

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

PERIODIC REPORTING OF SERVICE  
PERFORMANCE MEASUREMENTS AND  
CUSTOMER SATISFACTION

Docket No. RM2009-11

**UNITED STATES POSTAL SERVICE COMMENTS  
IN RESPONSE TO ORDER NO. 292**  
(November 2, 2009)

In response to the Commission's Order No. 292,<sup>1</sup> the United States Postal Service hereby provides its initial comments on the Commission's proposed rules for the periodic reporting of service performance measurement and customer satisfaction.

In Order No. 292, the Commission describes this docket as the fourth stage in the implementation of provisions of the Postal Accountability and Enhancement Act (PAEA) establishing a framework for service standards and service performance review and reporting for Market Dominant postal products.<sup>2</sup> The Commission organized its proposed rules in two parts: 1) rules governing the reporting of service performance; and 2) rules governing the reporting of customer satisfaction.

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<sup>1</sup> Notice of Proposed Rulemaking on Periodic Reporting of Service Performance Measurements and Customer Satisfaction, Order No. 292, Docket No. RM2009-11 (September 2, 2009), 74 Fed. Reg. 49190-49215 (September 25, 2009).

<sup>2</sup> Stage 1 consisted of publication by the Postal Service of a final rule establishing Modern Service Standards for Market Dominant Products on December 19, 2007 (72 Fed. Reg. 72216 (December 19, 2009)). Stage 2 consisted of Commission consideration of a Service Performance Measurement plan submitted by the Postal Service in Docket No. PI2008-1. The Commission's consideration culminated in PRC Order No. 140, in which the Commission addressed Postal Service proposals for creating measurement systems for service performance. Order Concerning Proposals for Internal Service Standards Measurement Systems, Order No. 140, Docket No. PI2008-1 (Nov. 25, 2008). Stage 3 consisted of Postal Service development and publication of a plan for meeting service standards. See Order No. 292, at 3-5.

The Commission's proposed rules build on its findings and recommendations in Order No. 140, in which it considered Postal Service proposals for the establishment of systems for measuring service performance of Market Dominant products. Under the PAEA, the Postal Service must establish external measurement systems, unless the Commission approves the creation of internal systems. 39 U.S.C. § 3691(b)(1)(D). In Order No. 140, the Commission approved Postal Service proposals to depart from the statutory requirement of external measurement by intelligently combining existing and planned measurement systems that would rely on both external and internal measurement, as well as procedures that would incorporate a hybrid combination of both. The Commission also preliminarily considered Postal Service proposals for reporting the results of service performance measurement. See Order No. 140, at 36-46. As noted in Order No. 292, many of the Commission's proposed rules in this docket accept and build upon Postal Service's proposals for reporting. As discussed below, however, the proposed rules depart significantly from the Postal Service's proposed approach in ways that create serious obstacles to the expectations embodied in the Commission's approach. These comments attempt to explain, and place in practical context, the problems raised by the Commission's divergent proposals.

### **I. Introduction**

The Postal Service appreciates the Commission's largely realistic understanding of the current state of performance measurement in the Postal Service and the problems that will be encountered in designing and executing systems that can be both effective and efficient. In assessing the Commission's proposals, the Postal Service believes that several key considerations should control. We express these as principles

against which specific proposals for particular reports can be evaluated. In this regard, the views and explanations expressed in Order No. 292, and the specific proposed rules, incorporate these principles to a large degree. The Commission's proposed rules, however, also depart from them in notable respects.

**Statutory Scheme.** The first principle is that reporting requirements should be consistent with, and proportionate to, the Commission's and the Postal Service's respective statutory authorities and responsibilities. In this regard, the statute outlines a duty for the Postal Service to report *annually*, "for each market dominant product," on "quality of service," and, in particular, "the level of service provided," and "the degree of customer satisfaction with the service provided." 39 U.S.C. § 3652(a)(2)(B)(i) and (ii).

In one respect, the proposed rules go beyond the boundaries of this requirement by specifying both annual and quarterly reports at various levels of administration and operations below the national level. As discussed below, this requirement for quarterly reporting is directly contradictory to the statute's requirement that these data need only be provided annually. As noted by the Commission, these proposals are, in part, based on expressions of capability made by the Postal Service in formal statements and representations at the three previous stages that the Commission cites.<sup>3</sup> In evaluating the proposed rules against this principle, however, it should be understood that these proposals up to now have been made in the context of an integrated set of assumptions about need and capability, taking into consideration many factors that arise out of postal operations and the current and future economic environment. The proposed rules

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<sup>3</sup> See footnote 2, above.

modify these assumptions to a significant degree, particularly with regard to reporting by product, rather than by class, as proposed by the Postal Service.

Furthermore, in addition to the statutory directive that provides the foundation for the proposed rules, the Commission should be mindful of the entire statutory scheme governing postal services, and, in particular, the key statutory responsibilities of the two agencies. In this regard, the Postal Service understands the Commission's role as the Postal Service's regulator. The Postal Service's primary responsibilities, however, must also be considered. Providing effective postal services, at affordable prices, and ensuring a postal system capable of surviving in the modern economy are the Postal Service's main objectives. These goals must be viewed in light of a complex array of policies embodied in the statutory scheme, as well as the existing economic environment. As discussed below, the financial and other burdens of creating and maintaining elaborate measurement systems to enable a certain level of reporting could detract from the Postal Service's primary mission in significant ways. The key to respecting this first principle is therefore understanding that reporting must strike a fair balance between the Postal Service's and the Commission's respective roles in the statutory scheme.

**The Need for Reports.** The second principle is that the proposed reporting requirements should be proportionate to the Commission's and the public's realistic needs for detailed information about performance and customer satisfaction. It must be remembered that reporting is not an end in itself. As the Commission's Order makes apparent, furthermore, many mailers, as well as other interested parties, have specific

views regarding the types and frequencies of service reporting that should be pursued.<sup>4</sup> The Postal Service acknowledges the Commission's efforts to be fair and practical in evaluating and weeding out many of the less warranted objectives that have been advocated. Nevertheless, assessment of the proposed reporting rules must keep in perspective the needs for particular information in relation to the burdens created. Many of the third-party proposals would require efforts to report statistics on services that represent only minute parts of the Postal Service's business, or that would be of interest to a relatively few customers. Some of the proposed requirements, furthermore, appear to have arisen out of interests pursued in other proceedings, where particular Postal Service activities or policies have been reviewed and challenged. In this regard, the ongoing reporting rules need not incorporate data and information requirements that can be met by exercising existing Commission rules and procedure in those proceedings. Nor should the Commission conclude that, because a particular topic of inquiry is of interest or controversial in a complaint, price change, or service change proceeding, the Commission should establish an ongoing responsibility to collect data and report at other times.

**Cost.** The third principle is that the rules must carefully balance the legitimate objectives for reporting performance, and the need for information, against the cost and effort that will be needed to achieve compliance. The Commission's discussions in Order No. 292 and elsewhere demonstrate that the Commission understands the substantial expense of designing, building, perfecting, and maintaining data and measurement systems. Furthermore, the Commission has acknowledged the particular

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<sup>4</sup> In both Order No. 140 and Order No. 292, the Commission discusses numerous proposals made by commenters at the previous stages.

circumstances facing the postal system currently. Order No. 292 notes: “The Commission recognizes that these proposed rules are being published at a time when the Postal service is experiencing unprecedented fiscal challenges.” This observation cannot be overemphasized. The economic and other conditions that have challenged business and society generally have hit the Postal Service particularly hard. These realizations must be kept firmly in mind in deciding what reporting requirements to impose as a burden on the Postal Service’s time and limited resources.<sup>5</sup>

**Evolution of Measurement Systems.** The fourth principle is that the rules should accommodate the realistic and timely development of efficient, informative measurement systems that will produce needed information. Order No. 292 states:

The proposed rules are designed to maximize transparency using data sources that either exist now, or are in active development. The proposed reporting requirements are written with a long-term goal in mind, *i.e.*, to allow the Commission to perform its regulatory functions under the PAEA, and to meet the statutory reporting requirements cited above, and are not necessarily based on the capabilities of existing measurement systems. The Commission recognizes the transitional needs of the Postal Service and accepts its request to develop and utilize internal measurement systems relying on barcode technology. Total compliance with the reporting requirements will not be possible until the Intelligent Mail barcode (IMb)-, Red Tag/DelTrak-, and Delivery Confirmation-based measurement systems provide reliable, representative data. In some instances, new or enhanced measurement capabilities may be required

Order No. 292, at 2.

The Postal Service applauds the Commission’s practical approach in acknowledging and, to a substantial degree, incorporating the Postal Service’s

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<sup>5</sup> It is important to understand that extra costs from additional reporting would be imposed on the Postal Service’s already substantial expenditures for data systems and studies needed to comply with the Commission’s existing reporting rules. The Postal Service spends scores of millions of dollars on costing and revenue data systems. For existing performance measurement, the Postal Service spends more than \$38 million on EXFC alone.

proposals for measurement systems. At the same time, it must be emphasized that the rules must be flexible enough to accommodate and adjust to change without interfering with the development of the measurement systems or the public's perception of service performance. In this regard, the Postal Service notes, and trusts that the Commission well-understands, that the timing and execution of effective measurement will likely not be without setbacks or unanticipated challenges. The Commission must be careful in its rules not to create expectations that are more ambitious than realistic, even if they embody a logical mechanism for creating exceptions. In particular, as noted below, there may be serious obstacles to producing the uniform mix of service performance data that the proposed rules dictate for all products. For some products, especially Standard Mail at some levels of reporting, the design and efficient implementation of the preferred measurement approach, namely reliance on IMb technology, may not permit collection of information that meets the same standards for reliability as for other products. In Order Nos. 140 and 292, the Commission has recognized the problems presented by the need to ensure that collection of data for certain products is representative of service for all mail in those categories. Furthermore, while it may be feasible to design qualified measurements, or to rely on proxy information, in reporting performance of certain products, it may be more reasonable simply to modify the expectations by relaxing the reporting requirement from the outset. The consequences of not doing so could be significant, if the public's and customers' reactions to misleading or highly qualified performance statistics impair the success of the Postal Service's business in relation to other forms of communications media.

**Administrative Burden.** The fifth principle is that the rules should create simple procedures that do not involve unwarranted administrative burden or cost<sup>6</sup> and that embody clear and fair standards for assessing the Postal Service's ability to comply. See 39 U.S.C. § 3652(e)(1)(B). See also, SEN. REP. NO. 108-318 at 19 (2004) ("The reporting requirements are intended to provide an opportunity for the Postal Regulatory Commission to evaluate the compliance with the rate-making provisions of this title and to evaluate the level of service provided to customers; they are not intended to impose an excessive burden on the Postal Service.") The Commission's approach to requiring service performance reports is bifurcated. First, it establishes detailed reporting requirements that tend to be uniform for all products. Second, it creates a framework outlining procedures for granting exceptions to the expected reports. Except for a non-exhaustive listing of reasons that would justify failures to report, however, the proposed rules give little guidance on procedures for applying for exceptions. That is not necessarily bad. It may be more practical to allow procedures to develop in accordance with current conditions that influence reporting, at least at an early stage. Nevertheless, the Commission should realize that, in light of the number of products under review, and the timing of other types of proceedings throughout the year, applying for exceptions to reporting may present complicated, and perhaps unwarranted burdens for the Postal Service. In this respect, the Postal Service has learned that the still-evolving process for proposing and considering revisions to analytic methodologies

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<sup>6</sup> Merely referring to "costs" does not capture the burden that would ensue from yet another procedure for establishing the status of information supplied in connection with the Commission's oversight responsibilities. The administrative burden would encompass a range of staff time, effort, resources, and internal review needed for the Postal Service to comply.

under the general rules for periodic reports has developed into a significant burden on the time and very limited resources of certain functional groups within the Postal Service.

It may be difficult to design procedures with much specificity at this point. As discussed below, however, it should be possible to make sure that the substantive guidance for justifying exceptions is more comprehensive and flexible. There should also be some assurance that procedures for considering exceptions are uncomplicated and do not have the potential for expanding into adversarial contests among various parties advocating more reporting.

**Application of Reporting Requirements.** The sixth principle is that the rules and the procedures they create should be executed and followed with an enlightened understanding and appreciation for a need to fairly balance the considerations embodied in the previous principles. In this regard, it bears emphasizing that the evolution of service performance and customer satisfaction reporting will not always be uncontroversial. As noted above, it is important that the rules create realistic expectations. In highly challenging economic conditions, the public's confidence in its postal system, and the viability of postal services in an increasingly complex environment where different communications media must compete, will be influenced by the reasonableness of reporting requirements.

## **II. Timing of Reporting Requirements**

The Commission issued Order No. 292 on September 2, 2009, a month before the end of Fiscal Year 2009. Apparently due to delays in the publication of the Order in the *Federal Register*, the 30-day period for filing initial comments extended to October

26, 2009.<sup>7</sup> The Commission then granted the Postal Service's motion for a one-week extension of the due date, to November 2, 2009. Reply comments were originally to be due 60 days after publication in the *Federal Register*.<sup>8</sup>

Even if the Commission were to be able to consider all of the comments filed and to draft an order issuing final rules shortly after the reply comments are filed, the reporting rules would likely take effect only shortly before the due date of the Postal Service's Annual Compliance Report (ACR) for FY 2009.<sup>9</sup> In these circumstances, even if it were concluded that the rules would create a binding obligation for the Postal Service to comply in the FY 2009 ACR with the level of reporting currently proposed, it would be largely impractical to do so. Work on preparing the annual report is already underway, and the Postal Service has not budgeted for, or developed systems to report performance statistics by product in the ACR this year, at the level proposed in Order No. 292. The requirements for reporting customer satisfaction data and statistics, moreover, have been largely unanticipated,<sup>10</sup> and the Postal Service would not be able to provide in the FY 2009 ACR most of the proposed information.

Furthermore, the Commission recognizes, as it must, that compliance with the rules in the initial annual report will amount to a substantial undertaking. Order No. 292 states:

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<sup>7</sup> Order No. 292 allowed 30 days after publication in the *Federal Register* to file initial comments.

<sup>8</sup> The Postal Service expects that the extension granted for filing of initial comments will also push back the date for reply comments an additional week, to no earlier than December 1, 2009.

<sup>9</sup> The ACR is due 90 days from the end of the Fiscal Year, or December 29, 2009.

<sup>10</sup> Order No. 292 notes that the part of the proposed rules for reporting customer satisfaction "introduces new material that previously has not been addressed by the Postal Service or the Commission. Order No. 292, at 5.

In the first report produced, the Postal Service will create a baseline description of service performance measurement. The Commission recognizes that the initial report will require significant effort on the part of the Postal Service.

Order No. 292, at 14. Even if the rules were to take effect now, it is a certainty that the Postal Service could not comply in the time remaining before the FY 2009 ACR is filed.

The creation of the proposed exception mechanism would compound this assessment. The exception procedure itself would take time, and the issues raised could be controversial, or could lead to further Commission inquiries. In light of these circumstances, the Postal Service concludes that the final rules, as they would apply to the ACR, should apply for the first time with respect to the FY 2010 ACR. Even then, practical issues surrounding implementation of the measurement systems called for by the proposed rules make it certain that the Postal Service will need to invoke the provisions for granting exceptions.<sup>11</sup>

The proposed rules dictate filing reports 40 days after the end of each quarter. The first quarterly report would therefore be due no later than February 9, 2010. In light of the discussion, below, however, the Postal Service must emphasize that it would not be capable of reporting large parts of the information that the proposed rules require. This circumstance could extend a considerable time into the future. In Order No. 292, the Commission acknowledges this situation by stating:

In the short term, the Commission accepts that the Postal Service cannot wholly comply with these reporting requirements because specific measurement systems have not been fully developed or deployed. As long as the indicators already in place demonstrate adequate service

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<sup>11</sup> As discussed below (pp. 37-40), service measurement systems will come on line in stages; it is not simply a question of “flicking a switch.”

levels, the Commission will allow the Postal Service to proceed diligently to develop a plan for eventually being able to supply the required information, and periodically to demonstrate progress in implementing its plan.

Order No. 292, at 2.

Furthermore, the Postal Service would permanently lack the capacity to comply with certain parts of the rules as proposed, without very costly modifications to the planned, passive measurement systems. In some respects, the practical difficulties associated with collecting data from a disparate group of mailers would militate against ever being in a position to comply. In this respect, the Postal Service notes the Commission's realistic expectation, as it is expressed in Order No. 292:

If a new requirement in these proposed rules is viewed by the Postal Service as particularly onerous, or involves costly new data collection that does not appear to add needed transparency, the Postal Service is requested to identify it and attempt to quantify its incremental cost.

*Id.*

### **III. Statutory Authority**

In Order No. 292, the Commission relies principally on 39 U.S.C. § 3652(a)(2)(B)(i) and (ii), as well as 39 U.S.C. § 3652(d), and (e)(1), which mandate reporting on those matters. The Commission reinforces its need for the information required in the proposed rules by citing various objectives, factors, and requirements embodied in 39 U.S.C. § 3622. *Id.*, at 6. The Commission also cites its own responsibility to report to Congress found in 39 U.S.C. § 3651.

While the Postal Service recognizes this basic authority, it must observe that it is not completely without limits. In particular, the PAEA contemplates only *annual* reports on these measurements of service performance and customer satisfaction, as part of an

*annual* determination by the Commission as to whether the Postal Service is complying with its statutory obligations. The Commission has the authority to promulgate rules concerning the form and content of this Report, and can revise its form and content whenever such revisions are in the public interest. See 39 U.S.C. 3652(e). The Commission is not authorized, however, to require that the Postal Service set forth the contents of the Report on a different timeframe.

As such, Congress has determined that the service performance and customer satisfaction data that are required to be provided by section 3652 need only be provided on an annual basis. This annual report required by section 3652 is part of an elaborate reporting scheme established by Congress, which also includes sections 2011 and 3654 (as well as section 3651, as discussed below). As part of this scheme, Congress specifically established the time frames in which the Postal Service is required to provide certain information. When Congress determined that quarterly reporting is necessary, it specifically required quarterly reporting, such as it did in section 3654(a)(1)(A). And when Congress determined that the Commission should have the discretion to establish the timeframes for certain types of reports, it also gave the Commission that power, as it did in section 2011(h)(2)(C)(i). Thus, Congress has already performed the balancing between transparency and burden inherent in determining when certain types of information must be provided. The Commission's authority, on the other hand, is generally confined to determining the *contents* of these reports in a manner consistent with the statute, rather than revising their *timing* by which certain data are provided.

By requiring the provision of service performance and customer satisfaction data at timeframes different from those set forth by Congress in the PAEA, the Commission would be circumventing the detailed reporting scheme established by Congress. No provision of the PAEA permits such a result. Furthermore, while section 503 authorizes the Commission to “promulgate rules and regulations and establish procedures...and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this title,” this provision is *implementary* rather than *substantive* in character. See, e.g., *New England Power Co. v. FPC*, 467 F.2d 425 (D.C. Cir. 1972).<sup>12</sup> Thus, section 503 authorizes the Commission to take action to implement substantive authority granted elsewhere in a statute, rather than granting independent authority to act. *Id.* The exercise of that authority must be consistent with the rest of the statute, and cannot be used to circumvent a comprehensive, detailed statutory scheme. See, e.g., *Public Service Commission v. FERC*, 866 F.2d 487 (D.C. Cir. 1989); *AT&T v. FCC*, 487 F.2d 865 (2<sup>nd</sup> Cir. 1973).

The Commission has specifically pointed to 39 U.S.C. 3651 as a source of authority to require service performance and customer satisfaction reporting. Order No. 292 at 7. In particular, the Commission points to the fact that the Postal Service is required to provide the Commission “with such information that may, in the judgment of

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<sup>12</sup> This is especially true because, unlike other regulatory agencies, which often have very broad statutory mandates to regulate a particular industry for the public benefit, the Commission is not a plenary regulator over the Postal Service. Rather, while its authority to review the actions of the Postal Service was certainly enhanced by the PAEA, the Commission still only has certain defined responsibilities under the statute. This could affect the breadth that would be accorded to section 503 by a court.

the Commission, be necessary” in preparing this report. 39 U.S.C. 3651(c). However, there is no reason why the Commission needs quarterly service performance and customer satisfaction reports in order to effectuate its responsibilities under this title, which requires only an annual report. Furthermore, the nature of the report the Commission must prepare, requiring an annual discussion as to whether the regulatory system is achieving the objectives of chapter 36, is such that it is most readily developed *after* the Commission issues its Annual Compliance Determination under section 3653, based on the annual data provided in section 3653. Indeed, compliance is not a running scorecard; the PAEA does not call upon the Commission to determine whether the Postal Service is in compliance this Tuesday, as opposed to Friday of next week.

Finally, the Commission points to various objectives and factors of section 3622 as justifying the need for these data. *Id.* at 6. However, application of those factors and objectives to a particular price change does not require quarterly service performance data, and cannot be used to circumvent Congress’ determination that these data need only be provided annually.<sup>13</sup>

. The Postal Service realizes that the proposed obligations to provide quarterly reports at various levels of disaggregation arose out of Postal Service proposals. The critical distinction between the level of information the Postal Service has previously indicated it could report and the proposed rules, however, lies in the levels of aggregation each contemplate. The Postal Service proposed quarterly reporting at the class level. The proposed rules would require information by product. See Order No.

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<sup>13</sup> The Commission will also have access to the latest service performance data when reviewing the Postal Service’s annual price change in February.

292, at 8. This fundamentally changes the calculus: despite any concerns it may have had with respect to the *statutory* need to provide quarterly service performance and customer satisfaction reporting, the Postal Service was willing to agree to provide such quarterly reports on a class level. The Postal Service believed that such reports would provide useful information to the Commission and the mailing public between compliance reports without burdening the Postal Service with substantial additional cost. Quarterly reporting of product-level information, as outlined by the Commission in its proposed rules, dramatically increases the burden on the Postal Service.

In this regard, the Postal Service acknowledges that section 3652(a)(2) anticipates annual reporting on service performance and customer satisfaction for “each market-dominant product. Nevertheless, this dictate in the proposed rules will have certain consequences. As discussed below, it may render inoperative some elements of the reporting requirements, absent substantial and costly modification of planned measurement systems. Furthermore, as the Postal Service interprets the statute, the expression of reporting by “each market-dominant product” in section 3652, combined with the Commission’s authority under section 3652(e), would not prevent the Commission, in the exercise of its rulemaking authority, from crafting rules that would allow reporting at other levels of aggregation, pending development of suitable measurement systems, where prudent, or in recognition of practicalities that would impede reporting reliable measures of performance and satisfaction for certain individual products.

The Postal Service also notes that the Commission's specific authority in 39 U.S.C. § 3652(e)(1) to establish reporting requirements in connection with the ACR has a significant limitation. Section 3652(e)(1)(B) states:

In carrying out this subsection, the Commission shall give due consideration to...avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service....

As discussed more fully below, this consideration should militate in favor of modifying the proposed rules in certain respects to create more realistic and more advisable reporting requirements.

Finally, the Postal Service has serious concerns about some of the proposed requirements for reporting customer satisfaction. In this regard, the Postal Service notes that the detailed reporting requirements in the proposed rules, extending to reports and documentation of some of the Postal Service's internal management tools, are not supported by the precise wording of the statute, which provides little detailed guidance on the meaning of customer satisfaction. From both policy and practical perspectives, the Postal Service firmly believes that reporting of much of this detailed information is neither necessary nor advisable.

#### **IV. Structure of Rules**

The Commission has proposed a relatively simple, bifurcated structure for the reporting requirements. The proposed rules would establish detailed reporting requirements for each Market Dominant product listed in the Mail Classification Schedule, irrespective of conditions that might impede or prevent the Postal Service's ability to comply. The Commission has also proposed a mechanism for granting

exceptions that could relieve the Postal Service of the obligation to report on particular products. Proposed Rule 3055.3 states:

**§ 3055.3 Reporting exceptions.**

- (a) The Postal Service may petition the Commission to request that a product, or component of a product, be excluded from reporting, provided the Postal Service demonstrates that:
  - (1) The cost of implementing a measurement system would be prohibitive in relation to the revenue generated by the product, or component of a product;
  - (2) The product, or component of a product, defies meaningful measurement; or
  - (3) The product, or component of a product, is in the form of a negotiated service agreement with substantially all components of the agreement included in the measurement of other products.
- (b) The Postal Service shall identify each product or component of a product granted an exception in each report required under subparts A or B of this part, and certify that the rationale for originally granting the exception remains valid.

The rules incorporate an exception mechanism only for service performance reports. This interpretation is supported by the placement of the provision in Subpart A of the proposed Rule 3055 (annual reports on service performance), the reference to Subparts A and B in section 3055.3(b), and the reference to the exception procedure in Subpart B, section 3055.31(c) (contents of quarterly reports on service performance). There is no procedure for exceptions in Subpart C (customer satisfaction reports). Therefore, there would be no exceptions available for failures to report data and information on specific products in reports on customer satisfaction (Subpart C).

In the abstract, the Postal Service does not object to the Commission's bifurcated approach. Among its merits, the proposed structure is simple and would provide a measure of flexibility in the application of the rules and the pursuit of the long-range objectives that they embody. The proposed rules, however, contain gaps that could create problems or uncertainties. There are also some elements of the rules that need clarification.

First, section 3055.3 refers to a "product, or component of a product," which may be "excluded from reporting." It is unclear what "component" means, since the scheme embodied in the proposed rules contemplates reports by individual products, not rate or service categories. It is likely that the term could mean the various levels of aggregation required by some of the rules. This needs to be made clear, preferably by more precise language in the rule itself. Alternatively, and preferably, the reference to components of a product should be eliminated.

Second, the wording of the rule appears to contemplate granting exceptions that would alleviate the need to file entire reports on single products. In practice, however, occasions might arise when reports have to be filed absent certain elements of the required information. While the meaning of "component" might encompass such omissions, as noted above, the rule could be clarified in that regard. Furthermore, the proposed rule does not appear to permit exceptions for failure to meet the documentation requirements, as specified in sections 3055.2 and 3055.31. As discussed below, situations could arise where statistics of on-time performance and variances could be reported, but the documentation could not be supplied in the form dictated by the proposed rules. In such circumstances, would a failure to provide

specified documentation amount to failure to comply with the reporting requirement? Even if the rule could be interpreted to include exceptions for such omissions, the reasons that would justify failures would have to be expanded to include other bases for not being able to comply. If the documentation provisions are not revised to permit deviating from the documentation specifics, it would be useful to expand the exception procedures to include failures to meet documentation requirements, and to include some flexible language that would justify such failures.

Third, the Postal Service regards it as a significant omission that the procedure for exceptions would not extend to reports on customer satisfaction. There might be reasons why particular reports on specific products could not be prepared providing the various types of information that the proposed rules designate as relating to customer satisfaction. In particular, there might be problems in producing data on customer access, as required by the rules, or thinness of samples might prevent supplying certain statistically derived estimates with acceptable levels of accuracy or reliability. An example might be statistics on increases in the numbers of collection points. While these omissions might only be temporary, pending the refinement of measurement systems, they could also be linked to cost or infeasibility, as currently described in the proposed rules. This gap should be corrected by clarifying in the rules that the exception procedure would also apply to reports on customer satisfaction.

Fourth, the reasons justifying failure to comply are too narrow and too limited. The Commission has acknowledged in Order No. 292 that there will likely be a transition period during which the development of measurement systems catches up with the long-run goals embodied in the proposed rules. Order No. 292 states:

In the short term, the Commission accepts that the Postal Service cannot wholly comply with these reporting requirements because specific measurement systems have not been fully developed or deployed. As long as the indicators already in place demonstrate adequate service levels, the Commission will allow the Postal Service to proceed diligently to develop a plan for eventually being able to supply the required information, and periodically to demonstrate progress in implementing its plan.

Order No. 292, at 2. What will be the status of the reports filed that do not comply with the content specifications in the rules, or when the Postal Service fails to provide reports on particular products because the measurement systems are not fully developed or adequately refined?

Currently, the proposed rules provide only three reasons justifying failures to report, and they do not account for situations where only partial reporting is possible. The commentary in Order No. 292, furthermore, only offers a restatement of the third basis for non-compliance (duplication of NSA performance) to explain the exception procedure. At a minimum, the rules should recognize that this list of conditions under which partial or delayed compliance might be justified is not exhaustive. One possibility is to create a provision expressed as permitting exceptions for “other reasons” not specified in the other provisions. Another approach might be to create a more general provision justifying exceptions, and to express the currently proposed provisions as examples, rather than an exhaustive listing.

Fifth, both the proposed rules and the commentary in Order No. 292 are silent on specific procedures for executing the exception mechanism. Proposed Rule 3055.3 merely states that the Postal Service “may petition” the Commission for an exception. While it is uncertain whether it would be wise to attempt to craft detailed procedures for applying for exceptions at this point, the Commission should consider

what type of process is necessary, and whether that process needs to be similar to the overly formal procedures that have developed in connection with changes in analytic methodologies. In particular, do the proposed rules contemplate a proceeding during which interested parties will be permitted to comment? Would a Commission determination denying a petition for exception be capable of being appealed or reconsidered, short of judicial challenge under 39 U.S.C. § 3693? The better alternative would be for the rules to clarify that no extraordinary proceeding would result from the Postal Service's petition for an exception from reporting.

Despite these reservations, the Postal Service has no objection to going forward with procedures that will evolve and be adapted to fit particular circumstances, as long as there is some assurance from the Commission that they will not devolve into elaborate, contentious proceedings. The Commission's other periodic reporting rules have worked in a relatively uncomplicated way in the past, because they have been, on their face, direct expressions of need for particular reports. The topics and information in the reports may have themselves been controversial in the past, such as has been the case with many reports concerning finances and operations, but the integrity of the reports, and the Postal Service's good faith representations of the facts they embody, have not been subject to question or scrutiny. There is no need for the exception procedure, in effect, to become a forum for any other purpose than to permit the Postal Service to explain why reporting requirements cannot be met.

## **V. Report Documentation**

The proposed rules for service performance reporting include detailed provisions specifying the contents of the annual and quarterly periodic reports. Order No. 292 also

provides several tables that illustrate the formats in which the Commission expects that the required information would be provided.<sup>14</sup> Proposed Rule 3055.2 specifies:

**§ 3055.2 Contents of the annual report of service performance achievements.**

- (a) The items in subsections (b) through (j) of this section shall be included in the annual report of service performance achievements.
- (b) The class or group-specific reporting requirements specified in §§ 3055.20 through 3055.25.
- (c) The applicable service standard(s) for each product.
- (d) The applicable service goal(s) for each product.
- (e) A description of the measurement system for each product, including:
  - (1) A description of what is being measured;
  - (2) A description of the system used to obtain each measurement;
  - (3) A description of the methodology used to develop reported data from measured data;
  - (4) A description of any changes to the measurement system or data reporting methodology implemented within the reported fiscal year; and
  - (5) Where proxies are used, a description of and justification for the use of each proxy.
- (f) A description of the statistical validity and reliability of the results for each measured product.
- (g) A description of how the sampled data represents the national geographic mail characteristics or behavior of the product.
- (h) The identification of each product, or component of a product, granted an exception from reporting pursuant to § 3055.3, and a certification that the rationale for originally granting the exception remains valid.

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<sup>14</sup> See Tables VII-2, VII-3, VII-4, at 39-59.

- (i) Documentation showing how data reported at a given level of aggregation were derived from data reported at the next level of aggregation. Such documentation shall be in electronic format with all data links preserved. It shall show all formulas used, including volumes and other weighting factors.
- (j) For each product, documentation showing how the reports required by subpart A of this part were derived from the reports required by subpart B of this part. Such documentation shall be in electronic format with all data links preserved. It shall show all formulas used, including volumes and other weighting factors.

Proposed Rules 3055.31 and 3055.32 specify.

**§ 3055.31 Contents of the Quarterly Report of service performance achievements.**

- (a) The items in subsections (b) through (e) of this section shall be included in the quarterly report of service performance achievements.
- (b) The class or group-specific reporting items specified in §§ 3055.45 through 3055.70.
- (c) The identification of each product, or component of a product, granted an exception from reporting pursuant to § 3055.3, and a certification that the rationale for originally granting the exception remains valid.
- (d) Documentation showing how data reported at a given level of aggregation were derived from data reported at the next level of aggregation. Such documentation shall be in electronic format with all data links preserved. It shall show all formulas used, including volumes and other weighting factors.
- (e) A year-to-date aggregation of each data item provided in each Quarterly Report due for the reported fiscal year, where applicable, including volumes and other weighting factors provided in electronic format, with formulas shown and data links preserved to allow traceability to individual Quarterly Reports.

**§ 3055.32 Measurement systems using a delivery factor.**

For measurements that include a delivery factor, the duration of the delivery factor also shall be presented independent of the total measurement.

Initially, the Postal Service observes that these rules create documentation requirements that could be regarded as somewhat unusual in the context of service performance reports. Sections 3055.2(i) and (j), and 3055.31(d) and (e) essentially call for detailed workpapers underlying the development of performance statistics, similar to those that were required for cost estimates and rate designs in rate and classification proceedings under the Postal Reorganization Act. Admittedly, there are parallels to such requirements in the Commission's other periodic reporting rules. Section 3050.22 of the Commission's rules, for instance, requires the Postal Service to provide elaborate documentation supporting attributable cost estimates used in the ACR. It is noteworthy, however, that requirements to report other critical data in the ACR, for example, annual volume and revenue data (39 C.F.R. § 3050.25), are not accompanied by similar workpaper requirements. Furthermore, rules specifying other routine reports, such as the "Monthly and Pay Period Reports" (39 C.F.R. § 3050.28), do not include workpaper requirements.

Order No. 292 explains the Commission's rationale for requiring the equivalent of workpapers with service performance reports. Regarding section 3055.2, it states:

The goal is to provide independent parties the information necessary to be able to replicate the aggregations/disaggregations made by the Postal Service between and among the various reports, and over the various timeframes. For example, this should include the ability to aggregate the data provided in the quarterly reports up to the level of data provided in the annual reports. It also should include the ability to aggregate data provided at the District level, to the Postal Administrative Area level, and to the National level. The Commission expects that data will be provided in electronic format (Excel files are anticipated at this time), with electronic links and formulas that can be followed in order to duplicate the Postal Service's aggregation methodologies. This would include providing volumes and other weighting factors as necessary to perform the required calculations.

Order No. 292, at 15.<sup>15</sup>

This reasoning seems more logical within the context of formal ratemaking proceedings under the Postal Reorganization Act (PRA), where the creation of an evidentiary record served as the basis for agency decision-making under sections 556 and 557 of the Administrative Procedure Act, and the ratemaking provisions of title 39, United States Code, where the proceedings involved participation of numerous intervenors who exercised due process rights under elaborate trial-type procedures. In this regard, the Postal Service understands that, in creating these documentation requirements, the Commission, in part, is responding to comments made by interested third parties at previous stages in its consideration of measurement systems and service performance reporting. Nevertheless, as the Commission has demonstrated in fashioning procedures to consider the ACR itself, and in other areas under the PAEA, it need not afford the same due process opportunities or elaborate procedures as were required under the former ratemaking regime. In the context of reporting performance under the general annual reporting requirements of the PAEA, such documentation requirements strike the Postal Service as unnecessary overkill.

Furthermore, there will be problems complying with the documentation rules in practice. First, the requirements will add to the effort and expense of producing the reports, creating, at the least, a financial burden that would be unwarranted. With effort and expense, it would probably be feasible to provide the required documentation for

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<sup>15</sup> The discussion of section 3055.31 in this regard directs the reader to this discussion to justify the documentation requirements for the quarterly reports. Order No. 292, at 19.

the Package Services products of Single-Piece Parcel Post, Bound-Printed Matter Parcels, and Media/Library Mail, as well as First-Class Mail and Standard Parcels, all of which use the data from the Product Tracking System with respect to parcels having Delivery Confirmation. Similarly, the data might be provided for the Special Services measures in which there is no weighting nor complex statistical estimation required for the measurements.

For performance statistics derived from other measurement systems, however, it would not be possible to provide workpapers as they are described in the proposed rules. For the external measurement systems used for single-piece First-Class Mail letters/cards and flats, Inbound and Outbound International Mail, and currently for Periodicals, as well as the hybrid measurement approach used for bulk First-Class Mail letters/cards, Standard Mail letters and flats, and Bound Printed Matter Flats, it is not feasible to provide the requested data in a simple format as prescribed. The complexity of the formulas, as well as the volume of data involved, do not lend themselves to the provision of data in the format required. Advanced computer programs, with tens of thousands of calculations and multiple steps, are needed to compute the required reporting levels. Stated alternatively, the proposed rules only appear to contemplate documentation of spreadsheets, while, in reality, many of the relevant analyses are conducted using complex computer programs and software other than spreadsheets.

In past discussions, the Postal Service has provided the Commission detailed explanations of the methodologies employed for these calculations. For the most part, the measurements needed to produce statistics in these categories are performed by an external contractor, providing a level of independence. Furthermore, pursuant to section

3652(a), the Inspector General of the Postal Service is required to conduct regular audits of the data collection systems and procedures utilized in preparing the Postal Service's compliance report and to submit the results of any such audits to the Commission.

The Postal Service therefore believes that these detailed documentation requirements are unnecessary and, in major respects, unworkable.<sup>16</sup> The simplest solution would be to eliminate this element of the rules as an ongoing requirement. The Postal Service would always be available to the Commission to answer questions about derivation of the estimates, as necessary. Providing the capability for any third party to replicate every number in the reports, however, is unnecessary and would place a time consuming and unwarranted burden on the Postal Service's resources.

Alternatively, if the Commission continues to maintain that elaborate documentation is necessary, the rule should be flexible enough to accommodate more effective ways to verify the reports. One possibility would be for the Postal Service to submit a certification from a qualified auditor to attest to the accuracy of the estimates.

## **VI. Compliance with Service Performance Reporting -- Capabilities**

In light of the bifurcated structure embodied in the proposed rules, the Commission should be aware that the Postal Service will need to apply for numerous exceptions from reporting, both in annual and in quarterly reports, for a considerable

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<sup>16</sup> Moreover, depending on exactly what is encompassed within the documentation rules, the Postal Service would also be concerned that public disclosure of certain portions of the data would deprive the Postal Service of the independent ability to generate additional revenue by packaging certain information for sale to interested parties. Potential customers for such data are not likely to be willing to pay for information that they can generate themselves using data bases made public to document service measurement reporting.

period of time. As discussed above, the Postal Service is diligently working to develop measurement systems that conform to the Postal Service's planned approaches outlined by the Commission in Order No. 140. While this development is moving forward, and the Postal Service is optimistic of future progress, it is not possible to guarantee the timing of successful completion of the systems to the degree anticipated by the proposed rules. The Postal Service is, however, committed to informing the Commission of the status of these systems, and will address any problems that might arise in a straightforward manner.

As noted above, the Postal Service expects that the annual reporting requirements in the proposed rules will not be effective until the FY 2010 ACR. The Commission is aware that the Postal Service has provided on-time performance statistics, mainly by class rather than product, in the FY 2008 ACR. It will provide some additional information in the FY 2009 ACR. For the FY 2010 ACR, it should be in a position to provide detailed reports as proposed for all of the First-Class Mail products, except for First-Class Mail Flats. Because of the nature of the systems planned for measuring Standard Mail, however, discussed below, the Postal Service will not be able to report statistics for any products in Standard Mail at the level contemplated by the proposed rules. Furthermore, while data on Periodicals Mail as a class from external measurements will permit performance reporting, it will not be possible to report the Within-County and Outside-County products separately. The Postal Service will be able to report Package Services' performance by product, except for Bound Printed Matter Flats and Media and Library Mail, to the extent that these products do not utilize Delivery Confirmation, and Inbound International Surface Parcel Post (at UPU Rates).

Finally, the Postal Service should be able to report performance statistics for some, but not all, of the Special Services. Reporting on international Ancillary Special Services will be delayed. Currently, it is expected that it will not be possible to report national performance statistics on Caller Service, Change of Address Credit Card Authentication, and International Reply Coupon Service.

Regarding Special Services, the Postal Service outlined in its *Federal Register* notice dated October 17, 2007, the limitations on measuring numerous Special Services. Nothing has changed to improve the practicality of measuring Certificate of Mailing, for example; or adding additional service standard commitments to Stamped Envelopes, Cards, and Stationery. When the published final service standards appeared in the *Federal Register* on December 19, 2007, the Postal Service reaffirmed its commitment to measuring those Special Services for which service standards could be established and subsequently could be measured. Extensive commentary in that notice supported the reasons for excluding International Certificate of Mailing, International Registered Mail, International Return Receipt, International Restricted Delivery, International Reply Coupon, International Business Reply Mail, and other Special Services.

The capabilities of producing quarterly reports by product, as proposed, will also be mixed. Beginning with the Quarter 1, FY 2010, report, the Postal Service should be able to report on-time performance and variance statistics at the levels proposed for First-Class Mail products. As with the annual reports, the main exception will be First-Class Mail Flats, which the Postal Service will not be able to report at the district level, as discussed below. Also, similar to the obstacles precluding annual reporting, data

deficiencies will prevent providing measurement statistics for Standard Mail products at any level required by the proposed rules. Furthermore, the limitations preventing annual reporting of Periodicals Mail by product will also prevent required reporting in quarterly reports. The Postal Service does, however, expect to be capable of reporting on the Package Services products as proposed, except for Inbound International Surface Parcel Post (at UPU Rates), for which absence of data and cost considerations will prevent reporting.<sup>17</sup> The Postal Service will be able to provide quarterly statistics for some, but not all, Special Services.

## **VII. Compliance with Service Performance Reporting -- Problems**

Several major problems will block the Postal Service's ability to provide performance statistics in major categories specified in the proposed rules.

### **A. First-Class Mail Flats**

There will not be sufficient data to report performance of First-Class Mail Flats at all of the levels required by the proposed rules. Currently, the EXFC system is used to measure single-piece Flats, and this measurement is also used as a proxy for the performance of bulk mail Flats. The EXFC system, however, is designed to provide service performance results for letters, cards, and flats combined at the district and

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<sup>17</sup> Notwithstanding, or indeed in light of, the absence of a performance data measurement system and the cost of implementing one for Inbound International Surface Parcel Post (at UPU Rates), the Postal Service respectfully submits that performance data for domestic Parcel Post may be treated as a proxy. The only significant difference between the two products' performance is the presence of inbound acceptance and customs clearance stages for Inbound International Surface Parcel Post (at UPU Rates): the former is unlikely to have significant effect on service performance, and the latter is outside of the Postal Service's responsibility or ability to control.

service standard level. EXFC test mail shapes are created in proportion to actual mail volume estimates. Consistent with those volume estimates, there is a limited amount of Flats test mail. Due to the study design and the limited sample data available each quarter, the statistical precision for the service performance measures would vary greatly for Flats at the postal district level. For Quarter 3 FY 2009, 95 percent confidence intervals ranged from +/-2.1 percent to +/-9.3 percent across the eighty districts and among the service standard groups. With such wide variability in the precision levels, reporting the results would not be meaningful.<sup>18</sup> It would, however, be feasible to provide Flats results at the national and area levels for Overnight, Two-Day, and Three-to-Five-Day service standard groups.

## **B. Standard Mail**

### **1. Data Sources**

Standard Mail Letters and Flats are measured using a hybrid measurement approach which leverages start-the-clock data from mail using Full-Service Intelligent Mail® and stop-the-clock data from external reporters. Standard Parcels will be measured using the data for parcels with Delivery Confirmation. As discussed above, in FY 2009, the service performance results for Standard Mail have been based on data available from a small group of mailers participating in a pilot system to test aspects of Full-Service Intelligent Mail® processes. During FY 2010, the Postal Service plans to transition the measurement to use data from the Seamless Acceptance and Service Performance (SASP) system, when the service performance components of the system are built. The release is scheduled for May, 2010, so that reporting for the last quarter of

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<sup>18</sup> Increasing the EXFC sample size to overcome this problem would be very costly, an expense increase that would have to be passed on to the Postal Service's customers.

FY 2010 is expected to be based on the hybrid approach using data obtained from this system combined with stop-the-clock data from external reporters.

## **2. Product Level Data**

Current specifications for several forms of electronic documentation meeting the requirements for Full-Service Intelligent Mail® do not require detailed mailpiece level data. Specifically, smaller mailings using Postal Wizard documentation methods, Mail.XML and the IMR option within Mail.dat, will not provide the detailed piece-level information required to distinguish which piece qualified for each rate level. Without the information available for every piece, reporting at the detailed product level will not be feasible.<sup>19</sup> Current requirements for Full-Service Intelligent Mail® participation do not support the level of data required to meet the product level reporting requirements outlined in Order 292. While one might consider excluding mail for which the necessary information is not available, such a decision would likely introduce significant bias into the measurement results, since smaller mailers using the Postal Wizard documentation methods would be systematically excluded from measurement.<sup>20</sup> As a consequence, it is not anticipated that the Postal Service will be capable of meeting the requirements for reporting Standard Mail performance, as specified in the proposed rules, for either annual or quarterly reports.

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<sup>19</sup> For example, it may be possible to determine that the piece in question is from a particular Standard Mail mailing with an identified start-the-clock time, but, if that mailing included both 5-digit flats and Carrier Route flats, it might not be possible to determine whether that specific piece was entered within the Standard Mail Flats product or the Standard Mail Carrier Route product.

<sup>20</sup> The Postal Service is not currently planning to modify its procedures for documenting participation in IMb for such mailers. Changing those requirements now would substantially burden the mailers' participation and would likely be counterproductive. In this regard, a sensible balance must be struck between reporting requirements and the effective and efficient operation of measurement systems.

### **3. Service Standard Groupings**

With the use of the hybrid approach with data from the pilot system, there is currently insufficient data to provide overall Standard Mail results at the national, area, and district levels in the entry type and service standard groups specified in the proposed rules. During FY 2009, reports have been made at the national and area levels for Destination Entry and End-to-End. It is likely that this level of reporting will need to remain in place until the transition to the use of data from the Full Service Intelligent Mail® system. At that time, an assessment can be made to evaluate the feasibility of dividing the entry type categories into the proposed service standard groups. While there should be sufficient data in the two destination entry categories, it is not clear that there will be sufficient End-to-End data within those two service standard groups to report meaningfully at the national, area, and postal district levels.

#### **C. Periodicals**

##### **1. Data Sources**

Currently, the Postal Service is using an external vendor to combine data from the Red Tag and Del-Trak external Periodicals measurement systems. The percentage of Periodicals delivered on time, along with the service performance variance, is measured and reported at the national and postal area levels each quarter. The Postal Service will continue to use data from Red Tag and Del-Trak in FY 2010 while additional Periodicals mailers adopt Full-Service Intelligent Mail® and as the Postal Service implements the systems to use the hybrid measurement approach for Periodicals. During the last four months of FY 2010, the Postal Service will have both Periodicals measurement systems running in parallel with the intention of switching to the hybrid

measurement approach for Periodicals in FY 2011. The Postal Service will notify the Commission not later than 30 days prior to the planned start date of changes to the measurement approach.

## **2. Separate Within County/Outside County Performance Results**

**Current Limitations on Product Level Reporting.** This level of reporting is not feasible for the results produced from the combined Red Tag and Del-Trak systems due to the composition of Periodicals included in, and the design of, those systems. Neither system currently provides reports on this level of data to the external contractor. Furthermore, there would be insufficient data to report on Within County Periodicals, because most of the publications participating in Red Tag and Del-Trak are too large to qualify for Within County rates. Therefore, the service performance results for Periodicals using the combined Red Tag/Del-Trak data primarily represent Outside County Periodicals, as is currently described in the overview of the service reports posted on the Postal Service's service performance website.

In late FY 2009, the Postal Service contracted with an external supplier to conduct a special measurement of community newspaper performance to develop a baseline estimate of service performance for that special segment which comprises a significant portion of Within County Periodicals. The Postal Service will share the results of this baseline study with the Commission after they have been finalized.

Reporting on Within County and Outside County separately will therefore not be feasible in FY 2010. An assessment of the feasibility of both reporting requirements will be made after reviewing data available from the hybrid measurement system in the

second half of FY 2010. It should be noted that current requirements for electronic documentation provided by the mailers do not support reporting at the product level.

**Future Limitations on Product Level Reporting.** When the hybrid measurement approach is used for Periodicals, the feasibility of reporting on Within County and Outside County could be revisited. Two things are necessary. First, the electronic documentation for Full Service pieces would have to contain the information indicating whether each piece was Within County or Outside County. Current requirements for some forms of electronic documentation do not require detailed mailpiece level data. Specifically smaller mailers using Postal Wizard documentation and mailers using Mail.XML and the IMR option of Mail.dat will not be providing the detailed piece-level information required to determine in which rate category the individual piece belongs. Without the information available for every piece, reporting at the detailed product level will not be feasible. In addition, the second requirement for this level of reporting is that there be sufficient data for both Within County and Outside County. This would need to be assessed to evaluate the sufficiency of data to report at the postal area and national levels.

### **3. Reporting by Entry Level (Destination Entry and End-to-End).**

This level of reporting is feasible for the Combined Red Tag and Del-Trak system in FY 2010 under the assumption that there continues to be sufficient data. Both systems currently test more Destination Entry mail than End-to-End volume. Given the lower sample size, generally the statistical precision of the End-to-End results would be lower than for Destination Entry. For Quarter 3, FY 2009, 95 percent confidence intervals for the End-to-End results ranged from +/- 1.74 percent to +/-2.18 percent

across the postal areas. These levels of precision should be adequate for reporting the results.

The Postal Service should be able to modify the quarterly service performance reports beginning in Quarter 1 of FY 2010 to provide the Periodicals results for Destination Entry and End-to-End separately.

#### **D. Development of Intelligent Mail Measurement Systems**

On October 1, 2008, the Postal Service began using a combination of internal and external systems to measure and report on market dominant service performance. This measurement and reporting was developed in consultation with the Commission, and required significant Postal Service resources, time, and expense to develop and implement. The Postal Service notes that Order No. 292 was filed on September 2, 2009, nearly a full year after measurement and reporting commenced, and even longer since development of the systems began. In many ways, the proposed rules would impose requirements that would represent a significant departure from existing measurement and reporting, and this deviation would have the potential to cause significant financial burden on the Postal Service and its customers, due to the effort that would be needed to redesign newly created systems and processes, only a year after they were activated.

Any system of reporting should be fundamentally compatible with the systems designed to provide the data needed for the required reports. The Commission has been cooperative in reviewing and approving the Postal Service's approach to developing measurement systems. That approach is firmly rooted in the goal of utilizing systems that provide information suitable to meet the Commission's and the public's

needs for performance information in a manner that least intrudes upon postal operations and does not create an unreasonable burden on the Postal Service's resources, and, ultimately, on the mailers' ability to pay for them.

In this regard, the Postal Service notes that the cost constraint on performance measurement and periodic reporting can be minimized insofar as the Postal Service can utilize data obtained from passive scans in the Intelligent Mail system.<sup>21</sup> Full-Service Intelligent Mail does have the capability to provide granular data below the class level. A significant limiting factor, however, will be customer participation. Full-Service Intelligent Mail is focused upon business to business mail, business to consumer mail, and, in the case of Qualified Business Reply Mail (QBRM), consumer to business mail. Consumer to consumer mail would not be addressed, and would require existing EXFC methods as the source of performance data. In theory, additional Intelligent Mail capability could be built, but it would not guarantee participation. If customers choose not to participate, other, more expensive means would have to be established to measure performance.

This dependency upon Intelligent Mail also has timing consequences within the context of the technical requirements for the development of that system. Changes to the system, as well as progress under the current plan, will require the implementation of software updates to capture and measure the appropriate data. The timeline for implementation of such changes is at least seven months from the date a change is first requested.

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<sup>21</sup> The Postal Service notes that this assumes that, beyond an initial investment in technology, there would not be a significant annual cost from capturing the data, other than the cost of maintaining the equipment.

Currently, the technical requirements for software Release 3 (March 2010) and Release 4 (August 2010), in the progression of the IMb system, are final and cannot be modified to reflect changes in the expectations for data that might result from the Commission's proposed reporting rules. Any changes that result from the current rulemaking process will require a subsequent release on a date yet to be determined. At this point, no date has been finalized for a release in FY 2011. Any such release will depend upon available funds and resources. Further, any service measurement change will need to be prioritized relative to all change requests. The earliest possible date for implementation of subsequent changes would be May 2011.

In this regard, the experience in developing the system up to now is instructive. Intelligent Mail software Release 2 contains service performance measurement as defined by the reporting requirements, expectations and practices currently in effect. In order to achieve the expected March 29, 2010, implementation date, the technical requirements for the system had to be finalized by September 25, 2009. This required "sign-off" was preceded by approximately one month's effort to create the technical requirements. The finalization of technical requirements in September 2009 was followed by subsequent stages: Design, Build, System Integration Testing, Customer Acceptance Testing, and Implementation. Only by successfully completing each of these stages will it be possible to implement by March 2010.<sup>22</sup>

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<sup>22</sup> It should be noted that the Postal Service's effort to truncate this process for Release 1 of Intelligent Mail was criticized in both GAO and OIG Audits. The Postal Service has committed to follow appropriate timelines to complete this process in all subsequent releases.

In the broadest sense, changes in Service Measurement rules will require a two fiscal year time lag, assuming funds and resources are available, and no competing priorities for other uses intrude. One fiscal year lag would be needed to develop and implement software changes, followed by one fiscal year to debug the system and to establish baseline performance. Rule changes finalized in Quarter 1 of FY 2010, for example, would first be reported in Quarter 2 of FY 2012. In this context, if the Postal Service must divert the funds available for other uses, further delay would be created.

The Commission should be careful not to establish reporting rules that create unrealistic expectations and impose unreasonable and costly burdens on the development of the Intelligent Mail system. As currently proposed, the Postal Service believes that the reporting requirements would create these pressures. Any efforts to adjust the systems to meet these expectations would only cause unwarranted delay.

#### **VIII. Compliance with Service Performance Reporting -- Recommendation**

In light of the concerns discussed above, the Postal Service respectfully recommends that the proposed rules should be modified to eliminate the requirement that performance results be provided on a quarterly basis at the levels specified in the rules. The Postal Service will continue to provide quarterly reports at the class level, to the extent feasible and efficient, given existing and planned measurement systems. The Postal Service, however, should not be expected under the periodic reporting rules to provide detailed data by individual product on a quarterly schedule. In this regard, the Commission's rules should be consistent with the policy decisions, as well as the practical determinations, that have been made up to now in the development of planned

measurement systems. The Commission's rules should also conform to the Commission's statutory authority, and to the respective roles of the Postal Service and the Commission in the statutory scheme, as discussed above.

The Postal Service is prepared to work toward providing information on product performance at the national level in its annual reports. This capability is conditioned, however, by the limitations explained above, with regard to First-Class Mail Flats, Standard Mail, Periodicals, and certain Special Services. The Postal Service is willing to work with the Commission to overcome these limitations and provide useful performance data, assuming a reasonable assessment of the Commission's, the mailers', and the public's needs. In the meantime, the periodic reporting rules should be drafted to permit flexibility in reporting data in these categories. Furthermore, the exception procedure, if employed, should accommodate the evolution of the Postal Service's practical capacities to provide the needed data. In this context, the basic requirements for reporting and documenting performance results should take into consideration cost, feasibility, and any constraints that might be created by the Postal Service's financial condition and its overall economic needs during the course of developing viable measurement systems. In other words, the requirements themselves should embody a realistic assessment of the Postal Service's capabilities, rather than relying exclusively on the exception mechanism.

Any other course is likely to cause considerable confusion and interfere with the Postal Service's ability to comply. Adopting the rules as proposed will create financial burdens on the Postal Service and its customers, especially if performance reporting creates pressures to adapt measurement systems to provide a frequency and level of

data that are not needed. These consequences will operate, not only against the Postal Service, but also against the mailers, who must participate in the Intelligent Mail system, or any other system for measurement of performance. This observation, moreover, cannot be overemphasized. If reporting requirements induce changes in expectations and procedures for measurement systems that make them too expensive for mailers to participate, the Postal Service's ability to produce performance information effectively and efficiently will be seriously impaired. Any attempts to adapt measurement systems to meet the expectations embodied in the proposed rules will also likely produce considerable delay, as explained above.

In this regard, the Postal Service again emphasizes that the existence of a logical exception procedure by itself will not necessarily surmount the inherent cost and practical obstacles to reporting. The rules themselves must be realistic and based on sound policy determinations. The exception procedures, furthermore, will themselves impose administrative costs and burdens that can be avoided, if the rules strike the right balance between capability and need.

## **IX. Other Issues**

### **A. Special Services -- Green Card Return Receipt Service**

Order No. 292 contains a lengthy discussion of current and past proposals for measuring service performance of hard-copy Return Receipt service (Green Card). In previous submissions and discussions with the Commission, the Postal Service proposed a detailed approach for measuring service performance. The Commission, however, had several concerns. In Order No. 292, the Commission stated:

The Commission recommends that the Postal Service develop a measurement system taking the above into consideration. An EXFC-based system would appear appropriate. Outgoing EXFC mail could be seeded with green Return Receipt cards. After mailing, a Postal Service employee would present the mailpiece to the potential recipient for signature. If a signature is obtained, the Postal Service employee would deposit the green card into the mail system for return to the sender. The original sender would record return of the green card and verify that it has been signed, if and when the card is received. If a signature is not obtained within the applicable timeframe, the Postal Service employee would return the unsigned mailpiece to the original sender. The original sender would record return of the mailpiece, if and when the mailpiece is received. A 25- to 30-day time limit could be placed for all events to occur; otherwise, a service failure would be recorded. On a quarterly basis, the Postal Service could report (1) the number of EXFC seed mailpieces sent; (2) the percentage of green cards properly completed and returned (passing); (3) the percentage of green cards not properly completed, but returned (failure); (4) the percentage of mailpieces returned without a green card signature (passing); and (5) the percentage of the time the service receives a passing grade. This would be with respect to the applicable time limits as discussed above. On an annual basis, the Postal Service would report the percentage of the time the service receives a passing grade as part of the Ancillary Services score.

Many variations of the Commission's suggestion are possible. The Postal Service is instructed to provide a response, or suggestions of its own, in its reply to this rulemaking.

Order No. 292, at 28.

Currently, the Postal Service includes Electronic Return Receipt measurement results in the Delivery Services composite score in quarterly reports which are submitted to the Commission. In addition, the Postal Service had planned to conduct an annual special study using an external vendor to test the transit time of hard copy Return Receipt green cards. In Order No. 292, the Commission requested that the Postal Service enhance the measurement to be conducted quarterly and to measure the following for Return Receipt green cards:

- Number of seed mailpieces
- Green cards properly completed and returned

- Green cards not properly completed, but returned
- Mailpieces returned without green card signature

The Postal Service plans to incorporate the Commission's requirements into the design of the Return Receipt green card special study, which is planned to begin in FY2010. The Postal Service intends to use an external vendor to measure whether the hard copy green cards are properly handled, as described above, within a 30 day window. The special study will be set up in Quarters 1 and 2 of FY2010, with testing beginning in Quarter 3. Consistent with the external measurement systems currently in place, the Return Receipt special study will focus on residential and business customers that do not have mail rooms, excluding large businesses and government agencies for which special handling of mail is required.

**B. Special Study on Performance in Alaska, the Caribbean and Hawaii**

In Order No. 292, the Commission states the following:

Section 3055.7 directs the Postal Service to conduct a special study, every 2 years, to evaluate final delivery service performance in certain locations. The measurement systems that the Postal Service propose do not appear to capture information on delivery performance; for example, from the processing facility in Anchorage, Alaska to the outer reaches of Alaska; from Honolulu to the neighbor islands of Hawaii; or from San Juan to more distant locations in the Caribbean district. A special study appears appropriate for providing visibility into these areas.

Order No. 292, at 16.

The Postal Service believes that a special study should not be necessary because the measurement systems have been designed to measure service to and from the locations specified in Order No. 292. The transit-time measurements for

single-piece, bulk and international First-Class Mail, Standard Mail, and Package Services currently include mail to and from all ZIP Code areas in the postal districts of Alaska, Honolulu, and the Caribbean. While the combined Red Tag/Del-Trak systems being used to measure Periodicals do not currently have external monitors in all ZIP Code areas within these three postal districts, the hybrid measurement approach will extend measurement to all ZIP Code areas, when implemented. Service performance is measured against the service standards set forth in the service standard directories for either destination entry or origin entry, as appropriate. Reporters are located in each of the ZIP Code areas in order to record the final delivery for mail measured through the external measurement systems (EXFC and IMMS) and the hybrid measurement system. Likewise, parcels having Delivery Confirmation are measured from start-the-clock through delivery to the final destination.

#### **X. Reports on Customer Satisfaction**

As discussed above, Order No. 292 proposes rules governing annual reporting on customer satisfaction by individual Market Dominant product. Proposed section 3055.90 provides:

##### **§ 3055.90 Reporting of customer satisfaction.**

For each market dominant product specified in 39 CFR Part 3020, Appendix A to Subpart A of Part 3020—Mail Classification Schedule, the Postal Service shall file a report as part of the section 3652 report, unless a more frequent filing is specifically indicated, addressing customer satisfaction achievements for the preceding fiscal year. The report shall include, at a minimum, the specific reporting requirements presented in §§ 3055.91 through 3055.93.

The Commission's relatively brief discussion of its proposals in Order No. 292 notes that they are intended to implement the statutory directive in 39 U.S.C. §

3652(a)(2)(B)(ii) requiring that the Postal Service report in the ACR on “the degree of customer satisfaction with the service provided.” The proposed rules carry this mandate further by specifying the requirements to provide data and statistics pertaining to current status and changes in several categories: numbers of post offices, delivery points, collection boxes. The rule would also require statistics on customer wait time in line for retail services. See proposed Rule 3055.91. Proposed Rule 3055.92 would require information on the Postal Services Customer Satisfaction Surveys. Finally, proposed Rule 3055.93 would require an annual report on the Postal Service’s Mystery Shopper Program.

As noted above, the statute provides little guidance on Congressional intent regarding what would constitute appropriate reports on customer satisfaction. The term is not defined in the statute itself, and the Postal Service has been unable to locate legislative history that illuminates what Congress intended. The Commission apparently relies on its authority in 39 U.S.C. 3652(e)(1) to propose elaborate reporting requirements geared to the Commission’s view of what should constitute measurement of customer satisfaction.<sup>23</sup>

The Postal Service understands the Commission’s objective, and does not question its good-faith interest in the topics covered by the proposed rules.

Nevertheless, the Postal Service believes that the proposed rules go farther than

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<sup>23</sup> The Postal Service notes that it currently expects that it would provide reports by Market Dominant product based on existing or planned data sources. If additional, new studies are required to survey customer opinions, such new inquires could cost between \$35,000 and \$50,000 per product, amounting to a potential cost increase of between four and seven million dollars.

necessary, and that they intrude upon matters that are more appropriately left to postal management's functions in assessing and refining its operations according to its business objectives. To some extent, therefore, the Postal Service believes that the proposed rules exceed the intended authority in the statute for the Commission to specify such reporting.

The following discusses the specific elements of the proposed requirements for reporting customer satisfaction with Market Dominant products.

#### **A. Consumer Access**

In Rule 3055.91, the Commission proposes to require that the following data be provided on an annual basis at the national and area levels of administration:

- the number and types of post offices servicing the public, including the number closed and the number subject to emergency suspensions during the year, disaggregated by the types of post offices as appearing in the Postal Service's Annual Report;
- the number and types of delivery points accessed by the Postal Service;
- the number of collection boxes accessed by the Postal Service.
- customer wait time in line for retail services.<sup>24</sup>

First, the proposed rule requires some clarification. As proposed, the rule specifies that the responsive information provided to the Commission must be "disaggregated by the types of post offices as appearing in the Postal Service's Annual Report." The data included in the Annual Report, however, are not disaggregated by

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<sup>24</sup> Wait time in line data are generated by a service diagnostic system that is the subject of proposed rule 3055.93 (Mystery Shopper Program) and will be discussed below in connection with that proposed rule.

types of Post Offices. They are disaggregated by facility type, *in addition to* Post Offices, and include the following other retail and/or delivery facilities:

- Classified Stations, Branches and Carrier Annexes;
- Contract Postal Units; and
- Community Post Offices.

If this rule is adopted, clarification is needed to specify whether the Commission seeks data pertaining to Post Offices *and* all of the other *retail* facility types reflected in the Annual Report, or *all* of the other listed facility types. If the intent of the proposed rule is to require the provision of information reflecting the number of locations at which customers may access retail postal services, it would seem unnecessary to include Carrier Annexes, which, by definition, do not provide such access.

Second, although the proposed rule would require annual reporting, at pages 30-31 of Order No. 292, the Commission proposes that a quarterly reporting regimen be imposed on a transitional basis. The Commission explains:

The rules propose reporting of customer access to postal services on an annual basis. While this frequency of reporting may suffice given a long-term outlook, customer access is currently a high visibility issue. News reports appear almost daily concerning potential post office closings and the removal of collection boxes. This has generated significant consumer and congressional interest evident by frequent inquiries received by the Commission. As with any data reporting requirement, the Commission also is aware that reporting requirements impose costs on the postal system. Additional systems may have to be put in place to obtain and report the requested customer access data items if such systems do not already exist.

As a compromise to obtaining current information and limiting long-term costs, the Commission suggests that in the short term, the Postal Service provide customer access data items on a quarterly basis. Once the current decline in mail volume ebbs and the Postal Service reaches its new state of equilibrium, annual reports should suffice. This compromise would provide the Commission with the immediate information that it needs to be responsive to consumers and Congress without imposing

undue costs or unnecessary burden on the Postal Service in the long run. The Commission seeks comments from the Postal Service and others on how best to keep the Commission apprised of these issues such that the Commission can fulfill its responsibilities in a knowledgeable manner.

Order No. 292, at 30-31

Order No. 292 does not explain what, if any, nexus exists between current mail volume trends and need for quarterly versus annual reporting of the data specified in the propose rule. The Postal Service believes that a rule requiring quarterly reporting of such data should be based upon the Commission's specific regulatory responsibilities, rather than a transitory public interest. In this regard, the recent spike of media attention given to the candidate pool of stations and branches under consideration by the Postal Service in Docket No. N2009-1 (Station and Branch Optimization and Consolidation Initiative ) could have induced the Commission's suggestion. That brief phenomenon, however, would not justify requiring the Postal Service to report delivery point or facility-related data, or wait time in line data, on a quarterly basis until "mail volume reaches its new state of equilibrium."<sup>25</sup> Furthermore, it is not clear in what sense quarterly reporting would be a "compromise" outside the context of the pending proceeding, where, presumably, access to such information would be available if it were warranted by application of the rules and procedures governing that case.

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<sup>25</sup> As justification for requiring quarterly data regarding the number of collection boxes until "mail volume reaches its new state of equilibrium", the Commission asserts that there are "nearly daily press reports" regarding collection boxes. The rulemaking notice does not offer any clarification of the period during which such reports may have been "nearly daily" or any other description that would permit an analysis of the nature of or impetus behind such reports. Accordingly, commenters are at a disadvantage in attempting to discern how this factor justifies quarterly rather than annual reporting.

The Commission asserts that such quarterly data would provide it with the immediate information that it needs to be responsive to consumers and Congress without imposing undue costs or unnecessary burden on the Postal Service in the long run. The Postal Service, however, has long accepted the costs and burdens associated with responding to the numerous inquiries from consumers and Congress that it receives routinely. The Postal Service observes, however, that these inquiries are almost exclusively focused on local service issues that render quarterly national or area level statistics irrelevant. It is also worth emphasizing, furthermore, that the Commission has recently enacted Rules 3031.10 and 3031.11, providing that inquiries directed to it regarding postal services can be forwarded to the Postal Service for response, with the obligation that the Postal Service advise the Commission of its disposition of such inquiries within 45 days. These rules, if followed, would seem to relieve the Commission of the burden of responding to numerous substantive inquiries from consumers and Congress concerning postal services, and should be given every opportunity to be effective. In this light, the additional cost and burden of quarterly reporting, until such time that the Commission declares that mail volume has reached “its new state of equilibrium,” would be unwarranted.

The proposed rules requiring specific data on what the Commission has characterized as “consumer access” share a defect in common with the rules dictating reports on the Mystery Shopper Program, as discussed below. As interesting as this information might be as a source that might give rise to speculation on customer satisfaction, it is not itself direct evidence of customer satisfaction. It therefore falls outside the scope of the information that Congress intended to require the Postal

Service to report, and outside the scope of the information the Commission is authorized to require in reports on “quality of service.” The Commission should eliminate these provisions from its proposed rules.

**B. Customer Satisfaction Surveys**

Proposed Rule 3055.92 provides:

**§ 3055.92 Customer Satisfaction Surveys.**

- (a) The report shall include a copy of each type of Customer Satisfaction Survey instrument used in the preceding fiscal year.
- (b) The report shall include information obtained from each type of Customer Satisfaction Survey instrument, including:
  - (1) A description of the customer type targeted by the survey;
  - (2) The number of surveys initiated and the number of surveys received; and
  - (3) Where the question asked is subject to a multiple choice response, the number of responses received for each question, disaggregated by each of the possible responses.

The Postal Service regularly solicits feedback from its customers through a series of customer satisfaction surveys. In the ACR for FY 2008, the Postal Service provided Customer Satisfaction Measurement survey data in light of section 3652(a)(2)(B)(ii) of the statute. The results represented data from all customers (residential and business). For FY 2009, the Postal Service is prepared to report a summary of the customer satisfaction information, a copy of the survey instrument(s), a description of the customer type targeted by each survey, and statistics on the number of surveys initiated and the number of surveys returned to the Postal Service

During FY 2010, the Postal Service will be transitioning from Customer Satisfaction Measurement to Customer Experience Measurement (CEM). CEM

emphasizes the customer. Measurement will include related attributes, such as accessibility, consistency convenience and reliability. In the collection of information under CEM, furthermore, the customer's experience will be defined by customers and not by internal perception or processes within the Postal Service. The questions on the survey were created based on dimensions of the postal experience that customers told the Postal Service were important. As such, the results will focus on attributes that really matter to the Postal Service's customers. The results will also be actionable, in that the Postal Service will know what needs to be changed in order to improve its relationship with its customers; the Postal Service will also be able to tie actions back to processes in the organization. Flexibility to modify the survey process has also been built in, which allows the Postal Service to proactively adjust what is measured as customer expectations change.

In Order No. 292, the Commission suggests that it might participate in the customer survey. It states:

Given the Commission's independent perspective and its role in providing an alternative avenue of obtaining customer input on postal services, the Commission offers its assistance to ensure that future consumer surveys produce reliable and meaningful information. Participation in this process may provide insight into more appropriate ways to report on customer satisfaction. The Postal Service is invited to comment on any future role the Commission might consider in this area.

Order No. 292, at 32. The Postal Service respects the Commission's offer and will continue to brief the Commission each quarter. In the interest of transparency, furthermore, the Postal Service has procured the services of a recognized third-party to create and administer the customer experience measurement program. The Postal Service is concerned, however, that the participation of the Commission in the survey process could potentially bias the customer-focused approach envisioned in CEM. Consequently, the Postal

Service does not believe that the Commission should be involved in the survey process.

### **C. Mystery Shopper Program**

In proposed Rule 3055.93, the Commission seeks to require the Postal Service to file copies of the quarterly National Executive Summary Report generated by the Mystery Shopper program, as well as each type of survey instrument used in preparing each report. As explained below, the Postal Service believes that this requirement is unwarranted and unauthorized.

The Mystery Shopper program was succeeded in FY 2010 by the new Retail Customer Experience (RCE) program. In the past, data generated by the Mystery Shopper program provided a basis for local postal managers to evaluate retail operations and develop action plans for improvement. The Retail Customer Experience (RCE) program is designed to continue pursuit of these objectives.

As with the Mystery Shopper Program, RCE is operated for the Postal Service by a private market research firm that employs individuals whose identities are unknown to the Postal Service. Acting as “mystery shoppers,” these individuals anonymously visit specific postal retail locations and conduct routine postal retail transactions. After each visit, a shopper completes an evaluation form by recording answers to more than 50 specific questions about the retail visit, and submits the form to the market research firm, which compiles data from each form and reports information to the Postal Service.

The program provides a basis for local postal management to evaluate a variety of aspects of a retail customer’s shopping experience. Information regarding specific transactions and deficiencies identified by a “mystery shopper” is routinely transmitted

to local managers to point out opportunities for improving future customer's retail experiences at their locations. Particular subjects of inquiry include:

- how long the shopper waited in line;
- whether the postal retail associate asked standard "hazardous materials" questions about an article being mailed;
- the sequence in which retail associates suggested various product offerings and whether various special services and other products and services were offered;
- whether the benefits of different product offerings were explained;
- whether special services forms, and packaging/shipping supplies, or complimentary shipping supplies were readily accessible
- whether the retail associate was in full uniform, attentive, made eye contact, and communicated pleasantly;
- whether signs and displays were professional in appearance and whether the lobby was neat, clean and well-maintained.

Points are assigned to each mystery shopper survey form, and scores are tallied for various aspects of the shopper's experience.

The RCE program is designed primarily to help local postal retail managers retain business in an intensely competitive shipping and communications marketplace. Market research of this type is common among retail service providers and is regarded as commercially sensitive and proprietary in nature.<sup>26</sup>

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<sup>26</sup> . The disclosure of one service provider's internal analysis of the strengths and weaknesses of its retail operations to its competitors would unfairly provide those competitors with the ability to target their marketing efforts to "poach" or "skim" particular

The Postal Service believes that the proposed reporting requirement in Rule 3055.93 is not consistent with the Commission's regulatory responsibilities or the Postal Service's reporting obligations under the PAEA. First, the Postal Service's responsibilities to report on "customer satisfaction" under 39 U.S.C. § 3652 do not require assessment of such matters as the neatness of postal retail lobbies, the degree to which postal retail associates inquire about potentially hazardous contents of parcels, whether sales personnel are in full uniform, or how long mystery shoppers waited in line.

Nor do such matters fall within the Commission's purview. They do not involve the quality of service afforded in connection with any product, within the meaning of section 3652(a)(2)(B), or involve the level of service described in terms of speed of delivery and reliability, within the meaning of section 3652(a)(2)(B)(i). Most importantly, they do not attempt to measure the degree of customer satisfaction in connection with a particular product,<sup>27</sup> within the meaning of 3652(a)(2)(B)(ii). The authority to require such information, thus, cannot fairly be implied from the Commission's authority in section 3622 to review pricing and product proposals. Furthermore, it cannot be implied from the Commission's authority to review service complaints under section 3662, or section 3691, which requires the establishment of service standards for market dominant products, not retail customer experiences.

In summary, the Mystery Shopper program is a retail diagnostic tool that has been used by the Postal Service to identify opportunities to improve management of

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customers away or to geographically target their marketing efforts in ways that could not be done without such information.

<sup>27</sup> Or even as a general proposition.

retail operations at selected Post offices, stations, and branches that generate more than \$500,000 in annual retail revenue. Contrary to the Commission's apparent assumption, Mystery Shopper data are not direct evidence of what the Postal Service's customers think. Rather, they consist of objective observations about conditions in postal facilities and operational practices. As such, they are not direct evidence of the "degree of customer satisfaction with the service provided," within the meaning of the statute (39 U.S.C. § 3652(a)(2)(B)(ii)), and they do not fall within the type of information Congress has concluded is necessary to annually determine the Postal Service's compliance with its statutory objectives. The Commission should eliminate this reporting requirement from its proposed rules.

#### **D. Wait Time in Line**

As part of its observations about existing conditions and practices at retail facilities, the Mystery Shopper Program (now, RCE) collects information on time spent by consumers waiting in line. Proposed Rule 3055.91 would require the following:

- (d) The average customer wait time in line for retail service shall be reported. Data shall be provided for the beginning of the reported fiscal year and for the close of each successive fiscal quarter at the Postal Administrative Area and National levels.

Like the other data requirements related to "consumer access" discussed above, wait time in line is not evidence of customer satisfaction per se. While one might speculate that waiting time could be a source of customer satisfaction or dissatisfaction, the mere reporting of data reflecting wait time, either in the aggregate, or by individual facility, would not necessarily allow one to draw particular conclusions about customer satisfaction. Furthermore, while the PAEA gave the Commission broad authority to review Postal Service policies and practices, within a limited range of functions, it did

not give it blanket authority to review all facets of postal operations. The Mystery Shopper Program, and, in particular, data on wait time, should remain within the purview of the Postal Service, as an internal management diagnostic tool. Accordingly, the Commission should delete this reporting requirement from its proposed rules.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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### **CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

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