Postal Regulatory Commission
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POSTAL REGULATORY COMMISSION

Annual Report to the President and Congress

FISCAL YEAR 2015

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Acronyms

ACD ..... *Annual Compliance Determination*
ACR ..... *Annual Compliance Report*
C.F.R. ..... Code of Federal Regulations
CAG..... Cost Ascertainment Group
CPI ..... consumer price index
DSCF ..... destination sectional center facility
FSS ..... Flats Sequencing System
FY..... Fiscal Year
GEPS ..... Global Expedited Package Service
IMb ..... Intelligent Mail barcode
IBRS ..... International Business Reply Service
IOCS ..... In-Office Cost System
NPR..... non-published rates
MCS ..... *Mail Classification Schedule*
NOI ..... Notice of Inquiry
NSA..... negotiated service agreement
PAEA ..... Postal Accountability and Enhancement Act
RHBF ..... Postal Service Retirement Health Benefits Fund
RRM..... Return Receipt for Merchandise
RTM ..... Round-Trip Mailer
TACS ..... Time and Attendance Collection System
U.S.C. ..... United States Code
UPU ..... Universal Postal Union
USO..... Universal Service Obligation

PRC | Mission Statement

PRC SIGNAGE PROVIDED BY THE USPS; JEFFERSON MEMORIAL BY IKE HAYDEN

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

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

PHOTO BY KONSTANTIN L

Chairman's Message

JANUARY 2016

On behalf of the Postal Regulatory Commission, I submit the Commission's 2015 *Annual Report to the President and Congress.* It describes Commission activities of the last fiscal year and the extent to which regulations are achieving the objectives set forth by the Postal Accountability and Enhancement Act of 2006. As mandated by law, the report also includes an estimate of the costs incurred by the Postal Service in providing certain services.

This report is available on the Commission's website, www.prc.gov. I invite members of the public to send comments to improve the report to:

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Postal Regulatory Commission
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The Commission looks forward to building on its Fiscal Year 2015 accomplishments and continuing to fulfill its mission in the most efficient and effective manner possible.

Sincerely,

Robert G. Taub
ACTING CHAIRMAN

CHAPTER I | Fiscal Year 2015 in Review

PHOTOS PROVIDED BY THE USPS

The Postal Regulatory Commission (Commission) achieved the following significant accomplishments in Fiscal Year (FY) 2015 that support its mission to ensure transparency and accountability of Postal Service operations and foster a vital and efficient universal mail system.

1. The Commission published four major reports in FY 2015:

   - The *Annual Report to the President and Congress* (Annual Report) described the Commission's accomplishments and activities as the regulator of the U.S. Postal Service.
   - The *Annual Compliance Determination* (ACD) reviewed the Postal Service's compliance with pricing and service standards.
   - The *Analysis of Postal Service Financial Results and 10-K Statement for Fiscal Year 2014* provided an in-depth analysis of the Postal Service's financial condition.
   - The *Review of Postal Service FY 2014 Performance Report and FY 2015 Performance Plan* evaluated whether the Postal Service met its performance goals as required under Title 39 of the United States Code (U.S.C.), section 3653(d).

2. The Commission presided over the following rate and classification proceedings in FY 2015, two of which are pending before the U.S. Court of Appeals for the District of Columbia:*

   - The review and approval of Postal Service requests for inflation based price adjustments for domestic and international Market Dominant products and services, and related classification changes
   - A partial remand from the U.S. Court of Appeals for the District of Columbia of Commission Order No. 1926 (exigency rate case)*
   - A request to consider the transfer of First-Class Mail Parcels from the Market Dominant product list to the Competitive product list*
   - A request to add the Discover Financial Services negotiated service agreement (NSA) to the Market Dominant product list
   - The review and approval of Postal Service requests for changes in Competitive prices and classifications

3. The Commission considered and approved a Postal Service request for a new market test (Customized Delivery) and an extension of an existing market test (Metro Post).

4. The Commission began its evaluation of the Postal Service's plans for a new internal service performance measurement system for several Market Dominant products. The Commission hosted two technical conferences to allow the Postal Service an opportunity to illustrate the potential measurement system and statistical design plan, and answer questions from interested parties.

5. The Commission considered 15 Postal Service proposals to change its costing methodologies and the analytical principles used by the Postal Service in its periodic reporting to the Commission.

6. The Commission approved 139 NSAs for Competitive products (81 domestic, 58 international).

7. The Commission reviewed the Postal Service's calculation of the assumed Federal income tax on Competitive products in a separate docket. In previous years, the Commission completed this review as part of the ACD.

8. The Commission conducted several rulemaking proceedings and adopted final rules that:

   - Establish procedures to propose material and minor changes and corrections to the *Mail Classification Schedule* (MCS)
   - Establish procedures related to section 404a complaints
   - Simplify the docket closure process by permitting automatic closure of a docket following 12 months of inactivity

9. The Commission reviewed several complaints against the Postal Service, three of which are pending before the U.S. Court of Appeals for the District of Columbia:*

   - The American Postal Workers Union (APWU) filed a motion for reconsideration of a Commission order that dismissed its prior complaint, which alleged that the Postal Service failed to adhere to the service standards established during the Mail Processing Network Rationalization proceeding in a number of geographic areas.*
   - The Center for Art and Mindfulness, Inc. and Norton Hazel filed a complaint concerning the sale and closure of the Atlantic Street Station post office in Stamford, Connecticut (Atlantic Street Station), alleging that the Postal Service violated various statutory and regulatory provisions, had a conflict of interest, and breached its contract regarding the sale of the Atlantic Street Station.*

- James and Rosalyn Goodman filed a complaint alleging that the Postal Service violated postal regulations and policies, the Americans with Disabilities Act, and federal criminal statutes when it suspended delivery to Rosalyn Goodman's residence.
- Frederick Foster filed a complaint alleging that the Postal Service, Pitney Bowes Inc., and the Postal Service Office of Inspector General violated sections 401, 403(c), and 404a of Title 39, and violated various federal criminal and antitrust statutes.*

10. The Commission evaluated three Post Office closing appeals—affirming a final determination for one and dismissing the two other appeals for lack of jurisdiction.

11. In its international postal policy role, the Commission:

    - Continued its active role in the Universal Postal Union (UPU) Letters and Parcels Remuneration Groups on international letter mail and parcel delivery rates, as well as in several other UPU project groups
    - Chaired the UPU Regulatory Issues Project Group on behalf of the U.S. Government, and worked with the U.S. Department of State to promote U.S. interests in UPU reform to further separate operational and governmental functions

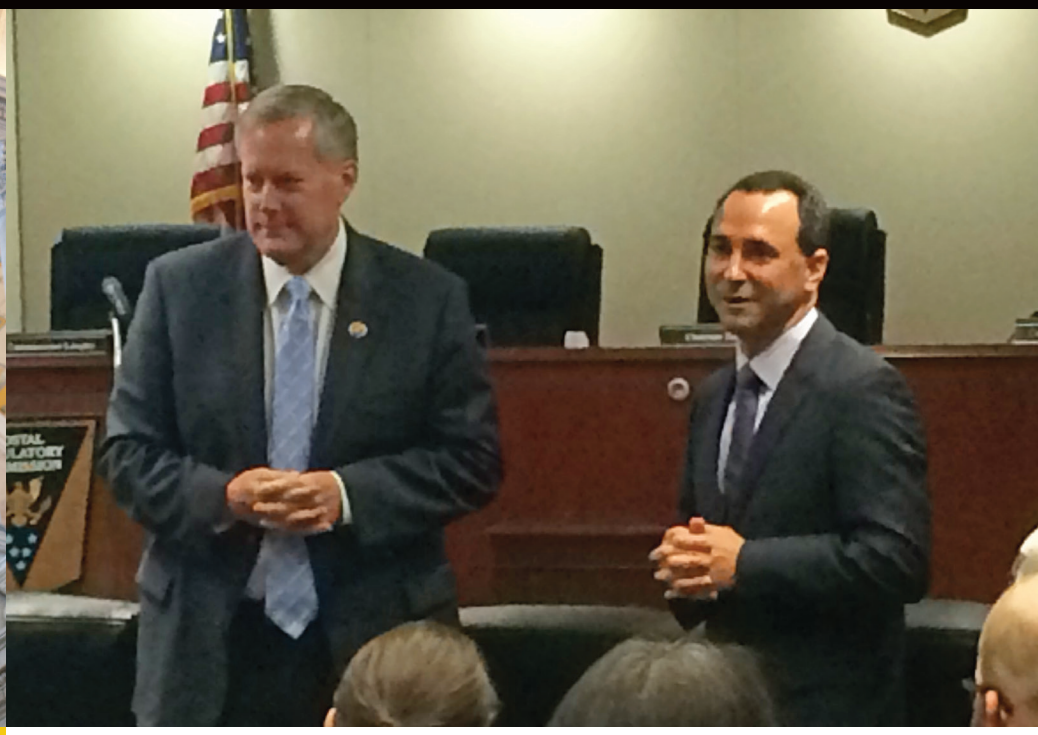
12. Other activities performed by the Commission include:

    - The processing of more than 8,000 inquiries, questions, suggestions, and comments from postal consumers
    - The unveiling of the Commission's redesigned website

* Cases pending before the U.S. Court of Appeals for the District of Columbia.

CHAPTER II | About the Commission

LIBRARY OF CONGRESS BY STEVE HEAP; MEADOWS/TAUB PROVIDED BY THE USPS



Top right: Representative Mark Meadows and Acting Chairman Robert Taub address Commission staff. Representative Meadows is chairman of the House Subcommittee on Government Operations.

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 Postal Accountability and Enhancement Act (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. After the expiration of his or her term, a commissioner may continue to serve for up to 1 year or until a successor is confirmed. No more than three members of the Commission may be from one political party.

Commission Leadership

Robert G. Taub | ACTING CHAIRMAN

Mr. Taub was designated acting chairman by President Barack Obama on December 4, 2014. He was sworn in as a commissioner in October 2011; his term expires on October 14, 2016. The Commission elected him vice chairman for the calendar year 2013. His previous 30 years of public service include special assistant to Secretary of the Army John McHugh; chief of staff to U.S. Representative John McHugh; 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.

Tony Hammond | VICE CHAIRMAN

Mr. Hammond was reappointed as a commissioner on December 10, 2014, and was elected to serve as vice chairman for Calendar Year 2015. His term expires 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, and was reappointed by President Barack Obama for an additional term from 2012-2013. 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

Mr. Acton was appointed as a commissioner on August 3, 2006; his term expires on October 14, 2016. He served as Commission vice chairman from 2007 to 2008, 2011 to 2012, and 2014 to 2015, and as special assistant to former Postal Rate Commission Chairman George Omas. His other positions have included staff director of the Republican National Committee Counsel's Office; deputy to the chairman of the 2004 Republican National Convention; special assistant to the Republican National Committee chief counsel and Counsel's Office government relations officer and redistricting coordinator; executive director, Republican National Convention, Committee on Permanent Organization, and deputy executive director, Committee on Rules; and executive director of the Republican National Committee Redistricting Task Force.

Nanci E. Langley | COMMISSIONER

Ms. Langley was reappointed as a commissioner on December 10, 2014. Her term expires November 22, 2018. She was first appointed as a commissioner on June 6, 2008; that term expired on November 22, 2013. She also served as the Commission's vice chairman from October 2008 to October 2009, and January to December 2012. Her previous positions include director of the Office of Public Affairs and Government Relations at the Commission; 17 years as a senior adviser to Senator Daniel K. Akaka (D-HI), including 9 years as a deputy staff director on the U.S. Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia; and communications director to former U.S. Senator Spark M. Matsunaga (D-HI). She was elected as a fellow of the National Academy of Public Administration in 2009.

Ruth Y. Goldway | COMMISSIONER

Former commissioner who served in FY 2015

Ms. Goldway was appointed as a commissioner on April 7, 1998, and in her third term was designated chairman by President Barack Obama on August 6, 2009. That term expired on November 22, 2014. Ms. Goldway continued to serve as commissioner until November 2015, when her one year hold over period ended. Beginning in 1999, she served on the State Department delegation to the UPU. She served as vice chairman for the calendar year 2001. Her previous positions include manager of public affairs for the Getty Trust; director of public affairs, California State University, Los Angeles; council member and mayor, City of Santa Monica, California; founder and former chairperson, Santa Monica Pier Restoration Corporation; assistant director of the California Department of Consumer Affairs; and co-founder of Women in Logistics and Delivery Services.

Staff and Office Structure

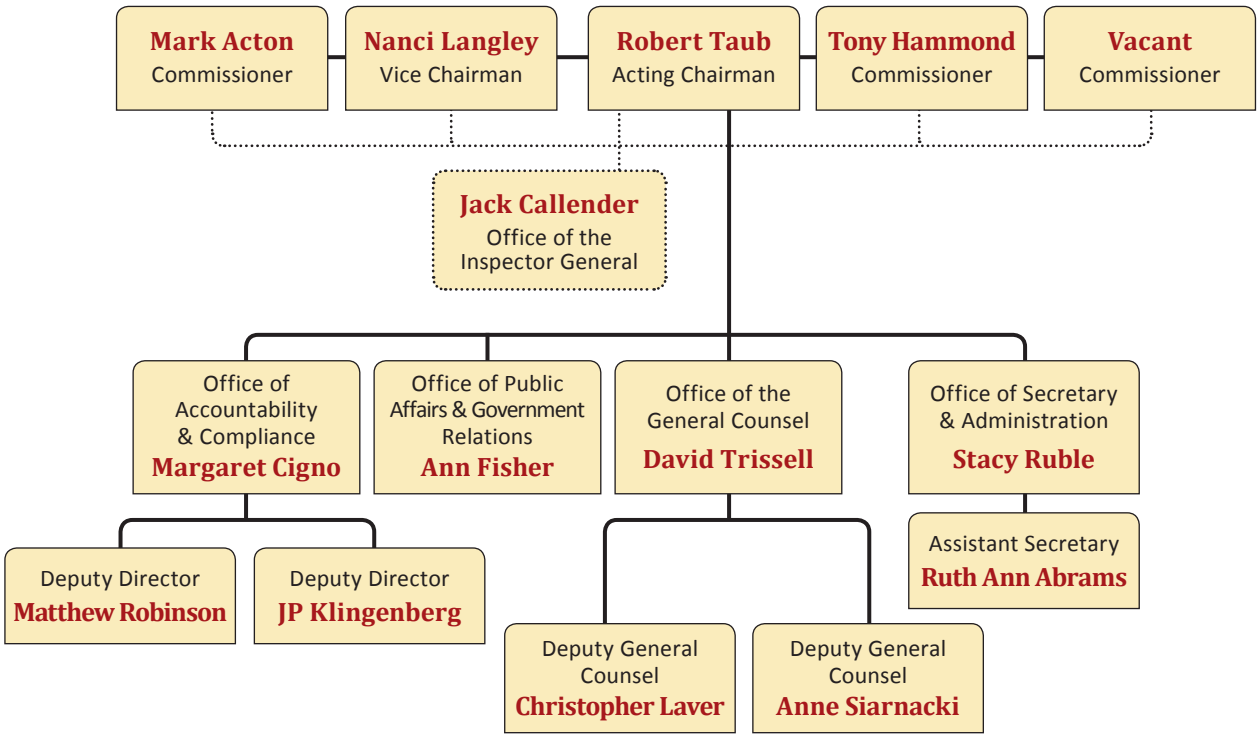
Commission staff has expertise in law, economics, finance, statistics, and cost accounting.

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 provides legal assistance on matters involving the Commission's responsibilities, assists in the defense of Commission decisions before the appellate courts, manages the formal complaint process, and ensures the Commission fulfills its statutory obligations.
- **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 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: Commission's Current Organizational Structure



Commission's Mission and *Strategic Plan*

The Commission's mission is to ensure transparency and accountability of the Postal Service and foster a vital and efficient universal mail system.

The Commission's current *Strategic Plan* outlines its strategic goals, implementation approaches, and accountability plans for 2012 to 2016. Each quarter, the commissioners meet with agency office heads to measure progress toward achieving these goals and carrying out the Commission's mission, and to ascertain where challenges might exist and avenues to address them. Each office head is responsible for presenting commissioners with an updated action plan for discussion. As the Commission's principal executive officer, the chairman may then use these action plans to implement the *Strategic Plan*.

The Commission will be updating its *Strategic Plan* in FY 2016. The current plan can be viewed or downloaded on the Commission's website.

PHOTOS PROVIDED BY THE USPS

Ann Fisher, Public Affairs Director

Office of Public Affairs and Government Relations

The Commission's Office of Public Affairs and Government Relations is the primary office providing assistance to the general public. It supports public outreach and education, complaint processing, media relations, and liaises with Congress, presidential administrations, the Postal Service, and other government agencies. It informs and advises commissioners and Commission staff on legislative issues and policies related to the Commission and the Postal Service, and coordinates the preparation of congressional testimony and responses to congressional inquiries concerning Commission policies and activities.

Another of its critical functions is to answer inquiries, questions, suggestions, and comments from the public, business owners, government bodies, and other stakeholders.

Senate Briefings and Congressional Testimony

On April 16, 2015, the Commission's Director of the Office of Accountability and Compliance, Margaret Cigno, participated in an informal briefing for Senate Homeland Security and Governmental Affairs Committee (HSGAC) members, hosted by U.S. Senator Tom Carper. The purpose of the briefing was to update Committee members on the financial status of the Postal Service. Ms. Cigno highlighted pertinent facts from the Commission's Analysis of Postal Service Financial Results and 10-K Statement for Fiscal Year 2014 regarding net loss, cumulative deficit, and the combined impact upon the Postal Service's liquidity and needed capital investments. Ms. Cigno also noted the growth in liabilities in relation to assets, and the resulting implications.

On May 19, 2015, Ms. Cigno participated in a second informal briefing for HSGAC members hosted by Senators Tom Carper, Heidi Heitkamp, Claire McCaskill, and Jon Tester. The focus of the briefing was related to rural postal issues. Ms. Cigno described the Commission's role in the development of service standards, and the report issued annually by the Commission describing the extent to which the Postal Service has met its service standards. Ms. Cigno also noted the Commission's long-standing concern related to rural access, and lessons learned through the Commission's 2011 Advisory Opinion on the Elimination of Saturday Delivery and 2012 Advisory Opinion on the Postal Service's Post Office Structure Plan.

On June 16, 2015, Acting Chairman Robert Taub testified on behalf of the Commission at a hearing held by the U.S. House of Representatives' Subcommittee on Government Operations of the Committee on Oversight and Government Reform. The hearing was entitled, "Fair Competition in International Shipping." Acting Chairman Taub's testimony outlined the Commission's current duties and responsibilities with regard to international terminal dues treaty negotiations conducted through the UPU. Additionally, Acting Chairman Taub's testimony covered what the Commission considers successful aspects of the UPU's current approach to terminal dues. His testimony also covered what the Commission believes are factors that may hinder efforts to achieve U.S. objectives with respect to terminal dues.

Consumer Relations — Comments and Inquiries

INQUIRIES BY SOURCE

During FY 2015, the Office of Public Affairs and Government Relations received 8,402 inquiries, questions, suggestions, and comments. Approximately 85 percent of consumer inquiries were submitted online through "Contact PRC" on the Commission website. Of the remaining inquiries, 11 percent were submitted by phone and 3 percent by mail. Table II-1 shows the number of inquiries from Postal Service stakeholders for FY 2009 to FY 2015.

Table II-1: Inquiries Submitted to the Office of Public Affairs and Government Relations

Source/Stakeholder	Year						
	2015	2014	2013	2012	2011	2010	2009
Consumer	7,783	8,919	4,058	5,227	4,663	12,971	1,241
Business Owner	468	482	224	67	81	1,300	0
Postal Employee	77	151	92	250	427	2,978	55
Federal/State/Local Government	39	47	72	214	223	129	97
Mailer	16	21	16	18	53	595	310
Media	14	54	48	94	132	152	85
Postal Organization	5	3	6	6	69	45	12
TOTAL	8,402	9,677	4,516	5,876	5,648	18,170	1,800

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 2015, the Commission forwarded 983 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 LOCATION

The Postal Service's geographic landscape is divided into seven Area offices. In FY 2015, the number of comments and inquiries received was consistent with previous years. Table II-2 shows the FY 2015 breakdown by Area office, top issues reported, and the total number received.

Table II-2: Comments and Inquiries by Area Office

Area Office	Top Issues					Total Received 2015*
	Delayed	Undelivered	Misdelivered	Missing	Rudeness	
Capital Metro	176	121	146	130	30	997
Eastern	182	95	122	73	45	883
Great Lakes	144	93	78	58	19	679
Northeast	158	281	153	130	45	1,253
Pacific	298	171	246	158	46	918
Southern	322	179	223	114	42	1,398
Western	197	104	167	88	28	1,034

**Totals shown in the table may be lower due to missing, unavailable, or unknown information.*

INQUIRIES BY ISSUE

As in past years, the predominant types of inquiries the Commission received from business owners were undelivered mail (mail not being delivered), delayed mail (mail not being picked up by the carrier, or being delivered late in the day or after close of business), misdelivered mail (mail being delivered to the wrong address) and return-to-sender mail (mail being returned to the sender in error). Of the 77 inquiries from Postal Service employees, many reported concerns with service standard changes and operational issues, specifically with delayed mail in areas with plant consolidations.

Service continues to be the highest inquiry category. The Commission received 7,111 inquiries regarding delivery service. There were 564 service-related inquiries regarding the carrier not making an initial attempt to deliver a package; 1,151 reports of mail being misdelivered or delivered to nearby addresses, 1,127 reports of undelivered mail or mail not being delivered to residences; 1,590 reports of mail and packages delayed or missing in the mail; and 227 reports of mail not being forwarded. There were 439 inquiries regarding employee behavior, including 278 reports of rudeness by Postal Service employees. Table II-3 shows inquiries categorized by top issues for FY 2015.

Table II-3: Comments and Inquiries by Issue

Issue	2015	2014	2013	2012	2011	2010	2009
Delayed Mail	1,590	1,513	469	94	89	39	24
Misdelivery	1,151	1,192	393	76	51	52	15
Undelivered Mail	1,127	1,651	520	137	107	71	16
Missing Mail	843	1,023	601	211	159	129	38
Return to Sender	321	410	139	64	47	22	8
Change of Address	296	334	180	54	20	6	31
Mail Damage	288	345	149	30	37	24	6
Rudeness	278	378	207	43	21	22	8
Insurance/Claim	142	129	27	14	27	5	9

Commission Website — prc.gov

In FY 2015, the Commission unveiled its new website designed to be easier for the general public to navigate and locate information quickly.

Among the key features of the site are three selections prominently displayed on the homepage: Active Cases, Daily Listings, and Consumer Assistance. Visitors to the site can now return to the homepage from any of the interior pages by clicking "Postal Regulatory Commission" on the website banner. The Commission also established a social media presence through Twitter, providing an additional path for keeping the public up to date on certain Commission activities.

Apart from the redesign, the Commission also added a section to its website on service performance to improve the accessibility of information related to Postal Service delivery performance. The Commission consolidated its documents related to service performance under a tab titled "Reports/Data Service Reports." Here, visitors may more easily locate quarterly reports the Postal Service files with the Commission.

Office of the Secretary and Administration

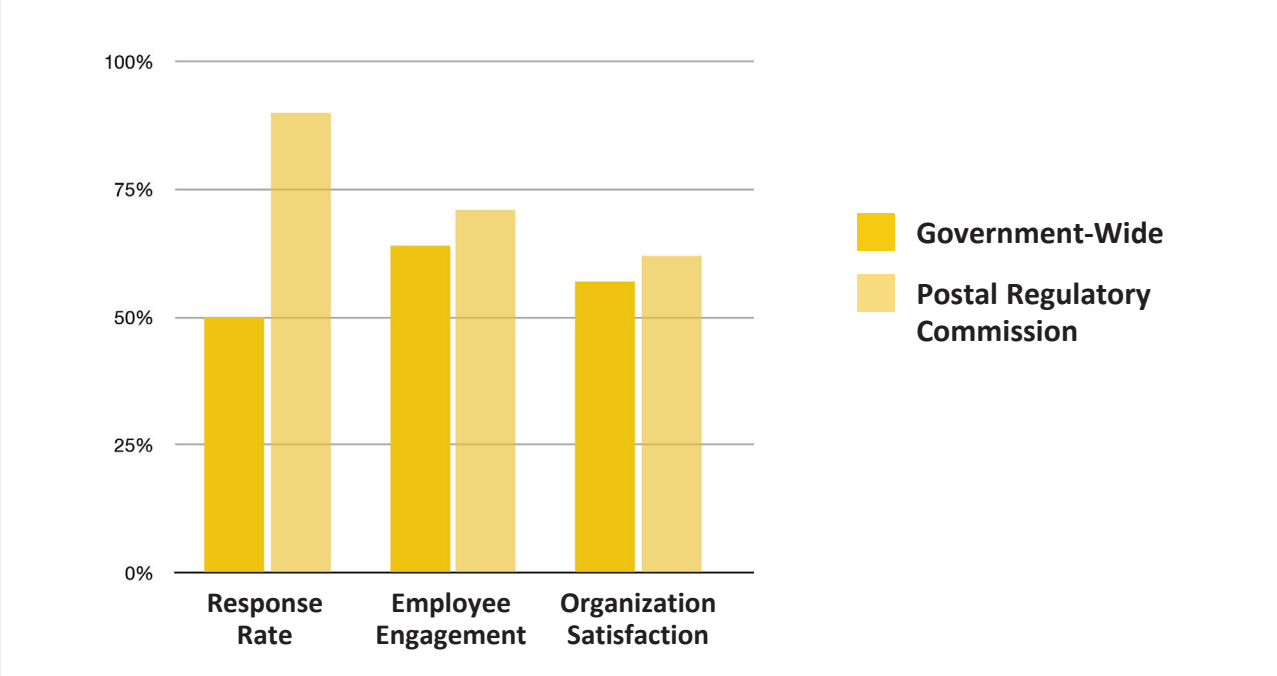
The Office of the Secretary and Administration (OSA) provides management and staff support to the Commission's operational offices (including the Office of the Inspector General), the Commission's *Strategic Plan,* and various initiatives of the Executive Branch. OSA ensures that the Commission has the physical, financial, technological, and human capital infrastructure needed to accomplish its mission. Responsibilities include financial management, records management, administrative and organizational support, human resources management and workforce planning, and information technology.

Employee Engagement and Training

The Commission is committed to enhancing a system that fosters recruitment, development, and retention of a talented, skilled, diverse, and adaptable workforce as part of its Human Capital Plan within the 2012–2016 *Strategic Plan.*

In FY 2015, the Commission participated in the annual Federal Employee Viewpoint Survey (FEVS). The Commission's response rate of 90 percent was the third highest among small agencies and significantly higher than the government-wide rate of 50 percent. Figure II-2 shows an overview of the Commission's ratings when compared with the Federal government as a whole.

Figure II-2: Overview of FEVS Results



Compared to responses in several indices with federal employees government-wide, Commission staff had a higher degree of satisfaction with their work and office environment: a 71 percent rating in "employee engagement" versus a government-wide rating of 64 percent, and a 63 percent rating in "organization satisfaction" versus the government-wide rate of 56 percent. The Commission is committed to developing actionable plans based on the confidential feedback received from employees through this survey.

The Commission continued its support of the Flexible Work Program, which includes alternate work schedules (AWS) and telework opportunities. This year, employee participation in the Flexible Work Program increased: 41 percent of employees participated in the AWS program while 39 percent teleworked on an ongoing basis. Telework is an integral part of the Commission's continuity of operations plan to ensure the Commission's workflow during times of inclement weather or events that deter or delay regular commuting into downtown Washington, DC. During FY 2015, 62 percent of Commission staff participated in such situational telework.

In response to the challenging workload and budgetary climate, senior leadership made training a priority by offering training and professional development designed to increase employee knowledge, engagement, and retention. This year, the Commission reached 100 percent of its staff through on-site or virtual training sessions, which included safety training, in-house seminars, and computer application training. The Commission also ensured that employees were in compliance with mandatory training requirements in areas including cybersecurity, the Hatch Act, ethics, and records management.

Equal Employment Opportunity and Diversity

In FY 2015, the Commission continued its commitment to support initiatives to recruit, develop, and retain a skilled, high-achieving, and diverse workforce. In FY 2015, women and minorities accounted for 61 percent and 30 percent of the workforce, respectively. Women also filled 55 percent of the Commission's executive positions; minorities filled 10 percent.

The Commission provides internship opportunities to aid in the recruitment and development of professionals with diverse backgrounds. The Commission will continue to monitor and offer opportunities to increase diversity, including the use of formal recruitment channels such as local universities, veterans' groups, and other comparable organizations and groups that target under-represented populations.

Additionally, the Commission has revised and updated its Equal Employment Opportunity (EEO) policy. During FY 2015, the Commission had one formal EEO complaint filed.

Transparency and Open Government

The Commission continued its commitment to transparency and accountability in its compliance with the Freedom of Information Act (FOIA). In FY 2015, the Commission completed all FOIA requests within statutory limits and ended the year with no backlog. The Commission received a favorable review in the Department of Justice's FY 2015 *Assessment of Agency Progress.*

The Commission also continued to provide live audiocasts of hearings, technical conferences, and public meetings. These audio files are available on the Commission's website, **www.prc.gov.**

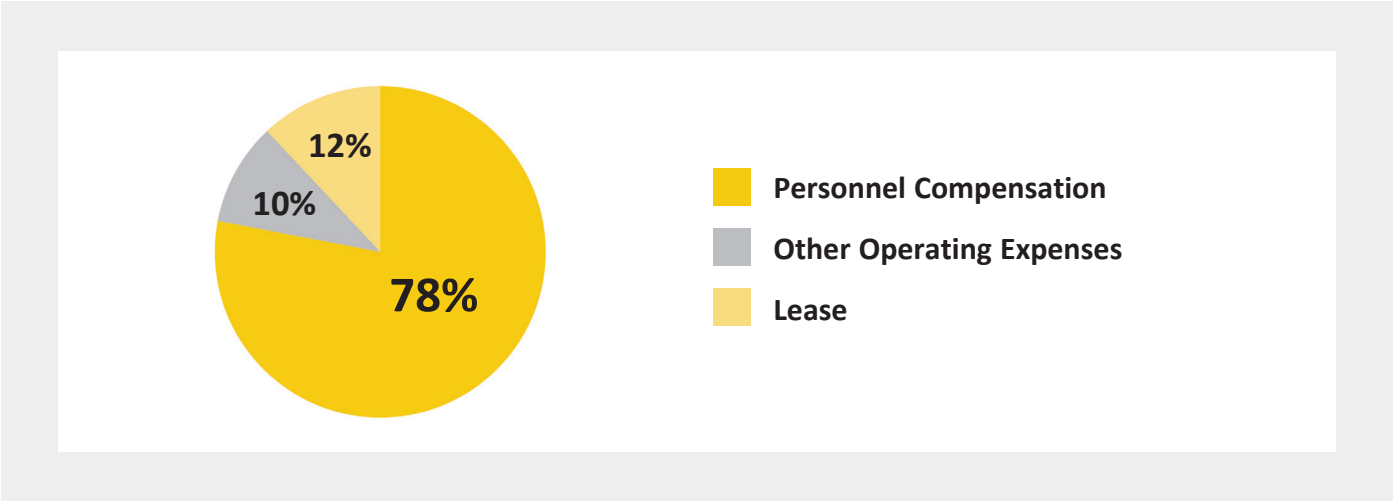
Budget and Finance

Over the last several years, the Commission successfully managed a rapidly increasing workload within a challenging budgetary climate. In response to these challenges, the Commission requested that staff institute creative, prudent, and efficient approaches to its day-to-day operations. Despite a steadily increasing workload, the Commission's annual appropriation has always been less than what it received in FY 2008. FY 2008 was the last year that the Commission received its funds directly from the Postal Service, rather than through the appropriations process. The Commission budget in FY 2008 was $14.985 million for an authorized complement of 70 employees; 7 years later, the Commission's appropriation in FY 2015 was $14.7 million for an employee complement of 77. The majority of the Commission's FY 2015 budget was allocated to pay and benefits ($11.175 million) with the remainder allocated for operating expenses ($3.525 million).

Consequently, in order to accommodate the increasing cost of personnel benefits and operating expenses, these funding levels required the Commission to defer hiring and delay many critical Information Technology-related projects. This path is no longer sustainable for the Commission given existing government-wide information security requirements as well as an increased regulatory workload.

Figure II-3 shows the Commission's actual FY 2015 budget expenditures. "Lease" relates to the agency's commercial office space, and "Other Operating Expenses" includes consulting services, office supplies, printing, communications, and information technology.

Figure II-3: Annual Budget Expenditures



In response to the 2009 presidential memorandum regarding government contracting, and in line with Executive Order 13576, "Delivering an Efficient, Effective, and Accountable Government" (2011), the Commission continued to improve its contracting policy and standard operating procedures, resulting in increased accountability and cost savings. The Commission continues to work within its budget and improve accounting and contracting processes, making them more cost-effective and efficient. Furthermore, the Commission successfully partnered with businesses owned by women and minorities for a total of 19 percent of all Commission contracts.

Information Technology

The Commission launched its new website in early FY 2015, addressing issues that users had with the previous website. It is now more accessible and compliant with section 508 of the Rehabilitation Act. The Commission's information technology team upgraded security and infrastructure to improve the overall integrity of the Commission's network. These improvements continue to build upon the Commission's commitment to openness and transparency.

Records Management

In FY 2015, the Commission's records management team completed a thorough review of internal and external access to protected materials, updated and issued new procedures, and notified all Commission staff of these new procedures.

In compliance with the directive from the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA) on records management, the Commission instituted records management training for all employees. The records management team also updated the Commission's records schedule and finalized agency file plans. In addition, the team began work on updating records management policies and developing a user manual. The Commission continues to move forward with initiatives designed to meet the deadlines outlined in the OMB/NARA directive. As a result of the work performed to date in this area, the Commission received good ratings from NARA for proceeding with and expanding its records management program.

CHAPTER III | Effectiveness of Commission Rules to Achieve PAEA Objectives

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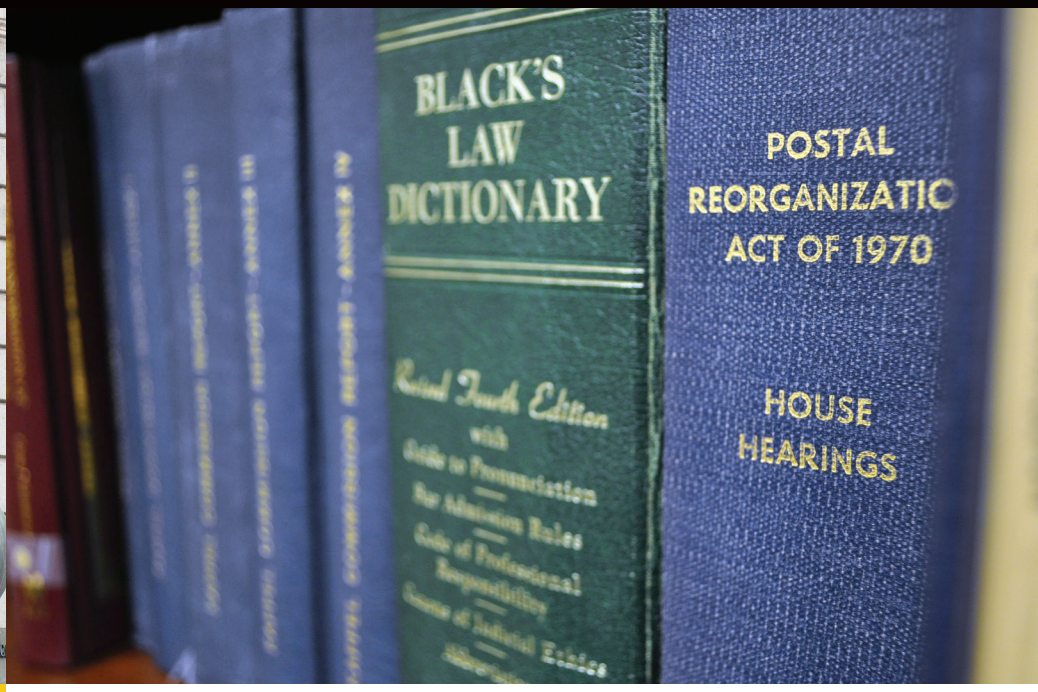

Summary

The Commission is required by 39 U.S.C. § 3651 to submit an annual report to the president and the Congress that includes an analysis of "the extent to which regulations are achieving the objectives under sections 3622 and 3633" of Title 39 of the U.S. Code.

The objectives applicable to Market Dominant products are:

1. Maximize incentives to reduce costs and increase efficiency.
2. Create predictability and stability in rates.
3. Maintain high-quality service standards established under section 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.
8. Establish and maintain a just and reasonable schedule for rates and classifications; however, this objective does not prohibit 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.

Section 3622(b) establishes a tension between the restrictions of an inflation-based price cap on Market Dominant price increases and the objective that the Postal Service must be self-sufficient and maintain financial stability. Furthermore, though the PAEA provides incentives via the price cap to reduce costs and increase efficiency, it also imposes personnel-related expenses requiring the pre-funding of future healthcare costs for Postal Service retirees.

The Commission's rules for applying the price cap and the application of those rules help to achieve several objectives of the PAEA. Enforcing the limitation that price increases for each class of mail do not exceed inflation, for example, incentivizes the Postal Service to reduce costs and increase efficiency (objective 1). The Commission applies the price cap at the class level. Within each class, there are very few restrictions on the prices the Postal Service sets. This helps advance pricing flexibility (objective 4). This year the Commission approved new rates of general applicability for Market Dominant products and reviewed new and amended Market Dominant NSAs. The Commission's review in these cases furthered these objectives.

The Commission's review of Postal Service requests to add products or contracts to the Market Dominant or Competitive product lists promotes predictability of prices (objective 2) and helps to maintain a just and reasonable schedule for rates and classifications (objective 8). Additionally, the Commission finalized procedures to receive, consider, and approve material changes to the MCS; these procedures also help to maintain a just and reasonable schedule for rates and classifications (objective 8).

Each year, the Commission analyzes the Postal Service's rates and quality of service, and reports its findings in the ACD. The Commission's rules for reviewing potential changes to the methods underlying the development of data the Postal Service reports help promote accuracy and reliability. Accurate, reliable cost estimates are essential to appropriately allocate the total institutional costs of the Postal Service between Market Dominant and Competitive products (objective 9).

In FY 2014, the Commission issued separate, expanded reports that focused on the Postal Service's financial results and *Performance Plan* under sections 2803 and 2804 of Title 39 of the U.S. Code. The Commission continued this practice in FY 2015. Separating these reports from the ACD helps reduce the administrative burden and increase the transparency of the ratemaking process (objective 6). Additionally, the Commission's review of the Postal Service's *Performance Plan* and service performance helps maintain high-quality service standards (objective 3), while the financial report contains an independent analysis of the financial stability of the Postal Service (objective 5).

The Commission's consideration of the Postal Service's proposal to replace an existing external service performance measurement system with an internal system helps to maintain high-quality service performance and standards established pursuant to the PAEA (objective 3).

The Commission did not develop any rules or review any cases in FY 2015 with a direct effect on mail security or terrorism (objective 7).

For Competitive products, the requirements of section 3633 are:

1. Prohibit the subsidization of Competitive products by Market Dominant products.
2. Ensure that each Competitive product covers its attributable costs.
3. Ensure that all Competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

This year the Commission reviewed Competitive product rates for compliance with these requirements in the FY 2014 ACD and analyzed new rates for Competitive products of general applicability and NSAs that were proposed by the Postal Service. The remainder of this chapter discusses how individual cases in FY 2015 relate to relevant statutory requirements.

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Annual Reports

Annual Compliance Determination

The ACD is an important tool for enhancing transparency and determining whether the Postal Service complied with statutory pricing and service requirements. Pursuant to the PAEA and regulations adopted by the Commission to implement the PAEA, the Postal Service has 90 days after the close of the fiscal year to collect, audit, and submit its *Annual Compliance Report (*ACR) and supporting data to the Commission. The Commission then has 90 days to solicit comments from the public, evaluate the data submitted by the Postal Service, and prepare the ACD.

On March 27, 2015, the Commission issued the FY 2014 ACD, which focused on whether rates or fees in effect during FY 2014 complied with applicable provisions in chapter 36 of Title 39 of the U.S. Code, and whether the Postal Service met its service standards in effect during FY 2014.

In reviewing Market Dominant products for compliance with the statutory pricing policies, the Commission found 26 of 48 workshare discounts did not comply with the requirement of 39 U.S.C. § 3622(e) that discounts not exceed costs avoided. The Commission found, however, for 18 of the 26 non-complying workshare discounts, the Postal Service either aligned the discounts more closely to costs or provided sufficient rationale to justify the discount under a statutory exception. For the remaining eight workshare discounts, the Commission ordered the Postal Service to align the discount with avoided costs in the next Market Dominant price adjustment or specify an applicable statutory exception.

The Commission also identified seven Market Dominant products that did not generate sufficient revenues to cover their attributable costs: Within County Periodicals, Outside County Periodicals, Standard Mail Flats, Standard Mail Parcels, Media Mail/Library Mail, Inbound Letter Post, and Stamp Fulfillment Services. Of those products, Standard Mail Flats, Within County Periodicals, and Outside County Periodicals, were of recurring concern.

For Periodicals, the Commission instructed the Postal Service to provide a detailed analysis of progress made toward improving cost coverage in its FY 2015 ACR. This analysis must include an

examination of how pricing flexibility was used to improve efficiency and the progress toward and impact of implementing the operational strategies outlined in the Periodicals Mail Study. For Standard Mail Flats, the Commission determined that Postal Service progress toward addressing issues raised in previous ACDs warranted no additional remedial action beyond what the Commission required in the FY 2010 ACD. For Inbound Letter Post, the Commission recommended that the Postal Service continue to negotiate more compensatory bilateral (or multilateral) agreements.

Although Competitive products as a whole covered their attributable costs, the Commission identified two products that did not cover their respective attributable costs and, therefore, were not in compliance with 39 U.S.C. § 3633(a)(2): International Money Transfer Service-Outbound and International Money Transfer Service-Inbound. The Commission directed the Postal Service to take corrective actions.

As part of the ACR, the Postal Service must provide data pertaining to its quality of service in terms of speed of delivery and reliability. With respect to FY 2014 quality of service, the Commission found a majority of Market Dominant products did not meet their annual targets. For First-Class Mail, the Commission found that only overnight and 2-day Presorted Letters/Postcards met their FY 2014 performance targets. The Postal Service attributed the low service scores to severe winter weather. The Commission found that while the Postal Service's explanation was reasonable, the Postal Service could not use weather as the annual explanation for low service scores. Additionally, the Commission observed that the Postal Service failed to meet its service target for First-Class Mail Flats for the fourth consecutive year.

Review of Postal Service Performance Report and Plan

On July 7, 2015, the Commission issued its *Analysis of the Postal Service's FY 2014 Program Performance Report and FY 2015 Performance Plan.* This report evaluated whether the Postal Service met the performance goals identified in its *FY 2014 Performance Report* and reviewed the initiatives and targets established in the *FY 2015 Performance Plan.* The report provides an in-depth analysis of the Postal Service's four performance goals: deliver high-quality services, provide excellent customer experiences, ensure a safe workplace and an engaged workforce, and sustain controllable income.

The Commission concluded that the Postal Service partially met its service and controllable income performance goals and that it did not meet its workplace and workforce performance goal. Additionally, due to a lack of comparable year to year data, the Commission could not determine whether the Postal Service met its customer experience performance goal in FY 2014.

The Commission found that the *FY 2014 Performance Report* complied with most legal requirements, but failed to express fiscal year results comparable to FY 2014 targets and include actual results comparable across the three preceding fiscal years for its goal to provide excellent customer experiences. The FY 2014 Performance Report and FY 2015 Performance Plan satisfied all other applicable statutory and regulatory filing requirements for each performance goal with the exception that the reports did not cover each program activity set forth in the Postal Service budget. The Commission also provided recommendations for the Postal Service to better meet the goals and improve its performance in future years.

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Financial Analysis Report

On April 1, 2015, the Commission issued its *Financial Analysis of United States Postal Service Financial Results and 10-K Statement* (*Financial Analysis* report). The *Financial Analysis* report reviewed the Postal Service's FY 2014 financial and operating results. It primarily used information from the FY 2014 Form 10-K and measured it against FY 2013 Form 10-K and the FY 2014 Integrated Financial Plan. The Commission used data from periodic reports, such as the *Cost and Revenue Analysis* report, the *Cost Segments and Components* report, and the *Revenue, Pieces, and Weight* report, in its analysis of the Postal Service's financial results.

The *Financial Analysis* report found that in FY 2014, the Postal Service recorded its eighth consecutive financial loss despite recording its first net operating income since FY 2008. The Postal Service earned $29.6 billion in First-Class revenue, a 0.5 percent increase over FY 2013. The Postal Service earned $17.5 billion in Standard Mail revenue, a 3 percent increase over FY 2013. In FY 2014, Competitive products revenue increased by more than 10 percent compared to FY 2013.

Market Dominant price adjustments based on inflation, the Market Dominant exigent surcharge, and the Competitive price adjustments resulted in higher revenues. The Market Dominant price increases and exigent surcharges were implemented in the second quarter of FY 2014 and were the primary reasons for the improvement in the net operating income.

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Rate and Classification Cases of Note

In FY 2015, the Commission approved Postal Service requests for changes in Market Dominant postal rates and classifications. Additionally, the Commission resolved a remand from the U.S. Court of Appeals for the District of Columbia Circuit concerning the calculation of contribution loss due to the extraordinary or exceptional circumstances of the Great Recession and denied a Postal Service request to add an NSA to the list of Market Dominant products.

Market Dominant Price Adjustment

On January 15, 2015, the Postal Service filed a notice of inflation-based price adjustments affecting domestic and international Market Dominant products and services.[1] The Postal Service proposed increasing prices for categories within each class of mail by different percentages, exercising its pricing flexibility while staying within the overall class-level price cap of 1.966 percent.[2]

The PAEA provides for ratemaking flexibility and allows the Postal Service to adjust prices for Market Dominant products as long as the increase for each class of mail meets certain statutory and regulatory requirements.

- Price increases for each Market Dominant class cannot exceed the rate of inflation, as determined by the CPI-U.[3]
- Workshare discounts cannot exceed avoided costs unless a statutory exception applies.[4]
- Preferred category revenues are restricted to specified percentages of corresponding regular-rate category revenues.[5]

As it does for each Market Dominant price adjustment, the Commission evaluated the Postal Service's proposal for compliance with these requirements. The Postal Service's notice was more complex than a typical annual adjustment due to the impact of surcharges associated with

[1] Docket No. R2015-4, United States Postal Service Notice of Market-Dominant Price Adjustment, January 15, 2015, at 3.
[2] *Id.*
[3] 39 U.S.C. § 3622(d).
[4] 39 U.S.C. § 3622(e). *See also* Docket No. RM2009-3, Order Adopting Analytical Principles Regarding Workshare Discount Methodology, September 14, 2010, at 18 (Order No. 536).
[5] 39 U.S.C. § 3626.

the exigent rate case (Docket No. R2013-11) and issues of rate design, particularly pertaining to new and merged rate cells.[6] In order to ensure that the Postal Service's proposal complied with the PAEA's requirements, the Commission issued 17 separate information requests, containing 114 individual questions,[7] and returned the Postal Service's proposed price adjustments twice for correction or more information.

The Commission did not delay its review and approval of First-Class Mail price adjustments despite incomplete information filed by the Postal Service with respect to other Market Dominant mail classes, and on February 24, 2015, the Commission found that the Postal Service's proposed price adjustments for First-Class Mail were consistent with the CPI-based price cap under the PAEA and approved those price adjustments.[8]

The Commission found that the Postal Service's notice to increase the price of Special Services lacked required information. On March 10, 2015, after the Postal Service provided the required information, the Commission approved the Postal Service's price adjustments for Special Services.[9]

The Commission twice concluded that the Postal Service's proposed price adjustments for Standard Mail, Periodicals, and Package Services contained several deficiencies, including: unequal Standard Mail nonprofit and commercial discounts; insufficient justification for Standard Mail worksharing discounts with passthroughs above 100 percent; and improperly calculated billing determinant adjustments for all three classes.[10] The Commission twice returned these proposed price adjustments to the Postal Service so that it could provide additional information and justifications, correct errors, and fulfill applicable legal requirements.[11]

On May 7, 2015, after the Postal Service revised its proposed price adjustments to respond to the Commission's prior orders, the Commission approved the Postal Service's price adjustments for Standard Mail, Periodicals, and Package Services.[12] The Commission found that the Postal Service's revised price adjustments and classification changes complied with applicable statutory and regulatory requirements.[13]

In addition, the Commission approved several changes to workshare discounts and the MCS, some of which necessitated the development of methodologies to be used in data reporting.[14] The Commission directed the Postal Service to file several proposed methodologies within 90 days of its approval of the price adjustments. The Postal Service has complied with those requests.[15]

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[6] Docket No. R2015-4, Notice and Order on Rate Adjustments, Classification Changes, and Temporary Promotions for Market Dominant Products, January 20, 2015, at 1-2 (Order No. 2327).

[7] Docket No. R2015-4, Chairman's Information Request No. 1, January 23, 2015; Docket No. R2015-4, Chairman's Information Request No. 2, January 27, 2015; Docket No. R2015-4, Chairman's Information Request No. 3, January 28, 2015; Docket No. R2015-4, Chairman's Information Request No. 4, January 29, 2015; Docket No. R2015-4, Chairman's Information Request No. 5, February 2, 2015; Docket No. R2015-4, Chairman's Information Request No. 6, February 4, 2015; Docket No. R2015-4, Chairman's Information Request No. 7, February 5, 2015; Docket No. R2015-4, Chairman's Information Request No. 8, February 6, 2015; Docket No. R2015-4, Chairman's Information Request No. 9, February 10, 2015; Docket No. R2015-4, Chairman's Information Request No. 10, February 11, 2015; Docket No. R2015-4, Chairman's Information Request No. 11, February 12, 2015; Docket No. R2015-4, Chairman's Information Request No. 12, February 18, 2015; Docket No. R2015-4, Chairman's Information Request No. 13, February 20, 2015; Docket No. R2015-4, Chairman's Information Request No. 14, February 23, 2015; Docket No. R2015-4, Chairman's Information Request No. 15, February 25, 2015; Docket No. R2015-4, Chairman's Information Request No. 16, February 27, 2015; Docket No. R2015-4, Chairman's Information Request No. 17, April 22, 2015.

[8] Docket No. R2015-4, Order on Price Adjustments for First-Class Mail Products and Related Mail Classification Changes, February 24, 2015 (Order No. 2365).

[9] Docket No. R2015-4, Order on Price Adjustments for Special Services Products and Related Mail Classification Changes, March 10, 2015 (Order No. 2388).

[10] Docket No. R2015-4, Order on Price Adjustments for Standard Mail, Periodicals, and Package Services Products, March 6, 2015, at 15-16, 22-23, 27-30 (Order No. 2378); Docket No R2015-4, Order on Amended Price Adjustments for Standard Mail, Periodicals, and Package Services Products, March 18, 2015, at 3-7, 9-11 (Order No. 2398).

[11] Order No. 2378 at 3, 31-33; Order No. 2398 at 2, 12-13.

[12] Docket No. R2015-4, Order on Revised Price Adjustments for Standard Mail, Periodicals, and Package Services Products and Related Mail Classification Changes, May 7, 2015 (Order No. 2472).

[13] Order No. 2472 at 2.

[14] *Id*. at 29-32, 43, 54-55.

[15] *See* Docket No. R2015-4, Status Report of the United States Postal Service in Response to Order No. 2472, August 5, 2015; *see also* Docket No. RM2015-16, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Seven), August 5, 2015; Docket No. RM2015-17, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Eight), August 5, 2015; Docket No. RM2015-18, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Nine), August 5, 2015.

Remand of Exigent Price Increase Docket

On September 26, 2013, the Postal Service filed a request for a price adjustment due to extraordinary or exceptional circumstances in accordance with 39 U.S.C. § 3622(d)(1)(E).[16] On December 24, 2013, the Commission found that the Postal Service was entitled to collect $2.766 billion in 2014 after-rates contribution as a result of losses it incurred due to the extraordinary or exceptional circumstance of the Great Recession.[17]

On January 23, 2014, the Postal Service petitioned the U.S. Court of Appeals for the District of Columbia Circuit for review of the Commission's order.[18] The court issued its decision on June 5, 2015.[19]

The court largely affirmed Order No. 1926 by leaving undisturbed the Commission's conclusions that the Great Recession constituted an extraordinary or exceptional circumstance warranting exigent rate relief; that the Great Recession remained an extraordinary or exceptional circumstance until the Postal Service had an opportunity to adjust to the "new normal" in the mail economy; and, that the relief awarded the Postal Service was "reasonable and equitable and necessary."[20]

The court vacated the Commission's method for counting the mail volume lost due to the exigent circumstance and remanded the case to the Commission for proceedings consistent with its opinion.[21] That method counted lost volume once in calculating the contribution loss that the Postal Service was entitled to recover (the "count once" rule).

On July 29, 2015, the Commission issued Order No. 2623, which found that the Postal Service was entitled to recover $1.191 billion in additional contribution as an exigent rate adjustment.[22] When added to the $2.766 billion in contribution originally authorized by the Commission in Order No. 1926, the total exigent rate adjustment approved by the Commission is $3.957 billion in contribution.[23] In its order:

- The Commission declined a request by the Postal Service to revisit the "new normal" analysis and to adjust the "new normal" cutoff for each class of Market Dominant mail.[24] The court deemed the "new normal" rule to be well reasoned and grounded in the record before the Commission in previous proceedings.[25]
- The Commission accepted the Postal Service's methodology for counting mail volume losses due to the Great Recession and rejected alternative methodologies proposed by other participants.[26]

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[16] Docket No. R2013-11, Renewed Exigent Request of the United States Postal Service in Response to Commission Order No. 1059, September 26, 2013. The Commission established Docket No. R2013-11 for consideration of the Exigent Request. Docket No. R2013-11, Notice and Order Concerning Exigent Request, September 30, 2013 (Order No. 1847).
[17] Docket No. R2013-11, Order Granting Exigent Price Increase, December 24, 2013, at 106 (Order No. 1926).
[18] *United States Postal Service v. Postal Regulatory Commission,* No. 14-1010 (D.C. Cir. filed Jan. 23, 2014).
[19] *Alliance of Nonprofit Mailers v. Postal Regulatory Commission,* No. 14-1009, 2015 WL 3513394 (D.C. Cir. June 5, 2015).
[20] *Id*. at *5-6.
[21] *Id*. at *10.
[22] Docket No. R2013-11R, Order Resolving Issues on Remand, July 29, 2015, at 1 (Order No. 2623).
[23] *Id*.
[24] *Id*. at 23.
[25] *Id*. at 24.
[26] *Id*. at 41-46.

- The Commission also declined to revisit its prior analysis to adopt a proposal by several participants to revise the unit contribution methodology that was used by the Commission in Order No. 1926 to translate volume losses into financial losses eligible for recovery by means of the exigent rate adjustment.[27] As the unit contribution methodology was not disturbed by the court, the Commission found no compelling reason to revise its earlier decision.[28]
- To ensure the $3.957 billion in contribution is monitored and to prevent over-collection, the Commission ordered the Postal Service to continue to report incremental and cumulative surcharge revenue 45 days after the end of each quarter, notice the removal of the exigent surcharge 45 days in advance of its removal, and provide bi-weekly estimates of the incremental and cumulative surcharge revenue beginning the quarter in which the Postal Service anticipates removing the surcharge.[29]

On August 28, 2015, the Postal Service filed a petition with the U.S. Court of Appeals for the District of Columbia Circuit for review of Order No. 2623.[30] The petition is currently pending before the court.

Request to Transfer First-Class Mail Parcels

On November 14, 2014, the Postal Service filed a request with the Commission to transfer the First-Class Mail Parcels product from the Market Dominant product list to the Competitive product list (merging the new offering into the existing First-Class Package Service product).[31]

For a Market Dominant product to be transferred to the Competitive product list, the Postal Service must demonstrate compliance with 39 U.S.C. § 3642(b), which includes criteria relevant to market power, the postal monopoly, and other additional considerations. The Commission found that the Postal Service did not provide sufficient evidence to demonstrate that it lacks market power and denied the Postal Service's request.[32]

On September 22, 2015, the Postal Service filed a petition for review before the U.S. Court of Appeals for the District of Columbia Circuit.[33] This appeal is pending before the court.

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[27] *Id.* at 52.
[28] *Id.*
[29] *See id.* at 62.
[30] *United States Postal Service v. Postal Regulatory Commission,* No. 15-1297 (D.C. Cir. filed Aug. 28, 2015).
[31] Docket No. MC2015-7, Request of the United States Postal Service to Transfer First-Class Mail Parcels to the Competitive Product List, November 14, 2014.
[32] Docket No. MC2015-7, Order Denying Transfer of First-Class Mail Parcels to the Competitive Product Category, August 26, 2015 (Order No. 2686).
[33] Petition for Review, *United States Postal Service v. Postal Regulatory Commission,* No. 15-1338 (D.C. Cir. filed Sept. 22, 2015).

Discover Negotiated Service Agreement

On March 24, 2015, the Commission denied the Postal Service's request to add an NSA with Discover Financial Services (Discover) to the Market Dominant product list.[34] The Commission did not approve the request because the Postal Service failed to demonstrate that the Discover NSA complied with applicable statutory and regulatory requirements.[35]

Before the Commission may approve an NSA for a Market Dominant product, the Postal Service must show that the NSA will either improve the net financial position of the Postal Service through reducing costs or increasing the overall contribution to institutional costs, or enhance the performance of mail preparation, processing, transportation, or other functions.[36] In addition, the Commission must find that the NSA will not cause unreasonable harm to the marketplace.

After evaluating the Discover NSA using accepted Commission methodology, the Commission was unable to conclude that the proposed NSA would be likely to improve the Postal Service's net financial position.[37] The Postal Service suggested an alternative methodology; however, the Commission concluded the Postal Service's alternative approach was improperly based on subjective intuition rather than objective evidence.[38]

Order Conditionally Approving Removal of Return Receipt for Merchandise Service

The Commission conditionally approved the Postal Service request to remove Return Receipt for Merchandise (RRM) Service from the list of Special Services in the MCS.[39] The Commission found that this request, in fact, represented a price adjustment and thus conditioned its approval on the Postal Service's adjustment of the Special Services unused rate adjustment authority. In the alternative, the Commission gave the Postal Service the option of retaining the RRM Service with no impact on the price cap.[40] The Postal Service subsequently notified the Commission that it decided to indefinitely defer the removal of RRM Service from the MCS.[41]

On February 18, 2015, the Postal Service petitioned the U.S. Court of Appeals for the District of Columbia Circuit for review of the Commission's order.[42] On June 6, 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 in *United States Postal Service v. Postal Regulatory Commission,* 785 F.3d 740 (D.C. Cir. 2015).[43] The Court granted the motion on June 16, 2015, and remanded the matter to the Commission. The matter is currently pending before the Commission.

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[34] Docket Nos. MC2015-3 and R2015-2, Order Rejecting the Postal Service's Request to Add Discover Negotiated Service Agreement to the Market Dominant Product List, March 24, 2015 (Order No. 2410).
[35] Order No. 2410 at 2.
[36] 39 U.S.C. § 3622(c)(10); *see also* 39 C.F.R. § 3010.40(a).
[37] Order No. 2410 at 10-12. The Postal Service itself estimated that the NSA would have a negative $18 million net financial impact over its 3-year term. *Id.* at 12.
[38] *Id.* at 22-24.
[39] Docket No. MC2015-8, Order Conditionally Approving Removal of Return Receipt for Merchandise Service from Mail Classification Schedule, January 15, 2015 (Order No. 2322).
[40] *Id.* at 15.
[41] Docket No. MC2015-8, Response of the United States Postal Service to Order No 2322, January 28, 2015, at 2.
[42] *United States Postal Service v. Postal Regulatory Commission,* No. 15-1037 (D.C. Cir. filed Feb. 18, 2015).
[43] *United States Postal Service v. Postal Regulatory Commission,* No. 15-1037 (D.C. Cir. June 15, 2015). (order granting joint motion to remand case).

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Orders Approving Minor Classification Changes

Pursuant to 39 C.F.R. §§ 3020.90 and 3020.91, the Commission issued three orders approving minor changes to the MCS. These Commission orders approved classification changes modifying the descriptions of Restricted Delivery and Pickup on Demand Services[44]; revised requirements for postage payment for a reseller's customers for Reseller Expedited Package Contracts[45]; and revised the description of Forever Stamps to include five additional types of stamps (postcard stamps, two-ounce letter stamps, three-ounce letter stamps, additional ounce stamps, and first ounce nonmachinable surcharge stamps).[46]

Market Tests

This year the Commission approved one new market test and approved an extension of an existing market test. On October 23, 2014, the Commission approved a market test for Customized Delivery, a delivery service in the San Francisco metropolitan area.[47] Customized Delivery provides customers with delivery of groceries and other prepackaged goods, primarily during a 3 a.m. to 7 a.m. delivery window. The market test will last approximately 2 years. Since October 2014, the Postal Service expanded the market test to the Los Angeles, San Diego, and New York City metropolitan areas.

On September 19, 2014, the Postal Service requested a 1 year extension and expansion of the Metro Post market test. Metro Post is a package delivery service that provides customers with same-day delivery from participating locations within a defined metropolitan area.[48] In its request, the Postal Service stated that testing had begun in new metropolitan areas and asserted that the 1 year extension was necessary to confirm its operational capabilities in these areas and to examine the market for same-day delivery. On November 7, 2014, the Commission approved the Postal Service's request.[49]

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[44] Docket No. MC2014-44, Order Concerning Minor Classification Changes Related to Restricted Delivery and Pickup On Demand Services, October 6, 2014 (Order No. 2208).
[45] Docket No. MC2015-18, Order Approving Minor Classification Change, December 19, 2014 (Order No. 2295).
[46] Docket No. MC2015-42, Order Approving Minor Classification Change, April 9, 2015 (Order No. 2434).
[47] Docket No. MT2014-1, Order Authorizing Customized Delivery Market Test, October 23, 2014 (Order No. 2224).
[48] Docket No. MT2013-1, Request of the United States Postal Service for Extension and Expansion of Metro Post Market Test, September 19, 2014.
[49] Docket No. MT2013-1, Order Approving Request for Extension and Expansion of Metro Post Market Test, November 7, 2014 (Order No. 2243).

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Service Performance Measurement and Reporting

There were two key dockets in FY 2015 where the Commission considered issues related to service performance measurement and reporting.

Service Performance Measurement Plan

Pursuant to the PAEA, service performance must be measured by an objective external measurement system unless the Commission approves the use of an internal or a hybrid measurement system. On October 17, 2014, the Postal Service began discussions with the Commission on proposals to develop new internal service performance measurement systems for several of its Market Dominant products, including products within First-Class Mail, Periodicals, and Standard Mail.[50]

Potential changes to the service performance measurement system include:

- External reporters that are used to start the clock on service performance measurement for single-piece First-Class letters, cards, and flats will be replaced with carriers conducting scans at collection points.[51]
- External reporters that are used to stop the clock on service performance measurement for First-Class Mail, Periodicals, and Standard Mail will be replaced with carriers conducting scans at delivery points.[52]
- Piece based end-to-end service performance measurement will be replaced with a service performance score that is a composite of pick-up, mail processing, and delivery time.[53]

[50] Docket No. PI2015-1, Notice of Request for Comments and Scheduling of Technical Conference Concerning Service Performance Measurement Systems for Market Dominant Products, January 29, 2015 (Order No. 2336).
[51] *Id.* at 2.
[52] *Id.*
[53] *Id.*

On March 18, 2015, the Commission hosted a technical conference at which Postal Service officials outlined the proposed measurement system and were available to answer questions.[54] Following the technical conference, there have been three requests for additional information or clarification.[55]

In response to a Commission invitation for comment, seven parties filed initial comments, and the Postal Service and three interested parties submitted reply comments.

Throughout the proceedings, the Postal Service continuously provided the Commission and the public with updated information. To date, the Postal Service has filed two revised drafts of their proposed service performance measurement plan.[56] In addition, on August 25, 2015, the Postal Service filed a statistical design plan for its proposed methodology.[57] In early FY 2016, the Commission hosted a technical conference at which Postal Service officials outlined the statistical design plan and were available to answer questions. The public inquiry docket is ongoing.

Semi-Permanent Exception to Periodic Reporting

In response to a Commission directive, on October 1, 2014, the Postal Service requested a semi-permanent exception to periodic reporting pursuant to 39 C.F.R. § 3055.3.[58] In the FY 2013 ACR, the Commission noted that the Postal Service reported service performance scores of Single-Piece Parcel Post as a proxy for Alaska Bypass mail service performance. However, since the Postal Service transferred Single-Piece Parcel Post from the Market Dominant product list to the Competitive product list, the Commission determined that the use of those scores was no longer appropriate and directed the Postal Service to propose an alternative measurement system for Alaska Bypass mail.[59]

The Postal Service requested that the Commission grant an exception for Alaska Bypass Mail to the requirement that it measure and report service performance scores for all Market Dominant products. In its request, the Postal Service stated that the cost of measuring and reporting service performance scores for Alaska Bypass mail would be prohibitive relative to its revenue.[60] The Commission agreed that measuring and reporting service performance scores would be cost prohibitive and granted the Postal Service's request.[61]

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[54] Docket No. PI2015-1, Notice and Order Rescheduling Technical Conference and Comment Due Dates, March 9, 2015 (Order No. 2385).

[55] Docket No. PI2015-1, Chairman's Information Request No. 1, March 24, 2015; Docket No. PI2015-1, Chairman's Information Request No. 2, March 26, 2015; Docket No. PI2015-1, Chairman's Information Request No. 3, May 1, 2015.

[56] Docket No. PI2015-1, Notice of the United States Postal Service Concerning Filing of Revisions to the Service Performance Measurement Plan, March 3, 2015; Docket No. PI2015-1, Notice of the United States Postal Service Concerning Filing of Second Set of Revisions to the Service Performance Measurement Plan, March 24, 2015.

[57] Docket No. PI2015-1, Notice of the United States Postal Service Concerning the Filing of the Statistical Design Plan for Internal Service Performance Measurement, August 25, 2015.

[58] Docket No. RM2015-1, United States Postal Service Request for Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement for Alaska Bypass Service, October 1, 2014 (Alaska Bypass Request).

[59] Docket No. ACR2013, *Annual Compliance Determination* Report, March 27, 2014, at 114, 148.

[60] Alaska Bypass Request at 10.

[61] Docket No. RM2015-1, Order Concerning Semi-Permanent Exception from Periodic Reporting of Service Performance Measurement for Alaska Bypass Service, December 23, 2014 (Order No. 2303). The Commission granted the Postal Service's request in part because the Postal Service also requested an exception from reporting on customer satisfaction. Order No. 2303 at 5. The Commission concluded that reporting of customer satisfaction is still required because rule 3055.3 does not provide an exception and the Alaska Bypass Request did not address why any exception to the reporting rules should be extended.

Rulemakings

In FY 2015, the Commission managed several rulemaking dockets in which the Commission reviewed changes to its procedures for making material or minor changes to the MCS, changes to pricing methodologies, and changes to the analytical principles used by the Postal Service when preparing its periodic or annual reports.

Rulemaking on Changes or Corrections to the Mail Classification Schedule

On June 16, 2015, the Commission issued an order adopting final rules on changes and corrections to the MCS.[62] The prior rules did not specifically address MCS changes that were more significant than minor corrections to the MCS but did not rise to the level of a product list modification.[63] The final rules distinguish between material changes and minor corrections to the descriptive content in the MCS and describe procedures for the initiation and review of each type of change.[64] The final rules incorporate minor modifications, clarifications, and corrections to the proposed rules in response to input from commenters.[65]

Price Elasticities and Internet Diversion

The Commission established Docket No. RM2014-5 to explore possible improvements to the Postal Service's econometric demand model and associated factors relating to price elasticity estimates and internet diversion.[66] The Commission scheduled a technical conference and invited interested parties to comment on an alternate method and matters raised at the conference.[67] Following the technical conference on August 13, 2014, the Commission received six comments from interested persons.

On June 12, 2015, the Commission issued a Notice of Inquiry (NOI) after review of the comments and consideration of the discussion at the technical conference. The NOI posed several questions relating to the practical application of the Branching AIDS Model to estimate postal price elasticities.[68] On August 28, 2015, four parties submitted responses to the NOI. The matter is currently pending before the Commission.

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[62] Docket No. RM2015-6, Order Adopting Final Rules on Changes and Corrections to the Mail Classification Schedule, June 16, 2015 (Order No. 2543).
[63] Docket No. RM2015-6, Notice of Proposed Rulemaking on Changes and Corrections to the Mail Classification Schedule, November 14, 2014, at 2 (Order No. 2250).
[64] Order No. 2543 at 2.
[65] *Id*. at 3-6.
[66] Docket No. RM2014-5, Notice and Order Scheduling Technical Conference, July 9, 2014 (Order No. 2117).
[67] Order No. 2117 at 5-6.
[68] Lyudmila Y. Bzhilyanskaya, Margaret M. Cigno, and Edward S. Pearsall, "A Branching AIDS Model for Estimating U.S. Postal Price Elasticities," July 9, 2014. Filed as Attachment A to Order No. 2117.

Form and Content of Postal Service Reports to the Commission

The Commission's periodic reporting rules allow the Commission and the public to review changes to analytical principles before the Postal Service applies these principles to estimate its financial results in its ACR.[69] The Commission's rules approach analytical issues through a process that is intended to be highly flexible and vary according to the complexity of the proposed change and the level of documentation supporting the change.[70]

PHOTO BY I. GRASBERGS

In anticipation of filing its FY 2015 ACR, between October 2014 and August 2015, the Postal Service sought consideration of 15 proposals that sought to change various analytical principles.[71] The Commission held a series of rulemaking proceedings to consider these proposals.

The Postal Service filed two proposals relating to City Carrier costing. On October 31, 2014, the Postal Service filed a petition that the Commission consider Proposal Nine, which sought to utilize the Time and Attendance Collection System (TACS) to decompose city carrier accrued costs into office costs (cost segment 6) and street costs (cost segment 7), replacing the current methodology that uses the In-Office Cost System (IOCS).[72] This proposal is pending before the Commission.

On December 11, 2014, the Postal Service filed a request that the Commission consider Proposal Thirteen, which proposed an update to the City Carrier Street Time model used to determine the attributable street time costs of city carriers.[73] The city carrier network is the largest part of the Postal Service's delivery network and, in FY 2014, these city carrier street time costs represented 20.7 percent of the total Postal Service costs.

As described in Proposal Thirteen, the Postal Service requested updates to three main components of the City Carrier Street Time model: construction of the cost pools, estimation of regular delivery variabilities, and estimation of package and accountable delivery variabilities. The Commission issued an order approving the Postal Service's proposal on October 29, 2015.[74] Additionally, the Commission found that United Parcel Service's concept of a single, united model to estimate delivery cost variabilities warranted further consideration. Accordingly, tied to its approval of Proposal Thirteen, the Commission directed the Postal Service to provide information needed to determine whether a

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[69] Docket No. RM2008-4, Notice of Final Rule Prescribing Form and Content of Periodic Reports, April 16, 2009, at 19 (Order No. 203). *See* 39 C.F.R. § 3050.11, Proposals to change an accepted analytical principle applied in the Postal Service's annual periodic reports to the Commission. The Commission's rulemaking proceedings conform to the Administrative Procedure Act's "notice and comment" requirements. This means that the Commission issues a notice (or advance notice) of a proposed rulemaking, invites public comments, and issues a final rulemaking following consideration of comments.

[70] Docket No. RM2008-4, Notice of Proposed Rulemaking Prescribing Form and Content of Periodic Reports, August 22, 2008, at 31 (Order No. 104).

[71] Six of the proposed changes in analytical principles the Postal Service initiated responded to Commission directives.

[72] Docket No. RM2015-2,Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Nine), October 31, 2014.

[73] Docket No. RM2015-7, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Change in Analytical Principles (Proposal Thirteen), December 11, 2014 (Proposal Thirteen Petition).

[74] Docket No. RM2015-7, Order Approving Analytical Principles Used in Periodic Reporting (Proposal Thirteen), October 29, 2015 (Order No. 2792).

[75] *Id*. at 63-66. This includes information on the ability of existing data systems to capture and report daily parcel volumes by ZIP Code; actions that would need to be taken to collect each of the volume measures that necessitated special studies in the docket and associated time and costs; and the status of its investigation into the feasibility of updating the cost model used to assign costs of Sunday delivery hours and parcel routes.

single model could produce improved estimates of variability.[75]

The Commission also approved several proposals it found would improve the quality, accuracy, and completeness of the financial data or data analysis. The proposals included initiatives to update and improve data sources for existing cost and revenue systems that either streamline data production or improve data quality. For example, the Commission approved the Postal Service request to file a unified version of the *International Cost and Revenue Analysis* report rather than file two separate versions of the report.[76]

Additionally, the Postal Service sought to modify the modeling methodology used to determine avoided costs, which underlie the calculations of workshare discounts for both Standard Carrier Route Flats and Flats Sequencing System (FSS). The Commission approved the modification for Standard Carrier Route Flats.[77] The Commission approved the modification for FSS in early FY 2016.[78]

The Commission also approved the use of data from a FY 2014 field study in avoided costs models for mail processing and workshare discounts. The use of this data will enhance the accuracy and reliability of the avoided costs models.[79]

Competitive Products

The Commission reviews Competitive product prices to ensure compliance with three statutory criteria:

1. *39 U.S.C. § 3633(a)(1).* Competitive products must not be cross-subsidized by Market Dominant products. The Commission uses incremental costs to test whether Competitive products are being cross-subsidized; there is no cross-subsidy where the Commission finds that Competitive product revenues as a whole are equal to or exceed total incremental costs.

2. *39 U.S.C. § 3633(a)(2).* Each Competitive product must cover its attributable costs. In the ACD and in response to a Postal Service notice of change in Competitive product prices, the Commission reviews whether revenues for each Competitive product exceed its attributable costs to determine compliance with this objective.

3. *39 U.S.C. § 3633(a)(3).* This requires Competitive products to collectively cover an appropriate share of institutional costs. A Commission review determined that contribution from Competitive products as a whole must be at least 5.5 percent of the Postal Service's total institutional costs.[80]

Within the constraints of these statutory criteria, Commission rules provide flexibility to the Postal Service to set prices for Competitive products.[81] For Competitive products featuring "rates of general applicability" (*i.e.,* products available to the general mailing public), the Commission completes its review within 30 days. For Competitive products featuring "rates not of general applicability" (*i.e.,* products with rates offered only to specific mailers), the Commission completes its review within 15 days.

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[76] Docket No. RM2015-10, Order on Analytical Principles Used in Periodic Reporting (Proposal Two), September 3, 2015, at 5 (Order No. 2695).
[77] Docket No. RM2015-17, Order on Analytical Principles Used in Periodic Reporting (Proposal Eight), October 1, 2015 (Order No. 2742).
[78] Docket No. RM2015-16, Order Approving Analytical Principles Used in Periodic Reporting (Proposal Seven), November 25, 2015 (Order No. 2839).
[79] Docket No. RM2015-3, Order on Analytical Principles Used in Periodic Reporting (Proposal Ten), January 6, 2015 (Order No. 2315).
[80] Docket No. RM2012-3, Order Reviewing Competitive Products' Appropriate Share Contribution to Institutional Costs, August 23, 2012 (Order No. 1449).
[81] *See* 39 C.F.R. § 3015.

Changes in Rates of General Applicability

During FY 2015, the Commission reviewed price or classification requests for Competitive products featuring prices of general applicability in several dockets.

Annual price change for Competitive products. On January 26, 2015, the Postal Service filed notice of its annual change in prices of general applicability for several domestic and international Competitive products.[82] The Commission found that the new prices for Competitive products complied with 39 U.S.C. § 3633(a).[83]

The Postal Service also proposed changes to the MCS related to some of these products.[84] The Commission approved some of the Postal Service's classification changes, including the removal of Inbound International Insurance from the MCS.[85]

The Commission did not approve all classification changes.[86] A number of classification changes originated in Docket No. R2015-4; therefore, the Commission delayed implementation of those classification changes until the conclusion of that docket.[87] The Postal Service also sought to renumber International Business Reply Service Competitive Contracts (IBRS). The requested renumbering moved IBRS from the Inbound International NSA section to the Outbound International NSA section. The Commission found that although the change may be minor in nature, that type of request should be filed in a separate docket pursuant to the rules governing minor classification changes (39 C.F.R. §§ 3020.90 and 3020.91).[88]

PHOTO BY ORHAN CAM

Price change for Inbound Air Parcel Post (at UPU rates). Pursuant to UPU regulations, the Postal Service (and other designated postal operators) may qualify for semi-annual increases to their "base" rates for inbound air parcels if they provide certain value-added services. These price increases are applied to the base rates effective January 1 and July 1 of each year. Accordingly, on December 29, 2014, the Commission approved revised rates for the Inbound Air Parcel Post (at UPU rates) product.[89] The Commission determined that the UPU established rates were consistent with the statutory criteria of 39 U.S.C. § 3633(a).

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[82] Docket No. CP2015-33, Notice of the United States Postal Service of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision No. 14-5, January 26, 2015.

[83] Docket No. CP2015-33, Order Approving Changes in Rates of General Applicability for Competitive Products, February 25, 2015 (Order No. 2366).

[84] The Postal Service's notice identified price changes for the following Competitive products: Parcel Select, Parcel Return Service, First-Class Package Service, Standard Post, Domestic Extra Services, Global Express Guaranteed and Priority Mail Express International, Priority Mail International, International Priority Airmail, International Surface Air Lift, Airmail M-bags, First-Class Package International Service, and International Ancillary Services.

[85] Order No. 2366 at 12.

[86] For example, the Commission did not approve proposed MCS changes related to the transfer of the First-Class Mail Retail parcels from the Market Dominant to the Competitive product list. Order No. 2366 at 3. For more discussion on First-Class Mail Retail parcels, see supra at 29.

[87] The classification changes that were delayed were the addition of Special Handling to Priority Mail Express, the removal of Restricted Delivery from the list of optional Ancillary Service for Priority mail, Parcel Select, First-Class Package Service, and Standard Post, and the removal of Inbound International Return Receipt and revisions to Outbound International Return Receipt. Order No. 2366 at 10-11. The changes related to Special handling and Restricted Delivery were later approved. *See* Docket No. CP2015-33, Order Approving Additional Mail Classification Changes for Competitive Products, May 13, 2015 (Order No. 2481). *See also* Docket No. R2015-4, Order on Price Adjustments for Special Services Products and Related Mail Classification Changes, March 10, 2015 (Order No. 2388).

[88] Order No. 2366 at 12.

[89] Docket No. CP2015-24, Order Accepting Changes in Rates for Inbound Parcel Post (at UPU Rates), December 29, 2014 (Order No. 2310).

Changes in Rates Not of General Applicability: NSAs

During FY 2015, the Commission reviewed competitive NSAs in 139 docketed proceedings. Table III-1 shows these NSAs, as well as those the Commission approved during each of the past 7 fiscal years.[90] These NSAs require prior Commission approval for compliance with the statutory criteria.

Table III-1: Competitive NSAs Approved by the Commission

Competitive NSAs	FY 2015	FY 2014	FY 2013	FY 2012	FY 2011	FY 2010	FY 2009
Domestic	81	40	52	32	13	13	32
International	58	36	29	22	48	111	34
Total	139	76	81	54	61	124	66

The Commission completed its review of each competitive NSA in an average of 11.6 days. Eighty-one of these NSAs involved domestic shipping services, including Priority Mail Express, Priority Mail, Parcel Select, Parcel Return Service, and First-Class Package Service. The Commission determined that the negotiated rates for each NSA request complied with 39 U.S.C. § 3633(a).

The remaining 58 were competitive international NSAs. The Commission reviewed these products:

Inbound services:

- International Business Reply Service Competitive Contracts 1
- International Business Reply Service Competitive Contracts 3
- Inbound Direct Entry Contracts with Foreign Postal Administrations
- Inbound Direct Entry Contracts with Foreign Postal Administrations 1
- Inbound International Expedited Services 2
- Royal Mail Group Inbound Air Parcel Post Agreement
- Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1

Outbound services:

- Global Expedited Package Services 3
- Global Plus 1C
- Global Plus 2C
- Global Reseller Expedited Package Contracts 1
- Global Reseller Expedited Package Contracts 2
- Priority Mail International Regional Rate Boxes Contract 1

In addition, non-published rates (NPR) products authorize the Postal Service to enter into contracts featuring negotiated rates without prior Commission approval. Such NPR contracts must comply with Commission classification and regulatory requirements, including pre-approved pricing formulas, minimum cost coverage, and documentation. The absence of pre-implementation review streamlines the approval process, providing the Postal Service with additional flexibility. The Commission has approved eight NPR products since their inception in FY 2011. *See* Table III-2 on the following page.

[90] Specifically, Table III-1 shows approved NSAs that were filed as new products to be added to the MCS and functionally equivalent to a baseline agreement in a previously approved MCS product.

- Global Expedited Package Services (GEPS) – NPR 1
- GEPS – NPR 2
- GEPS – NPR 3
- GEPS – NPR 4
- GEPS – NPR 5
- GEPS – NPR 6
- Priority Mail – NPR
- Priority Mail International Regional Rate Boxes – NPR

Table III-2 also shows the number of NPR contracts included in these NPR products.[91] The Priority Mail – NPR product is the only Competitive domestic NPR product currently in effect; the other five are Competitive international NPR products.

Table III-2: NPR Contracts Implemented by the Postal Service by Product

NPR Products	NPR Contracts				
	FY 2015	FY 2014	FY 2013	FY 2012	FY 2011
GEPS-NPR 1, 2, 3, 4, 5, and 6	78	124	129	141	168
Priority Mail-NPR	0	1	2	3	3
Priority Mail International Regional Rate Boxes-NPR	0	0	0	N/A	N/A
Total	78	125	131	144	171

Review of Calculation of Assumed Federal Income Tax on Competitive Products

To further enhance transparency, the Commission established a proceeding to review the Postal Service's calculation of the assumed Federal income tax on Competitive products. In previous fiscal years, the Commission included this review as part of the ACD.

On January 16, 2015, the Commission established Docket No. T2015-1 to separately review the calculations of the assumed Federal income tax on Competitive products and supporting documentation, appointed a public representative, and invited interested parties to comment.[92] On April 16, 2015, the Commission approved the Postal Service's calculation of the FY 2014 assumed Federal income tax on Competitive products.[93]

[91] For display purposes, Table III-2 lists all six GEPS-NPR products as a single line item.
[92] Docket No. T2015-1, Notice and Order Concerning the Review of the Calculation of the Assumed Federal Income Tax on Competitive Products, January 16, 2015 (Order No. 2323).
[93] Docket No. T2015-1, Order Approving the Calculation of the FY 2014 Assumed Federal Income Tax on Competitive Products, April 16, 2015 (Order No. 2443).

CHAPTER IV | Universal Service Obligation and Postal Monopoly

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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 "[t]he Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the ... correspondence of the people ... [by providing] prompt, reliable, and efficient services to patrons in all areas and ... postal services to all communities."[94] The USO has seven principal attributes: geographic scope, product range, access, delivery, pricing, service quality, and an enforcement mechanism.[95]

The postal monopoly is the Postal Service's exclusive right to carry and deliver certain types of mail and deposit mail into mailboxes.[96] Unlike the cost of the USO (USO Cost), the Commission is not required to estimate the value of the postal monopoly. In an effort to present a balanced perspective, however, the Commission provides estimates for both the USO Cost and the value of the postal monopoly.[97]

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.*

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[94] Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly,* December 19, 2008, at 18 (USO Report).
[95] *Id.*
[96] *Id.* at 10 n.1.
[97] The value of the postal monopoly continues to be a topic of interest, and while others have also opined about its value (see, e.g., Robert J. Shapiro, How the U.S. Postal Service Uses Its Monopoly Revenues and Special Privileges to Subsidize Its Competitive Operations, October 21, 2015 (available at: *http://www.sonecon.com/docs/studies/Study_of_USPS_Subsidies-Shapiro-Sonecon-March_25_2015.pdf);* Robert J. Shapiro, The Basis and Extent of the Monopoly Rights and Subsidies Claimed by the United States Postal Service, March 25, 2015 (available at: *http://www.sonecon.com/docs/studies/Study_of_USPS_Subsidies_for_Its_Competitive_Operations-Robert_Shapiro-Sonecon-October_21_2015.pdf)* the Commission makes no determination or finding about those opinions.

Estimated Cost of the USO

39 U.S.C. § 3651(b)(1) requires the Commission to estimate the costs incurred by the Postal Service in providing three types of public services or activities: 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; and other public services or activities the Postal Service would not otherwise provide but for legal requirements.

The Commission estimates the USO Cost by totaling the costs of providing the public services or activities under section 3651(b)(1). Table IV-1 illustrates the estimated USO Cost for the last 5 fiscal years, FY 2010 to FY 2014.

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

	FY 2014	FY 2013	FY 2012	FY 2011	FY 2010
Postal Services to Areas of the Nation the Postal Service Would Not Otherwise Serve	0.30	0.48	0.74	0.74	0.71
Estimated Revenue Not Received	1.62	1.65	1.64	1.94	1.90
Other Public Services or Activities	2.21	2.39	2.43	2.49	2.42
TOTAL	4.13	4.52	4.81	5.17	5.03

In this chapter, the Commission provides estimates of the costs incurred by the Postal Service in providing public services or activities under section 3651(b)(1), describes related statutory requirements, and explains the methodologies used to estimate these costs.[98]

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[98] *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)[.]" [99]

The Commission estimates 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 public service or activity from FY 2010 to FY 2014.

Table IV-2: Areas the Postal Service Would Not Otherwise Serve ($ Millions)

	FY 2014	FY 2013	FY 2012	FY 2011	FY 2010
Maintaining Small Post Offices	157	332	587	583	566
Alaska Air Subsidy	112	114	122	123	118
Group E Post Office Boxes	33	31	34	36	30
TOTAL	302	477	743	742	714

As shown in Table IV-2, total costs were relatively stable between FY 2010 and FY 2012, ranging from $714 million to $743 million. However, total costs decreased by more than $250 million in FY 2013 and $175 million in FY 2014. The recent decline in total costs is partly due to the decrease in the cost of maintaining small post offices, as described below.

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."[100] The Postal Service uses Cost Ascertainment Group (CAG) classifications A to L to categorize Post Offices by the amount of revenue they generate. Small post offices are those that fall within CAG K and L classifications; they have higher unit transaction costs than larger post offices and lower levels of annual revenue.[101] 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

[99] *Id.* § 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).
[100] 39 U.S.C. § 403(b)(3).
[101] Robert H. Cohen and Charles McBride, Study on Universal Postal Service and the Postal Monopoly, Appendix F-3, *Estimates of the Current Costs of the USO in the U.S.* at 26, George Mason University School of Public Policy (November 2008) (GMU Study).

same services as those provided at small Post Offices and the revenue lost from existing CAG K and L Post Office Boxes.[102]

The Commission uses the FY 2014 Rural Mail Count to obtain the cost of services that rural carriers provide on their routes at rural neighborhood collection box units. In FY 2014, partly due to the $79 million decrease in salaries distributed to CAG K and L postmasters, the cost of maintaining small post offices decreased to $157 million from $332 million in FY 2013. This decline appears to be largely a result of Postal Service's implementation of the Post Office Structure Plan. Due to recent changes in the staffing of small post offices, the Commission is evaluating the methodology for estimating the cost of maintaining post offices.[103]

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 Alaska Air Subsidy is 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. The Commission previously concluded that the Alaska Air Subsidy is an institutional cost because it is part of the USO to serve areas the Postal Service could not otherwise reach by ground transportation.[104] The Alaska Air Subsidy has declined since FY 2011 from $123 million to $112 million in FY 2014.

[102] 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.

[103] *See* Docket No. RM2015-19, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Ten), August 12, 2015, at 3.

[104] USO Report at 139.

GROUP E POST OFFICE BOXES

Group E Post Office Boxes are provided free of charge to postal customers who do not receive mail delivery.[105] The Postal Service provides this service to address potential discrimination issues arising from instances where customers do not receive carrier delivery. 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.[106] 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 2014, Group E Post Office Boxes cost $33 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]."[107] The Commission's cost estimates under 39 U.S.C. § 3651(b)(1)(B) consist of preferred rate discounts net of costs and the negative contribution of Periodicals (Periodicals Losses). Table IV-3 shows the estimated revenue not received as a result of preferred rate discounts and Periodicals Losses between FY 2010 to FY 2014.

Table IV-3: Estimated Revenue Not Received ($ Millions)

	FY 2014	FY 2013	FY 2012	FY 2011	FY 2010
Preferred Rate Discounts Net of Costs	1,114	1,130	974	1,329	1,284
Periodicals Losses	509	521	670	609	611
TOTAL	1,623	1,651	1,644	1,938	1,895

[105] Docket No. RM2011-9, Order Concerning Analytical Principles Used in Periodic Reporting (Proposal One), June 9, 2011, at 2 (Order No. 744).
[106] *Id.* at 4.
[107] 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 Standard Mail, Periodicals, and Library Mail.[108] 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. In that case, rates for these mail pieces would be higher, resulting in a loss of volume and, consequently, lower costs.

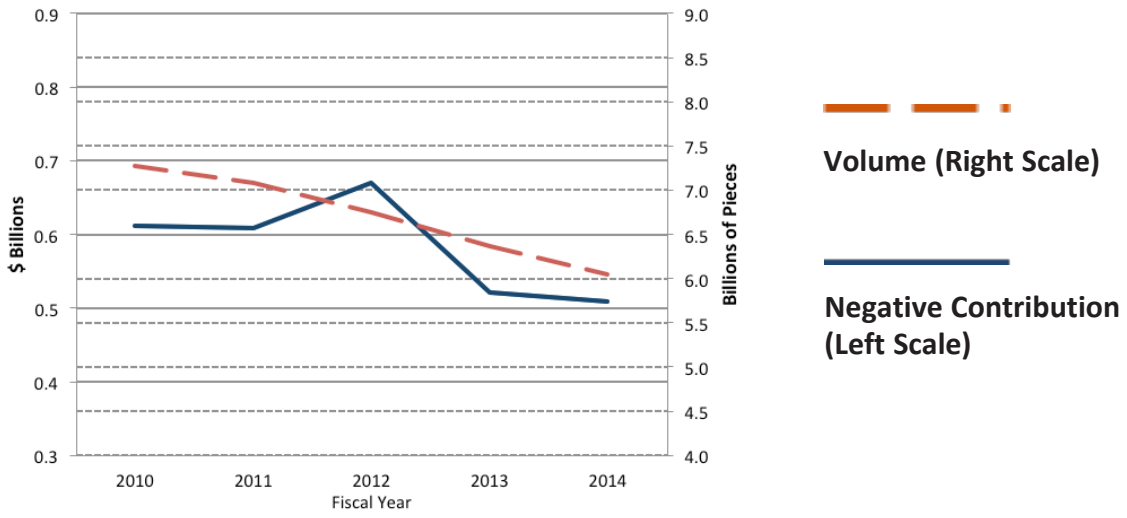
PERIODICALS LOSSES

The PAEA's price cap does not allow the Postal Service to fully recover Periodicals Losses through rate increases.[109] It is assumed that, if not for the price cap, the Postal Service would raise Periodicals rates to the level necessary to cover attributable costs. Accordingly, the Commission considers these losses to be part of the USO Cost. Periodicals Losses are the annual amount by which Periodicals attributable cost exceeds revenue.

Table IV-3 illustrates that although there was some variation year-to-year, overall Periodicals Losses declined. During the five-year period shown, FY 2012 had the largest overall loss at $670 million, while FY 2014 had the smallest overall loss at $509 million.

Figure IV-1 shows the trend of Periodicals Losses and volumes from FY 2010 to FY 2014. The largest loss in FY 2012 was due to the largest increase in attributable cost per piece for the period and a slight decrease in revenue per piece between FY 2011 and FY 2012.[110] In FY 2014, a slight increase in revenue per piece was not enough to offset the increase in cost per piece, so contribution per piece decreased. However, the decrease in volume led to a reduction in the FY 2014 loss.[111]

Figure IV-1: Periodicals Losses of Contribution and Volumes



[108] Docket No. ACR2014, *Annual Compliance Determination* Report, March 27, 2015, at 32 (FY 2014 ACD).

[109] These losses were initially called "Losses on Market Dominant Products." 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 (FY 2012 *Annual Report*). Losses on other unprofitable Market Dominant products are not included because those products are in classes that were profitable overall. USO Report at 134.

[110] *See* FY 2014 ACD at 34.

[111] *Id.*

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."[112] Currently, these costs include the costs of providing Six-Day Delivery and uniform rates for First-Class Mail and Media Mail/Library Mail. Table IV-4 shows the costs of providing these public services or activities from FY 2010 to FY 2014.

Table IV-4: Other Public Services or Activities the Postal Service Would Not Provide But for Legal Requirements ($ Millions)

Public Service or Activity	FY 2014	FY 2013	FY 2012	FY 2011	FY 2010
Six-Day Delivery	2,080	2,212	2,240	2,250	2,248
Uniform First-Class Mail Rates	93	109	117	122	78
Uniform Media Mail/Library Mail Rates	37	70	71	115	98
TOTAL	2,210	2,391	2,428	2,487	2,424

SIX-DAY DELIVERY

Since 1984, appropriations bills have included a provision requiring the Postal Service to continue providing Six-Day Delivery.[113] 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-4 shows the cost of Six-Day Delivery from FY 2010 to FY 2014. The cost of Six-Day Delivery has declined from $2.25 billion in FY 2011 to $2.08 billion in FY 2014.

For FY 2008 and FY 2009, the Commission estimated the cost of providing Six-Day Delivery based on the methodology described in the USO Report. For FY 2010 to FY 2014, the Commission updated its methodology to reflect its findings in its Advisory Opinion on Elimination of Saturday Delivery.[114] The update included additional components, such as the costs of mail processing and transportation; improvements in calculating average wage rates and overhead costs; and more disaggregated methods of estimating mail processing, transportation, and delivery costs.

[112] 39 U.S.C. § 3651(b)(1)(C).
[113] *See, e.g.,* Consolidated and Further Continuing Appropriations Act, 2015, Pub L. No. 113-235, 128 Stat. 2130, 2372 (2014) ("6-day delivery and rural delivery of mail shall continue at not less than the 1983 level").
[114] Docket No. N2010-1, Advisory Opinion on Elimination of Saturday Delivery, March 24, 2011.

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UNIFORM RATES

Rates for First-Class Mail must be uniform throughout the United States.[115] 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-4 shows the cost of uniform First-Class Mail rates. Since FY 2011, the cost of uniform First-Class Mail rates has decreased from $122 million to $93 million in FY 2014.

Media Mail/Library Mail rates must be uniform for mail of the same weight and must not vary with the distance transported.[116] The Commission estimates the cost of the distance component by assuming that without this requirement, Media Mail/Library Mail would produce 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 2014, the estimated cost of providing uniform Media Mail/Library Mail rates was $37 million. The substantial decrease in cost between FY 2013 and FY 2014 is due to the improved unit contribution of Media Mail/Library Mail and the decrease in Media Mail/Library Mail volumes.[117]

ADDITIONAL PUBLIC SERVICES OR ACTIVITIES

The Commission recently issued an order in Docket No. PI2014-1 that outlines its interpretation of 39 U.S.C. § 3651(b)(1)(C).[118] In future *Annual Reports,* the Commission will apply this interpretation if it determines that the costs of additional public services or activities should be included under this provision.

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[115] 39 U.S.C. § 404(c).

[116] *Id.* § 3683.

[117] The unit contribution of Media Mail/Library Mail improved by 36.2 cents (from negative 59.1 cents to negative 22.9 cents) in FY 2014, and Media Mail/Library Mail volume decreased by 8.7 percent. FY 2014 ACD at 50; Docket No. ACR2014, *Financial Analysis of the United States Postal Service Financial Results and 10-K Statement,* April 2, 2015, at 56, Table III-23 and Appendix A at 74;Docket No. ACR2013, *Analysis of the United States Postal Service Financial Results and 10-K Statement,* Revised April 10, 2014, Appendix A at 44.

[118] Docket No. PI2014-1, Order Interpreting 39 U.S.C. § 3651(b)(1)(C), November 17, 2015 (Order No. 2820).

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.[119] The letter monopoly is the Postal Service's exclusive right to carry and deliver most addressed, paper-based correspondence.[120]

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 were subject to competition for mail currently covered by the postal monopoly.

Table IV-5 shows the values of the postal and mailbox monopolies from FY 2010 to FY 2014.[121] The increase in the estimated value of the postal monopoly from FY 2013 to FY 2014 is largely due to increases in the percentage of mail that is considered contestable.[122]

Notwithstanding these increases, the volume of Parcel Select contestable mail dropped substantially due to updates to the Parcel Select contestability factor. The value of the mailbox monopoly is estimated based on contestable mail volumes in Periodicals, Standard Mail ECR, and Parcel Select. Because the updated contestablilty factor reduced the contestable volume of Parcel Select in FY 2014, the value of the mailbox monopoly decreased. Changes in the volumes 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.

Table IV-5: Values of the Postal and Mailbox Monopolies ($ Billions)

	FY 2014	FY 2013	FY 2012	FY 2011	FY 2010
Postal Monopoly	**4.61**	**3.93**	**3.28**	**3.34**	**3.33**
Mailbox Monopoly	**0.77**	**0.81**	**0.70**	**0.91**	**0.69**

The Commission used the model explained in the USO Report to update current estimates.[123] 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

[119] 18 U.S.C. § 1725.
[120] The letter monopoly is codified in the Private Express Statutes. See 18 U.S.C. §§ 1693–1699 and 39 U.S.C. §§ 601–606.
[121] 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.
[122] 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.
[123] *See* USO Report at 143-52.

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.[124]

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.[125] 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.[126] In addition, bulk parcels, which are Competitive products, are considered contestable mail.

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[124] 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.

[125] 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.

[126] 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 | Other Proceedings and Actions

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The Office of the General Counsel supports the Commission in the timely and efficient resolution of matters falling within legal practice areas defined by the PAEA, including: rulemakings, post office closing appeals, rate and service complaints, approval of the addition, removal, or transfer of postal products and services, advisory opinions regarding changes in the nature of service, and related litigation. It also advises the Commission on the conduct of agency business in conformance with the Freedom of Information Act, the Government in the Sunshine Act, government contracting requirements, and other laws dealing with personnel and other federal legal requirements.

In FY 2015, the Commission initiated rulemaking dockets to clarify its procedures, resolved post office closing appeals, considered rate and service complaints, assisted with litigation of its orders before the U.S. Court of Appeals, and served as an adviser on international postal issues.

Rulemakings on Commission Procedures

Section 404a Complaints

In 2013, the Commission issued a notice of proposed rulemaking to promulgate regulations for section 404a complaints. Section 404a prohibits the Postal Service from certain anticompetitive behaviors and permits any person to file a complaint with the Commission if that person believes the Postal Service has violated the section.[127] Specifically 404a(a) precludes the Postal Service from establishing regulations that have the effect of harming competition, compelling private entities to disclose information about their intellectual property, and using information obtained from a person without their consent and then offering any postal product that uses or is based on such information.

On October 6, 2014, the Commission issued an order adopting the final rules. The final rules list elements that a person must show to bring a section 404a complaint, describe affirmative defenses available to the Postal Service, and define terms.[128] In the final order, the Commission also deferred consideration of procedural rule changes that would have created a multi-track approach to adjudicating section 404a complaints.

Automatic Closure of Inactive Dockets

On May 4, 2015, the Commission issued a notice of proposed rulemaking to establish procedures that would simplify the docket closure process by permitting automatic closure of a docket following 12 months of inactivity.[129] On July 15, 2015, the Commission issued an order adopting the final rules.[130]

The final rules provide that the automatic closure procedures do not apply to dockets in which a final order required by rule or statute is pending, or if the Commission has otherwise indicated a final order is forthcoming. Additionally, the rules provide parties an opportunity to file a motion to stay the automatic closure up to 15 days prior to the automatic closure date and provide participants an opportunity to answer the motion. The final rules provide that the Commission will post on its website a list of dockets that will, without action taken by parties or the Commission, be subject to automatic closure in the following month and the scheduled date of closure for each docket.

[127] Docket No. RM2013-4, Notice of Proposed Rulemaking Establishing Rules Pursuant to 39 U.S.C. 404a, June 5, 2013 (Order No. 1739).
[128] Docket No. RM2013-4, Order Establishing Final Rules Pursuant to 39 U.S.C. 404a, October 6, 2014 (Order No. 2207).
[129] Docket No. RM2015-8, Notice of Proposed Rulemaking Regarding Automatic Closure of Inactive Dockets, May 4, 2015 (Order No. 2465).
[130] Docket No. RM2015-8, Order Adopting Final Rules for Automatic Closure of Inactive Dockets, July 15, 2015 (Order No. 2589).

Post Office Closing Appeals

The Commission reviewed three post office closing appeals in FY 2015. The Commission affirmed the Postal Service's final determination to close the Yantic Post Office in Yantic, Connecticut.[131] The Commission applied long standing precedent and dismissed the petition to review the closing of the contract postal unit in Careywood, Idaho, because the retail facility was not the sole source of postal retail services to the community.[132] The Commission also dismissed the petition to review the Postal Service's decision to relocate the post office in North Platte, Nebraska.[133]

Complaints

Complaint of the American Postal Workers Union

In 2013, the APWU filed a complaint alleging that the Postal Service failed, in a number of geographic areas, to adhere to the service standards established under the Mail Processing Network Rationalization initiative.[134] The Commission granted the Postal Service's motion to dismiss the APWU complaint.[135]

Subsequently, in 2014, the APWU filed a motion for reconsideration,[136] and the Commission vacated its previous order dismissing the complaint, finding that harm to the complainant was not required for standing under 39 U.S.C. § 3662.[137] The Commission, however, found that service standards outlined in 39 C.F.R. § 121.1 represent expectations and cannot be violated per se. Rather, the Commission assesses service performance by determining whether the Postal Service met its performance goals. The Commission stated that it already evaluated the Postal Service's compliance with its service standards and directed the Postal Service to take remedial action. For these reasons, the Commission dismissed the complaint.[138]

On May 29, 2015, the APWU filed a petition for review before the U.S. Court of Appeals for the District of Columbia Circuit.[139] The appeal is pending before the court.

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[131] Docket No. A2015-1, Order Affirming Determination, June 5, 2015 (Order No. 2530).
[132] Docket No. A2015-2, Order Dismissing Appeal, May 27, 2015 (Order No. 2505).
[133] Docket No. A2015-3, Order Granting Motion to Dismiss, June 18, 2015 (Order No. 2546).
[134] Docket No. C2013-10, Complaint of American Postal Workers Union, AFL-CIO Regarding Violations of 39 U.S.C. 3661 and 3691, September 5, 2013 (Complaint). *See also* Docket No. C2013-10, Amended Complaint of American Postal Workers Union, AFL-CIO Regarding Violations of 39 U.S.C. § 3691 and 39 C.F.R. § 121.1, December 13, 2013.
[135] Docket No. C2013-10, Order Dismissing Complaint, February 27, 2014 (Order No. 2000). *See also* Docket No. C2013-10, United States Postal Service Motion to Dismiss the Complaint of the American Postal Workers Union, AFL-CIO [Errata], September 26, 2013. *See also* Docket No. C2013-10, United States Postal Service Response in Further Support of its Motion to Dismiss, December 20, 2013.
[136] APWU subsequently filed a petition for review of Order Nos. 1892 and 2000 with the United States Court of Appeals for the District of Columbia Circuit. Petition for Review, *American Postal Workers Union, AFL-CIO v. Postal Regulatory Commission* No 14-1035, (D.C. Cir. filed Mar. 20, 2014). The Court dismissed the petition for review because "a party may not simultaneously seek agency rehearing and judicial review of the same agency order." Order, *American Postal Workers Union, AFL-CIO v. Postal Regulatory Commission,* No 14-1035 at 1 (D.C. Cir. Aug. 7, 2014)(order granting motion to dismiss).
[137] Docket No. C2013-10, Order Granting Motion for Reconsideration and Granting Motion to Dismiss, May 27, 2015 (Order No. 2512).
[138] Order No. 2512 at 17-21.
[139] *American Postal Workers Union,* AFL-CIO v. *Postal Regulatory Commission,* No 15-1156 (D.C. Cir. filed May 29, 2015).

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Complaint of the Center for Art and Mindfulness

On December 29, 2014, the Center for Art and Mindfulness, Inc. and Norton Hazel (collectively complainants) filed a complaint concerning the sale and closure of the Atlantic Street Station post office in Stamford, Connecticut (Atlantic Street Station).[140] Complainants alleged that the Postal Service violated various statutory and regulatory provisions, had a conflict of interest, and breached its contract regarding the sale of the Atlantic Street Station. Complainants also alleged that the Postal Service violated its regulations when it closed the Atlantic Street Station without complying with the notice and hearing requirements regarding the closure of post offices.

The Commission granted the Postal Service's motion to dismiss on March 4, 2015.[141] It found that the complaint did not lie within the Commission's jurisdiction under 39 U.S.C. § 3662(a). The Commission concluded that the sale of real property by the Postal Service does not qualify as a "service" under section 403 of Title 39. With respect to the closure of the Atlantic Street Station, the Commission found that the statutory provision concerning closures was not one of the enumerated sections under the complaint jurisdiction set forth in 39 U.S.C. § 3662 and therefore, the Commission did not have jurisdiction over those claims.

On April 1, 2015, complainants filed a motion for reconsideration of Commission Order No. 2377.[142] On April 23, 2015, the Commission denied the motion for reconsideration.[143]

On April 3, 2015, the complainants appealed the Commission's order dismissing their complaint to the U.S. Court of Appeals for the District of Columbia Circuit.[144] The petitioners alleged that they were entitled to judicial review of the Commission's determination dismissing their complaint. The Commission moved to dismiss the petition on the grounds that the order appealed by the complainants was not a final order subject to judicial review. The appeal is currently pending before the court.

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[140] Docket No. C2015-1, Complaint of Center for Art and Mindfulness, Inc. and Norton Hazel, December 29, 2014.
[141] Docket No. C2015-1, Order Granting Motion to Dismiss, March 4, 2015 (Order No. 2377).
[142] Docket No. C2015-1, Brief in Support of Motion for Reconsideration of Commission Order of Center for Art and Mindfulness, Inc. and Norton Hazel, April 1, 2015.
[143] Docket No. C2015-1, Order Denying Reconsideration of Commission Order No. 2377, April 23, 2015 (Order No. 2460).
[144] *Center for Art and Mindfulness v. Postal Regulatory Commission,* No 15-1079 (D.C. Cir. filed Apr. 3, 2015).

Additional Complaints

The Commission also heard two other complaints in FY 2015. James and Rosalyn Goodman alleged that the Postal Service violated postal regulations and policies, the Americans with Disabilities Act, and federal criminal statutes when it suspended delivery to Rosalyn Goodman's residence.[145] On May 14, 2015, the Postal Service filed a motion to dismiss the complaint and stated that it suspended delivery pursuant to Postal Service regulations.[146] On July 15, 2015, the Commission found that the Postal Service regulations are reasonable and dismissed the complaint.[147]

Frederick Foster (Foster) filed a complaint against the Postal Service, Pitney Bowes, Inc., and the Postal Service Office of Inspector General and alleged violations of sections 401, 403(c), and 404a of Title 39, and violations of various Federal criminal and antitrust statutes.[148] Foster alleged that, after he submitted a secure digital delivery service (Virtual P.O. Box) idea to the Postal Service, both the Postal Service and Pitney Bowes, Inc. misappropriated his idea and colluded to create similar services. Pitney Bowes, Inc. filed a motion to dismiss on July 8, 2015, and the Postal Service filed a motion to dismiss on July 14, 2015.[149] On September 26, 2015, the Commission dismissed the complaint in its entirety. The Commission found that it lacked jurisdiction over some counts. For the remaining counts, the Commission found that Foster failed to state a claim upon which relief could be granted.[150]

On September 23, 2015, Foster filed a petition for review before the U.S. Court of Appeals for the District of Columbia Circuit, where the appeal is currently pending.[151]

[145] Docket No. C2015-2, First Amended Complaint of James D. Goodman Regarding Failure and Refusal to Deliver Mail by the US Postal Service to 1600 Entre Colinas Place, Pomona California, April 23, 2015.
[146] Docket No. C2015-2, United States Postal Service Motion to Dismiss the Complaint of James D. Goodman and Rosalyn Goodman, May 14, 2015.
[147] Docket No. C2015-2, Order Granting Motion to Dismiss, July 15, 2015 (Order No. 2585).
[148] Docket No. C2015-3, Complaint of Frederick Foster, June, 24, 2015.
[149] 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.
[150] Docket No. C2015-3, Order Dismissing Complaint, August 26, 2015 (Order No. 2687).
[151] *Frederick Foster v. Postal Regulatory Commission,* No 15-1339 (D.C. Cir. filed Sept. 23, 2015).

Court Appeals

Round-Trip Mailer

In 2013, the Postal Service filed a request to add the Round-Trip Mailer (RTM), to the Competitive product list.[152] The proposed RTM featured equal prices for letter-shaped and flat-shaped round-trip DVD mail. The Postal Service intended for the RTM to replace existing Market Dominant product offerings for round-trip DVD mail.

On December 23, 2014, the Commission denied the request because the Postal Service failed to demonstrate that the RTM met the requirements for inclusion on the Competitive product list specified in 39 U.S.C. § 3642(b).[153] The Commission found that the Postal Service failed to provide sufficient evidence to demonstrate that it did not exercise "sufficient market power" to "effectively set the price of [the Round-Trip Mailer] 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."[154] The Commission denied the request without prejudice to the filing of a new, adequately supported request.[155]

On January 21, 2015, the Postal Service filed a petition for review before the U.S. Court of Appeals for the District of Columbia Circuit.[156] The appeal is currently pending before the court.

Application of Price Cap Rules

On May 12, 2015, the U.S. Court of Appeals for the District of Columbia Circuit issued its opinion in *United States Postal Service v. Postal Regulatory Commission.* The court denied in part and granted in part the Postal Service's petition for review of Order No. 1890.[157] Order No. 1890 denied implementation of the Full Service IMb requirements for failure to comply with 39 U.S.C. § 3622(d) and prohibited the Postal Service from implementing the new Full Service IMb requirements without first adjusting its billing determinants to account for the impact of those requirements on the price cap.[158] The court affirmed the Commission's authority to regulate changes in mail preparation requirements that have rate effects implicating the price cap and returned the order to the Commission so that it could articulate an intelligible standard to determine when mail preparation requirement changes had rate effects with price cap implications under 39 U.S.C. § 3622(d).

In response to the court's remand, the Commission issued an order that established procedures on remand and sought input on a proposed standard.[159] At the end of FY 2015, it was pending before the Commission.

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[152] Docket No. C2009-1R, Request of the United States Postal Service Under Section 3642 to Create Round-Trip Mailer Product, July 26, 2013.
[153] Docket Nos. MC2013-57 and CP2013-75, Order Denying Request, December 23, 2014 (Order No. 2306).
[154] Order No. 2306 at 2-3.
[155] *Id.* at 3.
[156] *United States Postal Service v. Postal Regulatory Commission,* No. 15-1018 (D.C. Cir. filed Jan. 21, 2015).
[157] *United States Postal Service v. Postal Regulatory Commission,* 785 F.3d 740, 744 (D.C. Cir. 2015). Docket No. R2013-10, Order on Price Adjustments for Market Dominant Products and Related Mail Classification Changes, November 21, 2013 (Order No. 1890).
[158] Order No. 1890 at 36.
[159] Docket No. R2013-10R, Order Establishing Procedures on Remand and Requesting Public Comment, July 15, 2015 (Order No. 2586).

Commission's Role in International Postal Policy

The secretary of state is responsible for the formulation, coordination, and oversight of international postal policy, including concluding postal treaties such as those involving the UPU.[160] Headquartered in Bern, Switzerland, the UPU is an international treaty organization tasked with facilitating high-quality universal mail service at affordable rates. The U.S. Department of State exercises primary authority for international postal policy, and it requests Commission views on whether any treaty, convention, or amendment that establishes a rate or classification is consistent with the PAEA's modern system of ratemaking for Market Dominant products. The Department of State ensures that relevant U.S. positions in the UPU are consistent with the Commission's view unless there is a foreign policy or national security concern.

In FY 2015, the Commission continued its active role in the UPU Letters and Parcels Remuneration Groups on international letter mail and parcel delivery rates, as well as in several other UPU project groups. The Commission also chaired the UPU Regulatory Issues Project Group on behalf of the U.S. Government, and worked with the Department of State to promote U.S. interests in UPU reform to further separate operational and governmental functions.

Additionally, the Commission continued its role as an active member of the Department of State's Federal Advisory Committee on International Postal and Delivery Services. The Commission continued to assist government agencies, such as the Office of the U.S. Trade Representative, in the negotiation of trade agreements on postal and express delivery services.

In FY 2014, the Commission selected Copenhagen Economics to develop an economic framework for evaluating the current terminal dues system that compensates postal operators for letter mail delivery.[161] Copenhagen Economics found that the application of different terminal dues rates to designated operators and non-designated operators distorts competition among first-mile delivery operators.[162] In addition, Copenhagen Economics found that terminal dues set at a level below the cost of last-mile activities distort competition among last-miler operators.

In November 2014, the Commission hosted a public presentation during which Copenhagen Economics presented its findings on market distortions caused by the terminal dues system.[163]

In June 2015, Acting Chairman Taub testified before the House Subcommittee on Government Operations on the impact of these distortions on global competition.[164] He focused specifically on small postal packets from China to the United States and their distortion of competition between public and private postal operators and between American and Chinese retailers for growing e-commerce traffic from China to the U.S.

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[160] 39 U.S.C. § 407.

[161] Henrik Ballebye Okholm, Anna Möller, Boivie Nina Russell, and Jacek Przybyszewski, *The Economics of Terminal Dues,* Copenhagen Economics. September 2014. Available on the Commission website at: *http://www.prc.gov/sites/default/files/reports/The%20Economics%20of%20Terminal%20Dues_final%20report%20300914.pdf.*

[162] First-mile delivery operators include service providers who compete for the business of the original senders (or shippers) of mail.

[163] The findings and views presented at the public briefing were those of Copenhagen Economics and its presenters and not of the Commission.

[164] Written testimony of Acting Chairman Taub is available on the Commission's website at: *http://www.prc.gov/sites/default/files/speeches/Testimony%20Acting%20Chairman%20Taub.pdf.*

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