

Commission provided more in-depth analysis of the Postal Service's progress toward meeting its performance goals and plans to improve performance in future years.

As it did in recent years, the Commission will evaluate whether the Postal Service met its FY 2016 performance goals in a report separate from the FY 2016 ACD. To facilitate this review, the Commission invites public comment on the following issues:

- Did the Postal Service meet its performance goals in FY 2016?
- Do the FY 2016 Annual Performance Report and the FY 2017 Annual Performance Plan meet applicable statutory requirements, including 39 U.S.C. 2803 and 2804?

- What recommendations should the Commission provide to the Postal Service that relate to protecting or promoting public policy objectives in title 39?

- What recommendations or observations should the Commission make concerning the Postal Service's strategic initiatives?<sup>3</sup>

- What other matters are relevant to the Commission's analysis of the FY 2016 Annual Performance Report and the FY 2017 Annual Performance Plan under 39 U.S.C. 3653(d)?

### III. Request for Comments

Comments by interested persons are due no later than February 8, 2017. Reply comments are due no later than February 22, 2017. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as Public Representative to represent the interests of the general public in this docket with respect to issues related to the Commission's analysis of the FY 2016 Annual Performance Report and the FY 2017 Annual Performance Plan.

### IV. Ordering Paragraphs

*It is ordered:*

1. The Commission invites public comment on the Postal Service's FY 2016 Annual Performance Report and FY 2017 Annual Performance Plan.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to serve as Public Representative to represent the interests of the general public in this proceeding with respect to issues related to the

Performance Report and FY 2014 Performance Plan, July 7, 2014; Docket No. ACR2014, Postal Regulatory Commission, Analysis of the Postal Service's FY 2014 Program Performance Report and FY 2015 Performance Plan, July 7, 2015; Docket No. ACR2015, Postal Regulatory Commission, Analysis of the Postal Service's FY 2015 Annual Performance Report and FY 2016 Performance Plan, May 4, 2016.

<sup>3</sup> See FY 2016 Annual Report at 69–71.

Commission's analysis of the FY 2016 Annual Performance Report and the FY 2017 Annual Performance Plan.

3. Comments are due no later than February 8, 2017.

4. Reply comments are due no later than February 22, 2017.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

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## POSTAL REGULATORY COMMISSION

[Docket No. ACR2016; Order No. 3717]

### FY 2016 Annual Compliance Report

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Postal Service has filed an Annual Compliance Report on the costs, revenues, rates, and quality of service associated with its products in fiscal year 2016. Within 90 days, the Commission must evaluate that information and issue its determination as to whether rates were in compliance with title 39, chapter 36, and whether service standards in effect were met. To assist in this, the Commission seeks public comments on the Postal Service's Annual Compliance Report.

**DATES:** *Comments are due:* February 2, 2017.

*Reply Comments are due:* February 13, 2017.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

### SUPPLEMENTARY INFORMATION:

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#### I. Introduction

On December 29, 2016, 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 (FY) 2016.<sup>1</sup> 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 includes the Postal Service's FY 2016 Comprehensive Statement, its FY 2016 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 2016 ACR appears in non-public annexes.

The filing begins a review process that results in an Annual Compliance Determination (ACD) issued by the Commission to determine whether Postal Service products offered during FY 2016 were in compliance with applicable title 39 requirements.

## II. Overview of the Postal Service's FY 2016 ACR

*Contents of the filing.* The Postal Service's FY 2016 ACR consists of a 94-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 supporting rationale, filed as Attachment Two. The filing also includes the Comprehensive Statement,<sup>2</sup> 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.

*Scope of the filing.* The material appended to the narrative consists of: (1) Domestic product costing material filed on an annual basis summarized in the Cost and Revenue Analysis (CRA); (2) comparable international costing material summarized in the International Cost and Revenue Analysis (ICRA); (3) worksharing-related cost studies; and (4) billing determinant

<sup>1</sup> United States Postal Service FY 2016 Annual Compliance Report, December 29, 2016 (FY 2016 ACR). Public portions of the Postal Service's filing are available on the Commission's Web site at <http://www.prc.gov>.

<sup>2</sup> In years prior to 2013, the Commission reviewed the Postal Service's reports prepared pursuant to 39 U.S.C. 2803 and 39 U.S.C. 2804 (filed as the Comprehensive Statement by the Postal Service) in its ACD. However, as it did last year, the Commission intends to issue a separate notice soliciting comments on the comprehensive statement and provide its related analysis in a separate report from the ACD.

information for both domestic and international mail. FY 2016 ACR at 2. Inclusion of these four data sets is consistent with the Postal Service's past ACR practices. As with past ACRs, the Postal Service has split certain materials into public and non-public versions. *Id.* at 2–3.

*“Roadmap” document.* A roadmap to the FY 2016 ACR can be found in Library Reference USPS–FY16–9. 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; and a list of special studies and a discussion of obsolescence, as required by Commission rule 3050.12. *Id.* at 3.

*Methodology.* The Postal Service states that it has adhered to the methodologies historically used by the Commission subject to changes identified and discussed in Library Reference USPS–FY16–9 and in prefaces accompanying the appended folders. *Id.* at 4. The Postal Service notes that one noteworthy methodological change regarding product costs was discussed by the Commission in Order No. 3506.<sup>3</sup> Going forward, the Postal Service's calculation of attributable costs will be changing to include a product's inframarginal costs developed as part of the estimation of a product's incremental costs. FY 2016 ACR at 4. However, the Postal Service states that several complications associated with the change have precluded it from including the new inframarginal cost component into the CRA this year. *Id.* at 5–7. However, it has included additional information, including estimates on product specific incremental costs, to Library Reference USPS–FY16–NP10. It has also created a new library reference, USPS–FY16–43, to present the incremental costs for market dominant products. *Id.* at 7–8.

*Market dominant product-by-product costs, revenues, and volumes.*

Comprehensive cost, revenue, and volume data for all market dominant products of general applicability are shown directly in the FY 2016 CRA or ICRA. *Id.* at 11.

The FY 2016 ACR includes a discussion by class of each market dominant product, including costs, revenues, and volumes, workshare discounts, and passthroughs responsive

to 39 U.S.C. 3652(b), and FY 2016 incentive programs. *Id.* at 12–66.<sup>4</sup>

In response to the Commission's FY 2010 ACD directives, the Postal Service states that it is providing information regarding: (a) All operational changes designed to reduce flats costs and the estimated financial effects of such changes (*id.* at 27–34); (b) all costing methodology improvements made in FY 2016<sup>5</sup> and the estimated financial effects of such changes (*id.* at 27–31); and (c) a statement summarizing the historical and current year subsidy of the flats product (*id.* at 36–38). In addition, the Postal Service states that in the next general market dominant price change, it plans to increase the price of Standard Mail Flats by at least CPI times 1.05. *Id.* at 37. In the FY 2015 ACD, the Commission directed the Postal Service to submit a report addressing several topics related to Periodicals pricing.<sup>6</sup> The Postal Service states that it provided a response to that directive on July 26, 2016. FY 2016 ACR at 53. Additionally, the Postal Service provides an updated version of the Periodicals pricing report in Library Reference USPS–FY16–44. *Id.*

*Flats directive.* The Postal Service notes that the Commission directed the Postal Service to submit a detailed report addressing the measurement of cost and service performance issues for flat-shaped products in the FY 2015 ACD.<sup>7</sup> The Postal Service states that its initial report addressing flats issues was filed on July 26, 2016, and additional responses were provided by the Postal Service in response to a Commission Information Request. FY 2016 ACR at 54.

*Market dominant negotiated service agreements.* The FY 2016 ACR presents information on the PHI Acquisitions, Inc. negotiated service agreement, the only market dominant negotiated service agreement in effect in FY 2016. *Id.* at 64–66.

*Service performance.* The Postal Service notes that the Commission

<sup>4</sup> The Postal Service states that it “would be inefficient and unduly disruptive . . . to immediately adjust prices to correct passthroughs that exceed 100 percent.” *Id.* at 11. It further states its intent to address such passthroughs in its next general price adjustment. *Id.*

<sup>5</sup> The Postal Service notes that, in FY 2016, no rulemaking dockets resulted in costing methodology changes affecting Standard Mail Flats costs. *Id.* at 34. However, the Postal Service discusses several related developments required to foster a better understanding of the observed trend in reported costs for Standard Mail Flats. *Id.* at 34–36.

<sup>6</sup> See Docket No. ACR2015, Annual Compliance Determination, March 28, 2016, at 23–24 (FY 2015 ACD).

<sup>7</sup> *Id.*; see Docket No. ACR2015, FY 2015 ACD at 180–181.

issued rules on periodic reporting of service performance measurement and customer satisfaction in FY 2010. Responsive information appears in Library Reference USPS–FY16–29. *Id.* at 67.

*Customer satisfaction.* The FY 2016 ACR discusses the Postal Service's approach for measuring customer experience and satisfaction; describes the methodology; presents a table with survey results; compares the results from FY 2015 to FY 2016; and provides information regarding customer access to postal services. *Id.* at 70–81.

*Competitive products.* The FY 2016 ACR provides costs, revenues, and volumes for competitive products of general applicability in the FY 2016 CRA or ICRA. For competitive products not of general applicability, data are provided in non-public Library References USPS–FY16–NP2 and USPS–FY16–NP27. *Id.* at 82. The FY 2016 ACR also addresses the competitive product pricing standards of 39 U.S.C. 3633. *Id.* at 82–90.

*Market tests; nonpostal services.* The Postal Service discusses the four competitive market tests conducted during FY 2016, and nonpostal services. *Id.* at 91–92.

### 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 an officer of the Commission (Public Representative) to represent the interests of the general public. The Commission hereby solicits public comment on the Postal Service's FY 2016 ACR and on whether any rates or fees in effect during FY 2016 (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 39 U.S.C. 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing competitive products are referred to 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; and such other matters that may be relevant to the Commission's review.

*Access to filing.* The Commission has posted the publicly available portions of the FY 2016 ACR on its Web site at <http://www.prc.gov>.

<sup>3</sup> *Id.*; see Docket No. RM2016–2, Order Concerning United Parcel Service, Inc.'s Proposed Changes to Postal Service Costing Methodologies (UPS Proposals One, Two, and Three), September 9, 2016 (Order No. 3506).

*Comment deadlines.* Comments by interested persons are due on or before February 2, 2017. Reply comments are due on or before February 13, 2017. The Commission, upon completion of its review of the FY 2016 ACR, comments, and other data and information submitted in this proceeding, will issue its ACD.

*Public Representative.* James Waclawski is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist him shall participate in or advise as to any Commission decision in this proceeding other than in their designated capacity.

#### IV. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. ACR2016 to consider matters raised by the United States Postal Service's FY 2016 Annual Compliance Report.

2. Pursuant to 39 U.S.C. 505, the Commission appoints James Waclawski as an 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 2016 Annual Compliance Report to the Commission are due on or before February 2, 2017.

4. Reply comments are due on or before February 13, 2017.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79714; File No. SR-NYSEArca-2016-136]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, Amending NYSE Arca Equities Rule 7.35 To Provide for Widened Auction Collars for the Core Open Auction on Volatile Trading Days

December 30, 2016.

#### I. Introduction

On September 28, 2016, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant

to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to widen Auction Collars for the Core Open Auction on volatile trading days. The proposed rule change was published for comment in the **Federal Register** on October 14, 2016.<sup>3</sup> On November 23, 2016, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>4</sup> On December 12, 2016, the Exchange filed Amendment No. 1 to its proposed rule change.<sup>5</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.35 to widen Auction Collars<sup>6</sup> for the Core Open Auction on volatile trading days. Currently, Rule 7.35(a)(10)(A) provides that the price collar threshold for the Core Open Auction is 10% for securities with an Auction Reference Price<sup>7</sup> of

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 79068 (October 7, 2016), 81 FR 71127 ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 79388, 81 FR 86368 (November 30, 2016). The Commission designated January 12, 2017, as the date by which it shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>5</sup> In Amendment No. 1, the Exchange replaced all references in the filing to Rule 7.35P with Rule 7.35, as the Exchange recently amended its rules to eliminate the "P" modifier. See Securities Exchange Act Release No. 79078 (October 11, 2016), 81 FR 71559 (October 17, 2016) (SR-NYSEArca-2016-135). The Exchange also corrected a typographical error in the proposed text in Rule 7.35(a)(10)(A). Finally, the Exchange provided additional details regarding its authority under the proposal to widen Auction Collars when it determines that it is necessary or appropriate for the maintenance of a fair and orderly market, and represented that if it were to widen Auction Collars under this authority, it would announce by Trader Update such widened collars before the Core Open Auction. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment (Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysearca-2016-136/nysearca2016136-1.pdf>).

<sup>6</sup> See NYSE Arca Equities Rule 7.35(a)(10) (defining "Auction Collar" to mean the price collar thresholds for the Indicative Match Price for the Core Open Auction, Trading Halt Auction, or Closing Auction).

<sup>7</sup> See NYSE Arca Equities Rule 7.35(a)(8)(A) (defining "Auction Reference Price" for the Core Open Auction to mean the midpoint of the Auction NBBO or, if the Auction NBBO is locked, the locked

\$25.00 or less, 5% for securities with an Auction Reference Price greater than \$25.00 but less than or equal to \$50.00, and 3% for securities with an Auction Reference Price greater than \$50.00.

Under the proposal, if as of 9:00 a.m. Eastern Time, the E-mini S&P 500 Futures are +/- 2% from the prior day's closing price of the E-mini S&P 500 Futures, or if the Exchange determines that it is necessary or appropriate for the maintenance of a fair and orderly market, the Auction Collar for the Core Open Auction would be 10%, regardless of the Auction Reference Price. If the Exchange determines to widen Auction Collars under the "fair and orderly" provision, the Exchange would announce by Trader Update the widened collars before the Core Open Auction.<sup>8</sup>

#### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>9</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that, according to the Exchange, the proposed Auction Collars would allow for additional price movement during periods of market-wide volatility, and at the same time continue to prevent auctions from occurring at prices significantly away from the Auction Reference Price.<sup>11</sup> The Exchange also states its belief that widening the Auction Collars could reduce the possibility of securities triggering multiple trading pauses under

price, and if there is no Auction NBBO, the prior trading day's Official Closing Price).

<sup>8</sup> See Amendment No. 1, *supra* note 5.

<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See Notice, *supra* note 3, at 71127.