mining study. *Id.* (citing Order No. 780 at 10). By contrast, in the instant docket the PO Box Study is the single source of data offered to support the proposed 8-mile criterion. PR Comments at 7. The Public Representative encourages the Commission to determine how essential the under-seal data-mining study was to its approval of the 5-mile criterion in Order No. 780 before approving the instant request based only on the PO Box Survey. *Id.*

5. Other Public Representative Arguments Concerning Market Power

The Public Representative points out that nationwide suburban and ex-urban growth trends over the last decade, and corresponding expansion into those areas by Postal Service competitors, can increase the likelihood that a PMB will be found within the 5-mile cut-off, but that competitor expansion does not indicate customers are willing to travel farther than 5 miles to obtain postal services. *Id.* at 8. The Public Representative does not see how the proliferation of package delivery access points affects the Commission's market power findings.¹⁹ The Public Representative argues that, even if package delivery access points were considered as "nontraditional" PMBs, it would not by itself increase the distance customers are willing to travel. PR Comments at 8. Similarly, he notes that the Postal Service points to PMB providers as not being statutorily constrained in their service offerings or new acceptance and

¹⁹ *Id.* The Postal Service claims that the PO Box Survey indicates that it is facing competition from such package delivery access points, noting "[w]hile the present Request does not propose additional MCS criteria to reflect this form of competition, the existence of the competition should further inform the Commission's assessment of market power." Request, Attachment B at 6.

delivery points. *Id.* (citing Request, Attachment B at 6). The Public Representative states this is relevant to the issue of whether PMBs are effective substitutes for PO Box service, but not relevant to the distance customers are willing to travel to access postal services. PR Comments at 9.

6. Other Statutory Requirements

Finally, just as the Commission determined in Order No. 780, the Public Representative finds nothing in the record to suggest the requirements of 39 U.S.C. §§ 3642(b)(2) and 3642(b)(3) or that, if approved, 39 U.S.C. § 3633 would be violated. *Id.* at 9 (citing Order No. 780 at 10-13).

B. Postal Service Reply Comments

The Postal Service states that the evidence is more than sufficient to justify this modification and there is no reason to reconsider the methodology previously approved. Postal Service Reply Comments at 2. It contends that the Public Representative's position exceeds the requirements of 39 U.S.C. § 3642(b)(1) and that the PO Box Survey demonstrates that a meaningful portion of the mailbox-renting public perceives PO Boxes and PMBs to be market substitutes at an 8-mile range and that is sufficient evidence to satisfy the requirement of section 3642(b)(1). *Id.*

The Postal Service further argues that the survey data demonstrate that a significant portion of PO Box service customers are willing to contemplate market alternatives in the 5- to 8-mile range. *Id.* at 3. The Public Representative points out that “[n]ot all of the population served by the identified locations...will necessarily live within eight miles from the PMB....” But the Postal Service responds that section 3642(b)(1) does not reserve Competitive product status “for situations where the loss-of-business risk is predominant or total.” Postal Service Reply Comments at 3. Rather, it argues that “the risk of business loss need only be ‘significant.’” *Id.*

The Postal Service argues that there is no established specific proportion of customers that the Postal Service must risk losing to demonstrate that the Postal

Service lacks market power under 39 U.S.C. § 3642(b)(1). Postal Service Reply Comments at 4. Section 3642(b)(1) has no qualifier before the word “risk”; therefore, the Postal Service argues, “the question is not whether there is, for example, a ‘substantial’ risk, or a ‘significant’ risk, or even a ‘material’ risk. The question is simply whether there is a risk.”²⁰ As for the “significant” qualifier before level of business, it says there is no legislative history for the percentage of business loss that would be significant. A “significant” effect is “noticeably or measurably large” enough to influence, or to be likely to influence, the Postal Service’s business decisions.²¹ The Postal Service argues that a small loss of customers can threaten a business location’s viability and that the risk of such loss can lead to more favorable pricing and service offerings to customers in that location—including customers who are not at actual risk of defection. Postal Service Reply Comments at 4. Indeed, Order No. 780 does not require a risk of losing a predominant share of business. In that case, following a price increase, nonrenewal increased by 14 percent, and 30 percent of the departed customers were not replaced by new customers. Order No. 780 at 9. The net effect of the price increase was a loss of only about 4 percent of the relevant customer base but deemed “significant” for 39 U.S.C. § 3642(b)(1). Postal Service Reply Comments at 5. The Postal Service further argues that all customers will benefit from efforts to retain current customers and to attract new customers. *Id.* at 4-5.

The Postal Service concludes that the PO Box Survey data show that a substantial portion of respondents would be willing to travel more than 5 miles to use a PO Box or PMB. *Id.* at 5. Among residential customers, 20 percent currently drive between 5 and 8 miles for mailbox services, and a 57 percent majority is willing to drive at least that far for enhanced mailbox services. *Id.* (citing PO Box Survey at 7, 13). Among business customers, 27 percent currently use mailbox services between 5 and 8

²⁰ *Id.* (citing Docket No. MC2010-36, Responses of the United States Postal Service to Questions 1-2, 5-11 of Commission’s Information Request No. 1, December 15, 2010, question 5).

²¹ Postal Service Reply Comments at 4 (citing Merriam-Webster, available at <https://www.merriam-webster.com/dictionary/significant>).

miles away, and a 71 percent majority would be willing to drive more than 5 miles for enhanced mailbox services. Postal Service Reply Comments at 5 (citing PO Box Survey at 22, 30). The Postal Service asserts that a significant number of respondents are willing to travel farther than 8 miles. Postal Service Reply Comments at 5-6. It concludes that these data are more than adequate to show that a significant share of customers (more than 4 percent) having mailbox alternatives in the 5- to 8-mile range are at risk of leaving the PO Box service. *Id.*

Finally, the Postal Service argues that breakdowns of customer details suggested by the Public Representative misapprehends “how [the] classification system and practice work” for PO Box service. *Id.* at 6. Specific PO Box service locations are not listed in the MCS and classification review of each location would be a “tedious undertaking.” *Id.* Accordingly, the MCS contains the nationwide standard to identify and designate Competitive PO Box service locations. *See generally* MCS § 2640. The Postal Service claims that “it is entirely appropriate to base classification parameters on nationwide survey data about the behavior and proclivities of the average mailbox-services consumer” and that a “focus on location-specific data would risk overfitting and biasing the classification parameter to the locations immediately at hand.” Postal Service Reply Comments at 6-7. The Postal Service concludes that the survey data demonstrate a level of risk in the 5- to 8-mile range that “exceeds the level of defection that the Commission previously found sufficient” and that “attempting to build a more case-specific parameter would introduce bias and could unduly hamper future designations.” *Id.* at 7.

The Postal Service also responds to other Public Representative criticisms. The Public Representative asserts that the requirements of 39 U.S.C. § 3642(b)(1) do not correlate to the wording of certain survey questions, that data aggregation inhibits subgroup isolation, and that the survey data may be unreliable. PR Comments at 5-6. The Postal Service states that these allegations are “unfounded.” Postal Service Reply Comments at 7.

First, the Postal Service responds to the Public Representative's contention that certain survey questions are irrelevant. It points out that the Public Representative acknowledges that Competitive PO Box service locations offer additional services that are not offered at Market Dominant PO Box service locations. *Id.* It explains that "[i]f a customer is willing to drive up to eight miles (or more) to access services from a PMB that are unavailable at a PO Box location, or to access services at a competitive PO Box location that are unavailable at a PMB," that is "relevant to the customer's defection risk and therefore to Section 3642(b)(1)." *Id.* at 8. The Postal Service contends that the point "is whether a significant share of customers [is] willing to travel more than five miles for mailbox service with the additional features of a PMB or a competitive PO Box location," *i.e.*, "whether a given customer will consider the differing services offered by market alternatives across a given distance—and whether there are enough such customers to constitute a risk [of] significant business loss." *Id.* The Postal Service states that the "aggregated survey demonstrates that a significant number of mailbox-services customers are willing to contemplate alternatives—whether at a PO Box location or a PMB—more than five miles away." *Id.* This principle can then be applied to customers who may quit Market Dominant PO Box service. *Id.*

Similarly, the Postal Service states that the Public Representative's claim of overrepresentation in the survey that may lead to bias toward Competitive PO Box service and PMB customers is not relevant. *Id.* at 9. It asserts that those customers' behavior can "best inform the standard to facilitate identification of additional such customers" to consider differing services by market alternatives across a given distance to determine what locations should be redesignated as Competitive. *Id.*

In answer to the Public Representative's examination of the survey responses regarding distance and travel time tolerance, the Postal Service replies there may be multiple explanations for any discrepancy between the sources in Docket No. MC2011-25 and the current study that vary widely such as geography, weather, traffic, etc. *Id.* The Postal Service states that the instant survey was conducted in November and December 2020, during COVID lockdowns, when the responses on willingness to travel

should be conservative. *Id.* at 10. Those respondents that were only willing to drive less than 5 miles may now be willing to drive a greater distance. *Id.*

IV. COMMISSION ANALYSIS

A. Product List Requirements

All transfers of products between the Market Dominant and Competitive product lists must meet the requirements of 39 U.S.C. § 3642. The Commission discusses each requirement below.

1. Classification as a Competitive Product

A request to transfer a product between the Market Dominant product list and the Competitive product list is subject to compliance with the provisions of 39 U.S.C. § 3642. The Market Dominant category consists of those products over which “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3642(b)(1); 39 C.F.R. § 3040.132(d). The Competitive category consists of all other products. 39 U.S.C. § 3642(b)(1).

In this proceeding, the Commission must determine whether the locations listed for transfer may be properly categorized as Competitive. This requires a determination that the Postal Service does not exercise sufficient market power over the affected locations that offer PO Box service located within 8 miles of a PMB. As discussed below, based upon the record compiled in this proceeding and review of the determinations previously reached in Order Nos. 473 and 780, the Commission concludes that the Postal Service has demonstrated that it does not exercise sufficient market power at the affected locations presented by the Postal Service.

PO Box service and PMBs are close alternatives. Many private sector enterprises, such as PMB service providers, offer the same basic service as PO Box service. The Commission has previously concluded, “the two products are close substitutes for one another...[because] [t]he fundamental purpose of each is to serve as a paid receptacle for receipt of correspondence and packages sent to the addressee.” Order No. 780 at 11 (quoting Order No. 473 at 10). “Any differences in services offered simply distinguish the products offered to the public.” Order No. 780 at 11 (citing Order No. 473 at 10). The Commission has also found that PMBs are private sector alternatives despite any differences in price compared to PO Box service. Order No. 780 at 11. The Public Representative accepts the view that they are close substitutes and does not take issue with that finding. PR Comments at 2. The Commission continues to find that PMBs and PO Box service are close substitutes of one another and that PMBs are private sector alternatives for PO Box service despite differences in services offered.

Consideration of market power. The Postal Service has previously demonstrated that rate increases for PO Box service in competition with PMBs indicated the Postal Service could not raise prices at those locations without losing a significant level of business. After a 25 percent price increase, the number of customers who did not renew Competitive PO Box service increased 14 percentage points after the price increase took effect.²² Although new customers were added, the Postal Service was unable to replace approximately 30 percent of non-renewing customers with new customers. *Id.* at 9. Service enhancements such as expanded access hours, signature on file service, and “Baker’s Dozen” pricing were used to gain new customers. *Id.* From this, the Commission concluded that the Postal Service is unable to raise PO Box service prices significantly when 5 miles from PMBs and therefore “does not exercise

²² Order No. 780 at 9. It also showed that in the 3-month period before the January 2011 price increase, the non-renewal rate was 11 percent. The non-renewal rate was 25 percent during the 3 months after the price increase. *Id.* at 9 n.15.

sufficient market power over the affected locations for them to be considered market dominant.”²³

The Postal Service did not file further supporting financial data with this Request. However, the continued steady decline in the occupancy rate of PO Boxes further indicates that the Postal Service suffers from competition in its markets as it is unable to maintain its customer base currently. Since FY 2017, occupancy rates for all PO Box service locations have declined 3.5 percentage points, from 59.4 percent in FY 2017 to 55.9 percent in FY 2021. Response to CHIR No. 1, question 8.a.

The Commission has therefore previously decided that PO Box service locations that compete with nearby PMBs lack market power. What remains for determination is whether there is sufficient evidence to change the criterion for transfer to the Competitive product list from 5 miles to 8 miles.

Establishment of selection criteria. The Postal Service’s selection process for this proceeding specifically determined locations for Competitive status in three steps. First, it compiled a list of all PMBs. It located the populations residing within 5 to 8 miles of each PMB and then compiled a list of its PO Box service locations serving those populations. After other adjustments not in issue, the Postal Service determined that the remaining 297 PO Box service locations compete with PMBs.

Commission determinations in the two previous proceedings on this subject provide some precedent for accepting the methodology for determining the mileage criterion. In Docket No. MC2010-20, the Commission found that PMBs located within one-half mile of PO Box service locations “constrain[] the Postal Service’s ability to

²³ *Id.* With this methodology, some populations served by PO Boxes may reside further than 11 miles from a PMB. See Response to CHIR No. 1, question 5. However, unless the PO Box service location is next door to a PMB, some of the population farthest from the PO Box service will be even further from the PMB while others in between will be much closer. This general method was accepted in Order No. 780. A case-by-case study of the population locations was suggested by the Public Representative to isolate all PO Box service customers or Market Dominant customers. PR Comments at 6. The Postal Service explains that would be prohibitive on a nationwide basis. Postal Service Reply Comments at 6-7.

raise prices significantly, decrease quality, or decrease output without risk of losing a significant level of business to firms offering similar products.” Order No. 473 at 11.

Subsequently, in Docket No. MC2011-25, the Commission decided the Postal Service’s market power over the affected locations is restricted by PMBs located within 5 miles of customers or potential customers of PO Box service locations. Order No. 780 at 9. Order No. 780 also noted the alternative services offered by the Postal Service to its own customers such as carrier delivery. Nearby Market Dominant PO Box service locations also compete with Competitive PO Box service locations. *Id.* The 5-mile criterion was based upon a survey of customers and potential customers who expressed the extent of their willingness to travel for mailbox services.

The Postal Service explained the basis for the 5-mile criterion. A 2003 study determined customers are generally willing to travel up to 20 minutes to obtain postal services. *Id.* at 10. The Postal Service believed 5 miles to be a reasonable national proxy for the distance covered by up to 20 minutes of travel and that 20 minutes of travel may cover more or less than 5 miles depending on local factors. *Id.* The Postal Service surveyed its retail marketing managers of the affected areas. *Id.* This conclusion was supported by findings from a data-mining study of PO Box service customers, which the Postal Service filed under seal. *Id.*

The Postal Service explains the rationale for the change in the distance to 8 miles as “its business judgment to focus incrementally on a shift to an 8-mile radius” although it believes the market research results could support a larger Competitive radius. Response to CHIR No. 1, question 2. In support of its contention that the 297 locations between 5 and 8 miles from PMBs lack sufficient market power, the Postal Service relies upon the results of the recent PO Box Survey. Request, Attachment B at 5-6. The issue is whether the survey indicates that a sufficient portion of customers and potential customers of competing PMBs and PO Box service are willing to travel 8 miles for their service such that there is a risk to the Postal Service of losing a significant level of PO Box service business to PMB competitors.

A broad cross-section of current and potential customers was surveyed for a statistically valid 2,500 respondent sample size. *Id.* at 5. The respondents included 878 current PO Box service customers, 1,122 PMB customers, and 500 Postal Service customers using alternate delivery services like Amazon, FedEx, etc. *Id.* Forty percent of those surveyed use a PMB because their services are better than the Postal Service's. *Id.* Also, "42 percent of PMB customers...travel more than 5 miles to access their mailbox." *Id.* The survey not only disaggregated customers by those using Postal Service PO Box service, PMB customers, and other Postal Service customers using alternative delivery services, but also disaggregated customers by their residential and business status. The survey found that "60 percent of existing residential and 79 percent of business PO Box customers are willing to travel more than 5 miles to access flexible package services and other features offered at Competitive locations." *Id.* at 5-6. These responses demonstrate the competitive nature of the PO Box service market where additional services determine the choice of mailbox services including flexible package services and the features offered at PMBs affect and determine customer choice of service provider.

It is not necessary that all customers of the PO Box service locations live within 8 miles of a PMB as the Public Representative suggests. PR Comments at 4. A significant number do reside within that distance. The substantial portion of customers who indicate by their responses that there is a level of competition between PO Box Service and PMBs at some distance greater than 5 miles is enough to demonstrate PO Box service faces a "risk of losing a significant level of business to other firms." See 39 U.S.C. § 3642(b)(1). Also, the responses indicate that services offered determine in many instances the customer's choice of service provider and speak to the need of the Postal Service to present a competitive offering.

The Public Representative states that the distance customers would travel to avoid price hikes is relevant while the distance customers would travel for additional services is not important. PR Comments at 6. However, if services at a PO Box are reduced, or if services at PMBs are enhanced, in either case, the expanding gap

between service levels increases the risk of a PO Box service location losing a significant level of business. The risk to business due to service cuts is equally as important as the risk due to raising prices under 39 U.S.C. § 3642(b)(1).

The Public Representative also believes the 20-minute tolerance for travel times to obtain postal services that was accepted in Order No. 780 is not borne out by the supporting data in this case. PR Comments at 6. He suggests the Postal Service introduce outside evidence that the decrease in tolerance for travel times of more than 20 minutes undermines the tolerance for travelling farther than 5 miles. *Id.* at 7. The PO Box Survey provides sufficient documentation regarding the distance customers are willing to travel, regardless of travel time. Travel tolerance time is not relied upon for this decision. Also, contrary to the Public Representative's concern, this decision does not rely upon competitors' recent expansions as an indication that customers are willing to travel farther than 5 miles. *See id.* at 8.

It is fair to conclude that the substantial percentage of customers indicating they are willing to travel more than 5 miles for their service provider demonstrates that a significant portion of those customers would be willing to travel a few miles further than 5 miles for services they prefer. But even more reliable than what customers say they are willing to do is what customers *are* doing, and while the majority of customers currently travel 5 miles or less, a portion of current mailbox service users already travel more than 5 miles to access that service. Indeed, some travel more than 8 miles. The survey also shows that customers' actual travel distance and willingness to travel longer distances to access mailbox services begins to drop off as the distance increases. In addition, in Response to CHIR No. 2, question 1, the Postal Service provided under seal a separate market research survey with similar results showing portions of current customers travelling more than 5 miles to access a PO Box. The submission of additional market research assuages concern that the decision may be based upon a single data source. Based upon the results of the surveys, the Postal Service's selection of 8 miles as the distance for assuming across-the-board competition exists is reasonable.

However, while gaining insight into the market of current mailbox users is important, the Commission believes the Postal Service missed an opportunity to follow up with survey respondents that did not use any mailbox service. Such efforts could have better informed the Postal Service in how to acquire new mailbox service customers in addition to retaining current ones or attracting customers from its competitors. Additionally, as with the evidence provided in Docket No. MC2011-25, the Postal Service also could have provided updated data on non-renewals corresponding to past price increases for Competitive PO Boxes, particularly those from when the distance to the nearest competitor increased from 0.5 to 5 miles.

Consistent with the finding in Order No. 780, the Commission finds that “the Postal Service’s market power over the affected locations is restricted by the availability of PMB service providers” located within 8 miles of consumers. See Order No. 780 at 9. The market research establishes that some customers are willing to travel longer distances to access mailbox services, particularly for additional services. It also establishes that distance to the nearest mailbox service location is an important factor for customers when selecting a service provider. The continued steady decline in occupancy rate of PO Boxes further indicates that the Postal Service will be unable to “raise prices significantly, decrease quality, or decrease output.” See 39 U.S.C. § 3642(b)(1). The Commission therefore finds that the 8-mile criterion is an appropriate metric for Competitive PO Box service locations. Based on the above analysis, the Commission finds that the affected locations are properly classified as Competitive.

2. Other Criteria Under 39 U.S.C. § 3642

When evaluating the Request, the Commission must also consider several other criteria under 39 U.S.C. § 3642(b)(3), including the availability and nature of private sector enterprises engaged in delivering the product, the views of those using the

product, and the likely impact on small business concerns.²⁴ The Postal Service provided information on all three points, and the Public Representative has not identified any reason to conclude the requirements of section 3642(b)(3) are not met. PR Comments at 9.

Private sector enterprises. No comments were received by private sector enterprises in this proceeding. However, according to the comments in Docket No. MC2010-20, many PMB service providers would like the Postal Service to increase prices for PO Box service because they are generally lower than PMB prices. *Id.*

Different prices for PO Box service are explained by statutory constraints on Postal Service pricing. Initially, under the Postal Accountability and Enhancement Act (PAEA),²⁵ PO Box service existed solely as a Market Dominant product within the Special Services class limited by a price cap. See 39 U.S.C. § 3622(d)(1)(A). Although the price cap applies to the Special Services class as a whole, the price cap serves to moderate price increases for PO Box service. Under the PAEA, average price increases for PO Box service have been close to the price cap in effect at the time.²⁶

Views of those using the product. No comments objecting to the transfer were filed by PO Box service users. A transfer may be viewed as advantageous for existing Postal Service customers because Enhanced services can be initiated at Competitive locations, including expanded lobby hours, signature-on-file service, and “Baker’s Dozen” pricing offers.²⁷

²⁴ 39 U.S.C. § 3642(b)(3); 39 C.F.R. § 3040.132(f)-(h). In addition, products that are covered by the postal monopoly may not be transferred from the Market Dominant to the Competitive product list. 39 U.S.C. § 3642(b)(2). See 39 C.F.R. § 3040.132(e).

²⁵ Pub. L. No. 109-435, 120 Stat. 3198 (2006).

²⁶ See Docket No. R2011-2, Order Revising Postal Service Market Dominant Price Adjustments, February 16, 2011, at 52-53 (Order No. 675) (average PO Box service price increases of 2.22 percent; price cap of 1.74 percent); Docket No. R2009-2, Order Reviewing Postal Service Market Dominant Price Adjustments, March 16, 2009, at 65-66 (Order No. 191) (average PO Box service price increases of 3.79 percent; price cap of 3.80 percent); Docket No. R2008-1, Review of Postal Service Notice of Market Dominant Price Adjustment, March 17, 2008, at 53-54 (Order No. 66) (average PO Box service price increases of 2.96 percent; price cap of 2.90 percent).

²⁷ Postal Service Reply Comments at 7. See Order No. 780 at 12.

Even if new customers are to incur some transaction costs, as the Commission previously found, transaction costs do not justify rejecting the Request. Order No. 780 at 12-13 (citing Order No. 473 at 11). Usually, customers will incur transaction costs anytime they opt for a new service provider. Order No. 780 at 13 (citing Order No. 473 at 12-13). A decision to change providers is an individual choice based, in part, on balancing the tradeoffs involved. Order No. 780 at 13 (citing Order No. 473 at 11). Although customer demand may vary, no customer is locked into its existing service provider. Order No. 780 at 13 (citing Order No. 473 at 12). Alternatives to PO Box service are available even if customers do not choose them. Order No. 780 at 13 (citing Order No. 473 at 12).

Likely impact on small business concerns. The Commission must determine the likely impact of the Request on PMB service providers, many of which represent small business concerns.²⁸ PMB service providers actively participated in Docket No. MC2010-20, filing 36 out of the 42 comments received by the Commission. See Order No. 473 at 5 n.9. By contrast, in this proceeding, the Commission received no comments from interested persons other than the Public Representative and the reply comments from the Postal Service. Notably, no PMB service provider, small business, or relevant entity filed any comments or otherwise objected to the Request. While not dispositive, this suggests that the transfer of PO Box service locations does not adversely affect small business concerns. Thus, approving the Request will likely have minimal negative impact on them.

²⁸ Order No. 780 at 13 (citing Order No. 473 at 13). PMB service providers are Private Mail Centers, “establishments primarily engaged in providing mailbox rental and other postal and mailing (except direct mail advertising) services....” U.S. Census Bureau, 2022 North American Industry Classification System, Sector 56, NAICS Code 561431 Private Mail Centers, available at <https://www.census.gov/naics/?input=56&chart=2022&details=561431>. According to the current Small Business Administration regulations, Private Mail Centers qualify as small business concerns if their annual receipts do not exceed \$16.5 million. 13 C.F.R. § 121.201.

Having considered relevant statutory and regulatory requirements and the record in this proceeding, the Commission finds that the Request meets the requirements of 39 U.S.C. § 3642.

B. Section 3633(a) Requirements

The Postal Service must explain why the Request “will not result in the violation of any of the standards of 39 U.S.C. 3633.” 39 C.F.R. § 3040.132(c). The Postal Service must demonstrate that the Competitive PO Box service product covers its attributable costs, contributes to the Postal Service’s institutional costs, and prohibits Market Dominant products from subsidizing Competitive products. See 39 U.S.C. § 3633(a).

The Postal Service asserts that the Competitive PO Box service product cost coverage will remain virtually the same and well above 100 percent. Request, Attachment B at 3. The Postal Service expects to increase total PO Box service revenue (combined Market Dominant and Competitive) by approximately 0.5 percent. Response to CHIR No. 1, question 7.d. The fact that current cost coverage for Market Dominant PO Boxes is more than 200 percent and additional information provided by a non-public library reference in the Commission’s FY 2021 Annual Compliance Determination regarding Competitive PO Boxes supports the Postal Service’s assertion that cost coverage will remain above 100 percent. The Public Representative has not identified any reason in the record to suggest the transfer would violate 39 U.S.C. § 3633 requirements. PR Comments at 9. The record indicates that the proposed transfer comports with provisions applicable to rates for Competitive products.

V. CONCLUSION

In summary, the Commission approves the Request to transfer 297 additional locations of PO Box service from the Market Dominant product list to the Competitive product list and the underlying justification expanding the MCS definition from 5 miles to 8 miles. The related classification changes will be reflected in the draft MCS.²⁹

VI. ORDERING PARAGRAPH

It is ordered:

The Commission grants the Postal Service's request to transfer Post Office Box service in additional locations from the Market Dominant product list to the Competitive product list.

By the Commission.

Erica A. Barker
Secretary

²⁹ As indicated in previous orders, the language suggested by the Postal Service in its filing is illustrative and subject to change in the MCS that the Commission ultimately adopts.