

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Dan G. Blair;
Tony L. Hammond; and
Nanci E. Langley

Annual Compliance Report, 2010

Docket No. ACR2010

NOTICE OF POSTAL SERVICE'S FILING OF ANNUAL COMPLIANCE REPORT
AND REQUEST FOR PUBLIC COMMENTS

(Issued January 4, 2011)

I. INTRODUCTION

On December 29, 2010, the United States Postal Service (Postal Service) filed with the Commission, pursuant to 39 U.S.C. 3652, its Annual Compliance Report (ACR) for fiscal year 2010. Section 3652 requires submission of data and information on the costs, revenues, rates, and quality of service associated with postal products within 90 days of the closing of each fiscal year. In conformance with other statutory provisions and Commission rules, the ACR filing includes the Postal Service's FY 2010 Comprehensive Statement, its FY 2010 annual report to the Secretary of the Treasury on the Competitive Products Fund, and certain related Competitive Products Fund material. *See, respectively*, 39 U.S.C. 3652(g), 39 U.S.C. 2011(i), and 39 CFR 3060.20–23. In line with past practice, some of the material in the FY 2010 ACR appears in non-public annexes.

The filing triggers a statutory review process culminating in the Commission's issuance of an Annual Compliance Determination (ACD) assessing compliance of Postal Service products offered during FY 2010 with applicable title 39 requirements.

The instant filing marks the fourth time since passage of the Postal Accountability and Enhancement Act (PAEA) of 2006 that this reporting and oversight process has been used. This means, as the Postal Service observes in its current filing, that many of the transitional issues associated with earlier filings have been overtaken by full implementation of other PAEA provisions or have diminished in significance. However, the Postal Service notes that some transitional issues remain, including incorporating financial results for certain activities formerly considered "nonpostal" into the Cost and Revenue Analysis (CRA) report in accordance with Commission Order No. 391. FY 2010 ACR at 1-2.¹ It also suggests that new issues have arisen, citing its uncertainty over Commission interpretation of the cost coverage provision (for products at less than full coverage) and the related question of Commission options for addressing shortfalls. *Id.* at 7-10.

II. OVERVIEW OF THE POSTAL SERVICE'S FY 2010 ACR FILING

Contents of the filing. The Postal Service's FY 2010 ACR filing consists of a 77-page narrative; extensive additional material appended as separate folders and identified in Attachment One; and an application for non-public treatment of certain materials, along with a supporting rationale filed as Attachment Two. The filing also includes the Comprehensive Statement, Report to the Secretary of the Treasury, and information on the Competitive Products Fund filed in response to Commission rules. This material has been filed electronically with the Commission, and some also has been filed in hard-copy form.

¹ United States Postal Service FY 2010 Annual Compliance Report, December 29, 2010 (FY 2010 ACR). Public portions of the Postal Service's filing are available at the Commission's website, <http://www.prc.gov>.

Scope of filing. The material appended to the narrative consists of: (1) domestic product costing material filed on an annual basis, summarized in the CRA; (2) comparable international costing material, summarized in the International Cost and Revenue Analysis (ICRA); (3) worksharing-related cost studies; and (4) billing determinant information for both domestic and international mail. *Id.* at 2. Inclusion of these four data sets is consistent with the Postal Service's past ACR filing practices. Consistent with its FY 2009 ACR filing, the Postal Service has split certain materials into public and non-public versions. *Id.* at 3.

"Roadmap" document. A roadmap to the FY 2010 ACR filing appears in the form of USPS-FY10-9. This document provides brief descriptions of the materials submitted, as well as the flow of inputs and outputs among them; a discussion of differences in methodology relative to Commission methodologies in last year's ACD; a list of special studies; and, as required by Commission rule 3050.2, a discussion of obsolescence. *Id.* at 4.

Methodology. The Postal Service says the scope of new methodologies has been minimized because it has placed heavy reliance on replicating the methodologies used most recently by the Commission. However, it observes that postal operations and data collection are not entirely static, so there are some minor changes. These are identified and discussed in a separate section of the roadmap document and in the prefaces to each of the appended materials. *Id.* at 4-5.

Proposals the Postal Service has filed to change analytical principles since the filing of the FY 2009 ACR are identified and summarized in a table. *Id.* at 5-6. Generally, proposed changes that were pending resolution as of the date of the filing have been incorporated into this ACR. *Id.* at 6.

Market dominant products. The Postal Service notes that certain transitional issues that were present in previous ACR filings no longer pertain, but maintains that a significant question about the requirements of title 39 with respect to cost coverage shortfalls has arisen. It notes that the Commission characterized cost coverage shortfalls as so pervasive as to be a systemic problem in the FY 2009 ACD, and

directed the Postal Service to develop and present a plan to address the problem. *Id.* at 7. The Postal Service says it presented its plan in its exigency request, but no longer considers that plan workable, given the Commission's disposition of the exigency request. *Id.* at 7-8. It says results in its current ACR filing show that the cost coverage problem continues to exist and remains systemic. *Id.* at 8. It also says that even if it achieves its most optimistic efficiency enhancements, it does not foresee that such enhancements, combined with annual rate increases within the statutory price cap, will result in Periodicals, Standard Mail Flats, and Standard Mail NFM/Parcels reaching full attributable cost coverage. *Id.*

Product-by-product costs, revenues, and volumes. With limited exceptions, cost, revenues, and volumes for all market dominant products of general applicability are shown directly in the FY 2010 CRA or ICRA. The exceptions are International Reply Coupon Service, International Business Reply Mail Service, and Negotiated Service Agreements. *Id.* at 10.

Service performance. The Postal Service notes that the Commission issued rules on periodic reporting of service performance measurement and customer satisfaction in FY 2010. Responsive information appears in USPS-FY10-29. *Id.* at 11-12. The Postal Service says it set aggressive on-time targets of 90 percent or above for all market dominant products and, overall, has been successful in continuously improving these scores. It asserts that its targets have already been met or exceeded for some products and in some districts, but says there are several instances where target scores have not yet been met at the national level. Specific reasons for these results are discussed in USPS-FY10-29. *Id.* at 12.

Customer satisfaction. The FY 2010 ACR discusses the Postal Service's transition to a new system for assessing customer experience; describes the new methodology and changes in reporting categories; presents a table with survey results; and addresses why the FY 2010 scores cannot be compared to previous years. *Id.* at 12-16.

Product analysis and other information. The FY 2010 ACR includes a detailed analysis of each market dominant product, including domestic Negotiated Service Agreements entered into during FY 2010. *Id.* at 16-50. It also presents information responsive to 39 U.S.C. 3652(b) on worksharing discounts. *Id.* at 50-63.

Competitive products. The Postal Service says that transitional issues that pertained in FY 2007 and FY 2008 with respect to the applicable requirements of title 39 no longer existed in FY 2009, and none affect this filing. *Id.* at 63. It generally addresses product-by-product analysis, noting where detailed information can be found, and discusses available FY 2010 data with reference to the competitive product pricing standards of 39 U.S.C. 3633. *Id.* at 63-64.

Market tests; nonpostal services. The Postal Service also addresses the two market tests conducted during FY 2010 and nonpostal services. *Id.* at 68-72. With respect to the latter, it notes that the Commission rule requiring the ACR to include information on costs, volumes, and revenues was not adopted until late in FY 2009. The Postal Service was limited in what it could provide in the FY 2009 ACR, and it says it has attempted to improve its reporting in this ACR, but it considers the information it is providing as generally comparable to what it previously provided. *Id.* at 70-71.

III. PROCEDURAL STEPS

Statutory requirements. Section 3653 of title 39 requires the Commission to provide interested persons with an opportunity to comment on the ACR and to appoint a Public Representative to represent the interests of the general public. The Commission hereby solicits public comment on the Postal Service's FY 2010 ACR and on whether any rates or fees in effect during FY 2010 (for products individually or collectively) were not in compliance with applicable provisions of chapter 36 of title 39 (or regulations promulgated thereunder). Commenters addressing market dominant products are referred in particular to the applicable requirements (39 U.S.C. 3622(d))

and (e) and 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing competitive products are referred to in 39 U.S.C. 3633.

The Commission also invites public comment on the cost coverage matters the Postal Service addresses in its filing; service performance results; levels of customer satisfaction achieved; progress toward goals established in the annual Comprehensive Report; and such other matters that may be relevant to the Commission's review. Comments on these topics will, *inter alia*, assist the Commission in developing appropriate recommendations to the Postal Service related to the protection or promotion of the public policy objectives of title 39.

Access to filing. The Commission has posted the publicly available portions of the FY 2010 ACR filing on its website (<http://www.prc.doc>).

Comment deadlines. Comments by interested persons are due on or before February 2, 2011. Reply comments are due on or before February 17, 2011. The Commission, upon completion of its review of the FY 2010 ACR, public comments, and other data and information submitted in this proceeding, will issue its ACD. Those needing assistance filing electronically may contact the Docket Section supervisor at 202-789-6846 or via email at PRC-DOCKETS@prc.gov. Inquiries about access to non-public materials should also be directed to the Docket Section.

Public representative. The Commission appoints Emmett Rand Costich as the public representative in this proceeding. Kenneth R. Moeller and Diane K. Monaco, of the Commission's Office of Accountability and Compliance, will provide technical assistance.

IV. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket No. ACR2010 to consider matters raised by the United States Postal Service's FY 2010 Annual Compliance Report.
2. Pursuant to 35 U.S.C. 505, the Commission appoints Emmett Rand Costich as officer of the Commission (Public Representative) in this proceeding to represent the interests of the general public.
3. Comments on the United States Postal Service's FY 2010 Annual Compliance Report to the Commission, including the Comprehensive Statement of Postal Operations and other reports, are due on or before February 2, 2011.
4. Reply comments are due on or before February 17, 2011.
5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary