



ANNUAL REPORT

TO THE PRESIDENT AND CONGRESS



FISCAL YEAR 2018

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Acronyms

ACD | *Annual Compliance Determination*

ACR | *Annual Compliance Report*

C.F.R. | Code of Federal Regulations

CAG | Cost Ascertainment Group

CHIR | Chairman's Information Requests

CIR | Commission Information Request

CPI | consumer price index

CY | Calendar Year

EXFC | External First-Class Measurement

FY | Fiscal Year

GEPS | Global Expedited Package Service

NPR | non-published rates

MCS | *Mail Classification Schedule*

NPR | Notice of Proposed Rulemaking

NSA | negotiated service agreement

PAEA | Postal Accountability and Enhancement Act

RHB | Retiree Health Benefits

RRM | Return Receipt for Merchandise

U.S.C. | United States Code

UPU | Universal Postal Union

USO | Universal Service Obligation



PRC | Mission, Vision, and Guiding Principles

Guiding Principles

The Commission is committed to and operates by the principles of:

OPENNESS

Public participation

INTEGRITY

Fairness and impartiality
Timely and rigorous analysis

MERIT

Commitment to excellence
Collegiality and multi-disciplinary approaches

ADAPTABILITY

Proactive response to the rapidly changing postal environment

Mission Statement

Ensure transparency and accountability of the United States Postal Service and foster a vital and efficient universal mail system.

Vision Statement

To be an independent regulator respected for effectively engaging postal stakeholders to promote a robust universal mail system through objective, accurate, and timely regulatory analyses and decisions.

We will look to achieve our vision by:

- Taking a multi-disciplinary and integrated approach to work
- Monitoring the environment and anticipating changes to enhance agility
- Utilizing rigorous evaluative methods
- Optimizing stakeholder engagement through an appropriate and clearly-defined public involvement process
- Developing staff expertise to ensure that the Commission is a center for excellence in postal regulatory matters
- Ensuring that the Commission is an employer of choice
- Ensuring efficient stewardship of resources





Chairman's Letter

JANUARY 2019

On behalf of the Postal Regulatory Commission, I am pleased to submit the Commission's Fiscal Year 2018 *Annual Report to the President and Congress*. This report details the Commission's main activities over the past year and provides information required under the Postal Accountability and Enhancement Act of 2006 (PAEA) on the Commission's operations, including the extent to which regulations are achieving the law's objectives.

The last fiscal year was marked by significant accomplishment at the Commission. In addition to continuing the work on the 10-year review of the system for regulating rates and classes for Market Dominant products, the Commission had an increasingly active role in international postal policy. On August 23rd, the President issued to the Commission Chairman, as well as other various components of the Executive Branch, a Memorandum on Modernizing the Monetary Reimbursement Model for the Delivery of Goods through the International Postal System and Enhancing the Security and Safety of International Mail. This will entail ongoing, and extensive, financial analysis of terminal dues by Commission staff.

The Commission continued its second review, since 2012, of the appropriate share of the Postal Service's institutional costs as directed by the PAEA, which requires the Commission revisit the appropriate share regulation every 5 years to determine if the contribution requirement should be "retained in its current form, modified, or eliminated." Throughout the year, the Commission issued rulemakings evaluating the institutional cost contribution requirement for Competitive products, proposing a formula-based approach to calculate the minimum amount that Competitive products as a whole are required to contribute to institutional costs annually, and allowing a period for public comment. The Commission's final rulemaking on this matter was issued January 3, 2019.

The Commission also provided President Trump's Task Force on the United States Postal System with extensive data and background as the task force worked to develop its administrative and legislative recommendations to return the Postal Service to a sustainable economic path.

The Commission will continue working with Congress and the Administration to ensure that users of the postal system have a vibrant and efficient universal mail system for many years to come.

With best wishes, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert G. Taub".

Robert G. Taub
CHAIRMAN



PHOTO BY
KRISTI BLOKHIN

CHAPTER I | FY 2018 in Review

The Postal Regulatory Commission (Commission) achieved the following significant accomplishments in Fiscal Year (FY) 2018 that support its mission to ensure transparency and accountability of Postal Service operations and foster a vital and efficient universal mail system.

These accomplishments are discussed in Chapter 3, infra.

1. The Commission published four major reports in FY 2018:
 - » *The Annual Report to the President and Congress* described the Commission's accomplishments and activities as the regulator of the Postal Service.
 - » *The Annual Compliance Determination* reviewed the Postal Service's compliance with statutory pricing and service requirements.
 - » *The Financial Analysis of United States Postal Service Financial Results and 10-K Statement Fiscal Year 2017* provided an in-depth analysis of the Postal Service's financial condition.
 - » *The Analysis of the Postal Service's FY 2017 Annual Performance Report and FY 2018 Annual Performance Plan* evaluated whether the Postal Service met its performance goals as required under 39 U.S.C. § 3653(d).



PHOTO BY TADAMICHI

2. The Commission dedicated significant resources to the statutorily mandated review of the system for regulating rates and classes for Market Dominant products (Market Dominant Rate System) that was first established in 2006 by the Postal Accountability and Enhancement Act (PAEA) as required by 39 U.S.C. § 3622(d)(3). In early FY 2018, the Commission issued Order No. 4257 finding that the Market Dominant Rate System as a whole has not achieved the objectives of the PAEA. That same day, the Commission issued a Notice of Proposed Rulemaking (NPR) proposing changes to the Market Dominant Rate System that would address the issues identified by the Commission in its review (Order No. 4258). This rulemaking is currently pending before the Commission.
3. The PAEA directs the Commission to revisit the institutional cost contribution requirement for Competitive products in 39 U.S.C. § 3633(a) (3) every 5 years to determine whether to retain it in its current form, or to modify or eliminate it. This year, the Commission issued an NPR proposing that a formula be used to calculate the minimum amount that Competitive products as a whole are required to contribute to institutional costs annually. After considering comments received, the Commission issued a revised NPR proposing modifications to its formula-based approach, along with revisions to the proposed rules. On January 3, 2019, the Commission issued final rules adopting a formula-based approach to annually calculate Competitive products' appropriate share of institutional costs.
4. The Commission presided over several other rulemaking proceedings in FY 2018. The Commission:
 - » Issued final rules, an NPR, and an Advanced Notice of Proposed Rulemaking (ANPR) related to the impact of mail preparation changes on the price cap.
 - » Adopted final rules amending the Commission's ethics rules and supplemental standards of ethical conduct applicable to Commission employees to reflect the Commission's regulatory role under the PAEA.
 - » Adopted final rules related to non-public treatment of certain materials filed by the Postal Service and other persons.
 - » Adopted final rules revising periodic reporting requirements.
 - » Issued an ANPR to develop reporting requirements to measure, track, and report cost and service performance issues related to flat-shaped mailpieces.
 - » Issued an NPR proposing to amend current market test rules to ensure that the rules better reflect modern practice.
5. The Commission reviewed the Postal Service's planned rate changes for Market Dominant and Competitive products in FY 2018. Highlights include:
 - » Approving changes in rates of general applicability for Market Dominant products, workshare discounts, and related mail classification schedule changes.

- » Approving changes in rates of general applicability for several domestic and international Competitive products and related mail classification schedule changes.
 - » Approving 290 competitive negotiated service agreements (205 domestic, 85 international).
6. The Commission approved new internal service performance measurement systems for several Market Dominant products, including products within domestic First-Class Mail, Periodicals, USPS Marketing Mail, and Package Services.
 7. The Commission presided over two public inquiry dockets relating to Inbound Letter Post and city carrier costs.
 8. The Commission considered 13 proposals by the Postal Service to change various accepted analytical principles.
 9. In other proceedings, the Commission:
 - » Issued an order modifying the parameters of the Global eCommerce Marketplace Merchant market test to reflect its delayed activation.
 - » Established proceedings to provide reports regarding the Office of Personnel Management's calculations of the Postal Service's Civil Service Retirement System and Retiree Health Benefits liabilities.
 - » Reviewed the Postal Service's calculation of the FY 2017 assumed Federal income tax on Competitive products.
 10. The Commission was also involved in several key international postal policy issues by providing the Secretary of State with Commission views on Universal Postal Union proposals and participating in Universal Postal Union and interagency discussions on rates and classifications for Market Dominant products.
 11. Other Commission activities included:
 - » Processing thousands of questions, suggestions, and comments from the general public which primarily involved undelivered, delayed, misdelivered, and missing mail.



CHAPTER II | About the Commission

*Pictured left to right:
Commissioner Mark Acton,
Chairman Robert Taub,
Commissioner Nanci Langley,
Vice Chairman Tony Hammond*

The Commission is an independent establishment of the Executive Branch of the United States Government. It has exercised regulatory oversight over the Postal Service since its creation by the Postal Reorganization Act of 1970, with expanded responsibilities under the PAEA of 2006. It has five commissioners, each appointed by the president, by and with the advice and consent of the Senate, for a term of 6 years. A commissioner may continue to serve after the expiration of his or her term until a successor is confirmed, except that a commissioner may not continue to serve for more than 1 year after the date on which his or her term would have otherwise expired. Not more than three of the commissioners may be adherents of the same political party.

Commission Leadership



Robert G. Taub | CHAIRMAN

Chairman Robert G. Taub is serving a second term on the Commission, having been twice confirmed by the United States Senate, following his respective nominations by the president. His current term expires on October 14, 2022. Before his designation by the president as chairman, he was acting chairman from December 2014 to December 2016, and Vice Chairman for 2013. Chairman Taub has more than 30 years of experience in public service. When first appointed as a commissioner in October 2011, Mr. Taub was the Special Assistant to Secretary of the Army John M. McHugh. As an Army senior executive, he was one of the principal civilian advisors to Secretary McHugh, helping him lead a workforce of more than 1.2 million people, and manage an annual budget exceeding \$200 billion. He was awarded the Army's Decoration for Distinguished Civilian Service. His previous public service include chief of staff to U.S. Representative John McHugh (R-NY); 12 years in senior positions on the House of Representative's Committee on Oversight and Government Reform, including staff director of its former Postal Service Subcommittee; senior policy analyst with the U.S. Government Accountability Office; and staff member for three members of Congress, a member of the British Parliament, and state and county officials in upstate New York. He is a Fellow of the National Academy of Public Administration.



Tony Hammond | VICE CHAIRMAN

Mr. Hammond was reappointed as a commissioner on December 10, 2014, and has been elected to four separate terms as vice chairman during his tenure. His term expired October 14, 2018.* Commissioner Hammond served on the Postal Regulatory Commission and its predecessor agency, the Postal Rate Commission, from 2002 to 2011, as an appointee of President George W. Bush. He was reappointed by President Barack Obama for an additional term from 2012 to 2013. Before joining the Commission, Mr. Hammond was the owner and managing member of T. Hammond Company, LLC; senior consultant to Forbes 2000, Incorporated; senior vice president of FL&S, a direct marketing firm; director of campaign operations for the Republican National Committee; executive director and finance director of the Missouri Republican Party; and served 10 years on the staff of former U.S. Representative Gene Taylor (R-MO).



Mark Acton | COMMISSIONER

Commissioner Mark Acton was reappointed to the Postal Regulatory Commission by President Barack H. Obama on December 12, 2016 for a third term of continued public service extending until October 14, 2022. Commissioner Acton was confirmed by the United States Senate on December 10, 2016. Commissioner Acton was nominated by President Barack H. Obama on May 12, 2011 for a second term of office through October 14, 2016. Commissioner Acton was confirmed by the United States Senate for his second term of office on September 26, 2011. President George W. Bush first nominated Mr. Acton as a Postal Rate Commissioner on November 7, 2005, and he was confirmed by the Senate on August 3, 2006. Prior to that appointment, Mr. Acton served as Special Assistant to the Chairman of the Postal Rate Commission and assisted in managing all aspects of agency operations.



Nanci E. Langley | COMMISSIONER

Ms. Langley was reappointed as a commissioner on December 10, 2014 for a second term, which expired on November 22, 2018.* She was first confirmed by the U.S. Senate to the Postal Regulatory Commission on June 4, 2008, and has been elected to three separate terms as vice chairman. Ms. Langley brings over 30 years of federal public service, including 24 years as a senior legislative and policy advisor to two U.S. Senators from her home state of Hawaii. For 17 years, she was a senior advisor to U.S. Senator Daniel Akaka, nine of which were as his deputy staff director on postal, government management and federal workforce subcommittees of the U.S. Senate Committee on Homeland Security and Governmental Affairs. She was communications director for U.S. Senator Spark Matsunaga for seven years. Prior to her appointment and confirmation, she was the first director of the Office of Public affairs and Government Relations at the Commission. Ms. Langley is an elected Fellow of the National Academy of Public Administration.

*A commissioner may continue to serve after the expiration of his or her term until a successor is confirmed, except that a commissioner may not continue to serve for more than 1 year after the date on which his or her term would have otherwise expired.

Staff and Office Structure

Commission staff has expertise in law, economics, finance, statistics, and cost accounting.

The Commission is organized into four operating offices:

- » **Accountability and Compliance.** The Office of Accountability and Compliance is responsible for technical analysis and formulating policy recommendations for the Commission on domestic and international matters.
- » **General Counsel.** The Office of the General Counsel ensures the Commission fulfills its statutory and regulatory obligations by providing legal guidance on matters involving the Commission’s responsibilities.
- » **Public Affairs and Government Relations.** The Office of Public Affairs and Government Relations facilitates prompt and responsive communications with the

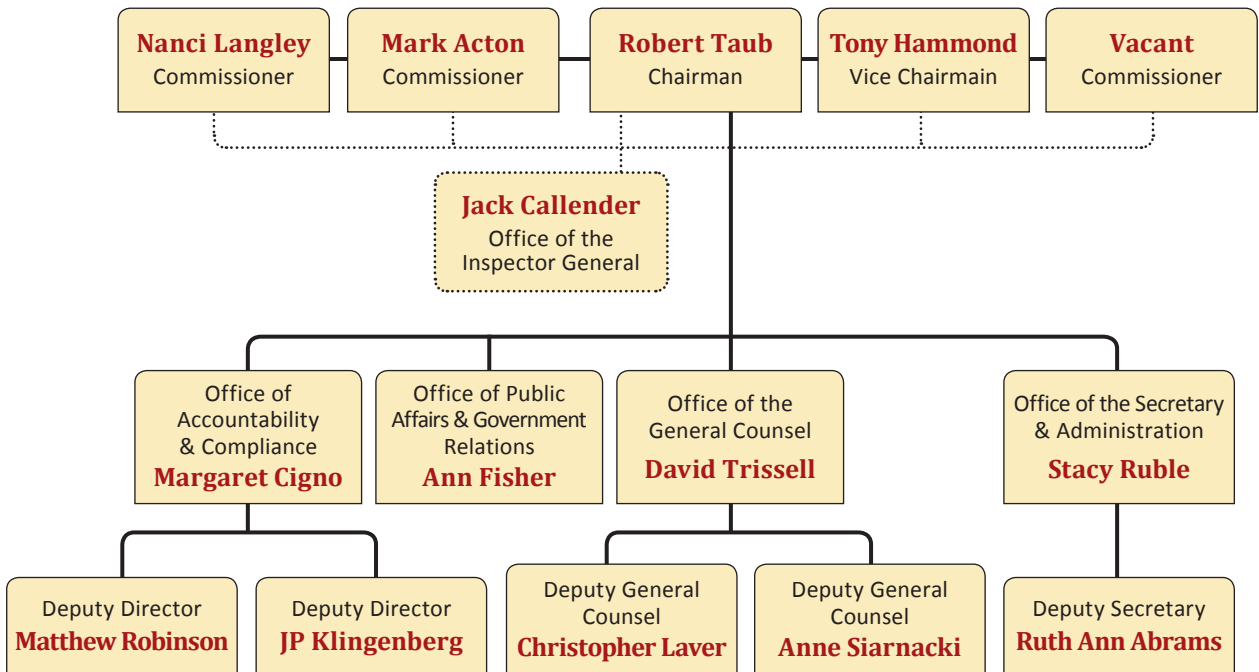
public, Congress, Federal agencies, the Postal Service, and media.

- » **Secretary and Administration.** The Office of the Secretary and Administration records the Commission’s official actions; manages the Commission’s records, human resources, budget and accounting, and information technology; and provides other support services.

The Commission maintains an independent Office of the Inspector General. It conducts, supervises, and coordinates audits and investigations relating to Commission programs and operations, and identifies and reports fraud and abuse in these programs and operations.

Figure II-1 displays the Commission’s calendar year 2018 organizational structure.

Figure II-1: Organizational Structure



Commission *Strategic Plan*

In FY 2016, the Commission developed its 2017–2022 *Strategic Plan* following a vigorous and inclusive process that incorporated input from all Commission employees. The Plan outlines the agency’s vision to promote a robust universal mail system through objective, accurate, and timely regulatory analyses and decisions.

The Commission focuses its activities on the following four strategic goals:

Goal 1: Deliver accurate and objective analyses and decisions to ensure transparency and accountability of the Postal Service.

Goal 2: Actively engage with Congress and stakeholders in support of a dynamic postal system.

Goal 3: Provide an optimal internal infrastructure to support management of priorities, workload, and emerging requirements.

Goal 4: Recruit, develop, and retain a diverse, high-performing workforce.

The Commission takes seriously its commitment to regularly track individual department and agency progress in meeting the four goals. This plan also steers our commitment of Commission resources, ensuring we utilize our small budget and personnel complement prudently.

To assist the Commission in measuring the success of its *Strategic Plan* efforts, the Commission participated in the annual *Federal Employee Viewpoint Survey* (FEVS). The agency’s FY 2018 response rate of 87 percent was higher than the FY 2017 response rate of 83 percent, and significantly higher than the expanded participation government-wide rate of 40 percent. One prime measure is the Employee Engagement index, which ranks employees’ perceptions of the leadership within their agency, their supervisors, and the overall work experience. Compared to responses with Federal employees government-wide, Commission staff had a higher degree of satisfaction with their work and office environment: 79 percent rating in “Employee Engagement” versus the government-wide rating of 68 percent. The Commission is committed



PHOTO BY ANDREA IZZOTTI

to developing actionable plans based on the confidential feedback received from employees through the FEVS.

During FY 2018, Chairman Taub met twice quarterly with office heads to review progress, accomplishments, and challenges related to each strategic goal and performance metric.

Key discussion points included the following:

- » Ongoing prioritization of workload for legal and analytical staff
- » Commission publication of non-public information rules to streamline access to and consideration of outside parties' formal submissions to the Commission, as well as ensure accountability and transparency in Commission proceedings
- » Ongoing consideration of comments received in response to the Commission's Notice of Proposed Rulemaking in the 10-year docket
- » Need for adequate budget resources and workload for continuation of the Commission's 10-year review of the existing statutory system for regulating rates and classes of mail for Market Dominant products
- » Joint department collaboration in handling of FOIA requests, internal policy development, Commission ethics program, employment and hiring matters
- » Development of media, congressional and public outreach plans for key Commission notices
- » Review of Commission staff responses to congressional inquiries
- » Progress updates regarding efforts to increase cybersecurity for IT systems
- » Extent to which Commission met Equal Employment Opportunity target employee recruitment goals
- » Timeliness of Commission response to service related consumer inquiries
- » Ongoing communication between Commission and Postal Service staff in effort to streamline filing process for documents and reports
- » Robust discussion regarding Commission employee responses to certain FEVS questions are specifically linked to the *Strategic Plan*. Noteworthy positive or negative changes in employee feedback were carefully assessed by the Chairman and senior management
- » Continued efforts to develop an improved records and docket management capability, including a modernized docketing system
- » Proposed schedule for development of updated Commission *Human Capital Plan* in FY 2019

The Commission's *Strategic Plan*, in its entirety, can be viewed or downloaded at www.prc.gov.



CHAPTER III | FY 2018 Proceedings

The Postal Accountability and Enhancement Act (PAEA)¹ requires the Commission to submit an annual report to the President and the Congress (Annual Report) that includes an analysis of “the extent to which regulations are achieving the objectives under sections 3622 and 3633” of title 39 of the United States Code.² These sections contain laws related to Market Dominant and Competitive products, respectively. Postal Service products are characterized as either Market Dominant or competitive.³ Market Dominant products are those products over which the Postal Service “exercises sufficient market power that it can effectively set the price[s] of such product[s] substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.”⁴ Competitive products consist of all other products.⁵

The Annual Report must analyze the extent to which regulations are achieving the objectives under section 3622, which relate to Market Dominant products. The modern system for regulating rates and classes for Market Dominant products (Market Dominant Rate System) must be designed to achieve the following objectives in 39 U.S.C. § 3622(b):

1. Maximize incentives to reduce costs and increase efficiency.
2. Create predictability and stability in rates.
3. Maintain high quality service standards established under 39 U.S.C. § 3691.
4. Allow the Postal Service pricing flexibility.
5. Assure adequate revenues, including retained earnings, to maintain financial stability.
6. Reduce the administrative burden and increase the transparency of the ratemaking process.
7. Enhance mail security and deter terrorism.

¹ Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006).

² 39 U.S.C. § 3651(a).

³ 39 U.S.C. § 3642(b)(1). “Product” means “a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied[.]” 39 U.S.C. § 102(6).

⁴ 39 U.S.C. § 3642(b)(1). Examples of Market Dominant products include products in the First-Class Mail, USPS Marketing Mail, and Periodicals classes.

⁵ *Id.* Examples of Competitive products include Priority Mail, Priority Mail Express, and First-Class Package Service.

8. Establish and maintain a just and reasonable schedule for rates and classifications without prohibiting the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.
9. Allocate the total institutional costs of the Postal Service appropriately between Market Dominant and Competitive products.⁶

The Commission established the Market Dominant Rate System in 2007 shortly after the PAEA was enacted.⁷ In FY 2017 and early FY 2018, the Commission reviewed the Market Dominant Rate System to determine if it is

achieving the objectives established by Congress in 39 U.S.C. § 3622(b). The Commission's review is discussed below under the "Statutory Review of Market Dominant Rate System" section.

The Annual Report must also analyze the extent to which regulations are achieving the objectives under 39 U.S.C. § 3633 relating to Competitive products.⁸ The Commission's regulations in 39 C.F.R. part 3015 support the requirements of section 3633, which are discussed below under the "Rate Changes - Competitive products" section. This chapter also describes the Commission's major orders, reports, and proceedings during FY 2018.

Rulemakings Amending Commission Regulations

Statutory Review of Market Dominant Rate System

When enacting the PAEA, Congress intended that the Market Dominant Rate System achieve the nine objectives in 39 U.S.C. § 3622(b). Congress also required the Commission to review the Market Dominant Rate System 10 years after the PAEA was enacted "to determine if the system is achieving the objectives in [39 U.S.C. § 3622] (b), taking into account the factors in [39 U.S.C. § 3622] (c)."⁹ In accordance with this statutory mandate, the Commission established Docket No. RM2017-3 and issued an Advanced Notice of Proposed Rulemaking (ANPR) to establish a framework for its review and provide notice and an opportunity for comments.¹⁰ After considering the 82 sets of comments received, the Commission issued Order No. 4257 containing its findings and determination of its review of the

Market Dominant Rate System.¹¹

Order No. 4257 identified three principal areas of the Market Dominant Rate System that encapsulate the nine objectives: (1) the structure of the ratemaking system, (2) the Postal Service's financial health, and (3) service.¹² The Commission evaluated each principal area to determine whether the PAEA's goals were achieved during the PAEA era.¹³ The Commission found that the Market Dominant Rate System has been largely successful in achieving the goals related to the structure of the ratemaking system, but has not effectively encouraged the Postal Service to reduce costs, increase efficiency, or maintain high quality service standards.¹⁴ The Commission also found that the Market Dominant Rate System has not maintained the Postal Service's

⁶ 39 U.S.C. § 3622(b).

⁷ Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43); see Docket No. RM2007-1, Errata Notice Concerning Order No. 43, October 31, 2007.

⁸ 39 U.S.C. § 3651(a).

⁹ 39 U.S.C. § 3622(d)(3).

¹⁰ Docket No. RM2017-3, Advance Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products, December 20, 2016 (Order No. 3673).

¹¹ Docket No. RM2017-3, Order on the Findings and Determination of the 39 U.S.C. § 3622 Review, December 1, 2017 (Order No. 4257). This order was appealed to the United States Court of Appeals for the District of Columbia. See "Other Court Appeals" section, *infra*.

¹² Order No. 4257 at 17.

¹³ *Id.* at 22-23.

¹⁴ *Id.* at 4-5, 142-46, 222, 226, 248, 250, 264, 269, 273-74.

financial health as the PAEA intended.¹⁵ The Commission concluded that although some aspects of the Market Dominant Rate System have worked as intended, the Market Dominant Rate System as a whole has not achieved the objectives of the PAEA.¹⁶

In accordance with 39 U.S.C. § 3622(d)(3), if the Commission determines that the Market Dominant Rate System has not achieved the objectives, taking into account the factors, of the PAEA, the Commission may, by regulation, make modifications or adopt an alternative system as necessary to achieve the objectives. As a result of its findings and determinations in Order No. 4257, the Commission issued a Notice of Proposed Rulemaking (NPR) that included proposed changes to the Market Dominant Rate System.¹⁷

The proposed rules made changes designed to address key issues with the Market Dominant Rate System by providing the Postal Service

additional pricing authority that complements rather than replaces the price cap.¹⁸ The proposed rules provided the Postal Service supplemental rate authority to generate additional revenue to cover its obligations, as well as performance-based rate authority upon meeting standards based on operational efficiency and high quality service.¹⁹ They also expanded pricing authority for non-compensatory classes and prohibited reducing rates for non-compensatory products.²⁰ To increase pricing efficiency, the proposed rules established bands—ranges with upper and lower limits—for workshare discount passthroughs.²¹

The NPR also proposed other changes to the rate adjustment process that increased visibility into future planned rate adjustments.²² In response to the NPR, the Commission received more than 200 sets of comments.²³ This rulemaking is currently pending before the Commission.

Review of Institutional Cost Requirement

Postal costs are classified as either attributable or institutional.²⁴ The PAEA requires that the Commission's regulations "ensure that all Competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal

Service."²⁵ "Appropriate share" means the minimum amount that Competitive products as a whole are required to contribute to institutional costs annually.²⁶ In its initial rulemaking establishing regulations under the PAEA, the Commission set the minimum contribution

¹⁵ *Id.* at 4, 148, 171-72, 247, 249

¹⁶ *Id.* at 5, 275.

¹⁷ Docket No. RM2017-3, Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, December 1, 2017 (Order No. 4258).

¹⁸ *Id.* at 34.

¹⁹ *Id.* at 38-45, 46-73.

²⁰ *Id.* at 76-77, 84-85.

²¹ *Id.* at 93-96.

²² *Id.* at 27, 98-106.

²³ Docket No. RM2017-3, Order Granting Motion for Early Termination of the Non-Public Status of Appendices A and G and Providing Limited Extension of Comment Deadline, April 13, 2018, at 4 (Order No. 4574).

²⁴ Docket No. RM2017-1, Notice of Proposed Rulemaking to Evaluate the Institutional Cost Contribution Requirement for Competitive Products, February 8, 2018, at 2 (Order No. 4402). Institutional costs are residual costs that cannot be specifically attributed to either Market Dominant or Competitive products through reliably identified causal relationships. *Id.* Examples of institutional costs include the Postmaster General's salary, building project expenses, and area administration expenses. *Id.*, n.4.

²⁵ 39 U.S.C. § 3633(a)(3).

²⁶ Order No. 4402 at 2.

level for Competitive products at 5.5 percent of total institutional costs.²⁷ The PAEA directs the Commission to revisit the institutional cost contribution requirement for Competitive products every 5 years to determine whether to retain it in its current form, or to modify or eliminate it.²⁸ The Commission conducted its first 5-year review in FY 2012 and decided to retain the minimum contribution level of 5.5 percent.²⁹ The Commission initiated its second 5-year review in Docket No. RM2017-1 and invited interested persons to submit initial and reply comments.³⁰

After considering comments received, the Commission issued an NPR responding to comments and proposing that a formula be used to calculate the minimum amount that Competitive products as a whole are required to contribute to institutional costs annually (*i.e.*, the appropriate share).³¹ The Commission explained that a formula-based approach would account for

“each of the considerations required by 39 U.S.C. 3633(b): the prevailing competitive conditions in the market; the degree to which any costs are uniquely or disproportionately associated with Competitive products; and all other relevant circumstances.”³² The NPR proposed that the formula adjust annually to reflect changes in market conditions.³³ The NPR provided interested persons with the opportunity to submit comments.³⁴

On August 7, 2018, in response to comments received, the Commission issued a revised NPR proposing modifications to its formula-based approach, along with revisions to the proposed rules.³⁵ The revised NPR provided an opportunity for interested persons to submit comments on the revisions.³⁶ On January 3, 2019, the Commission issued final rules adopting a formula-based approach to annually calculate Competitive products’ appropriate share of institutional costs.³⁷

Mail Preparation Changes and the Price Cap

Order No. 3047 articulated a standard for determining whether mail preparation changes have rate effects that implicate the price cap rules.³⁸ In conjunction with Order No. 3047, the Commission initiated a separate rulemaking

proceeding in Docket No. RM2016-6 to develop a procedural rule to ensure the Postal Service properly accounts for the rate effects of mail preparation changes according to the standard articulated in Order No. 3047.³⁹

²⁷ 39 C.F.R. 3015.7(c); Order No. 43 ¶¶ 3040-47.

²⁸ 39 U.S.C. § 3633(b). When making its determination, the Commission must consider “all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any Competitive products.” *Id.*

²⁹ Docket No. RM2012-3, Order Reviewing Competitive Products’ Appropriate Share Contribution to Institutional Costs, August 23, 2012, at 2, 27 (Order No. 1449).

³⁰ Docket No. RM2017-1, Advance Notice of Proposed Rulemaking to Evaluate the Institutional Cost Contribution Requirement for Competitive Products, November 22, 2016, at 3 (Order No. 3624).

³¹ See Order No. 4402.

³² *Id.* at 53.

³³ *Id.*

³⁴ *Id.* at 100.

³⁵ Docket No. RM2017-1, Revised Notice of Proposed Rulemaking, August 7, 2018 (Order No. 4742).

³⁶ *Id.* at 59.

³⁷ Docket No. RM2017-1, Order Adopting Final Rules Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 3, 2019 (Order No. 4963).

³⁸ Docket No. R2013-10R, Order Resolving Issues on Remand, January 22, 2016 (Order No. 3047).

³⁹ Docket No. RM2016-6, Notice of Proposed Rulemaking on Motions Concerning Mail Preparation Changes, January 22, 2016, at 1-2 (Order No. 3048).

On January 25, 2018, after considering comments received, the Commission adopted a final procedural rule concerning mail preparation changes.⁴⁰ The final rule required the Postal Service to provide published notice of all mail preparation changes in a single source and affirmatively designate whether a mail preparation change requires compliance with the Commission's price cap rules.⁴¹ The Postal Service appealed this final rule to the United States Court of Appeals for the District of Columbia (D.C. Circuit).⁴²

On April 6, 2018, the D.C. Circuit issued a decision vacating the Commission's standard in Order No. 3047.⁴³ As a result of this decision, the Commission and the Postal Service filed a joint motion to remand the appeal of the final procedural rule back to the Commission for further proceedings.⁴⁴ On August 9, 2018,

in response to the D.C. Circuit's decision, the Commission issued an NPR setting forth a proposed rescission to the final rule creating procedures for mail preparation changes.⁴⁵ On October 11, 2018, after consideration of comments, the Commission issued a final rule rescinding portions of the procedural rule that were dependent on the existence of a substantive standard.⁴⁶ The final rule retained the publication requirement for all mail preparation changes.⁴⁷

In response to the D.C. Circuit's decision vacating the standard set forth in Order No. 3047, the Commission also issued an ANPR that requested proposals for a new standard and process to determine when a mail preparation change requires price cap compliance.⁴⁸ This rulemaking is currently pending before the Commission.

Amendments to Ethics Rules

The Commission established Docket No. RM2017-4 to consider changes to its ethics rules and supplemental standards of ethical conduct to reflect the Commission's regulatory role under the PAEA. The proposed changes were intended to protect the integrity of the Commission's programs and processes, maintain public confidence that Commission employees are fulfilling their duties impartially and objectively, and reflect lessons learned through

the Commission's experiences with the existing ethics policies and procedures.⁴⁹

On May 19, 2017, the Commission issued an NPR to amend the Commission's ethics rules in 39 C.F.R. part 3000, subpart A.⁵⁰ The proposed rules treated current and former employees' interactions with the Postal Service substantially the same as if those interactions were with entities that are not part of the Federal Government.⁵¹

⁴⁰ Docket No. RM2016-6, Order Adopting Final Procedural Rule for Mail Preparation Changes, January 25, 2018 (Order No. 4393).

⁴¹ *Id.* at 22-23.

⁴² Petition for Review, *United States Postal Service v. Postal Regulatory Commission*, No. 18-1059 (D.C. Cir. filed February 26, 2018).

⁴³ *United States Postal Service v. Postal Regulatory Commission*, 886 F.3d 1253 (D.C. Cir. 2018).

⁴⁴ Unopposed Motion to Remand Case, *United States Postal Service v. Postal Regulatory Commission*, No. 18-1059 (D.C. Cir. filed May 10, 2018).

⁴⁵ Docket No. RM2016-6, Notice of Proposed Rulemaking, August 9, 2018, at 3-4 (Order No. 4751).

⁴⁶ Docket No. RM2016-6, Order Adopting Final Rule for Mail Preparation Changes, October 11, 2018 (Order No. 4850).

⁴⁷ *Id.* at 9.

⁴⁸ Docket No. RM2018-11, Advance Notice of Proposed Rulemaking, August 9, 2018 (Order No. 4750).

⁴⁹ Docket No. RM2017-4, Notice of Proposed Rulemaking on Amendments to Supplemental Standards of Ethical Conduct for Employees of the Postal Regulatory Commission, May 19, 2017, at 3 (Order No. 3906); Docket No. RM2017-4, Notice of Proposed Rulemaking on Amendments to Ethics Rules, May 19, 2017, at 5 (Order No. 3907).

⁵⁰ See Order No. 3907.

⁵¹ *Id.* at 1-2.

That same day, the Commission, jointly with the Office of Government Ethics, issued another NPR to amend the supplemental standards of ethical conduct in 5 C.F.R. part 5601 that apply to Commission employees.⁵² The proposed changes clarified requirements concerning prohibited financial holdings, disqualification when

seeking non-federal employment, and outside employment.⁵³ After considering comments received, the Commission adopted both sets of proposed rules without substantial changes.⁵⁴ The revised ethics rules and supplemental standards of ethical conduct went into effect on November 30, 2017 and December 1, 2017, respectively.⁵⁵

Amendments to Rules Relating to Non-Public Information

The Commission's rules in 39 C.F.R. part 3007 establish a procedure for non-public treatment of certain materials filed by the Postal Service and other persons under 39 U.S.C. §§ 503 and 504. These rules allow the Postal Service and other persons to seek non-public treatment of commercially sensitive and other confidential materials by filing them under seal.⁵⁶ The rules also allow persons to request access to non-public materials, subject to protective conditions, to meaningfully participate in Commission proceedings.⁵⁷

Practice before the Commission has developed since the Commission adopted the rules relating to non-public materials in FY 2009.⁵⁸ To ensure that the non-public information rules better reflect modern practice, the Commission established Docket No. RM2018-3 and issued an NPR proposing changes to the Commission's rules relating to non-public materials provided to the Commission.⁵⁹ The proposed rules sought to amend 39 C.F.R. part 3007 to provide clear pathways for the Commission's procedures

to submit, request access to, or seek public disclosure of non-public materials provided to the Commission by the Postal Service or any other person.⁶⁰ The NPR proposed amendments to clarify that 39 C.F.R. part 3007 applies to all non-public materials provided to the Commission regardless of whether those materials were provided through a formal filing.⁶¹ The NPR proposed to move and make clarifying amendments to the rules regarding information requests.⁶² The NPR also proposed conforming changes to the Commission's Freedom of Information Act rules to reflect that 39 C.F.R. part 3007 applies to all instances where the Postal Service or any other person provides materials to the Commission that they reasonably believe are exempt from public disclosure.⁶³

After considering comments received, the Commission issued an order adopting final rules relating to non-public information on June 27, 2018.⁶⁴ The Commission addressed comments regarding the expiration of non-public treatment of materials.⁶⁵ The final rules maintained the

⁵² See Order No. 3906.

⁵³ *Id.* at 1.

⁵⁴ Docket No. RM2017-4, Order Amending Supplemental Standards of Ethical Conduct for Employees of the Postal Regulatory Commission, October 25, 2017 (Order No. 4177); Docket No. RM2017-4, Order Amending Ethics Rules, October 25, 2017 (Order No. 4178).

⁵⁵ 82 Fed. Reg. 50319 (October 31, 2017); 82 Fed. Reg. 50493 (November 1, 2017).

⁵⁶ Docket No. RM2018-3, Notice of Proposed Rulemaking Relating to Non-Public Information, February 13, 2018, at 2 (Order No. 4403).

⁵⁷ *Id.* at 2.

⁵⁸ See Docket No. RM2008-1, Final Rule Establishing Appropriate Confidentiality Procedures, June 19, 2009 (Order No. 225).

⁵⁹ See Order No. 4403.

⁶⁰ *Id.* at 6.

⁶¹ *Id.* at 6-7.

⁶² *Id.* at 10.

⁶³ *Id.* at 10, 36.

⁶⁴ Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, at 3 (Order No. 4679).

⁶⁵ *Id.* at 2-18.

10-year default period for protecting non-public materials and incorporated other changes to facilitate procedures for publically disclosing materials for which non-public treatment has

expired.⁶⁶ The final rules incorporated other commenter suggestions, but retained the substance of the proposed rules and their effect on interested persons.⁶⁷

Periodic Reporting Rules

In FY 2018, the Postal Service filed a request for the Commission to initiate a rulemaking proceeding to consider several changes to the periodic reporting rules in 39 C.F.R. part 3050.⁶⁸ First, the Postal Service asked the Commission to adjust the filing deadlines for several reports to align them with other financial reporting deadlines.⁶⁹ Second, the Postal Service sought to modify the format of the Monthly Summary Financial Report to make it more consistent with the Postal Service's quarterly and annual financial reports.⁷⁰ Third, the Postal Service asked that the Commission consider eliminating or modifying any reporting requirements that have become unnecessary or irrelevant since the current periodic reporting rules were first implemented in 2009.⁷¹

In response, the Commission established Docket No. RM2018-2 and issued an ANPR inviting comments on the Postal Service's proposed changes.⁷² After reviewing the current periodic reporting rules and considering comments received, the Commission issued an NPR proposing several changes to the periodic reporting rules.⁷³ The proposed rules incorporated the Postal Service's proposal to

adjust the filing deadline for several reports and changed the format of the Monthly Summary Financial Report with some modifications.⁷⁴ The proposed rules also made changes to 39 C.F.R. § 3050.21, which contains requirements for the *Annual Compliance Report* (ACR), to streamline and decrease the administrative burden for both the Postal Service and Commission during the *Annual Compliance Determination* (ACD) process.⁷⁵ One of these proposed changes required the Postal Service include in the ACR Inbound Letter Post revenue, volume, attributable cost, and contribution data aggregated by country group and shape for the current year and each of the four preceding fiscal years.⁷⁶

After considering comments received, the Commission issued final rules revising the periodic reporting requirements in 39 C.F.R. part 3050.⁷⁷ The final rules maintained the substance of the proposed rules while incorporating some commenter suggestions and making other minor changes.⁷⁸ The final rules adjusted the filing deadlines for certain reports as proposed as well as the format of the Monthly Summary Financial Report with minor changes.⁷⁹ They also

⁶⁶ *Id.* at 7, 17.

⁶⁷ *Id.* at 3.

⁶⁸ Docket No. RM2018-2, United States Postal Service Petition for Rulemaking on Periodic Reporting, December 27, 2017.

⁶⁹ *Id.* at 1-6. These reports are the quarterly Revenue, Pieces, and Weight report, the Quarterly Statistics Report, the quarterly Billing Determinants report, and the monthly National Consolidated Trial Balance and the Revenue and Expense Summary report. *Id.*

⁷⁰ *Id.* at 1, 6-8.

⁷¹ *Id.* at 1, 9-10.

⁷² Docket No. RM2018-2, Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, January 5, 2018 (Order No. 4347).

⁷³ Docket No. RM2018-2, Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements, July 12, 2018 (Order No. 4706).

⁷⁴ *Id.* at 8-12.

⁷⁵ *Id.* at 13-19; See also Docket No. RM2018-2, Order Amending Rules for Periodic Reporting, September 25, 2018, at 3-5 (Order No. 4836).

⁷⁶ Order No. 4706 at 16-18.

⁷⁷ See Order No. 4836.

⁷⁸ *Id.* at 23.

⁷⁹ *Id.* at 3, 10-12.

addressed commenter concerns about requiring the Postal Service to provide Inbound Letter Post data.⁸⁰ The final rules adopted the proposed

changes to ACR requirements in 39 C.F.R. § 3050.21 with some modifications to reflect comments received.⁸¹

Flats Data Enhancements and Reporting Requirements

The Postal Service has faced significant challenges in processing and delivering flat-shaped mailpieces (flats) profitably during the PAEA era.⁸² In the FY 2015 ACD, the Commission identified and analyzed six “pinch points” that contribute to cost and service issues for flats.⁸³ To identify solutions for improving cost and service efficiency for flats, the Commission directed the Postal Service to provide a report on flats issues addressing each pinch point.⁸⁴ After reviewing this report, issuing a Commission Information Request (CIR), and holding an off-the-record technical conference, the Commission determined that further steps were necessary to better understand the data collected by the Postal Service and the capabilities of the systems collecting that data.⁸⁵ Accordingly, the Commission established Docket No. RM2018-

1 and issued an ANPR to explore potential enhancements to the Postal Service’s data systems and to facilitate the development of consistent reporting requirements.⁸⁶ These data enhancements and reporting requirements will be used to measure, track, and report flats cost and service performance issues.⁸⁷

Two CIRs were issued seeking additional information about certain data systems and reports.⁸⁸ After reviewing responses to these CIRs, the Commission issued a Notice of Inquiry inviting commenters to identify specific data systems, reports, metrics, or other detailed recommendations that will address flats cost and service performance issues.⁸⁹ The Commission is considering comments and responses received. This rulemaking is pending before the Commission.

Amendments to Market Test Rules

The PAEA authorizes the Postal Service to conduct market tests of experimental products.⁹⁰ The Commission adopted rules in 39 C.F.R. part 3035 to establish procedures for conducting market tests.⁹¹ Practice before the Commission has developed since these rules were adopted. To ensure that the

market test rules better reflect modern practice, the Commission established Docket No. RM2018-12 and issued an NPR proposing to amend the market test rules.⁹² The amendments proposed revising rules concerning market test revenue limitations and requests to add a non-experimental product or

⁸⁰ *Id.* at 12-25.

⁸¹ Docket No. ACR2015, Annual Compliance Determination Report, Fiscal Year 2015, March 28, 2016, at 160 (FY 2015 ACD).

⁸³ *Id.* at 165. These pinch points are bundle processing, low productivity on automated equipment, manual sorting, productivity and service issues in allied operations, increased transportation time and cost, and last mile/delivery. *Id.*

⁸⁴ *Id.* at 181.

⁸⁵ Docket No. RM2018-1, Advance Notice of Proposed Rulemaking to Develop Data Enhancements and Reporting Requirements for Flats Issues, October 4, 2017, at 2-4 (Order No. 4142).

⁸⁶ *Id.* at 1.

⁸⁷ *Id.*

⁸⁸ Docket No. RM2018-1, Commission Information Request No. 1, October 4, 2017; Docket No. RM2018-1, Commission Information Request No. 2, March 28, 2018.

⁸⁹ Docket No. RM2018-1, Notice of Inquiry No. 1, August 17, 2018.

⁹⁰ 39 U.S.C. § 3641.

⁹¹ Docket No. RM2013-5, Order Adopting Final Rules for Market Tests of Experimental Products, August 28, 2014 (Order No. 2173).

⁹² Docket No. RM2018-12, Notice of Proposed Rulemaking to Amend Market Test Regulations, September 13, 2018 (Order No. 4822).

price category based on an experimental product to the Market Dominant or Competitive product list.⁹³

The Commission is currently considering comments received.

Annual Reports

The PAEA requires the Postal Service to prepare and submit its ACR to the Commission within 90 days after the fiscal year ends.⁹⁴ The ACR analyzes costs, revenues, rates, and quality of service for Market Dominant and Competitive products.⁹⁵ The ACR also includes information about mail volumes, service performance, and customer satisfaction for Market Dominant products, as well as information on workshare discounts and market tests.⁹⁶

Each year, the Commission analyzes the ACR and issues three related reports: (1) the ACD, (2) the Financial Analysis Report, and (3) the Analysis of Postal Service Performance Goals and Performance Plan. In FY 2018, these three reports were issued in Docket No. ACR2017 and respectively: (1) assessed the Postal Service's compliance with statutory pricing and service requirements, (2) analyzed the Postal Service's overall financial position, and (3) evaluated whether the Postal Service met its performance goals. Each report is discussed below.

Annual Compliance Determination

The ACD is an important tool for enhancing transparency and determining whether the Postal Service complies with statutory pricing and service requirements. After receiving the ACR, the Commission has 90 days to solicit public comment and determine whether: (1) any rates or fees in effect during the fiscal year did not comply with applicable laws, and (2) the Postal Service met its service standards in effect during the fiscal year.⁹⁷ The Commission publishes its analysis of the ACR in the ACD.

On March 29, 2018, the Commission issued the FY 2017 ACD and made several principal findings and directives.⁹⁸ First, the Commission evaluated Market Dominant products for compliance with

statutory pricing policies.⁹⁹ The Commission found that rates and fees that were in effect during FY 2017 complied with the price cap and preferred rate requirements in 39 U.S.C. §§ 3622(d)(2)(A) and 3626.¹⁰⁰ For workshare discounts, the Commission determined that 20 of 42 workshare discounts did not comply with 39 U.S.C. § 3622(e) because they exceeded avoided costs and did not qualify for a statutory exemption.¹⁰¹ No action was required for 7 of the 20 workshare discounts because recent rate changes aligned the discounts with avoided costs or eliminated the discount.¹⁰² The Commission directed the Postal Service to either align the remaining 13 non-compliant workshare discounts with avoided costs or specify an applicable statutory exception in the next Market Dominant rate adjustment.¹⁰³

⁹³ *Id.* at 1.

⁹⁴ 39 U.S.C. § 3652(a).

⁹⁵ 39 U.S.C. § 3652(a)(1).

⁹⁶ *Id.* §§ 3652(a)(2), (b), (c).

⁹⁷ *Id.* §§ 3653(a), (b).

⁹⁸ Docket No. ACR2017, *Annual Compliance Determination Report Fiscal Year 2017*, March 29, 2018 (FY 2017 ACD).

⁹⁹ *Id.* at 14-43.

¹⁰⁰ *Id.* at 14, 43.

¹⁰¹ *Id.* at 1.

¹⁰² *Id.*

¹⁰³ *Id.*

Second, the Commission identified the following non-compensatory Market Dominant products that did not generate sufficient revenue to cover their attributable costs in FY 2018: Periodicals In-County, Periodicals Outside County, USPS Marketing Mail Flats, USPS Marketing Mail Parcels, Media Mail/Library Mail, Inbound Letter Post, Stamp Fulfillment Services, Money Orders, and International Ancillary Services.¹⁰⁴ The Commission also found that one international and one domestic Market Dominant negotiated service agreement (NSA) did not meet the criteria of 39 U.S.C. § 3622(c)(10).¹⁰⁵ Because of concerns with the Postal Service's inability to quantify the cost savings of initiatives to reduce costs for flats, the Commission found that additional transparency was necessary to hold the Postal Service accountable for Periodicals In-County, Periodicals Outside County, and USPS Marketing Mail Flats.¹⁰⁶ The Commission stated that it will continue to explore cost and service issues related to flats in Docket No. RM2018-1.¹⁰⁷ For Money Orders, the Commission directed the Postal Service to continue investigating debit card fee attribution and update the Commission on its progress and any potential corresponding methodological changes.¹⁰⁸ For other non-compensatory products, the Commission either found that the Postal Service was taking appropriate steps to improve cost coverage or directed the Postal Service to take specific actions such as pursuing compensatory Universal Postal Union (UPU) terminal dues and improving bilateral agreements with foreign postal operators.¹⁰⁹

Third, the Commission evaluated Competitive products for compliance with 39 U.S.C. § 3633(a) in FY 2017.¹¹⁰ The Commission found that Competitive products complied with sections 3633(a)(1) and (3) because Market Dominant products did not subsidize Competitive products, and Competitive products collectively covered an appropriate share of the Postal Service's institutional costs.¹¹¹ The Commission also determined that revenues for 7 Competitive products did not cover their attributable costs and, therefore, did not comply with 39 U.S.C. § 3633(a)(2).¹¹² The Commission directed the Postal Service to take corrective action, such as increase prices during the next rate adjustment.¹¹³

Fourth, the Commission evaluated FY 2017 service performance for each Market Dominant product and found that despite improvements in service performance results in FY 2017 compared to FY 2016 for some products, most products failed to meet their service performance targets in FY 2017.¹¹⁴ Specifically, the Commission noted that for the third consecutive year, no First-Class Mail product met its percentage on-time service performance target.¹¹⁵ The Commission directed the Postal Service to improve service performance results for First-Class Mail Single-Piece Letters/Postcards in FY 2018 and continue reporting specific information on this product within 90 days after the FY 2017 ACD was issued and as part of its FY 2018 ACR.¹¹⁶

¹⁰⁴ *Id.* at 2.

¹⁰⁵ *Id.* at 2, 75, 78.

¹⁰⁶ *Id.* at 2, 50, 59-60.

¹⁰⁷ *Id.* at 182; see "Flats Data Enhancements and Reporting Requirements" section, *supra*.

¹⁰⁸ FY 2017 ACD at 64. As a result of this investigation, the Postal Service filed a proposal to change the methodology for assigning costs related to debit card transactions, which the Commission approved. Docket No. RM2018-7, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Four), June 25, 2018, at 3; see *n.222, infra*.

¹⁰⁹ FY 2017 ACD at 2, 63, 69.

¹¹⁰ *Id.* at 81-93.

¹¹¹ *Id.* at 81-82, 92-93.

¹¹² *Id.* at 2-3, 81. These products were International Money Transfer Service—Outbound, International Money Transfer Service—Inbound, International Ancillary Services, and four domestic NSAs.

¹¹³ *Id.* at 87-88.

¹¹⁴ *Id.* at 3, 96, 143-62.

¹¹⁵ *Id.* at 143, 147.

¹¹⁶ *Id.* at 3, 147-49.

Fifth, the Commission explored flats cost and service issues and found that the Postal Service does not have a comprehensive plan to measure, track, and report these issues.¹¹⁷ To address flats

cost coverage and service performance issues, the Commission stated that it will develop proposed reporting requirements related to flats operational cost and service issues in Docket No. RM2018-1.¹¹⁸

Financial Analysis Report

On April 5, 2018, the Commission issued its *Financial Analysis of the United States Postal Service Financial Results and 10-K Statement*.¹¹⁹ The Commission analyzed the Postal Service's overall financial position by evaluating the Postal Service's financial statements to assess the Postal Service's viability and stability.¹²⁰ The Commission also described volume, revenue, and cost trends for Market Dominant and Competitive products and analyzed the Postal Service's financial status using financial ratios.¹²¹

In summary, the Commission's analysis showed that in FY 2017, the Postal Service recorded its first net loss from operations since FY 2013.¹²² The \$1.3 billion net loss from operations was largely due to the expiration of the exigent surcharge, declining Market Dominant mail volume, and higher operating expenses.¹²³ The \$1.3 billion net loss from operations was a difference of nearly \$2.0 billion when compared to the \$0.6 billion net income from operations in FY 2016. However, when non-operating expenses were included,¹²⁴ the FY 2017 total net loss was \$2.7 billion—an improvement of \$2.8 billion compared to FY 2016.¹²⁵ This improvement resulted from a \$4.8 billion decrease in the retiree health benefits

expense and a \$3.4 billion decrease in the workers' compensation expense, offset by \$2.4 billion in increased expenses that resulted from unfunded retirement benefit costs.¹²⁶

At the end of FY 2017, the Postal Service recorded a \$58.7 billion net deficit resulting from several years of net losses starting in FY 2007.¹²⁷ Financial sustainability continued to erode due to large personnel related liabilities, the slow replacement of fully depreciated capital assets, and insufficient current assets to cover current liabilities.¹²⁸ Although the Postal Service's cash position was at the highest level since FY 2007, improvements in liquidity were hampered by significant balance sheet liabilities and off-balance sheet unfunded liabilities for pension and annuitant health benefits.¹²⁹

In FY 2017, overall Market Dominant mail and services revenue declined 7.7 percent from FY 2016.¹³⁰ First-Class Mail revenue declined by 6.7 percent, USPS Marketing Mail revenue declined by 5.7 percent, and Periodicals revenue declined by 8.8 percent.¹³¹ However, Package Services revenue increased by 0.3 percent compared to

¹¹⁷ *Id.* at 3, 182.

¹¹⁸ *Id.* at 3-4, 182.

¹¹⁹ Docket No. ACR2017, *Financial Analysis of United States Postal Service Financial Results and 10-K Statement Fiscal Year 2017*, April 5, 2018.

¹²⁰ *Id.* at 7.

¹²¹ *Id.* at 35-84.

¹²² *Id.* at 3, 10. Net income or loss from operations is also referred to as net operating income (loss). *Id.* at 3 n.1.

¹²³ *Id.* at 3, 10.

¹²⁴ They include all non-cash workers' compensation costs, accruals to retirement accounts, and one-time adjustments. *Id.* at 3 n.2.

¹²⁵ *Id.* at 3, 10.

¹²⁶ *Id.* at 4.

¹²⁷ *Id.* at 6, 29.

¹²⁸ *Id.* at 6.

¹²⁹ *Id.*

¹³⁰ *Id.* at 12.

¹³¹ *Id.*

FY 2016.¹³² Market Dominant mail and services revenue declined in FY 2017 because of two main factors: (1) rate increases under the price cap were not sufficient to offset the decline in mail volume, and (2) the expiration of the exigent surcharge reduced additional revenue received from the surcharge.¹³³ By contrast, overall revenue for Competitive products

increased by \$2.2 billion in FY 2017.¹³⁴ The primary drivers of the additional revenue were the competitive product price increases that were effective January 22, 2017, the transfer of First-Class Mail Retail Single-Piece from the Market Dominant product list, and higher Competitive products volumes.¹³⁵

Analysis of Performance Goals

Each year, the Commission must evaluate whether the Postal Service met the performance goals established in the Postal Service's annual performance report and performance plan.¹³⁶ The Commission may also provide the Postal Service with recommendations related to protecting or promoting public policy objectives in title 39.¹³⁷

On April 26, 2018, the Commission issued a detailed analysis of the Postal Service's progress during FY 2017 toward its four performance goals: (1) High-Quality Service, (2) Excellent Customer Experiences, (3) Safe Workplace and Engaged Workforce, and (4) Financial Health.¹³⁸

In its analysis, the Commission evaluated whether the FY 2018 Annual Performance Plan (FY 2018 Plan) and FY 2017 Annual Performance Report (FY 2017 Report) complied with 39 U.S.C. §§ 2803 and 2804.¹³⁹ The Commission found that the FY 2018 Plan complied with 39 U.S.C. § 2803 for the first time, and the FY 2017 Report met most of the requirements of 39 U.S.C. §

2804.¹⁴⁰ The Commission also found that the FY 2018 Plan and FY 2017 Report had improved significantly compared to past years because they contained almost all the information necessary to show compliance with 39 U.S.C. §§ 2803 and 2804.¹⁴¹ The Commission noted that the Postal Service made significant efforts to address the issues identified in past Commission analyses and adopted some of the Commission's recommendations.¹⁴² The Commission recommended the Postal Service retain these changes in future annual performance plans and annual performance reports.¹⁴³

The Commission also evaluated whether the Postal Service met each performance goal in FY 2017, finding that the Postal Service either did not meet or only partially met each performance goal in FY 2017.¹⁴⁴ The Commission provided related observations and recommendations for each performance goal to help the Postal Service meet the goal and better assess its performance in future years.¹⁴⁵

¹³² *Id.*

¹³³ *Id.* at 14.

¹³⁴ *Id.* at 15.

¹³⁵ *Id.*

¹³⁶ 39 U.S.C. § 3653(d).

¹³⁷ *Id.*

¹³⁸ See Docket No. ACR2017, *Analysis of the Postal Service's FY 2017 Annual Performance Report and FY 2018 Performance Plan*, April 26, 2018.

¹³⁹ *Id.* at 6-19.

¹⁴⁰ *Id.* at 9, 12-18.

¹⁴¹ *Id.* at 8-9.

¹⁴² *Id.* at 8.

¹⁴³ *Id.* at 9.

¹⁴⁴ *Id.* at 20.

¹⁴⁵ *Id.* at 20-66.

Rate Changes

One of the Commission's major statutory responsibilities is to ensure that rate changes for Market Dominant and Competitive products comply with applicable statutory and regulatory requirements. There are two types of postal rates: (1) rates of general applicability, and (2) rates not of general applicability. Rates of general applicability are available to all mailers equally on the same terms and conditions.¹⁴⁶ These rates are available to the general public; examples include Forever Stamps and Priority Mail Flat Rate boxes. Rates not of general applicability are offered by

the Postal Service to specific mailers through NSAs.¹⁴⁷ NSAs are written contracts, effective for a defined period of time, between the Postal Service and a mailer, that provide for customer-specific rates, fees, or terms of service according to the terms and conditions of the contract.¹⁴⁸

In FY 2018, the Commission reviewed the Postal Service's planned changes to rates of general applicability and rates not of general applicability for both Market Dominant and Competitive products. Each is discussed below.

Market Dominant Products

RATES OF GENERAL APPLICABILITY

The PAEA allows the Postal Service to change rates of general applicability for Market Dominant products as long as the rate changes meet certain statutory and regulatory requirements:

- » Rate changes for each Market Dominant mail class must not exceed the price cap, an annual limitation based on the Consumer Price Index for All Urban Consumers.¹⁴⁹
- » Workshare discounts must not exceed the Postal Service's avoided costs unless a statutory exception applies.¹⁵⁰
- » Preferred rates must be set consistent with statutory requirements.¹⁵¹

The rate changes must also comply with the Commission's rules in 39 C.F.R. part 3010.

In early FY 2018, the Postal Service filed notice of its planned changes in rates of general applicability and related Mail Classification Schedule (MCS) changes for Market Dominant products.¹⁵² The Commission reviewed the planned rate changes for compliance with applicable laws. After analyzing the filings and considering comments received, the Commission found that the planned rate changes complied with the requirements of title 39, the Commission's regulations appearing in 39 C.F.R. part 3010, and other applicable legal requirements.¹⁵³ The Commission found that the planned

¹⁴⁶ 39 C.F.R. § 3001.5(u).

¹⁴⁷ 39 C.F.R. § 3010.1(g).

¹⁴⁸ 39 C.F.R. § 3001.5(r).

¹⁴⁹ 39 U.S.C. §§ 3622(d)(1)(A), (d)(2)(A).

¹⁵⁰ 39 U.S.C. § 3622(e)(2).

¹⁵¹ 39 U.S.C. § 3626.

¹⁵² Docket No. R2018-1, Notice of Market Dominant Price Adjustment, October 6, 2017.

¹⁵³ Docket No. R2018-1, Order on Price Adjustments for First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 9, 2017, at 1-2 (Order No. 4215).

workshare discounts were consistent with, or justified by an exception to, the workshare discount requirements in 39 U.S.C.

RATES NOT OF GENERAL APPLICABILITY

For Market Dominant products, the Postal Service sets rates not of general applicability by entering into NSAs with mailers or foreign postal operators.¹⁵⁶ The Commission reviews these NSAs to ensure they either improve the Postal Service's net financial position or enhance the performance of various operational functions.¹⁵⁷ The NSAs must also not cause unreasonable harm to the marketplace and be available on public and reasonable terms to similarly situated mailers.¹⁵⁸ This review also ensures that the NSAs comply with the Commission's rules in 39 C.F.R. part 3010, subpart D.

§ 3622(e).¹⁵⁴ The Commission also concluded that the related MCS changes were consistent with applicable laws.¹⁵⁵

In FY 2018, the Postal Service terminated a domestic NSA with PHI Acquisitions, Inc.¹⁵⁹ For international NSAs, the Postal Service filed a notice concerning the inbound portion of a bilateral agreement with Canada Post Corporation, a foreign postal operator.¹⁶⁰ After analyzing the filings and considering comments received, the Commission found that this NSA complied with applicable laws and approved its inclusion within the product Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1.¹⁶¹ The Commission also acknowledged modifications to several international Market Dominant NSAs.¹⁶²

Competitive Products

The Commission reviews the Postal Service's planned rate changes for Competitive products to ensure they comply with three statutory requirements in 39 U.S.C. § 3633(a):

1. Competitive products must not be cross-subsidized by Market Dominant products.¹⁶³ The Commission uses incremental costs to test whether Competitive products are being cross-subsidized by Market Dominant
2. Each Competitive product must cover its attributable costs, which are "the direct and indirect postal costs attributable to such product through reliably identified causal relationships."¹⁶⁵

products.¹⁶⁴ There is no cross-subsidy if Competitive product revenues as a whole are equal to or exceed total incremental costs.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 2, 59-61.

¹⁵⁶ 39 C.F.R. § 3010.7.

¹⁵⁷ See 39 U.S.C. § 3622(c)(10).

¹⁵⁸ *Id.*

¹⁵⁹ Docket Nos. MC2014-21 and R2014-6, Notice of The United States Postal Service of Termination of Agreement, June 19, 2018.

¹⁶⁰ Docket No. R2018-2, Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, November 17, 2017, at 1.

¹⁶¹ Docket No. R2018-2, Order Approving Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (With Canada Post Corporation), December 4, 2017, at 2, 9 (Order No. 4263). The Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product provide prices for acceptance, transportation within the United States, and delivery of Inbound Letter Post tendered by foreign postal operators. MCS § 1602.3.1

¹⁶² Docket No. R2011-6, Order Acknowledging Revised Version of Inbound Market Dominant Express Service Agreement 1, November 17, 2017 (Order No. 4223); Docket No. R2017-2, Order Acknowledging Modification One to an Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 30, 2016 (Order No. 4249) (Australia Post Corporation); Docket No. R2018-2, Order Acknowledging Modification One to an Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, December 18, 2017 (Order No. 4285) (Canada Post Corporation).

¹⁶³ 39 U.S.C. § 3633(a)(1).

¹⁶⁴ 39 C.F.R. § 3015.7(a).

¹⁶⁵ 39 U.S.C. §§ 3633(a)(2), 3631(b). The Commission calculates a competitive product's attributable costs as the sum of its volume-variable costs, product-specific costs, and those inframarginal costs calculated as part of the product's incremental costs. 39 C.F.R. § 3015.7(b).

3. All Competitive products must collectively cover what the Commission determines to be an appropriate share of the Postal Service's institutional costs.¹⁶⁶ In Order No. 4963, the Commission adopted a formula-based approach to annually calculate Competitive products' appropriate share of institutional costs.¹⁶⁷

The Commission also reviews planned rate changes for Competitive products to ensure compliance with the Commission's rules in 39 C.F.R. part 3015. In FY 2018, the Commission reviewed the Postal Service's planned changes to both rates of general applicability and rates not of general applicability for Competitive products. Each is discussed below.

RATES OF GENERAL APPLICABILITY

On October 6, 2017, the Postal Service filed a notice of changes in rates of general applicability for several domestic and international Competitive products.¹⁶⁸ The Postal Service also proposed related changes to the MCS.¹⁶⁹

After reviewing the notice, CHIR responses, and comments received, the Commission approved the planned rate and MCS changes, finding that they complied with 39 U.S.C. § 3633(a).¹⁷⁰

RATES NOT OF GENERAL APPLICABILITY

For Competitive products, the Postal Service sets rates not of general applicability by entering into NSAs with specific mailers. These NSAs require prior Commission review for compliance with 39 U.S.C. § 3633(a) and 39 C.F.R. part 3015.

In FY 2018, the Commission reviewed and approved 290 Competitive NSAs: 205 were domestic and 85 were international. Table III-1 shows the number of NSAs the Commission approved between FY 2013 and FY 2018.

Table III-1: Competitive NSAs Approved by the Commission^a
FY 2013 through FY 2018

Competitive NSAs	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Domestic	205	211	187	81	40	52
International	85	104	97	58	36	29
TOTAL	290	315	284	139	76	81

^a This table shows approved NSAs the Postal Service filed as new products or as functionally equivalent to the baseline agreement of existing products. This table does not include NSA modifications or amendments. FY 2017 and FY 2016 numbers differ slightly from past Annual Reports because they were counted based on the date of Commission approval rather than the contract effective date.

¹⁶⁶ 39 U.S.C. § 3633(a)(3).

¹⁶⁷ 39 C.F.R. § 3015.7(c); Order No. 4963 at 19-20. The docket reviewing Competitive products' appropriate share of institutional costs is discussed under the "Review of Institutional Cost Requirement" section, *supra*.

¹⁶⁸ Docket No. CP2018-8, Notice of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision Nos. 16-8 and 16-10, October 6, 2017.

¹⁶⁹ *Id.*, Part B.

¹⁷⁰ Docket No. CP2018-8, Order Approving Price Adjustments for Competitive Products, November 7, 2017 (Order No. 4208)

Products with non-published rates enable the Postal Service to enter into contracts featuring negotiated rates without prior Commission approval of the rates specific to each contract. The Commission reviews the prices for the product as a whole for compliance with statutory standards, rather than the prices for each contract before implementation. These non-published rate contracts must comply with applicable filing and regulatory requirements,

including pre-approved pricing formulas, minimum cost coverage, and documentation. The absence of prior review of specific contract rates streamlines the approval process, providing the Postal Service with additional flexibility.

Table III-2 shows the number of non-published rate contracts implemented by the Postal Service between FY 2013 and FY 2018.

**Table III-2: Non-Published Rate Contracts Implemented by the Postal Service
FY 2013 through FY 2018**

Non-Published Rate Product	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Global Expedited Package Services Non-Published Rates 1-14	478	393	244	91	124	129
Priority Mail – Non-Published Rates	145	121	207	0	1	2
TOTAL	623	514	451	91	125	131

The Commission updates NSA statistics monthly on its website.¹⁷¹

Public Inquiries

Several public inquiry dockets were before the Commission in FY 2018 that dealt with issues

related to service performance, Inbound Letter Post, and city carrier costs.

Service Performance

Service performance for Market Dominant products is measured using external or internal performance measurement systems. External measurement systems are under the direct control of an independent contractor. Internal measurement systems are under the direct control of the Postal Service. The PAEA requires the

Postal Service to measure service performance for Market Dominant products using an objective external performance measurement system.¹⁷² However, “with the approval of the Postal Regulatory Commission, an internal measurement system may be implemented instead of an external measurement system.”¹⁷³

¹⁷¹ Available at www.prc.gov; hover over “References” and follow “Negotiated Service Agreements Statistics” link.

¹⁷² 39 U.S.C. § 3691(b)(1)(D)

¹⁷³ 39 U.S.C. § 3691(b)(2).

On July 5, 2018, the Commission issued Order No. 4697 approving new internal service performance measurement systems for several Market Dominant products, including products within domestic First-Class Mail, Periodicals, Marketing Mail, and Package Services.¹⁷⁴ These systems replace the External First Class (EXFC) measurement system that had been run by an independent contractor.

The new measurement systems measure the service performance of live mail (actual mailpieces entered by Postal Service customers) and use Postal Service personnel (instead of EXFC personnel) to report the final date of delivery. The Postal Service may begin reporting service performance based on data generated from the new measurement systems as soon as the first quarter of FY 2019.

On November 5, 2018, the Commission issued an order approving modifications to the internal

service performance measurement systems approved in Order No. 4697.¹⁷⁵ The most noteworthy change is modifying the start-the-clock date of measurement for First-Class Mail, USPS Marketing Mail, and Periodicals letters, cards, and flats from the acceptance day to the date following the applicable acceptance day for mailpieces that are entered into the postal system on Non-Airlift Days.¹⁷⁶ This change may increase the number of days (by one) that it takes for mail to reach its destination on up to four (holiday) dates per year and still allow the mailpieces to meet applicable service standards. Changes were also approved that focus on correcting areas of the Service Performance Measurement plan to reflect current operations. These include removing references to certain parcels products that were recently moved from the Market Dominant to the Competitive product list, a product name change, and operational and other conforming changes.

Other Public Inquiry Dockets

Two other public inquiry dockets were pending before the Commission in FY 2018. Docket No. PI2018-1 examines the classification of the Inbound Letter Post product. Docket No. PI2017-1 evaluates the Postal Service's city carrier cost models and data collection capabilities.

Inbound Letter Post consists of international mail that originates in foreign countries and is delivered in the United States.¹⁷⁷ Foreign postal operators reimburse the Postal Service for delivering Inbound Letter Post items at

rates, called terminal dues, which are set by the UPU.¹⁷⁸ In recent proceedings, including the FY 2017 ACD proceeding, the Postal Service has claimed that Inbound Letter Post is subject to competition.¹⁷⁹ These claims raised the issue of whether Inbound Letter Post should be wholly or partially transferred from the Market Dominant product list to the Competitive product list.¹⁸⁰ To evaluate this issue, the Commission established Docket No. PI2018-1 to examine "issues related to the classification of the Inbound Letter Post product and parts thereof."¹⁸¹ Two CIRs and

¹⁷⁴ Docket No. PI2015-1, Order Approving Use of Internal Measurement Systems, July 5, 2018 (Order No. 4697); Docket No. PI2015-1, Errata to Order No. 4697, August 21, 2018 (Order No. 4771).

¹⁷⁵ Docket No. PI2018-2, Order Conditionally Approving Modifications to Market Dominant Service Performance Measurement Systems, November 5, 2018 (Order No. 4872).

¹⁷⁶ Non-Airlift Days are days on which limited air lift is available for transportation of mail to mail processing points due to a holiday. FY 2017 ACD at 65.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ Docket No. PI2018-1, Notice and Order Initiating Public Inquiry on the Classification of the Inbound Letter Post Product, July 12, 2018, at 6 n.13 (Order No. 4708). Terminal dues rates are the prices paid between designated UPU postal operators for the acceptance, processing, and delivery of letter post items weighing up to 4.4 pounds. *Id.*

¹⁸⁰ *Id.* at 7.

¹⁸¹ *Id.*

one CHIR were issued to better understand the Inbound Letter Post product and the market in which it resides.¹⁸² This docket is pending before the Commission.

Another public inquiry docket concerning city carrier costs was also pending before the Commission in FY 2018. In FY 2017, the Commission established Docket No. PI2017-1 to evaluate the Postal Service’s progress in its ongoing efforts to update its city carrier cost models and data collection capabilities as required by the Commission.¹⁸³ This docket has focused on the feasibility of a top-down, single-equation model to improve the Postal Service’s variability estimates of city carrier cost drivers.¹⁸⁴ The Commission issued several CHIRs and provided an opportunity for interested persons to comment.¹⁸⁵

On November 2, 2018, the Commission issued an interim order in this proceeding. The Commission stated that based on the Postal Service’s CHIR response and comments received, additional data are necessary to evaluate whether the Postal Service’s city carrier costing models can be improved.¹⁸⁶ Accordingly, the Commission directed the Postal Service to provide an expanded dataset of city carrier delivery data, as well as report quarterly on the status of developing the expanded dataset.¹⁸⁷ This proceeding is currently pending before the Commission.



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¹⁸² Docket No. PI2018-1, Commission Information Request No. 1, July 12, 2018; Docket No. PI2018-1, Commission Information Request No. 2, September 13, 2018; Docket No. PI2018-1, Chairman’s Information Request No. 1, November 2, 2018.

¹⁸³ Docket No. PI2017-1, Notice and Order Establishing Docket Concerning City Carrier Special Purpose and Letter Route Costs and to Seek Public Comment, May 31, 2017 (Order No. 3926).

¹⁸⁴ Docket No. PI2017-1, Interim Order, November 2, 2018, at 5 (Order No. 4869).

¹⁸⁵ *Id.* at 2-5.

¹⁸⁶ *Id.* at 1, 16.

¹⁸⁷ *Id.* at 1, 16-17.

Proposals to Change Analytical Principles

Analytical principles are theories or assumptions the Postal Service applies when producing reports it submits to the Commission each year.¹⁸⁸ In these reports, the Postal Service must only use accepted analytical principles, which are analytical principles the Commission applied in the most recent ACD unless a different analytical principle is approved through a Commission proceeding.¹⁸⁹ The Commission's rules allow any interested person, including the Postal Service and Public Representative, to petition the Commission to initiate proceedings to consider proposals to change an accepted analytical principle.¹⁹⁰ These proceedings, which are filed in rulemaking dockets, are intended to improve the quality, accuracy, or completeness of data or data analysis in the reports the Postal Service submits each year to the Commission.¹⁹¹

During FY 2018, the Commission considered 13 Postal Service proposals to change various accepted analytical principles. The Commission issued final orders for 12 of the proposals. One proposal is pending before the Commission.¹⁹² Several of these proposals are discussed below.

City carrier costing. The Commission approved three Postal Service proposals to change various accepted analytical principles related to city carrier costing. First, the Postal Service filed a proposal seeking to establish a procedure

to be used annually to update the estimated proportion of city carrier letter route time spent delivering parcels.¹⁹³ After considering comments received, the Commission approved the proposal because it found that the proposed modifications will improve the accuracy of the Postal Service's costing methodology for the estimated proportion of city carrier letter route time spent delivering parcels.¹⁹⁴ The Commission directed the Postal Service to provide supporting materials in the ACR to help ensure that the Postal Service reports accurate data concerning city carrier letter route street time evaluations.¹⁹⁵

Second, the Postal Service filed a proposal seeking to update the methodology used to divide accrued city carrier costs between the letter route and special purpose route groups in the In-Office Cost System (IOCS).¹⁹⁶ After considering comments received, the Commission approved a modified version of this proposal that uses Cost Ascertainment Group (CAG)-specific adjustment factors to adjust the current IOCS cost weighting factors, instead of the systemwide adjustment factors the Postal Service had proposed, for the letter route and special purpose route cost pools.¹⁹⁷ The Commission explained that using quarterly CAG-group specific factors will provide a more significant improvement to the Postal Service's methodology than the proposed quarterly systemwide adjustment factors.¹⁹⁸

¹⁸⁸ 39 C.F.R. § 3050.1(c).

¹⁸⁹ 39 C.F.R. §§ 3050.1(a), 3050.10.

¹⁹⁰ 39 C.F.R. § 3050.11(a). The Commission, acting on its own behalf, may also initiate a proceeding to change an accepted analytical principle. *Id.*

¹⁹¹ *Id.*

¹⁹² Docket No. RM2018-5, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), May 25, 2018.

¹⁹³ Docket No. RM2017-8, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Four), June 30, 2017.

¹⁹⁴ Docket No. RM2017-8, Order on Analytical Principles Used in Periodic Reporting (Proposal Four), December 1, 2017, at 22 (Order No. 4259).

¹⁹⁵ *Id.* at 21-22.

¹⁹⁶ Docket No. RM2017-9, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Five), June 30, 2017. City carrier costs are developed in the Cost and Revenue Analysis for two route groups: (1) regular letter routes, and (2) special purpose routes. *Id.*, Proposal Five at 1. Special purpose routes are generally located in dense, urban areas and primarily deliver parcels and collect mail from collection boxes.

¹⁹⁷ Docket No. RM2017-9, Order on Analytical Principles Used in Periodic Reporting (Proposal Five), February 6, 2018, at 1-2 (Order No. 4399).

¹⁹⁸ *Id.* at 14.

Third, the Postal Service filed a proposal to change the current City Carrier Cost System methodology for estimating Delivery Point Sequence volume proportions.¹⁹⁹

After considering comments received, the Commission approved the proposal because it found that the proposed changes will improve the quality, accuracy, and completeness of the Postal Service's mail characteristics data for Delivery Point Sequence mail used in the City Carrier Cost System.²⁰⁰

Nonprofit USPS Marketing Mail. The Commission considered a proposal relating to rates for Nonprofit USPS Marketing Mail.²⁰¹ USPS Marketing Mail has different rates for Nonprofit and Commercial mail. The PAEA requires that the estimated average revenue per piece the Postal Service receives from Nonprofit mail equal, as nearly as practicable, 60 percent of the estimated average revenue per piece the Postal Service receives from Commercial mail.²⁰² This requirement is called the 60 Percent Rule, which the Postal Service has applied to USPS Marketing Mail at the class-level since filing its first Market Dominant rate case in FY 2008.

The Postal Service proposed to apply the 60 Percent Rule below the class-level separately to the Nonprofit price categories for USPS Marketing Mail Regular and USPS Marketing Mail Enhanced Carrier Route.²⁰³ The Postal Service asserted that this approach is consistent with the language of the PAEA and will help address the ongoing issue

of Nonprofit mail revenues consistently failing to reach 60 percent of the average per piece revenues for Commercial mail.²⁰⁴

The Commission received over 100 sets of comments. After considering comments received, the Commission issued a final order rejecting the proposed changes based on three factors.²⁰⁵ First, the Commission found that the Postal Service had not shown that the current methodology is significantly inaccurate and a change in methodology is necessary.²⁰⁶ Second, the Postal Service had not shown that the proposed approach was a significant improvement in the Postal Service's accounting methodology.²⁰⁷ Third, the Commission found that the change was not necessitated by public interest and in fact, the public interest militated against the adoption of the proposal because of the potential of rate shock to nonprofit mailers.²⁰⁸

International mail costs. On June 26, 2018, the Postal Service filed a petition requesting that the Commission initiate a rulemaking proceeding to consider a change to the analytical principles relating to the development of international mail costs.²⁰⁹ The Postal Service proposed to replace the current methodology with the development of separate inbound costs for letters and flats and for bulky letters and small packets.²¹⁰ The Postal Service stated that the International Cost and Revenue Analysis Report format will not change, but the aggregated costs shown on the individual report lines will be the sum of the separately-

¹⁹⁹ Docket No. RM2017-13, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Nine), September 29, 2017.

²⁰⁰ Docket No. RM2017-13, Order on Analytical Principles Used in Periodic Reporting (Proposal Nine), December 15, 2017 (Order No. 4278).

²⁰¹ See Docket No. RM2017-12, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Eight), July 31, 2017 (Docket No. RM2017-12 Petition).

²⁰² 39 U.S.C. § 3626(a)(6)(A).

²⁰³ Docket No. RM2017-12 Petition, Proposal Eight at 1.

²⁰⁴ *Id.* at 1, 3.

²⁰⁵ Docket No. RM2017-12, Order on Analytical Principles Used In Periodic Reporting (Proposal Eight), February 7, 2018, at 7 (Order No. 4400).

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.* at 7, 16.

²⁰⁹ Docket No. RM2018-8, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Five), June 26, 2018 (Docket No. RM2018-8 Petition).

²¹⁰ Docket No. RM2018-8 Petition, Proposal Five at 1-3.

developed costs for letters/flats and bulky letters/small packets.²¹¹ According to the Postal Service, this proposal also responds to the UPU's implementation of terminal dues based on shape for letters/flats and bulky letters/small packets, effective January 2018.²¹² Under the previous terminal dues system, the same terminal dues applied to all UPU letter post formats.²¹³

The Commission approved this proposal on September 21, 2018.²¹⁴ The Commission found that the proposal will improve the accuracy and completeness of the Postal Service's annual periodic reporting by providing reliable estimates of revenues, volumes, and costs of inbound letters, cards, flats, bulky letters, and small packets, disaggregated by shape-based categories.²¹⁵ In addition, the Commission noted that because the Postal Service will provide shape-based data, which are currently not reported, more accurate and complete information will be obtained for letter/flats and bulky letters/small packets under the proposed methodology.²¹⁶ These more detailed data will allow for analysis of the impacts of the new UPU terminal dues structure.²¹⁷

Other proposals. The Commission approved several other proposals it found will improve the quality, accuracy, or completeness of financial data or data analysis. These proposals included initiatives to update and improve data sources



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for existing cost and revenue systems that either streamline data production or improve data quality. These proposals concerned:

- » Incremental costing procedures²¹⁸
- » Classification of clerks and mail handler costs²¹⁹
- » Processing and transportation cost models for Parcel Select/Parcel Return Service mail²²⁰
- » Workshare discount passthroughs for dropshipped USPS Marketing Mail²²¹
- » Rural carrier costs²²²
- » Treatment of debit card expenses²²³ and International Indemnity expenses²²⁴

²¹¹ *Id.* at 3.

²¹² *Id.* at 3-4.

²¹³ *Id.*

²¹⁴ Docket No. RM2018-8, Order on Analytical Principles Used in Periodic Reporting (Proposal Five), September 21, 2018 (Order No. 4827).

²¹⁵ *Id.* at 5 n.26, 15.

²¹⁶ *Id.* at 15.

²¹⁷ *Id.*

²¹⁸ Docket No. RM2018-6, Order on Analytical Principles Used in Periodic Reporting (Proposal Three), July 19, 2018 (Order No. 4719).

²¹⁹ Docket No. RM2018-10, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), October 12, 2018 (Order No. 4855).

²²⁰ Docket No. RM2017-10, Order on Analytical Principles Used in Periodic Reporting (Proposal Six), November 20, 2017 (Order No. 4228).

²²¹ Docket No. RM2017-11, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), November 20, 2017 (Order No. 4227).

²²² Docket No. RM2018-4, Order on Analytical Principles Used in Periodic Reporting (Proposal One), July 13, 2018 (Order No. 4712).

²²³ Docket No. RM2018-7, Order on Analytical Principles Used in Periodic Reporting (Proposal Four), August 13, 2018 (Order No. 4757).

²²⁴ Docket No. RM2018-9, Order on Analytical Principles Used in Periodic Reporting (Proposal Six), August 28, 2018 (Order No. 4798).

Other Proceedings

Several other proceedings were before the Commission in FY 2018. First, the Global eCommerce Marketplace (GeM) Merchant market test allows participating domestic online merchants to offer their international customers the ability to estimate and prepay customs duties and taxes to foreign countries when purchasing items.²²⁵ The Postal Service offers GeM Merchant to a limited number of online merchants through NSAs.²²⁶ In FY 2016, the Commission authorized the Postal Service to proceed with a 2-year market test of the GeM Merchant experimental product effective June 27, 2016.²²⁷ On October 12, 2017, the Commission authorized a limited 12-month extension of the market test to permit the Postal Service to satisfy 1-year customer NSAs signed during the second year of the 2-year market test.²²⁸

On June 7, 2018, the Postal Service filed a motion requesting that the Commission modify the parameters of the market test by allowing the Postal Service to sign and fully perform new NSAs with 1-year terms during the extension period.²²⁹ Alternatively, the Postal Service asked the Commission to authorize the Postal Service to sign new customer NSAs during the extension period with terms that end when the market test expires.²³⁰ The Postal Service explained that this modification was necessary because of delayed activation of the market test.²³¹ Although the market test effective date was identified as June

27, 2016, the first customer NSA was not signed until November 2017, more than 1 year later.²³²

On June 21, 2018, the Commission issued an order modifying the parameters of the market test to reflect its delayed activation, finding that such modification was consistent with applicable statutory and regulatory requirements.²³³ The Commission confirmed that nothing on the record contradicts a finding that the GeM Merchant market test was inactive until November 6, 2017.²³⁴ To reflect this delay in activating the market test, the duration of the GeM Merchant market test was modified to begin on November 7, 2017 and end on November 6, 2020.²³⁵ The Commission directed that all customer NSAs offering the GeM Merchant experimental product must end by November 6, 2020.²³⁶

While acknowledging the Postal Service's representations about the delays in implementing the market test, the Commission noted that the delay was a unique circumstance.²³⁷ The Commission stated that if a similar circumstance happens again, it "expects the Postal Service to be diligent in informing the Commission and public of such issues and the solutions it is pursuing" and that the Postal Service should notify the Commission as soon as issues arise to keep the public informed of material changes to the market test.²³⁸

²²⁵ Docket No. MT2016-1, Order Authorizing Market Test of Global eCommerce Marketplace (GEM) Merchant, May 25, 2016, at 2 (Order No. 3319).

²²⁶ *Id.*

²²⁷ *Id.* at 26; Docket No. MT2016-1, United States Postal Service Response to Order No. 3319 Concerning Effective Date of GeM Merchant Solution Market Test, June 8, 2016.

²²⁸ Docket No. MT2016-1, Order Authorizing Limited Extension of Global eCommerce Marketplace (GEM) Merchant Market Test, October 12, 2017, at 1, 7 (Order No. 4158).

²²⁹ Docket No. MT2016-1, United States Postal Service Motion for Modification of Order No. 4158, June 7, 2018, at 1, 4-5.

²³⁰ *Id.* at 4-5.

²³¹ *Id.* at 2.

²³² *Id.* at 2-3.

²³³ Docket No. MT2016-1, Order Modifying the Parameters of the Global eCommerce Marketplace (GeM) Merchant Market Test, June 21, 2018, at 1, 3, 7 (Order No. 4661).

²³⁴ *Id.* at 4.

²³⁵ *Id.* at 4, 7-8.

²³⁶ *Id.* at 4.

²³⁷ *Id.* at 6.

²³⁸ *Id.*

Second, in FY 2018, the Commission established proceedings to provide reports regarding the Office of Personnel Management's (OPM's) calculations of the Postal Service's Civil Service Retirement System (CSRS) and Retiree Health Benefits (RHB) liability. OPM's calculation of the CSRS and RHB liabilities are subject to a review by the Commission if the Postal Service requests one.²³⁹ If the Commission receives such a request, it must procure an actuary to conduct a review, prepare a report, and submit it to the Postal Service, OPM, and Congress.²⁴⁰

The Postal Service filed requests asking that the Commission review OPM's calculation of the Postal Service's CSRS and RHB liabilities.²⁴¹ The Commission contracted with actuaries to

prepare reports and submit them to the Postal Service, OPM, and Congress as required by law.²⁴²

Third, the Commission reviewed Postal Service calculations related to Competitive products income. Each year, the Postal Service must calculate the assumed Federal income tax on Competitive products income.²⁴³ On January 12, 2018, the Commission established Docket No. T2018-1 to review the calculations of the assumed Federal income tax for FY 2017 and supporting documentation.²⁴⁴ After providing interested persons an opportunity to comment, the Commission approved the Postal Service's calculation of the FY 2017 assumed Federal income tax on Competitive products.²⁴⁵

Court of Appeals Cases

The following cases were before the D.C. Circuit during FY 2018.

Changes Concerning Attributable Costing

The PAEA requires the Commission to promulgate regulations that ensure each Competitive product covers its attributable costs. 39 U.S.C. § 3633(a) (2). In FY 2015, United Parcel Service, Inc. (UPS) submitted proposals under 39 C.F.R. § 3050.11 requesting the Commission consider changes to the method for attributing costs to Competitive products.²⁴⁶ After considering the proposed changes, the Commission issued a final order on

the proposals.²⁴⁷ Although the Commission did not adopt the proposals, it found it appropriate to change the attributable costing methodology to better reflect general economic principles. The Commission initiated a rulemaking to consider conforming changes to its rules that define or describe attributable costs.²⁴⁸ On December 1, 2016, the Commission issued a final order making these changes.²⁴⁹

²³⁹ PAEA § 802(c)(1); 5 U.S.C. § 8909a(d)(5)(A).

²⁴⁰ *Id.*

²⁴¹ Docket No. SS2018-1, Request of the United States Postal Service for Review of the Office of Personnel Management's Determination Regarding Civil Service Retirement System Liability, November 13, 2017; Docket No. SS2018-2, Request of the United States Postal Service for the Commission to Conduct a Review of the Office of Personnel Management's Determination Regarding Retiree Health Benefits Liability, January 30, 2018.

²⁴² Docket No. SS2018-1, Transmittal of the Civil Service Retirement System Demographic and Salary Assumptions Report, June 11, 2018; Docket No. SS2018-2, Transmittal of the Retiree Health Benefit Fund Liability Examination Report, August 8, 2018.

²⁴³ 39 U.S.C. § 3634; see 39 C.F.R. § 3060.40 et seq.

²⁴⁴ Docket No. T2018-1, Notice and Order Concerning the Review of the Calculation of the Assumed Federal Income Tax on Competitive products, January 12, 2018. (Order No. 4368).

²⁴⁵ Docket No. T2018-1, Order Approving the Calculation of the FY 2017 Assumed Federal Income Tax on Competitive products, February 7, 2018 (Order No. 4401).

²⁴⁶ Docket No. RM2016-2, Petition of United Parcel Service, Inc. for the Initiation of Proceedings to Make Changes to Postal Service Costing Methodologies, October 8, 2015.

²⁴⁷ 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); see Docket No. RM2016-2, Notice of Errata, October 19, 2016. The proposals and the Commission's order are discussed in the Commission's FY 2016 Annual Report. Postal Regulatory Commission, *Annual Report to the President and Congress Fiscal Year 2016*, January 12, 2017, at 34.

²⁴⁸ Docket No. RM2016-13, Notice of Proposed Rulemaking on Changes Concerning Attributable Costing, September 9, 2016 (Order No. 3507).

²⁴⁹ Docket No. RM2016-13, Order Adopting Final Rules on Changes Concerning Attributable Costing, December 1, 2016 (Order No. 3641).

UPS appealed both orders to the D.C. Circuit, which consolidated the appeals into one case.²⁵⁰ On May 22, 2018, the D.C. Circuit issued its decision dismissing the appeals.²⁵¹ The D.C. Circuit found that the Commission's interpretations of "attributable costs," "institutional costs," and "indirect postal costs"

were reasonable.²⁵² The D.C. Circuit concluded that the Commission's exercise of its authority was "reasonable and reasonably explained" and that the Commission "settled on a cost-attribution methodology that implements its statutory mandate and falls well within the scope of its considerable discretion."²⁵³

Return Receipt for Merchandise Service

Return Receipt for Merchandise Service (RRM Service) is a product that allows retail and commercial mailers to obtain a mailing receipt and a physical return receipt postcard for packages containing merchandise.²⁵⁴ In FY 2015, the Commission issued an order conditionally approving the Postal Service's request to remove RRM Service from the list of Special Services on the Market Dominant product list.²⁵⁵ The Commission found that removing RRM Service complied with requirements for modifying the Market Dominant and Competitive product lists under 39 U.S.C. § 3642 and the Commission's regulations.²⁵⁶ The Commission also found that removing RRM Service represented a rate adjustment that is subject to other statutory and regulatory requirements, including the price cap.²⁵⁷ As a result, the Postal Service could either remove RRM Service and adjust the price cap or retain RRM Service with no impact on the price cap.²⁵⁸

The Postal Service subsequently notified the Commission that it would indefinitely defer removing RRM Service from the Market Dominant product list.²⁵⁹ On February 18, 2015, the Postal Service appealed the Commission's order to the D.C. Circuit.²⁶⁰ On June 5, 2015, the Postal Service and the Commission filed a joint motion to return the case to the Commission for further proceedings in light of a decision from a separate panel of the court.²⁶¹ The court granted the motion and remanded the matter to the Commission for further proceedings.²⁶² On October 31, 2016, the Commission issued a final order resolving issues on remand.²⁶³ The Commission found that removing RRM Service from the Market Dominant product list represented a classification change with rate effects that require adjusting the Postal Service's price cap authority.²⁶⁴ On November 30, 2016, the Postal Service appealed the Commission's order to the D.C. Circuit by filing a petition for review.²⁶⁵

²⁵⁰ Petition for Review, *United Parcel Service, Inc. v. Postal Regulatory Commission*, No. 16-1354 (D.C. Cir. filed October 7, 2016); Petition for Review, *United Parcel Service, Inc. v. Postal Regulatory Commission*, No. 16-1419 (D.C. Cir. filed December 12, 2016); see *United Parcel Service, Inc. v. Postal Regulatory Commission*, Nos. 16-1354 and 16-1419 (D.C. Cir. Order filed January 23, 2017).

²⁵¹ *United Parcel Service, Inc. v. Postal Regulatory Commission*, 890 F.3d 1053 (D.C. Cir. 2018).

²⁵² *Id.* at 1062-63.

²⁵³ *Id.* at 1069 (quoting *United States Postal Service v. Postal Regulatory Commission*, 785 F.3d 740, 750 (D.C. Cir. 2015)).

²⁵⁴ Docket No. MC2015-8, Order Conditionally Approving Removal of Return Receipt for Merchandise Service from Mail Classification Schedule, January 15, 2015, at 2 (Order No. 2322).

²⁵⁵ See *id.*

²⁵⁶ *Id.* at 14; see 39 C.F.R. part 3020, subpart B.

²⁵⁷ Order No. 2322 at 6, 15.

²⁵⁸ *Id.* at 14-15.

²⁵⁹ Docket No. MC2015-8, Response of the United States Postal Service to Order No. 2322, January 28, 2015.

²⁶⁰ Petition for Review, *United States Postal Service v. Postal Regulatory Commission*, No. 15-1037 (D.C. Cir. filed February 18, 2015).

²⁶¹ Joint Motion to Remand Order of the Postal Regulatory Commission, *United States Postal Service v. Postal Regulatory Commission*, No. 15-1037 (D.C. Cir. filed June 5, 2015).

²⁶² *United States Postal Service v. Postal Regulatory Commission*, No. 15-1037 (D.C. Cir. Order filed June 15, 2015).

²⁶³ Docket No. MC2015-8R, Order Resolving Issues on Remand, October 31, 2016 (Order No. 3597).

²⁶⁴ *Id.* at 1-2, 14.

²⁶⁵ Petition for Review, *United States Postal Service v. Postal Regulatory Commission*, No. 16-1412 (D.C. Cir. filed November 30, 2016).



In FY 2018, the D.C. Circuit issued its opinion granting the petition for review and vacating the Commission's prior orders in this case.²⁶⁶ The court held that the Commission lacked statutory authority to treat a product removal as a rate change subject to price cap

requirements.²⁶⁷ The court concluded that the Commission's authority to limit rate changes under the price cap does not apply when the Commission reviews requests to change the Market Dominant and Competitive product lists under 39 U.S.C. § 3642.²⁶⁸

Complaint of Frederick Foster

In FY 2015, Frederick Foster filed a complaint with the Commission under 39 U.S.C. § 3662 against the Postal Service, Pitney Bowes, Inc. (Pitney Bowes), and the Postal Service Office of Inspector General.²⁶⁹ Foster alleged violations of sections 401, 403(c), and 404a of title 39, as well as violations of various criminal and antitrust statutes.²⁷⁰ He claimed that after submitting a secure digital delivery service (Virtual P.O. Box) idea to the Postal Service, both the Postal Service and Pitney Bowes misappropriated his idea and colluded to create similar services.²⁷¹ The Postal Service and Pitney Bowes each filed a motion to dismiss the complaint,²⁷² to which Foster filed a response.²⁷³

On August 26, 2015, the Commission issued an order granting the motions and dismissing the complaint in its entirety.²⁷⁴ The Commission found that it lacked jurisdiction over some claims and dismissed the remaining claims on other grounds.²⁷⁵

On September 23, 2015, Foster appealed this order to the D.C. Circuit by filing a petition for review.²⁷⁶ Several procedural motions and orders were filed during FY 2016 and FY 2017. On August 22, 2018, the D.C. Circuit denied the petition, finding that Foster had not shown any error or abuse of discretion in the Commission's dismissal of his complaint.²⁷⁷

²⁶⁶ *United States Postal Service v. Postal Regulatory Commission*, 886 F.3d 1261, 1273 (D.C. Cir. 2018).

²⁶⁷ *Id.* at 1262, 1273.

²⁶⁸ *Id.* at 1268.

²⁶⁹ Docket No. C2015-3, Complaint of Frederick Foster, June 24, 2015 (Docket No. C2015-3 Complaint). 39 U.S.C. § 3662 permits any interested person, including the Public Representative, to file a complaint with the Commission if they believe the Postal Service is not complying with certain statutory and regulatory requirements. 39 U.S.C. § 3662(a).

²⁷⁰ Docket No. CP2015-3 Complaint at ¶¶ 1-2, 358-406.

²⁷¹ *Id.* ¶¶ 10-12, 35.

²⁷² Docket No. C2015-3, Pitney Bowes Inc.'s Motion to Dismiss the Complaint of Frederick Foster, July 8, 2015; Docket No. C2015-3, United States Postal Service Motion to Dismiss the Complaint of Frederick Foster, July 14, 2015.

²⁷³ Docket No. C2015-3, Plaintiff's Response to Defendants' Motions to Dismiss, August 13, 2015.

²⁷⁴ Docket No. C2015-3, Order Dismissing Complaint, August 26, 2015, at 21 (Order No. 2687).

²⁷⁵ *Id.* at 16-21.

²⁷⁶ Petition for Review, *Frederick Foster v. Postal Regulatory Commission*, No. 15-1339 (D.C. Cir. filed September 23, 2015).

²⁷⁷ *Frederick Foster v. Postal Regulatory Commission*, No. 15-1339, 2018 WL 4610725 (D.C. Cir. Judgment August 22, 2018) (unpublished).

Other Court Appeals

Two other court appeals were before the D.C. Circuit in FY 2018. The D.C. Circuit considered an appeal filed by the National Postal Policy Council (NPPC) of the Commission's order containing its findings and determination of its statutory review of the Market Dominant Rate System.²⁷⁸ NPPC filed an unopposed motion to hold this appeal in abeyance until the rulemaking in Docket No. RM2017-3 was completed.²⁷⁹ The D.C. Circuit granted the motion and held the appeal in abeyance pending further order of the court.²⁸⁰

It directed the parties to file status reports with the court in 90-day intervals.²⁸¹

The D.C. Circuit also issued a decision concerning a Commission order articulating a standard for determining whether mail preparation changes have rate effects that implicate the price cap rules.²⁸² This decision is discussed under the "Mail Preparation Changes and the Price Cap" section, *supra*.

International Postal Policy

The Secretary of State is responsible for formulating, coordinating, and overseeing international postal policy, including concluding postal treaties such as those involving the UPU.²⁸³ Headquartered in Bern, Switzerland, the UPU is an international treaty organization responsible for facilitating high-quality universal mail service at affordable rates. Although the State Department has primary authority over international postal policy, it must request the Commission's views on whether any treaty, convention, or amendment that establishes a rate or classification for a Market Dominant product is consistent with the Market Dominant Rate System.²⁸⁴ The State Department must ensure that each treaty, convention, or amendment concluded is consistent with the Commission's views unless there is a foreign policy or national security concern.²⁸⁵

On April 13, 2018, the Commission provided the Secretary of State with its views on a specific proposal to amend the Regulations of the Universal Postal Convention that was to be discussed at the April 2018 session of the UPU Postal Operations Council.²⁸⁶ This proposal established a rate for a Market Dominant product.

Pursuant to 39 U.S.C. § 407(c)(1), the Secretary of State requested that the Commission provide its views on "the consistency of proposals to amend rates or classifications for Market Dominant products or services within the Universal Postal Convention for the Extraordinary UPU Congress with the standards and criteria established by the Commission under 39 U.S.C. § 3622."²⁸⁷ The Extraordinary UPU Congress took place September 3-7, 2018, in Ethiopia. Pursuant to 39

²⁷⁸ Petition for Review, *National Postal Policy Council v. Postal Regulatory Commission*, No. 17-1276 (D.C. Cir. filed December 29, 2017); see "Statutory Review of Market Dominant Rate System" section, *supra*.

²⁷⁹ Response to Motion to Hold In Abeyance, *National Postal Policy Council v. Postal Regulatory Commission*, No. 17-1276 (D.C. Cir. filed February 1, 2018).

²⁸⁰ *National Postal Policy Council v. Postal Regulatory Commission*, No. 17-1276 (D.C. Cir. Order filed February 15, 2018).

²⁸¹ *Id.*

²⁸² See n.42, *supra*.

²⁸³ 39 U.S.C. § 407(b)(1).

²⁸⁴ 39 U.S.C. § 407(c)(1).

²⁸⁵ 39 U.S.C. § 407(c)(2).

²⁸⁶ Letter from Robert G. Taub, Chairman, Postal Regulatory Commission, to the Honorable Kevin E. Moley, Assistant Secretary for International Organization Affairs, United States Department of State, April 13, 2018; see Docket No. IM2016-1, Notice of Posting Views, April 23, 2018.

²⁸⁷ See Letter from Nerissa J. Cook, Deputy Assistant Secretary, U.S. Department of State, Bureau of International Organization Affairs, on behalf of the Secretary of State, March 27, 2018.

C.F.R. § 3017.3(a), the Commission established Docket No. IM2018-1 to “solicit comments on the general principles that should guide the Commission’s development of views on relevant proposals, in a general way, and on specific relevant proposals, if the Commission is able to make these available.”²⁸⁸

The Commission received comments representing a broad array of stakeholder interests. The Commission provided its views to the Secretary of State on July 24, 2018, and supplemental views on July 24, 2018 and September 4, 2018. Consistent with the 39 C.F.R. § 3017.3(b), these views were posted on the Commission’s website.²⁸⁹

In FY 2018, the Commission continued its participation in UPU and interagency discussions on rates and classifications for Market Dominant products and international postal policy issues.

On August 23, 2018, the White House issued a Presidential Memorandum for the Secretary of State, Secretary of the Treasury, Secretary of Homeland Security, Postmaster General, and Chairman of the Postal Regulatory Commission on “Modernizing the Monetary Reimbursement Model for the Delivery of Goods Through the International Postal System and Enhancing the Security and Safety of International Mail (Presidential Memorandum).”²⁹⁰ In this Presidential Memorandum, the President affirmed the policy of the executive branch to support efforts that further a system of unrestricted and undistorted competition between the United States and foreign



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merchants. This system should include, *inter alia*, ensuring that rates charged for the delivery of foreign-origin mail containing goods do not favor foreign mailers over domestic mailers or postal operators over non-postal operators.²⁹¹ This Memorandum also resulted in a Statement by the White House Press Secretary on October 17, 2018, regarding UPU rates.²⁹² In this statement, the President concurred with the Department of State’s recommendation for the United States to adopt self-declared rates no later than January 1, 2020.²⁹³ The State Department notified the UPU of United States withdrawal in one year, during which time it would seek to negotiate bilateral and multilateral agreements to resolve the issues identified in the August 23, 2018, Presidential Memorandum. The statement also noted that the United States would be willing to rescind its notice of withdrawal if these negotiations are successful.

²⁸⁸ Docket No. IM2018-1, Notice and Order Establishing Section 407 Proceeding, April 5, 2018, at 2 (Order No. 4567).

²⁸⁹ Docket No. IM2018-1, Notice of Posting of Views, September 10, 2018.

²⁹⁰ Available at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/>.

²⁹¹ Presidential Memorandum, Section 2(d)(i).

²⁹² Available at <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/>.

²⁹³ See *id.*



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CHAPTER IV | Universal Service Obligation and Postal Monopoly

Background

In this chapter, the Commission provides its annual estimates of the cost of the Universal Service Obligation (USO) and the value of the postal monopoly. In its *Report on Universal Postal Service and the Postal Monopoly*, the Commission stated that the overarching USO of the Postal Service is set forth in 39 U.S.C. § 101(a), which states that the Postal Service must “provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities.” The USO has seven principal attributes: (1) geographic scope, (2) product range, (3) access, (4) delivery, (5) pricing, (6) service quality, and (7) an enforcement mechanism.²⁹⁴

The postal monopoly is the Postal Service’s exclusive right to carry and deliver certain types of mail and deposit mail into mailboxes.²⁹⁵ Unlike the cost of the USO (USO Cost), the Commission is not required to estimate the value of the postal monopoly. The Commission provides estimates for both the USO Cost and the value of the postal monopoly to present a balanced perspective.

In 2008, the Commission estimated the USO Cost and the value of the postal monopoly in the USO Report. The Commission updates these estimates each year in the Annual Report.

²⁹⁴ Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly*, December 19, 2008, at 18 (USO Report)
²⁹⁵ USO Report at 10 n.1.

Estimated USO Cost

The PAEA requires the Commission to estimate the costs incurred by the Postal Service in providing three types of public services or activities:²⁹⁶

- » Postal services to areas of the nation the Postal Service would not otherwise serve
- » Free or reduced rates for postal services as required by title 39

- » Other public services or activities the Postal Service would not otherwise provide but for the requirements of law

The USO Cost is the total amount of costs incurred by the Postal Service in providing these public services or activities. Table IV-1 illustrates the estimated USO Cost for the last 5 fiscal years, FY 2013 to FY 2017.

Table IV-1: Estimated USO Cost (\$ Billions)

	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Postal Services to Areas of the Nation the Postal Service Would Not Otherwise Serve*	0.46	0.39	0.35	0.51	0.61
Estimated Revenue Not Received Due to Free or Reduced Rates	1.71	1.64	1.63	1.62	1.65
Other Public Services or Activities	2.35	2.37	2.26	2.21	2.39
TOTAL*	4.53	4.40	4.24	4.34	4.65

*FY 2013 and FY 2014 figures differ from past Annual Reports because the Commission recalculated the costs of maintaining small post offices. See Maintaining Small Post Offices section, *infra*. The sum of row components may not equal total due to rounding.

In this chapter, the Commission provides estimates of the costs incurred by the Postal Service in providing the public services or

activities under 39 U.S. C. § 3651(b)(1), describes related statutory requirements, and explains the methodologies used to estimate these costs.²⁹⁷

²⁹⁶ 39 U.S.C. § 3651(b)(1)
²⁹⁷ See 39 U.S.C. § 3651(b)(2).

Postal Services to Areas of the Nation the Postal Service Would Not Otherwise Serve

The Commission must estimate the costs incurred by the Postal Service in providing postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of [39 U.S.C.] section 101(b).²⁹⁸

The Commission determines these costs by combining the estimated costs of maintaining small post offices, the Alaska Air Subsidy, and Group E Post Office Boxes. Table IV-2 compares the costs of each one from FY 2013 to FY 2017.

Table IV-2: Estimated Costs of Providing Postal Services to Areas of the Nation the Postal Service Would Not Otherwise Serve (\$ Millions)

	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Maintaining Small Post Offices*	309	245	209	366	468
Alaska Air Subsidy	114	113	107	112	114
Group E Post Office Boxes	34	34	33	33	31
TOTAL*	458	392	349	511	613

*FY 2013 and FY 2014 figures differ from past Annual Reports because the Commission recalculated the costs of maintaining small post offices. See Maintaining Small Post Offices section, *infra*. The sum of row components may not equal total due to rounding.

As shown in Table IV-2, the estimated cost of providing postal services to areas of the nation the Postal Service would not otherwise service declined between FY 2013 and FY 2015. This decline was due primarily to the large reductions

in the cost of maintaining small post offices, as described below. However, between FY 2015 and FY 2017, the cost of maintaining small post offices increased due primarily to the increase in clerk costs.

²⁹⁸ 39 U.S.C. § 3651(b)(1)(A). 39 U.S.C. § 101(b) requires the Postal Service to “provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.” *Id.* § 101(b).

MAINTAINING SMALL POST OFFICES

The Postal Service maintains small post offices, which are generally located in rural or remote areas, as part of its duty “to establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.”²⁹⁹ The Postal Service uses Cost Ascertainment Group (CAG) classifications A to L to categorize post offices based on volume of revenue generated.³⁰⁰ Small post offices are those that fall within CAG K and L classifications.³⁰¹

The Commission determines the cost of maintaining small post offices by estimating the amount the Postal Service would save if rural carriers on the street provided the same services as those provided at small post offices, as well as the amount of revenue lost from existing CAG K and L Post Office Boxes. The Commission uses the Rural Mail Count to estimate the cost of rural carriers providing retail services and for new delivery service to those who would no longer have a CAG K and L Post Office Box.³⁰²

Table IV-2 lists the estimated costs of maintaining small post offices from FY 2013 to FY 2017. Some of these costs differ from those in past Annual Reports because the costs of maintaining small post offices were recalculated to account for recent changes in the staffing of small post offices. The recalculated costs incorporate all of the categories of employees who may perform functions that were previously performed primarily by postmasters to more



completely identify those costs associated with this element of the USO Cost.³⁰³

Table IV-3 disaggregates the cost of maintaining small post offices by component and illustrates the recent large shifts between these components. It also illustrates changes in employee categories staffing CAG K and L post offices. Total Postmaster salary cost (along with overhead and other personnel and non-personnel related costs) overall has dropped sharply since FY 2013, while the total cost of other employees assuming postmaster duties have had corresponding increases. Total Postmaster direct and indirect costs decreased from \$332 million in FY 2013 to \$25 million in FY 2016 and increased slightly in FY 2017 to \$30 million. Conversely, in FY 2013 and FY 2014, total CAG L leave replacement costs were more than double what they were in FY 2012.³⁰⁴ However, starting in FY 2015, total CAG L leave replacement costs have dropped sharply. Beginning in FY 2015, CAG K clerk costs have increased substantially, over \$100 million in FY 2016 and nearly \$70 million in FY 2017.

²⁹⁹ 39 U.S.C. § 403(b)(3).

³⁰⁰ Docket No. RM2015-19, Order Approving Analytical Principles Used in Periodic Reporting (Proposal Ten), November 24, 2015, at 1 n.2 (Order No. 2837).

³⁰¹ See USO Report, Appendix F, Section 3 (Robert H. Cohen and Charles McBride, “Estimates of the Current Costs of the USO in the U.S.” at 26).

³⁰² The Rural Mail Count classifies all remunerable activities of rural carriers as either post office or street activities. However, some post office activities can occur on the street. For example, even though it occurs on the street, parcel acceptance is considered a post office activity because it can substitute for a customer sending a parcel at a post office window.

³⁰³ See FY 2016 Annual Report at 42.

³⁰⁴ See Postal Regulatory Commission, Annual Report to the President and Congress Fiscal Year 2017, January 16, 2018, at 49.

**Table IV-3: Estimated Cost Savings from Closing CAG K and L Post Offices
Derivation of Updated Costs of Maintaining Small Post Offices (\$ Millions)**

Selected CAG K and L Post Offices Annual Operating Costs	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
CAG K and L Postmasters^a	30	25	26	228	332
CAG L Leave Replacements	21	29	102	216	219
CAG K Clerks	358	289	176	13	6
Total Potential Operating Costs Saved (If CAG K and L Post Offices Closed)	408	343	304	457	558

Annual Estimated Cost Saving Adjustments (If CAG K and L Post Offices Closed)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Rural Carrier Now Provides Retail Services Costs^b	18	18	17	16	16
Rural Carrier Now Provides Delivery Service (CAG K and L Post Office Boxes No Longer Available)^c	42	42	42	41	41
CAG K and L Post Office Boxes Revenue Foregone^d	38	37	36	33	33
Total Annual Cost Savings Adjustment	99	97	96	91	89
Cost of Maintaining Small Post Offices (Potential Operating Costs Saved Less Cost Savings Adjustments)	309	245	209	366	468

Note: The sum of individual row components may not equal totals due to rounding.

^a Consistent with the USO Report, previous Annual Reports used the approximated total CAG K and L postmaster salary costs (along with overhead and other personnel and non-personnel related costs) to represent the total potential operating costs saved if CAG K and L post offices closed. Postmaster costs at CAG K and L post offices were derived by using the postmaster salary costs from the Postmaster Position Schedule CAG group proportions to distribute total postmaster (less CAG L leave replacements) costs to the CAG K and L group. However, due to recent staffing changes at small post offices, the costs of maintaining small post offices shown in Table IV-2 were recalculated to also include the CAG L leave replacement (postmaster relief employees) and CAG K clerk costs in addition to the postmasters costs in the potential operating costs saved total. The costs of maintaining small post offices in the FY 2013 Annual Report inadvertently listed the unadjusted total potential CAG K and L postmaster operating costs saved.

^b The annual number of CAG K and L retail transactions was approximated using the most currently available data: the FY 2010 retail transactions per revenue dollar and the FY 2013 POSTPlan revenues in Docket No. N2012-1. The annual number of CAG K and L retail transactions was approximated to be about 142 million and was used in this calculation for the fiscal years shown in the table.

^c FY 2010 CAG K and L Post Office Box volumes were used to estimate the number of new delivery points (for those CAG K and L Post Office Boxes no longer available).

^d The FY 2010 CAG K and L Post Office Box volumes were used with the respective current fiscal year Post Office Box unit revenue (billing determinants) to estimate fiscal year CAG K and L Post Office Boxes revenue foregone.

SOURCES:

Postmaster Position Schedule CAG Group Proportions: Library Reference 32 in Docket Nos. ACR2013, ACR2014, ACR2015, ACR2016 and ACR2017 (CRA "B" Workpapers, "I-Forms" workbook, "I-CS01.0.2" tab).

Postmasters, CAG L Leave Replacement and Clerks CAG K costs: Library Reference 5 in Docket Nos. ACR2013, ACR2014, ACR2015, ACR2016 and ACR2017 (Cost Segments and Components Reconciliation to Financial Statement and Account Reallocation, "seg 1" and "seg 4" tabs in workbook).

Rural Mail Count: Library Reference 40 in Docket Nos. ACR2013, ACR2014, ACR2015, ACR2016 and ACR2017.

ALASKA AIR SUBSIDY

Alaska Bypass Service allows mailers to ship goods such as food and other cargo on pallets directly to rural customers in Alaska. Commercial airline carriers deliver goods on pallets to hub airports in either Anchorage or Fairbanks. Smaller airline companies or independent pilots then break down these pallets and deliver the goods to remote communities accessible only by air, which are commonly called bush sites. The shipped goods “bypass” the Postal Service’s network.

With Alaska Bypass Service, the Postal Service pays for the cost of air transportation from hub airports to bush sites. The difference between this cost of air transportation from hub airports to bush sites and the average cost of ground transportation if it were available is called the Alaska Air Subsidy. The Commission previously concluded that the Alaska Air Subsidy is part of the USO.³⁰⁵ The Alaska Air Subsidy increased slightly from \$113 million in FY 2016 to \$114 million in FY 2017.

GROUP E POST OFFICE BOXES

Group E Post Office Boxes are provided free of charge to postal customers who do not receive mail delivery. The Postal Service provides this service to address potential discrimination issues arising from instances where customers do not receive carrier delivery.³⁰⁶ In FY 2011, the Commission approved treating the cost of providing Group E Post Office Boxes as an institutional cost to more equitably distribute

the USO Cost. The Commission also concluded that this treatment was analogous to, and consistent with, the treatment of the Alaska Air Subsidy.³⁰⁷ Consequently, the Commission approved including the cost of Group E Post Office Boxes, which are primarily facility-related, in estimating the USO Cost. In FY 2017, Group E Post Office Boxes cost approximately \$34 million.

Free or Reduced Rates

The Commission must estimate the costs incurred by the Postal Service in providing “free or reduced rates for postal services as required by [Title 39.]”³⁰⁸ The Commission estimates these costs by combining preferred rate discounts

net of costs and the negative contribution of Periodicals (Periodicals Losses). Table IV-4 shows the estimated revenue not received as a result of preferred rate discounts and Periodicals Losses between FY 2013 to FY 2017.

Table IV-4: Estimated Revenue Not Received Due to Free or Reduced Rates (\$ Millions)

	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Preferred Rate Discounts Net of Costs	1,104	1,105	1,116	1,114	1,130
Periodicals Losses	608	537	512	509	521
TOTAL	1,712	1,642	1,628	1,623	1,651

³⁰⁵ USO Report at 139.
³⁰⁶ Docket No. RM2011-9, Order Concerning Analytical Principles Used in Periodic Reporting (Proposal One), June 9, 2011, at 2 (Order No. 744).
³⁰⁷ Order No. 744 at 4.
³⁰⁸ 39 U.S.C. § 3651(b)(1)(B). The Postal Service provides free postage for blind and disabled persons and for overseas voting. Id. §§ 3403, 3406. The Postal Service receives appropriated funds reimbursing it for providing free postage. Id. § 2401(c). For this reason, the cost of providing free postage is not included in the USO Cost.

PREFERRED RATE DISCOUNTS NET OF COSTS

39 U.S.C. § 3626 requires the Postal Service to provide reduced rates for preferred rate categories in USPS Marketing Mail, Periodicals, and Library Mail.³⁰⁹ The Commission determines estimated revenue not received by quantifying the difference in revenue between mail that is statutorily required to receive a discount and the revenue the Postal Service would have received if those mail pieces were not discounted. This increase in revenue is adjusted for potential decreases in costs. If not discounted, rates for these mail pieces would be higher, resulting in a loss of volume and, consequently, lower costs.

PERIODICALS LOSSES

Periodicals Losses are the annual amount by which Periodicals attributable cost exceeds revenue.³¹⁰ The PAEA's price cap does not allow the Postal Service to fully recover Periodicals Losses through rate increases.³¹¹ It is assumed that, if not for the price cap, the Postal Service would raise Periodicals rates to the level necessary to cover attributable cost. Accordingly, the Commission considers these losses to be part of the USO Cost.

Table IV-4 illustrates that although there was some variation year-to-year, Periodicals losses were about half a billion dollars each year



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between FY 2013 and FY 2015 and increased from \$537 million in FY 2016, to \$608 million in FY 2017.

The Periodicals class has not covered its attributable cost since the PAEA was enacted.³¹² In Order No. 4258, the Commission has proposed changes to the Current System that would address this issue by providing the Postal Service an additional 2 percentage points of rate authority per calendar year.³¹³ The Commission is also exploring cost and service issues for Periodicals and other flat-shaped mail in Docket No. RM2018-1.³¹⁴

³⁰⁹ FY 2017 ACD at 42-43.

³¹⁰ In this Annual Report, attributable cost means incremental cost. 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, at 125 (Order No. 3506). The attributable cost for years before FY 2016 reflect the accepted methodology for those years and has not been recalculated. 39 U.S.C. § 3622(c)(2) defines attributable cost as the "direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type[.]" In Order No. 3506, the Commission revised the methodology for determining attributable cost to include inframarginal costs, developed as part of the estimation of incremental costs. Before that order, attributable cost only included the sum of volume-variable costs, which rise as volume increases and fall as volume decreases, and product-specific fixed costs, which are costs caused by a specific product, but do not vary with volume. See FY 2016 Financial Analysis Report at 37.

³¹¹ Periodicals is a preferred class of mail and receives several statutory discounts such as a 5 percent discount for nonprofit and classroom publications. These losses were initially called "Losses on Market Dominant Products" in past Annual Reports. The Commission later clarified that the USO Cost only includes Periodicals Losses. Postal Regulatory Commission, Annual Report to the President and Congress Fiscal Year 2012, January 3, 2013, at 37 n.3. Losses on other unprofitable Market Dominant products are not included because those products are in classes that were profitable overall. USO Report at 134.

³¹² FY 2017 ACD at 44-45.

³¹³ Order No. 4258, Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, December 1, 2017 at 26, 84.

³¹⁴ See Order No. 4142, Advance Notice of Proposed Rulemaking to Develop Data Enhancements and Reporting Requirements for Flats Issues, October 4, 2017.

Other Public Services or Activities

The Commission must estimate the costs incurred by the Postal Service in providing “other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of

law.”³¹⁵ Currently, these costs include the costs of providing Six-Day Delivery and uniform rates for First-Class Mail and Media Mail/Library Mail.³¹⁶ Table IV-5 shows the costs of providing these public services or activities from FY 2013 to FY 2017.

Table IV-5: Other Public Services or Activities the Postal Service Would Not Provide But for Legal Requirements (\$ Millions)

Public Service or Activity	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Six-Day Delivery	2,204	2,191	2,074	2,080	2,212
Uniform First-Class Mail Rates	52	78	86	93	109
Uniform Media Mail/Library Mail Rates	99	102	101	37	70
TOTAL	2,355	2,371	2,261	2,210	2,391

SIX-DAY DELIVERY

Since 1984, appropriations bills have included a provision requiring the Postal Service to continue providing Six-Day Delivery.³¹⁷ The cost of providing Six-Day Delivery is measured as the estimated

savings the Postal Service would achieve by providing residential delivery service 5 days a week instead of 6 days a week. Table IV-5 shows the cost of Six-Day Delivery from FY 2013 to FY 2017.³¹⁸

UNIFORM RATES

Rates for First-Class Mail must be uniform throughout the United States.³¹⁹ To determine the cost of uniform First-Class Mail rates, the Commission estimates the increased contribution that the Postal Service would earn if dropship

discounts were allowed for workshared First-Class Mail. Table IV-5 shows the cost of uniform First-Class Mail rates. In FY 2017, the cost of uniform First-Class Mail rates declined from \$78 million in FY 2016 to \$52 million in FY 2017.

³¹⁵ 39 U.S.C. § 3651(b)(1)(C).

³¹⁶ The Commission previously issued an order interpreting “other public services or activities” under 39 U.S.C. § 3651(b)(1)(C). Docket No. PI2014-1, Order No. 2820, Order Interpreting 39 U.S.C. § 3651(b)(1)(C), November 17, 2015. The Commission continues to conclude that no new public services or activities should be added at this time. See FY 2016 Annual Report at 47.

³¹⁷ See, e.g., Consolidated Appropriations Act, 2017, Pub L. No. 115-31, 131 Stat. 135, 369 (2017) (“6-day delivery and rural delivery of mail shall continue at not less than the 1983 level”).

³¹⁸ The current cost of Six-Day Delivery methodology differs from the USO 2008 methodology as it reflects refined and more comprehensive costs based on the Commission’s findings in its Advisory Opinion on Elimination of Saturday Delivery. See Docket No. N2010-1, Advisory Opinion on Elimination of Saturday Delivery, March 24, 2011; Postal Regulatory Commission, *Annual Report to the President and Congress Fiscal Year 2011*, December 21, 2011, at 41.

³¹⁹ 39 U.S.C. § 404(c).

Media Mail/Library Mail rates must be uniform for mail of the same weight and must not vary with the distance transported.³²⁰ The Commission estimates the cost of the distance component by assuming that without this requirement, Media Mail/Library Mail would provide the unit contribution of Bound Printed Matter, a proxy that does not have this restriction. The Commission estimates the additional unit contribution by determining the difference between the unit contributions of Bound Printed Matter and Media Mail/Library Mail. Media Mail/Library Mail total volumes are

then multiplied by the estimated additional unit contribution to produce an estimate of the total additional contribution if Media Mail/Library Mail rates were not uniform.

In FY 2017, the estimated cost of providing uniform Media Mail/Library Mail rates was approximately \$99 million, a slight decrease from the estimated FY 2016 cost of \$102 million. The substantial increase in cost between FY 2014 and FY 2015 was due primarily to the large decrease in the unit contribution of Media Mail/Library Mail.³²¹

Value of the Postal Monopoly

The postal monopoly is the Postal Service's exclusive right to carry and deliver certain types of mail and deposit mail into mailboxes. The mailbox monopoly is the Postal Service's exclusive right to deliver to and collect from mailboxes.³²² The letter monopoly is the Postal Service's exclusive right to carry and deliver most addressed, paper-based correspondence.³²³

The value of the postal monopoly is an estimate of the profit that the Postal Service would lose if both the mailbox and letter monopolies were lifted, and the Postal Service was subject to competition for mail currently covered by the postal monopoly.

Table IV-6 shows the values of the postal and mailbox monopolies from FY 2013 to FY 2017. Subtracting the value of the mailbox monopoly from the value of the postal monopoly does not yield the value of the letter monopoly because there is an overlap in the contestable mail and a different frequency of delivery by the competitor. A separate estimate of the value of

the letter monopoly alone (retaining the mailbox monopoly) is not provided. Without access to mailboxes, it is unlikely that the competitor could successfully capture mail directed to a specific person or address because those mail pieces are delivered to and collected from mailboxes.

The increase in the estimated value of the postal monopoly from FY 2013 to FY 2016 is largely due to increases in the percentage of mail that is considered contestable.³²⁴ In FY 2017, a decrease in the volume of Marketing Mail Letters and the expiration of the exigent surcharge resulted in a slight decrease in the estimated value of the postal monopoly. The value of the mailbox monopoly is estimated based on contestable mail volumes in Periodicals, select USPS Marketing Mail prepared in carrier route sequence, and Parcel Select. Changes in the volume of contestable mail affect the number of profitable routes the competitor could deliver to and the amount of contribution the Postal Service would lose if the competitor captured the contestable mail on those routes.

³²⁰ 39 U.S.C. § 3683.

³²¹ The large decrease in the unit contribution of Media Mail/Library Mail was due to the 26 percent increase in the unit attributable cost for Media Mail/Library Mail in FY 2015. See Financial Analysis of the United States Postal Service Financial Results and 10-K Statement, March 29, 2016, at 67-68.

³²² 18 U.S.C. § 1725.

³²³ The letter monopoly is codified in the Private Express Statutes. See 18 U.S.C. §§ 1693-1699 and 39 U.S.C. §§ 601-606.

³²⁴ Contestable mail is mail that is dropshipped to the processing facility or delivery unit closest to its destination. The competitor would need to perform little or no mail processing to prepare it for delivery.

Table IV-6: Values of the Postal and Mailbox Monopolies (\$ Billions)

	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Postal Monopoly	5.34	5.68	5.45	4.61	3.93
Mailbox Monopoly	1.35	1.24	1.03	0.77	0.81

The Commission uses the model described in the USO Report to update current estimates.³²⁵ The model assumes that the competitor will “win” or “skim” all of the contestable mail on a route if the revenue it would earn from these mail volumes is greater than the fixed and attributable costs related to the volumes. The model also assumes the competitor would deliver only local and regional mail to focus on the most profitable delivery routes and avoid the need for significant capital to establish a processing and transportation network.

Even with the postal monopoly, competitors still deliver material (*e.g.*, newspapers’ weekly advertising supplements) that might otherwise be sent via the Postal Service. If the mailbox monopoly alone were lifted, competitors could deliver and deposit into mailboxes products that fall outside of the letter monopoly, such as Periodicals, unaddressed saturation mail, catalogs over 24 pages, and letters over 12.5 ounces. The letter monopoly prevents competitors from delivering certain mail that is directed to a specific person or address, such as First-Class Presorted Letters/Postcards and Standard Mail Letters. If the letter monopoly were also lifted, this restriction would not apply.

The key variables for estimating the values of the postal and mailbox monopolies are the competitor’s delivery frequency, the cost of entry to the competitor, the rates charged by the competitor, and the volume of the contestable mail. The model assumes that the competitor is 10 percent more efficient than the Postal Service, but needs to offer a 10 percent discount to entice customers to switch from the Postal Service. Because this discount offsets the competitor’s efficiency advantage, reducing delivery frequency is the only way for the competitor to lower delivery costs below that of the Postal Service.³²⁶

The model currently evaluates the competitor’s entry for each route regardless of the extent of route clustering. Focusing on routes in the same cluster or area would reduce the competitor’s fixed costs.³²⁷ Also, because the model assumes that the competitor does not incur mail processing costs, values of the postal and mailbox monopolies do not reflect the cost of sorting to carrier routes, which is necessary to deliver mail presorted to the 5-digit ZIP Code. The model also does not account for mailers’ switching costs or brand loyalty.³²⁸ In addition, bulk parcels, which are Competitive products, are considered contestable mail.

³²⁵ See USO Report at 143-52.

³²⁶ The current model assumes the competitor will deliver mail 3 days a week under the postal monopoly and 1 day a week under the mailbox monopoly.

³²⁷ The Commission would need route-level geographic-specific data to account for clustering. Further improvements could be made by assuming the competitor would design routes to more efficiently deliver the contestable mail. However, this would require information about volume delivered to each stop that is not currently available.

³²⁸ Although the model assumes a 10 percent discount would be necessary to entice customers to switch, brand loyalty, inertia, the need to prove quality, and other factors affect the pace at which customers would switch from the Postal Service to a competitor. The model assumes a competitor would capture 100 percent of the contestable mail on routes that are skimmed. See USO Report at 149. However, some customers may not switch to a competitor even if a discount were offered.



CHAPTER V | Public Affairs

The Commission's Office of Public Affairs and Government Relations (PAGR) is a significant resource in support of public outreach and education, complaint processing, media relations, and liaison with the U. S. Congress, the Administration, the Postal Service and other government agencies. This office informs and advises Commissioners and Commission staff on legislative issues and policies related to the Commission and the Postal Service in addition to coordinating the preparation of both congressional testimony and responses to congressional inquiries concerning Commission policies and activities. PAGR is the primary office assisting the general public.

Open Public Meetings

The Commission holds open public meetings to keep postal stakeholders and the public abreast of Commission operations, activities, and decisions. In accordance with the Sunshine Act, the date, timing, and agenda items for each public meeting are noticed in the *Federal Register* and posted on the Commission's website, www.prc.gov.

Consumer Relations — Comments and Inquiries

INQUIRIES BY SOURCE

During FY 2018, PAGR received thousands of inquiries, questions, suggestions, and comments through the online "Contact PRC" link on the Commission's website. The remaining inquiries were submitted by phone, fax, email, and hardcopy mail.

Commission Order No. 195 directs the Postal Service to respond to rate and service inquiries forwarded to its Office of the Consumer Advocate within 45 days. In FY 2018, the Commission forwarded 448 such inquiries. The order also requires the Postal Service to file a monthly report summarizing the general nature of these inquiries. The reports are available on the Commission's website.

INQUIRIES BY ISSUE

As in past years, service continues to be the highest inquiry category. The predominant types are misdelivered mail, undelivered mail (mail not being delivered), and delayed mail.



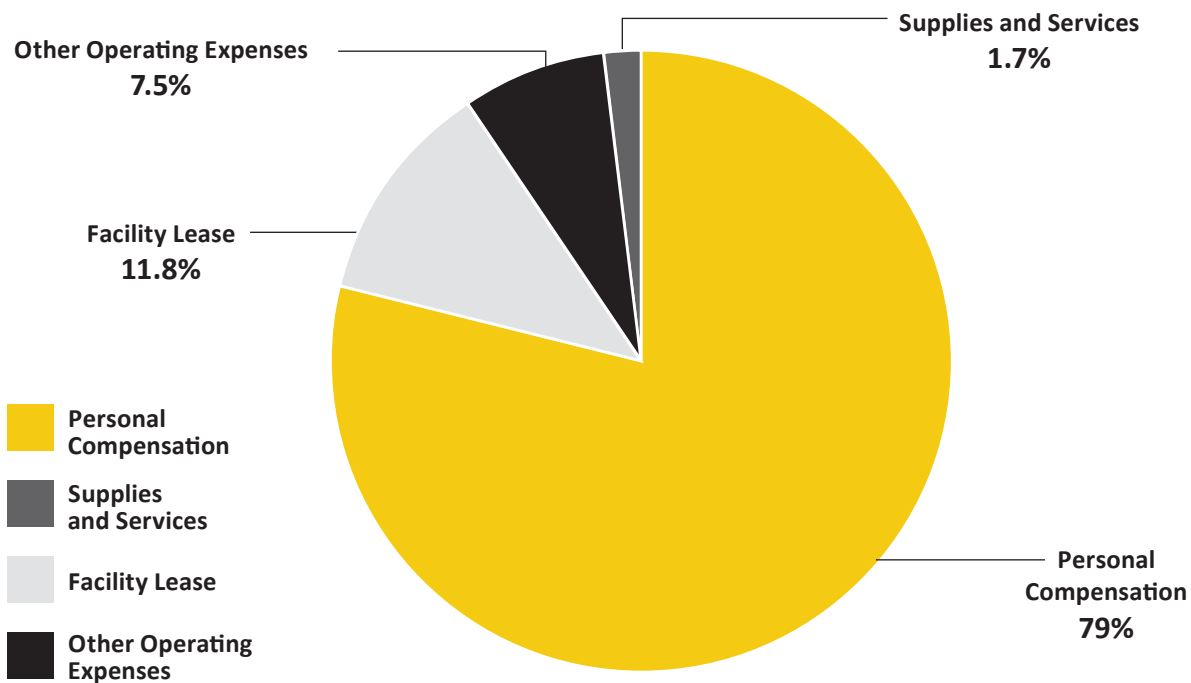
CHAPTER VI | Administration

The Office of the Secretary and Administration (OSA) provides management and staff support to the Commission's operational offices. OSA ensures that the Commission has the physical, financial, technological, and human capital infrastructure needed to accomplish its mission.

Financial Management

The Commission continues to work within its budget and improve accounting and contracting processes making them more cost-effective and efficient. The Commission's FY 2018 appropriation of \$15,200,000 was used to maintain staffing levels of 74 full-time employees and for operating expenses. Salaries and benefits accounted for 79 percent of the Commission expenditures, while the remaining 21 percent was allocated for operating expenses. The Commission successfully partnered with women and minority-owned businesses for a total of 21 percent of all Commission contracts. Figure VI-1 displays the Commission's actual expenditures for FY 2018.

Figure VI-1: FY 2018 Annual Budget Expenditures



Records Management

In FY 2018, the Commission continued to improve its records management program through two key initiatives: an updated record schedule, submitted to the National Archives and Records Administration (NARA), and the continuing development of a new Electronic Document and Records Management System (EDRMS). The EDRMS will manage the agency's entire records

life cycle by providing all current electronic records repositories with a shared common interface. Notably, this system will manage the records in accordance with the proposed new records schedule, and will include the electronic transfer of the Commission's records to the NARA, creating a more streamlined and efficient electronic recordkeeping system.

Transparency and Open Government

The Commission is committed to transparency, accountability, and open government through its administration of its Dockets program, Freedom of Information Act (FOIA), and offering live webcasts of the Commission's public

proceedings. The Commission opened 551 new dockets and processed 3,788 documents in FY 2018. The Commission received 52 FOIA requests this year, and provided responses to all within statutory deadlines.

The Commission continued to provide live audio webcasts of hearings, technical conferences, and public meetings, and expanded these capabilities to provide for video recordings and webcasting

of public meetings and technical conferences. Recordings of the webcasts are available on the Commission's website, www.prc.gov.

Human Resources Management

The Commission's investment in its employees remained a top priority in FY 2018. The Commission ensured that employees complied with mandatory training requirements in all areas including cybersecurity, equal employment opportunity, ethics, and records management.

To address employees' work-life balance this year, the Commission revised its Flexible Work Program policy (which includes alternate work schedules (AWS) and telework.) Telework is an integral part of the Commission's continuity of operations plan, particularly situational or

ad-hoc telework, to ensure the Commission's continued functioning during government closure or delay. During FY 2018, 69 percent of Commission staff participated in situational telework, compared to 30 percent in FY 2017. More than half (56 percent) of employees telework on a regularly scheduled basis. In 2018, the Commission continued to offer extended telework to eligible employees and 4 percent of the workforce used this increased flexibility to telework more than three days per week. Thirty-six percent of Commission staff participated in the AWS program in FY 2018.

Equal Employment Opportunity and Diversity

In FY 2018, the Commission continued its commitment to equal employment opportunity (EEO) in its initiatives to recruit, develop, and retain a skilled, high-achieving, and diverse workforce. Women and minorities accounted for 56 percent

and 31 percent, respectively, of the workforce. Women filled 40 percent of the agency's executive positions; minorities filled 10 percent. Over the course of FY 2018, the Commission had zero EEO complaints (formal and informal) filed.

Information Technology

During this past year, the Commission continued to make cost-effective improvements to the overall security and performance of its information technology (IT) infrastructure, following cybersecurity best practices to sharpen the emphasis on cybersecurity cross-agency priority goals and increase Federal Information Security Management Act (FISMA) compliance (e.g. the Commission was the first small agency to complete implementation of the Continuous Diagnostic and Mitigation program offered through the Department of Homeland Security (DHS)).

As new security threats emerge, the Commission continually monitors and enhances its security practices and policies to better protect sensitive information and to educate employees about the importance of safeguarding the Commission's IT infrastructure, applications, and data.

In FY 2018, the Commission had zero incidents to report to the DHS United States Computer Emergency Readiness Team (US-CERT), and did not experience any breaches of personally identifiable information.



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