ORAL ARGUMENT SCHEDULED FOR SEPTEMBER 13, 2021

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 17-1276, 20-1505, 20-1510, and 20-1521
(consolidated)

NATIONAL POSTAL POLICY COUNCIL, *et al.*,
Petitioners,
v.
POSTAL REGULATORY COMMISSION AND
UNITED STATES OF AMERICA,
Respondents.

ON PETITION FOR REVIEW OF ORDERS OF
THE POSTAL REGULATORY COMMISSION

MOTION OF PETITIONERS ALLIANCE OF NONPROFIT MAILERS, ASSOCIATION FOR POSTAL COMMERNCE, MPA – THE ASSOCIATION OF MAGAZINE MEDIA, AMERICAN CATALOG MAILERS ASSOCIATION, NATIONAL POSTAL POLICY COUNCIL, MAJOR MAILERS ASSOCIATION, AND INTERVENORS NATIONAL NEWSPAPER ASSOCIATION AND NEWS MEDIA ALLIANCE FOR STAY

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The Alliance of Nonprofit Mailers, American Catalog Mailers Association, Association for Postal Commerce, MPA – The Association of Magazine Media, Major Mailers Association, National Postal Policy Council, National Newspaper Association, and News Media Alliance ("Movants") respectfully request a stay of Postal Regulatory Commission ("Commission") rules that will lead to unprecedented and unlawful postal rate hikes effective August 29, 2021. Pursuant to Federal Rule of Appellate Procedure 18(a)(2)(B)(ii), Movants' request is supported by the sworn statements of the American Lung Association, Consumer Reports, Inc., Disabled American Veterans, Meredith Corporation, Multi Media Channels, LLC, Wounded Warrior Project, Inc., and Yankee Publishing, Inc.

INTRODUCTION

Six months ago, Movants requested a stay of the Commission's final rules, (*Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products*, Docket No. RM2017-3, Order No. 5763 (released Nov. 30, 2020) ("Order 5763")) (Exhibit 1), which authorize above-inflation price increases over market-dominant mail in violation of the Postal Accountability and Enhancement Act (the "Act"). *See* Motion of Petitioners ANM *et al.* for Stay and Expeditious Consideration (Jan. 27, 2021) ("Initial Stay Motion"). Movants had previously requested a stay of the rules from the Commission and were denied. *See Order Denying Stay*, Docket No. RM2017-3, Order No. 5818 (released Jan.

19, 2021) (Exhibit 2). In the Initial Stay Motion, Movants argued that they would be "irreparably harmed in the absence of a stay: they will be forced to pay higher rates, compelled to reduce their mailings … and are precluded by statute from recovering the overcharges even if the rules are later found unlawful." Initial Stay Motion at 2.

The Commission responded that the mailers failed to show that Order 5763 would imminently and irreparably harm them, because several procedural steps needed to effectuate the higher rates had not yet been taken. *See generally* Postal Regulatory Commission's Opposition to Stay (Feb. 8, 2021) ("PRC Stay Opp.") at 2, 17-18 (Exhibit 3). The Commission noted that Order 5763 "does not itself increase the price [mailers] must pay for any particular market-dominant products" and that, at that time, the Postal Service had "not yet determined how to exercise any of the rate authority conferred by the order." *Id.* at 17. The Commission characterized impending price increases as "hypothetical" "unless the Postal Service first gives the public ninety days' notice" and the Commission "then conduct[s] a notice-and-comment proceeding to review the proposed increase." *Id.* at 17-18. "Unless and until the Postal Service proposes specific rate increases," reasoned the Commission, "there is no way to know whether and how those increases might harm" Movants. *Id.* at 18. This Court then denied the Initial Stay Motion because it found that the mailers had "not demonstrated the type of

imminent and irreparable harm necessary for a stay." Order, Doc. No 1887800 (Mar. 1, 2021) (Exhibit 4).

The basis for the Court's denial of a stay no longer exists. The Postal Service *has* invoked its rate authority, and in fact has determined to use "virtually all" of it. *See United States Postal Service Notice of Market-Dominant Price Change*, Docket No. R2021-2 (released May 28, 2021) ("USPS Notice") (Exhibit 5) at 1. The Commission *has* conducted its notice-and-comment review of the proposed price changes. *See Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products*, Docket No. R2021-2, Order No. 5905 (released June 1, 2021) (Exhibit 6). And the Commission *has* approved them for implementation. *See Order on Price Adjustments for First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes*, Docket No. R2021-2, Order No. 5937 (released July 19, 2021) ("Order 5937") (Exhibit 7). There is nothing speculative or "hypothetical" about these rate increases: they will be the largest price increases levied on the Postal Service's monopoly customers since the Act's passage. Movants know the specific price increases that will be charged to individual postal products, they know exactly when (August 29, 2021 at 12:01a.m.) the price increases will take effect, and they know "whether and how those increases might harm" them. *But cf.* PRC Stay Opp. at 18. As shown below,

Movants have clearly demonstrated the type of imminent and irreparable harm necessary for a stay. And as was the case when Movants filed the Initial Stay Motion, Movants still satisfy the other *Virginia Petroleum Jobbers* factors.

BACKGROUND

Congress enacted the Act in 2006, keenly aware of the Postal Service's statutorily granted monopoly over the delivery of letters and access to the mailbox. Congress therefore categorized postal products as either competitive or market-dominant, the latter being products over which the Postal Service "exercises sufficient market power that it can effectively set the price of such product 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." 39 U.S.C. §3642(b)(1).

In enacting the Act, Congress created a regulatory structure granting the Commission "enhanced review and oversight responsibilities for market-dominant products" in order to safeguard captive customers of the Postal Service's monopoly. *See* S. Rep. No. 108-318, at 6-7, 19 (2004) ("in recognition that some customers have no non-Postal Service alternatives because of the Congressionally-established restrictions on the carriage of letters outside the mail … this legislation requires that any product subject to this monopoly remain within the market-dominant category."). Shielding mailers against potential abuses of the Postal

Service's market power was Congress's expressed policy. The Senate Governmental Affairs Committee Report explains:

> In establishing the postal regulatory structure in the bill, the Committee has attempted to balance the Postal Service's need for additional flexibility with the public and mailing community's need for increased financial transparency and established safeguards *to protect against unreasonable use of the Postal Service's statutorily-granted monopoly*.

Id. at 19 (emphasis added).

Congress determined that a price cap on market-dominant price increases was the appropriate mechanism to accomplish its goals. Placing limits on the percentage changes in postal rates was "of primary importance" to Congress. *Id.* at 10. Thus, §3622(d)(1)(A) of the Act—titled "Requirements"—states that "[t]he system for regulating rates and classes for market-dominant products shall … include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission" equal to the change in the Consumer Price Index.

The Commission infers that §3622(d)(3) of the Act—which instructs the Commission to review the ratemaking system ten years after the Act's passage and authorizes the Commission to modify or adopt new regulations implementing the system—grants it the power to override not only the *regulations* but the Act's requirements themselves, including the inflation-based cap. Consequently, Order

5763 adopted rules allowing the Postal Service to increase rates for market-dominant products at levels well in excess of inflation.

Movants again ask this Court to stay implementation of the Commission's rules, because we represent the very market-dominant customers that Congress sought to protect against the Postal Service's monopoly abuses. After this Court denied our Initial Stay Motion, the Commission determined that the Postal Service would be allowed to increase class-wide prices up to 7.562 percent in year one on many of the products our members purchase. *See Determination of Available Market Dominant Rate Authority*, Docket No. ACR2020, Order No. 5861 (released Apr. 6, 2021) at 6 (Exhibit 8).

On May 28, 2021, the USPS notified the Commission and mailers of its proposed price changes. Including inflation-based authority of 1.244 percent, "as a result of the new system, the Postal Service has available approximately 6.8 percent of pricing authority for compensatory classes and approximately 8.8 percent of pricing authority for non-compensatory classes. *The Governors have determined to use virtually all of this authority at this time*." USPS Notice at 1 (emphasis added). On July 13, 2021, the Postal Service rejected Congress's plea to reconsider implementing these price increases in August and using all of its rate authority, and reaffirmed to Congress that it does not believe "the new rules went far enough." *See* Ltr. from Peter R. Pastre to the Hon. Glenn Grothman (July 13,

2021) (Exhibit 9). On July 19, 2021, the Commission formally approved price increases of **6.814 percent** for First-Class Mail, **6.814 percent** for Marketing Mail, **8.771 percent** for Periodicals, **8.804 percent** for Package Services, and **6.808 percent** for Special Services. Order 5937 at 2, Table I-1. Movants purchase mail products from the Postal Service in all of these classes.

The rate increases will become effective in only one month without the requested relief. A stay is necessary to effectuate Congress's policies, abide by the Act's requirements, and protect captive mailers from the largest price increases they have ever faced since the Act's passage.

ARGUMENT

I. LEGAL STANDARD

A motion for stay shall be granted if the movants demonstrate: (i) that the movant is likely to prevail on the merits; (ii) that the movant is likely to suffer irreparable injury absent relief; (iii) that other parties will not suffer harm if relief is granted; and (iv) that a stay is in the public interest. *See Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 259 F.2d 921, 925 (D.C. Cir. 1958).

II. MOVANTS DEMONSTRATE ALL FOUR *JOBBERS* FACTORS

A. Movants Will Be Irreparably Harmed Absent A Stay

Recognizing that "[t]he first two factors of the traditional standard are the most critical," *Nken v. Holder*, 556 U.S. 418, 434 (2009), Movants begin with harm. The Commission's arguments against Movants' previous request for a

stay—that rate increases were "hypothetical" until the Postal Service proposed specific adjustments and the Commission approved them—are now moot. *Cf.* PRC Stay Opp. at 17-18. The Commission described Movants' claims of harm as "particularly speculative" because the above-CPI rate authority it granted to the USPS was on a class-wide basis and did not dictate prices charged to specific postal products within each class. *Id.* at 18. "Unless and until the Postal Service proposes specific rate increases, there is no way to know whether and how those increases might harm petitioners." *Id.*

Now we know. We know, for example, that within the First-Class Mail class, some products will face lower-than-class-average increases (*e.g.*, postcards and single-piece domestic letter prices will rise by five percent) whereas other products will face increases twice as large (flat-shaped mail prices will increase by more than 10 percent). *See* Order 5937 at 75. We know concretely how these increases will harm Movants.

Movants' members will expend millions of additional dollars in postage fees should the impermissible increased rates be permitted to go into effect. Consumer Reports will pay an additional $1.78 million in postage in the next year, and more than $9 million cumulatively in extra postage from 2021-2025. Brophy Decl. at ¶ 13 (Exhibit 10). The American Lung Association will spend an additional $400,000 in postage next year, and more than $1.5 million in extra postage from

2021-2015. Finstad Decl. at ¶ 11 (Exhibit 11). Disabled American Veterans ("DAV") estimates that it will pay "nearly half a million dollars in additional costs this year alone, and one and a half million dollars in additional costs in 2022." Burgoon Decl. at ¶ 10 (Exhibit 12). For smaller mailers such as local or regional newspaper and magazine publishers, the increased postage costs will be devastating. *See* Wood Decl. at ¶¶ 17-18 (Exhibit 13) (increased postage costs of $194,298 this year would exceed Multi Media Channels's average net earnings over the past three years "and cause the company to continue to lose money even with planned efficiency changes to our operation."); Trowbridge Decl. at ¶ 5 (Exhibit 14) ($93,727 in additional postage costs this year will wipe away half of Yankee Magazine's margins).

The Commission has not contested that this financial harm is irreparable, nor could it. Movants are unable to recover the additional postage paid during the pendency of the appeal, even if the Court were to eventually find the rate increases unlawful. 39 U.S.C. §3681. When a movant will be unable to sue to recover any monetary damages against a government agency in the future, such "financial loss can constitute irreparable injury." *Texas Children's Hosp. v. Burwell*, 76 F. Supp. 3d 224, 242 (D.D.C. 2014) (additional citation omitted).

Moreover, the harm to Movants extends beyond the increased postage payments. The increase in postage costs will force Movants into two undesirable

outcomes: either Movants must divert funds from mission-critical activities in order to maintain their current mailing or Movants must reduce their mailing and correspondingly reduce their ability to reach the public. Either way, the ability of Movants to educate, advocate, and provide direct services will be significantly curtailed. *See, e.g.*, Hamre Decl. at ¶ 11 (Exhibit 15) (describing the specific loss of services for veterans that will occur should WWP be forced to pay an additional $1.7 million in postage fees); Burgoon Decl. at ¶ 11 (reduced mailings will curtail veterans' benefits, such as rides to medical appointments, career fairs, and free benefits counseling services on which veterans depend); Wood Decl. at ¶ 19 (MMC will be "reducing news coverage and providing less service to our customers"). These harms, too, will be irreparable. *See id.* ("In MMC's experiences, lost customer relationships driven by cuts in our news coverage are irreversible."); Brophy Decl. at ¶ 17 (once publications leave the mail, they will not return).

These harms are also unavoidable: Movants' members rely on the Postal Service and cannot simply mitigate the negative impacts of the postage increases. This is true for smaller, regional mailers like MMC and Yankee. *See* Wood Decl. at ¶ 9 ("There is no other economically viable alternative for MMC to deliver its newspapers."); Trowbridge Decl. at ¶ 7 (*Yankee* magazine's "alternative sources of subscriptions are not good enough to reduce or eliminate our use of direct mail,"

and efforts to convert subscription, renewal, and invoice communications to email have not been well received by consumers). It is also true for large media companies, like Meredith, which historically had been able to mitigate postage increases. But "[i]n today's leaner business environment, particularly with the COVID-19 pandemic and contraction in the paper and printing industries, cost reduction opportunities are more limited." Harty Decl. at ¶ 15 (Exhibit 16). Veterans' and consumer advocate charities, too, have no choice but to endure the harm caused by these unprecedented price increases. Hamre Decl. at ¶ 12 (for Wounded Warrior, "Alternative solicitation methods cannot replace the value of direct mail to WWP's donor audience. Online and e-mail outreach is limited to those who have an e-mail address. WWP's donor base skews demographically toward the elderly, many of whom do not use e-mail. Those in our donor base who do not have an e-mail address are typically unwilling to donate online with a credit card."); Burgoon Decl. at ¶¶ 7-8 (for DAV, "hard copy mail is the primary, and donor preferred, channel we use to communicate with our active and prospective supporters … members … and volunteers." 90 percent of DAV's donations are received from donors and members acquired through direct mail); *see also* Brophy Decl. at ¶ 9 (explaining that nearly half of Consumer Report's membership revenue derives from print solicitations and 80 percent of all fundraising donations originate from the mail). This loss of income will further exacerbate the harm

caused by the rate increase, and likely cause a decrease in mail volume. *See* Finstad Decl. at ¶ 14 ("Postage increases reduce ALA mail volume" and, consequently, revenues); Harty Decl. at ¶ 16 ("We estimate the proposed price increases will result in an approximately 30 percent reduction in our mailpiece volume.").

In short, the rate increases will cause irreparable harm that far exceeds the immediate financial injury of increased postage rates. The very nature and existence of Movants' businesses and nonprofit missions are at stake.

B. Movants Are Likely to Succeed on the Merits of Their Appeal

The merits of this case have now been fully briefed, and there is a substantial likelihood that Mailer Petitioners will prevail on appeal. At a minimum, this case presents serious legal questions of statutory interpretation and the reasonableness of agency rulemaking. *Nat'l Treasury Emps. Union v. Horner*, 1987 U.S. Dist. LEXIS 14946, *1 (D.D.C. 1987) ("Even where the court does not agree that the movant has a substantial likelihood of success on appeal, a stay is appropriate when a serious legal question is presented, when little harm will befall the party resisting the stay, and where denial of the motion will inflict great injury on the movant.").

Movants explained why we are likely to win on the merits when we first sought a stay from this Court. *See* Initial Stay Motion at 5-13. Those arguments

are equally valid now; indeed, the arguments on brief reinforce this conclusion. The Commission's rules violate the Act's clear mandate that an inflation-based cap is a "requirement[]" that the "system for regulating rates and classes for market-dominant products *shall* include…." 39 U.S.C. §3622(d)(1)(A) (emphasis added). The parties' briefs reaffirm that the Commission has acted beyond its statutory authority, and that it cannot prevail on the merits. To do so would require this Court to rewrite the Act and ignore the words Congress actually wrote.

The Commission's key merits argument is that 39 U.S.C. §3622(d)(3) "unambiguously" and "expressly" authorizes it to modify or replace all aspects of the initial ratemaking system, including the CPI cap. Initial Brief for Respondent in Case Nos. 17-1276, 20-1505, 20-1510, and 20-1521 (June 14, 2021) ("Commission Br.") at 27-29, 34 (Exhibit 17); *see also* PRC Stay Opp. at 9 ("expressly") and 10 ("unambiguously"). The Commission's argument grossly misrepresents what the statute says. Section 3622(d)(1) of the Act sets forth the "requirement" that the regulatory system of ratemaking created and overseen by the Commission "shall" include an inflation-based price cap. Section 3622(d)(3) permits the Commission to modify its regulations or even adopt alternative regulations, but it does not say that the Commission can override the statutory requirements governing its regulations—expressly, unambiguously, or otherwise. In fact, §(d)(3) does not mention the inflation-based cap *at all*, which means that,

by definition, it does not unambiguously or expressly authorize the Commission to weaken or replace the price cap in the ten-year review. The Commission cannot succeed on the merits because its statutory interpretation "rewrites rather than reads the plain statutory text." *Am. Lung Ass'n v. E.P.A.*, 985 F.3d 914, 950 (D.C. Cir. 2021). "The problem with this approach is the one that inheres in most incorrect interpretations of statutes: It asks [the Court] to add words to the law to produce what is thought to be a desirable result. That is Congress's province." *E.E.O.C. v. Abercrombie & Fitch Stores, Inc.*, 135 S. Ct. 2028, 2033 (2015).

The Commission also argues that its rules are not arbitrary and capricious because its alterations to the ratemaking system "appropriately balanced the competing interests of the Postal Service and its customers." Commission Br. at 3. The Commission's duty, however, is not to simply "split the difference" between the USPS's and the mailers' positions: it is to create regulations designed to achieve the nine statutory objectives that Congress identified, duly incorporating the statutory requirements. A compromise rule is still arbitrary and capricious if it fails to account for important objectives, makes the problem to be solved even worse, or ignores important facts. The Commission committed all of these errors.

The Commission's density adjustment is arbitrary and capricious because the Commission failed to assess the adjustment's effects on the very problem—volume decline—that the Commission was ostensibly solving, and it ignored

record evidence showing that the adjustment would actually exacerbate the problem.

The Commission also ignored revenues in the density-adjustment formula, which is irrational when the goal of the entire enterprise is to account for insufficient *revenues* to cover total costs. Providing rate authority regardless of whether USPS revenues are increasing severs the rational connection between the problem and the solution.

In addition, the Commission's rules are arbitrary and capricious because they do not reasonably account for, let alone balance, the statutory objectives of maximizing incentives to reduce costs and maintaining stable and predictable rates. Allowing prices rise by amounts that triple and quadruple past increases, based on annual modifications that are unknown until the USPS files its calculations and the Commission approves them, and that go into effect mere months later, will leave the USPS with little incentive to cut costs and will render rates anything but predictable and stable. So, the Commission falls back on USPS's "inherent incentive" "to exercise business judgment about what rates the market can bear." Commission Br. 53. But preventing USPS from pricing monopolistic products at what the market will bear is why Congress limited rates in the first place.

C. The Remaining Factors Support a Stay

The remaining two factors—harm to another party and the public interest—"merge when the Government is the opposing party." *Nken*, 556 U.S. at 435. Taken together, they clearly support imposition of a stay here.

The Postal Service will not be harmed by the imposition of a temporary stay while the appeal is pending. The Commission's claim that "enjoining the order would undermine the Postal Service's ability to supply critical mail services" lacks credibility. *See* PRC Stay Opp. at 18. This year the Postal Service has been sitting on historically high levels of cash. As of June 30, 2021, it has more than *$23 billion* sitting in the U.S. Treasury available to it—$7 billion more than it had when Movants sought a stay six months ago. *See* Bureau of Fiscal Service, Treasury, *Monthly Statement of the Public Debt of the United States* 12 (June 30, 2021), https://www.treasurydirect.gov/govt/reports/pd/mspd/2021/opdm062021.pdf. The Postal Service may use that money for any purpose. 39 U.S.C. §2003(a). The USPS imposed an inflation-capped price increase on mailers in January of this year, it can continue to file rate adjustments subject to the CPI cap while the appeal is pending, and it may utilize unused rate authority in future years. The legality of the Commission's actions is now fully briefed and before this Court, with oral argument scheduled for mid-September. There is simply no possibility that the

Postal Service will cease operating, or that the public will stop receiving its mail, if a temporary stay were issued.

Conversely, absent a stay, the public at large will suffer harm. The reduction in newspaper publishing in response to large postage increases means that certain small and rural communities will become a "news desert." Wood Decl. at ¶ 11. Other mailers will attempt to offset the postage increases by cutting jobs. Trowbridge Decl. at ¶ 10. Consumers will be impacted as well, as mailers will be forced to pass the increased costs onto consumers in the form of higher prices for print media. Harty Decl. at ¶ 17. This will likely result in certain demographics of customers, such as the elderly and those living in rural areas with limited access to the Internet, having reduced access to information. *Id.* ("This proposed price increase would impede the ability of mail with unique educational, cultural, scientific, and informational value to reach its readers. We expect that certain demographics of consumers, such as those in rural communities or the elderly, would be particularly impacted as they are less easily able to switch to digital content if Meredith were to reduce its print circulation."). And the recipients of charitable programs, including veterans, will receive fewer benefits. Hamre Decl. at ¶ 12 (postage increases will "limit[] the critical programs and services we offer to wounded warriors, Service members, their families, and their caregivers.").

CONCLUSION

Movants are likely to prevail on their merits in this appeal because the Commission has contravened the plain language of the statute by allowing USPS to increase prices faster than the rate of inflation. That unlawful act will cause Movants' members significant and irreparable harm beginning August 29, when they will be forced to pay these illegal prices, curtail program activities, and lose customers and donors, without the prospect of refunds if the prices are ultimately declared illegal. Because it is flush with cash and can always reinstitute its price increases if the Commission prevails, the Postal Service will suffer no harm from the stay. Accordingly, Movants ask this Court to stay Order 5763 until the resolution of this appeal.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with Circuit Rule 32(e)(2) because it contains 4026 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e)(1).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word and 14-point Times New Roman.

/s/ Matthew D. Field
Matthew D. Field

Dated: July 23, 2021

CERTIFICATION OF COMPLIANCE WITH FED. R. APP. P. 18(C)

I hereby certify that prior to the filing of this Motion, I gave notice to all parties through electronic mail.

/s/ Eric S. Berman
Eric S. Berman

CERTIFICATE OF SERVICE

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure, I hereby certify that I have this 23rd day of July 2021, served a copy of the foregoing document electronically through the Court's CM/ECF system on all registered counsel.

/s/ Elizabeth C. Rinehart
Elizabeth C. Rinehart

Exhibit 1	*Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products*, Docket No. RM2017-3, Order No. 5763 (released Nov. 30, 2020) ("Order 5763")
Exhibit 2	*Order Denying Stay*, Docket No. RM2017-3, Order No. 5818 (released Jan. 19, 2021)
Exhibit 3	Postal Regulatory Commission's Opposition to Stay (Feb. 8, 2021) ("PRC Stay Opp.")
Exhibit 4	Order, Doc. No 1887800 (Mar. 1, 2021)
Exhibit 5	*United States Postal Service Notice of Market-Dominant Price Change*, Docket No. R2021-2 (released May 28, 2021) ("USPS Notice")
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Exhibit 8	*Determination of Available Market Dominant Rate Authority*, Docket No. ACR2020, Order No. 5861 (released Apr. 6, 2021)
Exhibit 9	Ltr. from Peter R. Pastre to the Hon. Glenn Grothman (July 13, 2021)
Exhibit 10	Brophy Decl., Consumer Reports, Inc.
Exhibit 11	Finstad Decl., American Lung Association
Exhibit 12	Burgoon Decl., Disabled American Veterans
Exhibit 13	Wood Decl., Multi Media Channels LLC
Exhibit 14	Trowbridge Decl., Yankee Publishing, Inc.
Exhibit 15	Hamre Decl., Wounded Warrior Project, Inc.
Exhibit 16	Harty Decl., Meredith Corporation
Exhibit 17	Initial Brief for Respondent in Case Nos. 17-1276, 20-1505, 20-1510, and 20-1521 (June 14, 2021) ("Commission Br.")

EXHIBIT 1

Postal Regulatory Commission
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ORDER NO. 5763

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

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Statutory Review of the System
for Regulating Rates and Classes
for Market Dominant Products

Docket No. RM2017-3

ORDER ADOPTING FINAL RULES FOR THE SYSTEM OF REGULATING RATES AND CLASSES FOR MARKET DOMINANT PRODUCTS

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UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
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Before Commissioners: Robert G. Taub, Chairman;
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Ann C. Fisher; and
Ashley E. Poling

Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products

Docket No. RM2017-3

ORDER ADOPTING FINAL RULES FOR THE SYSTEM OF REGULATING RATES AND CLASSES FOR MARKET DOMINANT PRODUCTS

(Issued November 30, 2020)

I. INTRODUCTION

Pursuant to 39 U.S.C. § 3622(d)(3), the Commission adopts final rules modifying the ratemaking system for Market Dominant products. In 2006, Congress enacted the Postal Accountability and Enhancement Act (PAEA).[1] The PAEA required the Commission to promulgate regulations establishing a ratemaking system for Market

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

Dominant products within 18 months after the law's enactment.[2] The PAEA mandated certain features that the ratemaking system in its initial form had to include, most prominently a price cap limiting rate increases to annual changes in the consumer price index for all urban consumers (CPI-U). *See* 39 U.S.C. § 3622(d)(1)(A). The PAEA also required the Commission to review the ratemaking system 10 years after the PAEA's enactment to determine if it had achieved 9 statutory objectives specified by the PAEA, taking into account 14 statutory factors. 39 U.S.C. § 3622(b), (c), and (d)(3). If the Commission determined that the ratemaking system had not achieved the statutory objectives, taking into account the statutory factors, then "the Commission may, by regulation, make such modification or adopt such alternative system...as necessary to achieve the objectives." 39 U.S.C. § 3622(d)(3).

On December 20, 2016, the Commission initiated its required review of the ratemaking system by issuing an advance notice of proposed rulemaking (ANPR).[3] The ANPR established a framework for the review, appointed an officer of the Commission to represent the interests of the general public, and provided an opportunity for public comment. On December 1, 2017, the Commission issued its findings.[4] In short, the Commission found that the ratemaking system was not achieving the statutory objectives, taking into account the statutory factors. Order No. 4257 at 275. The Commission therefore set about the task of "mak[ing] such modification or adopt[ing]

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[2] 39 U.S.C. § 3622(a) instructs the Commission to establish "a modern system for regulating rates and classes for market-dominant products." This system for regulating rates and classes for Market Dominant products is collectively referred to as the "ratemaking system." The Commission promulgated regulations establishing the ratemaking system in 2007. *See* Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

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

[4] Order on the Findings and Determination of the 39 U.S.C. § 3622 Review, December 1, 2017 (Order No. 4257).

such alternative system...as necessary to achieve the objectives." 39 U.S.C. § 3622(d)(3).

On the same day that it released its findings, the Commission issued a notice of proposed rulemaking (NPR) proposing a number of regulatory modifications to the ratemaking system intended to enable the system to achieve the statutory objectives.[5] The NPR sought public comment on the Commission's proposals, and the Commission received a wide range of comments in response. Based on the comments received, the Commission issued a revised notice of proposed rulemaking (Revised NPR) on December 5, 2019, again seeking public comment on the Commission's revised proposals.[6] The Commission once again received a wide range of comments, which are addressed in this Order.

[5] Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, December 1, 2017 (Order No. 4258).

[6] Revised Notice of Proposed Rulemaking, December 5, 2019 (Order No. 5337).

II. OVERVIEW

A. The Need for Modifications to the Ratemaking System

In Order No. 4257, the Commission identified specific aspects of the ratemaking system that had failed to achieve the PAEA's statutory objectives, taking into account the statutory factors. Prior to the enactment of the PAEA, the Postal Service operated under a cost-of-service ratemaking system with a break-even mandate, in which it was expected to generate sufficient revenue to cover its operating costs, but not retained earnings. Order No. 4257 at 24. Rates were set so that total estimated revenues would equal as nearly as practicable total estimated costs. *Id.* Proposed rate adjustments by the Postal Service were formally litigated before the Commission in quasi-judicial proceedings that were "complex, expensive, and time-consuming." *Id.* at 26.

The PAEA reformed postal ratemaking by ending the break-even mandate and encouraging the Postal Service to generate retained earnings. *Id.* at 31. It replaced the cost-of-service model for postal ratemaking with a price cap model in which rate increases were limited to annual changes in CPI-U. *Id.* at 32. It afforded the Postal Service greater pricing flexibility and enabled the Postal Service to implement new rates on a substantially shorter timeframe through a shorter and more streamlined process that did not require on-the-record hearings. *Id.* at 31-32. Other new features introduced by the PAEA included the requirement that the Postal Service establish service standards and publicly report on service performance, which it had not been required to do previously, as well as explicit requirements with regard to workshare discounts, which provide reduced prices to mailers who perform certain mail preparation activities prior to entering mail into the Postal Service's network.[7]

[7] *Id.* at 33-34, 42-45, 130; *see* 39 U.S.C. §§ 3622(e), 3652(a)(2)(B), 3691.

At the time the PAEA was enacted, overall mail volume was increasing and the Postal Service's financial position appeared to be stable.[8] Moreover, prior to the enactment of the PAEA, increases in Postal Service costs tended to track increases in the consumer price index (CPI). Order No. 4257 at 37. Given this environment, Congress anticipated that the PAEA's CPI-based price cap system would enable the Postal Service to generate sufficient revenues to cover all of its operating costs and statutorily mandated obligations, while at the same time motivating the Postal Service to cut costs and become more efficient. *Id.* at 32-33, 37. The PAEA was intended to allow the Postal Service to fund network expansion and necessary capital improvements because it removed the break-even restriction and allowed the Postal Service to generate retained earnings.[9]

However, the PAEA also established a significant new obligation for the Postal Service.[10] It required the Postal Service to prefund future retiree health benefits (RHB), with the goal of reducing the Postal Service's future RHB liability by FY 2017. Order No. 4257 at 37 (citing PAEA, Pub. L. 109-435 § 803, 120 Stat. 3198 (2006)). These payments were to average $5.6 billion per year.[11]

The Commission found in Order No. 4257 that the Postal Service's operating environment changed rapidly after the PAEA was enacted. *Id.* at 35. The Great Recession, which began in 2007, had a substantial negative impact on Postal Service volume and revenues. *Id.* at 38. This economic downturn occurred in concert with

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[8] Order No. 4257 at 37. Market Dominant mail volume reached its peak in FY 2006—the year the PAEA was enacted. *See* Library Reference PRC-LR-RM2017-3/1, December 1, 2017, Excel file "PRC-LR-RM2017-3-1.xlsx," tab "Figure II-23," column F (displaying Market Dominant volume from FY 1997 through FY 2016).

[9] *Id.* at 37 (citing S. Rep. 108-318 at 8, 11 (2004); H.R. Rep. 109-66, pt. 1, at 44, 118 (2005)).

[10] Order No. 4257 at 37 (citing PAEA, Pub. L. 109-435 § 803, 120 Stat. 3198 (2006)).

[11] Order No. 4257 at 37 (citing PAEA, Pub. L. 109-435 § 803; 5 U.S.C. § 8909a(d)(3)(A)).

emergent technological trends (*e.g.*, email, text messaging, and other electronic transmission of messages and information) that resulted in even greater volume declines for First-Class Mail, in particular—the Postal Service's most profitable mail class.[12] Moreover, in the aftermath of the Great Recession there was a period of deflation, which constrained the Postal Service's ability to raise rates given the CPI-based price cap.[13]

The first full fiscal year after implementation of the PAEA, FY 2008, was the first in which the Postal Service's total revenue increased less than the CPI, and this trend continued every year thereafter. Order No. 4257 at 40. These reduced revenues were largely driven by volume declines. *Id.* Additionally, while historically increases in Postal Service costs had tended to track the CPI, beginning in FY 2006 that correlation began to diverge. *Id.* at 38. The Postal Service's total costs increased dramatically in FY 2007, largely due to recognition of the RHB prefunding cost for the fiscal year as an expense, and then fluctuated up and down from year to year for reasons that the Commission determined "could [have been] the result of numerous factors, such as the [RHB] payments, expanding delivery network, reductions in total volume, and Postal Service cost saving initiatives." *Id.* at 39-40. The result was that after the enactment of the PAEA the Postal Service's total costs began exceeding its total revenues. *Id.* at 40.

The divergence between the Postal Service's costs and revenues made it difficult for the Postal Service to accumulate retained earnings through sustained net income. The required RHB prefunding costs, increases in non-cash workers' compensation

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[12] *Id.; see* United States Government Accountability Office, Report No. GAO-20-385, U.S. Postal Service: Congressional Action is Essential to Enable a Sustainable Business Model, May 2020, at 8-9, available at: *https://www.gao.gov/assets/710/706729.pdf* (GAO-20-385).

[13] Order No. 4257 at 38 (citing United States Department of Labor, Bureau of Labor Statistics, One Hundred Years of Price Change: The Consumer Price Index and the American Inflation Experience, April 2014, available at: *https://www.bls.gov/opub/mlr/2014/article/one-hundred-years-of-price-change-the-consumer-price-index-and-the-american-inflation-experience.htm*).

expenses,[14] significant reductions in mail volume and revenue related to internet diversion, and the extensive business downturn and slow economic recovery following the Great Recession contributed to the inability to generate net income. *Id.* at 40-41. The Postal Service ultimately defaulted on the majority of the required annual RHB prefunding costs. Order No. 5337 at 82. Over the 10 years immediately preceding the enactment of the PAEA, the Postal Service reported a cumulative net income of $11.3 billion. *See* Order No. 4257 at 30, Figure II-1. However, over the 10 years after the PAEA was enacted, the Postal Service suffered a cumulative net loss of $59.1 billion. *Id.* at 171.

For purposes of organization, the Commission's analysis in Order No. 4257 grouped the PAEA's nine statutory objectives into three principal areas: (1) the structure of the ratemaking system; (2) the financial health of the Postal Service; and (3) service. *Id.* at 22. Each principal area was further divided into subtopics addressing relevant objectives and factors. *Id.*

Applying this framework, the Commission concluded that while the ratemaking system had fulfilled some of the PAEA's goals, the overall system had not achieved the statutory objectives, taking into account the statutory factors. *Id.* at 4. For the first principal area—the structure of the ratemaking system—the Commission found that the ratemaking system had resulted in predictable and stable rates, in terms of timing and magnitude (Objective 2); that it had reduced administrative burden and increased transparency (Objective 6); that it had provided the Postal Service with pricing flexibility (Objective 4); and that it had, on balance, maintained just prices (Objective 8). *Id.* at 142-145. However, the Commission found that the ratemaking system had not

[14] The non-cash workers' compensation expense includes actuarial revaluations of existing cases and new cases, initial costs of new cases for the year, and any changes in the discount rate used to estimate the amount of current funds needed to settle all claims in the current year. This is separate from the cash payment which is made to the U.S. Department of Labor for the current year's cost of medical and compensation benefits and an administrative fee.

increased pricing efficiency (Objective 1). *Id.* at 145. This was because, first, the Commission determined that workshare discounts during the PAEA era had not been set as close as practicable to their avoided costs, despite the Postal Service having had the ability within the constraints of the price cap to have done so. *Id.* This failed to comport with the principles of Efficient Component Pricing (ECP), pursuant to which prices are most efficient when workshare discounts are set as closely as practicable to the avoided costs of particular workshare activities. *Id.* at 135-136. Second, the Commission found that multiple products had failed to cover their attributable costs during the PAEA era. *Id.* at 145. This failure did not comport with the principles of allocative pricing efficiency, pursuant to which prices are efficient when they are set at or above a product's marginal (or, in the Postal Service's case, "attributable") costs. *Id.* at 139-140.

For the second principal area—the financial health of the Postal Service—the Commission found that while the ratemaking system had been sufficient to provide for mail security and terrorism deterrence (Objective 7); had provided a sufficient mechanism to allocate institutional costs between Market Dominant products and Competitive products (Objective 9); and had generally enabled the Postal Service to achieve short-term financial stability, medium- and long-term financial stability had not been achieved (Objective 5). *Id.* at 247-249. This failure was evidenced by total revenue being inadequate to cover total costs, resulting in the Postal Service suffering a net loss every year during the PAEA era. *Id.* at 165-169. This accumulation of net losses resulted in accumulated deficits, which prevented the Postal Service from being able to achieve retained earnings. *Id.* at 169-171. The Commission determined that the Postal Service had not had any working capital (assets in excess of liabilities) during the PAEA era, its capital expenditure ratio had declined, and its debt ratio had steadily increased. *Id.* at 172-175.

The Commission also found that the Postal Service's costs had been reduced during the PAEA era, mostly in mail processing as a result of changes in the mail mix. *Id.* at 184-198. At the same time, however, the Commission found that "cost savings estimates from some of the Postal Service's initiatives are likely overstated and...the Postal Service could improve its quantitative measurement of the results of cost savings initiatives." *Id.* at 200. The Commission also noted that the Postal Service's unique cost structure constrained its ability to further reduce costs—specifically its pool of common ("institutional") costs; the labor-intensive nature of its business; its universal service obligation (USO); and its limited ability due to binding arbitration requirements to set wage rates, adjust its employee complement, and/or reduce workhours. *Id.* at 198-200.

The Commission found that the Postal Service's operational efficiency, as measured by total factor productivity (TFP), had generally increased during the PAEA era, although the Commission noted that operational efficiency may have been somewhat undermined by the Postal Service's failure to price workshare discounts as close as practicable to their avoided costs.[15] Ultimately, the Commission concluded that while the Postal Service had been able to reduce costs and increase operational efficiency during the PAEA era, the results had been insufficient to achieve overall financial stability, and thus the incentives to reduce costs and increase operational efficiency had not been maximized as intended by the PAEA (Objective 1). *Id.* at 221-226. The Commission also found that there had not been an adequate mechanism under the ratemaking system to maintain reasonable rates (Objective 8) because the rates for certain products and mail classes had been insufficient to cover their

[15] *Id.* at 203-208, 216-219. While workshare discounts and ECP, as previously detailed, generally implicate pricing efficiency, the Commission noted that workshare discounts set substantially below avoided costs may also necessitate the Postal Service's maintenance of a larger than necessary processing network, which implicates operational efficiency. *Id*. at 216.

attributable costs. *Id.* at 226-236. The Commission attributed this, at least in part, to the price cap limitation. *Id.* at 236.

Finally, for the third principal area—service (Objective 3)—the Commission found that service standards declined during the PAEA era because the Postal Service had reduced the high-quality service standards that were initially promulgated in 2007.[16] With regard to service performance, the Commission concluded that the Commission's *Annual Compliance Determination* (ACD) "has been and continues to be the proper vehicle for addressing [such issues]."[17]

Viewing the ratemaking system in the totality, the Commission concluded that "while some aspects...have worked as planned, overall, the system has not achieved the objectives of the PAEA." Order No. 4257 at 5. This was largely due to the fact that "the operating environment on which the PAEA was designed changed quickly and dramatically after the PAEA was passed[ ]," and "this made it challenging for the ratemaking system under [the] PAEA to achieve the goals it was designed to achieve." *Id.* at 45. As a result, "although the...CPI-based price cap system was anticipated, at the time of its implementation, to enable the Postal Service to produce sustained net income and generate retained earnings, that has not occurred." *Id.* at 148. Based on

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[16] *Id.* at 273. The two major service standard changes in the first 10 years after the passage of the PAEA were reviewed by the Commission, prior to implementation, in Docket Nos. N2012-1 and N2014-1. The "Network Rationalization" initiative implemented by the Postal Service included changes to the service standards for First-Class Mail, Periodicals, USPS Marketing Mail, and Package Services. The "Load Leveling" initiative included changes to the service standards for USPS Marketing Mail. *Id.* at 264-273.

[17] *Id.* The Commission is required by law to conduct a review every year in which it determines whether the Postal Service's rates and fees for the previous fiscal year were in compliance with statutory and regulatory requirements, as well as whether the Postal Service met its service standards. This report is known as the "*Annual Compliance Determination*" or "ACD." *See* 39 U.S.C. § 3653. If the Commission finds that the Postal Service is noncompliant, then it may take remedial action. Order No. 4257 at 273.

these findings, the Commission issued an NPR containing proposals to address the identified shortcomings of the ratemaking system.

B. Overview of Proposals in the NPR

In the NPR that the Commission issued concurrently with Order No. 4257, the Commission sought to maintain a CPI-based price cap system while proposing modifications to rectify those aspects of the ratemaking system that the Commission specifically determined had failed to achieve the PAEA's statutory objectives. The Commission's initial proposal consisted of five main elements.[18] First, the Commission proposed a new rate authority mechanism called supplemental rate authority designed to address the Postal Service's inability to maintain medium-term financial stability consistent with Objective 5. Order No. 4258 at 38. This mechanism would provide the Postal Service with an additional 2 percentage points of rate authority per mail class for a period of 5 years. *Id.* at 41-43. The 2-percentage-point figure was based on the Postal Service's FY 2017 net loss, which was the most recent net loss figure available at that time. *Id.* at 40-41. The supplemental rate authority mechanism was designed so that after 5 years, the rate base would have been enlarged sufficiently that in the future CPI-only rate increases would be able to generate revenue sufficient to offset the annual net losses the Postal Service had been experiencing. *Id.* at 42. The Commission proposed to review the supplemental rate authority mechanism after 5 years in order to assess the Postal Service's financial performance. *Id.*

[18] The Commission notes that the rules appearing in title 39 of the Code of Federal Regulations were re-organized effective April 20, 2020. *See* Docket No. RM2019-13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407). Prior to this reorganization, the rule revisions proposed in the NPR and Revised NPR were to have appeared primarily in 39 C.F.R. parts 3010, 3050, and 3055. There were also proposed changes to part 3020 to align with the proposed changes to part 3010. Under the new organizational scheme, part 3010 has been re-labeled part 3030, and part 3020 has been re-labeled part 3040. Parts 3050 and 3055 remain unchanged. The final rules adopted in this Order conform to this new organizational scheme.

Second, the Commission proposed a new rate authority mechanism called performance-based rate authority designed to address several of the ratemaking system's shortcomings simultaneously. *Id.* at 46-53. Specifically, the Commission found that three of the shortcomings it had identified in Order No. 4257 were interrelated. The failure to maintain long-term financial stability consistent with Objective 5 had led to an inability to invest in capital projects that could potentially have increased operational efficiency and reduced costs, which had led, in turn, to insufficient efficiency gains and cost reductions that undermined Objective 1. *Id.* At the same time, the failure to maintain long-term financial stability had also resulted in the Postal Service reducing its service standards, which undermined Objective 3. *Id.* To address these three interrelated problems holistically, the Commission proposed an additional 1 percentage point of rate authority per mail class annually. *Id.* at 56. The 1-percentage-point figure was based on a review of the Postal Service's net asset holdings, capital outlays, and borrowing authority. *Id.* at 53-54. In order to access this additional rate authority, the Postal Service would have to achieve distinct performance-based requirements for operational efficiency and service standard quality. *Id.* at 56. Specifically, 0.75 percentage points of the 1 percentage point in additional rate authority would be made available to the Postal Service if its most recent TFP growth, based on a rolling 5-year average, met or exceeded 0.606 percent.[19] The remaining 0.25 percentage points of rate authority would be made available to the Postal Service if it had maintained its service standards at the same level of quality since its last rate proceeding. *Id.* at 70-72.

Third, the Commission issued a series of proposals with regard to non-compensatory products and mail classes, based on its finding that rates which failed to cover the attributable costs of the products or mail classes to which they applied

[19] *Id.* at 61-63. The Commission determined that 0.606 percent reflected the average growth in TFP over the most recent 5-year period, from FY 2011 through FY 2016. *Id.*

undermined the Postal Service's financial integrity and were unreasonable and thus inconsistent with Objectives 5 and 8. *See id.* at 76. The Commission also determined that such rates undermined Objective 1 by failing to comport with the principles of allocative pricing efficiency. Order No. 4257 at 139-142. For non-compensatory products, the Commission's proposal consisted of rate requirements: in future rate proceedings the Postal Service would be required to propose rate increases for all such products that were at least 2 percentage points higher than the class average. Order No. 4258 at 77.

However, the Commission recognized that for mail classes for which the entire class was non-compensatory, meaning that class-level revenues were not sufficient to cover class-level attributable costs, the Postal Service would be faced with a dilemma. *Id.* at 81-82. Imposing rate requirements on individual products in such a class would not be sufficient to improve cost coverage because of the lack of products with positive cost coverage among which rates within the class could be rebalanced. *Id.* Therefore, the Commission proposed that the Postal Service be provided with an additional 2 percentage points in rate authority for non-compensatory mail classes. *Id.* at 84-85. If the Postal Service chose to adjust rates for such a class, it would be required to use all available rate authority. *Id.* at 84. If there were any products within a non-compensatory class for which product-level revenue exceeded product-level attributable costs, prices for such products could only be increased up to the level of the class average. *Id.* at 85. In addition, the Postal Service would not be permitted to reduce rates for products in a non-compensatory class. *Id.* Whether a product or class was properly classified as "non-compensatory" would be determined based on the most recent ACD. *Id.* at 77.

Fourth, the Commission issued a series of proposals with regard to workshare discounts designed to address practices the Commission had identified as undermining pricing efficiency and frustrating the achievement of Objective 1. *Id.* at 87-90. The

Commission proposed implementing workshare "bands"—ranges with upper and lower limits in which workshare discount passthroughs[20] would have to fall in order to be deemed compliant. *Id.* at 93. For workshare discounts in the Periodicals class, the Commission proposed a band between 75 percent and 125 percent. *Id.* For workshare discounts in all other classes, the Commission proposed a band between 85 percent and 115 percent. *Id.* The band for the Periodicals class was intended to take into account "the wider variance observed in passthroughs for Periodicals and 'the educational, cultural, scientific, or informational value' [(ECSI)] of those mailpieces." *Id.* (quoting 39 U.S.C. § 3622(c)(11) and (e)(2)(C)). The Commission proposed a 3-year grace period during which existing passthroughs could be brought into compliance prior to enforcement. Order No. 4258 at 95.

[20] The relationship between workshare discounts and avoided costs is usually expressed as a percentage called a passthrough, which is calculated by dividing the discount by the avoided cost. A workshare discount that fully reflects ECP has a passthrough equal to 100 percent.

Finally, the Commission proposed a series of procedural improvements to its existing rules designed to improve aspects of the ratemaking system.[21] The Commission proposed to enhance the schedule for regular and predictable rate adjustments by requiring the Postal Service to update it annually and provide certain information intended to increase transparency for mailers with regard to the Postal Service's planned price changes. Order No. 4258 at 101-102. The Commission also proposed extending the minimum notice period between the date the Postal Service filed a notice of proposed rate adjustment and the date the proposed rates could go into effect from 45 days to 90 days. *Id.* at 104-105. This was intended to codify the existing practice of the Postal Service and to allow adequate time for rate proceedings to be adjudicated so that proposed rates could take effect on its planned implementation date. *Id.* at 104. Commensurate with this, the Commission also proposed extending the periods for parties to comment on proposed rates, as well as the period for the

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[21] While the Commission found in Order No. 4257 that the ratemaking system had resulted in predictable and stable rates in terms of timing and magnitude, the Commission nevertheless noted two concerns. First, the PAEA required the Postal Service to "establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts." 39 U.S.C. § 3622(d)(1)(B). The Commission's implementing regulations required the Postal Service to maintain on file with the Commission a schedule for regular and predictable rate changes, which the Postal Service could revise "[w]henever [it] deem[ed] it appropriate." 39 C.F.R. § 3030.509(a), (e). In Order No. 4257, the Commission determined that while for the most part the Postal Service's notices had been consistent with its schedules for regular and predictable rate changes, there had been slight deviations based on external influences that were generally known to mailers. Order No. 4257 at 52-62. Thus, in practice the Commission found that the timing of price adjustments had been predictable and stable. *Id.* at 62. The Commission nevertheless noted, however, that the ratemaking system did not *require* the Postal Service to update its schedule of regular and predictable price changes, which resulted in mailers having to refer to other sources to get updated information when the schedules changed. *Id.*

Similarly, the PAEA required the Postal Service to provide public notice of proposed price adjustments at least 45 days before the implementation of new prices. 39 U.S.C. § 3622(d)(1)(C). The Commission incorporated this requirement in its implementing regulations. 39 C.F.R. § 3030.510(a). In Order No. 4257, however, the Commission noted that the Postal Service had, in practice, consistently provided at least 90 days—twice as much notice as required. Order No. 4257 at 63, 70. The Commission therefore concluded that the intervals between notices of proposed rate adjustments and implementation of new prices during the PAEA era had been predictable and stable. *Id.* at 65. The Commission noted, though, that during the PAEA era large-scale price adjustments had lasted an average of 62 days—more than the 45-day minimum requirement. *Id.* at 72. In practice, this had never been a problem because the Postal Service had always given at least 90 days' notice.

Commission to render its decision, which was intended to enable better evaluation of rate proceedings by the Commission. *Id.* In addition, the Commission proposed specifically enumerating the potential actions it could take if it determined that the Postal Service had failed to provide required information in a rate adjustment proceeding. *Id.* at 104-105.

C. Overview of Proposals in the Revised NPR

In response to the NPR, the Commission received and considered comments reflecting widely divergent views on all aspects of the Commission's proposed modifications to the ratemaking system. After considering these comments, the Commission revised several aspects of its initial proposal.

For the supplemental rate authority, the Commission was influenced by commenter concerns that the net loss for FY 2017 may not be a representative baseline for the amount of additional rate authority necessary. Order No. 5337 at 62. The Commission was also influenced by commenter concerns that the amount of additional rate authority under the Commission's initial approach was not tied to specific drivers of the Postal Service's net losses. *Id.* Some commenters endorsed the use of separate rate design elements (often called "X-," "Y-," or "Z-" factors) to modify the price cap and address issues such as cost drivers that are exogenous to the Postal Service. *Id.* at 64-70.

After considering these comments, the Commission dispensed with a singular mechanism for supplemental rate authority based on a fixed amount, as had initially been proposed, and replaced it with two separate mechanisms designed to provide revenue for costs that were largely outside of the Postal Service's control.[22] These were: (a) the increase in per-unit cost resulting from declines in mail density and (b) statutorily mandated amortization payments for retirement costs. Order No. 5337 at 62. The Commission determined that these two sources of costs formed primary obstacles to the Postal Service's ability to generate net income. *Id.* The intent of this revision was to tie the amount of supplemental rate authority to the primary drivers of the Postal Service's net losses, as many of the commenters had suggested. *Id.*

To address mail density declines, the Commission proposed modifying the price cap to provide additional rate adjustment authority equal to the density-driven portion of increases in average cost-per-piece. *Id.* at 77-80. This amount would be calculated each year based on year-over-year changes in density. *Id.* at 77. This mechanism was dynamic and was meant to remain a permanent feature of the ratemaking system. *Id.*

To address the Postal Service's retirement amortization payments, the Commission proposed modifying the price cap to provide additional rate adjustment authority equal to the percentage by which total revenue would need to increase to provide sufficient revenue for the Postal Service to make its required retirement obligation payments. *Id.* at 95-103. This amount would be phased in over 5 years, after which time the rate base would be enlarged sufficiently such that CPI-only rate increases (if accompanied by an equivalent rate increase on Competitive products)

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[22] *Id.* at 62. In this document, the Commission's reference to costs largely outside of the Postal Service's control, or not directly within its control, is different from the costs the Postal Service refers to as "items over which we have no control" in its calculation of "controllable loss" on its Forms 10-K. *See* United States Postal Service, 2019 Report on Form 10-K, November 14, 2019, at 18 (Postal Service FY 2019 Form 10-K). The Postal Service excludes costs such as RHBF actuarial revaluation, retirement amortization expenses, workers' compensation expenses caused by actuarial revaluation and discount rate changes to calculate what it calls "controllable loss."

would be able to generate revenue sufficient to cover such obligations in the future. *Id.* at 95. The yearly amounts of additional rate authority would be recalculated annually to account for changing conditions, and the Postal Service would be required to remit any revenue generated as a result of such rate authority to its outstanding liability. *Id.* at 95-96. The Commission proposed to review the effect of this rate authority after 5 years to comprehensively analyze its impact. *Id.* at 94.

For the performance-based rate authority, the Commission was influenced by commenter concerns regarding the use of a 5-year rolling average for TFP and the unequal weighting of the efficiency and service standard mechanisms as initially proposed. *Id.* at 105. The Commission revised its proposal so that the Postal Service would only be required to exceed its prior-year TFP in order to be eligible for the additional rate authority. *Id.* at 134. In addition, the Commission removed the "split" between the 2 mechanisms—0.75 percentage points for efficiency gains and 0.25 percentage points for the maintenance of service standards—and proposed that the Postal Service be eligible for the additional 1 percentage point of rate authority in any given year if it met both the efficiency and service standard requirements. *Id.* at 144-145.

For non-compensatory products and mail classes, the Commission revised its proposal to make the use of the additional 2 percentage points in rate authority for non-compensatory mail classes optional on the Postal Service's part. *Id.* at 172. This was done both in response to commenter concerns about the unknown effects of sharp price increases on mail volumes for non-compensatory classes and because of the Commission's agreement with the Postal Service that the Postal Service as the operator is in the best position to assess demand and other market considerations. *Id.* The Commission also removed the procedural requirement that determinations as to which products and/or mail classes are non-compensatory be made in ACD proceedings. *Id.* at 173. The Commission found that this would give it more flexibility to address

products or classes that become non-compensatory without having to wait for the next ACD to specifically identify them as such. *Id.*

For workshare discounts, the Commission made a number of revisions to its initial proposal based on commenter feedback. The overall goal of the revisions was to encourage incremental improvement in pricing efficiency. *Id.* at 193. The Commission abandoned the passthrough bands and instead proposed to address excessive and below-avoided-costs workshare discounts separately. *Id.* at 201. With its "do no harm principle," the Commission proposed that the Postal Service be prohibited from changing workshare discounts set equal to avoided costs, from reducing workshare discounts set below avoided costs, and from increasing workshare discounts set above avoided costs. *Id.* at 206-207. The Postal Service would only be permitted to propose a workshare discount with a passthrough below 85 percent if the proposed discount was new; the discount was at least 20-percent higher than the existing discount; or the Postal Service filed an application in advance of a rate adjustment proceeding showing by a preponderance of the evidence that it could not increase the discount by 20 percent without impeding operational efficiency. *Id.* at 200. Similarly, the Postal Service would only be permitted to propose an excessive workshare discount if the discount was new; the discount was at least 20 percent lower than the existing discount; the discount was justified under 39 U.S.C. § 3622(e)(2)(c) (pertaining to preferential rates for mailpieces having ECSI value) including an adequate rationale for the Postal Service being unable to reduce the discount; or the Postal Service filed an application in advance of a rate adjustment proceeding showing by a preponderance of the evidence that rate shock or operational efficiency concerns limited its ability to lower the discount, would lead to volume loss and reduced contribution to institutional costs, or would result in further increases in rates paid by mailers not able to take advantage of the discount. *Id.* at 203 (citing 39 U.S.C. § 3622(e)(2)(B)-(D) and (e)(3)). In light of the foregoing revisions, the Commission dispensed with the 3-year grace period initially proposed,

finding concerns about phasing in the new requirements to be addressed by the incremental improvement approach. Order No. 5337 at 206.

In response to commenter concerns regarding the potential of increased revenue to undermine the Postal Service's incentives to pursue cost reductions and efficiency increases, the Commission in the Revised NPR proposed a new set of cost-reduction reporting requirements. *Id.* at 212-231. These reporting requirements were designed to provide transparency with regard to the Postal Service's cost-reduction efforts and to ensure that the Postal Service remained focused on pursuing cost reductions and efficiency increases consistent with Objectives 1, 5, and 6. *Id.* at 221-226. The Commission proposed that the Postal Service report annually on unit costs for Market Dominant mail products. *Id.* at 227-229. Additional reporting would be required when unit costs for an individual Market Dominant product increased by more than the class average. *Id.* The Commission also proposed that the Postal Service be required to provide detailed reporting with regard to large-scale cost-reduction initiatives, including ongoing reporting to monitor the impact of such initiatives on performance metrics and unit costs. *Id.* at 229-231. In addition, the Commission proposed that the Postal Service be required to provide summary information with regard to smaller-scale projects. *Id.* at 231.

With regard to the procedural improvements in the Commission's initial proposal, there was one substantive change in the Revised NPR. Specifically, the Commission proposed to discontinue addressing the statutory objectives and factors in individual rate adjustment proceedings. *Id.* at 239-240. The Commission also proposed to review the modified ratemaking system in its entirety after 5 years to assess the effects of the changes and the evolving economic trends affecting the mailing industry. *Id.* at 243. The Commission added that if an unforeseen change occurred before the 5-year review period, the Commission would respond as necessary prior to the 5-year review. *Id.*

D. Final Rules

In response to the Revised NPR, the Commission once again received and considered a large number of comments. Based on consideration of these comments, the Commission has made further revisions to the final rules being adopted in this Order. The most significant revision is that the Commission has elected to withdraw the proposed performance-based rate authority from these rules. *See* Section VI.C., *infra*. The Commission intends to open a separate rulemaking to further study potential modifications to the ratemaking system that link financial incentives and/or consequences to efficiency gains, cost reductions, and the maintenance of service standards. *See id*. A separate rulemaking focused on these issues will permit the Commission to evaluate whether, when, and how to introduce a performance incentive mechanism. Moreover, it will allow the Commission to do so without delaying implementation of the remainder of these rules. *See id.* The Commission is, however, adopting two of the proposed reporting requirements related to the performance-based rate authority for purposes of transparency. Specifically, the Commission is requiring the Postal Service, at the time when it files its *Annual Compliance Report* (ACR), provide the input data and calculations used to produce the annual TFP estimates, and to provide a description of and reason for any changes to the service standards (including relevant business rules), or certify that no changes have occurred. *See* Section VI.D., *infra*.

With regard to the density-based rate authority and retirement-based rate authority, the final rules contain a slight revision and a clarification. They permit the Postal Service to retain density-based rate authority as unused rate adjustment authority for purposes of 39 U.S.C. § 3622(d)(2)(C). *See* Section IV.C., *infra*. They also clarify that a minor rate change of one or two rate cells would not trigger the necessity of using the retirement-based rate authority in such an adjustment. *See* Chapter V. and Section XII.C.2, *infra*.

With regard to non-compensatory products and mail classes, the final rules contain slight revisions. The Commission has revised the rules with respect to non-compensatory products to permit the Postal Service to exclude from the mandatory rate increase requirements products for which it does not set rates (such as, for example, certain international mail products that have rates set by treaty).[23] The Commission has also revised the rules with respect to non-compensatory mail classes to permit the Postal Service to generate unused rate adjustment authority. *See* Section VII.B.3., *infra*.

With regard to workshare discounts, the final rules contain a slight revision. The Commission has expanded one of the bases for waiver to permit the use of waiver for below-avoided-costs workshare discounts that relate to non-compensatory products. *See* Section VIII.C.4., *infra*.

For the cost-reduction reporting requirements, the final rules contain a minor, clarifying revision. The Commission has revised the rules pertaining to summary reports for smaller-scale projects to clarify that the Postal Service does not have to prepare summary reports for prospective cost-reduction projects that have not yet been formalized. *See* Section IX.C.4., *infra*.

The final rules do not contain any changes with respect to the proposed procedural improvements or the Commission's proposal to review the modifications to the ratemaking system in 5 years (subject to Commission discretion to consider aspects of the system sooner, if needed). *See* Chapters X. and XI., *infra*. As a result, the

[23] *See* Section VII.A.3., *infra*. This exemption does not exempt these products from the price cap, but only the mandatory remedy for non-compensatory products. Should the Postal Service later gain control over setting rates for these products and the product is found to be non-compensatory, the mandatory price increase would apply. Moreover, this change would not affect the Commission's compliance determination; thus, the Commission may still find these products to be non-compliant and order appropriate remedial action to resolve the non-compliance. *See also* discussion at Section XII.C.4., *infra*.

Commission will undertake a holistic review of the system 5 years after the final rules go into effect, with the possibility of earlier review of discrete aspects of the system if necessary. *See* Chapter XI., *infra.* The Commission also makes a small number of minor corrections and clarifications. *See* Chapters XII., XIII., XIV., and XV., *infra*.

The modified ratemaking system that the Commission adopts in this Order is designed to achieve all of the PAEA's statutory objectives in conjunction with each other. The modifications address the deficiencies of the PAEA ratemaking system identified in Order No. 4257 while maintaining achievement of the remaining objectives. *See* Chapter XIII., *infra.* The density-based rate authority and retirement-based rate authority are designed to address the two underlying causes of the Postal Service's net losses that are largely outside of its control: the proportion of the increase in per-unit cost resulting from the decline in mail density and the statutorily mandated amortization payments for retirement costs. By addressing these two substantial and uncontrollable drivers of the Postal Service's financial distress, the final rules are intended to permit the Postal Service to improve its financial stability (Objective 5) and maintain existing service standards (Objective 3), without reducing the Postal Service's incentives to reduce costs and increase efficiency (Objective 1). *See* Chapter XIII., *infra*.

The rules with respect to non-compensatory products and mail classes are designed to incrementally address long-standing problems through a combination of rate-setting criteria for non-compensatory products and the provision of additional rate authority for non-compensatory mail classes. This is necessary to increase allocative pricing efficiency (Objective 1), address inefficient pricing practices that undermine the Postal Service's financial health (Objective 5), and rebalance rates to be just and reasonable to both mailers and to the Postal Service (Objective 8). *See* Chapter XIII., *infra*.

The workshare discount rules are designed to address inefficient pricing practices with regard to workshare discounts to make them better conform to the principles of ECP (Objective 1). *See* Chapter XIII., *infra*.

The cost-reduction reporting requirements are designed to incentivize the Postal Service to improve the robustness of its cost-benefit analyses (Objective 1) in order to facilitate financially sound decision-making (Objective 5). This should simultaneously improve the availability and comprehensibility of information with regard to the Postal Service's cost-reduction efforts to the Commission and postal stakeholders without imposing an undue administrative burden on the Postal Service (Objective 6). *See* Chapter XIII., *infra*.

The revisions to the Commission's procedural rules all take into account the competing priorities of increasing transparency and reducing administrative burden (Objective 6). These improvements are designed to make it easier for the public to comprehend and to participate in rate proceedings, as well as to facilitate the administration of the ratemaking process. *See* Chapter XIII., *infra.*

Taken together, the modifications adopted in these final rules are designed to remedy the deficiencies in the existing ratemaking system identified in Order No. 4257. The modified ratemaking system is intended to balance the PAEA's statutory objectives in order to place the Postal Service on a sustainable financial path for the future.

Two groups of commenters have sought to supplement the record in this docket with late-filed comments related to the effects of the ongoing COVID-19 pandemic on the Postal Service and the mailing industry.[24] They construe these effects as constituting a change in circumstances substantial enough to require reconsideration of aspects of the Commission's proposed rules. MPA *et al.* Proffered Supplemental Comments at 1-2; NPPC *et al.* Proffered Supplemental Comments at 1-2. They specifically take issue with the amount of rate authority that would be generated by the density-based rate authority mechanism in light of the volume shifts the Postal Service has experienced under pandemic conditions. MPA *et al.* Proffered Supplemental Comments *passim*; NPPC *et al.* Proffered Supplemental Comments *passim*. NPPC *et al.* also argue that $10 billion in additional borrowing authority that Congress recently made available to the Postal Service as a result of the pandemic through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)[25] is relevant to the Commission's conclusions in Order No. 4257 regarding the Postal Service's liquidity. NPPC *et al.* Proffered Supplemental Comments at 14-15. The Postal Service opposes both motions to file supplemental comments.[26]

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[24] Supplemental Comments of MPA – the Association of Magazine Media, the Alliance of Nonprofit Mailers, and the Association for Postal Commerce, July 2, 2020 (MPA *et al.* Proffered Supplemental Comments); Motion for Late Acceptance of the Supplemental Comments of MPA – the Association of Magazine Media, the Alliance of Nonprofit Mailers, and the Association for Postal Commerce, July 2, 2020; Supplemental Comments of the National Postal Policy Council, the American Bankers Association, the American Catalog Mailers Association, the American Forest & Paper Association, the Association for Mail Electronic Enhancement, the Association for Postal Commerce, the Association for Print Technologies, the Envelope Manufacturers Association, the Greeting Card Association, the Major Mailers Association, the National Retail Federation, MPA – the Association of Magazine Media, the National Association of Presort Mailers, the News Media Alliance, the National Newspaper Association, the Parcel Shippers Association, Printing United Alliance, and the Saturation Mailers Coalition, July 6, 2020 (NPPC *et al.* Proffered Supplemental Comments); Motion for Late Acceptance of Supplemental Comments, July 6, 2020.

[25] Pub. L. No. 116-136 (2020).

[26] Opposition of the United States Postal Service to Motions for Late Acceptance of Supplemental Comments, July 13, 2020.

The Commission is cognizant of the ongoing COVID-19 pandemic and its effects on the Postal Service and the mailing industry. However, given what is currently known about the pandemic and its effects, the Commission finds that nothing specific to the pandemic undermines the findings the Commission made in Order No. 4257. In Order No. 4257, the Commission followed 39 U.S.C. § 3622(d)(3)'s directive to review the Market Dominant ratemaking system 10 years after the PAEA's enactment to determine if the existing ratemaking system was achieving the PAEA's statutory objectives, taking into account the statutory factors. The Commission determined that it was not. As discussed above, among the primary failings identified by the Commission were the existing ratemaking system's inability to enable the Postal Service to generate sufficient revenues to achieve medium- or long-term financial stability; its failure to maximize incentives for the Postal Service to reduce costs and increase pricing and operational efficiency; and its failure to maintain reasonable rates. Order No. 4257 at 135-136, 139-140, 145, 165-175, 203-208, 216-219, 221-236, 247-249.

All of these findings remain applicable today, because the existing ratemaking system remains in place. The Postal Service's finances remain unstable.[27] Its liabilities far exceed its assets, and its liquidity has been maintained only by defaulting on statutorily mandated payments.[28] Its working capital has declined even further since Order No. 4257 was issued. *Id.* at 29. The Postal Service's debt ratio has increased, and it still has very limited capacity for capital expenditure. *Id.* at 31-34. In addition, the problems identified in Order No. 4257 with respect to pricing and operational efficiency

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[27] *See* Docket No. ACR2019, Postal Regulatory Commission, Financial Analysis of United States Postal Service Financial Results and 10-K Statement, Fiscal Year 2019, May 7, 2020, at 2-6 (FY 2019 Financial Analysis) (discussing the Postal Service's continuing financial instability).

[28] *See* FY 2019 Financial Analysis at 4, 27-38. The Postal Service has defaulted on most of the statutorily mandated RHB payments since FY 2008. Beginning in FY 2017, the Postal Service also improved its liquidity by defaulting on statutorily-mandated payments for the amortization of unfunded retirement benefits to the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS).

and unreasonable rates have not abated.[29] These challenges, which all pre-date the pandemic, are expected to persist as long as the existing ratemaking system remains in effect, and nothing specific to the pandemic alters the Commission's findings with regard to these deficiencies.

That said, the pandemic has led to an unprecedented slowdown in economic activity in the United States and worldwide, across nearly all industries.[30] With regard to the Postal Service, the most pronounced effect thus far has been a shift in the mail mix due to changes in demand, with significant volume declines for some Market Dominant products and significant volume increases for packages, the majority of which are classified as Competitive products.[31] There are both cost and revenue implications associated with such shifts that are not yet fully clear. It is also unclear if these shifts will be permanent or if volumes will return to their former levels in the future. However, the commenters seeking to supplement the record misconstrue the effects of these circumstances with respect to the Commission's proposals from Order No. 5337.

The density-based rate authority mechanism is designed to respond to exogenous increases in per-unit cost due to declines in the average volume of mail per delivery point. Order No. 5337 at 70-80. The Postal Service has no direct control over

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[29] *See* Docket No. ACR2019, *Annual Compliance Determination*, March 25, 2020, at 12-23 (FY 2019 ACD) (discussing workshare discounts that continue to be set either above or below their avoided costs), 24-67 (discussing products and mail classes that continue to be non-compensatory), 155-175 (discussing the Postal Service's ongoing problems processing and delivering flat-shaped mail products, including its inability to improve operational efficiency with respect to flats processing).

[30] *See, e.g.*, United States Department of Commerce, Bureau of Economic Analysis (August 27, 2020); Gross Domestic Product, 2nd Quarter 2020 (Second Estimate); Corporate Profits, 2nd Quarter 2020 (Preliminary Estimate), available at: *https://www.bea.gov/news/2020/gross-domestic-product-2nd-quarter-2020-second-estimate-corporate-profits-2nd-quarter*.

[31] *See* United States Postal Service, Revenue, Pieces and Weight (RPW) Report by Rate Category and Special Service for Quarter 3, Fiscal Year 2020, August 7, 2020, available at: *https://www.prc.gov/dockets/document/114156*; United States Postal Service, Quarterly Report on Form 10-Q, August 7, 2020, at 10-11, available at: *https://www.prc.gov/docs/114/114136/2020%2008-06%20Form%2010-Q.pdf*.

the volume of mail that mailers send, or over growth in the number of delivery points that necessitates expanding its delivery network. Forcing it to internalize the proportion of per-unit costs that are largely outside of its control undermines its ability to achieve medium- and long-term financial stability. *Id.* at 77. The commenters concede that in terms of per-piece volume, the declines that have occurred with respect to Market Dominant mail far exceed the increases in packages. MPA *et al.* Proffered Supplemental Comments at 3; NPPC *et al.* Proffered Supplemental Comments at 4. Nevertheless, they point to the fact that the contribution per piece associated with packages is generally higher than it is with most Market Dominant mail (*i.e.*, packages are generally priced further above their costs than most Market Dominant mailpieces), and they maintain that the additional revenue realized from packages since the pandemic started has offset the revenue lost as a result of declines in Market Dominant mail. MPA *et al.* Proffered Supplemental Comments at 3; NPPC *et al.* Supplemental Comments at 3-4. They argue that the density component is flawed because it relies on changes in volume without taking into account associated changes in revenue or contribution. MPA *et al.* Proffered Supplemental Comments at 3; NPPC *et al.* Comments at 2-14.

However, the proportion of per-unit costs that the density component is designed to address are based on declines in volume per delivery point. Regardless of the contribution or revenue associated with packages versus other types of mail, the reality is that—as a result of the pandemic—there are fewer total mailpieces today over which the costs of servicing and maintaining the Postal Service's network can be distributed, which causes the per-unit cost of delivering the remaining mailpieces to increase. It is

these costs, which are largely outside of the Postal Service's direct control in the short- and medium-term, that the density-based rate authority is designed to address.[32] Moreover, with respect to commenters' arguments concerning the effect of price increases on mailers,[33] it is important to note that the final rules adopted in this Order permit the Postal Service to retain density-based rate authority as unused rate adjustment authority for purposes of 39 U.S.C. § 3622(d)(2)(C). *See* Section IV.C., *infra*. Thus, the Postal Service will be able to exercise its business judgment as to how much density-based rate authority to use in a given year. Given the need for the proposed changes notwithstanding any impacts from the pandemic and the Commission's commitment to conduct a full-scale review in 5 years, subject to Commission discretion to consider aspects of the system sooner if needed, the Commission does not find changes to the density component to be warranted at this time.

Likewise, with regard to NPPC *et al.*'s assertion that the CARES Act undermines the Commission's findings from Order No. 4257 concerning the Postal Service's liquidity, the increase in borrowing authority made available to the Postal Service in the CARES Act does not impact the Commission's analysis. The $10-billion increase in borrowing authority is limited to addressing short-term operating needs due to the COVID-19 emergency. Pub. L. No. 116-136 § 6001(b). Such funds cannot be used to address the Postal Service's longer-term financial stability, outstanding debt, and capital expenses. *See* Pub. L. No. 116-136 § 6001(b)(1)(A)-(B) (additional borrowing authority

[32] The Commission also notes that the density formula takes into account potential divergence of Competitive density and Market Dominant density. *See* Order No. 5337 at 72-73. Specifically, the formula takes the smaller of either the change in density overall or the change in density for Market Dominant (which prevents Competitive density losses from increasing the density factor, and requires the Competitive density gains to offset the Market Dominant density losses). *Id*.

[33] MPA *et al.* Proffered Supplemental Comments at 3-4; NPPC *et al.* Proffered Supplemental Comments at 14.

is "to be used for...operating expenses; and [...] not...to pay any outstanding debt of the Postal Service").

Moreover, access to additional borrowing authority and any associated temporary increase in liquidity would at most improve the Postal Service's short-term financial stability, meaning its ability to meet its immediate day-to-day operational needs. Order No. 4257 at 159-165. The Commission has never found that the Postal Service lacked short-term financial stability. *Id.* Borrowing more money to cover operating expenses, however, would do nothing to address the net losses and accumulated deficits that undermine the Postal Service's medium- and long-term financial stability, which the Commission identified in Order No. 4257 as a primary deficiency in the existing ratemaking system. *Id.* at 247-249. It is these net losses that the density-based rate authority, retirement-based rate authority, and non-compensatory product/class modifications to the ratemaking system adopted in this Order are designed to address. As a result, the increase in borrowing authority resulting from the CARES Act does not impact the Commission's findings of deficiencies with the existing ratemaking system, and the Commission does not find changes to these aspects of the final rules necessary at this time.

While an agency rule cannot "entirely fail[ ] to consider an important aspect of [a] problem...[,]"[34] agencies have discretion to exercise their expertise in order to determine whether supplementary comments on an existing record are necessary, and "[c]ourts normally reverse an agency's decision not to reopen the record only for abuse of discretion."[35] The Commission has reviewed the supplemental comments proffered by these commenters, but the Commission finds that the assertions contained in them do not affect the basis for the final rules the Commission is adopting in this Order. The

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[34] *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

[35] *Eastern Carolinas Broad. Co. v. FCC*, 762 F.2d 95, 103 (D.C. Cir. 1985).

Commission determines that this matter can be adequately decided on the existing record. The Commission therefore denies both motions to supplement the record.

As a final matter, the Commission notes that it is committed to reviewing the modified ratemaking system in 5 years to assess its performance, and to reviewing specific components of the modified ratemaking system sooner than 5 years if needed. *See* Chapter XI., *infra*. The commenters themselves acknowledge that there is a great deal of uncertainty regarding the effects of the COVID-19 pandemic. MPA *et al.* Proffered Supplemental Comments at 7; NPPC *et al.* Proffered Supplemental Comments at 4-6. It is simply unknowable at present how long the downturn will persist or what the long-term economic effects will be, either for the Postal Service or for mailers. However, as stated above, the pandemic does not change any of the findings the Commission made in Order No. 4257 regarding the deficiencies of the current ratemaking system. Therefore, the Commission does not find any good cause to further delay implementation of the modified ratemaking system developed in this docket. The Commission will monitor the effects of the final rules on the Postal Service and on mailers in light of economic developments, and it will intervene as necessary if economic conditions prevent the final rules from operating as intended to achieve the objectives of section 3622.

III. STATUTORY AUTHORITY

A. Introduction and Background

The legal authority for the rules adopted in this docket derives from 39 U.S.C. § 3622, which was enacted as part of the PAEA in 2006.[36] Section 3622, which is titled "Modern rate regulation," contains six subsections, which can be summarized as follows. Subsection (a), entitled "Authority generally," provides that within 18 months after the PAEA's enactment the Commission shall "by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products." 39 U.S.C. § 3622(a). Subsection (b) enumerates nine specific "objectives" that the ratemaking system shall be designed to achieve. 39 U.S.C. § 3622(b). Subsection (c) enumerates 14 specific "factors" that the Commission must take into account in establishing or revising the ratemaking system. 39 U.S.C. § 3622(c).

Subsection (d), titled "Requirements," contains three paragraphs. Paragraph (d)(1), titled "In general," provides that the ratemaking system shall: include an annual price cap on rate increases corresponding to the CPI-U; establish a schedule of rate changes; require public notice and an opportunity for Commission review of proposed rate adjustments; and establish procedures for rate adjustments. 39 U.S.C. § 3622(d)(1)(A)-(E).

[36] PAEA, Pub. L. No. 109-435, 120 Stat. 3198 (2006). The Commission also has general authority to "promulgate rules and regulations and establish procedures...and take any other action [it] deem[s] necessary and proper to carry out [its] functions and obligations to the Government of the United States and the people as prescribed under [Title 39 of the United States Code]." 39 U.S.C. § 503.

Paragraph (d)(2), titled "Limitations," provides that the price cap is to be applied to mail products at the class level;[37] permits the Postal Service to round rates and fees as long as the overall rate increase does not exceed the price cap; and contains provisions regarding the use of unused rate authority.[38]

Paragraph (d)(3), titled "Review," provides the following specific language which is at the heart of the issue with regard to the Commission's legal authority in this docket:

> Ten years after the date of enactment of the [PAEA] and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

39 U.S.C. § 3622(d)(3).

Subsection (e) contains provisions related to workshare discounts, which are rate discounts provided to mailers who perform certain mail preparation activities prior to entering mail into the Postal Service's network. 39 U.S.C. § 3622(e)(1). Subsection (e) generally requires (subject to certain exceptions) that such discounts not exceed the cost that the Postal Service avoids as a result of not having to perform the individual workshare activity in question. 39 U.S.C. § 3622(e)(2)-(4). Finally, subsection (f)

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[37] A mail class is a grouping of Market Dominant mail products, "as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the [PAEA]." 39 U.S.C. § 3622(d)(2)(A). There are five such mail classes: First-Class Mail; USPS Marketing Mail; Periodicals; Package Services; and Special Services.

[38] 39 U.S.C. § 3622(d)(2)(A)-(C). Unused rate authority is leftover rate authority that the Postal Service opts not to avail itself of in any given price adjustment. 39 U.S.C. § 3622(d)(2)(C)(i). Under the PAEA, the Postal Service is permitted to retain such rate authority for future use, subject to a number of conditions and limitations. 39 U.S.C. § 3622(d)(2)(C)(ii)-(iii).

provides for a 1-year transition period to the PAEA ratemaking system from the ratemaking system that preceded it. 39 U.S.C. § 3622(f).

The PAEA represented a compromise between two competing postal reform bills in Congress. Order No. 4258 at 19-21. The first bill, H.R. 22, was introduced in the House of Representatives by Representative John McHugh on January 4, 2005, and reported back to the House out of the House Committee on Government Reform with amendments on April 28, 2005.[39] On July 26, 2005, H.R. 22 as amended was passed by the House.[40] Under this bill proposed section 3622(d) was titled "Allowable Provisions." 151 Cong. Rec. H6523 (daily ed. July 26, 2005). It provided that the ratemaking system could include one or more of several forms of regulation: incentive regulation (*e.g.*, price caps, revenue targets); cost-of-service regulation; or any other form of regulation that the Commission considered appropriate to achieve the bill's listed objectives, consistent with its listed factors. *Id.* Proposed section 3622(e) under this bill was titled "Limitation." *Id.* This provision would have capped annual product-level rate increases at the CPI, unless the Commission were to determine, after public notice and comment, that an above-CPI increase was reasonable, equitable, and necessary. *Id.*

The second bill, S. 662, was introduced in the Senate by Senator Susan Collins on March 17, 2005, and reported back to the Senate out of the Homeland Security and Governmental Affairs Committee with amendments on July 14, 2005.[41] On February 9, 2006, the Senate considered these and additional amendments by unanimous consent, and the bill, as amended, was passed.[42] Under this bill, proposed section 3622(d) was

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[39] 151 Cong. Rec. H72 (daily ed. Jan. 4, 2005); 151 Cong. Rec. H2734 (daily ed. Apr. 28, 2005).

[40] 151 Cong. Rec. H6511, H6548-H6549 (daily ed. July 26, 2005) (Roll Call No. 430).

[41] 151 Cong. Rec. S2994, S3012-S3031 (daily ed. Mar. 17, 2005); 151 Cong. Rec. S8301 (daily ed. July 14, 2005).

[42] 152 Cong. Rec. S898-S927 (daily ed. Feb. 9, 2006).

titled "Requirements," and was subdivided into paragraphs titled "In general" and "Limitations." *Id.* at S913-S914. The content of these paragraphs employed similar language to that which was eventually used in the final version of the PAEA. *Compare id. with* 39 U.S.C. § 3622(d)(1) and (2). Specifically, they provided for an annual class-level price cap indexed to CPI-U, with a narrow exception for "unexpected and extraordinary circumstances." *Id.*

Also on February 9, 2006, the Senate through unanimous consent passed H.R. 22 by replacing H.R. 22's text with the text of S. 662.[43] Therefore, as passed by the Senate, H.R. 22 contained the same title structure as S. 662, with proposed section 3622(d)—titled "Requirements"—being subdivided into two paragraphs titled "In General" and "Limitations." *Id.* at S929. The Senate then sent H.R. 22, as amended and passed by the Senate, back to the House and requested a conference to resolve the differences between the two versions.[44] None of the versions of the bills described above included the review provision that would eventually be codified at 39 U.S.C. § 3622(d)(3). Nor was this provision referenced in hearings, committee reports, or the presidential signing statement. Instead, paragraph (d)(3) was included only in the final version of the PAEA introduced on December 7, 2006—H.R. 6407.[45] Pursuant to a compromise between the Senate and the House, H.R. 6407 blended together concepts appearing in the separate versions of the bills described above, including combining each bill's respective lists of objectives and factors.

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[43] 152 Cong. Rec. at S927-S942 (daily ed. Feb. 9, 2006). H.R. 22 had been pending in the Senate since July 27, 2005. 151 Cong. Rec. S9155, S9156 (daily ed. July 27, 2005).

[44] *Id.* at S927, S942. For instance, as passed by the House on July 26, 2005, H.R. 22 provided for the ratemaking system to achieve 7 objectives and for the Commission to take into account 11 factors. 151 Cong. Rec. H6523 (daily ed. July 26, 2005). By contrast, as passed by the Senate on February 9, 2006, H.R. 22 provided for the ratemaking system to achieve 8 objectives and for the Commission to take into account 13 factors. 152 Cong. Rec. at S928-S929 (daily ed. Feb. 9, 2006).

[45] H.R. 6407, 109th Cong. § 3622(d)(3) (2006).

There is only one statement in the Congressional Record about the review provision contained at paragraph (d)(3), and it was made upon receipt of the final version of the bill on December 8, 2006. Senator Collins, the Senate sponsor of postal reform, remarked:

> The Postal Service will have much more flexibility, but the rates will be capped at the CPI. That is an important element of providing 10 years of predictable, affordable rates, which will help every customer of the Postal Service plan. After 10 years, the Postal Regulatory Commission will review the rate cap and, if necessary, and following a notice and comment period, the Commission will be authorized to modify or adopt an alternative system.
>
> While this bill provides for a decade of rate stability, I continue to believe that the preferable approach was the permanent flexible rate cap that was included in the Senate-passed version of this legislation. But, on balance, this bill is simply too important, and that is why we have reached this compromise to allow it to pass. We at least will see a decade of rate stability, and I believe the Postal [Regulatory] Commission, at the end of that decade, may well decide that it is best to continue with a CPI rate cap in place. It is also, obviously, possible for Congress to act to reimpose the rate cap after it expires. But this legislation is simply too vital to our economy to pass on a decade of stability. The consequences of no legislation would be disastrous for the Postal Service, its employees, and its customers.[46]

The Commission's interpretation of section 3622, based on its plain language, its structure, and its purpose, and as confirmed by its legislative history, has been consistent throughout this docket. That interpretation, which is more fully articulated below, can be summarized as follows. Subsection (a) directed the Commission to promulgate rules establishing the ratemaking system following the PAEA's enactment. The ratemaking system was required to be designed to achieve the statutory objectives enumerated in subsection (b), taking into account the statutory factors enumerated in subsection (c).

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[46] 152 Cong. Rec. S11,674, S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins).

In its initial form, the ratemaking system was also required to contain certain mandatory features, as embodied in paragraphs (d)(1) and (d)(2), as well as subsection (e). The most significant of these features was the CPI-U price cap. However, those mandatory features were the product of the legislative compromise that reconciled the competing postal reform bills in Congress. A central component of that legislative compromise was paragraph (d)(3), which directed the Commission to review the ratemaking system after 10 years and determine if the ratemaking system, including the mandatory features, was achieving the statutory objectives set out in subsection (b), taking into account the statutory factors set out in subsection (c). If the Commission determined that the ratemaking system was not achieving the statutory objectives, taking into account the statutory factors, then the Commission was empowered to "by regulation, make such modification or adopt such alternative system...as necessary to achieve the objectives." 39 U.S.C. § 3622(d)(3).

The Commission conducted the required review and issued its findings on December 1, 2017. *See generally* Order No. 4257. The Commission determined that the ratemaking system has not achieved the statutory objectives, taking into account the statutory factors. Pursuant to paragraph (d)(3), the Commission thereafter set about the task of "mak[ing] such modification or adopt[ing] such alternative system...as necessary to achieve the objectives." In doing so, the Commission interprets its authority as encompassing all aspects of the ratemaking system under section 3622, including the price cap provisions at paragraphs (d)(1) and (d)(2) and the workshare discount provisions in subsection (e).

Order No. 4258 addressed comments positing that the Commission lacks the statutory authority to modify or replace the CPI-U price cap. Order No. 4258 at 14-25. The Commission analyzed the three primary arguments raised by commenters to support this position: that the plain language of section 3622 clearly forecloses modification or replacement of the CPI-U price cap; that modification or replacement of the CPI-U price cap would be inconsistent with the PAEA's legislative history; and that modification or replacement of the CPI-U price cap would produce unconstitutional results. *Id.* The Commission also addressed comments objecting to the inclusion of workshare discounts as an issue in this proceeding. *Id.* at 18-19, 25.

Order No. 5337 addressed comments received in response to Order No. 4258 pertaining to the Commission's initial proposal to make additional rate adjustment authority available to the Postal Service. Order No. 5337 at 18-31, 32-57. The Commission also addressed comments concerning the statutory authority underlying the Commission's initial proposal to limit the setting of inefficient workshare discounts. *Id.* at 57-58. Many of the comments received in response to Order No. 4258 echoed prior remarks submitted in this proceeding. Order No. 5337 at 18-27. Some commenters reiterated their prior positions again with regard to the revised proposal presented in Order No. 5337.[47] Generally, no new arguments concerning statutory authority were introduced in response to Order No. 5337.[48]

Primarily, commenters contending that the Commission lacks the statutory authority to adopt the final rules in this Order argue that a reviewing court would reject the Commission's interpretation of section 3622 under the two-step framework for

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[47] *See* ANM *et al.* Comments at 91-99; ANM *et al.* Reply Comments at 16-17; ABA Comments at 4-5.

[48] Because no commenter re-raised arguments having to do with the constitutionality of modifying or replacing the CPI-U price cap in response to Order No. 5337, those arguments are not addressed in this Order. They were addressed in detail in Order Nos. 4258 and 5337. *See* Order No. 4258 at 23-25; Order No. 5337 at 53-57.

evaluating an agency's interpretation of its governing statute set forth in *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984). Under *Chevron* step one, a court considers whether "Congress has directly spoken to the precise question at issue." *Chevron*, 467 U.S. at 842. If so, "that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Id.* at 842-843. If not, then the court proceeds to *Chevron* step two and considers whether the agency's interpretation "is based on a permissible construction of the statute." *Id.* at 843. The court must defer to the agency's interpretation if it is "reasonable." *Id.* at 844.

Because paragraph (d)(3) expressly authorizes the Commission to adopt regulations modifying the ratemaking system or adopting an alternative ratemaking system if necessary to achieve the statutory objectives, the final rules adopted in this Order would survive judicial scrutiny under *Chevron* step one. Moreover, even if there were any ambiguity as to whether the Commission had the authority to adopt the final rules, because the Commission's interpretation is based on a permissible and reasonable construction of section 3622, the Commission would be accorded deference under *Chevron* step two.

In the remainder of this section, the Commission first addresses the positions of commenters asserting that the Commission lacks the statutory authority to make additional rate adjustment authority available to the Postal Service. The Commission then addresses issues that pertain exclusively to the Commission's statutory authority to limit the setting of inefficient workshare discounts, as well as the Commission's authority to modify specific Postal Service reporting requirements.

B. Additional Rate Authority

1. The PAEA expressly authorizes the Commission to modify or replace all aspects of the existing ratemaking system, including the CPI-U price cap, if necessary to achieve the statutory objectives.

At *Chevron* step one, the question is whether the meaning of a statute is unambiguously clear. *Chevron*, 467 U.S. at 842-843. In order to determine this, a court must "exhaust the traditional tools of statutory construction to determine whether Congress has spoken to the precise question at issue[,]…[which] include examination of the statute's text, legislative history, and structure, as well as its purpose."[49] Courts "consider not only the language of the particular statutory provision under scrutiny, but also the structure and context of the statutory scheme of which it is a part."[50]

The Commission's interpretation of section 3622 begins with the text of paragraph (d)(3). Paragraph (d)(3) states:

> If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

39 U.S.C. § 3622(d)(3). In the absence of an express definition, a statutory phrase must be given its ordinary meaning.[51] "May" is a permissive word, which indicates that the Commission has discretion under paragraph (d)(3) whether to take any action

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[49] *Petit v. United States Dep't of Educ.*, 675 F.3d 769, 781 (D.C. Cir. 2012) (quoting *Bell Atl. Tel. Cos. v. FCC*, 131 F.3d 1044, 1047 (D.C. Cir. 1997)) (internal marks omitted).

[50] *Petit*, 675 F.3d at 781-782 (quoting *Cty. of L.A. v. Shalala*, 192 F.3d 1005, 1014 (D.C. Cir. 1999)) (internal marks omitted).

[51] *Smith v. United States*, 508 U.S. 223, 228 (1993).

following its 10-year review of the ratemaking system.[52] "Or" is a disjunctive word, which indicates that the two options on either side of it have distinct meanings.[53]

Of the two options presented in paragraph (d)(3), the word "modification" is defined as "the making of a limited change in something."[54] Therefore, "make such modification" connotes the making of moderate changes to the existing ratemaking system.[55] On the other hand, "alternative" is defined as "a proposition or situation offering a choice between two or more things *only one of which may be chosen*."[56] Therefore, the phrase "adopt such alternative system" contemplates replacement of the existing ratemaking system with a different ratemaking system.[57]

Accordingly, if the Commission determines, after conducting its required review of the ratemaking system, that the ratemaking system is not achieving the statutory objectives, taking into account the statutory factors, then the Commission has discretion to, by regulation, either "make such modification [to the ratemaking system]...as necessary to achieve the objectives," which connotes moderate change to the existing ratemaking system, or "adopt such alternative system...as necessary to achieve the

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[52] Order No. 4258 at 14; *see United States v. Rodgers*, 461 U.S. 677, 706 (1983) ("The word 'may,' when used in a statute, usually implies some degree of discretion." (citations omitted)).

[53] Order No. 4258 at 14; *see Loughrin v. United States*, 573 U.S. 351, 357 (2014) ("[o]rdinary use [of the term 'or'] is almost always disjunctive, that is, the words it connects are to be given separate meanings." (internal marks and citation omitted)); *Chao v. Day*, 436 F.3d 234, 236 (D.C. Cir. 2006) (terms connected using the disjunctive "or" must be given separate meanings).

[54] *See* Merriam-Webster Dictionary, available at: *https://www.merriam-webster.com/dictionary/modification*.

[55] Order No. 4258 at 15 (quoting 39 U.S.C. § 3622(d)(3)); *see MCI Telecomms. Corp. v. Am. Tel. & Tel. Co.*, 512 U.S. 218, 228 (1994) ("'Modify,' in our view, connotes moderate change.").

[56] *See* Merriam-Webster Dictionary, available at: *https://www.merriam-webster.com/dictionary/alternative* (emphasis added).

[57] Order No. 4258 at 15 (quoting 39 U.S.C. § 3622(d)(3)); *see* Merriam-Webster Dictionary, available at: *https://www.merriam-webster.com/dictionary/adopt* ("adopt" defined as "to accept formally and put into effect").

objectives," which contemplates replacement of the existing ratemaking system with a different ratemaking system. *See* Order No. 4258 at 14-15 (quoting 39 U.S.C. § 3622(d)(3)). In either instance, the only limit that paragraph (d)(3) imposes on the scope of any such changes is that they must be "necessary" to achieve the statutory objectives. Order No. 4258 at 15. "Necessary" means "logically unavoidable."[58]

The scope of the Commission's authority under paragraph (d)(3) plainly extends to all aspects of the ratemaking system under section 3622, including the price cap provisions at paragraphs (d)(1) and (d)(2). Order No. 4258 at 25; Order No. 5337 at 35. This interpretation takes into account the text and structure of section 3622 as a whole, and properly gives the statutory language its ordinary meaning. Order No. 5337 at 35 (citing *Smith*, 508 U.S. at 228). Paragraph (d)(3) grants the Commission authority to modify the "system" or to adopt an "alternative system." The word "system" is used throughout section 3622. Subsection (a) instructs the Commission to establish a "modern system for regulating rates and classes for market-dominant products." 39 U.S.C. § 3622(a). Subsection (b) provides that the "system" shall be designed to achieve the statutory objectives. 39 U.S.C. § 3622(b). Subsection (c) provides that in establishing the "system" the Commission shall take into account the statutory factors. 39 U.S.C. § 3622(c). Subsection (d), at paragraphs (d)(1) and (d)(2), provides additional features that the "system" shall include, including the CPI-U price cap. 39 U.S.C. § 3622(d)(1)-(2). Subsection (d) also, at paragraph (d)(3), provides that if the Commission, after conducting its required 10-year review, determines that the "system" is not achieving the statutory objectives, taking into account the statutory factors, then the Commission may by regulation modify or replace the "system" as necessary to achieve the statutory objectives. 39 U.S.C. § 3622(d)(3). As ordinarily defined,

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[58] Order No. 4258 at 15; *see* Merriam-Webster Dictionary, available at: *https://www.merriam-webster.com/dictionary/necessary*.

"system" is a general term referring to a set of connected things or parts forming a complete whole.[59] It is clear that all of the provisions within section 3622 relate to the same "system" of ratemaking, including the CPI-U price cap provisions, and that under paragraph (d)(3) all aspects of that "system" are subject to review and, if necessary to achieve the statutory objectives, potential modification or replacement. Order No. 5337 at 35-36.

The structure of subsection (d), specifically the relationship between paragraph (d)(3) and paragraphs (d)(1) and (d)(2), also serves to confirm this. Paragraph (d)(3)'s review provision follows the price cap provisions set out in paragraphs (d)(1) and (d)(2). Each of paragraph (d)(2)'s limitations modify the general provisions contained in paragraph (d)(1). *Id.* at 36. This structure reinforces the conclusion that the provisions at paragraphs (d)(1) and (d)(2) are part of the system subject to review and potential modification or replacement under paragraph (d)(3). *Id.*

Moreover, textual differences between paragraph (d)(3) and subsection (a) plainly demonstrate that the extent of regulatory action permissible under paragraph (d)(3) is broader than under subsection (a). *Id.* Subsection (a) provides that:

> The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

39 U.S.C. § 3622(a). The definition of "establish" is "to institute (something, such as a law) permanently by action or agreement."[60] The definition of "revise" is "to look over

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[59] Order No. 5337 at 35; *see* Merriam-Webster Dictionary, available at: *http://www.merriam-webster.com/dictionary/system* ("system" defined as "a regularly interacting or interdependent group of items forming a unified whole").

[60] Order No. 4258 at 16; *see* Merriam-Webster Dictionary, available at: *https://www.merriam-webster.com/dictionary/establish*.

again in order to correct or improve."[61] The use of parentheticals along with the conjunction "and" explains the relationship between "establish" and "revise"—the ratemaking system established pursuant to subsection (a) is subject to periodic revision by the Commission at the Commission's discretion. Order No. 4258 at 16; Order No. 5337 at 36. Thus, "establish" and "revise" are connected powers under subsection (a)—any "revision" is to the ratemaking system "established" under subsection (a). Order No. 5337 at 36. This differs from the wording of paragraph (d)(3), which speaks of "modifying" the system *or* "adopt[ing] [an] alternative system"—two separate options with different meanings. Order No. 4258 at 17; Order No. 5337 at 36-37.

The conditions necessary to trigger the Commission's authority under paragraph (d)(3) are more demanding than those under subsection (a). Subsection (a) required the Commission to set up the ratemaking system within a specified period after the PAEA was enacted, and it permits the Commission to improve or correct those regulations "from time to time thereafter" through normal rulemaking procedures. Order No. 4258 at 16. Paragraph (d)(3), by contrast, is not triggered until several separate and specific requirements are met: first, a review of the ratemaking system by the Commission 10 years after the PAEA's enactment, following notice and an opportunity for public comment; and second, a determination by the Commission that the ratemaking system has not achieved the statutory objectives, taking into account the statutory factors.[62]

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[61] Order No. 4258 at 16; *see* Merriam-Webster Dictionary, available at: *https://www.merriam-webster.com/dictionary/revise*.

[62] 39 U.S.C. § 3622(d)(3); *see* Order No. 4258 at 16; Order No. 5337 at 37.

The different language used in subsection (a) compared to paragraph (d)(3), coupled with the existence of separate triggering mechanisms, and in conjunction with the overall structure of section 3622, in which any regulatory action under paragraph (d)(3) is premised on a finding that the ratemaking system established under subsection (a) has failed to achieve the statutory objectives, taking into account the statutory factors, demonstrates that Congress intended to create two separate but complementary processes. First, Congress provided for the Commission's general authority to set up and periodically recalibrate the ratemaking system in its initial form under subsection (a), which was required to include certain mandatory features.[63] Second, Congress provided for the Commission's specific authority pursuant to paragraph (d)(3) to review the ratemaking system established under subsection (a) after 10 years and modify or replace any part of it, including the mandatory features, as necessary to achieve the statutory objectives. Order No. 4258 at 17; Order No. 5337 at 36-37. Thus, it is plain that subsection (a) and paragraph (d)(3) serve different purposes within the statutory scheme of section 3622, and that the Commission's authority under paragraph (d)(3) is broader than the Commission's authority under subsection (a). Order No. 4258 at 17-18; Order No. 5337 at 36-37. The purpose of paragraph (d)(3) is plainly to ensure that the statutory objectives in subsection (b) are being met and, if needed, to empower the Commission to remedy any failure to meet the objectives. Order No. 5337 at 37.

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[63] Historically, the Commission had not possessed such broad regulatory authority. Order No. 4258 at 17; Order No. 5337 at 43. Prior to the enactment of the PAEA, the Postal Rate Commission, as the Postal Regulatory Commission was formerly known, was limited to "review of rate, classification, and major service changes, unadorned by the overlay of broad FCC-esque responsibility for industry guidance and of wide discretion in choosing the appropriate manner and means of pursuing its statutory objective." Order No. 4258 at 17 n.30 (citing *Mail Order Ass'n of Am. v. U.S. Postal Serv.*, 2 F.3d 408, 415 (D.C. Cir. 1993 (quoting *Governors of U.S. Postal Serv. v. Postal Rate Comm'n*, 654 F.2d 108, 117 (D.C. Cir. 1981)). The PAEA transformed the Postal Rate Commission into the Postal Regulatory Commission, a separate independent agency with regulatory oversight of the Postal Service. *Id.* (citing *U.S. Postal Serv. v. Postal Reg. Comm'n*, 717 F.3d 209, 210 (D.C. Cir. 2013)).

Paragraph (d)(3) places only one limit on the features that a "modifi[ed]" or "alternative system" can contain: such features must be necessary to achieve the statutory objectives in subsection (b). There is no requirement that any other specific feature of the existing ratemaking system be retained, including the CPI-U price cap. Moreover, subsection (b), in which the statutory objectives are set out, states that the objectives are to be applied in conjunction with each other, not in conjunction with any other statutory provisions. Order No. 4258 at 15; Order No. 5337 at 40.

In reaching its interpretation of section 3622, the Commission has considered alternative interpretations and constructions offered by commenters.[64] Commenters have cited the title of subsection (d)—"Requirements"—as meaning that any modified or alternative ratemaking system promulgated pursuant to paragraph (d)(3) must contain the features specified in paragraphs (d)(1) and (d)(2).[65] Commenters have similarly cited the use of the word "shall" in paragraph (d)(1) (*i.e.*, "The system for regulating rates and classes for market dominant products *shall*...contain an annual limitation on the percentage change in rates...equal to the change in [CPI-U]...." (emphasis added)) as making the CPI-U price cap mandatory for any and all versions of the ratemaking

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[64] In response to Order No. 5337, two of these commenters, ANM *et al.* and ABA, have renewed their previous arguments, which are addressed below. National Postal Policy Council, Major Mailers Association, National Association of Presort Mailers, and Association for Mail Electronic Enhancement (collectively, NPPC *et al.*) incorporate all of their prior arguments by reference. NPPC *et al.* Comments at 9. A new commenter, the Coalition for a 21st Century Postal Service (C21), also adopts by reference in its reply comments the general arguments advanced by other commenters in this proceeding that the Commission lacks the statutory authority to modify or replace the CPI-U price cap. C21 Reply Comments at 3.

[65] 2014 ANM *et al.* White Paper at 4-7; Comments of the Major Mailers Association, the National Association of Presort Mailers, and the National Postal Policy Council, March 20, 2017, at 14-15 (2017 MMA *et al.* Comments); Initial Comments of the Greeting Card Association, March 20, 2017, at 29-31 (2017 GCA Comments) (citing *Ratzlaf v. United States*, 510 U.S. 135, 143 (1994)); Comments of the National Postal Policy Council, the Major Mailers Association, and the National Association of Presort Mailers, March 1, 2018, at 22-23 (2018 NPPC *et al.* Comments); Comments of Alliance of Nonprofit Mailers, American Catalog Mailers Association, Inc., Association for Postal Commerce, Idealliance and MPA—the Association of Magazine Media, March 1, 2018, at 17, 21-22 (2018 ANM *et al.* Comments).

system that might be adopted.[66] Alliance of Nonprofit Mailers, Association for Postal Commerce, MPA—the Association of Magazine Media, American Catalog Mailers Association, Direct Marketing Association of Washington, Nonprofit Alliance, Envelope Manufacturers Association, Saturation Mailers Coalition, and Continuity Shippers Association (collectively, ANM *et al.*), and the American Bankers Association (ABA) continue to make these arguments in response to Order No. 5337. ANM *et al.* Comments at 91-92; ABA Comments at 4.

As an initial matter, the Commission has noted that section titles are not dispositive—they can aid in resolving an ambiguity but they cannot enlarge text or confer powers.[67] Nevertheless, the Commission maintains that its interpretation of paragraph (d)(3) is consistent with the "Requirements" title of subsection (d) and the use of "shall" in paragraph (d)(1), because it is the mandatory features—the "requirements"—of the ratemaking system established under subsection (a), which were put in place during the PAEA's first decade, that are subject to review and potential modification or replacement under paragraph (d)(3). Order No. 5337 at 40. The structure of subsection (d), in which paragraph (d)(3) follows paragraphs (d)(1) and (d)(2), and the text of paragraph (d)(3), which does not impose any specific requirement on a modified or alternative ratemaking system other than that its features must be necessary to achieve the statutory objectives, both confirm this. Order No. 5337 at 36, 38-39.

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[66] Alliance of Nonprofit Mailers; the Association for Postal Commerce; the Association of Marketing Service Providers; the Direct Marketing Association; EMA; MPA—the Association of Magazine Media; the National Association of Advertising Distributors, Inc.; and the Saturation Mailers Coalition, Limitations on the Commission's Authority Under Section 3622(d)(3), October 28, 2014, at 6-7 (2014 ANM *et al.* White Paper); Comments of Alliance of Nonprofit Mailers, Association for Postal Commerce, and MPA—the Association of Magazine Media, March 20, 2017, at 9-10 n.2 (2017 ANM *et al.* Comments); Comments of American Bankers Association, March 20, 2017, at 8-9 (2017 ABA Comments); Comments of American Bankers Association, March 1, 2018, at 4-5 (2018 ABA Comments); 2018 ANM *et al.* Comments at 11; 2018 NPPC *et al.* Comments at 20-22.

[67] Order No. 4258 at 16 (citing *Pa. Dep't. of Corr. v. Yeskey*, 524 U.S. 206, 212 (1998)).

ANM *et al.* argue in response to Order No. 5337 that paragraphs (d)(1), (d)(2), and (d)(3) are each requirements of the ratemaking system, and "[n]othing in the law's structure states that paragraph (d)(3) eliminates the CPI cap from paragraph (d)(1)." ANM *et al.* Comments at 93-94. However, this argument ignores the statutory context on which the second sentence of paragraph (d)(3) is premised—a finding that the ratemaking system established under subsection (a), which included the provisions in paragraphs (d)(1) and (d)(2), has failed to achieve the statutory objectives, taking into account the statutory factors. Moreover, it ignores the fact that the only limit paragraph (d)(3) places on the Commission's ability to modify the ratemaking system or to adopt an alternative ratemaking system is that such changes must be necessary to achieve the objectives in subsection (b). Paragraph (d)(3) does not say that a modified or alternative ratemaking system has to contain the features specified in paragraphs (d)(1) and (d)(2).

Commenters have argued that under general canons of statutory construction, specific provisions, such as the price cap provision at paragraph (d)(1)(A), trump general provisions, such as paragraph (d)(3).[68] However, the logic underlying this general principle does not hold with respect to paragraph (d)(3) because paragraph (d)(3) expressly contemplates the potential modification or replacement of other provisions of the ratemaking system under section 3622, including the provisions contained in paragraphs (d)(1) and (d)(2). In Order No. 4258, the Commission found that the language of paragraph (d)(3) was intentionally broad, stating that "Congress knew how to impose express limits on the scope of [an] 'alternative system' but chose not to do so with respect to the Commission's authority under [paragraph] (d)(3)." Order No. 4258 at 15.

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[68] 2014 ANM *et al.* White Paper at 15 (citing *Navarro-Miranda v. Ashcroft*, 330 F.3d 672, 676 (5th Cir. 2003)).

Commenters have contended that it was not necessary for paragraph (d)(3) to contain a textual modifier limiting the scope of what a modified or alternative system could consist of because the relevant restrictions appear in paragraphs (d)(1) and (d)(2). 2018 ANM *et al.* Comments at 21, 23. In response to Order No. 5337, ANM *et al.* continue to argue that paragraph (d)(3) does not specifically reference the price cap at all, and that "Congress clearly knew how to explicitly refer to the CPI cap...." ANM *et al.* Comments at 94. They maintain that "[paragraphs] (d)(1) and (d)(2) set forth the required parameters of the system[,]" and "it would have been superfluous for Congress to have [repeated them in paragraph (d)(3)]." *Id.* at 98-99. However, nothing in paragraph (d)(3) states that the Commission's authority is limited by paragraphs (d)(1) or (d)(2), and the structure of subsection (d) reinforces the conclusion that paragraphs (d)(1) and (d)(2) are both part of the system subject to modification or replacement under paragraph (d)(3). Order No. 5337 at 38. The Commission continues to conclude that if Congress had intended to restrict the scope of the Commission's authority in this way, it could have done so expressly.[69]

Commenters have argued that if Congress had intended to enact a sunset date on the CPI-U price cap provision contained in paragraph (d)(1)(A) it would have done so explicitly. 2018 NPPC *et al.* Comments at 25-26. They have noted that paragraph

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[69] Order No. 5337 at 38 (citing *Smith*, 508 U.S. at 228-229 (rejecting a *Chevron* step one challenge contending that the statutory phrase "use of a firearm" referred only to use as a weapon and did not include use of a firearm as an item of barter to receive drugs, holding that "[s]urely petitioner's treatment of his [firearm] can be described as 'use' within the everyday meaning of that term[,]" and "[h]ad Congress intended the narrow construction petitioner urges, it could have so indicated.")).

Notably, there are instances in the text of section 3622 where Congress explicitly restricted the scope of a particular provision. Paragraph (c)(4), for example, limits the scope of "alternative means of sending and receiving letters and other mail matter at reasonable costs" to alternative means which are "available." 39 U.S.C. § 3622(c)(4); Order No. 4258 at 15. This confirms that Congress knew how to impose limits on the scope of what a modified or alternative ratemaking system could consist of, but it chose not to do so with respect to paragraph (d)(3), and instead drafted it to be intentionally broad. Order No. 4258 at 15-16; Order No. 5337 at 38. The plain language of paragraph (d)(3) leaves it to the Commission's discretion to determine what regulatory changes to the existing ratemaking system, if any, are logically required to achieve the statutory objectives. Order No. 4258 at 15.

(d)(2) imposes specific limits on paragraph (d)(1), and they have asserted the general legal principle that where certain exceptions to a general prohibition (*i.e.*, the price cap provision at paragraph (d)(1)) are enumerated specifically, others are not to be implied.[70] As the Commission has explained, however, its interpretation does not rest on an implied exception to paragraph (d)(1); it rests on the express language of paragraph (d)(3), which contemplates that paragraph (d)(1) is part of the system that is to be reviewed and potentially modified or replaced. Order No. 5337 at 41. Moreover, no sunset provision was needed for the CPI-U price cap (or any other feature of the existing ratemaking system) because paragraph (d)(3) does not automatically remove the CPI-U price cap (or any other feature of the existing ratemaking system). *Id.* at 40-41. If the existing ratemaking system did not suffer from deficiencies that prevented it from achieving the statutory objectives, taking into account the statutory factors, the Commission's authority under paragraph (d)(3) would not have been invoked and the existing ratemaking system would have remained unchanged. *Id.*

Commenters have argued that the quantitative pricing standards (*i.e.*, paragraphs (d)(1) and (d)(2)) outrank the qualitative pricing standards (*i.e.*, the statutory objectives and factors listed in subsections (b) and (c)) within the hierarchy of pricing standards set out in section 3622.[71] However, regardless of how one classifies the hierarchy of pricing standards for purposes of the existing ratemaking system, the plain language of paragraph (d)(3) states that the only criteria that a modified or alternative ratemaking system are required to meet are the statutory objectives in subsection (b). Order No. 5337 at 39-40.

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[70] 2018 NPPC *et al.* Comments at 26 (citing *Andrus v. Glover Constr. Co.*, 446 U.S. 608, 616-617 (1980)).

[71] 2014 ANM *et al.* White Paper at 12; 2017 MMA *et al.* Comments at 15-16; 2018 ANM *et al.* Comments at 18.

Commenters have asserted that for purposes of paragraph (d)(3) "adopt such alternative system" does not meaningfully differ from "make such modification," and that "revise" in subsection (a) and "modify" in paragraph (d)(3) are synonymous—they are both ways to "adopt an alternative system." 2018 ANM *et al.* Comments at 16-17. However, to interpret "adopt such alternative system" as no different than a "modification" would drain the ordinary meaning from the phrase "alternative system," which connotes a far more fundamental degree of change than "modification." Order No. 5337 at 41. It would also ignore the use of "or," a disjunctive word separating the two phrases that connects terms with separate meanings. *Id.* at 41-42.

Likewise, to interpret "revise" in subsection (a) and "modify" in paragraph (d)(3) as synonymous would ignore the important textual differences between the provisions that provide necessary context to understanding their meaning. "Revise" in subsection (a) is joined to the "establishment" of the ratemaking system by the conjunction "and" and the use of a parenthetical. Hence, "revisions" under subsection (a) are revisions to the ratemaking system "established" under subsection (a). The "modification" and "alternative system" authorities in paragraph (d)(3), on the other hand, are not available unless the Commission has made a finding that the ratemaking system established under subsection (a) has not achieved the statutory objectives, taking into account the statutory factors. *Id.* Hence, the power to "modify" the ratemaking system under paragraph (d)(3) is plainly broader than the power to "revise" it under subsection (a). Therefore, a plain reading of the PAEA does not support the contention that "adopt such alternative system" is synonymous with, or merely intended to explicate the meaning of, "make such modification," or that "revise" in subsection (a) is synonymous with "modify" in paragraph (d)(3). *Id.* at 42.

A large number of comments have cited the word "system" used throughout section 3622 and argued—invoking the presumption of consistent usage—that consistent use of the word "system," without any qualifiers on it in paragraph (d)(3) such

as "the first system" or "the initial system," implies that it should be given the same meaning in each instance in which it appears.[72] These commenters have maintained that the "system" established under subsection (a) is the same "system" subject to modification or replacement under paragraph (d)(3), and as such, it is bound by the same requirements, including those contained in paragraphs (d)(1) and (d)(2). *Id.* These commenters have viewed the "system" subject to modification or replacement under paragraph (d)(3) as consisting only of the implementing regulations that the Commission adopted pursuant to subsection (a), and they maintain that the Commission may alter those regulations only to the extent that such alterations do not conflict with the text of section 3622, including paragraphs (d)(1) and (d)(2).[73] In sum, these commenters have argued that the scope of the Commission's authority under paragraph (d)(3) is limited to the scope of the Commission's authority under subsection (a).[74] ANM *et al.* and ABA continue to make these same arguments in response to Order No. 5337. ANM *et al.* Comments at 91-92; ABA Comments at 4-5.

These arguments are unpersuasive. First, the most straightforward reading of the consistent use of the word "system" is that all of the provisions of section 3622 are part of the "system" to be reviewed and potentially modified or replaced under paragraph (d)(3), including paragraphs (d)(1) and (d)(2). Order No. 5337 at 35-36. This reading takes into account the text and structure of section 3622 as a whole, and accords the word "system" its ordinary meaning, in which it refers to a set of connected things or parts forming a complete whole. *Id.* at 35. This reading gives equal recognition to each use of the word "system" in section 3622. Subsection (a) required

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[72] 2014 ANM *et al.* White Paper at 10; 2017 ABA Comments at 8-10; 2018 ABA Comments at 5; 2018 ANM *et al.* Comments at 13, 23 n.8, 24; 2018 NPPC *et al.* Comments at 23-25.

[73] 2017 ABA Comments at 9; 2017 MMA *et al.* Comments at 14-15; 2017 GCA Comments at 31-32; 2018 ANM *et al.* Comments at 2, 12-13; 2018 NPPC *et al.* Comments at 19.

[74] 2014 ANM *et al.* White Paper at 9-11; 2017 ABA Comments at 9; 2017 MMA *et al.* Comments at 14-15; 2018 ANM *et al.* Comments at 10-13; 2018 NPPC *et al.* Comments at 23-24.

the Commission to establish the "system of ratemaking;" that "system" was initially required to include certain mandatory features, including those in paragraphs (d)(1) and (d)(2), and under paragraph (d)(3) that "system" in its entirety is subject to review and potential modification or replacement. In arguing that the scope of the Commission's authority under paragraph (d)(3) is limited to the scope of the Commission's authority under subsection (a), these commenters ignore the use of the word "system" in the other subsections within section 3622. Paragraph (d)(1) is expressly identified as part of the "system." 39 U.S.C. § 3622(d)(1). And the Commission has the authority to modify the "system" or adopt an "alternative system." 39 U.S.C. § 3622(d)(3).

Second, even if the matter were not so straightforward, there are clear textual and structural differences between subsection (a) and paragraph (d)(3), which indicate that the Commission's authority under paragraph (d)(3) is broader than under subsection (a). Order No. 5337 at 38. The presumption of consistent usage "is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent."[75] Had Congress intended only to allow the Commission to revise the regulations implementing the CPI-U price cap to make them more consistent with the PAEA's statutory objectives, it would have been simpler (and

[75] Order No. 5337 at 38-39 (citing *Gen. Dynamics Land Sys., Inc. v. Cline*, 540 U.S. 581, 595 (2004) (internal citation omitted)). Applying the presumption mechanically would "ignore[ ] the cardinal rule that '[s]tatutory language must be read in context [since] a phrase 'gathers meaning from the words around it.'" Order No. 5337 at 39 (citing *Cline*, 540 U.S. at 596 (internal citation omitted)). It would also ignore the rule that statutes should be read as a whole. *United States v. Atl. Research Corp.*, 551 U.S. 128, 135 (2007) (citing *King v. St. Vincent's Hosp.*, 502 U.S. 215, 221 (1991)).

Notably, the presumption "relents when a word used has several commonly understood meanings among which a speaker can alternate in the course of an ordinary conversation, without being confused or getting confusing." Order No. 5337 at 39 (citing *Cline*, 540 U.S. at 595-596 (noting that the word "age" can be readily understood to have different meanings depending on the context (internal footnote omitted))).

more natural) for Congress to have drafted the second sentence of paragraph (d)(3) accordingly. *Id.* at 42.

Several commenters have asserted that the purpose of paragraph (d)(3) was to mandatorily require (rather than simply permit at the Commission's discretion) a review of the performance of the implementing regulations the Commission adopted pursuant to subsection (a) after 10 years, followed by the making of any necessary changes to those. 2018 ANM *et al.* Comments at 19; 2018 NPPC *et al.* Comments at 27. These commenters have maintained that this interpretation would not render paragraph (d)(3) mere surplusage or an empty formality, because there are a number of regulatory options that the Commission could pursue while still retaining a CPI-U price cap.[76] Other commenters have argued that Congress must have concluded that the mandatory features such as the CPI-U price cap were necessary to achieve the statutory objectives since Congress established them all at the same time when it enacted the PAEA. 2017 MMA *et al.* Comments at 15-16; 2017 GCA Comments at 30-31.

However, the text of the relevant provisions does not support this interpretation. Subsection (a) and paragraph (d)(3) employ different language and feature different triggering mechanisms, which, in conjunction with the overall structure of section 3622 and the statutory context on which the Commission's authority under the second sentence of paragraph (d)(3) is premised (a finding that the system established under subsection (a) has not achieved the statutory objectives, taking into account the statutory factors), confirms that the two provisions serve different purposes. Order No. 4258 at 17-18; Order No. 5337 at 42. Moreover, the Commission has always had the

[76] 2018 ANM *et al.* Comments at 19 n.6; 2018 NPPC *et al.* Comments at 27 n.23. Examples these commenters have given include "using a Passche [i]ndex instead of a Laspeyres index]; changing how [the Commission] calculates CPI increases; modify[ing] the cap to subtract for periods of deflation; adopt[ing] an X-Factor to increase the incentive for cost reduction; modify[ing] the rules for below-cost products; defin[ing] more products and price points within classes and products; or us[ing] a quality-of-service adjusted price cap." 2018 NPPC *et al.* Comments at 27 n.23.

authority to revise its regulations under subsection (a). 39 U.S.C. § 3622(a). Given that, if the scope of the Commission's authority under paragraph (d)(3) were no greater than the scope of its authority under subsection (a), then paragraph (d)(3) would seem to serve no purpose. Likewise, if Congress had concluded that the mandatory features were necessary to achieve the statutory objectives and factors, then paragraph (d)(3) would seem to serve no purpose.[77] Such an interpretation would run counter to the fundamental principle that statutes should be read as a whole, and a statute should not be interpreted so as to render any part of it inoperative.[78] Construing paragraph (d)(3) as having no greater scope than subsection (a) would drain paragraph (d)(3) of any power independent of the standing discretionary authority the Commission already enjoys to change its implementing regulations under subsection (a). Order No. 5337 at 42-43.

Contrary to the arguments of commenters, both the text and structure of section 3622 make the purpose of paragraph (d)(3) clear. The Commission was provided general authority to set up and periodically recalibrate the ratemaking system in its initial form under subsection (a), which was required to include certain mandatory features. The Commission was also provided specific authority pursuant to paragraph (d)(3) to review the ratemaking system established under subsection (a) after 10 years and modify or replace any part of it, including the mandatory features, as necessary to

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[77] The Commission does not find that it is reasonable to conclude that Congress required the Commission to conduct a detailed review of the ratemaking system in light of the statutory objectives and factors and make written findings with respect to that review using notice-and-comment rulemaking procedures if Congress did not simultaneously envision the possibility of the ratemaking system in its initial form being subject to change.

[78] Order No. 5337 at 42 (citing *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 59-60 (2007) (rejecting an interpretation that would render a word superfluous and incompatible with the statutory structure); *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883) ("It is the duty of the court to give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed.").

achieve the PAEA's statutory objectives. Order No. 4258 at 17; Order No. 5337 at 36-37.

Moreover, paragraph (d)(3) was the result of a legislative compromise intended to obtain 10 years of rate stability, followed by a Commission-led review of the ratemaking system and, if warranted, modification of the ratemaking system or the adoption of an alternative ratemaking system in order to achieve the statutory objectives. Order No. 4258 at 17; Order No. 5337 at 43. Reading paragraph (d)(3) to confer authority on the Commission that is no greater than the scope of the Commission's authority under subsection (a) would be contrary to this purpose. Order No. 4258 at 17-18. Any suggested interpretation of a statute's plain language must give way if it would conflict with Congress's manifest purposes.[79]

In disputing the Commission's authority under paragraph (d)(3) to modify or replace the CPI-U price cap, ANM *et al.* in response to Order No. 5337 assert that "Congress...does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions...," and "[r]epeals by implication are very much disfavored."[80] However, for the reasons stated above, this characterization of paragraph (d)(3) and its role within the PAEA's regulatory scheme is fundamentally flawed. The text and structure of section 3622, as confirmed by its legislative history, demonstrate, quite to the contrary, that paragraph (d)(3) forms a central component of what Congress envisioned. As a result, the theoretical removal of the provisions contained in paragraphs (d)(1) and (d)(2) from the ratemaking system would not be a "repeal by implication." *See* ANM *et al.* Comments at 94-95. Paragraph (d)(3) does not

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[79] Order No. 4258 at 18 (citing *Sullivan v. Hudson*, 490 U.S. 877, 890 (1989) ("Congress cannot lightly be assumed to have intended" a result that would "frustrat[e]...the very purposes" of the statute); *Dep't of Revenue of Or. v. ACF Indus. Inc.*, 510 U.S. 332, 340 (1994) (No sound approach to statutory interpretation would attribute to Congress an intent to "subvert the statutory plan[.]").

[80] ANM *et al.* Comments at 94-95 (quoting *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001); *Fogg v. Gonzalez*, 492 F.3d 447, 453 (D.C. Cir. 2007) (citation omitted)).

repeal anything; it expressly *authorizes* the Commission to take action to execute the law by remedying a failure to achieve the PAEA's statutory objectives, including, if necessary, by adopting an alternative to the existing CPI-U price cap system.

ANM *et al.* also criticize Order No. 5337's explanation of the relationship between subsection (a), subsections (b) and (c), and paragraph (d)(3), stating that "[t]here is...nothing in the statute that relegates the objectives and factors to a mere 'background role' under subsection (a) and promotes them to a 'primary role' during the ten-year review required by paragraph (d)(3)." *Id.* at 95-97. However, as explained above, the purpose of paragraph (d)(3) is to ensure that the statutory objectives appearing in subsection (b) are being met. It was in this sense that the Commission in Order No. 5337 referred to the statutory objectives as occupying a more "primary" role in the paragraph (d)(3) context. *See* Order No. 5337 at 37.

In response to Order No. 5337, Mailers Hub LLC (Mailers Hub) suggests that while the Commission is legally required to develop remedial prescriptions if its paragraph (d)(3) review finds that the ratemaking system is not achieving the statutory objectives, taking into account the statutory factors, the Commission has discretion to defer implementation of those remedial measures if they "would be harmful and counterproductive." Mailers Hub Comments at 10-11. The Commission of course recognizes that by virtue of paragraph (d)(3)'s use of the word "may," the Commission has discretion as to whether to implement changes to the ratemaking system under paragraph (d)(3). However, the Commission disagrees with Mailers Hub's assertion that the modifications the Commission is adopting, which are relatively modest in scope, will be harmful or counterproductive. The Commission has appropriately balanced the statutory objectives and has considered arguments regarding the possibility that increased rate adjustment authority could lead to volume losses that could harm the Postal Service's finances. The Commission has found such concerns to be unwarranted. *See* Sections IV.C.1., V.C.1., and XIII.E., *infra*.

In sum, given the overwhelming consensus of section 3622's text, structure, purpose, and legislative history as to what Congress intended and envisioned, commenters opposing the Commission's interpretation of section 3622 have failed to demonstrate that their alternative interpretations are plausible at all, much less that they unambiguously foreclose the Commission's interpretation.[81]

Nevertheless, despite the Commission's clear legal authority to adopt an alternative ratemaking system, the final rules implemented in this Order serve to modify, rather than replace, the existing ratemaking system. *See* Order No. 5337 at 33-35. The relatively narrow approach that the Commission has taken seeks to preserve the ratemaking system in its initial form to the greatest extent possible, while at the same time making modifications necessary to achieve the statutory objectives that are responsive to the system's failings. The Commission is not jettisoning the CPI-U price cap; it is implementing adjustments to the CPI-U price cap that remain consistent with price cap theory. *Id.* at 34. Price cap formulas have generally started with a measure of

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[81] *See, e.g., Petit*, 675 F.3d at 781 (to prevail under *Chevron* step one, a challenger "must do more than offer a reasonable or, even the best, interpretation [of the statute in question]." (quoting *Village of Barrington, Ill. v. Surface Transp. Bd.*, 636 F.3d 650, 661 (D.C. Cir. 2011)) (internal marks omitted). "Instead, they 'must show that the statute *unambiguously* forecloses the [agency's] interpretation.'" *Petit*, 675 F.3d at 781 (emphasis in original) (quoting *Village of Barrington,* 636 F.3d at 661). "[T]hey must demonstrate that the challenged term is susceptible of only [one] possible interpretation." *Petit*, 675 F.3d at 781 (quoting *Shalala*, 192 F.3d at 1015 (internal marks and citation omitted)).

The Commission notes that other commenters have generally supported its interpretation of paragraph (d)(3), at least insofar as it pertains to section 3622's price cap provisions. *See* Comments of the United States Postal Service, March 20, 2017, at 19-20 (2017 Postal Service Comments); Comments of the Public Representative, March 21, 2017, at 29-30 (2017 PR Comments); Comments of the American Postal Workers Union, AFL-CIO, March 20, 2017, at 5-6 (2017 APWU Comments); Comments of the National Association of Letter Carriers, AFL-CIO, March 20, 2017, at 16-17 (2017 NALC Comments); Initial Comments of the United States Postal Service in Response to Order No. 4258, March 1, 2018, at 11-12 (2018 Postal Service Comments); Reply Comments of the United States Postal Service in Response to Order No. 4258, March 30, 2018, at 7-19 (2018 Postal Service Reply Comments); Reply Comments of the Public Representative, March 30, 2018, at 8-9 (2018 PR Reply Comments). In response to Order No. 5337, two separate commenters, NPMHU and the Postal Service, support the Commission's interpretation of paragraph (d)(3). NPMHU Comments at 2; Postal Service Reply Comments at 8.

inflation (called the inflation factor), such as the CPI-U index, which the final rules retain.[82] Many of these price cap formulas have also included various adjustments to the inflation factor, which the final rules for the first time introduce into the ratemaking system's design.[83] Based on the Commission's findings in Order No. 4257, the Commission has determined that adjustment factors are now necessary to remedy the existing ratemaking system's failure to achieve the statutory objectives, taking into account the statutory factors. Order No. 5337 at 34. The adjustments being adopted in this Order generally maintain an inflation-based price cap using the CPI-U index, while also remediating aspects of the existing ratemaking system that have proven to be inadequate to achieve the statutory objectives. *Id.* at 35. However, as explained *supra*, even if the Commission's proposal were to be construed as an "alternative system," the Commission has the authority under paragraph (d)(3) to implement such a change.

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[82] *Id.* at 34 (citing United States Postal Service, Office of Inspector General, Report No. RARC-WP-13-007, Revisiting the CPI-Only Price Cap Formula, April 12, 2013, at 46, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2015/rarc-wp-13-007_0.pdf* (RARC-WP-13-007)).

[83] Order No. 5337 at 34. As explained in Order No. 5337, most price cap formulas include an "X-factor" to offset productivity growth. *See* RARC-WP-13-007 at 45; United States Postal Service, Office of Inspector General, Risk Analysis Research Center, Report No. RARC-WP-17-003, Lessons in Price Regulation from International Posts, February 8, 2017, Appendix A at 16, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2017/RARC-WP-17-003.pdf*; David E.M. Sappington, *Price Regulation and Incentives*, Body of Knowledge on Infrastructure Regulation (December 2000), at 14, available at: *http://regulationbodyofknowledge.org/wp-content/uploads/2013/03/Sappington_Price_Regulation_and.pdf*. Price cap plans also may regulate service quality using a reward- or penalty-style "Q-factor." *See* Sappington (2000) at 14-15, 51; Copenhagen Economics, Postal Quality and Price Regulation, March 29, 2017, at 18 n.19 (Copenhagen Economics Report). Other adjustment factors include a "Y-factor" to address recurring exogenous costs, or a "Z-factor" to address an exogenous one-time cost. *See* RARC-WP-13-007 at 16.

2. If any ambiguity exists, it is reasonable to construe the CPI-U price cap as part of the system subject to review and potential modification or replacement by the Commission.

In the alternative, the PAEA is at most ambiguous on the question of whether the adjustments to the CPI-U price cap proposed by the Commission are within the scope of the phrase "make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives." *See* 39 U.S.C. § 3622(d)(3). At *Chevron* step two, courts "ask 'whether the agency's [interpretation] is based on a permissible construction of the statute.'" *Petit*, 675 F.3d at 785 (quoting *Chevron*, 467 U.S. at 843). Courts consider "whether the [agency] has reasonably explained how the permissible interpretation it chose is 'rationally related to the goals of' the statute." *Petit*, 675 F.3d at 785 (quoting *Village of Barrington*, 636 F.3d at 665 (internal marks omitted)). "If the statute is ambiguous enough to permit the agency's reading,…[courts will generally] defer to that interpretation so long as it is reasonable."[84]

To the extent that paragraph (d)(3) may be ambiguous, the Commission's interpretation articulated above is reasonable and thus would be entitled to *Chevron* deference.[85] The same analysis set out above with regard to *Chevron* step one would be equally applicable to explain how the Commission's interpretation of section 3622 is

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[84] *Nat'l Cable & Telecomms. Ass'n v. FCC*, 567 F.3d 659, 663 (D.C. Cir. 2009) (citing *Consumer Elecs. Ass'n v. FCC*, 347 F.3d 291, 299 (D.C. Cir. 2003)).

[85] An agency may argue in the alternative as to whether its reading of a statute is proper under *Chevron* step one or *Chevron* step two. *See, e.g., United Parcel Serv., Inc. v. Postal Reg. Comm'n,* 890 F.3d 1053, 1063 (D.C. Cir. 2018) ("Given our conclusion that the Commission's reading of 'institutional costs' is reasonable and so merits our deference [under *Chevron* step two], we need not consider the Commission's argument that, under *Chevron* [step one], its reading is not only permissible, but also unambiguously correct."); *Decatur Cty. Gen. Hosp. v. Johnson*, 602 F. Supp. 2d 176, 186 n.6 (D.D.C. 2009) (holding that agency's decision to apply cost reduction factors to base year costs was entitled to deference under *Chevron* step two, where the agency also provided an alternative justification under *Chevron* step one).

consistent with the statute's text, context, structure, purpose, and legislative history, and is thus reasonable.

Furthermore, to the extent that any ambiguity exists with regard to paragraph (d)(3), it is permissible to use Senator Collins' floor statement as an interpretative aid and reasonable to conclude from that statement that paragraph (d)(3) permits the Commission to modify or replace the price cap provisions. Order No. 5337 at 45. Following the passage of two different postal reform bills, key members of the House and the Senate (including Senator Collins) negotiated a compromise.[86] The final text of the PAEA was introduced in a new bill and was approved without amendment by both the House and the Senate.[87] As to the compromise nature of the PAEA, Senator Collins stated:

> This *compromise* is not perfect and, indeed, earlier tonight, there were issues raised by the appropriators—legitimate issues—that threatened at one point to derail the bill again. It has been a delicate *compromise* to satisfy all of the competing concerns. Everyone has had to *compromise*, but I think we have come up with a good bill. This *compromise* will help ensure a strong financial future for the U.S. Postal Service and the many sectors of our economy that rely on its services, and it reaffirms our commitment to the principle of universal service that I believe is absolutely vital to this institution.[88]

Senator Thomas Carper also confirmed that the final bill was "a difficult compromise."[89]

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[86] 151 Cong. Rec. H6511, H6548-H6549 (daily ed. July 26, 2005) (Roll Call No. 430) (reflecting a vote of 410-20 in the House); 152 Cong. Rec. S898, S927-S942 (daily ed. Feb. 9, 2006) (reflecting approval by unanimous consent in the Senate); 152 Cong. Rec. H9160, H9179 (daily ed. Dec. 8, 2006) (statement of Rep. Tom Davis).

[87] 152 Cong. Rec. H9160-H9182 (daily ed. Dec. 8, 2006); 152 Cong. Rec. S11,821-S11,822 (daily ed. Dec. 8, 2006); *see* 152 Cong. Rec. D1153, D1162 (daily digest, Dec. 8, 2006).

[88] 152 Cong. Rec. S11,674, S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins) (emphasis added).

[89] 152 Cong. Rec. S11,674, S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Carper).

Paragraph (d)(3) first appeared in this final version, and it was not addressed in any hearings or committee reports.[90] Neither the presidential signing statement nor any other floor statements addressed paragraph (d)(3).[91] Accordingly, Senator Collins' floor statement is the best source of legislative history to shed light on the purpose of paragraph (d)(3).[92] Specifically, Senator Collins remarked:

> The Postal Service will have much more flexibility, but the rates will be capped at the CPI. That is an important element of providing 10 years of predictable, affordable rates, which will help every customer of the Postal Service plan. After 10 years, the Postal Regulatory Commission will review the rate cap and, if necessary, and following a notice and comment period, the Commission will be authorized to modify or adopt an alternative system.
>
> While this bill provides for a decade of rate stability, I continue to believe that the preferable approach was the permanent flexible rate cap that was included in the Senate-passed version of this legislation. But, on balance, this bill is simply too important, and that is why we have reached this compromise to allow it to pass. We at least will see a decade of rate stability, and I believe the Postal [Regulatory] Commission, at the end of that decade, may well decide that it is best to continue with a CPI rate cap in place. It is also, obviously, possible for Congress to act to reimpose the rate cap after it *expires*. But this legislation is simply too vital to our economy to pass on a decade of stability. The consequences of no legislation would be disastrous for the Postal Service, its employees, and its customers.[93]

Senator Collins' statement confirms that paragraph (d)(3) was a part of a legislative compromise that required the price cap "Requirements" to remain in place for 10 years, and then allowed the Commission the opportunity to review the effectiveness

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[90] H.R. 6407, 109th Cong., at 7 (2006); Order No. 4258 at 21; Order No. 5337 at 45-46.

[91] Statement on Signing the Postal Accountability and Enhancement Act, 42 Weekly Comp. Pres. Doc. 2196-2197 (Dec. 20, 2006), 2006 U.S.C.C.A.N. S76 (2006); 152 Cong. Rec. H9160-H9182 (daily ed. Dec. 8, 2006); 152 Cong. Rec. S11,674-S11,677, S11,821-S11,822 (daily ed. Dec. 8, 2006).

[92] Order No. 5337 at 46. Numerous commenters have expressed agreement with the Commission's interpretation of the PAEA's legislative history. *See* 2017 Postal Service Comments at 21-22; 2017 NALC Comments at 16; 2017 APWU Comments at 5-6; 2018 Postal Service Comments at 11-12; 2018 Postal Service Reply Comments at 14-15.

[93] 152 Cong. Rec. S11,674, S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins) (emphasis added).

of the ratemaking system and potentially design a modified or alternative ratemaking system.[94] Senator Collins' statement confirms that the congressional sponsors of the PAEA contemplated that the Commission would have broad discretion following its paragraph (d)(3) review—including deciding whether to maintain the price cap in its existing form, modify it, or replace it. Order No. 5337 at 46-47. That Senator Collins believed that Congress might need to "reimpose the rate cap after it expires" clearly evidences recognition that the Commission would have the authority following its paragraph (d)(3) review to eliminate the price cap through potential modification of the ratemaking system or through the adoption of an alternative ratemaking system. The statement also confirms that Congress did not consider the CPI-U price cap to be a permanent or immutable requirement of the ratemaking system.

Senator Collins' floor statement demonstrates that Congress contemplated the breadth of the Commission's authority to review and, if needed, to modify or replace the ratemaking system if the Commission determined that the existing system was not achieving the statutory objectives. Order No. 4258 at 22-23; Order No. 5337 at 46-47. Senator Collins' statement confirms that Congress considered the CPI-U price cap to be a part of the system subject to the Commission's authority under paragraph (d)(3). Order No. 4258 at 22-23; Order No. 5337 at 46-47. Moreover, the statement negates any interpretation that paragraph (d)(3) was intended to deny the Commission the authority to modify or replace the CPI-U price cap. Senator Collins explained that the PAEA guaranteed that the CPI-U price cap would exist for a minimum of 10 years.[95] Senator Collins explained that the 10-year review would occur and discussed potential outcomes: either the Commission would decide to retain the CPI-U price cap in its current form; the Commission would decide to modify the CPI-U price cap; or the

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[94] It is worth noting that it was Senator Collins who introduced the initial bill in the Senate which contained the "requirement" language with regard to the CPI-U price cap. As a result, her statement in the Congressional Record is particularly probative as to the intended meaning of paragraph (d)(3).

[95] 152 Cong. Rec. S11,674-S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins).

Commission would decide to replace the CPI-U price cap system with an alternative system (subject, of course, to the possibility that Congress could elect to reinstate the CPI-U price cap through legislation). Order No. 5337 at 46-47. This statement directly rebuts any suggested interpretation that the drafters of the PAEA intended for the Commission's 10-year review to redress *only* technical or procedural issues with regard to implementing the CPI-U price cap, which would be the case if the scope of the Commission's rulemaking authority under paragraph (d)(3) were limited to the scope of its rulemaking authority under subsection (a). *Id.* at 47. Therefore, if section 3622 is deemed to be ambiguous, the legislative history confirms the reasonableness of the Commission's interpretation of its statutory authority to modify the ratemaking system or adopt an alternative ratemaking system. *Id.*

Commenters have asserted that Senator Collins' statement must be disregarded because it is not an authoritative expression of legislative intent (such as an official committee report).[96] They have also asserted that Senator Collins' statement is inconsistent with the longstanding role of Congress in managing the postal system. 2018 NPPC *et al.* Comments at 29. They have stated that the compromise embodied in the PAEA "could well have been to require the Commission to review the operation of the rate system after 10 years and evaluate how to modify it to improve performance while still retaining the CPI-based limitation." 2018 ANM *et al.* Comments at 25. In response to Order No. 5337, ANM *et al*. continue to argue that "regardless of what Senator Collins said on the Senate floor...[that] statement cannot override the plain text of the statute." ANM *et al.* Comments at 103.

However, floor statements by key individuals, such as legislative sponsors, especially where no legislators offered contrary views, help illuminate the purpose of a

[96] *See* 2018 ABA Comments at 6; 2018 ANM *et al.* Comments at 25-26; 2018 NPPC *et al.* Comments at 28-29.

piece of legislation.[97] Floor statements are particularly instructive in clarifying the purpose of language where no other evidence of legislative intent exists.[98] Moreover, "[s]ection 3622 fits within a history of Congressional delegations of decision-making authority concerning postal matters, including ratemaking." Order No. 5337 at 47 (quoting 2018 Postal Service Reply Comments at 16). Furthermore, as Senator Collins expressly stated, Congress may re-impose the CPI-U price cap at any time.[99] Particularly in this instance where the sole source of legislative history is uncontradicted and is consistent with the Commission's interpretation of the text and structure of section 3622, the Commission's interpretation must be accorded substantial deference.

Commenters have also asserted that the Commission's interpretation of paragraph (d)(3) conflicts with statements the Commission has made in the past.[100] In

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[97] Order No. 5337 at 45; *see Fed. Energy Admin. v. Algonquin SNG*, *Inc.*, 426 U.S. 548, 564 (1976) (finding that an uncontradicted floor statement by of one of the legislation's sponsors "deserves to be accorded substantial weight in interpreting the statute").

[98] Order No. 5337 at 45; *see North Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 526-527 (1982) (finding remarks on the Senate floor by "the sponsor of the language ultimately enacted[ ] are an authoritative guide to the statute's construction" where no committee report addressed the provisions at issue); *St. Louis Fuel & Supply Co. v. FERC*, 890 F.2d 446, 449 (D.C. Cir. 1989) (finding that sponsors' floor statements were "the only evidence of congressional intent," and concluding that such remarks "necessarily have some force" and "carry 'substantial weight'" (internal citation omitted)).

[99] Order No. 5337 at 47 (citing 152 Cong. Rec. S11,674-S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins)).

[100] 2014 ANM *et al.* White Paper at 12-14 (citing Docket No. RM2009-3, Order Adopting Analytical Principles Regarding Workshare Discount Methodology, September 14, 2010 (Order No. 536); Docket No. ACR2010, *Annual Compliance Determination*, March 29, 2011 (FY 2010 ACD); Docket No. ACR2010R, Order on Remand, August 9, 2012 (Order No. 1427); Docket No. ACR2011, *Annual Compliance Determination*, March 28, 2012, at 17 (FY 2011 ACD)); 2017 ABA Comments at 8 (citing Docket No. R2010-4, Order Denying Request for Exigent Rate Adjustments, September 20, 2010 (Order No. 547); 2017 MMA *et al.* Comments at 15-16 (citing FY 2010 ACD); 2018 ABA Comments at 5 n.4 (citing Order No. 547); 2018 ANM *et al.* Comments at 13-15, 18, 27-29 (citing Docket No. RM2007-1, Regulations Establishing System of Ratemaking, August 15, 2007 (Order No. 26); Order No. 536; Order No. 547; Order No. 1427; Docket No. R2010-4R, Order Resolving Issues on Remand, September 20, 2011 (Order No. 864)); 2018 NPPC *et al.* Comments at 26 (citing Order No. 547; Order No. 536; FY 2010 ACD).

response to Order No. 5337, ANM *et al.* identify two additional such statements.[101] They contend that "[a]n agency cannot typically abandon an earlier position..., but is instead 'obligated to supply a reasoned analysis for the change.'"[102]

In terms of the two-step *Chevron* framework, if a court were to decide this issue at *Chevron* step one, prior orders of the Commission would not be dispositive.[103] In the alternative that a court were to evaluate this issue under *Chevron* step two to determine whether the Commission should be accorded deference, it is important to recognize that "[a]n initial agency interpretation is not instantly carved in stone." *Chevron*, 467 U.S. at 863. Agencies "must consider varying interpretations and the wisdom of [their] polic[ies] on a continuing basis." *Id.* at 863-864. Nevertheless, the Commission has not changed its interpretation or its position because, as the Commission has explained in prior orders, none of the statements cited by commenters were an interpretation of paragraph (d)(3)—they were all statements addressing the contours of the ratemaking system promulgated under subsection (a) in its initial form. Order No. 4258 at 18; Order No. 5337 at 47-53.

This is also true of the two additional statements identified by ANM *et al.* They cite to statements from Order No. 547 and Order No. 1926 to the effect that changes in circumstances, such as volume declines, are generally to be accommodated within the CPI-U price cap "by reducing costs and increasing efficiencies." ANM *et al.* Reply Comments at 16 (quoting Order No. 1926 at 175). However, as with the other prior Commission statements that ANM *et al.* have cited to in this proceeding, these statements were not interpretations of the Commission's authority under paragraph

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[101] ANM *et al.* Comments at 103-104; ANM *et al.* Reply Comments at 16 (citing Order No. 547; Docket No. R2013-11, Order Granting Exigent Price Increase, December 24, 2013 (Order No. 1926)).

[102] ANM *et al.* Comments at 104 (citing *Trunkline LNG v. FERC*, 921 F.2d 313, 320 (D.C. Cir. 1990) (internal citations omitted)).

[103] Order No. 5337 at 47; *see Chevron*, 467 U.S. at 842-843 ("If the intent of Congress is clear, that is the end of the matter….").

(d)(3). They were made in the context of ratemaking system as it was initially established under subsection (a). Therefore, the Commission has not changed its interpretation or its position.

ANM *et al.* also argue, in response to Order No. 5337, that even if the meaning of paragraph (d)(3) is ambiguous, "[m]ere ambiguity in a statute is not evidence of congressional delegation of authority."[104] They assert that the Commission's interpretation will lead to "unprecedented" rate increases and volume losses, which cannot be what Congress intended.[105]

However, explicit delegations of authority are typically found where "Congress has expressly delegated to [an agency] the authority to prescribe regulations containing 'such...provisions' as, in the judgment of the [agency], 'are necessary or proper to effectuate the purposes of [the authorizing statute]....'"[106] Paragraph (d)(3) empowers the Commission to "*by regulation*, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives." 39 U.S.C. § 3622(d)(3) (emphasis added). This is a clear delegation of authority by Congress. Furthermore, as with Mailers Hub's comments, the Commission disagrees with the assertion that the modifications the Commission is adopting, which are relatively modest in scope, will be harmful or counterproductive. The Commission has considered arguments regarding the possibility that increased rate adjustment authority could lead to volume losses that could harm the Postal Service's

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[104] ANM *et al.* Comments at 100 (citing *Am. Bar Ass'n v. FTC*, 430 F.3d 457, 469 (D.C. Cir. 2005) (internal citation and marks omitted)).

[105] ANM *et al.* Comments at 101 (citing *Bechtel Constr., Inc. v. United Bhd. of Carpenters & Joiners of Am.*, 812 F.2d 1220, 1225 (9th Cir. 1987) (court should avoid construction establishing illogical, unjust, or capricious statutory scheme)).

[106] *Household Credit Servs., Inc. v. Pfennig*, 541 U.S. 232, 238 (2004) (internal citations omitted).

finances, and has found such concerns to be unwarranted. *See* Sections IV.C.1., V.C.1., and XIII.E., *infra*.

In sum, even if paragraph (d)(3) were construed to be ambiguous, the Commission's interpretation of section 3622 is reasonable and permissible and thus would be entitled to *Chevron* deference.

C. Workshare Discounts

In addition to price cap adjustments, the Commission is also adopting modifications to the workshare discount provisions set out in subsection (e) of section 3622. A number of commenters have argued that the workshare discount provisions are outside the scope of the "system" subject to modification or replacement under paragraph (d)(3).[107] These commenters have argued that, structurally, the "system" subject to review and potential modification or replacement under section 3622 consists only of subsections (a) through (d), with paragraph (d)(3) coming at the tail end.[108] Because subsection (e) comes after paragraph (d)(3), they view it as being outside of that "system." *Id.* These commenters have also argued that the PAEA's legislative history demonstrates that Congress did not intend for the requirement that workshare discounts be prohibited from exceeding their avoided costs to be abrogated. 2017

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[107] *See, e.g.,* 2017 APWU Comments at 5; 2017 Postal Service Comments at 19, 28-30; 2017 GCA Comments at 36-37; Initial Comments of the Greeting Card Association, March 1, 2018 at 1 n.1 (2018 GCA Comments); 2018 Postal Service Reply Comments at 108 n.285, 111 n.292. Other commenters have supported the Commission's interpretation of its legal authority with regard to workshare discounts. *See* 2017 ABA Comments at 11; 2017 ANM *et al.* Comments at 11-12, 82; Comments of the Honorable Jason Chaffetz and the Honorable Mark Meadows of the U.S. House of Representatives Committee on Oversight and Government Reform, March 20, 2017, at 2 (2017 Chairman Chaffetz and Chairman Meadows Comments); 2017 MMA Comments at 19, 71; Comments of Pitney Bowes Inc., March 20, 2017, at 3-4 (2017 Pitney Bowes Comments); Comments of the Parcel Shippers Association Pursuant to Commission Order No. 3673, March 20, 2017, at 6 (2017 PSA Comments); 2018 ANM *et al.* Reply Comments at 73-74; 2018 NPPC *et al.* Reply Comments at 5; 2018 Pitney Bowes Comments.

[108] 2017 Postal Service Comments at 19, 28-29; 2017 APWU Comments at 5; 2017 GCA Comments at 37-38.

Postal Service Comments at 30-31; 2017 GCA Comments at 34. These commenters have cited prior statements by the Commission that they claim corroborate their view that the workshare discount provisions are separate and distinct from the other parts of the "system" under section 3622. 2017 Postal Service Comments at 32 (citing Order No. 536); 2017 GCA Comments at 36 (same).

However, subsection (e), like the other parts of section 3622, is part of the system subject to review and potential modification or replacement under paragraph (d)(3). Paragraph (d)(3) instructs the Commission to "review the system for regulating rates and classes for market-dominant products *established under this section*...." 39 U.S.C. § 3622(d)(3) (emphasis added). This phrase clearly and unambiguously encompasses section 3622 in its entirety, including subsection (e). Order No. 4258 at 18. This conclusion derives from both the plain meaning of the term "section," as well as the fact that within section 3622 there is a clear differentiation made between "sections" and "subsections."[109] If Congress had wished to limit the system subject to review and potential modification or replacement to subsections (a) through (d), it could have done so.

In addition, one of the statutory factors in subsection (c) that the Commission is required to consider when establishing or reviewing the ratemaking system is "the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service...." 39 U.S.C. § 3622(c)(5). Subsection (e) defines workshare discounts as discounts mailers receive for additional preparation of mailpieces, such as "presorting, prebarcoding, handling, or transportation...." *See* 39 U.S.C. § 3622(e)(1). It is clear that Factor 5 is referring to workshare discounts. Thus, contrary to the structural arguments advanced by

[109] Order No. 4258 at 18-29; *see* 39 U.S.C. § 3622(d)(3) ("[T]he Commission shall review the system for regulating rates and classes for market-dominant products established under *this section* to determine if the system is achieving the objectives in *subsection* (b), taking into account the factors in *subsection* (c).") (emphasis added).

commenters, the workshare discount provisions are expressly recognized within subsections (a) through (d), which even under the commenters' interpretation are part of the "system." Therefore, the workshare discount provisions are plainly part of the ratemaking system subject to review and possible modification or replacement under paragraph (d)(3), and any analysis of the issue need go no further than *Chevron* step one. Order No. 4258 at 19; Order No. 5337 at 57. However, even if the question were found to be ambiguous, the Commission would still be entitled to deference under *Chevron* step two given its reasonable and permissible construction of the PAEA. Order No. 5337 at 57.

In addition, even if a court found that paragraph (d)(3) did not authorize the worksharing modifications, the changes to the workshare discount provisions that the Commission is adopting are within the scope of the Commission's standing rulemaking authority (under 39 U.S.C. §§ 3622(a) and 503) and are consistent with the Commission's specific authority to regulate excessive workshare discounts under section 3622, subsection (e). *Id.* at 57-58. Subsection (e) is silent with regard to workshare discounts set lower than avoided costs and therefore does not clearly foreclose the regulation of workshare discounts set lower than avoided costs. *Id.* at 58. Furthermore, the Commission's interpretation "is 'rationally related to the goals of'" the PAEA. *Id.* (citing *Petit*, 675 F.3d at 781). Accordingly, the Commission has multiple sources of authority to support addressing workshare discounts in this proceeding. Order No. 5337 at 58.

D. Annual Compliance Reporting Requirements

The Commission is also modifying the reporting requirements codified at 39 C.F.R. parts 3050 (Periodic Reporting) and 3055 (Service Performance and Customer Satisfaction Reporting). These modifications both further the achievement of the PAEA's statutory objectives and conform with the changes proposed to 39 C.F.R. part 3030 (Regulation of Rates for Market Dominant Products). Additionally, they are

separately authorized under the Commission's specific authority to "prescribe the content and form of the public reports...to be provided by the Postal Service [as part of its ACR]." 39 U.S.C. § 3652(e)(1). These changes will ensure that the Commission can evaluate the Postal Service's compliance with the new regulations proposed in part 3030 and will further the public interest in transparency with respect to the Postal Service's finances, service standards, and efficiency. 39 U.S.C. § 3652(e)(2)(C).

IV. DENSITY-BASED RATE AUTHORITY

A. Introduction

In Order No. 5337, the Commission sought comments on its proposal to allocate additional Market Dominant rate authority based on the unavoidable increase in per-unit costs caused by the decline in mail density. *See* Order No. 5337 at 63-80. This additional density-based rate authority, along with the retirement-based rate authority, was created to address critical comments that the Commission's prior proposal to annually allocate 2 percentage points of supplemental rate authority was not tied to specific drivers of the Postal Service's losses. *Id.* at 60. The Commission has carefully considered the comments received on Order No. 5337, and now implements the density-based rate authority as proposed, with one change to permit banking of unused density-based rate authority.[110]

The Commission has identified the portion of the increase in per-unit costs caused by the decline of mail density as a specific driver of the Postal Service's net losses, and has determined that this increase is largely beyond the Postal Service's control. Order No. 5337 at 62-63; *see also* Section IV.C.1., *infra*. Put simply, when the Postal Service delivers fewer mailpieces to more delivery points, those costs which are driven by factors other than marginal changes in volume are spread over fewer pieces, necessarily increasing the per-unit cost. The loss of its economies of density means that the Postal Service's per-unit costs will be unavoidably higher than they were before the decline in density. *See* Section IV.B.1., *infra*.

The density-based rate authority modifies the existing price cap to include additional Market Dominant rate authority calculated to approximate the amount that per-unit costs would be expected to increase as mail density declines, using the prior

[110] For a discussion of the change, *see* Section IV.C.1., *infra*.

year's decline in density to determine the amount of density-based rate authority.[111] The formula uses the negative of the institutional cost ratio as a proxy for the elasticity of per-unit costs with respect to density, and multiplies that ratio by the measured change in density to approximate the increase in per-unit costs driven by the prior year's decline in density.

While the loss of density the Postal Service experiences is directly observable, the exact change to network costs due to loss in density cannot be directly observed. The Commission's density-based rate authority formula, therefore, calculates the effect on network costs using a ratio that is a reasonable approximation of the elasticity of per-unit costs with respect to density, *i.e.,* the expected increase in unit costs that results from a loss in density.[112] Utilizing this proxy that provides the *expected* increase in per-unit costs, rather than an observed increase has an advantage, namely that the density-based rate authority retains the Postal Service's existing incentives to reduce costs. To the extent that the Postal Service is able to offset some of this unavoidable increase through efficiency improvements in other areas, the design of the density-based rate authority preserves its incentive to do so.

To protect Market Dominant mailers, the formula for the density-based rate authority looks at both the change in Market Dominant volume, and the change in total volume (including Competitive products) when calculating the density-based rate authority, and uses whichever measure provides less total rate authority. This permits Market Dominant mailers to benefit from reduced density-based rate authority when

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[111] If volume increases at the same pace as delivery points, there will be no change in mail density, and thus the amount of density-based rate authority will be zero. If density increases, the formula for the density-based rate authority sets the amount of additional authority to zero. *See* Section IV.B.2., *infra*.

[112] To reiterate, the Commission's use of the term "expected" is due to this use of an approximation of a cost elasticity to estimate the increase in unit costs driven by the prior year's decline in density. It is not a forecast of future results. This temporal aspect of the density-based rate authority is similar to that of the CPI-U price cap, which provides rate authority based on the change in CPI-U over the prior 12 months, rather than a forecast of inflation.

Competitive products experience more favorable changes in volume than Market Dominant products, and protects Market Dominant mailers from increased density-based rate authority when Competitive products experience less-favorable changes in volume.

The Commission concludes that the density-based rate authority is a necessary improvement to the existing system for regulating rates and classes for Market Dominant products, with the other proposed modifications, in order to enable the system to achieve the objectives of 39 U.S.C.§ 3622(b). *See* Chapter XIII., *infra*.

B. Background

1. Economies of Density in Network Industries

A network industry is one in which goods and services are provided over a geographic network of nodes and links.[113] Delivery of a good or service involves transporting the good or service across one or more links to reach the destination node.[114] The Postal Service is a multiproduct enterprise operating in a network industry. It provides mail service over a nationwide network of delivery points and delivery routes.

A characteristic feature of network industries is the fact that handling multiple products together leads to important cost advantages.[115] These cost advantages are referred to as economies. RARC-WP-12-008 at 2. Economies of scale occur when a

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[113] Claude Crampes, "Network Industries and Network Goods" (September 1997), at 2-3, available at: *http://idei.fr/sites/default/files/medias/doc/by/crampes/network.pdf*.

[114] Hans-Werner Gottinger, *Economies of Network Industries* (2003), at 3.

[115] United States Postal Service, Office of Inspector General, Report No. RARC-WP-12-008, A Primer on Postal Costing Issues, March 20, 2012, at 2, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2015/rarc-wp-12-008_0.pdf* (RARC-WP-12-008).

firm enjoys more efficiency from producing more services of the same type—per-unit costs decline as the scale of the operation increases.[116] Economies of scope occur when the firm enjoys more efficiency by producing more types of goods and services—per-unit costs decline as shared costs are spread over more types of goods and services. Economies of density occur when a greater volume of goods and services is provided per network node (delivery points in the case of the Postal Service)—per-unit costs decline as the costs of reaching each node are spread over a larger volume of goods and services.[117]

Changes in the volume of mail and the number of delivery points to which the Postal Service provides service significantly impact the Postal Service's per-unit costs over time. As the network of delivery points grows larger, the costs of servicing the entire network (network costs) increase. These network costs are spread over the total volume of mailpieces delivered throughout the network. Accordingly, delivering a larger number of mailpieces within the same network of delivery points has the effect of spreading the costs of delivery over a larger number of pieces, lowering the per-unit cost. Increases in mail volume per delivery point therefore decrease per-unit cost, and conversely, decreases in mail volume per delivery point increase the per-unit cost. *See* RARC-WP-13-007 at 4-10.

In postal policy, the scope of delivery service is fixed by law and carved by custom into the bedrock of American commerce and daily life. Under the current law,

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[116] *Id.*; NERA Economic Consulting, "Economics of Postal Services: Final Report" (July 2004), at vii, available at: *https://www.acm.nl/sites/default/files/old_publication/publicaties/11241_2004-nera-final-postal-report_en.pdf*.

[117] *See* Holmes, Thomas J., "The Diffusion of Wal-Mart and Economies of Density," Econometrica, Vol. 79, No. 1 (January, 2011), at 257-258, available at: http://users.econ.umn.edu/~holmes/papers/ecta7699.pdf.

mail shall be delivered 6 days per week to virtually every address.[118] The mail volume being carried to each address must bear the entire costs of the network and the operations needed to serve it. By law, there is no operating subsidy nor is there an option to unilaterally change the delivery requirements established by statute.

2. Density-Based Rate Authority in the Revised Notice of Proposed Rulemaking

In Order No. 5337, the Commission responded to criticism that its original proposal to provide supplemental rate authority in Order No. 4258 was not tied to specific drivers of the Postal Service's net losses. Order No. 5337 at 62. Along with the statutorily mandated amortization payments for particular retirement costs,[119] the Commission identified the portion of the increase in per-unit costs caused by the decline in mail density as a driver of the Postal Service's net losses and a primary obstacle to the Postal Service's ability to achieve net income.[120] To more precisely target these loss drivers, the Commission replaced its original supplemental rate authority proposal of a static 2 percentage points of Market Dominant rate adjustment authority per year with the density-based and retirement-based rate authorities, each of which use formulas to annually calculate the appropriate amount of additional rate authority for each loss driver.[121]

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[118] Specifically, appropriations language included as a rider in each appropriations bill since 1983 requires "that 6-day delivery and rural delivery [of mail] 'shall continue at not less than the 1983 level.'" Postal Regulatory Commission, Report on Universal Postal Service and the Postal Monopoly, December 19, 2008, at 69, available at: *https://www.prc.gov/docs/61/61628/USO%20Report.pdf*.

[119] *See* Chapter V., *infra*.

[120] Order No. 5337 at 62; *see also id.* at 63 (describing the Postal Service and Public Representative as identifying declines in mail density as a driver of net losses). For an expanded discussion of the density as a driver of the Postal Service's net losses, *see* Section IV.C.1., *infra*

[121] Order No. 5337 at 62-63. Unlike the density-based rate authority, the amount of the retirement-based rate authority is calculated on an annual basis only during the 5-year phase in period. *Id.* at 63.

The Commission noted that the Postal Service does not directly control the volume of mail entered into its network, nor does it control the number of delivery points it must service. *Id*. at 64. The Commission accordingly concluded that the Postal Service does not have direct control over the density of mail in its network. *Id.* The Commission also explained that volume and delivery points, both components of density, affect attributable and institutional costs differently and how the portion of increases in per-unit costs caused by the decline in mail density are not linked to the rate of inflation, and so the existing inflation-capped ratemaking system does not provide adequate ratemaking authority to offset the density-driven increase in per-unit costs. *Id.* at 70-71.

The Commission discussed how the differences in the way that changes in density affect attributable costs, which largely vary with volume but are insensitive to the number of delivery points, and institutional costs, which do not vary with volume but increase with the number of delivery points, makes the institutional cost ratio particularly useful for approximating the portion of an increase in per-unit costs that would be expected as a result of a decline in density.[122]

Calculation and implementation. As proposed in Order No. 5337 and implemented here, the amount of the density-based rate authority would be determined annually based on the formula described below. As originally proposed, the density-based rate authority would be available to the Postal Service to use in any rate change that is implemented within 12 months of the date of the determination. *See* Order No. 5337 at 79. The Commission has removed that requirement, permitting the Postal Service to bank available density-based rate authority for use in future years. *See* Section IV.C.1., *infra.*

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[122] *Id.* at 71. For an expanded discussion of the role of the institutional cost ratio in the formula for the density-based rate authority, *see* Appendix A, Section I.A.

As described in Order No. 5337, the formula for the density-based rate authority calculates the percentage amount by which per-unit costs would be expected to increase as a result of the observed year-over-year change in density. Order No. 5337 at 79. That same percentage would then be authorized as additional rate authority for Market Dominant products. *Id.*

The year-over-year change in density is calculated in two different ways, once using total density and once using Market Dominant density—whichever produces less density-based rate authority will be used as the year-over-year change in density. *Id.* The Commission had previously mischaracterized this mechanism as intended to prevent cross-subsidization of Competitive products by Market Dominant products. *See id.* at 72. The term cross-subsidy is not technically accurate in this context, as it refers specifically to the regulatory oversight of Competitive products. *See* 39 U.S.C. § 3633(a)(1). However, the rationale behind the mechanism is akin to the rationale behind preventing cross-subsidy in that the mechanism protects Market Dominant mailers from being harmed by negative volume changes in Competitive products. The intent is to protect Market Dominant mailers from having to pay higher rates as the result of the density-based rate authority if changes in Competitive volume are less favorable than changes in Market Dominant volume. Conversely, this mechanism ensures that Market Dominant mailers benefit if changes in Competitive volume are more favorable than changes in Market Dominant volume. The mechanism also serves the purpose of more directly aligning the density-based rate authority with the statutory focus of this rulemaking – that is to make modifications to the Market Dominant system of ratemaking necessary for the system to achieve the objectives of section 3622.[123] This goal of protecting Market Dominant mailers overlaps with the purposes of the

[123] Specifically, this rulemaking adopts final rules modifying the system of ratemaking for Market Dominant products, and does not modify the regulatory oversight of Competitive products. Because the Postal Service's financial position is affected by both Market Dominant and Competitive density, the limitation of density-based authority described above is both a prudential and precautionary measure.

statutory prohibition against cross-subsidization found at 39 U.S.C. § 3633(a)(1), but the statutory authority to implement the density-based rate authority stems from 39 U.S.C. § 3622. *See* Chapter III., *supra*.

Formula. Formula IV-1 shows how the Commission annually calculates the available amount of density-based rate authority. The measured change in year-over-year density is multiplied by -1 multiplied by the institutional cost ratio. This product is the amount by which unit costs are expected to increase as a result of the measured decline in density. If density does not decline, the amount of density-based rate authority is zero. The year-over-year change in density is calculated using both total density and Market Dominant density, and the amount of density-based rate authority will be based on whichever figure produces less available rate authority.

Formula IV-1: The amount of the density-based rate authority is the greater of zero and:

$$-1 * \frac{\mathrm{IC_T}}{\mathrm{TC_T}} * \%\Delta\mathrm{D}_{[\mathrm{T-1,T}]}$$

Where,

T = most recently completed fiscal year;
T-1 = fiscal year prior to year T;
IC_T = institutional cost in fiscal year T;
TC_T = total cost in fiscal year T; and
$\%\Delta D_{[T-1,T]}$ = Percentage change in density from fiscal year T-1 to fiscal year T.

A hypothetical example of the formula in operation can be found in the attached technical appendix. Appendix A, Section I.B.

C. Commission Analysis

Comments on the density-based rate authority fall into three categories: general conceptual objections to providing the density-based rate authority; general

methodological objections regarding how the density-based rate authority is implemented; and specific comments concerning the formula for the density-based rate authority. Each group of comments is discussed below.

1. Conceptual Objections to the Density-Based Rate Authority

Objections that the density-based rate authority does not go far enough. The Postal Service states that the proposed density-based rate authority is not a meaningful substitution for a recalibration of rates. Postal Service Comments at 7. It suggests that a rate reset should be based on a broader set of factors than density and retirement, and advocates for a net-loss based approach as more consistent with established regulatory practice. Postal Service Reply Comments at 32. APWU similarly suggests that the density-based rate authority is inadequate to provide financial stability. APWU Comments at 2-4. NALC recommends that the density proposal should be modified to account for declines in density since 2009 to address the shortcomings of the existing rate system and to make the Postal Service whole. NALC Comments at 5. GCA replies that the Commission makes clear that its proposal is not intended as a true-up, and instead targets two underlying causes of financial distress: volume erosion and retirement obligations. GCA Reply Comments at 10.

GCA is correct in stating that the Commission's proposal is not intended as a true-up. The intent is to address identified deficiencies in the current price cap system that contributed to the failure of that system to meet the objectives of 39 U.S.C. § 3622(b). The density-based rate authority is specifically intended to address the future rise in per-unit costs caused by declines in density, but is not intended to recalibrate rates to reflect the Postal Service's density at a specific point in time. The recalibration of rates suggested by the Postal Service goes beyond the scope of modifying the ratemaking system to address specific deficiencies.

Objections that the density-based rate authority will counter-productively induce further volume loss.[124] ABA objects to the proposed density-based rate authority on the grounds that resulting price increases will result in volume declines and be counterproductive. ABA Comments at 10. ANM *et al*. point out that a large feedback effect resulting from year-over-year rate increases is inherent in the density formula. ANM *et al*. Comments at 44. NPPC describes the density-based rate authority as discouraging volume growth and creating a death spiral.[125]

As a foundational matter, the Governors of the Postal Service, not the Commission, set the rates for postal services, while the Commission establishes and administers the regulatory system. The law generally permits the Postal Service to set Market Dominant product prices as long as each product covers its attributable costs and the average price increase for each class is at or below the CPI-U price cap. The Postal Service may utilize all of the CPI-U price cap authority, regardless of its costs. 39 U.S.C. § 3642 defines Market Dominant products as those for which "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly…without risk of losing a significant level of business…."[126] The paragraph continues, "[t]he competitive category of products shall consist of all other products." *Id.* § 3642(b)(1). Prices for Competitive products are not subject to the price cap.

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[124] For additional comments relating to induced volume loss relating to the retirement-based rate authority, and the retirement-based rate authority in combination with the density-based rate authority, *see* Section V.C.1., *infra*.

[125] NPPC Comments at 36; NPPC Reply Comments at 11. The concept of a "death spiral" refers to the idea that increased prices will induce losses in volume as price-sensitive mailers send less mail, and that loss of volume then triggers additional density-based rate authority, which will induce further volume losses when used.

[126] 39 U.S.C. § 3642(b)(1). Market Dominant products also include products covered by the postal monopoly. *See id.* § 3642(b)(2).

Thus, title 39 provides that as a general matter, if products are particularly price sensitive, such that potential price increases could cause significant customer flight, the correct regulatory response is lighter price regulation, not more.[127] Even if commenters opposing the cap modification were correct in their arguments regarding price sensitivity, their proposed solution is inconsistent with the regulatory approach of title 39. (In contrast, section 3642 provides for heavier price regulation where products have captive customers, *i.e.* when a significant price increase, quality decrease, or reduced offering does not result in a significant loss of business to other firms offering similar products, for example). In the Commission's experience, demand for Market Dominant products has been relatively price inelastic in both the pre-PAEA period and the PAEA period. Accordingly, the decrease in volume induced by the density-based rate authority is expected to be less in proportional terms than the amount of density-based rate authority.

A brief review of the recent history of price regulation is instructive. From 1971 through 2006, the prices for postal services were not capped, and volumes grew steadily. Starting in 2007, the PAEA price cap limited all Market Dominant classes to the rate of growth of CPI-U. Rather than preserving the volume of Market Dominant mail, volume subject to the price cap shrunk by 35 percent in the period covered by this review and has continued to decline. *See* Table IV-1, *infra.* The precise economic meaning that should be inferred from this decline, and the appropriate strategic response, is complicated by a number of factors including changes in communications technology, economic cycles, and consumer and business reactions to both. It would strain the bounds of the law and rationality, however, for the Commission to ignore its findings regarding the failure of the current system to achieve the objectives of § 3622(b) (taking into account the factors of § 3622(c)), and to overlook the disconnect

[127] "Products covered by the postal monopoly cannot be moved from the Market Dominant to the competitive category." 39 U.S.C. § 3642(b)(2).

between actual Postal Service costs and the CPI-U, in order to recast the CPI-U only cap as a tool to accomplish what it has not been able to do: preserve Market Dominant mail volume, and ensure the financial stability of the Postal Service.

The Postal Service has discretion to decide how much of the density-based rate authority to use on a year-to-year basis, and can choose not to use all of its available rate authority if it decides that doing so would be counterproductive. Additionally, in the event that price elasticity for Market Dominant products changes such that volume effects are outside the expected range, the Commission retains the authority to revisit the density-based rate authority sooner than the planned 5-year timeframe. *See* Chapter XI., *infra*.

As originally proposed in Order No. 5337, the density-based rate authority was only available for 12 months after the Commission's determination of the amount of authority, and would be forfeited if not used. Order No. 5337 at 79. The Commission recognizes, however, that preventing the Postal Service from banking unused density-based rate authority limits the Postal Service's ability to respond to potential changes in market and economic conditions, by providing an incentive to use all of the available authority in each year.

To provide added flexibility, the Commission modifies the final rules to state that the Postal Service may use the density-based authority to generate unused rate adjustment authority.[128] This change also takes into consideration the assumption that limiting the ability to use the additional authority to a particular year is equivalent to a requirement to use all of the authority in that year. Making the additional authority

[128] *See* Chapter XIV., *infra*. New unused rate authority generated by the density-based rate authority, if any, will be added to the total amount of banked authority, and will follow the existing operation of the rules governing banked authority, including the annual limitation on the use of banked authority per class and the expiration of unused banked authority. 39 U.S.C. § 3622(d)(2)(C).

bankable discourages the Postal Service from simply using it to avoid losing it. Rather, this change provides more incentive for the Postal Service, as the operator, to consider demand, amount of authority available, and other market conditions before determining whether to use the authority in its entirety in a particular year.[129]

Objections that the density-based rate authority will disincentivize efficiency. ANM *et al.* and NPPC *et al.* object to the density-based rate authority on the grounds that it would reduce the Postal Service's incentive for efficiency. ANM *et al.* Comments at 41; NPPC *et al.* Comments at 35. ACMA objects to the idea that the density-based rate authority is designed to preserve contribution as volume is lost, discouraging the Postal Service from successfully transitioning from a high-volume service with high fixed costs to a low-volume service with low fixed costs. ACMA Reply Comments at 6.

Joint Commenters also argue that modifications to the price cap responding to the financial performance and economic conditions faced by the Postal Service are inconsistent with price cap theory and practice. This argument is part of a persistent line of criticism by some commenters that would have the Commission overlook the ongoing losses of the Postal Service in order to preserve the price cap "as is." Besides avoiding the Commission's responsibilities under section 3622, ignoring the impacts of the price cap would be irrational and at odds with regulatory practice.

As price caps have been implemented over the past 3 decades in several industries, the actual practice has been that "[w]hen the price cap plan is reassessed at its scheduled review, ongoing price regulations are often informed by realized costs and

[129] In addition to providing additional flexibility to respond to market conditions, permitting the Postal Service to bank unused density-based rate authority responds to the Postal Service's objections that Order No. 5337 did not adequately explain why the new forms of rate authority could not be banked. *See* Postal Service Comments at 64.

earnings."[130] Furthermore "the stringency of stipulated price regulations is often influenced by the firm's realized earnings in practice. In this sense, the price cap regimes that are observed in practice are seldom 'pure' price cap regimes." Sappington December 2000 at 5.

The Commission, for its part, is authorized to—at a minimum—make modifications to the existing regulatory system, and indeed must make them due to the failure of the current regulatory system to meet the objectives of section 3622. Far from an *ad hoc* course correction, the Commission's actions in this docket are required by any good faith effort to implement section 3622 and are consistent with regulatory best practices which require adjusting to, rather than ignoring, the economic realities of a regulated firm.

The density-based rate authority targets specific cost increases over which the Postal Service has minimal control. It does not reduce the Postal Service's incentive for efficiency, because the Postal Service will need cost savings and efficiency gains to fully achieve financial health, and it will continue to be able to accrue the benefits of the cost savings it achieves through increased efficiency in other areas. Additionally, the formula for the density-based rate authority is designed as an estimate of how much per-unit costs would be *expected* to have increased as a result of the prior year's decline in density, rather than on an observed increase in per-unit costs. To the extent the Postal Service is able to offset some of the realized increase in per-unit costs

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[130] *See Price Regulation and Incentives*, David E. M. Sappington, at 21 (Sappington December 2000), available at: *http://regulationbodyofknowledge.org/wp-content/uploads/2013/03/Sappington_Price_Regulation_and.pdf.* *See also* Sappington December 2000 at 53–64, explaining some of the regulatory tools designed to take costs into account under price cap regulation. *See* RARC-WP-13-007, in which the United States Postal Service Office of Inspector General (Postal Service OIG) discusses at length the different ways that regulators are able to take exogenous costs into account under price cap regulation.

through efficiency improvements in other areas, the density-based rate authority preserves the Postal Service's incentive to do so.

ACMA's concern that the density-based rate authority will disincentivize the Postal Service from transitioning to a low-volume service with low fixed costs overlooks the fact that parts of the Postal Service's network continue to grow even as volume declines. The formula for the density-based rate authority is specifically designed to isolate the expected increase in per-unit costs caused by delivering fewer pieces to an expanding number of delivery points (*i.e.,* a growing network). Although this increase is largely unavoidable in the short and medium term, by focusing on expected cost increases rather than actual cost increases, the density-based rate authority fully maintains the Postal Service's incentive to reduce costs (including fixed costs) wherever possible.

Objections that the density-based rate authority is not rationally related to drivers of loss. ANM *et al*. claim that the density formula is not rationally related to the expenses it is intended to cover, and that it is arbitrary and capricious because it is not rationally related to Postal Service cost drivers. ANM *et al.* Comments at 44-49. NPPC *et al.* state that the density formula bears no relation to the actual costs of servicing additional delivery points. NPPC *et al.* Comments at 26.

The density-based rate authority is not designed to track the actual cost of servicing additional delivery points. Instead, the density-based rate authority is an approximation of the proportion of per-unit costs that would be *expected* to unavoidably increase in the short and medium term as density declines. If the Postal Service is able to achieve lower increases in the proportion of average per-unit costs that it controls, it retains those savings. Conversely, if the Postal Service experiences an increase in per-unit costs above those that are unavoidable in the short and medium term, it must absorb those costs. This mechanism specifically targets the increase in per-unit costs

that the Commission has identified as a driver of the Postal Service's net losses, while simultaneously not weakening the Postal Service's incentive to operate efficiently.

Additional Commission analysis. The Commission reiterates its determination that the increase in per-unit costs caused by the decline in mail density is a primary driver of its net losses and that these density-driven increases in per-unit costs are largely outside of the Postal Service's control.[131]

Since 2007, the total volume of Market Dominant mail has declined by 35 percent. *See* Table IV-I. Over the same time period, the number of delivery points has increased by 10 percent. *See id.* Together, these trends mean that the density of Market Dominant mail has decreased by 41 percent during the PAEA era. *See id.*

[131] *See* Section IV.B.2., *supra* (citing Order No. 5337 at 62-64).

Table IV-1

Market Dominant Volume, Delivery Points, and Density, FY 2007–FY 2019

Fiscal Year	Market Dominant Volume (millions)	Delivery Points (millions)	Density
2007	210,603.10	127.02	1,658.03
2008	201,128.00	128.43	1,566.05
2009	175,677.24	129.51	1,356.48
2010	169,154.12	130.39	1,297.29
2011	166,460.88	131.14	1,269.34
2012	157,325.68	131.93	1,192.49
2013	155,114.14	132.72	1,168.73
2014	151,926.68	133.78	1,135.65
2015	150,197.94	134.86	1,113.73
2016	149,823.80	136.03	1,101.40
2017	144,387.07	137.32	1,051.46
2018	140,737.79	138.58	1,015.57
2019	136,897.53	139.96	978.12

Source: Please *see* Appendix A, Section I.C. for references to source data.

Over the same period, the per-unit costs of mail have increased by more than 54 percent.[132] The existing ratemaking system, however, assumes that costs will rise in line with CPI-U or at minimum would be close enough to make up the difference with efficiency improvements and cost reductions. Since 2007, the cumulative rate authority generated by CPI-U has been only 27 percent.[133] In a hypothetical scenario where per-unit costs increased only in line with inflation, the Postal Service's financial position would have been greatly improved, as seen on Table IV-2.

[132] *Id.* Because institutional costs are not attributed to either Market Dominant or Competitive products, the growth in per-unit costs specifically for Market Dominant products cannot be meaningfully calculated. Per-unit costs are the average cost per piece, calculated by dividing total costs by volume.

[133] The inflation series is obtained from the fiscal-year average of the Bureau of Labor Statistics' monthly CPI-U values, from January 2006 to December 2019, available at: *https://beta.bls.gov/dataViewer/view*.

Table IV-2

Postal Service Unit Costs and Net Losses, FY 2007– FY 2019

Fiscal Year	Actual Unit Cost	Actual Net Profit/Loss (Millions)	Hypothetical Unit Cost (CPI-U Only)	Hypothetical Net Profit/Loss (CPI-U Only)
2007	0.38	(5,142.38)	0.38	
2008	0.38	(2,805.65)	0.40	(5,481.67)
2009	0.41	(3,794.33)	0.40	(1,927.79)
2010	0.44	(8,505.39)	0.40	(1,539.11)
2011	0.42	(5,067.00)	0.41	(3,607.43)
2012	0.51	(15,905.97)	0.42	(2,358.84)
2013	0.46	(4,977.09)	0.43	(661.58)
2014	0.47	(5,507.60)	0.44	(6.89)
2015	0.48	(5,060.00)	0.44	1,412.47
2016	0.50	(5,591.00)	0.44	3,290.93
2017	0.48	(2,741.00)	0.45	2,236.85
2018	0.51	(3,913.00)	0.46	3,118.50
2019	0.56	(8,813.55)	0.47	4,190.66

Source: Please *see* Appendix A, Section I.C. for references to source data.

The Commission recognizes the above-inflation increase in per-unit costs has multiple causes, including the increasing role of Competitive products (increasing per-unit costs).[134] While it is not possible from the available data to precisely determine how much of the above-inflation increase in per-unit costs has been driven by the decline in mail density, the fact that the Postal Service operates in a network industry and enjoys economies of density necessarily means that losing those economies will increase real per-unit costs. *See* Section IV.B.1., *supra*. An estimate can be made, however, using the same methodology used by the Commission's formula for the density-based rate authority. Under that approach, the 41 percent decline in density since the end of FY

[134] There are also factors that have reduced per-unit costs over time, such as increases in worksharing.

2007, a period during which the institutional cost ratio varied between 0.40 and 0.50, would be expected to drive an increase in per-unit costs of between $0.09 and $0.11.[135]

Because under the current ratemaking system Market Dominant rates are limited to growing at the rate of inflation, the Postal Service is forced to absorb the portion of the above-inflation increase in per-unit costs driven by the loss of density. *See* Order No. 5337 at 70-71. Moreover, the density-driven increase in per-unit costs cannot be avoided through operational changes, particularly not in the short- and medium-term. Costs that vary with volume can be avoided as volume falls, but the costs of servicing the growing network and other costs that only indirectly depend on volume will remain, and will necessarily be spread over fewer pieces of mail.

Under the constraints of the current ratemaking system, the Postal Service can neither avoid the density-driven increase in per-unit costs, nor can it raise additional revenue to cover the increase.

2. General Methodological Objections to Density-Based Rate Authority

Recommendations that the density-based rate authority should be forward-looking. ANM *et al*. recommend that any rate authority for volume loss should be prospective to avoid perverse incentives. ANM *et al.* Comments at 42. In the context of discussing that the proposed density formula bears no relation to the cost of servicing additional delivery points, NPPC *et al.* suggest that density decline is more properly measured by the well-established roll forward model. NPPC *et al.* Comments at 30.

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[135] The minimum value for the institutional cost ratio since the end of 2007 was 0.40 in FY 2009. *See* Docket No. ACR2009, Library Reference USPS-FY09-1, December 29, 2009, Excel file "FY09PublicCRA.xlsx," tab "Cost3," cells F34:F35. The maximum value for the institutional cost ratio since the end of 2007 was 0.50 in FY 2012. *See* Docket No. ACR2012, Library Reference USPS-FY12-1, December 28, 2012, Excel file "FY12PublicCRA.xlsx," tab "Cost3," cells F36:F37.

By contrast, the Postal Service objects to basing the density-based rate authority on roll-forward methodologies on the grounds that the impact of delivery point growth on network costs is broader than cost segments and commenter-suggested methodologies. Postal Service Reply Comments at 33, Appendix B.

Similarly, the Public Representative disagrees with the declaration in support of ANM *et al*. that suggests annual volume losses should be replaced with predicted future declines. PR Reply Comments at 8. The Public Representative states that use of actual measured changes in density provide an "objective anchor" for price adjustment. *Id.* However, the Public Representative recommends including a forward-looking element to address concerns that the density-based rate authority is a true-up and to prevent excessive rate increases. *Id.* He recommends considering Dr. Brennan's proposed methodology for adjusting volume declines for price elasticity of demand. *Id.*

Projecting future density would be more complicated than the Commission's proposal, would entail more uncertainty, and would require an additional mechanism in later years to correct for inaccurate projections.[136] The Commission's formula bases future rate increases on actual, measured declines in density,[137] similar to how the current price cap limits future rate increases based on actual, measured changes in CPI-U. The Public Representative's proposal for adjusting for price elasticity of demand is discussed further below, in the context of induced declines in density.

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[136] In particular, the complexity of forward-looking estimates imposes additional administrative burdens, and reduces the predictability of the resulting amount of rate authority, in opposition to Objectives 2 and 6. The transparency of the solution is also reduced if the mechanics are hidden behind complicated economic models that attempt to predict future volume losses. None of the commenters have shown that a forward-looking model would have sufficiently improved accuracy over the Commission's backwards-looking estimate to justify these tradeoffs.

[137] As stated previously, "the density-based rate authority is an approximation of the proportion of per-unit costs that would be *expected* to unavoidably increase in the short and medium term as density declines." *See* Section IV.C.1, *supra*.

Objections that the density-based rate authority does not distinguish between exogenous density declines and controllable or induced density declines. ANM *et al*. state that the density formula does not differentiate between density declines resulting from exogenous volume decreases and those that result from rate increases or factors within the Postal Service's control. ANM *et al*. Comments at 43. NPPC *et al.* object that the density-based rate authority treats as uncontrollable those costs that it asserts are actually within the Postal Service's control. NPPC *et al.* Comments at 25-26. ABA states that the density-based rate authority would convert the price cap regime back to cost of service, noting that not all density declines are exogenous. ABA Reply Comments at 5.

Additionally, the Public Representative suggests that price elasticity can be used to differentiate between controllable and non-controllable volume losses. PR Reply Comments at 9. The Public Representative notes that an analysis of elasticities suggests that the Commission should include a forward-looking component and that it is reasonable to assume certain products may become more elastic. *Id.* at 14. The Public Representative alternatively suggests a one-time adjustment for density, with periodic adjustments at 5-year intervals. *Id.* at 17.

When volume declines, the remaining costs of servicing the growing network are spread among fewer mailpieces, resulting in an unavoidable increase in per-unit costs in the short- and medium-term. As discussed above, this density-driven increase in per-unit costs is in addition to per-unit cost increases caused by inflation, which are addressed in an inflation-based price cap system. *See* Section IV.C.1., *supra*. The purpose of the density-based rate authority is therefore to provide additional Market Dominant ratemaking authority to offset this unavoidable increase in per-unit costs in the short- and medium-term.

These commenters do not allege that the relationship between declining density and increased per-unit costs is different depending on the cause(s) of the underlying

volume loss, and there is no evidence that it is. Similarly, the inability to offset the increase in per-unit costs under the existing price cap system is equally damaging to the Postal Service's ability to attain financial stability regardless of whether the volume loss was caused by technological shifts or price increases.

The Postal Service has limited options to address increases in per-unit costs that are outside of its direct control. The Commission has accordingly determined that the density-based rate authority is necessary to provide additional revenue to offset the density-driven increase in per-unit costs, and created a formula to calculate the expected increase in per-unit costs. Reducing the amount of additional rate authority below the expected increase in per-unit costs on the grounds that the decision to use that authority induces a further "controllable" volume loss would stymie the purpose of offsetting that increase in expected per unit costs. Accordingly, any induced volume loss is a necessary consequence of providing the offsetting revenue, rather than a reason to reduce the amount of density-based rate authority. The only hypothetical scenario where the rate increase would be counterproductive would be where the price-induced volume effect (price elasticity) is such that less revenue is collected from the increase than is forgone due to the loss in volume. As discussed in Section V.C.1., if such a scenario were to come to pass, the Postal Service as the operator may determine not to use any or all of its rate authority, or the Commission may review any component of the ratemaking system sooner than its planned 5-year review.

The formula for the density-based rate authority is designed to approximate the amount by which per-unit costs is *expected* to unavoidably increase in the short and medium term as a result of the decline in density as remaining costs are distributed over fewer pieces. This contrasts with a cost-of-service approach that would instead compensate the Postal Service for the *actual* increase in total costs. By focusing on the increase in per-unit costs expected to occur due to density declines, the density-based rate authority maintains the Postal Service's incentive to decrease costs wherever

possible. Additionally, the density-based rate authority only addresses declines in density calculated after the effective date of the rules (based upon the observed density decline experienced in the most recently ended fiscal year), and makes no attempt to compensate the Postal Service for prior density declines.

Finally, the Commission notes that if it were returning to a cost-of-service regime, it would necessarily have to address all outstanding costs. Instead, the Commission has targeted specifically identified costs that are driving the Postal Service's losses and are outside the Postal Service's direct control in the short and medium term.

Objections that the density-based rate authority does not address differences in the mail mix. ACMA objects to the density-based rate authority on the grounds that it ignores the evolution of the mail mix towards higher contribution pieces. ACMA Comments at 5.

The Public Representative notes that the density formula does not account for mail volume declines by either class or product, and that not all mail volume declines are equally harmful to the Postal Service's finances. PR Comments at 14-15. The Public Representative describes this failure to consider the mail mix as a serious flaw in the proposed density-based rate authority. *Id.* at 15. He notes that Package Services, for example, has never experienced declines, and states it is unclear why Package Service deserves density-based rate authority. *Id.* ACMA objects to the Public Representative's implication that specific classes of mail "deserve" additional rate authority to compensate for class-specific declines in density. ACMA Reply Comments at 6-7.

The extent to which density-decline driven increases in per-unit costs are affected by the mail mix is captured by the measured cost elasticities of each cost segment. Those cost elasticities are in turn indirectly captured by the institutional cost ratio, which the density formula uses as a proxy for the elasticity of unit costs with

respect to density.[138] This ratio will change as the mail mix changes.[139] Additionally, the size of the Postal Service's network is not measured by mail class. The density-based rate authority is designed to offset increases in per-unit costs that are unavoidable in the short- and medium-term, and is not designed to offset contribution changes from individual mail classes.

The Public Representative's suggestion that density declines should be measured on a class basis overlooks the fact that changes to per-unit costs are not isolated to specific classes. As overall volume decreases, remaining costs—those that are less responsive to volume—are borne by fewer pieces, driving an increase in per-unit costs, irrespective of class. Additionally, the effects of network size cannot be evaluated at a class level, as the number of delivery points is not a class-specific measure.

As the Commission discussed in Order No. 5337, factoring in revenue (or contribution) would not comport with the necessity of compensating the Postal Service for unavoidable increases in per-unit costs. Order No. 5337 at 76-77. The incentives for efficiency that the density-based rate authority preserves would be weakened if additional rate authority were tied to revenue or contribution, because calculating the density-based authority as a particular revenue or contribution level would inadvisably tie the amount of authority to the Postal Service's pricing decisions.

Other recommendations. NPPC *et al.* recommend that, if adopted, the density-based rate authority should include a reduction in rate authority if per-unit delivery costs decline. NPPC *et al.* Comments at 26. NPPC *et al.* also recommend that adoption of the density-based rate authority should preclude future exigent increases based on

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[138] For an expanded discussion of the relationship between the cost elasticities of cost segments and the institutional cost ratio, please *see* Appendix A, Section I.A.

[139] Similarly, for an expanded discussion of the impact of changes in the mail mix on the institutional cost ratio, please *see* Appendix A, Section I.A.

volume loss. *Id.* Further, NPPC *et al.* recommend that the Postal Service should be required to report on its efforts to increase density. *Id.* at 74.

The density-based rate authority is an estimate. Year-to-year fluctuations in measured density are to be expected. If systemic shifts result in persistent increases in density, or cyclical increases are followed by decreases, that might be reason to reconsider the application of the density-based rate authority in the Commission's next review, or sooner, should the circumstances warrant.

Reducing the density-based rate authority if per-unit delivery costs decline would reduce the Postal Service's incentive to reduce costs to the maximum extent possible. Maintaining that incentive is why the density-based rate authority is based on the increase in per-unit costs expected as a result of density declines, rather than the actual increase.

Even with the additional density-based rate authority, the Postal Service still has a powerful incentive to increase volume and density. The density-based rate authority only provides additional revenue to cover the expected increase in average cost per piece, and does not otherwise compensate the Postal Service for lost volume and revenue. Maximizing volume is not an objective of 39 U.S.C. § 3622(b), and the Postal Service has both the business discretion to take actions to attempt to increase volume, and a powerful incentive to do so.[140] Accordingly, an additional reporting requirement is not necessary.

The Commission will be mindful of the density-based rate authority when considering future exigent requests.[141] However, the Commission notes that exigent requests are fact-based and, by their nature, difficult to anticipate. The Commission

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[140] By contrast, improving efficiency via maximizing incentives for cost reductions is an objective of 39 U.S.C. § 3622(b). *See* Chapter IX., *infra*.

[141] Exigent rate adjustments are authorized by 39 U.S.C. § 3622(d)(1)(E).

therefore declines to explicitly preclude future exigent rate increases based on volume loss.

3. Specific Critiques of the Density-Based Rate Authority Formula

Recommendations to use different data sources as the input to the density-based rate authority formula. The Public Representative states concerns relating to the use of TFP reports as the input data for the number of delivery points, and Revenue, Piece, and Weight (RPW) reports for input data for volume. PR Comments at 14, 17. The Public Representative suggests that delivery points can instead be obtained from the figures on the Postal Service's website, and that volume data can be obtained from the Cost and Revenue Analysis (CRA) which is traditionally used to calculate per-unit costs. *Id.*

RPW data is the original input source to the CRA, so using the CRA instead would not provide any advantages. Similarly, the Commission has evaluated the figures the Public Representative proposes to use for delivery points, and has not identified any advantages to revising the input data source from what was proposed in Order No. 5337. Accordingly, the Commission declines to adopt the Public Representative's recommendations.

Objections relating to the formula's use of the institutional cost ratio as a proxy for the elasticity of unit costs with respect to density. ACMA states that the Commission has not adequately justified the use of the institutional cost ratio in the density formula. ACMA Comments at 5. ACMA also states that there is no reason that the institutional cost ratio or percent variability in costs each year should be the same as the base year. *Id.* at 7. The Public Representative states that the Commission is not fully consistent with its definition of the institutional cost ratio, and encourages the Commission to provide supporting workpapers to demonstrate how year-over-year decreases in density drive an increase in per-unit cost.

As volume declines, some costs (those that are dependent on volume) also decline. The remaining costs, however, are necessarily borne by a smaller number of pieces, and decreasing the denominator drives up the per-unit cost. At the same time, as the number of delivery points increases, the expansion of the network increases the costs of providing service to the entire nation, independent of volume. The inclusion of the institutional cost ratio in the formula is designed to reflect these different cost behaviors in the approximation of the effect of density changes on per-unit costs. To the extent that the overall variability of costs with respect to volume changes over time, that change will be reflected in changes in the institutional cost ratio in future years.

The attached technical appendix to this Order explains in more detail why the institutional cost ratio is a good proxy for the elasticity of unit cost with respect to density, as well as the constraints on using the institutional cost ratio for that purpose.

Objections to the formula's comparison of Market Dominant volume to total volume. The Postal Service describes the formula's use of the least favorable of Market Dominant volume change and total volume change as arbitrary, arguing that cross-subsidization should be prevented by the appropriate share formula. Postal Service Comments at 27. The Postal Service urges the Commission to pick one of the two options. *Id.* ACMA notes that the Commission does not explain why it does not calculate the percent change in density for Competitive products as a group. ACMA Comments at 5.

GCA contends that the use of the least favorable of the two volume change figures is rationally designed to maximize protections for users of Market Dominant products. GCA Reply Comments at 2. GCA notes that the Commission is not trying to prevent a Competitive product from being priced below incremental cost, but rather is trying to protect Market Dominant mailers from paying for unit delivery cost increases caused exclusively by a decline in competitive density. *Id.* at 3. GCA describes the Commission as not attempting to create a new method of enforcing 39 U.S.C.

§ 3633(a)(1) and (2), but instead redesigning the density rate authority to provide improved protection for captive mailers. *Id.*

GCA is correct that the purpose of comparing Market Dominant volume to total volume is to protect Market Dominant mailers, rather than to create a new method of enforcing statutory provisions against cross-subsidization. As discussed above, the references to cross-subsidization in Order No. 5337 were erroneous. *See* Section IV.B.2., *supra*. The purpose of this part of the formula is to protect Market Dominant mailers from being forced to pay higher rates if changes in Competitive volume are less favorable than changes in Market Dominant volumes. This built-in safeguard also allows Market Dominant mailers to benefit from increases in Competitive volumes that have the effect of reducing the overall density-based rate authority.

D. Conclusion

Having considered the comments received on its proposal in Order No. 5337, the Commission concludes that the density-based rate authority will be an effective mechanism for providing additional Market Dominant ratemaking authority to offset the unavoidable increase in per-unit costs caused by the decline in mail density, which the Commission has identified as a primary driver of the Postal Service's net loss.

The Commission therefore implements the density-based rate authority as proposed in Order No. 5337, with the revision to permit banking such authority, as described above.

V. RETIREMENT-BASED RATE AUTHORITY

A. Introduction

In Order No. 5337, the Commission sought comments on its proposal to allocate additional Market Dominant rate authority based on the amount of specific retirement liabilities of the Postal Service. Order No. 5337 at 95-103. This additional authority, along with the density-based rate authority, was created to address critical comments that the Commission's prior proposal to annually allocate 2 percentage points of supplemental rate authority was not tied to specific drivers of the Postal Service's losses. *Id.* at 60. The Commission has carefully considered the comments received on Order No. 5337, and now implements the retirement-based rate authority as proposed, with a minor non-substantive clarification.[142]

The Commission has identified the Postal Service's retirement costs as a specific driver of the Postal Service's net losses, and determined that the amortization payments for those retirement costs are beyond the Postal Service's control. Order No. 5337 at 62-63, 89-90; *see also* Section V.C.1., *infra.* The retirement-based rate authority modifies the existing price cap to include additional Market Dominant rate authority calculated from the proportional increase in revenue per piece for all products (both Market Dominant and Competitive) needed to permit the Postal Service to make the targeted amortization payments. To protect Market Dominant mailers from a large initial rate shock, this additional rate authority will be phased in over 5 years, with annual recalculations to ensure ongoing accuracy during the phase-in period.

[142] *See* Section XII.C.2. (clarifying that limited rate adjustments to one or two price cells will not preclude later use of the retirement-based rate authority).

The Postal Service must remit all revenue raised under the additional rate authority towards the targeted amortization payments to be eligible to continue to receive the retirement-based rate authority.

The Commission concludes that the retirement-based rate authority is a necessary improvement to the existing system for regulating rates and classes for Market Dominant products and is, with the other proposed changes, necessary to achieve the objectives of 39 U.S.C.§ 3622(b) in conjunction with each other. *See generally* Chapter XIII., *infra*.

B. Background

1. Postal Service Retirement Costs

Components of Postal Service retirement costs. Postal Service retirement benefits include: retiree health benefits (RHB), pension benefits under CSRS, and pension benefits under FERS.

Prior to the PAEA, the Postal Service was required to pay the employer's share of health insurance premiums for all current postal retirees and their survivors on a pay-as-you-go basis. 5 U.S.C. § 8906(g)(2)(A) (1970). The PAEA, in addition to the pay-as-you-go payments, established the Postal Service Retiree Health Benefits Fund (RHBF) and required the Postal Service to prefund long-term retiree health benefits for current

postal employees, retirees, and their survivors. 5 U.S.C. § 8906a(2)(a)(b). This prefunding requirement is unique to the Postal Service.[143]

For FY 2007 through FY 2016, costs for retiree health benefits consisted of (1) fixed annual payments required to prefund the RHBF; and (2) the employer's share of health insurance premiums for all current Postal retirees and their survivors who participate in the Federal Employee Health Benefits Program (FEHBP)—the pay-as-you-go payments. 5 U.S.C. §§ 8909a(3)(B) and 8906(g)(2)(A). The Postal Service contributed $20.9 billion to the RHBF between years FY 2007 to FY 2011, including transfers from existing funds and payments made in accordance with the fixed payment schedule required by 5 U.S.C. § 8909a(3)(a). Postal Service FY 2019 Form 10-K at 6. From FY 2012 to FY 2016, the Postal Service defaulted on a total of $33.9 billion of the prefunding portion of its RHB payments. *Id.*

Beginning in FY 2017, the pay-as-you go payments were paid out of the RHBF, and so the Postal Service's costs for retiree health benefits consisted of (i) the present value of estimated future retiree health benefits attributable to active employees' current year of service (normal costs), and (ii) annual amortization payments required to liquidate the remaining unfunded balance in the RHBF by FY 2056. 5 U.S.C. § 8909a(2)(B). The Postal Service defaulted on all of these payments in years FY 2017 to FY 2019. Postal Service FY 2019 Form 10-K at 6. As of September 30, 2019, the Postal Service has missed or defaulted on a total of $47.2 billion in payments to the RHBF. *Id*.

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[143] *See* U.S. Government Accountability Office, GAO-13-112, U.S. Postal Service: Status, Financial Outlook, and Alternative Approaches to Fund Retiree Health Benefits (2012), at 7, available at: *https://www.gao.gov/assets/660/650511.pdf* ("the [prefunding] payments required by PAEA were significantly 'frontloaded,' with the fixed payment amounts in the first 10 years exceeding what actuarially determined amounts would have been using a 50-year amortization schedule)." The same reported noted that: "Although other federal, state and local, and private sector entities generally are not required to prefund retiree health care benefits, a few do prefund at limited percentages of their total liability." GAO-13-112 at 45.

The PAEA also significantly changed many of the funding requirements for the CSRS. It removed the requirement for actuarially determining the funding for the Postal Service's portion of CSRS, and it also transferred the military service time for postal employees back to the responsibility of the Federal government. 5 U.S.C. § 8334(a)(B)(ii), 5 U.S.C. § 8348(g)(2). Additionally, beginning in FY 2017, the U.S. Office of Personnel Management (OPM) was required to evaluate the CSRS pension liability by June 30 of each year. 5 U.S.C. § 8348(h)(2)(B). In case of a surplus in the fund, the surplus is to be transferred to the RHBF during certain years.[144] If there is an unfunded liability, the Postal Service is to pay into the fund the present value equivalent (amortization) of the unfunded liability with interest through FY 2043. 5 U.S.C. § 8348(h)(2)(B). OPM calculated and invoiced the Postal Service for amortization of unfunded CSRS liabilities in years FY 2017 to FY 2019 totaling $4.8 billion. Postal Service FY 2019 Form 10-K at 7. The Postal Service has defaulted on each of these amortization payments.[145]

Postal Service retirement obligations for FERS consists of normal costs,[146] the employer portion of Thrift Savings Plan (TSP) contributions, social security, and amortization of any unfunded retirement liabilities. Postal Service FY 2019 Form 10-K at 6. The Postal Service is required to annually pay the share of the total value of benefits allocated to the valuation year (normal costs) without regard to any surplus funding or deficit position for CSRS. 5 U.S.C. §§ 8423(a) (describing payment

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[144] Transfers of any CSRS surplus to the RHBF occur at the close of FY 2015, 2025, 2035, and 2039. 5 U.S.C. § 8348(h)(2)(C).

[145] Postal Service FY 2019 Form 10-K at 63. CSRS was replaced by FERS. "The CSRS, implemented in 1921, is a stand-alone plan, providing benefits to most Federal employees hired before 1984…. The FERS was established in 1986 and when it became effective on January 1, 1987, CSRS Interim employees with less than 5 years of creditable civilian service on December 31, 1986, were automatically converted to FERS." United States Office of Personal Management, Agency Financial Report Fiscal Year 2019 (November 2019), at 51 (OPM Fiscal Year 2019 Agency Financial Report). The Postal Service is not assessed service (normal) costs for CSRS. 5 U.S.C. § 8334(a)(B)(ii).

[146] The employer portion of retirement benefits established by OPM, attributable to active employees' current year of service. Postal Service FY 2019 Form 10-K at 6.

requirement) and 8423(a)(2)(B)(iv) (exempting Postal Service from provisions related to the unfunded liability of CSRS). The Postal Service is also required to pay additional installment (supplemental) payments for FERS, but only in circumstances in which the prior and future contributions made by the Postal Service and its employees are inadequate to cover the benefits expected to be paid from the Postal Service's FERS account. 5 U.S.C. § 8423(b)(2). OPM calculated amortization payments of supplemental liabilities in years FY 2017 to FY 2019 totaling $2.9 billion. Postal Service FY 2019 Form 10-K at 6. The Postal Service has annually paid its FERS normal costs, but defaulted on the supplemental payments in FY 2017 through FY 2019. *Id*.

The specific retirement costs targeted by the retirement-based rate authority are the annual amortization payments for the unfunded RHBF liability, the amortization payments for any unfunded CSRS liability, and the amortization payments for FERS supplemental liabilities (collectively, amortization payments).

2. Retirement-Based Rate Authority in the Revised Notice of Proposed Rulemaking

In Order No. 5337, the Commission responded to criticism that its original proposal to provide supplemental rate authority in its first NPR was not tied to specific drivers of the Postal Service's net losses. Order No. 5337 at 62. Along with the increase in per-unit costs caused by the decline in mail density,[147] the Commission identified the Postal Service's statutorily mandated amortization payments for particular

[147] *See* Chapter IV., *supra*.

retirement costs as a driver of the Postal Service's net losses and a primary obstacle to the Postal Service's ability to achieve net income.[148] To more precisely target these loss drivers, the Commission replaced its original supplemental rate authority proposal of a static 2 percentage points of Market Dominant rate adjustment authority per year with the Density-Based and Retirement-Based Rate Authorities, each of which use formulas to annually calculate the appropriate amount of additional rate authority for each loss driver.[149] The Commission noted that unlike other components of the Postal Service's retirement costs that in-principle vary with volume, the amortized components of the Postal Service's retirement costs are institutional costs,[150] the amount of which is determined by OPM based on prior year service costs that are beyond the Postal Service's control.[151]

Calculation and implementation. As proposed in Order No. 5337 and implemented here, the amount of the retirement-based rate authority will be determined annually based on the formulas described below, and would be available to the Postal Service to use in any rate change that is implemented within 12 months of the date of the determination. *See* Order No. 5337 at 91. The full additional rate authority will be phased in over 5 years, contingent upon the Postal Service's ongoing partial

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[148] Order No. 5337 at 62; *see id.* at 89 (discussing GAO attribution of Postal Service financial instability to the statutorily mandated prefunding requirements and previous Commission findings related to RHBF payments as a major factor in net losses from FY 2012 to FY 2016). For an expanded discussion of the targeted amortization costs as a driver of the Postal Service's net losses, *see* Section V.C.1., *infra*.

[149] Order No. 5337 at 62-63. Unlike the Density-Based Rate Authority, the amount of the Retirement-Based Rate Authority is calculated on an annual basis only during the 5-year phase in period. *Id.* at 63. Beyond that period, no new authority is provided.

[150] The amortization payment for CSRS additionally includes a small portion of current-year costs related to remaining employees covered by CSRS. Summary Description of USPS Development of Costs by Cost Segments and Components Fiscal Year 2019, July 1, 2020, at 18-3.

[151] *Id.* at 90. For an expanded discussion of the degree to which the targeted amortization payments are outside the Postal Service's control, *see* Section V.C.1., *infra*.

amortization payments towards its unfunded retirement liabilities. *Id.* The required minimum remittance for these payments in each year is equal to the amount of revenue raised from the additional rate authority during the previous fiscal year. *Id.*

As described in Order No. 5337, the formulas for the retirement-based rate authority calculate the percentage amount by which revenue on all products (both Market Dominant and Competitive) would need to increase to make the full payments (as calculated by OPM). *Id.* at 91-92. That same percentage is authorized as additional rate authority for Market Dominant products, spread out over the phase-in period.[152] Each year during the 5-year phase-in period, the required percentage increase is recalculated based on the current amount of the OPM invoice, reduced by the actual amount of revenue collected under the retirement-based rate authority in the previous year, and the balance spread across the remainder of the phase-in period.[153]

The Commission described how the annual recalculation ensures that the retirement-based rate authority accounts for volume changes during the phase-in period. *Id.* This recalibration protects the Postal Service from receiving too little additional revenue at the end of the phase-in period as a result of decreases in volume, and protects mailers against unnecessarily large price increases as a result of increases in volume. *See id.* The Commission also discussed other protections for mailers, including how calculating the amount of the rate authority as a fraction of total revenue rather than Market Dominant revenue ensures that the burden does not fall

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[152] *Id.* The Commission notes that implementing an equivalent rate increase on Competitive products is outside the scope of this docket and remains within the Postal Service's business discretion. Competitive products are subject to a different statutory and regulatory framework, and the Postal Service does not require additional rate authority to be granted by the Commission to implement the same increase on Competitive products.

[153] *Id.* at 92. Because OPM does not add the unpaid amount to the unfunded liability subject to amortization (instead treating the amount as currently due), the required percentage increase will not substantially change throughout the phase-in period as a result of the Postal Service making only partial payments. *See* Notice of Supplemental Information, August 10, 2017 (August 10, 2017 Notice of Supplemental Information).

disproportionately on Market Dominant mailers. *Id.* at 93. Additionally, to remain eligible for future retirement-based rate authority (and to avoid other equitable remedies at the discretion of the Commission), the Postal Service must remit the entire amount of revenue raised under this authority each year towards the targeted amortization payments, protecting mailers against the possibility that the Postal Service might use the additional rate authority and then spend it elsewhere. *Id.*

Formulas. Formula V-1 shows how the Commission calculates the retirement-based rate authority available during each year of the phase-in period. The first step is to divide the required amortization payment (as calculated by OPM) for the most recent fiscal year by the total revenue from that fiscal year. This proportion, expressed in percentage terms, is the amount by which total revenue would need to increase to make the full payment. From that proportion is subtracted the compounded amount of previously granted retirement-based rate authority (calculated in Formula V-2). The resulting difference is then amortized over the remainder of the phase-in period to determine the amount of retirement-based rate authority authorized that year.

(Formula V-1) Retirement rate authority available in fiscal year T+1 =

$$\left(1 + \frac{AP_T}{TR_T} - PARA_T\right)^{\frac{1}{5-N}} - 1$$

Where,

T = most recently completed fiscal year;
AP_T = total amortization payment for fiscal year T;
TR_T = total revenue in fiscal year T;
$PARA_T$ = previously authorized retirement obligation rate authority, compounded through fiscal year T, expressed as a proportion of the Market Dominant rate base and calculated using the formula below; and
N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart.

Formula V-2 shows how the compounded amount of previously granted retirement-based rate authority is calculated. The sums of 1 plus each previous year's retirement-based rate authority are multiplied together to determine how much higher rates are than they would have been without any previously authorized retirement-based rate authority. The inverse of that product is then subtracted from 1 to express the result as a proportion of the Market Dominant rate base.

(Formula V-2) Previously authorized retirement obligation rate authority through fiscal year T =

$$1 - \left(\prod_{t=T-N}^{T} (1 + r_t) \right)^{-1}$$

Where,

T = most recently completed fiscal year;
r_t = retirement obligation rate authority authorized in fiscal year t; and
N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart.

Formula V-3 shows how the amount of revenue generated in a fiscal year by use of retirement-based rate authority is calculated, and thus the minimum amount that the Postal Service must remit towards its amortization payments to remain eligible for future retirement-based rate authority. As in Formula V-2, the sums of 1 plus each previous year's retirement-based rate authority are multiplied together, except that each previous year's rate authority is prorated (calculated in Formula V-4) if it came into effect partway during the fiscal year. The inverse of that product is then subtracted from 1 to express the result as the proportion of Market Dominant revenue resulting from use of retirement-based rate authority. Multiplying that proportion by Market Dominant revenue converts the result into a dollar amount.

(Formula V-3) Amount of revenue collected during fiscal year T as a result of the use of retirement-based rate authority =

$$MDR_T\left(1-\left(\prod_{t=T-N}^{T} 1+(p_t)(r_t)\right)^{-1}\right)$$

Where,

T = most recently completed fiscal year;
MDR_T = Market Dominant revenue in fiscal year T;
N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart;
r_t = retirement obligation rate authority authorized in fiscal year t; and
p_t = prorated fraction of r_t that was in effect during fiscal year T, calculated using the formula below.

Formula V-4 shows how each year's retirement-based rate authority is prorated when calculating its contribution to the total amount of revenue. If a particular year's authority was implemented prior to the start of the fiscal year, all of it is included in the calculation. Conversely, if a particular year's authority was not implemented prior to the end of the fiscal year, none of it is included in the calculation. If a particular year's authority was first implemented during the fiscal year, a volume-weighted average is taken to calculate how much of the fiscal year's volume was subject to that rate authority. To do so, the proportion of volume in the quarter of implementation occurring after the date of implementation is added to the volume for subsequent quarters, and the sum divided by the total Market Dominant volume for the fiscal year.

(Formula V-4) Prorated fraction of rate authority in effect during fiscal year T =

$$\begin{cases} 0, & \text{if } r_t \text{ was not in effect during fiscal year T} \\ 1, & \text{if } r_t \text{ was in effect for all of fiscal year T} \\ \dfrac{\left(\frac{E_Q}{D_Q}\right)(QMDV_Q)+\sum_{i=Q+1}^{4} QMDV_i}{MDV_T}, & \text{if } r_t \text{ came into effect during fiscal year T} \end{cases}$$

Where,

T = most recently completed fiscal year;
r_t = retirement obligation rate authority authorized under this subpart in fiscal year t;
Q = the number of the quarter during the fiscal year of the effective date of the price increase including retirement obligation rate authority made available under this subpart;
E_Q = number of days in quarter Q subsequent to and including the effective date of the price increase;
D_Q = total number of days in quarter Q;
$QMDV_Q$ = Market Dominant volume in quarter Q; and
MDV_T = Market Dominant volume in fiscal year T.

A hypothetical example of the formulas in operation can be found in the attached technical appendix. Appendix A, Section II.A.

C. Commission Analysis

Comments on the retirement-based rate authority fall into three categories: general conceptual objections to providing the retirement-based rate authority, methodological objections regarding how the retirement-based rate authority is implemented, and comments concerning removal of the retirement-based rate authority from the rate base in the event of non-compliance. Each group of comments is discussed below.

1. Conceptual Objections to Retirement-Based Rate Authority

Objections that the retirement-based rate authority is—or is not—a true-up of rates. ANM *et al.* object to the retirement-based rate authority on the basis that it is a true-up of rates. ANM *et al.* Comments at 52-54. ANM *et al.* further claim that such a true-up violates congressional intent. *Id*. at 53. ANM *et al.* also characterize the density- and retirement-based rate authorities as resembling a cost-of-service regime that permits the Postal Service to recover prior-year cost-control shortfalls. *Id.* at 17.

Conversely, the Postal Service objects to the retirement-based rate authority on the basis that it is *not* a true-up of rates, stating "best practices of price-cap regulation would be to authorize a reset of the Postal Service's revenue base to a compensatory level…." Postal Service Comments at 15.

The retirement-based rate authority is not a true-up of rates, nor is it intended to be.[154] To reiterate, the Commission has identified the amortization payments for particular retirement costs to be a "primary obstacle" to the Postal Service's ability to achieve net income, and thus to satisfying the objectives of 39 U.S.C. § 3622(b). *See* Order No. 5337 at 60; Section V.C.1., *infra*. The retirement-based rate authority: (1) modifies the available rate cap authority to cover these specific costs; (2) only applies to future rates; and (3) is limited to specifically-identified exogenous costs required by statute and calculated by OPM.

Similarly, the Commission is not attempting to compensate the Postal Service for cost-control shortfalls by implementing the retirement-based rate authority. There are no short- or medium-term cost-control measures the Postal Service can take to meaningfully affect the amortization portion of its retirement costs. Missed payments are excluded from the amortization portion,[155] so the Commission is not compensating the Postal Service for its $49.7 billion in missed payments.[156] The Postal Service has forgone the investment returns that would have accrued had the missed payments been contributed to the RHBF, but this does not affect the unfunded liability that arises in the

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[154] A true-up for retirement expenses would, at a minimum, be designed to recover the revenue necessary to make the previously defaulted payments. A more general true-up would be designed to recover all cumulative losses since the enactment of the PAEA.

[155] *See* August 10, 2017 Notice of Supplemental Information.

[156] Postal Service FY 2019 Form 10-K at 29, 33 (showing $2.7 billion past due for CSRS and FERS, and $47.2 billion past due for RHB).

RHBF, FERS, and CSRS as a result of changes in actuarial assumptions and the discount rate.

Making necessary modifications to the system of ratemaking to achieve the objectives of 39 U.S.C. § 3622(b) is fully in keeping with the Congressional intent that the Commission modify or replace the price cap when it is found to not achieve those objectives. *See* 39 U.S.C. § 3622(d)(3); Section III.B., *supra.* While the existing ratemaking system does not distinguish among types of obligations (such as giving special status to any type of cost or obligation), it left the Postal Service limited means to meet those obligations. The Commission, in part due to the Postal Service's inability to meet its obligations (especially those largely outside of its control), has determined that the existing system failed to achieve the objectives of 39 U.S.C. § 3622(b), taking into account the factors of 39 U.S.C. § 3622(c). *See* Order No. 4257; Retirement-Based Rate Authority in the Revised Notice of Proposed Rulemaking, *supra*. The Commission is thus empowered by the terms of the statute to modify or replace the existing system, as necessary to achieve the objectives. *See* 39 U.S.C. 3622(d)(3). The retirement-based rate authority is a modification of the existing system that addresses the specific problem that retirement amortization costs are driving the Postal Service's net losses which are preventing the existing system from achieving Objective 5.

Objections that the retirement-based rate authority is an impermissible exercise in retroactive ratemaking. ANM *et al*. argue that the proposal "singles out and attempts to true up a single expense that the Postal Service was always intended to recover in its rates, an action that is contrary to incentive ratemaking theory and amounts to impermissible retroactive ratemaking." ANM *et al*. Comments at 51 (citing *Old Dominion Elec. Coop. v. FERC*, 892 F.3d 1223, 1227 (D.C. Cir. 2018)). However, the rule prohibiting retroactive ratemaking does not apply to the proposal nor to the Commission.

The rule against retroactive ratemaking "prohibits [the Federal Energy Regulatory Commission (FERC)] from adjusting current rates to make up for a utility's over- or under-collection in prior periods."[157]

As this rule is based on limits to FERC authority, it is not applicable here. In a recent case, the D.C. Circuit explained that the question of whether a particular method of ratemaking is retroactive, and thus impermissible, is a question of law rooted in the Interstate Commerce Act, the statute that governs FERC's regulation of oil pipelines.[158] In particular, statutory language states that if FERC finds a rate unreasonable, it shall determine the just and reasonable rate to be thereafter observed and in force. *See, e.g.*, 16 U.S.C. § 824e(a); 15 U.S.C. § 717d(a). The use of "thereafter" is what courts have used to find that FERC has no authority to alter a rate retroactively.[159] No similar language is found in 39 U.S.C. § 3622.[160]

The Commission's proposal to provide additional authority to the Postal Service to fulfill its statutorily mandated retirement obligations is not an adjustment of current rates. Interpreting the rules in a light most favorable to ANM *et al.*'s arguments, the

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[157] *Old Dominion,* 892 F.3d at 1227 (citing *Towns of Concord, Norwood, & Wellesley v. FERC,* 955 F.2d 67, 71 n.2 (D.C. Cir. 1992)).

[158] *See SFPP, L.P. v. FERC*, 967 F.3d 788, 801-802 (D.C. Cir. 2020).

[159] *See City of Anaheim v. FERC*, 558 F.3d 521, 522 (D.C. Cir. 2009); *Ark. La. Gas Co. v. Hall*, 453 U.S. 571, 577 (1971).

[160] Notwithstanding the rule being rooted in the statutory limits on FERC's authority, it also applies in that instance to rate adjustments within an existing system, not the creation or modification of a ratemaking system. The rule against retroactive ratemaking prohibits the adjustment of current rates to make up for a utility's inadequate collection in prior periods. *Old Dominion,* 892 F.3d at 1227. It is a corollary of the filed rate doctrine. *See SFPP*, 967 F.3d at 801-802. This doctrine provides that a regulated entity may not charge, or be forced to charge, a rate different from the one on file with FERC for a particular good or service. *Id*. The considerations underlying the doctrine are preservation of the agency's primary jurisdiction over reasonableness of rates and the need to ensure that regulated companies charge only those rates of which the agency has been made cognizant. *See Ark. La. Gas Co. v. Hall*, 453 U.S. 571, 577-578 (1971). Because it concerns current rates on file, this doctrine is also inapplicable here.

proposal provides advance notice that the Postal Service may have access to additional rate authority for future rate adjustment proceedings. Such notice does not constitute retroactive rulemaking.[161]

ANM *et al*. also argue that the proposal is contrary to incentive ratemaking theory. ANM *et al*. Comments at 51. However, the system for regulating rates and classes for Market Dominant products is not a system solely based on incentive ratemaking theory, which primarily emphasizes incentivizing cost reductions and efficiency improvements. The aim to incentivize cost reductions and increase efficiency, however, is only one of nine specific objectives that the Commission must apply in conjunction with each other when revising the ratemaking system. 39 U.S.C. § 3622; *see* Chapter XIII., *infra*. Accordingly, the ratemaking system must be revised in a way necessary to achieve all nine objectives, and cannot, given that mandate, adhere unequivocally to incentive ratemaking principles.

Objections that the retirement-based rate authority will not benefit the Postal Service while imposing an undue burden on mailers. The Postal Service, ANM *et al.*, ABA, and NPPC *et al.* argue that the retirement-based rate authority will not improve the financial position of the Postal Service.[162] In particular, the Postal Service emphasizes that the retirement-based rate authority does not improve the Postal Service's liquidity because the revenue raised must in turn be remitted to OPM. *See* Postal Service Comments at 18. ANM *et al.* and ABA additionally argue that the retirement-based rate authority imposes an undue burden on mailers. ANM *et al*. Comments at 52-54; ABA Reply Comments at 6.

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[161] *See Columbia Gas Transmission Corp. v. FERC*, 895 F.3d 791, 796-797 (D.C. Cir. 1990).

[162] Postal Service Comments at 18; ANM *et al.* Comments at 57-58; ABA Reply Comments at 6; NPPC *et al.* Reply Comments at 9.

The purpose of the retirement-based rate authority is to improve the Postal Service's ability to achieve net income rather than to improve the Postal Service's liquidity. The Postal Service cannot achieve net income if it does not generate sufficient revenue to be able to make its statutorily mandated payments. To address this problem, the retirement-based rate authority provides additional rate adjustment authority and the revenue derived must be remitted towards the portion of those payments that the Postal Service cannot control.

The retirement-based rate authority contains strong protections designed to limit the burden on mailers while also providing additional revenue to address the underlying driver of loss. Examples include: (1) using a phase-in period to create a predictable and stable schedule for rate increases; (2) limiting the amount of the rate authority for Market Dominant products to the percentage by which revenue would have to increase for all products (both Market Dominant and Competitive) to make the full amortization payments; and (3) requiring that all of the revenue generated under the retirement-based rate authority is actually remitted towards those payments. These protections help ensure that the retirement-based rate authority limits the effect on mailers while simultaneously improving the ability of the Postal Service to achieve net income.

The Commission is permitting the density-based rate authority to be banked on the grounds that doing so will assist the Postal Service in responding to potential changes in price elasticity. *See* Section IV.C.1., *infra.* In the case of the retirement-based rate authority, however, permitting banking would defeat the purpose of the phase-in period that protects mailers by smoothing out the rate increases, and overly-complicate the adjustment for mail-mix change and induced volume decline during the phase-in period. Given those countervailing factors, the Commission maintains the requirement that the retirement-based rate authority is only available for 12 months after the Commission's determination of the amount of retirement-based rate authority.

Objection that the retirement-based rate authority addresses a problem that should be fixed legislatively. ABA argues that the Postal Service's retirement obligations are a topic best addressed by Congress. ABA Reply Comments at 6.

While Congress certainly has the authority to act to address the retirement obligations of the Postal Service, in the absence of Congressional action, the Commission has the authority as explained above to take action to address the identified retirement costs, which remain a primary driver of the Postal Service's ongoing losses, thus preventing the Postal Service from achieving net income.[163] The Commission's modifications to the system of ratemaking are necessary to achieve the objectives, and as a corollary, the scope of the Commission's authority is limited to the system of ratemaking. The Commission cannot abdicate its responsibility to address a driver of the Postal Service's net loss (and thus a driver of the existing system's failure to achieve the objectives).

Objections that the retirement-based rate authority will counter-productively induce further volume loss. ANM *et al*., Mailer's Hub, ABA, and NPPC *et al.* argue that the retirement-based rate authority will contribute to additional volume loss, especially when combined with the other sources of rate authority.[164]

The Commission's experience demonstrates that demand for Market Dominant products has been price inelastic in both the pre-PAEA period and the PAEA period. Accordingly, the decrease in volume induced by the retirement-based rate authority is expected to be less in proportional terms than the amount of retirement-based rate authority.

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[163] The Commission reiterates that the retirement-based rate authority does not provide the Postal Service with additional revenue to offset its previous (or future) missed payments. The payments do not affect the amortization portion of the Postal Service's retirement costs.

[164] ANM *et al*. Comments at 29-33, 59; Mailer's Hub Comments at 6-7; ABA Comments at 1; NPPC *et al*. Comments at 13.

ANM *et al.* argue that the Commission should anticipate that price elasticity will increase beyond the Postal Service's elasticity estimates as rates rise. ANM *et al.* Comments at 32-33. Unlike the density-based rate authority, where the Postal Service can decide on a year-to-year basis how much of the additional authority to use, if the Postal Service opts to make use of the retirement-based rate authority, it is required to continue to use the available additional authority throughout the phase-in period, or else forfeit the remaining authority. *See* Section IV.C.1., *infra.* Although this limits the Postal Service's flexibility to respond to observed changes in price elasticity, rate increases under the retirement-based rate authority are limited to the 5-year phase-in period, after which there will be no further rate increases that may induce further volume loss. If price elasticity were to change abruptly, the Commission may review the components of the ratemaking system sooner than the scheduled 5-year review. Additionally, the Postal Service could, as the operator, make the judgment to forfeit the additional authority should the circumstances warrant.

ANM *et al.* also argue that mailers will respond to the amount of price authority granted to the Postal Service, rather than the amount by which the Postal Service ultimately raises rates. ANM *et al.* Comments at 32. The Commission expects that mailers will behave rationally based on the best information they have available. In a situation where elasticity has increased to the point that using additional rate authority would hurt the Postal Service, it is reasonable to expect that the Postal Service will choose not to use all of its available rate authority. If the Postal Service has signaled an intent on such grounds, it is also reasonable to expect that mailers will respond rationally to the Postal Service's actions.

Objections that the retirement-based rate authority will disincentivize efficiency. ANM *et al*. argue that the retirement-based rate authority does not provide the Postal Service with the correct incentives to improve efficiency because it increases rates in reaction to increases in costs. *See* ANM *et al*. Comments at 51.

The retirement-based rate authority does not increase rates in response to general increases in costs and does not reduce the Postal Service's incentive for efficiency because the Postal Service cannot directly decrease the amount of its unfunded retirement liabilities through improved efficiency. *See* Order No. 5337 at 62-63; Section V.C.1., *infra*. The Postal Service will need cost savings and efficiency gains to fully achieve financial health, and cost savings it reaps from increased efficiency in other areas do not affect the amount of retirement-based rate authority. *See* Section XIII.E.1., *infra.*

Objections that the retirement-based rate authority arbitrarily targets specific retirement costs. The Postal Service and NALC argue that the Commission's distinction between normal retirement costs and the amortization portion of the Postal Service's retirement obligations is arbitrary. Postal Service Comments at 17; NALC Comments at 2. APWU recommends that the Commission consider including normal costs as part of the retirement-based rate authority. APWU Comments at 4-5. The Postal Service states that although normal retirement costs depend on headcount, which is within the control of the Postal Service, normal costs fluctuate in response to the same OPM actuarial assumptions that drive changes in amortization costs. Postal Service Comments at 17 n.7. The Postal Service also points out that some of the influences on its headcount are also outside its control, citing as examples labor arbitration and the Postal Service's universal service obligation. *Id.*

The retirement-based rate authority targets amortization costs rather than normal costs due to the same distinction acknowledged by the Postal Service. It has more control over normal costs than over amortization costs. Amortization costs are based on prior year service costs (in addition to actuarial and financial assumptions) and thus are outside of postal management's operational control. Reducing current or future headcount, for example, does not directly affect the amount of the Postal Service's amortization costs. By contrast, normal costs—the cost of the future retirement benefits

earned by employees in the current year—while also influenced by actuarial and financial assumptions, are affected by current-year operational decisions, including headcount. The fact that actuarial and financial assumptions also factor in to the Postal Service's normal retirement costs does not eliminate this distinction between normal and amortization costs.[165]

Additional Commission analysis. The Commission reiterates its determinations that the Postal Service's retirement costs are a primary driver of its net losses and that the targeted amortization payments are outside the Postal Service's control. *See* Section V.B.2., *supra* (citing Order No. 5337 at 62, 89-90).

As previously stated above and in Order No. 5337, the GAO has attributed the Postal Service's financial instability to the statutorily mandated prefunding requirements,[166] and the Commission has previously found RHBF payments as a major factor in net losses from FY 2012 to FY 2016. Order No. 5337 at 89 (citing Order No. 4257 at 41). Additionally, as shown in Table V-1, the Commission notes that the PAEA was enacted at a time when the Postal Service was experiencing modest profits under the previous regulatory regime. In every year since the PAEA imposed new payment

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[165] The Commission also notes that the density-based rate authority provides increased rate authority to offset the expected increase in per-unit costs (including retirement costs) caused by the decline in mail density. Thus, in the case where growth of the Postal Service's delivery network is not accompanied by an equivalent growth in mail volume, the density-based rate authority ameliorates the Postal Service's concern that its obligation to serve its entire network puts exogenous upwards pressure on its headcount (and thus its normal retirement costs).

[166] *See* Order No. 5337 at 89 n.171; GAO 13-112 2 ("We have previously reported that USPS cannot be financially viable until Congress and USPS address the cash flow problems that limit its immediate prefunding capability while also addressing how to pay for the long-term cost of USPS's unfunded retiree health benefit liability"); U.S. Government Accountability Office, GAO-17-404T, U.S. Postal Service: Key Considerations for Restoring Fiscal Sustainability (Statement of Lori Rectanus, Director, Physical Infrastructure Issues) (2017), at 6, available at: *https://www.gao.gov/assets/690/682534.pdf* ("As previously discussed, USPS's unfunded liabilities and debt have become a large financial burden, increasing from 99 percent of USPS revenues at the end of fiscal year 2007 to 169 percent of revenues at the end of fiscal year 2016. These unfunded liabilities and debt—totaling about $121 billion at the end of fiscal year 2016—consist mostly of retiree health and pension benefit obligations for which USPS has not set aside sufficient funds to cover." (footnote omitted).

requirements for the newly established RHBF, revenue has not been adequate to cover the added costs, even in years when the Postal Service would have experienced net income but for the PAEA prefunding requirements (required by statute through 2016) and amortization payments (required by statute starting in 2017).

Table V-1

Net Loss With and Without PAEA-Imposed Expenses

Fiscal Year	Net Income (Loss) before PAEA mandated payments *($ in millions)*	Add: Statutory Prefunding to RHBF *($ in millions)*	Add: Amortization of unfunded RHBF obligation *($ in millions)*	Add: Amortization of unfunded CSRS obligation *($ in millions)*	Add: Amortization of unfunded FERS obligation *($ in millions)*	Total Net Income (Loss) *($ in millions)*
2006	$ 900					$ 900
2007	$ 3,216	8,358				$ (5,142)
2008	$ 2,794	5,600				$ (2,806)
2009	$ (2,394)	1,400				$ (3,794)
2010	$ (3,005)	5,500				$ (8,505)
2011	$ (5,067)	-				$ (5,067)
2012	$ (4,806)	11,100				$ (15,906)
2013	$ 623	5,600				$ (4,977)
2014	$ 192	5,700				$ (5,508)
2015	$ 881	5,700			241	$ (5,060)
2016	$ 457	5,800			248	$ (5,591)
2017	$ 871		955	1,741	917	$ (2,742)
2018	$ (700)		815	1,440	958	$ (3,913)
2019	$ (5,347)		789	1,617	1,060	$ (8,813)

Source: Please *see* Appendix A, Section II.B. for references to source data.

The Commission has also explained that the amount of the targeted amortization payments are calculated by OPM based largely on prior-year service costs. Order No. 5337 at 90. To elaborate, the amount the Postal Service is invoiced by OPM for its amortization payments is calculated based on the amount of the unfunded liability in the RHBF. For purposes of this calculation, the amount of the unfunded liability is reduced by the outstanding amounts of the missed payments. *See* August 10, 2017 Notice of

Supplemental Information. With that adjustment, the remaining unfunded liability subject to amortization is primarily the result of liability incurred in previous years for future retirees, which the Commission refers to as prior-year service costs.[167] Starting in 2017, however, the Postal Service was required to annually pay each year's service costs into the RHBF,[168] so since 2017 the amount of those costs no longer adds to the unfunded liability subject to amortization—if the Postal Service makes the payment, there is no additional unfunded liability, and if the Postal Service fails to make the payment, the amount of that payment will be deducted from the total unfunded liability before determining the amortization payment.[169] Accordingly, making changes to the size of its current workforce—the primary method the Postal Service has for controlling its retirement costs—would not in the near term affect the amount of its outstanding unfunded RHBF liabilities, and thus would not affect the amount it is invoiced by OPM for its amortization payments. At best, changing the size of its current and future workforce to reduce the amount of future normal costs could limit the growth of its unfunded liability, but would not affect the amount of unfunded liability already accrued.

The Postal Service similarly has no control over its amortization payments for FERS and CSRS. The Postal Service pays the normal costs of FERS but has defaulted on its amortization payments. The amortization payments consist solely of supplemental[170] payments for changes in liability due to actuarial re-evaluations. *See* Section V.B.1., *supra*. Reducing the size of its current workforce would thus have no

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[167] The amount of the unfunded liability subject to amortization also includes actuarial changes, financial returns on the balance of the RHBF, and the discount rate applied to the total liability. *See*, *e.g.*, Postal Service FY 2019 Form 10-K at 33.

[168] *See* Section V.B.1., *supra*.

[169] Instead, the missed payment remains as a past due balance. *See* August 10, 2017 Notice of Supplemental Information at 1-2.

[170] Additional installment payments are assessed when the prior and future contributions made by the Postal Service and its employees are inadequate to cover the benefits expected to be paid from the Postal Service's FERS account.

effect at all on the amount of the Postal Service's amortization payments for FERS. Similarly, CSRS which replaced FERS, has been frozen since 1987 and has a dwindling active employee population close to the end of their careers.[171] As such, the amount of its amortization payments are again dependent almost entirely on actuarial re-evaluations.

2. Methodological Objections to Retirement-Based Rate Authority

Objections that the retirement-based rate authority does not account for changes in the OPM invoice after the phase-in period. The Postal Service argues that the retirement-based rate authority formula does not provide an adjustment for the amount of the OPM invoice after the phase-in period. Postal Service Comments at 20.

The retirement-based rate authority is intended as a phased-in one-time increase in the rate base, rather than as an ongoing surcharge. The purpose of the phase-in period is to avoid putting an undue burden on mailers by applying a one-time increase of the full amount of the 5-year retirement-based rate authority. Because the inputs to the retirement-based rate authority change during the phase-in period, it is reasonable to adjust the annual retirement-based rate authority to match the new inputs while the phase-in period lasts. After the phase-in period, should the amount of the OPM invoice change, or mail volumes decline, the Postal Service is still only required to remit to OPM the actual amount of revenue collected as a result of the retirement-based rate authority.

It is also reasonable to not build in provisions for additional adjustments after the phase-in period because the Commission will revisit the retirement-based rate authority at least 5 years after implementation, and sooner if it appears it is not working as intended, or should the magnitude of the obligations change in either direction. This

[171] *See* Docket No. SS2018-1, Report to the Postal Regulatory Commission on Civil Service Retirement System Demographic and Salary Assumptions, May 16, 2018, at 3.

serves as an additional protection for mailers (and the Postal Service) and obviates the need for scheduled adjustments after the phase-in period.

Objections that the retirement-based rate authority does not fully compensate the Postal Service for the targeted retirement costs. The Postal Service claims that the retirement-based rate authority does not fully compensate it for the amortization portion of the identified retirement costs. Postal Service Comments at 16-17.

The retirement-based rate authority is not intended to provide full compensation. Instead, the formula calculates the revenue increase that would be required from all products (both Market Dominant and Competitive). The scope of the Commission's authority in the instant docket is limited to the Market Dominant rate system, and authorizing that percentage of increase on Market Dominant products will necessarily not recover the full amount of the identified retirement costs. This prevents Market Dominant mailers from being required to pay the entirety of the identified retirement costs. The Commission notes that the Postal Service is free to implement an equivalent rate increase on Competitive products and does not require additional rate authority to be granted by the Commission to do so, as long as the Competitive rate increase complies with all relevant statutory and regulatory requirements.

The amount of the retirement-based rate authority is determined based on actual, measured changes in the amount of the Postal Service's liability and actual, measured volume. This is consistent with the price cap, which bases rate authority on actual, measured changes in inflation, and the density-based rate authority, which is based on actual, measured changes in density. This consistent methodology has the substantial advantage of avoiding the need to predict future volumes and correct for inaccurate predictions. The advantage of avoiding the need to make predictions about volume outweighs the 1-year lag created by waiting to use actual, measured data.

Objections that the retirement-based rate authority does not account for $3.1 billion already included in the rate base. NPPC *et al.* argue that the retirement-based

rate authority should take into account the $3.1 billion per year added to the rate base in Docket No. R2005-1. NPPC *et al.* Comments at 44. Similarly, ANM *et al*. argue that RHB expenses should have always been compensated by postal rates. ANM *et al*. Comments at 51. Additionally, the Public Representative states that the Commission should determine whether the retirement-based rate authority is already provided for under the CPI-U price cap. PR Reply Comments at 21-22. Mailers Hub, by contrast, argues that last-minute changes in the prefunding schedule under the PAEA (compressing 40 years of prefunding payments into 10 years) suggest that little consideration was given at the time of the PAEA's enactment to whether the CPI-cap could generate sufficient revenue to cover the newly mandated retirement expenses. Mailers Hub Comments at 4-5.

The $3.1 billion added to the rate base in Docket No. R2005-1 was part of the pre-PAEA cost-of-service ratemaking system. The funds were required to be escrowed, but there was no requirement that the escrowed funds be spent in any particular way. After the PAEA passed, the escrow requirement was removed. Additionally, the PAEA imposed the new RHBF liability.

The transition to the PAEA was a change to a new ratemaking system, with the existing rate base (including the $3.1 billion from Docket No. R2005-1) as a starting point. The new ratemaking system was evaluated on its own terms, and using the data generated by experience under that system.[172] Accordingly, the question of how much of the pre-PAEA rate base was originally intended to cover retirement costs is not relevant to the Commission's finding that the current ratemaking system has not achieved the specified objectives, or to the Commission's modifications to the ratemaking system necessary to achieve the objectives.

[172] Congress, when modifying the retirement-related liabilities in the PAEA could have specified how any specific funds escrowed under the prior system would be utilized, but it did not do so.

Unlike the pre-PAEA ratemaking system, the current ratemaking system does not provide specific amounts of revenue to cover specific costs. Whether or not it was anticipated that the revenue raised under the current ratemaking system would be adequate to pay any particular cost is not relevant. The Commission has found the targeted retirement costs to be a driver of the Postal Service's inability to achieve net income, and it is therefore reasonable for the Commission's modifications to the current ratemaking system to address those costs.

Objections that the retirement-based rate authority does not cap the amount of additional rate authority. NPPC *et al.* object to the retirement-based rate authority on the grounds that it is excessive, fluctuates between years, and is not subject to any cap. NPPC *et al.* Comments at 42, 48. They state that a substantial drop in revenue would increase the amount of the retirement-based rate authority. *Id*. at 42.

It is only during the phase-in period that the retirement-based rate authority fluctuates, and it fluctuates only to the extent necessary to ensure that the Postal Service receives (as nearly as practicable) the full amount of rate authority at the end of the five years. While it is true that a substantial drop in Postal Service volume during the phase-in period would increase the amount of the retirement-based rate authority (in percentage terms) available in the remainder of the period, it is a trade-off that occurs due to protecting mailers by including a phase-in period. The Postal Service's obligation is denominated in dollars, and recovering the same amount of dollars from fewer pieces would require more rate authority per piece. After the phase-in period, mailers are no longer exposed to additional retirement-based rate authority under this rule.

Objections to the remittance requirement for the retirement-based rate authority. The Postal Service argues that requiring revenue collected under the retirement-based rate authority to be remitted towards its retirement liabilities prevents the Postal Service

from improving its liquidity and usurps the business discretion of Postal Service management. Postal Service Comments at 21.

The Public Representative agrees that remittance should not be required, stating that due to induced volume decline, the Postal Service would have no incentive to use the retirement-based rate authority. PR Comments at 32.

The purpose of the retirement-based rate authority is to improve the Postal Service's ability to achieve net income by making payments towards its unfunded liability, not to improve the Postal Service's liquidity. The remittance requirement helps prevent the retirement-based rate authority from imposing an undue burden on Market Dominant mailers by ensuring that the revenue raised under that authority actually goes towards paying down the Postal Service's unfunded liabilities. The retirement-based rate authority is a tool the Postal Service may use to raise revenue to remit towards its statutorily mandated payments, but the decision whether or not to make use of that authority to adjust rates remains within the business discretion of the Postal Service.

Comments on the formula for calculating the amount of revenue actually collected under the retirement-based rate authority. The Public Representative states that the Commission does not demonstrate or explain how the actual amount of additional revenue resulting from the retirement-based rate authority will be calculated. PR Comments at 25.

The Postal Service claims that the additional rate authority provided by Formula V-1 does not generate sufficient revenue to cover the remittance required under Formula V-3 because the formulas do not take into account induced volume decline.[173]

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[173] *See* Postal Service Comments at 22 and Appendix A at 1. The Postal Service's comments and Appendix refer to these as Formulas IV-1 and IV-3, consistent with how they were identified in Order No. 5337. In this document, they are identified as Formulas V-1 and V-3.

The Commission disagrees with the Postal Service's conclusion that the retirement-based rate authority provided by Formula V-1 does not generate sufficient revenue to cover the minimum required remittance.[174] The formula for calculating the amount of revenue generated by the retirement-based rate authority (and thus amount of the required remittance) is calculated by Formula V-3. This formula calculates the fraction of the previous year's rate base caused by all prior uses of retirement-based rate authority, and multiplies the fraction by the actual revenue of the previous year. Any induced volume decline caused by the higher rates will reduce the actual revenue used in the calculation of the required remittance.

The amount of revenue collected as a result of the retirement-based rate authority may be less than originally anticipated when the amount of retirement-based rate authority was calculated. However, during years 2 through 5 of the phase-in period, the formula accounts for the difference between the initial and subsequent revenue when determining the amount of retirement-based rate authority available in the next year. After the phase-in period ends, future declines in volume may continue to reduce the amount of revenue raised by the retirement-based rate authority, but the Postal Service will continue to only be required (for purposes of the retirement-based authority) to remit the amount collected.

The Postal Service suggests that instead of calculating the fraction of the rate base resulting from use of the retirement-based rate authority and then multiplying by actual revenue, the Commission should calculate the amount of revenue raised by this authority by estimating the amount of revenue the Postal Service hypothetically would

[174] The Commission notes that the minimum remittance requirement operates only in the context of the Postal Service's eligibility to receive the retirement-based rate authority. The Postal Service's statutory obligation to remit the full invoiced amount to OPM is not subject to Commission modification.

have raised absent the additional authority, and subtracting that estimate from actual revenue.[175]

An estimate of the hypothetical revenue the Postal Service would have raised absent the retirement-based rate authority would be a counterfactual approximation necessarily involving the price-elasticity of Market Dominant mail, and a complex iterative process not unlike that applied in pre-PAEA rate cases where the Commission would design rates to achieve a break-even revenue target. The Postal Service uses its own estimates in the technical appendix attached to its comments, which show wildly varying elasticities among different classes of Market Dominant mail, and among products within each class. *See* Postal Service Comments, Excel file "USPS 2020 RRA workbook," tab "Elasticity" (Technical Appendix). The Postal Service uses a volume-weighted average elasticity in the examples supporting its alternative proposal.

Any reliable estimate of the amount of revenue that hypothetically would have been raised absent the additional rate authority would require a class-by-class (and potentially a product-by-product) comparison of the amount of rate authority used to the price-elasticity of that class or product. Additionally, the Postal Service's proposed volume-weighted average does not account for complexity introduced by interactions between price and volume across different products (cross-price elasticities), where a price change for one product may affect the volume of another product. Even if these additional complexities were to be taken into account, the reliability of the estimate would depend entirely on the accuracy of the estimates for price-elasticities.

[175] Postal Service Comments at 20; *see* Postal Service Comments, Technical Appendix. The Postal Service alternatively suggests revising the amount of the retirement-based rate authority to reflect the anticipated difference between actual revenue and the estimate of revenue absent the additional authority. *See* Postal Service Comments, Technical Appendix.

In addition, while the Postal Service's analysis of potential counterfactual scenarios include examples that incorporate density-based rate authority resulting from volume declines induced by retirement-based rate authority, these scenarios do not include an estimate of this additional revenue after the final year of the phase-in period.[176] Because of the lagged effect of induced volume losses, additional density-based rate authority would occur after the phase-in of retirement-based rate authority. More significantly, the Postal Service's scenarios also do not include any estimates of the effect that induced volume losses would have on the costs of the Postal Service. If retirement-based rate authority results in fewer pieces of mail being sent, then the attributable cost of the mail that is not sent would not be incurred. When considering the offsetting revenue effects of the density-based rate authority and the cost reductions that would accompany such loss of volume, the Commission finds that the Postal Service's proposals to alter the retirement-based rate authority or the required remittance risk increasing net revenue by more than the payments it is designed to fund, to the detriment of users of Market Dominant products.

The Commission declines to adopt the Postal Service's alternative methodology. If the Postal Service wishes to rely on its own internal estimates of elasticity when deciding whether or not to make use of the retirement-based rate authority, the Governors retain that authority.

3. Objections Concerning Removal of Retirement-Based Rate Authority

Objections that the retirement-based rate authority should instead be implemented as a surcharge. ACMA recommends that the retirement-based rate

[176] *See* Postal Service Comments; Appendix A; and Excel file "USPS 2020 RRA workbook.xlsx."

authority be implemented as a surcharge that can be easily removed when Congress acts. ACMA Comments at 3-4.

In the event that the Commission later determines that the retirement-based rate authority should be removed from the rate base, the rate base can be reduced by the percentage specified in Formula V-2. This is identical in effect to removing a surcharge, and avoids the possibility of an indefinite surcharge in the event that Congress does not act.

Comments on clawing back the retirement-based rate authority after forfeiture. NPPC *et al.* argue that there should be an automatic claw-back if the Postal Service fails to make the required remittance to OPM. NPPC *et al.* Comments at 48.

The Public Representative recommends that the Commission clarify whether forfeiture is immediate or would occur only after further Commission review. PR Comments at 33.

In the event that the Postal Service fails to make the required remittance to OPM, the Commission anticipates that the determination of whether or not to claw-back the existing retirement-based rate authority will be heavily fact-dependent. Rather than try to predict all possible scenarios and decide in advance which should trigger an automatic claw-back provision, the Commission will instead make a determination based on the facts at hand in the unlikely event that the Postal Service avails itself of the retirement-based rate authority and fails to comply with its requirements.

D. Conclusion

Having considered the comments received on its proposal in Order No. 5337, the Commission concludes that the retirement-based rate authority will be an effective tool for raising additional revenue toward the targeted retirement amortization payments,

which the Commission has identified as one of the primary drivers of the Postal Service's net loss.

The Commission therefore implements the retirement-based rate authority as proposed in Order No. 5337, with a clarification as discussed in Section XII.C.2.[177]

[177] As discussed in that section, the requirement that the retirement-based rate authority be used in the first rate increase after it is available is clarified to exclude limited price changes that affect only one or two generally applicable price cells.

VI. PERFORMANCE-BASED RATE AUTHORITY

A. Introduction

The existing Market Dominant ratemaking system was unable to assure financial stability (including retaining earnings), maximize incentives to reduce costs and increase efficiency, and maintain service standards. *See* Order No. 4257 at 3-5, 274-275. In an effort to address these deficiencies, the Commission proposed to make available up to 1 percentage point of rate authority per class of mail per calendar year, conditioned on the Postal Service meeting or exceeding an operational efficiency-based standard and adhering to service standard quality criteria. *See* Order No. 4258 at 120. The Commission initially divided this 1 percentage point of performance-based rate authority between operational efficiency (0.75 percentage points), and service standards (0.25 percentage points). *See id.* The operational efficiency portion would be allocated if the average annual TFP growth over the most recent 5 years met or exceeded 0.606 percent. *See id.* The service standards portion would be allocated if all of the service standards (including the applicable business rules) for that class during the applicable year met or exceeded the service standards in place during the prior fiscal year on a nationwide or substantially nationwide basis. *See id.* at 120-121.

After consideration of the comments, the Commission simplified its approach in two ways. *See* Order No. 5337 at 149-150. First, rather than assign independent weights for operational efficiency and service standards, the Commission made the entire 1 percentage point of performance-based rate authority contingent on meeting both requirements. *See id.* at 149. Second, the Commission revised the TFP target: the Postal Service's TFP for the measured fiscal year must exceed the previous fiscal year to meet the operational efficiency-based requirement. *See id.* at 150.

The following discussion summarizes the comments received concerning the Commission's revised approach, provides analysis, and describes the resulting changes made to the proposed rules.

B. Comments

1. Overview

Multiple commenters oppose finalization of the rules relating to the performance-based rate authority.[178] In the alternative, some of these commenters suggest revisions to certain aspects of the final rules relating to the performance-based rate authority.[179] The Berkshire Company supports the finalization of the rules related

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[178] *See, e.g.*, ABA Comments at 13; ACI Comments at 3; ACMA Comments at 3; AF&PA Comments at 5-6; ANM *et al.* Comments at 61; Discover Comments at 1; eBay Comments at 4-5; Meredith Corporation Comments at 2; Mailers Hub at 5-8; NMA Comments at 8-9, 12; NPPC et al. Comments at 51-52, 78-79; NTU Comments at 2; PR Comments at 39-40; SBE Council Comments at 2.

Additionally, ANM *et al.* filed three declarations in support of their comments recommending that the Commission withdraw the rules relating to the performance-based rate authority. Expert Declaration of Robert D. Willig, PhD, In Support of Comments of the Alliance of Nonprofit Mailers, The Association for Postal Commerce, MPA - The Association of Magazine Media, The American Catalog Mailers Association, The Nonprofit Alliance, The Direct Marketing Association of Washington, The Envelope Manufacturers Association, and The Saturation Mailers Coalition, February 3, 2020, at ¶ 7 (Willig Decl.) (opining that the performance-based rate authority is "highly inconsistent with price cap theory," "poorly designed," "vulnerable to gainful counterproductive manipulation and fails to incentivize the Postal Service to maximize its productivity."); Expert Declaration of Kevin Neels and Nicholas Powers, February 3, 2020, at ¶¶ 55, 62 (Brattle Decl.) (opining that the performance-based rate authority is inconsistent with the traditional theory of price cap regulation and that the financial health justification put forth by the Commission is significantly flawed); Declaration of Robert Fisher: TFP Accuracy for Performance-based Rate Authority, February 3, 2020, at 2 (Fisher Decl.) (opining that "TFP is not a valid or accurate operational efficiency-based measurement for performance-based rate authority as currently configured").

Further, multiple commenters reiterate their opposition to the performance-based rate authority in their reply comments. *See, e.g.*, ABA Reply Comments at 1-2, 6-7; ANM *et al.* Reply Comments at 1-3, 25-29; ACMA Reply Comments at 2-4; NPPC *et al.* Reply Comments at 33-39; PR Reply Comments at 34. One commenter made its first filing, expressing its opposition to all forms of additional rate authority through its reply comments. C21 Reply Comments at 1-2, 5-7.

[179] *See, e.g.*, ABA Comments at 14 (suggesting to change: (1) the operational efficiency-based requirement to actual net productivity improvements since inception of the performance-based rate authority; and (2) the service standard-based requirement to actual service performance); ABA Reply Comments at 7 (same); AF&PA Comments at 5-6 (suggesting to develop: (1) a mechanism to validate that Postal Service management has fully leveraged all available tools to address cost and service issues prior to providing performance-based rate authority; (2) empirical criteria to define "efficiency" and "service;" and (3) a mechanism that would incentivize the Postal Service to align institutional costs with expected volume declines); ANM *et al.* Comments at 64-65, 82 (suggesting to change: (1) the amount of performance-based rate authority to correspond with future Postal Service capital needs; and (2) the performance-based rate authority to an "X-factor"); Meredith Corporation Comments at 2 (suggesting that any performance-based rate authority "must be tied to achieving future efficiencies that are not just

to the performance-based rate authority. Berkshire Co. Comments at 1. While generally supporting the provision of additional rate authority to the Postal Service to fund capital investments, APWU, NAPS, NPMHU, and the Postal Service suggest revising the performance-based rate authority rules to increase the likelihood that some amount of performance-based rate authority would be provided to the Postal Service.[180]

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marginal and are demonstrated through multi-year trends."); Mailers Hub Comments at 8 (suggesting that "[i]f the [C]ommission finds that service performance is lagging because the Postal Service's financial position inhibits it from doing what's necessary to achieve expected performance, the [C]ommission has the latitude to authorize reductions in services to align reasonable operating costs to *available* revenue.") (emphasis in original); NMA Comments at 12 (suggesting that the final workshare discount regulations and the Postal Service's ongoing cost cutting initiatives be given time to improve the situation prior to providing additional rate authority); NPPC *et al.* Comments at 59-71 (suggesting to: (1) change the operational efficiency-based requirement to actual net productivity improvements since inception of the performance-based rate authority; (2) reduce rate authority for failure to achieve either operational efficiency-based or service standard-based requirement; (3) sunset the performance-based rate authority after 5 years; (4) change the service standard-based requirement to actual service performance; and (5) create a transparent and public process for review of Postal Service changes to its business rules); NPPC *et al.* Reply Comments at 12-13, nn.26-27 (suggesting that the Commission exert increased authority over the Postal Service's cost reduction and investment decisions); NTU Comments at 2 (suggesting to ensure that the Postal Service is thoroughly measuring performance before establishing performance parameters); PR Comments at 40-45 (suggesting to change: (1) the amount of performance-based rate authority to correspond with future Postal Service capital needs; and (2) the operational efficiency-based requirement to multi-year TFP growth).

[180] APWU Comments at 5-12 (suggesting to replace the operational efficiency-based requirement with a capital investment plan and increase the amount of performance-based rate authority above 1 percentage point per annum); NAPS Comments at 2 (supporting the performance-based rate authority in principle as a "postage-for-performance" incentive mechanism but asserting that it "falls short"); NPMHU Comments at 1, 3-4 (supporting the performance-based rate authority but suggesting to independently allocate some amount for achieving the service standard-based requirement); Postal Service Comments at 29-31, 40 n.24 (suggesting to: (1) provide performance-based rate authority unconditionally for a period of time; (2) adjust the service standard-based requirement; (3) provide 0.25 percentage points of performance-based rate authority for independent achievement of the adjusted service standard-based requirement; or (4) provide partial credit for slowing the rate of TFP decline); Postal Service Reply Comments at 34-42 (reiterating suggestion to provide performance-based rate authority unconditionally for a period of time); *see* Postal Service Reply Comments, Appendix A, Declaration of A. Thomas Bozzo and Mark E. Meitzen, Christensen Associates, March 4, 2020, at 17 (Christensen Decl.) (opining that providing "a limited (but unconditional) amount of revenue towards a capital funding goal would be a more appropriate method than a TFP-linked price cap component.").

In the reply comments, some participants expressly oppose[181] the suggestions of other commenters.

2. Incentive Regulation

Asserting that the performance-based rate authority is unnecessary, inconsistent with, and/or in conflict with the theoretical principles of incentive regulation, multiple commenters urge the Commission to withdraw the performance-based rate authority.[182]

With respect to concerns of theoretical necessity, ABA, ANM *et al.*, and Meredith Corporation assert that the performance-based rate authority unnecessarily duplicates the existing price cap mechanism's inherent incentive to increase efficiency and reduce costs.[183] ABA, ANM *et al.*, and NPPC *et al.* contend that the existing system richly rewards the Postal Service for gains in TFP and that it is unexplained why giving an

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[181] ABA Reply Comments at 6-7 (opposing the suggestions of the Postal Service and the unions to provide additional rate authority to fund investments that are necessary to improve efficiency and service, and opposing the Postal Service's suggestion to provide performance-based rate authority unconditionally); ANM *et al.* Reply Comments at 27-29 (opposing the Postal Service's suggestion to provide performance-based rate authority unconditionally for 5 years); ACMA Reply Comments at 2-4 (opposing APWU's suggestion to replace the operational efficiency-based requirement with a capital investment plan); C21 Reply Comments at 2, 5 (opposing the suggestions of the Postal Service, Public Representative, and the unions to provide additional rate authority in any form); NPPC *et al.* Reply Comments at 33-39 (opposing the Postal Service's suggestions to: (1) provide performance-based rate authority unconditionally for a period of time; (2) adjust the service standard-based requirement; (3) provide 0.25 percentage points of performance-based rate authority for independent achievement of the adjusted service standard-based requirement; or (4) provide partial credit for slowing the rate of TFP decline); Postal Service Reply Comments at 37-41 (opposing ANM *et al.*'s suggestion to transform the performance-based rate authority to an "X-factor" and the suggestions by ABA and NPPC *et al.* to change the operational efficiency-based requirement to actual net productivity improvements since inception of the performance-based rate authority).

[182] *See* ABA Comments at 2, 13; ABA Reply Comments at 6-7; AF&PA Comments at 6; ANM *et al.* Comments at 61-68; ANM *et al.* Reply Comments at 25-29; Discover Comments at 15-16; Meredith Corporation Comments at 2; NMA Comments at 8-9, 12; NPPC *et al.* Comments at 51-52, 55; NPPC *et al.* Reply Comments at 35-36, 47-48.

[183] *See* ABA Comments at 2, 13; ABA Reply Comments at 6; ANM *et al.* Comments at 61 (citing Willig Decl. at ¶ 27 (opining that "the extra [reward of] 1percent of pricing authority [for any incremental improvement in productivity] 'is largely redundant and unnecessary.'")); ANM *et al.* Reply Comments at 28; Meredith Corporation Comments at 2.

additional reward through the performance-based rate authority would increase efficiency.[184]

With respect to concerns of theoretical consistency, ANM *et al.* assert that the performance-based rate authority "does not similarly provide an 'economically efficient connection between productivity gains, their financial benefits, and the cost of the investments needed to accomplish them'" and therefore there is no basis to conclude that the Postal Service will respond appropriately to it. ANM *et al.* Comments at 68 (quoting Willig Decl. at ¶ 32). ANM *et al.* contend that mailers would be better off if Postal Service productivity declined by 0.1 percent so that mailers could avoid the additional 1-percentage-point increase.[185] AF&PA contends that the performance-based rate authority is inconsistent with theory because there is no business model where a firm's cost control and efficiency measures translate into an ability to charge customers more. AF&PA Comments at 6.

With respect to concerns of theoretical contradictions, NMA and NPPC *et al.* assert that implementing the performance-based rate authority would be contrary to theory because it would weaken the Postal Service's existing incentive to reduce costs and increase efficiency.[186]

The Public Representative agrees with these commenters that the observed deficiencies are not due to a lack of incentive and maintains that the performance-based

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[184] *See* ABA Reply Comments at 6; ANM *et al.* Comments at 64, 68 (citing Brattle Decl. ¶ 56 (opining that "[i]f the Postal Service has failed to respond to [these inherent cost savings] incentives [under the current] price cap [system,] … it is not clear why the Postal Service needs an additional reward in order to motivate it to reduce costs,") or why it can be expected to respond to additional incentives beyond those it already faces.; NPPC *et al.* Comments at 55; NPPC *et al.* Reply Comments at 35-36.

[185] ANM *et al.* Comments at 62 (citing Willig Decl. at ¶ 27; Brattle Decl. ¶¶ 55, 59); *see* Willig Decl. ¶ 7 (opining that the performance-based rate authority is "highly inconsistent with price cap theory," "poorly designed," "vulnerable to gainful counterproductive manipulation and fails to incentivize the Postal Service to maximize its productivity."); Brattle Decl. ¶¶ 55, 59, 61 (opining that the performance-based rate authority is inconsistent with the traditional theory of price cap regulation).

[186] *See* NMA Comments at 9; NPPC *et al.* Comments at 12; NPPC *et al.* Reply Comments at 36.

rate authority should be withdrawn. PR Comments at 39-42. He asserts that due to long-standing financial duress, the Postal Service has operated under significant incentives to increase efficiency and does not require additional incentives to operate efficiently. *Id.* at 41. He adds that any incentives created by the performance-based rate authority will be inadequate to induce improvement, until the Postal Service achieves financial health. *Id.* at 42. Similarly, the Postal Service asserts that the Commission's analysis established that the underinvestment problem is due to insufficient capital rather than insufficient incentive. Postal Service Comments at 39.

3. Amount of Rate Authority

a. Method to Derive the Amount

The Public Representative, ANM *et al.*, and NPPC *et al.* disagree with the Commission's usage of historic capital investment data as reference points to derive the proposed amount of the performance-based rate authority (1 percentage point per annum).[187] The Public Representative asserts that this amount is not adequately justified because there has been no demonstration that returning net asset holdings to FY 2006 levels is the appropriate target and that 5 years is the appropriate time span to reach that target.[188] Additionally, NPPC *et al.* assert that the pre-PAEA level of capital investment is the improper starting point because the price cap system was intended to reduce the level of capital investment compared to the cost-of-service system and past examples of capital investment, such as the Flats Sequencing System (FSS), do not indicate that greater capital investment would improve performance. NPPC *et al.* Comments at 53-54. The Public Representative and NPPC *et al.* contend that the

[187] *See* PR Comments at 40-41; ANM *et al.* Comments at 64-65; NPPC *et al.* Comments at 54-55.

[188] PR Comments at 40; Initial Comments of the Public Representative, Refiled March 7, 2018, at 31 (2018 PR Comments).

Commission must explain how it analyzed the reference points to derive the amount of 1 percentage point per annum.[189]

The Public Representative and ANM *et al.* suggest that the amount of any performance-based rate authority be based on future Postal Service capital investment needs.[190] Similarly, NPPC *et al.* assert that the Commission incorrectly disclaims any effort to determine how much capital the Postal Service actually needs or review the Postal Service's capital investment decisions going forward.[191] By contrast, the Postal Service opposes the Commission making any projections or assumptions concerning the Postal Service's future capital expenditures, claiming that doing so would risk unduly influencing the Postal Service's business discretion as to its capital deployment. Postal Service Comments at 37.

b. Necessity of the Amount

ABA, ACMA, Discover, and NPPC *et al.* argue that the performance-based rate authority is unnecessary to generate revenue and fund investments that would improve the Postal Service's financial health.[192] ABA urges the Commission to "reject the arguments…that additional rate authority is necessary in advance to make the investments necessary to improve efficiency and service." ABA Reply Comments at 6 (footnote omitted). ACMA contends that the performance-based rate authority is

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[189] *See* PR Comments at 41; NPPC *et al.* Comments at 54 (quoting Order No. 5337 at 122).

[190] PR Comments at 41; ANM *et al.* Comments at 64-65 (citing Willig Decl. at ¶ 30); ANM *et al.* Reply Comments at 26.

[191] NPPC *et al.* Comments at 54 (citing Order No. 5337 at 121); *id.* at 54 n.60 (citing Order No. 5337 at 122).

[192] *See* ABA Reply Comments at 6; ACMA Comments at 3; ACMA Reply Comments at 2-3; Discover Comments at 6, 15; *see also* NPPC *et al.* Reply Comments at 34-35.

unnecessary to fund capital investment because the Postal Service can borrow the funds. ACMA Comments at 3; ACMA Reply Comments at 2-3.

Similarly, NPPC *et al.* assert that the Postal Service has ample cash-on-hand and available borrowing authority to fund investments and that a lack of retained earnings is insufficient to establish that additional rate authority is needed to fund investment. NPPC *et al.* Reply Comments at 34-35. They emphasize that the Postal Service had $8.9 billion in cash on hand and $4 billion in borrowing authority at the end of FY 2019.[193] Additionally, they echo their prior position that the performance-based rate authority is premised on the misconception that the Postal Service is entitled to retained earnings.[194]

Discover asserts that the justification for the performance-based rate authority is flawed because it relies on the unexplained assumption that a lack of capital investment has diminished service and/or volume and fails to identify any capital investments that would reduce costs, improve service, or increase volume. Discover Comments at 6, 15. Discover contends that the lack of capital investment is not a cause of the Postal Service's problems. *Id.* at 15. Further, Discover asserts that the justification for the performance-based rate authority is flawed because the Commission fails to address rising costs other than retirement obligations and actions the Postal Service can take to reduce costs under the existing system. *Id.* Discover asserts that the Commission fails

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[193] NPPC *et al.* Comments at 53 (citing Docket No. ACR2019, Library Reference USPS-FY19-17, December 27, 2019, at 11). The actual cash on hand figure reported by the Postal Service is $8.795 billion. Docket No. ACR2019, United States Postal Service *FY 2019 Annual Report to Congress*, December 27, 2019, at 11 (*FY 2019 Annual Report*), Library Reference USPS-FY19-17, December 27, 2019.

[194] *Compare* NPPC *et al.* Comments at 52-53, *with* Comments of the National Postal Policy Council, the Major Mailers Association, and the National Association of Presort Mailers, March 1, 2018, at 49-83 (2018 NPPC *et al.* Comments).

to consider if the Postal Service can reenter the financial health cycle under the existing system. *Id.* at 6.

Additionally, some commenters assert that the amount of the performance-based rate authority is too large.[195] NPPC *et al.* suggest that the Commission allow the performance-based rate authority to sunset at the 5-year review, rather than allow performance-based rate authority to be generated during the 5-year review. NPPC *et al.* Comments at 61. Similarly, ANM *et al.* assert that granting the performance-based rate authority in perpetuity runs counter to the Commission's theory that the performance-based rate authority is needed only until the Postal Service has reentered the financial health cycle. ANM *et al.* Comments at 68-69; *see* Brattle Decl. ¶ 64 (opining that "the liquidity problem identified by the Commission is only a temporary constraint created by the fact that the Postal Service has reached its borrowing limit" and "any additional rate authority awarded to address liquidity constraints need only be temporary"). NPPC *et al.* and eBay assert that the performance-based rate authority is flawed because prior usage is incorporated into the rate base and compounded. *See* NPPC *et al.* Comments at 12; eBay Comments at 5.

c. Sufficiency of the Amount

By contrast, other commenters assert that the amount of the performance-based rate authority is insufficient.[196] APWU asserts that the performance-based rate authority may not provide sufficient additional rate authority to return the Postal Service to the pre-PAEA level of capital investment. APWU Comments at 10. Additionally, APWU asserts that the pre-PAEA level of capital investment may not be the right level for the

[195] *See* ANM *et al.* Comments at 68-69; eBay Comments at 5; NPPC *et al.* Comments at 12, 61.

[196] *See* APWU Comments at 10-12; NAPS Comments at 2; PR Comments at 45-46; Postal Service Comments at 34.

future.[197] APWU opposes the 1-percentage-point limitation on the annual amount of the performance-based rate authority and argues that rate authority should be provided to raise revenues needed for the Postal Service's capital investment plan. APWU Comments at 12. NAPS characterizes the performance-based rate authority, even when combined with the other forms of rate authority, as insufficient to restore and maintain the financial integrity of the Postal Service. NAPS Comments at 2. The Public Representative asserts that the Postal Service's immediate capital needs remain unaddressed because the performance-based rate authority is designed "to put the Postal Service 'on the path to long-term stability'" and will not provide sufficient revenue to fund investment capital until the revenue accumulates for years. PR Comments at 46 (quoting Order No. 4258 at 53). He adds that the other forms of rate authority are aimed to address medium-term financial stability, which as defined by the Commission, also do not address immediate capital needs. *Id.* at 45-46. Similarly, the Postal Service contends that the other forms of rate authority are insufficient to generate retained earnings. Postal Service Comments at 34.

d. Potential Negative Effects

Multiple commenters assert that the performance-based rate authority would fail to allow the Postal Service to reenter the financial health cycle.[198] NPPC *et al.* express doubt that performance-based rate authority would allow the Postal Service to reenter the financial health cycle because they disagree that more revenue would lead to increased efficiency via wise investing. NPPC *et al.* Comments at 55. Additionally, they assert that history has shown that increased revenue can worsen TFP and past Postal

[197] APWU Comments at 10-11; *see* ACMA Reply Comments at 2 (agreeing with APWU on this point but disagreeing regarding the provision of additional rate authority to fund capital investments).

[198] NPPC *et al.* Comments at 55, 59-60; ANM *et al.* Comments at 66-69; PR Comments at 39-46; Postal Service Reply Comments at 34; APWU Comments at 5-6.

Service investments such as the FSS have not fulfilled their alleged promise of increased efficiency. *Id.* at 12, 55, 59-60.

APWU, ANM *et al.*, the Public Representative, and the Postal Service assert that the performance-based rate authority would fail to allow the Postal Service to reenter the financial health cycle based on their contention that any lack of funding for productivity-enhancing investments would not be addressed because the provision of the performance-based rate authority is contingent on the realization of productivity gains first.[199] As detailed below, while each of these commenters characterize this as a flaw, they recommend different regulatory approaches.

APWU asserts that "the requirement of positive TFP growth to get the performance-based rate authority puts the cart before the horse". APWU Comments at 5-6. APWU recommends that the Commission replace the TFP achievement requirement with a capital investment plan requirement. *Id.* at 5-11. ACMA opposes this recommendation and argues that the Postal Service should use its borrowing authority to make essential investments with a likely payoff. ACMA Reply Comments at 2-3.

ANM *et al.* contend that "the explanation offered by the Commission for why costs have not fallen more—namely, that the Postal Service has not been able to generate the needed investment funds—would not be addressed by this [performance-based rate authority] proposal." ANM *et al.* Comments at 69; *see* Brattle Decl. ¶ 66 (opining that "the Commission's proposal would not by itself enable the Postal Service 'to reenter the financial health cycle.' Instead, it would only reward the Postal Service once it had managed to get there on its own."). ANM *et al.* recommend that the performance-based rate authority be withdrawn, reiterating their position that the

[199] ANM *et al.* Comments at 69; PR Comments at 46; Postal Service Reply Comments at 34; APWU Comments at 5-6.

performance-based rate authority relies on the unexplained assumption that a lack of capital investment has resulted in the Postal Service being unable to restrain cost increases. ANM *et al.* Comments at 66-67; *see* Brattle Decl. ¶ 62 (opining that the financial health justification put forth by the Commission is significantly flawed). Additionally, ANM *et al.* assert that the Commission fails to explain how capital investment(s) would impact efficiency and volume. ANM *et al.* Comments at 67; *see* Brattle Decl. ¶ 63 (opining that "[t]he Commission fails to demonstrate that productivity improvements by the Postal Service have been hindered by a shortage of funds for productivity enhancing investments"). ANM *et al.* further express concern regarding the lack of any after-the-fact oversight to confirm that the revenue generated by the performance-based rate authority is used to fund productivity-enhancing investments. ANM *et al.* Comments at 68.

Arguing that designing the performance-based rate authority to function over the long term will frustrate its intent, the Public Representative also recommends withdrawing the performance-based rate authority. PR Comments at 39-40. He contends that the performance-based rate authority will not provide sufficient revenue to fund investment capital until after years of accumulation. *Id.* at 46. He asserts that the performance-based rate authority is misdirected at the symptoms of the Postal Service's past revenue shortfalls rather than the causes, which he identifies as the exogenous costs of the health benefit and pension funds requirements. *Id.* at 39; 2018 PR Comments at 31.

The Postal Service asserts that "[t]here is agreement that conditioning additional rate authority on productivity gains (the 'earn it first' approach) is irreconcilable with the Commission's stated rationale of providing additional liquidity in order to invest in productivity gains (the 'financial-health cycle' rationale)." Postal Service Reply Comments at 34 (emphasis omitted). Instead, the Postal Service recommends that the

performance-based rate authority be provided unconditionally until the 5-year review or until an activation point to be determined through a separate proceeding.[200]

Multiple commenters oppose this recommendation by the Postal Service.[201] Urging the Commission to "reject the Postal Service's proposal to further dilute" the performance-based rate authority, ABA characterizes the Postal Service's objection that conditioning additional rate authority on the Postal Service's performance impermissibly infringes on operational decision-making as "meritless." ABA Reply Comments at 7 (citing Postal Service Comments at 30). ANM *et al.* characterize several of the Postal Service's remarks as "grous[ing] that the Commission's proposal will make it harder for the Postal Service to *reduce* its service standards"[202] and assert that the Postal Service's statements demonstrate that it will continue to reduce its service standards without stricter regulation. *See* ANM *et al.* Reply Comments at 26-27 (quoting Postal Service Comments at 30-31, 43). Additionally, ANM *et al.* characterize several of the Postal Service's remarks as "mak[ing] clear that [the Postal Service] has become wholly uninterested in even feigning interest in a system that achieves Objective 1"[203] and assert that the Postal Service's statements demonstrate that it will not make operational decisions that would improve productivity in response to the performance-based rate authority. *See* ANM *et al.* Reply Comments at 27-28 (quoting Postal Service Comments at 32). NPPC *et al.* contend that the Postal Service contradicts itself by claiming that it needs unconditional revenue upfront to improve productivity and service quality and

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[200] *See id.* at 34-42; Postal Service Comments at 3; *see also* Christensen Decl. at 17 (opining that "[i]mplementing a K-factor to provide a limited (but unconditional) amount of revenue towards a capital funding goal would be a more appropriate method than a TFP-linked price cap component.").

[201] *See* ABA Reply Comments at 7; ANM *et al.* Reply Comments at 26-29; NPPC *et al.* Reply Comments at 33-39.

[202] ANM *et al.* Reply Comments at 26 (citing Postal Service Comments at 30) (emphasis in original).

[203] ANM *et al.* Reply Comments at 27.

also claiming that it does not need a price cap to incentivize cost reductions and efficiency improvements. *See* NPPC *et al.* Reply Comments at 34 (citing Postal Service Comments at 33, 56).

ABA, Discover, ACI, and Meredith Corporation assert that the provision of the performance-based rate authority to the Postal Service will negatively affect the system in various ways.[204] ABA questions whether the Postal Service will actually use the revenue generated from the performance-based rate authority to increase efficiency and reduce costs. ABA Comments at 7-8. ABA adds that without the Postal Service making meaningful cost reductions and efficiency improvements, the additional revenues will only give the appearance of stability and may actually be counterproductive over the long term. *Id.* Similarly, Discover asserts that the Commission fails to provide evidence to suggest that additional revenues would fund adequate capital investment to improve efficiency and service. Discover Comments at 6. ACI contends that provision of the performance-based rate authority would create rewards for the Postal Service "that invite further pricing distortions." ACI Comments at 3. Meredith Corporation asserts that the performance-based rate authority would reward the Postal Service for engaging in behavior that fails to adjust costs to economic realities. Meredith Corporation Comments at 2.

4. Operation of the Rate Authority Adjustment Mechanism

a. Progressive (Upward Adjusting) Mechanism

Multiple commenters assert that the performance-based rate authority is flawed because the incentive mechanism is entirely progressive—providing an upward

[204] ABA Comments at 7-8; ACI Comments at 3; Discover Comments at 6; Meredith Corporation Comments at 2.

adjustment to rate authority that is incorporated into the rate base—rather than partially or entirely regressive—providing a downward adjustment to rate authority.[205]

AF&PA characterize the proposed mechanism as improperly rewarding the Postal Service and penalizing mail users. AF&PA Comments at 6. NPPC *et al.* contend that the performance-based rate authority is counterproductive and arbitrary because the adjustments to rate authority are upward only, the failure to meet either the operational efficiency-based or service standard-based requirement merely results in the inability to be eligible for the performance-based rate authority for 1 year, and prior usage of rate authority is incorporated into the rate base. *See* NPPC *et al.* Comments at 12-13.

ANM *et al.*, eBay, and NPPC *et al.* suggest revising the performance-based rate authority to adjust rate authority downward. ANM *et al.* suggest replacing the performance-based rate authority with a downward adjusting productivity offset referred to as an "X-factor." *See* ANM *et al.* Comments at 81-82 (citing Brattle Decl. at ¶ 71). The Postal Service opposes this suggestion. Postal Service Reply Comments at 37-40. eBay asserts that the Commission errs by declining to reduce the available rate authority if efficiency or service decreases. eBay Comments at 5. NPPC *et al.* suggest that performance-based rate authority provided in prior years should be rescinded if TFP falls below the base year level or if service standards are reduced. NPPC *et al.* Comments at 59, 68.

b. Split Between Operational Efficiency and Service Standard-Based Requirements

Commenters express differing views on whether the achievement of the operational efficiency and service standard-based requirements should be linked to a

[205] *See* AF&PA Comments at 6; ANM *et al.* Comments at 82; eBay Comments at 5; NPPC *et al.* Comments at 12-13, 59, 68.

single amount of rate authority as proposed in Order No. 5337 or to separate amounts of rate authority as proposed in Order No. 4258.

The Postal Service and NPMHU support Order No. 4258's initial proposal to provide 0.25 percentage points for achievement of the service standard-based requirement and 0.75 percentage points for achievement of the operational efficiency-based requirement.[206] The Postal Service asserts that the service standard-based requirement "would impose an unwarranted gloss on Objective 3." Postal Service Comments at 31. The Postal Service argues that Order No. 4258's initial proposal is preferable because it would minimize the Commission's exercise of what the Postal Service characterizes as "unprecedented and undue influence over decisions that Congress expressly delegated to the Postal Service" under 39 U.S.C. § 3691. *Id.* at 30. Additionally, the Postal Service suggests that the Commission allow the performance-based rate authority to be earned for each class of mail for which service standards have not changed. *Id.* at 62.

By contrast, the Public Representative and NPPC *et al.* support Order No. 5337's revision to require the Postal Service to achieve both the operational efficiency-based requirement and the service standard-based requirement to be eligible for the entire 1 percentage point of performance-based rate authority. PR Comments at 42; NPPC *et al.* Comments at 52. NPPC *et al.* assert that "[t]he Postal Service overstates its argument" regarding 39 U.S.C. § 3691 and that this provision does not prohibit the Commission's proposed service standard-based requirement. NPPC *et al.* Reply Comments at 38. Additionally, NPPC *et al.* object to the Postal Service's suggestion to allow the performance-based rate authority to be earned for each class of mail for which service standards have not changed, asserting that doing so would create perverse

[206] *See* Postal Service Comments at 29-31; NPMHU Comments at 1, 4; *see also* Christensen Decl. at 18 (opining that "the separate component of the authority for maintaining service standards is arguably closer to regulatory practice than the combined authority proposed in Order No. 5337.").

incentives to devote Postal Service managerial attention to a certain class at the expense of others. *Id.* at 39.

5. Operational Efficiency-Based Requirement

a. Use of TFP as the Benchmark

Multiple commenters oppose using TFP as the benchmark for measuring the achievement of the operational efficiency-based requirement.[207]

ABA characterizes the other comments as "confirm[ing] that total factor productivity is a flawed metric" (ABA Reply Comments at 6) and states that "[n]o party supports using total factor productivity." *Id.* at 7 (citing Postal Service Comments at 39; Fisher Decl. at [31]). ACMA asserts that TFP is too weak an indicator to guide adjustments to the price cap. ACMA Comments at 3. AF&PA suggests developing empirical criteria to define "efficiency" to evaluate its achievement objectively. AF&PA Comments at 6. AF&PA suggests developing a mechanism to incentivize the Postal Service to align institutional costs with expected volume declines. *Id.* Stating that TFP growth can be affected by rapid volume decline, lack of capital expenditure, or when the Postal Service commits a lot of resources to fix a problem, APWU asserts that TFP growth is a flawed benchmark. APWU Comments at 6. APWU recommends that the Commission continue to address the issues surrounding TFP in other proceedings. *Id.* at 11. eBay asserts that the accuracy of TFP is debatable and can significantly vary. eBay Comments at 4.

ANM *et al.* assert that TFP is inaccurate for three primary reasons and overstates growth by about 1 percent per year from FY 2015 to FY 2018. ANM *et al.* Comments

[207] ABA Reply Comments at 6-7; ACMA Comments at 3; AF&PA Comments at 6-7; ANM *et al.* Comments at 8, 76-81; APWU Comments at 6; eBay Comments at 6; NPPC *et al.* Comments at 56; NPPC *et al.* Reply Comments at 36-37; Postal Service Comments at 39-40; Postal Service Reply Comments at 35.

at 7-8, 76; *see* Fisher Decl. at 2 (opining that "TFP is not a valid or accurate operational efficiency-based measurement for performance-based rate authority as currently configured"). First, ANM *et al.* assert that TFP can produce "false positive" results in which TFP increases, but productivity has not. ANM *et al.* Comments at 76 (citing Fisher Decl. at 2). ANM *et al.* attribute this inaccuracy to the inclusion of inappropriate factors and issues with the component values used to calculate TFP. ANM *et al.* Comments at 76-79 (citing Fisher Decl. at 2, 4, 8, 14, 18-19, 21). Second, ANM *et al.* assert that TFP is not transparent and cannot be independently validated. ANM *et al.* Comments at 76, 79-80 (citing Fisher Decl. at 2, 26, 28; Brattle Decl. at ¶¶ 68, 70). Third, ANM *et al.* assert that TFP's use of inputs that are beyond the control of the Postal Service renders it inappropriate to use as a basis for providing the performance-based rate authority. ANM *et al.* Comments at 76, 80-81 (citing Fisher Decl. at 2, 13, 31).

The Postal Service characterizes the comments received by the Commission as demonstrating agreement that "TFP is not a suitably precise metric on which to base a consequential award of rate authority."[208] The Postal Service asserts that productivity is an inappropriate and atypical requirement for performance-based rate authority. Postal Service Comments at 39. The Postal Service claims that TFP is too comprehensive, such that it detracts from its appropriateness to use as a measure. *Id.* Claiming that most performance-based rate authority benchmarks are specific (such as safety, service, or reliability-based), the Postal Service asserts that TFP is sensitive to exogenous factors (such as business cycles and net trends) and endogenous factors that are unrelated to operational performance (such as efficiency gains unrelated to capital expenditures, and capital expenditures unrelated to operations). *Id.*

[208] Postal Service Reply Comments at 35 (citing ACMA Comments at 3; ANM *et al.* Comments at 76-81; APWU Comments at 6-7; eBay Comments at 4; Postal Service Comments at 38-40).

NPPC *et al.* agree with the Postal Service that TFP should not be used as a benchmark for providing performance-based rate authority. NPPC *et al.* Reply Comments at 36-37. NPPC *et al.* assert that "[a] review of the comments indicates that almost no one thinks that the TFP criterion is either appropriate or likely to have the desired effect." *Id.* at 12 n.25. NPPC *et al.* question whether adding the TFP criterion and related reporting requirements would be consistent with Objective 6. NPPC *et al.* Comments at 20. NPPC *et al.* assert that TFP is an imperfect indicator because it does not account directly for changes in factor input prices and therefore excessive inflation in factor input prices (including wages) can increase TFP without costs decreasing. NPPC *et al.* Comments at 56; 2018 NPPC *et al.* Comments at 73. Asserting that using TFP as the benchmark incentivizes the Postal Service to shift costs to mailers, such as by imposing mail preparation requirements, NPPC *et al.* assert that the Commission must monitor the Postal Service pushing uncompensated costs on mailers.[209] NPPC *et al.* support using a controllable cost approach rather than TFP as a benchmark. NPPC *et al.* Comments at 57 n.64 (citing 2018 NPPC *et al.* Comments at 73). Observing that cost problems with Periodicals and flat-shaped mail remain unresolved and that labor costs remain above 75 percent of total postal costs and have risen as volume fell, NPPC *et al.* urge the Commission to exert increased authority over the Postal Service's cost-reduction and investment decisions. NPPC *et al.* Reply Comments at 12-13 nn.26-27.

[209] NPPC *et al.* Comments at 56 (citing United States Postal Service, Office of the Inspector General, Report No. MS-AR-11-006, Effects of Compliance Rules on Mailers, August 24, 2011, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2015/MS-AR-11-006.pdf* (MS-AR-11-006)); 2018 NPPC *et al.* Comments at 73.

b. Year-Over-Year Growth as the Target

Multiple commenters oppose setting the performance target for achievement of the operational efficiency-based requirement as exceeding the prior fiscal year's TFP.[210]

APWU, the Public Representative, the Postal Service, and NPPC *et al.* raise concerns that year-to-year changes in TFP growth would not produce useful information regarding whether the Postal Service is actually maximizing efficiency.[211] APWU and the Public Representative assert that year-over-year TFP growth is an inappropriate target because of the lag between expenditure and realization of productivity gains. APWU Comments at 10; PR Comments at 42-43. Similarly, the Postal Service asserts that efficiency improving investments affect TFP with variable and long lags. Postal Service Comments at 40. The Postal Service claims that a Postal Service response to a recession would not be fully reflected in TFP until recovery boosts workload. *Id.* NPPC *et al.* agree with the Postal Service that year-to-year changes in TFP growth are not particularly informative. NPPC *et al.* Comments at 57 (citing Docket No. ACR2019, Library Reference USPS-FY19-17 (*FY 2019 Annual Report*)); 2018 NPPC *et al.* Comments at 73.

ABA, ACI, Meredith Corporation, the Postal Service, and eBay argue that this target would send incorrect signals and/or create perverse incentives.[212] ABA asserts that using this target would allow the Postal Service to be eligible for the performance-based rate authority "even if its net productivity declined over the 5-year period." ABA Comments at 13. ACI asserts that the target would discourage maximization of Market

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[210] ABA Comments at 14; ACI Comments at 3; ANM *et al.* Comments at 65-75; APWU Comments at 10; eBay Comments at 4; Meredith Corporation Comments at 2; NPPC *et al.* Comments at 57-59; Postal Service Comments at 40; PR Comments at 39-46.

[211] *See* APWU Comments at 10; PR Comments at 42-43; Postal Service Comments at 40; NPPC *et al.* Comments at 57.

[212] ABA Comments at 14; ACI Comments at 3; eBay Comments at 4; Meredith Corporation Comments at 2; Postal Service Comments at 40.

Dominant productivity. ACI Comments at 3. Meredith Corporation asserts that this target allows for "easy manipulation of year-over-year productivity comparisons" in order to be eligible for the performance-based rate authority. Meredith Corporation Comments at 2. The Postal Service asserts that the proposed target of year-over-year TFP growth would be inconsistent with the goal of maximizing efficiency incentives and would perversely incentivize the Postal Service to spread TFP gains over multiple years. Postal Service Comments at 40. eBay objects to the year-over-year TFP growth target, characterizing it as awarding the Postal Service with extra rate authority for doing "virtually nothing." eBay Comments at 4.

Similarly, ANM *et al.* oppose using year-over-year TFP growth as the target, asserting that this target would be too low and would create incorrect incentives. ANM *et al.* Comments at 65-75. ANM *et al.* assert that the targets underlying the performance-based rate authority are set so low as to effectively authorize the provision of the 1 percent such that "[t]he 'performance-based' incentive is a misnomer." *Id.* at 69. Comparing the year-over-year TFP growth target with TFP growth over different historical periods (average annual TFP growth was 0.72 percent from 1990 through 2006, and 0.75 percent from 2007 through 2015), ANM *et al.* assert that the operational efficiency-based requirement would result in the Postal Service reaping a reward for TFP growth below these historical levels. *Id.* at 70-71 n.24.

ANM *et al.* argue that the target creates an incentive for counterproductive manipulation, to spread TFP gains over multiple years and thereby obtain the performance-based rate authority for multiple years. *Id.* at 65-66, 72-75; Willis Decl. ¶¶ 27-29; Brattle Decl. ¶¶ 59-61, 67. ANM *et al.* hypothesize that in a situation where the Postal Service is near the target, it might make a capital investment that would boost TFP in the short term (to reach the target) but that would be inefficient in the long term. ANM *et al.* Comments at 75 (citing Brattle Decl. ¶ 67). Observing that the performance-based rate authority does not differentiate between changes in TFP, other

than an increase over the prior fiscal year, ANM *et al.* assert that the operational efficiency-based requirement would incentivize the Postal Service to aim for low positive TFP growth contrary to Objective 1. ANM *et al.* Comments at 70-71. ANM *et al.* assert that mailers would be better off if Postal Service productivity declined by 0.1 percent so that mailers could avoid the additional 1-percentage-point increase. *Id.* at 62 (citing Willig Decl. at ¶ 27). ANM *et al.* assert that the performance-based rate authority "does not similarly provide an 'economically efficient connection between productivity gains, their financial benefits, and the cost of the investments needed to accomplish them'" and therefore there is no basis to conclude that the Postal Service will respond appropriately to the proposal. ANM *et al.* Comments at 68 (quoting Willig Decl. at ¶ 32).

c. Potential Alternative Target: Tiers of Achievement

The Postal Service and NPPC *et al.* debate the merits of introducing tiers of rewards. Postal Service Comments at 40; NPPC *et al.* Reply Comments at 37. The Postal Service contends that using year-over-year TFP growth as the target is flawed because the Postal Service would not receive any partial credit for controlling negative growth better than expected nor additional credit for exceeding the target. Postal Service Comments at 40. The Postal Service observes that record evidence concerning trends affecting TFP growth, the Postal Service's operational efficiency opportunities, and historic results tend to suggest that year-over-year TFP growth is an overly ambitious target.[213] NPPC *et al.* oppose the Postal Service's suggestion to provide partial credit for decreasing TFP results that are not as low as expected and express concern that doing so would allow for manipulation by the Postal Service's

[213] Postal Service Reply Comments at 40-41 (citing Northwest Postal Consulting (NWPC) for the Postal Regulatory Commission, Report 2, Comparison of Postal Service Productivity Measurement: Before and After PAEA Enactment, March 27, 2017, at 8-11 (NWPC Report 2); *see* Comments of the United States Postal Service, March 20, 2017, Appendix C (A&M Cost Report); United States Postal Service, USPS Annual Tables, FY 2019 TFP (Total Factor Productivity), February 27, 2020, Excel file "Table Annual 2019 Public.xlsx," tab "Tfp-52," column K).

management given the lack of transparency into "expectations." NPPC *et al.* Reply Comments at 37.

d. Potential Alternative Target: Multi-Year Growth

ABA, Meredith Corporation, NPPC *et al.*, and the Public Representative suggest changing the target to reflect multi-year trends of efficiency increases rather than year-to-year TFP growth,[214] to which the Postal Service objects. Postal Service Comments at 31-32.

While ABA and Meredith Corporation urge the Commission to withdraw the performance-based rate authority, they assert that a shift to actual net improvement in productivity since inception of the new authority would represent an improvement over the target proposed in Order No. 5337.[215] Similarly, while NPPC *et al.* and the Public Representative recommend that the Commission decline to adopt the performance-based rate authority, in the alternative, they prefer Order No. 4258's proposal to use the 5-year rolling average as the target instead of the year-over-year target proposed in Order No. 5337. NPPC *et al.* Comments at 51-52, 57-59; PR Comments at 39-42.

Reviewing the past history of TFP growth from FY 2013 through FY 2019, NPPC *et al.* assert that the target proposed in Order No. 5337 would allow the Postal Service to earn performance-based rate authority in the early year(s) and keep those gains as baked into the rate base, but then lose all of those TFP gains in later year(s). NPPC *et al.* Comments at 57. Therefore, NPPC *et al.* suggest that performance-based rate authority should not be provided unless TFP is cumulatively higher than when the new system is put into place. *Id.* at 59. NPPC *et al.* suggest using the 5-year rolling average

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[214] *See* ABA Comments at 14; ABA Reply Comments at 7; Meredith Corporation Comments at 2; NPPC *et al.* Comments at 57; PR Comments at 39-46.

[215] ABA Comments at 14; ABA Reply Comments at 7; Meredith Corporation Comments at 2.

for the TFP target, on an interim basis until a better metric is developed. *Id.* at 51-52, 57.

The Public Representative asserts that Order No. 5337's proposal to use a year-over-year target for TFP growth is inferior to Order No. 4258's proposal to use a 5-year rolling average method because TFP is designed to function over a lengthy period. PR Comments at 39-40. He states that the year-over-year target does not take into account the lag between productivity growth and innovations or short-term operating decisions. *Id.* at 42-43. He adds that year-over-year TFP growth is less reliable than the multi-year rolling average method because year-over-year growth may vary substantially and uses fewer data points. *Id.* at 43. Therefore, he suggests allowing a significantly longer period of 7 to 8 years to measure TFP growth. *Id.* He asserts that the Commission acknowledges these deficiencies and fails to adequately rebut them. *Id.* at 43-44 (quoting Order No. 5337 at 135). He asserts that although the year-over-year method may be marginally more straightforward than the multi-year rolling average method, the Commission's contention that the year-over-year method renders annual operational performance to be more visible does not justify its use over the multi-year rolling average method. *Id.* at 44. He asserts that visibility into annual operational performance can be obtained through reporting requirements; however, a multi-year lookback is needed to produce reliable measurement incentives for longer-term capital investments. *Id.* at 44-45. Overall, he asserts the change to the year-over-year method accounts for short-term productivity improvements rather than measuring efficiency. *Id.* at 45. Further, he hypothesizes that if the Postal Service generates revenue from the performance-based rate authority in the short-term, then the Postal Service might use the revenue to make longer-term capital investments that subsequently lower TFP for future years. *Id.* at 46.

The Postal Service opposes using multi-year TFP growth as the target, asserting that it is irrational to reward or punish the Postal Service based on TFP growth prior to the implementation of the rule. Postal Service Comments at 32.

6. Service Standard-Based Requirement

ACMA, AF&PA, Mailers Hub, NMA, and the Public Representative object to the requirement that the Postal Service meet or exceed the service standards in place during the prior fiscal year.[216] ACMA cautions that maintaining the Universal Service Obligation as volume continues to decline will lead to costs rising to prohibitive levels and eventual network collapse. ACMA Comments at 1. AF&PA suggests developing empirical criteria to define "service" to evaluate its achievement objectively. AF&PA Comments at 6. Mailers Hub opposes providing additional rate authority to incentivize the Postal Service to consistently achieve its service standards and asserts that the performance-based rate authority implies that the existing regulatory tools are insufficient to yield that result. Mailers Hub Comments at 8. Mailers Hub asserts that if the Commission finds that service performance is declining because the Postal Service's financial challenges inhibit it from taking the actions necessary to achieve the expected performance, the Commission should authorize reductions in service that would align operating costs with available revenue. *Id.* NMA characterizes the performance-based rate authority as a reward for the Postal Service not officially reducing published standards. NMA Comments at 8-9. The Public Representative asserts that the performance-based rate authority is misdirected at the symptoms of service problems rather than the causes, which he identifies as inadequate

[216] ACMA Comments at 1; AF&PA Comments at 6; Mailers Hub Comments at 8; NMA Comments at 8-9; PR Comments at 41.

capitalization. PR Comments at 41-42 (citing 2018 PR Comments at 36 (quoting Kwoka and Wilson Decl. at 15)).

Opposing the service standard-based requirement,[217] the Postal Service suggests that any diminution of service standards trigger a qualitative evaluation of:

> (1) whether the reduced service standards remain of 'high quality' for purposes of Objective 3; and (2) if the new service standards are not 'high quality,' whether the change, on balance, nonetheless furthers other Section 3622 criteria (*e.g.,* reducing costs and increasing efficiency (Objective 1)) that outweigh the impact on Objective 3.

Postal Service Comments at 43. NPPC *et al.* object and characterize the Postal Service as "seek[ing] to weaken [Order No. 5337's] already inadequate proposal [even] more." NPPC *et al.* Reply Comments at 38 (citing Postal Service Comments at 42-43).

ABA, eBay, and NPPC *et al.* suggest incorporating service performance achievement into the service standard-based requirement.[218] ABA asserts that providing performance-based authority even if the Postal Service fails to meet its published service standards is arbitrary and capricious. ABA Reply Comments at 7; ABA Comments at 14. eBay asserts that maintaining service standards without evaluating achievement lacks value. eBay Comments at 4. NPPC *et al.* suggest that the Commission base the provision and reduction of performance-based rate authority on the achievement of service standards (service performance results). NPPC *et al.* Comments at 62-65. NPPC *et al.* assert that not linking the provision of performance-based rate authority with service performance results fails to achieve Objective 3 and take into account Factors 1, 4, and 9. *Id.* at 12, 63-64. NPPC *et al.* assert that the annual compliance review process has been and will continue to be insufficient to

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[217] As summarized, Section VI.B.4.b., *supra*, the Postal Service provides suggestions that would affect the amount of rate authority earned or foregone by achievement such as: reducing the amount of rate authority earned by the achievement of this requirement (*see* Postal Service Comments at 30-31) and allowing rate authority to be earned on a class-by-class basis (*see id*. at 62).

[218] *See, e.g.*, ABA Comments at 14; ABA Reply Comments at 7; eBay Comments at 4; NPPC *et al.* Comments at 62-66.

address declining service and that a rate authority consequence must be imposed. *Id.* at 65-66.

NPPC *et al.* and the Postal Service debate the merits of introducing reporting requirements associated with changes to service standards. *Id.* at 12, 69-71; Postal Service Comments at 42. NPPC *et al.* support the inclusion of changes in the business rules as part of the evaluation of whether the service standards have been maintained and state that the Commission should have a process to assess such changes transparently so that mailers may evaluate such changes. NPPC *et al.* Comments at 12, 69-71. By contrast, asserting that the changes to the service standards are already transparent, the Postal Service argues that the certification requirement is an unnecessary administrative burden. Postal Service Comments at 42.

C. Commission Analysis of Comments

1. Overview

The Commission appreciates the commenters' efforts in preparing their critiques of the performance-based rate authority. Upon consideration of the comments received, the Commission declines to implement the proposed rules relating to performance-based rate authority at this time and will defer consideration of the related issues to a new rulemaking docket.

The existing Market Dominant ratemaking system did not achieve the PAEA's objectives during the 10 years following the PAEA's enactment. *See* Order No. 4257 at 3-5, 274-275. The Commission's findings were premised on the existing ratemaking system's inability to assure financial stability (including retaining earnings), maximize incentives to reduce costs and increase efficiency, and maintain service standards. *See id.* at 3-5, 274-275. During the PAEA era, the existing ratemaking system was

inadequate, which resulted in an accumulated deficit,[219] maximum use of the Postal Service's borrowing authority and a sharp decline in capital investments,[220] operational efficiency increases and cost reductions that were insufficient to achieve overall financial stability and/or retained earnings,[221] and reduction of the high quality service standards that were set in 2007. Order No. 4257 at 273.

The Commission's approach to designing a system that meets the PAEA's objectives in conjunction with each other is to make principled adjustments to the existing ratemaking system. The Commission makes principled adjustments to the existing price cap that targets two underlying drivers of the Postal Service's net losses that are largely outside of its direct control: (1) the increase in per-unit cost resulting from the decline in mail density for each fiscal year under final subpart D of 39 C.F.R. part 3030; and (2) the statutorily mandated amortization payments for particular retirement costs under final subpart E of 39 C.F.R. part 3030. This allows the Postal Service the opportunity to capture revenue to address these two underlying drivers of the Postal Service's near-term financial distress.

The Commission also provides additional rate authority of 2 percentage points per fiscal year for each non-compensatory class of mail and defines rate-setting criteria for non-compensatory products in classes for which overall class revenue exceeds overall class attributable cost under final subpart G of 39 C.F.R. part 3030. The additional 2 percentage points of rate authority made available for non-compensatory

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[219] *See id.* at 171-172 (describing how the consecutive net losses resulted in an accumulated deficit).

[220] The Postal Service lacks shareholders and instead must finance capital investments through revenue or through borrowing. Order No. 4258 at 48-49. Therefore, as consecutive years of net losses resulted in an accumulated deficit, the Postal Service relied heavily on its borrowing authority, deferred capital investments, and increased its cash reserves. *See id.* at 46-52.

[221] Order No. 4257 at 222, 274-275 (summarizing that while some cost reductions and efficiency gains were achieved post-PAEA, they were insufficient to achieve financial stability in the medium term and long term).

classes is aimed at narrowing the cost coverage gap over time and is not projected to produce positive returns within 5 years. *See* Order No. 5337 at 168-170. By taking an incremental approach to addressing these long-standing issues, the final rules are designed to ensure that the ratemaking system would not incentivize the Postal Service to *solely* raise rates to address non-compensatory classes and products.

In addition to providing new forms of rate authority and introducing rate-setting criteria, the Commission finalizes two other types of regulations. One type is directly aimed at maximizing the Postal Service's incentives to increase pricing efficiency, and the other type is designed to increase transparency into the Postal Service's efforts to increase efficiency and reduce costs. To address the inefficient pricing practices observed during the PAEA era, the Commission enhances its regulation of workshare discounts under final subpart J of 39 C.F.R. part 3030. To monitor the effects of all of the finalized regulatory changes, particularly with respect to planned and realized cost reductions, the Commission codifies additional reporting requirements in final 39 C.F.R. § 3050.55.

Based on the record in this proceeding, the Commission finds that it is neither necessary nor prudent to implement the proposed rules relating to performance-based rate authority at this juncture. The performance-based rate authority proposal was designed to maximize the incentives to increase efficiency and reduce costs while maintaining service standards by introducing a performance incentive mechanism.[222] Because the final rules adopted in this Order, which are directly aimed at preventing the

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[222] Performance-based regulation is a broad concept referring to a regulatory system that applies incentives to promote targeted behavior by the regulated entity. *See* William Zarakas, A New Face for PBR: Aligning Incentives in the Electric Utility System, PUB. UTILS. FORT., December 2017 (Zarakas), available at: *https://www.fortnightly.com/fortnightly/2017/12/new-face-pbr?authkey=e0a4230ee85eb602f123c1e633c0e5b5260f9bd3f297c094c055e7868e5a4589*. More specifically, a performance incentive mechanism (PIM), also referred to as a targeted performance incentive (TPI), is used by regulators to set a target for acceptable performance by the regulated entity for a specific area and attach a financial incentive to ensure compliance. *See id.*

Postal Service from succumbing to its near-term financial challenges, contain numerous safeguards in their design,[223] the Commission acknowledges that implementation of the performance-based rate authority proposal is not an immediate need. Moreover, as numerous commenters have highlighted potential issues with the design and implementation of the performance-based rate authority, further careful deliberation on whether, when, and how to introduce a performance incentive mechanism is warranted.

The aim of the Commission's approach in removing the performance-based rate authority from the final rules is to realign the existing system in a balanced, measured manner. To ensure that this realignment occurs and the objectives remain properly balanced until the next system review in 5 years or earlier if necessary, the Commission will initiate a separate rulemaking to consider a number of issues—most particularly the exact nature of what additional adjustments (if any) would be beneficial to the system's achievement of Objectives 1, 3, and 5.[224] The following considerations lead the Commission to decline to implement the performance-based rate authority at this time and defer consideration of related issues to a new rulemaking docket.

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[223] Particular discussion of how each of the three new forms of rate adjustment authority (the density rate authority, retirement obligation rate authority, and non-compensatory rate authority) are designed to account for such concerns appears in Section XIII.E.1., *infra*. Particular discussion of the nature and extent of the financial instability of the Postal Service appears in Section XIII.E.5., *infra*. Particular discussion of how the modified rate system is designed to enable the Postal Service to set rates that would be "just and reasonable"—neither a threat to the Postal Service's financial integrity nor excessive to ratepayers—appears in Section XIII E.8., *infra*.

[224] The discussion of the performance-based authority in prior orders and in this Order focuses on the most direct impacts regarding issues encapsulated under Objectives 1, 3, and 5. This focus should not be viewed as implying that the Commission is unaware of, or unconcerned with, the other objectives appearing in the PAEA. *See* NPPC *et al.* Comments at 10. The Commission remains cognizant of the need to balance all nine objectives with respect to the design of the ratemaking system. To promote clarity, the Commission provides a summary in Chapter XIII., *infra*, organized by objective, of how finalizing the other changes, and declining to finalize the performance-based rate authority at this time, are necessary to achieve the objectives of 39 U.S.C. § 3622(b) in conjunction with each other. Any changes that may be undertaken in the new rulemaking docket will also consider all of the objectives in conjunction with each other.

The final rules, even without the performance-based rate authority, introduce numerous changes to the existing ratemaking system simultaneously. These changes include the introduction of three new forms of rate adjustment authority that would allow the Postal Service to raise rates in excess of the existing annual limitation (the annual percentage change in the CPI-U). The deficiencies of the existing system are complex and necessarily require complex solutions that act in concert with each other. To mitigate against potential shocks and unintended consequences of introducing multiple complex changes simultaneously, the Commission finds it is prudent to tailor the focus of the final rules implemented at this time.[225]

Moreover, the Commission determines that it should exercise particular caution in introducing performance-based rate authority to the existing ratemaking system. As proposed in Order No. 5337, the performance-based rate authority interconnects complex, longer-term challenges concerning finances, operational efficiency, cost reductions, and service. While the theoretical literature and experiences of other regulators relating to incentive regulation may not exactly correspond to the Postal Service,[226] these sources tend to confirm that designing incentive based rate authority

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[225] *See, e.g.*, NPPC *et al.* Comments at 14 ("Given these many moving parts, it would be prudent for the Commission to move incrementally.").

[226] For instance, the Postal Service is unique in that it is a government agency and therefore "…has no shareholders and may not invest in stocks, bonds, or other financial instruments." Order No. 4258 at 48. Additionally, the Postal Service's borrowing capacity is restrained. *See* Order No. 4257 at 33 (describing the $15 billion limitation on borrowing imposed by 39 U.S.C. § 2005); Order No. 4258 at 49 (describing the Postal Service's use of its borrowing authority post-PAEA); FY 2019 Financial Analysis at 36 (explaining that as of FY 2019, the Postal Service has $4 billion in available borrowing authority.). Therefore, unlike private companies, the Postal Service must finance capital investments through revenue or using its nearly exhausted borrowing authority. *See* Order No. 4258 at 48-49.

should be done cautiously as implementing incentive regulation is complicated and may have unintended consequences.[227] Moreover, as reflected above, multiple commenters in this docket also have raised practical concerns with implementing the proposed versions of performance-based rate authority. Upon consideration of the record in this

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[227] *See* Synapse Energy Economics, Inc., Melissa Whited, Tim Woolf, & Alice Napoleon, Utility Performance Incentive Mechanisms: A Handbook for Regulators, Prepared for the Western Interstate Energy Board, March 9, 2015, at 13, available at: *https://www.synapse-energy.com/sites/default/files/Utility%20Performance%20Incentive%20Mechanisms%2014-098_0.pdf*, (describing the difficulties of establishing the right productivity factor when there are few comparable peer operators, the operator needs to replace aging infrastructure, the operator or the industry is in a period of rapid transition, and historical costs and practices are not a good indication of what future costs and practices will be); *id.* at 53-56 (describing potential pitfalls when designing performance incentive mechanisms such as providing disproportionate rewards or penalties, unintended consequences, regulatory burden, uncertainty, and gaming and manipulation by the regulated entity); Paul L. Joskow, Incentive Regulation and its Application to Electricity Networks, Review of Network Economics Vol. 7, Issue 4, at 547, 554 (Dec. 2008) (2008 Joskow), available at: *https://siliconflatirons.org/documents/initiatives/IRLEdaythree/Joskow_Incentive_Regulation.pdf*, ("… the implementation of price cap mechanisms is more complicated and their efficiency properties more difficult to evaluate than is often implied and places a significant information collection, auditing and analysis burden on regulators."); Paul L. Joskow, Incentive Regulation in Theory & Practice: Electricity Distribution & Transmission Networks, January 21, 2006, at 8-9 (2006 Joskow), available at: *https://economics.mit.edu/files/1181*, ("Some mechanisms can provide both good pricing and performance (cost, quality) incentives, but typically, the desire to get prices as well as performance incentives right creates another constraint that moves us further from first-best outcomes."); General Oversight of the U.S. Postal Service: Hearings Before the Subcomm. on the Postal Service of the H. Comm. on Gov't Reform, 105th Cong. 33-51 (1997) (statement of John E. Kwoka, Jr., Professor of Economics, George Washington University) (Kwoka Congressional Testimony) (opining that caution should be exercised in adjusting for past performance and describing other regulators' efforts to correct for errors in prior productivity calculations); Peter Navarro, The Simple Analytics of Performance-Based Ratemaking: A Guide for the PBR Regulator, 13 Yale J. on Reg. 105, 109 (1996) (Navarro), available at: *https://core.ac.uk/download/pdf/72838797.pdf* ("…PBR is neither good nor bad--but that application, design, and implementation make it so. We shall also argue that PBR is sufficiently flawed as a concept that would-be reformers should approach it with far less zeal and much more caution than is now being exhibited in many quarters."); Navarro at 110 ("…*a poorly designed PBR experiment can actually make the economic situation worse*.") (emphasis in original); Navarro at 125-144 (describing the potential pitfalls of setting the amount of revenue at stake too high or too low, the tradeoffs involved in selecting a progressive versus regressive mechanism for incentivizing efficiency gains and cost savings, and the difficulties in establishing a mechanism to link cost savings with maintaining quality); *Ass'n of Oil Pipe Lines v. FERC*, 83 F.3d 1424, 1437 (D.C. Cir. 1996) (*Oil Pipelines I*) (upholding the Federal Energy Regulatory Commission's price cap regulation for oil pipelines despite the lack of a productivity offset); *Time Warner Entertainment Co. v. FCC*, 56 F.3d 151, 173 (D.C. Cir. 1995) (upholding the Federal Communication Commission's price cap regulation for cable television despite the lack of a productivity offset).

proceeding, the Commission finds that it should engage in additional study before deciding whether, when, or how to introduce performance-based rate authority into the ratemaking system.

While multiple system designs could potentially satisfy the objectives of the PAEA in conjunction with each other, the Commission aims to produce a balanced system. In balancing the tradeoffs, the Commission finds that it is reasonable to focus on near-term issues first.[228] The performance-based rate authority is aimed at addressing longer-term challenges. *See* Order No. 5337 at 114-116; Order No. 4258 at 38-39, 53. While 39 U.S.C. § 3622(d)(3) requires that the Commission engage in rulemaking, subject to notice and opportunity for public comment, it also allows the Commission broad discretion with regard to determining which (if any), how, and when any regulatory changes may be adopted to achieve the objectives, in conjunction with each other.[229] In determining the timing or schedule of how to address the many challenges faced by the Postal Service, the Commission finds it prudent to address immediate term pricing and uncontrollable cost issues first and then consider the potential impact of imposing additional adjustments to the price cap that would further incentivize efficiency, cost reductions, and maintenance of service standards. While the

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[228] *See City of Las Vegas v. Lujan*, 891 F.2d 927, 935 (D.C. Cir. 1989) ("Since agencies have great discretion to treat a problem partially, we would not strike down the listing if it were a first step toward a complete solution"); *Nat'l Ass'n of Broads. v. FCC*, 740 F.2d 1190, 1210 (D.C. Cir. 1984) ("We have therefore recognized the reasonableness of the Commission's decision to engage in incremental rulemaking and to defer resolution of issues raised in a rulemaking even when those issues are 'related' to the main ones being considered.").

[229] *See* 39 U.S.C. § 3622(d)(3); *see also* NPPC *et al.* Reply Comments at 16 ("That the Commission 'may' modify the system to better achieve the Objectives does not mean that it *must* make changes." (emphasis in original)); *Envtl. Integrity Project v. McCarthy*, 139 F. Supp. 3d 25, (D.D.C. 2015) (withdrawing a proposed rule after a notice and comment period is subject to a more deferential standard of judicial review than a decision to issue a new rule or rescind an existing rule "because a decision that 'alters the regulatory status quo' requires 'more persuasive justification than does the decision to retain an existing rule' and "must also be guided by appropriate deference to an agency's discretion to set the 'timing and priorities of its regulatory agenda.'") (quoting *Williams Nat'l Gas Co. v. FERC*, 872 F.2d 438, 443 (D.C. Cir. 1989) and *WildEarth Guardians v. EPA*, 751 F.3d 649, 651 (D.C. Cir. 2014)).

Commission could opt to finalize such issues in a single rulemaking, the PAEA does not require it. Moreover, given the issues that require refinement, prudence counsels against it. Therefore, at this juncture, the Commission adopts a cautious approach with respect to adding a direct financial incentive (such as the addition of 1 percentage point of performance-based rate authority) contingent on year-over-year TFP growth and maintenance of existing service standards. This approach is further reinforced by the comments filed in this proceeding expressing widespread opposition to finalizing the performance-based rate authority as proposed at this time[230] and urging the Commission to conduct additional study prior to implementing this or another type of proposal.[231]

The Commission acknowledges that stakeholders may have concerns related to timing and certainty. Notice and comment rulemaking allows an agency, after consideration of comments, to choose to adopt or withdraw its proposals.[232] While implementing the additional 1 percentage point of performance-based rate authority now would provide more certainty, reasoned decision-making also requires the Commission to ensure that any changes to the existing ratemaking system are

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[230] *See* n.177, *supra*; *see also* ANM *et al.* Reply Comments at 29 ("More generally, however, the initial comments to Order No. 5337 show that even commenters with widely divergent opinions uniformly agree that the Commission's performance-based rate authority cannot stand and should not be enacted"); NPPC *et al.* Reply Comments at 36 ("The Commission should acknowledge that almost no one supports the *Revised NPRM's* proposed use of TFP as a partial basis for additional 'service performance' rate authority."); Postal Service Reply Comments at 34 ("Despite some unfounded criticisms, there is remarkable consensus that the proposed performance-based rate authority is problematic").

[231] *See* AF&PA Comments at 5-6 (suggesting to develop a mechanism to validate that Postal Service management has fully leveraged all available tools to address cost and service issues prior to providing performance-based rate authority); APWU Comments at 11 (suggesting that the Commission continue to address the issues surrounding TFP in other proceedings); NMA Comments at 12 (suggesting that the final workshare discount regulations and the Postal Service's ongoing cost cutting initiatives be given time to improve the situation prior to providing additional rate authority); NTU Comments at 2 (suggesting to ensure that the Postal Service is thoroughly measuring performance before establishing performance parameters).

[232] *See Long Island Care at Home, Ltd. v. Coke*, 551 U.S. 158, 175 (2007).

measured. At this juncture, withdrawing the rules relating to the performance-based rate authority and deferring these issues for further study represents the best procedural method to ensure that any changes that the Commission implements to the existing ratemaking system are measured. Doing so is also consistent with the Administrative Procedure Act, which requires the Commission to address significant public comments.[233]

The Commission finds that further study would produce useful information concerning a number of issues, including many raised in the comments. Because the Commission remains committed to exploring ways to enhance the regulatory system to promote longer-term financial stability, increased efficiency and cost reductions, while maintaining high quality service standards, the Commission intends to initiate a new rulemaking in the coming months. The Commission also commits to conducting such a proceeding via a notice and comment rulemaking to ensure that sufficient notice and opportunity for comment is given to all stakeholders.

2. Areas for Further Refinement in the New Rulemaking

The comments received in this docket have been instructive in highlighting key areas for additional study that will be analyzed in the new rulemaking, such as what amount(s) of rate authority(ies) should be put at stake (if any), and what benchmark(s) and incentive mechanism(s) should be used to incentivize desired behavior(s).

The Commission acknowledges that further analysis would be particularly helpful to determine whether additional incentives should be added to further enhance the ratemaking system. Multiple commenters express concerns that additional incentives may be unneeded and suggest differing regulatory approaches: stricter limitations on

[233] *See U.S. Postal Serv. v. Postal Reg. Comm'n*, 963 F.3d 137, 141 (D.C. Cir. 2020) (citing *Int'l Fabricare Inst. v. EPA*, 972 F.2d 384, 389 (D.C. Cir. 1992)).

rate increases to promote discipline by the Postal Service in containing costs[234] versus fewer limitations on rate increases to generate additional revenue to fund the Postal Service's operating needs and capital investments.[235] The Commission wishes to further explore whether connecting direct financial consequences with efficiency gains, cost reductions, and maintained service standards would benefit the ratemaking system, and if so, how to best design these potential measures.

Numerous commenters express concerns regarding the method used to approximate the amount of the financial incentive.[236] The Commission intends to explore whether there is a method that would better set the amount(s) of the financial consequence to enhance the incentives for the Postal Service to increase efficiency, reduce costs, and maintain high quality service standards in the current environment. The Commission finds that additional study would ensure that counterproductive outcomes do not occur and would better connect the change(s) in or level(s) of efficiency, cost reductions, and service standards with the financial incentive(s) at stake. The Commission also intends to further explore whether the amount(s) at stake would translate to an increase of rate authority(ies),[237] a reduction of rate authority(ies), a combination mechanism, or a surcharge(s).

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[234] *See, e.g.*, ABA Comments at 2, 13; ABA Reply Comments at 6; ANM *et al.* Comments at 61-68; ANM *et al.* Reply Comments at 28; Meredith Corporation Comments at 2; NPPC *et al.* Comments at 55; NPPC *et al.* Reply Comments at 35-36.

[235] *See, e.g.*, PR Comments at 39-42; Postal Service Comments at 39.

[236] *See, e.g.*, ANM *et al.* Comments at 64-69; APWU Comments at 10-12; eBay Comments at 5; NAPS Comments at 2; NPPC *et al.* Comments at 12, 54-55, 61; PR Comments at 40-46; Postal Service Comments at 34.

[237] Upward adjustments (such as a negative "X-factor") are not foreclosed by price cap theory. *See* Postal Service Reply Comments at 37-38; PR Reply Comments at 3 n.9; Willig Decl. at ¶ 12 n.5; *see also* Zarakas, *supra*.

Numerous commenters express particular concerns regarding the reliability, accuracy, and transparency of TFP.[238] The Commission intends to further explore whether TFP is an appropriate benchmark to use for the basis of connecting a direct financial incentive and how TFP (or an alternative) could be refined methodologically to produce sufficiently reliable, accurate, and transparent results. Observing that there have been some changes in the TFP methodology over the years and that TFP results have been revised after-the-fact on occasion,[239] the Commission intends to ensure that TFP, particularly if it is selected as a benchmark for provision of additional rate authority, is methodologically stable and sound. A critical step to enable this study of TFP will be to require the Postal Service to file the documentation and linked workpapers for its TFP methodology in the new rulemaking. Engaging in additional study will also somewhat mitigate the existing information asymmetry, particularly with respect to cost reductions, which tends to advantage the Postal Service (which has better information about the actual extent of achievable cost reductions) and disadvantage the ratepayers (who have less information on this issue).[240]

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[238] *See, e.g.*, ABA Reply Comments at 6-7; ACMA Comments at 3; AF&PA Comments at 6-7; ANM *et al.* Comments at 8, 76-81; APWU Comments at 6; eBay Comments at 6; NPPC *et al.* Comments at 56; NPPC *et al.* Reply Comments at 36-37; Postal Service Comments at 39-40; Postal Service Reply Comments at 35.

[239] *Compare, e.g.*, United States Postal Service, USPS Annual Tables, FY 2017 TFP (Total Factor Productivity), February 28, 2018, Excel file "table annual 2017 public (2017 cra).xlsx," tab "Tfp-52" (updating FY 2016 TFP result to 1.262), *with* United States Postal Service, USPS Annual Tables, FY 2016 TFP (Total Factor Productivity), March 1, 2017, Excel file "table annual 2016 public (2016 cra).xlsx," tab "Tfp-52" (reporting FY 2016 TFP result as 1.260). While the Postal Service did not provide an explanation for the updated FY 2016 TFP result, Commission analysis identified updated source data for FY 2016. Additional technical changes to the TFP are detailed in the NWPC paper provided by the Commission in conjunction with Order No. 5337. *See generally* NWPC Report 2.

[240] *See* Order No. 5337 at 224-226 (describing opportunities to improve transparency and reduce information asymmetries relating to cost reduction initiatives or explanations for significant changes in costs); *see also* 2008 Joskow, *supra* at 550-551 (observing that regulators have imperfect information relating to the operator's cost, quality, and demand attributes and that such information asymmetries favor the operator and may disadvantage customers).

This need for additional information and study is particularly applicable to exploring potential alternatives to using a TFP benchmark. While some parties have provided their general positions regarding potential alternatives, the record in this docket does not contain much detail regarding how to potentially operationalize an alternative to using TFP.[241] The new rulemaking will provide an opportunity for parties to focus on these potential alternatives (and others) and provide operationalization suggestions.

Numerous commenters have expressed particular concerns regarding the performance target for efficiency gains that would be connected with a direct financial consequence.[242] As proposed in Order No. 5337, the amount of performance-based rate authority provided for low positive TFP growth would not differ from the amount of performance-based rate authority provided for higher positive TFP growth. Similarly, the amount of performance-based rate authority would not differ along the spectrum of possible negative TFP growth results. In the new rulemaking, the Commission is interested in exploring whether this performance incentive mechanism can and should be refined to provide tiers of financial consequences based on particular achievements. This need for additional information and study is particularly applicable to exploring potential alternatives to using a single performance target derived from past performance and potentially shifting to an approach that would connect direct financial consequences with tiers of performance targets. With regard to the concerns regarding setting an achievable target,[243] the Commission intends for any incentive mechanism it may finalize to be effective; therefore, selection of an achievable target(s) will be

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[241] *See, e.g.*, ACMA Reply Comments at 2-4; AF&PA Comments at 5-6; APWU Comments at 5-11; NPPC *et al.* Reply Comments at 12-13.

[242] *See*, *e.g.*, ABA Comments at 14; ACI Comments at 3; ANM *et al.* Comments at 65-75; APWU Comments at 10; eBay Comments at 4; Meredith Corporation Comments at 2; NPPC *et al.* Comments at 57-59; Postal Service Comments at 40; PR Comments at 39-46.

[243] *See* Postal Service Comments at 40; NPPC *et al.* Reply Comments at 37.

explored in the new rulemaking.[244] The comments regarding the use of a shorter-term or longer-term measure of the change in TFP growth[245] raise important issues, and the Commission intends to further explore whether the target should be measured over the shorter-term or longer-term (or both) and whether any safeguards should be adopted to avoid perverse effects such as attaining occasional small, shorter-term gains at the expense of longer-term declines.

Some commenters take the position that the ratemaking system should introduce direct financial consequences with further degradation of the existing service standards. *See* NPMHU Comments at 1, 3-4. By contrast, other commenters oppose the introduction of such a mechanism because it would impose a large cost burden on the Postal Service and some users may not desire to pay extra to maintain existing service standards. *See* Mailers Hub Comments at 5, 8. The Commission will explore in the new rulemaking if introducing such a mechanism would enhance the system, and if so, how to calibrate that mechanism. To the extent that such a mechanism would enhance the ratemaking system's achievement of the objectives, the Commission disagrees with the Postal Service's new argument that introducing such a mechanism would be inconsistent with 39 U.S.C. § 3691.[246] Previously, the Commission proposed to

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[244] *See* Zarakas, *supra* (opining that performance targets set in performance-based regulation should be achievable because "setting unachievable targets, in effect, extracts any meaning from the incentive mechanism.").

[245] *See, e.g.,* ABA Comments at 14; ABA Reply Comments at 7; Meredith Corporation Comments at 2; NPPC *et al.* Comments at 57; PR Comments at 39-46; Postal Service Comments at 32.

[246] *See* Postal Service Comments at 30 (claiming that linking 1 percentage point of performance-based rate authority to maintenance of service standards is contrary to 39 U.S.C. § 3691); *see also* NPPC *et al.* Reply Comments at 38 (asserting that the Postal Service overstates its argument); Initial Comments of the United States Postal Service in Response to Order No. 4258, March 1, 2018, at 130 (2018 Postal Service Comments) (claiming that linking 0.25 percentage points of performance-based rate authority to maintenance of service standards is appropriately limited); Comments of the United States Postal Service, March 20, 2017, at 219 n.428 (2017 Postal Service Comments) ("Indeed, the Commission would always have the authority to fashion a prospective remedy to remedy any unlawful action by the Postal Service, which could include reduced pricing authority and the imposition of more burdensome regulation.").

introduce the service standard-based requirement as a necessary condition for availability of the performance-based rate authority as an effort to counterbalance the potential perverse incentives that might occur as a result of tying a financial incentive to operational efficiency gains and cost reductions. *See* Order No. 5337 at 142, 144; *see also* Order No. 4257 at 255. Because the Commission determines that additional examination is needed prior to codifying a performance incentive mechanism related to operational efficiency and that potential reductions in service standards may be linked with such a mechanism, such issues will be addressed in the new rulemaking.

These reasons also apply to the Commission's determination, at this juncture, not to partially codify its initial proposal in Order No. 4258 to provide 0.25 percentage points of rate authority based solely on the maintenance of existing service standards. Additionally, attempting to codify a portion of the performance-based rate authority conditioned solely on the service standard-based requirement, without having determined the final action related to any performance-based rate authority conditioned on an operational efficiency-based requirement, may disrupt the balancing of operational efficiency and cost-reduction goals.

Accordingly, the Commission finds that further refinement is warranted for these areas, and as a result, the Commission declines to implement its performance-based rate authority proposal at this time.

3. Analysis of Alternatives

The Commission declines to adopt the Postal Service's suggestion that the performance-based rate authority should be implemented now and that the operational efficiency and service standard-based requirements be deferred (effectively providing 1 percentage point of rate authority per annum unconditionally for a period of time). *See* Postal Service Comments at 29, 32-40; Postal Service Reply Comments at 36-37, 42. The Commission aims to ensure that the ratemaking system does not incentivize the

Postal Service to *solely* raise rates to respond to its challenges.[247] Declining to finalize the performance-based rate authority at this time further ensures that this outcome is avoided. The final rules are intended to encourage prudent pricing *and* operational decision-making by the Postal Service. This properly balances all of the objectives of the PAEA, which strive to achieve systemic benefits for both the Postal Service and its ratepayers. Tending to be more conservative with the provision of additional rate authority remains in the spirit of the PAEA given that, as a practical matter, ratepayers lack a means of recovery for a rate increase that results in overpayment to the Postal Service. *See* 39 U.S.C. § 3681 (prohibiting reimbursement for any amount paid pursuant to a rate later determined to be unlawful).

Similarly, the Public Representative's concern regarding immediate capital needs fails to consider the effect of the Commission's approach as a whole. *See* PR Comments at 45-46. The Postal Service has been funding its immediate capital commitments from its "operating activities and defaults or non-payment on certain retirement and retiree healthcare obligations." Postal Service FY 2019 Form 10-K at 40. Revenue collected from the Postal Service's use of the rate authority provided under the final rules based upon declining density and non-compensatory classes (in addition to the rate authority provided by the change in the CPI-U) can be used by the Postal Service to finance capital investments directly or indirectly (*e.g.*, reduce its debt and thereby increase its available borrowing authority, which could be used to fund capital

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[247] Allowing an operator to passthrough all of its capital investment expenditures to ratepayers, may have adverse consequences; an increased incentive to gold-plate and a diminished incentive to innovate. *See, e.g.*, *Nat'l Rural Telecom Ass'n v. FCC*, 988 F.2d 174, 178 (D.C. Cir. 1993) (describing perverse incentives under a rate-of-return regulatory system arising from allowing a firm to pass any cost along to ratepayers, including "'gold-plat[ing]'"—using equipment or services that are not justifiable in purely economic terms, especially when their use improves the lot of management (elegant offices, company jets, etc.).") (quoting *In the Matter of Policy & Rules Concerning Rates for Dominant Carriers*, 5 F.C.C. Rcd. 6786, 6853 n. 450 (1990)). This aim is consistent with the spirit of the PAEA's reforms to postal rate-setting. *See* H. Rep. No. 109-66, pt. 1, at 48 (2005) ("The [PRA-era cost-of-service] rate-setting process provides little or no incentive for the Postal Service to control its costs because all costs are ultimately passed through to the consumer regardless of how efficiently or inefficiently the Postal Service operates.").

investments). The Commission's principled adjustments to the existing price cap provide opportunities for the Postal Service to raise revenue that would somewhat offset these imminent financial pressures and allow the Postal Service to address capital needs that, while important, have been deferred to allow the Postal Service to continue to operate in the near-term.

The Commission also declines to defer implementation of the remaining final rules until the conclusion of the new rulemaking. The principled adjustments to the existing CPI-U price cap based on declining density and retirement obligations increase the amount of rate authority available to the Postal Service and target two underlying drivers of the Postal Service's net losses that are largely outside of its direct control, thereby realigning the existing price cap system. The principled adjustment providing 2 percentage points of rate authority per annum for non-compensatory classes of mail continues, by regulation, the Commission's ongoing approach to address long-standing issues concerning non-compensatory rates, which cumulatively threaten the financial integrity of the Postal Service. The enhanced regulation of workshare discounts formally requires the Postal Service to adhere to the Commission's past recommendations regarding the Postal Service's inefficient pricing practices. The additional reporting requirements are directly aimed at promoting transparency and accountability regarding the Postal Service's cost benefit analyses concerning planned and actual operational initiatives. None of these approaches are dependent on the outcome of the issues being examined in the new rulemaking.

The Commission does not find it is necessary to delay the finalization of the remaining forms of rate authority to coincide with the potential application of performance-based rate authority. The claim that the Postal Service's collection of increased revenue would lead to a decrease in TFP is based on correlation without any evidence of causation. *See* NPPC *et al.* Comments at 12, 55, 59-60. TFP cumulative growth was comparatively lower when the exigent surcharge was in place than

compared to other time periods.[248] Taken in isolation, this result might suggest that providing the Postal Service with an opportunity to generate additional revenue by raising rates might negatively affect the systemic achievement of Objective 1; however, the record contains evidence that other issues may have contributed to this result. NWPC opines that the Postal Service's decision to reduce its service standards (in an aggressive effort to reduce costs) negatively affected service performance, to which the Postal Service responded by diverting resources in a manner that decreased TFP cumulative growth.[249] NWPC's opinion tends to confirm the Commission's repeated concerns regarding the robustness of the Postal Service's analysis of its projected cost savings, efficiency gains, and service performance impacts. *See* Order No. 4257 at 201-203 (summarizing the Commission's past advice regarding the Postal Service's planned changes to its service standards and during the joint Periodicals Mail Study). The Commission maintains its position that the Postal Service must comprehensively analyze the costs and benefits of potential operational changes and the additional reporting requirements in the final rules at 39 C.F.R. § 3050.55 are directly aimed at addressing this past deficiency.

Moreover, delaying implementation of the remaining final rules until the issues related to the performance-based rate authority are resolved would deprive the

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[248] The exigent surcharge, which added 4.3 percent overall, was effective from January 26, 2014 (FY 2014 Quarter 2) through April 10, 2016 (FY 2016 Quarter 3). Docket No. R2013-11, Order Granting Exigent Price Increase, December 24, 2013, at 1, 193 (Order No. 1926); Docket No. R2013-11, Order on Removal of the Exigent Surcharge and Related Changes to the Mail Classification Schedule, March 29, 2016, at 1-2, 4-5 (Order No. 3186). Using updated TFP data provided in FY 2018, TFP cumulative growth from FYs 2014 through 2016 was 0.25 percent. *See* United States Postal Service, USPS Annual Tables, FY 2017 TFP (Total Factor Productivity), February 28, 2018, Excel file "table annual 2017 public (2017 cra).xlsx," tab "Tfp-52" (updating FY 2016 TFP result from 1.260 to 1.262). This growth rate is lower than most of the other time periods described by NWPC. NWPC Report 2 at 16-17. To clarify, NWPC calculated this rate as 0.04 percent using the most current TFP data available at the time of writing its report, which was finalized on March 27, 2017. *See id.*

[249] NWPC Report 2 at 17, 87-88; *see* Declaration of John Kwoka, March 20, 2017, at 18-19, 21 (2017 Kwoka Decl.).

ratemaking system of changes that are necessary for the achievement of the objectives in the near-term, and represent a significant improvement over the status-quo. Thus, from a purely practical perspective, the Commission has concerns that such an alternative may result in the ratemaking system continuing to fall further out of alignment with the objectives. The 10-year review period set by the PAEA could be considered longer than typical price cap regimes and the lack of a review and course-correction at the 4- or 5-year mark likely exacerbated the extent of the observed deficiencies.[250] The Commission acknowledges that attempting to realign the price cap system with the objectives, after over a decade of operation, presents complicated issues that may require further refinement. Therefore, in an effort to prioritize the near-term issues and engage in sufficient refinement of longer-term issues, the Commission will focus on issues related to the performance-based rate authority separately and finalizes the remainder of its proposal herein.

With regard to the comments reiterating issues with service performance, as previously explained, the Commission took into account the findings of Copenhagen Economics in deciding not to link the provision of performance-based rate authority with service performance results. *See* Order No. 5337 at 141-142. Generally, Copenhagen Economics found that "dynamic markets, such as the postal market, where user needs are changing over time and where the regulated operator's cost of providing a high

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[250] *See* Christensen Decl. at 6:

> Even if the PAEA price cap was properly calibrated at the beginning of the plan, with a formal (and not merely implied) determination that CPI – 0 was an appropriate calibration of the X factor at the time, a ten-year period without a mechanism to perform mid-course corrections is outside the realm of standard practice.

2017 Kwoka Decl. at 28-29 (opining that the 10-year period before the first review was unusually long, and thereby allowed for design defects and changed circumstances to contribute to the Postal Service's financial problems and inflict persistent harm on the Postal Service and its customers); *see also* Willig Decl. at ¶¶ 12, 14 (describing price cap plans as typically running for 4 to 5 years between adjustments).

quality of service is highly dependent on market developments" call for a cautious regulatory approach.[251] Where the postal operator is already under financial stress, the risk of regulatory failure associated with applying a penalty Q-factor[252] (downward adjustment to the rate authority based on service performance) is higher. *See* Copenhagen Economics Report at 78. Additionally, in an environment of declining volumes, "if, for example, the operator is instructed to provide a very high level of quality, then this will lead to even higher [unit] costs on top of those already caused by the volume decline."[253] Therefore, creating the right formulation for a service performance incentive will require a better understanding of the relationship between cost and quality of service. The Commission must balance Objective 3 in conjunction with Objective 1's cost-reduction component.

Additionally, the Commission recognizes that very few postal regulatory systems use a Q-factor at all. *See* Copenhagen Economics Report at 6 (describing that two

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[251] Copenhagen Economics, Postal Quality and Price Regulation, March 29, 2017, at 7 (Copenhagen Economics Report); *see id.* at 22 ("It can be particularly challenging to assess the benefits and costs of a change in service quality in settings where the market is in dynamic transition and user needs are changing over time.").

[252] Price cap plans may regulate service quality using a reward- or penalty-style "Q-factor." *See* David E. M. Sappington, Price Regulation and Incentives, December 2000, at 14-15, 51, available at: *http://regulationbodyofknowledge.org/wp-content/uploads/2013/03/Sappington_Price_Regulation_and.pdf*; Copenhagen Economics Report at 18 n.19.

[253] Copenhagen Economics Report at 24; *see* United States Postal Service, Office of Inspector General, Report No. 19XG013NO000-R20, U.S. Postal Service's Processing Network Optimization and Service Impacts, October 15, 2018, at 2, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2020/19XG013NO000-R20.pdf* (finding that "[g]enerally, management prioritized high-quality service above the financial health of the Postal Service and is making decisions daily to attempt to meet service performance goals that are significantly increasing costs[ ]"); Office of Inspector General, Report No. NO-AR-19-008, Assessment of the U.S. Postal Service's Service Performance and Costs, October 15, 2018, at 2, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2019/NO-AR-19-008.pdf* (NO-AR-19-008) (finding that "[w]hen the Postal Service's processes are not completed as designed or when delays occur, management can, and often does, take actions outside the normal process to keep the mail moving and meet service targets; however, these actions can result in additional costs[ ]").

countries presently use Q-factors under a price cap and that two countries have abandoned using Q-factors under a price cap).[254] With respect to the countries that used or use service performance benchmarks, the Commission observes that the scope of the products subject to the Universal Service Obligation (USO) in the United States is far broader than the scope of products of international postal operators subject to a similar obligation. *Compare* 39 U.S.C. §§ 403(a), 403(b)(2), 404(b), and 404(c), *with* Copenhagen Economics Report at 28. These experiences further confirm the Commission's cautious and measured approach to creating rules that would directly link service performance with rate authority at this time without further review and consideration.

D. Revisions to Proposed Rules

The Commission withdraws the proposed rules relating to performance-based rate authority. Accordingly, all text associated with and cross-references to these provisions are deleted from the final rules. *See* final 39 C.F.R. §§ 3030.101 (deleting definition of performance-based rate authority, adjusting subsequent paragraph letter designations, and conforming cross-reference); 3030.127(a) (deleting cross-reference and adjusting subsequent subparagraph number designations). In order to maintain the letter designations of the other subparts, final subpart F of 39 C.F.R. part 3030 is reserved.

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[254] Belgium and Portugal have used Q-factors as a part of their price caps for 14 years and 25 years, respectively. *See* Copenhagen Economics Report at 28. Italy used a Q-factor for nearly 20 years and stopped in 2015 once service consistently reached the targets imposed by the regulator, although fines for failure to meet targets remain in place. *See id.* at 32-38. The United Kingdom (UK) applied a Q-factor-type adjustment to the revenue cap for Royal Mail from 2003 through 2010 and formally stopped using this adjustment when it abandoned a revenue cap model altogether in 2012. *See id.* at 38-43. Both Italy and the UK still impose a financial penalty on their respective postal operators for failing to meet service quality standards. *See id.* at 38, 43.

However, the Commission codifies the two reporting changes relating to TFP and service standards, which affect final 39 C.F.R. §§ 3050.21(m), 3050.60, and 3055.2(c), as previously proposed.[255] As described below, finalizing these changes provides information that is helpful to the public and the Commission in monitoring the system. The information will be particularly helpful in the new rulemaking and the system review undertaken in 5 years.

First, final 39 C.F.R. § 3050.21(m) requires the provision of the input data and calculations used to produce the annual TFP estimates at the time of filing the Postal Service's ACR, which is due to be filed 90 days after the close of the fiscal year ending on September 30. Corresponding changes are finalized for existing § 3050.60: delete existing § 3050.60(e); modify the cross-reference appearing in existing § 3050.60(a); and redesignate existing § 3050.60(f) and (g) as final § 3050.60 (e) and (f), respectively. The Postal Service objects that TFP depends heavily on cost data in the Cost and Revenue Analysis (CRA) and International Cost and Revenue Analysis reports, both of which are filed with the Postal Service's ACR, and contends that it is not feasible to provide the TFP data at that same time. Postal Service Comments at 52. In response to a prior request, the Postal Service has provided the TFP data as early as two weeks after filing the Postal Service's ACR.[256] Therefore, revising the deadline to require the Postal Service to file TFP data along with the Postal Service's ACR is reasonable, and, on a case-by-case basis and with adequate justification, the Postal Service can seek reasonable and brief extensions of time in its efforts to provide the TFP data as close in

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[255] *See* Order No. 4258 at 73, Attachment A at 42; Order No. 5337 at 273-276, Attachment A at 66, 70-71.

[256] Docket No. ACR2018, Responses of The United States Postal Service to Questions 1-15, 17-50 of Chairman's Information Request No. 1, question 2, January 11, 2019 (providing all supporting workpapers for derivation of TFP for FY 2018). This information was sought by the Chairman, on behalf of the Commission, 1 week after filing of the Postal Service's ACR for FY 2018. Docket No. ACR2018, Chairman's Information Request No. 1, January 4, 2019, question 2.

time as possible to the filing of the Postal Service's ACR. Additionally, the Commission finds that the rule change, which would require the provision of the TFP data approximately 2 months earlier than the existing March 1 deadline, would improve the transparency of TFP to the public because it would facilitate the ability of commenters to incorporate assessments and analysis of changes in TFP into their comments on the Postal Service's ACR.[257]

Second, final 39 C.F.R. § 3055.2(c) adds a requirement that the Postal Service's ACR provide a description of and reason for any changes to the service standards (including relevant business rules), or certify that no changes have occurred. Asserting that the changes to the standards are already transparent, the Postal Service claims that the certification requirement is an unnecessary administrative burden. Postal Service Comments at 42. NPPC *et al.* indicate that more transparency surrounding service standard changes would be helpful to the public. *See* NPPC *et al.* Comments at 12, 69-71. In response to the specific question posed by NPPC *et al.* concerning how to access the most recent version of the business rules appearing in section 10, Appendix provided in the Postal Service's Service Performance Measurement (SPM) Plan (*see* NPPC *et al.* Comments at 70), the Commission observes that a more recent version of this document has been filed with the Commission.[258] The difficulty that this commenter encountered in tracking this information tends to suggest that requiring certification in the ACR would benefit the public. Further, the Commission observes that the Postal Service has included a footnote in past ACRs asserting that in the applicable fiscal year

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[257] Further, the predictability and transparency of the density formula are also increased because an input to the density formula is included in this earlier filing. *See* final 39 C.F.R. § 3030.161(d).

[258] *See* Docket No. PI2019-1, Library Reference USPS-LR-PI2019-1/1, May 21, 2019, file "iSPM RevPlan RED-LINE 52119.pdf" (May 20, 2019 Postal Service SPM Plan). Additionally, the Commission has provided standing instructions to the Postal Service regarding filing updates to its SPM Plan, on an as-needed basis. *See* Docket No. PI2018-2, Order Closing Docket, December 27, 2018, at 2 (Order No. 4945).

under review, "the Postal Service did not change market dominant product service standards for any class of mail on a nationwide or substantially nationwide basis."[259] Generally, the Commission allows the Postal Service to present the information as it sees appropriate and does not impose detailed form requirements; however, the purpose of requiring service standard information to be certified in the future is to ensure that the information will be reported in a manner that is clear, consistent, and useful to the public. Because the certification requirement improves transparency for the public by condensing information into a readily comprehensible, accessible, and public summary on an annual basis and does not appreciably increase the administrative burden, the Commission will codify final 39 C.F.R. § 3055.2(c).

[259] *E.g.*, Docket No. ACR2017, United States Postal Service *FY 2017 Annual Compliance Report*, December 29, 2017, at 49 n.39 (FY 2017 ACR); Docket No. ACR2018, United States Postal Service *FY 2018 Annual Compliance Report*, December 28, 2018, at 46 n.55 (FY 2018 ACR); Docket No. ACR2019, United States Postal Service *FY 2019 Annual Compliance Report*, December 29, 2019, at 38 n.37 (FY 2019 ACR).

VII. NON-COMPENSATORY PRODUCTS AND CLASSES

This section describes changes to the ratemaking system regarding non-compensatory products and classes. The Commission previously proposed rules for non-compensatory products and classes in Order Nos. 4258 and 5337. In Order No. 4258, the Commission proposed additional rate authority for non-compensatory classes and products to increase revenue and improve cost coverage. *See* Order No. 4258 at 77, 84-85. In Order No. 5337, the Commission revised its proposal such that the additional rate authority for non-compensatory classes be optional rather than mandatory and that the determination of whether a product or class is non-compensatory may be made outside of the Annual Compliance Review proceeding. *See* Order No. 5337 at 151. The following discussion summarizes the comments received concerning the Commission's revised proposed rules, provides analysis, and describes additional changes made to the proposed rules.

A. Non-Compensatory Products

1. Introduction

The Commission defines non-compensatory products as those products for which attributable costs exceed revenue. Order No. 4258 at 77. The Commission identified eight non-compensatory products in the FY 2019 ACD: (1) Periodicals In-County, (2) Periodicals Outside County, (3) USPS Marketing Mail Flats, (4) USPS Marketing Mail Parcels, (5) USPS Marketing Mail Carrier Route, (6) Inbound Letter Post, (7) Media Mail/Library Mail, and (8) Stamp Fulfillment Services. FY 2019 ACD at 2, 24-67. With the exception of the two Periodicals products, which will be addressed in Section VII.B., *infra*, all of these non-compensatory products are included within classes of mail for which the overall class revenue exceeds overall class attributable cost. This distinction is relevant because Market Dominant price increases are capped at the class

level, but the Postal Service has flexibility to vary product prices and price increases within each class.

In its evaluation of the ratemaking system, the Commission found that non-compensatory products are not reasonably or efficiently priced and therefore threaten the financial integrity of the Postal Service because revenue from these products fails to cover costs. *See* Order No. 4257 at 139-142, 235-236. To improve the cost coverage for non-compensatory products, the Commission proposed several modifications to the system. Order No. 4258 at 77.

First, the Commission proposed to define "non-compensatory products" as products for which attributable cost exceeds revenue, as determined by the most recent ACD. *Id*. The Commission also proposed to prohibit the reduction of rates for non-compensatory products. *Id*. In addition, the Commission proposed to require minimum product-level price increases for each non-compensatory product. *Id*. Under the proposal, whenever the Postal Service files a notice of rate adjustment applicable to any class of mail, it will be required to propose to increase the rate for any non-compensatory product within that class by a minimum of 2 percentage points above the percentage increase for the class. *Id*. This proposed rate increase would not create additional rate authority for the entire class and must comply with the other rate-setting criteria proposed by the Commission. *Id*.

After addressing any non-compensatory product(s), the Postal Service retains pricing flexibility with regard to use of the remaining authority under the price cap for that class. *Id*. The Commission explained that the proposal allows for continued achievement of Objective 4 (allowing the Postal Service pricing flexibility) while making changes necessary to achieve Objective 1 (maximize incentives to increase pricing efficiency) and Objective 8 (establishing and maintaining reasonable rates). *Id*. Moreover, the Commission noted that the price increase would maintain stability and predictability in rates as required by Objective 2. *Id*. at 78. The Commission reasoned

that, although the proposal does not mandate immediate full cost coverage for non-compensatory products, the proposal sought to narrow the coverage gap and move non-compensatory products toward full cost coverage over time. *Id*.

Commenters provided mixed responses to the proposal, with some commenters citing concerns that price increases will create a hardship on mailers who may move mail out of the system and others expressing concern that the proposal does not consider the Postal Service's failure to contain costs. *See* Order No. 5337 at 154-156 (summarizing comments).

Noting the need to increase revenue and its limited tools that directly affect costs, the Commission did not propose any substantive changes to its proposal. *Id.* at 156-157. However, the Commission revised its proposal so that determinations as to which products were non-compensatory could be made outside of the Annual Compliance Review proceedings. *Id*. at 151.

2. Comments

The Commission again received varied responses to its proposal, including discussions on potential volume declines, cost reductions, and recommended clarifications.

AF&PA agrees that the system should address the related financial consequences of non-compensatory products. AF&PA Comments at 7. However, AF&PA suggests caution in the approach to "catch up" the cost coverage of these products so that rate increases are so high as to push mailers to other alternatives. *Id*. As part of the solution, AF&PA expects the Postal Service to more closely examine opportunities to reduce its costs associated with delivering these products, and to accurately proportion its cost allocation to these products to ensure that current cost estimates are not overstated. *Id*.

ANM *et al*. ask that the Commission consider whether the proposal will "drive all this mail out of the system, and whether doing so is necessary to ensure the financial health of the Postal Service." ANM *et al*. Comments at 85. They observe that Postal Service operations have become more efficient as co-mailing has increased, and suggest that the Commission focus on designing a system that encourages this type of activity rather than focusing on squeezing revenue out of the remaining volume in USPS Marketing Mail Flats. *Id*. at 84-85.

ACMA asserts that rate increases of the magnitude contemplated in this docket, if implemented by the Postal Service, will cause volume declines and economic dislocations that go well beyond those suggested by the official elasticity estimates. ACMA Comments at 2. Repeating its comments from Docket No. ACR2019, ACMA explains that it would be detrimental to the viability of the overall postal system to continue to force higher rates on mail in the USPS Marketing Mail class that is less dense than the arbitrary thresholds of the Enhanced Carrier Route categories. *Id*. at 3; *see* ACMA Reply Comments at 1.

Mailers Hub comments that providing the Postal Service additional rate authority beyond what the CPI-based cap or other provisions may allow would improve cost coverage but states that lowering the attributable costs would have the same effect. Mailers Hub Comments at 9. In addition, Mailers Hub explains that, though the price sensitivity of most non-compensatory mail will be challenged by an additional 2-percent-per-year rate increase above the CPI cap, requiring that seems like the least that can be done. *Id*. Mailers Hub suggests that any additional rate authority should be confined to the class or product currently "underwater" and should be separate from, not offset by, decreases in the rate authority available to other products in the class. *Id*.

PSA states that the key to financial stability is "keeping mailbags full" and asserts that the price increases projected by the Commission in its proposal would result in significant volume declines. PSA Revised Comments at 6-7.

The Public Representative comments that the Commission's proposal for non-compensatory products in a compensatory class appears reasonable. PR Comments at 47. He explains that the Commission's proposed adjustments to the price cap for declines in volume density and exogenous retirement obligations, if properly structured, should give the Postal Service significant additional authority to increase prices for non-compensatory products. *Id*. at 48. Thus, the Public Representative states that he would support the proposal, provided the Postal Service is given enough additional price cap authority by the proposed adjustment for density declines and uncontrollable retirement obligations to raise prices by the amount that the Commission proposed to require. *Id.*; *see* PR Reply Comments at 34-35.

The Postal Service does not expressly support or oppose the proposal for non-compensatory products. However, it makes several observations. First, the Postal Service states that the text of proposed §§ 3030.220 and 3030.221 do not make clear that the rules for non-compensatory products are limited to classes for which overall class revenue exceeds overall class attributable cost. Postal Service Comments at 63 (citing Order No. 5337 at 163, Attachment A at 38). Second, the Postal Service suggests that prices set by the Universal Postal Union (UPU) should be excluded from the Commission's proposed rate-rebalancing rules for underwater products because it would not be rational to hold the Postal Service responsible for any lack of compliance. Postal Service Comments at 46. The Postal Service also suggests that prices set by the UPU be excluded from the price cap. *Id*.

3. Commission Analysis of Comments

The Commission shares the commenters' concern regarding potential volume declines and the need to focus on cost reductions. However, the issue of non-compensatory products is a complicated one. The Commission has previously stated that it has limited tools that directly affect costs, and the tools it has used have not eliminated the problem of non-compensatory products. Order No. 5337 at 156-157.

Thus, the Commission must consider competing concerns regarding price increases and balance them with the pressing need to increase revenue.

As an initial matter, cost coverage would further decline if revenue is not increased. *Id*. at 160. Gradual above-average price increases for non-compensatory products, along with cost reductions, will bring those products to full cost coverage over time and thereby achieve reasonable and efficient rates as envisioned by the PAEA. *Id*. at 163.

The proposed rules addressing non-compensatory products are designed to stop the trend of declining cost coverage for these products and move cost coverage toward 100 percent. *Id*. at 157-158. The Commission performed a scenario-based analysis to determine the appropriate level of price increases for non-compensatory products and found that price adjustments of this type are likely to have positive results on cost coverage. *Id*. at 158-161; *see* Order No. 4258 at 78-80. The Commission determined that the above-average price increase requirement is appropriate because it balances the need for mailers to pay reasonable rates (rates that do not threaten the financial integrity of the Postal Service) with the need for the Postal Service to reduce costs. Order No. 5337 at 161.

Moreover, the minimum product-level price increases are not so large to give the Postal Service the ability to address its financial challenges solely by raising rates. Regarding the proposed requirements for above-average price increases for non-compensatory products, commenters (specifically users of non-compensatory products) have consistently raised the specter of large volume losses and wholesale substitution to non-postal methods. The evidence provided on the record concerning the relationship between price and volume for all non-compensatory products has

consistently shown that price increases do not lead to large volume decreases.[260] The Commission will monitor the impact of the pricing requirements for non-compensatory products to ensure that these requirements do not have a direct and unexpected negative impact on overall contribution. If such results do occur, the Commission will take appropriate action (and may, if warranted, revisit portions of the ratemaking system sooner than the 5 year review). Similarly, the Commission will continue to expect and encourage the Postal Service to work to reduce costs.[261] The Commission will also continue to monitor the performance of these products, including volume and cost coverage trends in the Annual Compliance Review proceeding. Thus, the Commission does not make any substantive changes to the proposed rules.

The Commission declines to modify the rules such that the additional authority be confined to an individual product and be separate from decreases in the rate authority available to other products in the class, as suggested by Mailers Hub. The price cap is applied at the class level to allow for Postal Service pricing flexibility, and price cap changes are based on the volume and prices of all products within a class. Thus, there is no mechanism for providing additional authority to individual products. Furthermore, creating such a mechanism while imposing mandatory rate requirements would further restrict pricing flexibility, hindering the achievement of Objective 4.

In response to the Postal Service's suggestion for clarity, the Commission revises final §§ 3030.220 and 3030.221 to clarify that these rules apply to non-

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[260] *See* United States Postal Service, Econometric Estimates of Demand Elasticity for All Postal Products, FY 2019, January 21, 2020.

[261] The Postal Service recently agreed with several recommendations made by Postal Service OIG to reduce costs. *See* United States Postal Service, Office of Inspector General, Report No. 20-088-R20, Cost Reduction Initiatives for Mail Products, August 3, 2020, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2020/20-088-R20.pdf*.

compensatory products in compensatory classes. Non-compensatory products in non-compensatory classes are addressed in final § 3030.222.

In addition, the Commission modifies final § 3030.221 to exclude products where prices are not set by the Postal Service.[262] The exclusion is specifically limited to rates that are set by treaty obligation and does not extend to any product subject to UPU deliberations and to which the United States has the authority to establish self-declared rates.[263] The Commission acknowledges the difficulty with requiring rate increases where the Postal Service does not exercise complete control over the pricing and would be unable to unilaterally implement the remedy. Products covered under this exclusion would be determined by the Commission. The only Market Dominant product that met this definition in FY 2019 was the First-Class Mail inbound international product "Inbound Letter Post." *See* FY 2019 ACD at 52. The Commission continues to encourage the Postal Service to endeavor to improve the pricing of this product, in conjunction with the U.S. Department of State. *See id*. at 59. Should the Postal Service later gain control over these rates and the product is found non-compensatory, the mandatory price increase would apply. This change would not affect the Commission's compliance determination; thus, the Commission may still find these products to be non-compliant and order appropriate remedial action to resolve the non-compliance.

While the Postal Service also suggests that the Commission exclude from the price cap products where the Postal Service does not exercise complete control over the pricing, as discussed further in Section XII.C.4., these products remain on the Market Dominant product list and their prices remain subject to the price cap.

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[262] This exemption does not exempt these products from the price cap, but only the mandatory remedy for non-compensatory products.

[263] These are products where the Postal Service negotiates with foreign posts for rates higher than terminal dues, *e.g.*, Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators.

4. Revisions to Proposed Rules

The Commission adopts the proposed rules, modified as described below. The final rules incorporate several of the suggestions identified in the comments. However, the substance of the rules remains unchanged.

The Commission revises final §§ 3030.220 and 3030.221 to clarify that these rules apply to non-compensatory products in compensatory classes. The Commission also revises final § 3030.221 to exclude products where the Commission has determined that the Postal Service lacks independent authority to set rates.

B. Non-Compensatory Classes

1. Introduction

Non-compensatory classes are classes for which the costs of all products exceed the revenues of all products. The overall financial results of such classes are dominated by non-compensatory products. Like non-compensatory products, non-compensatory classes threaten the financial integrity of the Postal Service. Order No. 4257 at 274. However, non-compensatory classes create unique issues in a ratemaking system that limits price increases at the class level to the average change in CPI-U over the preceding 12 months. Order No. 4258 at 81. Cost coverage cannot improve unless the Postal Service is able to constrain class costs below the price cap level. *Id*.

Moreover, improved cost coverage for products within non-compensatory classes cannot be attained by rebalancing rates among products within such classes because increasing the rates for one product generally requires offsetting decreases to the rates for other products. *Id*. at 84; *see* Order No. 5337 at 164. In non-compensatory classes, there are usually no products with positive cost coverage against which such offsets can be made. Order No. 5337 at 164. For example, the Periodicals class has consistently

failed to cover its costs. FY 2019 ACD at 25. The Periodicals class is comprised of two products—In-County Periodicals and Outside County Periodicals—and each of those products is non-compensatory. *Id*. at 24.

In Order No. 4258, the Commission proposed modifications to the ratemaking system that will provide 2 percentage points of additional rate authority to non-compensatory classes in order to improve cost coverage. *See* Order No. 4258 at 84-85. The Commission proposed that the Postal Service, when seeking to raise rates for a non-compensatory class, must use all available rate authority for non-compensatory classes as part of the first generally applicable rate adjustment in a calendar year. *Id*. at 84. If there are any products within a non-compensatory class for which product-level revenue exceeds the product-level attributable cost, then prices for such products may only be increased up to the amount of the class average. *Id*. at 85. Moreover, the Commission proposed to prohibit the reduction of rates for non-compensatory products. *Id*.

The Commission reasoned that the requirement that the Postal Service increase the rates for any non-compensatory class by an additional 2 percentage points is appropriate because it balances the need for mailers to pay a more reasonable rate with the need for the Postal Service to achieve cost reductions and improvements in operational efficiency. *Id*. at 86. Without a change to the ratemaking system, the Commission found that non-compensatory classes would continue the trend of negative class contribution and continue to hinder the achievement of Objective 1 (maximize incentives to increase pricing efficiency), Objective 5 (assure adequate revenues, including retained earnings, to maintain financial stability), and Objective 8 (establish and maintain reasonable rates). *Id*. at 85. The Commission explained that the proposed solution sought to stop the trend of declining cost coverage and move toward full cost coverage over time. *Id*.

Some commenters supported the Commission's goal to improve cost coverage, while others cautioned the Commission regarding potential volume declines. *See* Order No. 5337 at 165-167 (summarizing comments). Several commenters proposed alternative solutions, such as utilizing exigent surcharge capability to provide additional revenue, instituting a one-time reset to collect rates as close as possible to estimated total costs, or providing the additional authority on a trial basis. *Id*. at 166-167.

After consideration of the comments, the Commission proposed that the 2 percentage points of additional rate authority for non-compensatory classes be optional. *Id.* at 168. The Commission stated that the Postal Service's caution about unknown effects appeared to be in alignment with other commenters. *Id*. at 172. Agreeing that the Postal Service is in the best position to "assess demand and other market forces," the Commission found that the Postal Service should have flexibility to determine if and when this additional authority should be used. *Id*. (quoting 2018 Postal Service Reply Comments at 31). As with non-compensatory products, the Commission also revised its proposal so that determinations as to which classes were non-compensatory could be made outside of Annual Compliance Review proceedings. Order No. 5337 at 173.

2. Comments

Similar to comments for non-compensatory products, the Commission received a variety of responses to its proposal for non-compensatory classes, including discussions regarding potential volume declines, alternative solutions, and clarifications as to certain aspects of the proposed rules.

ANM *et al*. state the change to the proposal, while welcome, ignores that the Postal Service's inefficient management is the root cause of this issue. ANM *et al*. Comments at 82. ANM *et al*. also assert that the proposal "fails to further Objective 1 of the PAEA by reducing incentives for the Postal [S]ervice to eliminate inefficiencies and reduce the costs of processing and delivering these products; the proposal violates

Objective 4 by limiting the Postal Service's pricing flexibility, hampering its ability to recognize the multiplier effect this type of mail can create; and the proposal ignores Factors 3 (impact of increases on mailers), 8 (value of the different kinds of mail entered into the system), and 11 (the educational, cultural, scientific, [or] informational [ECSI] value to the recipient of the mail matter)." *Id*. Further, ANM *et al*. assert that, in this context, the ability of the Postal Service to use its full authority is equivalent to a requirement that it do so. *Id*. at 83.

NMA states that postage increases of the sizes contemplated by the proposal will drive newspaper marketing and periodicals mail out of the system as newspaper mailers will have no option but to reduce their distribution or shift to more affordable alternatives. NMA Comments at 11. NMA concludes that the Postal Service must continue to engage in serious cost-cutting, just as many newspapers have had to do. *Id*. NMA describes the efforts of the Postal Service along with news publications to address operational problems and efficiencies. *Id*. at 11-12. NMA recommends that the Commission give these initiatives, along with the Commission's proposed worksharing requirements, a chance to improve matters before authorizing rate increases. *Id*. at 12.

C21 comments that the additional rate authority will "put further stress on what are in many ways the most vulnerable products in the system, imperiling the viability of many periodicals, catalogs, and more." C21 Reply Comments at 11. C21 states that postal pricing in the 1970s ignored the impact on periodicals and actively contributed to their demise. *Id*. C21 cautions that the same could happen again, and catalogs, periodicals, and other industry segments could be "killed off entirely." *Id*.

Meredith Corporation states that it strongly opposes the proposal. Meredith Corporation Comments at 1. It explains that imposing price increases will negatively impact business mail users and will impede the ability of mail with ECSI value to reach its readers. *Id*. at 2. Meredith Corporation also comments that making the additional authority optional provides little comfort because the Postal Service has shown no

restraint in using the rate authority provided by the Commission, and thus it must plan for price increases. *Id*. Meredith Corporation suggests that the Postal Service must be required to reduce its flats processing costs before it is allowed to charge any surcharges on underwater products or classes. *Id*. at 3.

NNA urges the Commission to recognize the impact of rate increases on: community newspapers that serve America's rural areas; the communities they serve; and the Postal Service's universal service mission. NNA Comments at 3. NNA provides that if the Commission has the discretion to remove the price cap and rearrange the rate system set out in the PAEA, it also has the discretion to give ECSI values sufficiently high weight to protect this mail, even if it allows some degree of non-compensatory mailing for the Periodicals class. *Id*. at 15. NNA suggests that if any pricing penalties are to be applied, the Commission owes it to the small newspapers of America to require more precise costing data than those which the In-Office Cost System (IOCS) and other sampling systems presently provide for this small mail subclass. *Id*. at 17.

The Public Representative states that the Commission's proposal is inadequate. PR Comments at 49. He explains that 2 percentage points would do very little to reduce the large negative contribution of Periodicals revenue. *Id*. The Public Representative explains that an increase of the price cap for the Periodicals class should allow for the recovery of costs and can be designed to balance the objectives of increased revenues with price stability and reasonableness. *Id*. at 50. He states that the Commission's proposal accords too much weight to stability and reasonableness and far too little weight to producing adequate revenue. *Id*.

The Public Representative continues to support a one-time reset of the price cap that would permit the Postal Service to collect rates as near as possible to estimated total costs. *Id*. at 49. The Public Representative asserts that when the Commission rejected his proposal, the Commission ignored his assertion that a multi-year phase-in

mechanism could be used to moderate the impact of an increase in the cap to cover costs. *Id*. at 50. He states that he also emphasized that his proposal did not relieve the Postal Service of its obligation to reduce costs; that statutory provisions recognize the special place of Periodicals in the postal system; that raising the price cap for Periodicals would not, by itself, raise prices for Periodicals; and that, if Periodicals require subsidization because of perceived societal benefits, such subsidies should come from taxpayers, not the Postal Service or other customers. *Id*. The Public Representative also asserts that the one-time reset is consistent with generally applicable price cap principles. PR Reply Comments at 27. He further recommends that questions from other commenters regarding the validity of costs be examined and addressed by the Commission. *Id*. at 28.

The Postal Service states that the Commission improved its proposal by making the additional authority optional rather than mandatory. Postal Service Comments at 1. The Postal Service suggests that the Commission clarify its intent regarding the availability of the rate authority because it appears that the Commission intends to make the authority available upon issuance of the final rule, yet the rules appear to require an announcement as a condition precedent to the rate authority's availability. *Id*. at 51 n.37.

3. Commission Analysis of Comments

The Commission acknowledges the concern regarding the potential effect of price increases on mailers and on mail volume. The Commission also acknowledges that reducing costs will improve cost coverage. The Commission further acknowledges that the Periodicals class, in particular, comprises mailpieces that offer ECSI value.

However, as discussed in Section VII.A.1., the Commission has limited tools that directly affect costs. The Commission will continue to encourage cost reductions and efficient operations. To date, however, cost-reduction and efficiency improvements

have not staunched the growing negative contribution caused by non-compensatory products. As previously discussed in this section, the trend of negative class contribution would continue if the Postal Service does not have access to additional pricing authority. *See* Section VII.B.1. The Commission proposed the 2-percentage-point increase because this amount moves prices toward full coverage. This amount also appropriately balances the goal of improving cost coverage with maintaining stability and predictability in rates. *See* Order No. 5337 at 168. By making the use of the additional authority optional, the Commission recognized that there are a significant number of cumulative changes to the ratemaking system and there may be unknown effects on volume and revenue if prices were to increase in these classes. *Id*. at 172.

To provide added flexibility, the Commission modifies final § 3030.222 such that the Postal Service may use the additional authority to generate unused rate adjustment authority.[264] This change also takes into consideration the assumption that the ability to use the additional authority is equivalent to a requirement. Making the additional authority bankable discourages the Postal Service from simply using it to avoid losing it. Rather, this change provides more incentive for the Postal Service to consider demand, ECSI value, and other market conditions before determining whether to use the additional authority.

The Commission declines to require more precise costing data in this proceeding that are specific to non-compensatory products.[265] The Commission adopted cost reporting requirements in an effort to improve flats transparency and analyzed the first

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[264] *See* Chapter XIV., *infra*. New unused rate authority generated by the non-compensatory class-based authority, if any, will be added to the total amount of banked authority, and will follow the existing operation of the rules governing banked authority, including the annual limitation on the use of banked authority per class and the expiration of unused banked authority. 39 U.S.C. § 3622(d)(2)(C).

[265] The Commission is adopting detailed cost reporting requirements for all Market Dominant classes and products as part of this rulemaking. The cost reporting requirements initiated by this proceeding are discussed, in general, in Chapter IX., *infra.*

set of data in response to these requirements in the FY 2019 ACD.[266] Commenters may request that a separate rulemaking proceeding be initiated if they believe improvements can be made over the current costing models and estimates.

The Commission also declines to institute a one-time rate reset, as proposed by the Public Representative. The Commission previously found that the one-time reset results in 35 to 40 percent in additional authority and prioritizes adequate revenue (Objective 5) over stability and reasonableness in rates (Objectives 2 and 8). Order No. 5337 at 171. Given the concern regarding the effect of price increases on mailers and mail volume, the Commission must fashion a solution that increases revenue while maintaining stability and predictability in rates. The Commission's proposal strikes an appropriate balance between maintaining stable and reasonable prices and producing improvements in cost coverage.

The Commission clarifies two aspects of the proposed rule. First, because the additional authority is optional, the Commission clarifies that the Postal Service is not required to use all available rate authority for non-compensatory classes as part of the first generally applicable rate adjustment.

Second, the Commission declines to modify the text of final § 3030.222 to clarify its intent regarding the availability of the rate authority. The proposed rules are clear that the additional authority would be made available upon the Commission's announcement. The Postal Service appears interested in learning when the authority would first be available once these rules are finalized. The Commission will require the Postal Service to file a notice by December 31, 2020, of its intent to use this available authority. This date is consistent with the determination date for the density- and retirement-based authority presented in this Order.

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[266] *See* Docket No. RM2018-1, Order Adopting Final Rules on Reporting Requirements Related to Flats, May 8, 2019 (Order No. 5086); FY 2019 ACD at 155-175.

4. Revisions to Proposed Rules

The Commission adopts the proposed rules, modified as described below. However, the substance of the rules remains unchanged. The Commission revises final § 3030.222 to permit the use of the additional authority to generate unused authority.

VIII. WORKSHARE DISCOUNTS

A. Introduction

As it relates to workshare discounts,[267] in Order No. 4258, the Commission determined that Objective 1's goal of pricing efficiency could be achieved when "prices adhere as closely as practicable" to ECP. Order No. 4258 at 87 (citing Order No. 4257 at 136). Under ECP, workshare discounts are equal to avoided costs and produce passthroughs equal to 100 percent. Order No. 4258 at 87-89.

The Commission identified and proposed to phase out the two practices impeding pricing efficiency: workshare discounts set substantially below avoided costs and workshare discounts set substantially above avoided costs. *Id*. at 93. In Order No. 4258, the Commission proposed the use of passthrough bands—ranges with upper and lower limits—in order to evaluate workshare discount compliance.[268] The bands were subject to a 3-year grace period, providing the Postal Service with time to bring workshare discounts in compliance with applicable ranges. *Id.* at 95.

In Order No. 5337, the Commission refined its initial approach by dispensing with the 3-year grace period and instead proposing an incremental path to bring existing workshare discounts closer to ECP. Order No. 5337 at 176. The revised approach prohibits workshare discounts that are equal to avoided cost from being changed (that is, set below or above avoided cost). *Id.* Moreover, the revised approach prohibits

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[267] A workshare discount is a discount that a mailer receives for additional preparation of a mailpiece, such as presorting, prebarcoding, handling, or transportation, and relieves the Postal Service of the cost of performing those activities. Order No. 4257 at 130; Order No. 4258 at 19; 39 U.S.C. § 3622(e)(1).

[268] The Commission's initial approach included percentage passthrough bands ranging from 75 percent to 125 percent for Periodicals and 85 percent to 115 percent for all other classes. *Id.*

workshare discounts that are below avoided cost from being reduced and workshare discounts that exceed avoided cost from being increased. *Id.*

Under this approach, compliance would still be determined in each ACD by identifying which workshare discounts during the previous fiscal year resulted in passthroughs that either exceeded 100 percent or fell below 85 percent (also referred to as the passthrough floor). *Id.* at 207. The Commission would also identify those workshare discounts that are equal to their avoided costs.[269]

In its next rate adjustment proceeding, the Postal Service would have several options to address any non-compliant workshare discounts identified in the most recent ACD or any discount being proposed in the rate adjustment proceeding that is low or excessive. *See id.* at 207-209.

In rate adjustment proceedings, the revised approach permits the Postal Service to propose to set a workshare discount below its avoided costs or above its avoided costs under certain circumstances. *Id.* at 207. A low workshare discount or an excessive workshare discount would be permitted if it was new, if it would represent an improvement of 20 percent over the existing workshare discount passthrough, or if it was set in accordance with a prior Commission order (via the proposed waiver process). *Id.* A low workshare discount would also be permitted if the proposed workshare discount would produce a passthrough of at least 85 percent. *Id.* Additionally, an excessive workshare discount would be permitted if it would be provided in connection with a subclass of mail (product), consisting exclusively of mail matter of educational, cultural, scientific, or informational (ECSI) value (39 U.S.C. § 3622(e)(2)(C)) and accompanied by certain information to ensure transparency. *Id.*

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[269] During its next rate adjustment proceeding, the Postal Service would not be able adjust a discount that the Commission identified in the most recent ACD as being equal to its avoided cost. *Id.*

As it relates to the waiver process, the Postal Service would have the opportunity to apply for a waiver for non-compliant workshare discounts via the Commission's proposed waiver process prior to a rate adjustment proceeding. *Id.* at 208-209. Under the existing ratemaking system, the Commission is unable to scrutinize in detail the Postal Service's claims regarding the statutory exceptions of 39 U.S.C. § 3622(e) prior to excessive workshare discounts going into effect due to the short timeframe for review of rate adjustment filings. *Id.* at 208. The waiver process allows the Postal Service to use the statutory exceptions of 39 U.S.C. § 3622(e), and also requires the Postal Service to submit the necessary data so that the Commission has the opportunity to analyze why the Postal Service is unable to set the discount consistent with or closer to ECP. *Id.* at 208-209. In addition, the use of one of the exceptions found in 39 U.S.C. § 3622(e) was expanded to include below-avoided-costs workshare discounts. *Id.* at 209.

The Commission received several comments on its rules related to worksharing as a result of Order No. 5337, which are discussed below. Following a discussion of the comments, the Commission provides its analysis of the comments and resulting revisions to the proposed rules.

B. Comments

1. Comments Supporting Commission's Revised Rules without Modifications

Greeting Card Association (GCA), Discover Financial Services (DFS), the Parcel Shippers Association (PSA), the News Media Alliance (NMA), and the Alliance of Nonprofit Mailers *et al.* (ANM *et al.*) support the Commission's revised rules related to worksharing.

GCA supports the Commission's waiver application process in proposed § 3030.286 stating that it would "relocate any disputes over justification for keeping a

noncompliant workshare discount to a pre-rate-adjustment timeframe." GCA Comments at 3-4 (footnote omitted).

DFS supports the Commission's focus on workshare discounts that result in passthroughs below 100 percent, indicating the Commission's proposal is a "positive step" toward ECP. Discover Comments at 16 n.5. DFS states that if the Commission's rules are "properly implemented, it should encourage the most efficient division of costs between the Postal Service and private industry, reducing the overall cost burden of the Postal Service." *Id.*

PSA supports the proposed regulations that establish a passthrough floor for workshare discounts. PSA Revised Comments at 8. PSA states that it has "long argued" workshare discounts should be set equal to avoided costs as it would "promote efficiency by ensuring that work is performed by the least cost provider." *Id.* PSA further states that when workshare discounts are set below avoided costs, it results in the Postal Service "maintaining an inappropriately large network" by performing work "that can be better performed by the private sector." *Id.* at 8-9.

NMA states that the Commission's worksharing proposals could help the Postal Service engage in "serious cost-cutting," by "encouraging the Postal Service to implement fully improvements in pricing efficiency and operations for Periodicals." NMA Comments at 11-12.

ANM *et al.* appear to support the Commission's revised rules related to worksharing when it states that "[t]he correct course of action is clear," and recommends the Commission "focus on those aspects of the proposed rule[s]—such as revisions to workshare discounts—that will actually lead to a more efficient and successful Postal Service." ANM *et al.* Reply Comments at 29.

2. Comments Recommending Modifications to the Commission's Revised Rules

Mailers Hub LLC (Mailers Hub), ABA, the National Postal Policy Council *et al.* (NPPC *et al.*), Pitney Bowes, Inc. (Pitney Bowes), and the Postal Service each recommend modifications to the Commission's revised rules. The suggested modifications fall into six categories: (1) the elimination of the 85 percent passthrough floor (proposed § 3030.284(e));[270] (2) the inclusion of an 85 percent passthrough floor as part of the waiver application process (proposed § 3030.286);[271] (3) the additional flexibility for below-avoided-costs workshare discounts (proposed § 3030.282);[272] (4) the expansion of an exception to include below-avoided-costs workshare discounts (proposed § 3030.286(c)(7));[273] (5) the consideration of pending cost avoidance methodology dockets; and (6) exceptions related to mail matter with ECSI value (proposed § 3030.283(e)).[274]

a. Elimination of Passthrough Floor

ABA, NPPC *et al.,* and Pitney Bowes recommend the elimination of the 85 percent passthrough floor as proposed in § 3030.284(e). *See* Order No. 5337, Attachment A at 51.

In general, ABA supports the Commission's revised rules related to worksharing and notes that the Commission made "positive changes to workshare pricing," that "meaningfully incentivize[d] efficiency and cost reductions" by the Postal Service. ABA Comments at 1, 2, 14, 15. However, ABA states that the 85 percent passthrough floor

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[270] Order No. 5337, Attachment A at 51.

[271] *Id.* Attachment A at 53-57.

[272] *Id.* Attachment A at 49-50.

[273] *Id.* Attachment A at 55-56.

[274] *See* 39 U.S.C. § 3622(e)(2)(C); *see also* Order No. 5337, Attachment A at 51.

for discounts below avoided costs is unnecessary and that "[i]t risks frustrating the Commission's stated intent to encourage incremental improvement in pricing efficiency…by always moving workshare discounts closer to 100 percent." *Id.* at 15. ABA further states that the passthrough floor would "cure the worst abuses of passthroughs set below avoided costs," but would "likely result in the systematic understatement of many workshare discounts." *Id.* at 15-16. In its reply comments, ABA reiterates its concern that the 85 percent passthrough floor represents a "standalone safe harbor." ABA Reply Comments at 2. ABA notes its and other commenters' position that the passthrough floor "will frustrate the Commission's stated intent to move workshare discounts closer to full [ECP] rates." *Id.*

NPPC *et al.* contend that the Commission's revised rules are "too permissive," and could "allow the Postal Service to continue to avoid pricing according to ECP, thus defeating their very purpose." NPPC *et al.* Comments at 17. NPPC *et al.* contend that the 85 percent passthrough floor creates a "safe harbor" for some workshare discounts and that "in practice it will tend to migrate discounts to 85 percent instead of the desired 100 percent." *Id.* NPPC *et al.* suggest that workshare discounts with passthroughs between 85 percent and 99 percent "should be increased in the same manner" as all other passthroughs that exceed or are below avoided costs (*i.e.*, improvements of 20 percent). *Id.* at 18. In their reply comments, NPPC *et al.* reiterate the same concerns and recommendations related to the 85 percent passthrough floor. NPPC *et al.* Reply Comments at 18.

Pitney Bowes states that the Commission's revised rules as they relate to worksharing "are improvements," but suggests "slight modifications to promote efficiency." Pitney Bowes Comments at 1. Similar to ABA and NPPC *et al.,* it states that the 85 percent passthrough floor as a "stand-alone safe harbor" is unnecessary, "will invite inefficient pricing," and recommends its removal. *Id.* at 3, 7. Pitney Bowes further states that "[a]n 85 percent passthrough floor does not maximize incentives to

reduce costs or increase efficiency and does not encourage prices to be set as close as 'practicable' to full ECP rates." *Id.* at 5. Pitney Bowes also contends that the 85 percent passthrough floor is inconsistent with the Commission's "do no harm" principle and that, because the passthrough floor would not be "time-limited or transitional," it would "allow inefficient pricing to remain over time." *Id.* at 6. Pitney Bowes maintains that workshare discounts with passthroughs between 85 percent and 99 percent "should be treated the same as all other discounts" and "moved closer to full ECP rates unless there is adequate justification not to do so." *Id.* at 7.

The Postal Service disagrees with those commenters who describe the passthrough floor as a "safe harbor" and points out that proposed § 3030.282(c) prevents it from "adjusting passthroughs freely within an 85 percent to 100 percent passthrough range."[275]

b. Inclusion of Passthrough Floor in Waiver Application Process for Below-Avoided-Costs Workshare Discounts

ABA views the Commission's proposed waiver process as providing "sufficient flexibility" to the Postal Service and contends the 85 percent passthrough floor "should operate as a constraint on the waiver process—not as a general safe harbor." ABA Comments at 16.

Similar to ABA, NPPC *et al.* recommend an addition to the waiver application rule that would prevent waiver requests for passthroughs below 85 percent. NPPC *et al.* Comments at 18. NPPC *et al.* continue to recommend that the 85 percent passthrough

[275] Postal Service Reply Comments at 42. Having said that, the Postal Service does request modifications to the Commission's revised rules that would provide the Postal Service with the flexibility to increase or decrease workshare discounts with passthroughs between 85 percent and 100 percent, as necessary. *See id.* ("As explained in our initial comments, the Commission should establish this passthrough range as a safe harbor, by relaxing rules [§ 3030.]282(a) and (c)"). (emphasis in original).

floor "serve as the minimum passthrough applicable to any waiver request by the Postal Service" in their reply comments. NPPC *et al.* Reply Comments at 18.

Pitney Bowes maintains that the 85 percent passthrough floor should be included only "as a limitation on [ ] waiver authority" and not as an exception to the Commission's focus of moving workshare discounts closer to ECP. Pitney Bowes Comments at 4. For that reason, Pitney Bowes recommends the 85 percent passthrough floor be used as "a lower bound on [workshare] discounts set below costs avoided" in any application for waiver pursuant to proposed § 3030.286(g) and recommends related changes to the rule. *Id.* at 4, 5. Pitney Bowes states that "[s]trict enforcement of the waiver provisions will be essential" to achieving the goals of the Commission's revised rules. *Id.* at 4. It reiterates its position as part of its reply comments. *See* Pitney Bowes Reply Comments at 2, 5.

c. Flexibility for Passthroughs Between 85 Percent and 100 Percent

Proposed § 3030.282 prohibits changes to passthroughs of 100 percent and reductions to passthroughs less than 100 percent.[276] As a result of the limitations in proposed § 3030.282, the Postal Service requests additional flexibility for workshare discounts resulting in passthroughs between 85 percent and 100 percent. Postal Service Comments at 48.

The Postal Service maintains that "the prices associated with these discounts might affect other workshare discounts," and requests that reductions in workshare discounts be permitted so long as the resulting passthrough meets the 85 percent passthrough floor. *Id.* at 48-49. The Postal Service asserts that in order to better balance pricing flexibility with maximizing efficiency, the 85 percent passthrough floor

[276] *See* Order No. 5337, Attachment A at 49-50.

should be implemented without the additional limitations in proposed § 3030.282 for passthroughs between 85 percent and 100 percent. *Id.* at 49. The Postal Service presents four arguments in support of its request for more flexibility.

First, the Postal Service states that increases and decreases to workshare discounts with passthroughs between 85 percent and 100 percent could allow for predictable and stable rates by "smooth[ing] out the normal ups and downs of estimated avoided costs." *Id.* Second, the Postal Service states that "prohibiting a decrease in the size of the discount works against utilizing price cap space." *Id.* It notes that "[t]o the extent that volume is concentrated in workshared rate cells [or] in a limited number of rate cells … the Postal Service could at times find it difficult to fully exercise its rate authority if no decrease in size of a workshare discount is permitted." *Id.* Third, the Postal Service indicates that there may be situations when it may require passthroughs of less than 100 percent, such as when the "longer-run marginal cost curve is downward-sloping" and "unit attributable cost [are] pushed up (beyond inflation) after work is outsourced to workshare partners" or when "attributable costs are not as volume-variable as measured." *Id.* at 49-50. Fourth, the Postal Service contends that the flexibility to set workshare discounts that result in passthroughs below 100 percent (but above 85 percent) would help mitigate the "real risk" of overstated cost avoidances unnecessarily transferring work from the Postal Service to a workshare partner. *Id.* at 50. The Postal Service states that such an occurrence would be inconsistent with "optimizing economic efficiency" and would deprive the Postal Service (and its customers) of economies of scale and density. *Id.* In its reply comments, the Postal Service reiterates that proposed § 3030.282(c), as well as, proposed § 3030.282(a) should be "relax[ed]" in reaction to cost avoidance fluctuation. Postal Service Reply Comments at 42-43.

NPPC *et al.* respond to the Postal Service's comments related to the passthrough floor and its request "to weaken" portions of proposed § 3030.282 by

"allow[ing] it to reduce discount passthroughs to 85 percent in *any* instance." (emphasis in original). NPPC *et al.* Reply Comments at 18. NPPC *et al.* contend that the Postal Service's request would "gut the central goal" of the Commission's revised rules. *Id.* As it relates to the Postal Service's argument that it may require passthroughs of less than 100 percent when attributable costs are not as volume-variable as measured, NPPC *et al.* describe the argument as "curious." *Id.* at 19; *see* Postal Service Comments at 50. NPPC *et al.* maintain that the Postal Service's argument "amounts to a request that the Commission ignore established costing principles when the Postal Service says it does not trust its own analyses." NPPC *et al.* Reply Comments at 19. NPPC *et al.* also respond to the Postal Service's argument that a passthrough of 100 percent could transfer work from the Postal Service to a workshare partner if avoided costs are overestimated. NPPC *et al*. Reply Comments at 20; *see* Postal Service Comments at 50. They state that the Postal Service's argument "ignores the likelihood that the workshare partners may still be more efficient than the Postal Service." NPPC *et al*. Reply Comments at 20. Finally, NPPC *et al.* recommend more precise language to ensure that workshare discounts that equal avoided costs are maintained despite annual changes in costs avoided. NPPC Comments at 17; *see also* Order No. 5337, Attachment A at 50.

ABA similarly objects to the Postal Service's request for more flexibility for workshare discounts with passthroughs below 100 percent, which it asserts "confirm[s] that [the Postal Service] do[es] not want to change its behavior to promote more efficient operations." ABA Reply Comments at 3. ABA further states that the Postal Service's "pricing behavior for the past thirteen years has demonstrated that it will not set efficient workshare prices unless forced to do so." *Id.* ABA recommends that the Commission "reject the litany of excuses offered by the Postal Service." *Id.*

Pitney Bowes recommends the Commission reject the Postal Service's requests as "inconsistent with Objective 1 and the Commission's 'do no harm' principle," and

asserts that it deviates from more efficient workshare pricing. Pitney Bowes Reply Comments at 3, 6. Similar to NPPC *et al.*, Pitney Bowes also disagrees with the Postal Service's "generalized concern regarding the risk of overestimating the modeled cost avoidance." *Id.* at 6. Pitney Bowes states that the Postal Service failed to cite any specific issues within the approved cost models and that "[h]and-waving concerns regarding overestimation" does not justify a "'risk premium' that would bias [workshare] discounts downward." *Id.*

d. Expansion of 39 U.S.C. § 3622(e)(3)(B) Exception

The Postal Service contends that the waiver basis provided in § 3030.286(c)(7), which, as proposed, applies to excessive workshare discounts, should be expanded to include discounts that fall below their avoided costs.[277] The Postal Service notes that all In-County, Periodicals workshare discounts fall below avoided costs. *Id.* It further notes that the Commission's revised rules related to non-compensatory products would prohibit the Postal Service from decreasing the products' rates and so below-avoided-costs workshare discounts "could be increased only by raising benchmark prices," and "unduly harm[ing] mailers not able to take advantage of the discounts." *Id.*

In response, Pitney Bowes contends there is "no basis" to expand the 39 U.S.C. 3622(e)(3)(B) exception and permit its use as a waiver from setting workshare discounts that are below avoided costs closer to "full ECP rates." Pitney Bowes Reply Comments at 4. Pitney Bowes cites to the Commission's initial findings related to the use of the exception for a waiver related to below-avoided-costs workshare discounts. *Id.* Pitney Bowes notes that the Commission "considered and rejected" the Postal Service's

[277] Postal Service Comments at 48. Section 3030.286(c)(7) incorporates the statutory exception described in 39 U.S.C. § 3622(e)(3)(B), which permits excessive workshare discounts if reducing or eliminating the excessive workshare discount would result in a further increase in the rates paid by mailers not able to take advantage of the workshare discount. *See* 39 U.S.C. § 3622(e)(3)(B). The Postal Service seeks expansion of the exception to below-avoided-costs workshare discounts. Other conforming changes would be required in § 3030.286(g).

argument and that the Postal Service "offers no reason for the Commission to revisit its prior determination." *Id.* Pitney Bowes maintains that the Postal Service's example is "substantially overstate[d]" and that broadening the exception "would create significant efficiency losses because there are many important, high-volume discounts … with passthroughs set well below 100 percent of the modeled costs avoided." *Id.* at 4-5. Pitney Bowes argues that, should the Commission consider expanding the 39 U.S.C. 3622(e)(3)(B) exception, "it should be narrowly tailored to apply only to discounts that affect small volume rate categories where the rate impact would be substantial." *Id.* at 4.

NPPC *et al.* recommend that the Commission reject the Postal Service's proposal to permit waivers when increasing discounts could raise benchmark prices. NPPC *et al.* Reply Comments at 19. They state that it "amounts to a request to maintain the *status quo* in setting workshare discounts that the Commission has already found has not achieved Objective 1." *Id.*

ABA recommends that the waiver process be strictly enforced and asserts that the process already provides sufficient flexibility to the Postal Service. ABA Reply Comments at 2-3. ABA recommends that the Commission "tighten the exceptions and waiver process" in order to maximize efficiency and reject the Postal Service's request for "more expansive waiver authority." *Id.* at 4.

e. Pending Cost Avoidance Methodology Dockets

The Postal Service contends that the Commission's revised rules related to worksharing are "too restrictive" and may lead to pricing decisions that focus on workshare discounts and not on improving operational efficiency or meeting other business goals. Postal Service Comments at 46-47. The Postal Service notes that there may be instances where changes to the cost avoidance methodology are pending before the Commission. *Id.* at 47. The Postal Service recommends that the "pendency

of such a rulemaking" should be either grounds for a waiver pursuant to proposed § 3030.286 or included as an exception in proposed §§ 3030.283 and 3030.284. *Id.*

NPPC *et al.* respond that the Commission should reject the Postal Service's proposal to approve a waiver when a costing methodology docket is pending. NPPC *et al.* Reply Comments at 19. NPPC *et al.* state that the Postal Service's proposal "opens a potential loophole … rife for abuse" because "[n]ot all costing methodology changes necessarily are adopted." *Id.* NPPC *et al.* contend it would be "more prudent" for a change to be "adopted before it may be used as the basis for a discount." *Id.*

Similarly, Pitney Bowes states "[t]here is no basis for a waiver or exception for workshare discounts subject to a pending cost methodology change" because the timing of any changes "is entirely within the Postal Service's control." Pitney Bowes Reply Comments at 3. It further states that "the exception for pending rulemakings would subvert the statutory delegation of responsibility to the Commission to establish approved costing methodologies." *Id.* Pitney Bowes indicates that it would "support a separate procedural rule specifying the time for filing proposed changes to analytical principles to ensure timely resolution" prior to the next rate adjustment.[278]

f. Mail Matter with ECSI Value

Mailers Hub supports the Commission's intentions to move workshare discount passthroughs toward 100 percent, but contends that "doing so should be done only when 'desirable mailer behavior' can be maintained." Mailers Hub Comments at 9. Mailers Hub contends the permitted exceptions for above- or below-avoided-costs workshare discounts "should be limited." *Id.* In light of "today's postal finances," Mailers Hub questions the appropriateness of the exception found in proposed § 3030.283(e)

[278] *Id.* at 3-4. It is unclear whether Pitney Bowes is suggesting a "separate rule" as part of the revised rules in the instant docket related to worksharing or as part of another part of title 39.

related to mail matter with ECSI value.[279] Specifically, Mailers Hub questions why costs and workshare discounts would be different for two identical pieces "simply because one has ECSI 'value.'" Mailers Hub Comments ay 10. Mailers Hub suggests that such deference is of "increasingly questionable appropriateness" and unfair to other ratepayers not producing such material. *Id.* Mailers Hub maintains that worksharing "in any form" should be "perpetuated" only at the lowest combined cost, including "mailer cost, postage, and [Postal Service] costs." *Id.*

In its reply comments, the Postal Service disagrees with Mailers Hub's criticisms related to ECSI mailpieces. Postal Service Reply Comments at 44. The Postal Service maintains that ECSI value preference "is relevant whenever changing a passthrough requires price increases for mailers who send material with ECSI value." *Id.*

C. Commission Analysis

1. Elimination of Passthrough Floor

In Order No. 5337, the Commission stated that workshare discounts less than their avoided costs run counter to pricing efficiency and that it has consistently encouraged the Postal Service to improve workshare discounts that are less than avoided costs. Order No. 5337 at 195. The Commission found that the passthrough floor was necessary to address the Commission's finding that the Postal Service had the ability to adhere to ECP throughout the PAEA era but did not do so. *Id.* Additionally, the Commission acknowledged that a higher passthrough floor would come closer to achieving ECP. *Id.* at 200. Indeed, the elimination of the passthrough floor as suggested by commenters, coupled with the incremental improvements required by final § 3030.284(c), would likely result in below-avoided-costs workshare discounts moving closer toward achieving ECP.

[279] *See id.* at 9-10; *see also* 39 U.S.C. § 3622(e)(2)(C); Order No. 5337, Attachment A at 51.

However, the Commission notes that the regulatory requirements related to below-avoided-costs workshare discounts are new. The PAEA prohibits passthroughs above 100 percent (with some exceptions), but it does not address workshare discounts with passthroughs below 100 percent. *See* 39 U.S.C. § 3622(e)(2-3). The Commission also notes that the consequences of below-avoided-costs workshare discounts are less detrimental to the Postal Service than excessive workshare discounts. This is because, with excessive workshare discounts, the Postal Service is providing excessive discounts to mailers, hurting its bottom line and affecting its financial stability. Therefore, given that below-avoided-costs workshare discounts will be regulated for the first time under these rules and the Commission seeks to provide continued pricing flexibility, the Commission has elected to implement less restrictive rules related to these workshare discounts, including the implementation of an 85 percent passthrough floor.

Furthermore, the 85 percent passthrough floor phases out the most inefficient of the Postal Service's pricing practices related to below-avoided-costs workshare discounts. The Commission finds that the 85 percent passthrough floor in final § 3030.284(e) (in conjunction with the other regulations for below-avoided-costs workshare discounts) strikes an appropriate balance between improving pricing efficiency and providing sufficient pricing flexibility for below-avoided-costs workshare discounts that were not previously regulated.

Additionally, commenters contend that the Postal Service may use the passthrough floor as a "safe harbor" and fail to move discounts with passthroughs between 85 percent and 100 percent closer to ECP. As the Postal Service notes, that concern is mitigated by final § 3030.282(c), which prevents the Postal Service from decreasing the amount of a workshare discount that is less than the avoided cost. Postal Service Reply Comments at 42. The Commission notes that, over time, should it appear that the Postal Service is attempting to use the 85 percent passthrough floor as a "safe harbor" for below-avoided-costs workshare discounts and is not taking steps to

move those workshare discounts toward ECP, the Commission may revisit its rules on workshare discounts as part of its planned review in 5 years.

For these reasons, the Commission rejects commenters' request to eliminate the passthrough floor.

2. Inclusion of Passthrough Floor in Waiver Application Process for Below-Avoided-Costs Workshare Discounts

Commenters' suggestion to include the 85 percent passthrough floor as part of the waiver process would impose substantially more limitations on below-avoided-costs workshare discounts. As noted above, the implementation of new regulations as it applies to below-avoided-costs workshare discounts, which had no previous limitations, necessitates that the Commission proceed cautiously in implementing such regulations. The Commission intends to require the Postal Service to move workshare discounts that are less than their avoided costs closer to ECP in order to improve pricing efficiency, but also provide some flexibility to the Postal Service at the outset of these new regulations.

Additionally, commenters provide no rationale for including the 85 percent passthrough floor as part of the waiver process, only asserting that, if a passthrough floor must exist, it should be a limitation on a request for a waiver in proposed § 3030.286.[280] However, the Commission finds that the limitations on below-avoided-costs workshare discounts imposed by the waiver process are appropriate as they allow the Postal Service to set below-avoided-costs workshare discounts that do not meet the requirements of final § 3030.284(b), (c), or (e) only in limited circumstances and after a thorough Commission review. The Commission intends for the waiver process to be used in exceptional circumstances, where waiver applications are considered on a

[280] *See generally* ABA Comments at 16; NPPC *et al.* Comments at 18; Pitney Bowes Comments at 4, 5.

case-by-case basis, focusing on the specific discounts in question and the characteristics of the relevant categories of mail associated with the discounts. The appropriateness of waiving, in full or in part, the requirements of other regulations will be based on the Commission's findings regarding the Postal Service's ability to adjust the discounts in question, and not the resulting passthrough. Although the Commission finds waivers for discounts less than avoided costs are necessary to provide the Postal Service with sufficient flexibility for potentially problematic below-avoided-costs workshare discounts, the Commission intends to ensure the Postal Service's strict adherence to the waiver regulation (final § 3030.286).

For the reasons discussed above, the Commission rejects commenters' request to include the 85 percent passthrough floor as part of the waiver application process in final § 3030.286.

3. Flexibility for Passthroughs Between 85 Percent and 100 Percent

The Postal Service suggests the Commission grant additional flexibilities to workshare discounts between 85 percent and 100 percent, specifically suggesting that such discounts should not have to comply with proposed § 3030.282(a) and (c).

Final § 3030.282 codifies the Commission's "do no harm" principle, which is intended to prohibit the Postal Service from making workshare discounts more inefficient. Order No. 5337 at 193. Final § 3030.282 prohibits workshare discounts that are equal to avoided cost from being changed (that is, set below or above avoided cost). *Id.* at 206. Moreover, the rule prohibits workshare discounts that are below avoided cost from being reduced and workshare discounts that exceed avoided cost from being increased. *Id.* at 206-207. The purpose of these limitations is to address the Commission's previous finding that, during the PAEA era, the Postal Service had the ability to set workshare discounts in accordance with ECP, yet failed to do so. Order No. 4257 at 139.

NPPC *et al.* recommend that more precise language be included in the rules to ensure that workshare discounts that equal avoided costs are maintained as equal to avoided costs despite annual changes in costs avoided. NPPC *et al.* Comments at 17. The Commission disagrees that more precise language is needed as NPPC *et al.*'s suggested changes would alter the final rules' intended limitations on workshare discounts. The Commission acknowledges that changes in cost avoidances occur annually, causing passthroughs to fluctuate. As it relates to excessive passthroughs, the Commission notes that when changes in avoided costs result in passthroughs above 100 percent, under some circumstances, the Postal Service may be able to easily return the passthrough to 100 percent of avoided costs in the next rate adjustment proceeding. However, that may not always be the case. Therefore, in the next rate adjustment proceeding, the final rules would only require a 20 percent improvement to the excessive passthrough or the workshare discount to otherwise meet the requirements of final § 3030.283.[281] As it relates to low passthroughs, the Commission notes that when changes to avoided costs result in passthroughs below 100 percent, the final rules do not require that the Postal Service return the passthrough to 100 percent of avoided costs as long as the passthrough is above 85 percent or otherwise meets the requirements of final § 3030.284.

The Postal Service asserts that in order to better balance pricing flexibility with maximizing efficiency, the 85 percent passthrough floor should be implemented without the additional limitations in proposed § 3030.282 for passthroughs between 85 percent

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[281] The Commission maintains that this does not conflict with the "do no harm" principle conveyed in final § 3030.282(a) as it relates to workshare discounts set equal to avoided costs. If the Postal Service reports a workshare discount passed through 100 percent of avoided costs in the ACR (as confirmed by the Commission in the ACD), then the Postal Service is prohibited from proposing to adjust a rate associated with that workshare discount that may alter the resulting passthrough in the next rate adjustment proceeding. This prohibition also applies to excessive and below-avoided-costs workshare discounts pursuant to final § 3030.282(b) and (c). Indeed, final § 3030.282 prevents the Postal Service from proposing a rate adjustment to a workshare discount that would push the related passthrough further from ECP. The Commission notes that even the waiver process described in final § 3030.286 cannot be used to evade the "do no harm" requirements of final § 3030.282.

and 100 percent. Postal Service Comments at 49. The Postal Service presents four arguments in support of its request for more flexibility, and the Commission addresses each in turn.

First, the Postal Service maintains that added flexibility for workshare discounts with passthroughs between 85 percent and 100 percent would allow for more predictable and stable rates while also satisfying the pricing flexibility objective. *Id*. The Commission acknowledges that the worksharing regulations constrain the Postal Service's pricing flexibility to some extent. However, 39 U.S.C. § 3622(b) instructs that each objective "shall be applied in conjunction with the others." 39 U.S.C. § 3622(b). Thus, the Commission's modification to the ratemaking system overall must appropriately balance all of the PAEA's objectives in conjunction with each other. In order to achieve more efficient pricing as it relates to workshare discounts, an element of Objective 1 that was not achieved during the PAEA era, some of the Postal Service's pricing flexibility must be sacrificed. Allowing the Postal Service to decrease a workshare discount that already passes through less than its avoided cost would lead to less efficient pricing, which runs counter to Objective 1. *See* 39 U.S.C. § 3622(b)(2). As noted above, improved pricing efficiency as it relates to workshare discounts is the main focus of the Commission's "do no harm" principle.

Additionally, it does not follow that the proposed rules related to below-avoided-costs workshare discounts provide the Postal Service with no pricing flexibility. By including an 85 percent passthrough floor (instead of no passthrough floor at all), the Commission provides the Postal Service with some flexibility for workshare discounts. Other elements of the final rules related to worksharing also allow for pricing flexibility. They contain specific provisions to allow for transitional flexibility, particularly for new workshare discounts and by setting minimum thresholds for movement towards ECP (improving the existing workshare discount by 20 percent or producing a passthrough between 85 percent and 100 percent). Additionally, the Commission allows for pricing

flexibility to deviate from the new requirements for setting discounts in final § 3030.283 and § 3030.284, if adequately justified via the waiver process. Finally, these final rules limit only the workshare discount aspect of pricing and do not restrict the setting of the benchmark prices, thereby continuing to allow pricing flexibility. As it relates to the predictability and stability of rates, the Commission notes that the incremental nature and modest magnitude of the improvements to workshare discount in final §§ 3030.283(c) and 3030.284(c) are consistent with Objective 2. *See* 39 U.S.C. § 3622(b)(2); Section XIII.E.2., *infra*.

Second, the Postal Service states that "prohibiting a decrease in the size of the discount works against utilizing price cap space." Postal Service Comments at 49. To the Postal Service's point, the Commission acknowledges that the limitations provided in the revised rules may require more technical precision in the price setting process for the Postal Service to utilize all price cap space. However, the Commission finds that the additional flexibility requested by the Postal Service would be detrimental to ensuring that workshare discounts are improved toward ECP and that it should be possible in most circumstances to use all or nearly all available pricing authority while adhering to the final rules.[282] In addition, the Commission notes that the final rules will permit the Postal Service to bank unused pricing authority that can be used in the future.

Third, the Postal Service indicates that there may be situations that require passthroughs of less than 100 percent such as when the "longer-run marginal cost curve is downward-sloping" and "unit attributable cost [are] pushed up (beyond inflation) after work is outsourced to workshare partners" or when "attributable costs are not as volume-variable as measured." *Id*. at 49-50. The Postal Service's contentions are

[282] Although the Commission's workshare discounts rules constrain the pricing relationships between worksharing tiers of a particular product, the rules do not prevent the Postal Service from setting other pricing relationships between products, which provides the Postal Service with the flexibility necessary to achieve its pricing objectives.

speculative as it provides no support or examples to show why under the identified conditions a passthrough of less than 100 percent would be preferable. The Postal Service also fails to explain the relevance of increases in unit attributable costs. The Commission notes that cost avoidances reflect differences in attributable costs associated with the applicable workshare activity, not differences in unit attributable cost. The cost segments involved in the calculation of cost avoidances are only a subset of the cost segments involved in the calculation of unit attributable cost. Therefore, no conclusions can be drawn about the behavior of cost avoidances from changes in unit attributable cost.

Fourth, the Postal Service contends that the flexibility to set workshare discounts that result in passthroughs below 100 percent (but above 85 percent) would help mitigate the "real risk" that overstated cost avoidances could unnecessarily transfer work from the Postal Service to a workshare partner, impacting efficiency. *Id*. at 50. The Commission is not persuaded by the Postal Service's assertion that more flexibility is necessary to mitigate the risk of overstated cost avoidances and unnecessarily transferring work from the Postal Service to a workshare partner. Pitney Bowes correctly notes that the Postal Service did not cite any specific examples of cost avoidances being overstated. *See* Pitney Bowes Reply Comments at 6. If the Postal Service believes a cost avoidance model systematically overestimates or underestimates avoided costs, the Commission encourages the Postal Service to revise the model to better reflect operational realities and petition the Commission for a change in analytical principles pursuant to 39 C.F.R. § 3050.11. Additionally, the Commission notes that should a change in a below-avoided-costs workshare discount affect the Postal Service's operational efficiency, the Postal Service may address that through the waiver process.

For the reasons discussed above, the Commission rejects the Postal Service's request to provide additional flexibility for passthroughs that fall between 85 percent and 100 percent.

4. Expansion of 39 U.S.C. § 3622(e)(3)(B) Exception

Section 3622(e)(3)(B) of title 39 permits workshare discounts with passthroughs above 100 percent to not be reduced if such a reduction would "result in a further increase in the rates paid by mailers not able to take advantage of the discount." *See* 39 U.S.C. § 3622(e)(3)(B). This exception was included as grounds for a waiver in the waiver application process in proposed § 3030.286(c)(7) as it relates to excessive discounts. However, this exception was not included as grounds for a waiver as it relates to below-avoided-costs workshare discounts.

The Postal Service had previously noted that increasing workshare discounts that are presently below their avoided costs may force the Postal Service to choose between harming its finances or increasing the rates of other mailers to a level that is not just and reasonable.[283] However, in Order No. 5337, the Commission noted that "[t]he Postal Service fail[ed] to provide any explanation of how such harm is likely to occur." Order No. 5337 at 196. The Commission further noted that the Postal Service retained the flexibility to adjust below-avoided-costs workshare discounts in order to comply with the revised rules and had several methods of doing so. *Id.* The Commission acknowledged that, although the limitations related to below-avoided-costs workshare discounts may lead to an increase in rates for some mailers, "there [was] no evidence that increasing the size of workshare discounts [with passthroughs] under 100 percent [would] cause other rates to reach a level that is not just and reasonable." *Id.* at 196-197. Without an explanation of how such harm is likely to occur, the

[283] *See* Reply Comments of the United States Postal Service in Response to Order No. 4258, March 30, 2018, at 108-109.

Commission saw no reason to allow the application of the exception found in 39 U.S.C. § 3622(e)(3)(B) to below-avoided-costs workshare discounts.

In response to Order No. 5337, the Postal Service presented a valid explanation for why the waiver process for the exception found in 39 U.S.C. § 3622(e)(3)(B) should be extended to below-avoided-costs workshare discounts for non-compensatory products. *See* Postal Service Comments at 48. The Commission acknowledges the validity of the Postal Service's assertion that for non-compensatory products, the only option to increase a passthrough is to increase the benchmark rate because the rules regarding non-compensatory products (39 C.F.R. part 3030, subpart G) prohibit lowering rates.

The Commission disagrees with Pitney Bowes' assertion that the Postal Service's example is overstated. Pitney Bowes Reply Comments at 4-5. However, the Commission also finds it unnecessary and inappropriate to extend the exception to *all* below-avoided-costs workshare discounts as suggested by the Postal Service. For below-avoided-costs workshare discounts unrelated to non-compensatory products, the Postal Service would be able to make the adjustments to a workshare discount without also substantially increasing the rates paid by mailers not able to take advantage of the discount, because the Postal Service could adjust other prices downward to bring workshare discounts closer to avoided costs. *See* 39 U.S.C. § 3622(e)(3)(B). However, for discounts related to non-compensatory products, the potential for substantial increases on mailers not able to take advantage of the discounts does exist because the rules regarding non-compensatory products (39 C.F.R. part 3030, subpart G)

prohibit lowering the rates associated with those products, which in turn would force the Postal Service to increase benchmark rates to improve the associated passthroughs.[284] As such, the Commission will expand the waiver application process in final § 3030.286(c)(7) (with corresponding changes to final § 3030.286(g)) and permit the Postal Service to apply for a waiver based on the statutory exception found in 39 U.S.C. § 3622(e)(3)(B) for below-avoided-costs workshare discounts associated with non-compensatory products only.[285]

As it relates to commenters' concerns that expanding the exception provides for a more expansive waiver process, the Commission reiterates that Postal Service submission of a waiver application does not equate to the Commission granting the waiver. In order to be exempt from the requirements of final § 3030.284(c) (assuming the below-avoided-costs workshare discount does not qualify under final § 3030.284(b) or (e)), the Postal Service would have to demonstrate that it is unable to increase the workshare discount by the amount specified in final § 3030.284(c), without raising the benchmark rate for those mailers that are unable to qualify for the discount. The Commission notes that, for each basis for waiver including final § 3030.286(c)(7), the rules list a number of explanations the Postal Service must provide in order to show, by a preponderance of the evidence, that an application for waiver should be granted. With each of the explanations required, the Commission seeks to obtain information that

[284] The least workshared mail category is considered the benchmark category. Each benchmark category has a benchmark rate that is based on the level of preparation of the mail, or where the mail is entered. Workshare discounts are set in relation to the benchmark rate. Because a workshare discount is measured as the difference in the price of the benchmark rate and the discounted rate, the workshare discount can be increased by either increasing the benchmark rate, or reducing the discounted rate.

[285] The Commission could have provided a similar level of flexibility by expanding the waiver process for below-avoided-costs workshare discounts based on the statutory exception related to rate shock found in 39 U.S.C. § 3622(e)(2)(B). As part of the waiver process, both exceptions require a showing of harm or impact that would result from certain price changes. However, the Postal Service requests the expansion of the exception found in 39 U.S.C. § 3622(e)(3)(B), thus the Commission makes conforming changes to final § 3030.286(c)(7) (with corresponding changes to final § 3030.286(g)).

shows, absent a waiver, a change to a workshare discount at issue meets one of the narrow exceptions provided in the PAEA.

For the reasons discussed above, the Commission revises proposed § 3030.286(c)(7) to allow the 39 U.S.C. § 3622(e)(3)(B) exception to be used for below-avoided-costs workshare discounts related to non-compensatory products only.

5. Pending Cost Avoidance Methodology Dockets

The Commission notes several issues related to the Postal Service's proposal to include pending cost avoidance methodology dockets as part of the waiver process in § 3030.286 or in the limitations on workshare discounts in §§ 3030.283 and 3030.284. First, Commission approval of new cost avoidance methodologies is necessary prior to implementation and adoption is not guaranteed. Second, due to the complex nature of some proposed changes in cost avoidance methodologies, Commission review can take a significant amount of time to complete. As such, to delay the improvement of workshare discounts closer to ECP for a significant amount of time for a proposal that may not be approved would be inappropriate and counterproductive to objectives underlying the worksharing regulations. The Commission notes that, if a proposed change in cost avoidance methodology pending before the Commission would

somehow impede operational efficiency, the Postal Service can request relief through the waiver application process in final § 3030.286.[286]

It should also be noted that the Postal Service controls the timing of its filings for proposed changes in cost avoidance methodologies. The Postal Service is experienced in the level of complexity for these types of filings and the likely duration of a Commission review. The Postal Service also controls the timing of rate adjustment filings. Thus, the Commission finds it is unnecessary to add a separate procedural rule related to the timing of changes in methodology filings as suggested by Pitney Bowes. Instead, the Commission encourages the Postal Service to keep in mind case complexity as well as the potential duration of Commission review, and to submit changes in cost avoidance methodologies well in advance of a Postal Service rate adjustment filing.

For the reasons discussed above, the Commission rejects the Postal Service's request to include pending costing methodology dockets as part of the waiver process in § 3030.286 or the limitations on workshare discounts in §§ 3030.283 and 3030.284.

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[286] For example, if the Postal Service makes an operational change that increases the avoided costs for a destination delivery unit (DDU) dropship workshare discount, but under the accepted methodology the discount appears excessive, the Postal Service would be required to decrease the discount in order to comply with final §§ 3030.282(b) and 3030.283, unless a basis for waiver applies. The Commission notes that, even if the Postal Service petitioned the Commission to implement a conforming change to the associated cost avoidance model, if the Commission's review process is ongoing, the applicable avoided cost is based on the accepted methodology at that time. However, if reducing the workshare discount would shift volume from the DDU to the destination sectional center facility (DSCF), overwhelming the DSCF (or causing some other undesirable operational outcome), then the Postal Service could request a waiver under the operational efficiency exception (§ 3030.286(c)(5)), citing concerns of shifting volume and the likelihood that the avoided cost is understated, even though the exact amount of understatement is still under Commission review.

6. Mail Matter with ECSI Value

The Commission notes that Mailers Hub did not propose any specific rule changes, but appears to disagree with the exception in § 3030.283(e), which permits excessive workshare discounts for mail matter with ECSI value.

As part of the PAEA, Congress unambiguously intended to provide additional flexibility to workshare discounts greater than avoided costs for mail matter with ECSI value because of the value of that type of mail. *See* 39 U.S.C. § 3622(e)(2)(C). The same may be said about the various exceptions Congress permitted for different types of workshare discounts. *See* 39 U.S.C. § 3622(e). The Commission incorporates all of the statutory exceptions provided in 39 U.S.C. § 3622(e) into its revised rules for workshare discounts. The Commission finds that, final § 3030.283(e) is consistent with the PAEA's exception related to excessive workshare discounts for mail matter with ECSI value.

For the reasons discussed above, the Commission declines to adopt Mailers Hub's suggestion to remove or otherwise revise the inclusion of the exception for mail matter with ECSI value related to excessive workshare discounts.

D. Revisions to Proposed Rules

As noted above, the Commission revises § 3030.286(c)(7) in order to expand the 39 U.S.C. § 3622(e)(3)(B) exception to below-avoided-costs workshare discounts associated with non-compensatory products.

As discussed in Order No. 5337, proposed § 3030.286(c)(7) set forth the requirements specific to an application for waiver for excessive workshare discounts based on a further increase in rates paid by mailers not able to take advantage of the discount. *See* 39 U.S.C. § 3622(e)(3)(B); Order No. 5337, Attachment A at 55-56.

The Commission revises the language in final § 3030.286(c)(7) to include below-avoided-costs workshare discounts associated with non-compensatory products. The revised language is necessary in order to account for the prohibitions on reducing the rate for any product where the attributable cost exceeded the revenue imposed by final §§ 3030.127(b) and 3030.129(g). If a workshare discount is offered for a non-compensatory product and is so far below its avoided cost to produce a passthrough of less than 85 percent, then final §§ 3030.127(b) and 3030.129(g) prohibit the Postal Service from increasing that workshare discount because that would reduce the rate for a non-compensatory product. Therefore, in that situation, the Postal Service may seek a waiver under final § 3030.286(c)(7). Additionally, the Commission makes corresponding changes to final § 3030.286(g), which lists each basis for a waiver that the Postal Service may use related to below-avoided-costs workshare discounts. The Commission otherwise adopts the proposed rules from Order No. 5337 related to worksharing without changes.

IX. COST-REDUCTION REPORTING REQUIREMENTS

A. Introduction

In Order No. 4257, the Commission found that while the Postal Service's costs had been reduced during the PAEA era, the Postal Service's incentives to reduce costs and increase efficiency had not been maximized because the results had not been sufficient to achieve overall financial stability. Order No. 4257 at 191, 222. The Commission also found that the Postal Service's costs decreased less during the PAEA era than during the 10 years preceding the PAEA era. *Id.* at 224-25. Moreover, the Commission determined that cost savings estimates from some of the Postal Service's cost savings initiatives "[were] likely overstated," and that the Postal Service could improve its quantitative measurement of the results of cost savings initiatives. *Id.* at 200.

In Order No. 4258, cost reductions were addressed in a general manner as an aspect of the Postal Service's overall financial health. Order No. 4258 at 35-36, 39-40, 46-53. The Commission took as its starting point its conclusion from Order No. 4257 that the Postal Service was not financially stable because the current ratemaking system had not assured the Postal Service adequate revenues. Order No. 4258 at 33. The Commission noted that adequate revenues are necessary to achieve net income, which over time should lead to retained earnings, which can be used to fund capital investments that improve operational efficiency. *Id.* at 35-36. The Commission found that "improvements in medium- and long-term financial stability and increased operational efficiency should lead to cost reductions when the [financial health] cycle is functioning normally[,]" and the Commission accordingly stated its "expect[ation] that its proposal [would] incentivize the Postal Service to take necessary steps to reduce costs." *Id.* at 36.

However, many of the comments received in response to Order No. 4258 raised concerns that price increases in excess of the CPI-U could undermine the Postal

Service's incentives to reduce costs and increase efficiency. Order No. 5337 at 214-217. Commenters also expressed criticism of the Postal Service's past efforts at reducing costs and increasing efficiency, and complained that there had been lack of transparency and accountability with regard to such efforts. *Id.* at 217-221.

In considering these comments, the Commission noted that "[t]he price cap and the potential for retained earnings were intended by the PAEA to be the primary incentives for cost reduction...," and that "[u]nder the rules [being] proposed..., the price cap will continue to exist, albeit in a modified form." *Id.* at 223. Nevertheless, the Commission concluded that "[t]o the extent that any additional rate adjustment authority might weaken the Postal Service's incentives with regard to cost reductions,..." it was prudent to implement reporting requirements that could "serve as a counterbalance by requiring the Postal Service to focus its efforts on identifying the underlying causes of cost increases and developing concrete plans to reduce costs." *Id.*

The Commission also considered the issues of transparency and accountability. It found that the current ratemaking system has provided a general level of transparency through the ACR, in which the Postal Service files cost data for all of its products after the end of each fiscal year.[287] It also found that the current ratemaking system has provided a general level of accountability through the ACD, in which the Commission determines compliance with title 39 and its related regulations after the end of each fiscal year and is empowered to take action in the event of a finding of non-compliance.[288] Nevertheless, the Commission noted that "the current Commission rules do not require the Postal Service to specifically report on individual cost reduction initiatives or to explain significant changes in costs between years." Order No. 5337 at 224 (footnote omitted). The Commission determined that "[r]eceiving contemporary

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[287] *Id.* at 223-224. *See* 39 U.S.C. § 3652.

[288] *Id.* *See* 39 U.S.C. § 3653.

information and explanations about cost reduction initiatives and changes in costs would allow the Commission to investigate these issues more consistently as part of the annual compliance review process." *Id.* (footnote omitted). Furthermore, "[t]he information gleaned from such inquiries could lead to further investigation in other proceedings, such as rulemakings or public inquiries, to promote transparency and accountability." *Id.* Therefore, the Commission "[found] it prudent to require the Postal Service, for the purposes of transparency and the ability of the Commission and other stakeholders to monitor these issues, to begin reporting on changes in costs and the status of cost reduction initiatives." *Id.* at 222-223.

Based on the foregoing, the Commission proposed new reporting requirements designed to facilitate the tracking of costs and monitoring of the Postal Service's efforts to reduce costs. These requirements consisted of three separate components: (1) a consolidated cost analysis; (2) detailed information regarding planned and active large-scale cost-reduction initiatives; and (3) summary information pertaining to approved Decision Analysis Reports (DARs), which are internal Postal Service documents used to justify and obtain approval for certain proposed capital spending projects.

The first component, proposed § 3050.55(b), would require the Postal Service to annually provide a consolidated cost analysis report detailing costs for Market Dominant products collectively,[289] for individual Market Dominant products, and for the entire postal system. *Id.* at 227. For Market Dominant products collectively, the Postal Service would be required each year to report the percentage change in total unit attributable cost for all Market Dominant products collectively. *Id.* Attachment A at 67.

For individual Market Dominant products, the Postal Service would be required each year to provide unit cost data for each Market Dominant product, along with a

[289] The Commission's proposal excluded the Special Services class from reporting due to the unique nature of the products in that class. *See* Order No. 5337 at 227 n.315.

comparison of that data to the previous fiscal year, and a specific analysis evaluating the effect of any mail mix changes on unit costs. *Id.* at 227-228. For individual Market Dominant products for which unit costs had increased faster than the average for all Market Dominant products collectively, the Commission proposed additional reporting. *Id.* at 228. In such cases, the Postal Service would be required to disaggregate the total unit costs for each such product into six separate categories: (1) mail processing unit cost; (2) delivery unit cost; (3) vehicle service driver unit cost; (4) purchased transportation unit cost; (5) window service unit cost; and (6) other unit cost. *Id.* The Commission also proposed that for each such product the Postal Service provide a narrative identifying the drivers of changes in unit costs between fiscal years, and a plan to reduce the product's unit attributable costs. *Id.*

For the entire postal system, the Postal Service would be required each year to provide the percentage change in system-wide total unit cost per piece, defined as the sum of Market Dominant product attributable cost, Competitive product attributable cost, and institutional costs, divided by the sum of Market Dominant product volume and Competitive product volume. *Id.* at 228-229.

The second component of the proposed reporting requirements, proposed § 3050.55(c) and (d), would require the Postal Service to file specific information regarding planned and active cost-reduction initiatives. *Id.* at 229. Specifically, the Commission would require reporting with regard to cost-reduction initiatives expected to cost the Postal Service at least $5 million over the duration of the initiative. *Id.* For each such initiative, the Postal Service would be required to file a narrative including an overview of the initiative, its status, the expected Postal Service expenditure on the initiative, the start date, the end date, and any intermediate deadlines. *Id.* at 230. The Postal Service would also be required to identify a metric to be used to measure the expected impact of each cost-reduction initiative in future years, as well as a timeline detailing when the Postal Service expected to see the impact. *Id.* Using its selected

metric, the Postal Service would be required to estimate the cost-reduction initiative's impact on Market Dominant products' unit costs, as well as total unit costs, in future years. *Id.*

Once a cost-reduction initiative was underway, the Postal Service would be required to file data detailing the impact of the initiative measured by its selected metric, as well as the impact on Market Dominant unit costs and total unit costs. *Id.* The Postal Service would be required to compare the actual results to the expected results and provide a narrative explaining any variance, along with a specific statement as to whether the initiative actually achieved the expected impact as measured by the selected metric. *Id.* Finally, the Postal Service would be required to provide a description of any mid-implementation adjustments made to align the actual results to expected results, as well as to identify any revisions to expected results for future fiscal years. *Id.* at 230-231.

The final component of the proposed reporting requirements, proposed § 3050.55(e) and (f), would require the provision of summary information pertaining to approved DARs. *Id.* at 231. A DAR is an internal Postal Service document required for each capital spending project that has total costs over $1 million. *Id.* The Commission proposed that the Postal Service be required to provide the following information for all projects associated with a DAR in the current and next fiscal year: a description of the project; the status of the project; an estimate of cost savings or additional revenues from the project; and the expected return on investment from the project. *Id.*

The following discussion summarizes the comments received concerning the Commission's proposed cost-reduction reporting requirements, provides analysis, and describes the resulting changes made to the proposed rules.

B. Comments

Comments received in response to the proposed cost-reduction reporting requirements generally cover five topics: (1) the necessity of the new reporting requirements; (2) the risk of commercial harm to the Postal Service; (3) whether reporting requirements alone provide a sufficient incentive; (4) whether there should be changes made to the proposed reporting requirements; and (5) the tension between the proposed reporting requirements and Objective 6 of the PAEA.

1. The Necessity of the Proposed Reporting Requirements

The Postal Service argues that the proposed reporting requirements are not necessary. First, it asserts that "[e]ven without a price cap, [it] has a strong, inherent incentive to reduce costs and improve efficiency given market realities and persistent volume and density declines...." Postal Service Comments at 56. Second, regardless of what the Postal Service's incentives would be in the absence of a price cap, it argues that "the [Commission's] proposal is still fundamentally a price-cap system, maintaining an inflation-based cap within which the Postal Service must manage its operating costs." *Id.* at 57. The Postal Service maintains that "price caps...create inherent incentives to reduce costs without the need for regulatory scrutiny of cost-reduction efforts." *Id.* The Postal Service acknowledges that "the proposed rules…provide additional rate adjustment authority to offset exogenous pressures and correct economic imbalances...," but it states that "the additional rate authority is proposed [in order] to make the price-cap structure work as intended." *Id.* While the Postal Service allows that "[r]egulatory review of capital investments and cost-reduction efforts could perhaps be justifiable in cost-of-service regulation or in a deregulated environment without market-based efficiency incentives[,]" it maintains that "a fundamental purpose of price-cap regulation and incentive mechanisms is to reduce the need for regulatory scrutiny by shifting efficiency risks to the regulated entity." *Id.* at 59.

NPPC *et al.*, on the other hand, assert that "[t]o the extent the Commission attaches cost-of-service factors, such as the density and retirement factors[,] onto the nominal structure of a price cap system, it adopts cost-of-service regulation." NPPC *et al.* Reply Comments at 46. As such, "a commitment by the regulator to the regulatory reviews appropriate in a cost-of-service system[ ]" is called for. *Id.* at 47.

2. Risk of Commercial Harm

The Postal Service argues that "the Commission fails to consider any potential commercial harm to the Postal Service if these reports are made public." Postal Service Comments at 60. The Postal Service states that:

> The Cost Reduction Initiative Report and the...DAR summary reports cover a wide range of projects and almost inevitably involve some combination of procurement information that would not yet be available to potential suppliers; sensitive intellectual property information; information related to real estate decisions that could harm the Postal Service's negotiating position; and predecisional, confidential information....

Id. The Postal Service maintains that "[s]ome of this information could impact future procurements and is information that potential suppliers should not be allowed to use to their benefit when participating in competitive solicitations." *Id.* at 60-61. While the Postal Service acknowledges that with regard to DARs "the proposed rules require summaries, not the full [reports]...," it nevertheless argues that "even the summary data could carry the same risks, as could responses to follow-up inquiries related to the summary reports." *Id.* at 61. Furthermore, "if a DAR relates to an innovation for which the Postal Service wants to pursue intellectual-property protection, premature release of that information could interfere with the Postal Service's future attempts to implement and monetize the innovation." *Id.* In sum, the Postal Service argues that "[g]iven the potential for commercial injury and the lack of clear justification, the Commission should eliminate the Cost Reduction Initiative Report and the DAR summary report requirements." *Id.*

3. Whether Reporting Requirements Alone Provide a Sufficient Incentive

Multiple commenters argue that reporting requirements, in and of themselves, are insufficient to incentivize the Postal Service to pursue cost reductions and efficiency improvements. ABA states that "reporting alone [will not] satisfy the pro-efficiency objectives and factors of the PAEA." ABA Comments at 16. It advocates that the Commission "use the enhanced reporting data to meaningfully regulate [the Postal Service] [ ]" by "condition[ing] new rate authority on real cost, productivity and service performance." *Id.* ANM *et al.* similarly state that increased reporting requirements will accomplish nothing unless they are coupled with sanctions. ANM *et al.* Reply Comments at 19 n.15.

Although they do not oppose the proposed reporting requirements, NPPC *et al.* likewise "wonder[ ] about the utility of reports in the absence of more rigorous enforcement." NPPC *et al.* Comments at 74. They express the view that reporting requirements have not proven to be an effective means of improving postal performance.[290] They are concerned that the Commission's proposal will undermine the incentive to control costs by replacing "the strong cost-reducing effect of a firm price cap with toothless reporting requirements." NPPC *et al.* Comments at 24. They state that "[t]he Postal Service's inadequate progress in reducing costs to efficient levels is not a problem of transparency, it is a problem of managerial effectiveness and lack of sustained focus." NPPC *et al.* Reply Comments at 46. They maintain that "[t]he Postal Service's continued inability to reduce costs should require a stronger remedy than simply more transparency and additional reports." NPPC *et al.* Comments at 75. They advocate for financial penalties, in the form of reduced rate authority, for unsuccessful initiatives.[291]

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[290] NPPC *et al.* Comments at 13; NPPC *et al.* Reply Comments at 13.

[291] NPPC *et al.* Comments at 76; NPPC *et al.* Reply Comments at 46.

4. Recommended Changes to Proposed Reporting Requirements

Both NPPC *et al.* and the Postal Service suggest changes to the proposed reporting requirements. NPPC *et al.* state that reporting on mid-implementation adjustments, which as initially proposed only applied to Cost-Reduction Initiative Reports, should be required for DAR summary reports as well. NPPC *et al.* Comments at 75. They also state that the Commission should conduct prior review of major cost reduction initiatives or capital investment programs. *Id*.

The Postal Service argues that the Commission should apply the $5 million threshold proposed for Cost-Reduction Initiative Reports to DAR summary reports as well. Postal Service Comments at 61. Because the Postal Service prepares DARs for any capital spending project valued at $1 million or more, it argues that requiring summary reports for all DARs would result in a lower effective threshold for having to prepare DAR summary reports than the $5 million threshold for having to prepare Cost-Reduction Initiative Reports. *Id.* NPPC *et al.*, on the other hand, state that "[the Postal Service's] repeated failures to achieve anticipated returns on major investments is a long-standing problem[,]" and "[the Postal Service] [does not] have the type of history of successfully-implemented capital investments that would warrant the level of deference it wants." NPPC *et al.* Reply Comments at 47.

The Postal Service also argues that the Commission should remove the requirement that the Postal Service prepare summary reports for "planned projects that will require a [DAR] in the next fiscal year." Postal Service Comments at 60, 61. The Postal Service states that "[a]ny project that the Postal Service is considering, but that does not yet have a DAR, would not yet be developed in a meaningful way." *Id.* at 61. Therefore, disclosure of such projects "would have no utility." *Id.* at 62.

5. Tension with Objective 6

Several commenters note potential tension between the proposed reporting requirements and Objective 6 of the PAEA, which is focused on "reduc[ing] the administrative burden and increas[ing] the transparency of the ratemaking process." 39 U.S.C. § 3622(b)(6). With regard to transparency, ABA and NPPC *et al.* both concede that reporting requirements generally promote transparency, although both commenters believe that reporting requirements alone are not sufficient with regard to the Postal Service's cost-reduction and efficiency improvement efforts.[292]

With regard to administrative burden, NPPC *et al.* state that "more reporting requirements are in tension with Objective 6's goal of minimizing administrative burdens." NPPC *et al.* Comments at 24. ANM *et al.* assert that "without...sanctions, reporting requirements simply increase the administrative burden on [the Postal Service] and distract it from efforts to improve its service performance." ANM *et al.* Reply Comments at 19 n.15. The Postal Service likewise asserts that "oversight of [its] capital investments and cost-reduction initiatives would serve little purpose but to increase administrative burden." Postal Service Comments at 59. The Postal Service states that this is particularly true with regard to planned projects that will require a DAR, but do not yet have one. Postal Service Comments at 61-62. The Postal Service explains that "[p]rojects that are under consideration but do not yet have a DAR are so predecisional that the information is not 'already collected' or 'already produced internally'...," as contemplated in Order No. 5337. *Id.* at 62 (citing Order No. 5337 at 229, 231). Therefore, the Postal Service maintains that having to prepare summary reports with regard to such projects would result in administrative burden. *Id.* at 61-62.

[292] ABA Comments at 16; NPPC *et al.* Reply Comments at 13.

C. Commission Analysis of Comments

1. The Necessity of the Proposed Reporting Requirements

The Postal Service maintains that it does not need any additional incentive to pursue cost reductions and/or efficiency improvements under a price cap-based ratemaking system. However, the Postal Service has been operating under a price cap-based ratemaking system throughout the PAEA era, but, as the Commission has found, cost reductions and efficiency improvements have not been maximized.[293] This undermines the Postal Service's argument that the price cap alone has been sufficient to maximize the incentive to reduce costs and increase efficiency. Given that the price cap adjustments being adopted in this order will result in additional rate authority for the Postal Service, the Commission finds that additional cost monitoring is prudent in order to ensure that the Postal Service is focusing on maximizing all possible cost reductions. This cost monitoring is also intended to provide additional transparency to the Commission and postal stakeholders as to why the Postal Service has struggled to

[293] Order No. 4257 at 226. As discussed in Order No. 4257, the Postal Service's cost reduction initiatives have repeatedly failed to realize the level of cost savings projected by the Postal Service. Order No. 4257 at 200-203. *See, e.g.*, Docket No. N2012-1, Advisory Opinion on Mail Processing Network Rationalization Service Changes, September 28, 2012, at 92, 111, (concluding that the Postal Service overestimated the potential for transportation cost savings as part of its Network Rationalization initiative); United States Postal Service Office of Inspector General, *Operational Window Change Savings*, Report Number NO-AR-19-001, October 15, 2018, at 1 (finding that the Postal Service only achieved about 18 percent of the cost savings it projected from the second phase of its Network Rationalization initiative in FY 2016 and FY 2017, and that the Officer of Inspector General was only able to verify 5.6 percent of that amount).

achieve adequate cost reductions, as well as to address past concerns regarding the quality of the Postal Service's cost savings estimates.[294] Although the Commission disagrees with NPPC *et al.*'s characterization of the proposed price cap adjustment factors that are intended to address exogenous costs and are consistent with price cap theory as "convert[ing] the regulatory system into a cost-of-service system," the Commission finds merit in the call for additional oversight of this issue by the regulator. NPPC *et al.* Reply Comments at 46. The cost-reduction reporting requirements are intended to facilitate such oversight.

2. Risk of Commercial Harm

The Commission finds the concerns the Postal Service raises with regard to the risk of commercial harm stemming from public disclosure of sensitive commercial information to be potentially valid. However, under existing Commission procedures, the Postal Service can file such information nonpublicly and request that it be held under seal. *See* 39 C.F.R. part 3011. The Commission finds that its current rules in 39 C.F.R. part 3011 provide adequate protection for Postal Service information filed with the Commission that the Postal Service identifies as commercially sensitive.

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[294] The Postal Service also argued in its comments that the reporting requirements were unnecessary in light of the Performance-Based Rate Authority proposed in Order Nos. 4258 and 5337, which was also intended to provide the Postal Service with an incentive to reduce costs and increase efficiency. Postal Service Comments at 58-59. As discussed in Section VI.C., *supra*, the Commission has determined to defer consideration of the proposed Performance-Based Rate Authority to a separate strategic rulemaking proceeding. Nevertheless, the Commission notes that the cost-reduction reporting requirements addressed in this section and the issues to be considered in the strategic rulemaking serve different, albeit related, purposes. The cost-reduction reporting requirements are designed to incentivize the Postal Service to improve the robustness of its cost-benefit analyses, which is intended to provide a mechanism to better ensure that the Postal Service's operational decisions are supported by thorough analysis, thereby encouraging prudent and financially sound decision-making. The strategic rulemaking proceeding that the Commission is initiating will focus on further enhancements to the ratemaking system that not only amplify the Postal Service's incentives to reduce costs and increase efficiency, but also enhance the Postal Service's ability to address its longer-term financial challenges. *See* Section VI.C., *supra*.

3. Whether Reporting Requirements Alone Provide a Sufficient Incentive

With regard to comments that the Postal Service should be penalized in the form of sanctions or reduced rate authority for failing to achieve sufficient cost reductions or efficiency improvements, as stated in Section VI.C., *supra*, the Commission will be initiating a strategic rulemaking proceeding in a separate docket to consider such issues. Specifically, that proceeding will focus on cost-reduction issues in conjunction with service, efficiency, and long-term finances in order to determine if further modifications to the ratemaking system are desirable. The purpose of these reporting requirements is to provide transparency over the breadth of the Postal Service's innovative projects.

Moreover, the Commission disagrees with commenters who assert that the reporting requirements the Commission is adopting will not provide any incentive to reduce costs. While the primary purpose of the cost-reduction reporting requirements is to increase transparency and incentivize the Postal Service to improve the robustness of its cost-benefit analyses,[295] the reporting requirements will also drive the Postal Service to identify underlying causes of cost increases, which should enable it to undertake targeted responses to those causes. The reporting requirements have the additional benefit of allowing the Commission to investigate cost increases more thoroughly as part of the annual ACD process or as part of a rulemaking proceeding,

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[295] As discussed in Order No. 4257, the Postal Service's cost reduction initiatives have repeatedly failed to realize the level of cost savings projected by the Postal Service, and the Postal Service has struggled at measuring cost savings from its initiatives. Order No. 4257 at 200-203. *See, e.g.*, Periodicals Mail Study, Joint Report of the United States Postal Service and Postal Regulatory Commission, September 2011, at 97, available at: *https://www.prc.gov/docs/76/76767/Periodicals%20Mail%20Study_final_2131_2149.pdf* (noting the Postal Service's "inability to capture efficiencies in flat mail processing," and stating that "[o]ver the past decades the Postal Service has introduced many programs to capture some of these efficiencies," but it was "unclear how successful these programs had been."); Docket No. RM2018-5, Order Approving In Part Proposal Two, January 8, 2019, at 30 (Order No. 4972) (denying proposed methodological components because the Postal Service was unable to determine the impact of the proposed changes).

which could lead to further information requests or proceedings if the Commission identifies areas where cost-reduction efforts have been insufficient or have not been realized as intended.[296]

4. Recommended Changes to Proposed Reporting Requirements

Commenters proposed changes to the cost-reduction reporting requirements that include prior review of cost-reduction initiatives by the Commission, increased reporting thresholds and mid-implementation reports with respect to DARs, and an exemption from required summary reporting for planned DARs. With regard to comments asserting that the Commission should engage in prior review of the Postal Service's cost-reduction initiatives and capital expenditure programs, the Commission explained in Order No. 5337 that it did not intend to engage in such prior review. Regulators have imperfect information about the cost-reduction efforts available to a regulated firm, and as a result, the Commission found that requiring prior approval could hinder, rather than improve, the efficiency of cost-reduction efforts. Order No. 5337 at 226.

With regard to comments that mid-implementation reports should be required for DAR summary reports, under the rules being adopted, the Commission intends to use DAR summary reports mainly as supplements to the more in-depth Cost-Reduction Initiative Reports. The Cost-Reduction Initiative Reports will address larger and more substantial projects with greater opportunities for cost savings and efficiency improvements, while the DAR summary reports will give the Commission visibility at a high level into smaller cost-reduction projects. It is for this reason that the Commission is limiting DAR reporting requirements to summary information, while more extensive

[296] For example, the Postal Service in Docket No. RM2016-11 withdrew its petition for a proposed methodological change having to do with costs after the Commission identified several potential issues with the proposal, including that it could potentially understate or misallocate time and associated costs, possibly resulting in a large increase in training costs. *See* Docket No. RM2016-11, Order Closing Docket, October 7, 2016, at 8 (Order No. 3559).

reporting is being required for Cost-Reduction Initiative Reports. For example, for a Cost-Reduction Initiative Report, the Postal Service will be required to file data comparing actual changes in unit costs with expected changes in unit costs throughout the duration of a project, while for DAR summary reports, the Postal Service will only be required to detail the expected cost savings (or additional revenues) of a capital spending project in the current and next fiscal year, without providing analysis of the project's impact on Market Dominant costs or any reasons for deviations between projections and actual figures.[297] Because of the detail required for Cost-Reduction Initiative Reports and the differing levels of depth expected for Cost-Reduction Initiative Reports and DAR summary reports, the Commission finds it unnecessary to expand the scope of DAR summary reports at this time, by, for example, requiring mid-implementation reports. Information requests can, if warranted, be issued to gather more information about a specific DAR project.

Likewise, because DAR summary reports are not intended to be as in-depth as Cost-Reduction Initiative Reports, and because the administrative burden associated with producing DAR summary reports is considerably less, the Commission does not find it necessary to implement an increased threshold for having to disclose DAR summary reports as the Postal Service suggests. Additionally, if the reporting threshold for DAR summary reports were increased to $5 million, it is likely that the same projects

[297] Specifically, the Postal Service will be required to provide the following information for all projects associated with a DAR in the current or next fiscal year: descriptions of the projects; status of projects; estimates of cost savings or additional revenues for each project; and the expected return on investment from each project. Order No. 5337 at 231. For each active cost-reduction initiative above the $5 million threshold, however, the proposed rules will require the Postal Service to file actual data detailing the impact of the cost-reduction initiative on its selected metric, as well as the impact on Market Dominant unit costs and total unit costs. Then, the Postal Service will be required to compare the actual results to the expected results, and to provide a narrative explaining any variance along with a specific statement as to whether the initiative actually achieved the expected impact as measured by the selected metric. Finally, the Postal Service will be required to provide a description of any mid-implementation adjustments made to align actual results to expected results, as well as identify any revisions to expected results for future fiscal years. *Id.* at 230-231.

would be identified under both reports. This would eliminate transparency with regard to smaller projects.

With regard to the Postal Service's concern about having to prepare summary reports for planned DARs, the Commission finds the Postal Service's position to be reasonable. It was not the intent of the Commission for the Postal Service to be required to provide pre-decisional information. The Commission has therefore revised § 3050.55(f) to clarify that the Postal Service will only be required to provide summary information with regard to projects that have an approved DAR for the next fiscal year.

5. Tension with Objective 6

With respect to comments concerning administrative burden, administrative burden must be balanced with increased transparency, which is also a goal of Objective 6. *See* 39 U.S.C. § 3622(b)(6). The Commission has concluded that the benefits to be gained from increased transparency with respect to the Postal Service's cost-reduction initiatives outweigh the burden associated with having to compile reports containing data and information that are already produced and available to the Postal Service. The sole potential exception to this—planned projects which have not yet been formalized into a final DAR—is addressed by the revision the Commission is making to § 3055.55(f). Those revisions clarify that the Postal Service does not have to provide information with regard to planned projects that have not yet been formalized into a final DAR, which should eliminate any concern about having to provide information that is not "'already produced internally[.]'" Postal Service Comments at 62.

D. Revisions to Proposed Rules

The Commission is revising § 3050.55(f) to clarify that the Postal Service will only be required to provide summary information with regard to projects that have an approved DAR for the next fiscal year. The Commission otherwise adopts the proposed rules from Order No. 5337 related to cost-reductions reporting without changes.

X. PROCEDURAL IMPROVEMENTS

A. Introduction

Order No. 4258 proposed two procedural changes to improve the ratemaking process related to planned rate adjustments of general applicability. These changes are within the scope of the Commission's general authority to revise its regulations under 39 U.S.C. §§ 3622(a) and 503. Order No. 4258 at 98. First, the Commission proposed to enhance rules regarding the Schedule for Regular and Predictable Rate Adjustments (Schedule). *Id.* at 99-102. Existing 39 C.F.R. § 3030.509 requires the Postal Service to "maintain on file with the Commission a Schedule for Regular and Predictable Rate Adjustments." 39 C.F.R. § 3030.509(a). The Schedule must be updated "[w]henever the Postal Service deems it appropriate to change" by filing a revised Schedule and explanation with the Commission. *Id.* § 3030.509(e).

In Order No. 4258, the Commission proposed requiring the Postal Service to update the Schedule at least once a year (at a minimum, when it files the ACR). Order No. 4258 at 101. The proposed rules required the Schedule to (1) schedule rate adjustments at specific regular intervals and (2) include plans to adjust rates that may occur over the next 3 years, at a minimum. *Id.*; *id.* Attachment A at 5-6. Specifically, the Postal Service must include the estimated filing and implementation dates (month and year), as well as an explanation that would allow mailers to predict with reasonable accuracy, by class, the amounts of future rate adjustments. Order No. 4258 at 101. The Postal Service would retain the flexibility to file a new Schedule at any time and may deviate from the anticipated rate changes if it provides an explanation in its rate adjustment filing. *Id.*

Second, the Commission proposed revising the procedural schedule for rate adjustment proceedings. *Id.* at 102-106. The proposed rules lengthened the notice period for rate adjustments and made conforming adjustments to the timing requirements for the comments and a Commission decision. *Id.* The proposed rules

extended the notice period for rate adjustments from 45 days to 90 days before the planned implementation of rates. *Id.* at 104. The proposed rules extended the comment deadline from 20 to 30 days for an initial request to review planned rate adjustments. *Id.* For an amended request, the proposed rules extended the comment deadline from 7 to 10 days. *Id.*

The proposed rules also lengthened the time period for rendering a Commission decision from 14 to 21 days after the comment period ends for both initial and amended requests. *Id.* The proposed rules enumerated potential actions the Commission may take following its determination that the Postal Service's rate adjustment filing failed to include the information required by the Commission's rules. *Id.* at 104-105.

In Order No. 5337, the Commission issued revised proposed rules concerning the two procedural changes described above. Order No. 5337 at 238-239. The revised proposed rules retained the substance and structure of the rules proposed in Order No. 4258 and only included non-substantive changes made for clarity, global consistency, and terminology. *Id.* The Commission revised other proposed procedural rules to conform to changes proposed in Order No. 5337. *Id.* at 239. For example, the revised definitions, which appear in revised § 3030.101, reflected the new forms of rate authority proposed in Order No. 5337 (density-based rate authority and retirement obligation rate authority). *Id.* Revised § 3030.123 described the supporting technical documentation the Postal Service must include with its rate adjustment filing, which contained the same requirements as the proposed rules, but added the requirement that the Postal Service designate how much of each type of rate adjustment authority it plans to use for each class. *Id.*

The revised proposed rules in Order No. 5337 also proposed to discontinue addressing the objectives and factors of 39 U.S.C. § 3622(b) and (c) in individual rate adjustment proceedings. *Id.* at 239-240. While the Commission proposed to require the Postal Service to consider the provisions of 39 U.S.C. chapter 36 in its rate design,

the Commission also proposed to discontinue requiring the Postal Service to report its underlying justification for proposed rates vis-à-vis the objectives and factors of 39 U.S.C. § 3622(b) and (c). *Id.* at 245.

The following discussion summarizes the comments received concerning the Commission's revised proposed procedural rules, provides analysis responding to comments received, and describes the changes made to the proposed rules.

B. Comments

None of the commenters discuss the proposed enhancements to the Schedule. Several commenters discuss the proposed revisions to the rate adjustment notice period, the Commission review periods, the discussion of objectives and factors, and other changes to the procedural schedule for rate adjustment proceedings. Each topic is discussed below.

1. Rate Adjustment Notice Period

Pitney Bowes, NPPC *et al.*, and GCA support extending the rate adjustment notice period from 45 to 90 days.[298] Pitney Bowes and NPPC *et al.* observe that codifying the 90-day notice requirement largely conforms to the Postal Service's current practice. Pitney Bowes Comments at 8; NPPC *et al.* Comments at 76. PSA comments that extending the notice period to 90 days would somewhat reduce the Postal Service's pricing flexibility. PSA Revised Comments at 9.

[298] Pitney Bowes Comments at 8; NPPC *et al.* Comments at 76; GCA Comments at 3.

2. Commission Review Periods

Pitney Bowes states that extending the Commission's review period "will enable a more thorough review by the Commission and, thus, will facilitate improved accountability consistent with Objectives 2 and 6." Pitney Bowes Comments at 8.

The Postal Service opposes the proposed changes to the Commission review periods for initial and amended rate adjustment filings. Postal Service Comments at 53. It observes that the proposed rules would create a separate pre-rate adjustment filing proceeding to consider waiver requests for workshare discounts. *Id.* The Postal Service notes that interested persons would have at least 7 days to submit comments, and the pre-rate adjustment filing proceeding would resolve issues related to workshare discounts before the rate adjustment proceeding. *Id.* The Postal Service comments that the proposed rules would streamline rate adjustment proceedings because they would not require an analysis of the statutory objectives and factors. *Id.* Because the proposed rules would address workshare discount issues in a separate proceeding and remove the requirement to consider the objectives and factors, the Postal Service asserts that the subject matter of rate adjustment proceedings under the proposed rules would be substantially narrower compared to the current rules. *Id.* Thus, it concludes that the Commission should maintain or reduce rather than extend the rate adjustment filing review periods. *Id.* at 54-55.

The Postal Service asserts that extending the Commission review period for amended rate adjustment filings would not provide sufficient time for rate certainty before implementation. *Id.* at 54. It comments that both mailers and the Postal Service need a final order on rate adjustments before programming and testing the software changes necessary to implement a rate adjustment. *Id.* The Postal Service notes that under the current rules, it must file a notice of rate adjustment at least 106 days before rates are implemented to ensure that the Commission issues a final order at least 45 days before implementation. *Id.* It observes that the proposed rules would require the

Postal Service to file a notice of rate adjustment at least 130 days before rates are implemented. *Id.* It asserts that filing a notice that far in advance could push back the hybrid year used in the rate filing, which could result in a loss of billing determinant data reflecting current prices and shorten the time for preparing and presenting the filing to the Board of Governors. *Id.* at 54-55. It concludes that lengthening the procedural schedule for rate adjustment proceedings "either would cause a cascade of disruptive effects on mailers and the Postal Service or could deprive the Postal Service Governors and the Commission of important data." *Id.* at 55.

The Postal Service asserts that Order No. 5337 fails to justify the proposed extensions of the Commission review periods for initial and amended rate adjustment filings. *Id.* at 53-54. It acknowledges that some parties may support the proposed changes to the procedural rules, but notes that no interested person sought to extend the rate adjustment review periods or provided a clear justification for doing so. *Id.* at 55. It asks that the Commission either retain or shorten the review periods for initial and amended rate adjustment filings. *Id.* at 54-55.

3. Discussion of Objectives and Factors

ABA, GCA, NPPC *et al.*, and Pitney Bowes argue that *Carlson v. Postal Regulatory Commission*[299] does not allow the Commission to disregard the objectives and factors when reviewing proposed rate adjustments, asserting that *Carlson* did not find the PAEA to be ambiguous on this issue.[300] NPPC *et al.* assert that "the Court only partly relied on the text of the current regulation, but also rested its decision on the text of the PAEA and the APA[[301]]." NPPC *et al.* Comments at 77 n.75. Therefore, they

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[299] *Carlson v. Postal Reg. Comm'n*, 938 F.3d 337 (D.C. Cir. 2019).

[300] ABA Comments at 17-18; GCA Comments at 2-3, 5; NPPC *et al.* Comments at 77-78; Pitney Bowes Comments at 9-10.

[301] Administrative Procedure Act, Pub. L. 79-404, 60 Stat. 237 (1946) (codified at 5 U.S.C. §§ 500 *et seq.*).

contend that "even if the Commission were to delete from its procedures governing market-dominant rate adjustments the specific references to the Objectives and Factors, it would continue to have an obligation to address them in approving rates, and particularly those raised in public comments." *Id.* at 77. GCA and NPPC *et al.* assert that relieving the burden on the Postal Service to provide a justification of its proposed rate adjustments improperly shifts the burden of proof to the ratepayer to show that an approved rate (post-implementation) is unreasonable, contrary to an express concern of *Carlson*.[302]

GCA also comments that extending the notice period to 90 days "means that consideration of the objectives and factors is not infeasible" and that the Commission cannot postpone addressing these issues in complaint or Annual Compliance Review proceedings. GCA Comments at 3, 5. It states that considering the objectives and factors "will become even more practicable" if the Commission adopts the revised proposed rules concerning waivers for workshare discounts. *Id.* at 3-4.

Further, multiple commenters find it difficult to reconcile discontinuance of reviewing the objectives and factors in individual rate adjustment proceedings with the thrust of the Commission's modified system: granting additional forms of rate authority above the existing CPI-U price cap.[303] ABA and Pitney Bowes express concern that discontinuing review for consistency with the relevant objectives and factors is incompatible with the PAEA's titular aim to enhance accountability. *See* ABA Comments at 17; Pitney Bowes Comments at 10-11. They also argue that the Commission has not provided an adequate policy rationale for reversing its position with

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[302] *Compare* GCA Comments at 5, *and* NPPC *et al.* Comments at 78 n.76, *with Carlson*, 938 F.3d at 350.

[303] *See* ABA Comments at 18; GCA Comments at 4; Pitney Bowes Comments at 10-11.

regard to the breadth of the review of rate adjustments. *See* ABA Comments at 18; Pitney Bowes Comments at 10.

The Postal Service supports the Commission's proposal to discontinue addressing the objectives and factors because it contends that *Carlson* should be interpreted as narrowly as possible and that review by the Commission prior to implementation of the planned rates (pre-implementation review) is unnecessary. *See* Postal Service Reply Comments at 45-48.

4. Other Procedural Changes to Rate Adjustment Proceedings

Pitney Bowes comments that the proposed procedural changes to rate adjustment proceedings should be adopted as proposed because they will improve procedural regularity and transparency. Pitney Bowes Comments at 2, 11. It observes that extending the public comment period will encourage more meaningful participation by interested persons. *Id.* at 8. Pitney Bowes also supports the proposed changes clarifying Commission responses to incomplete filings because they will help facilitate the administration of the ratemaking process. *Id.*

C. Commission Analysis of Comments

1. Rate Adjustment Notice Period

Pitney Bowes, NPPC *et al.*, and GCA support extending the rate adjustment notice period from 45 to 90 days.[304] Pitney Bowes and NPPC *et al.* observe that codifying the 90-day notice requirement in the revised proposed rules largely conforms to the Postal Service's current practice. Pitney Bowes Comments at 8; NPPC *et al.* Comments at 76.

[304] Pitney Bowes Comments at 8; NPPC *et al.* Comments at 76; GCA Comments at 3.

To facilitate the administration of rate adjustment proceedings, the final rules extend the rate adjustment notice period to 90 days. In Order No. 4257, the Commission determined that rate adjustment proceedings were consistently able to be adjudicated within 90 days. Order No. 4257 at 72. In eight of the rate adjustments for all classes during the PAEA era, the Postal Service filed the notice of rate adjustment at least 90 days before the planned implementation date. *Id.* at 63. Pitney Bowes and NPPC *et al.* note that extending the notice period from 45 to 90 days codifies this existing practice and facilitates the administration of rate adjustment proceedings.[305] Ninety days' advance notice should also facilitate mailers' ability to generate budgets, allow adequate time for rate adjustment proceedings to be adjudicated, and give mailers time to implement the rates as planned. Order No. 4258 at 104.

PSA comments that extending the notice period to 90 days would somewhat reduce the Postal Service's pricing flexibility. PSA Revised Comments at 9. In Order No. 4257, the Commission found that the pricing flexibility may be limited "as long as the Postal Service has some flexibility to set prices, the price structure, and the timing of price changes." Order No. 4257 at 91. The final rules continue to allow the Postal Service pricing flexibility. Under the final rules, the Postal Service has the authority to propose rates, determine the magnitude of rate increases, and decide the timing and frequency of rate adjustments. Final § 3030.509 reflects the Postal Service's pricing flexibility to revise the Schedule and vary the magnitude with an explanation. *See* Order No. 5337 at 238. Given that a 90-day notice period is consistent with past practice, the Commission finds any effects on the Postal Service's pricing flexibility to be negligible and outweighed by the benefits to the mailers and adjudicative process.

[305] Pitney Bowes Comments at 8; NPPC *et al.* Comments at 76; *see* Order No. 4258 at 104.

2. Commission Review Periods

In Order No. 4257, the Commission analyzed the duration of eight non-exigent Market Dominant rate adjustment proceedings during the PAEA era. Order No. 4257 at 71. The Commission found that these large-scale rate adjustment proceedings lasted an average of 62 days. *Id.* at 72. In six of these eight proceedings, there were significant issues with the Postal Service's rate adjustment filings resulting in durations of between 58 and 112 days. *Id.*

The Postal Service asserts that the subject matter of rate adjustment proceedings under the revised proposed rules would be narrower compared to the existing rules because workshare discount issues would be addressed in a separate proceeding, and the objectives and factors would not need to be considered.[306] However, longer Commission review periods during the PAEA era were necessary due to deficiencies in the Postal Service's filings that required corrections to resolve the proceedings—not issues specific to worksharing or consideration of the objectives and factors. *See* Order No. 4257 at 98. For example, in Docket No. R2017-1, the Postal Service filed a notice of rate adjustment on October 12, 2016.[307] On November 15, 2016, the Commission issued an order approving the rate adjustments for each class of mail except for Special Services.[308] Rate adjustments for Special Services were not approved until December 15, 2016, "[d]ue to delays in receiving the information

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[306] Postal Service Comments at 53. The Commission notes that the Postal Service is only partially correct that workshare discount issues would be addressed in a separate proceeding. The worksharing rules create a waiver process that would adjudicate some workshare discounts in advance of a rate adjustment proceeding. Proposed § 3030.286. However, review of workshare discounts for compliance with other Commission regulations would continue to occur within a rate adjustment proceeding. *See, e.g.,* proposed §§ 3030.283, .284, .285.

[307] Docket No. R2017-1, United States Postal Service Notice of Market Dominant Price Adjustment, October 12, 2016.

[308] Docket No. R2017-1, Order on Price Adjustments for First-Class Mail, Standard Mail, Periodicals, and Package Services Products and Related Mail Classification Changes, November 15, 2016 (Order No. 3610).

necessary to complete [the Commission's] review and the complexity of classification changes proposed by the Postal Service...." Order No. 3610 at 2. There were other delays because the Postal Service filed two errata to the notice of rate adjustment and did not finalize its rate adjustment until December 6, 2016.[309] The Postal Service also submitted imprecise and inadequate workpapers, which included billing determinants that differed from those submitted to the Commission in quarterly reports. Order No. 3670 at 2. Consequently, this proceeding lasted 64 days. *See* Order No. 4257 at 72.

As another example, in Docket No. R2015-4, the Commission remanded rates for USPS Marketing Mail, Periodicals, and Package Services twice because the proposed rate adjustments did not comply with certain statutory and regulatory requirements, and the Postal Service did not provide the information necessary to calculate the average rate increase for Package Services.[310] The Postal Service's first two rate adjustment filings contained many errors and inconsistencies, lacked the information required by title 39 and the Commission's regulations, and required 16 Chairman's Information Requests to attempt to cure the deficiencies.[311] Also, before

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[309] *Id.* at 1 n.1; Docket No. R2017-1, Order on Price Adjustments for Special Services Products and Related Mail Classification Changes, December 15, 2016, at 2 (Order No. 3670).

[310] Docket No. R2015-4, Order on Price Adjustments for Standard Mail, Periodicals, and Package Services Products, March 6, 2015, at 2-3 (Order No. 2378); Docket No. R2015-4, Order on Amended Price Adjustments for Standard Mail, Periodicals, and Package Services Products, March 18, 2015, at 2 (Order No. 2398).

[311] *See* 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, at 5-6 (Order No. 2472).

the Commission remanded the rate adjustments, the Postal Service filed several revisions to the initial notice of rate adjustment, which caused further delays.[312] These issues were caused by the insufficiency of the Postal Service's filings rather than the need to analyze workshare discounts and the objectives and factors. This proceeding lasted 112 days.

The revised proposed rules were designed to address the issues encountered during the previous large-scale rate adjustment proceedings. Under proposed § 3030.126, the Commission completes its initial review of a proposed rate adjustment within 51 days. If the planned rate adjustments are consistent with applicable law, they may take effect. Proposed § 3030.126(c). If, however, the planned rate adjustments are found inconsistent with applicable law, the Commission would have 31 days to review an amended rate adjustment filing. Proposed § 3030.126(f), (g). These timelines balance the needs of the Postal Service for expeditious review with the need to allow adequate time for thorough vetting of the planned rate adjustments by commenters and the Commission.

Further, there is no question that the Commission has the discretion to determine such timelines. In *Carlson*, the court stated that "[t]he PAEA is silent about the amount of time the Commission may take *during* its review…[and] Congress did not limit the scope and duration of the Commission's review…." *Carlson*, 938 F.3d at 349 (emphasis in original).

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[312] Docket No. R2015-4, Notice of Revision to United States Postal Service Notice of Market-Dominant Price Adjustment, Attachment A, Part II -- Errata, February 27, 2015; Docket No. R2015-4, Notice of Revision to United States Postal Service Notice of Market-Dominant Price Adjustment, Attachment A, Part II -- Errata, February 20, 2015; Docket No. R2015-4, Notice of Revisions to United States Postal Service Notice of Market-Dominant Price Adjustment, Attachments A and D -- Errata, February 6, 2015; Docket No. R2015-4, Notice of Revisions to United States Postal Service Notice of Market-Dominant Price Adjustment, Attachment A -- Errata, February 4, 2015.

The Postal Service asserts that extending the Commission review period for amended rate adjustment filings would not provide sufficient time for rate certainty before implementation. Postal Service Comments at 54. It states that the lengthened procedural schedule could either disrupt mailers' and the Postal Service's implementation of the new rates or deprive the Board of Governors and the Commission of important data. *Id.* at 55. With regard to potential disruption to rate implementation, as the Commission noted above, historically, rate adjustment proceedings have been lengthened due to the Postal Service's prior notices of rate adjustment being deficient. Amended rate adjustment filings will likely be unnecessary if the Postal Service submits all required information in the initial filings and that information is precise and accurate. Also, the revised proposed rules provide the Postal Service the option to submit a rate adjustment filing with more than 90 days' notice. By exercising this option, the Postal Service will be able to address its concern that it has sufficient time to address a remand prior to the planned implementation date.

The Postal Service asserts that filing a notice that far in advance could result in a loss of billing determinant data reflecting current prices and shorten the time for preparing and presenting the filing to the Board of Governors. Postal Service Comments at 54-55. First, under the current filing requirements, more recent billing determinant data can become available during rate adjustment proceedings.[313] As a practical matter, the time necessary to compile and report billing determinants, prepare and present a filing to the Board of Governors, and provide customers with advance notice of a price change limit the availability of billing determinant data that reflect current prices. The Postal Service has not raised this issue during PAEA-era rate adjustment proceedings, which suggests that this is not a major issue. The billing

[313] *See* Order No. 2472; United States Postal Service, Market Dominant Billing Determinants, Quarter 1, FY 2015, March 27, 2015.

determinants used in a rate case cover a 12-month period that typically ends more than 60 to 90 days prior to the filing.[314] In this context, increasing the time between filing and implementation by 24 days is unlikely to substantially reduce the availability of billing determinant data that reflect current prices.[315] Furthermore, the Postal Service provides no evidence that shifting one quarter of billing determinant data will have a major impact on the price cap calculations.

One of the important questions the Commission had to determine when implementing the regulations required by the PAEA was whether to apply the price cap to a forward-weighted or backward-weighted index of prices. From a technical perspective, the Commission had to choose between using the most recent historical billing determinant information and developing a forecast of future volumes at the proposed prices to calculate the aggregate percentage increase in prices for each class of mail. The vast majority of the commenters, including the Postal Service, supported

[314] 39 C.F.R. § 3030.523(d)(1) instructs the Postal Service to use "the most recent available 12 months of Postal Service billing determinants" to calculate the percentage change in rates. The Commission's periodic reporting rules require the Postal Service to provide "[b]illing determinants within 60 days of the close of Quarters 1, 2, and 3 of the fiscal year and 90 days after Quarter 4." 39 C.F.R. § 3050.25(e).

[315] The Postal Service asserts that the proposed timeline for review would necessitate filing 130 days before implementation, in contrast to 106 days under the current review timeline. Postal Service Comments at 54.

using a backward-weighted index that applied the most recent historical billing determinants.[316] The Commission has periodically evaluated the impact of using historical information compared to the actual volumes at the new prices. *See* FY 2008-FY 2012 ACD, Appendix A. This evaluation showed that the differential between the two sets of billing determinants was minimal. *Id.* Although there is no reason to expect that the reasonableness of using the historical determinants would be changed by the modified system implemented by these rules, the Postal Service may petition the Commission for a rulemaking should it find the billing determinants are no longer the most appropriate weights to use.

3. Discussion of Objectives and Factors

Multiple commenters contend that the PAEA unambiguously requires the Commission's pre-implementation review of the Postal Service's planned rate adjustments to explicitly consider the objectives and factors of 39 U.S.C. § 3622(b) and (c).[317] There is no textual support for this proposition. As reiterated below, the Commission has authority to construe how to apply the provisions of 39 U.S.C. § 3622, including paragraphs (b), (c), and (d)(3). Order No. 5337 at 239-240.

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[316] *See* Docket No. RM2007-1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, ¶¶ 2071-2072 (Order No. 26); Docket No. RM2007-1, Errata to Order No. 26, August 16, 2007 (Order No. 27); *see also* Docket No. RM2007-1, Initial Comments of Pitney Bowes Inc. in Response to Advance Notice of Proposed Rulemaking on Regulations Establishing A System of Ratemaking, April 6, 2007, at 7-8; Docket No. RM2007-1, Initial Comments of the United States Postal Service, April 6, 2007, at 27-28; Docket No. RM2007-1, Direct Marketing Association, Inc. Initial Comments Pursuant to PRC Order No. 2, April 6, 2007, at 4; Docket No. RM2007-1, Comments of Advo, Inc. in Response to Advance Notice of Proposed Rulemaking on Regulations Establishing A System of Ratemaking; April 6, 2007, at 4; Docket No. RM2007-1, Initial Comments of Pitney Bowes Inc. in Response to Second Advance Notice of Proposed Rulemaking on Regulations Establishing a System of Ratemaking, June 18, 2007, at 3-4.

[317] *See* GCA Comments at 2; NPPC *et al.* Comments at 77; *see also* ABA Comments at 17-18; Pitney Bowes Comments at 9-10.

The PAEA charges the Commission with the establishment and periodic revision of the contours of a modern ratemaking system. 39 U.S.C. § 3622(a). On October 29, 2007, the Commission established the system through a notice-and-comment rulemaking proceeding[318] and has periodically revised the system through subsequent rulemakings.[319] The PAEA also requires that the Commission conduct a 10-year review of the existing system to determine if the system is achieving the objectives of § 3622(b). 39 U.S.C. § 3622(d)(3). The factors of § 3622(c) must be taken into account in the determination of whether the system is achieving the objectives. *Id.* If the Commission determines that the system is not achieving the objectives, taking into account the factors, then the Commission may modify or adopt an alternative system as necessary to achieve the objectives. *Id.* The Commission initiated the review in this docket and determined that the ratemaking system has not achieved the objectives, taking into account the factors. Order No. 4257 at 275.

The qualitative criteria encapsulated in the objectives and factors are unambiguously relevant to the design of the Market Dominant ratemaking system as a whole and have been taken into account in past rulemaking proceedings under 39 U.S.C. § 3622(a) and the instant proceeding under 39 U.S.C. § 3622(d)(3). The PAEA does not require the objectives and factors to be considered in the Commission's pre-implementation review of the Postal Service's planned rate adjustments. Additionally, the PAEA does not unambiguously require the Commission to issue regulations that would require the Commission's pre-implementation review of the Postal Service's planned rate adjustments to explicitly consider the objectives and factors.

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[318] *See generally* Order No. 43.

[319] *See, e.g.*, Docket No. RM2009-8, Order Amending the Cap Calculation in the System of Ratemaking, September 22, 2009 (Order No. 303) (amending the rounding convention for the price cap calculation from using one decimal place to using three decimal places). Such periodic revisions are not as far-reaching or extensive as the undertaking pursuant to 39 U.S.C. § 3622(d)(3).

The Commission also disagrees with the arguments that the ruling in *Carlson* precludes the Commission from adopting these regulatory changes.[320] "A court's prior judicial construction of a statute trumps an agency construction otherwise entitled to *Chevron* deference only if the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion."[321] *Carlson* did not rest on the premise that the PAEA unambiguously required the Commission to apply the objectives and factors in rate adjustments or to issue regulations that would require the Commission's pre-implementation review of the Postal Service's planned rate adjustments to explicitly consider the objectives and factors.

Carlson focused on the APA violation (finding failure to substantively engage with public comment and rejecting the premise that the 45-day period specified in 39 U.S.C. § 3622(d)(1)(C) could be relied upon to limit the scope of review) and the Commission's existing regulations,[322] which made the objectives and factors relevant to individual rate adjustments. *See Carlson*, 938 F.3d at 343, 345, 348. Notwithstanding this decision, the Commission has authority to interpret the ambiguity in 39 U.S.C. § 3622 regarding the role of the objectives and factors in pre-implementation rate review, including paragraphs (b), (c), and (d)(3) in promulgating regulations for a modified ratemaking system. *Carlson* acknowledged the discretion of the Commission with regard to setting up a regulatory process to apply the objectives and factors to individual rate

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[320] *See* ABA Comments at 17-18; GCA Comments at 2-3, 5; NPPC *et al.* Comments at 77-78; Pitney Bowes Comments at 9-10.

[321] *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 982 (2005).

[322] Effective April 20, 2020, the Commission renumbered the applicable regulations, which formerly appeared in 39 C.F.R. part 3010. *See* Order No. 5407 at 21, Appendix B at 6 (renumbering former 39 C.F.R. §§ 3010.10, .11, and .12 to existing 39 C.F.R. §§ 3030.510, .511, and .512, respectively).

adjustments.[323] Further, *Carlson* did not evaluate the impact of the Commission's authority under 39 U.S.C. § 3622(d)(3). The Commission's authority under § 3622(d)(3), which includes modification and extends to adoption of an alternative system, is far broader than its authority under § 3622(a).[324] Streamlining the process for rate adjustment dockets is well within the bounds of this authority. Accordingly, it is permissible for the Commission to conclude that its modified ratemaking system will achieve the PAEA's objectives as required under 39 U.S.C. § 3622(d)(3). Therefore, review for consistency with the objectives and factors is unnecessary in individual rate adjustments under the Commission's modified system, which already takes account of the objectives and factors in Docket No. RM2017-3.

ABA, GCA, NPPC *et al.*, and Pitney Bowes assert that particular statements appearing in *Carlson* preclude the Commission from adopting the modified regulatory approach. ABA references that "the Commission must apply the relevant objectives and factors to individual rate adjustments." ABA Comments at 17 (quoting *Carlson*, 938 F.3d at 344) (internal marks omitted). Similarly, NPPC *et al.* assert that the Commission may not "disregard the objectives and factors" when approving rates, because its orders must satisfy the APA requirement to be "reasonably explained," (NPPC *et al.* Comments at 77 (quoting *Carlson*, 938 F.3d at 344) (internal marks omitted); *see* Pitney Bowes Comments at 9), and that the Commission must "[o]f course" consider "all relevant statutory objectives and factors" raised in public comments. NPPC *et al.* Comments at 78 (quoting *Carlson*, 938 F.3d at 345) (internal marks omitted). However, these statements were based on the existing regulations allowing the objectives and factors to be deemed as relevant to individual rate adjustments, and the particular facts underlying *Carlson* involving the Commission's failure to substantively engage with a commenter

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[323] *See Carlson*, 938 F.3d at 344 ("Congress left the Commission leeway to establish, through regulation, a process for considering the PAEA's objectives and factors. 39 U.S.C. § 3622(a)–(c).").

[324] *See* Section III.B.1., *supra*; Order No. 5337 at 35-37; Order No. 4258 at 15, 17-18.

that had raised issues with relevant objectives and factors. These statements are inapplicable under the final regulations appearing in this Order, which effectively modify the scope of individual rate dockets to render the objectives and factors to be irrelevant in individual rate dockets and instead address such issues systemically, as intended by the PAEA.

GCA and Pitney Bowes contend certain statements in *Carlson* indicate that the PAEA unambiguously requires the Commission to apply the objectives and factors in rate adjustments. These commenters reference that "[b]ased on the text and structure of the PAEA, [the court] conclude[s] that the PAEA requires consideration of all relevant statutory objectives and factors as part of the regulatory process and does not authorize the Commission to defer evaluation of those objectives and factors until after it approves a rate change."[325] Similarly, Pitney Bowes references that *Carlson* rejected the premise that consideration of the objectives and factors could be deferred to the annual compliance review process or a complaint as "contrary to the plain language of the statute when read as a whole." Pitney Bowes Comments at 10 (quoting *Carlson*, 938 F.3d at 350) (internal marks omitted). As described above, the narrow underlying facts and circumstances at issue in *Carlson* support a narrow interpretation of the applicability of these statements.[326]

Moreover, this underlying premise rejected in *Carlson* is not at issue in the Commission's modified ratemaking system. These statements in *Carlson* were directed at examining whether the existing ratemaking system created under 39 U.S.C.

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[325] Pitney Bowes Comments at 9 (quoting *Carlson*, 938 F.3d at 343) (internal marks omitted); *see* GCA Comments at 2 (same); *see also Carlson*, 938 F.3d at 343.

[326] The Commission further observes that no statutory authority was provided for a fundamental mischaracterization underlying *Carlson*: that the Commission sets rates for the Postal Service's Market Dominant products. *See Carlson*, 938 F.3d at 349 ("Congress did not limit the scope and duration of the Commission's review, but did charge the Commission with setting rates through rulemaking (rather than adjudication), with the due consideration required by the APA."). It is plain that the Governors of the Postal Service set rates under the PAEA. *See* 39 U.S.C. § 404(b).

§ 3622(a) permitted the Commission to defer consideration of the objectives and factors (which under the existing system are relevant to rate adjustment proceedings) to a post-implementation proceeding such as the annual compliance review or complaint process. However, the modified ratemaking system created under 39 U.S.C. § 3622(d)(3) would not defer consideration of the objectives and factors to post-implementation proceedings. Instead, the Commission has specifically designed a modified ratemaking system that properly balances the objectives *in advance* of individual rate adjustments. Therefore, rather than defer consideration to a time after the rates have already been implemented, the Commission has adequately given consideration to the relevant objectives and factors in Docket No. RM2017-3. The regulatory output of this proceeding—the final rules implementing the modified ratemaking system—will govern the Postal Service's future rate design. Accordingly, each planned rate adjustment governed by that modified system need not be justified individually. Further, as a policy matter, the Commission undertook extensive analysis of the objectives and factors in its 10-year review and the Commission will review the system again in 5 years, subject to Commission discretion to consider aspects of the system sooner, if needed.[327]

The Commission disagrees that its modified ratemaking system would improperly shift the burden of proof to the ratepayer to show that an approved rate (post-implementation) is unreasonable, contrary to an express concern raised in *Carlson*. *See* GCA Comments at 5; NPPC *et al.* Comments at 78 n.76. The final rules implement a modified ratemaking system that adequately gives consideration to the qualitative issues presented by the relevant objectives and factors. These considerations have been balanced by the Commission in this extensive notice-and-comment rulemaking

[327] To clarify, as detailed in Chapter XIII., *infra*, the Commission acknowledges that attempting to realign the price cap system with the objectives, after more than a decade of operation, presents complicated issues that may require further refinement. The Commission maintains that the changes implemented by the final rules are necessary to achieve the objectives and that subsequent review will serve as an adequate safeguard mechanism as well as a checkpoint that is consistent with typical price cap systems.

proceeding in advance of the Postal Service proposing rate adjustments. If the Postal Service proposes a rate adjustment compliant with the final rules, then that planned rate adjustment would be consistent with the objectives and factors. The Postal Service's rate adjustment filing must substantially comply with the requirements of final §§ 3030.122 and 3030.123. *See* final 39 C.F.R. § 3030.126. A Postal Service proposal to adjust a workshare discount must be supported by substantial evidence and demonstrate compliance with the applicable provisions appearing in 39 U.S.C. § 3622(e) and final subpart J of 39 C.F.R. part 3030. *See* final 39 C.F.R. § 3030.285(a). A Postal Service application for waiver regarding a workshare discount must be supported by a more rigorous standard: a preponderance of the evidence. *See* final 39 C.F.R. § 3030.286(b). The modified ratemaking system does not impose any additional burden of proof on ratepayers.

ABA and Pitney Bowes argue that the Commission has not put forth an adequate reason for the change in policy from applying the objectives and factors to individual rate adjustments. *See* ABA Comments at 18; Pitney Bowes Comments at 10. "Agencies are free to change their existing policies as long as they provide a reasoned explanation for the change."[328] The agency must explain "that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better."[329] As stated above, in the description of the narrow applicability of *Carlson*, which was based on a unique set of facts and on the existing regulations, the change is permissible because *Carlson* did not foreclose the Commission from restructuring the regulatory process for applying the objectives and factors to individual rate adjustments and did not consider the Commission's authority under 39 U.S.C. § 3622(d)(3). The Commission's existing system of regulations, which essentially codified

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[328] *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016) (citing *Brand X Internet Servs.*, 545 U.S. at 981-982).

[329] *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (emphasis omitted); *see also Nat'l Ass'n of Home Builders v. EPA*, 682 F.3d 1032, 1038 (D.C. Cir. 2012).

the quantitative parameters of 39 U.S.C. § 3622 and would not be reviewed for 10 years, needed to incorporate the objectives and factors as a safeguard; however, the modified system does not require such a safeguard. The modified system achieves the objectives as required under 39 U.S.C. § 3622(d)(3). This change simplifies the existing ratemaking process and reduces the administrative burden, consistent with an aim of Objective 6.

The Commission disagrees that discontinuing review for consistency with the relevant objectives and factors is incompatible with the PAEA's titular aim to enhance accountability. *See* ABA Comments at 17; Pitney Bowes Comments at 10-11. The Commission's design of the modified system specifically includes numerous provisions directly aimed at enhancing accountability. The new forms of rate authority (density rate authority under final subpart D of 39 C.F.R. part 3030, retirement obligation rate authority under final subpart E of 39 C.F.R. part 3030, and non-compensatory rate authority under final § 3030.222) are designed with specific criteria to ensure that any planned usage would be consistent with the PAEA. The rate-setting criteria for non-compensatory products and workshare discounts directly ensure accountability of the Postal Service's pricing decisions with the PAEA. *See* final subparts G and H of 39 C.F.R. part 3030.

Finally, the contrast between the text of the existing and former statutory provisions supports the interpretation that the PAEA does not require the existing Postal Regulatory Commission to perform pre-implementation adjudications similar to the level of review required by the former Postal Rate Commission under the cost-of-service system of the former Postal Reorganization Act (PRA).[330]

Under former 39 U.S.C. § 3621, the Governors of the Postal Service were authorized "to establish reasonable and equitable classes of mail and reasonable and

[330] Pub. L. 91-375, 84 Stat. 719-787 (1970).

equitable rates of postage and fees for postal services." But, this authority was severely circumscribed by the active role given to the Postal Rate Commission (the predecessor to the existing Postal Regulatory Commission). 39 U.S.C. § 3621 (2000). Former § 3622(a) stated that "[t]he Postal Service may submit such suggestions for rate adjustments as it deems suitable." 39 U.S.C. § 3622(a) (2000). Under former § 3624(a) and (b), rate adjustments were formally litigated before the Postal Rate Commission in quasi-adjudicatory proceedings taking 10 to 18 months to complete. 39 U.S.C. § 3624(a) and (b) (2000); *see* Order No. 4257 at 25-31 (describing rate cases under the PRA).

After submission of suggestions by the Postal Service, former § 3622(b) required the Postal Rate Commission to make a "recommended decision" in accordance with the policies of title 39 and eight specific statutory factors. 39 U.S.C. § 3622(b) (2000). Former § 3624(c) required that the Postal Rate Commission's recommended decision "include a statement specifically responsive to the criteria established under [former] section 3622…." 39 U.S.C. § 3624(c) (2000). For each rate suggested by the Postal Service, the Postal Rate Commission was obliged to exercise its best judgment as to which among a spectrum of lawful rates or classifications was the outcome most consistent with the PRA's criteria. In almost all cases, the Postal Rate Commission's decision was a final determination because the PRA provided little scope for change by the Governors under former § 3625. 39 U.S.C. § 3625 (2000).

The Supreme Court characterized PRA-era postal ratemaking as follows:

> Although the Postal Reorganization Act divides ratemaking responsibility between two agencies, the legislative history demonstrates "that ratemaking...authority [was] vested primarily in [the] Postal Rate Commission." S. Rep. No. 91–912, p. 4 (1970) (Senate Report); *see Time, Inc. v. United States Postal Service*, 685 F.2d 760, 771 (CA2 1982); *Newsweek, Inc. v. United States Postal Service*, 663 F.2d at 1200–1201; *NAGCP III*, 197 U.S.App.D.C. at 87, 607 F.2d, at 401. The structure of the Act supports this view.[16]
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> [16] It is the Rate Commission, not the Postal Service, that conducts extensive hearings, § 3624, and applies the ratemaking factors enumerated in § 3622(b). The Postal Service may modify a Rate Commission recommendation only if the recommended rates will not produce revenues equal to the Postal Service's estimated costs. § 3625(d)(2).[331]

On December 20, 2006, the PAEA was signed into law. Among other things, the PAEA transformed the roles of the Postal Service and the oversight agency—renamed the Postal Regulatory Commission. The PAEA streamlined the Commission's pre-implementation role and expanded the Commission's post-implementation rate review role. The PAEA does not carry forward the former PRA requirements for Commission review of planned rates to be based on the factors enumerated in the statute. *Compare* 39 U.S.C. § 3622, *with* 39 U.S.C. §§ 3622(b), 3624(c) (2000).

Interpreting these differences to support the Commission's decision not to consider the objectives and factors in pre-implementation review is logical because under existing § 404(b), the authority to establish reasonable and equitable classes of mail and rates of postage is vested primarily in the Governors of the Postal Service rather than the Commission. The numerous differences between the PRA and PAEA, which are described above, indicate that the PAEA was intended to streamline the nature and scope of the Commission's pre-implementation review of rates, and that

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[331] *Nat'l Ass'n of Greeting Card Publishers v. U.S. Postal Serv.*, 462 U.S. 810, 821 (1983).

under the PAEA, consideration of the objectives and factors is required in rulemakings concerning the design of the ratemaking system.

4. Other Procedural Changes to Rate Adjustment Proceedings

Pitney Bowes recommends that the proposed procedural changes to rate adjustment proceedings be adopted as proposed because they will improve procedural regularity and transparency. Pitney Bowes Comments at 2, 11. It also supports the proposed changes clarifying Commission responses to incomplete filings because they will help facilitate the administration of the ratemaking process. *Id.*

Pitney Bowes observes that extending the public comment period will encourage more meaningful participation by interested persons. *Id.* at 8. PSA comments that extending the public comment period will somewhat reduce the Postal Service's pricing flexibility. PSA Revised Comments at 9. As previously discussed, the final rules continue to allow the Postal Service pricing flexibility. Any effects of the final rules on the Postal Service's pricing flexibility would be negligible and outweighed by the benefits to the mailers and adjudicative process. *See* Section X.C.1., *supra.*

Except as noted below, the final rules adopt the other procedural changes to rate adjustment proceedings as proposed.

D. Revisions to Proposed Rules

The Commission revises final §§ 3030.101 and 3030.127(a) to reflect the withdrawal of the performance-based rate authority. *See* Section VI.D., *supra*. The Commission otherwise adopts the proposed rules from Order No. 5337 related to procedural improvements without changes.

XI. 5-YEAR REVIEW

A. Introduction

In Order No. 5337, the Commission proposed a 5-year review period for reviewing the effects of the Commission's final changes to its regulations. Order No. 5337 at 241. The Commission stated that it viewed the 5-year review period as most appropriate despite the Public Representative's request to shorten the period to 3 years "because it balances the competing needs of sufficient time to allow the effects of the changes to be fully known with a review period short enough to protect postal stakeholders from unintended consequences stemming from the changes." *Id.* at 243. It noted that a 3-year review period "would only show the effects of two rate cycles, which would not allow the cumulative effects to be fully explored." *Id.*

B. Comments

The Public Representative is the only party who commented on the 5-year review period. First, he reiterates his position that a review period that is shortened to 3 years would allow the Commission to act more quickly in the event of deleterious effects to Postal Service stakeholders. PR Comments at 52. He suggests that if the 3-year period turns out to provide inadequate data for the Commission's review, the review period could always be delayed. *Id.* at 53. He maintains that allegations of serious potential harm by mailers provide additional support for shortening the review period. *Id.* at 52.

Second, the Public Representative states that the exact timing of the 5-year review period should be clarified. *Id.* at 50-51. He states that the language setting forth a review period 5 years after "implementation" of the proposed rules could mean 5 years after the effective date of the regulations, the date of the first Postal Service rate filing under the final rules, or the date on which rate changes first go into effect. *Id.* at 50.

C. Commission Analysis

The Commission's initial rationale for retaining the 5-year review period remains unchanged from Order No. 5337. A thorough and insightful review must provide more than two rate cycles as data points to assess the impact of the changes to the Market Dominant ratemaking system. An abbreviated review period would not provide the Commission with sufficient data to evaluate the final rules in operation, account for outlying data, and determine the impact on mailers. The Commission retains the flexibility to review and adjust certain components of the system sooner than 5 years if serious ill effects are evident. Even if such a scenario were to occur, a holistic review of the system would also take place 5 years after implementation. Such an approach provides more predictability and transparency than the Public Representative's suggested solution.

As for clarifying the timeline, the Commission intends "5 years after implementation" to mean 5 years after the date the final rules go into effect. This approach possesses the advantage of being more predictable for all parties and not wholly dependent on when the Postal Service decides to make its first rate increase filing under the new rules.

For the reasons discussed above, the Commission concludes that it will retain the 5-year review period proposed in Order No. 5337.

XII. OTHER ISSUES

A. Introduction

Several commenters raise other issues that do not relate to a specific component of the proposed rules. These comments fall into two broad categories. First, parties submitted comments regarding the proposed rules generally, including their overall effects and impact on the postal community. Second, commenters put forward specific suggestions they would like the Commission to incorporate into its final rules. To the extent that these comments are not addressed in other sections, the Commission discusses these issues below.

B. General Comments

1. Impact on Mailers of Cumulative Proposal

Many Postal Service customers state that above-inflation rates would be detrimental to their ability to carry out their respective missions. *See, e.g.,* Feed the Children Comments at 1; CBF at 1; ChimpHaven Comments at 1; HRC Comments at 1. In remarks representative of many of the comments received, the American Kidney Fund states that it "relies on the U.S. mail to raise funds and communicate with [its] supporters and constituents" and goes on to state that its "fundraising budget will not be able to keep pace with the increase in postage costs" resulting from the proposed rules, leading to "a reduction in our use of the mail, a reduction in our revenue, and in turn, a reduction in our ability to serve patients, and will not reform the Postal Service." AKF Comments at 1. Similarly, the March of Dimes asserts that it "is not able to increase [its] budget to continue to keep pace with postage increases over the next five years" and "[a]ny expense, such as postage, that exceeds our means will result in necessary reductions in our use of mail… [that will] lead to less revenue, limiting our reach and reducing the amount our organization can spend on maternal and infant health programs, advocacy, and research funding." March of Dimes Comments at 1.

Additionally, the Public Representative urges the Commission to consider the cumulative volume and price impacts of the proposed modifications before adopting them into a final rule. PR Reply Comments at 29.

As a threshold matter, the Commission notes that an analysis of the impact of its proposal as a whole is discussed below in its evaluation of how the modification to the ratemaking system appropriately balances all of the PAEA's objectives in conjunction with each other. *See* Chapter XIII., *infra.* As discussed therein, the Commission has considered how the modifications to the ratemaking system are necessary to achieve the objectives in conjunction with each other, and as they apply to the system as a whole. *See id.* It has determined that "although some aspects of the final rules may be in tension with particular components of certain objectives … the weight of the balance favors implementation of the final rules." Section XIII.A., *infra*.

Accordingly, the Commission has considered the impact of above CPI price increases on mailers as well as the Postal Service and has balanced these considerations with all of the objectives.[332] The Commission has determined that additional pricing authority is necessary. It has determined that under the parameters set forth in the final rules, the Postal Service will be able to obtain necessary revenue while minimizing the burden on mailers. For a more detailed discussion of the Commission's finding that the final rules are "just and reasonable" to mailers and to the Postal Service as required by Objective 8, *see* Section XIII.E.8., *infra.* For a discussion on reductions in mail volume leading to a potential "death spiral" for the Postal Service, *see* Chapter IV., *supra.* Additionally, the final rules provide safeguards to protect mailers from deleterious effects of the increased rates – not only will the Commission perform a holistic review of the revised Market Dominant ratemaking system in 5 years,

[332] The arguments that the Commission has not considered the effect of above CPI increases on mailers and the Postal Service overlaps substantially with the commenter positions that *only* the existing ratemaking system would appropriately balance all of the PAEA's objectives in conjunction with each other that are addressed in Section XIII.B., *infra*.

it also possesses the ability to adjust components of that system sooner than 5 years if serious ill effects are alleged and proven. Finally, the Commission also notes that while the system of ratemaking limits the maximum pricing authority the Postal Service may utilize, it does not generally mandate a specific price level.[333] The Postal Service's Board of Governors is vested with managing the Postal Service, and is in the best position to determine how to best utilize the pricing authority and make decisions about specific price increases for Market Dominant products. The Commission expects the Postal Service to use its business judgment in utilizing the tools provided in the system of ratemaking to craft pricing schemes and specific prices.

2. Lack of Incentives for Efficiency

Several commenters express concern that allowing the Postal Service additional rate authority, even if it fails to maximize cost reductions and efficiencies, sends the wrong message and fails to incentivize efficiency. *See* NMA Comments at 8; Mailers Hub Comments at 7. The Commission evaluates these claims in its discussion of Objective 1 in Section XIII.E.1., *infra*. There, the Commission concludes that principled modifications to the existing CPI-U price cap system are tailored to deficiencies in the ratemaking system as experienced during the PAEA era. *See id.* Adding these additional targeted sources of pricing authority but retaining the existing price cap does not allow the Postal Service to respond to its financial challenges through rate increases alone. *See id.* The final rules are intended to provide the correct incentives for the Postal Service by encouraging prudent pricing and operational decision-making to allow the system to achieve the objectives of 39 U.S.C. § 3622(b) in conjunction with each other. *See id.* The modifications to the ratemaking system pertaining to rate authority are designed to address cost drivers outside of the Postal Service's control. The

[333] In limited circumstances, such as loss making products and inefficient workshare discounts, the Commission constrains the Postal Service's pricing flexibility. *See generally* Chapters VII., and VIII., *supra*.

additional rate authority related to those cost drivers will not be sufficient to achieve necessary financial health without meaningful action and success by the Postal Service on the cost drivers it can control. The Postal Service will still need to employ significant and ambitious cost reductions and efficiency improvements under the revised system.[334] The Postal Service will need to utilize its pricing authority to begin to return to financial health, and in turn make necessary investments and reduce costs to maximize efficiency in furtherance of Objective 1. 39 U.S.C. § 3622(b)(1). For a more extensive discussion of how the new sources of rate authority will continue to incentivize efficiency, refer to Section XIII.E.1., *infra*.

3. Lack of Productivity Growth Target

ANM *et al.* suggest that the Commission include a productivity growth target in the final rules that both allows the Postal Service to retain a portion of the benefits resulting from productivity growth and innovation and allows customers to share in the benefits of productivity growth. ANM *et al.* Comments at 88-89.

The Commission has previously found that the Postal Service's overall financial health is poor and that financial stability has not been maintained throughout the PAEA era. Order No. 4257 at 274. The final rules are designed to allow the ratemaking system to achieve the objectives, in conjunction with each other. This includes the financial stability of the Postal Service, which is intended to function as a financially viable and efficient public service for the benefit of mailers and society in general. The Postal Service's financial health is necessary for it to make investments to achieve efficiency improvements and rational cost reductions. As the Postal Service begins to remedy its existing challenges, mailers primarily benefit from the continued existence of

[334] *See* Order No. 4258 at 35-37. The Commission previously noted that it "expects that its proposal will incentivize the Postal Service to take necessary steps to reduce costs." *Id*. at 36. Likewise, the Postal Service "will need to realize cost reductions in order for the system to achieve financial stability." *Id*. at 37.

a vital mail system, and in the future, from a Postal Service able to pursue efficiency gains and cost reductions in a rational and planned manner, as opposed to operating in an ongoing, short-term-focused state of crisis.

As for efficiency gains created by innovations within the Postal Service, the additional rate authority provided in the final rules would remain within the Postal Service's discretion to use. The Governors have the discretion to share the financial benefits of any efficiency gains via unused rate authority. As discussed further in Chapter XI., *supra*, the Commission will continue to closely monitor the operation of the modified Market Dominant ratemaking system. If it is evident that the Postal Service is consistently using its additional authority in a way that subsidizes inefficiency, the Commission retains the authority to adjust the system earlier than the scheduled 5-year review.

4. Effect on Competitive Product Prices

eBay expresses concern that the proposed price increases will reduce volume for Market Dominant mail and create a corresponding increase (or "spillover effect") on Competitive prices as those products are forced to bear a greater share of the Postal Service's operating costs. eBay Comments at 2.

The Commission notes that Competitive product prices, and the market for these prices, are outside the scope of the current review as the final rules relate only to objectives in the Market Dominant ratemaking system. 39 U.S.C. § 3622(d)(3). Further, Competitive prices are set in a competitive market environment and are not directly impacted by fluctuations in Market Dominant volume. As explained in Section XIII.E.9., *infra*, the Commission has determined that the finalized changes are designed to allow the system to "allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products," as provided by Objective 9. *See* 39 U.S.C. § 3622(b)(9). Should the impact of the proposed rules

create serious ill effects on Competitive product mailers, the Commission retains the authority to adjust components of the Market Dominant ratemaking system without waiting for the 5-year review.

C. Specific Suggestions for Final Rules

1. Market Dominant Negotiated Service Agreement (NSA) Rules

Discover suggests that the Commission should revise the Market Dominant NSA rules to allow for volume discounts whenever the discounted volume would still cover its attributable costs. Discover Comments at 12. Such a revision, according to Discover, would be consistent with the PAEA and "would recognize that the Postal Service and its customers are in a better position to determine how mailers will react to incentives provided by NSAs, and how they would act in the absence of an NSA" than the Commission. *Id.* at 13.

The Commission is open to suggestions on how to improve the Postal Service's financial position and better serve the needs of mailers through revisions to Market Dominant NSA rules. As noted in Section XIII.E.5., *infra*, the Commission finds that this suggestion is purely aimed at increasing certain volumes and is wholly undeveloped in terms of what changes are requested and how those changes would represent an improvement in furtherance of the objectives of 39 U.S.C. § 3622(b). As such, Discover may propose a more robust proposal in a petition for a rulemaking in a separate docket with adequate support.

2. Clarification in Language of Final Rules

The Postal Service highlights several ambiguities in the text of the proposed rules, and suggests that the Commission provide explicit clarification on four specific issues. Each is discussed in turn here, with the requisite clarification immediately following.

First, the Postal Service seeks to ensure that it can retain the flexibility to file limited rate adjustment cases without triggering the application of rules requiring the use of new forms of price cap authority. Postal Service Comments at 63. It requests clarification that:

> [A] limited price-change case for less than all classes, such a stand-alone change to one or two (generally applicable) price cells, would not be considered a 'generally applicable rate adjustment,' if such a case were to be followed by a broader rate adjustment in the class later in the same calendar year.

Id. The Commission agrees that this distinction should be made in the final rules. The Commission clarifies that a limited price change which changes one or two generally applicable price cells will be exempted from the rules for a generally applicable rate adjustment requiring the use of new price cap authority.

Second, the Postal Service requests clarification on which additional authority can be banked for future use. *Id.* at 5.

The Commission clarifies that the Postal Service will have the ability to bank rate authority generated via the density and non-compensatory pricing authority mechanisms. The Postal Service will be limited to use no more than 2 percentage points of banked rate authority per class per year and banked rate authority will expire after 5 years. The retirement rate authority, however, will not be bankable due to the computation of this authority as a self-adjusting amount to be remitted to cover the Postal Service retirement obligations.

Third, the Postal Service seeks further explanation from the Commission on whether legacy mail classes can be modernized. *Id.*

In response, the Commission notes that the proposed rules do not affect the Postal Service's ability to petition for an MCS change in a separate docket whenever it seeks to modify existing mail classes.

Finally, the Postal Service and APWU seek an explanation from the Commission as to why it has proposed to maintain a price cap system rather than adopting an alternative form of rate regulation. *Id.*; APWU Comments at 2.

The Commission has given extensive consideration to the alternative proposals put forth by the Postal Service and other commenters. After considering how these proposals would affect the achievement of all the PAEA's objectives enumerated in 39 U.S.C. § 3622(b), it has determined that retaining the price cap system with the modifications set forth in the final rules best achieves balance among the (sometimes competing) objectives. The Commission does not take the position that the Market Dominant ratemaking system must cover all historic net losses or reset all rates to be compensatory, as this would disregard considerations enumerated by some of the objectives. Section XIII.E.5., *infra*. Instead, the final rules redesign the system in a way necessary to address the Postal Service's primary drivers of loss that are largely outside of its direct control while continuing to encourage prudent pricing and operational decision-making by the Postal Service. *See id.* This balance allows the Postal Service, as well as mailers, to derive benefits from the system in a way that the other proposals fail to do.

3. Timing

The Postal Service states that rate authority under the proposed rules should be available sooner, as there is too much time between the final rule and when rates under the new system become effective. Postal Service Comments at 50-51. The Postal Service interprets the implementation of the proposed rules as follows:

> Order No. 5337 proposes that the Postal Service file proposed determinations of rate authority at the end of December, whereupon the Commission will take an unspecified amount of time to validate them. After that validation, the Postal Service will have another year to 'use' the rate authority. If a final rule in this docket is issued later in 2020, the new rate authority would not actually manifest in rates until January 2022, because the Commission would not even have received the proposed rate-authority determinations, let alone validated them, until after its review of the January 2021 price change.

Id. (internal citations omitted).

The Postal Service is correct that given the timing of this final rule, the Postal Service's proposed January 2021 Market Dominant price change was recently approved by the Commission and therefore cannot include any new authority made available after the effective date of these final rules. *See generally* Docket No. R2021-1.

The final rules would require the Postal Service to file proposed calculations of the amount of the density-based and retirement-based rate authorities by the end of December. *See* Attachment §§ 3030.160(b) and 3030.181(b). The Commission would then validate these proposed calculations and determine the amount of the density-based and retirement-based rate authorities, as well as the amount of the non-compensatory-based rate authority. Presuming the Commission makes its determinations no later than the issuance of the ACD in March of 2021, any additional rate authority would be available to the Postal Service in March of 2021.

The Postal Service's assertion that it would not be able to include any new authority until January of 2022 is incorrect, as it is premised upon the Postal Service waiting to propose a Market Dominant product price adjustment until October of 2021. The Postal Service retains the flexibility to propose an out-of-sequence price adjustment at any time. The rate authority provided by the final rules is available for the Postal Service to use shortly after the effective date of the rules, and following the Commission's determination.

4. Price Cap Exclusion of UPU Prices

The Postal Service suggests that products over which it does not exercise complete pricing control should be excluded from the price cap. Postal Service Comments at 46.[335] The Postal Service explains that the "incentives and effects" that may be imposed on it by a price cap are "nonexistent where an unregulated third party sets the prices." Postal Service Comments at 45.

The Postal Service's comments concerning these rates appear concurrent and comingled with its comments on the Commission's proposals concerning non-compensatory products. The Commission separately addresses the Postal Service's suggestion concerning these products and the non-compensatory product regulations in Section VII.A.3.

At the outset, 39 U.S.C. §§ 3621 and 3631 establish Market Dominant and Competitive products. The Commission is empowered to make changes to either list pursuant to 39 U.S.C. § 3642.[336]

Excluding these rates from the price cap would require the creation of a new tier of rates that are subject to neither the regulatory scheme governing Market Dominant

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[335] The Postal Service first suggested this proposal in this docket in March 2018. *See* Initial Comments of the United States Postal Service in Response to Order No. 4258, March 1, 2018, at 154-158 (stating that this docket presents an opportunity for the Commission to revisit its decision in Order No. 43 to include terminal dues for inbound international mail within the price cap). Several commenters urged the Commission to reject the proposal. *See, e.g.,* Reply Comments of United Parcel Service, Inc., March 30, 2018 (stating that the proposal would undermine the efficiency goals of the system and suggesting that the Commission reclassify Inbound Letter Post as a Competitive product); Reply Comments of the Greeting Card Association, March 30, 2018, at 16 (stating that section 3621(a)(10) includes single-piece international mail and this definition is not subject to this review). In the same month, the Commission issued an order in a separate docket, reaffirming its initial determination that inbound international products must be categorized as Market Dominant or Competitive. *See* Docket No. ACR2017, Determination to Unseal the Postal Service's Response to Chairman's Information Request No. 15, March 28, 2018, at 5 (Order No. 4551).

[336] *See also* 39 U.S.C. §§ 3621(a) and 3631(a) ("subject to any changes the Postal Regulatory Commission may make under section 3642").

products nor the scheme governing Competitive products, and the Commission previously rejected this argument in 2007.[337] Moreover, in March 2018, the Commission reaffirmed its finding in Order No. 43. *See* Order No. 4551 at 5. There, the Commission explained that in Order No. 43, it found the Postal Service's arguments for exceptional treatment of inbound international mail as neither Market Dominant nor Competitive unpersuasive and inconsistent with section 3642. *Id*. The Commission further explained that "the PAEA unambiguously requires the Commission to classify inbound international mail as either market dominant or competitive." *Id*. The Commission noted that no party had requested a transfer or partial transfer of the product from the Market Dominant to the Competitive product list. *Id*. at 6. The Commission's reiterates this interpretation and, in this proceeding, the Commission declines to modify the classification of specific products. The Postal Service may petition the Commission to change the classification of any product pursuant to 39 C.F.R. §§ 3040.130 *et seq*.[338]

As a result, the Commission declines the Postal Service's suggestion to remove these prices from the price cap and they remain on the Market Dominant product list and their prices remain subject to the price cap.

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[337] *See* Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007, at 78 (Order No. 43).

[338] Such a request to add, remove, or transfer a product must address the criteria set forth in 39 U.S.C. § 3642(b), and conform to 39 C.F.R. §§ 3040.130 *et seq*.

XIII. THE OBJECTIVES OF THE PAEA

A. Introduction

The Commission must review the Market Dominant ratemaking system 10 years after the PAEA's enactment. 39 U.S.C. § 3622(d)(3). The purpose of the review is to determine whether the system is achieving the objectives appearing in subsection (b), taking into account the factors appearing in subsection (c). *Id.* "If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives." *Id.* The nine objectives are:

> (1) To maximize incentives to reduce costs and increase efficiency.
>
> (2) To create predictability and stability in rates.
>
> (3) To maintain high quality service standards established under section 3691.
>
> (4) To allow the Postal Service pricing flexibility.
>
> (5) To assure adequate revenues, including retained earnings, to maintain financial stability.
>
> (6) To reduce the administrative burden and increase the transparency of the ratemaking process.
>
> (7) To enhance mail security and deter terrorism.
>
> (8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.
>
> (9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

Id. § 3622(b).

As a starting point, the Commission responds to the position that *only* the existing ratemaking system would appropriately balance all of the PAEA's objectives in

conjunction with each other. Next, the Commission summarizes how its modification to the ratemaking system overall would appropriately balance all of the PAEA's objectives in conjunction with each other. Then, the Commission summarizes the comments asserting that the Commission's final rules (as a whole)[339] fail to meet an objective(s). The Commission's analysis of these comments considers and applies the statutory objectives to the final rules. Where relevant and in response to comments, this Order provides analysis of particular final rules that demonstrate that the regulatory changes overall are consistent with the objectives. Comments focusing upon a particular proposal's consistency with a particular objective are already addressed above.[340] Similarly, comments focusing upon a particular alternative proposal (that is, a suggestion by a commenter that was not adopted by the Commission) are already addressed above.[341] Finally, to provide clarity, the Commission discusses its treatment of the factors of 39 U.S.C. § 3622(c) in this proceeding.

The PAEA commits the balancing of the objectives to the Commission's discretion. *See* 39 U.S.C. § 3622(d)(3). Determinations of which objectives are relevant to the particular modifications implemented in this rulemaking, how much

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[339] The performance-based rate authority proposal has been withdrawn. *See* Section VI.D., *supra*. Comments asserting that the performance-based rate authority was inconsistent with the objectives are therefore not analyzed in this section. Issues related to whether the outcome of the Commission's evaluation of whether, when, and how to introduce a performance incentive mechanism produces rules that would be consistent with the objectives will be addressed in a separate rulemaking docket. *See* Section VI.C.1., *supra*.

[340] *See, e.g.*, Section IX.C.5., *supra* (considering arguments that the cost-reduction reporting requirements are contrary to Objective 6); Section X.C.1. and 4., *supra* (considering whether the procedural improvements are consistent with allowing pricing flexibility).

[341] *See, e.g.*, Chapter VIII., *supra* (rejecting suggestions to remove the safe harbor for passthroughs between 85 and 100 percent); Section XII.C.2., *supra* (rejecting the Postal Service's suggestion that *ex ante* pricing rules are unnecessary to achieve the objectives of the PAEA and that replacing the price cap system with an alternative system of regulatory monitoring would better achieve the objectives); Section IV.C.3., *supra* (rejecting the Postal Service's suggestion to use a single density formula incorporating both Market Dominant and Competitive products rather than the Commission's two-formula approach); Section XII.C.1., *supra* (rejecting Discover's suggestion to revise the rules for Market Dominant NSAs).

weight to apply to particular objectives, the timing in which to implement proposed modifications, and how to balance the objectives are all committed to the discretion of the Commission.[342] In "applying the plain meaning of the [statutory] term 'in conjunction,' the Commission considers the objectives together as they apply to the system as a whole."[343] The Commission also observes that some aspects of the objectives are in tension with each other, whereas other aspects may overlap. *See, e.g.*, Order No. 4257 at 18, 65-66, 260; Order No. 5337 at 94, 161, 168, 173, 194, 204. Therefore, as discussed below, although some aspects of the final rules may be in tension with particular components of certain objectives, ultimately, the Commission determines that the weight of the balance favors implementation of the final rules. While commenters may disagree with the final balance struck,[344] upon consideration of all of the comments submitted in this rulemaking, the Commission has reasonably explained the nature and extent of the interrelated deficiencies and proposed a targeted regulatory solution necessary to address these issues. Further, the Commission has given specific and thorough consideration to all of the PAEA's objectives in this proceeding. To explain its position, the Commission organizes its comment summary and analysis by objective below.

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[342] *See id.*; *see also* Docket No. ACR2009, *Annual Compliance Determination*, March 29, 2010, at 15 (FY 2009 ACD).

[343] Order No. 4257 at 17; *see Ass'n of Am. Publishers, Inc. v. Governors of U.S. Postal Serv.*, 485 F.2d 768, 774 (D.C. Cir. 1973) ("Like most other factors sheets, whether in statutes, A.L.I. Restatements, or comparable compilations, the factors listed are not analogous to a table of atomic weights, or to the multiplication table. The factors are reminders of relevant considerations, not counters to be placed on scales or weight-watching machines.").

[344] "[Judicial] review of agency decisions based on multi-factor balancing tests...is necessarily quite limited. [The appellate court] may not merely substitute the balance [it] would strike for that the agency reached." *U.S. Postal Serv. v. Postal Reg. Comm'n*, 963 F.3d 137, 141 (D.C. Cir. 2020) (quoting *USAir, Inc. v. Dep't of Transp.*, 969 F.2d 1256, 1263 (D.C. Cir. 1992)).

B. The Existing Ratemaking System

Before addressing each objective, the Commission addresses the position that *only* the existing ratemaking system, which generally does not allow annual rate increases for each class of Market Dominant products to exceed the corresponding change in the CPI-U, would be capable of balancing all of the PAEA's objectives in conjunction with each other.[345] The Commission disagrees. As the Commission previously determined, "the operating environment on which the PAEA was designed changed quickly and dramatically after the PAEA was passed[ ]," and "this made it challenging for the ratemaking system under the PAEA to achieve the goals it was designed to achieve." Order No. 4257 at 45.

"At the time it created the new PAEA system, Congress anticipated that the CPI-U price cap would enable the Postal Service to achieve sufficient revenues to cover all of its operating costs and statutorily mandated obligations while at the same time motivate the Postal Service to cut costs and become more efficient." *Id.* at 3. This judgment was based on the appearance of the Postal Service's financial position being relatively stable in FY 2006 and the observable PRA-era correlation between increases in Postal Service expenses, Postal Service's revenues, and the CPI. *See id.* at 37. Generally, Market Dominant volume had been increasing from FY 1997, reaching its peak in FY 2006.[346]

However, after the enactment of the PAEA, a number of converging macro-level circumstances such as the Great Recession, a rare period of deflation post-Great Recession, and emergent technological trends contributed to the Postal Service's inability to adequately respond to Postal Service-specific challenges such as declining

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[345] *Compare* ANM *et al.* Comments at 13-22, *and* ANM *et al.* Reply Comments at 2, 9, 16, *with* 2018 ANM *et al*. Comments at 30-31.

[346] *See id.* at 35-36; Library Reference PRC-LR-RM2017-3/1, Excel file "PRC-LR-RM2017-3-1.xlsx," tab "Figure II-23," column F (displaying Market Dominant volume from FY 1997 through FY 2016).

mail density, the newly imposed statutory retirement obligations, and long-standing issues with non-compensatory rates. *See* Order No. 4257 at 3, 37-41, 148, 236. While the nature of these Postal Service-specific challenges such as the longer-term diversion of mail to electronic forms of communication may have been somewhat foreseeable, their coincident impact was accelerated by the circumstances occurring after the PAEA's enactment, rendering the speed and extent of their impact unforeseeable at the time of the PAEA's enactment.[347] Therefore, during the PAEA era,[348] "the correlation between the growth in Postal Service expenses and revenue and the growth in CPI began to diverge."[349] This sudden divergence "made it extremely challenging for the Postal Service to manage retained earnings through sustained net income." Order No. 4257 at 40.

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[347] *See, e.g.,* RARC-WP-13-007 at ii ("When the current price cap formula was enacted in 2006, postal volumes had been trending upward.... Few analysts or policymakers foresaw the recent steep decline in mail volume, or contemplated the impact on the Postal Service of such a decline combined with the price cap."); United States Postal Service, Office of the Inspector General, Report No. RARC-WP-12-010, State of the Mail, April 27, 2012, at 13-19, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2015/rarc-wp-12-010_0.pdf* (RARC-WP-12-010) (summarizing how the impact of electronic diversion on the Postal Service was exacerbated by the Great Recession followed by the slow economic recovery referred to as the Great Slump).

[348] Order No. 4257 uses the phrase "PAEA era" to refer to FY 2007 through FY 2016. *See* Order No. 4257 at 22 n.40.

[349] *Id.* at 38-41; *see* Library Reference PRC-LR-RM2017-3/1, Excel file "PRC-LR-RM2017-3-1.xlsx," tab "Figure II-2" (displaying CPI-U, total cost, and total revenue indices from FY 1995 through FY 2016). The correlation remains weak from FY 2016 to the present. Total Cost and Total Revenue figures are derived from the applicable Public Cost and Revenue Analysis Reports. *See id.*; Docket No. ACR2019, Library Reference USPS-FY19-1, December 27, 2019, PDF file "FY19-1 Public CRA and preface.pdf," Public Cost and Revenue Analysis Fiscal Year 2019: Finance, at 3 (displaying FY 2019 total cost and total revenue); Docket No. ACR2018, Library Reference USPS-FY18-1, December 28, 2018, revised February 11, 2019, PDF file "USPS-FY18-1 Preface.Rev.2.11.19.pdf," Public Cost and Revenue Analysis Fiscal Year 2018: Finance, at 3 (displaying FY 2018 total cost and total revenue, as revised); Docket No. ACR2017, Library Reference USPS-FY17-1, December 29, 2017, PDF file "USPS-FY17-1 Preface.pdf," Public Cost and Revenue Analysis Fiscal Year 2017: Finance, at 3 (displaying FY 2017 total cost and total revenue). The CPI-U data are published on the Commission's website, available at: *http://www.prc.gov*; hover over "References" and follow the "CPI Figures" hyperlink.

The existing ratemaking system was unable to adequately respond to this confluence of circumstances. The Postal Service was unable to generate sufficient revenue to cover its total costs, thereby resulting in a net loss for each and every year of the PAEA era.[350] The consecutive net losses resulted in an accumulated deficit. *See* Order No. 4257 at 170-171. The Postal Service was unable to cover the revenue shortfall despite maximum use of its borrowing authority and a sharp decline in capital investments.[351] While some cost reductions and efficiency gains were achieved post-PAEA, they were insufficient to achieve overall financial stability and/or retained earnings. Order No. 4257 at 222, 274-275. In an effort to restrain costs and account for declining demand, the Postal Service reduced the high-quality service standards that were set in 2007. *See id.* at 273; Sections II.A. and VI.C.3., *supra*. Overall, the existing ratemaking system was unable to achieve the PAEA's objectives in conjunction with each other. *See* Order No. 4257 at 3-5, 274-275.

In light of these circumstances, the Commission determines that it would be unreasonable and inappropriate to retain the existing ratemaking system unchanged. Rectifying the system's inability to adequately respond to these coincident trends occurring after the PAEA's enactment and making necessary modifications to achieve the objectives of the PAEA is a reasonable and appropriate way for the Commission to fulfill the purpose of 39 U.S.C. § 3622(d)(3).

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[350] *See* Order No. 4257 at 168, Table II-10. The consecutive net losses also persist from FY 2016 to the present. *See* FY 2019 Financial Analysis at 3 ("As seen in Figure I-1 [of the FY 2019 Financial Analysis], the Postal Service has not had a profitable year in the last decade [FY 2010 through FY 2019].").

[351] *See* Order No. 4257 at 168-169, 172-174. The Postal Service lacks shareholders and instead must finance capital investments through revenue or through borrowing. Order No. 4258 at 48-49. Therefore, as consecutive years of net losses resulted in an accumulated deficit, the Postal Service relied heavily on its borrowing authority, deferred capital investments, and increased its cash reserves. *See id.* at 46-52.

C. The Modified Ratemaking System

The final rules modify the ratemaking system's design to encourage and enable the Postal Service to address its complex challenges by making prudent pricing and operational decisions. The final rules directly aim to address two underlying drivers of the Postal Service's net losses that are largely outside of its direct and near-term control: (1) the increase in per-unit cost resulting from the decline in mail density for each fiscal year under final subpart D of 39 C.F.R. part 3030 and (2) the statutorily mandated amortization payments for particular retirement costs under final subpart E of 39 C.F.R. part 3030. In order to incrementally address long-standing problems concerning non-compensatory classes and products, the Commission also provides 2 percentage points per fiscal year for each non-compensatory class of mail and defines rate-setting criteria for non-compensatory products in classes for which overall class revenue exceeds overall class attributable cost under final subpart G of 39 C.F.R. part 3030. To address the inefficient pricing practices observed after the PAEA's enactment, the Commission enhances its regulation of workshare discounts under final subpart J of 39 C.F.R. part 3030. To improve transparency into the Postal Service's efforts to increase efficiency and reduce costs as well as to monitor the effects of all of the finalized regulatory changes, particularly with respect to planned and realized cost reductions, the Commission codifies additional reporting requirements in final § 3050.55.

The Commission structures these adjustments to rate authority and rate-setting criteria in a manner that would allow for the Postal Service to exercise pricing flexibility to set rates that would be predictable and stable. The Commission has balanced the competing priorities enumerated in the PAEA to ensure that modifications to the design of the ratemaking system will better enable the Postal Service to set rates that are just and reasonable to the mailers and to the Postal Service. Finally, in improving its rate adjustment procedural rules, the Commission considered how the modified ratemaking

system would achieve the competing priorities to increase transparency and reduce administrative burden.

D. Comments

1. Objective 1

Multiple commenters object to providing *any* additional rate authority to the Postal Service so that it may adjust rates above the percentage change in the CPI-U, arguing that doing so would remove the financial pressure to reduce costs and increase efficiency imposed on the Postal Service by the existing CPI-U price cap.[352] ABA and ANM *et al.* assert that the proposed rules are irreconcilable with Objective 1 because they fail to hold the Postal Service accountable for cost reductions and instead allow the Postal Service to raise prices to fix its failure to control costs.[353] ANM *et al.* object that the existing price cap is designed to operate in situations of declining volume (*see* ANM *et al.* Reply Comments at 16 (quoting Order No. 1926 at 175)) and that Congress intended for the retirement prefunding to be recovered under the existing price cap. *See* ANM *et al.* Reply Comments at 23, 54.

Additionally, ABA and ANM *et al.* assert that the proposed rules retain a price cap in name only and effectively represent a return to cost-of-service rate regulation. ABA Comments at 11; ANM *et al.* Comments at 17. AF&PA asserts that the proposed rules would "make mailers pay for USPS management failures to improve performance." AF&PA Comments at 4. C21 argues that the Commission relegates Objective 1 to secondary status compared to Objective 5. C21 Reply Comments at 5.

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[352] *See, e.g.*, ABA Comments at 7-8, 11; AF&PA Comments at 4-5; ANM *et al.* Comments at 4, 14-17; C21 Reply Comments at 5; NMA Comments at 8-9; NPPC *et al.* Comments at 24, 35.

[353] *See* ABA Comments at 7-8; ANM *et al.* Comments at 13-16, 82; *see also* ANM *et al.* Reply Comments at 11.

NMA asserts that the provision of additional rate authority would "send the wrong message to the Postal Service by assuring that it will recoup revenue even if it fails to maximize cost reductions and efficiencies." NMA Comments at 8. NPPC *et al.* disagree with the Commission's statement that the density rate authority "maintains the efficiency incentives created by a price cap."[354]

Additionally, multiple commenters direct their concerns regarding Objective 1 at the withdrawn performance-based rate authority proposal, which are summarized[355] and analyzed above.[356] Further, multiple commenters focus on Objective 1 with respect to workshare discounts; these issues are summarized and analyzed above.[357]

2. Objective 2

Multiple commenters object to providing *any* additional rate authority to the Postal Service so that it may adjust rates above the percentage change in the CPI-U, arguing that doing so would be contrary to Objective 2.[358] ABA argues that allowing rate increases to exceed inflation would render future rate increases uncertain and unconstrained. ABA Comments at 7. ANM *et al.* object that allowing the Postal Service

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[354] NPPC *et al.* Comments at 35 (quoting Order No. 5337 at 76); *see* NPPC *et al.* Reply Comments at 5; ABA Comments at 11.

[355] *See* Section VI.B.2., *supra* (summarizing comments asserting that the performance-based rate authority is inconsistent with incentivizing efficiency gains and cost reductions).; Section VI.B.3., *supra* (summarizing comments asserting that the performance-based rate authority is unnecessary, insufficient, or unlikely to result in efficiency gains and cost reductions); Section VI.B.5., *supra* (summarizing objections and suggested alternatives to the operational-efficiency based requirement).

[356] Issues relating to any performance-based rate authority and any connected operational efficiency-based requirement will be further addressed in a separate rulemaking. *See* Section VI.C., *supra*. The Commission will implement the reporting requirement changes in final §§ 3050.21(m), 3050.60. *See* Section VI.D., *supra*.

[357] *See* Chapter VIII., *supra* (maintaining the Commission's prior position with respect to the safe harbor for passthroughs between 85 and 100 percent).

[358] *See, e.g.*, ABA Comments at 7; ANM *et al.* Comments at 19-21, 57; NMA Comments at 7-9; NPPC *et al.* Comments at 20; *see also* 2018 ANM *et al*. Comments at 5, 58, 60-62.

to increase rates multiple times the rate of inflation would not create rate stability.[359] ANM *et al.*, C21, and NPPC *et al.* assert that the additional rate authorities would impair ratepayers' ability to predict rates and plan their mailing budgets, thereby jeopardizing the achievement of Objective 2.[360] NMA argues that the provision of additional rate authority through a formula that does not limit the maximum amount of rate authority does not meet Objective 2. NMA Comments at 7-9. Additionally, C21 argues that Order No. 5337 relegates Objective 2 to secondary status compared to Objective 5 and that the final rules would produce a system that no longer achieves Objective 2. C21 Reply Comments at 5, 7; *see* ABA Comments at 2-3.

3. Objective 3

Generally, the commenters direct their concerns regarding Objective 3 at the withdrawn performance-based rate authority proposal, which are summarized[361] and analyzed above.[362]

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[359] ANM *et al.* Comments at 20-21, 57. Additionally, approximately 138 comments (listed in Appendix A) were filed by non-profit organizations and related entities that object to the magnitude of the potential allowable rate increases and urge the Commission to retain the existing CPI-U price cap asserting that doing so would maintain stability of rates. *See, e.g.*, AFA *et al.* Comments at 1.

[360] ANM *et al.* Comments at 19-20; C21 Reply Comments at 7; NPPC *et al.* Comments at 20. Similarly, AF&PA, Discover, and NTU contend that multiple overlapping layers of rate authority render it difficult for ratepayers to plan their mailing budgets. AF&PA Comments at 4; Discover Comments at 7-8, NTU Comments at 2. Additionally, approximately 138 comments (listed in Appendix A) were filed by non-profit organizations and related entities urge the Commission to retain the existing CPI-U price cap asserting that doing so would maintain predictability of rates. *See, e.g.*, AFA *et al.* Comments at 1.

[361] *See* Section VI.B.4.b., *supra* (summarizing comments regarding the amount of performance-based rate authority connected with achievement of the service standard-based requirement); Section VI.B.6., *supra* (summarizing objections to the service-standard based requirement, the suggestion that achievement of the service standard-based requirement triggers a qualitative evaluation process, the suggestion to add new rules to connect direct financial consequence with service performance achievement, and commenting on the reporting requirement of final § 3055.2(c)).

[362] Issues relating to any performance-based rate authority and any connected service standard-based requirement will be further addressed in a separate rulemaking. *See* Section VI.C., *supra*. The Commission will implement final § 3055.2(c)'s reporting requirement. *See* Section VI.D., *supra*.

4. Objective 4

The primary commenter with regard to Objective 4 was the Postal Service. Generally, the Postal Service directs its concerns regarding pricing flexibility at the limitations concerning the usage of the additional forms of rate authority, rate-setting criteria for non-compensatory products, and workshare discounts, which are summarized and analyzed above, where relevant.[363] ANM *et al.* assert that authorizing above-average rate increases on non-compensatory classes and products is inconsistent with Objective 4 and fails to recognize that the types of mail at issue can create a multiplier effect. *See* ANM *et al.* Comments at 82.

5. Objective 5

Multiple commenters base their objections to the additional forms of rate authority on their previously stated opposition to prior findings of the Commission. ABA restates its prior assertion that the Commission's analysis of the Postal Service's financial stability was unsound and incomplete because the financial impact of the retiree obligations was overstated and the value of the Postal Service's real estate portfolio was understated. *Compare* ABA Comments at 8-9, *with* 2018 ABA Comments at 10-11. AF&PA reiterates that the Commission's analysis of the Postal Service's financial stability should be limited to revenues needed to support ongoing operations and that "[t]he underlying deficit on the USPS balance sheet due to the RHB [p]refunding requirements should be up to Congress to solve."[364] Similarly, NPPC *et al.*

[363] *See* Chapters VII. and VIII., *supra*.

[364] AF&PA Comments at 2; Comments of the American Forest & Paper Association, March 1, 2018, at 6 (2018 AF&PA Comments).

restate their prior assertion that the Commission applied an improper definition of financial stability.[365]

ABA, AF&PA, ANM *et al.*, and C21 argue that the Commission has improperly elevated Objective 5 above all other objectives.[366] Additionally, ANM *et al.* reiterate their prior position that the Commission has incorrectly interpreted Objective 5 to set the regulatory goal as providing retained earnings and has improperly elevated that goal above all other objectives (in lieu of properly balancing the objectives). ANM *et al.* Reply Comments at 3; *see* 2018 ANM *et al*. Comments at 1-2. ANM *et al.* restate their position that the Commission's analysis in Order No. 4257 supporting the determination that the existing system, including the CPI-U price cap, has not achieved the objectives (particularly with respect to Objective 1's efficiency component and Objective 5's retained earnings component) is improper because it "is entirely results-based...and lacks any analysis of causality." ANM *et al.* Reply Comments at 9-10 (emphasis omitted); *see* 2018 ANM *et al.* Comments at 36, 55 n.31. Further, they restate their position that the net losses are attributable to the Postal Service's operational decisions, specifically the failure to reduce costs, rather than the system or pricing issues. ANM *et al.* Reply Comments at 10-11; *see* 2018 ANM *et al.* Comments at 85.

Multiple commenters assert that providing additional rate authority to the Postal Service would be unnecessary and counterproductive to achieving financial stability, arguing that additional rate authority weakens the financial pressure imposed on the Postal Service by the existing CPI-U price cap to reduce costs and increase

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[365] *See* NPPC *et al.* Comments at 9-10, 53; 2018 NPPC *et al.* Comments at 48-50; *see also* Comments of the Major Mailers Association, the National Association of Presort Mailers, and the National Postal Policy Council, March 20, 2017, at 33-48 (2017 NPPC *et al.* Comments); ANM *et al.* Reply Comments at 22-23 (asserting that the Commission improperly "*defined* the Postal Service into financial instability") (emphasis in original).

[366] ABA Comments at 2-3, 6; AF&PA Comments at 3; ANM *et al.* Reply Comments at 3; C21 Reply Comments at 5.

efficiency.[367] ANM *et al.* restate their position that the contribution from the Postal Service's Competitive products should sufficiently offset losses sustained due to declining Market Dominant volumes. *See* ANM *et al.* Comments at 24-25, 48-49; 2018 ANM *et al.* Comments at 6.

NPPC *et al.* and the Postal Service object that the retirement obligation rate authority conflicts with Objective 5, arguing that it would have no real effect on the Postal Service's financial stability because it would not support operations and instead would remit revenue to the U.S. Department of the Treasury. NPPC *et al.* Comments at 46; *see* Postal Service Comments at 19. Similarly, ANM *et al.* object that there is no need for the Postal Service to recover the retirement obligation prefunding at all because its retirement funding level is sufficient and the Postal Service will suffer no penalty for continued default. ANM *et al.* Reply Comments at 23-24.

Further, multiple commenters contend that any additional rate authority (that is, beyond that included in the existing ratemaking system) will lead to price increases that are not sustainable for users of the mail and thereby will result in irreversible volume declines that would harm the Postal Service's financial viability.[368]

Finally, the Postal Service asserts a contrary view: that the final rules, which do not provide sufficient rate authority to cover the Postal Service's net losses and do not reset rates to levels that are fully compensatory, do not achieve Objective 5. Postal Service Comments at 6, 11, 15.

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[367] *See, e.g.*, ABA Comments at 7-8, 11; AF&PA Comments at 4-5; NPPC *et al.* Comments at 5-8.

[368] *See, e.g.*, ABA Comments at 1-2, 10-11; AFPA Comments at 3; ANM *et al.* Comments at 38 (citing Brattle Decl. ¶ 40); ANM *et al.* Reply Comments at 2; Discover Comments at 4; eBay Comments at 3-4; NPPC *et al.* Comments at 22-23, 36-38; PSA Comments at 6.

6. Objective 6

ANM *et al.* assert that the final rules are inconsistent with Objective 6. ANM *et al.* Reply Comments at 2. AF&PA and NPPC *et al.* contend that the additional rate authorities, by increasing the complexity of the calculation of the maximum rate adjustment authority, would jeopardize the achievement of Objective 6. AF&PA Comments at 4; NPPC *et al.* Comments at 20. NPPC *et al.* assert that cost-reduction reporting requirements are in tension with Objective 6's goal of reducing administrative burden. NPPC *et al.* Comments at 24.

7. Objective 7

No commenters reference Objective 7.

8. Objective 8

Multiple commenters contend that the final rules would conflict with Objective 8, arguing that the magnitude of the additional rate authority would lead to rates that would be excessive to mailers.[369] ABA asserts that allowing the Postal Service to raise prices because of declining volume would effectively tax ratepayers that continue to use the mail over electronic communication. ABA Comments at 6-7. NNA contends that the Commission should not authorize increases in rate authority that would lead to rate increases that will likely drive Periodicals out of the mail. NNA Comments at 10, 14-15.

Finally, the Postal Service asserts a contrary view: that the final rules, which do not provide sufficient rate authority to cover the Postal Service's net losses and do not reset rates to levels that are fully compensatory, do not achieve Objective 8. Postal Service Comments at 6, 11, 15. The Postal Service objects that the retirement obligation rate authority further conflicts with Objective 8 because it would require that

[369] *See, e.g.*, ABA Comments at 6; ANM *et al.* Comments at 4-5, 18; C21 Reply Comments at 5; NMA Comments at 9; NPPC *et al.* Comments at 20.

the revenue collected be remitted to the U.S. Department of the Treasury. *See id.* at 19.

9. Objective 9

Generally, the commenters direct their concerns regarding Objective 9 at the approach to calculating the density rate authority by using the volume input that experiences the lesser decline (either Market Dominant or total volume), which are summarized and analyzed above. *See* Section IV.C.3., *supra*.

E. Commission Analysis of Comments

The Commission organized Order No. 4257's analysis of the PAEA's nine statutory objectives into three principal areas: (1) the structure of the ratemaking system; (2) the financial health of the Postal Service; and (3) service. Order No. 4257 at 22. Each principal area was further divided into subtopics addressing relevant objectives and factors. *Id.* The Commission concluded that while the existing ratemaking system had achieved some of the PAEA's goals, the overall system had not achieved the statutory objectives, taking into account the statutory factors. *Id.* at 3-4.

For the first principal area—the structure of the ratemaking system—the Commission found that the existing ratemaking system has resulted in predictable and stable rates (Objective 2); reduced administrative burden and increased transparency (Objective 6); allowed the Postal Service pricing flexibility (Objective 4); and maintained prices that were not excessive to mailers (Objective 8).[370]

[370] *See id.* at 113, 116-118, 142-145. For organizational purposes, Order No. 4257 disaggregated the discussion of Objective 8 into two prongs in Order No. 4257. *See id.* at 114-115. Therefore, Order No. 4257 also discusses Objective 8 in the context of the second principal area of discussion—the financial health of the Postal Service. *See id.*

However, the Commission found that the existing ratemaking system has not increased pricing efficiency (Objective 1). Order No. 4257 at 145. This finding was based on the failure to adhere to the two principles of pricing efficiency during the PAEA era: ECP and allocative efficiency. *See id.* at 130, 145. First, the Commission determined that workshare discounts have not been set as close as practicable to their avoided costs, despite the Postal Service having the ability to do so under the price cap. *Id.* at 145. This failed to comport with the principles of ECP because prices are most efficient when workshare discounts are set equal to the avoided costs of particular workshare activities. *Id.* at 135-136. Second, the Commission concluded prices for multiple products did not cover their attributable costs. *Id.* at 141, 145. This failure did not comport with the principles of allocative pricing efficiency because "[p]rices that adhere to the principles of allocative efficiency are set at or above marginal (or in the Postal Service's case, attributable) costs, meaning they would have a cost coverage of 100 percent or greater." *Id.* at 139-140 (internal footnotes omitted).

For the second principal area—the financial health of the Postal Service—the Commission found that there were safeguards to protect the mail and deter terrorism and sufficient funds to pay for those safeguards (Objective 7) and that the existing ratemaking system contained a mechanism to allocate institutional costs between Market Dominant products and Competitive products (Objective 9). *Id.* at 247-249. However, applying the objectives in conjunction with each other, the Commission described the overall picture of the Postal Service's financial health as "poor" and found that the existing ratemaking "system has not maintained the financial health of the Postal Service as intended by the PAEA." *Id.* at 249. The deficiencies identified by the Commission related to financial health pertain to the goals encapsulated by Objectives 1, 5, and 8. *See id.* at 247-249.

With regard to Objective 1, the Commission extensively reviewed cost reductions and operational efficiency and their relative effects on the Postal Service's finances

during the PAEA era. *See id.* at 178-226. The Commission found that the Postal Service's overall costs had been reduced during the PAEA era, mostly in mail processing as a result of changes in the mail mix. *Id.* at 184-198. At the same time, however, the Commission found that "cost savings estimates from some of the Postal Service's initiatives are likely overstated and...the Postal Service could improve its quantitative measurement of the results of cost savings initiatives." *Id.* at 200. The Commission also noted that the Postal Service's unique cost structure constrained its ability to further reduce costs—specifically its pool of institutional costs; the labor-intensive nature of its business; its USO; and its limited ability due to binding arbitration requirements to set wage rates, adjust its employee complement, and/or reduce workhours. *Id.* at 198-200.

The Commission found that the Postal Service's operational efficiency, as measured by TFP, generally increased during the PAEA era, although the Commission noted that operational efficiency may have been somewhat undermined by the Postal Service's failure to price workshare discounts as nearly as practicable to their avoided costs.[371] Ultimately, the Commission concluded that while the Postal Service was able to reduce costs and increase operational efficiency during the PAEA era, the results had been insufficient to achieve overall financial stability and did not generate retained earnings. *Id.* at 222.

With regard to Objective 5, the Commission found that while the existing ratemaking system generally enabled the Postal Service to achieve short-term financial stability, medium- and long-term financial stability had not been achieved. *Id.* at 247-249. This failure was evidenced by total revenue being inadequate to cover total costs,

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[371] *Id.* at 203-208, 216-219. While workshare discounts and ECP, as previously detailed, generally implicate pricing efficiency, which was organized under the first principal area of discussion—structure of the ratemaking system—the Commission noted that workshare discounts set substantially below avoided costs may also necessitate the Postal Service's maintenance of a larger than necessary processing network, which implicates operational efficiency. *Id*. at 216.

resulting in the Postal Service incurring a net loss each and every year during the PAEA era. *Id.* at 165-169. This persistent accumulation of net losses resulted in accumulated deficits, which also prevented the Postal Service from being able to achieve retained earnings. *Id.* at 169-171.

With regard to Objective 8, the Commission determined that the existing ratemaking system lacked an adequate mechanism to maintain rates that cover attributable costs and enable a positive contribution to institutional costs.[372] Attributing this deficiency, in part, to the existing price cap limitation, the Commission found that this deficiency threatened the financial integrity of the Postal Service. *See* Order No. 4257 at 236, 274-275.

Finally, for the third principal area—service (Objective 3)—the Commission found that service standards declined during the PAEA era because the Postal Service had reduced the high-quality service standards that were initially promulgated in 2007. *Id.* at 273. Objective 3 also implicitly requires consistent achievement of service standards, otherwise known as "service performance." *See id.* at 262-263. The Commission found that the existing regulatory system has a mechanism to hold the Postal Service accountable for its service performance. *See id.* at 264.

Analyzing the ratemaking system in its totality, the Commission concluded that "while some aspects...have worked as planned, overall, the system has not achieved the objectives of the PAEA." *Id.* at 5. This result was largely due to the fact that "the operating environment on which the PAEA was designed changed quickly and dramatically after the PAEA was passed[ ]," and "this made it challenging for the ratemaking system under [the] PAEA to achieve the goals it was designed to achieve."

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[372] *See id.* at 235-236. As described above, for organizational purposes, the Commission disaggregated the discussion of Objective 8 into two prongs in Order No. 4257; therefore, Order No. 4257 also discusses Objective 8 under the first principal area of discussion—structure of the ratemaking system. *See* n.330, *supra*.

Id. at 45. As a result, "although the...CPI-based price cap system was anticipated, at the time of its implementation, to enable the Postal Service to produce sustained net income and generate retained earnings, that has not occurred." *Id.* at 148. Based on these findings and having given consideration to the comments received in response to the proposals and revised proposals appearing in Order Nos. 4258 and 5337, the Commission implements the final rules in this Order to address the deficiencies identified above within the ratemaking system.

Commenters generally focus their remarks on framing how a proposed regulatory change would affect a single statutory objective aligned with the commenters' interests. The Commission observes that comments arguing that the Commission should adopt or reject particular changes to advance a certain objective necessarily fail to consider the impact that adoption or rejection would have on the achievement of other objectives. The Commission, however, is required by statute to consider the impact of proposed changes on the achievement of other objectives. This necessarily involves the Commission's exercise of reasoned, expert judgment to determine which tradeoffs should be made from a holistic view of the system's design.

Several of these tradeoffs are described in the Commission's analysis below, which discusses each objective. For instance, declining to provide any additional rate authority would further the achievement of Objective 2 somewhat (by generally preventing rates on a class level from exceeding the change in the CPI-U); but would continue to frustrate the achievement of multiple other relevant objectives, including Objectives 5 and 8. On the other hand, resetting all Market Dominant rates to a level that would be sufficient to recover all costs would further the achievement of Objectives 5 and 8 but would likely represent a regression in the progress already made after the enactment of the PAEA toward achieving Objective 2.

Multiple ratemaking system designs could potentially satisfy the objectives of the PAEA when evaluated in conjunction with each other. Ultimately, in these final rules the

Commission has made modifications that in its expert judgment produce a balanced system. In balancing the tradeoffs, the Commission finds that it is reasonable to focus first on issues that frustrate achievement of the objectives in the near term.[373] In doing so, the Commission incorporates moderation into its design so as not to introduce problems related to objectives that were generally being achieved after the PAEA's enactment. For deficiencies that can be addressed later, the Commission will open a separate rulemaking docket to consider possible refinements to its regulatory approach.

In the near term, modifying the system's design to better equip Postal Service management with additional pricing tools to respond to its challenges (such as declining density, statutorily imposed retirement obligations, and non-compensatory products and classes) is necessary, proper, and consistent with the PAEA. Therefore, the adjustments to the price cap made in this Order are necessary to achieve the objectives of the PAEA, in conjunction with each other, and are focused on vital near-term improvements. Because the near-term financial instability of the Postal Service is a source of imminent peril, it is reasonable for the Commission to exercise its considerable expert policy judgment, authority, and experience to address those more time-sensitive issues first and then evaluate how the longer-term financial stability issues should be addressed, in conjunction with the other objectives, under the modified ratemaking system.

1. Objective 1

The finalized changes are designed to address the systemic issues underlying the existing system's failure to "maximize incentives to reduce costs and increase

[373] *See Lujan*, 891 F.2d at 935 ("Since agencies have great discretion to treat a problem partially, we would not strike down the listing if it were a first step toward a complete solution") (internal footnote omitted); *Nat'l Ass'n of Broads.*, 740 F.2d at 1210 ("We have therefore recognized the reasonableness of the Commission's decision to engage in incremental rulemaking and to defer resolution of issues raised in a rulemaking even when those issues are 'related' to the main ones being considered.").

efficiency," as provided by Objective 1. 39 U.S.C. § 3622(b)(1). The Commission determined that under the existing ratemaking system, the Postal Service was able to reduce costs and increase operational efficiency but the results were insufficient to achieve overall financial stability for the Postal Service and did not generate retained earnings. Order No. 4257 at 222. The Commission observed that real unit Market Dominant attributable cost decreased less during the PAEA era than during the preceding 10 years. *Id.* at 225. Additionally, the Commission observed that TFP increased less during the PAEA era than during the preceding 10 years. *Id.* at 226.

Further, the Commission determined that the existing ratemaking system has not increased pricing efficiency. *Id.* at 274. Pricing efficiency encompasses two principles: ECP and allocative efficiency. *Id.* at 130. First, prices are most efficient when workshare discounts are set equal to avoided costs in accordance with the principles of ECP, and the Commission concluded that the Postal Service failed to set most workshare discounts in accordance with ECP during the 10 years following the enactment of the PAEA. *Id.* at 131, 136-138. Second, the Commission concluded prices for multiple products during the PAEA era did not cover costs and as a result were not priced in accordance with the principles of allocative efficiency. *Id.* at 141. "Prices that adhere to the principles of allocative efficiency are set at or above marginal (or in the Postal Service's case, attributable) costs, meaning they would have a cost coverage of 100 percent or greater." *Id.* at 139-140 (internal footnotes omitted).

Multiple commenters express concerns that providing additional rate authority to the Postal Service may lead the Postal Service to simply rely on rate increases to respond to its financial challenges and weaken the existing incentives for the Postal Service to increase efficiency and reduce costs.[374] Considerable focus has been given

[374] *See, e.g.*, ABA Comments at 7, 11; AF&PA Comments at 4-5; ANM *et al.* Comments at 4; ANM *et al.* Comments at 17; NMA Comments at 8-9; NPPC *et al.* Comments at 24.

to the use of the verb "maximize" in the text of Objective 1 throughout this review and in comments advocating against allowing any adjustments above the percentage change in the CPI-U.[375] The Commission's prior approaches to addressing Objective 1 included a proposal to make available 1 percentage point of performance-based rate authority, conditioned on the Postal Service exceeding an operational efficiency-based requirement and adhering to service standard-based criteria. *See* Section VI.A., *supra*. After considering the numerous comments opposed to this proposal, including those claiming that it would not address Objective 1 in a meaningful way and would violate other objectives, the Commission finds that this proposal requires further study. *See* Section VI.B.-C., *supra*.

Deferring such issues to a new rulemaking is reasonable given the importance of having a good design for a performance incentive mechanism to be successful. *See* Section VI.C., *supra*. Moreover, the Postal Service's efforts, which increased operational efficiency after the PAEA's enactment (*see* Order No. 4257 at 226), tend to suggest that while systemic incentives to increase operational efficiency could be increased, the need to do so is less pressing than addressing the imminent financial challenges faced by the Postal Service. Accordingly, the Commission's final rules focus on what can be improved in the near term and defer other issues to a new rulemaking. As applied to Objective 1, this Order implements a number of rules directly aimed at producing near-term improvement towards achieving the pricing efficiency component of Objective 1, while deferring other rule changes aimed at the operational efficiency component of Objective 1 for further refinement.

Additionally, the objectives "to *maximize* incentives to increase efficiency and reducing costs" and "to *assure* adequate revenues, including retained earnings, to maintain financial stability" set forth ambitious goals that may not be achieved

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[375] *See, e.g.*, ACI Comments at 3; ANM *et al.* Comments at 4; ANM *et al.* Reply Comments at 17; NMA Comments at 8.

instantaneously. 39 U.S.C. § 3622(b)(1) and (5) (emphasis added). To explore whether additional changes may also be necessary to achieve these goals, and if there is a way to implement such changes in a manner that would appropriately balance competing priorities such as "[t]o maintain high quality service standards," as provided by 39 U.S.C. § 3622(b)(3), the Commission will initiate a separate rulemaking proceeding.

As noted previously, the Commission has the flexibility to balance the objectives in a reasonable manner. In addressing Objective 1, the Commission must balance maximizing incentives to increase efficiency and reduce costs with the other relevant objectives. Continued financial pressure, particularly in the near term, may hinder the Postal Service's ability to make investments that would increase efficiency, reduce costs, maintain high-quality service standards, and assure adequate revenues, as provided by Objectives 1, 3, and 5. The Commission's density-based rate authority and retirement-based rate authority are designed to relieve financial pressure due to costs largely outside of the Postal Service's direct control. The trend of negative class contribution continues to hinder pricing efficiency, assuring adequate revenues, and establishing and maintaining rates in a range that are just and reasonable, as provided by Objectives 1, 5, and 8. The Commission's adjustment to the existing price cap for non-compensatory classes addresses this relevant issue.

Theoretically, a price cap system contains inherent incentives for the regulated entity to increase efficiency and reduce costs.[376] At the time it enacted the PAEA, Congress anticipated that setting the price cap equal to the percentage change in the CPI-U would provide these incentives: the Postal Service would be able to generate retained earnings by restraining cost increases below the pace of inflation. *See* Order No. 4257 at 37. These retained earnings would, in turn, allow the Postal Service to fund

[376] *See* Order No. 4257 at 32-33 (describing the economic theory for using price cap regulation to incentivize the Postal Service to reduce costs and increase efficiency).

network expansion and capital improvements and incentivize employees with bonuses. *See id.* This judgment was based on the appearance of the Postal Service's financial position being relatively stable in FY 2006 and the observable PRA era correlation between increases in Postal Service expenses, the Postal Service's revenues, and the consumer price index. *See id.* However, circumstances occurring after the enactment of the PAEA accelerated trends that led to total costs increasing more than CPI-U and a sudden divergence between total Postal Service costs and total Postal Service revenues. *See id.* at 38-41; *see also* Section XIII.B., *supra*. As the Commission has previously explained, Postal Service-specific challenges such as declining mail density, the statutory retirement obligations, and long-standing issues with non-compensatory rates exacerbated those trends. *See* Section XIII.B., *supra*.

Accordingly, the existing CPI-U price cap system requires modifications to achieve the objectives of the PAEA in conjunction with each other. The principled adjustments to the existing CPI-U price cap based on declining density, retirement obligations, and non-compensatory classes increase the amount of rate authority available to the Postal Service. However, contrary to commenters' assertions, they are not designed to allow the Postal Service to respond to its financial challenges through rate increases alone. These modifications address the deficiencies highlighted by the challenges experienced after the PAEA's enactment. By closely tailoring the modifications to the identified deficiencies, these modifications are designed to provide correct incentives and to encourage prudent pricing and operational decision-making by the Postal Service that will allow the system to achieve the objectives of 39 U.S.C. § 3622(b) in conjunction with each other.

The PAEA was intended to provide the Postal Service with the opportunity to retain earnings (rather than merely break-even as limited by the PRA) as an incentive

for the Postal Service to increase its efficiency and reduce its costs.[377] By providing the Postal Service with the needed pricing tools to narrow the existing formidable gap between revenues and costs, the ability for the Postal Service to bridge that gap fully via efficiency gains and cost reductions is more meaningful than under the existing ratemaking system. The final rules, which modify the implementation of the existing price cap, take into account Objective 1 as described below.

As previously explained, the density rate authority is aimed at addressing the unique financial dilemma of declining density that was created by the decline in volume combined with the statutorily imposed universal service obligation to deliver to an increasing number of delivery points.[378] These final rules are designed to help the system to achieve Objective 5 while also considering the need to be consistent with Objective 1 in the following ways. First, the density rate authority targets the portion of per-unit cost increases that is caused by the decline in density (rather than cost increases caused by inflation).[379] There is no evidence that adjusting for declining

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[377] *See* Order No. 4257 at 32 (citing S. Rep. No. 108-318 at 9 (2004)). Notably, the legislative history indicates that the Senate recognized that "[i]f retained earnings are not permitted, that is if revenues must equal costs [as required under the PRA], the incentive to control costs and thus generate funds for long-term capital investments, network growth or other needs will not exist." S. Rep. No. 108-318 at 9 (2004). Further, the Senate acknowledged the link between efficiency gains and cost reductions with "[t]he long term financial viability of the Postal Service." *Id.* at 8.

[378] *See* Order No. 5337 at 70; *see also* United States Postal Service, USPS Annual Tables, FY 2018 TFP (Total Factor Productivity), July 16, 2019, Excel file "Table Annual 2018 - 2018 CRA Public.xlsx," tab "Out-46," cells K52:69 (showing increasing number of delivery points for FYs 2001-2018); United States Postal Service, USPS Annual Tables, FY 2019 TFP (Total Factor Productivity), February 27, 2020, Excel file "Table Annual 2019 Public.xlsx," tab "Out-46," cells K52:70 (showing increasing number of delivery points for FYs 2001-2019).

[379] Order No. 5337 at 70. As previously explained, the Commission's formula targets costs outside of the Postal Service's direct control in the short to medium term and focuses on the specific costs increases due to declining density (volume per delivery point) and thereby maintains the efficiency incentives created by a price cap. *Id.* at 75-76. The Commission rejected targeting a net revenue position as proposed by the Public Representative and rejected using revenue-weighted volume measurement as proposed by the Postal Service and its OIG, because those formulations may weaken efficiency incentives. *Id.* at 75-77.

density, a main driver of the Postal Service's net losses that is largely outside of its direct control,[380] would undermine the price cap's incentives for the Postal Service to achieve efficiencies and cost reductions.[381] Modifying the implementation of the price cap to account for the exogenous increase in average cost per piece caused by declining density does not reduce the Postal Service's incentives to increase efficiency and reduce costs, because the Postal Service will still be able to retain 100 percent of costs avoided through increased efficiency. Second, the formula for the density rate authority is based on a conservative estimate of how much average cost per piece is *expected* to increase as a result of the decline in density. It does not compensate the Postal Service for the *actual* increase in average cost per piece. Accordingly, the Postal Service is incentivized to assure that actual costs do not rise faster than the formula's expectation. Conversely, to the extent the Postal Service is able to offset some of that expected increase through efficiency improvements and/or reductions to costs within its control, the density rate authority preserves the Postal Service's incentive to do so. Third, the density rate authority adjusts for declines calculated after the effective date of final subpart D of 39 C.F.R. part 3030 (based upon the observed density decline experienced in the most recently ended fiscal year) and does not adjust for prior declines. Because the density rate authority does not include previous losses due to

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[380] *See* Order No. 5337 at 64 (describing why the Postal Service does not have direct control over density); Christensen Decl. at 14 ("The exogenous nature of the forces driving changes in mail density, and of the constraints on the Postal Service's ability to adapt to those changes, justifies the Commission's adjustment of the cap for such changes on a Y or Z factor basis."); PR Comments at 5-6 ("[T]he record in this proceeding supports exogenous factor adjustments to the price cap that respond to continuing declines in mail density….").

[381] *See Sw. Bell Tel. Co. v. FCC*, 28 F.3d 165, 167 (D.C. Cir. 1994) (stating that adjustments for costs that are not controlled by the regulated firm would not undermine the incentive structure of the price cap); PR Reply Comments at 3 (citing Declaration of John Kwoka and Robert Wilson, March 1, 2018, at 8 (Kwoka and Wilson Decl.)) (asserting that the Commission's adjustment to the price cap for declining density is a Z-factor that adjusts for costs that are not under the Postal Service's control and thereby would not affect the Postal Service's incentive to be efficient); Christensen Decl. at 6 ("the exogenous nature of the costs means Y and Z factors do not affect the efficiency incentives of price caps").

declines in density and reflects only the portion of the increase in per-unit costs that would be expected as a result of decline in density, in order to retain earnings the Postal Service will have to reduce costs within its control and increase efficiency in addition to using rate authority.

Because the retirement obligation rate authority targets a driver of the Postal Service's net losses that is outside of its direct control,[382] the Commission finds that adequate incentives for the Postal Service to achieve efficiencies and cost reductions remain with the existing levers and approach outlined in the final rule.[383] Additionally, all revenue collected as a result of the retirement obligation rate authority must be remitted towards the corresponding statutory liabilities, as provided under final subpart E of 39 C.F.R. part 3030. This further ensures that this adjustment does not diminish the price cap's inherent incentives to increase efficiency and reduce costs.[384]

Similarly, the Commission recognizes that the principled adjustment to the existing CPI-U price cap for non-compensatory classes of mail also increases the amount of rate authority available to the Postal Service. This adjustment aims to

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[382] *See* Order No. 5337 at 90 ("these congressionally mandated payments are outside of the Postal Service's direct control"); Christensen Decl. at 15 ("Retirement expenses change for reasons either entirely external to the Postal Service (e.g., decisions by the Office of Personnel Management Board of Actuaries) or with only an indirect connection to Postal Service performance.."); PR Comments at 19-20 ("these are exogenous costs and the authority to collect them by means of an adjustment to the price cap is fully supported by established price cap theory and the record in this proceeding.") (omitting internal footnote).

[383] *See Sw. Bell Tel. Co.*, 28 F.3d at 167 ("Because of the [firm's] lack of control, adjustments for such changes [exogenous cost triggered by administrative, legislative or judicial action beyond the control of the firm] presumably do not undermine the price caps' incentive structure."); PR Reply Comments at 3 (citing Kwoka and Wilson Decl. at 8) (asserting that the Commission's adjustment to the price cap for the statutory retirement obligations is a Z-factor that adjusts for costs that are not under the Postal Service's control and thereby would not affect the Postal Service's incentive to be efficient); Christensen Decl. at 6 ("the exogenous nature of the costs means Y and Z factors do not affect the efficiency incentives of price caps").

[384] *See* Christensen Decl. at 15 ("The proposed retirement authority implements a pass-through of exogenous costs and has no adverse incentive properties[.]").

address long-standing issues concerning non-compensatory rates, particularly for Periodicals, which as a class has not covered its attributable costs since the enactment of the PAEA.[385] From FY 2007 to FY 2019, the cumulative contribution losses for Periodicals amount to negative $7.4 billion (FY 2019 ACD at 25), an outcome patently contrary to the PAEA's goals of maximizing the incentives to increase pricing efficiency, assuring financial stability, and establishing and maintaining rates in a range that are just and reasonable, as provided by Objectives 1, 5, and 8.

The final rules addressing non-compensatory classes are consistent with the achievement of Objective 1. The application of the existing CPI-U price cap at a class level limited the Postal Service's ability to set prices for Periodicals that adhered to the principles of allocative efficiency (*i.e.*, compensatory prices). Order No. 4257 at 142. Therefore, the 2 percentage points of rate authority made available for non-compensatory classes is particularly focused on increasing pricing efficiency, a component of Objective 1. *See id.* at 140-142; Order No. 4258 at 85; Order No. 5337 at 164, 168.

Additionally, to clarify the record, the Commission does not take the view that the provision or reduction of rate authority is the only tool that the ratemaking system can use to further the achievement of Objective 1. As explained below, three additional aspects of the existing ratemaking system's design are modified to promote the systemic achievement of Objective 1.

First, under the existing ratemaking system, the Postal Service had flexibility to set prices for non-compensatory products in compensatory classes in a manner that would have increased allocative efficiency. *See* Order No. 4257 at 141-142. With respect to the most egregious examples (USPS Marketing Mail Flats and Parcels), the

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[385] *See* Order No. 4257 at 233-234; Order No. 4258 at 81; Order No. 5337 at 164; *see also* FY 2019 ACD at 25.

Commission has made efforts to direct the Postal Service to remedy the situation by addressing both costs and prices.[386] As the cost-coverage situation for Flats and Parcels has worsened over time, the Commission has escalated its initial regulatory approach of more flexible-style recommendations and directives to more prescriptive rate-setting criteria that would require the rates for Flats and Parcels to increase at least 2 percentage points above the percentage increase for the USPS Marketing Mail class

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[386] After repeatedly encouraging the Postal Service to use its intra-class price flexibility to reduce the cost-coverage shortfall of Flats, in the FY 2010 ACD, the Commission directed the Postal Service to increase the cost coverage of Flats through a combination of above-average price adjustments and cost reductions. *See* FY 2010 ACD at 105-106. For a number of years, the Commission monitored the Postal Service's progress and provided additional recommendations. *See* FY 2011 ACD at 119 (determining not to require remedial action due to the Postal Service's then-pending appeal regarding the FY 2010 directive); Docket No. ACR2012, *Annual Compliance Determination* (Revised May 7, 2013), May 7, 2013, at 116 (FY 2012 ACD) (finding the Postal Service's pricing changes to be responsive to the FY 2010 directive and recommending that the Postal Service derive elasticity estimates to provide for a more realistic assessment of the impact of price changes on contribution); Docket No. ACR2013, *Annual Compliance Determination*, March 27, 2014, at 54-55 (FY 2013 ACD) (same); Docket No. ACR2014, *Annual Compliance Determination*, March 27, 2015, at 47-48 (FY 2014 ACD) (same and further recommending that the Postal Service better quantify cost savings resulting from operational initiatives). Observing some regression of the prior progress toward improving Flats cost coverage, starting with the FY 2015 ACD, the Commission increased its scrutiny of the Postal Service's cost-reduction efforts at an operational level and with regard to quantifying the cost savings of operational initiatives. *See* Docket No. ACR2015, *Annual Compliance Determination*, March 28, 2016, at 51-65 (FY 2015 ACD) (addressing the continued applicability of the FY 2010 directive and further recommending that the Postal Service better quantify cost savings resulting from operational initiatives for Flats); *id.* at 160-182 (evaluating long-standing cost and service efficiency issues for flat-shaped mailpieces and requiring the Postal Service to provide information aimed at quantifying the results of its operational initiatives); Docket No. ACR2016, *Annual Compliance Determination*, March 28, 2017, at 57 (FY 2016 ACD) (addressing the continued applicability of the FY 2010 directive and further recommending that the Postal Service better quantify cost savings resulting from operational initiatives for Flats); *id.* at 158-171 (evaluating long-standing cost and service efficiency issues for flat-shaped mailpieces and initiating a separate strategic rulemaking to develop enhanced periodic reporting requirements); Docket No. ACR2017, *Annual Compliance Determination*, March 29, 2018, at 59-60 (FY 2017 ACD) (addressing the continued applicability of the FY 2010 directive and further recommending that the Postal Service better quantify cost savings resulting from operational initiatives for Flats); *id.* at 174-182 (evaluating long-standing cost and service efficiency issues for flat-shaped mailpieces and describing the status of the separate strategic rulemaking focused on the development of enhanced periodic reporting requirements).

For a number of years, the Commission approved the Postal Service's approach to improve Parcels cost coverage through above-average price increases. *See* FY 2010 ACD at 107-108; FY 2011 ACD at 119-120; FY 2012 ACD at 117; FY 2013 ACD at 56; FY 2014 ACD at 50; FY 2015 ACD at 66-67; FY 2016 ACD at 59; FY 2017 ACD at 63.

in the next general Market Dominant rate adjustment.[387] The finalized rate-setting criteria for non-compensatory products, which require the Postal Service to increase the rate for any non-compensatory product by a minimum of 2 percentage points above the percentage increase for the class (*see* final 39 C.F.R. § 3030.221), and prohibit the Postal Service from reducing the rates of non-compensatory products (*see* final 39 C.F.R. §§ 3030.127(b) and 3030.129(g)) expand the existing incremental approach for improving the allocative efficiency of pricing for Flats and Parcels to each non-compensatory product in a compensatory class. Accordingly, the finalized rate-setting criteria for non-compensatory products are necessary to increase pricing efficiency, consistent with Objective 1.

Second, under the existing ratemaking system, the Postal Service's pricing practices with respect to workshare discounts frustrated the achievement of Objective 1. *See* Order No. 5337 at 194. Phasing out these inefficient pricing practices under final

[387] Starting with the FY 2018 ACD, the Commission accelerated its approach for Flats. *See* Docket No. ACR2018, *Annual Compliance Determination*, April 12, 2019, at 71 (FY 2018 ACD) (directing the Postal Service to propose a price increase for Flats that is at least 2 percentage points above the class average for USPS Marketing Mail in the next Market Dominant rate adjustment); FY 2019 ACD at 43 (same).

Additionally, in the FY 2018 ACD, the Commission recommended that the Postal Service accelerate its pricing approach to propose a price increase for Parcels that is at least 2 percentage points above the class average for USPS Marketing Mail in the next Market Dominant rate adjustment. *See* FY 2018 ACD at 78. In the FY 2019 ACD, the Commission made this pricing approach mandatory. *See* FY 2019 ACD at 46 (directing the Postal Service to propose a price increase for USPS Marketing Mail Parcels that is at least 2 percentage points above the class average for USPS Marketing Mail in the next Market Dominant rate adjustment).

subpart J of 39 C.F.R. part 3030 is also necessary for the ratemaking system to achieve Objective 1.[388] As previously stated, this "approach aims to adhere as closely to ECP principles as practicable and therefore achieves the pricing and operational efficiency components of Objective 1 (maximize incentives to increase efficiency)."[389]

Third, the 10-year review period set by the PAEA was considerably longer than those under several other price cap regimes and the lack of an ability to course-correct at the more typical 4- or 5-year mark likely exacerbated the extent of the observed deficiencies.[390] Therefore, the Commission is attentive to ensuring that the ratemaking system will have procedures in place to monitor and safeguard against the system falling out of alignment with the objectives after the implementation of the final rules. To monitor planned and realized cost reductions, and thereby incentivize the Postal Service to improve the robustness of its cost-benefit analyses, the Commission codifies additional reporting requirements in final § 3050.55. These reporting requirements also

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[388] *See* Order No. 5337 at 194; *see also* ABA Comments at 15 (asserting that the workshare discount proposal would "require that USPS move workshare discounts closer to 100 percent of the cost savings to maximize incentives to reduce costs and increase efficiency as required by Objective 1"); NPPC *et al.* Reply Comments at 11 (asserting that "adopting rules designed to move discounts closer to economically efficient levels...will have a beneficial effect on cost reduction and efficiency"); Pitney Bowes Comments at 3 (asserting that "[a] rule requiring that all workshare discounts must be moved successively closer to ECP is consistent with the pricing and operational components of Objective 1"); ANM *et al.* Reply Comments at 29 (asserting that the proposed revisions to workshare discounts "will actually lead to a more efficient and successful Postal Service."). Additionally, the Postal Service asserts that setting the passthrough floor at 85 percent would be consistent with Objective 1. Postal Service Comments at 49.

[389] Order No. 5337 at 193. The Commission also described the benefits of its approach in terms of sending more efficient pricing signals to mailers, improving productive efficiency in the postal sector, and dismissed concerns regarding harms to allocative efficiency. *See id.* at 193, 195-197.

[390] *See* Christensen Decl. at 6 ("Even if the PAEA price cap was properly calibrated at the beginning of the plan, with a formal (and not merely implied) determination that CPI – 0 was an appropriate calibration of the X factor at the time, a ten-year period without a mechanism to perform mid-course corrections is outside the realm of standard practice."); 2017 Kwoka Decl. at 28-29 (opining that the10-year period before the first review was unusually long and thereby allowed for design defects and changed circumstances to contribute to the Postal Service's financial problems and inflict persistent harm on the Postal Service and its customers); *see also* Willig Decl. ¶¶ 12, 14 (describing price cap plans as typically running for 4 to 5 years between adjustments).

have ancillary benefits that promote the achievement of Objective 1; requiring the Postal Service to identify underlying causes of cost increases would enable the Postal Service to undertake targeted responses to those causes and would allow the Commission to investigate cost increases and evaluate the effectiveness of the Postal Service's operational initiatives more thoroughly. *See* Section IX.C.3., *supra*. These reporting requirements, which tend to encourage the Postal Service to conduct robust cost-benefit analyses of potential operational changes that may involve the reduction of service standards, engage in prudent and financially sound decision-making, and increase the availability and comprehensibility of information on a regular basis are consistent with Objectives 3, 5, and 6. *See* Section XIII.E.3., 5., and 6., *infra*. Additionally, the initiation of the separate rulemaking proceeding will focus on whether any enhancements to the ratemaking system can be made to amplify incentives to reduce costs and increase efficiency by introducing a performance incentive mechanism. *See* Section VI.C., *supra*. Taken together, these changes would afford the Commission important information that would enhance oversight, and thereby promote the Postal Service to make progress on reducing costs and increasing efficiency. Further, the Commission's commitment to conduct a full-scale review in 5 years, subject to Commission discretion to consider aspects of the system sooner (if needed), helps to safeguard against a situation where the system falls out of alignment due to the occurrence of unforeseen circumstances.

2. Objective 2

The changes in the final rules are designed to continue to allow the system to "create predictability and stability in rates," as provided by Objective 2. 39 U.S.C. § 3622(b)(2). The Commission determined that the existing system has generally created predictable and stable rates. Order No. 4257 at 143-144. This determination was based on an evaluation of the timing and magnitude of rate changes. *Id.* at 143-144. The Commission found that the timing of rate changes has been relatively

predictable and consistent, with some timing deviations due to external circumstances that were reasonably forecastable by ratepayers. *Id.* at 143. The Commission found that the magnitude of rate changes "were 'capable of being consistently forecast' and did 'not include sudden or extreme fluctuations'" during the PAEA era. *Id.* at 144.

Some comments appear to suggest that because the existing ratemaking system, which generally limits the annual percentage change in rates to the corresponding percentage change in CPI-U, achieves Objective 2, a system that raises the amount of the annual limitation would necessarily thwart the achievement of Objective 2. *See, e.g.*, C21 Reply Comments at 7; ANM *et al.* Comments at 54. To clarify the record, the Commission does not take the view that limiting the annual percentage change in rates to the corresponding percentage change in CPI-U is the only tool that the ratemaking system can use to achieve Objective 2. As previously explained, this existing annual limitation is a part of the system that *must* be reviewed and *may* potentially be changed or replaced in order to achieve the objectives of 39 U.S.C. § 3622(b) in conjunction with each other. *See* Order No. 5337 at 40-41. The Commission recognizes that the principled adjustments to the existing CPI-U price cap based on declining density, retirement obligations, and non-compensatory classes increase the amount of rate authority available to the Postal Service. These principled adjustments are aimed at addressing the existing ratemaking system's failure to achieve all of the objectives of 39 U.S.C. § 3622(b) in conjunction with each other.

Multiple commenters express concerns that the finalization of a formula-based approach with components that add rate authority would create more uncertainty and volatility for future rate increases.[391] With regard to objections to adding three new forms of rate authority to the system after over a decade of operation under the CPI-U annual limitation, it is useful context to note that generally price cap systems allow

[391] *See, e.g.*, ABA Comments at 7; ANM *et al.* Comments at 19-21; NMA Comments at 7-9; NPPC *et al.* Comments at 20.

rebasing and restructuring after 4 to 5 years. *See* n.389, *supra*. "The need for adjustments to price caps arises from the fact that price cap formulae are based upon predictions of costs and, over time, divergences between prices and costs are inevitable."[392] Trends outside the direct control of the Postal Service accelerated and exacerbated this divergence and the corresponding impact on the Postal Service after the PAEA's enactment. *See* Section XIII.B., *supra*. The longer timeframe between the establishment of the existing system and the implementation of the changes in these final rules tends to exacerbate the misperception that raising the annual limitation would necessarily disrupt predictability and stability. However, the final rules, which modify the implementation of the existing price cap to address the observed systemic deficiencies, account for the achievement of Objective 2 as described below.

An important starting point for this analysis is that the rate authority formula will set the maximum allowable annual rate increase for each class of mail (annual limitation) based on the various components. As the Commission has emphasized, "it would be inappropriate to design a system that lacks a mechanism to limit the magnitude of price adjustments" because doing so would run counter to Objective 2. Order No. 4258 at 34; *see* Order No. 4257 at 103. Numerous commenters express concern that the final rules, by increasing the annual limitation, would necessarily produce rate increases of a magnitude that would harm ratepayers and the mail system

[392] PR Reply Comments 4 (citing 2017 Kwoka Decl. at 9); *see* PR Comments at 50 ("Price cap theory anticipates the need to adjust price caps when they fail to permit the recovery of costs."); 2017 Kwoka Decl. at 7 (stating that a price cap "plan that leaves prices unchanged in the face of costs that rise or fall over time—as they surely will—results in the same windfalls or shortfalls that compromise plan objectives in the initialization of prices. Accordingly, price cap plans need to adjust the level of price to reflect changes over time in the economic factors that cause underlying costs to change."); Kwoka Congressional Testimony at 38 ("even the best-designed formula will inevitably diverge from underlying costs over time raising the question of whether, and how, the regulator should intervene. Failure to intervene may result in persistent, substantial profit windfalls or shortfalls that are unacceptable on both economic and political grounds."); *see also* Christensen Decl. at 6.

(drive away volume).[393] This concern fails to account for the Commission's findings and analysis, which extensively discusses the deficiencies of the existing ratemaking system and examines these deficiencies by applying the objectives in conjunction with each other. *See generally* Order No. 4257. Notably, the persistent net losses and resulting accumulated deficit significantly impede the financial stability of the Postal Service, contrary to Objective 5. *See id.* at 170-171 (describing how the consecutive net losses resulted in an accumulated deficit); Order No. 4258 at 46-52 (describing how the consecutive net losses resulted in an accumulated deficit and that capital investments declined sharply as the accumulated deficit increased). Moreover, rates under the existing ratemaking system were not excessive to the mailers; instead, rates threatened the financial integrity of the Postal Service, contrary to Objective 8. *See* Order No. 4257 at 274-275.

Additionally, this concern omits a critical intervening fact: the Postal Service retains discretion not to use all of the rate authority provided by the final rules. The Postal Service has this discretion under the existing system; however, given the relatively low amount of rate authority generated under the existing price cap, the Postal Service's exercise of this discretion (such as by banking rate authority, proposing

[393] *See, e.g.*, ABA Comments at 1-2, 10-11; AFPA Comments at 3; ANM *et al.* Comments at 38 (citing Brattle Decl. ¶ 40); ANM *et al.* Reply Comments at 2; Discover Comments at 4; eBay Comments at 3-4; NPPC *et al.* Comments at 22-23; PSA Comments at 6; NPPC *et al.* Comments at 22-23, 36-38.

promotional or discount rates, proposing rate decreases, or forbearing increases) has been limited.[394] The larger amount of rate authority available for use increases the Postal Service's opportunity and capacity to use its business judgment to smooth out rate adjustments. The authority to establish reasonable and equitable classes of mail and rates of postage is vested primarily in the Governors of the Postal Service. 39 U.S.C. § 404(b). The Postal Service has indicated that it is attentive to not allowing rates to increase too sharply, notwithstanding its market power.[395] Therefore, the combination of a price cap and the Postal Service's inherent incentives to exercise business judgment combine to promote predictability and stability of rates overall under the final rules, while also allowing for additional rate authority that the Commission finds to be necessary for the achievement of other objectives. Further, the Commission commits to monitoring for any evidence that pricing decisions are exacerbating volume declines and evaluating if such results would justify adjusting these final rules in the next system review in 5 years.

Additionally, it is important to observe that public utility regulators have accepted rates based on formulae since the early 1970s.[396] "[A]cceptance of formula rates is

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[394] *See* Library Reference PRC-LR-RM2017-3/1, Excel file "PRC-LR-RM2017-3-1.xlsx," tab "Figure II-3" (average annual percentage change in the CPI-U of 1.83 percentage points, ranging as low as -0.634 percentage points in October 2009 and as high as 4.5 percentage points in October 2008); *id.* tab "Table II-3" (cumulatively the Postal Service has not banked more than 0.25 percentage points for First-Class Mail, USPS Marketing Mail, Periodicals, and Package Services).

Even over a longer period of time, the trend holds. From January 2005 to September 2020, the annual percentage change in the CPI-U has been on average 1.83 percentage points, and the Postal Service has not banked more than 0.4 percentage points for First-Class Mail, USPS Marketing Mail, Periodicals, and Package Services. The CPI-U data are published on the Commission's website, available at: *http://www.prc.gov*; hover over "References" and follow the "CPI Figures" hyperlink.

[395] *See* Postal Service Reply Comments at 18 ("The risk that using too much pricing authority will permanently harm the Postal Service's financial position will necessarily be an important consideration in the Governors' pricing decisions.").

[396] *See Pub. Utils. Comm'n v. FERC*, 254 F.3d 250, 254 (D.C. Cir. 2001) (citing *Me. Yankee Atomic Power Co.,* 42 F.E.R.C. ¶ 61,307, 61,923 (1988)).

premised on the rate design's 'fixed, predictable nature,' which both allows a utility to recover costs that may fluctuate over time and prevents a utility from utilizing excessive discretion in determining the ultimate amounts charged to customers."[397] Public utility regulators evaluate if the various components of the formula are predictable and adjustments to the numerical values assigned to the components of the formula can be made in essentially a mechanical fashion. *See Ocean State Power II*, 69 F.E.R.C. at 61,552. Below, the Commission evaluates the predictability and stability of each component of the formula for calculating the maximum amount of rate adjustment authority. Each of these new forms of rate authority that raise the amount of the existing annual limitation are designed to enable the modified ratemaking system to achieve predictable and consistent timing of rate changes, a forecastable magnitude of rate changes, and minimization of sudden or extreme fluctuation.

While a number of commenters express concern that the Postal Service may vary the magnitude and/or timing of rate adjustments for certain products and/or rate cells,[398] it is also important to reiterate that Objective 2 cannot be read in isolation. The system of ratemaking, as modified by this Order, will continue to apply the price cap at the class level.[399] This class-level application remains consistent with Objective 8, which "shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail." 39 U.S.C. § 3622(b)(8).

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[397] *Pub. Utils. Comm'n*, 254 F.3d at 254 (quoting *Ocean State Power II*, 69 F.E.R.C. ¶ 61,146, 61,552 (1994)) (internal citation omitted).

[398] Each of the Market Dominant classes consists of multiple products. The term product "means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied." 39 U.S.C. § 102(6). Within each product, there may be multiple rate cells, which refer to each price.

[399] Because certain Postal Service pricing practices were identified as being inefficient and therefore contrary to Objective 1, particular rate-setting criteria that apply below the class level are adopted to maximize the Postal Service's incentives to increase pricing efficiency for non-compensatory products and workshare discounts. *See* final 39 C.F.R. §§ 3030.127(b), 3030.129(g), and 3030.221, and subpart J of 39 C.F.R. part 3030. These rate-setting criteria do not affect the amount of rate authority available.

Moreover, this class-level application continues to allow the Postal Service pricing flexibility to vary the size of rate changes at the product and rate cell levels, consistent with Objective 4.

The Commission has given due consideration to how the modified ratemaking system would achieve predictability and stability of rates in the design of its density rate authority formula component. First, the density rate authority formula is designed to conservatively approximate the amount by which average cost per piece is expected to *unavoidably* increase in the near term as a result of the decline in density as remaining costs are distributed over fewer pieces, thereby reigning in the magnitude of potential rate increases.[400] Second, annual fluctuations in the resulting amount of rate authority made available each fiscal year are expected to occur due to the operation of the formula. The formula is designed to limit such fluctuations to reflect the expected unavoidable cost increases resulting from density declines.[401] The Commission commits to monitoring for any evidence that pricing decisions are exacerbating volume declines and evaluating if such results would be reason to adjust these final rules in the next system review. Moreover, the Commission will allow the Postal Service to bank unused density rate authority so as to give the operator the ability to smooth out the rate increases over time.[402] Third, basing the density rate authority formula on actual measured per-unit cost increases caused by the corresponding actual measured annual decline in density rather than on projections avoids the need to design an additional adjustment to correct for inaccurate projections, further reducing fluctuation. Fourth, the

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[400] *See* Order No. 5337 at 70, 75-76 (explaining how the Commission's approach is more conservative than targeting a net revenue position as suggested by the Public Representative or a revenue-weighted measurement of declines as suggested by the Postal Service); *see also* Section IV.A., IV.B.2., IV.C.1., and IV.C.2., *supra* (discussing how the formula estimates the expected increase in per-unit costs rather than an observed increase in actual per-unit costs).

[401] *See* Order No. 5337 at 75; *see also* Section IV.B.2., *supra*.

[402] As described previously, the existing annual limitation, which generates rate authority based on the percentage change in the CPI-U, has provided a relatively low amount of rate authority. *See* n.393, *supra*.

density rate authority formula is designed to approximate declining density for Market Dominant products as a whole rather than focusing on individual mail classes, which would produce more fluctuation. Fifth, the inputs to the density rate authority formula are transparent, and the corresponding calculation of the rate authority eligible for use in a particular fiscal year will be publicly knowable on a predictable basis. By December 31 of each year, the Postal Service must file a notice with the Commission demonstrating whether or not density rate authority is eligible for authorization, and the Commission will announce its final determination on eligibility.

The Commission has given consideration to how the modified ratemaking system would achieve predictability and stability of rates in the design of its retirement obligation rate authority formula component. First, the retirement obligation rate authority is designed to phase in the increase to the rate base over 5 years. This phase-in mechanism is designed to encourage regular and stable timing and a smaller magnitude of rate increases each year over the 5-year period rather than apply a one-time increase of the full amount of the retirement obligation rate authority. Second, annual fluctuations in the amount of retirement obligation rate authority are limited to the extent such fluctuations are necessary to ensure that the Postal Service receives the appropriate amount of revenue at the end of the 5-year phase-in period. After the 5-year phase-in period, ratepayers are no longer subject to additional fluctuation in rate increases based on the retirement obligation rate authority. Third, basing the retirement obligation rate authority formula on the actual measured changes in the amount of the Postal Service's liability and actual measured volume rather than on projections avoids

the need to design an additional adjustment to correct for inaccurate projections, further reducing fluctuation.[403] Fourth, the retirement obligation rate authority is designed to limit the amount of the rate authority eligible for use for each class of Market Dominant products to the amount that rates would have to increase on all products (both Market Dominant and Competitive products) to generate enough revenue to make the full amortization payments. Consequently, the formula design presumes that an equal rate increase will be applied to Competitive products and thus further limits the magnitude of the potential rate increases applied to Market Dominant products. Fifth, the inputs to the retirement obligation rate authority formula are transparent, and the corresponding calculation of the rate authority eligible for use in a particular fiscal year will be publicly knowable on a predictable basis. By December 31 of each year, the Postal Service must file a notice with the Commission demonstrating whether or not retirement obligation authority is eligible for authorization and the Commission will announce its final determination on eligibility.

The Commission has given consideration to how the modified ratemaking system would achieve predictability and stability of rates in providing 2 percentage points of rate authority for non-compensatory classes. First, the amount of rate authority made available is designed as an incremental approach to conservatively narrow the long-standing cost-coverage gap.[404] Second, allowing a finite amount of rate authority over a finite period of time strikes a reasonable balance among Objectives 1, 2, 5, and 8, which

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[403] With regard to the suggestion that the Commission should not take any action on this issue due to pending legislative action (*see* NMA Comments at 14; NNA Comments at 18), in the event that Congress takes action that would alter OPM's payment calculation, the formula's inputs are designed to incorporate such updates through the annual recalculation. Transparently adjusting for such changes would be a reasonable fluctuation. If Congressional action warrants reexamination of the final rules sooner, the Commission commits to exercising its rulemaking authority to do so. *See* 39 U.S.C. § 3622(d)(3).

[404] *See* Order No. 5337 at 168-170. Notably, the Public Representative in advocating for a one-time reset of the price cap for Periodicals characterizes the Commission's approach as "accord[ing] too much weight to stability and reasonableness and far too little weight to producing adequate revenue." PR Comments at 50.

require the system to provide predictability and stability to ratepayers, improve allocative efficiency, promote the Postal Service to focus on increasing operational efficiency and cost reductions, improve financial integrity, and move rates into the range of prices that is just and reasonable. Moreover, the Commission will allow the Postal Service to bank unused rate authority for non-compensatory classes so as to give the operator the ability to smooth out the rate increases over time. Third, the primary source of fluctuation will be if a class changes from compensatory to non-compensatory, which will be made known to the public transparently on a predictable basis. By December 31 of each year, the Postal Service must file a notice with the Commission demonstrating whether or not rate authority is eligible for authorization for a particular class and the Commission will announce its final determination on eligibility.

The existing rate authority provided by the change in the CPI-U with limited ability to bank such authority for future use does not disrupt predictability and stability. Moreover, providing the Postal Service with the limited ability to bank additional forms of rate authority for declining density and for non-compensatory classes for future use ensures that the system will not create a perverse incentive for the Postal Service to raise rates faster than the market can bear. Consistent with the existing requirements, the Postal Service would still be limited to using no more than 2 percentage points of banked rate authority per class per year and banked rate authority would still expire after 5 years.

Additionally, the Commission has demonstrated consideration for the achievement of Objective 2 in other aspects of its final rules. Final § 3030.221, which requires the Postal Service to increase the rate for any non-compensatory product by a minimum of 2 percentage points above the percentage increase for the class, represents a natural expansion of the Commission's existing approach to USPS

Marketing Mail Flats[405] and Parcels[406] to all non-compensatory products. Maintaining this steady incremental approach,[407] rather than adopting alternatives such as accelerating required increases to be at least 3 percentage points above the percentage increase for the class or raising the price cap to specifically address this issue (*see* Order No. 5337 at 158-161), demonstrates the balancing of predictability and stability with the need to increase cost coverage for non-compensatory products, consistent with the aims of Objectives 1, 5, and 8. Final §§ 3030.127(b) and 3030.129(g), which prohibit the Postal Service from reducing the rates of non-compensatory products, are baseline rules that also promote stability and predictability of rates.

Final subpart J of 39 C.F.R. part 3030 also takes an incremental approach to phase out inefficient pricing practices. The Commission's approach to regulating workshare discounts gives consideration to promoting price changes that would be incremental in timing and magnitude and provides customers sufficient advance notice to plan their mailing budgets, consistent with the purpose of Objective 2. The final rules encourage the Postal Service to phase out excessive workshare discounts incrementally by 20 percent in each rate adjustment. For rare cases where reducing an excessive workshare discount by 20 percent could lead to rate shock, there is a process in place by which the Postal Service can seek a waiver of this rule. Similarly, to promote incremental improvement (and eventual phase out) of workshare discounts that

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[405] *See* FY 2018 ACD at 71 (directing the Postal Service to propose a price increase for USPS Marketing Mail Flats that is at least 2 percentage points above the class average for USPS Marketing Mail in the next Market Dominant rate adjustment); FY 2019 ACD at 43 (same).

[406] *See* FY 2018 ACD at 78 (recommending that the Postal Service propose a price increase for USPS Marketing Mail Parcels that is at least 2 percentage points above the class average for USPS Marketing Mail in the next Market Dominant rate adjustment); FY 2019 ACD at 46 (making the prior directive mandatory for FY 2020).

[407] Reaching the mandatory minimum rate increase of 2 percentage points above the class average for USPS Marketing Mail Flats and Parcels (two of the most egregious examples of a non-compensatory product in a compensatory class) was itself an incremental process, as detailed in notes 385 and 386, *supra*.

are below their avoided costs, the final rules encourage the Postal Service to gradually increase the workshare discounts by at least 20 percent or increase the workshare discount to produce a passthrough of at least 85 percent.[408] For rare cases where raising the proposed workshare discount by at least 20 percent (or to produce a passthrough of at least 85 percent) could impede the Postal Service's operational efficiency, there is a process in place by which the Postal Service can seek a waiver of this rule.

Additionally, the Commission will finalize procedural changes that are aimed at improving mailers' ability to predict rate changes (and thereby generate their mailing budgets) by enhancing the schedule for regular and predictable rate adjustments and requiring the Postal Service to file a rate adjustment filing at least 90 days prior to planned implementation.[409] Furthermore, committing to review the system in 5 years, subject to Commission discretion to consider aspects of the system sooner (if needed), balances the competing priorities of setting a review period that would be both short enough to safeguard against any potential unintended consequences (by contrast the 10-year review period set by the PAEA was, in hindsight, too long[410]) and long enough to allow the effects of the changes to be observed. Finally, declining to implement the provision of 1 percentage point of performance-based rate authority will allow for less potential fluctuation in rate increases than if the Commission implemented the performance-based rate authority at this time. The Commission will undertake a rulemaking to evaluate whether, when, and how to introduce a performance incentive mechanism (*see* Section VI.C., *supra*) through notice-and-comment procedures in order

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[408] The Postal Service asserts that setting the passthrough floor at 85 percent would be consistent with Objective 2. Postal Service Comments at 49.

[409] *See* final 39 C.F.R. §§ 3030.102 and 3030.121. Pitney Bowes supports these extensions of the procedural schedule as consistent with Objective 2. Pitney Bowes Comments at 8.

[410] *See* n.389, *supra*.

to ensure that its outcome would not be sudden or disruptive to the ratemaking system, thereby further showing consideration for the continued achievement of Objective 2.

3. Objective 3

The finalized changes are designed to address the systemic issues underlying the existing system's failure to "maintain high quality service standards established under section 3691," as provided by Objective 3. 39 U.S.C. § 3622(b)(3). The Commission determined that the PAEA's goals relating to service were not achieved under the existing system. Order No. 4257 at 250. More specifically, the Commission found that the existing system did not effectively encourage the maintenance of high-quality service standards. *Id.* The Commission observed that service standards declined during the PAEA era, because the Postal Service reduced the high-quality service standards that were set in 2007. *Id.* at 273.

As described below, past experience evidences that the existing system lacked an effective mechanism to incentivize the Postal Service to perform a meaningful analysis of the potential service performance effects and cost savings prior to implementing changes to its service standards. *See id.* at 201-203. This deficiency

was especially compounded by the focus on aggressively managing costs, which did have an impact on service.[411] The Postal Service proceeded to implement both its "Mail Processing Network Rationalization" initiative beginning in FY 2012,[412] and its "Standard Mail Load Leveling" initiative beginning in FY 2014,[413] notwithstanding the conclusions and recommendations of the Commission that the Postal Service should perform additional analysis of the potential effects before proceeding.[414] The Postal Service's exercise of its authority to change the service standards in the past has not realized the

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[411] *See, e.g.*, Order No. 4257 at 255 ("There is 'the potential to cut costs by way of service reductions to comply with price cap requirements.'") (quoting Postal Regulatory Commission, Section 701 Report, Analysis of the Postal Accountability and Enhancement Act of 2006, September 22, 2011, at 58); NWPC Report 2 at 87 ("This matching of resources can be indirectly attributed to cost management strategies, including ones that traded service downgrades for cost savings."); NWPC Report 2 at 88 ("However, the focus on aggressively managing costs did have an impact on service. The Service Standard Realignment first reduced Overnight First Class Mail coverage, then eliminated it almost entirely. The service performance did not generally meet goals after the change, leading to the suspension of the Network Consolidation program and additional resources to improve service performance."); 2017 Kwoka Decl. at 18-19 (describing the reduction of First-Class Mail service standards as one of the Postal Service's efforts to reduce its costs post-PAEA); 2017 Kwoka Decl. at 21 ("As noted earlier, price cap plans generally have some incentives to reduce quality in order to lower cost, but in the present case these shortfalls seem more likely the result of the financial difficulties of the Postal Service and the need to conserve on current expenditures. Deferred vehicle replacement, workforce reductions, and capital expenditure cutbacks are all suggestive of a setting where service quality as well as everything else has been pre-empted by the overriding need for cost cutting. Service quality would appear to be an issue of on-going concern."); 2006 Joskow at 29 ("Deferred maintenance (e.g. tree trimming) and deferred capital expenditures may lead to the deterioration of service quality in either the short run or the long run or both.").

[412] *See* Revised Service Standards for Market-Dominant Mail Products, 77 Fed. Reg. 31,190 (May 25, 2012) (codified at 39 C.F.R. pt. 121).

[413] *See* Service Standards for Destination Sectional Center Facility Rate Standard Mail, 79 Fed. Reg. 12,390, 12,393 (March 5, 2014) (codified at 39 C.F.R. pt. 121).

[414] *See* Docket No. N2012-1, Advisory Opinion on Mail Processing Network Rationalization Service Changes, September 28, 2012, at 45-46 (concluding that "it is possible for the Postal Service to undertake significant network rationalization and realize substantial cost savings while preserving most current service levels" and encouraging "the Postal Service to consider the advice in this opinion and study the effects of the service standard changes implemented on July 1, 2012, before going forward with Phase 2, and its further reductions in service); Docket No. N2014-1, Advisory Opinion on Service Changes Associated with Standard Mail Load Leveling, March 26, 2014, at 1 (recommending that the Postal Service "undertake a more rigorous cost-benefit analysis, additional field testing and service performance analysis, and volume impact studies before committing to a nationwide rollout of the Load Leveling Plan").

planned cost savings or efficiency gains[415] and has altered its network in ways that have resulted in a decreased level of service performance results for some Market Dominant products.[416]

The final rules realign the system to address these deficiencies, and thereby promote the achievement of Objective 3. The Commission's prior approaches to addressing Objective 3 included a proposal to make available 1 percentage point of performance-based rate authority, conditioned on the Postal Service exceeding an operational efficiency-based requirement and adhering to service standard-based criteria. *See* Section VI.A., *supra*. After considering the numerous comments opposed to this proposal, including those claiming that it would not address Objective 3 in a meaningful way, the Commission finds that this proposal requires further study. *See* Section VI.B.-C., *supra*. As discussed above, the Commission will initiate a new rulemaking proceeding that will evaluate potential refinements to this proposal, including

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[415] The revisions to the First-Class Mail service standards enabled the Postal Service to expand its mail processing operational window to process mail on fewer machines, thus using less facility square footage. United States Postal Service, Office of the Inspector General, Report No. NO-AR-19-001, Operational Window Change Savings, October 15, 2018, at 1, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2018/NO-AR-19-001.pdf* (NO-AR-19-001). The Postal Service OIG determined that the Postal Service did not achieve its projected cost savings or efficiency gains from this change, referred to as the Operational Window Change (OWC). *See id.* (determining that the Postal Service achieved only $323.48 million of its projected $1.61-billion savings in FYs 2016 and 2017 and that mail processing costs increased by $153 million and mail processing productivity declined by 14 percent since the OWC)*;* United States Postal Service, Office of the Inspector General, Report No. NO-AR-16-009, Mail Processing and Transportation Operational Changes, September 2, 2016, at 9, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2016/NO-AR-16-009.pdf* (NO-AR-16-009) (determining that in the first year after the OWC, the Postal Service achieved only approximately 10 percent of its projected $805-million savings, transportation costs exceeded the planned budget by over $200 million, and mail processing productivity decreased by 4.5 percent).

[416] *See, e.g.*, FY 2015 ACD at 133 (citing Docket No. ACR2015, Library Reference USPS-FY15-29, December 29, 2015, at 8, 9; Docket No. ACR2015, Responses of the United States Postal Service to Questions 15-26 of Chairman's Information Request No. 2, January 19, 2016, question 19.a.); NO-AR-19-001 at 3; NO-AR-16-009 at 1-2.

the aspect aimed at maintaining service standards, applying the objectives in conjunction with each other. *See* Section VI.C., *supra*.

The principled adjustments to the price cap made in this Order are necessary to achieve the objectives of the PAEA, in conjunction with each other, and are focused on vital near-term improvements. The Commission provides rate authority to account for underlying drivers of the financial distress, to which the Postal Service responded with an aggressive attempt to cut costs by reducing service standards. For instance, rate authority addressing underlying financial pressures puts the Postal Service in a position to increase its revenue and thereby generate funds that would otherwise not be available. While the density-based rate authority and retirement-based rate authority are designed to address only cost effects outside of the direct control of the Postal Service, in the absence of the revenue it will generate, the Postal Service may offset those cost increases by further reducing service standards if it is unable to sufficiently reduce costs within its control. This aspect of the modified ratemaking system serves to reinforce the goals of Congress.[417]

Moreover, the reporting requirements address the concerns regarding the Postal Service's past decisions to implement such changes based on its overly ambitious estimates of cost savings, against the advice of the Commission. The Commission finds that regulations in final § 3050.55, which help ensure the robustness of the Postal Service's cost-benefit analyses of potential operational changes that may involve the reduction of service standards, would further the achievement of Objective 3, in conjunction with the other objectives, particularly Objectives 1, 5, and 6. *See* Section XIII.E.1., *supra*; Section XIII.E.5. and 6., *infra*. In the new rulemaking it will be initiating, the Commission will invite commenters to include views on whether additional

[417] Legislative history indicates that the Senate recognized that providing the Postal Service with the opportunity to retain earnings (rather than merely break-even as limited by the PRA) would provide the Postal Service with a resource to meet service standards and its universal service obligation. S. Rep. No. 108-318 at 8-9 (2004).

information would be helpful in the rulemaking to evaluate whether, when, and how to introduce a performance incentive mechanism (*see* Section VI.C., *supra*), as the Commission considers whether further rulemaking adjustments would be beneficial to maintain high-quality service standards.

With respect to service standards, the Commission notes that the PAEA and federal regulations require the Postal Service to give advance notice of plans to change its service standards.[418] Additionally, in the separate rulemaking the Commission will

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[418] 39 U.S.C. § 3661(b) (requiring the Postal Service to "submit a proposal [to change the nature of postal services that will generally affect service on a nationwide or substantially nationwide basis], within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change."); 39 C.F.R. § 3020.112 (requiring the Postal Service to file notice of any changes to the nature of postal services that will generally affect service on a nationwide or substantially nationwide basis at least 90 days in advance); 39 C.F.R. § 3055.5 (requiring the Postal Service to file notice of any changes to service standards at least 30 days in advance).

Further, the Postal Service acknowledges that "…there arguably is already a process for third parties to seek Commission adjudication of whether the Postal Service somehow implemented a service standard change without proper notice: namely, the complaint process." Postal Service Comments at 42 n.25 (citations omitted). A complaint may be filed with the Commission if the Postal Service is not operating in conformance with the requirements of chapter 36 of title 39 of the United States Code; 39 U.S.C. §§ 101(d), 401(2), 403(c), 404a, or 601; or any rule, order, or other regulatory requirement based on any of those statutory provisions. 39 U.S.C. § 3662(a); 39 C.F.R. § 3022.2. The Commission further observes that a complaint may be filed by "[a]ny interested person (including a duly appointed officer of the [Postal Regulatory Commission] representing the interests of the general public)." 39 C.F.R. § 3022.2; *see* 39 U.S.C. § 3662(a). The Postal Service's compliance with 39 U.S.C. § 3661(b) has also been directly enforced through the federal courts. *See Buchanan v. U.S. Postal Serv.*, 508 F.2d 259, 265-267 (5th Cir.1975) (affirming issuance of preliminary injunction pending hearing and issuance of an advisory opinion by the Postal Rate Commission as to implementation of the retail access program, alleged to be a decision-making process to relocate and alter postal facilities on a nationwide or substantially nationwide basis); *see also Am. Postal Workers Union, AFL-CIO v. U.S. Postal Serv.*, No. CIV.A.06 726 CKK, 2007 WL 2007578, at *7 (D.D.C. July 6, 2007) (finding that the court may exercise jurisdiction, pursuant to 39 U.S.C. § 409, to review a claim that the Postal Service violated § 3661 by allegedly implementing a change prior to issuance of the applicable advisory opinion); *Nat'l Ass'n for the Advancement of Colored People v. U.S. Postal Serv.*, No. 20-CV-2295(EGS), 2020 WL 5995032, at *8-11 (D.D.C. Oct. 10, 2020) (exercising jurisdiction over a claim relating to the alleged failure of the Postal Service to undertake the process mandated under 39 U.S.C. § 3661(b) in making nationwide changes to service and entering preliminary injunction); *Commonwealth of Penn. v. Dejoy*, No. CV 20-4096, 2020 WL 5763553, at *14, 22, 39 (E.D. Pa. Sept. 28, 2020) (exercising jurisdiction over a claim relating to the alleged failure of the Postal Service to undertake the process mandated under 39 U.S.C. § 3661(b) in making nationwide changes to service and based on a finding that Congressional intent to preclude district courts from hearing claims relating to 39 U.S.C. § 3661(b) is not fairly discernible from the statutory text, structure, or legislative history and entering preliminary injunction); *New York v. Trump*, No.

explore if further rule changes would be beneficial to maintaining high-quality service standards, such as the potential impact of introducing a performance incentive mechanism into the ratemaking system. *See* Section VI.C., *supra*.

As previously stated, Objective 3 also implicitly requires consistent achievement of service standards, otherwise known as "service performance." *See* Order No. 4257 at 262-263. The existing regulatory system has a mechanism to hold the Postal Service accountable for its service performance.[419] Additionally, other aspects of the final rules make changes to the system that would tend to promote service performance achievement. The rate authority addressing near-term financial pressures puts the Postal Service in a position to increase its revenue and thereby potentially have additional funds to address service performance. Additionally, final § 3050.55, which helps ensure the robustness of the Postal Service's cost-benefit analyses of potential operational changes that may affect service performance, would further the achievement of Objective 3, in conjunction with the other objectives, particularly Objectives 1, 5, and 6. *See* Section XIII.E.1., *supra*; Section XIII.E.5. and 6., *infra*.

20-CV-2340(EGS), 2020 WL 5763775, at *6-10 (D.D.C. Sept. 27, 2020) (exercising jurisdiction over a claim relating to the alleged failure of the Postal Service to undertake the process mandated under 39 U.S.C. § 3661(b) in making nationwide changes to service and entering preliminary injunction); *Washington v. Trump*, No. 1:20-CV-03127-SAB, 2020 WL 5568557, at *3 (E.D. Wash. Sept. 17, 2020) (exercising jurisdiction over a claim relating to the alleged failure of the Postal Service to undertake the process mandated under 39 U.S.C. § 3661(b) in making nationwide changes to service and entering preliminary injunction). Further, 39 C.F.R. § 3055.5 reserves the Commission's ability to initiate a proceeding at any time regarding planned changes to service standards, noting as an example that a planned reduction in service standards might change the nature of a product and thereby amount to a classification change. Docket No. RM2009-11, Order Establishing Final Rules Concerning Periodic Reporting of Service Performance Measurements and Customer Satisfaction, May 25, 2010, at 38 n.25 (Order No. 465).

[419] *See* Order No. 4257 at 264. The Commission's ACD aims to promote the Postal Service's identification and implementation of best practices that drive local facilities' adherence to the existing multi-year national data-driven strategies and processing targets. *See* FY 2019 ACD at 107-115, 118-121.

Accordingly, the Commission's rules demonstrate adequate consideration of how the modified ratemaking system would achieve Objective 3, in conjunction with the other objectives.

4. Objective 4

The finalized changes are designed to continue to allow the system to "allow the Postal Service pricing flexibility," as provided by Objective 4. 39 U.S.C. § 3622(b)(4). The Commission found that the existing system has allowed for pricing flexibility on a number of dimensions by allowing the Postal Service to exercise broad discretion over the prices, the price structure, and the timing of price changes. Order No. 4257 at 144.

The new forms of rate authority (density rate authority under final subpart D of 39 C.F.R. part 3030, retirement obligation rate authority under final subpart E of 39 C.F.R. part 3030, and non-compensatory rate authority under final § 3030.222) will provide the Postal Service with considerably more ability to adjust rates than provided under the existing CPI-U price cap: increases may be higher and vary more between rate cells and products than allowed under the existing CPI-U price cap. Therefore, to some extent, these final rules increase pricing flexibility. However, each of these new forms of rate authority is subject to limitations. The amount of density rate authority is limited by a formula designed to approximate the amount by which average cost per piece is expected to unavoidably increase in the near term, as a result of the decline in density, as remaining costs are distributed over fewer pieces. The amount of retirement obligation rate authority is limited by a formula designed to approximate the amount of specifically identified exogenous costs required by the PAEA and calculated by OPM, over which the Postal Service has minimal control. Two percentage points of rate authority may also be allocated to each non-compensatory class per annum, at the Postal Service's discretion.

The retirement obligation rate authority is subject to a further limitation requiring revenue collected to be remitted towards the Postal Service's retirement liabilities to improve the Postal Service's ability to achieve net income by making payments towards its outstanding liability. Market Dominant ratepayers asked to pay higher rates for the purposes of making payments toward the Postal Service's retirement liabilities have a reasonable expectation that the funds will be used for that purpose. This rate authority is a tool the Postal Service may use to raise revenue to remit toward its statutorily mandated payments, but the decision whether or not to make use of that authority to raise rates is entirely within the business discretion of the Postal Service. Therefore, this limitation rationally balances the competing priorities of allowing pricing flexibility, improving the Postal Service's ability to achieve net income by making payments toward its outstanding liability, and ensuring that the schedule of rates would be in the range that is just and reasonable, as provided by Objectives 4, 5, and 8.

Under the existing ratemaking system, the Postal Service may only bank rate authority provided by the change in the CPI-U for future use, expiring after 5 years and using no more than 2 percentage points per class per year. Because on average, the change in the CPI-U has provided less than 2 percentage points of rate authority per annum, the Postal Service has generally exhausted that rate authority.[420] The modified ratemaking system would allow the Postal Service to also bank additional forms of rate authority for declining density and for non-compensatory classes, thereby increasing the Postal Service's pricing flexibility compared to the existing ratemaking system.

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[420] *See* Library Reference PRC-LR-RM2017-3/1, Excel file "PRC-LR-RM2017-3-1.xlsx," tab "Figure II-3" (average annual percentage change in the CPI-U of 1.83 percentage points); *id.* tab "Table II-3" (cumulatively the Postal Service has not banked more than 0.25 percentage points for First-Class Mail, USPS Marketing Mail, Periodicals, and Package Services).

Even over a longer period of time, the trend holds. From January 2005 to September 2020, the annual percentage change in the CPI-U has been on average 1.83 percentage points, and the Postal Service has not banked more than 0.4 percentage points for First-Class Mail, USPS Marketing Mail, Periodicals, and Package Services. The CPI-U data are published on the Commission's website, available at: *http://www.prc.gov*; hover over "References" and follow the "CPI Figures" hyperlink.

Additionally, allowing this pricing flexibility would give the operator increased ability to smooth out rate increases over time, thereby demonstrating that the modified ratemaking system is designed to achieve Objectives 2 and 8. Consistent with the existing requirements, the Postal Service would still be limited to using no more than 2 percentage points of banked rate authority per class per year and banked rate authority would still expire after 5 years, so as to further reinforce Objectives 2 and 8.

The Commission recognizes that stricter regulation of non-compensatory products limits the Postal Service's pricing flexibility. However, the PAEA did not intend for the Postal Service to have unrestrained pricing authority for its Market Dominant products as evidenced by the competing goals of increased efficiency, assuring financial stability, and maintaining a just and reasonable rate schedule encapsulated by Objectives 1, 5, and 8. The finalized rate-setting criteria for non-compensatory products, which require the Postal Service to increase the rate for any non-compensatory product by a minimum of 2 percentage points above the percentage increase for the class, represent a natural expansion of the Commission's existing approach for USPS Marketing Mail Flats and Parcels to all non-compensatory products. As the cost-coverage situation for Flats and Parcels has worsened over time, the Commission has escalated its regulatory approach from more flexible-style recommendations and directives to more prescriptive rate-setting criteria.[421]

The argument that final subpart G of 39 C.F.R. part 3030 violates Objective 4 because it does not appropriately recognize the multiplier effect of non-compensatory products (the theory that non-compensatory products may lead to increased compensatory product volume such as invoices and bill payments) (*see* ANM *et al.*

[421] The history regarding the escalation to the present mandatory minimum rate increase of 2 percentage points above the class average for USPS Marketing Mail Flats and Parcels (two of the most egregious examples of a non-compensatory product in a compensatory class) is detailed in notes 385 and 386, *supra*.

Comments at 82) lacks adequate support. First, assuming without deciding that any multiplier effect does exist, such effect is already likely in decline due to largely exogenous trends that reduce volume.[422] Second, no evidence suggests that any potential compensatory product volume gain linked with the non-compensatory products would outweigh the quantifiably increasing losses sustained by non-compensatory products. From FY 2007 to FY 2019, the cumulative contribution losses are negative $7.4 billion for Periodicals and negative $6.7 billion for USPS Marketing Mail Flats.[423] Declining to take an affirmative step to address the long-standing quantifiable losses sustained by non-compensatory products because of a purely speculative concern about the effect on compensatory product volumes would allow for ongoing harm to the Postal Service's financial condition. This would also overly weight the pricing flexibility *allowed* by Objective 4 against the goals of Objectives 1 (increased pricing efficiency), 5 (assured financial stability), and 8 (just and reasonable rates). Moreover, declining to continue the Commission's existing incremental approach to remedying non-compensatory products in a compensatory class would exacerbate the existing cross-subsidy. Third, the Postal Service would retain discretion to exercise business judgment to moderate price increases if market conditions did suggest that a rate increase would harm its financial condition or drive away profitable mail.

Additionally, the Commission recognizes that stricter regulation of workshare discounts limits the Postal Service's pricing flexibility. However, it is also important to acknowledge that the Postal Service had the ability to set workshare discounts in accordance with ECP under the existing ratemaking system, yet chose not to do so.[424] The final rules aim to strike a balance between maximizing pricing efficiency and

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[422] *See* United States Postal Service, The Household Diary Study: Mail Use & Attitudes in FY 2019, May 29, 2020, at 48.

[423] FY 2019 ACD at 25, 34. Flats did not exist as a product in FY 2007; therefore, the losses for Flats were incurred from FY 2008 through FY 2019.

[424] *See* Order No. 4257 at 136-139; Order No. 4258 at 87; Order No. 5337 at 195.

unreasonably restricting the Postal Service's pricing decisions. The final rules will produce passthroughs more in line with ECP principles than the existing rules in place since the PAEA's enactment. The final rules aim for incremental improvement in pricing efficiency and contain specific provisions to allow for transitional flexibility, particularly for new workshare discounts and by setting minimum thresholds for movement towards ECP (improving the existing workshare discount by 20 percent or producing a passthrough between 85 and 100 percent).[425] Additionally, the Commission allows for pricing flexibility to deviate from moving towards ECP as required by final §§ 3030.283 and 3030.284, if adequately justified via the waiver process. Finally, these final rules limit only the workshare discount aspect of pricing and do not restrict the setting of the benchmark prices, thereby continuing to allow pricing flexibility.

The Commission recognizes that procedural improvements serve to limit the Postal Service's pricing flexibility with respect to timing of rate adjustment filings. Final § 3030.121, which would require the Postal Service to file a rate adjustment filing at least 90 days prior to planned implementation, is aimed at addressing mailers' concerns about predictability and stability (Objective 2) while also balancing flexibility concerns by using the Postal Service's historic and suggested timeframe. *See* final 39 C.F.R. § 3030.121. Given that the additional rate authorities increase the amount of rate authority available to the Postal Service, greater transparency and more advance notice would facilitate mailers' ability to plan for increases. Similarly, final § 3030.102, which would enhance the schedule for regular and predictable rate adjustments, would give mailers better advance information to generate mailing budgets and preserve the Postal Service's flexibility to deviate as needed. *See* final 39 C.F.R. § 3030.102. Taken together, these procedural improvements demonstrate that the modified ratemaking

[425] The Postal Service asserts that setting the passthrough floor at 85 percent would be consistent with Objective 4. *See* Postal Service Comments at 49.

system is designed to achieve Objectives 2 (predictability and stability of rates), 4 (pricing flexibility), and 6 (increased transparency).

5. Objective 5

The finalized changes are designed to address the systemic issues underlying the existing system's failure to "assure adequate revenues, including retained earnings, to maintain financial stability," as provided by Objective 5. 39 U.S.C. § 3622(b)(5).

With respect to the definition of financial stability, measurement metrics used, and scope of the financial analysis, multiple commenters reiterate their position that the Commission's findings are flawed. The Commission has thoroughly considered the issues raised by the commenters and has explained its rationale to: reject using the exigent provision standard as a measurement metric, value real estate in a manner that follows Generally Accepted Accounting Principles, include the statutory obligations of the Postal Service in the financial analysis, and use retained earnings as a key, measurable concept. *See* Order No. 4257 at 153-159, 169-170.

With respect to the assertions that providing any additional rate authority is unnecessary, the Commission refers to its prior financial analysis, which extensively discusses the deficiencies of the existing ratemaking system and examines these deficiencies by applying the objectives in conjunction with each other. *See generally* Order No. 4257. Multiple commenters claim that the financial instability of the Postal Service is an exaggerated balance sheet issue. For instance, according to NPPC *et al.*, the Commission mischaracterizes the Postal Service's "phantom accounting losses stemming from the retiree obligations" as "'vast net losses' and an 'accumulated deficit.'" NPPC *et al.* Comments at 53 (quoting Order No. 5337 at 106). However, these consecutive net losses and this accumulated deficit significantly impede the financial stability of the Postal Service. *See* Order No. 4257 at 170-171 (describing how the consecutive net losses resulted in an accumulated deficit); Order No. 4258 at 46-52

(describing how the consecutive net losses resulted in an accumulated deficit and that capital investments declined sharply as the accumulated deficit increased). Notwithstanding the repetition of the claims that the Postal Service's financial problems are illusory and/or exaggerated, analysis from outside experts confirms the Commission's assessment.[426]

As previously explained, the Postal Service lacks shareholders and instead must finance capital investments through revenue or through borrowing. Order No. 4258 at 48-49. Therefore, as consecutive years of net losses resulted in an accumulated deficit, the Postal Service relied heavily on its borrowing authority, deferred capital investments, and increased its cash reserves.[427] Essentially, the Postal Service has used these existing mechanisms to address its more urgent financial challenges driven largely by

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[426] *See, e.g.*, GAO-20-385 at 13 ("USPS's unfunded liabilities and debt, which consist mostly of unfunded liabilities for retiree health and pension benefits, have become a significant financial burden, increasing from 99 percent of USPS's annual revenues at the end of fiscal year 2007 to 226 percent of its fiscal year 2019 revenues." (footnote omitted)); United States Government Accountability Office, Report to the Chairman, Committee on Oversight and Government Reform, House of Representatives, Report No. GAO-13-112, U.S. Postal Service: Status, Financial Outlook, and Alternative Approaches to Fund Retiree Health Benefits, December 2012, at 2, available at: *https://www.gao.gov/assets/660/650511.pdf* (GAO-13-112) ("We have previously reported that USPS cannot be financially viable until Congress and USPS address the cash flow problems that limit its immediate prefunding capability while also addressing how to pay for the long-term cost of USPS's unfunded retiree health benefit liability."); United States Government Accountability Office, Testimony Before the Committee on Oversight and Government Reform, House of Representatives, GAO-17-404T, U.S. Postal Service: Key Considerations for Restoring Fiscal Sustainability (Statement of Lori Rectanus, Director, Physical Infrastructure Issues), February 7, 2017, at 6, available at: *https://www.gao.gov/assets/690/682534.pdf* (GAO-17-404T) ("As previously discussed, USPS's unfunded liabilities and debt have become a large financial burden, increasing from 99 percent of USPS revenues at the end of fiscal year 2007 to 169 percent of revenues at the end of fiscal year 2016. These unfunded liabilities and debt—totaling about $121 billion at the end of fiscal year 2016—consist mostly of retiree health and pension benefit obligations for which USPS has not set aside sufficient funds to cover." (footnote omitted)).

[427] *See* Order No. 4258 at 46-52; FY 2019 Financial Analysis at 5 ("The Postal Service built up its cash by taking extraordinary actions to preserve liquidity, including defaulting on its prefunding obligations and failure to make payments towards [the Federal Employees Retirement System (FERS)] and [the Civil Service Retirement System (CSRS)], cutting operating costs, and suspending all but the most essential capital investments."); Postal Service FY 2019 Form 10-K at 40 (The Postal Service has been funding its capital commitments from its "operating activities and defaults or non-payment on certain retirement and retiree healthcare obligations.").

declining density and the statutory obligations related to retirement.[428] The new forms of rate authority add mechanisms to the existing ratemaking system that would directly address underlying drivers of these adverse trends.

The apparent improvement in liquidity observed during FY 2019 underscores the extraordinary measures that the Postal Service has had to take to respond to this challenging situation. During FY 2019, the Postal Service reduced its cash and cash equivalents to $8.8 billion and paid $2.2 billion to the U.S. Department of the Treasury, which increased its available borrowing authority to $4 billion.[429] As the Commission explains, this improved liquidity is because the Postal Service had not made a payment to the RHBF since FY 2010, the Postal Service had not made a payment toward the amortization of the unfunded retirement benefits for the FERS and CSRS since FY 2017, and the Postal Service had suspended all but the most essential capital investments. *Id.* at 4, 5. Forcing the Postal Service to take such extraordinary measures to preserve liquidity is patently inconsistent with the PAEA's goal of "assur[ing] adequate revenues, including retained earnings, to maintain financial stability." 39 U.S.C. § 3622(b)(5).

Further, although commenters argue that the Postal Service's financial situation is much better than reflected on its balance sheet, the negative impacts of its challenging situation are real. For example, years of deferring capital investments has

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[428] *See, e.g.*, 2017 Kwoka Decl. at 28; GAO-20-385 at 8 ("USPS's current business model is not financially sustainable due to declining mail volumes, increased compensation and benefits costs, and increased unfunded liabilities and debt. USPS's costs continue to rise faster than its revenues, and although USPS has made changes over the years to address these challenges, its efforts have been limited by stakeholder opposition and statutory requirements.").

[429] FY 2019 Financial Analysis at 4-5. At the end of FY 2019, the Postal Service's cash and cash equivalents total, excluding $0.3 billion in restricted cash, was $1.3 billion lower than at the end of FY 2018. *Id.* at 5. "In September 2018, the Postal Service paid down its debt by $1.8 billion, the first reduction in its annual debt since 2005." *Id.* at 5 n.8. Therefore, combined with the additional $2.2 billion paid in FY 2019, the resulting available borrowing authority is $4 billion. *Id.*

resulted in dated, worn out, and malfunctioning facilities, vehicles, and equipment that may negatively impact efficiency and cost-reduction efforts.[430] The Commission analyzed the impact of the lack of capital investment in prior reports.[431] Additionally, the

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[430] *See, e.g.*, Order No. 4257 at 216 ("Some of this decline [in processing productivities] may, however, be due to aging machines and a lack of capital investment during the PAEA era.") (citing Docket No. ACR2013, Responses of the United States Postal Service to Questions 1-11 of Chairman's Information Request No. 2, January 23, 2014, question 1)); 2017 Kwoka Decl. at 19 ("While this [deferral of scheduled investments, such as its truck fleet] may have conserved on current expenditures, this deferred investment strategy has likely increased both current maintenance costs as well as future costs of replacing the vehicles."); *id.* at 21 (noting that deferred vehicle replacement, workforce reductions, and capital expenditure cutbacks may lead to a decline in service quality); United States Postal Service, Office of the Inspector General, Report No. 19-002-R20, Delivery Vehicle Acquisition Strategy, August 12, 2020, at 1, 5, available at: *https://www.uspsoig.gov/sites/default/files/document-library-files/2020/19-002-R20.pdf* (OIG Rep. No. 19-002-R20) (observing that the expected service life of the right-hand-drive Long Life Vehicle (LLV) is 24 years, and 69 percent of the current fleet is between 25 and 32 years old, leading to higher maintenance costs and eventual retirement as they become too costly to maintain or repair); *see also* 2006 Joskow, *supra* at 29 ("Deferred maintenance (e.g. tree trimming) and deferred capital expenditures may lead to the deterioration of service quality in either the short run or the long run or both.").

[431] *See, e.g.*, FY 2019 Financial Analysis at 5 ("Financial sustainability continues to erode due to large personnel-related liabilities and the slow replacement of fully depreciated capital assets."); *id.* at 30 ("Aging capital assets and the continued restriction in capital investment resulted in a decline in net property, plant, and equipment of $0.3 billion...[and] resulted from FY 2009 in a net decrease in fixed assets of $8.3 billion."); *id.* at 33 ("This [FY 2019 debt] ratio is indicative of the Postal Service's inability to possess sufficient resources that would allow it the ability to invest in capital and pay down its obligations."). These findings were relatively consistent with prior findings. *See, e.g.*, Docket No. ACR2018, Financial Analysis of United States Postal Service Financial Results and 10-K Statement, April 19, 2019, at 3 (FY 2018 Financial Analysis) ("Financial sustainability continues to erode due to large personnel related liabilities and the slow replacement of fully depreciated capital assets."); *id.* at 27-28 ("Aging capital assets and the continued restrictions on capital investment resulted in depreciation costs in excess of investments, which resulted in a net decrease in fixed assets of $0.3 billion."); *id.* at 73 ("After taking depreciation into account, FY 2018 net property, plant, and equipment values decreased 36.7 percent from the base year. This is primarily due to reduced capital investments and because fully-depreciated assets have not been replaced or are being replaced at a slower rate than the estimated life of the predecessor asset."); Docket No. ACR2017, Financial Analysis of United States Postal Service Financial Results and 10-K Statement, April 5, 2018, at 6 (FY 2017 Financial Analysis) ("Financial sustainability continues to erode due to large personnel related liabilities and the slow replacement of fully depreciated capital assets."); *id.* at 29 ("Because of its existing outstanding debt, the Postal Service must finance all current activity with internally generated cash. This limits its ability to invest in much needed equipment and other productive assets."); *id.* at 30 ("Aging capital assets and the continued restrictions on capital investment resulted in depreciation costs in excess of investments, which resulted in a net decrease in fixed assets of $0.4 billion."); *id.* at 72 (The negative fixed asset to net worth ratio "signifies an inability to rapidly respond to financial emergencies or easily obtain cash for further investment and growth."); *id.* at 75 ("After taking depreciation into account, FY 2017 net property, plant, and equipment

Postal Service explains that it "will need to increase [its] capital expenditures in order to address [its] aging facilities and delivery fleet and to upgrade [its] equipment to remain competitive in the marketplace and to ensure that [it] will be able to continue to meet [its] statutory obligation to provide prompt, efficient and reliable postal services to the nation." Postal Service FY 2019 Form 10-K at 40. In order to maintain delivery services, increase efficiency, and reduce costs, the Postal Service identifies its funding needs: to repair and maintain aging facilities; to upgrade aging processing equipment and deploy new equipment; to replace and maintain the aging delivery fleet; and to upgrade and enhance information technology and Postal Support Equipment.[432] The modifications to the existing ratemaking system adopted in this Order are targeted at addressing underlying drivers of this challenging situation and relieve financial pressure due to costs outside of the Postal Service's direct control.

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values decreased 35.5 percent from the base year. This is primarily due to reduced capital investments and because fully-depreciated assets have not been replaced.").

[432] United States Postal Service, Revised Integrated Financial Plan, Fiscal Year 2020, March 9, 2020, at 7-8; *see* United States Postal Service, Ready-Now ➔ Future-Ready — The U.S. Postal Service Five-Year Strategic Plan FY2020-FY2024, at 25-26, available at *https://about.usps.com/strategic-planning/five-year-strategic-plan-2020-2024.pdf* (planning to optimize network transportation and processing and delivery and retail platforms to improve reliability, speed, and efficiency); Postal Service FY 2019 Form 10-K at 41 ("Our delivery fleet includes approximately 144,000 vehicles that are at least 20 years old and need significant maintenance to continue in service. As a result, repair and maintenance costs, including applicable labor costs, have risen significantly in recent years. We purchased approximately 4,000 new vehicles to add to our fleet during 2019, at a cost of approximately $289 million. Additionally, we continue to invest in upgrades of letter sorting equipment that is at or near the end of its useful life, while also investing in equipment to fully capitalize on business opportunities in the growing package delivery market. To conserve cash, we have deferred facilities maintenance in instances where this could be done without adversely impacting employee and customer health or safety."); *id.* at 64 ("The Postal Service continues to pursue strategies within its control to increase operational efficiency and improve liquidity. The Postal Service has managed capital in recent years by spending only what it believed essential to maintain its existing facilities and service levels, and to increase efficiencies. However, continued increases in capital investment are necessary to upgrade its facilities, fleet of vehicles and processing equipment in order to remain operationally viable. Aggressive management of the business operations, as well as legislative and regulatory reforms that will enable it to increase revenue and reduce costs, will all be necessary to restore the Postal Service to financial health.").

The increase to the Postal Service's borrowing authority provided via the enactment of the CARES Act[433] does not impact the Commission's analysis in a material fashion. The $10-billion increase to the Postal Service's borrowing authority is limited to addressing short-term operating needs due to the COVID-19 emergency.[434] The express limitations prohibit the Postal Service from using the additional borrowing authority to address its longer-term financial stability, outstanding debt, and capital expenses.[435]

With respect to ANM *et al.*'s contentions that there is no demonstrable causal link between the existing ratemaking system and the observed deficiencies (*see* ANM *et al.* Reply Comments at 10) nor an identifiable decline in the Postal Service's financial situation that was unanticipated when the PAEA was enacted (*see* ANM *et al.* Comments at 54 (quoting Order No. 5537 at 90)), the Commission refers to its prior analysis. Additionally, the Commission refers to the summary of key circumstances and underlying drivers of the deficiencies above. *See* Section XIII.B., *supra*. Rectifying the system's ability to adequately respond to these coincident trends occurring after the PAEA's enactment and making necessary modifications to achieve the objectives of the PAEA is a reasonable and appropriate way for the Commission to fulfill the purpose of 39 U.S.C. § 3622(d)(3). The final rules directly aim to modify the ratemaking system's design to encourage and enable the Postal Service to address its complex challenges by making prudent pricing and operational decisions. Final subpart D of 39 C.F.R. part

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[433] Pub. L. No. 116-136 (2020).

[434] Pub. L. No. 116-136 § 6001(b) (Additional borrowing authority is available only "if the Postal Service determines that, due to the COVID–19 emergency, the Postal Service will not be able to fund operating expenses without borrowing money[.]").

[435] *See* Pub. L. No. 116-136 § 6001(b)(1)(A)-(B) (Additional borrowing authority is "to be used for such operating expenses; and [...] not [to] be used to pay any outstanding debt of the Postal Service[.]"); *see also* Term Sheet: Loan by U.S. Department of the Treasury to U.S. Postal Service, July 28, 2020, at 1, available at: *https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-07-29%20UST%20Production%20summary%20of%20terms.pdf* (stating that the funds may be used for operating expenses, and not for debt service nor capital expenses).

3030 introduces a mechanism into the ratemaking system that will provide the Postal Service with both the means and incentive to respond to density declines, and thereby improve its financial health. Final subpart E of 39 C.F.R. part 3030 introduces a mechanism into the ratemaking system that will provide the Postal Service with both the means and incentive to begin to meet its statutory obligations, liquidate its unfunded retirement liabilities, and improve its financial health. Final subpart G of 39 C.F.R. part 3030 introduces a mechanism into the ratemaking system that will provide the Postal Service with both the means and incentive to improve the cost coverage of non-compensatory classes and products, and thereby improve its financial health.

The observable divergence between the changes in CPI-U and the growth in Postal Service expenses and revenue after the PAEA's enactment tends to undermine the argument that retaining the existing annual limitation of the percentage change in the CPI-U is necessary to drive the Postal Service to fully respond to its financial challenges by reducing costs and increasing efficiency.[436] In order to realign the ratemaking system to correct for this divergence, which was exacerbated by trends that are largely outside of the Postal Service's direct control, the Commission must adjust the system to allow for additional rate authority. While price caps are designed to

[436] *See, e.g.*, ABA Comments at 7-8, 11; AF&PA Comments at 4-5; NPPC *et al.* Comments at 5-8.

encourage efficiency, they do not do so by holding the regulated entity's prices chronically underwater, which would run counter to Objectives 5 and 8.[437]

Some commenters express concern that the final rules would allow the Postal Service management to simply rely on rate increases to respond to its challenges and absolve them from taking other prudent steps (such as increasing efficiency and reducing costs). *See* ANM *et al.* Reply Comments at 10-11. It would not. *See* Section XIII.E.1., *supra*. The final rules appropriately balance the competing priorities encapsulated by the objectives (such as maintaining service standards, assuring financial stability, and establishing just and reasonable rates) in the near term. These modifications to the ratemaking system are intended to provide correct incentives—that the Postal Service not *solely* raise rates to respond to its challenges—and are intended to encourage prudent pricing and operational decision-making by the Postal Service that are necessary for the system to achieve the objectives of 39 U.S.C. § 3622(b) in conjunction with each other.

The evidence submitted in this docket tends to support the Commission's conclusion. On March 20, 2017, the Postal Service submitted the A&M Cost Report, prepared by an independent consultant—Alvarez & Marsal (A&M)—identifying the scope and magnitude of the cost-saving opportunities for the Postal Service from FY

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[437] To the contrary, the PAEA was intended to provide the Postal Service with the opportunity to retain earnings (rather than merely break-even as limited by the PRA) as an incentive for the Postal Service to increase its efficiency and reduce its costs. *See* Section XIII.E.1., *supra*. By making the opportunity to retain earnings more achievable, the modified ratemaking system would provide a more meaningful incentive for the Postal Service to increase its efficiency and reduce its costs. Moreover, the Senate recognized that the ability to retain earnings would serve the goal of maintaining financial stability. S. Rep. No. 108-318 at 8 (2004).

The Commission further observes that as a general matter, "[t]he enduring feature of ratesetting from *Smyth v. Ames* to the institution of price caps was the idea that calculating a rate base and then allowing a fair rate of return on it was a sensible way to identify a range of rates that would be just and reasonable to investors and ratepayers." *See Verizon Commc'ns, Inc. v. FCC*, 535 U.S. 467, 487-488 (2002). Even when trying to encourage novel rate-setting models, price caps do not aim to set rates below costs. *See id.* at 489.

2017 through FY 2021. *See* 2017 Postal Service Comments at 2; *see also* 2018 Postal Service Comments at 66 (citing A&M Cost Report at 4-5). A&M's review did not identify any wholly new cost-saving opportunities that Postal Service management was not pursuing and instead categorized all identified initiatives as either recommended to continue or recommended to be accelerated, expanded, or modified. *See* 2018 Postal Service Comments at 66; A&M Cost Report at 4. Additionally, the independent consultant retained by the Commission—Northwest Postal Consulting—opined that existing and future opportunities to replace Postal Service labor with automation are more limited than in the past. NWPC Report 2 at 88. The Postal Service has already quantified the known annual cost savings within management's control from FY 2017 through FY 2021 as approximately $0.8 billion. *See* 2018 Postal Service Comments at 66 (citing A&M Cost Report at 4-5). This evidence tends to support that cost reductions alone are unlikely to be enough. Rather, providing additional rate authority to mitigate the near-term financial pressure on the Postal Service is also necessary to lead to financial stability. By declining to implement the performance-based rate authority at this time and exploring whether and how to introduce a performance incentive mechanism in a separate rulemaking, the Commission further reinforces the Postal Service's incentive to demonstrate that it is exercising reasonable business judgment by taking advantage of the identified cost-saving opportunities.

With respect to the concern that the cause of the Postal Service's consecutive net losses are *solely* its operational and pricing decisions rather than its lack of pricing authority and that providing additional rate authority would be improper (*see* ANM *et al.* Reply Comments at 10-11, 14-15; *see also* 2018 ANM *et al.* Comments at 85), the Commission declines to engage in an overly facile exercise of suggesting that there is a single "but for" cause of the complex challenges facing the Postal Service. Doing so would oversimplify the complex issues facing the Postal Service. For instance, as detailed previously, the Postal Service was able to reduce costs and increase operational efficiency somewhat during the PAEA era, but the results were insufficient

to achieve overall financial stability, including retained earnings. Order No. 4257 at 222. The evidence suggests that additional cost reductions and operational efficiency efforts by the Postal Service are still necessary, but additional tools are required to help it achieve financial stability. In the near term, modifying the system's design to better equip Postal Service management with additional pricing tools to respond to its challenges (such as declining density, statutorily imposed retirement obligations, and non-compensatory products and classes) is necessary, proper, and consistent with the PAEA. Further, the rate-setting criteria for non-compensatory products (final 39 C.F.R. § 3030.221) aim to correct pricing practices that were inefficient, thereby increasing cost coverage. Similarly, stricter adherence to ECP (as required by final subpart J) would generally improve the Postal Service's finances by leading to more efficient pricing signals.[438] Additionally, the reporting requirements for workshare discounts that exceed their avoided costs justified solely by 39 U.S.C. § 3622(e)(2)(C) better enable the Commission to monitor any potential negative impacts of such excessive discounts.

The enhanced reporting requirements of final § 3050.55 will provide a mechanism to better ensure that the Postal Service's operational decisions are supported by robust analysis, which also tends to encourage prudent and financially sound decision-making, consistent with the achievement of Objective 5, in conjunction with the other objectives, particularly Objectives 1, 3, and 6.[439] Additionally, in the rulemaking regarding whether, when, and how to introduce a performance incentive mechanism (*see* Section VI.C., *supra*), the Commission plans to explore whether

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[438] *See* Order No. 4258 at 89-90. NPPC *et al.* support the Commission's proposal regarding workshare discounts as consistent with Objective 5. NPPC *et al.* Comments at 16.

[439] *See* Section XIII.E.1. and 3., *supra*; Section XIII.E.6., *infra*. In addition to external oversight from the Commission, the Postal Service remains subject to external oversight from Congress, the U.S. Government Accountability Office (GAO), and the Postal Service OIG. Furthermore, the Governors also oversee Postal Service management.

additional changes to the ratemaking system would enhance the Postal Service's ability to address longer-term financial challenges.

With respect to the assertion that the Commission did not consider if the Postal Service can reenter the financial health cycle under the existing system, without providing any additional rate authority (*see* Discover Comments at 6), the Commission reiterates its prior finding that retaining the existing ratemaking system without any changes would be inappropriate and contrary to the goals of Objective 5 ("assure adequate revenues, including retained earnings, to maintain financial stability"). *See* 39 U.S.C. § 3622(b)(5). Notwithstanding the assertions by Discover that the Postal Service's financial challenges can be remediated by retaining the existing system and merely relaxing the rules regarding Market Dominant NSAs (*see* Discover Comments at 1), the record in this docket suggests that those financial challenges are far more pervasive. *See* Order No. 4257 at 170-171 (describing how the consecutive net losses resulted in an accumulated deficit); Order No. 4258 at 46-52 (describing how the consecutive net losses resulted in an accumulated deficit and that capital investments declined sharply as the accumulated deficit increased). Specific to Discover's suggestion that changes to the Market Dominant NSA rules replace the provision of any additional rate authority, the Commission finds that this alternative is purely aimed at increasing certain volumes and is wholly undeveloped in terms of what changes are requested and how those changes would represent an improvement in terms of the Postal Service's financial position, cost reductions, or efficiency, or in furtherance of any other objectives of 39 U.S.C. § 3622(b). *See* Section XII.C.1., *supra*. Discover may propose such rule changes in a separate petition with adequate support pursuant to existing 39 C.F.R. § 3010.201(b)(1).

The contention that additional rate authority is unnecessary due to the contribution from the Postal Service's Competitive products (*see* ANM *et al.* Comments at 24-25, 48-49; 2018 ANM *et al.* Comments at 6) misapprehends the command of the

PAEA. Objective 5 is a goal to be achieved via the design of the Market Dominant ratemaking system. 39 U.S.C. § 3622(a)-(b). The final rules are directly aimed at the Market Dominant ratemaking system, and the design of each new form of rate authority properly accounts for the role of Competitive products in contributing to financial stability of the Postal Service.

First, the eligibility and usage of 2 percentage points of additional rate authority for a non-compensatory class (final 39 C.F.R. § 3030.222) would be focused on the Market Dominant class at issue. The amount at issue is aimed at narrowing the cost-coverage gap for the applicable class over time. *See* Order No. 5337 at 168-170.

Second, the density rate authority formula is designed to properly account for the role of Competitive products. Using the volume input that experiences the lesser decline (either Market Dominant or total volume) in the formula benefits Market Dominant ratepayers. As an example, if Market Dominant volume declines proportionally faster than Competitive product volume, the formula input will use total volume rather than Market Dominant volume (*see* final 39 C.F.R. § 3030.162(b)(2)), which reduces the resulting density rate authority eligible for use for each Market Dominant class.[440] Therefore, by design, healthy Competitive product volume would translate to a direct benefit to Market Dominant ratepayers.[441]

Third, the retirement obligation rate authority formula properly accounts for the contribution of Competitive products. For the retirement obligation rate authority, the

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[440] A more detailed technical explanation is provided. *See* Sections IV.B.2. and IV.C.3., *supra*. Additionally, in a counter-hypothetical situation where Competitive product volume declines proportionally faster than Market Dominant volume, the formula input will use Market Dominant volume rather than total volume (*see* final 39 C.F.R. § 3030.162(b)(2)), which reduces the resulting density rate authority eligible for use for each Market Dominant class. Thus, potential declines in the relative health of Competitive product volumes would not translate to additional Market Dominant rate authority.

[441] *See* NPPC *et al.* Comments at 36 n.44 ("The First-Class Business Mailers appreciate that the proposed formula would allow market-dominant mail to benefit from growth in Competitive volume. This is a necessary improvement over the previous Phase II proposals, which had placed the entire burden of higher rates on market-dominant mailers.") (internal citation omitted).

formula is designed to limit the amount of the rate authority eligible for use for each class of Market Dominant products to the amount that rates would have to increase on all products (both Market Dominant and Competitive products) to generate enough revenue to make the full amortization payments. Consequently, this formula design—by presuming that an equal rate increase will be applied to Competitive products—limits the amount of the potential rate increases applied to Market Dominant products.

Multiple commenters claim that the continued default on the statutory retirement obligations is essentially harmless and that remitting the owed payments to the U.S. Department of the Treasury would not improve the financial stability of the Postal Service.[442] Notwithstanding the claims that the Postal Service's funding of benefits for future retirees is sufficient,[443] the PAEA imposed prefunding requirements[444] that the Postal Service has not been able to meet. The identified retirement costs remain a primary driver of the Postal Service's ongoing losses and prevent the Postal Service from achieving net income, thereby undermining achievement of financial stability including retained earnings.

Multiple commenters express concern that the final rules increase the amount of rate authority to a level that the Postal Service will increase rates at a speed and

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[442] *See, e.g.*, NPPC *et al.* Comments at 46; NPPC *et al.* Reply Comments at 8; ANM *et al.* Reply Comments at 23-24.

[443] The GAO reported that the financial outlook for the RHBF was poor—the Office of Personnel Management forecasted the fund would be depleted by 2030, if the Postal Service continued nonpayment. United States Government Accountability Office, Report to the Ranking Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Report No. GAO-18-602, Postal Retiree Health Benefits: Unsustainable Finances Need to be Addressed, August 2018, at 6, available at: *https://www.gao.gov/assets/700/694188.pdf* (GAO-18-602).

[444] The Postal Service's annual amortization payments for RHB and for CSRS and FERS benefits are legal obligations. *See* 5 U.S.C. §§ 8909a(d)(3)(B) (retirement and health benefits funding), 8348(h)(2)(E) (CSRS funding), and 8423(b)(4)(B) (FERS funding).

magnitude that will drive away volume and ultimately harm its finances.[445] The arguments that the Postal Service would be likely to use the full amount of the additional rate authority based on its past history of using the near-maximum amount of authority provided under the existing system and excerpts of statements arguing for deregulation are not persuasive. *See* ANM *et al.* Comments at 38 (citing Brattle Decl. ¶ 40). As explained in Section XIII.E.2., *supra*, this disregards the relatively small amount of rate authority provided under the existing rules and the inherent incentives of the Postal Service to exercise reasonable business judgment to avoid such an outcome. These reasons support a reasonable expectation that the Postal Service would behave rationally and in its own best interests, as guided by the incentives and means provided by the modified ratemaking system.

Additionally, the Commission has accounted for concerns that the Postal Service might behave in a manner that would be rational *vis a vis* its near-term interests but potentially threaten its longer-term interests. First, providing the Postal Service with the limited ability to bank additional forms of rate authority for declining density and for non-compensatory classes for future use ensures that the modified ratemaking system would not create a perverse incentive for the Postal Service to raise rates faster than the market can bear. Consistent with the existing requirements, the Postal Service would still be limited to use no more than 2 percentage points of banked rate authority per class per year, and banked rate authority would still expire after 5 years, so as to further reinforce Objectives 2 and 8. Second, the separate rulemaking regarding whether, when, and how to introduce a performance incentive mechanism (*see* Section VI.C., *supra*), in which the Commission plans to explore additional changes to the ratemaking system, will allow for further consideration of issues affecting the Postal Service's incentives and ability to address longer-term financial challenges. Third, the

[445] *See, e.g.*, ABA Comments at 1-2, 10-11; AFPA Comments at 3; ANM *et al.* Comments at 38 (citing Brattle Decl. ¶ 40); ANM *et al.* Reply Comments at 2; Discover Comments at 4; eBay Comments at 3-4; NPPC *et al.* Comments at 22-23, 36-38; PSA Comments at 6.

Commission plans to review the system in 5 years, subject to Commission discretion to consider aspects of the system sooner (if needed). Moreover, the Postal Service has sufficient controls concerning the exercise of reasonable business judgment regarding its financial viability.[446]

Finally, the Commission considers the competing argument raised by the Postal Service, that the Commission's modified ratemaking system fails to accord sufficient weight to Objective 5 because the final rules do not provide sufficient rate authority to cover the Postal Service's net losses and do not reset rates to levels that are fully compensatory. *See* Postal Service Comments at 6, 11, 15. To clarify the Commission's position, the Commission has never asserted that the Market Dominant ratemaking system must immediately recover all of the historic net losses or reset all rates to a level sufficient to cover all costs. This would fail to balance the competing priorities of rate stability and predictability, as provided by Objective 2, and maximizing incentives to reduce costs and increase efficiency, as provided by Objective 1. The persistent accumulation of net losses demonstrate that the existing ratemaking system did not work as intended. Bridging the gap between revenue and expenses must be achieved through a combination of prudent pricing and operational decisions over time. To do otherwise would fail to achieve Objectives 1 and 2. The final rules redesign the system in a way necessary to achieve this outcome through the provision of additional rate authority in an amount and form that would mitigate the imminent financial pressure on the Postal Service, correct certain harmful pricing practices, and retain sufficient incentives to pursue cost reductions and efficiency gains.

The Commission aims to ensure that the ratemaking system does not incentivize the Postal Service to *solely* raise rates to respond to its challenges. Declining to

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[446] While the Postal Service lacks shareholders, it does not lack outside oversight to hold the Postal Service accountable for its financial and operational performance. Such oversight comes not only from the Commission, but also from Congress, the GAO, and the Postal Service OIG. Furthermore, the Governors also oversee Postal Service management.

provide rate authority that would fully cover the historic net losses (such as allowing the density factor to compensate for declines occurring before the implementation of the final rules) and declining to implement the performance-based rate authority at this time further ensure that that this outcome is avoided. The final rules are intended to encourage prudent pricing and operational decision-making by the Postal Service. This properly balances all of the objectives of the PAEA, which strive to achieve systemic benefits for both the Postal Service and its ratepayers. Given that the near-term financial instability is a source of imminent peril, it is within the Commission's considerable discretion and up to its reasonable, expert policy judgment to address those more time-sensitive issues first and then evaluate how the longer-term financial stability issues should be addressed, in conjunction with the other objectives, under the modified ratemaking system.

6. Objective 6

The finalized changes are designed to continue to allow the system to "reduce the administrative burden and increase the transparency of the ratemaking process," as provided by Objective 6. 39 U.S.C. § 3622(b)(6). The Commission found that the existing system "has reduced the administrative burden and increased the transparency of the ratemaking system." Order No. 4257 at 274.

AF&PA and NPPC *et al.* raise concerns that multiple overlapping layers of rate authority would render it difficult for ratepayers to comprehend and that the formula-based approach to calculating rate authority would be inconsistent with Objective 6. AF&PA Comments at 4; NPPC *et al.* Comments at 20. However, the existing ratemaking system already uses a formula to compute the maximum rate authority per annum. The maximum rate authority provided by the existing ratemaking system's formula (the percentage change in the CPI-U plus a limited amount of banked rate authority) is inadequate to allow the system to achieve the objectives of the PAEA. Adjusting that formula to address underlying drivers of the existing system's deficiencies

such as declining density would not make the system less transparent because the Commission has provided a thorough, publicly available explanation and the formula uses inputs from publicly available data and information. The Commission will announce the maximum amount of rate authority per annum on a regular basis (*see* final 39 C.F.R. § 3030.160(c)) and commits to maintaining the underlying calculations on its public website, similar to existing practice.[447] Any additional administrative burden associated with the calculation is minimal and justified by the need to address underlying drivers of the existing system's deficiencies.

The enhanced cost-reduction reporting requirements are consistent with Objective 6. *See* final 39 C.F.R. § 3050.55; *see also* ABA Comments at 16. Final § 3050.55 would improve the availability and comprehensibility of information on a regular basis, thereby increasing transparency. Increased transparency relating to cost reductions would mitigate the existing information asymmetry that tends to advantage the Postal Service and disadvantage ratepayers.[448] Any resulting increase in administrative burden to the Postal Service associated with having to compile reports containing data and information that are already generated and available to the Postal Service internally would be outweighed by the benefits of the increased transparency. *See* Section IX.C.5., *supra*. This balancing is consistent with the achievement of Objective 6, applied in conjunction with the other objectives, particularly Objectives 1, 3, and 5. *See* Section XIII.E.1., 3., and 5., *supra*.

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[447] On a monthly basis, the available price cap authority for each class is calculated and published on the Commission's website, available at: *http://www.prc.gov*; hover over "References" and follow the "CPI Figures" hyperlink.

[448] *See* Order No. 5337 at 224-226 (describing opportunities to improve transparency and reduce information asymmetries relating to cost-reduction initiatives or explanations for significant changes in costs); *see also* 2008 Joskow at 550-551 (observing that regulators have imperfect information relating to the operator's cost, quality, and demand attributes and that such information asymmetries favor the operator and may disadvantage customers); 2006 Joskow, *supra,* at 3 (same).

Additionally, the Commission finalizes procedural changes that are aimed at improving the transparency and accountability of the ratemaking process by enhancing the schedule for regular and predictable rate adjustments and extending the time period for advance notice, public comment, and Commission review of rate proceedings. *See* final 39 C.F.R. §§ 3030.102 and 3030.121; *see also* Pitney Bowes Comments at 8. These improvements would make it easier for the public to comprehend and participate in rate adjustment proceedings. Further, the procedural improvements that clarify Commission responses to incomplete rate adjustment filings would help facilitate the administration of the ratemaking process, consistent with Objective 6. *See* final 39 C.F.R. § 3030.126; *see also* Pitney Bowes Comments at 8.

Finally, because the existing system does not include the 1 percentage point of performance-based rate authority, withdrawing these proposed rules at this time does not implicate Objective 6. A separate rulemaking to refine related issues will be undertaken through notice-and-comment procedures, which balances the need for transparent examination with minimizing the administrative burden imposed on participants, thereby further showing consideration for the continued achievement of Objective 6. This rulemaking will explore whether any additional adjustments to the price cap aimed at further incentivizing increasing efficiency, reducing costs, and maintaining service standards can be operationalized in a manner that would be sufficiently transparent and impose minimal administrative burden.

7. Objective 7

The finalized changes are designed to continue to allow the system to "enhance mail security and deter terrorism," as provided by Objective 7. 39 U.S.C. § 3622(b)(7). The Commission determined that the existing ratemaking system "provided sufficient funds to maintain safeguards to protect the mail system and deter terrorism and provided a mechanism permitting additional funds for unforeseen security or terrorism emergencies." Order No. 4257 at 274-275. Nothing on the record would suggest the

finalized changes would undermine the system's existing safeguards (such as the ability to seek a rate adjustment due to extraordinary or exceptional circumstances under 39 U.S.C. § 3622(d)(1)(E)) to address unexpected mail security or terrorist threats. The finalized changes would not have any negative effects on the achievement of Objective 7. Additionally, the finalized changes are aimed at increasing revenue, which is generally consistent with the achievement of Objective 7.[449]

8. Objective 8

The finalized changes are designed to address the systemic issues underlying the existing system's failure to "establish and maintain a just and reasonable schedule for rates and classifications," as provided by Objective 8. 39 U.S.C. § 3622(b)(8). The Commission concluded that rates under the existing ratemaking system fell below the range of what would be "just and reasonable" as required by Objective 8—finding that rates were not excessive to the mailers but threatened the financial integrity of the Postal Service.[450]

Multiple commenters contend that the final rules would conflict with Objective 8: several ratepayers express concern that the magnitude of the additional rate authority would lead to rates that would be excessive to mailers,[451] whereas the Postal Service argues that the rate authority is insufficient to reset rates to levels that are fully

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[449] *See* Order No. 4257 at 248-249 (evaluating whether the Postal Service had the ability to pay for mail security and terrorism deterrence efforts).

[450] *See* Order No. 4257 at 274-275. Order No. 4257 disaggregated the discussion of Objective 8 into two prongs. *See* nn.369 and 371, *supra*. It is well established that "just and reasonable" refers to zone, rather than a fixed price, that achieves both prongs. *See* Order No. 4257 at 114-115, 117, 228-229; *see also Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1502 (D.C. Cir. 1984) ("an agency may issue, and courts are without authority to invalidate, rate orders that fall within a 'zone of reasonableness,' where rates are neither 'less than compensatory' nor 'excessive'").

[451] *See, e.g.*, ABA Comments at 6; ANM *et al.* Comments at 4-5, 18; C21 Reply Comments at 5; NMA Comments at 9; NPPC *et al.* Comments at 20.

compensatory. *See* Postal Service Comments at 6, 11, 15. In designing a system that would allow for rates to be adjusted so as to fall within the range of "just and reasonable," the Commission must balance these differing views.

The Commission determines that any concerns that the provision of the additional forms of rate authority would unjustly enrich the Postal Service at the expense of the ratepayers are largely overstated. The significance of the financial pressures faced by the Postal Service is well documented.[452] The design of the modified ratemaking system would raise the annual limitation and thereby improve the ability of the Postal Service to set rates that would not threaten its financial integrity. At the same time, the modifications are designed to limit the accrual and use of rate authority to correct particular systemic deficiencies that threaten the financial integrity of the Postal Service. Therefore, narrowly tailoring the modifications to these identified deficiencies, rather than resetting rates as the Postal Service suggests, also protects mailers from excessive rates.[453] The final rules, which modify the implementation of the existing price cap, account for the achievement of Objective 8 as described below.

The Commission's overall design of the modified ratemaking system gives consideration to the achievement of Objective 8 by targeting a range of prices that

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[452] *See* Order No. 4257 at 170-171 (describing how the consecutive net losses resulted in an accumulated deficit); Order No. 4258 at 46-52 (describing how the consecutive net losses resulted in an accumulated deficit and that capital investments declined sharply as the accumulated deficit increased); GAO-13-112 at 2; GAO-17-404T at 6; FY 2019 Financial Analysis at 5, 27-29; FY 2018 Financial Analysis at 3, 27-29, 69, 73-74; FY 2017 Financial Analysis at 6, 29-30, 72, 75-76.

[453] *See Verizon Commc'ns, Inc.*, 535 U.S. at 481 ("The traditional regulatory notion of the 'just and reasonable' rate was aimed at navigating the straits between gouging utility customers and confiscating utility property.") (quoting *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944)); *Jersey Cent. Power & Light Co. v. FERC*, 810 F.2d 1168, 1177 (D.C. Cir. 1987) ("'[T]here is a zone of reasonableness within which rates may properly fall. It is bounded at one end by the investor interest against confiscation and at the other by the consumer interest against exorbitant rates.'") (quoting *Wash. Gas Light Co. v. Baker*, 188 F.2d 11 (D.C. Cir. 1950), *cert. denied*, 340 U.S. 952 (1951)); *Farmers Union Cent. Exch., Inc.*, 734 F.2d at 1502 ("[W]hen the inquiry is whether a given rate is just and reasonable to the consumer, the underlying concern is whether it is *low* enough so that exploitation [of the consumer] by the [regulated entity] is prevented." (quoting *City of Chicago, Ill. v. Fed. Power Comm'n*, 458 F.2d 731, 750-751 (D.C. Cir. 1971) (emphasis in original)).

would be just and reasonable to the Postal Service and its mailers. Consistent with Objective 8, which "shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail" (39 U.S.C. § 3622(b)(8)), and Objective 4, which "allow[s] the Postal Service pricing flexibility" (39 U.S.C. § 3622(b)(4)), the additional forms of rate authority made available by this Order apply at the class level. *See* Section XIII.E.2., *supra*.

By way of example, for a compensatory class, the final rules would provide rate authority based on the percentage change in the CPI-U, declining density formula, and the retirement obligation formula. These final rules would allow the Postal Service to raise rates based on factors that are largely outside of the Postal Service's direct control: the change in inflation, the increase in per-unit cost resulting from the decline in mail density for each fiscal year, and the statutorily mandated amortization payments for particular retirement costs. The Postal Service would have the ability to bank unused rate authority based on the percentage change in the CPI-U and the declining density formula to mitigate against increases that would be excessive to mailers.

The Commission's method of adjusting the price cap for declining density balances the need to allow for the Postal Service to adjust rates in a manner that would neither threaten its financial integrity nor would be excessive to mailers. The density rate authority is aimed at improving the Postal Service's financial integrity by adjusting the price cap for the per-unit cost increases caused by the decline in density. At the same time, the Commission has also given consideration to designing the formula to safeguard against excessive rate increases. Three aspects of the formula's design demonstrate consideration for ensuring that rates could not rise above the range that would be just and reasonable. First, as the Postal Service observes, the density rate authority (even in combination with all of the other forms of rate authority) would not constitute a rate reset or a true-up. Rather, the density rate authority adjusts for declines calculated *after* the effective date of final subpart D of 39 C.F.R. part 3030 and

based upon the observed density decline experienced in the most recently ended fiscal year and does not adjust for prior declines. Second, the formula is designed based on a conservative estimate of how much average cost per piece is *expected* to unavoidably increase in the near term as a result of the decline in density as remaining costs are distributed over fewer pieces. It does not compensate the Postal Service for the *actual* increased costs of servicing its network. Therefore, the formula's design limits the magnitude of the potential rate increase in a manner that encourages the Postal Service to continue to reduce costs to improve its financial integrity. Third, the formula has a safeguard mechanism that prevents excessive Market Dominant rates resulting from a disproportionately greater decline in Market Dominant volumes compared to Competitive product volumes. In a hypothetical situation where Market Dominant volume declines proportionally faster than Competitive product volume, the formula input will use *total* volume rather than Market Dominant volume (*see* final 39 C.F.R. § 3030.162(b)(2)), which reduces the resulting density rate authority eligible for use for each Market Dominant class.

The Commission's design of the retirement obligation rate authority formula also gives consideration to targeting a range of prices that would be just and reasonable to the Postal Service and its mailers. First, the formula to compute the retirement obligation rate authority is designed to limit the amount of the rate authority eligible for use for each class of Market Dominant products to the percentage by which average revenue per piece for all products (both Market Dominant and Competitive products) would need to increase to generate enough revenue to make the full amortization payments. *See* Section V.C.2., *supra*. By including the volume of Competitive products in the calculation of the amount of retirement obligation rate authority made available to each class of mail, this formula design safeguards against the Postal Service's setting rates at a level that would be excessive to Market Dominant ratepayers.

Second, all revenue collected as a result of the retirement obligation rate authority must be remitted towards the corresponding statutory liabilities, as provided under final subpart E of 39 C.F.R. part 3030. The remittance requirement is necessary because Market Dominant ratepayers asked to pay higher rates for the purposes of making payments towards the Postal Service's retirement liabilities have a reasonable expectation that the funds will be used for that purpose. Moreover, the identified retirement costs remain a primary driver of the Postal Service's ongoing losses that are outside of its control and prevent the Postal Service from achieving net income, thereby undermining its financial integrity.

Additionally, the final rules would require the Postal Service to increase the rate for any non-compensatory product in a compensatory class by a minimum of 2 percentage points above the percentage increase for the class. This modification is just and reasonable to both the mailers and the Postal Service. No additional rate authority is provided for this specific purpose; instead, the Postal Service must rebalance rate increases within a compensatory class to apply a larger increase to the non-compensatory products, thereby reducing the existing cross-subsidy over time. Several of the products at issue have been non-compensatory for many years, which is inconsistent with rates that are within the range of just and reasonable, impedes pricing efficiency, and threatens the Postal Service's financial integrity, thereby undermining the ratemaking system's achievement of Objectives 1, 5, and 8. The most egregious example, USPS Marketing Mail Flats, has not covered its attributable costs since the enactment of the PAEA and has sustained $6.7 billion in cumulative contribution losses from FY 2007 to FY 2019.[454]

[454] Order No. 4257 at 234; Order No. 4258 at 75; Order No. 5337 at 153; FY 2019 ACD at 34. Flats did not exist as a product in FY 2007; therefore, the losses for Flats were incurred from FY 2008 through FY 2019.

As the cost-coverage for Flats worsened over time, the Commission has incrementally escalated its regulatory approach from more flexible-style recommendations and directives to more prescriptive rate-setting criteria that would require the rates for Flats to increase at least 2 percentage points above the percentage increase for the USPS Marketing Mail class in the next general Market Dominant rate adjustment. *See* nn.346 and 347, *supra*. Subsequently, the Commission applied this requirement to USPS Marketing Mail Parcels as well. *See* n.347, *supra*. The finalized rate-setting criteria for non-compensatory products expand the existing incremental approach for improving the cost coverage of Flats and Parcels to each non-compensatory product in a compensatory class. This incremental 2–percentage-point increase would narrow the cost-coverage gap over time. *See* Order No. 5337 at 159-160. The rate-setting criteria are designed to operate only as long as necessary to achieve cost coverage; if cost coverage for a particular product does rise to provide a positive contribution, the Postal Service would no longer be required to apply the additional 2-percentage-point increase. *See* final 39 C.F.R. § 3030.221. Therefore, the rate-setting criteria strike a reasonable balance of providing predictability and stability to ratepayers, improving allocative efficiency, promoting the Postal Service to focus on increasing operational efficiency and cost reductions, improving financial integrity, and moving rates into the range of prices that is just and reasonable, as encapsulated by Objectives 1, 2, 5, and 8.[455]

For each non-compensatory class of mail, the Commission's design of the modified ratemaking system provides an additional 2 percentage points of rate authority. This modification to the ratemaking system is needed to provide the Postal

[455] The Commission further observes that certain mailpieces are accorded statutory pricing preferences, which remain unaffected by the final rules. *See* 39 U.S.C. § 3626(a)(6)(A) (requiring nonprofit rates to yield per-piece revenues that equal, as nearly as practicable, 60 percent of commercial per-piece revenues); 39 U.S.C. § 3626(a)(7) (requiring prices for Library Mail to be set as nearly as practicable to 95 percent of Media Mail prices). The Commission will continue to review planned price adjustments for compliance with these requirements.

Service with the tools to address the unique challenge faced by the Periodicals class of mail: both products in the class are non-compensatory, and therefore rebalancing rates within the class would be insufficient to improve cost coverage. *See* Order No. 5337 at 163-164.

Periodical mailers have argued that the rate authority provided by the final rules would lead to excessive rate increases. *See* NNA Comments at 10, 14-15. First, it is important to observe that this modification is necessary to allow the Postal Service to raise these historically non-compensatory rates to incrementally approach the range of rates that would be just and reasonable to both the Postal Service and the mailers. The Periodicals class has not covered its attributable costs since the enactment of the PAEA.[456] From FY 2007 to FY 2019, Periodicals sustained $7.4 billion in cumulative contribution losses. FY 2019 ACD at 25. The percentage change in the CPI-U has been unable to provide sufficient rate authority to allow the Postal Service to set compensatory rates for Periodicals.[457] Therefore, a systemic modification is needed to remediate this threat to the Postal Service's financial integrity.

Second, the final rules produce a reasonable balancing of the PAEA's objectives as applied to Periodicals. The Commission explored the possibility of providing additional rate authority in the amounts of 1, 2, or 3 percentage points per annum. *See* Order No. 5337 at 168-170. The additional 2 percentage points is aimed only at narrowing the cost-coverage gap over time. *See id.* It is important to observe that the Commission has already incorporated an automatic safeguard for mailers into the

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[456] *See* Order No. 4257 at 233-234; Order No. 4258 at 81; Order No. 5337 at 164; *see also* FY 2019 ACD at 25.

[457] Generally, the Postal Service has nearly exhausted all of the rate authority provided by the percentage change in the CPI-U for Periodicals. *See* Library Reference PRC-LR-RM2017-3/1, Excel file "PRC-LR-RM2017-3-1.xlsx," tab "Table II-3," rows 4 and 7. Even over a longer period of time, from January 2005 to now, the trend holds. The CPI-U data are published on the Commission's website, available at: *http://www.prc.gov*; hover over "References" and follow the "CPI Figures" hyperlink.

design of the final rules. If cost coverage for Periodicals does rise to provide a positive contribution, the Postal Service would no longer be eligible to apply the additional 2-percentage-point increase. *See* final 39 C.F.R. § 3030.222. Moreover, incrementally applying no more than an additional 2 percentage points annually, rather than allowing a one-time rate reset, further ameliorates against a magnitude and speed of rate increases that would be excessive to ratepayers.[458] The additional rate authority provided for each non-compensatory class strikes a reasonable balance of providing predictability and stability to ratepayers, improving allocative efficiency, promoting the Postal Service to focus on increasing operational efficiency and cost reductions, improving financial integrity, and moving rates into the range of prices that is just and reasonable, as encapsulated by Objectives 1, 2, 5, and 8.

Third, the Periodicals class is accorded several statutory pricing preferences, which remain unaffected by the final rules. *See* 39 U.S.C. § 3626. The Commission will continue to review planned price adjustments for compliance with these requirements.

There are also sufficient safeguards in place to ensure that modifications in the final rule based on the Commission's expert economic judgment would not produce rates that are excessive to mailers. As explained in Section XIII.E.2., *supra*, the Postal Service has inherent incentives to exercise reasonable business judgment to avoid such an outcome. The Postal Service would have the ability to bank unused rate authority based on the percentage change in the CPI-U, the declining density formula, and non-compensatory classes to mitigate against increases that would be excessive to the mailers. Consistent with the existing requirements, the Postal Service would still be limited to use no more than 2 percentage points of banked rate authority per class per year and banked rate authority would still expire after 5 years, so as to further reinforce

[458] Notably, the Public Representative in advocating for a one-time reset of the price cap for Periodicals characterizes the Commission's approach as "accord[ing] too much weight to stability and reasonableness and far too little weight to producing adequate revenue." PR Comments at 50.

Objectives 2 and 8. Moreover, committing to review the system in 5 years, subject to Commission discretion to consider aspects of the system sooner (if needed), balances the competing priorities of setting a review period that would be both short enough to safeguard against any potential unintended consequences (by contrast the 10-year review period set by the PAEA was, in hindsight, too long[459]) and long enough to allow the effects of the changes to be observed. Additionally, declining to implement the provision of 1 percentage point of performance-based rate authority further limits the magnitude of potential rate increases at this time. The Commission's determination to engage in further study on this topic remains in line with the goal of Objective 8, producing rates that are just and reasonable to both the ratepayers and the Postal Service. While a separate rulemaking is aimed at the Postal Service's longer-term financial integrity, any potential outcome would be evaluated *vis a vis* all of the PAEA's objectives, in conjunction with each other. The Commission further observes that although rates set in compliance with the final rules would presumptively be below a level that would constitute excessive rates, a complaint may be filed by "[a]ny interested person (including a duly appointed officer of the Commission representing the interests of the general public)."[460]

9. Objective 9

The finalized changes are designed to continue to allow the system to "allocate the total institutional costs of the Postal Service appropriately between market-dominant

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[459] *See* n.389, *supra*.

[460] 39 C.F.R. § 3022.2. Price cap systems used by other U.S. regulators incorporate complaint procedures as a systemic safeguard against individual rates rising to a level that would be excessive to the consumer. *See Envtl. Action v. FERC*, 996 F.2d 401, 409 (D.C. Cir. 1993) (rejecting argument that the price cap system was not just and reasonable, noting the presence of a complaint mechanism to hear challenges against individual rates); *Nat'l Rural Telecom Ass'n v. FCC*, 988 F.2d 174, 178 (D.C. Cir. 1993) (same). Further, the annual compliance review is a regular process by which the Commission may intervene if the Postal Service's pricing decisions would contravene relevant statutory policies such as 39 U.S.C. §§ 101(a), 101(d), and 403(e). *See* 39 U.S.C. § 3653.

and competitive products," as provided by Objective 9. 39 U.S.C. § 3622(b)(9). The Commission determined that the existing ratemaking system has an adequate mechanism to ensure the appropriate allocation of total institutional costs. Order No. 4257 at 275. Nothing on the record would suggest the finalized changes would undermine the system's existing mechanism and the finalized changes do not have any negative effect on the achievement of Objective 9. The withdrawal of the performance-based rate authority is also not expected to impact the continued achievement of Objective 9.

F. Factors

Issues raised relating to the factors of 39 U.S.C. § 3622(c) are addressed herein. The fourteen factors are:

> (1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;
>
> (2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;
>
> (3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;
>
> (4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;
>
> (5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;
>
> (6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;
>
> (7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;
>
> (8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;
>
> (9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

> (10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—
>
> (A) either—
>
> (i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service[,] or
>
> (ii) enhance the performance of mail preparation, processing, transportation, or other functions[,] and
>
> (B) do not cause unreasonable harm to the marketplace[;]
>
> (11) the educational, cultural, scientific, and informational value to the recipient of mail matter;
>
> (12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;
>
> (13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and
>
> (14) the policies of this title as well as such other factors as the Commission determines appropriate.

39 U.S.C. § 3622(c).

NPPC *et al.* assert that the Commission failed to address any of these factors and that failure to consider the effects of the final rules on all of these factors is an error. NPPC *et al.* Comments at 10, 19-20. The factors appearing in 39 U.S.C. § 3622(c) are considerations to be taken into account when establishing or revising the system under subsection (a) and in making the determination of whether the system is achieving the objectives appearing in subsection (b). *See* 39 U.S.C. § 3622(a), (c), and (d)(3). These factors were explicitly considered, as required by 39 U.S.C. § 3622(d)(3) in the determination of whether the system is achieving the objectives appearing in subsection (b). Order No. 4257 at 18-21. With regard to the treatment of these factors in promulgation of these final rules, 39 U.S.C. § 3622(d)(3) grants the Commission discretion to "by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives." 39 U.S.C. § 3622(d)(3). Paragraph (d)(3) does not set forth the factors as

policy goals to be achieved. *Id.* In any event, to the extent that the issues encapsulated by these factors are relevant, the Commission has fully addressed them. *See Carlson*, 938 F.3d at 344. The Commission provides the following responses to comments that raise particular factors as either being inconsistent with a particular rule or alternative.[461]

ABA, ANM *et al.*, and NPPC *et al.* assert that providing additional rate authority would be inconsistent with particular factors. Linking Factor 12 with Objective 1, ABA asserts that providing *any* additional rate authority to the Postal Service so that it may adjust rates above the percentage change in the CPI-U would remove the financial pressure imposed on the Postal Service by the existing CPI-U price cap to reduce costs and increase efficiency. ABA Comments at 7-8. This concern is addressed in Section XIII.1., *supra*. Linking Factor 4 with Objective 8, ABA asserts that allowing the Postal Service to raise prices because of declining volume would effectively tax ratepayers that continue to use the mail over electronic communication. ABA Comments at 6-7. The Commission has extensively explained that this rate authority corresponds to changes in the per-unit cost increases caused by the decline in *density* (the decline in volume combined with the statutorily imposed universal service obligation to deliver to every address) and specifically considers whether potential rate increases would be excessive to mailers. *See* Sections IV.B.2., IV.C.1., IV.C.3., and XIII.8., *supra*.

Invoking Factor 7, ANM *et al.* take issue with the Postal Service's characterizations of pricing flexibility under the existing CPI-U price cap system. ANM *et al.* Reply Comments at 12. The Commission has already evaluated pricing flexibility under the existing CPI-U price cap system and that impact of its use. *See* Order No. 4257 at 50-51, 86-99, 137-139, 141-142, 144-145, 150. Linking Factor 3 with Objective 2, ANM *et al.* assert that the Commission has failed to consider the impact on business

[461] NPPC *et al.* and Pitney Bowes assert that particular factors support implementation of the final rules regarding workshare discounts. NPPC *et al.* Comments at 16 (asserting that Factors 4, 5, 6, and 11 support the Commission's authority to regulate workshare discounts); Pitney Bowes Comments at 3 (asserting that the workshare discount rules properly take into account Factors 5 and 12).

mailers of the magnitude of the rate increases connected with the retirement obligation rate authority. ANM *et al.* Comments at 57. The Commission has given consideration to the magnitude of the potential rate increases and the effects on ratepayers. *See* Chapter V.; Section XIII.E.2., 5., and 8., *supra*.

NPPC *et al.* assert that providing *any* additional rate authority to the Postal Service so that it may adjust rates above the percentage change in the CPI-U "could readily impair the system's achievement of, at least, Factors 1, 3, 4, 9, 12, and 13." NPPC *et al.* Comments at 20. They add that Factors 1, 3, and 4 "require[] the Commission to consider how the potential rate increases – which exceed any past rate increases since enactment of the PAEA by well more than 100 percent -- could affect mailers and their volumes." *Id.* at 21. No further explanation regarding these six factors is provided. The Commission has given consideration to the magnitude of the potential rate increases and the effects on ratepayers and volume. *See* Sections IV.B.2., IV.C.1., IV.C.3., V.A., V.B.2., V.C.1., V.C.2., XIII.E.2., XIII.E.5., and XIII.E.8., *supra*.

ANM *et al.*, C21, NMA, and NNA assert that the final rules regarding non-compensatory products and classes are inconsistent with particular factors. ANM *et al.* assert that providing additional rate authority for Periodicals ignores Factors 3, 8, and 11. ANM *et al.* Comments at 82. Similarly, NMA asserts that the Commission must consider the effects of potential rate increases on mailers pursuant to Factor 3 and that the potential rate increases would be harmful for news media ratepayers. NMA Comments at 9. Additionally, NNA contends that the Commission should not give undue weight to Factor 2 given the concerns of Factors 3 and 11, and that Order No. 5337 would lead to rate increases that will likely drive Periodicals out of the mail. NNA Comments at 10, 14-15. C21 compares the additional rate authority for non-compensatory classes to the postal pricing decisions of the 1970s, asserting that the Commission must consider Factors 1, 8, and 11. C21 Reply Comments at 11. The Commission has given consideration to the effect of the potential rate increases on

ratepayers and the value of the mail matter at issue. *See* Chapter VII.; Section XIII.E.2., 5., and 8., *supra*.

NPPC *et al.* assert that not linking the provision of performance-based rate authority with service performance results fails to take into account Factors 1, 4, and 9. NPPC *et al.* Comments at 63-64. The Commission maintains its position that introducing a rule providing for a direct financial consequence associated with service performance appears to be premature at this time. *See* Order No. 4258 at 72; Sections VI.C.2. and XIII.3., *supra*.

Favoring the revision of the existing rules on Market Dominant NSAs, Discover asserts that the Commission has given insufficient weight to Factor 10. Discover Comments at 12. The Commission has determined that Discover's proposed alternative is undeveloped in terms of what rule changes are requested and how those rule changes would further the objectives. *See* Sections XII.C.1. and XIII.E.5., *supra*.

G. Conclusion

The Commission appreciates the thoughtful input of commenters, which has promoted refinement of the Commission's analysis over the course of this proceeding. The Postal Service faces complex challenges, the speed and extent of which have been exacerbated by trends and circumstances after the enactment of the PAEA. Retaining the existing ratemaking system is unsustainable. The PAEA authorizes the Commission to modify the design of the ratemaking system to address deficiencies that frustrate the achievement of the objectives of the PAEA. The modifications to the ratemaking system adopted in this Order are designed to provide the incentive and the means for the Postal Service to address its complex challenges by making prudent pricing and operational decisions. Those changes are necessary for the system of ratemaking to achieve the objectives enumerated in section 3622(b). The PAEA charges the Board of Governors and management of the Postal Service with the

responsibility to exercise reasonable business judgment, as guided by the incentives and means provided by the modified ratemaking system, to sustain a viable and vibrant Postal Service. The Commission will continue to monitor the challenges ahead and support the Postal Service's successful implementation of these rules.

XIV. CHANGES TO THE FINAL RULES

For clarity, the changes to the final rules are summarized below.

A. Renumbering Consistent with Amended Rules of Practice

As explained previously, the Commission renumbers the final rules to conform with the changes made in Docket No. RM2019-13. *See* Order No. 5337 at 3 n.6. Accordingly, the final rules renumber 39 C.F.R. part 3010 to 39 C.F.R. part 3030 (Regulation of Rates for Market Dominant Products) and 39 C.F.R. part 3020 to 39 C.F.R. part 3040 (Product Lists and the Mail Classification Schedule).[462] A cross-reference appearing in final § 3030.264(b) is updated to reflect the renumbering as existing § 3010.120. The Commission also corrects a cross-reference appearing in existing § 3045.15(a) to reflect the renumbering of the final rule identifying the CPI-U data source to final § 3030.141(a).

B. Other Non-Substantive Clarifications and Corrections

Additional changes are made to the final rules to improve clarity and internal consistency and to correct typographical errors.

The Commission corrects an internal cross-reference appearing in § 3030.162(a)(1).

For clarity, final § 3030.181(b) is reworded to place the phrase "[u]ntil the conclusion of the phase-in period," at the beginning of the text.

Final § 3030.181(c) is rephrased to clarify that it is not intended to prohibit the Postal Service from filing limited rate adjustment cases, such as a stand-alone

[462] The numbering of 39 C.F.R. parts 3050 (Periodic Reporting) and 3055 (Service Performance and Customer Satisfaction Reporting), and the sections within those parts, were not altered by Order No. 5407.

adjustment to one or two rate cells, followed by a broader adjustment to the remainder of the class later in the same fiscal year. *See* Section XII.C.2., *supra*.

The Public Representative suggests corrections to the paragraph numbering, internal cross-references, and typographical errors appearing in the text of the proposed rules. PR Comments at 53. The Commission agrees and adopts his suggestions in final §§ 3030.182(c), 3030.183(b), and 3030.184(c)(1).

Final §§ 3030.220 and 3030.221 are rephrased to clarify that the requirement for the Postal Service to increase rates by a minimum of 2 percentage points above the percentage increase for that class applies only for a non-compensatory product that is in a class that is compensatory overall.

Final § 3050.55(f) is rephrased to clarify that the Commission is not seeking information with regard to planned projects that do not have a Decision Analysis Report yet. *See* Section IX.D., *supra*.

C. Withdrawal of Performance-Based Rate Authority

As explained in Section VI.D., *supra*, the Commission withdraws the proposed rules relating to performance-based rate authority.[463] Accordingly, all text associated with and cross-references to these provisions are deleted from the final rules. *See* final 39 C.F.R. §§ 3030.101 (deleting definition of performance-based rate authority, adjusting subsequent paragraph letter designations, and conforming cross-reference); 3030.127(a) (deleting cross-reference and adjusting subsequent subparagraph number

[463] Previously, these provisions appeared as proposed subpart F of 39 C.F.R. part 3010. *See* Order No. 4258, Attachment A at 23-24; Order No. 5337, Attachment A at 36-38. As explained previously, the Commission renumbers the final rules to conform with the changes made in Docket No. RM2019-13. *See* Order No. 5337 at 3 n.6. Accordingly, the final rules renumber 39 C.F.R. part 3010 to 39 C.F.R. part 3030 (Regulation of Rates for Market Dominant Products).

designations). In order to maintain the letter designations of the other subparts, final subpart F of 39 C.F.R. part 3030 is reserved.

D. Generation of Unused Rate Authority and Banking

The Commission withdraws the proposed rules that prohibited a non-compensatory class from being able to generate unused rate authority.[464] The Commission also withdraws the proposed rules that prohibited banking of density rate authority and the rate authority for non-compensatory classes.[465] These changes are reflected in final §§ 3030.160, 3030.222, 3030.242, 3030.243, and 3030.244. Accordingly, unused rate authority accrued pursuant to final subpart C—Consumer Price Index Rate Authority, final subpart D—Density Rate Authority, or final § 3030.222 may be generated and banked for any class of mail, at the Postal Service's discretion. Otherwise, the operation of remaining rules concerning the calculation of unused rate authority and application of banked rate authority is not intended to be altered. Consistent with the existing requirements, the Postal Service would still be limited to use no more than 2 percentage points of banked rate authority per class per year and banked rate authority would still expire after 5 years.

E. Interaction with the Non-Compensatory Products Rate-Setting Criteria

Two changes are made to accommodate interaction with the non-compensatory product rate-setting criteria. The first change pertains to a non-compensatory product for which the Commission has determined that the Postal Service lacks independent authority to set rates (such as rates set by treaty obligation). A sentence is added to final § 3030.221 that would exclude such a non-compensatory product from the

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[464] Previously, these provisions appeared as proposed 39 C.F.R. §§ 3010.242(b) and 3010.243(d). *See* Order No. 5337, Attachment A at 41-42.

[465] Previously, these provisions appeared as proposed 39 C.F.R. §§ 3010.160(c)(4) and 3010.222(b)(4). *See* Order No. 5337, Attachment A at 24, 39.

requirement to raise such rates by a minimum of 2 percentage points above the percentage increase for that class.

The second change pertains to the interaction between the workshare discount and non-compensatory product rules. Final § 3030.286(c)(7) and (g) are rephrased to account for the prohibitions on reducing the rate for any product where the attributable cost exceeded the revenue imposed by final §§ 3030.127(b) and 3030.129(g). *See* Section VIII.D., *supra*.

F. Changes Related to Rate Incentives

On May 15, 2020, the Commission finalized changes to its rules related to rate incentives for Market Dominant products.[466] These changes are reflected in final §§ 3030.101(j) (definition of rate of general applicability); 3030.123(j) (content requirements for inclusion of a rate incentive in a percentage change in rates calculation); and 3030.128(f)(2) (criteria for inclusion of a rate incentive in a percentage change in rates calculation). An appeal on these changes remains pending; however, on August 26, 2020, the Commission issued a notice of its intent to initiate a new rulemaking in the docket at issue here and reconsider Order No. 5510, and on September 11, 2020, the Commission and the Postal Service filed a joint motion for voluntary dismissal of the appeal and vacatur of these rules.[467]

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[466] Docket No. RM2020-5, Order Adopting Final Rules Regarding Rate Incentives for Market Dominant Products, May 15, 2020 (Order No. 5510).

[467] *See generally* Docket No. RM2020-5, Notice of Intent to Reconsider, August 26, 2020 (Order No. 5655); *U.S. Postal Serv. v. Postal Reg. Comm'n*, No. 20-1208 (D.C. Cir. Sept. 11, 2020), ECF Document No. 1861005.

XV. REGULATORY FLEXIBILITY ACT ANALYSIS

The Regulatory Flexibility Act requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. *See* 5 U.S.C. §§ 601 *et seq.* If the proposed or final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities, the head of the agency may certify that the initial and final regulatory flexibility analysis requirements of 5 U.S.C. §§ 603 and 604 do not apply. *See* 5 U.S.C. § 605(b). In the context of this rulemaking, the Commission's primary responsibility is in the regulatory oversight of the United States Postal Service. The rules that are the subject of this rulemaking have a regulatory impact on the Postal Service, but do not impose any regulatory obligation upon any other entity. Based on these findings, the Chairman of the Commission certifies that the rules that are the subject of this rulemaking will not have a significant economic impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. § 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. §§ 603 and 604.

XVI. ORDERING PARAGRAPHS

It is ordered:

1. Parts 3030, 3040, 3045, 3050, and 3055 of title 39, Code of Federal Regulations, are revised as set forth below the signature of this Order, effective 30 days after publication in the *Federal Register*.

2. The Secretary shall arrange for publication of the final rules and general statement as to the basis and purpose of the final rules in the *Federal Register*.

By the Commission.

Erica A. Barker
Secretary

List of Subjects

39 CFR Part 3030

Administrative practice and procedure, Fees, Postal Service.

39 CFR Part 3040

Administrative practice and procedure, Foreign relations, Postal Service.

39 CFR Part 3045

Administrative practice and procedure, Postal Service.

39 CFR Part 3050

Administrative practice and procedure, Postal Service, Reporting and recordkeeping requirements.

39 CFR Part 3055

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Commission amends Chapter III of title 39 of the Code of Federal Regulations as follows:

1. Revise part 3030 to read as follows:

PART 3030—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

Subpart A—General Provisions

Sec.
3030.100 Applicability.
3030.101 Definitions.

Authority: 39 U.S.C. 503; 3622.

Subpart A—General Provisions.

§ 3030.100 Applicability.

(a) The rules in this part implement provisions in 39 U.S.C. chapter 36, subchapter I, establishing the modern system of ratemaking for regulating rates and

classes for market dominant products. These rules are applicable whenever the Postal Service proposes to adjust a rate of general applicability for any market dominant product, which includes the addition of a new rate, the removal of an existing rate, or a change to an existing rate. Current rates may be found in the Mail Classification Schedule appearing on the Commission's website at *www.prc.gov*.

(b) Rates may be adjusted either subject to the rules appearing in subpart B of this part, which includes a limitation on rate increases, or subject to the rules appearing in subpart I of this part, which does not include a limitation on rate increases but requires either extraordinary or exceptional circumstances. The rules applicable to the calculation of the limitations on rate increases appear in subparts C through H of this part. The rules for workshare discounts, which are applicable whenever market dominant rates are adjusted, appear in subpart J of this part.

§ 3030.101 Definitions.

(a) The definitions in paragraphs (b) through (l) of this section apply to this part.

(b) "Annual limitation" means the annual limitation on the percentage change in rates equal to the change in the Consumer Price Index for all Urban Consumers (CPI-U) unadjusted for seasonal variation over the most recently available 12-month period preceding the date the Postal Service files a request to review its notice of rate adjustment, as determined by the Commission.

(c) "Banked rate authority" means unused rate adjustment authority accumulated for future use pursuant to these rules.

(d) A “class” of mail means the First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, or Special Services groupings of market dominant Postal Service products or services. Generally, the regulations in this part are applicable to individual classes of mail.

(e) “Density rate authority” means rate authority that is available to all classes to address the effects of decreases in density of mail.

(f) “Maximum rate adjustment authority” means the maximum percentage change in rates available to a class for any planned increase in rates. It is the sum of: the consumer price index rate authority, and any available density rate authority, retirement obligation rate authority, banked rate authority, and rate authority applicable to non-compensatory classes.

(g) “Rate authority applicable to non-compensatory classes” means rate authority available to classes where revenue for each product within the class was insufficient to cover that product’s attributable costs as determined by the Commission.

(h) “Rate cell” means each and every separate rate identified as a rate of general applicability.

(i) “Rate incentive” means a discount that is not a workshare discount and that is designed to increase or retain volume, improve the value of mail for mailers, or improve the operations of the Postal Service.

(j) “Rate of general applicability” means a rate applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic Mail Manual,

and the International Mail Manual. A rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies, including the volume of mail sent by a mailer in a past year or years. A rate is not a rate of general applicability if it benefits a single mailer. A rate that is only available upon the written agreement of both the Postal Service and a mailer, a group of mailers, or a foreign postal operator is not a rate of general applicability.

(k) "Retirement obligation rate authority" means rate authority that is available to all classes to provide revenue for remittance towards the statutorily mandated amortization payments for unfunded liabilities.

(l) A "seasonal or temporary rate" is a rate that is in effect for a limited and defined period of time.

§ 3030.102 Schedule for regular and predictable rate adjustments.

(a) The Postal Service shall develop a Schedule for Regular and Predictable Rate Adjustments applicable to rate adjustments subject to this part. The Schedule for Regular and Predictable Rate Adjustments shall:

(1) Schedule rate adjustments at specific regular intervals of time;

(2) Provide estimated filing and implementation dates (month and year) for future rate adjustments for each class of mail expected over a minimum of the next 3 years; and

(3) Provide an explanation that will allow mailers to predict with reasonable accuracy, by class, the amounts of future scheduled rate adjustments.

(b) The Postal Service shall file a current Schedule for Regular and Predictable Rate Adjustments annually with the Commission at the time of filing the Postal Service's section 3652 report. The Commission shall post the current schedule on the Commission's website at *www.prc.gov*.

(c) Whenever the Postal Service deems it appropriate to change the Schedule for Regular and Predictable Rate Adjustments, it shall file a revised schedule.

(d) The Postal Service may vary the magnitude of rate adjustments from those estimated by the Schedule for Regular and Predictable Rate Adjustments. In such case, the Postal Service shall provide an explanation for such variation with its rate adjustment filing.

Subpart B—Rate Adjustments

§ 3030.120 General

This subpart describes the process for the periodic adjustment of rates subject to the percentage limitations specified in § 3030.127 that are applicable to each class of mail.

§ 3030.121 Postal Service rate adjustment filing.

(a) In every instance in which the Postal Service determines to exercise its statutory authority to adjust rates for a class of mail, the Postal Service shall comply with the requirements specified in paragraphs (b) through (d) of this section.

(b) The Postal Service shall take into consideration how the planned rate adjustments are in accordance with the provisions of 39 U.S.C. chapter 36.

(c) The Postal Service shall provide public notice of its planned rate adjustments in a manner reasonably designed to inform the mailing community and the general public that it intends to adjust rates no later than 90 days prior to the planned implementation date of the rate adjustments.

(d) The Postal Service shall file a request to review its notice of rate adjustment with the Commission no later than 90 days prior to the planned implementation date of the rate adjustment.

§ 3030.122 Contents of a rate adjustment filing.

(a) A rate adjustment filing under § 3030.121 shall include the items specified in paragraphs (b) through (j) of this section.

(b) A representation or evidence that public notice of the planned changes has been issued or will be issued at least 90 days before the effective date(s) for the planned rate adjustments.

(c) The intended effective date(s) of the planned rate adjustments.

(d) A schedule of the planned rate adjustments, including a schedule identifying every change to the Mail Classification Schedule that will be necessary to implement the planned rate adjustments.

(e) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.

(f) The supporting technical documentation as described in § 3030.123.

(g) A demonstration that the planned rate adjustments are consistent with 39 U.S.C. 3626, 3627, and 3629.

(h) A certification that all cost, avoided cost, volume, and revenue figures submitted with the rate adjustment filing are developed from the most recent applicable Commission accepted analytical principles.

(i) For a rate adjustment that only includes a decrease in rates, a statement of whether the Postal Service elects to generate unused rate adjustment authority.

(j) Such other information as the Postal Service believes will assist the Commission in issuing a timely determination of whether the planned rate adjustments are consistent with applicable statutory policies.

§ 3030.123 Supporting technical documentation.

(a) Supporting technical documentation shall include the items specified in paragraphs (b) through (k) of this section, as applicable to the specific rate adjustment filing. This information must be supported by workpapers in which all calculations are shown and all relevant values (*e.g.,* rates, CPI-U values, billing determinants) are identified with citations to original sources. The information must be submitted in machine-readable, electronic format. Spreadsheet cells must be linked to underlying data sources or calculations (not hard-coded), as appropriate.

(b) The maximum rate adjustment authority, by class, as summarized by § 3030.127 and calculated separately for each of subparts C through H of this part, as appropriate.

(c) A schedule showing the banked rate adjustment authority available, by class, and the available amount for each of the preceding 5 years calculated as required by subpart H of this part.

(d) The calculation of the percentage change in rates, by class, calculated as required by § 3030.128.

(e) The planned usage of rate adjustment authority, by class, and calculated separately for each of subparts C through H of this part, as appropriate.

(f) The amount of new unused rate adjustment authority, by class, if any, that will be generated by the rate adjustment calculated as required by subpart H of this part, as applicable.

(g) A schedule of the workshare discounts included with the planned rate adjustments, and a companion schedule listing the avoided costs that underlie each such discount.

(h) Whenever the Postal Service establishes a new workshare discount rate, it must include with its filing:

(1) A statement explaining its reasons for establishing the workshare discount;

(2) All data, economic analyses, and other information relied on to justify the workshare discount; and

(3) A certification based on comprehensive, competent analyses that the discount will not adversely affect either the rates or the service levels of users of postal services who do not take advantage of the workshare discount.

(i) Whenever the Postal Service establishes a new discount or surcharge rate it does not view as creating a workshare discount, it must include with its filing:

(1) An explanation of the basis for its view that the discount or surcharge rate is not a workshare discount; and

(2) A certification that the Postal Service applied accepted analytical principles to the discount or surcharge rate.

(j) Whenever the Postal Service includes a rate incentive with its planned rate adjustment, it must include with its filing:

(1) Whether the rate incentive is being treated under § 3030.128(f)(2) or under § 3030.128(f)(1) and (g);

(2) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3030.128(f)(2), whether the rate incentive is available to all mailers equally on the same terms and conditions;

(3) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3030.128(f)(2), sufficient information to demonstrate that the rate incentive is a rate of general applicability, which at a minimum includes: the terms and conditions of the rate incentive; the factors that determine eligibility for the rate incentive; a statement that affirms that the rate incentive will not

benefit a single mailer; and a statement that affirms that the rate incentive is not only available upon the written agreement of both the Postal Service and a mailer, or group of mailers, or a foreign postal operator.

(k) For each class or product where the attributable cost for that class or product exceeded the revenue from that class or product as determined by the Commission, a demonstration that the planned rate adjustments comply with the requirements in subpart G of this part.

§ 3030.124 Docket and notice.

(a) The Commission will establish a docket for each rate adjustment filed by the Postal Service under § 3030.121, promptly publish notice of the filing in the **Federal Register**, and post the filing on its website. The notice shall include the items specified in paragraphs (b) through (g) of this section.

(b) The general nature of the proceeding.

(c) A reference to legal authority under which the proceeding is to be conducted.

(d) A concise description of the planned changes in rates, fees, and the Mail Classification Schedule.

(e) The identification of an officer of the Commission to represent the interests of the general public in the docket.

(f) A period of 30 days from the date of the filing for public comment.

(g) Such other information as the Commission deems appropriate.

§ 3030.125 Opportunity for comments.

Public comments should focus on whether planned rate adjustments comport with applicable statutory and regulatory requirements.

§ 3030.126 Proceedings.

(a) If the Commission determines that the rate adjustment filing does not substantially comply with the requirements of §§ 3030.122 and 3030.123, the Commission may:

(1) Inform the Postal Service of the deficiencies and provide an opportunity for the Postal Service to take corrective action;

(2) Toll or otherwise modify the procedural schedule until such time the Postal Service takes corrective action;

(3) Dismiss the rate adjustment filing without prejudice; or

(4) Take other action as deemed appropriate by the Commission.

(b) Within 21 days of the conclusion of the public comment period the Commission will determine whether the planned rate adjustments are consistent with applicable law and issue an order announcing its findings. Applicable law means only the applicable requirements of this part, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629.

(c) If the planned rate adjustments are found consistent with applicable law, they may take effect.

(d) If the planned rate adjustments are found inconsistent with applicable law, the Commission will notify and require the Postal Service to respond to any issues of noncompliance.

(e) Following the Commission's notice of noncompliance, the Postal Service may submit an amended rate adjustment filing that describes the modifications to its planned rate adjustments that will bring its rate adjustments into compliance. An amended rate adjustment filing shall be accompanied by sufficient explanatory information to show that all deficiencies identified by the Commission have been corrected.

(f) The Commission will allow a period of 10 days from the date of the amended rate adjustment filing for public comment.

(g) The Commission will review the amended rate adjustment filing together with any comments filed for compliance and issue an order announcing its findings within 21 days after the comment period ends.

(h) If the planned rate adjustments as amended are found to be consistent with applicable law, they may take effect. However, no amended rate shall take effect until 45 days after the Postal Service transmits its rate adjustment filing specifying that rate.

(i) If the planned rate adjustments in an amended rate adjustment filing are found to be inconsistent with applicable law, the Commission shall explain the basis for its determination and suggest an appropriate remedy. Noncompliant rates may not go into effect.

(j) A Commission finding that a planned rate adjustment is in compliance with the applicable requirements of this part, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629 is decided on the merits. A Commission finding that a planned rate adjustment does not contravene other policies of 39 U.S.C. chapter 36, subchapter I is provisional and subject to subsequent review.

§ 3030.127 Maximum rate adjustment authority.

(a) The maximum rate adjustment authority available to the Postal Service for each class of market dominant mail is limited to the sum of the percentage points developed in:

(1) Subpart C—Consumer Price Index Rate Authority;

(2) Subpart D—Density Rate Authority;

(3) Subpart E—Retirement Obligation Rate Authority;

(4) Subpart G—Non-compensatory Classes or Products; and

(5) Subpart H—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority.

(b) For any product where the attributable cost for that product exceeded the revenue from that product as determined by the Commission, rates may not be reduced.

§ 3030.128 Calculation of percentage change in rates.

(a) For the purpose of calculating the percentage change in rates, the current rate is the rate in effect at the time of the rate adjustment filing under § 3030.121 with the following exceptions.

(1) A seasonal or temporary rate shall be identified and treated as a rate cell separate and distinct from the corresponding non-seasonal or permanent rate. When used with respect to a seasonal or temporary rate, the current rate is the most recent rate in effect for the rate cell, regardless of whether the seasonal or temporary rate is available at the time of the rate adjustment filing.

(2) When used with respect to a rate cell that corresponds to a rate incentive that was previously excluded from the calculation of the percentage change in rates, the current rate is the full undiscounted rate in effect for the rate cell at the time of the rate adjustment filing, not the discounted rate in effect for the rate cell at such time.

(b) For the purpose of calculating the percentage change in rates, the volume for each rate cell shall be obtained from the most recently available 12 months of Postal Service billing determinants with the following permissible adjustments.

(1) The Postal Service shall make reasonable adjustments to the billing determinants to account for the effects of classification changes such as the introduction, deletion, or redefinition of rate cells. The Postal Service shall identify and explain all adjustments. All information and calculations relied upon to develop the adjustments shall be provided together with an explanation of why the adjustments are appropriate.

(2) Whenever possible, adjustments shall be based on known mail characteristics or historical volume data, as opposed to forecasts of mailer behavior.

(3) For an adjustment accounting for the effects of the deletion of a rate cell when an alternate rate cell is not available, the Postal Service should adjust the billing determinants associated with the rate cell to 0. If the Postal Service does not adjust the billing determinants for the rate cell to 0, the Postal Service shall include a rationale for its treatment of the rate cell with the information required under paragraph (b)(1) of this section.

(c) For a rate adjustment that involves a rate increase, for each class of mail and product within the class, the percentage change in rates is calculated in three steps. First, the volume of each rate cell in the class is multiplied by the planned rate for the respective cell and the resulting products are summed. Second, the same set of rate cell volumes is multiplied by the corresponding current rate for each cell and the resulting products are summed. Third, the percentage change in rates is calculated by dividing the results of the first step by the results of the second step and subtracting 1 from the quotient. The result is expressed as a percentage.

(d) For rate adjustments that only involve a rate decrease, for each class of mail and product within the class, the percentage change in rates is calculated by amending the workpapers attached to the Commission's order relating to the most recent rate adjustment filing that involved a rate increase to replace the planned rates under the most recent rate adjustment filing that involves a rate increase with the corresponding

planned rates applicable to the class from the rate adjustment filing involving only a rate decrease.

(e) The formula for calculating the percentage change in rates for a class, described in paragraphs (c) and (d) of this section, is as follows:

Percentage change in rates =

$$\left(\sum_{i=1}^{N}(R_{i,n})(V_i) \,/\, \sum_{i=1}^{N}(R_{i,c})(V_i)\right) - 1$$

Where,

N = number of rate cells in the class

i = denotes a rate cell (i = 1, 2,…, N)

Ri,n = planned rate of rate cell i

Ri,c = current rate of rate cell i (for rate adjustment involving a rate increase) or rate from most recent rate adjustment involving a rate increase for rate cell i (for a rate adjustment only involving a rate decrease)

Vi = volume of rate cell i

(f) Treatment of rate incentives.

(1) Rate incentives may be excluded from a percentage change in rates calculation. If the Postal Service elects to exclude a rate incentive from a percentage change in rates calculation, the rate incentive shall be treated in the same manner as a rate under a negotiated service agreement (as described in § 3030.128(g)).

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can be easily translated into a discount;

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior);

(iii) The rate incentive is a rate of general applicability; and

(iv) The rate incentive is made available to all mailers equally on the same terms and conditions.

(g) Treatment of volume associated with negotiated service agreements and rate incentives that are not rates of general applicability.

(1) Mail volumes sent at rates under a negotiated service agreement or a rate incentive that is not a rate of general applicability are to be included in the calculation of the percentage change in rates under this section as though they paid the appropriate rates of general applicability. Where it is impractical to identify the rates of general applicability (*e.g.,* because unique rate categories are created for a mailer), the volumes associated with the mail sent under the terms of the negotiated service agreement or the rate incentive that is not a rate of general applicability shall be excluded from the calculation of the percentage change in rates.

(2) The Postal Service shall identify and explain all assumptions it makes with respect to the treatment of negotiated service agreements and rate incentives that are not rates of general applicability in the calculation of the percentage change in rates and provide the rationale for its assumptions.

§ 3030.129 Exceptions for de minimis rate increases.

(a) The Postal Service may request that the Commission review a de minimis rate increase without immediately calculating the maximum rate adjustment authority or banking unused rate adjustment authority. For this exception to apply, requests to review de minimis rate adjustments must be filed separately from any other request to review a rate adjustment filing.

(b) Rate adjustments resulting in rate increases are de minimis if:

(1) For each affected class, the rate increases do not result in the percentage change in rates for the class equaling or exceeding 0.001 percent; and

(2) For each affected class, the sum of all rate increases included in de minimis rate increases since the most recent rate adjustment resulting in a rate increase, or the most recent rate adjustment due to extraordinary and exceptional circumstances, that was not a de minimis rate increase does not result in the percentage change in rates for the class equaling or exceeding 0.001 percent.

(c) If the rate adjustments are de minimis, no unused rate adjustment authority will be added to the schedule of banked rate adjustment authority maintained under subpart G of this part as a result of the de minimis rate increase.

(d) If the rate adjustments are de minimis, no rate decreases may be taken into account when determining whether rate increases comply with paragraphs (b)(1) and (2) of this section.

(e) In the next rate adjustment filing proposing to increase rates for a class that is not a de minimis rate increase:

(1) The maximum rate adjustment authority shall be calculated as if the de minimis rate increase had not been filed; and

(2) For purposes of calculating the percentage change in rates, the current rate shall be the current rate from the de minimis rate increase.

(f) The Postal Service shall file supporting workpapers with each request to review a de minimis rate increase that demonstrate that the sum of all rate increases included in de minimis rate increases since the most recent rate adjustment resulting in a rate increase that was not de minimis, or the most recent rate adjustment due to extraordinary and exceptional circumstances, does not result in a percentage change in rates for the class equaling or exceeding 0.001 percent.

(g) For any product where the attributable cost for that product exceeded the revenue from that product as determined by the Commission, rates may not be reduced.

Subpart C—Consumer Price Index Rate Authority

§ 3030.140 Applicability.

The Postal Service may adjust rates based upon changes in the Consumer Price Index for all Urban Consumers (CPI-U) identified in § 3030.141. If rate adjustment filings involving rate increases are filed 12 or more months apart, rate adjustments are subject to a full year limitation calculated pursuant to § 3030.142. If rate adjustment filings involving rate increases are filed less than 12 months apart, rate adjustments are subject to a partial year limitation calculated pursuant to § 3030.143.

§ 3030.141 CPI-U data source.

The monthly CPI-U values needed for the calculation of rate adjustment limitations under this section shall be obtained from the Bureau of Labor Statistics (BLS) Consumer Price Index—All Urban Consumers, U.S. All Items, Not Seasonally Adjusted, Base Period 1982-84 = 100. The current Series ID for the index is "CUUR0000SA0."

§ 3030.142 CPI-U rate authority when rate adjustment filings are 12 or more months apart.

(a) If a rate adjustment filing involving a rate increase is filed 12 or more months after the most recent rate adjustment filing involving a rate increase, then the calculation of an annual limitation for the class (full year limitation) involves three steps. First, a simple average CPI-U index is calculated by summing the most recently available 12 monthly CPI-U values from the date of the rate adjustment filing and dividing the sum by 12 (Recent Average). Second, a second simple average CPI-U index is similarly calculated by summing the 12 monthly CPI-U values immediately preceding the Recent Average and dividing the sum by 12 (Base Average). Third, the full year limitation is

calculated by dividing the Recent Average by the Base Average and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(b) The formula for calculating a full year limitation for a rate adjustment filing filed 12 or more months after the last rate adjustment filing is as follows: Full Year Limitation = (Recent Average/Base Average)−1.

§ 3030.143 CPI-U rate authority when rate adjustment filings are less than 12 months apart.

(a) If a rate adjustment filing involving a rate increase is filed less than 12 months after the most recent rate adjustment filing involving a rate increase, then the annual limitation for the class (partial year limitation) will recognize the rate increases that have occurred during the preceding 12 months. When the effects of those increases are removed, the remaining partial year limitation is the applicable restriction on rate increases.

(b) The applicable partial year limitation is calculated in two steps. First, a simple average CPI-U index is calculated by summing the 12 most recently available monthly CPI-U values from the date of the rate adjustment filing and dividing the sum by 12 (Recent Average). Second, the partial year limitation is then calculated by dividing the Recent Average by the Recent Average from the most recent previous rate adjustment filing (Previous Recent Average) applicable to each affected class of mail and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(c) The formula for calculating the partial year limitation for a rate adjustment filing filed less than 12 months after the last rate adjustment filing is as follows: Partial Year Limitation = (Recent Average/Previous Recent Average) − 1.

Subpart D—Density Rate Authority

§ 3030.160 Applicability.

(a) This subpart allocates rate authority to address the effects of decreases in the density of mail as measured by the sources identified in § 3030.161. The calculation of the additional rate authority corresponding to the change in density is described in § 3030.162.

(b) The Postal Service shall file a notice with the Commission by December 31 of each year that calculates the amount of density rate authority that is eligible to be authorized under this subpart.

(c) The Commission shall review the Postal Service's notice and determine how much, if any, rate authority will be authorized under this subpart. Any rate authority allocated under this subpart:

(1) Shall be made available to the Postal Service as of the date of the Commission's determination;

(2) Must be included in the calculation of the maximum rate adjustment authority in the first generally applicable rate adjustment filed after the Commission's determination; and

(3) May be used to generate unused rate authority, if unused, within 12 months of the Commission's announcement.

§ 3030.161 Density calculation data sources.

(a) The data needed for the calculation of the density rate authority in § 3030.162 shall be obtained from the values reported by the Postal Service as specified in paragraphs (b) through (d) of this section. When both originally filed and annually revised data are available, the originally filed data shall be used. When the originally filed data are corrected through a refiling or in the Commission's Annual Compliance Determination report, the corrected version of the originally filed data shall be used.

(b) Market dominant volume and total volume from the Revenue, Pieces, and Weight report, filed by the Postal Service under § 3050.25 of this chapter;

(c) Institutional costs and total costs from the Cost and Revenue Analysis report, filed with the Postal Service's section 3652 report; and

(d) The number of delivery points, from the input data used to produce the Total Factor Productivity estimates, filed with the Postal Service's section 3652 report.

§ 3030.162 Calculation of density rate authority.

(a) *Formulas*—(1) The formula for calculating the amount of density rate authority, in conformance with paragraph (b)(1) of this section, is as follows:

Density rate authority = the greater of 0 and

$$-1 * \frac{\mathrm{IC_T}}{\mathrm{TC_T}} * \%\Delta \mathrm{D}_{[\mathrm{T}-1,\mathrm{T}]}$$

Where,

T = most recently completed fiscal year

T-1 = fiscal year prior to fiscal year T

IC_T = institutional cost in fiscal year T

TC_T = total cost in fiscal year T

$\%\Delta D_{[T-1,T]}$ = Percentage change in density from fiscal year T-1 to fiscal year T

(2) The formula for calculating the percentage change in density, in conformance with paragraph (b)(2) of this section, is as follows:

Percentage change in density from prior fiscal year =

$$\frac{\frac{V_T}{DP_T}}{\frac{V_{T-1}}{DP_{T-1}}} - 1$$

Where,

T = most recently completed fiscal year

T-1 = fiscal year prior to fiscal year T

V_T = volume in fiscal year T (either market dominant volume or total volume as discussed in paragraph (b)(2) of this section)

DP_T = delivery points in fiscal year T

(b) *Calculation*—(1) The amount of density rate authority available under this section shall be calculated in three steps. First, the percentage change in density during the most recently completed fiscal year shall be calculated using the formula in paragraph (a)(2) of this section as described in paragraph (b)(2) of this section.

Second, this percentage change shall be multiplied by the institutional cost ratio, which is calculated as institutional costs for the most recently completed fiscal year divided by total costs for that fiscal year. Finally, this product shall be multiplied by negative 1 so that declines in density correspond to a positive increase in rates. If the result of this calculation is less than 0, the amount of additional rate authority shall be 0.

(2) The percentage change in density from the prior fiscal year shall be calculated as the ratio of volume to delivery points for the most recently completed fiscal year, divided by the same ratio for the prior fiscal year, and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places. To ensure that decreases in competitive product volume will not result in the Postal Service receiving greater additional rate adjustment authority under this subpart, the percentage change in density shall be calculated two ways: using market dominant volume and using total volume. The greater of the two results (not using absolute value) shall be used as the percentage change in density from the prior fiscal year.

Subpart E—Retirement Obligation Rate Authority

§ 3030.180 Definitions.

(a) The definitions in paragraphs (b) through (e) of this section apply to this subpart.

(b) "Amortization payments" mean the amounts that the Postal Service is invoiced by the U.S. Office of Personnel Management to provide for the liquidation of

the specific and supplemental unfunded liabilities by statutorily predetermined dates, as described in § 3030.182(a).

(c) "Phase-in period" means the period of time spanning the fiscal years of issuance of the first five determinations following the effective date of this subpart, as specified by the timing provisions in § 3030.181.

(d) "Required minimum remittance" means the minimum amount the Postal Service is required to remit during a particular fiscal year, as calculated under § 3030.184.

(e) "Revenue collected under this subpart" means the amount of revenue collected during a fiscal year as a result of all previous rate increases authorized under this subpart, as calculated under § 3030.184.

§ 3030.181 Applicability.

(a) This subpart allocates additional rate authority to provide the Postal Service with revenue for remittance towards the statutorily mandated amortization payments for supplemental and unfunded liabilities identified in § 3030.182. As described in § 3030.184, for retirement obligation rate authority to be made available, the Postal Service must annually remit towards these amortization payments all revenue collected under this subpart previously. The full retirement obligation rate authority, calculated as described in § 3030.183, shall be phased in over 5 fiscal years, taking into account changes in volume during the phase-in period. If combined with an equal rate increase on Competitive products, the compounded rate increase resulting from retirement

obligation rate authority is calculated to generate sufficient additional revenue at the end of the phase-in period to permit the Postal Service to remit the entire invoiced amount of its amortization payments.

(b) Until the conclusion of the phase-in period, the Postal Service shall file a notice with the Commission by December 31 of each year that calculates the amount of retirement obligation rate authority that is eligible to be authorized under this subpart.

(c) The Commission shall review the Postal Service's notice and determine how much, if any, rate authority will be authorized under this subpart. Any rate authority allocated under this subpart:

(1) Shall be made available to the Postal Service as of the date of the Commission's determination;

(2) Must be included in the calculation of the maximum rate adjustment authority in the first generally applicable rate adjustment filed after the Commission's determination;

(3) Shall lapse if not used in the first generally applicable rate adjustment filed after the Commission's determination;

(4) Shall lapse if unused, within 12 months of the Commission's determination, however this subparagraph shall not prohibit the Postal Service from making a stand-alone adjustment to one or two generally applicable rate cells, if such a case were to be followed by a broader rate adjustment in the class later in the same fiscal year; and

(5) May not be used to generate unused rate authority, nor shall it affect existing banked rate authority.

§ 3030.182 Retirement obligation data sources.

(a) The amounts of the amortization payments needed for the calculation of retirement obligation rate adjustment authority in § 3030.183 shall be obtained from notifications to the Postal Service by the Office of Personnel Management of annual determinations of the funding amounts specific to payments at the end of each fiscal year for Retiree Health Benefits as computed under 5 U.S.C. 8909a(d)(2)(B) and (d)(3)(B)(ii); the Civil Service Retirement System as computed under 5 U.S.C. 8348(h)(2)(B); and the Federal Employees Retirement System as computed under 5 U.S.C. 8423(b)(1)(B), (b)(2) and (b)(3)(B), filed with the Postal Service's section 3652 report.

(b) The values for market dominant revenue, total revenue and market dominant volumes needed for the calculation of retirement obligation rate authority in § 3030.183 shall be obtained from values reported in the Revenue, Pieces, and Weight report, filed by the Postal Service under § 3050.25 of this chapter.

(c) The values for additional rate authority previously provided under this subpart, if any, needed for the calculation of retirement obligation rate authority in § 3030.183 and the calculation of required minimum remittances under § 3030.184 shall be obtained from the Commission's prior determinations.

§ 3030.183 Calculation of retirement obligation rate authority.

(a) *Formulas*—(1) The formula for calculating the amount of retirement obligation rate authority available under this subpart, described in paragraph (b)(1) of this section, is as follows:

Additional rate authority in fiscal year T+1 =

$$\left(1 + \frac{AP_T}{TR_T} - PARA_T\right)^{\frac{1}{5-N}} - 1$$

Where,

T = most recently completed fiscal year

AP_T = total amortization payment for fiscal year T

TR_T = total revenue in fiscal year T

$PARA_T$ = previously authorized retirement obligation rate authority, compounded through fiscal year T, expressed as a proportion of the market dominant rate base and calculated using the formula in paragraph (a)(2) of this section as described in paragraph (b)(2) of this section

N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart

(2) The formula for calculating the amount of previously authorized retirement obligation rate authority through fiscal year T, described in paragraph (b)(2) of this section, is as follows:

Previously authorized retirement obligation rate authority through fiscal year T =

$$1 - \left(\prod_{t=T-N}^{T} (1 + r_t) \right)^{-1}$$

Where,

T = most recently completed fiscal year

r_t = retirement obligation rate authority authorized in fiscal year t

N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart

(b) *Calculations*—(1) The amount of retirement obligation rate authority available for a fiscal year shall be calculated in four steps. First, the ratio of the total amortization payment for the fiscal year under review to the total revenue in the fiscal year under review shall be added to 1. This sum represents the factor by which an equal increase in market dominant and competitive rates in the fiscal year under review would generate sufficient additional revenue to make the full amortization payment. It does not account, however, for any previous rate authority authorized under this subpart. The second step is therefore to subtract the proportion of the market dominant rate base resulting from previously authorized retirement obligation rate authority. That proportion is calculated using the formula in § 3030.183(a)(2) as described in § 3030.183(b)(2) Third, to amortize the resulting amount of retirement obligation rate authority over the remainder of the phase-in period, the difference shall be raised to the power of the inverse of the number of determinations remaining in the phase-in period,

including the current determination. Finally, 1 shall be subtracted from the result to convert from a proportional change in rates to a percentage of rate adjustment authority.

(2) The amount of previously authorized retirement obligation rate authority shall be calculated in two steps. First, the sums of 1 and the amount of retirement obligation rate authority authorized in each of the previous fiscal years shall be multiplied together. This product represents the compounded amount of such rate authority, expressed as a net rate increase. To express this product as a proportion of the market dominant rate base, the second step is to subtract the inverse of this product from 1.

§ 3030.184 Required minimum remittances.

(a) *Minimum remittances*. During each fiscal year subsequent to the year of the effective date of this subpart, the Postal Service shall remit towards the liabilities identified in § 3030.182 an amount equal to or greater than the amount of revenue collected as a result of all previous rate increases under this subpart during the previous fiscal year, as calculated using the formulas in paragraph (b) of this section, as described in paragraph (c) of this section.

(b) *Formulas*—(1) The formula for calculating the amount of revenue collected under this subpart during a fiscal year, described in paragraph (c)(1) of this section, is as follows:

Amount of revenue =

$$MDR_T\left(1-\left(\prod_{t=T-N}^{T} 1+(p_t)(r_t)\right)^{-1}\right)$$

Where,

T = most recently completed fiscal year

MDR_T = market dominant revenue in fiscal year T

N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart

r_t = retirement obligation rate authority authorized in fiscal year t

p_t = prorated fraction of r_t that was in effect during fiscal year T, calculated using the formula in paragraph (a)(2) of this section, as described in paragraph (b)(2) of this section

(2) The formula for calculating the prorated fraction of retirement obligation rate authority authorized in a particular fiscal year *t* that was in effect during the most recently completed fiscal year, described in paragraph (c)(2) of this section, is as follows:

Prorated fraction =

$$\begin{cases} 0, & \text{if } r_t \text{ was not in effect during fiscal year T} \\ 1, & \text{if } r_t \text{ was in effect for all of fiscal year T} \\ \dfrac{\left(\dfrac{E_Q}{D_Q}\right)\left(QMDV_Q\right) + \sum_{i=Q+1}^{4} QMDV_i}{MDV_T}, & \text{if } r_t \text{ came into effect during fiscal year T} \end{cases}$$

Where,

T = most recently completed fiscal year

r_t = retirement obligation rate authority authorized under this subpart in fiscal year t

Q = the number of the quarter during the fiscal year of the effective date of the price increase including retirement obligation rate authority made available under this subpart

E_Q = number of days in quarter Q subsequent to and including the effective date of the price increase

D_Q = total number of days in quarter Q

$QMDV_Q$ = market dominant volume in quarter Q

MDV_T = market dominant volume in fiscal year T

(c) *Calculations*—(1) The amount of revenue collected under this subpart during a fiscal year, as calculated by the formula in paragraph (b)(1) of this section, shall be calculated in three steps. First, the sums of 1 and the amount of retirement obligation rate authority made available under this subpart during each previous fiscal year—prorated to account for mid-year price increases as described in paragraph (b)(2) of this section—shall be multiplied together. This product represents the proportion by which prices were higher during the most recently completed fiscal year as a result of retirement obligation rate authority. Second, to express this net price increase as a proportion of market dominant revenue, the inverse of this product shall be subtracted from 1. Finally, the result shall be multiplied by market dominant revenue for the fiscal year to change the proportion into a dollar amount.

(2) The prorated fraction of retirement obligation rate authority authorized in a particular fiscal year that was in effect during the most recently completed fiscal year, as calculated by the formula in paragraph (b)(2) of this section, shall be a piecewise

function of three parts. First, if the retirement obligation rate authority authorized in a particular year was not in effect during the most recently completed fiscal year, the prorated fraction shall be 0. Second, if the retirement obligation rate authority authorized in a particular year was in effect during the entirety of the most recently completed fiscal year, the prorated fraction shall be 1. Finally, if the retirement obligation rate authority authorized in a particular fiscal year was used to raise prices during the most recently completed fiscal year, the prorated fraction shall be the proportion of volume sent during the fiscal year after that rate increase went into effect.

This proportion shall be calculated in four steps. First, the number of days of the fiscal quarter after and including the effective date of the price adjustment including the retirement obligation rate authority shall be divided by the total number of days in that fiscal quarter. This quotient determines the proportion of days in that quarter in which the higher rates were in effect. Second, that quotient shall be multiplied by the market dominant volume from that fiscal quarter to determine the amount of volume during the quarter receiving the higher rates. Third, that product shall be added to the market dominant volume from any subsequent quarters of the fiscal year because the volume in those quarters was also sent under the higher rates. Finally, this sum shall be divided by the total market dominant volume from the fiscal year to determine the proportion of annual volume sent after the rate increase went into effect.

§ 3030.185 Forfeiture.

(a) If any of the circumstances described in paragraphs (b) through (d) of this section occur, the Postal Service shall not be eligible for future retirement obligation rate authority under this subpart, and the Commission may commence additional proceedings as appropriate.

(b) If, subsequent to 45 calendar days after the effective date of this subpart and prior to the end of the phase-in period, the Postal Service fails to timely file the notice required under § 3030.181(b);

(c) In any fiscal year in which retirement obligation rate authority was determined to be available under this subpart, the Postal Service fails to timely file under § 3030.122 for a rate increase including the full amount of retirement obligation rate authority authorized under this subpart during that fiscal year, to take effect prior to the end of that fiscal year; or

(d) In any fiscal year including or subsequent to the first fiscal year in which rate authority under this subpart was used to adjust market dominant rates, the Postal Service's total payments towards the supplemental and unfunded liabilities identified in § 3030.182 are not equal to or greater than the minimum remittance required for that fiscal year under § 3030.184(a).

Subpart F—[Reserved]

Subpart G—Non-compensatory Classes or Products

§ 3030.220 Applicability.

This subpart is applicable to a class or product where the attributable cost for that class or product exceeded the revenue from that class or product as determined by the Commission. Section 3030.221 is applicable where the attributable cost for a product within a class exceeded the revenue from that particular product where the product is classified within a class where the overall class revenue exceeded the attributable cost for that class. Section 3030.222 is applicable where the attributable cost for an entire class exceeded the revenue from that class.

§ 3030.221 Individual product requirement.

Whenever the Postal Service files a rate adjustment filing affecting a class of mail which includes a product where the attributable cost for that product exceeded the revenue from that product, as determined by the Commission, the Postal Service shall increase the rates for each non-compensatory product by a minimum of 2 percentage points above the percentage increase for that class. This section does not create additional rate authority applicable to any class of mail. This section only applies to products classified within classes for which the overall class revenue exceeded the attributable cost for that class. This section does not apply to a non-compensatory product for which the Commission has determined that the Postal Service lacks independent authority to set rates (such as rates set by treaty obligation).

§ 3030.222 Class requirement and additional class rate authority.

(a) This section provides 2 percentage points of additional rate authority for any class of mail where the attributable cost for that class exceeded the revenue from that class as determined by the Commission. This additional rate authority is optional and may be used at the Postal Service's discretion.

(b) The Commission shall announce how much, if any, rate authority will be authorized under this subpart. Any rate authority allocated under this subpart:

(1) Shall be made available to the Postal Service as of the date of the Commission's announcement;

(2) Must be included in the calculation of the maximum rate adjustment authority change in rates in the first generally applicable rate adjustment filed after the Commission's announcement; and

(3) May be used to generate unused rate authority, if unused, within 12 months of the Commission's announcement.

Subpart H—Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority

§ 3030.240 General.

Unless a specific exception applies, unused rate adjustment authority, on a class-by-class basis, shall be calculated for each rate adjustment filing. Unused rate adjustment authority shall be added to the schedule of banked rate authority in each

instance, and be available for application to rate adjustments pursuant to the requirements of this subpart.

§ 3030.241 Schedule of banked rate adjustment authority.

Upon the establishment of unused rate adjustment authority, the Postal Service shall devise and maintain a schedule that tracks the establishment and subsequent use of banked rate authority on a class-by-class basis. At a minimum, the schedule must track the amount of banked rate authority available immediately prior to the rate adjustment filing and the amount of banked rate authority available upon acceptance of the rates included in the rate adjustment filing. It shall also track all changes to the schedule, including the docket numbers of Commission decisions affecting the schedule, the dates and amounts that any rate authority was generated or subsequently expended, and the expiration dates of all rate adjustment authority. The schedule shall be included with any rate adjustment filing purporting to modify the amount of banked rate adjustment authority.

§ 3030.242 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed 12 months apart or less.

(a) When rate adjustment filings that involve a rate increase are filed 12 months apart or less, unused rate adjustment authority for a class is equal to the difference between the maximum rate adjustment authority as summarized by § 3030.127 and calculated pursuant to subparts C through H of this part, as appropriate, and the

percentage change in rates for the class calculated pursuant to § 3030.128, subject to the limitations described in paragraph (b) of this section.

(b) For rate adjustment filings that involve a rate increase, unused rate adjustment authority cannot exceed the unused portion of rate authority calculated pursuant to subparts C and D of this part, and § 3030.222.

§ 3030.243 Calculation of unused rate adjustment authority for rate adjustments that involve a rate increase which are filed more than 12 months apart.

(a) When rate adjustment filings that involve a rate increase are filed more than 12 months apart, any interim rate adjustment authority must first be added to the schedule of banked rate authority before the unused rate adjustment authority is calculated.

(b) Interim rate adjustment authority for a class is equal to the Base Average applicable to the second rate adjustment filing (as developed pursuant to § 3030.142) divided by the Recent Average utilized in the first rate adjustment filing (as developed pursuant to § 3030.142) and subtracting 1 from the quotient. The result is expressed as a percentage and immediately added to the schedule of banked rate authority as of the date the rate adjustment filing is filed. If the Commission announces that rate authority calculated pursuant to subpart D of this part or § 3030.222 are available and no rate adjustment is filed before the Commission subsequently announces that further rate authority calculated pursuant to subpart D of this part or § 3030.222 are available, then the amount of rate authority calculated pursuant to subpart D of this part and

§ 3030.222 in the first Commission announcement shall be added to the interim rate adjustment authority.

(c) Unused rate adjustment authority for a class is equal to the difference between the maximum rate adjustment authority as summarized by § 3030.127 and calculated pursuant to subparts C through H of this part, as appropriate, and the percentage change in rates for the class calculated pursuant to § 3030.128, subject to the limitations described in paragraph (d) of this section.

(d) For rate adjustment filings that involve a rate increase, unused rate adjustment authority cannot exceed the unused portion of rate authority calculated pursuant to subparts C and D of this part, and § 3030.222.

§ 3030.244 Calculation of unused rate adjustment authority for rate adjustments that only include rate decreases.

(a) For rate adjustment filings that only include rate decreases, unused rate adjustment authority for a class is calculated in two steps. First, the difference between the maximum rate adjustment authority as summarized by § 3030.127 and calculated pursuant to subparts C through H of this part, as appropriate, for the most recent rate adjustment that involves a rate increase and the percentage change in rates for the class calculated pursuant to § 3030.128(d) is calculated. Second, the unused rate adjustment authority generated in the most recent rate adjustment that involves a rate increase is subtracted from that result.

(b) Unused rate adjustment authority generated under paragraph (a) of this section for a class shall be added to the unused rate adjustment authority generated in the most recent rate adjustment that involves a rate increase on the schedule maintained under § 3030.241. For purposes of § 3030.244, the unused rate adjustment authority generated under paragraph (a) of this section for a class shall be deemed to have been added to the schedule maintained under § 3030.241 on the same date as the most recent rate adjustment filing that involves a rate increase.

(c) For rate adjustment filings that only include rate decreases, the sum of unused rate adjustment authority generated under paragraph (a) of this section and the unused rate adjustment authority generated in the most recent rate adjustment that involves a rate increase cannot exceed the unused portion of rate adjustment authority calculated pursuant to subparts C and D of this part, and § 3030.222 in the most recent rate adjustment that involves a rate increase.

(d) Unused rate adjustment authority generated under paragraph (a) of this section shall be subject to the limitation under § 3030.245, regardless of whether it is used alone or in combination with other existing unused rate adjustment authority.

(e) For rate adjustment filings that only include rate decreases, unused rate adjustment authority generated under this section lapses 5 years from the date of filing of the most recent rate adjustment filing that involves a rate increase.

(f) A rate adjustment filing that only includes rate decreases that is filed immediately after a rate adjustment due to extraordinary or exceptional circumstances

(*i.e.,* without an intervening rate adjustment involving a rate increase) may not generate unused rate adjustment authority.

§ 3030.245 Application of banked rate authority.

(a) Banked rate authority may be applied to any planned rate adjustment subject to the limitations appearing in paragraphs (b) through (f) of this section.

(b) Banked rate authority may only be applied to a proposal to adjust rates after applying rate authority as described in subparts C through F of this part and in § 3030.222, Class requirement and additional class rate authority.

(c) A maximum of 2 percentage points of banked rate authority may be applied to a rate adjustment for any class in any 12-month period. If banked rate authority is used, it shall be subtracted from the schedule of banked rate adjustment authority as of the date of the final order accepting the rates.

(d) Subject to paragraphs (b) and (c) of this section, interim rate adjustment authority may be used to make a rate adjustment pursuant to the rate adjustment filing that led to its calculation. If interim rate adjustment authority is used to make such a rate adjustment, the interim rate adjustment authority generated pursuant to the rate adjustment filing shall first be added to the schedule of banked rate adjustment authority pursuant to § 3030.241 as the most recent entry. Then, any interim rate adjustment authority used in accordance with this paragraph shall be subtracted from the existing banked rate adjustment authority using a first-in, first-out (FIFO) method, beginning 5 years before the instant rate adjustment filing.

(e) Banked rate authority for a class must be applied, using a first-in, first-out (FIFO) method, beginning 5 years before the instant rate adjustment filing.

(f) Banked rate adjustment authority calculated under this section shall lapse 5 years from the date of the rate adjustment filing leading to its calculation.

Subpart I—Rate Adjustments Due to Extraordinary and Exceptional Circumstances

§ 3030.260 General.

The Postal Service may request to adjust rates for market dominant products due to extraordinary or exceptional circumstances pursuant to 39 U.S.C. 3622(d)(1)(E). The rate adjustments are not subject to rate adjustment limitations or the restrictions on the use of unused rate adjustment authority. The rate adjustment request may not include material classification changes. The request is subject to public participation and Commission review within 90 days.

§ 3030.261 Contents of a request.

(a) Each exigent request shall include the items specified in paragraphs (b) through (i) of this section.

(b) A schedule of the planned rates.

(c) Calculations quantifying the increase for each affected product and class.

(d) A full discussion of the extraordinary or exceptional circumstances giving rise to the request, and a complete explanation of how both the requested overall increase and the specific rate adjustments requested relate to those circumstances.

(e) A full discussion of why the requested rate adjustments are necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

(f) A full discussion of why the requested rate adjustments are reasonable and equitable as among types of users of market dominant products.

(g) An explanation of when, or under what circumstances, the Postal Service expects to be able to rescind the exigent rate adjustments in whole or in part.

(h) An analysis of the circumstances giving rise to the exigent request, which should, if applicable, include a discussion of whether the circumstances were foreseeable or could have been avoided by reasonable prior action.

(i) Such other information as the Postal Service believes will assist the Commission in issuing a timely determination of whether the requested rate adjustments are consistent with applicable statutory policies.

§ 3030.262 Supplemental information.

The Commission may require the Postal Service to provide clarification of its request or to provide additional information in order to gain a better understanding of the circumstances leading to the request or the justification for the specific rate adjustments

requested. The Postal Service shall include within its request the identification of one or more knowledgeable Postal Service official(s) who will be available to provide prompt responses to Commission requests for clarification or additional information.

§ 3030.263 Docket and notice.

(a) The Commission will establish a docket for each request to adjust rates due to extraordinary or exceptional circumstances, publish notice of the request in the **Federal Register**, and post the filing on its website. The notice shall include the items specified in paragraphs (b) through (g) of this section.

(b) The general nature of the proceeding.

(c) A reference to legal authority under which the proceeding is to be conducted.

(d) A concise description of the proposals for changes in rates, fees, and the Mail Classification Schedule.

(e) The identification of an officer of the Commission to represent the interests of the general public in the docket.

(f) A specified period for public comment.

(g) Such other information as the Commission deems appropriate.

§ 3030.264 Public hearing.

(a) The Commission will hold a public hearing on the Postal Service's request. During the public hearing, responsible Postal Service officials will appear and respond under oath to questions from the Commissioners or their designees addressing previously identified aspects of the Postal Service's request and supporting information.

(b) Interested persons will be given an opportunity to submit to the Commission suggested relevant questions that might be posed during the public hearing. Such questions, and any explanatory materials submitted to clarify the purpose of the questions, should be filed in accordance with § 3010.120 of this chapter, and will become part of the administrative record of the proceeding.

(c) The timing and length of the public hearing will depend on the nature of the circumstances giving rise to the request and the clarity and completeness of the supporting materials provided with the request.

(d) If the Postal Service is unable to provide adequate explanations during the public hearing, supplementary written or oral responses may be required.

§ 3030.265 Opportunity for comments.

(a) Following the conclusion of the public hearings and submission of any supplementary materials, interested persons will be given the opportunity to submit written comments on:

(1) The sufficiency of the justification for an exigent rate adjustment;

(2) The adequacy of the justification for adjustments in the amounts requested by the Postal Service; and

(3) Whether the specific rate adjustments requested are reasonable and equitable.

(b) An opportunity to submit written reply comments will be given to the Postal Service and other interested persons.

§ 3030.266 Deadline for Commission decision.

Requests under this subpart seek rate relief required by extraordinary or exceptional circumstances and will be treated with expedition at every stage. It is Commission policy to provide appropriate relief as quickly as possible consistent with statutory requirements and procedural fairness. The Commission will act expeditiously on the Postal Service's request, taking into account all written comments. In every instance, a Commission decision will be issued within 90 days of the filing of an exigent request.

§ 3030.267 Treatment of banked rate adjustment authority.

(a) Each request will identify the banked rate adjustment authority available as of the date of the request for each class of mail and the available amount for each of the preceding 5 years.

(b) Rate adjustments may use existing banked rate adjustment authority in amounts greater than the limitations described in § 3030.245.

(c) Increases will exhaust all banked rate adjustment authority for each class of mail before imposing additional rate adjustments in excess of the maximum rate adjustment for any class of mail.

Subpart J—Workshare Discounts

§ 3030.280 Applicability.

This subpart is applicable whenever the Postal Service proposes to adjust a rate associated with a workshare discount. For the purpose of this subpart, the cost avoided by the Postal Service for not providing the applicable service refers to the amount identified in the most recently applicable Annual Compliance Determination, unless the Commission otherwise provides.

§ 3030.281 Calculation of passthroughs for workshare discounts.

For the purpose of this subpart, the percentage passthrough for any workshare discount shall be calculated by dividing the workshare discount by the cost avoided by the Postal Service for not providing the applicable service and expressing the result as a percentage.

§ 3030.282 Increased pricing efficiency.

(a) For a workshare discount that is equal to the cost avoided by the Postal Service for not providing the applicable service, no proposal to adjust a rate associated with that workshare discount may change the size of the discount.

(b) For a workshare discount that exceeds the cost avoided by the Postal Service for not providing the applicable service, no proposal to adjust a rate associated with that workshare discount may increase the size of the discount.

(c) For a workshare discount that is less than the cost avoided by the Postal Service for not providing the applicable service, no proposal to adjust a rate associated with that workshare discount may decrease the size of the discount.

§ 3030.283 Limitations on excessive discounts.

(a) No proposal to adjust a rate may set a workshare discount that would exceed the cost avoided by the Postal Service for not providing the applicable service, unless at least one of the following reasons provided in paragraphs (b) through (e) of this section applies.

(b) The proposed workshare discount is associated with a new postal service, a change to an existing postal service, or a new workshare initiative.

(c) The proposed workshare discount is a minimum of 20 percent less than the existing workshare discount.

(d) The proposed workshare discount is set in accordance with a Commission order issued pursuant to § 3030.286.

(e) The proposed workshare discount is provided in connection with a subclass of mail, consisting exclusively of mail matter of educational, cultural, scientific, or informational value (39 U.S.C. 3622(e)(2)(C)) and is in compliance with § 3030.285(c).

§ 3030.284 Limitations on discounts below avoided cost.

(a) No proposal to adjust a rate may set a workshare discount that would be below the cost avoided by the Postal Service for not providing the applicable service, unless at least one of the following reasons provided in paragraphs (b) through (e) of this section applies.

(b) The proposed workshare discount is associated with a new postal service, a change to an existing postal service, or a new workshare initiative.

(c) The proposed workshare discount is a minimum of 20 percent more than the existing workshare discount.

(d) The proposed workshare discount is set in accordance with a Commission order issued pursuant to § 3030.286.

(e) The percentage passthrough for the proposed workshare discount is at least 85 percent.

§ 3030.285 Proposal to adjust a rate associated with a workshare discount.

(a) Each proposal to adjust a rate associated with a workshare discount shall be supported by substantial evidence and demonstrate that each proposed workshare discount has been set in compliance with 39 U.S.C. 3622(e) and this subpart. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

(b) For each proposed workshare discount that would exceed the cost avoided by the Postal Service for not providing the applicable service, the rate adjustment filing shall indicate the applicable paragraph of § 3030.283 under which the Postal Service is justifying the excessive discount and include any relevant analysis supporting the claim.

(c) For each proposed workshare discount that is provided in connection with a subclass of mail, consisting exclusively of mail matter of educational, cultural, scientific, or informational value (39 U.S.C. 3622(e)(2)(C)), would exceed the cost avoided by the Postal Service for not providing the applicable service, and would not be set in accordance with at least one specific provision appearing in § 3030.283(b) through (d),

the rate adjustment filing shall provide the information specified in paragraphs (c)(1) through (3) of this section:

(1) The number of mail owners receiving the workshare discount during the most recent full fiscal year and for the current fiscal year to date;

(2) The number of mail owners for the applicable product or products in the most recent full fiscal year and for the current fiscal year to date; and

(3) An explanation of how the proposed workshare discount would promote the public interest, even though the proposed workshare discount would substantially exceed the cost avoided by the Postal Service.

(d) For each proposed workshare discount that would be below the cost avoided by the Postal Service for not providing the applicable service, the rate adjustment filing shall indicate the applicable paragraph of § 3030.284 under which the Postal Service is justifying the discount that is below the cost avoided and include any relevant analysis supporting the claim.

§ 3030.286 Application for waiver.

(a) In every instance in which the Postal Service determines to adjust a rate associated with a workshare discount in a manner that does not comply with the limitations imposed by §§ 3030.283 through 3030.284, the Postal Service shall file an application for waiver. The Postal Service must file any application for waiver at least 60 days prior to filing the proposal to adjust a rate associated with the applicable

workshare discount. In its application for waiver, the Postal Service shall indicate the approximate filing date for its next rate adjustment filing.

(b) The application for waiver shall be supported by a preponderance of the evidence and demonstrate that a waiver from the limitations imposed by §§ 3030.283 through 3030.284 should be granted. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(c) The application for waiver shall include a specific and detailed statement signed by one or more knowledgeable Postal Service official(s) who sponsors the application and attests to the accuracy of the information contained within the statement. The statement shall set forth the information specified in paragraphs (c)(1) through (8) of this section, as applicable to the specific workshare discount for which a waiver is sought:

(1) The reason(s) why a waiver is alleged to be necessary (with justification thereof), including all relevant supporting analysis and all assumptions relied upon.

(2) The length of time for which a waiver is alleged to be necessary (with justification thereof).

(3) For each subsequent rate adjustment filing planned to occur during the length of time for which a waiver is sought, a representation of the proposed minimum amount of the change to the workshare discount.

(4) For a claim that the amount of the workshare discount exceeding the cost avoided by the Postal Service for not providing the applicable service is necessary in order to mitigate rate shock (39 U.S.C. 3622(e)(2)(B)), the Postal Service shall provide an explanation addressing all of the items specified in paragraphs (c)(4)(i) through (iii) of this section:

(i) A description of the customers that the Postal Service claims would be adversely affected.

(ii) Prices and volumes for the workshare discount at issue (the benchmark and workshared mail category) for the last 10 years.

(iii) Quantitative analysis or, if not available, qualitative analysis indicating the nature and extent of the likely harm to the customers that would result from setting the workshare discount in compliance with § 3030.283(c).

(5) For a claim that setting an excessive or low workshare discount closer or equal to the cost avoided by the Postal Service for not providing the applicable service would impede the efficient operation of the Postal Service, the Postal Service shall provide an explanation addressing all of the items specified in paragraphs (c)(5)(i) through (iii) of this section:

(i) A description of the operational strategy at issue.

(ii) Quantitative analysis or, if not available, qualitative analysis indicating how the workshare discount at issue is related to that operational strategy.

(iii) How setting the workshare discount in compliance with § 3030.283(c) or § 3030.284(c), whichever is applicable, would impede that operational strategy.

(6) For a claim that reducing or eliminating the excessive workshare discount would lead to a loss of volume in the affected category of mail and reduce the aggregate contribution to the Postal Service's institutional costs from the mail that is subject to the discount (39 U.S.C. 3622(e)(3)(A)), the Postal Service shall provide an explanation addressing all of the items specified in paragraphs (c)(6)(i) through (iii) of this section:

(i) A description of the affected category of mail.

(ii) Quantitative analysis or, if not available, qualitative analysis indicating the expected loss of volume and reduced contribution that is claimed would result from reducing or eliminating the excessive workshare discount.

(iii) How setting the excessive workshare discount in compliance with § 3030.283(c) would lead to the expected loss of volume and reduced contribution.

(7) For a claim that reducing or eliminating the excessive workshare discount would result in a further increase in the rates paid by mailers not able to take advantage of the workshare discount (39 U.S.C. 3622(e)(3)(B)), or a claim that increasing or eliminating a low workshare discount for a non-compensatory product would result in a further increase in the rates paid by mailers not able to take advantage of the workshare discount, the Postal Service shall provide an explanation addressing all of the items specified in paragraphs (c)(7)(i) through (iii) of this section:

(i) A description of the mailers not able to take advantage of the discount.

(ii) Quantitative analysis or, if not available, qualitative analysis indicating the expected size of the rate increase that is claimed would result in the rates paid by mailers not able to take advantage of the discount.

(iii) How setting the excessive workshare discount in compliance with § 3030.283(c) or the low workshare discount for a non-compensatory product in compliance with § 3030.284(c) or § 3030.284(e), whichever is applicable, would result in a further increase in the rates paid by mailers not able to take advantage of the discount.

(8) Any other relevant factors or reasons to support the application for waiver.

(d) Unless the Commission otherwise provides, commenters will be given at least 7 calendar days to respond to the application for waiver after it has been filed by the Postal Service.

(e) To better evaluate the waiver application, the Commission may, on its own behalf or by request of any interested person, order the Postal Service to provide experts on the subject matter of the waiver application to participate in technical conferences, prepare statements clarifying or supplementing their views, or answer questions posed by the Commission or its representatives.

(f) For a proposed workshare discount that would exceed the cost avoided by the Postal Service for not providing the applicable service, the application for waiver

shall be granted only if at least one provision appearing in 39 U.S.C. 3622(e)(2)(A) through (e)(2)(D) or 39 U.S.C. 3622(e)(3)(A) through (e)(3)(B) is determined to apply.

(g) For a proposed workshare discount that would be set below the cost avoided by the Postal Service for not providing the applicable service, the application for waiver shall be granted only if setting the workshare discount closer or equal to the cost avoided by the Postal Service for not providing the applicable service would impede the efficient operation of the Postal Service or if increasing or eliminating a low workshare discount for a non-compensatory product would result in a further increase in the rates paid by mailers not able to take advantage of the workshare discount.

(h) The Commission will issue an order announcing, at a minimum, whether the requested waiver will be granted or denied no later than 21 days following the close of any comment period(s). An order granting the application for waiver shall specify all conditions upon which the waiver is granted, including the date upon which the waiver shall expire.

PART 3040—PRODUCT LISTS AND THE MAIL CLASSIFICATION SCHEDULE

2. The authority citation for part 3040 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

3. Amend § 3040.132 by revising paragraphs (a) and (b) to read as follows:

§ 3040.132 Supporting justification.

* * * * *

(a) Explain the reason for initiating the docket and explain why the change is not inconsistent with the applicable requirements of this part and any applicable Commission directives and orders;

(b) Explain why, as to market dominant products, the change is not inconsistent with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code;

* * * * *

4. Amend § 3040.152 by revising paragraphs (a) and (b) to read as follows:

§ 3040.152 Supporting justification.

* * * * *

(a) Explain the reason for initiating the docket and explain why the change is not inconsistent with the applicable requirements of this part and any applicable Commission directives and orders;

(b) Explain why, as to market dominant products, the change is not inconsistent with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code;

* * * * *

5. Amend § 3040.172 by revising paragraphs (a) and (b) to read as follows:

§ 3040.172 Supporting justification.

* * * * *

(a) Explain the reason for initiating the docket and explain why the change is not inconsistent with the applicable requirements of this part and any applicable Commission directives and orders;

(b) Explain why, as to market dominant products, the change is not inconsistent with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code;

* * * * *

6. Amend § 3040.181 by revising paragraph (b)(1) to read as follows:

§ 3040.181 Supporting justification for material changes to product descriptions.

* * * * *

(b)(1) As to market dominant products, explain why the changes are not inconsistent with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code, the applicable requirements of this part, and any applicable Commission directives and orders; or

* * * * *

7. Amend § 3040.182 by revising paragraph (e) to read as follows:

§ 3040.182 Docket and notice of material changes to product descriptions.

* * * * *

(e) Provide interested persons with an opportunity to comment on whether the proposed changes are consistent with the policies and the applicable criteria of chapter

36 of title 39 of the United States Code, the applicable requirements of this part, and any applicable Commission directives and orders.

8. Amend § 3040.190 by revising paragraph (c)(2) to read as follows:

§3040.190 Minor corrections to product descriptions.

* * * * *

(c) * * *

(2) Explain why the proposed corrections are consistent with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code, the applicable requirements of this part, and any applicable Commission directives and orders; and

* * * * *

9. Amend § 3040.191 by revising paragraph (e) to read as follows:

§3040.191 Docket and notice of minor corrections to product descriptions.

* * * * *

(e) Provide interested persons with an opportunity to comment on whether the proposed corrections are consistent with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code, the applicable requirements of this part, and any applicable Commission directives and orders.

10. Add subpart G to read as follows:

Subpart G—Requests for Market Dominant Negotiated Service Agreements

Sec.
3040.220 General.
3040.221 Additional supporting justification for negotiated service agreements.
3040.222 Data collection plan and report for negotiated service agreements.

§ 3040.220 General.

This subpart imposes additional requirements whenever there is a request to add a negotiated service agreement to the market dominant product list. The additional supporting justification appearing in § 3040.221 also should be provided whenever the Postal Service proposes to modify the terms of an existing market dominant negotiated service agreement. Commission findings that the addition of a special classification is not inconsistent with 39 U.S.C. 3622 are provisional and subject to subsequent review. No rate(s) shall take effect until 45 days after the Postal Service files a request for review of a notice of a new rate or rate(s) adjustment specifying the rate(s) and the effective date.

§ 3040.221 Additional supporting justification for negotiated service agreements.

(a) Each request shall also include the items specified in paragraphs (b) through (j) of this section.

(b) A copy of the negotiated service agreement.

(c) The planned effective date(s) of the planned rates.

(d) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.

(e) A statement identifying all parties to the agreement and a description clearly explaining the operative components of the agreement.

(f) Details regarding the expected improvements in the net financial position or operations of the Postal Service (39 U.S.C. 3622(c)(10)(A)(i) and (ii)). The projection of

the change in net financial position as a result of the agreement shall be based on accepted analytical principles. The projection of the change in net financial position as a result of the agreement shall include for each year of the agreement:

(1) The estimated mailer-specific costs, volumes, and revenues of the Postal Service absent the implementation of the negotiated service agreement;

(2) The estimated mailer-specific costs, volumes, and revenues of the Postal Service which result from implementation of the negotiated service agreement;

(3) An analysis of the effects of the negotiated service agreement on the contribution to institutional costs from mailers not party to the agreement;

(4) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, together with a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs; and

(5) If the Postal Service believes the Commission's accepted analytical principles are not the most accurate and reliable methodology available:

(i) An explanation of the basis for that belief; and

(ii) A projection of the change in net financial position resulting from the agreement made using the Postal Service's alternative methodology.

(g) An identification of each component of the agreement expected to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement, and a discussion of the nature and expected impact of each such enhancement.

(h) Details regarding any and all actions (performed or to be performed) to assure that the agreement will not result in unreasonable harm to the marketplace (39 U.S.C. 3622(c)(10)(B)).

(i) A discussion in regard to how functionally similar negotiated service agreements will be made available on public and reasonable terms to similarly situated mailers.

(j) Such other information as the Postal Service believes will assist the Commission in issuing a timely determination of whether the requested changes are consistent with applicable statutory policies.

§ 3040.222 Data collection plan and report for negotiated service agreements.

(a) The Postal Service shall include with any request concerning a negotiated service agreement a detailed plan for providing data or information on actual experience under the agreement sufficient to allow evaluation of whether the negotiated service agreement operates in compliance with 39 U.S.C. 3622(c)(10).

(b) A data report under the plan is due 60 days after each anniversary date of implementation and shall include, at a minimum, the following information for each 12-month period the agreement has been in effect:

(1) The change in net financial position of the Postal Service as a result of the agreement. This calculation shall include for each year of the agreement:

(i) The actual mailer-specific costs, volumes, and revenues of the Postal Service;

(ii) An analysis of the effects of the negotiated service agreement on the net overall contribution to the institutional costs of the Postal Service; and

(iii) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, including a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs.

(2) A discussion of the changes in operations of the Postal Service that have resulted from the agreement. This shall include, for each year of the agreement, identification of each component of the agreement known to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement.

(3) An analysis of the impact of the negotiated service agreement on the marketplace, including a discussion of any and all actions taken to protect the marketplace from unreasonable harm.

PART 3045—RULES FOR MARKET TESTS OF EXPERIMENTAL PRODUCTS

11. The authority citation for part 3045 continues to read as follows:

Authority: 39 U.S.C. 3641.

12. Amend § 3045.15 by revising paragraph (a) to read as follows:

§ 3045.15 Dollar amount limitation.

(a) The Consumer Price Index used for calculations under this part is the CPI-U index, as specified in § 3030.141(a) of this chapter.

* * * * *

PART 3050—PERIODIC REPORTING

13. The authority citation for part 3050 continues to read as follows:

Authority: 39 U.S.C. 503; 3651; 3652; 3653.

14. Amend § 3050.20 by revising paragraph (c) to read as follows:

§ 3050.20 Compliance and other analyses in the Postal Service's section 3652 report.

* * * * *

(c) It shall address such matters as non-compensatory rates and failures to achieve stated goals for on-time delivery standards. A more detailed analysis is required when the Commission observed and commented upon the same matter in its Annual Compliance Determination for the previous fiscal year.

15. Amend § 3050.21 by:

a. Revising paragraphs (a), (e), and (m); and

b. Adding paragraphs (n) and (o).

The revisions and additions read as follows:

§ 3050.21 Content of the Postal Service's section 3652 report.

(a) No later than 90 days after the close of each fiscal year, the Postal Service shall submit a report to the Commission analyzing its cost, volume, revenue, rate, and service information in sufficient detail to demonstrate that all products during such year comply with all applicable provisions of title 39 of the United States Code. The report shall provide the items in paragraphs (b) through (o) of this section.

* * * * *

(e) For each market dominant workshare discount offered during the reporting year:

(1) The per-item cost avoided by the Postal Service by virtue of such discount;

(2) The percentage of such per-item cost avoided that the per-item workshare discount represents;

(3) The per-item contribution made to institutional costs;

(4) The factual and analytical bases for any claim that one or more of the exception provisions of 39 U.S.C. 3622(e)(2)(A) through (e)(2)(D) or 39 U.S.C. 3622(e)(3)(A) through (e)(3)(B) apply; and

(5) For each workshare discount that is provided in connection with a subclass of mail, consisting exclusively of mail matter of educational, cultural, scientific, or informational value (39 U.S.C. 3622(e)(2)(C)), exceeded the cost avoided by the Postal Service for not providing the applicable service, and was not set in accordance with at least one specific provision appearing in § 3030.262(b) through (d) of this chapter, the information specified in paragraphs (5)(i) through (iii) of this section:

(i) The number of mail owners receiving the workshare discount;

(ii) The number of mail owners for the applicable product or products; and

(iii) An explanation of how the workshare discount promotes the public interest, even though the workshare discount substantially exceeds the cost avoided by the Postal Service.

* * * * *

(l) For the Inbound Letter Post product, provide revenue, volume, attributable cost, and contribution data by Universal Postal Union country group and by shape for the fiscal year subject to review and each of the preceding 4 fiscal years;

(m) Input data and calculations used to produce the annual Total Factor Productivity estimates;

(n) Copies of notifications to the Postal Service by the Office of Personnel Management (OPM) of annual determinations of the funding amounts specific to payments at the end of each fiscal year computed under 5 U.S.C. 8909a(d)(2)(B) and 5 U.S.C. 8909a(d)(3)(B)(ii); 5 U.S.C. 8348(h)(2)(B) and 5 U.S.C. 8423(b)(3)(B); 5 U.S.C. 8423(b)(1)(B) and 5 U.S.C. 8423(b)(2); and

(o) Provide any other information that the Postal Service believes will help the Commission evaluate the Postal Service's compliance with the applicable provisions of title 39 of the United States Code.

16. Add § 3050.55 to read as follows:

§ 3050.55 Information pertaining to cost reduction initiatives.

(a) The reports in paragraphs (b) through (f) of this section shall be filed with the Commission at the times indicated.

(b) Within 95 days after the end of each fiscal year, the Postal Service shall file a financial report that analyzes cost data from the fiscal year. For purposes of this paragraph, the percentage change shall compare the fiscal year under review to the previous fiscal year. At a minimum, the report shall include:

(1) For all market dominant mail, the percentage change in total unit attributable cost;

(2) For each market dominant mail product, the percentage change in unit attributable cost;

(3) For the system as a whole, total average cost per piece, which includes all Postal Service competitive and market dominant attributable costs and institutional costs,

(4) The percentage change in total average cost per piece;

(5) Market dominant unit attributable cost by product;

(6) If the percentage change in unit attributable cost for a market dominant mail product is more than 0.0 percent and exceeds the percentage change in total market dominant mail unit attributable cost, then the following information shall be provided:

(i) Unit attributable cost workpapers for the product disaggregated into the following cost categories: mail processing unit cost, delivery unit cost, vehicle service

driver unit cost, purchased transportation unit cost, window service unit cost, and other unit cost;

(ii) A narrative that identifies cost categories that are driving above average increases in unit attributable cost for the product and explains the reason for the above-average increase; and

(iii) A specific plan to reduce unit attributable cost for the product.

(7) An analysis of volume trends and mail mix changes for each market dominant mail product from fiscal year 2017 through the end of the fiscal year under review, which shall include at a minimum:

(i) A comparison of actual unit attributable costs and estimated unit attributable costs for each market dominant mail product, using the volume distribution from fiscal year 2017;

(ii) A narrative that identifies the drivers of change in volume trends and the mail mix; and

(iii) A narrative that explains the methodology used to calculate the estimated unit attributable costs as required by paragraph (b)(7)(i) of this section.

(c) Within 95 days after the end of each fiscal year, the Postal Service shall file a report with analysis of each planned cost reduction initiative that is expected to require Postal Service total expenditures of $5 million or more over the duration of the initiative. At a minimum, the report shall include:

(1) A narrative that describes each cost reduction initiative planned for future fiscal years, including the status, the expected total expenditure, start date, end date, and any intermediate deadlines;

(2) Identification of a metric to measure the impact of each planned cost reduction initiative identified in paragraph (c)(1) of this section, a narrative describing the selected metric, a narrative explaining the reason for selecting that metric, and a schedule approximating the months and fiscal years in which the cost reduction impact is expected to be measureable;

(3) Estimates of the expected impact of each planned cost reduction initiative, with supporting workpapers, using the metric identified in paragraph (c)(2) of this section, total market dominant mail attributable unit cost, and total unit cost as calculated pursuant to paragraph (b)(3) of this section.

(d) Within 95 days after the end of each fiscal year, the Postal Service shall file a report that describes each active cost reduction initiative during the fiscal year which incurred or is expected to incur Postal Service expenditures of $5 million or more over the duration of the initiative. At a minimum, the report shall include:

(1) The information described in paragraphs (c)(1) through (c)(3) of this section, based on actual data for the fiscal year, and a specific statement as to whether the initiative actually achieved the expected impact as measured by the selected metric;

(2) An explanation of the trends, changes, or other reasons that caused any variance between the actual information provided under paragraph (d)(1) of this section

and the estimated information previously provided under paragraphs (c)(1) through (c)(3) of this section, if applicable;

(3) A description of any mid-implementation adjustments the Postal Service has taken or will take to align the impacts with the schedule; and

(4) Any revisions to the schedule of cost reduction impacts for future fiscal years.

(e) Within 95 days after the end of each fiscal year, the Postal Service shall file a report that summarizes all projects associated with a Decision Analysis Report for the fiscal year. At a minimum, the report shall include:

(1) A description of each project;

(2) The status of each project;

(3) An estimate of cost savings or additional revenues from each project; and

(4) The return on investment expected from each project.

(f) Within 95 days after the end of each fiscal year, the Postal Service shall file a report that summarizes all planned projects that have an approved Decision Analysis Report for the next fiscal year. At a minimum, the report shall include:

(1) A description of each planned project;

(2) The status of each project;

(3) An estimate of the cost savings or additional revenues expected from each project; and

(4) The return on investment expected from each project.

17. Amend § 3050.60 by:

a. Revising paragraph (a);

b. Removing paragraph (e);

c. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f).

The revision reads as follows:

§ 3050.60 Miscellaneous reports and documents.

(a) The reports in paragraphs (b) through (f) of this section shall be provided at the times indicated.

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PART 3055—SERVICE PERFORMANCE AND CUSTOMER SATISFACTION REPORTING

18. The authority citation for part 3055 continues to read as follows:

Authority: 39 U.S.C. 503; 3622(a); 3652(d) and (e); 3657(c).

19. Amend § 3055.2 by revising paragraph (c) to read as follows:

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

* * * * *

(c) The applicable service standard(s) for each product. If there has been a change to a service standard(s) since the previous report, a description of and reason for the change shall be provided. If there have been no changes to service standard(s) since the previous report, a certification stating this fact shall be provided.

* * * * *

APPENDIX A
TECHNICAL APPENDIX (DENSITY AND RETIREMENT)

I. DENSITY-BASED RATE AUTHORITY

A. Density-Based Rate Authority Formula

1. Introduction

As discussed in Chapter IV. of the Order, the density-based rate authority is intended to approximate the increase in per-unit costs that would be expected[1] as a result of the decline in mail density. The amount of the expected increase is governed by the concept of elasticity, which measures the proportional change in one variable in response to a proportional change in another variable. The Commission's estimate of the expected proportional increase in per-unit costs in response to a measured change in density thus requires a reasonable approximation of the elasticity of per-unit costs with respect to density.

The Commission has determined that the institutional cost ratio, multiplied by negative 1, is a reasonable proxy for the elasticity of per-unit costs with respect to density. *See* Order, Section IV.C.1. The mathematical basis for that choice, along with the corresponding definitions and assumptions, are detailed below.

2. Definitions and Assumptions

Definition of density. The estimate of the amount that per-unit costs would be expected to increase in response to a measured decline in density is contingent upon several assumptions, the first of which is how density is defined. In the most general

[1] As discussed in Chapter IV., the Commission's use of the term "expected" is due to this use of an approximation of a cost elasticity to estimate the increase in unit costs driven by the prior year's decline in density. It is not a forecast of future results. This temporal aspect of the density-based rate authority is similar to that of the CPI-U price cap, which provides rate authority based on the change in CPI-U over the prior 12 months, rather than a forecast of inflation.

case, the concept of density measures the volume of goods and services provided per network node, but there are several possible methods for measuring volume, and several possible methods for counting network nodes. For purposes of the density-based rate authority, the Commission has chosen to measure volume and network nodes using the definitions that most closely align with the root problem the density-based rate authority is designed to address: the unavoidable increase in per-unit costs as less mail is delivered to more places.

Per-unit costs are measured as total costs divided by the number of mailpieces. Thus, the Commission finds it logical and reasonable to similarly measure the change in mail volume based on the number of mailpieces. Alternative approaches to measuring the change in volume, such as weighting volume by revenue, would introduce revenue as a confounding factor that would complicate the analysis of how a change in revenue-weighted volume would be expected to drive a change in (not-revenue-weighted) per-unit costs. *See* Order, Section IV.C.2. (rejecting commenter suggestions to consider differences in revenue or contribution in the mail mix).

Similarly, the number of places that mail is delivered to is directly measured by the number of delivery points. Thus, the number of delivery points is the logical and reasonable measure of the size of the network for purposes of calculating mail density. One limitation of using the raw number of delivery points is that it does not capture differences in the cost of servicing different types of delivery points.[2] However, in the current environment, the increase in the number of delivery points is driven mainly by population growth adding new nodes to the network. As long as this trend continues, the increasing cost of servicing the growing network will inevitably be spread over the remaining mailpieces, driving an increase in per-unit costs regardless of whether the

[2] For example, the Postal Service has estimated delivery costs to differ significantly between door delivery, curbline delivery, and the use of centralized delivery to cluster boxes to apartment buildings. *See* United States Government Accountability Office, U.S. Postal Service: Delivery Mode Conversions Could Yield Large Savings, but More Current Data Are Needed, May, 2014, at 11, available at: *https://www.gao.gov/assets/670/663107.pdf*.

new delivery points tend to have above-average or below-average costs to service. The Commission concludes that delivery points are the best measure of the number of network nodes for purposes of the density-based rate authority.

Assumptions. The derivation of the density-based rate authority formula presented in the next section is based on the Postal Service's existing costing methodology. This approach highlights how the formula takes into account much of the nuance of the existing costing system, while also requiring fewer assumptions than alternative derivations. These assumptions are detailed below. The Commission emphasizes that it finds these assumptions reasonable only in the specific context of estimating the effect of changes in density on changes in unit costs for the Postal Service as a whole, and not for purposes of cost attribution (which requires product-level causation).

The Commission notes that it is common in economic analysis to assume that cost functions in network industries, including the Postal Industry, take on a

Cobb-Douglas form.[3] Cobb-Douglas cost functions are homogeneous functions of degree one, but require the additional assumption of locally constant elasticity. The commonplace use of the Cobb-Douglas form in economic analysis supports the assumption of homogeneity of degree one of the generalized cost functions of each cost segment, but by not assuming that those cost functions take a Cobb-Douglas form, the derivation below avoids the need to assume locally constant elasticity.[4]

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[3] *See*, *e.g.*, NERA Consulting, Economics of Postal Services, June 2004, available at: *https://www.acm.nl/sites/default/files/old_publication/publicaties/11241_2004-nera-final-postal-report_en.pdf*, with an appendix at: *https://ec.europa.eu/docsroom/documents/14108/attachments/2/translations/en/renditions/native* (developing an econometric model of postal costs in Europe and finding that the best data fit can be obtained by using the Cobb-Douglas form); J.F. Banos and Ana Rodriguez-Alvarez, Estimating Technical and Allocative Efficiency by Means of a Bayesian Approach: An Application to the Postal Sector, February 2015, available at: *https://www.researchgate.net/publication/291115601_ESTIMATING_TECHNICAL_AND_ALLOCATIVE_EFFICIENCY_BY_MEANS_OF_A_BAYESIAN_APPROACH_AN_APPLICATION_TO_THE_POSTAL_SECTOR* (analyzing technical and allocative efficiency using an econometric estimate based on a Cobb-Douglas form); Denis Lawrence, *et al.*, Memorandum, January 22, 2014, available at: *https://www.accc.gov.au/system/files/Economic%20Insights%20memo%20on%20Australia%20Post%E2%80%99s%20mail%20and%20delivery%20centre%20cost%20elasticities.pdf* (conducting an econometric analysis of the effect of declining mail volume using a Cobb-Douglas form); Francois Destandau and Serge Garcia, Service Quality, Scale Economies, and Ownership: An Econometric Analysis of Water Supply Costs, Journal of Regulatory Economics 46(2), October 2015, available at: *https://www.researchgate.net/publication/264086779_Service_quality_scale_economies_and_ownership_An_econometric_analysis_of_water_supply_costs* making an econometric estimate of water supply costs using a Cobb-D); Michael Kuenzle, Cost Efficiency in Network Industries: Application of Stochastic Frontier Analysis, ETH Zurich Research Collection 2005, pages 17-32), available at: *https://www.research-collection.ethz.ch/handle/20.500.11850/53059* (discussing use of the Cobb-Douglas cost function in the context of cost efficiency).

[4] Were the Commission to additionally assume that the cost function of the Postal Service as a whole takes on a Cobb-Douglas form, an alternative derivation of the density-based rate authority formula is possible. This derivation follows from the observations that in a Cobb-Douglas function the cost elasticities of volume and delivery points would sum to one, and that the cost elasticity of volume can be approximated as the ratio of volume-variable costs to total costs, because when volume declines, it is primarily volume-variable costs that decline. The Commission finds that the assumption that the cost function of the Postal Service as whole takes on a Cobb-Douglas form would be reasonable for the purposes of the density-based rate authority, and thus the alternative derivation described in this footnote would justify use of the density-based rate authority. The Commission instead presents the more-detailed derivation in the following section because it shows how the density-based rate authority formula can be derived even without the assumption of locally constant elasticity, and because the derivation presented shows in more depth how the formula is consistent with much of the nuance of the existing costing system. Allowing for variable elasticity ensures that the conclusions hold for a wide set of cost functions, including the Cobb-Douglas function, and therefore increases the robustness of these conclusions.

For the specific purpose of the density-based rate authority the Commission starts by assuming that the cost functions of each cost segment, when generalized to include network size, are homogeneous functions of degree one over a local domain.[5] In practical terms, this means that the generalized cost functions of each cost segment exhibit constant returns to scale, which means that changing the value of all inputs to the generalized cost function by some factor will also change the output by the same factor. In the context of the mail density, this means assuming that changing both the number of cost driver units and the size of the network by some factor would result in costs changing by the same factor.[6] This assumption is consistent with the idea that changes in density drive changes in per-unit costs: were both volume and delivery points to increase by 10 percent, the assumption of constant returns to scale says that costs would also increase by 10 percent, leaving both density and per-unit costs constant. By contrast, if density changes, then volume and delivery points necessarily change at different rates and, under the assumption of constant returns to scale, total costs will change by a different factor than volume, resulting in a change in per-unit costs.

The Postal Service's cost segments measure costs in relationship to cost drivers that are chosen to capture the relationship between the activities in each cost segment and the costs incurred. This contrasts with the density-based rate authority formula, which measures changes in per-unit costs based on the number of mailpieces. However, most cost drivers are correlated with volume, and as described in the next section, for purposes of the density-based rate authority the Commission finds it reasonable to assume that changes in the number of mailpieces results in proportional changes in the number of units of each cost driver. As shown in the following sections, this relationship permits using mailpieces as the measure of volume for purposes of

[5] The Commission also assumes that the cost functions of each cost segment are differentiable over the same domain.

[6] It is important to note that assuming constant returns to scale does not prevent the Postal Service from enjoying economies of density.

calculating the amount of the density-based rate authority, while still taking into account the relationship between cost and volume in each cost segment as measured by the cost drivers.

3. Derivation

With the assumption, above, that the generalized cost function for the Postal Service's cost segments is a homogeneous function of degree one, it follows from Euler's homogeneous function theorem that the elasticities of total cost with respect to the cost driver, and with respect to network size, sum to one. Therefore, if the elasticity of total cost, *C*, with respect to the cost driver, *D*, is $\varepsilon_C(D)$, then the elasticity of cost with respect to network size, *N*, is:

(1) $\varepsilon_C(N) = 1 - \varepsilon_C(D).$

This identity can be used to express the growth rate of the total cost of the cost segment in terms of the elasticity of total cost with respect to the cost driver, along with the growth rates of the cost driver and the network size, as follows.

First, the percentage growth rate of the total cost of a cost segment over time, $r_C(t)$, equals the partial derivative of cost with respect to time, divided by the total cost:

(2) $r_C(t) = \frac{\frac{\partial C}{\partial t}}{C}.$

By the total derivative rule, equation (2) can be rewritten in terms of the partial derivatives of the cost driver with respect to time, and the network size with respect to time:

(3) $r_C(t) = \frac{\left(\frac{\partial C}{\partial D}\right)\left(\frac{\partial D}{\partial t}\right)+\left(\frac{\partial C}{\partial N}\right)\left(\frac{\partial N}{\partial t}\right)}{C},$

which can in turn be rewritten as:

(4) $r_C(t) = \left(\frac{D}{D}\right)\left(\frac{\frac{\partial C}{\partial D}}{C}\right)\left(\frac{\partial D}{\partial t}\right) + \left(\frac{N}{N}\right)\left(\frac{\frac{\partial C}{\partial N}}{C}\right)\left(\frac{\partial N}{\partial t}\right),$

which becomes:

(5) $$r_C(t) = \left(\frac{\frac{\partial C}{\partial D}}{C} D\right)\left(\frac{\frac{\partial D}{\partial t}}{D}\right) + \left(\frac{\frac{\partial C}{\partial N}}{C} N\right)\left(\frac{\frac{\partial N}{\partial t}}{N}\right).$$

The first factors of each term of the right side of equation (5) are, by definition, the elasticities of total cost with respect to the cost driver and network size, respectively. Similarly, the second factors of each term are, by definition, the percentage growth rate of the cost driver and network size over time, respectively. Accordingly, equation (5) can be rewritten as:

(6) $$r_C(t) = \varepsilon_C(D)\, r_D(t) + \varepsilon_C(N)\, r_N(t).$$

Substitution of equation (1) into equation (6) yields:

(7) $$r_C(t) = \varepsilon_C(D)\, r_D(t) + \left(1 - \varepsilon_C(D)\right) r_N(t),$$

which can be rewritten as:

(8) $$r_C(t) = r_N(t) + \varepsilon_C(D)\left(r_D(t) - r_N(t)\right),$$

where the percentage growth rate of total cost is expressed in terms of the elasticity of total cost with respect to the cost driver, along with the percentage growth rates of the cost driver and network size.

The density-based rate authority formula is derived from equation (8) by first noting that, in postal costing methodology, each cost driver is chosen to best reflect the relationship between volume and cost for that cost segment. The cost driver of a cost segment is assumed here to be proportional to volume as measured by the number of mailpieces. Therefore, all else equal, the percentage growth rate of each cost driver can be expected to equal the percentage growth rate of volume. Substitution of the percentage growth rate of volume, $r_V(t)$, into equation (8) yields:

(9) $$r_C(t) = r_N(t) + \varepsilon_C(D)\left(r_V(t) - r_N(t)\right).$$

Similarly, in postal costing methodology the elasticity of the total cost of a cost segment with respect to the cost driver equals the ratio of volume-variable cost to total cost.[7] Thus, using the C_v for volume-variable cost, substitution into equation (9) yields:

(10) $$r_C(t) = r_N(t) + \left(\frac{C_V}{C}\right)\left(r_V(t) - r_N(t)\right).$$

The next step to derive the density-based rate authority formula is to convert from total cost to per-unit cost. With the observation that the percentage growth rate of per-unit cost equals the difference between the percentage growth rate of total cost and the percentage growth rate of volume, equation (10) becomes:

(11) $$r_C(t) - r_V(t) = r_N(t) + \left(\frac{C_V}{C}\right)\left(r_V(t) - r_N(t)\right) - r_V(t),$$

which can be rewritten as:

(12) $$r_C(t) - r_V(t) = \left(r_N(t) - \left(\frac{C_V}{C}\right) r_N(t)\right) - \left(r_V(t) - \left(\frac{C_V}{C}\right) r_V(t)\right),$$

which simplifies to:

(13) $$r_C(t) - r_V(t) = r_N(t)\left(1 - \frac{C_V}{C}\right) - r_V(t)\left(1 - \frac{C_V}{C}\right),$$

and:

(14) $$r_C(t) - r_V(t) = -\left(1 - \frac{C_V}{C}\right)\left(r_V(t) - r_N(t)\right).$$

At the cost segment level, volume-variable costs are attributable. Denoting attributable costs as *A*, equation (14) becomes:

(15) $$r_C(t) - r_V(t) = -\left(1 - \frac{A}{C}\right)\left(r_V(t) - r_N(t)\right).$$

Because $r_C(t) - r_V(t)$ is the percentage growth rate of per-unit costs, and $r_V(t) - r_N(t)$ is the percentage growth rate of density, equation (15) shows how, at the cost segment

[7] This sets aside product-specific fixed costs, which are small enough not to substantially affect the general system-wide relationship between density and per-unit costs that is the focus of this analysis.

level, the complement of the ratio of attributable costs to total costs, multiplied by negative 1, is the elasticity of per-unit costs with respect to density.

Generalizing from the cost segment level to the Postal Service as a whole, is more difficult, because total institutional costs are not the sum of non-volume-variable costs of each cost segment due to additional complexities of the Postal Service's costing system. In particular, a portion of inframarginal costs are attributed, as are group-specific costs, complicating the analysis. Nevertheless, the Commission finds equation (15) a sufficiently accurate approximation when applied to the Postal Service as a whole to be a useful tool for estimating the expected increase in per-unit costs caused by a particular change in density. When applied to the Postal Service as a whole, the complement of the ratio of attributable costs to total costs is the ratio of institutional costs, *I*, to total costs, which yields:

$$(16) \quad r_C(t) - r_V(t) = -\left(\frac{I}{C}\right)\left(r_V(t) - r_N(t)\right).$$

Substituting the amount of the density-based rate authority for the percentage growth rate in per-unit costs into equation (16), and using delivery points as the measure of network size, as described in the previous section, yields the density-based rate authority formula.

The Commission notes that the formula is built on the same general principles as the rest of the Postal Service's costing system, as generalized to include network size.[8] The Commission also notes that there is no reason to assume that equation (16) is biased towards producing either an over- or under-estimate of the impact of changes in density on per-unit costs. Additionally, as described in the next section, equation (16)—and thus the density-based rate authority formula—account for much of the nuance of the Postal Service's costing system, including the differences in how volume is

[8] The Commission reiterates that it is generalizing the cost functions of each cost segment to include as an input the number of delivery points only in the specific context of estimating the density-driven change in per-unit costs, which necessarily involves the consideration of network size.

measured in each cost segment, and the changes in costs between cost segments as the mail mix changes.

4. Properties of the Density-Based Rate Authority Formula

As mentioned in the previous section, the volume-variable costs of each cost segment are determined using the elasticity of total cost with respect to the cost segment's cost driver. Although the total institutional cost of the Postal Service does not equal the sum of the non-volume-variable costs of each cost segment due to the complexities described above, changes in the elasticity of each cost segment still drive changes in the total institutional cost ratio, which will in turn be captured by the use of the institutional cost ratio in the density-based rate authority formula.

If, for example, the mail mix were to change to favor products with lower elasticity of total cost with respect to volume (or analogously, per-unit cost with respect to density), costs will shift from more-elastic cost segments to less-elastic cost segments, which will in turn increase the institutional cost ratio. Similarly, differences in the relationship between volume and cost between mail classes (*e.g.*, the degree weight is a factor in costs) is captured by the fact that each cost segment uses cost drivers tailored to the activity measured by that cost segment. If the mail mix were to shift to classes reliant on air transportation where weight is a larger factor, costs will shift to the relevant cost segments and the elasticity of those segments will have a greater influence on the overall institutional cost ratio. Accordingly, while using the institutional cost ratio as a proxy for the elasticity of per-unit costs with respect to density has the virtue of being a very simple measure, it still accounts for the major sources of nuance in the Postal Service's costing systems. That combination makes the institutional cost ratio a particularly useful proxy for purposes of the density-based rate authority formula.

B. Hypothetical Example

For illustration purposes, the Commission reprints the example presented in Order No. 5337 as Table IV-3. Order No. 5337 at 79-80. This example shows the hypothetical amount of density rate authority that would have been authorized in each of the fiscal years from 2013 through 2019, had the density-based rate authority been in effect those years. Note that for each of these years, using the change in total density produces less density rate authority than the change in Market Dominant density, but that may or may not be true in future years.

Table A-1
Hypothetical Density Rate Authority Using Historical Data

FY Density Rate Authority Authorized	Based on Data from FYs	Institutional Cost Ratio	%Δ Density (MD)	%Δ Density (Total)	Density Rate Authority
2013	2011 & 2012	50.06%	-6.06%	-5.38%	2.69%
2014	2012 & 2013	45.84%	-1.89%	-1.51%	0.69%
2015	2013 & 2014	46.60%	-2.94%	-2.68%	1.25%
2016	2014 & 2015	45.69%	-1.92%	-1.57%	0.72%
2017	2015 & 2016	47.15%	-1.11%	-0.76%	0.36%
2018	2016 & 2017	42.62%	-4.53%	-4.04%	1.72%
2019	2017 & 2018	41.13%	-3.41%	-2.95%	1.21%

Source: *See* Section I.C., *infra*, for references source data.

C. Data Table Sources

Section IV.C.1. of the Order contains two tables: Table IV-1 and Table IV-2. Each table compiles data from the PAEA period, with each year's data taken from separate sources. These sources are detailed below, along with the sources for Table A-1, *supra*.

Table IV-1. Market Dominant volume data were taken from the Revenue, Piece, and Weight (RPW) reports in the library references filed with the Commission's Annual

Compliance Determinations (ACDs).[9] Delivery point data were taken from the Postal Service's Total Factor Productivity (TFP) reports.[10]

[9] Docket No. ACR2007, Library Reference PRC-ACR2007-LR1, March 27, 2008, Excel file "07 Summary DM_LR1.xls," tab "PRESS," cell B32 (showing FY 2007 Market Dominant volume); Docket No. ACR2008, Library Reference PRC-ACR2008-LR-1, March 30, 2009, Excel file "08 Public RPW_LR1.xls," tab "RPW Report," cell I105 (showing FY 2008 Market Dominant volume); Docket No. ACR2009, Library Reference PRC-ACR2009-LR-1, March 29, 2010, Excel file "09 Public RPW_LR1.xls," tab "PRC PRW," cell G232 (showing FY 2009 Market Dominant volume); Docket No. ACR2010, Library Reference PRC-ACR2010-LR-1, March 29, 2011, Excel file "10 Public RPW_LR1.xls," tab "PRC RPW," cell G250 (showing FY 2010 Market Dominant volume); Docket No. ACR2011, Library Reference PRC-ACR2011-LR-1, March 28, 2012, Excel file "11 Public RPW_LR1.xls," tab "PRC RPW," cell G250 (showing FY 2011 Market Dominant volume); Docket No. ACR2012, Library Reference PRC-ACR2012-LR-1, March 28, 2013, Excel file "12 Public RPW_LR1.xls," tab "PRC RPW," cell G246 (showing FY 2012 Market Dominant volume); Docket No. ACR2014, Library Reference PRC-LR-ACR2014/1, March 27, 2015, Excel file "14 Public RPW.xls," tab "PRC RPW," cell I248 (FY 2014 RPW) (showing FY 2013 Market Dominant volume); FY 2014 RPW, cell H248 (showing FY 2014 Market Dominant volume); Docket No. ACR2015, Library Reference PRC-LR-ACR2015/1, March 28, 2016, Excel file "15 Public RPW.xls," tab "PRC RPW," cell H252 (showing FY 2015 Market Dominant volume); Docket No. ACR2016, Library Reference PRC-LR-ACR2016/1, March 28, 2017, Excel file "16 Public RPW.xls," tab "FY 2016 Public," cell L78 (showing FY 2016 Market Dominant volume); Docket No. ACR2017, Library Reference PRC-LR-ACR2017-1, March 29, 2018, Excel file "17 Public RPW.xls," tab "FY 2017 Public," cell L78 (showing FY 2017 Market Dominant volume); Docket No. ACR2018, Library Reference PRC-LR-ACR2018-1, April 12, 2019, Excel file "18 Public RPW.xlsx," tab "FY 2018 Public," cell L74 (showing FY 2018 Market Dominant volume); Docket No. ACR2019, Library Reference PRC-LR-ACR2019-1, March 25, 2020, Excel file "19 Public RPW.xls," tab "FY 2019 Public," cell L71 (showing FY 2019 Market Dominant volume).

[10] USPS Annual Tables, FY 2019 TFP (Total Factor Productivity), February 27, 2020, Excel file "Table Annual 2019 Public.xlsx," tab "Out-46," cells K58:K70 (showing delivery points for FY 2007 through FY 2019).

Table IV-2. Total volume data were taken from the RPW reports in the library references filed with the Commission's ACDs.[11] Revenue and cost data taken were taken from the financial summary reports from the same library references.[12]

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[11] Docket No. ACR2007, Library Reference PRC-ACR2007-LR1, March 27, 2008, Excel file "07 Summary DM_LR1.xls," tab "PRESS," cell B33 (showing FY 2007 total volume); Docket No. ACR2008, Library Reference PRC-ACR2008-LR-1, March 30, 2009, Excel file "08 Public RPW_LR1.xls," tab "RPW Report," cell I115 (showing FY 2008 total volume); Docket No. ACR2009, Library Reference PRC-ACR2009-LR-1, March 29, 2010, Excel file "09 Public RPW_LR1.xls," tab "PRC PRW," cell G234 (showing FY 2009 total volume); Docket No. ACR2010, Library Reference PRC-ACR2010-LR-1, March 29, 2011, Excel file "10 Public RPW_LR1.xls," tab "PRC RPW," cell G252 (showing FY 2010 total volume); Docket No. ACR2011, Library Reference PRC-ACR2011-LR-1, March 28, 2012, Excel file "11 Public RPW_LR1.xls," tab "PRC RPW," cell G252 (showing FY 2011 total volume); Docket No. ACR2012, Library Reference PRC-ACR2012-LR-1, March 28, 2013, Excel file "12 Public RPW_LR1.xlsx," tab "PRC RPW," cell G248 (showing FY 2012 total volume); Docket No. ACR2014, Library Reference PRC-LR-ACR2014/1, March 27, 2015, Excel file "14 Public RPW.xlsx," tab "PRC RPW," cell I250 (FY 2014 RPW) (showing FY 2013 total volume); FY 2014 RPW, cell H250 (showing FY 2014 Market Dominant volume); Docket No. ACR2015, Library Reference PRC-LR-ACR2015/1, March 28, 2016, Excel file "15 Public RPW.xlsx," tab "PRC RPW," cell H254 (showing FY 2015 total volume); Docket No. ACR2016, Library Reference PRC-LR-ACR2016/1, March 28, 2017, Excel file "16 Public RPW.xlsx," tab "FY 2016 Public," cell L240 (showing FY 2016 total volume); Docket No. ACR2017, Library Reference PRC-LR-ACR2017-1, March 29, 2018, Excel file "17 Public RPW.xlsx," tab "FY 2017 Public," cell L240 (showing FY 2017 total volume); Docket No. ACR2018, Library Reference PRC-LR-ACR2018-1, April 12, 2019, Excel file "18 Public RPW.xlsx," tab "FY 2018 Public," cell L236 (showing FY 2018 total volume); Docket No. ACR2019, Library Reference PRC-LR-ACR2019-1, March 25, 2020, Excel file "19 Public RPW.xlsx," tab "FY 2019 Public," cell L233 (showing FY 2019 total volume).

[12] Docket No. ACR2007, Library Reference PRC-ACR2007-LR1, March 27, 2008, Excel file "07 Summary DM_LR1.xls," tab "PRESS," cells D70, F75 (showing FY 2007 total revenue and total cost); Docket No. ACR2008, Library Reference PRC-ACR2008-LR-1, March 30, 2009, Excel file "08 Summary_LR1.xls," tab "Financial_Results," cells B14, B16 (showing FY 2008 total revenue and total cost); Docket No. ACR2009, Library Reference PRC-ACR2009-LR-1, March 29, 2010, Excel file "09 Summary_LR1.xls," tab "Financial_Results," cells B14, B16 (showing FY 2009 total revenue and total cost); Docket No. ACR2010, Library Reference PRC-ACR2010-LR-1, March 29, 2011, Excel file "10 Summary_LR1.xls," tab "Financial_Results," cells B14, B16 (showing FY 2010 total revenue and total cost); Docket No. ACR2011, Library Reference PRC-ACR2011-LR-1, March 28, 2012, Excel file "11 Summary_LR1.xls," tab "Financial_Results," cells B14, B16 (showing FY 2011 total revenue and total cost); Docket No. ACR2012, Library Reference PRC-ACR2012-LR-1, March 28, 2013, Excel file "12 Summary_LR1.xlsx," tab "Financial_Results," cells B14, B16 (showing FY 2012 total revenue and total cost); Docket No. ACR2014, Library Reference PRC-LR-ACR2014/1, March 27, 2015, Excel file "14 Summary_LR1.xlsx," tab "Financial_Results," cells C14, C16 (FY 2014 Financial Summary) (showing FY 2012 total revenue and total cost); FY 2014 Financial Summary, cells B14, B16 (showing FY 2014 total revenue and total cost); Docket No. ACR2015, Library Reference PRC-LR-ACR2015/1, March 28, 2016, Excel file "15 Summary_LR1 2.xlsx," tab "PRC RPW," cells B14, B16 (showing FY 2015 total revenue and total cost); Docket No. ACR2016, Library Reference PRC-LR-ACR2016/1, March 28, 2017, Excel file "16 Summary_LR1.xlsx," tab "PRC RPW," cells B14, B16 (showing FY 2016 total revenue and total cost); Docket No. ACR2017, Library Reference PRC-LR-ACR2017-1, March 29, 2018, Excel file "17 Summary_LR1.xlsx," tab "PRC RPW," cells B14, B16 (showing FY 2017 total revenue and total cost);

Table A-1. Volume data were taken from the Postal Service's RPW reports.[13] Cost data were taken from the Postal Service's Cost and Revenue Analysis reports.[14] Delivery point data were taken from the Postal Service's TFP reports.[15]

Docket No. ACR2018, Library Reference PRC-LR-ACR2018-1, April 12, 2019, Excel file "18 Summary_LR1.xlsx," tab "PRC RPW," cells B14, B16 (showing FY 2018 total revenue and total cost); Docket No. ACR2019, Library Reference PRC-LR-ACR2019-1, March 25, 2020, Excel file "FY 19 Summary_LR1.xlsx," tab "Total All Mails (Appendix A)," cells C77, D78 (showing FY 2019 total revenue and total cost).

[13] *See* Docket No. ACR2011, Library Reference USPS-FY11-42, December 29, 2011, Excel file "Fy2011_RPWsummaryreport_public.xls," tab "FY 2011 Public," cells L78, L193 (showing Market Dominant and total pieces for FY 2011); Docket No. ACR2012, Library Reference USPS-FY12-42, December 28, 2012, Excel file "Fy2012_RPWsummaryreport_public.xls," tab "Fiscal Year 2012 Public," cells L77, L236 (showing Market Dominant and total pieces for FY 2012); Docket No. ACR2013, Library Reference USPS-FY13-42, December 27, 2013, Excel file "Fy2013_RPWsummaryreport_public.xls," tab "Fiscal Year 2013 Public," cells L78, L238 (showing Market Dominant and total pieces for FY 2013); Docket No. ACR2014, Library Reference USPS-FY14-42, December 29, 2014, Excel file "Fy2014_RPWsummaryreport_public.xls," tab "Fiscal Year 2014 Public," cells L78, L238 (showing Market Dominant and total pieces for FY 2014); Docket No. ACR2015, Library Reference USPS-FY15-42, December 29, 2015, Excel file "Fy2015_RPWsummaryreport_public.xls," tab "FY 2015 Public," cells L78, L238 (showing Market Dominant and total pieces for FY 2015); Docket No. ACR2016, Library Reference USPS-FY16-42, December 29, 2016, Excel file "Fy2016_RPWsummaryreport_public.xls," tab "FY 2016 Public," cells L78, L240 (showing Market Dominant and total pieces for FY 2016); Docket No. ACR2017, Library Reference USPS-FY17-42, December 29, 2017, Excel file "FY2017_RPWsummaryreport_public_eoy.xls," tab "FY 2017 Public," cells L78, L240 (showing Market Dominant and total pieces for FY 2017); Docket No. ACR2018, Library Reference USPS-FY18-42, December 28, 2018, Excel file "FY2018_RPWsummaryreport_public_eoy.xlsx," tab "FY 2018 Public," cells L74, L236 (showing Market Dominant and total pieces for FY 2018).

[14] Docket No. ACR2012, Library Reference USPS-FY12-1, December 28, 2012, Excel file "FY12PublicCRA.xlsx," tab "Cost3," cells F36:F37 (showing institutional and total cost for FY 2012); Docket No. ACR2013, Library Reference USPS-FY13-1, December 27, 2013, Excel file "FY13PublicCRA.xls," tab "Cost3," cells F35:F36 (showing institutional and total cost for FY 2013); Docket No. ACR2014, Library Reference USPS-FY14-1, December 29, 2014, Excel file "Public_FY14CRA.xls," tab "Cost3," cells F34:F35 (showing institutional and total cost for FY 2014); Docket No. ACR2015, Library Reference USPS-FY15-1, December 29, 2015, Excel file "Public-FY15CRA.xls," tab "Cost3," cells F34:F35 (showing institutional and total cost for FY 2015); Docket No. ACR2016, Library Reference USPS-FY16-1, December 29, 2016, Excel file "Public_FY16CRAReport.xls," tab "Cost3," cells F34:F35 (showing institutional and total cost for FY 2016); Docket No. ACR2017, Library Reference USPS-FY17-1, December 29, 2017, Excel file "Public_FY17CRAReport.xlsx," tab "Cost3," cells F34:F35 (showing institutional and total cost for FY 2017); Docket No. ACR2018, Library Reference USPS-FY18-1, December 28, 2018, Excel file "Public_FY18CRAReport.xlsx," tab "Cost3," cells F34:F35 (showing institutional and total cost for FY 2018).

[15] United States Postal Service, USPS Annual Tables, FY 2018 TFP (Total Factor Productivity), July 16, 2019, Excel file "Table Annual 2018 - 2018 CRA Public.xlsx," tab "Out-46," cells K59:69 (showing delivery points for FYs 2013-2018).

II. RETIREMENT-BASED RATE AUTHORITY

The Postal Service is responsible for funding retirement benefits for its employees. OPM computes the annual payment for these obligations (RHB, FEHB, and CSRS). The Commission, through the new rate authority is providing additional price cap authority each year for 5 years (phase-in period). Below is a hypothetical example of how the Commission would calculate the retirement rate authority available during each year during the phase-in period.

A. Hypothetical Example

For illustration purposes, the Commission reprints the example presented in Order No. 5337 as Tables IV-5, IV-6, and IV-7. Order No. 5337 at 99-102. This example shows the amount of retirement-based rate authority that would be available to the Postal Service using the hypothetical data in the tables below. Because the retirement-based rate authority adjusts annually during the phase-in period to changes in both volume and the amount of the amortization payments, the example below is meant to be illustrative, and is not a forecast.

Table A-2
Hypothetical Input Data

FY	Statutorily Mandated Amortization Payment (Millions)	Total Revenue (Millions)	Market Dominant Revenue (Millions)	Quarterly MD Volume (Millions)			
				Q1	Q2	Q3	Q4
2020	$3,100	$70,800	$46,000	36,095	31,800	31,000	32,000
2021	$3,000	$71,400	$46,389	31,095	31,800	30,000	30,000
2022	$3,200	$72,000	$46,778	29,800	29,000	29,700	29,000
2023	$3,500	$73,000	$47,427	28,800	29,000	28,700	28,000
2024	$3,400	$73,900	$48,011	28,100	28,000	28,800	28,300
2025	$3,200	$74,000	$48,075	28,300	27,900	28,600	28,300

Table A-3
Hypothetical Retirement Rate Authority Formula Outputs,
Using Data from Table A-2

FY	Compounded Retirement Rate Authority Through Previous FY	Additional Retirement Rate Authority	Date Retirement Rate Authority Authorized	Date of Rate Increase
2021	0.000%	0.861%	January 31, 2021	September 2, 2021
2022	0.853%	0.827%	January 31, 2022	September 15, 2022
2023	1.666%	0.918%	January 31, 2023	September 5, 2023
2024	2.560%	1.111%	January 31, 2024	September 3, 2024
2025	3.631%	0.970%	January 31, 2025	September 6, 2025

Table A-4
Hypothetical Required Minimum Remittances,
Using Data from Tables IV-5 and IV-6

FY	% of MD Revenue in Previous FY Resulting from Retirement Rate Authority	Required Minimum Remittance (Millions)	To Be Remitted By
2022	0.066%	$31	September 30, 2022
2023	0.889%	$416	September 30, 2023
2024	1.729%	$820	September 30, 2024
2025	2.643%	$1,269	September 30, 2025
2026	3.695%	$1,776	September 30, 2026

Table A-2 shows the full range of input data required by the proposed formula. Table A-3 shows for each year of the phase-in period, the compounded amount of prior retirement rate authority, the amount of rate authority newly authorized, and the dates that authority was authorized[16] and implemented in a rate increase. Table A-4 shows the percentage of Market Dominant revenue resulting from the retirement rate authority,

[16] The date that the authority was authorized is provided for illustration purposes only, and is not used as an input to or output from the retirement formula.

the required minimum remittance for each fiscal year, and the date by which it is required to be remitted towards the amortization payment.[17] Note that the required minimum remittance for each fiscal year is equal to the amount of additional revenue collected during the previous fiscal year as a result of the prorated, compounded rate increase resulting from the use of retirement rate authority.

The example shows how the proposed formulas use each year's volume and required payment throughout the phase-in period to get closer to the target of generating sufficient additional revenue (if accompanied by an equal rate increase on competitive products) to make the full amortization payment. In the example, the phase-in period lasts from FY 2021 to FY 2025. For illustration purposes, consider the final calculation of retirement rate authority in FY 2025. Under Formula V-1, the first step is to divide the total amortization payment for FY 2024 by the total revenue for that year (FY 2024 data will be the most recent available at the time of the FY 2025 calculation). From Table A-2, those values are $3.4 billion and $73.9 billion, respectively. Dividing these two figures shows that, had no previous retirement rate authority been authorized, total revenue would need to increase by 4.600 percent to be able to make the full amortization payment. Because retirement rate authority was granted in 4 previous years, the second step is to subtract the compounded amount of that increase, calculated with Formula V-2, and shown in Table A-3. For FY 2025, that amount is 3.631 percent. Because FY 2025 is the last year of the phase-in period, the 0.970-percentage point difference between 4.600 percent and 3.631 percent does not need to be further amortized, and thus 0.970 percent is the amount of retirement rate authority for FY 2025, as shown in Table A-3.

To calculate the required minimum remittance for FY 2025, Formulas V-3 and V-4 calculate the percentage of Market Dominant revenue collected in FY 2024 as a result

[17] The amount of the required minimum remittance and the due date are requirements that the Postal Service must meet to continue to receive retirement rate adjustment authority. These required minimum remittances and due dates do not affect the Postal Service's statutory obligations to make the full amortization payment as determined by the Office of Personnel Management.

of previously authorized retirement rate authority. As shown in Table A-4 (on the line corresponding the year of calculation, FY 2025), that amount is 2.643 percent. This is lower than the 3.631 percent compounded rate authority figure used in the previous paragraph because the 1.111-percent retirement rate authority authorized in FY 2024 was not used until the last month of FY 2024 (as shown in Table A-3), and thus generated very little additional revenue in FY 2024. Multiplying 2.643 percent by the FY 2024 Market Dominant revenue of $48.011 billion (shown in Table A-2) produces a minimum required remittance for FY 2025 of $1.269 billion, as shown in Table A-4.

B. Data Table Sources

Section V.C.1. of the Order contains one table: Table V-1. This table compiles data from the PAEA period, with each year's data taken from separate sources. These sources are detailed below. Tables A-2, A-3, and A-4 show hypothetical figures created for illustrative purposes.

Table V-1. Data for FY 2006 and 2007 was taken from the Postal Service's Annual Reports.[18] Data for FY 2008 and beyond was taken from the Postal Service's 10-K reports.[19]

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[18] United States Postal Service, 2006 Annual Report, March 23, 2007, at 43; United States Postal Service, 2007 Annual Report, February 11, 2008, at 39, 46.

[19] United States Postal Service, 2008 Report on Form 10-K [Erratum], December 10, 2008, at 19, 47; United States Postal Service, 2009 Report on Form 10-K, November 16, 2009, at 20, 49; United States Postal Service, 2010 Report on Form 10-K, November 15, 2010, at 22, 55; United States Postal Service, 2011 Report on Form 10-K [Erratum], November 16, 2011, at 21, 63; United States Postal Service, 2012 Report on Form 10-K, November 15, 2012, at 41, 78; United States Postal Service, 2013 Report on Form 10-K, January 31, 2014, at 37, 75; United States Postal Service, 2014 Report on Form 10-K, December 5, 2014, at 26, 42; United States Postal Service, 2015 Report on Form 10-K, November 13, 2015, at 37, 55; United States Postal Service, 2016 Report on Form 10-K, November 15, 2016, at 37, 58; United States Postal Service, 2017 Report on Form 10-K, November 14, 2017, at 45, 55; United States Postal Service, 2018 Report on Form 10-K, November 14, 2018, at 53, 64; FY 2019 Form 10-K at 51, 63.

APPENDIX B
LIST OF COMMENTERS AND COMMENTS

Commenter	**Citation**	**Citation Short Form**
A.B. Data, Ltd. (A.B. Data)	Comments of A.B. Data, Ltd., January 31, 2020	A.B. Data Comments
Air Force Association (AFA), AMVETS (American Veterans), Association of the Military Surgeons of the United States (AMSUS), Association of the United States Navy (AUSN), Chief Warrant Officers Association of the U.S. Coast Guard (CWOA), Commissioned Officers Association of the U.S. Public Health Service (COA), Enlisted Association of the National Guard of the United States (EANGUS), Fleet Reserve Association (FRA), Jewish War Veterans of the United States of America (JWV), Marine Corps League (MCL), Marine Corps Reserve Association (MCRA), Military Officers Association of America (MOAA), National Military Family Association (NMFA), Non-Commissioned Officers Association (NCOA), Service Women's Action Network (SWAN), The Enlisted Association (TREA), U.S. Coast Guard Chief Petty Officers Association (USCGPOA), Veterans of Foreign Wars (VFW), VetsFirst, United Spinal Association (VetsFirst), Vietnam Veterans of America (VVA), and Wounded Warrior Project (WWP) (collectively, AFA *et al.*)	Comments of Military and Veteran Service Organizations, February 5, 2020	AFA *et al.* Comments

Commenter	**Citation**	**Citation Short Form**
Alliance of Nonprofit Mailers, Association for Postal Commerce, MPA—the Association of Magazine Media, American Catalog Mailers Association, Direct Marketing Association of Washington, Nonprofit Alliance, Envelope Manufacturers Association, Saturation Mailers Coalition, and Continuity Shippers Association (collectively, ANM *et al.*)	Comments of the Alliance of Nonprofit Mailers, the Association for Postal Commerce, MPA - the Association of Magazine Media, the American Catalog Mailers Association, the Direct Marketing Association of Washington, the Nonprofit Alliance, the Envelope Manufacturers Association, the Saturation Mailers Coalition, and the Continuity Shippers Association, February 3, 2020	ANM *et al.* Comments
	Reply Comments of the Alliance of Nonprofit Mailers, the Association for Postal Commerce, MPA - the Association of Magazine Media, the American Catalog Mailers Association, the Direct Marketing Association of Washington, the Nonprofit Alliance, the Envelope Manufacturers Association, the Saturation Mailers Coalition, and the Continuity Shippers Association, March 4, 2020	ANM *et al.* Reply Comments
Alzheimer's Association	Comments of Alzheimer's Association, February 3, 2020	Alzheimer's Association Comments
American Bankers Association (ABA)	Comments of American Bankers Association, February 3, 2020	ABA Comments
	Reply Comments of American Bankers Association, March 4, 2020	ABA Reply Comments
American Catalog Mailers Association (ACMA)	Initial Comments of the American Catalog Mailers Association (ACMA), February 3, 2020	ACMA Comments
	Reply Comments of the American Catalog Mailers Association (ACMA), March 4, 2020	ACMA Reply Comments
American Consumer Institute Center for Citizen Research (ACI)	Comments of American Consumer Institute Center for Citizen Research Regarding Docket No. RM2017-3 Submitted to the United States Postal Regulatory Commission, January 31, 2020	ACI Comments
American Farmland Trust (AFT)	Comments of American Farmland Trust, February 5, 2020	AFT Comments

Commenter	Citation	Citation Short Form
American Forest & Paper Association (AF&PA)	Comments of the American Forest & Paper Association, January 31, 2020	AF&PA Comments
American Jewish Joint Distribution Committee, Inc. (JDC)	Comments of the American Jewish Joint Distribution Committee, Inc., February 4, 2020	JDC Comments
American Kidney Fund (AKF)	Comments of the American Kidney Fund, February 5, 2020	AKF Comments
American Leprosy Missions (ALM)	Comments of American Leprosy Missions, January 31, 2020	ALM Comments
American Lung Association (ALA)	Comments of the American Lung Association, February 5, 2020	ALA Comments
American Postal Workers Union, AFL-CIO (APWU)	Comments of the American Postal Workers Union, AFL-CIO on the Revised Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, February 4, 2020[1]	APWU Comments
American Red Cross (Red Cross)	Comments of the American Red Cross, February 3, 2020	Red Cross Comments
American Rivers	Comments of American Rivers, February 10, 2020	American Rivers Comments
Americans United for Separation of Church and State (AU)	Comments of Americans United for Separation of Church and State, February 5, 2020	AU Comments
ANA Nonprofit Federation (ANA)	Comments of ANA Nonprofit Federation, February 3, 2020	ANA Comments
Appalachian Mountain Club (AMC)	Comments of Appalachian Mountain Club, February 3, 2020	AMC Comments

[1] On February 4, 2020, APWU filed a motion for late acceptance of its comments. Motion for Late Acceptance of Comments of the American Postal Workers Union, AFL-CIO on the Revised Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, February 4, 2020. The motion is granted.

Commenter	Citation	Citation Short Form
Arizona Food Bank Network (AZ Food Bank)	Comments of Arizona Food Bank Network, February 5, 2020	AZ Food Bank Comments
Arkansas Electric Cooperatives Inc. (AECI)	Comments of Arkansas Electric Cooperatives Inc., February 4, 2020	AECI Comments
Arthritis Foundation	Comments of Arthritis Foundation, January 28, 2020	Arthritis Foundation Comments
Association of Fundraising Professionals (AFP)	Comments of Association of Fundraising Professionals, February 3, 2020	AFP Comments
Association of Our Lady of Mount Carmel (Our Lady of Mount Carmel)	Comments of the Association of Our Lady of Mount Carmel, February 3, 2020	Our Lady of Mount Carmel Comments
Atlanta Humane Society (AHS)	Comments of Atlanta Humane Society, February 3, 2020	AHS Comments
Baylor College of Medicine (Baylor)	Comments of Baylor College of Medicine, February 13, 2020	Baylor Comments
Berkshire Company (Berkshire Co.)	Comments of the Berkshire Company in Response to Order No. 5337, February 3, 2020	Berkshire Co. Comments
Boys & Girls Club of Greater Nashua (Boys & Girls Club)	Comments of the Boys & Girls Club of Greater Nashua, January 27, 2020	Boys & Girls Club Comments
CARE USA (CARE)	Reply Comments of CARE USA, March 10, 2020	CARE Reply Comments
Catholic Charities of St. Paul and Minneapolis (Catholic Charities)	Comments of Catholic Charities of St. Paul and Minneapolis, February 3, 2020	Catholic Charities Comments
Catholic Relief Services (CRS)	Comments of Catholic Relief Services, February 5, 2020	CRS Comments
Chesapeake Bay Foundation (CBF)	Comments of the Chesapeake Bay Foundation, January 28, 2020	CBF Comments

Commenter	Citation	Citation Short Form
Child Bridge	Comments of Child Bridge, February 4, 2020	Child Bridge Comments
Chimp Haven	Comments of Chimp Haven, February 4, 2020	Chimp Haven Comments
Christian Appalachian Project (CAP)	Comments of Christian Appalachian Project, February 5, 2020	CAP Comments
Coalition for a 21st Century Postal Service (C21)	Reply Comments of the Coalition for a 21st Century Postal Service, March 4, 2020	C21 Reply Comments
Commemorative Air Force (CAF)	Comments of the Commemorative Air Force, February 5, 2020	CAF Comments
Compassion International	Comments of Compassion International, February 5, 2020	Compassion International Comments
Council for Advancement and Support of Education (CASE)	Comments of Council for Advancement and Support of Education, February 3, 2020	CASE Comments
Crossroads Rhode Island (Crossroads)	Comments of Crossroads Rhode Island, February 5, 2020	Crossroads Comments
Defenders of Wildlife (DOW)	Comments of Defenders of Wildlife, February 4, 2020	DOW Comments
Disabled American Veterans (DAV)	Comments of Disabled American Veterans, February 13, 2020	DAV Comments
Discover Financial Services (Discover)	Comments of Discover Financial Services on Revised Notice of Proposed Rulemaking, February 3, 2020	Discover Comments
DM Pros, Inc. (DM Pros)	Comments of DM Pros, Inc., February 4, 2020	DM Pros Comments
DOROT	Comments of DOROT, February 4, 2020	DOROT Comments
eBay, Inc. (eBay)	Comments of eBay, Inc., February 3, 2020	eBay Comments

Commenter	Citation	Citation Short Form
Electric Cooperatives of South Carolina (ECSC)	Comments of Electric Cooperatives of South Carolina, January 29, 2020	ECSC Comments
Epsilon	Comments of Epsilon, February 3, 2020	Epsilon Comments
Feed the Children	Comments of Feed the Children, January 22, 2020	Feed the Children Comments
Feeding America	Comments of Feeding America, January 29, 2020	Feeding America Comments
Feeding South Dakota	Comments of Feeding South Dakota, January 31, 2020	Feeding South Dakota Comments
Feeding Wisconsin	Comments of Feeding Wisconsin, February 3, 2020	Feeding Wisconsin Comments
FeedMore WNY (FeedMore)	Comments of FeedMore WNY, February 4, 2020	FeedMore Comments
FINCA International, Inc. (FINCA)	Comments of FINCA International, Inc., February 5, 2020	FINCA Comments
Food & Friends	Comments of Food & Friends, February 3, 2020	Food & Friends Comments
Food Bank for Larimer County, CO (Larimer County Food Bank)	Comments of the Food Bank for Larimer County, CO, January 31, 2020	Larimer County Food Bank Comments
Food Bank of Northeast Arkansas (NE Arkansas Food Bank)	Comments of the Food Bank of Northeast Arkansas, January 31, 2020	NE Arkansas Food Bank Comments
Food Finders Food Bank, Inc. (Food Finders)	Comments of Food Finders Food Bank, Inc., January 28, 2020	Food Finders Comments
Foodbank of Santa Barbara County, CA (Santa Barbara County Foodbank)	Comments of the Foodbank of Santa Barbara County, CA, February 4, 2020	Santa Barbara County Foodbank Comments

Commenter	**Citation**	**Citation Short Form**
Foodbank of Southeastern Virginia and the Eastern Shore (SE Virginia Foodbank)	Comments of the Foodbank of Southeastern Virginia and the Eastern Shore, February 3, 2020	SE Virginia Foodbank Comments
Franciscan Friars of the Atonement (Franciscan Friars)	Comments of Franciscan Friars of the Atonement, February 3, 2020	Franciscan Friars Comments
Franciscan Mission Associates (Franciscan Mission)	Comments of Franciscan Mission Associates, January 29, 2020	Franciscan Mission Comments
Gleaners Community Food Bank (Gleaners)	Comments of Gleaners Community Food Bank, February 5, 2020	Gleaners Comments
Golden State Power Cooperative (GSPC)	Comments of Golden State Power Cooperative, January 31, 2020	GSPC Comments
Greeting Card Association (GCA)	Initial Comments of the Greeting Card Association in Response to Order No. 5337, February 3, 2020	GCA Comments
	Reply Comments of the Greeting Card Association, March 4, 2020	GCA Reply Comments
Harvest Hope Food Bank (Harvest Hope)	Comments of Harvest Hope Food Bank (Wendy Broderick, CEO), February 3, 2020	February 3 Harvest Hope Comments
	Comments of Harvest Hope Food Bank (Lenore K. Zedosky, BOD), February 5, 2020	February 5 Harvest Hope Comments
Hawkeye Area Community Action Program, Inc. (HACAP)	Comments of the Hawkeye Area Community Action Program, Inc., February 3, 2020	HACAP Comments
House of Ruth	Comments of the House of Ruth, January 27, 2020	House of Ruth Comments
Human Rights Campaign (HRC)	Comments of the Human Rights Campaign, January 28, 2020	HRC Comments
Idaho Foodbank	Comments of the Idaho Foodbank, January 29, 2020	Idaho Foodbank Comments
Independent Sector	Comments of Independent Sector, February 3, 2020	Independent Sector

Commenter	Citation	Citation Short Form
InnerWorkings	Comments of InnerWorkings, January 30, 2020	InnerWorkings Comments
League of the Miraculous Infant Jesus of Prague (LMIJP)	Comments of the League of the Miraculous Infant Jesus of Prague, February 7, 2020	LMIJP Comments
Logan Eddy	Comments of Logan Eddy, January 29, 2020	Eddy Comments
Lubbock Meals on Wheels, Inc. (Lubbock Meals on Wheels)	Comments of Lubbock Meals on Wheels, Inc., January 23, 2020	Lubbock Meals on Wheels Comments
Mailers Hub LLC (Mailers Hub)	Comments of Mailers Hub LLC, February 3, 2020	Mailers Hub Comments
MANNA FoodBank (MANNA)	Comments of MANNA FoodBank, February 4, 2020	MANNA Comments
March of Dimes	Comments of March of Dimes, February 4, 2020	March of Dimes Comments
Marine Corps Heritage Foundation (MCHF)	Comments of the Marine Corps Heritage Foundation, January 27, 2020	MCHF Comments
Marist Brothers	Comments of the Marist Brothers, January 27, 2020	Marist Brothers Comments
Maryland Food Bank	Comments of the Maryland Food Bank, February 3, 2020	Maryland Food Bank Comments
Meals on Wheels of Mercer County (MOWMC)	Comments of Meals on Wheels of Mercer County, NJ, January 30, 2020	MOWMC Comments
Meals on Wheels of Metro Tulsa, Inc. (MOWMT)	Comments on Meals on Wheels of Metro Tulsa, OK, Inc., January 27, 2020	MOWMT Comments
Mercy Home for Boys & Girls (Mercy Home)	Comments of Mercy Home for Boys & Girls, January 28, 2020	Mercy Home Comments

Commenter	**Citation**	**Citation Short Form**
Meredith Corporation	Comments of Meredith Corporation, February 3, 2020	Meredith Corporation Comments
Michigan Electric Cooperative Association (MECA)	Comments of the Michigan Electric Cooperative Association, January 31, 2020	MECA Comments
MINDset Direct	Comments of MINDset Direct, January 22, 2020	MINDset Direct Comments
Miriam Magnuson	Comments of Miriam Magnuson, January 30, 2020	Magnuson Comments
Missionary Oblates of Mary Immaculate (MOMI)	Comments of Missionary Oblates of Mary Immaculate (Bill Undertajlo, DOF), January 31, 2020	Undertajlo MOMI Comments
	Comments of Missionary Oblates of Mary Immaculate (Patty Herges Schanz, Group Leader), January 31, 2020	Schanz MOMI Comments
Mono Lake Committee (MLC)	Comments of the Mono Lake Committee, February 3, 2020	MLC Comments
Mount Pisgah Academy	Comments of Mount Pisgah Academy, January 27, 2020	Mount Pisgah Academy Comments
National Association of Letter Carriers, AFL-CIO (NALC)	Comment of the National Association of Letter Carriers, AFL-CIO, January 30, 2020	NALC Comments
National Association of Postal Supervisors (NAPS)	Comments of the National Association of Postal Supervisors (NAPS), January 31, 2020	NAPS Comments
National Committee to Preserve Social Security & Medicare (NCPSSM)	Comments of the National Committee to Preserve Social Security and Medicare, February 3, 2020	NCPSSM Comments
National Museum of Women in the Arts (NMWA)	Comments of the National Museum of Women in the Arts, February 3, 2020	NMWA Comments

Commenter	**Citation**	**Citation Short Form**
National Newspaper Association (NNA)	Comments of the National Newspaper Association, January 31, 2020	NNA Comments
National Newspaper Association, Continuity Mailers Association, American Catalog Mailers Association, Envelope Manufacturers Association, Greeting Card Association, Mailers Hub LLC, Saturation Mailers Coalition, Small Business Legislative Council, Inc., Pacific Northwest Association of Want Ad Papers, Mid-Atlantic Free Papers Association, Independent Free Papers of America, Community Papers of Michigan, Community Papers of New England, New York Press Association, Free Community Papers of New York, Midwest Free Community Paper Association, Association of Free Community Papers, Florida Media Association, Southwestern Advertising Publishers Association, and Wisconsin Community Papers (collectively, NNA *et al.*)	Explanation of Options for a Financially Stable Postal System, February 3, 2020	NNA *et al.* Comments
National Parks Conservation Association (NPCA)	Comments of National Parks Conservation Association, February 3, 2020	NPCA Comments
National Postal Mail Handlers Union (NPMHU)	Comments of the National Postal Mail Handlers Union on Revised Notice of Proposed Rulemaking, February 4, 2020	NPMHU Comments
National Postal Policy Council, Major Mailers Association, National Association of Presort Mailers, and Association for	Comments of the National Postal Policy Council, the Major Mailers Association, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement, February 3, 2020	NPPC *et al.* Comments

Commenter	**Citation**	**Citation Short Form**
Mail Electronic Enhancement (collectively, NPPC *et al.*)	Reply Comments of the National Postal Policy Council, the Major Mailers Association, the National Association of Presort Mailers, and the Association for Mail Electronic Enhancement, March 4, 2020	NPPC *et al.* Reply Comments
National Rural Electric Cooperative Association (NRECA)	Comments of the National Rural Electric Cooperative Association, February 3, 2020	NRECA Comments
National Taxpayers Union (NTU)	Comments of National Taxpayers Union, February 3, 2020	NTU Comments
National Trust for Historic Preservation (NTHP)	Comments of the National Trust for Historic Preservation, February 3, 2020	NTHP Comments
New England Journal of Medicine (NEJM)	Comments of the New England Journal of Medicine, February 6, 2020	NEJM Comments
New Israel Fund (NIF)	Comments of the New Israel Fund, February 10, 2020	NIF Comments
News Media Alliance (NMA)	Comments of the News Media Alliance, January 31, 2020	NMA Comments
No Kid Hungry (NKH)	Comments of No Kid Hungry, February 10, 2020	NKH Comments
North Carolina Association of Electric Cooperatives (NCAEC)	Comments of the North Carolina Association of Electric Cooperatives, February 3, 2020	NCAEC Comments
North Shore Animal League America (NSALA)	Comments of North Shore Animal League America, February 3, 2020	NSALA Comments
Northern Westchester Hospital (NWH)	Comments of Northern Westchester Hospital, January 28, 2020	NWH Comments
Northwest Arkansas Food Bank	Comments of the Northwest Arkansas Food Bank, February 5, 2020	Northwest Arkansas Food Bank Comments

Commenter	**Citation**	**Citation Short Form**
Nutrition & Services for Seniors (NSFS)	Comments of Nutrition & Services for Seniors, January 27, 2020	NSFS Comments
Oblate Missionary Society, Inc. (OMSI)	Comments of Oblate Missionary Society, Inc. (David Uribe, Executive Director), February 3, 2020	Uribe OMSI Comments
	Comments of Oblate Missionary Society, Inc. (Ken Amerson, Associate Executive Director), February 3, 2020	Amerson OMSI Comments
Oblate Missions	Comments of Oblate Missions, February 3, 2020	Oblate Missions Comments
Ohio's Electric Cooperatives (OEC)	Comments of Ohio's Electric Cooperatives, January 27, 2020	OEC Comments
Operation Smile	Comments of Operation Smile (Dr. Bill Magee, Jr., DDS, MD, Co-Founder and CEO), January 28, 2020	Dr. Magee Operation Smile Comments
	Comments of Operation Smile (Katie Downtain Ward, Director, Direct Marketing and Fundraising), January 27, 2020	Ward Operation Smile Comments
	Comments of Operation Smile (Kendra Davenport, CDO), January 28, 2020	Davenport Operation Smile Comments
	Comments of Operation Smile (Libby Czerlinksy, Director, Donor Services), January 28, 2020	Czerlinksy Operation Smile Comments
Osborne Coinage Co. (Osborne Coinage)	Reply Comments of the Osborne Coinage Co., March 4, 2020	Osborne Coinage Reply Comments
Parcel Shippers Association (PSA)	Comments of the Parcel Shippers Association Pursuant to Commission Order No. 5337, February 3, 2020	PSA Comments

Commenter	Citation	Citation Short Form
	Corrected Comments of the Parcel Shippers Association Pursuant to Commission Order No. 5337, February 5, 2020[2]	PSA Revised Comments
Parkinson's Foundation	Comments of the Parkinson's Foundation, February 10, 2020	Parkinson's Foundation Comments
Passionist Missionaries	Comments of the Passionist Missionaries, February 3, 2020	Passionist Missionaries Comments
Peter Roehrich	Comments of Peter Roehrich, January 6, 2020	Roehrich Comments
Physicians Committee for Responsible Medicine (PCRM)	Comments of Physicians Committee for Responsible Medicine, January 31, 2020	PCRM Comments
Pitney Bowes Inc. (Pitney Bowes)	Comments of Pitney Bowes Inc., February 3, 2020	Pitney Bowes Comments
	Reply Comments of Pitney Bowes Inc., March 4, 2020	Pitney Bowes Reply Comments
Port Discovery Children's Museum (PDCM)	Comments of Port Discovery Children's Museum, February 4, 2020	PDCM Comments
Presbyterian Church (U.S.A.), A Corporation (Presbyterian Church)	Comments of Presbyterian Church (U.S.A.), A Corporation, February 3, 2020	Presbyterian Church Comments
Production Management Group, Ltd. (PMG)	Comments of the Production Management Group, Ltd., February 3, 2020	PMG Comments
Public Representative	Comments of the Public Representative on Revised Notice of Proposed Rulemaking, February 3, 2020	PR Comments

[2] On February 5, 2020, PSA filed a motion for leave to file revised comments correcting a formatting issue on page 9 of the PSA Comments. Parcel Shippers Association Motion for Leave to File Corrected Comments, February 5, 2020. The motion is granted.

Commenter	Citation	Citation Short Form
	Reply Comments of the Public Representative Regarding Revised Notice of Proposed Rulemaking, March 4, 2020	PR Reply Comments
Pursuant	Comments of Pursuant, February 6, 2020	Pursuant Comments
REACH Institute	Comments of the REACH Institute, February 3, 2020	REACH Institute Comments
Reasons to Believe (RTB)	Comments of Reasons to Believe, February 4, 2020	RTB Comments
Redlands Christian Migrant Association (RCMA)	Comments of Redlands Christian Migrant Association, February 4, 2020	RCMA Comments
Regional Food Bank of Oklahoma (Oklahoma Food Bank)	Comments of the Regional Food Bank of Oklahoma, February 3, 2020	Oklahoma Food Bank Comments
Rhode Island Community Food Bank (Rhode Island Food Bank)	Comments of the Rhode Island Community Food Bank, January 31, 2020	Rhode Island Food Bank Comments
Sacred Heart Southern Missions (Sacred Heart)	Comments of Sacred Heart Southern Missions, January 27, 2020	Sacred Heart Comments
Saint Andrew's Abbey (Saint Andrew's)	Comments of Saint Andrew's Abbey, January 27, 2020	Saint Andrew's Comments
Second Harvest Food Bank of Santa Cruz County, CA (Second Harvest Santa Cruz)	Comments of Second Harvest Food Bank of Santa Cruz County, CA, February 3, 2020	Second Harvest Santa Cruz Comments
Second Harvest Foodbank of Southern Wisconsin (Second Harvest Southern Wisconsin)	Comments of Second Harvest Foodbank of Southern Wisconsin, February 3, 2020	Second Harvest Southern Wisconsin Comments
Second Harvest Northern Lakes Food Bank (Second Harvest Northern Lakes)	Comments of Second Harvest Northern Lakes Food Bank, January 31, 2020	Second Harvest Northern Lakes Comments

Commenter	**Citation**	**Citation Short Form**
Sierra Club	Comments of Sierra Club, February 3, 2020	Sierra Club Comments
Sisters of St. Francis of Assisi (Sisters of St. Francis)	Comments of Sisters of St. Francis of Assisi, February 3, 2020	Sisters of St. Francis Comments
Small Business & Entrepreneurship Council (SBE Council)	Comments of the Small Business & Entrepreneurship Council, February 3, 2020	SBE Council Comments
Society of the Divine Savior Salvatorians (SDSS)	Comments of the Society of the Divine Savior Salvatorians, February 3, 2020	SDSS Comments
Society of the Little Flower (SLF)	Comments of Society of the Little Flower, February 3, 2020	SLF Comments
Southeast Missouri Food Bank	Comments of Southeast Missouri Food Bank, February 3, 2020	Southeast Missouri Food Bank Comments
Southeast Ohio Foodbank	Comments of Southeast Ohio Foodbank, February 3, 2020	Southeast Ohio Foodbank Comments
Special Olympics	Comments of Special Olympics, February 3, 2020	Special Olympics Comments
St. Francis House	Comments of St. Francis House, February 3, 2020	St. Francis House Comments
TennGreen Land Conservancy (TennGreen)	Comments of TennGreen Land Conservancy, February 3, 2020	TennGreen Comments
TheaterWorks Hartford (TheaterWorks)	Comments of TheaterWorks Hartford, January 28, 2020	TheaterWorks Comments
TREA: The Enlisted Association (TREA)	Comments of TREA: The Enlisted Association, January 31, 2020	TREA Comments
Trinity Missions	Comments of Trinity Missions, January 27, 2020	Trinity Missions Comments

Commenter	**Citation**	**Citation Short Form**
Trinity Services, Inc. (Trinity Services)	Comments of Trinity Services, Inc., February 3, 2020	Trinity Services Comments
UNICEF USA (UNICEF)	Comments of UNICEF USA, February 3, 2020	UNICEF Comments
United Spinal Association (United Spinal)	Comments of United Spinal Association, February 3, 2020	United Spinal Comments
United States Postal Service (Postal Service)	Initial Comments of the United States Postal Service in Response to Order No. 5337, February 3, 2020	Postal Service Comments
	Reply Comments of the United States Postal Service in Response to Order No. 5337, March 4, 2020	Postal Service Reply Comments
Virginia, Maryland and Delaware Association of Electric Cooperatives (VMDAEC)	Comments of the Virginia, Maryland and Delaware Association of Electric Cooperatives, January 24, 2020	VMDAEC Comments
Visiting Nurse Service of New York (VNSNY)	Comments of the Visiting Nurse Service of New York, February 3, 2020	VNSNY Comments
Volunteers of America Colorado Branch (VOA)	Comments of Volunteers of America Colorado Branch, January 27, 2020	VOA Comments
Washington National Cathedral (WNC)	Comments of Washington National Cathedral, February 6, 2020	WNC Comments
We Raise Foundation (WRF)	Comments of We Raise Foundation, February 3, 2020	WRF Comments
White Coat Waste Project (WCWP)	Comments of White Coat Waste Project, February 3, 2020	WCWP Comments
Wounded Warrior Project (WWP)	Comments of Wounded Warrior Project, January 31, 2020	WWP Comments

EXHIBIT 2

Postal Regulatory Commission
Submitted 1/19/2021 2:36:43 PM
Filing ID: 115864
Accepted 1/19/2021

ORDER NO. 5818

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

Before Commissioners: Robert G. Taub, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Michael Kubayanda

Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products

Docket No. RM2017-3

ORDER DENYING STAY

(Issued January 19, 2021)

I. INTRODUCTION

On December 28, 2020, six parties jointly moved the Commission to stay the effective date of final rules recently promulgated by the Commission in this docket pending review by the United States Court of Appeals for the District of Columbia Circuit.[1] For the reasons discussed below, the Motion is denied.

[1] Motion for Stay Pending Judicial Review by the Alliance of Nonprofit Mailers, the Association for Postal Commerce, MPA – The Association of Magazine Media, National Postal Policy Council, Major Mailers Association, and the American Catalog Mailers Association, December 28, 2020 (Motion).

II. BACKGROUND

Pursuant to 39 U.S.C. § 3622(d)(3), the Commission in December of 2016 initiated a review of the ratemaking system for Market Dominant postal products in order to determine if that system had achieved the 9 statutory objectives specified by the Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3198 (2006), taking into account the 14 statutory factors also specified in that statute.[2] On December 1, 2017, the Commission released its findings, in which it concluded that the Market Dominant ratemaking system had not achieved the PAEA's statutory objectives, taking into account the statutory factors.[3] Accordingly, pursuant to 39 U.S.C. § 3622(d)(3), the Commission began the task of "by regulation[ ] mak[ing] modification[s] or adopt[ing] [an] alternative system . . . as necessary to achieve the objectives."[4] Following a Notice of Proposed Rulemaking[5] and a Revised Notice of Proposed Rulemaking,[6] that process ultimately culminated in a final order on November 30, 2020, in which the Commission adopted rule revisions that were designed to rectify the shortcomings of the existing ratemaking system identified in Order No. 4257 and to facilitate achievement of the PAEA's statutory objectives.[7]

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[2] *See* 39 U.S.C. § 3622(d)(3) ("Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c).")

[3] Order on the Findings and Determination of the 39 U.S.C. § 3622 Review, December 1, 2017 (Order No. 4257).

[4] *See* 39 U.S.C. § 3622(d)(3) ("If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.").

[5] Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products, December 1, 2017 (Order No. 4258).

[6] Revised Notice of Proposed Rulemaking, December 5, 2019 (Order No. 5337).

[7] Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

Movants have sought review of Order Nos. 4257 and 5763 in the Court of Appeals.[8] They argue that the Commission should stay the effective date of the final rules, which took effect on January 14, 2021.[9] The Postal Service opposes the Motion.[10]

III. COMMISSION ANALYSIS

An agency may postpone the effective date of action taken by it, pending judicial review, when justice so requires. *See* 5 U.S.C. § 705. In analyzing such a motion, the Commission uses the four-part preliminary injunction test articulated in *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 259 F.2d 921, 925 (D.C. Cir. 1958).[11] That test sets forth four factors to be considered: (1) the likelihood of success on the merits; (2) whether irreparable harm will occur to the requesting party if relief is not granted; (3) whether irreparable harm will occur to other parties if relief is granted; and (4) the public interest.[12] The Commission discusses each of these factors below.

A. The Likelihood of Success on the Merits

Courts place particular emphasis on the first *Jobbers* factor, the moving party's likelihood of success on the merits, often treating it as dispositive and declining to

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[8] Motion at 1-2. *See* Clerk's Order, No. 17-1276 (D.C. Cir. filed Dec. 29, 2020) (consolidating Case Nos. 17-1276, 20-1505, and 20-1510).

[9] Order No. 5763 at 370 (stating that revised rules are to take effect 30 days after publication in the *Federal Register*); System for Regulating Market Dominant Rates and Classifications, 85 Fed. Reg. 81124 (December 15, 2020).

[10] Opposition of the United States Postal Service to Motion for Stay Pending Judicial Review, January 4, 2021 (Postal Service Opposition).

[11] *See* Docket No. R2013-11, Order Denying Stay and Establishing Schedule for Reporting Requirements, May 2, 2014, at 7-8 (Order No. 2075) (adopting the *Jobbers* test as the standard for evaluating motions under 5 U.S.C. § 705).

[12] *Jobbers*, 259 F.2d at 925; *see also Mills v. Dist. of Columbia*, 571 F.3d 1304, 1308 (D.C. Cir. 2009).

consider the other factors if it is not met.[13] Movants argue that they are likely to prevail on the merits of their appeal for two reasons. First, they maintain that the Commission exceeded its statutory authority in promulgating the rule revisions it adopted in Order No. 5763. Motion at 2-5. Second, they maintain that the final rules adopted by the Commission are arbitrary and capricious. *Id.* at 5-7.

1. The Commission's Statutory Authority

With respect to the Commission's statutory authority, Movants characterize Order No. 5763 as having found that "the requirements of [paragraphs] (d)(1) and (d)(2) . . . may be discarded . . . because [paragraph] (d)(3) follows them sequentially." Motion at 3. They argue that this violates the plain language of 39 U.S.C. § 3622 and that there is "no authority holding that the third-in-order requirement in a statute somehow supersedes the prior two." *Id.*

Movants assert that the PAEA requires any ratemaking system established by the Commission under section 3622, whether promulgated under subsection (a) or under paragraph (d)(3), to limit price increases to no greater than CPI-U. *Id.* at 2-3. Movants argue that nothing in the PAEA expressly empowers the Commission to revoke specific provisions within section 3622, such as the price cap provisions contained in paragraphs (d)(1) and (d)(2). *Id.* at 3-4. Movants maintain that while paragraph (d)(3) requires the Commission to review its initial implementing regulations after 10 years, any revisions to those regulations are subject to the same requirements that applied when they were initially promulgated pursuant to subsection (a). *Id.* Movants argue that "Congress demonstrated that it knew precisely how to allow the

[13] *See, e.g.*, *Guedes v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 920 F.3d 1, 10 (D.C. Cir. 2019) (citations omitted); *Greater New Orleans Fair Housing Action Center v. United States Dep't of Housing & Urban Development*, 639 F.3d 1078, 1083 (D.C. Cir. 2011) (citations omitted).

Commission to authorize above-CPI pricing authority . . . ." if it had been Congress's intent to do so. *Id.* at 3.

Movants argue that the Commission's interpretation of section 3622 is constitutionally impermissible because "Congress cannot grant an agency the ability to amend or repeal statutes."[14] Movants also argue that certain statements made by Senator Susan Collins as to the legislative intent behind section 3622(d)(3), which the Commission cited to in Order No. 5763 and in prior orders, cannot override the PAEA's text, and, in any event, do not support the Commission's interpretation of section 3622.[15]

The Postal Service responds that Movants misrepresent the Commission's analysis of its statutory authority in Order No. 5763 by focusing solely on the sequencing of the paragraphs within subsection (d) and ignoring the Commission's much more extensive analysis with respect to section 3622's plain language and structure. Postal Service Opposition at 3-4. The Postal Service asserts that Movants' statutory interpretation of section 3622 is incorrect, as are their arguments regarding the constitutionality of the Commission's interpretation of section 3622 and the use of Senator Collins' statements. *Id.* at 3-5.

Commission analysis. Movants' arguments were all specifically addressed in Order No. 5763 and in prior orders. Movants misrepresent the Commission's interpretation of section 3622 as having been based primarily on the sequencing of the paragraphs within subsection (d) of section 3622. In actuality, the Commission's interpretation of section 3622 was grounded first and foremost in the statute's plain language. Paragraph (d)(3) plainly states that:

> Ten years after the date of enactment of the [PAEA] . . . the Commission shall review the [ratemaking] system . . . established under [section 3622]

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[14] Motion at 4-5 (citing *Clinton v. State of New York*, 524 U.S. 417, 438-99 (1998); *MCI Telecomm. Corp. v. Am. Tel. & Tel. Co.*, 512 U.S. 218, 231 (1994)).

[15] Motion at 4-5 (citing *Chamber of Commerce of the United States v. Whiting*, 131 S. Ct. 1968, 1980 (2011) (quoting *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 568 (2005)).

> to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines . . . that the system is not achieving the objectives . . . , taking into account the factors . . . , the Commission may, by regulation, make such modification or adopt such alternative system . . . as necessary to achieve the objectives.

39 U.S.C. § 3622 (d)(3). Giving the words in this provision their ordinary and unambiguous meaning in the absence of specific statutory definitions, the Commission interpreted paragraph (d)(3) to say that if the Commission's required review of the ratemaking system determined that the ratemaking system was not achieving the PAEA's statutory objectives, taking into account the statutory factors, then the Commission had discretion to, by regulation, either make changes to the existing ratemaking system or replace the existing ratemaking system with a different ratemaking system. Order No. 5763 at 40-42. The Commission noted that the only limit paragraph (d)(3) placed on the Commission's ability to make such changes was that they must be "necessary" to achieve the statutory objectives. *Id.* at 42, 46.

Based on both the text and structure of section 3622, the Commission explained that paragraph (d)(3)'s scope unambiguously extends to all aspects of the existing ratemaking system under section 3622. *Id.* at 42. The Commission found that the consistent use of the word "system" throughout section 3622 indicated that all of the provisions of section 3622 formed part of the same "system" of ratemaking that was subject to modification or replacement under paragraph (d)(3). *Id.* at 42-43. The Commission found that this conclusion was *confirmed* by the structure of subsection (d), in which paragraph (d)(3)'s review provision follows the price cap provisions set out in paragraphs (d)(1) and (d)(2), but that was far from the only basis for the Commission's conclusion. *Id.* at 43. That conclusion was also based on textual differences between paragraph (d)(3) and subsection (a), as well as section 3622's overall structure, in which any regulatory action taken under paragraph (d)(3) is premised on a finding that the ratemaking system established under subsection (a)—which was required to include certain mandatory features including the price cap provisions that Movants are

particularly concerned with—has failed to achieve the statutory objectives, taking into account the statutory factors. *Id.* at 43-45.

The Commission also specifically addressed the argument that paragraphs (d)(1), (d)(2), and (d)(3) are *each* requirements of the ratemaking system, and that the scope of the Commission's authority under paragraph (d)(3) is limited to the scope of the Commission's authority under subsection (a). *Id.* at 48, 51-55. The Commission found that this argument ignored the actual text of section 3622, including the consistent use of the word "system" and the fact that paragraph (d)(3) does not place any limit on the Commission's authority to promulgate a modified or alternative ratemaking system other than that such changes must be necessary to achieve the statutory objectives. *Id.* at 48, 52-53. The Commission also found that this argument ignored textual and structural differences between paragraph (d)(3) and subsection (a), as well as the overall structural context of section 3622. *Id.* at 48, 54-55.

The Commission also specifically addressed the argument that if Congress had intended to permit the price cap to be abrogated, it would have done so explicitly. As the Commission has explained, it was unnecessary for paragraph (d)(3) to include a sunset provision with respect to the CPI-U price cap provisions or otherwise to explicitly reference them because paragraph (d)(3) does not automatically remove the CPI-U price cap (or any other feature of the existing ratemaking system). *Id.* at 49-50. Congress's provision that the Commission *may* make modifications to the existing ratemaking system or adopt an alternative ratemaking system *as necessary to achieve* the PAEA's statutory objectives is both permissive and highly dependent on the findings from the Commission's required review of the existing ratemaking system. If the Commission had found that the existing ratemaking system was achieving the PAEA's statutory objectives, taking into account the statutory factors, the Commission's authority under paragraph (d)(3) would not have been invoked and the existing ratemaking system would have remained unchanged. *Id.* Similarly, if the Commission had found that the ratemaking system was not achieving the statutory objectives, taking

into account the statutory factors, but that failure was not attributable to the CPI-U price cap provisions, then there would have been no need to address those provisions.

The Commission also specifically addressed Movants' constitutional arguments. With regard to the Presentment Clause, the Commission first noted that the promulgation of rules by an administrative agency does not constitute a legislative act. Order No. 5337 at 53-54. Paragraph (d)(3) does not repeal anything; it expressly *authorizes* the Commission to, by regulation, take action to execute the law by remedying a failure to achieve the PAEA's statutory objectives, including, if necessary, by adopting an alternative to the existing CPI-U price cap system. Order No. 5763 at 56-57. The Commission also found that cases such as *Clinton* are distinguishable from the instant case, particularly because under the PAEA, the Commission's discretion in promulgating regulations pursuant to paragraph (d)(3) is circumscribed by the 9 statutory objectives set out in section 3622(b).[16]

Finally, the Commission specifically addressed Movants' arguments concerning Senator Collins' statement in Order No. 5763 and prior orders. The Commission found that floor statements by key individuals, such as legislative sponsors, can help illuminate the purpose of a piece of legislation.[17] The Commission also found that Senator Collins' statement confirmed that the congressional sponsors of the PAEA

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[16] Order No. 5337 at 54-55. *MCI*, which Movants cite in their Motion, is similarly distinguishable. In that case, the Supreme Court found that "an agency's interpretation of a statute is not entitled to deference when it goes beyond the meaning that the statute can bear." *MCI*, 512 U.S. at 229. That case, however, involved a statute that required regulated entities to file tariffs with a regulatory body, but authorized the regulatory body to "modify any requirement made by or under . . . this section . . . ." *Id.* at 224. The question was whether the regulatory body's ability to make such "modifications" permitted it to dispense with the requirement that regulated entities file tariffs at all. *Id.* at 220. The Court found that it could not, because the tariff-filing requirement formed the "heart of" the statute in question. *Id.* at 229.

Unlike the statute at issue in *MCI*, which permitted modifications to a requirement but not abrogation of the requirement itself, the PAEA expressly contemplates that the requirements of the ratemaking system promulgated in its initial form under subsection (a) are subject to modification or replacement under paragraph (d)(3) if the Commission finds, after reviewing the ratemaking system 10 years after the PAEA's enactment, that the ratemaking system as promulgated under subsection (a) has failed to achieve the PAEA's statutory objectives, taking into account the statutory factors.

[17] Order No. 5763 at 64-65; Order No. 5337 at 45 (citing *Fed. Energy Admin. v. Algonquin SNG, Inc.*, 426 U.S. 548, 564 (1976)).

contemplated that the Commission would have broad discretion following its statutory review of the ratemaking system—including deciding whether to maintain the price cap in its existing form, modify it, or replace it. Order No. 5763 at 62-64. Importantly, Senator Collins' statement was not the sole or even the primary basis for the Commission's interpretation; it merely served to confirm the reasonableness of the Commission's interpretation to the extent that section 3622 might be construed as ambiguous. Order No. 5763 at 61-65.

Throughout each step of this proceeding, the Commission has exhaustively responded to comments addressing its legal authority, including comments lodging the same objections that Movants raise in this Motion. *See* Order No. 4258 at 4-25; Order No. 5337 at 16-58; Order No. 5763 at 32-71. The Commission has comprehensively evaluated section 3622 pursuant to the framework set out in *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984), and found that paragraph (d)(3) unambiguously grants the Commission the authority to modify or replace any part of the ratemaking system, including the CPI-U price cap provisions, as necessary to achieve the PAEA's statutory objectives. *See* Order No. 4258 at 14-25; Order No. 5337 at 33-44; Order No. 5763 at 32-59. Moreover, the Commission has found that even if paragraph (d)(3) were construed to be ambiguous, the Commission's interpretation of paragraph (d)(3) is reasonable and thus would be entitled to *Chevron* deference. *See* Order No. 4258 at 14-25; Order No. 5337 at 44-57; Order No. 5763 at 60-68. In light of the extensive analysis the Commission has already applied to this issue, especially given that Movants have not raised any arguments that have not already been addressed, the Commission finds it unlikely that Movants would prevail on the merits of their arguments on appeal.

2. The Alleged Arbitrariness of the Final Rules

With respect to the alleged arbitrariness of the final rules adopted by the Commission, Movants argue that "the Commission has failed to establish that the Postal

Service suffers from a revenue problem rather than a cost control problem." Motion at 5. They assert that the Postal Service's revenues have increased every year since FY 2017, but its operating expenses have increased by greater amounts. *Id.* They assert that the final rules provide multiple forms of additional rate authority for the Postal Service but no mechanisms or penalties to force the Postal Service to restrain its costs. *Id.* at 5-6.

In the same vein, they argue that the final rules weaken the existing ratemaking system's incentives for efficiency. *Id.* at 6. In particular, they state that "[e]ven if the Commission were correct that the density and retirement authority address costs outside of the Postal Service's direct control, providing rate authority to cover these costs reduces the incentive to reduce costs within the Postal Service's control." *Id.*

Movants also argue that "the density authority is . . . arbitrary and capricious because it provides additional authority based on supposed unit cost increases in market dominant products without concern for the Postal Service's overall financial condition." *Id.* They assert that "increases in package volume have offset revenue losses resulting from COVID-related volume declines over the past year, allowing the Postal Service to increase revenue . . . .[,]" but "the Commission's rules would provide the Postal Service with additional rate authority to offset losses that . . . do not exist, and . . . would . . . provid[e] the Postal Service with far more rate authority than the Commission contemplated when it developed this proposal . . . ." *Id.* at 6-7. They maintain that "[t]he Commission's failure to resolve this contradiction or modify its proposal in light of changes in the industry over the past year . . . render its final rule on density authority unlawful." *Id.* at 7.

The Postal Service responds that cost reductions and efficiency gains are not the sole objective for the ratemaking system, but must be balanced against other statutory objectives such as the Postal Service's financial stability and whether rates are just and reasonable. Postal Service Opposition at 6, 7. The Postal Service states that in identifying the cause of its net losses it is false to assume that there is a binary choice between "revenue" and "costs," as opposed to both. *Id.* at 6. The Postal Service

argues that Movants are essentially trying to have it both ways by arguing that only a strict application of a CPI-based price cap is sufficient to incentivize efficiency and cost control, while arguing at the same time that the Postal Service's losses over the past 14 years, which all occurred under a strict CPI-based price cap, were due primarily to insufficient cost controls. *Id.* at 6-7. The Postal Service asserts that the record in this docket establishes that the cost-savings opportunities available to the Postal Service are limited, which undermines Movants' argument that the Postal Service's losses are attributable solely to insufficient cost controls. *Id.* at 7. The Postal Service states that Movants have not identified any cost-savings opportunities large enough to negate the need for additional revenue. *Id.* at 7-8. Finally, the Postal Service maintains that, contrary to Movants' argument, the density-based rate authority mechanism does account for differences between Market Dominant and Competitive products with respect to mail density. *Id.* at 8. It accomplishes this in two ways: first by calculating Market Dominant density and total density separately and using whichever produces less rate authority, which protects Market Dominant mailers from being harmed by negative volume changes in Competitive products; and second, by implicitly accounting for the relative cost elasticities of each cost segment. *See id.* at 8.

Commission analysis. As the Commission has explained, the modifications to the ratemaking system adopted in this docket were necessary to achieve the PAEA's statutory objectives pursuant to 39 U.S.C. § 3622(d)(3). Order No. 5337 at 70-71, 88-94, 153, 163-165; Order No. 5763 at 72-79, 100-107, 194-196, 269, 341-342. In Order No. 4257, the Commission identified deficiencies with the existing ratemaking system that prevented it from achieving the PAEA's statutory objectives. Of particular relevance with respect to Movants' allegations are the Commission findings with respect to Objectives 1, 5, and 8.

Objective 5 provides that the ratemaking system is to "assure adequate revenues, including retained earnings, to maintain financial stability." 39 U.S.C. § 3622(b)(5). The Commission found that while the existing ratemaking system had generally enabled the Postal Service to achieve short-term financial stability, medium-

and long-term financial stability had not been achieved because total revenue had been inadequate to cover total costs, resulting in the Postal Service suffering a net loss every year during the first decade of the PAEA era. Order No. 4257 at 165-169, 247-249. Over time, the accumulation of net losses resulted in accumulated deficits, which prevented the Postal Service from being able to achieve retained earnings. *Id.* at 169-171. The Commission determined that the Postal Service had not had any working capital (assets in excess of liabilities), its capital expenditure ratio had declined, and its debt ratio had steadily increased. *Id.* at 172-175.

Objective 1 provides that the ratemaking system is to "maximize incentives to reduce costs and increase efficiency." 39 U.S.C. § 3622(b)(1). The Commission found that the Postal Service had been able to reduce costs and increase operational efficiency, but not by enough to achieve financial stability. Order No. 4257 at 184-198, 203-208, 216-219, 221-226. The Commission noted that the Postal Service's unique cost structure constrained its ability to further reduce costs—specifically its pool of common costs; the labor-intensive nature of its business; its universal service obligation; and its limited ability due to binding arbitration requirements to set wage rates, adjust its employee complement, and/or reduce workhours. *Id.* at 198-200.

Objective 8 provides that the ratemaking system is to "establish and maintain a just and reasonable schedule for rates . . . ." 39 U.S.C. § 3622(b)(8). The Commission found that while rates had been just for mailers, in terms of not being excessive, rates had nevertheless not been reasonable because rates for certain products and mail classes had been insufficient to cover their attributable costs. Order No. 4257 at 142-145, 226-236. The Commission attributed this, at least in part, to the price cap limitation. *Id.* at 236.

The Commission made specific findings as to why the existing ratemaking system had been unable to achieve these objectives. Specifically, the Commission found that:

> [t]he operating environment on which the PAEA was designed changed quickly and dramatically after the PAEA was passed, and this made it challenging for the ratemaking system under the PAEA to achieve the goals

> it was designed to achieve. At the time it created the new PAEA system, Congress anticipated that the CPI-U price cap would enable the Postal Service to achieve sufficient revenues to cover all of its operating costs and statutorily mandated obligations while at the same time motivate the Postal Service to cut costs and become more efficient. This judgment was based on the appearance of the Postal Service's financial position being relatively stable in FY 2006 and the observable [pre-PAEA] correlation between increases in Postal Service expenses, Postal Service revenues, and the CPI. Generally, Market Dominant revenue had been increasing from FY 1997, reaching its peak in FY 2006.
>
> However, after the enactment of the PAEA, a number of converging macro-level circumstances such as the Great Recession, a rare period of deflation post-Great Recession, and emergent technological trends contributed to the Postal Service's inability to adequately respond to Postal Service-specific challenges such as declining mail density, newly imposed statutory retirement obligations, and long-standing issues with non-compensatory rates. While the nature of Postal Service-specific challenges such as the longer-term diversion of mail to electronic forms of communication may have been somewhat foreseeable, their coincident impact was accelerated by circumstances occurring after the PAEA's enactment, rendering the speed and extent of their impact unforeseeable at the time of the PAEA's enactment. Therefore, [from FY 2007 to FY 2016] the correlation between the growth in Postal Service expenses and revenue and the growth in CPI began to diverge. This sudden divergence made it extremely challenging for the Postal Service to manage retained earnings through sustained net income.
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> The existing ratemaking system was unable to adequately respond to this confluence of circumstances. The Postal Service was unable to generate sufficient revenue to cover its total costs, thereby resulting in a net loss for each and every year of the PAEA era. The consecutive net losses resulted in an accumulated deficit. The Postal Service was unable to cover the revenue shortfall despite maximum use of its borrowing authority and a sharp decline in capital investments. While some cost reductions and efficiency gains were achieved post-PAEA, they were insufficient to achieve overall financial stability and/or retained earnings.

Order No. 5763 at 282-284 (citing Order No. 4257 (internal citations and marks omitted)). The breakdown in correlation between CPI-U and the Postal Service's costs

and revenue is consistent with Movants' observations concerning the Postal Service's operational expenses increasing by greater amounts than revenue.

Movants focus only on cost control and operational efficiency under Objective 1, but 39 U.S.C. § 3622(d)(3) requires a modified or alternative ratemaking system to be designed to balance *all* of the PAEA's objectives, including Objectives 5 and 8. Order No. 5763 at 269, 301, 303. Throughout this docket, the Commission has sought to tailor modifications to identified deficiencies with the existing ratemaking system in a way that strikes an appropriate balance between all the statutory objectives. *Id.* at 302. The evidence reviewed in this docket indicates that existing and future opportunities for cost reductions and efficiency gains by the Postal Service may be more limited than in the past, which supports the conclusion that cost reductions and/or efficiency gains alone are not enough to address the Postal Service's challenges. *Id.* at 340-341. As the Postal Service notes, Movants do not identify any cost-savings opportunities large enough to negate the need for additional revenue.

The Commission has therefore focused on providing the Postal Service with additional revenue to address discrete sources of costs over which the Postal Service does not have direct control, and thus cannot address through cost reductions or efficiency improvements. Forcing the Postal Service to internalize costs which it has no ability to control undermines its ability to achieve medium- and long-term financial stability. Order No. 5337 at 77. Financial pressure due to such costs inhibits the Postal Service's ability to make needed capital investments in order to reduce costs and improve efficiency. Order No. 5763 at 301, 303.

The density-based rate authority and retirement-based rate authority mechanisms that the Commission has adopted are both directed at cost drivers outside the Postal Service's direct control. With respect to the density-based rate authority mechanism, the Commission determined that the Postal Service does not have direct control over exogenous increases in per-unit costs caused by declines in mail density. Order No. 5763 at 77, 87-88. Furthermore, because the portion of overall cost increases caused by such declines are not linked to the inflation rate, the existing CPI-

based ratemaking system does not provide adequate rate authority to offset them. *Id.* The Commission also determined that density-driven per-unit cost increases cannot be offset through operational changes, as these increases are the result of the costs of servicing the growing network (and other costs that only indirectly depend on volume) being spread over fewer pieces of mail. *Id.* at 90. With respect to the retirement-based rate authority mechanism, the Commission likewise determined that the Postal Service does not have direct control over such costs, and there are no meaningful cost control measures that the Postal Service could take to reduce them. *Id.* at 111, 118. With respect to the additional rate authority the Commission approved for non-compensatory mail classes, the Commission balanced the need for cost reductions and efficiency improvements against the failure of the existing ratemaking system to achieve compensatory rates and determined that, to date, cost reductions and efficiency improvements have not been sufficient in and of themselves to mitigate the Postal Service's growing revenue problem with respect to non-compensatory mail classes. *Id.* at 194-195.

Despite these targeted sources of additional revenue, however, under the modifications the Commission has adopted the Postal Service will not be able to rely on rate increases alone, because the additional revenue sources are not enough in and of themselves to enable the Postal Service to achieve financial health. Order No. 5763 at 270, 302, 341-342. The Postal Service will still have to pursue cost reductions and efficiency improvements. *Id.* The Commission determined that inclusion of the density-based rate authority mechanism in the ratemaking system should not reduce the Postal Service's incentives for efficiency because it is designed to calculate the *expected* amount of cost increase due to density declines, not the actual increase. *Id.* at 73, 85-87, 93-94, 303-304. If the Postal Service is able to offset some of that expected increase through cost reductions and/or efficiency improvements, then it will be able to retain the associated savings. *Id.* The Commission likewise determined that inclusion of the retirement-based rate authority mechanism in the ratemaking system should not

reduce the Postal Service's incentives for efficiency because all such authority must be remitted towards the corresponding statutory liabilities. *Id.* at 111, 118, 305.

Additionally, in recognition of the fact that the final rules authorize new sources of rate authority for the Postal Service, the Commission adopted new reporting requirements with respect to the Postal Service's costs and cost control efforts. Order No. 5763 at 226-241. These are designed to increase transparency for both the Commission and postal stakeholders with respect to the Postal Service's costs and cost control efforts; incentivize the Postal Service to improve the robustness of its cost-benefit analyses; and drive the Postal Service to identify the underlying causes of cost increases, which should enable it to undertake targeted responses. *Id.* at 238. The Commission also committed to exploring in a separate docket potential further incentive-based modifications to the ratemaking system in order to, *inter alia*, maximize incentives for cost reductions and efficiency gains.[18]

Movants' argument that the density-based rate authority mechanism would provide additional rate authority to offset losses that did not exist during FY 2020 (due to the high level of Competitive package volume during that period) misunderstands the purpose of the density-based rate authority mechanism. As the Commission has explained, the density-based rate authority mechanism is designed to offset the unavoidable increase in per-unit costs as fewer mailpieces are delivered to more delivery points; it is not designed to offset specific losses or generate a specific amount of revenue. Order No. 5763 at 28-29. Basing the density mechanism on foregone revenue or contribution, as opposed to the *expected* unavoidable increase in per-unit costs due to loss of density, would weaken the Postal Service's incentives to pursue cost reductions and increased operational efficiency by guaranteeing it compensation for foregone revenue resulting from decreases in density. *Id.* at 95.

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[18] *Id.* at 132-180. The Commission initiated this docket on January 15, 2021. *See* Docket No. RM2021-2, Advance Notice of Proposed Rulemaking Regarding Performance Incentive Mechanism, January 15, 2021 (Order No. 5816).

Because the density mechanism is designed to offset the particular, unavoidable increase in per-unit costs caused by declining density, as opposed to compensating for the losses in density themselves, it fundamentally does not matter if due to large density declines the resulting authority is higher in a particular year than the historical data would have suggested, nor does it matter if Competitive product revenue in a particular year is sufficient to offset some portion of the expected cost increases caused by the decline in density. Increases in Competitive product volume increase the number of mailpieces across which such costs are spread, and to account for this, the density formula limits the amount of rate authority generated when Competitive product volume trends are more favorable than Market Dominant volume trends. As a result, the amount of available density-based rate authority generated from loss of volume is necessarily lower when Competitive product volume is increasing. In addition, the density formula also implicitly accounts for the relative cost elasticities of each cost segment, which captures changes in the mail mix. Order No. 5763 at 94-95, App'x A at 10.

Throughout this docket, the Commission has been open and transparent. At each stage of the process, the Commission solicited and considered public comments—over 500 sets of them, spanning thousands of pages. The Commission's initial findings with respect to reviewing the initial 10 years of the existing ratemaking system spanned nearly 300 pages, *see generally* Order No. 4257, and its 3 rule proposals averaged over 250 pages each, not counting appendices and attachments, and reports by experts retained by the Commission. *See generally* Order Nos. 4258, 5337, 5763. At multiple points, the Commission has been persuaded to change its proposals based on comments received. *See, e.g.*, Order No. 5337 at 62, 64-70, 105, 132-180, 172, 193, 201, 212-231. In other instances, the Commission has thoroughly explained its reasons for declining to change its proposals in light of comments received, including comments addressing the very same issues Movants now raise. The voluminous record that has been compiled in this docket reflects that the Commission has approached it carefully and thoughtfully and has based its conclusions on substantial evidence. In the end, the

Commission was required to balance the statutory objectives using its experience and judgment. The Commission has provided justifications for all of the findings and rule revisions in this docket that are both reasonable and reasonably explained.[19] Therefore, the Commission does not find that a reviewing court would find the rules adopted in this docket to be arbitrary or capricious.

B. Irreparable Harm to Movants

Movants argue that if a stay is not granted, their member organizations will be forced to pay higher postage rates with no recourse to obtain a refund if those rates are later found to be unlawful. Motion at 7-8. They argue that this will cause them to suffer "devastating" financial harm due to "severe price spikes." *Id.* at 8. They argue that "[t]his is particularly true given the extent of the increase . . . and the total lack of predictability as to when the increase will be in effect." *Id.*

The Postal Service responds that Movants' concerns with respect to damaging price increases are purely speculative—first because Movants have not provided any quantitative evidence of the effect of price increases; and second because the provision of additional rate authority by the Commission does not automatically translate into price increases. Postal Service Opposition at 9-10. The Postal Service argues that Movants are once again trying to have it both ways by arguing that the Postal Service will not suffer any financial harm if the final rules are stayed during the period that appellate litigation is pending, but Movants will be financially devastated if the final rules are in effect during that same period. *Id.* at 10.

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[19] *Northwestern Corp. v. FERC*, 884 F.3d 1176, 1181 (D.C. Cir. 2018) (Under the Administrative Procedure Act's arbitrary and capricious standard an agency's decision must be reasonable and reasonably explained).

Commission analysis. As the moving party, Movants bear the burden of persuasion with respect to their claims.[20] Movants must offer more than bare allegations to substantiate the harm they allege that they will incur.

Movants' allegations of harm are speculative and conclusory. As the Commission has repeatedly explained, it is the Postal Service as the operator, not the Commission as the regulator, that sets prices. Order No. 5763 at 81, 270, 346. The provision of additional rate authority to the Postal Service does not automatically or necessarily translate into price increases. The ratemaking system sets the outer parameters of rates that the Postal Service may charge, but the Postal Service's Board of Governors must exercise its business judgment in proposing rates within those parameters that are attuned to what the market will bear. Furthermore, the price cap is applied at the class level, which means that the Postal Service is able to exercise its pricing flexibility independently within each mail class and raise, decrease, or hold steady prices for individual products and categories of mail within a class as long as the class complies with the class's overall price cap. The additional sources of rate authority that the Commission has approved are designed to afford the Postal Service more flexibility in setting rates that are compensatory and that address cost drivers outside of the Postal Service's direct control, but it is speculative to presume what the actual rates proposed by the Postal Service will be. And for that same reason, it is speculative to assert that any such rates would be "devastating" to Movants. Furthermore, as the Postal Service notes, even if it were known what the future rates will be, Movants do not offer any quantitative evidence that would enable an evaluation of the impact that rates under the final rules would have on their member organizations' finances.

In addition, the injury Movants allege is not imminent. The Postal Service must give 90 days' notice of its intention to increase rates before implementation, and the

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[20] *Abdullah v. Obama*, 753 F.3d 193, 197 (D.C. Cir. 2014).

Commission must favorably review proposed rates before they can go into effect. *See* final 39 CFR §§ 3030.121, 124, 125, 126, Order No. 5763 Att. A at 7-8, 12-15. Once the Postal Service proposes actual rates, the rates will be subject to Commission review in a further proceeding that utilizes notice and comment procedures, and that proceeding will be subject to judicial review. *Id.*; *see also* 39 U.S.C. § 3663. Movants concede that this process could not be completed before the summer of 2021, at the earliest. Motion at 11.

For these reasons, Movants have not established that they will suffer irreparable harm in the absence of a stay.

C. Irreparable Harm to Other Parties

Movants argue that granting a stay would simply preserve the status quo and would not pose a significant financial risk to the Postal Service. Motion at 9. They cite the Commission's finding from Order No. 4257 that the Postal Service has maintained short-term financial stability under the existing ratemaking system, and they assert that since Order No. 4257 was issued the Postal Service has improved both its revenues and its cash reserves. *Id.* at 9-10. They also assert that the Postal Service's liquidity has improved dramatically since Order No. 4257 was issued, largely as a result of recent legislation directed at COVID-19 relief. *Id.* at 10. They maintain that as a result of this liquidity "the Postal Service is well positioned from a cash perspective to weather any temporary setbacks that might occur while the appeal is pending[,]" as well as to "fund major improvements." *Id.* at 10. Finally, they argue that even if the Commission were to prevail on appeal, the additional rate authority approved in Order No. 5763 "would only be delayed by several months[,]" because "[t]he earliest prices [under the modified ratemaking system] could take effect would be some time in the summer of 2021, at which point the appellate proceedings will already be well underway." *Id.* at 11. They argue that such a "limited delay . . . would not have a material impact on the Postal Service's finances or the ability of the rules to fulfill their stated purpose once fully implemented." *Id.*

The Postal Service responds that Movants exaggerate the state of its liquidity. Postal Service Opposition at 10. It states that while the recent legislation Movants refer to permits the Postal Service to borrow up to $10 billion from the U.S. Department of the Treasury, that funding is limited to covering operating expenses, and it is only available upon terms and conditions agreed to by the U.S. Department of the Treasury, with respect to which the Postal Service and the U.S. Department of the Treasury have not yet come to an agreement. *Id.* at 10-11. As a result, the Postal Service maintains that even if it were able to access that funding, it could not be used for anything other than operating expenses. *Id.* at 11.

The Postal Service asserts that the cash reserves Movants refer to "amount[ ] to little more than two months of operating expenses, an amount far below the level that . . . should provide a reasonable cushion for an organization like the Postal Service." *Id.* (footnote omitted) (citation omitted). The Postal Service argues that:

> The inadequacy of current liquidity is all the more palpable in light of the Postal Service's comparably distressed financial state and outlook, its cost-control and revenue constraints, and the fact that it has preserved even this scant liquidity only by accumulating a far greater backlog of unpaid bills[,] [a]nd the cushion would only become smaller if the Postal Service were to accelerate capital spending, as [Movants] suggest.

Id. (citation omitted).

The Postal Service also states that there is no way of knowing how long appellate litigation will take, and a stay could cause real, lasting harm to it. *Id.* at 12. The Postal Service asserts that if the revised rules do not take effect for another year it could miss out on a whole year of additional rate authority, which would be particularly damaging because without density-based rate authority based on FY 2020, the acceleration in density-based cost increases stemming from volume declines associated with the COVID-19 pandemic will go uncompensated. *Id.* at 12-13. The Postal Service asserts that it has been approximately 4 years since the Commission initially determined in Order No. 4257 that the Postal Service lacked medium- and long-

term financial stability, and there is no reason to further delay remediating those deficiencies in the ratemaking system. *Id.* at 13.

Commission analysis. With respect to the Postal Service's finances, the Commission found in Order No. 5763 that they remain unstable.[21] The Commission found that the Postal Service's liabilities far exceed its assets, and its liquidity has been maintained only by defaulting on statutorily-mandated payments.[22] The Postal Service's working capital has declined since Order No. 4257 was issued in 2017, its debt ratio has increased, and it still has very limited capacity for capital expenditure.[23]

The CARES Act, Pub. L. 116-636 (March 27, 2020), provided the Postal Service with $10 billion in additional borrowing authority above and beyond the $15 billion ordinarily available to it pursuant to 39 U.S.C. § 2005(a).[24] However, as the Postal Service notes, funds may only be borrowed pursuant to the CARES Act if "the Postal Service will not be able to fund operating expenses without borrowing money," and any funds so borrowed can only be used for operating expenses; they cannot be used for capital investments or to service the Postal Service's debt. *Id.* Appropriations legislation enacted on December 27, 2020 removed the requirement that the Postal Service repay funds borrowed pursuant to the CARES Act, but it did not remove the requirement that such funds can only be borrowed if necessary to fund operating expenses, and can then only be used for operating expenses. Pub. L. 116-260 § 801

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[21] Order No. 5763 at 26 (citing Docket No. ACR2019, Postal Regulatory Commission, Financial Analysis of the United States Postal Service Financial Results and 10-K Statement, Fiscal Year 2019, May 7, 2020, at 2-6 (FY 2019 Financial Analysis) (discussing the Postal Service's continuing financial instability)).

[22] *Id.* (citing FY 2019 Financial Analysis at 4, 27-38 (explaining that the Postal Service has defaulted on most of the statutorily-mandated payments for Retiree Health Benefits since FY 2008, and, beginning in FY 2017, has defaulted on statutorily-mandated payments for the amortization of unfunded retirement benefits to the Federal Employee Retirement System (FERS) and the Civil Service Retirement System (CSRS)).

[23] *Id.* (citing FY 2019 Financial Analysis at 31-34).

[24] Pub. L. No. 116-636 § 6001(b). Only $1 billion of the Postal Service's $15 billion in standing borrowing authority is currently available to it. *See* United States Postal Service, 2020 Report on Form 10-K, November 13, 2020 (FY 2020 10-K Report).

(December 27, 2020). As a result, access to this additional borrowing authority and any associated temporary increase in liquidity would at most improve the Postal Service's short-term financial stability, meaning its ability to meet its immediate day-to-day operational needs. Order No. 4257 at 159-165. Borrowing more money to cover operating expenses, however, would do nothing to address the net losses and accumulated deficits that undermine the Postal Service's medium- and long-term financial stability, which the Commission identified in Order No. 4257 as a primary deficiency in the existing ratemaking system. *Id.* at 247-249. It is these net losses that the density-based rate authority, retirement-based rate authority, and non-compensatory class modifications to the ratemaking system adopted in Order No. 5763 were designed to address.

As the Postal Service notes, there is no way of knowing how long appellate litigation might take. Order No. 4257 identified clear deficiencies in the existing ratemaking system that have only become more acute since Order No. 4257 was issued. The final rules the Commission adopted are targeted at giving the Postal Service the tools necessary to begin remediating those deficiencies. Those tools include increased rate authority to address non-compensatory mail classes and sources of costs that are outside the Postal Service's direct control. The Postal Service's liquidity remains low and the Postal Service continues to struggle meeting its statutorily-required obligations.[25] Delaying the implementation and use of those tools would only make the Postal Service's immediate problems worse and its medium- and long-term financial stability more difficult to achieve. As the Postal Service asserts, if the final rules do not take effect for another year (or more), then it will be deprived of rate authority that the Commission has determined it needs to begin remediating its financial problems. Therefore, the Commission finds that staying the effective date of its final rules would have negative financial consequences for the Postal Service.

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[25] *See* United States Postal Service, FY 2021 Integrated Financial Plan, November 24, 2020, at 9-10.

D. The Public Interest

Movants once again assert that the financial consequences to their members of denying a stay would be "dire," and they assert that "[their] interests are part and parcel with the public interest" because "volume loss caused by above-CPI price increases will negatively impact readers of print magazines, newspapers[ ] and newsletters, catalog shoppers, nonprofit organizations, donors, and printers[,]" resulting in "[a] wide swath of American consumers, businesses, and tax-exempt organizations . . . be[ing] harmed . . . ." Motion at 13. They also argue that the public interest supports a stay because the Commission exceeded its statutory authority in promulgating the rules adopted in Order No. 5763. *Id.*

The Postal Service responds that Movants' claims about price increases are speculative because the provision of additional rate authority by the Commission does not automatically translate into price increases, and it is unclear whether, when, and by what amounts postal prices would actually increase under the final rules. Postal Service Opposition at 14. The Postal Service argues that Congress intended for the ratemaking system to be reasonably compensatory to provide for the postal system's current and future needs, and as a result "the public is not harmed by correcting unlawfully and unfairly low rates." *Id.* The Postal Service argues that "failing to do so would harm the mailing and taxpaying public by prolonging the Postal Service's financial instability, and it would continue to unfairly privilege current ratepayers at the expense of future postal users who would benefit from the sort of investments that a more stable Postal Service could make." *Id.* Therefore, the Postal Service maintains that "a stay would perpetuate and deepen the harm that the American public has already suffered from a financially troubled postal system and would continue to put the future financial stability of the Postal Service at risk." *Id.*

Commission analysis. The Commission finds that the public interest favors a ratemaking system that appropriately balances all of the statutory objectives Congress established for it. The PAEA's statutory objectives are in many respects cross-cutting and they require tradeoffs between different aspects of the public interest. Movants and

other mailers certainly have an interest in keeping postage rates as low as possible, but the Postal Service and the general public also have an interest in the Postal Service being able to generate enough revenue to remain viable as a public service. Congress charged the Commission with balancing the statutory objectives using its experience and judgment, and the revised rules the Commission has adopted in this docket are designed to achieve that end.

The Commission has found that the range of prices produced by the modified ratemaking system will be just and reasonable to both the Postal Service and to mailers. Order No. 5763 at 352-359. Moreover, given the serious financial constraints that the Commission has identified the Postal Service as operating under, implementation of the modified ratemaking system is consistent with the public's strong interest in having a viable and strong Postal Service that is capable of fulfilling its statutory and Constitutional duties as a fundamental service to the American public. *See* U.S. Const. art. I, § 8, cl. 7; 39 U.S.C. § 403. Therefore, the Commission does not find that staying the final rules would be in the public interest. Movants' argument with respect to the Commission's statutory authority is addressed *supra* at 4-9.

IV. CONCLUSION

The Commission finds that Movants have failed to carry their burden of persuasion with respect to the most significant *Jobbers* factor—their likelihood of prevailing on the merits on appeal. Movants have also failed to present convincing evidence to show that they would be irreparably harmed in the absence of a stay. Movants have not provided sufficient evidence to demonstrate that either the process or the ultimate substantive approaches implemented by the Commission are arbitrary or capricious. At the same time, the Commission finds that delaying implementation of the final rules adopted in this docket would prolong the Postal Service's financial difficulties and would not be in the public interest. Based on these findings, the Commission does not find good cause to stay the effective date of the final rules.

It is ordered:

The Motion for Stay Pending Judicial Review by the Alliance of Nonprofit Mailers, The Association for Postal Commerce, MPA – The Association of Magazine Media, National Postal Policy Council, Major Mailers Association, and the American Catalog Mailers Association, filed December 28, 2020, is denied.

By the Commission.

Erica A. Barker
Secretary

EXHIBIT 3

[NOT YET SCHEDULED FOR ORAL ARGUMENT]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

NATIONAL POSTAL POLICY COUNCIL, Petitioner, v. POSTAL REGULATORY COMMISSION, Respondent.	Nos. 17-1276, 20-1505, 20-1510, 20-1521

OPPOSITION OF POSTAL REGULATORY COMMISSION TO MOTION FOR STAY AND EXPEDITION

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INTRODUCTION

In the Postal Accountability and Enhancement Act, Pub. L. No. 109-435, 120 Stat. 3198 ("Accountability Act" or "Act"), Congress created an initial ratemaking system for certain postal products. Congress required the Postal Regulatory Commission to review that system ten years after its creation to determine whether the system is meeting the Act's objectives. 39 U.S.C. § 3622(d)(3). Congress authorized the Commission to "make . . . modification[s]" to the system or to "adopt such alternative system . . . as necessary to achieve th[ose] objectives" following that review. *Id.*

In the course of this mandatory review, the Commission concluded (after notice and comment) that the initial system—which contains a price cap that limits rate increases to the rate of inflation—has failed to meet Congress's objectives because the system does not adequately account for certain Postal Service costs that are not tied to the rate of inflation. As a result, the system left the Postal Service chronically underfunded in spite of the Postal Service's efforts to reduce costs. The Commission determined that it was necessary to grant the Postal Service limited authority to raise rates beyond what the price cap had permitted, and issued an order to that effect after two additional notice-and-comment proceedings.

Six petitioners—organizations whose members buy market-dominant products—now ask this Court to stay the Commission's order on the theory that the Commission lacked statutory authority to adopt it. But they have failed to satisfy any

of the prerequisites for the extraordinary relief they seek. As explained below, the Commission's order is fully consistent with the Accountability Act. And the balance of equities weighs strongly in the Commission's favor. The order does not itself change postal rates. It is for the Postal Service to propose new rates, and any increase must be approved by the Commission through a separate proceeding that is itself subject to notice and comment. This process cannot be completed before this summer at the earliest, as petitioners have acknowledged. Motion for Stay, Dkt. No. RM2017-03, at 11 (Dec. 28, 2020). Moreover, because the price cap applies only to classes of mail as a whole, it is entirely speculative whether the Postal Service will propose a price increase on any given product exceeding what would have been proposed under the initial system—let alone that such a hypothetical increase will irreparably injure petitioners.

STATEMENT

1. For most of the Nation's history, Congress regulated postal rates directly. *National Ass'n of Greeting Card Publishers v. U.S. Postal Serv.*, 462 U.S. 810, 813 (1983) (*NAGCP*). In 1970, Congress conferred ratemaking authority on the agency now called the Postal Regulatory Commission. Postal Reorganization Act, Pub. L. No. 91-375, § 3621, 84 Stat. 719, 760 (1970). Congress did so because "the increasing economic, accounting, and engineering complexity of ratemaking issues" made them ill-suited for Congress and its staff, and because it believed that ratemaking duties

were better entrusted to an "expert[]" agency "composed of 'professional economists, trained rate analysts, and the like.'" *NAGCP*, 462 U.S. at 822-23.

In 2006, Congress enacted the Postal Accountability and Enhancement Act to further govern postal rates. The Act classifies the Postal Service's mail products into two categories—"competitive" and "market-dominant," 39 U.S.C. § 3642(b)(1)—and imposes different parameters on the rates for each category. This case concerns the ratemaking system for market-dominant products. These are products over which the Postal Service either "enjoys a statutory monopoly" or "exercises sufficient market power so that it can effectively dictate the[ir] price . . . without risk of losing much business to competing firms." *U.S. Postal Serv. v. Postal Regulatory Comm.*, 785 F.3d 740, 744 (D.C. Cir. 2015) (citing 39 U.S.C. § 3642(b)(1), (2)).

The Act instructs the Commission to "establish" a ratemaking system for market-dominant products within 18 months of the Act's enactment. 39 U.S.C. § 3622(a). In its initial form, this system had to include certain features, including a price cap limiting annual rate increases to annual changes "in the Consumer Price Index for All Urban Consumers." *Id.* § 3622(d)(1)(A). This index measures "the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services." U.S. Bureau of Labor Statistics, *Consumer Price Index*, https://www.bls.gov/cpi/ (last visited Feb. 8, 2021). The cap prevents rates

for each class of market-dominant product from rising faster than inflation. *U.S. Postal Serv.*, 785 F.3d at 744.

To guide the Commission, the Act enumerates nine objectives for the initial system to achieve. 39 U.S.C. § 3622(b). Each "shall be applied in conjunction with the others," notwithstanding the fact that some objectives point in different directions. *Id.* For example, the system must "allow the Postal Service pricing flexibility," but must also "create predictability and stability in rates." *Id.* § 3622(b)(2), (4). The Act also enumerates fourteen factors for the Commission to consider when implementing the initial system. *Id.* § 3622(c).

2. The Accountability Act does not set the initial ratemaking system in stone. To the contrary, the Act contains two different mechanisms for changing it. First, § 3622(a) gives the Commission discretion to "revise" the system "from time to time." 39 U.S.C. § 3622(a). When doing so, the Commission must consider the fourteen factors enumerated in § 3622(c).

Second, § 3622(d)(3) provides that, ten years after the Act's enactment, the Commission must review the "system for regulating . . . market-dominant products established under this section [39 U.S.C. § 3622]." This review must "determine" if "the system is achieving" the Act's nine "objectives," "taking into account the [Act's fourteen] factors." 39 U.S.C. § 3622(d)(3). "If the Commission determines . . . that the system is not achieving th[ose] objectives," "taking into account the [fourteen] factors," the Commission "may . . . make such modification or adopt such alternative

system for regulating rates . . . for market-dominant products as necessary to achieve the objectives." *Id.* By its terms, this authority is more expansive than that conferred by § 3622(a).

3. This case arises from the Commission's mandatory ten-year review under § 3622(d)(3). Having conducted that review with notice and comment, the Commission determined that the ratemaking system was not achieving the Accountability Act's objectives, taking into account the statutory factors. *See generally* Order No. 5763, at 4-10 (P.R.C. Nov. 30, 2020) (Order).[1]

In particular, the Commission found that the Postal Service's "operating environment [had] changed rapidly" after the Act's enactment. Order 5. "The Great Recession, which began in 2007, had a substantial negative impact on Postal Service volume and revenues." *Id.* That economic downturn coincided with new "technological trends . . . that resulted in even greater volume declines for First-Class Mail[] in particular—the Postal Service's most profitable mail class." Order 5-6. At the same time, the Postal Service was required by the Accountability Act to prefund health benefits for retirees by making annual payments averaging $5.6 billion per year. Order 5.

The Commission found that these problems were compounded by the initial ratemaking system's price-cap provision, which limits rate increases to the rate of

[1] All cited Postal Regulatory Commission orders were issued in Docket RM2017-3, available at https://go.usa.gov/xs3dj.

inflation. Congress intended the provision to "enable the Postal Service to achieve sufficient revenues to cover all of its . . . costs and statutorily mandated obligations while . . . motivat[ing] the Postal Service to cut costs and become more efficient." Order No. 4257, at 3 (P.R.C. Dec. 1, 2017). Congress reached that judgment because, at the time, the Postal Service's finances were stable and increases in its revenues and expenses were largely correlated with inflation. *Id.* at 37. But that correlation began to break down soon after the Act was enacted. Order 282-83. And the period of deflation that followed the 2007 economic downturn constrained the Postal Service's ability to increase rates in response to technological changes and diminishing mail volume. Order 6. The Commission therefore concluded that the inflation-based price cap was preventing the Postal Service from maintaining "financial stability"; from "maximiz[ing]" "cost reductions and operational efficiency"; and from "achiev[ing]" "reasonable rates." *Id.* Indeed, in the decade after the Accountability Act was enacted, the Postal Service suffered a cumulative net loss of $59.1 billion, and defaulted on the vast majority of its statutory payment obligations. *Id.*

4. Given these findings, the Commission initiated another notice-and-comment proceeding to propose changes to the initial ratemaking system. Order 11. It revised those proposals after considering the comments that it received. Order 16. After a second notice-and-comment proceeding, the Commission adopted the order at issue. Order 21. The order was published in the Federal Register on December 15, 2020, 85 Fed. Reg. 81,124 (2020), and took effect on January 14, 2021, *see* Order 370.

The order does not eliminate the price cap. It instead alters the price cap to account for the principal factors impeding the Postal Service's ability to generate net income. Order 17. First, the order gives the Postal Service authority to raise rates to account for cost increases caused by declining usage of market-dominant products. 85 Fed. Reg. at 81,130-31. The extent of this authority is calculated annually, and turns on the expected increase in such costs. Order 17. Second, the order gives the Postal Service authority to raise rates for classes of mail whose profits do not cover the costs incurred to provide them. Order 181-82; 85 Fed. Reg. at 81,134. Finally, the order gives the Postal Service authority to raise rates "equal to the percentage by which total revenue would need to increase to provide sufficient revenue for the Postal Service to make its required retirement obligation payments." 85 Fed. Reg. at 81,125; *see* Order 21; 85 Fed. Reg. at 81,131-34. This authority will expire in five years. Order 17.

"The provision of additional rate authority to the Postal Service does not automatically or necessarily translate into price increases." Order No. 5818, at 19 (P.R.C. Jan. 19, 2021) (Stay Order). That is because the ratemaking system merely "sets the outer parameters of rates that the Postal Service may charge." *Id.* The Postal Service retains discretion to decide whether to invoke any given rate authorities. *Id.* If it does, it must give the public ninety days' notice. *Id.* Any proposed rate increases will then be reviewed by the Commission in a further notice-and-comment proceeding. *Id.* at 19-20. The results of that proceeding will be subject

to judicial review. *Id.* at 20. The Postal Service has not yet invoked the additional rate authorities created by the order.

5. Seven petitioners sought review of the order in this Court. Six petitioners are organizations whose members buy market-dominant products. These Mailer Petitioners allege that the Commission's decision to grant the Postal Service additional rate authorities violates the Administrative Procedure Act. The seventh petitioner is the Postal Service, which alleges that the order is arbitrary and capricious because, among other things, the Commission did not take sufficiently aggressive action to address the Postal Service's financial issues.

On December 28, 2020, the Mailer Petitioners asked the Commission to stay the effective date of the order. The Commission denied their motion. Stay Order 26. The Commission found that petitioners were unlikely to prevail on the merits of their arguments, *see generally* Stay Order 4-18; that petitioners had "failed to present convincing evidence to show that they would be irreparably harmed in the absence of a stay," Stay Order 18-23, 25; and that any delay in implementing the order "would prolong the Postal Service's financial difficulties" and would undermine the public interest, Stay Order 24-25.

The Mailer Petitioners then filed the motion at issue. Because the motion urges this Court to stay the implementation of the order pending appeal, it is effectively a motion for an injunction pending appeal. *Nken v. Holder*, 556 U.S. 418, 428 (2009).

ARGUMENT

Petitioners' motion should be denied because they have failed to satisfy any of the factors governing the issuance of the extraordinary relief they seek: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 426 (2009) (quotation marks omitted).

I. Petitioners Are Unlikely To Prevail On The Merits.

In their motion, petitioners do not dispute the Commission's determination that the initial ratemaking system—which includes the inflation-based price cap—has failed to achieve the Accountability Act's objectives. Petitioners also do not dispute that the Commission's alterations to the price cap are necessary to achieve those objectives. Petitioners' sole contention is that the statute forbids the Commission from making any changes to the price-cap provision. That argument is unlikely to succeed because it is foreclosed by § 3622(d)(3), which expressly authorizes the Commission to modify or replace any aspect of the initial system once the Commission makes the requisite findings.

A. The Accountability Act does not unambiguously prohibit alterations to the price-cap provision.

The Accountability Act instructs the Commission to create a "modern system for regulating [postal] rates and classes." 39 U.S.C. § 3622(a). The Act sets out Congress's goals and objectives for "such system," *id.* § 3622(b)-(c), and defines initial requirements for that "system," *id.* § 3622(d). The Act then requires the Commission to "review the system . . . established under this section [39 U.S.C. § 3622]" "[t]en years after the date of enactment." *Id.* § 3622(d)(3). If the Commission determines that "the system is not achieving" congressional objectives, the Commission may either "make . . . modification[s]" to the system or "adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives." *Id.*

The word "modification" means "the making of a limited change in something." Order 41 (quotation marks omitted). By contrast, the word "alternative" means "a proposition or situation offering a choice between two or more things *only one of which may be chosen*." *Id.* (quotation marks omitted) (emphasis in original). Section 3622(d)(3) uses both words to describe the scope of the Commission's authority. Accordingly, the statute unambiguously allows the Commission to "replace[] . . . the existing ratemaking system with a different ratemaking system" if the Commission determines that the system is falling short of its statutory aims. Order 41.

It is equally clear that the price cap is part of the initial ratemaking system that the Commission can modify or replace. Section 3622(d)(1)(A) describes the price cap as an element of the "system for regulating rates and classes." 39 U.S.C. § 3622(d)(1)(A). Section 3622(d)(3) instructs the Commission to review that system in its entirety, and allows the Commission either to modify it or to adopt a different system in its place. That authority thus extends to altering or even eliminating the price cap.

The structure of the Act confirms this conclusion. The Act separately permits the Commission to "from time to time . . . revise" the system of regulations that it promulgated to implement Congress's initial ratemaking design. 39 U.S.C. § 3622(a). But § 3622(d)(3) speaks in substantially broader terms. It does not merely allow the Commission to revise or modify the system; it allows the Commission to adopt an alternative system entirely. Order 42-46. Reflecting the breadth of that authority, Congress placed more restrictions on § 3622(d)(3) than it did on § 3622(a). Unlike the authority in § 3622(a), which can be exercised in the Commission's discretion, the authority in § 3622(d)(3) can be exercised only after the Commission finds that the existing "system is not achieving" congressional objectives and that an alternative system is "necessary." 39 U.S.C. § 3622(d)(3).

Petitioners are unlikely to prevail even assuming that § 3622(d)(3) is susceptible to multiple interpretations. At a minimum, the Commission's interpretation is a reasonable reading of the statute in light of its text and structure. Order 39-41. The

interpretation is also consistent with the history of § 3622(d)(3), which makes clear that Congress intended to allow the Commission to retain, modify or eliminate the price cap. Order 62-66; *see infra* pp. 15-16. The interpretation thus warrants *Chevron* deference.

B. Petitioners' counterarguments lack merit.

1. Petitioners principally argue (Mot. 6-7) that the Act forbids the Commission from altering the price-cap provision because Congress stated that "[t]he system for regulating rates . . . for market-dominant products shall . . . include" a price cap. 39 U.S.C. § 3622(d)(1). But the very same subsection empowers the Commission to modify or replace the "system . . . established under this section." *Id.* § 3622(d)(3). That phrase clearly refers to the entirety of the initial ratemaking system established by § 3622, of which the price-cap provision is a part. Accordingly, the price-cap requirement of § 3622(d)(1) is part of the "system . . . established under" § 3622 that the Commission can modify or replace under § 3622(d)(3).

The implication of petitioners' argument is that the term "system" has two different meanings within the same subsection of the same statute. They contend (Mot. 8) that the price-cap requirement is a never-changing feature of the "system" referenced in § 3622(d)(1) but is not part of the "system . . . established under" § 3622 that the Commission can modify or replace under § 3622(d)(3). Petitioners suggest that the latter "system" only refers to the regulations that the Commission promulgated to implement the initial ratemaking system under § 3622(a).

The Court should reject petitioners' convoluted interpretation, which is contrary to settled rules of statutory interpretation. As a textual matter, § 3622(d)(3) refers to the "system . . . established under this section"—that is, the system established by the entirety of § 3622, and not merely the regulatory system created by subsection 3622(a). The price cap, which appears in § 3622(d)(1), is indisputably part of the "system . . . established under" § 3622. And as a structural matter, petitioner's interpretation would render § 3622(d)(3) superfluous. To reiterate, the Commission already has power to "revise" regulations issued to implement the Act's initial ratemaking system, 39 U.S.C. § 3622(a). Yet in petitioners' view, § 3622(d)(3) grants the Commission no additional power—notwithstanding the breadth of that provision's text, which permits not merely "modification" but also the adoption of an entirely different "alternative system." Petitioners' interpretation is thus "at odds" with the fundamental principle "that a statute should be construed so that effect is given to all its provisions." *See Corley v. United States*, 556 U.S. 303, 314 (2009) (alterations and quotation marks omitted).

2. Petitioners also argue that the price cap's centrality to the initial system means that Congress would not have allowed the Commission to change it using § 3622(d)(3) without expressly referring to the price cap in that provision. Mot. 10 (quoting *Whitman v. American Trucking Ass'ns*, 531 U.S. 457, 468 (2001) ("Congress . . . does not . . . hide elephants in mouseholes.")). That doctrine does not apply here. Section 3622(d)(3) grants the Commission power to adopt an alternative system in

place of the "system . . . established under" § 3622. This power is undeniably significant. But the provision conferring that power is "written in starkly broad terms." *Cf. Bostock v. Clayton County*, 140 S. Ct. 1731, 1753 (2020). Accordingly, this proverbial elephant "has never hidden in a mousehole; it has been standing before us all along." *Id.*

Petitioners also incorrectly suggest (Mot. 12-13) that the Commission's interpretation contradicts prior statements underscoring the price cap's importance. As the Commission has explained, none of those statements purports to restrict the scope of the Commission's authority under § 3622(d). Order 65-67. The statements merely confirm that the price cap plays an important role in the initial ratemaking system, *see id.*—a system that has failed to achieve Congress's objectives, as the Commission found and as petitioners do not here dispute. Petitioners' reliance on *Carlson v. Postal Regulatory Comm'n*, 938 F.3d 337 (D.C. Cir. 2019), underscores their confusion. That case addressed the Commission's authority under the initial ratemaking system established under § 3622(a). *Id.* at 340-41. It did not address the Commission's separate authority to "make such modification or adopt such alternative system" to the initial system under § 3622(d)(3).

Petitioners note that other provisions of § 3622(d) refer to the price cap expressly. Mot. 9 (citing 39 U.S.C. § 3622(d)(1)(E), (d)(2)(C)). But those provisions do so simply to explain how the cap should interact with other features of the initial ratemaking system. They are entirely dissimilar from § 3622(d)(3), which Congress

enacted to allow the Commission to modify or replace the system established by § 3622 in its entirety.

Nor does it "strain[] credulity" (Mot. 10) to think that the Commission's interpretation is consistent with congressional intent. The Accountability Act was a compromise between a House bill that did not require a price cap and a Senate bill that made the price cap permanent. Order 34-35. Senator Susan Collins—the sponsor of the compromise bill—explained that "[a]fter 10 years, the Postal Regulatory Commission will review the rate cap and, if necessary," will "modify or adopt an alternative system." Order 36 (quoting 152 Cong. Rec. S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins)). Senator Collins further stated that, although she continued to believe that a "permanent" rate cap would be the "preferable approach," Congress had "reached this compromise to allow" the bill to pass. *Id.* (quotation marks omitted). Senator Collins noted that, after the ten-year review, the Commission might "well decide that it is best to continue with a [inflation-indexed] rate cap in place." *Id.* And she explained that, if the Commission decided to eliminate the price cap, Congress could always "reimpose the . . . cap after it *expires*." *Id.* (emphasis added) (quotation marks omitted). The available legislative history thus confirms that Congress never required the price cap to be permanent. And petitioners cite no evidence indicating that Congress would have wanted the Commission to retain a failed price cap when, in the Commission's judgment, the price cap must be altered to achieve Congress's objectives.

3. Finally, petitioners contend (Mot. 13-14) that the canon of constitutional avoidance requires this Court to interpret § 3622(d)(3) to forbid the Commission from altering the price cap. That canon "comes into play only when, after the application of ordinary textual analysis, the statute is found to be susceptible of more than one construction." *Jennings v. Rodriguez*, 138 S. Ct. 830, 842 (2018) (quotation marks omitted). Because the Act plainly grants such authority to the Commission, the avoidance canon does not apply.

In any event, petitioners have failed to demonstrate that the Act raises any serious constitutional questions. *See Reno v. Flores*, 507 U.S. 292, 314 n.9 (1993) ("Statutes should be interpreted to avoid *serious* constitutional doubts, not to eliminate all possible contentions that the statute *might* be unconstitutional." (citation omitted) (emphasis in original)). For example, petitioners suggest (Mot. 14-15) that the Commission's modifications to the price cap violate the Presentment Clause. This claim depends on the mistaken assumption that the modifications were statutorily barred. But § 3622(d)(3) grants the Commission precisely that authority. And that provision was approved by both Houses of Congress, presented to the President, and signed into law.

Petitioners also suggest that if the Commission is allowed to alter the price cap, the Act would no longer contain any "intelligible principle" to constrain the Commission's discretion. Mot. 15-16 (quotation marks omitted). That argument ignores the nine objectives and fourteen factors that the Commission must consider

when undertaking its responsibilities under § 3622(d)(3). Those highly reticulated provisions are far more detailed than the statutes the Supreme Court has routinely upheld. *E.g.*, *Federal Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 600 (1944) (authorizing Federal Power Commission to determine "just and reasonable rate[s]" for wholesale sales of natural gas (quotation marks omitted)); *Yakus v. United States*, 321 U.S. 414, 420 (1944) (authorizing Price Administrator to fix commodity prices in a "fair and equitable" manner that would "effectuate" statutory purposes (quotation marks omitted)).

II. The Balance Of Equities And The Public Interest Weigh Against An Injunction Pending Appeal.

The balance of equities and the public interest, which "merge" where relief is sought against the federal government, *Nken*, 556 U.S. at 435, independently counsel against the extraordinary relief that petitioners seek.

1. At the threshold, petitioners have failed to show that the order will imminently and irreparably injure them. Petitioners acknowledge (Mot. 16-17) that the order does not itself increase the price they must pay for any particular market-dominant products. They also acknowledge (*id.*) that the Postal Service has not yet determined how to exercise any of the rate authority conferred by the order. They simply hypothesize that the Postal Service will increase rates for particular postal products in a way that affects them. But no such hypothetical increase will take effect unless the Postal Service first gives the public ninety days' notice. Stay Order 19-20.

The Commission must then conduct a notice-and-comment proceeding to review the proposed increase. *Id.* If the Commission approves the proposal, its decision will be subject to judicial review in this Court. *Id.*; *see* 39 U.S.C. § 3663.

Petitioners' allegations are particularly speculative because the price cap—even as altered—applies only to entire classes of products (such as First-Class Mail). Stay Order 19. The cap does not directly dictate the rates that the Postal Service may charge for individual products within each class (such as postcards and single-piece domestic letters, which fall under First-Class Mail). *Id.* So long as the rates charged for the entire class comply with the price cap, the Postal Service has discretion to raise, decrease, or retain rates for each such product. *Id.* Unless and until the Postal Service proposes specific rate increases, there is no way to know whether and how those increases might harm petitioners. And unsurprisingly, petitioners have failed to submit any concrete information explaining how these as-yet-indeterminate changes will affect them.

2. In contrast, enjoining the order would undermine the Postal Service's ability to supply critical mail services. As the Commission has explained and as petitioners do not here dispute, the order is "necessary to achieve" the Act's statutory objectives. Stay Order 11. The existing system—and in particular the price cap—has undermined the Postal Service's financial stability by preventing it from generating sufficient revenue, notwithstanding the cost reductions and efficiency improvements that the Postal Service has made. Order 8-9. Preventing the order from taking effect

would force the Postal Service to continue to set rates in accordance with the current flawed system and "make the Postal Service's immediate problems worse." Stay Order 23.

Petitioners emphasize (Mot. 19) the Commission's finding that the Postal Service has generally achieved short-term financial stability under the initial system. But they omit the Commission's separate finding that such short-term stability has come at the expense of medium- and long-term financial stability—a "primary deficiency" of the existing ratemaking system. Stay Order 23. Moreover, the Postal Service's ability to retain short-term stability has not translated to more efficient prices or better service—harms that affect the Nation's consumers here and now. *See generally* Order 294-96. Petitioners also cite (Mot. 19-20) Section 6001(b) of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281, 504-05 (2020) (CARES Act), which grants the Postal Service $10 billion in borrowing authority above and beyond the $1 billion currently available to it. *See* Stay Order 22 & n.24. But the Postal Service can only use CARES Act funds to pay for day-to-day operating expenses. *See* Stay Order 22-23. The CARES Act thus "do[es] nothing to address the net losses and accumulated deficits" that the Postal Service is accruing every day. Stay Order 23. It also does nothing to help the Postal Service cover its statutorily mandated benefits payments, which the Postal Service cannot currently meet. Order 5.

Enjoining the order would also disserve the public interest. The Accountability Act makes clear that the public interest favors a ratemaking system that appropriately balances all nine statutory objectives. *See* 39 U.S.C. § 3622(b). Because these objectives "are in many respects cross-cutting," "they require tradeoffs between different aspects of the public interest." Stay Order 24-25. The Commission must weigh petitioners' interest in keeping postage rates as low as possible against the interest of the general public in allowing the Postal Service "to remain viable as a public service." *Id.* Here, the Commission found—and petitioners do not in their motion dispute—that the initial ratemaking system does not achieve the statutory objectives while the challenged ratemaking system does. This Court should reject petitioner's invitation to substitute their preferred policy outcome for the Commission's expert judgments. *Cf. Cablevision Sys. Corp. v. FCC*, 597 F.3d 1306, 1311 (D.C. Cir. 2010) (holding that, when an agency's exercise of authority turns on "expert policy judgment of a technical, complex, and dynamic subject," courts must accord "deference" to the agency's predictive judgments).

3. The government takes no position on petitioners' alternative request for expedition. The government notes, however, that both the Mailer Petitioners and the Postal Service intend to raise a multitude of issues on appeal, many of them highly technical. Moreover, the challenged order was issued on November 30, 2020, meaning that petitioners have already had over two months to prepare their opening

briefs. Given the complexity of the case, the government respectfully requests that any schedule afford the government at least sixty days to prepare its response brief.

CONCLUSION

For these reasons, this Court should deny petitioners' motion to stay the implementation of the Commission's order pending appeal.

Respectfully submitted,

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FEBRUARY 2021

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing response complies with the requirements of Federal Rule of Appellate Procedure 27(d) because it has been prepared in 14-point Garamond, a proportionally spaced font. I further certify that this response complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because it contains 4,926 words according to the count of Microsoft Word.

/s/ Dana L. Kaersvang
DANA L. KAERSVANG

EXHIBIT 4

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-1276 **September Term, 2020**

PRC-RM2017-3

Filed On: March 1, 2021

National Postal Policy Council,

Petitioner

v.

Postal Regulatory Commission,

Respondent

National Newspaper Association, et al.,
Intervenors

Consolidated with 20-1505, 20-1510, 20-1521

BEFORE: Tatel, Millett, and Rao, Circuit Judges

ORDER

Upon consideration of the motion for stay pending review or to expedite, the oppositions thereto, and the reply, it is

ORDERED that the motion for stay be denied. Petitioner has not demonstrated the type of imminent and irreparable harm necessary for a stay. See Nken v. Holder, 556 U.S. 418, 434 (2009); D.C. Circuit Handbook of Practice and Internal Procedures 33 (2020). It is

FURTHER ORDERED that these consolidated cases be expedited. The parties are directed to file a proposed briefing format and schedule by 12:00 noon on Friday, March 5, 2021. The parties are strongly urged to submit a joint proposal and are reminded that the court looks with extreme disfavor on repetitious submissions and will, where appropriate, require a joint brief of aligned parties with total words not to exceed the standard allotment for a single brief. Whether the parties are aligned or have disparate interests, they must provide *detailed* justifications for any request to file separate briefs or to exceed in the

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-1276 **September Term, 2020**

aggregate the standard word allotment. Requests to exceed the standard word allotment must specify the word allotment necessary for each issue.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

By: /s/
Manuel J. Castro
Deputy Clerk

EXHIBIT 5

Postal Regulatory Commission
Submitted 5/28/2021 2:57:21 PM
Filing ID: 118170
Accepted 5/28/2021

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

MARKET-DOMINANT PRICE CHANGE	Docket No. R2021-2

UNITED STATES POSTAL SERVICE
NOTICE OF MARKET-DOMINANT PRICE CHANGE

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May 28, 2021

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I. Overview of Price Case

The Governors of the United States Postal Service have determined to adjust rates for market-dominant products. The adjusted rates will take effect at 12:01 a.m. on August 29, 2021. The Postal Service hereby submits the new rates for regulatory review and demonstrates their compliance with applicable law.

This price case is the first to follow the Postal Regulatory Commission's adoption of an amended ratemaking system in Order No. 5763. As a result of the new system, the Postal Service has available approximately 6.8 percent of pricing authority for compensatory classes and approximately 8.8 percent of pricing authority for non-compensatory classes. The Governors have determined to use virtually all of this authority at this time. The Postal Service's Delivering for America ten-year plan sets forth a balanced array of initiatives to achieve financial sustainability and service excellence, and this price case is an integral component of that plan.

Given the recent adoption of the Commission's amendments to the ratemaking system and the urgent need to begin addressing the Postal Service's financial challenges through implementation of more rational pricing, after many years of a prior system that the Commission appropriately found to be a barrier to financial sustainability, the Governors have determined to shift from the Postal Service's previous January implementation schedule for annual price increases to an August timeline for 2021.[1] The Governors have not yet determined whether this timeline shift will apply to future years.[2]

[1] The Postal Service submits that this decision satisfies 39 C.F.R. 3030.102(d).
[2] 39 C.F.R. 3030.102(c) is therefore not implicated.

A. Postal Service Official Responsible for Commission Inquiries

The Postal Service identifies Samie Rehman as the official available to respond to Commission inquiries:[3]

Samie Rehman, Manager, Pricing
475 L'Enfant Plaza SW, Room 4136
Washington, D.C. 20260

B. Price Case Structure

The remainder of this Notice is structured as follows. Part II details compliance with the price cap.[4] Part III discusses the new rates and workshare discounts and their compliance with applicable statutes and regulations.[5] Part IV describes associated changes to the Mail Classification Schedule (MCS).[6] The schedule of new rates can be found in Attachment A.[7]

II. Price Cap Compliance

A. Annual CPI Based Cap Space

The amount of price cap space generated by the change in the Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (CPI-U) since the last market-dominant rate case is listed in the table below.[8]

[3] 39 C.F.R. 3030.122(e).
[4] Part II is intended to satisfy subparts (b) through (f) of Rule 3030.123.
[5] Part III is intended to satisfy subparts (g) through (k) of Rule 3030.123.
[6] Part IV is intended to satisfy subpart (d) of Rule 3030.122.
[7] The prices are set forth in Mail Classification Schedule format in order to satisfy subpart (d) of Rule 3030.122.
[8] Available Market Dominant Rate Authority, (May 12, 2021), *available at* https://www.prc.gov/sites/default/files/Available%20Rate%20Authority%2005-12-21.pdf, at 1.

Table 1
Price Cap Space Generated by the Change in CPI-U

Class	CPI-U Cap Space Generated (%)
First-Class Mail	1.244
USPS Marketing Mail	1.244
Periodicals	1.244
Package Services	1.244
Special Services	1.244

B. Unused Cap Space from Previous Years

The banked cap space carried over from prior years is listed below.

Table 2
Available Unused Cap Space

Class	Unused Authority (%)
First-Class Mail	0.012
USPS Marketing Mail	0.010
Periodicals	0.002
Package Services	0.006
Special Services	0.007

C. Density Rate Authority

As specified by 39 C.F.R. § 3030.162(a)(1), the density-based rate authority available to the Postal Service is calculated as 4.500 percent.[9]

D. Retirement-Based Rate Authority

As specified by 39 C.F.R. § 3030.183, the retirement-based rate authority available to the Postal Service is calculated as 1.062 percent.[10]

[9] Docket No. ACR2020, Order No. 5861, Determination of Available Market Dominant Rate Authority, (Apr. 6, 2021), at 4.
[10] Order No. 5861, at 6.

E. Rate Authority for Non-Compensatory Classes

39 C.F.R. § 3030.222(a) provides for an additional 2 percentage points of rate authority for any class of mail where the attributable cost for that class exceeded the revenue from that class. In FY 2020, the classes for which attributable cost exceeded revenue were Periodicals and Package Services.[11]

F. Total Available Cap Space

Combining (1) the current CPI based cap space with (2) the unused cap space from previous years, (3) density rate authority, (4) retirement-based rate authority, and (5) rate authority for non-compensatory classes results in total available cap space in the following amounts:[12]

Table 3
Total Available Cap Space

Class	CPI-U (%)	Density (%)	Retirement (%)	Non-Compensatory (%)	Bank (%)	Total Cap Space (%)
First-Class Mail	1.244	4.500	1.062	N/A	0.012	6.818
USPS Marketing Mail	1.244	4.500	1.062	N/A	0.010	6.816
Periodicals	1.244	4.500	1.062	2.000	0.002	8.808
Package Services	1.244	4.500	1.062	2.000	0.006	8.812
Special Services	1.244	4.500	1.062	N/A	0.007	6.813

G. Percentage Change in Rates

The rate changes set forth in this docket represent the following percentage changes by class:

[11] Order No. 5861, at 6.
[12] CPI-U taken from Available Market Dominant Rate Authority, (May 12, 2021), at 1. All other figures have been taken from Order No. 5861, at 6.

Table 4
Price Change Percentages

Class	Percent Change
First-Class Mail	6.814
USPS Marketing Mail	6.815
Periodicals	8.806
Package Services	8.806
Special Services	6.808

The workpapers required by Rule 3030.123(d) deriving these figures are contained in the library references accompanying this Notice, with the underlying calculations conforming to Rule 3030.128.

H. Unused Cap Space After Price Change

The following amounts of cap space will remain after this price case:

Table 5
Unused Cap Space After Price Change

Class	Remaining Cap Space (%)
First-Class Mail	0.004
USPS Marketing Mail	0.001
Periodicals	0.002
Package Services	0.006
Special Services	0.005

The underlying calculations required by Rule 3030.123(f) are contained in the library references accompanying this Notice. In compliance with Rule 3030.123(e), the library references also show the amount of banked cap space utilized by each class.

III. Discussion of New Rates

A. First-Class Mail

1. Summary of Price Changes

a. Descriptions of Price Changes by Product and Rate Category

First-Class Mail is the highest revenue-generating mail class, accounting for $24.2 billion, or 33 percent, of the $73.2 billion in total revenue in FY 2020.[13] This class includes correspondence, bills, statements, payments, and advertising.

Despite an overall decline in First-Class Mail volume, Automation Letters volumes have been steadier – over the last four years, they have declined at only about one-third the rate of Single-Piece Letters. Over the same time period, 5-Digit Automation Letters volume has increased.

[13] Docket No. ACR2020, Library Reference PRC-LR-ACR2020-1FY2020, "Public_FY20CRAReport.Rev.2.22.21.xlsx" (Mar. 29, 2021). Note that the $24.2 billion for First-Class Mail does not include $51.7 million of International Inbound negotiated service agreements.

Prices for the First-Class Mail products will adjust by the following amounts:

Table 6
First-Class Mail Price Changes

Product	Percent Change
Single-Piece Letters/Postcards	5.001
Presort Letters/Postcards	7.440
Flats	10.318
Outbound Single-Piece First-Class Mail International	8.351
Inbound Letter Post	6.574
Total First-Class Mail	6.814

Within the Letters products category, the rates for one-ounce mail pieces will increase as follows:

Table 7
First-Class Mail First-Ounce Rates - Letters

	Current	New	Change	Percent Change
Stamped Single-Piece	0.55	0.58	0.03	5.5
Metered Single-Piece	0.51	0.53	0.02	3.9
MAADC[14] Automation	0.450	0.485	0.35	7.8
AADC Automation	0.428	0.461	0.033	7.7
5-Digit Automation	0.398	0.426	0.028	7.0

The Postal Service is increasing the Stamp price from 55 cents to 58 cents, or 5.5 percent. This follows on two rate cycles of holding the Stamp price constant. The Meter price is increasing by 2 cents, from 51 cents to 53 cents, or 3.9 percent. Thus, the Stamp and Meter differential is widening to five cents from four; this should help small businesses as they recover from the pandemic-induced economic downturn. The non-machinable surcharge for Letters will increase from 20 cents to 30 cents, while the additional ounce rate will remain at 20 cents.

[14] *I.e.*, Mixed Automated Area Distribution Center (AADC).

The Postal Service is introducing a new rate structure for Nonautomation Machinable and Nonmachinable Letters, shown in Tables 8-9 below, that essentially aligns these products with the corresponding Marketing Mail structure by differentiating presort levels.[15]

Table 8
Nonautomation Machinable Letters Price Structure Change

Previous Structure		Updated Structure		
Maximum Weight (ounces)	**Presorted ($)**	**Maximum Weight (ounces)**	**AADC ($)**	**Mixed AADC ($)**
1	0.460	1	0.461	0.494
2	0.460	2	0.461	0.494
3	0.460	3	0.461	0.494
3.5	0.460	3.5	0.461	0.494

Table 9
Nonmachinable Letters Price Structure Change

Previous Structure		Updated Structure			
Maximum Weight (ounces)	**Presorted ($)**	**Maximum Weight (ounces)**	**5-Digit ($)**	**3-Digit ($)**	**Mixed ADC ($)**
1	0.660	1	0.586	0.684	0.794
2	0.660	2	0.586	0.684	0.794
3	0.660	3	0.586	0.684	0.794
3.5	0.660	3.5	0.586	0.684	0.794

As shown above, the restructuring introduces four new prices and corresponding workshare discounts in Nonautomation Machinable and Nonmachinable Letters. Specifically, within Nonautomation Machinable Letters, a new Nonautomation Mixed AADC discount is replacing the existing Nonautomation Machinable Letters discount (the benchmark remains Metered Letters), and a new discount is being added for Nonautomation Machineable AADC Letters, benchmarked to Mixed AADC. Within

[15] Additional information about the new structure is included in the First-Class Mail workpapers. *See* Library Reference USPS-LR-R2021-2-1, Microsoft Excel file "CAPCALC-FCM-R2021-2.xlsx."

Nonmachinable Letters, the Postal Service is adding new discounts for 5-Digit and 3-Digit Letters.

In accordance with 39 C.F.R. § 3030.123(h), the Postal Service notes that it intends for this rate restructuring to incentivize greater presortation by mailers, increase pricing flexibility, and better align pricing structures across classes. Benefits should, therefore, accrue both to mailers and to the Postal Service. The Postal Service certifies that the new discounts will not adversely affect the customers who do not choose to take advantage of them, as they can continue to use their existing discounts (or other products, as applicable).

All of the new discounts are set within a range of 85 to 100 percent in accordance with 39 C.F.R. § 3030.284(e). These passthroughs rely on cost avoidance data already approved by the Commission. Specifically, the Annual Compliance Report includes a First-Class Mail Letters cost avoidance model in Folder 10 that forms the basis for estimating existing Automation Letters cost avoidances (both in the Annual Compliance Reports' Folder 3 and in price change dockets' Attachment B). This same model estimates the mail processing costs (Folder 10) and delivery costs (originally provided in Folder 19) for Nonautomation Letters.[16] The Postal Service has used these mail processing costs and delivery costs to develop the cost avoidances for the new workshare discounts.[17]

Automation Letters, within the Presort Letters and Cards product category, will receive an above-average price increase. While this is the second consecutive above-

[16] The derivation of these cost avoidances is provided in the Library Reference USPS-LR-R2021-2/1, Excel Spreadsheet FCM.NonautoLtrsVolDist.AvdCst.R2021-2.xlsx, Tab: 'NonautoLtrs Avoid Cost'.
[17] The derivation of Nonautomation Presort volumes is provided in the above referenced Spreadsheet Tab: NonautoLtrsVolDist.

average increase for Presort Letters, the category previously received slightly below-average price increases for five consecutive years. The impact of this price increase should be softened by the significantly increased 5-Digit Letters discount, along with the increased promotional discounts described below.

The remainder of the price authority for First-Class Mail is applied to cards; flats; and International letters, cards, and flats. As for international, Inbound Letter Post terminal dues are increasing by 6.574 percent compared to current rates.[18] This is based on the expected terminal dues price increases that are likely to be adopted at the next Universal Postal Union Congress. Also, Outbound Single-Piece First-Class Mail International (FCMI) prices are increasing 8.351 percent, including increases on Single-Piece FCMI letters, cards, and flats.

2. Workshare Discounts

All First-Class Mail passthroughs comply with the Commission's new rules in 39 C.F.R. part 3030, subpart J. Generally, workshare discounts should be set to 100 percent and may not be changed when equal to 100 percent. Workshare discounts that exceed avoided costs may not be increased, and workshare discounts that are less than avoided costs may not be decreased.[19] The Postal Service may, however, adjust rates that set workshare discounts above or below avoided costs if one or more conditions apply.[20]

One First-Class Mail passthrough, Automation ADC Flats, is equal to 100 percent. All other First-Class Mail passthroughs are set between 85 and 100 percent,

[18] The Inbound Letter Post price changes are expected to take effect on January 1, 2022.
[19] 39 C.F.R. § 3030.282.
[20] *See* 39 C.F.R. § § 3030.283 and 3030.284, respectively.

complying with the condition in 39 C.F.R. § 3030.284(e). (See Attachment B, Tabs: 'FCM Flats"; 'FCM Single Piece Letters, Cards'; and 'FCM Bulk Letters, Cards.')

3. Adjustments to Billing Determinants

The Postal Service has made three adjustments to the hybrid year billing determinants for First-Class Mail.

First, the Postal Service adjusted Nonautomation Presort Letters volumes to account for the revised pricing structures. Specifically, Nonautomation Machinable Letters volumes were distributed between Mixed AADC and AADC; and Nomachinable Letters volumes were distributed to Mixed ADC, 3-Digit, and 5-Digit presort levels. The distribution keys were derived using data from the FY 2020 Annual Compliance Report's Folder 10.[21]

Second, because the Picture Permit data source reports revenues only and not volumes, the Postal Service has converted Picture Permit's revenues to volumes by multiplying the dollar amount by 100. The Postal Service performs this adjustment in every price case.

Finally, reported volumes for the new Seamless Acceptance incentive introduced in Docket No. R2021-1 are available for only part of the hybrid year, as the incentive went into effect on January 24, 2021. Therefore, the Postal Service is using Postal One data to determine qualifying volume for the portion of the hybrid year before February 1, 2021 (specifically, for Quarters 3 and 4 of FY 2020, Quarter 1 of FY 2021, and for January 2021). For Quarter 2 of FY 2021, the Postal Service adjusted Revenue, Pieces & Weight (RPW) data by substituting in January 2021 Postal One data for January 2021

[21] *See* Library Reference USPS-LR-R2021-2-1, Microsoft Excel file "FCM.NonautoLtrsVolDist.AvdCst.R2021-2.xlsx".

RPW Data. Seamless Acceptance data for all mail classes is reported in Library Reference USPS-R2021-2-6. The cap calculation files for each mail class use this data source to adjust for the Seamless Acceptance incentive.

B. USPS Marketing Mail

1. Summary of Price Changes

The Postal Service is increasing Marketing Mail prices by 6.815 percent overall. Prices for the seven USPS Marketing Mail products will adjust by the following amounts:

Table 10
USPS Marketing Mail Product Price Changes

Product	Percent Change
Letters	6.581
Flats	8.819
Parcels	9.367
High Density / Saturation Letters	5.992
High Density / Saturation Flats and Parcels	5.454
Carrier Route	8.866
Every Door Direct Mail – Retail	5.208
Overall	6.815

In the FY 2020 Annual Compliance Determination, the Commission directed the Postal Service to raise rates for Marketing Mail Flats, Parcels, and Carrier Route at least 2 percent above the class average.[22] Accordingly, the Postal Service is raising prices for these three products by 8.819 percent, 9.367 percent, and 8.866 percent.

The Letters product, which provides 58 percent of Marketing Mail revenue, is receiving a slightly below average increase.

Both High Density Flats and High Density Letters are receiving above-average increases. Over the last few years, co-mailing and comingling have changed the

[22] Docket No. ACR2020, Annual Compliance Determination Report Fiscal Year 2020, (Mar. 29, 2021), at 41, 46, 50.

market for Marketing Mail and have effectively made High Density Flats and Letters finer pre-sort levels beyond 5-Digit and Carrier Route. These increases align their prices more closely with other presort levels, and the increases represent an application of price cap authority to mail products with stable or increasing volume, which both Marketing Mail High Density Flats and Letters have had for years prior to the pandemic.

The Postal Service is creating a new 1-cent discount for High Density Flats on 5-Digit (direct) pallets. In accordance with 39 C.F.R. § 3030.123(h)(1), the Postal Service notes that it is establishing this discount because pallets prepared this way allow the Postal Service to avoid moving these pallets to bundle sorters within the plant, sorting the bundles, and moving them back to the dock to be transported to the Destination Delivery Unit. In a sense, this discount is not new – the Commission favorably reviewed an analogous discount for Carrier Route pieces on 5-Digit (direct) pallets in 2015.[23]

As required by 39 C.F.R. § 3030.123(h)(2), the analysis showing the associated new cost avoidance is in Attachment B (Tab: 'USPS MM HD-Sat Flts-Prcls'), as well as in Folder 11 filed with the FY 2020 Annual Compliance Report (folder: FY20.11.Flats.Models, File: USPS-FY20-11 MM_CR Flats.xlsx, Tab: 'CARRIER ROUTE AVOIDED COST CALC'). This new discount will not adversely affect either the rates or the service levels of users of postal services who do not take advantage of the workshare discount. The discount is generally available, and for those mailers that do

[23] Docket No. R2015-4, Order No. 2472, Order on Revised Price Adjustments for Standard Mail, Periodicals and Package Service Products and Related Mail Classification Changes, (May 7, 2015), at 43.

not take advantage of it, the rate for High Density Flats not on 5-Digit Pallets (direct) still exists.[24]

Finally, DMLs (Detached Marketing Labels) and DALs (Detached Address Labels) will increase by 1 cent each. DMLs will go from 6.0 cents to 7.0 cents, a 16.7 percent increase, while DALs will go from 5.5 cents to 6.5 cents, an increase of 18.2 percent.

2. Workshare Discounts

The large majority of Marketing Mail passthroughs fall within the 85 to 100 percent range, (see Attachment B, all Tabs beginning 'USPS MM….'), and ten passthroughs are set at 100 percent. (See Attachment B, Tabs: 'USPS MM Letters,' 'USPS MM Flats Prst Prebcd,' 'USPS MM Prcls & Mkt Prcls,' and 'USPS MM Carrier Route). For the sake of brevity, therefore, this section discusses only those passthroughs that do not meet 39 C.F.R. § 3030.284(e) and fall outside of the 85 to 100 percent range or are not equal to 100 percent.

a. Marketing Mail Letters

Within Letters, (see Attachment B, Tab: 'USPS MM Letters'), there is one passthrough below 85 percent, Non-automation AADC Machinable Letters. The current discount (from the most recent price change, Docket No. R2021-1) is 0.9 cents, and the current cost avoidance is 3 cents, a starting point passthrough of 30 percent. The Postal Service has increased this discount to 1.3 cents, or 44 percent, well above the minimum 20 percent increase required by 39 C.F.R. § 3030.284(c). See Table 11:

[24] *See* Mail Classification Schedule § 1210.6, High Density Flats.

Table 11
Non-automation AADC Machinable Letters, Percent Change in Discount

Type of Worksharing	Starting Passthrough[25]	New Passthrough	Previous Discount	New Discount	Discount % Change
Non-automation AADC Machinable Letters	30.0%	43.3%	$0.009	$0.013	44.4%

The Postal Service intends to gradually move this passthrough toward 85 percent given future cost avoidance estimates.

Note that one of the ten passthroughs set at 100 percent is the dropship discount for 5-Digit letters entered at the DSCF at 2.7 cents. At 25 billion pieces in FY 2020, this is the single largest volume category within all market-dominant mail and makes up 39 percent of total Marketing Mail volume. This discount has been a major concern of mailers over the last few rate cycles.

b. Marketing Mail Flats & Parcels Dropship

Within Flats and Parcels (see Attachment B, Tab: Flats & Parcels Dropship), there are eight passthroughs that are below 85 percent. All, however, comply with 39 C.F.R. § 3030.284(c) because the Postal service is increasing each discount by more than 20 percent, as shown in Table 12.

[25] Starting passthrough uses the latest discount (R2021-1 Prices to calculate the discount) and latest Cost Avoidance (ACR 2020, Folder 3).

Table 12
Marketing Mail Flats and Parcels Dropship, Percent Changes in Discounts

Type of Worksharing	Starting Passthrough[26]	New Passthrough	Previous Discount (000)[27]	New Discount (000)[28]	Discount % Change
Nonprofit Machinable and Irregular Parcels-DNDC	26.9%	32.6%	$661	$799	20.9%
Commercial and Nonprofit Marketing Parcels-DNDC	29.8%	40.4%	$164	$222	35.7%
Commercial and Nonprofit Marketing Parcels-DSCF	56.6%	72.1%	$1,419	$1,805	27.3%
Commercial and Nonprofit Basic Carrier Route Flats-DNDC	50.0%	62.7%	$10,631	$13,339	25.5%
Commercial and Nonprofit Basic Carrier Route Flats-DSCF	67.1%	81.8%	$187,966	$229,176	21.9%
Commercial and Nonprofit Basic Carrier Route Flats on 5-Digit Pallets-DNDC	48.3%	60.5%	$679	$851	25.4%
Commercial and Nonprofit Basic Carrier Route Flats on 5-Digit Pallets-DSCF	54.1%	66.0%	$34,629	$42,275	22.1%
Commercial and Nonprofit Basic Carrier Route Flats on 5-Digit Pallets-DDU	66.5%	80.5%	$1,103	$1,334	21.0%

There is also one passthrough above 100 percent: the passthrough for Basic Carrier Route Flats entered at the Destination Delivery Unit (DDU) is 134.3 percent. As explained below, it is not possible to reduce this passthrough to 100 percent while maintaining rational pricing.

Each of the six Carrier Route Flats dropship discounts comprises both a per-piece rate and a per-pound rate. Accordingly, the passthroughs for these discounts cannot be calculated in the straightforward manner that passthroughs for other discounts are calculated (i.e., simply by dividing the discount by its associated cost

[26] Starting passthrough uses the latest discount (R2021-1 Prices to calculate the discount) and latest Cost Avoidance (ACR 2020, Folder 3).
[27] Because of the nature of these dropship passthrough calculations, both the avoided costs and discounts are total dollar amounts and not just the per-piece (or per-pound) estimated avoided costs and discounts.
[28] See prior footnote.

avoidance). Rather, these six passthroughs are the result of a more complex calculation that first weights the per-piece and per-pound rates with actual mailed volumes and then compares the weighted discounts to the cost avoidance.

Given this calculation method, it is not possible to bring all six Carrier Route Flats discounts into alignment with the Commission's new workshare discount rules without introducing prices that are irrational on their face, such as higher prices for dropshipping at the DDU than at the DSCF. For an illustration of this difficulty, please see the Excel file in the USPS Marketing Mail workpapers, "Carrier Route Flats Dropship R2021-2.xlsx", which has two tabs, "CR flats Drop&Presort Passthru" and "Diff Disc Scenario."[29] The first tab reproduces the dropship and presort passthroughs for Carrier Route Flats from the information provided in Attachment B, File "Attachment B R2021-2.xlsx." References are provided in the tab. The second tab allows the user to change the pound prices in Cells P62 to Q64 (shaded orange) and see the resulting change in piece prices, discounts, and two different passthrough percentages, one for dropship discounts (shaded yellow in column W) and the other for preparation or presort discounts (shaded yellow in column J).

As submitted, the worksheet shows the results of changing the current prices to ensure that all dropship passthroughs are at least 85 percent. The DDU price for pieces heavier than 4 ounces on basic pallets is higher than both the DNDC and DSCF prices. The DDU price for pieces heavier than 4 ounces on 5-Digit pallets is higher than the DSCF price. And the presort passthrough discount percentage is above 100 percent for

[29] The Postal Service recently filed this illustration, and substantially the same following explanation, in the pending rulemaking docket focused on this passthrough calculation issue. *See* Docket No. RM2021-6, Responses of the United States Postal Service to Chairman's Information Request No. 1 (May 5, 2021).

all dropship levels, significantly so for DSCF (166.7 percent) and DDU (228.6 percent). The Postal Service is prepared to make its pricing experts available for a technical conference should the Commission like to explore the illustration further.

In light of the constraints described above, the Governors have determined to set Carrier Route rates in the manner that accomplishes the fullest possible compliance while retaining rationality, such that only one of the lower volume rate categories will be set outside the 85 to 100 percent passthrough band. Further, because the passthrough associated with this category is being set above 100 percent, its non-alignment with the band accrues to the benefit of mailers rather than the Postal Service. The Postal Service intends to bring this passthrough into compliance as soon as practicable given changes in dropship cost avoidances and changes in the mail mix (pounds vs. pieces) at various entry points.

c. Marketing Mail Parcels

Within Marketing Mail Parcels (see Attachment B, Tab: 'USPS MM Prcls & Mkt Prcls'), there are two passthroughs below 85 percent and one passthrough above 100 percent. The Postal Service is increasing the discount for the first two rates by at least 20 percent, as per 39 C.F.R. § 3030.284(c). The discount associated with the passthrough greater than 100 percent is reduced by at least 20 percent, complying with 39 C.F.R. § 3030.283(c). See Table 13.

Table 13
Marketing Mail Parcels Dropship, Percent Changes in Discounts

Type of Worksharing	Starting Passthrough[30]	New Passthrough	Previous Discount	New Discount	Discount % Change
5-digit Irregular Parcels	41.9%	51.8%	$0.310	$0.383	23.5%
5-digit Marketing Parcels	25.0%	40.1%	$0.182	$0.292	60.4%
NDC Marketing Parcels	157.5%	124.9%	$0.474	$0.376	-20.7%

d. Marketing Mail High Density and Saturation Letters

Within Marketing Mail High Density Saturation Letters, there is one passthrough that is below 85 percent. The Postal Service proposes to increase this discount by more than 20 percent, thus ensuring compliance with 39 C.F.R. § 3030.284(c). See Table 14.

Table 14
Marketing Mail High Density, Percent Changes in Discounts

Type of Worksharing	Starting Passthrough[31]	New Passthrough	Previous Discount	New Discount	Discount % Change
High Density Letters	14.5%	17.5%	$0.077	$0.093	20.8%

e. Marketing Mail High Density and Saturation Flats

Finally, the new discount for High Density Flats on 5-Digit (direct) pallets, discussed in Section III.B.1, above, creates a new passthrough below 100 percent (47.6 percent). This low workshare discount is permissible because it is new.[32]

3. Adjustments to Billing Determinants

The Postal Service has made three adjustments to the hybrid year billing determinants for USPS Marketing Mail.

[30] Starting passthrough uses the latest discount (R2021-1 Prices to calculate the discount) and latest Cost Avoidance (ACR 2020, Folder 3).
[31] See prior footnote.
[32] 39 C.F.R. § 3030.284(b).

First, to give effect to the rate and classification change for lightweight Nonautomation Nonmachinable letter-shaped pieces (4 ounces and below) that was proposed and approved in Docket No. R2021-1, hybrid year volumes have been moved from the Letters product to the Flats product in the price cap calculation. While not reflected in the FY 2021 Q2 RPW report, billing determinants for that quarter match the RPW treatment of these letters, and CAPCALC-USPSMM-R2021-2.xlsx, the primary Marketing Mail workbook file, correctly maps these volumes and revenues to the appropriate product.

Next, as discussed above for First-Class Mail, the Postal Service has used Postal One data to account for qualifying Seamless Acceptance incentive volume for the portion of the hybrid year before February 1, 2021.

Finally, the Postal Service has split High Density Flats volume between 5-Digit (direct) and Other Pallets using Postal One data to account for the new proposed discount for High Density Flats pieces on 5-Digit (direct) pallets.

C. Periodicals

1. Summary of Price Changes

Prices for the two Periodicals products will increase as follows:

Table 15
Periodicals Price Changes

Product	Percent Change
Outside County	8.832
Within County	8.311
Overall	8.806

In the FY 2020 Annual Compliance Determination, the Commission concluded that Periodicals is a non-compensatory class.[33] Accordingly, the Postal Service has an additional 2 percent rate authority for Periodicals under 39 C.F.R. § 3030.222(a).[34] The total price authority for Periodicals is 8.808 percent, and the Postal Service intends to use 8.806 percent, banking 0.002 percent. The price changes for Periodicals approved by the Governors incorporate the following strategies aimed at improving cost coverage:

- Creating a single price for all zone-based advertising pound prices, resulting in price increases for Zones 1-4 and price decreases in Zones 5-9. To arrive at the new prices, the Postal Service considered using an average of all advertising pound prices. However, both the weighted and non-weighted averages led to increases of more than 50 percent for some zones. Instead, the Postal Service took the weighted average of Zones 1-7 and then adjusted the price slightly to bring about the desired revenue impact.
- Lowering pound prices to facilitate shifting to uniform advertising zone prices and using the resulting cap authority in more efficient areas (primarily pieces).
- Continuing the initiative of lower prices for tubs versus sacks for Periodicals entered at the DSCF and DDU. This will encourage more efficient mail preparation.

[33] FY 2020 ACD, at 20.
[34] Order No. 5861, at 6.

- Increasing the price differential between basic Carrier Route and Machinable Automation 5-Digit Flats to encourage the preparation of Carrier Route pieces and reduce costs for the Postal Service.

2. Workshare Discounts

As of this price adjustment, no Periodicals workshare discounts exceed avoided costs.

While many Periodicals workshare discounts have passthrough ratios below 100 percent, the Postal Service is bringing all of them into compliance with 39 C.F.R. § 3030.284, either by ensuring that the passthrough ratio is at least 85 percent or by raising the discount by at least 20 percent. See Table 16:

Table 16
Periodicals Workshare Discounts, Percent Changes in Passthroughs and Discounts

Periodicals Outside County Mail	Starting Passthrough[35]	New Passthrough	Previous Discount	New Discount	Discount % Change
Presorting (dollars / piece)					
Machinable Nonautomation ADC Flats	84.6%	**85.9%**	$0.07	$0.07	1.5%
Machinable Nonautomation 3D/SCF Flats	96.4%	**96.4%**	$0.05	$0.05	0.0%
Machinable Nonautomation 5D Flats	82.0%	**85.6%**	$0.11	$0.12	4.4%
CR Basic	71.2%	**85.9%**	$0.15	$0.18	20.5%
High Density	91.7%	**91.7%**	$0.03	$0.03	0.0%
Saturation	36.6%	43.9%	$0.02	$0.02	**20.0%**
Machinable Automation ADC Flats	87.1%	**87.1%**	$0.05	$0.05	0.0%
Machinable Automation 3D/SCF Flats	104.3%	**87.0%**	$0.05	$0.04	-16.7%
Machinable Automation 5D Flats	86.0%	**86.0%**	$0.10	$0.10	0.0%
Nonmachinable Nonauto ADC Flats	84.9%	**85.7%**	$0.10	$0.10	1.0%
Nonmachinable Nonauto 3D/SCF Flats	80.0%	**85.5%**	$0.04	$0.05	6.8%
Nonmachinable Nonauto 5D Flats	87.0%	**87.0%**	$0.09	$0.09	0.0%
Nonmachinable Automation ADC Flats	85.7%	**85.7%**	$0.11	$0.11	0.0%
Nonmachinable Automation 3D/SCF Flats	85.4%	**85.4%**	$0.04	$0.04	0.0%
Nonmachinable Automation 5D Flats	85.3%	**85.3%**	$0.09	$0.09	0.0%
Pre-barcoding (dollars / piece)					
Machinable Automation MADC Flats	81.0%	**85.7%**	$0.05	$0.05	5.9%
Presorting Automation Letters (dollars/piece)					
ADC Automation Letter	72.7%	**86.4%**	$0.02	$0.02	18.8%
5-Digit Automation Letter	75.0%	**85.7%**	$0.02	$0.02	14.3%
Periodicals Within County Mail					
Presorting (dollars / piece)					
3-Digit Presort	36.9%	44.6%	$0.02	$0.03	**20.8%**
5-Digit Presort	26.1%	31.9%	$0.04	$0.04	**22.2%**
CR Basic	35.2%	42.2%	$0.09	$0.11	**20.0%**
High Density	47.2%	58.3%	$0.02	$0.02	**23.5%**
Saturation	31.7%	39.0%	$0.01	$0.02	**23.1%**
5-Digit Automation Letter	64.3%	78.6%	$0.02	$0.02	**22.2%**
Pre-barcoding (dollars / piece)					
Basic Automation Flats	52.2%	63.3%	$0.05	$0.06	**21.3%**
3-Digit Automation Flats	44.2%	53.5%	$0.04	$0.05	**21.1%**
5-Digit Automation Flats	57.1%	69.8%	$0.04	$0.04	**22.2%**

[35] Starting passthrough uses the latest discount (R2021-1 Prices to calculate the discount) and latest Cost Avoidance (ACR 2020, Folder 3).

3. Adjustments to Billing Determinants

The Postal Service made the same billing determinants adjustment to account for qualifying Seamless Acceptance incentive volume as described above for First-Class Mail and USPS Marketing Mail.

D. Package Services

1. Summary of Price Changes

The prices for the Package Services products will increase as follows:

Table 17
Package Services Price Changes

Product	Percent Change
Alaska Bypass Service	6.989
Bound Printed Matter Flats	7.453
Bound Printed Matter Parcels	6.666
Media Mail and Library Mail	10.865
Overall	8.804

In the FY 2020 Annual Compliance Determination, the Commission concluded that the attributable costs for the Package Services class exceeds its revenue. Accordingly, the Postal Service has an additional 2 percentage points of pricing authority to improve cost coverage for the class.[36] The Postal Service is using nearly all available cap space at this time to increase prices, in accordance with the pricing strategy described below.

First, the Postal Service is applying Package Services' largest price increase to Media Mail/Library Mail, because that product has the lowest cost coverage in the class

[36] 39 C.F.R. § 3030.222.

(79.3 percent).[37] Media Mail/Library Mail rates will increase by 10.865 percent, which is higher than the class average of 8.804 percent.[38]

Next, the Postal Service is addressing the other product in Package Services that has a non-compensatory cost coverage, Bound Printed Matter ("BPM") Parcels. In FY 2020, BPM Parcels had a cost coverage of 94.0 percent.[39] The Commission is currently reviewing the Postal Service's request to transfer BPM Parcels to the competitive list. In this price case, therefore, the Postal Service must balance the need to address the product's cost coverage against the need to ensure that a non-compensatory class's price cap space is not wasted on a product that may not remain on the market-dominant list. The 6.666 percent increase approved by the Governors appropriately strikes that balance: as shown in the Package Services workpapers, it is projected to result in a cost coverage of 100.6 percent.

Finally, the Postal Service is allocating the remaining cap space between BPM Flats and Alaska Bypass. The slightly higher increase for BPM Flats as compared to Alaska Bypass reflects the Postal Service's business judgment as to how best to generate revenue for the class.

2. Workshare Discounts

One passthrough, Bound Printed Matter Parcels, Carrier Route dropshipped at the DSCF, is equal to 100 percent. (See Attachment B, Tab: Bound Printed Matter Parcel). All other Package Services passthroughs are set between 85 and 100 percent, complying with the condition in 39 C.F.R. § 3030.284(e). (See Attachment B, Tabs:

[37] FY 2020 ACD, at 51.
[38] This price increase is consistent with the PRC's recommendation in FY 2020 Annual Compliance Determination Report. FY 2020 ACD, at 3.
[39] FY 2020 ACD, at 53.

'Bound Printed Matter Parcel,' Bound Printed Matter Flats,' and 'Media Mail & Library Mail').

3. Adjustments to Billing Determinants

In Package Services, the Postal Service made the same billing determinants adjustment to account for qualifying Seamless Acceptance incentive volume as described above for the other classes.

Additionally, the Postal Service notes that there was no reported volume for the Pickup On Demand service with regards to Media/Library Mail and BPM Parcels during the entire hybrid year. Thus, the service as related to those products did not affect the price cap.

E. Special Services

1. Summary of Price Changes

The prices for Special Services will increase as follows:

Table 18
Special Services Product Price Changes

Product	Percent Change
Ancillary Services	5.801
International Ancillary Services	5.449
Address Management Services	7.384
Caller Service and Reserve Numbers	6.766
Credit Card Authentication	4.762
International BRM Service	10.096
Money Orders	11.514
Post Office Box Service[40]	9.269
Stamp Fulfillment Services	7.784
Overall	6.808

[40] This includes key and lock fees.

Prices for most Special Services products will increase between 4 to 9 percent, although there are some prices at sub-product levels that will increase only nominally or not at all. Noteworthy price changes are discussed below.

In response to recommendations made by the Commission in the FY 2020 Annual Compliance Determination, the Postal Service is increasing rates for Money Orders and International Return Receipt to improve cost coverage. Price increases of 11.5 percent for Money Orders and 11.8 percent for International Return Receipt should address the cost coverage concerns identified in the Annual Compliance Determination.

Post Office Box Service rates are increasing an overall 9.3 percent. This larger than average increase balances two consecutive price changes of lower than average price increases for the majority of Post Office Box rentals.[41]

Parcel Airlift will increase an overall 12.2 percent in response to volume growth over the last four quarters and no price increase in Docket No. R2021-1.

The rate for USPS Tracking for Marketing Mail Parcels will increase 9.1 percent, from 22 cents to 24 cents, to reflect the value of the service provided.

Stamped Cards will increase an overall 24.8 percent. While this may appear large in percentage terms, it is due largely to the fact that the single-piece stamped card rate cannot move in increments smaller than one cent (the Postal Service is increasing that rate from 4 cents to 5 cents).

[41] In Docket No. R2020-1, notwithstanding the overall increase for Post Office Box Service, most Post Office Box rentals did not experience a price change. 18.6 percent of total rentals at that time experienced a price increase due to the realignment of Post Office Box fee groups; another 3.6 percent of total rentals (those in Fee Group 7, but not changing fee groups) received a typical price increase, for a total of 22.1 percent of rentals experiencing a price increase. The remaining 77.9 percent of rentals did not experience a price increase in Docket No. R2020-1. In Docket No. R2021-1, only 31.3 percent of Post Office Box rentals received a price increase; the remaining 68.7 percent of rentals did not experience a price increase.

Address Management Services will increase 7.4 percent overall. The following products within the Address Management Services will receive price increases above 9 percent: Correction and ZIP Coding of Mailing Lists, 9.5 percent; AIS (Address Information Systems) Viewer, 9.8 percent; AIS Unlimited License, 9.1 percent; Carrier Route Information Systems, 10.3 percent; Delivery Statistics, 9.4 percent; enhanced Line of Travel, 10.0 percent; ZIP + 4, 10.1 percent; ZIP Move, 11.5 percent. In support of an upcoming certification cycle, the prices for both Multiline Accuracy Support System (MASS) and Coding Accuracy Support System (CASS) will not increase.

An additional change is being made to adjust the schedule of proration for certain Address Management Services. DPV® (Delivery Point Validation), DSF2® (Delivery Sequence File), LACSLink® (Locatable Address Conversion System), and NCOALink® (National Change of Address) are licensed products that allow for proration of new license fees based on the month the Postal Service certifies the system.[42] This is to support mailers in aligning with an annual renewal cycle that begins October 1 of each calendar year. The Postal Service is shifting the proration schedule from a monthly basis to a quarterly basis, aligning with the Postal Service's fiscal quarters.[43] The change in the prorations schedule will impact only new licensees; existing licensees will not be affected.

[42] Under the existing proration schedule, a new license that is certified in October pays 11/12ths of the current annual price for the current license year. This decreases to 10/12ths if certified in November, 9/12ths if certified in December, and ultimately decreases to 1/12th if certified in August for the current license year. If a license is certified in September, the customer must pay the annual rate in full for the upcoming license year. All payments processed in September are for annual agreements for the following license year.

[43] A new license certified in October, November, or December would pay the full annual rate for the current license year; if certified in January, February, or March, the new license would pay 75 percent of the annual rate for the current license year; if certified in April, May, or June, the license would pay 50 percent of the annual rate for the current license year; if certified in July, August, or September of the current license year, the license would pay 25 percent of the annual rate.

2. Workshare Discounts

There are no Special Services workshare discounts.

3. Adjustments to Billing Determinants

No adjustments were made to the Special Services Billing Determinants. However, the Postal Service would like to clarify a discrepancy in the FY 2021 Quarter 2 billing determinants as they relate to Address Information Systems products.

Docket No. R2021-1's factor changes for Additional Copies for AIS products and its change in the price for the Unlimited option were unfortunately not implemented on time on January 24, 2021, due to a technical error in the update process of the AIS Form AIS001 (Address Information Systems Products Order Form[44]) and the United States Postal Service® Software/Database License Agreement.[45] While the base prices for the products were updated correctly on January 24, 2021, the new factors and price for the Unlimited option were not applied to new orders for additional copies on time. The AIS order form was updated on April 22, 2021 and the license agreement was updated on April 16, 2021 to reflect the correct rates. The correct rates are now being collected from customers for ADDITIONAL copies and the Unlimited option. This issue does not affect the price cap calculation.

F. Promotions

The Postal Service is offering six promotional discounts in Calendar Year 2022: Earned Value Reply Mail; Emerging & Advanced Technology; Informed Delivery; Mobile Shopping; Personalized Color Transpromo; and Tactile, Sensory, and Interactive

[44] Address Information System Products Order Form, AIS005 (April 2021), *available at* https://postalpro.usps.com/node/186.
[45] AIS Copyright/License Agreement (April 16, 2021) *available at* https://postalpro.usps.com/AISCopyright_License.

Engagement. Four of the promotions (i.e., Earned Value Reply Mail, Tactile Sensory and Interactive Engagement, Emerging & Advanced Technology, and Informed Delivery) apply to both First-Class Mail and Marketing Mail pieces. The Personalized Color Transpromo promotion applies only to First-Class Mail pieces, and the Mobile Shopping and Tactile, Sensory, promotion applies only to Marketing Mail pieces.

All six promotions were also offered in Calendar Year 2021. The price cap calculations take both calendar years' promotions into account. The end of Calendar Year 2021 promotions is reflected in the calculations at current prices, while initiation of the Calendar Year 2022 promotions is incorporated into the revenue calculations at planned prices.

Overall, the promotions generate cap space in First-Class Mail ($9.4 million or 0.040 percent) for the following reasons: (1) the Informed Delivery promotion will be extended from 3 to 5 months while the discount increases from 2 to 4 percent, (2) the discount for Personalized Color Transpromo will increase from 2 to 3 percent, and (3) approximately 15 percent of Emerging & Advanced Technology promotional mail volume is projected to qualify for a 3 percent discount instead of the current 2 percent discount based on the technology used to qualify for the promotion. The promotions also generate cap space in USPS Marketing Mail ($36.3 million or 0.271 percent). Similar to First-Class Mail, cap space has been created due to changes to the Informed Delivery and Emergining & Advanced Technology discounts. An increased discount (from 2 to 4 percent) for the Tactile, Sensory and Interactive Engagement discount also increased projected cap space. The workpapers for both First-Class Mail and Marketing Mail include the calculations underlying the price cap figures. Classification

changes associated with the promotions are shown in Attachment A. The 2022 Promotions Calendar is at Attachment D.

1. Earned Value Reply Mail

The Earned Value Reply Mail promotion encourages mailers to distribute Business Reply Mail (BRM), Courtesy Reply Mail (CRM), and Share Mail pieces. Flats, Permit Reply mail, and ballot mail are excluded from this promotion. Mailers who register their Mailer ID information and use eligible Intelligent Mail barcodes on their BRM, CRM, and Share Mail letter-sized pieces may qualify for a $0.02 postage credit for each mailpiece that is placed in the mailstream by the recipient and scanned during the promotion period. The promotion period is from April 1 through June 30, 2022. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail presort and automation cards, letters, and flats, and USPS Marketing Mail letters and flats. The credit must be used by December 31, 2022.

2. Emerging & Advanced Technology

The Emerging and Advanced Technology promotion encourages mailers to incorporate mobile and other technologies into their mailpieces. Specifically, First-Class Mail letters, cards, and flats and Marketing Mail letters and flats that incorporate technologies will be eligible for a two or three percent discount depending on the technology that is integrated with the mailpiece. Two percent eligible techniques include Enhanced Augmented Reality (AR) and Basic Integration with Voice Assistant. Three percent eligible techniques include Video in Print, NFC, Virtual Reality(VR)/Mixed

Reality (MR), and Advanced Integration with Voice Assistant. The promotion period runs from March 1 through August 31, 2022.

3. Informed Delivery

The Informed Delivery Promotion seeks to continue increasing the adoption rate of the Postal Service's Informed Delivery platform, by offering an upfront 4 percent discount for mailings that incorporate best practices and techniques in their Informed Delivery campaigns. First-Class Mail automation letters, cards, and flats and Marketing Mail automation letters and flats that meet the promotion's requirements are eligible. The Postal Service plans to offer the promotion from August 1 through December 31, 2022.

4. Mobile Shopping

The Mobile Shopping promotion is aimed at businesses and mailers offering products for sale, especially during the holiday season. The Postal Service designed the promotion to encourage mailers to integrate their direct mail pieces with technologies (e.g., Quick Response Codes, Snap Tags, Watermarks, etc.) that facilitate a convenient online shopping experience for consumers during the holiday season. Marketing Mail letters and flats that contain a barcode, printed command or other technology that allows the user to engage in a mobile shopping experience and meet the promotion's other requirements are eligible for an upfront 2 percent discount during the promotion period from September 1 to December 31, 2022. Aside from the change in the timeframe, the Postal Service has not updated this promotion from Calendar Year 2020.

5. Personalized Color Transpromo

The Personalized Color Transpromo promotion enhances the value of First-Class Mail by encouraging mailers of bills and statements to incorporate color marketing messaging in order to foster a better connection and response from their customers. The promotion is intended to increase the value of First-Class Mail and encourage mailers to invest in color print technology. The Postal Service will provide an upfront 3 percent postage discount to mailers who use dynamic and variable color print for personalized, transpromotional marketing messages on their bills and statements.

Only First-Class Mail presort and automation letters containing bills and statements are eligible for this promotion. The Postal Service will offer this promotion from July 1 through December 31, 2022.

6. Tactile, Sensory and Interactive Engagement

The Tactile, Sensory and Interactive Engagement promotion encourages mailers to drive customer engagement with the mail through the use of advanced print innovations in paper and stock, substrates, inks, interactive elements, and finishing techniques. By incorporating these print elements in a mail campaign, mailers may increase brand recognition and message recall by creating a multi-sensory experience for customers. First-Class Mail letters, cards, and flats and Marketing Mail letters and flats that meet the promotion requirements are eligible for an upfront 4 percent discount off postage during the promotion period from February 1 to July 31, 2022.

G. Preferential Rates

Section 3626 sets forth pricing requirements for certain preferred categories of mail. The Postal Service has complied with these requirements in this rate case, as explained below.

First, Section 3626(a)(3) requires that the prices for Within County Periodicals "reflect [the product's] preferred status," as compared to the prices for regular rate Periodicals. The Postal Service continues to recognize the preferential status of Within County Periodicals by keeping its prices below those of regular Outside County Periodicals.

Second, Section 3626(a)(4)(A) requires that Nonprofit and Classroom Periodicals receive, as nearly as practicable, a 5 percent discount from regular rate postage, except for advertising pounds. Consistent with past practice, the Postal Service maintains this rate preference by giving Nonprofit and Classroom pieces a 5 percent discount on all components of postage, except for advertising pounds and ride-along postage.

Third, Section 3626(a)(5) requires that Science of Agriculture Periodicals be given preferential treatment for their advertising pounds. Consistent with past practice, the Postal Service continues to grant these publications advertising pound rates for Destination Delivery Unit, Destination Sectional Center Facility, Destination Area Distribution Center that are 75 percent of the advertising pound rates applicable to regular Outside County Periodicals. Advertising pound prices for Zones 1 & 2 are 54 percent of the rates applicable to regular Outside County Periodicals.

Fourth, Section 3626(a)(6) requires that Nonprofit USPS Marketing Mail prices be set to achieve an average revenue per piece that is, as nearly as practicable,

60 percent of the commercial average revenue per piece. The prices set forth in this Notice achieve a revenue per piece ratio of 60.15 percent.[46] The Postal Service is also keeping nonprofit discounts equal to the comparable commercial discounts.[47]

Fifth, Section 3626(a)(7) requires that the prices for Library Mail be equal, as nearly as practicable, to 95 percent of the prices for Media Mail. This is achieved by setting each Library Mail rate element equal to 95 percent of the corresponding Media Mail rate element. The Postal Service has followed this approach in setting its new prices.

Finally, Section 3626(g)(4) requires that preferential treatment be accorded to the Outside County pieces of a Periodicals publication having fewer than 5,000 Outside County pieces and at least one Within County piece. In conformance with this requirement, the Postal Service is maintaining the "limited circulation" discount that gives these mailers a discount equivalent to the Nonprofit and Classroom Periodicals discount.

In addition to a discussion of Section 3626, Rule 3010.122(g) also requires the Postal Service to discuss how its planned prices are consistent with Sections 3627 and 3629. Neither section is implicated by this rate case, because the Postal Service is not altering the free rates and is not changing the eligibility requirements for nonprofit prices.

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[46] Details of the nonprofit-commercial revenue per piece ratio are contained in CAPCALC-USPSMM-R2021-2.xlsx at Tab: "Price Change Summary." Consistent with past practice, the Postal Service has calculated this ratio at the class level.

[47] In all of the USPS Marketing Mail tabs of Attachment B, the Postal Service has added an additional column reflecting the Nonprofit discounts next to the calculation of Commercial discounts.

IV. MCS Changes

Rule 3030.124(d) requires that this Notice be accompanied by a schedule identifying every change to the MCS that will be necessary to implement the planned rate changes. Attachment A shows the new rates and related product description changes incorporated into a revised draft of the market-dominant section of the MCS.[48]

V. Library References

The Postal Service is filing 6 public and 1 nonpublic library references to support this case. Brief descriptions of the library references are contained in the accompanying notices filed with the Commission today. Each library reference contains a preface that explains its contents in more detail.

[48] Attachment A is based on the March 31, 2021, MCS draft published by the Commission at https://www.prc.gov/mail-classification-schedule. The classification changes planned in this filing are shown in legislative format.

ATTACHMENT A

CHANGES TO MAIL CLASSIFICATION SCHEDULE

CHANGES TO MAIL CLASSIFICATION SCHEDULE

(New text is underlined, and deleted text is struck through. "* * * * *" indicates material that has been omitted because it contains no changes. All prices are listed in price tables, whether or not they are changing.)

PART A

MARKET DOMINANT PRODUCTS

1000 MARKET DOMINANT PRODUCT LIST

FIRST-CLASS MAIL*
- Single-Piece Letters/Postcards
- Presorted Letters/Postcards
- Flats
- Outbound Single-Piece First-Class Mail International
- Inbound Letter Post

USPS MARKETING MAIL (COMMERCIAL AND NONPROFIT)*
- High Density and Saturation Letters
- High Density and Saturation Flats/Parcels
- Carrier Route
- Letters
- Flats
- Parcels
- Every Door Direct Mail—Retail

PERIODICALS*
- In-County Periodicals
- Outside County Periodicals

PACKAGE SERVICES*
- Alaska Bypass Service
- Bound Printed Matter Flats
- Bound Printed Matter Parcels
- Media Mail/Library Mail

SPECIAL SERVICES*
- Ancillary Services
- International Ancillary Services
- Address Management Services
- Caller Service
- Credit Card Authentication
- International Reply Coupon Service
- International Business Reply Mail Service
- Money Orders
- Post Office Box Service
- Stamp Fulfillment Services

* Organizational class or group (not a Postal Service product)

NEGOTIATED SERVICE AGREEMENTS*

- Domestic*
- International*
  - Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators

NONPOSTAL SERVICES*

- Alliances with the Private Sector to Defray Cost of Key Postal Functions
- Philatelic Sales

MARKET TESTS*

- Plus One
- Commercial PO Box Redirect Service
- Extended Mail Forwarding

* Organizational class or group (not a Postal Service product)

1001 MARKET DOMINANT PRODUCT DESCRIPTIONS

The product descriptions provided in this document include information necessary for maintaining the market dominant product list pursuant to the Postal Accountability and Enhancement Act of 2006 (Public Law 109-435). For specific standards relating to postal products and services, including preparation and mailing requirements, please refer to the latest versions of the Domestic Mail Manual and the International Mail Manual, which are published and maintained by the United States Postal Service (pe.usps.gov).

1100 First-Class Mail

1100.1 Class Description

a. Any matter eligible for mailing, except USPS Marketing Mail (Commercial and Nonprofit) entered as Customized MarketMail, may, at the option of the mailer, be mailed by First-Class Mail service.

b. Matter containing personal information, partially or wholly handwritten or typewritten matter, or bills or statements of account must be mailed by First-Class Mail service, unless: (1) it is mailed by Priority Mail Express service or Priority Mail service, (2) it meets the USPS Marketing Mail or Periodicals mail preparation requirements for incidental First-Class Mail attachments or enclosures, or (3) it is otherwise exempt under title 39, United States Code.

c. First-Class Mail pieces are sealed against postal inspection and shall not be opened except as authorized by law.

d. First-Class Mail pieces that are undeliverable-as-addressed are entitled to be forwarded or returned to the sender without additional charge.

e. An annual mailing fee is required to be paid at each office of mailing by any person who mails at presorted or automation prices (1505.2). Payment of the fee allows the mailer to mail at any First-Class Mail price.

1100.2 Products Included in Class

- Single-Piece Letters/Postcards (1105)
- Presorted Letters/Postcards (1110)
- Flats (1115)
- Outbound Single-Piece First-Class Mail International (1125)
- Inbound Letter Post (1130)

1105 Single-Piece Letters/Postcards

1105.1 Size and Weight Limitations

Letters

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	3.5 ounces

Postcards

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	6 inches	4.25 inches	0.016 inch	not applicable

1105.2 Minimum Volume Requirements

	Minimum Volume Requirements
Letters	none
Postcards	none

1105.3 Price Categories

The following price categories are available for the product specified in this section:

- Machinable Stamped Letters – Bear a non-cancelled stamp or postage validation imprint (PVI) indicia, or permit imprint Business Reply Mail
- Machinable Metered Letters – Bear postage affixed by meter, information-based indicia (IBI), permit imprint (except Business Reply Mail), or pre-cancelled stamp
- Nonmachinable Stamped Letters – Stamped letters that either have an aspect ratio that does not fall between 1 to 1.3 and 1 to 2.5 inclusive or do not meet other machinability requirements
- Nonmachinable Metered Letters – Metered letters that either have an aspect ratio that does not fall between 1 to 1.3 and 1 to 2.5 inclusive or do not meet other machinability requirements

- Qualified Business Reply Mail (QBRM) Letters
- Residual Machinable Letters
- Postcards
- Qualified Business Reply Mail (QBRM) Postcards
- Share Mail Letters and Postcards

1105.4 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Business Reply Mail (1505.3)
  - Certified Mail (1505.5)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - Insurance (1505.9)
  - Registered Mail (1505.12)
  - Return Receipt (1505.13)
  - Special Handling (1505.18)
  - Stamped Envelopes (1505.19)
  - Stamped Cards (1505.20)
  - Premium Stamped Stationery (1505.21)
  - Premium Stamped Cards (1505.22)
- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)

1105.5 Prices

Single-Piece Machinable Stamped Letters[1, 2, 3]

Maximum Weight (ounces)	Machinable Letters ($)
1	0.58
2	0.78
3	0.98
3.5	1.18

Notes

1. The price for single-piece, one, two, or three ounce letters also applies to sales of Forever stamps and Forever Print-on-Demand indicia at the time of purchase, as specified by the Postal Service.

2. The price for a Forever additional ounce stamp is the difference between the 2-ounce price and the 1-ounce price.

3. A handling charge of $0.01 per piece applies to foreign-origin, inbound direct entry mail tendered by foreign postal operators, subject to the terms of an authorization arrangement.

Single-Piece Machinable Metered Letters

Maximum Weight (ounces)	Machinable Letters ($)
1	0.53
2	0.73
3	0.93
3.5	1.13

Single-Piece Nonmachinable Stamped Letters[1]

Maximum Weight (ounces)	Nonmachinable Letters ($)
1	0.88
2	1.08
3	1.28
3.5	1.48

Notes

1. The prices for single-piece, first-ounce nonmachinable letters also applies to sales of Forever nonmachinable stamps and Forever Print-on-Demand indicia at the time of purchase.

Single-Piece Nonmachinable Metered Letters

Maximum Weight (ounces)	Nonmachinable Letters ($)
1	0.83
2	1.03
3	1.23
3.5	1.43

Single-Piece QBRM Letters

Maximum Weight (ounces)	QBRM Letters ($)
1	0.561
2	0.761

Single-Piece Residual Machinable Letters

Maximum Weight (ounces)	Residual Machinable Letters ($)
1	0.58[1]
2	0.58[1]
3	0.58[1]
3.5	0.58[1]

Notes

1. This price applies only to residual machinable letters derived from a mixed weight presort mailing, and only when the residual mailing reflects the weight levels included in the mixed weight presort mailing. In all other cases, single-piece machinable metered letter rates apply.

Single-Piece Postcards[1, 2]

Maximum Weight (ounces)	Postcards ($)	Single-Piece Double Card ($)
not applicable	0.40	0.80

Notes

1. The price for single-piece postcards also applies to sales of stamped cards marked with Forever postage, at the time the stamped cards are purchased. The price also applies to Forever postcard stamps.

2. A handling charge of $0.01 per piece applies to foreign-origin, inbound direct entry mail tendered by foreign postal operators, subject to the terms of an authorization arrangement. Such inbound direct entry mail cannot include Single-Piece Double Cards.

Single-Piece QBRM Postcards

Maximum Weight (ounces)	QBRM Postcards ($)
not applicable	0.381

Share Mail Letters and Postcards[1, 2]

Maximum Weight (ounces)	Share Mail Letters ($)	Share Mail Postcards ($)
1	0.58	0.40

Notes

1. To qualify for Share Mail, customers must meet and comply with all eligibility requirements of the program. Share Mail allows a qualifying customer to distribute pre-approved mailpieces that contain an Intelligent Mail barcode (IMb) and that can be mailed without prepayment of postage. Postage is collected when a pre-approved mailpiece is placed in the mailstream and scanned during processing.

2. Customers that are party to a current Alternate Postage Marketing Agreement (Marketing Agreement) as of December 31, 2016 may continue to distribute Alternate Postage mailpieces for the duration of that agreement, per its terms. For all Marketing Agreements, the term "prevailing Alternate Postage rate" shall be synonymous with the prevailing Share Mail rate most recently approved by the Postal Regulatory Commission.

1110 Presorted Letters/Postcards

1110.1 Size and Weight Limitations

Letters

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	3.5 ounces

Postcards

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	6 inches	4.25 inches	0.016 inch	not applicable

1110.2 Minimum Volume Requirements

	Minimum Volume Requirements
Letters	500 pieces per mailing
Postcards	500 pieces per mailing

1110.3 Price Categories

The following price categories are available for the product specified in this section:

- Automation Letters
  - 5-Digit
  - AADC
  - Mixed AADC

- Nonautomation Presorted Machinable Letters
  - AADC
  - Mixed AADC

- Nonmachinable Letters – Either have an aspect ratio that does not fall between 1 to 1.3 and 1 to 2.5 inclusive or do not meet other machinability requirements
  - 5-Digit
  - 3-Digit
  - Mixed ADC

- Automation Postcards
  - 5-Digit
  - AADC
  - Mixed AADC

- Nonautomation Presorted Machinable Postcards

- Move Update Assessment Charge

- Letters Round-Trip Mailer

1110.4 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certified Mail (1505.5)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - Insurance (1505.9)
  - Return Receipt (1505.13)
  - Special Handling (1505.18)

- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)

- Full-service Intelligent Mail Option: Automation Letters and Automation Postcards Only

- Seamless Incentive: Automation Letters and Automation Postcards Only

- Picture Permit Imprint Indicia

- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

- Emerging and Advanced Technology Promotion (March 1, 2022 ~~2021~~ to August 31, 2022 ~~2021~~)

- Earned Value Reply Mail Promotion (April 1, 2022 ~~2021~~ to June 30, 2022 ~~2021~~)

- Personalized Color Transpromo Promotion (July 1, 2022 ~~2021~~ to December 31, 2022 ~~2021~~)

- Informed Delivery Promotion (August ~~September~~ 1, 2022 ~~2021~~ to December 31 ~~November 30~~, 2022 ~~2021~~)

1110.5 Prices

Automation Letters

Maximum Weight (ounces)	5-Digit ($)	AADC ($)	Mixed AADC ($)
1	0.426	0.461	0.485
2	0.426	0.461	0.485
3	0.426	0.461	0.485
3.5	0.426	0.461	0.485

Nonautomation Presorted Machinable Letters

Maximum Weight (ounces)	AADC ($)	Mixed AADC ($)
1	0.461	0.494
2	0.461	0.494
3	0.461	0.494
3.5	0.461	0.494

Nonmachinable Letters

Maximum Weight (ounces)	5-Digit ($)	3-Digit ($)	Mixed ADC ($)
1	0.586	0.684	0.794
2	0.586	0.684	0.794
3	0.586	0.684	0.794
3.5	0.586	0.684	0.794

Automation Postcards

Maximum Weight (ounces)	5-Digit ($)	AADC ($)	Mixed AADC ($)
not applicable	0.306	0.318	0.326

Nonautomation Presorted Machinable Postcards

Maximum Weight (ounces)	Presorted ($)
not applicable	0.335

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Letter Round-Trip Mailer

a. Letter Round-Trip Mailer service allows a mailer to send a letter-shaped mailpiece to a subscriber at the applicable Presorted Letters/Postcards price and pay postage for the return of the contents of that mailpiece at the Single Piece Machinable Letters price.

b. A mailer may either prepay postage for the return mailpiece by using Permit Reply Mail or only pay for mailpieces actually returned by using Business Reply Mail.

c. Qualifying pieces must contain a standard 12 cm or smaller optical disc.

d. Qualifying pieces must weigh no more than one (1) ounce.

e. Returned pieces must be picked up by the mailer at designated Postal Service facilities.

f. Letter Round-Trip Mailers are not subject to prices for:
   (i) the Nonmachinable Letters price category of Presorted Letters/Postcards, or
   (ii) the Single-Piece Nonmachinable Letters price category of Single-Piece Letters/Postcards.

Full-service Intelligent Mail Option

Subtract $0.003 for each automation letter or automation postcard that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Picture Permit Imprint Indicia

Add $0.01 for each piece that includes Picture Permit Imprint Indicia.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

Provide a four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Emerging and Advanced Technology Promotion (March 1, 2022 ~~2021~~ to August 31, 2022 ~~2021~~)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, 2022 ~~2021~~ to June 30, 2022 ~~2021~~)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must

meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate, registered customers must have distributed a Business Reply Mail, Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Personalized Color Transpromo Promotion (July 1, 2022 ~~2021~~ to December 31, 2022 ~~2021~~)

Provide a three ~~2~~ percent discount on qualifying postage for First-Class Mail presort and automation letters sent during the established program period. All mailpieces must contain bills or statements with dynamic variable color ~~(four-color-process)~~ messaging. In addition, in mailpieces sent by a prior year's participant the color messaging ~~must~~ may be required to be personalized to the recipient. The color messaging must be on the bill or statement and be for marketing or consumer information purposes. To receive the discount, mailers must comply with the eligibility requirements of the program.

Informed Delivery Promotion (August 1, 2022 ~~2021~~ to December 31, 2022 ~~2021~~)

Provide a four ~~2~~ percent discount on the qualifying postage for First-Class Mail ~~presort or~~ automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1115 Flats

1115.1 Size and Weight Limitations

Flats

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inch	13 ounces

Letter Shaped Mail Exceeding 3.5 Ounces subject to Flats pricing

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	>3.5 ounces
Maximum	11.5 inches	6.125 inches	0.25 inch	13 ounces

Parcels (Keys and Identification Devices)

	Length	Height	Thickness	Weight
Minimum	not applicable			none
Maximum	not applicable			2 pounds

1115.2 Minimum Volume Requirements

		Minimum Volume Requirements
Flats	Single-Piece	none
	Presorted	500 pieces per mailing
	Mixed ADC	500 pieces per mailing
	ADC	500 pieces per mailing
	3-Digit	500 pieces per mailing
	5-Digit	500 pieces per mailing
Keys and Identification Devices		none

1115.3 Price Categories

The following price categories are available for the product specified in this section:

- Automation
  - 5-Digit
  - 3-Digit
  - ADC
  - Mixed ADC
- Presorted
- Single-Piece
- Move Update Assessment Charge
- Flat Round-Trip Mailer
- Keys and Identification Devices—Payment is due on delivery unless an active Business Reply Mail advance deposit account is used.

1115.4 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Business Reply Mail (1505.3)
  - Certified Mail (1505.5)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - Insurance (1505.9)
  - Registered Mail (1505.12)
  - Return Receipt (1505.13)
  - Special Handling (1505.18)

- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)

- Full-service Intelligent Mail option: Automation Flats Only

- Seamless Incentive: Automation Flats Only

- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

- Emerging and Advanced Technology Promotion (March 1, *2022* ~~*2021*~~ to August 31, *2022* ~~*2021*~~)

- Earned Value Reply Mail Promotion (April 1, *2022* ~~*2021*~~ to June 30, *2022* ~~*2021*~~)

- Informed Delivery Promotion (August ~~September~~ 1, *2022* ~~*2021*~~ to December 31 ~~November 30~~, *2022* ~~*2021*~~)

1115.5 Prices

Automation Flats

Maximum Weight (ounces)	5-Digit ($)	3-Digit ($)	ADC ($)	Mixed ADC ($)
1	0.555	0.730	0.783	0.891
2	0.755	0.930	0.983	1.091
3	0.955	1.130	1.183	1.291
4	1.155	1.330	1.383	1.491
5	1.355	1.530	1.583	1.691
6	1.555	1.730	1.783	1.891
7	1.755	1.930	1.983	2.091
8	1.955	2.130	2.183	2.291
9	2.155	2.330	2.383	2.491
10	2.355	2.530	2.583	2.691
11	2.555	2.730	2.783	2.891
12	2.755	2.930	2.983	3.091
13	2.955	3.130	3.183	3.291

Presorted Flats

Maximum Weight (ounces)	Presorted ($)
1	1.000
2	1.200
3	1.400
4	1.600
5	1.800
6	2.000
7	2.200
8	2.400
9	2.600
10	2.800
11	3.000
12	3.200
13	3.400

Single-Piece Flats[1]

Maximum Weight (ounces)	Single-Piece ($)
1	1.160
2	1.360
3	1.560
4	1.760
5	1.960
6	2.160
7	2.360
8	2.560
9	2.760
10	2.960
11	3.160
12	3.360
13	3.560

Notes

1. A handling charge of $0.01 per piece applies to foreign-origin, inbound direct entry mail tendered by foreign postal operators, subject to the terms of an authorization arrangement.

Keys and Identification Devices

Maximum Weight (ounces)	Keys and Identification Devices ($)
1	3.75
2	3.95
3	4.15
4	4.35
5	4.55
6	4.75
7	4.95
8	5.15
9	5.35
10	5.55
11	5.75
12	5.95
13	6.15
1 (pound)	Priority Mail Retail Zone 4 postage plus 0.92
2 (pounds)	Priority Mail Retail Zone 4 postage plus 0.92

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Flat Round-Trip Mailer

a. Flat Round-Trip Mailer service allows a mailer to send a flat-shaped mailpiece to a subscriber at the applicable one (1) ounce Machinable Letter price and pay postage for the return of the contents of that mailpiece at the one (1) ounce Single-Piece Machinable Letter price.

b. A mailer may either prepay postage for the return mailpiece by using Permit Reply Mail or only pay for mailpieces actually returned by using Business Reply Mail.

c. Qualifying pieces must contain a standard 12 cm or smaller optical disc.

d. Pieces weighing no more than two (2) ounces qualify for the one (1) ounce price.

e. Returned pieces must be picked up by the mailer at designated Postal Service facilities.

f. Flat Round-Trip Mailers are not subject to prices for:
   (i) the Nonmachinable Letters price category of Presorted Letters/Postcards, or
   (ii) the Single-Piece Nonmachinable Letters price category of Single-Piece Letters/Postcards.

Full-service Intelligent Mail Option

Subtract $0.003 for each automation flat that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

Provide a four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Emerging and Advanced Technology Promotion (March 1, 2022 ~~2021~~ to August 31, 2022 ~~2021~~)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in a technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, 2022 ~~2021~~to June 30, 2022 ~~2021~~)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate, registered customers must have distributed a Business Reply Mail, Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Informed Delivery Promotion (August ~~September~~ 1, 2022 ~~2021~~to December 31, 2022 ~~November 30, 2021~~)

Provide a four ~~2~~ percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1120 [Reserved]

1125 Outbound Single-Piece First-Class Mail International

1125.1 Description

a. Outbound Single-Piece First-Class Mail International consists of outbound international letter and flat-shaped pieces (destined for delivery outside of the United States) that are subject to the provisions of the Universal Postal Convention of the Universal Postal Union and that are not entered as Priority Mail International.

b. Outbound Single-Piece First-Class Mail International (except Free Matter for the Blind or Other Physically Handicapped Persons) pieces are sealed against inspection and shall not be opened except as authorized by law.

c. Outbound Single-Piece First-Class Mail International pieces that are undeliverable-as-addressed are entitled to be forwarded or returned to the sender.

d. Prices for international postage generally are segmented into Price Groups with multiple destination countries represented in each Price Group. To identify what Price Group a destination country is in, refer to Country Price Group List for International Mail (4000). The number of Price Groups that exist depends on the category of mail. A particular destination country may fall into different Price Groups for different categories of mail.

1125.2 Size and Weight Limitations

Letters

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	3.5 ounces

Postcards

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inches	0.007 inch	none
Maximum	6 inches	4.25 inches	0.016 inch	not applicable

Large Envelopes (Flats)

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inches	15.994 ounces

1125.3 Minimum Volume Requirements

	Minimum Volume Requirements
Letters	none
Postcards	none
Large Envelopes	none

1125.4 Price Categories

The following price categories are available for the product specified in this section:

- Machinable Letters
  - Price Groups 1-9
- Nonmachinable Letters – Letters that do not meet machinability requirements, regardless of weight
  - Price Groups 1-9
- Postcards – Postcards must be rectangular, made of cardboard or paper, and meet machinability requirements
  - Canada
  - Mexico
  - All Other Countries
- Large Envelopes: Flats – Large Envelopes that meet machinability requirements
  - Price Groups 1-9
- Fee for Return of Undeliverable as Addressed Outbound U.S. Origin Mail Posted through a Foreign Postal Administration or Operator

1125.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- International Ancillary Services (1510)
  - International Certificate of Mailing (1510.1)
  - International Registered Mail (1510.2)
  - International Return Receipt (1510.3)

1125.6 Prices

Machinable Letters[1]

Maximum Weight (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30
2	1.30	1.96	2.43	2.43	2.43	2.25	2.25	2.25	2.25
3	1.83	2.60	3.55	3.55	3.55	3.20	3.20	3.20	3.20
3.5	2.36	3.25	4.68	4.68	4.68	4.14	4.14	4.14	4.14

Notes

1. International Forever stamps are sold at the price of a single-piece First-Class Mail International first ounce machinable letter and have a postage value equivalent to the price of a single-piece First-Class Mail International first ounce machinable letter in effect at the time of use.

Nonmachinable Letters

Maximum Weight (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60
2	1.60	2.26	2.73	2.73	2.73	2.55	2.55	2.55	2.55
3	2.13	2.90	3.85	3.85	3.85	3.50	3.50	3.50	3.50
3.5	2.66	3.55	4.98	4.98	4.98	4.44	4.44	4.44	4.44

Postcards

Maximum Weight (ounces)	Canada ($)	Mexico ($)	All Other Countries ($)
not applicable	1.30	1.30	1.30

Large Envelopes (Flats)

Maximum Weight (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60
2	2.85	3.38	3.67	3.67	3.67	3.62	3.62	3.62	3.62
3	3.09	4.14	4.73	4.73	4.73	4.61	4.61	4.61	4.61
4	3.31	4.92	5.81	5.81	5.81	5.62	5.62	5.62	5.62
5	3.55	5.69	6.87	6.87	6.87	6.63	6.63	6.63	6.63
6	3.79	6.45	7.93	7.93	7.93	7.64	7.64	7.64	7.64
7	4.03	7.23	9.00	9.00	9.00	8.64	8.64	8.64	8.64
8	4.27	7.99	10.06	10.06	10.06	9.64	9.64	9.64	9.64
12	5.45	9.64	12.20	12.20	12.20	11.73	11.73	11.73	11.73
15.994	6.63	11.31	14.33	14.33	14.33	13.80	13.80	13.80	13.80

Fee for Return of Undeliverable as Addressed Outbound U.S. Origin Mail Posted through a Foreign Postal Administration or Operator

A fee is charged for the return of an undeliverable-as-addressed Outbound Single-Piece First-Class Mail International item bearing a U.S. return address which was originally posted to an international addressee through a foreign postal administration, consolidator, or operator. The fee for each returned item is equal to the First-Class Mail International postage which would have been charged if the item had been posted through the Postal Service as First-Class Mail International. The fee is charged to the return addressee.

1130 Inbound Letter Post

1130.1 Description

a. Inbound Letter Post consists of inbound International pieces (originating outside of the United States and destined for delivery inside of the United States) that contain only documents, and encompass letters (to include aerogrammes and postcards), and large letters. Inbound Letter Post items in transit through the United States from a foreign origin for delivery to a foreign destination are included in the Inbound Letter Post Grouping. Inbound Letter Post includes items for the blind that correspond to the applicable format. Inbound Letter Post includes items for the blind that correspond to the applicable format.

b. Inbound Letter Post pieces, including transit mail, are sealed against inspection but may be opened by Customs and Border Protection under certain circumstances.

c. Inbound Letter Post pieces that are undeliverable-as-addressed are entitled to be forwarded or returned to the sender.

d. Postage and other charges paid by the sender are determined by the country of origin or the designated operator of the country of origin.

1130.2 Size and Weight Limitations

Small Letters (P Format)~~, Small Packets, and Packages~~

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inches	0.007 inch	none
Maximum	9.6 inches[1]	6.5 inches[2]	0.196 inches[3]	3.5 ounces

Notes

1. Postcards subject to maximum of 6 inches; aerogrammes subject to maximum of 8.66 inches.
2. Postcards subject to maximum of 4.25 inches; aerogrammes subject to maximum of 4.33 inches.
3. Postcards subject to maximum of 0.196 inch; aerogrammes subject to maximum of 0.016 inch.

Large Letters (Flats) (G Format)

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inches	none	none
Maximum	15 inches	12 inches	0.787 inches	17.6 ounces

1130.3 Minimum Volume Requirements

	Minimum Volume Requirements
Small Letters	none
Postcards	none
Large Letters (Flats)	none

1130.4 Price Categories

The following price categories are available for the product specified in this section:

- Terminal Dues
  - Small letters, postcards, and large letters

1130.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- International Ancillary Services (1510)
  - Inbound International Registered Mail (1510.2)
  - Inbound International Return Receipt (1510.3)
  - Customs Clearance and Delivery Fee: dutiable items only (1510.4)

1130.6 Prices

Foreign postal operators pay the Postal Service for the delivery of inbound letter post mail at prices, known as terminal dues, as determined by applicable self-declared rates or international agreement.

1200 USPS Marketing Mail (Commercial and Nonprofit)

1200.1 Class Description

a. Any mailable matter weighing less than 16 ounces may be mailed by USPS Marketing Mail service, except matter that is required to be mailed by First-Class Mail service or copies of a publication that is authorized to be entered as Periodicals mail.

b. USPS Marketing Mail pieces are not sealed against postal inspection. Mailing of matter by USPS Marketing Mail service constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

c. The delivery of USPS Marketing Mail pieces is deferrable.

d. For a charge, undeliverable-as-addressed USPS Marketing Mail pieces, except Customized MarketMail pieces, may be forwarded and returned at the request of the mailer.

e. Except for Every Door Direct Mail—Retail, an annual mailing fee is required to be paid at each office of mailing or office of verification by or for mailers of USPS Marketing Mail (1505.2). Payment of the fee allows the mailer to mail at any USPS Marketing Mail price.

Attachments and enclosures

a. First-Class Mail may be enclosed in or attached to USPS Marketing Mail except for such mail entered as Customized MarketMail under section 1225.3. Additional postage must be paid for the attachment or enclosure as if it had been mailed separately at the applicable First-Class Mail price.

b. Incidental First-Class Mail attachments and enclosures may be attached to or enclosed within USPS Marketing Mail containing merchandise, but not merchandise samples, with postage paid on the combined pieces at the applicable USPS Marketing Mail price.

Nonprofit only

a. Mail matter that otherwise qualifies for USPS Marketing Mail service may be mailed at Nonprofit USPS Marketing Mail prices if it is entered by an authorized entity and meets the additional eligibility restrictions set forth in the Domestic Mail Manual. The following entities may be authorized by the Postal Service to send USPS Marketing Mail at Nonprofit USPS Marketing Mail prices:

- Religious Nonprofit. A nonprofit organization whose primary purpose is: (i) to conduct religious worship; (ii) to support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship; or (iii) to perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

- Educational Nonprofit. A nonprofit organization whose primary purpose is: (i) the instruction or training of the individual for the purpose of improving or developing his capabilities; or (ii) the instruction of the public on subjects beneficial to the community.

  An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. An organization is not educational if its principal function is the mere presentation of unsupported opinion.

- Scientific Nonprofit. A nonprofit organization whose primary purpose is: (i) to conduct research in the applied, pure or natural sciences; or (ii) to disseminate systematized technical information dealing with applied, pure or natural sciences.

- Philanthropic Nonprofit. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations that are organized for: (i) relief of the poor and distressed or of the underprivileged; (ii) advancement of religion; (iii) advancement of education or science; (iv) erection or maintenance of public buildings, monuments, or works; (v) lessening of the burdens of government; (vi) promotion of social welfare by organizations designed to accomplish any of the above purposes or: to lessen neighborhood tensions; to eliminate prejudice and discrimination; to defend human and civil rights secured by law; or to combat community deterioration and juvenile delinquency.

- Agricultural Nonprofit. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agriculture pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and

dissemination of information or materials relating to agricultural pursuits.

- Labor Nonprofit. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

- Veterans' Nonprofit. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

- Fraternal Nonprofit. A nonprofit organization that meets all the following criteria: (i) has as its primary purpose the fostering of brotherhood and mutual benefits among its members; (ii) is organized under a lodge or chapter system with a representative form of government; (iii) follows a ritualistic format; and (iv) is comprised of members who are elected to membership by vote of the members.

- Qualified political committees. A national or state committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee.

  National committee means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level.

  State committee means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the state level.

- State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.

1200.2 Products Included in Class

- High Density and Saturation Letters (1205)
- High Density and Saturation Flats/Parcels (1210)
- Carrier Route (1215)
- Letters (1220)
- Flats (1225)
- Parcels (1230)
- Every Door Direct Mail—Retail (1235)

1205 High Density and Saturation Letters

1205.1 Description

High Density and Saturation Letters must meet presorting, machinability, addressing, barcoding, walk-sequencing, and other preparation requirements.

1205.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	<16 ounces

1205.3 Minimum Volume Requirements

	Minimum Volume Requirements
High Density and Saturation Letters	200 pieces or 50 pounds per mailing

1205.4 Price Categories

The following price categories are available for the product specified in this section:

- Saturation
  DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- High Density Plus
  DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- High Density
  DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- Move Update Noncompliance Charge

- Move Update Assessment Charge

1205.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Forwarding-and-Return Service
- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
- Full-service Intelligent Mail Option
- Seamless Incentive
- Picture Permit Imprint Indicia
- Emerging and Advanced Technology Promotion (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)
- Earned Value Reply Mail Promotion (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)
- Mobile Shopping Promotion (~~August 1, 2021 to December 31, 2021~~ September 1, 2022 to December 31, 2022)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1205.6 Prices

Saturation Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.197	0.117
DNDC	0.176	0.096
DSCF	0.172	0.092

High Density Plus Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.210	0.125
DNDC	0.189	0.104
DSCF	0.185	0.100

High Density Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.239	0.153
DNDC	0.218	0.132
DSCF	0.214	0.128

Move Update Noncompliance Charge

Add $0.07 per piece in a mailing that does not comply with the Move Update standards.

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic or automated Address Correction Service, forwarded letters pay ~~$0.49~~ $0.52 per piece. All other letters requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail price for the piece multiplied by a factor of 2.472.

Full-service Intelligent Mail Option

Subtract $0.003 for each letter that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Picture Permit Imprint Indicia

Add $0.021 for each piece that includes Picture Permit Imprint Indicia.

Emerging and Advanced Technology Promotion (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate, registered customers must have distributed a Business Reply Mail,

Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for USPS Marketing Mail letters and flats which include, inside or on the mailpiece, a mobile barcode or other qualifying technology that facilitates a mobile optimized shopping experience. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1210 High Density and Saturation Flats/Parcels

1210.1 Description

High Density and Saturation Flats/Parcels must meet presorting, addressing, walk-sequencing, and other preparation requirements.

1210.2 Size and Weight Limitations

Flats

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inch	<16 ounces

Saturation Parcels (Small and Large)

	Length	Height	Thickness	Weight
Small				
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	6 inches	4 inches	1.5 inch	<16 ounces
Large				
Minimum: at least one dimension exceeds	6 inches	4 inches	1.5 inch	none
Maximum	12 inches	9 inches	2 inch	<16 ounces

Letter Shaped Mail that is not machinable or that is not barcoded subject to High Density and Saturation Flats pricing

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	<16 ounces

1210.3 Minimum Volume Requirements

	Minimum Volume Requirements
High Density and Saturation Flats/Parcels	200 pieces or 50 pounds per mailing

1210.4 Price Categories

The following price categories are available for the product specified in this section:

- Saturation Flats
  DDU, DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- Saturation Parcels
  Volume Tiers, with Handling Fees for DNDC/DSCF entry levels
  Commercial and Nonprofit eligible

- High Density Plus Flats
  DDU, DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- High Density Flats
  DDU, DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- Saturation, High Density Plus, and High Density Nonautomation Letters Commercial and Nonprofit Origin, DSCF, and DNDC

- Move Update Noncompliance Charge

- Move Update Assessment Charge

1210.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Detached Address Labels: – except for Simplified Address flats and Letters
- Forwarding-and-Return Service
- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - USPS Tracking: parcels only (1505.8)
  - Bulk Insurance: parcels only (1505.9)
- Full-service Intelligent Mail Option: High Density and High Density Plus Flats Only
- Seamless Incentive: High Density and High Density Plus Flats Only
- Picture Permit Imprint Indicia: Letters Only
- Emerging and Advanced Technology Promotion: Flats Only (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)
- Earned Value Reply Mail Promotion: Flats Only (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)
- Mobile Shopping Promotion: Flats Only (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Flats Only (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1210.6 Prices

Saturation Flats (4.0 ounces or less)

Entry Point	Commercial ($)		Nonprofit ($)	
	EDDM	Other	EDDM	Other
Origin	0.235	0.234	0.147	0.146
DNDC	0.196	0.195	0.108	0.107
DSCF	0.189	0.188	0.101	0.100
DDU	0.168	0.167	0.080	0.079

Saturation Flats (greater than 4.0 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

	Commercial ($)		Nonprofit ($)	
	EDDM	Other	EDDM	Other
Per Piece	0.077	0.076	0.032	0.031

b. Per Pound

Entry Point	Commercial ($)		Nonprofit ($)	
	EDDM	Other	EDDM	Other
Origin	0.630	0.630	0.458	0.458
DNDC	0.474	0.474	0.302	0.302
DSCF	0.447	0.447	0.275	0.275
DDU	0.365	0.365	0.193	0.193

Saturation Parcels

a. Per Piece

Mailing Volume Tier	Commercial		Nonprofit	
	Small ($)	**Large ($)**	**Small ($)**	**Large ($)**
0-200,000	0.357	0.411	0.268	0.309
200,001 and above	0.343	0.398	0.258	0.299

b. Handling Fees for DNDC/DSCF Entry

	Commercial ($)	**Nonprofit ($)**
Entry Point/ Presort	**Pallet**	**Pallet**
DNDC – 3-Digit	62.492	49.993
DNDC – 5-Digit	101.609	81.287
DSCF – 5-Digit	47.606	38.221
Pallet Presort	**Carton/Sack**	**Carton/Sack**
3-Digit	8.510	6.934

High Density Plus Flats (4.0 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.241	0.153
DNDC	0.202	0.114
DSCF	0.195	0.107
DDU	0.174	0.086

High Density Plus Flats (greater than 4.0 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

	Commercial ($)	**Nonprofit ($)**
Per Piece	0.083	0.038

b. Per Pound

Entry Point	**Commercial ($)**	**Nonprofit ($)**
Origin	0.630	0.458
DNDC	0.474	0.302
DSCF	0.447	0.275
DDU	0.365	0.193

High Density Flats (4.0 ounces or less)

~~**Entry Point**~~	~~**Commercial ($)**~~	~~**Nonprofit ($)**~~
~~Origin~~	~~0.258~~	~~0.168~~
~~DNDC~~	~~0.220~~	~~0.130~~
~~DSCF~~	~~0.213~~	~~0.123~~
~~DDU~~	~~0.197~~	~~0.107~~

Entry Point	**Commercial ($)**		**Nonprofit ($)**		
	5-Digit Pallet	**Other**	**5-Digit Pallet**	**Other**	
Origin	0.279	0.289	0.191	0.201	
DNDC	0.240	0.250	0.152	0.162	
DSCF	0.233	0.243	0.145	0.155	
DDU	0.212	0.222	0.124	0.134	

High Density Flats (greater than 4.0 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

	~~Commercial ($)~~	~~Nonprofit ($)~~
~~Per Piece~~	~~0.106~~	~~0.059~~

Entry Point	**Commercial ($)**		**Nonprofit ($)**	
	5-Digit Pallets	**Other**	**5-Digit Pallets**	**Other**
Origin	0.121	0.131	0.076	0.086
DNDC	0.121	0.131	0.076	0.086
DSCF	0.121	0.131	0.076	0.086
DDU	0.121	0.131	0.076	0.086

b. Per Pound

~~Entry Point~~	~~Commercial ($)~~	~~Nonprofit ($)~~
~~Origin~~	~~0.609~~	~~0.437~~
~~DNDC~~	~~0.454~~	~~0.282~~
~~DSCF~~	~~0.426~~	~~0.254~~
~~DDU~~	~~0.365~~	~~0.193~~

Entry Point	**Commercial ($)**		**Nonprofit ($)**	
	5-Digit Pallets	**Other**	**5-Digit Pallets**	**Other**
Origin	0.630	0.630	0.458	0.458
DNDC	0.474	0.474	0.302	0.302
DSCF	0.447	0.447	0.275	0.275
DDU	0.365	0.365	0.193	0.193

Saturation, High Density Plus, and High Density Nonautomation Letters (4.0 ounces or less) Commercial and Nonprofit

Saturation, High Density Plus, and High Density letter-shaped pieces that weigh 4.0 ounces or less must pay the piece prices shown in the applicable Saturation (Other prices, not EDDM prices), High Density Plus, and High Density Flats (Commercial and Nonprofit) price tables (1210.6). These pieces cannot be entered at a DDU and must be prepared as letters.

Saturation, High Density Plus, and High Density Nonautomation Letters (more than 4.0 ounces) Commercial and Nonprofit

Saturation, High Density Plus, and High Density letter-shaped pieces that weigh more than 4.0 ounces must pay the piece and pound prices shown in the applicable Saturation (Other prices, not EDDM prices), High Density Plus, and High Density Flats (Commercial and Nonprofit) price tables (1210.6). These pieces cannot be entered at a DDU and must be prepared as letters.

Move Update Noncompliance Charge

Add $0.07 per piece in a mailing that does not comply with the Move Update standards.

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Flat-shaped pieces including a Detached Address Label

Add ~~$0.055~~ $0.065 for each piece addressed using a Detached Address Label with no advertising, and ~~$0.060~~ $0.070 for each piece using a Detached Address Label containing advertising (Detached Marketing Label).

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded flats pay ~~$1.60~~ $1.74 per piece and forwarded parcels pay ~~$4.99~~ $5.42 per piece. All other pieces requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail or First-Class Package Service price for the piece multiplied by a factor of 2.472.

Full-service Intelligent Mail Option: High Density and High Density Plus Flats Only

Subtract $0.003 for each high density flat that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive: High Density and High Density Plus Flats Only

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Picture Permit Imprint Indicia: Letters Only

Add $0.021 for each piece that includes Picture Permit Imprint Indicia.

Emerging and Advanced Technology Promotion: Flats Only (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion: Flats Only (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate, registered customers must have distributed a Business Reply Mail, Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Mobile Shopping Promotion: Flats Only (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for USPS Marketing Mail letters and flats which include, inside or on the mailpiece, a mobile barcode or other qualifying technology that facilitates a mobile optimized shopping experience. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Flats Only (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1215 Carrier Route

1215.1 Description

Carrier Route must meet presorting, machinability, addressing, barcoding, walk-sequencing, and other preparation requirements.

1215.2 Size and Weight Limitations

Letters

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	<16 ounces

Flats

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inch	<16 ounces

Parcels (Small and Large)

	Length	Height	Thickness	Weight
Small				
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	6 inches	4 inches	1.5 inch	<16 ounces
Large				
Minimum: at least one dimension exceeds	6 inches	4 inches	1.5 inch	none
Maximum	12 inches	9 inches	2 inch	<16 ounces

1215.3 Minimum Volume Requirements

	Minimum Volume Requirements
Carrier Route	200 pieces or 50 pounds per mailing

1215.4 Price Categories

The following price categories are available for the product specified in this section:

- Letters
  DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- Flats
  DDU, DSCF, DNDC, and Origin entry levels
  Commercial and Nonprofit eligible

- Parcels
  Volume Tiers, with Handling Fee for DNDC/DSCF entry levels
  Commercial and Nonprofit eligible

- Move Update Noncompliance Charge

- Move Update Assessment Charge

1215.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Forwarding-and-Return Services

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - USPS Tracking: parcels only (1505.8)
  - Bulk Insurance: parcels only (1505.9)

- Full-service Intelligent Mail Option: Letters and Flats Only

- Seamless Incentive: Letters and Flats Only

- Picture Permit Imprint Indicia: Letters Only

- Emerging and Advanced Technology Promotion: Letters and Flats Only (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)
- Earned Value Reply Mail Promotion: Letters and Flats Only (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)
- Mobile Shopping Promotion: Letters and Flats Only (September 1, 2022 to December 31, 2022 ~~August 1, 2021 to December 31, 2021~~)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Letters and Flats Only (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)
- Informed Delivery Promotion (August 1, 2022 to December 31, 2022 ~~September 1, 2021 to November 30, 2021~~)

1215.6 Prices

Carrier Route Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.332	0.246
DNDC	0.311	0.225
DSCF	0.308	0.222

Carrier Route Letters weighing greater than 3.5 ounces, but not more than 4.0 ounces

Carrier Route letter-shaped pieces that weigh more than 3.5 ounces, but not more than 4.0 ounces, must pay the prices shown in the "Carrier Route Flats (4.0 ounces or less)" price table~~s~~ (1215.6). These pieces cannot be entered at a DDU and must be prepared as letters.

Carrier Route Letters weighing greater than 4.0 ounces

Carrier Route letter-shaped pieces that weigh more than 4.0 ounces must pay the per piece and per pound prices shown in the "Carrier Route Flats (greater than 4.0 ounces)" price tables (1215.6). These pieces cannot be entered at a DDU and must be prepared as letters.

Carrier Route Flats (4.0 ounces or less)

Entry Point	Commercial ($)		Nonprofit ($)		
	5-Digit Pallet	Other	5-Digit Pallet	Other	
Origin	0.332	0.353	0.244	0.265	
DNDC	0.288	0.309	0.200	0.221	
DSCF	0.276	0.297	0.188	0.209	
DDU	0.268	0.289	0.180	0.201	

Carrier Route Flats (greater than 4.0 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

Entry Point	Commercial ($)		Nonprofit ($)		
	5-Digit Pallets	Other	5-Digit Pallets	Other	
Origin	0.126	0.147	0.080	0.101	
DNDC	0.126	0.147	0.080	0.101	
DSCF	0.126	0.147	0.080	0.101	
DDU	0.126	0.147	0.080	0.101	

b. Per Pound

Entry Point	Commercial ($)		Nonprofit ($)		
	5-Digit Pallets	Other	5-Digit Pallets	Other	
Origin	0.822	0.822	0.654	0.654	
DNDC	0.647	0.647	0.479	0.479	
DSCF	0.598	0.598	0.430	0.430	
DDU	0.566	0.566	0.398	0.398	

Carrier Route Parcels

a. Per Piece

Mailing Volume Tier	Commercial		Nonprofit	
	Small ($)	**Large ($)**	**Small ($)**	**Large ($)**
0-200,000	0.495	0.547	0.370	0.411
200,001 and above	0.479	0.533	0.361	0.401

b. Handling Fees for DNDC/DSCF Entry

	Commercial ($)	**Nonprofit ($)**
Entry Point/ Presort	**Pallet**	**Pallet**
DNDC – 3-Digit	62.492	49.993
DNDC – 5-Digit	101.609	81.287
DSCF – 5-Digit	47.606	38.221
Pallet Presort	**Carton/Sack**	**Carton/Sack**
3-Digit	8.510	6.934

Move Update Noncompliance Charge

Add $0.07 per piece in a mailing that does not comply with the Move Update standards.

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic or automated Address Correction Service, forwarded letters pay ~~$0.49~~ $0.52 per piece, forwarded flats pay ~~$1.60~~ $1.74 per piece, and forwarded parcels pay ~~$4.99~~ $5.42 per piece. All other pieces requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail or First-Class Package Service price for the piece multiplied by a factor of 2.472.

Full-service Intelligent Mail Option: Letters and Flats Only

Subtract $0.003 for each carrier route letter or flat that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive: Letters and Flats Only

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Picture Permit Imprint Indicia: Letters Only
Add $0.021 for each piece that includes Picture Permit Imprint Indicia.

Emerging and Advanced Technology Promotion: Letters and Flats Only (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion: Letters and Flats Only (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate,

registered customers must have distributed a Business Reply Mail, Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Mobile Shopping Promotion: Letters and Flats Only (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for USPS Marketing Mail letters and flats which include, inside or on the mailpiece, a mobile barcode or other qualifying technology that facilitates a mobile optimized shopping experience. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Letters and Flats Only (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a 2 percent discount on the qualifying postage for First-Class Mail ~~presort or~~ automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1220 Letters

1220.1 Description

Letters must meet presorting, machinability, addressing, barcoding, and other preparation requirements.

1220.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	<16 ounces

1220.3 Minimum Volume Requirements

	Minimum Volume Requirements
Letters	200 pieces or 50 pounds per mailing

1220.4 Price Categories

The following price categories are available for the product specified in this section:

- Automation
  - 5-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - AADC
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - Mixed AADC
    DNDC and Origin entry levels
    Commercial and Nonprofit eligible
- Machinable
  - AADC
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - Mixed AADC
    DNDC and Origin entry levels
    Commercial and Nonprofit eligible

- Move Update Noncompliance Charge
- Move Update Assessment Charge

1220.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Forwarding-and-Return Services
- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
- Full-service Intelligent Mail Option: Automation Letters Only
- Seamless Incentive: Automation Letters Only
- Picture Permit Imprint Indicia
- Emerging and Advanced Technology Promotion (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)
- Earned Value Reply Mail Promotion (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)
- Mobile Shopping Promotion (~~August~~ September 1, 2021 to December 31, 2021)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1220.6 Prices

Automation Letters (3.5 ounces or less)

Entry Point	Commercial			Nonprofit		
	5-Digit ($)	**AADC ($)**	**Mixed AADC ($)**	**5-Digit ($)**	**AADC ($)**	**Mixed AADC ($)**
Origin	0.277	0.309	0.330	0.146	0.178	0.199
DNDC	0.256	0.288	0.309	0.125	0.157	0.178
DSCF	0.250	0.282	n/a	0.119	0.151	n/a

Machinable Letters (3.5 ounces or less)

Entry Point	Commercial		Nonprofit	
	AADC ($)	**Mixed AADC ($)**	**AADC ($)**	**Mixed AADC ($)**
Origin	0.323	0.336	0.192	0.205
DNDC	0.302	0.315	0.171	0.184
DSCF	0.296	n/a	0.165	n/a

Move Update Noncompliance Charge

Add $0.07 per piece in a mailing that does not comply with the Move Update standards.

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic or automated Address Correction Service, forwarded letters pay ~~$0.49~~ $0.52 per piece. All other letters requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail price for the piece multiplied by a factor of 2.472.

Full-service Intelligent Mail Option: Automation Letters Only

Subtract $0.003 for each automation letter that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive: Automation Letters Only

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Picture Permit Imprint Indicia

Add $0.021 for each piece that includes Picture Permit Imprint Indicia.

Emerging and Advanced Technology Promotion (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate, registered customers must have distributed a Business Reply Mail, Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for USPS Marketing Mail letters and flats which include, inside or on the mailpiece, a mobile barcode or other qualifying technology that facilitates a mobile optimized shopping experience. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a 2 percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1225 Flats

1225.1 Description

Flats must meet presorting, machinability, addressing, barcoding, and other preparation requirements.

1225.2 Size and Weight Limitations

Automation and Nonautomation Flats

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inch	<16 ounces

Nonautomation Letters

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.25 inch	<16 ounces

Customized MarketMail

	Length	Height	Thickness	Weight
Minimum[1]	5 inches	3.5 inches	0.007 inch	none
Maximum	15 inches	12 inches	0.75 inch	3.3 ounces

Notes

1. Measured for nonrectangular shapes as specified in the Domestic Mail Manual.

1225.3 Minimum Volume Requirements

	Minimum Volume Requirements
Flats	200 pieces or 50 pounds per mailing

1225.4 Price Categories

The following price categories are available for the product specified in this section:

- Automation
  - 5-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - 3-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - ADC
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - Mixed ADC
    DNDC and Origin entry levels
    Commercial and Nonprofit eligible

- Nonmachinable Letters
  - 5-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - 3-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - ADC
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - Mixed ADC
    DNDC and Origin entry levels
    Commercial and Nonprofit eligible

- Nonautomation
  - Commercial and Nonprofit eligible 5-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - 3-Digit
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - ADC
    DSCF, DNDC, and Origin entry levels
    Commercial and Nonprofit eligible
  - Mixed ADC
    DNDC and Origin entry levels
    Commercial and Nonprofit eligible

- Customized MarketMail

- Move Update Noncompliance Charge

- Move Update Assessment Charge

1225.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Forwarding-and-Return Services

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)

- Full-service Intelligent Mail Option: Automation Flats Only

- Seamless Incentive: Automation Flats Only

- Picture Permit Imprint Indicia: Letters Only

- Emerging and Advanced Technology Promotion (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)

- Earned Value Reply Mail Promotion (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

- Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1225.6 Prices

Automation Flats (4.0 ounces or less)

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.482	0.640	0.729	0.798
DNDC	0.413	0.571	0.660	0.729
DSCF	0.403	0.561	0.650	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.278	0.436	0.525	0.594
DNDC	0.209	0.367	0.456	0.525
DSCF	0.199	0.357	0.446	n/a

Automation Flats (greater than 4.0 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.219	0.377	0.466	0.535
DNDC	0.219	0.377	0.466	0.535
DSCF	0.219	0.377	0.466	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.053	0.211	0.300	0.369
DNDC	0.053	0.211	0.300	0.369
DSCF	0.053	0.211	0.300	n/a

b. Per Pound

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	1.052	1.052	1.052	1.052
DNDC	0.776	0.776	0.776	0.776
DSCF	0.734	0.734	0.734	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.900	0.900	0.900	0.900
DNDC	0.624	0.624	0.624	0.624
DSCF	0.582	0.582	0.582	n/a

Nonautomation Flats (4.0 ounces or less)

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.573	0.697	0.759	0.825
DNDC	0.504	0.628	0.690	0.756
DSCF	0.494	0.618	0.680	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.369	0.493	0.555	0.621
DNDC	0.300	0.424	0.486	0.552
DSCF	0.290	0.414	0.476	n/a

Nonautomation Flats (greater than 4.0 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.310	0.434	0.496	0.562
DNDC	0.310	0.434	0.496	0.562
DSCF	0.310	0.434	0.496	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.144	0.268	0.330	0.396
DNDC	0.144	0.268	0.330	0.396
DSCF	0.144	0.268	0.330	n/a

b. Per Pound

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	1.052	1.052	1.052	1.052
DNDC	0.776	0.776	0.776	0.776
DSCF	0.734	0.734	0.734	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.900	0.900	0.900	0.900
DNDC	0.624	0.624	0.624	0.624
DSCF	0.582	0.582	0.582	n/a

Nonmachinable Letters Commercial and Nonprofit (4.0 ounces or less)

Nonmachinable Letters pieces that weigh 4.0 ounces or less must pay the prices shown in the “Nonautomation Flats (4.0 ounces or less)” price tables (1225.6). These pieces cannot be entered at a DDU and must be prepared as letters.

Nonmachinable Letters Commercial and Nonprofit (greater than 4.0 ounces)

Nonmachinable Letters pieces that weigh more than 4.0 ounces must pay the prices shown in the “Nonautomation Flats (greater than 4.0 ounces)” price tables (1225.6). These pieces cannot be entered at a DDU and must be prepared as letters.

Customized MarketMail Prices

	Commercial ($)	**Nonprofit ($)**
Per Piece	0.535	0.395

Move Update Noncompliance Charge

Add $0.07 per piece in a mailing that does not comply with the Move Update standards.

Move Update Assessment Charge

Add $0.08 per assessed piece, for mailpieces that fail Move Update verification under the Address Quality Census Measurement and Assessment Process, with more than 0.5 percent for mailpieces submitted by a mailer in a calendar month having COA errors, and which cannot demonstrate compliance with Move Update requirements.

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded flats pay ~~$1.60~~ $1.74 per piece. All other flats requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail price for the piece multiplied by a factor of 2.472.

Full-service Intelligent Mail Option: Automation Flats Only

Subtract $0.003 for each automation flat that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive: Automation Flats Only

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Picture Permit Imprint Indicia: Letters Only

Add $0.021 for each piece that includes Picture Permit Imprint Indicia.

Emerging and Advanced Technology Promotion (March 1, ~~2021~~ 2022 to August 31, ~~2021~~ 2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved

and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

Provide a $0.02 per piece rebate for each qualifying Business Reply Mail, Courtesy Reply Mail, and Share Mail piece. Qualifying mailpieces must meet program requirements and be placed in the mailstream by the recipient and scanned during the program period. To receive the rebate, registered customers must have distributed a Business Reply Mail, Courtesy Reply Mail, or Share Mail card or envelope, and must comply with all other eligibility requirements of the program. Mailers who have satisfied the Earned Value promotion requirements may apply the credit toward future mailings of First-Class Mail cards, letters, and flats and USPS Marketing Mail letters and flats.

Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

Provide a two percent discount on the qualifying postage for USPS Marketing Mail letters and flats which include, inside or on the mailpiece, a mobile barcode or other qualifying technology that facilitates a mobile optimized shopping experience. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a

component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1230 Parcels

1230.1 Description

Parcels must meet presorting, addressing, barcoding, and other preparation requirements.

1230.2 Size and Weight Limitations

Marketing Parcels

	Length	Height	Thickness	Weight
Minimum[1]	5 inches	3.5 inches	0.009 inch	none
Maximum	12 inches	9 inches	2 inch	<16 ounces

Nonprofit Machinable and Irregular Parcels

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	108 inches in combined length and girth			<16 ounces

1230.3 Minimum Volume Requirements

	Minimum Volume Requirements
Marketing Parcels	200 pieces or 50 pounds per mailing

1230.4 Price Categories

The following price categories are available for the product specified in this section:

- Marketing Parcels
  - 5-Digit
    DDU, DSCF, and DNDC entry levels
    Commercial and Nonprofit eligible
  - SCF
    DSCF and DNDC entry levels
    Commercial and Nonprofit eligible
  - NDC
    DNDC and Origin entry levels
    Commercial and Nonprofit eligible
  - Mixed NDC
    Origin entry level
    Commercial and Nonprofit eligible

- Nonprofit Machinable Parcels
  - 5-Digit
    DDU, DSCF, and DNDC entry levels
  - NDC
    DNDC and Origin entry levels
  - Mixed NDC
    Origin entry level

- Nonprofit Irregular Parcels – Do not meet the machinability requirements for machinable parcels
  - 5-Digit
    DDU, DSCF, and DNDC entry levels
  - SCF
    DSCF, DNDC, and Origin entry levels
  - NDC
    DNDC and Origin entry levels
  - Mixed NDC
    Origin entry level

- Move Update Noncompliance Charge

1230.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Forwarding-and-Return Services

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Bulk Parcel Return Service (1505.4)
  - Certificate of Mailing (1505.6)
  - USPS Tracking (1505.8)
  - Bulk Insurance (1505.9)
  - Return Receipt (1505.13)
  - Shipper-Paid Forwarding: parcels only (1505.16)

1230.6 Prices

Marketing Parcels (3.3 ounces or less)

Entry Point	Commercial				Nonprofit			
	5-Digit ($)	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**	**5-Digit ($)**	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	n/a	1.712	2.088	n/a	n/a	1.548	1.924
DNDC	1.057	1.349	1.643	n/a	0.893	1.185	1.479	n/a
DSCF	0.981	1.273	n/a	n/a	0.817	1.109	n/a	n/a
DDU	0.887	n/a	n/a	n/a	0.723	n/a	n/a	n/a

Marketing Parcels (greater than 3.3 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

	Commercial				**Nonprofit**			
	5-Digit ($)	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**	**5-Digit ($)**	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**
Per Piece	0.800	1.092	1.386	1.762	0.682	0.974	1.268	1.644

b. Per Pound

Entry Point	**Commercial**				**Nonprofit**			
	5-Digit ($)	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**	**5-Digit ($)**	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	n/a	1.582	1.582	n/a	n/a	1.359	1.359
DNDC	1.245	1.245	1.245	n/a	1.022	1.022	1.022	n/a
DSCF	0.878	0.878	n/a	n/a	0.655	0.655	n/a	n/a
DDU	0.422	n/a	n/a	n/a	0.199	n/a	n/a	n/a

Nonprofit Machinable Parcels Prices (3.5 ounces or more)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Per Piece

	5-Digit ($)	**NDC ($)**	**Mixed NDC ($)**
Per Piece	0.835	1.311	1.673

b. Per Pound

Entry Point	**5-Digit ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	1.410	1.410
DNDC	1.115	1.115	n/a
DSCF	0.425	n/a	n/a
DDU	0.285	n/a	n/a

Nonprofit Irregular Parcels (3.3 ounces or less)

Entry Point	**5-Digit ($)**	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	n/a	2.058	2.308
DNDC	1.065	1.448	1.997	n/a
DSCF	0.923	1.306	n/a	n/a
DDU	0.894	n/a	n/a	n/a

Nonprofit Irregular Parcels (greater than 3.3 ounces)

Charges are computed by multiplying the number of pieces in the mailing by the applicable per piece price, multiplying the number of pounds of the mailing by the applicable per pound price, and adding both totals.

a. Per Piece

Entry Point	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)
Per Piece	0.835	1.218	1.767	2.017

b. Per Pound

Entry Point	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)
Origin	n/a	n/a	1.410	1.410
DNDC	1.115	1.115	1.115	n/a
DSCF	0.425	0.425	n/a	n/a
DDU	0.285	n/a	n/a	n/a

Move Update Noncompliance Charge

Add $0.07 per piece in a mailing that does not comply with the Move Update standards.

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded parcels pay ~~$4.99~~ $5.42 per piece. All other parcels requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Package Service or Priority Mail price for the piece multiplied by a factor of 2.472.

Non-barcoded Parcels Surcharge

For non-barcoded parcels, add $0.041 per piece. The surcharge does not apply to pieces sorted to 5-Digit ZIP Codes.

1235 Every Door Direct Mail—Retail

1235.1 Description

Every Door Direct Mail—Retail must meet addressing and other mail preparation requirements.

1235.2 Size and Weight Limitations

Flats

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	10.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inch	3.3 ounces

1235.3 Volume Requirements

	Volume Requirements	
Every Door Direct Mail—Retail	Minimum:	At least all addresses on one carrier route or box section, but not fewer than 200 pieces, unless there are fewer than 200 pieces in the entire ZIP Code, in which case the minimum is all available addresses within the ZIP Code
	Maximum:	5,000 pieces per ZIP Code

1235.4 Price Categories

The following price categories are available for the product specified in this section:

- Saturation Flats (3.3 ounces or less)
  - DDU entry level
-

1235.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- None

1235.6 Prices

Saturation Flats (3.3 ounces or less)

Entry Point	($)
DDU	0.202

1300 Periodicals

1300.1 Class Description

a. A mailable newspaper or other periodical publication must be authorized by the Postal Service to be mailed as Periodicals mail. An authorized publication must meet the qualifying criteria authorized by law, including:

- The publication must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively;
- The publication must maintain a known office of publication serviced by the original entry post office;
- The publication must be formed of printed sheets; and
- The publication must meet applicable editorial content, circulation, advertising, and other requirements of one of the following qualification categories established by law and as set forth by the Postal Service: general publications, requester publications, publications of institutions and societies, publications of state departments of agriculture, and foreign publications.

b. Periodicals pieces are not sealed against postal inspection. Mailing of matter as Periodicals mail constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

c. Use of Address Correction Service is mandatory with Periodicals mail, except for pieces using an alternative addressing format.

d. Periodicals mail must meet presort preparation requirements.

e. Periodicals pieces that are undeliverable-as-addressed will be forwarded, or returned to the mailer, or disposed of under conditions specified in the Domestic Mail Manual.

f. An application fee to mail at Periodicals prices is required (1505.2).

Attachments and enclosures

a. Periodicals mail may contain attachments, enclosures, and supplements under conditions set by the Postal Service, including when postage may be paid on the combined piece at the applicable price for the host piece, and when postage must be paid as if each component had been mailed separately.

b. A limit of one USPS Marketing Mail “Ride-Along” attachment or enclosure, not exceeding 3.3 ounces or the weight of the host copy, may be included in an individual copy of Periodicals mail for an additional postage payment under conditions specified in the Domestic Mail Manual.

1300.2 Products Included in Class

- In-County Periodicals (1305)
- Outside County Periodicals (1310)

1305 In-County Periodicals

1305.1 Description

All In-County Periodicals prices are available for eligible Periodicals copies entered within the county where published, for delivery to addresses within that county, under conditions (including circulation requirements), as authorized by law and specified in the Domestic Mail Manual. Those copies of an issue of a publication entered within the county in which it is published, but distributed outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

1305.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum[1]	108 inches in combined length and girth			70 pounds

Notes

1. Lower size and weight limits apply to individual In-County Periodicals price categories.

1305.3 Minimum Volume Requirements

	Minimum Volume Requirements
In-County	none

1305.4 Price Categories

Pound Price

The pound price applies to all In-County mail. The following price categories are available for the product specified in this section:

- DDU
- Non-DDU

Piece Price

The piece price applies to all In-County mail. DDU discounts are available for each addressed piece. The following price categories are available for the product specified in this section:

- Automation Letters and Flats
  - 5-Digit
  - 3-Digit
  - Basic

- Nonautomation Letters, Flats, and Parcels
  - Carrier Route – Saturation
  - Carrier Route – High Density
  - Carrier Route – Basic
  - 5-Digit
  - 3-Digit
  - Basic

1305.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ride-Along

- Full-service Intelligent Mail Option: Automation or Carrier Route Letters and Flats Only

- Seamless Incentive: Automation or Carrier Route Letters and Flats Only

1305.6 Prices

In-County Automation

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Pound Prices (per pound or fraction thereof)

Entry Point	Price ($)
DDU	0.156
Non-DDU	0.204

b. Piece Prices (per addressed piece)

Presort Level	Letters ($)	Flats ($)
5-Digit	0.059	0.140
3-Digit	0.081	0.182
Basic	0.081	0.200

In-County Nonautomation

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Pound Prices (per pound or fraction thereof)

Entry Point	Price ($)
DDU	0.156
Non-DDU	0.204

b. Piece Prices (per addressed piece)

Presort Level	Letters, Flats, and Parcels ($)
Carrier Route Saturation	0.039
Carrier Route High Density	0.055
Carrier Route Basic	0.076
5-Digit	0.184
3-Digit	0.228
Basic	0.257

Worksharing Discount for DDU

Each DDU entered piece receives a discount of $0.008.

In-County Periodicals including a Ride-Along piece

Add ~~$0.180~~ $0.181 for a Ride-Along item enclosed with or attached to an In-County Periodical.

Full-service Intelligent Mail Option

Subtract $0.001 for each automation or Carrier Route letter or flat that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive: Automation or Carrier Route Letters and Flats Only

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option

1310 Outside County Periodicals

1310.1 Description

a. All Periodicals mail not qualifying as In-County Periodicals pays Outside County Periodicals prices.

b. Certain Outside County Periodicals of limited circulation qualify for a discount as authorized by law.

c. Certain Periodicals are separately authorized as Nonprofit, Classroom, or Science of Agriculture publications.

- Nonprofit publications are entered by eligible nonprofit organizations or other entities. Nonprofit publications qualify for a discount on all components of postage except the advertising pound price, as authorized by law.

- Classroom publications are religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes. Classroom publications qualify for a discount on all components of postage except the advertising pound price, as authorized by law.

- Science of Agriculture publications that meet the rural area distribution requirements qualify for lower advertising pound prices, as authorized by law.

1310.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
Maximum[1]	108 inches in combined length and girth			70 pounds

Notes

1. Additional size and weight limits apply to individual Outside County Periodicals price categories.

1310.3 Minimum Volume Requirements

	Minimum Volume Requirements
Outside County	none

1310.4 Price Categories

Pound Price

The pound price applies to all Outside County mail and is calculated based on the percentage of advertising and editorial content. Separate prices apply to advertising and editorial content and the pound price is the sum of the two. Publications authorized to mail at the Science of Agriculture rates may qualify for lower advertising pound prices than other Outside County mail. The following price categories are available for the product specified in this section:

- Advertising
  DDU, DSCF, DADC, Zones 1-9

- Editorial
  DDU, DSCF, DADC, All Other

Piece Price

The piece price applies to all Outside County mail. An editorial adjustment factor is available for each percentage of editorial content. The following price categories are available for the product specified in this section:

- Carrier Route Letters, Flats, and Parcels
  - Saturation
  - High Density
  - Basic

- Barcoded Letters
  5-Digit, 3-Digit/SCF, ADC, Mixed ADC preparation levels

- Machinable Flats and Nonbarcoded Letters
  - Barcoded Flats
    5-Digit, 3-Digit/SCF, ADC, Mixed ADC preparation levels
  - Nonbarcoded Flats and Nonbarcoded Letters
    5-Digit, 3-Digit/SCF, ADC, Mixed ADC preparation levels

- Nonmachinable Flats and Parcels
  - Barcoded Flats
    5-Digit, 3-Digit/SCF, ADC, Mixed ADC preparation levels
  - Nonbarcoded Flats and All Parcels
    5-Digit, 3-Digit/SCF, ADC, Mixed ADC preparation levels

Bundle Price

The bundle price applies to all Outside County mail prepared in bundles. The price paid for a bundle depends on the presort level of the container holding the bundle. For bundles containing both Periodicals and USPS Marketing Mail pieces, the bundle price is multiplied by the proportion of pieces in the bundle that are Periodicals pieces. Firm bundles have all pieces destined for one address. The following price categories are available for the product specified in this section:

- Firm (bundle level)
  Carrier Route, 5-Digit, 3-Digit/SCF, ADC, Mixed ADC container levels

- Carrier Route (bundle level)
  Carrier Route, 5-Digit, 3-Digit/SCF, ADC, Mixed ADC container levels

- 5-Digit (bundle level)
  5-Digit, 3-Digit/SCF, ADC, Mixed ADC container levels

- 3-Digit/SCF (bundle level)
  3-Digit/SCF, ADC, Mixed ADC container levels

- ADC (bundle level)
  ADC, Mixed ADC container levels

- Mixed ADC (bundle level)
  Mixed ADC container level

Container Price

The container price applies to all Outside County mail prepared in trays, sacks, pallets, or other containers. For containers containing both Periodicals and USPS Marketing Mail pieces, the container price is multiplied by the proportion of weight on the container contributed by the Periodicals pieces. The following price categories are available for the product specified in this section:

a. Pallet Container Price

- Carrier Route
  DDU, DSCF, DADC, DNDC, Origin entry levels

- 5-Digit
  DSCF, DADC, DNDC, Origin entry levels

- 3-Digit/SCF
  DSCF, DADC, DNDC, Origin entry levels

- ADC
  DADC, DNDC, Origin entry levels

- Mixed ADC
  Origin entry level

b. Sack Container Price

- Carrier Route/5-Digit
  DDU, DSCF, DADC, DNDC, Origin entry levels

- 3-Digit/SCF
  DSCF, DADC, DNDC, Origin entry levels

- ADC
  DADC, DNDC, Origin entry levels

- Mixed ADC
  Origin entry level

c. Tray Container Price

- Carrier Route/5-Digit
  DDU, DSCF, DADC, DNDC, Origin entry levels

- 3-Digit/SCF
  DSCF, DADC, DNDC, Origin entry levels

- ADC
  DADC, DNDC, Origin entry levels

- Mixed ADC
  Origin entry level

1310.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ride-Along

- Full-service Intelligent Mail Option: Barcoded or Carrier Route Letters and Flats Only

- <u>Seamless Incentive: Barcoded or Carrier Route Letters and Flats Only</u>

1310.6 Prices

Charges are computed by adding the appropriate per-piece charge, per-bundle charge, per-sack charge, and per-pallet charge to the sum of the editorial (nonadvertising) pound portion and the advertising pound portion, as applicable.

Pound Prices (per pound or fraction thereof)

Entry Level or Zone	Regular		Science of Agriculture	
	Advertising ($)	**Editorial ($)**	**Advertising ($)**	**Editorial ($)**
DDU	0.120	0.088	0.090	0.088
DSCF	0.176	0.132	0.132	0.132
DADC	0.188	0.141	0.141	0.141
Zones 1 & 2	0.292	0.157	0.159	0.157
Zone 3	0.292	0.157	0.292	0.157
Zone 4	0.292	0.157	0.292	0.157
Zone 5	0.292	0.157	0.292	0.157
Zone 6	0.292	0.157	0.292	0.157
Zone 7	0.292	0.157	0.292	0.157
Zone 8	0.292	0.157	0.292	0.157
Zone 9	0.292	0.157	0.292	0.157

Piece Price (per addressed piece)

a. Carrier Route Letters, Flats, and Parcels

Bundle Level	Letters, Flats, and Parcels ($)
Saturation	0.167
High Density	0.185
Basic	0.218

b. Barcoded Letters

Bundle Level	Barcoded Letters ($)
5-Digit	0.309
3-Digit/SCF	0.333
ADC	0.333
Mixed ADC	0.352

c. Machinable Flats and Nonbarcoded Letters

Bundle Level	Barcoded Flats ($)	Nonbarcoded Flats ($)	Nonbarcoded Letters ($)
5-Digit	0.381	0.394	0.394
3-Digit/SCF	0.485	0.513	0.513
ADC	0.525	0.566	0.566
Mixed ADC	0.579	0.633	0.633

d. Nonmachinable Flats and Parcels

Bundle Level	Barcoded Flats ($)	Nonbarcoded Flats ($)	Parcels ($)
5-Digit	0.543	0.545	0.545
3-Digit/SCF	0.630	0.632	0.632
ADC	0.671	0.679	0.679
Mixed ADC	0.779	0.781	0.781

e. Editorial Adjustment

A per-piece editorial adjustment is provided by subtracting $0.00112 for each 1 percent of editorial (nonadvertising) content from the applicable piece price.

f. Firm Bundle Piece Price

Firm bundles are charged a single-piece price of $0.210.

Bundle Prices (per bundle)

Bundle Level	Container Level				
	Carrier Route ($)	**5-Digit ($)**	**3-Digit/SCF ($)**	**ADC ($)**	**Mixed ADC ($)**
Firm	0.151	0.151	0.393	0.437	0.625
Carrier Route	0.191	0.191	0.675	0.888	1.138
5-Digit		0.393	0.458	0.571	0.846
3-Digit/SFC			0.400	0.521	0.800
ADC				0.415	0.683
Mixed ADC					0.224

Container Prices (per pallet, tray, or sack)

a. Pallet Container

Entry Point	Carrier Route ($)	5-Digit ($)	3-Digit/SCF ($)	ADC ($)	Mixed ADC ($)
DDU	3.062				
DSCF	28.883	45.790	28.339		
DADC	53.382	70.651	54.131	29.208	
DNDC	53.970	71.247	54.438	53.206	
Origin	76.364	93.972	76.037	75.652	13.394

b. Sack Container

Entry Point	Carrier Route/ 5-Digit ($)	3-Digit/SCF ($)	ADC ($)	Mixed ADC ($)
DDU	1.549			
DSCF	2.310	1.374		
DADC	2.923	2.284	1.335	
DNDC	3.158	2.384	2.345	
Origin	4.287	3.454	3.502	1.198

Tray Container

Entry Point	Carrier Route/ 5-Digit ($)	3-Digit/SCF ($)	ADC ($)	Mixed ADC ($)
DDU	1.434			
DSCF	2.140	1.247		
DADC	2.923	2.284	1.335	
DNDC	3.158	2.384	2.345	
Origin	4.287	3.454	3.502	1.198

Outside County Periodicals including a Ride-Along piece

Add ~~$0.180~~ $0.181 for a Ride-Along item enclosed with or attached to an Outside County Periodical.

Full-service Intelligent Mail Option

Subtract $0.001 for each barcoded or Carrier Route letter or flat that complies with the requirements for the Full-service Intelligent Mail option.

Seamless Incentive: Barcoded or Carrier Route Letters and Flats Only

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

Publications eligible for Nonprofit and Classroom price categories

Publications qualified as Nonprofit, Classroom, and Limited Circulation receive a 5 percent discount on all components of postage except advertising pounds.

The 5 percent discount does not apply to commingled nonsubscriber, nonrequestor, complimentary, and sample copies in excess of the 10 percent allowance, or to Science of Agriculture mail.

The advertising pound price is not applicable to qualifying Nonprofit and Classroom publications containing 10 percent or less advertising content.

1400 Package Services

1400.1 Class Description

a. Any mailable matter may be mailed as Package Services mail, except matter required to be mailed: (1) by First-Class Mail service; (2) as Customized MarketMail pieces; or (3) copies of a publication that are required to be entered as Periodicals mail.

b. Package Services pieces are not sealed against postal inspection. Mailing of matter as Package Services mail constitutes consent by the mailer to postal inspection of the contents, regardless of the physical closure.

c. Package Services mail may receive deferred service.

d. Package Services pieces that are undeliverable-as-addressed will be forwarded on request of the addressee, or forwarded and returned on request of the mailer, subject to the applicable single-piece Package Services mail price when forwarded or returned. Pieces which combine domestic Package Services mail with First-Class Mail or USPS Marketing Mail pieces will be forwarded if undeliverable-as-addressed, and returned if undeliverable.

Attachments and enclosures

a. First-Class Mail or USPS Marketing Mail pieces may be attached to or enclosed in Package Services mail. Additional postage may be required.

b. Package Services mail may have limited written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article.

1400.2 Products Included in Class

- Alaska Bypass Service (1405)
- Bound Printed Matter Flats (1415)
- Bound Printed Matter Parcels (1420)
- Media Mail/Library Mail (1425)

1405 Alaska Bypass Service

1405.1 Description

Subject to applicable FAA regulations, all appropriate palletized mail may be sent intra-Alaska from designated “hub points” to designated “bush points” via Alaska Bypass Service.

1405.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	none			1,000 pounds
Maximum	40 inches x 48 inches x 77 inches			2,200 pounds

1405.3 Minimum Volume Requirements

	Minimum Volume Requirements
Single-Pallet	none

1405.4 Price Categories

- Alaska Bypass
  - Zones 1-2

1405.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

None

1405.6 Prices

Alaska Bypass

Prices are calculated by dividing the total weight of the shipment by 70 (subject to the maximum weight restriction) and multiplying the result (rounded to the nearest one-hundredth) by the appropriate Alaska Bypass price for the zone to which the parcel is addressed.

Maximum Weight (pounds)	**Zones 1 & 2 ($)**	
70	29.24	

1415 Bound Printed Matter Flats

1415.1 Description

a. Package Services mail weighing not more than 15 pounds may be sent as Bound Printed Matter Flats if it meets all of the following:

- Consists of advertising, promotional, directory, or editorial material (or any combination of such material);
- Is securely bound by permanent fastenings such as staples, spiral binding, glue, or stitching. Loose-leaf binders and similar fastenings are not considered permanent;
- Consists of sheets of which at least 90 percent are imprinted by any process other than handwriting or typewriting with words, letters, characters, figures, or images (or any combination of them);
- Does not have the nature of personal correspondence; and
- Is not stationery, such as pads of blank printed forms.

b. An annual mailing fee is required to be paid at each office of mailing or office of verification by or for mailers of destination-entered Bound Printed Matter Flats (1505.2). Payment of the fee allows the mailer to mail at any destination-entered Bound Printed Matter price.

c. Postage must be paid by permit imprint only.

1415.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	5 inches	3.5 inches	0.007 inch	none
and at least one dimension exceeds	11.5 inches	6.125 inches	0.25 inch	
Maximum	15 inches	12 inches	0.75 inch	15 pounds

1415.3 Minimum Volume Requirements

		Minimum Volume Requirements
Flats	Nonpresorted	none
	Presorted	300 pieces per mailing
	Carrier Route	300 pieces per mailing

1415.4 Price Categories

The following price categories are available for the product specified in this section:

- Carrier Route
  - Destination Entry
  - Other than Destination Entry
- Presorted
  - Destination Entry
  - Other than Destination Entry
- Nonpresorted

1415.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - Insurance (1505.9)
  - Return Receipt (1505.13)
  - Special Handling (1505.18)
- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)
- Full-service Intelligent Mail option: presorted or Carrier Route barcoded flats only
- Forwarding-and-Return Service
- Seamless Incentive

1415.6 Prices

Carrier Route

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

1. Destination Entry

	DDU ($)	**DSCF ($)**	**DNDC Zone 1 & 2 ($)**	**DNDC Zone 3 ($)**	**DNDC Zone 4 ($)**	**DNDC Zone 5 ($)**
Per Piece	0.443	0.623	1.066	1.066	1.066	1.066
Per Pound	0.024	0.044	0.1	0.1	0.1	0.1

2. Other Than Destination Entry

	Zone 1 & 2 ($)	**Zone 3 ($)**	**Zone 4 ($)**	**Zone 5 ($)**	**Zone 6 ($)**	**Zone 7 ($)**	**Zones 8 & 9 ($)**
Per Piece	1.177	1.177	1.177	1.177	1.177	1.177	1.177
Per Pound	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Presorted

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

1. Destination Entry[1]

	DDU ($)	**DSCF ($)**	**DNDC Zone 1 & 2 ($)**	**DNDC Zone 3 ($)**	**DNDC Zone 4 ($)**	**DNDC Zone 5 ($)**
Per Piece	0.595	0.775	1.218	1.218	1.218	1.218
Per Pound	0.024	0.044	0.1	0.1	0.1	0.1

2. Other Than Destination Entry

	Zone 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
Per Piece	1.329	1.329	1.329	1.329	1.329	1.329	1.329
Per Pound	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Notes

1. DDU price is not available for presorted flats that weigh 1 pound or less.

Nonpresorted

Maximum Weight (pounds)	Zone 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
1.0	2.23	2.23	2.23	2.23	2.23	2.23	2.23
1.5	2.35	2.35	2.35	2.35	2.35	2.35	2.35
2.0	2.48	2.48	2.48	2.48	2.48	2.48	2.48
2.5	2.62	2.62	2.62	2.62	2.62	2.62	2.62
3.0	2.76	2.76	2.76	2.76	2.76	2.76	2.76
3.5	2.91	2.91	2.91	2.91	2.91	2.91	2.91
4.0	3.08	3.08	3.08	3.08	3.08	3.08	3.08
4.5	3.24	3.24	3.24	3.24	3.24	3.24	3.24
5.0	3.42	3.42	3.42	3.42	3.42	3.42	3.42
6.0	3.61	3.61	3.61	3.61	3.61	3.61	3.61
7.0	3.81	3.81	3.81	3.81	3.81	3.81	3.81
8.0	4.02	4.02	4.02	4.02	4.02	4.02	4.02
9.0	4.24	4.24	4.24	4.24	4.24	4.24	4.24
10.0	4.47	4.47	4.47	4.47	4.47	4.47	4.47
11.0	4.72	4.72	4.72	4.72	4.72	4.72	4.72
12.0	4.98	4.98	4.98	4.98	4.98	4.98	4.98
13.0	5.25	5.25	5.25	5.25	5.25	5.25	5.25
14.0	5.54	5.54	5.54	5.54	5.54	5.54	5.54
15.0	5.85	5.85	5.85	5.85	5.85	5.85	5.85

Full-service Intelligent Mail Option

Subtract $0.001 for each presorted or Carrier Route barcoded flat that complies with the requirements for the Full-service Intelligent Mail option.

Forwarding-and-Return-Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded flats pay ~~$3.27~~ $3.30 per piece. All other pieces requesting Forwarding-and-Return Service that are returned are charged the appropriate Bound Printed Matter Flats Nonpresorted price for the piece.

Seamless Incentive

Subtract $0.001 for each piece eligible for Seamless Acceptance and prepared under the Full-Service Intelligent Mail option.

1420 Bound Printed Matter Parcels

1420.1 Description

a. Package Services mail weighing not more than 15 pounds may be sent as Bound Printed Matter Parcels if it meets all of the following:

- Consists of advertising, promotional, directory, or editorial material (or any combination of such material);
- Is securely bound by permanent fastenings such as staples, spiral binding, glue, or stitching. Loose-leaf binders and similar fastenings are not considered permanent;
- Consists of sheets of which at least 90 percent are imprinted by any process other than handwriting or typewriting with words, letters, characters, figures, or images (or any combination of them);
- Does not have the nature of personal correspondence; and
- Is not stationery, such as pads of blank printed forms.

b. Postage must be paid by permit imprint only.

1420.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	108 inches in combined length and girth			15 pounds

1420.3 Minimum Volume Requirements

		Minimum Volume Requirements
Flats	Nonpresorted	none
	Presorted	300 pieces per mailing
	Carrier Route	300 pieces per mailing

1420.4 Price Categories

The following price categories are available for the product specified in this section:

- Carrier Route
  - DDU
  - DSCF
  - DNDC
  - Zones 1-9
- Presorted
  - DDU
  - DSCF
  - DNDC
  - Zones 1-9
- Nonpresorted

1420.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Return Receipt (1505.13)
  - Signature Confirmation (1505.17)
  - Special Handling (1505.18)
- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)
- Pickup On Demand Service

1420.6 Prices

Carrier Route

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Destination Entry

	DDU ($)	**DSCF ($)**	**DNDC Zones 1 & 2 ($)**	**DNDC Zone 3 ($)**	**DNDC Zone 4 ($)**	**DNDC Zone 5 ($)**
Per Piece	0.697	0.88	1.329	1.329	1.329	1.329
Per Pound	0.048	0.081	0.102	0.135	0.183	0.254

b. Other Than Destination Entry

	Zones Local 1 & 2 ($)	**Zone 3 ($)**	**Zone 4 ($)**	**Zone 5 ($)**	**Zone 6 ($)**	**Zone 7 ($)**	**Zones 8 & 9 ($)**
Per Piece	1.441	1.441	1.441	1.441	1.441	1.441	1.441
Per Pound	0.190	0.226	0.275	0.340	0.415	0.479	0.626

Presorted

Charges are computed by multiplying the number of pieces in the mailing by the applicable per-piece price, multiplying the number of pounds of the mailing by the applicable per-pound price, and adding both totals.

a. Destination Entry

	DDU ($)	**DSCF ($)**	**DNDC Zones 1 & 2 ($)**	**DNDC Zone 3 ($)**	**DNDC Zone 4 ($)**	**DNDC Zone 5 ($)**
Per Piece	0.852	1.035	1.484	1.484	1.484	1.484
Per Pound	0.048	0.081	0.102	0.135	0.183	0.254

b. Other Than Destination Entry

	Zones Local 1 & 2 ($)	**Zone 3 ($)**	**Zone 4 ($)**	**Zone 5 ($)**	**Zone 6 ($)**	**Zone 7 ($)**	**Zones 8 & 9 ($)**
Per Piece	1.596	1.596	1.596	1.596	1.596	1.596	1.596
Per Pound	0.190	0.226	0.275	0.340	0.415	0.479	0.626

Nonpresorted

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
1.0	2.87	2.94	3.00	3.10	3.23	3.29	3.51
1.5	3.04	3.12	3.18	3.29	3.42	3.49	3.72
2.0	3.01	3.09	3.17	3.30	3.47	3.55	3.87
2.5	3.14	3.25	3.36	3.52	3.74	3.85	4.24
3.0	3.28	3.41	3.54	3.73	4.00	4.13	4.61
3.5	3.43	3.58	3.73	3.96	4.28	4.43	4.99
4.0	3.56	3.73	3.90	4.16	4.52	4.69	5.34
4.5	3.69	3.88	4.07	4.38	4.78	4.97	5.69
5.0	3.83	4.05	4.27	4.61	5.06	5.28	6.08
6.0	4.10	4.38	4.66	5.07	5.61	5.89	6.85
7.0	4.39	4.71	5.03	5.51	6.16	6.48	7.60
8.0	4.65	5.01	5.37	5.92	6.65	7.01	8.28
9.0	4.93	5.34	5.75	6.37	7.20	7.61	9.05
10.0	5.19	5.65	6.11	6.80	7.71	8.17	9.76
11.0	5.49	6.00	6.51	7.27	8.29	8.80	10.57
12.0	5.75	6.30	6.85	7.68	8.78	9.33	11.26
13.0	6.02	6.61	7.20	8.09	9.28	9.87	11.95
14.0	6.31	6.96	7.61	8.58	9.85	10.50	12.75
15.0	6.58	7.27	7.96	8.99	10.38	11.07	13.49

Pickup On Demand Service

Add ~~$24.00~~ $25.00 for each Pickup On Demand stop.

1425 Media Mail/Library Mail

1425.1 Description

Media Mail

a. The following items may be sent as Media Mail:

- Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising matter other than incidental announcements of books. Advertising includes paid advertising and the publishers' own advertising in display, classified, or editorial style;

- 16-millimeter or narrower width films, which must be positive prints in final form for viewing, and catalogs of such films of 24 pages or more (at least 22 of which are printed). Films and film catalogs sent to or from commercial theaters do not qualify for Media Mail;

- Printed music, whether in bound or sheet form;

- Printed objective test materials and their accessories used by or on behalf of educational institutions to test ability, aptitude, achievement, interests, and other mental and personal qualities with or without answers, test scores, or identifying information recorded thereon in writing or by mark;

- Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Video recordings and player piano rolls are classified as sound recordings;

- Playscripts and manuscripts for books, periodicals, and music;

- Printed educational reference charts designed to instruct or train individuals for improving or developing their capabilities. Each chart must be a single printed sheet of information designed for educational reference. The information on the chart, which may be printed on one or both sides of the sheet, must be conveyed primarily by graphs, diagrams, tables, or other nonnarrative matter. An educational reference chart is normally but not necessarily devoted to one subject. A chart on which the information is conveyed primarily by textual matter in a narrative form does not qualify as a printed educational reference chart for mailing at the Media Mail prices even if it includes graphs, diagrams, or tables. Examples of qualifying charts include maps produced primarily for educational reference, tables of mathematical or scientific equations, noun declensions or verb conjugations used in the study of languages, periodic table of

elements, botanical or zoological tables, and other tables used in the study of science;

- Loose-leaf pages and their binders consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; or

- Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

Library Mail

a. Qualified Mailings Between Entities. The following items may be mailed as Library Mail when sent between: (1) schools, colleges, universities, public libraries, museums, and herbariums and nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans, and fraternal organizations or associations; (2) any such institution, organization, or association and an individual who has no financial interest in the sale, promotion, or distribution of the materials; or (3) any such institution, organization, or association and a publisher, if such institution, organization, or association has placed an order to buy such materials for delivery to itself:

- Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising, except for incidental announcements of books;

- Printed music, whether in bound or sheet form;

- Bound volumes of academic theses, whether in typewritten or duplicated form;

- Periodicals, whether bound or unbound;

- Sound recordings;

- Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts; or

- Museum materials, specimens, collections, teaching aids, printed matter, and interpretive materials for informing and furthering the educational work and interests of museums and herbariums.

b. Qualified Mailings "To" or "From". The following items may be mailed as Library Mail when sent to or from schools, colleges, universities, public libraries, museums, and herbariums and to or from nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans, or fraternal organizations:

- 16-millimeter or narrower width films, filmstrips, transparencies, slides, and microfilms. All must be positive prints in final form for viewing;
- Sound recordings;
- Museum materials, specimens, collections, teaching aids, printed matter, and interpretive materials intended for informing and furthering the educational work and interests of museums and herbariums;
- Scientific or mathematical kits, instruments, or other devices; or
- Catalogs of any of these specified materials and guides or scripts prepared solely for use with such materials.

1425.2 Size and Weight Limitations

	Length	Height	Thickness	Weight
Minimum	large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	108 inches in combined length and girth			70 pounds[1]

Notes

1. An overweight item charge of $100 applies to pieces found in the postal network that exceed the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered. As described in the Domestic Mail Manual, this charge is payable before release of the item, unless the item is picked up at the same facility where it was entered.

1425.3 Minimum Volume Requirements

		Minimum Volume Requirements
Media Mail and Library Mail	Single-Piece	none
	Basic	300 pieces per mailing
	5-Digit	300 pieces per mailing

1425.4 Price Categories

The following price categories are available for the product specified in this section:

- Media Mail
  - 5-Digit
  - Basic
  - Single-Piece

- Library Mail
  - 5-Digit
  - Basic
  - Single-Piece

1425.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Return Receipt (1505.13)
  - Signature Confirmation (1505.17)
  - Special Handling (1505.18)

- Competitive Ancillary Services (2645)
  - Package Intercept Service (2645.2)

- Pickup On Demand Service

1425.6 Prices

Media Mail

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
1	1.91	2.97	3.19
2	2.54	3.60	3.82
3	3.17	4.23	4.45
4	3.80	4.86	5.08
5	4.43	5.49	5.71
6	5.06	6.12	6.34
7	5.69	6.75	6.97
8	6.32	7.38	7.60
9	6.95	8.01	8.23
10	7.58	8.64	8.86
11	8.21	9.27	9.49
12	8.84	9.90	10.12
13	9.47	10.53	10.75
14	10.10	11.16	11.38
15	10.73	11.79	12.01
16	11.36	12.42	12.64
17	11.99	13.05	13.27
18	12.62	13.68	13.90
19	13.25	14.31	14.53
20	13.88	14.94	15.16
21	14.51	15.57	15.79
22	15.14	16.20	16.42
23	15.77	16.83	17.05
24	16.40	17.46	17.68
25	17.03	18.09	18.31

Media Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
26	17.66	18.72	18.94
27	18.29	19.35	19.57
28	18.92	19.98	20.20
29	19.55	20.61	20.83
30	20.18	21.24	21.46
31	20.81	21.87	22.09
32	21.44	22.50	22.72
33	22.07	23.13	23.35
34	22.70	23.76	23.98
35	23.33	24.39	24.61
36	23.96	25.02	25.24
37	24.59	25.65	25.87
38	25.22	26.28	26.50
39	25.85	26.91	27.13
40	26.48	27.54	27.76
41	27.11	28.17	28.39
42	27.74	28.80	29.02
43	28.37	29.43	29.65
44	29.00	30.06	30.28
45	29.63	30.69	30.91
46	30.26	31.32	31.54
47	30.89	31.95	32.17
48	31.52	32.58	32.80
49	32.15	33.21	33.43
50	32.78	33.84	34.06

Media Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
51	33.41	34.47	34.69
52	34.04	35.10	35.32
53	34.67	35.73	35.95
54	35.30	36.36	36.58
55	35.93	36.99	37.21
56	36.56	37.62	37.84
57	37.19	38.25	38.47
58	37.82	38.88	39.10
59	38.45	39.51	39.73
60	39.08	40.14	40.36
61	39.71	40.77	40.99
62	40.34	41.40	41.62
63	40.97	42.03	42.25
64	41.60	42.66	42.88
65	42.23	43.29	43.51
66	42.86	43.92	44.14
67	43.49	44.55	44.77
68	44.12	45.18	45.40
69	44.75	45.81	46.03
70	45.38	46.44	46.66

Library Mail

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
1	1.81	2.82	3.03
2	2.41	3.42	3.63
3	3.01	4.02	4.23
4	3.61	4.62	4.83
5	4.21	5.22	5.43
6	4.81	5.82	6.03
7	5.41	6.42	6.63
8	6.01	7.02	7.23
9	6.61	7.62	7.83
10	7.21	8.22	8.43
11	7.81	8.82	9.03
12	8.41	9.42	9.63
13	9.01	10.02	10.23
14	9.61	10.62	10.83
15	10.21	11.22	11.43
16	10.81	11.82	12.03
17	11.41	12.42	12.63
18	12.01	13.02	13.23
19	12.61	13.62	13.83
20	13.21	14.22	14.43
21	13.81	14.82	15.03
22	14.41	15.42	15.63
23	15.01	16.02	16.23
24	15.61	16.62	16.83
25	16.21	17.22	17.43

Library Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
26	16.81	17.82	18.03
27	17.41	18.42	18.63
28	18.01	19.02	19.23
29	18.61	19.62	19.83
30	19.21	20.22	20.43
31	19.81	20.82	21.03
32	20.41	21.42	21.63
33	21.01	22.02	22.23
34	21.61	22.62	22.83
35	22.21	23.22	23.43
36	22.81	23.82	24.03
37	23.41	24.42	24.63
38	24.01	25.02	25.23
39	24.61	25.62	25.83
40	25.21	26.22	26.43
41	25.81	26.82	27.03
42	26.41	27.42	27.63
43	27.01	28.02	28.23
44	27.61	28.62	28.83
45	28.21	29.22	29.43
46	28.81	29.82	30.03
47	29.41	30.42	30.63
48	30.01	31.02	31.23
49	30.61	31.62	31.83
50	31.21	32.22	32.43

Library Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
51	31.81	32.82	33.03
52	32.41	33.42	33.63
53	33.01	34.02	34.23
54	33.61	34.62	34.83
55	34.21	35.22	35.43
56	34.81	35.82	36.03
57	35.41	36.42	36.63
58	36.01	37.02	37.23
59	36.61	37.62	37.83
60	37.21	38.22	38.43
61	37.81	38.82	39.03
62	38.41	39.42	39.63
63	39.01	40.02	40.23
64	39.61	40.62	40.83
65	40.21	41.22	41.43
66	40.81	41.82	42.03
67	41.41	42.42	42.63
68	42.01	43.02	43.23
69	42.61	43.62	43.83
70	43.21	44.22	44.43

Pickup On Demand Service

Add ~~$24.00~~ $25.00 for each Pickup On Demand stop.

Overweight Item Charge

Add $100.00 for each piece found in the postal network that exceeds the 70-pound maximum weight limitation. Such items are nonmailable and will not be delivered. As described in the Domestic Mail Manual, this charge is payable before release of the item, unless the item is picked up at the same facility where it was entered.

1500 Special Services

1500.1 Class Description

Special Services are services offered by the Postal Service related to the delivery of mailpieces, including acceptance, collection, sorting, transportation, or other functions. Services within the Ancillary Services and the International Ancillary Services products can be purchased only in conjunction with the purchase of mail service. Other Special Services products can be purchased on a stand-alone basis.

1500.2 Products Included in Class

- Ancillary Services (1505)
  - Address Correction Service (1505.1)
  - Applications and Mailing Permits (1505.2)
  - Business Reply Mail (1505.3)
  - Bulk Parcel Return Service (1505.4)
  - Certified Mail (1505.5)
  - Certificate of Mailing (1505.6)
  - Collect on Delivery (1505.7)
  - USPS Tracking (1505.8)
  - Insurance (1505.9)
  - Parcel Airlift (PAL) (1505.11)
  - Registered Mail (1505.12)
  - Return Receipt (1505.13)
  - Shipper-Paid Forwarding (1505.16)
  - Signature Confirmation Service (1505.17)
  - Special Handling (1505.18)
  - Stamped Envelopes (1505.19)
  - Stamped Cards (1505.20)
  - Premium Stamped Stationery (1505.21)
  - Premium Stamped Cards (1505.22)

- International Ancillary Services (1510)
  - International Certificate of Mailing (1510.1)
  - International Registered Mail (1510.2)
  - International Return Receipt (1510.3)
  - Customs Clearance and Delivery Fee (1510.4)

- Address Management Services (1515)

- Caller Service (1520)

- Credit Card Authentication (1525)

- International Reply Coupon Service (1535)

- International Business Reply Mail Service (1540)

- Money Orders (1545)
- Post Office Box Service (1550)
- Stamp Fulfillment Services (1560)

1505 Ancillary Services

1505.1 Address Correction Service

1505.1.1 Description

a. Address Correction Service provides a mailer, upon request, both an addressee's former and current addresses, if the correct address is known to the Postal Service or, if not known, the reason for non-delivery.

b. Address Correction Service is available for postage-prepaid mail of all classes, except for mail addressed for delivery at any military installation and for Customized MarketMail pieces.

c. Address Correction Service is mandatory for Periodicals mail, except for pieces using an alternative addressing format.

d. Full-service, Automated and Electronic Address Correction Service is available to mailers who can receive computerized address corrections and meet barcoding, address hygiene, and other mail preparation requirements.

e. Full-service Address Correction Service is only available for mailings of First-Class Mail automated letters, cards, and flats, USPS Marketing Mail automation letters and flats; USPS Marketing Mail Carrier Route, High Density, and Saturation letters; Periodicals Outside County barcoded or Carrier Route letters and flats; Periodicals In-County automation or Carrier Route letters and flats; and Bound Printed Matter barcoded Presort non-DDU flats. The mailings must comply with the requirements for the Full-service Intelligent Mail option. In addition, Full-service Address Correction Service is available for qualifying Basic IMb and non-automation First-Class Mail and USPS Marketing Mail letters and flats, submitted by qualifying Full-service mailers.

1505.1.2 Prices

	($)
Manual correction, each	
First-Class Mail or First-Class Package Service piece, on-piece correction only	0.00
Other	0.67
Electronic correction, each	
First-Class Mail or First-Class Package Service piece	0.16
Other	0.35
Automated correction (Letters Only)	
First-Class Mail piece	
First two notices, for a given address change, each	0.10
Additional notices, for a given address change, each	0.17
USPS Marketing Mail piece	
First two notices, for a given address change, each	0.13
Additional notices, for a given address change, each	0.31
Full-service correction, each	0.00

1505.2 Applications and Mailing Permits

1505.2.1 Description

Payment of an application, mailing, or permit fee is required to mail certain products. Many of the fees apply at the class level and encompass the associated products. Fees that apply to particular special services are included in the price schedules for those special services.

Mailing Fees

First-Class Mail

A mailing fee must be paid once each 12-month period at each office of mailing by any person who mails at the presorted or automation prices, except for qualifying Full-service Intelligent Mail barcode mailings. Payment of the fee allows the mailer to mail at any First-Class Mail or First-Class Package Service price.

USPS Marketing Mail

A mailing fee must be paid each 12-month period for each permit used to mail USPS Marketing Mail except for qualifying Full-service Intelligent Mail barcode mailings.

Periodicals

Each authorized Periodicals publication must pay the application fee for one original entry authorization at the Post Office where the office of publication is maintained. A re-entry application fee must be paid whenever the publisher changes the publication's title, frequency of issue, office of original entry, or qualification category. Prior to entering Nonprofit, Classroom, and Science of Agriculture Periodicals mail, a publication must obtain an additional Postal Service entry authorization to mail at those prices. Periodicals mail may be entered only by publishers or registered news agents. A news agent is a person or concern engaged in distributing two or more Periodicals publications published by more than one publisher. News agents must register at each Post Office at which they enter Periodicals mail, and pay the appropriate application fee.

Package Services

A mailing fee must be paid once each 12-month period to mail at any destination entry Bound Printed Matter price, except for qualifying Full-service Intelligent Mail barcode mailings, or if a mailer uses Bound Printed Matter to mail parcels only.

Permit Imprint Application Fee

a. A fee is charged for application to use a permit imprint as a method of payment.

b. This fee does not apply to mailers using the Electronic Verification System (eVS) or Priority Mail Express Manifesting (PMEM) payment methods, or to mailers using a permit imprint to mail only Priority Mail Express, Priority Mail, First-Class Package Service, Parcel Select (including Parcel Select Lightweight), Bound Printed Matter Parcels, Media Mail, or Library Mail.

1505.2.2 Prices

	($)
First-Class Mail Presort Mailing Fee (per year)	265.00
USPS Marketing Mail Mailing Fee (per year)	265.00
Periodicals Application Fees (one-time only for each)	
A. Original Entry	805.00
B. Re-entry	105.00
C. Registration for News Agents	105.00
Bound Printed Matter: Destination Entry Mailing Fee (per year)[1]	265.00
Application to Use Permit Imprint (one-time only)	265.00

Notes

1. Fee does not apply in circumstances described in 1505.2.1.

1505.3 Business Reply Mail

1505.3.1 Description

a. Business Reply Mail service allows a permit holder or its representative to distribute postcards, envelopes, cartons and labels that can be used to send First-Class Mail, First-Class Package Service, or Priority Mail pieces to an address chosen by the distributor without prepayment of postage.

b. A permit to distribute Business Reply Mail must be obtained from each office to which mail is addressed for delivery, except that only one permit is required for Business Reply Mail to be returned to the permit holder's branches or agents in other cities.

c. The permit holder guarantees payment on delivery of postage and fees for the Business Reply Mail pieces including any pieces that the addressee refuses.

d. The permit holder must pay an annual account maintenance fee when an advance deposit account is used to pay the postage and fees.

1505.3.2 Prices

	($)
Permit (All categories)	265.00[1]
Regular (no account maintenance fee)	
Per-piece charge	0.92
Regular (with account maintenance fee)	
Account maintenance (per year)	800.00
Per-piece charge	0.110
Qualified Business Reply Mail, low-volume	
Account maintenance (per year)	800.00
Per-piece charge	0.077
Qualified Business Reply Mail, high-volume	
Account maintenance (per year)	800.00
Quarterly	2,675.00
Per-piece charge	0.016
Bulk Weight Averaged (Non-letters only)	
Account maintenance (per year)	800.00
Per-piece charge	0.023
Monthly maintenance	1,310.00

Notes

1. Fee does not apply to permit holder who receives (1) only Qualified Business Reply Mail, or (2) only parcel-shaped Business Reply Mail.

1505.4 Bulk Parcel Return Service

1505.4.1 Description

a. Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have machinable parcels, initially mailed as USPS Marketing Mail (Commercial and Nonprofit) or Parcel Select Lightweight parcels, returned to designated postal facilities for pickup by the mailer at a predetermined frequency, or delivered in bulk by the Postal Service in a specified manner and frequency. Such parcels may be returned because they are: undeliverable-as-addressed; have been opened, resealed, and redeposited into the mail for return to the mailer using a mailer provided return label; or are found in the mailstream, having been opened, resealed, and redeposited by the recipient for return to the mailer.

b. To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous 12-month period or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

c. Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

1505.4.2 Prices

	($)
Per-piece charge	3.90

1505.5 Certified Mail

1505.5.1 Description

a. Certified Mail service provides a mailer of First-Class Mail, First-Class Package Service, or Priority Mail with a mailing receipt and electronic confirmation of the date, location, and time of the delivery or attempted delivery. If the initial attempt to deliver the article is not successful, a notice of attempted delivery is also provided to the addressee.

b. If the item is successfully delivered, the Postal Service maintains a record of delivery (including the recipient's signature) for two years. If the item is returned to the sender, the Postal Service does not retain the sender's return signature as part of the record of delivery.

c. Electronic confirmation notices may be obtained over the internet, by telephone, via mobile smartphone application, or by electronic file transfer for mailers who provide an electronic manifest.

d. To obtain a mailing receipt, a mailer must mail the article at a Post Office, branch, station, or business mail entry unit, or give the item to a rural carrier.

e. Certified Mail service may be requested only at time of mailing.

f. Certified Mail service also can be combined with these optional features at the price provided in 1505.5.2:

- Restricted Delivery, which directs delivery only to the addressee or addressee's agent. The addressee must be an individual (a natural person) specified by name;
- Adult Signature Required, which requires the signature of anyone 21 years of age or older at the recipient address; and
- Adult Signature Restricted Delivery, which requires the signature of the addressee only, who must be 21 years of age or older.

1505.5.2 Prices

(Per piece)	**($)**
Certified Mail	3.75
Certified Mail with Restricted Delivery and/or Adult Signature	9.75

1505.6 Certificate of Mailing

1505.6.1 Description

a. Certificate of Mailing service furnishes evidence that mail has been presented to the Postal Service for mailing. Two types of Certificate of Mailing service are offered:

b. Certificate of Mailing (Forms 3817 and 3665): furnishes evidence that pieces addressed to specific individuals were presented to the Postal Service for mailing using First-Class Mail, First-Class Package Service, Priority Mail, Package Services, Parcel Return Service, and USPS Retail Ground.

c. Certificate of Bulk Mailing (Form 3606): Only furnishes evidence that a number of identical-weight pieces were presented to the Postal Service for mailing using First-Class Mail, First-Class Package Service, Priority Mail, USPS Marketing Mail (except Customized MarketMail), Parcel Select, Package Services and USPS Retail Ground.

d. Certificate of Mailing service does not include retention of a record of mailing by the Postal Service or provide evidence of delivery.

e. A mailer may, upon request and payment of the appropriate fee, obtain an additional Certificate of Mailing on terms specified in the Domestic Mail Manual.

f. Certificate of Mailing service may be requested only at time of mailing.

1505.6.2 Prices

Individual Piece Prices

	($)
Original Certificate of Mailing, Form 3817, individual article presented at retail	1.65
Three or more pieces individually listed on Form 3665-Firm or USPS approved customer provided manifest (per piece listed)	0.47
Each additional copy of original Certificate of Mailing, or original mailing receipt (Form 3877) for Registered Mail, insured mail, Certified Mail, and COD mail (each copy)	1.65

Quantity of Pieces

	($)
Up to 1,000 identical-weight pieces (one Form 3606 for total number)	9.35
Each additional 1,000 identical-weight pieces or fraction thereof	1.20
Each additional copy of the original Form 3606	1.65

1505.7 Collect on Delivery

1505.7.1 Description

a. Collect on Delivery (COD) service allows mailers of Priority Mail Express, First-Class Mail, First-Class Package Service, Priority Mail, Package Services, Parcel Select (excluding Parcel Select Lightweight), and USPS Retail Ground pieces to send an article for which the mailer has not received full or partial payment (of $1,000.00 or less) and have that payment, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

b. COD service also provides, as optional features at additional fees:

   Restricted Delivery, which directs delivery only to the addressee or addressee's agent. The addressee must be an individual (a natural person) specified by name.

   Registered COD, which combines Registered Mail with COD services. The total fees include the proper registry fee for the value declared plus the registered COD fee. Fees and additional details are listed under Registered Mail (1505.14).

c. If delivery is attempted, but not successful, a notice will be provided to the addressee. COD customers may also elect to have the piece held for pickup at a local Post Office. If such an election is made, notice will be provided to the addressee instructing them to pick up their COD item at a particular Post Office.

d. The mailer guarantees to pay any return postage unless otherwise specified on the mailpiece.

e. The mailer may designate a new addressee by using Package Intercept service (2645.2).

f. A claim for loss or damage may be filed as specified in the Domestic Mail Manual.

g. COD service is not available for: collection agency purposes; return of merchandise, unless the new addressee has consented in advance to such return; parcels containing motion pictures mailed by exhibitors to motion picture manufacturers, distributors, or exchanges; goods that have not been ordered by the addressee; or for sending bills or statements of indebtedness only. However, when a legitimate COD shipment consists of merchandise or bill of lading, the balance due on a past or anticipated transaction may be included in the charges on a COD article, provided that the addressee has consented in advance to such action.

h. COD service may only be requested at the time of mailing and the piece must be presented to a rural carrier or a postal employee at a Post Office, branch, station (including any authorized contractor), or business mail entry unit, for mailing.

1505.7.2 Prices

($)		($)	($)
Amount to be collected, or insurance coverage desired, whichever is higher:			
0.01	to	50.00	8.60
50.01	to	100.00	10.70
100.01	to	200.00	13.05
200.01	to	300.00	15.40
300.01	to	400.00	17.75
400.01	to	500.00	20.10
500.01	to	600.00	22.45
600.01	to	700.00	24.80
700.01	to	800.00	27.15
800.01	to	900.00	29.50
900.01	to	1,000.00	31.85
Additional Fees for Optional Features:			
COD Restricted Delivery			5.85

1505.8 USPS Tracking

1505.8.1 Description

a. USPS Tracking service provides mailers of USPS Marketing Mail parcels, Package Services, Priority Mail, Parcel Select, USPS Retail Ground, and First-Class Package Service pieces with end-to-end tracking updates, including confirmation of delivery, as the item travels to its destination.

b. USPS Tracking service is automatically included with the purchase of items sent via Package Services, Priority Mail, Parcel Select, USPS Retail Ground, and First-Class Package Service.

c. USPS Tracking service does not include the collection of any recipient signatures.

d. Tracking updates may be obtained over the internet, by telephone, via mobile smartphone application, or by electronic file transfer for mailers who provide an electronic manifest. Tracking updates include the location, date, and time of: delivery or attempted delivery, the item's arrival and departure from certain postal facilities, and if the item is forwarded or returned to the sender.

e. USPS Tracking service may only be obtained at the time of mailing by: applying a unique tracking barcode prior to mailing; or presenting the item at a Post Office, branch, station (including any authorized contractor), or self-service kiosk, for mailing.

1505.8.2 Prices

	($)
USPS Marketing Mail Parcels	
Electronic	0.24

1505.9 Insurance

1505.9.1 Description

a. Insurance may be obtained only at the time of mailing and provides the mailer with indemnity for loss, damage, or missing contents for merchandise mailed using Priority Mail Express, Package Services, Parcel Select, USPS Retail Ground, USPS Marketing Mail parcels, or items included in pieces sent via First-Class Mail, First-Class Package Service, or Priority Mail, if the contents would be eligible to be mailed using USPS Marketing Mail, USPS Retail Ground, or Package Services.

b. Insurance provides the mailer with a receipt for each item mailed and indemnity for up to the actual value of the article at the time of mailing. An Insurance claim (except for the bulk insurance option) for damage or for partial loss may be filed.

c. For Insurance articles insured for $500.00 or less, the Postal Service maintains delivery information (not including a signature) for six months. For articles insured for more than $500.00, the Postal Service maintains a delivery record (which includes the recipient's signature) for two years, and provides the delivery record to the customer, upon request. If the article is returned to the sender, the Postal Service does not include the sender's return signature as part of the delivery record.

d. For articles insured for more than $500.00, Insurance service also provides, as an optional feature:

   Insurance Restricted Delivery, which directs delivery only to the addressee or addressee's agent. The addressee must be an individual (a natural person) specified by name.

e. If the initial attempt to deliver the article is not successful, a notice of attempted delivery is provided to the addressee.

f. Undeliverable-as-addressed insured mail will be returned to the sender as specified by the sender or as specified in the Domestic Mail Manual.

g. Indemnity will not be paid by the Postal Service for loss, damage, or missing contents: of nonmailable matter; due to improper packaging; due to seizure by any agency of government; due to war, insurrection or civil disturbances; or as specified in the Domestic Mail Manual.

h. For negotiable items, currency, or bullion, the maximum liability is $15.00.

i. Insurance is not available for matter offered for sale and addressed to a prospective purchaser who has not ordered or authorized its sending.

j. For Priority Mail Express pieces, Insurance coverage is provided, for no additional charge, up to $100.00 per piece for document reconstruction, up to $5,000.00 per occurrence, regardless of the number of claimants.

Bulk Insurance Option

a. Insurance includes a Bulk Insurance option that is available for USPS Marketing Mail parcels and Parcel Select pieces entered as specified in the Domestic Mail Manual.

b. Bulk Insurance provides indemnity for the lesser of: the actual value of the article at the time of mailing, or the wholesale cost of the contents to the sender. For Bulk Insurance, all claims must be filed by the mailer.

1505.9.2 Prices

Merchandise Coverage[1, 2, 3]

($)		($)	($)
0.01	to	50.00	2.45
50.01	to	100.00	3.15
100.01	to	200.00	3.85
200.01	to	300.00	5.05
300.01	to	400.00	6.40
400.01	to	500.00	7.65
500.01	to	600.00	10.35
600.01	to	5,000.00	10.35 plus 1.55 for each 100.00 or fraction thereof over 600.00
Additional Fee for Optional Feature			
Insurance Restricted Delivery			5.85

Notes

1. Up to $50.00 of Insurance coverage is included at no additional cost in the price of Priority Mail pieces that bear an Intelligent Mail package barcode or retail tracking barcode. This does not apply to Priority Mail pieces sent using Priority Mail Open and Distribute, or Premium Forwarding Service, or as non-prepaid returns.

2. Up to $100.00 of Insurance coverage is included at no additional cost in the price of Priority Mail pieces that bear an Intelligent Mail package barcode and for which the mailer pays Commercial Plus prices or uses ePostage, Electronic Verification System, Hardcopy Manifest, or an approved Manifest Mailing System. This does not apply to Priority Mail pieces sent using Priority Mail Open and Distribute~~,~~ or Premium Forwarding Service, or as non-prepaid returns

3. For Priority Mail Express pieces, Insurance coverage for merchandise is included at no additional cost in the price of Priority Mail Express, up to $100.00 per piece.

Bulk Insurance

Subtract $0.80 per piece from the applicable price for Merchandise Coverage.

1505.11 Parcel Airlift (PAL)

1505.11.1 Description

a. Parcel Airlift service provides for air transportation of Package Services and Parcel Select, on a space available basis to or from military Post Offices outside the contiguous 48 states.

b. The minimum physical limitations for Package Services or Parcel Select mail apply to Parcel Airlift mail. The parcel may not exceed 30 pounds in weight, or 60 inches in length and girth combined.

c. Conditions for forwarding and return are specified in the Domestic Mail Manual.

1505.11.2 Prices

	($)
For pieces weighing:	
Not more than 2 pounds	1.00
Over 2 but not more than 3 pounds	1.65
Over 3 but not more than 4 pounds	2.25
Over 4 but not more than 30 pounds	2.90

1505.12 Registered Mail

1505.12.1 Description

a. Registered Mail service provides added protection to First-Class Mail, First-Class Package Service, and Priority Mail pieces, and provides indemnity in case of loss, damage, or missing contents. The amount of indemnity depends upon the actual value of the article at the time of mailing, up to a maximum of $50,000.00. Articles with a declared value of more than $50,000.00 can be registered, but compensation for loss, damage, or missing contents is limited to $50,000.00.

b. Registered Mail service also provides the mailer with a mailing receipt and electronic confirmation of the location, date, and time of delivery or attempted delivery. If the initial attempt to deliver the mailpiece is not successful, a notice of attempted delivery is provided to the addressee. A notice of nondelivery is provided when a Registered Mail piece is undeliverable-as-addressed and cannot be forwarded.

c. Registered Mail service also provides, as optional features at an additional fee:

   Registered Mail Restricted Delivery which directs delivery only to the addressee or addressee's agent. The addressee must be an individual (a natural person) specified by name.

   Registered COD which receives COD treatment for mail handled the same as other Registered Mail. The maximum amount collectible from the recipient on one article is $1,000.00. Indemnity is included up to the registry limit of $50,000 by paying the registry fee for the value declared. The total fees charged for registered COD service include the proper registry fee for the value declared plus the registered COD fee. The mailer must declare the full value of the article being mailed, regardless of the amount to be collected from the recipient.

d. If the item is successfully delivered, the Postal Service maintains a record of delivery (including the recipient's signature) for 2 years. If the item is undeliverable-as-addressed or returned to the sender, the Postal Service does not retain the sender's return signature as part of the record of delivery.

e. Electronic confirmation notices may be obtained over the internet, by telephone, via mobile smartphone application, or by electronic file transfer for mailers who provide an electronic manifest.

f. Registered Mail is forwarded and returned without an additional registry charge.

g. Restrictions on the availability of Registered Mail service may apply, and specific mail preparation requirements must be met.

h. Indemnity claims for Registered Mail must be filed within a specified period of time from the date the article was mailed. A claim concerning complete loss of registered articles may be filled by the mailer only. A claim concerning damage to or partial loss of registered articles may be filed by either the mailer or addressee.

i. Registered Mail service is only available at the time of mailing and may only be purchased by presenting the article at a Post Office, branch, station, or business mail entry unit.

1505.12.2 Prices

	($)		($)	($)
Declared Value:				
	0.00			13.75
	0.01	to	100.00	14.35
	100.01	to	500.00	16.50
	500.01	to	1,000.00	18.35
	1,000.01	to	2,000.00	20.20
	2,000.01	to	3,000.00	22.05
	3,000.01	to	4,000.00	23.90
	4,000.01	to	5,000.00	25.75
	5,000.01	to	15,000,000.00	25.75 plus 1.85 for each 1,000.00 or fraction thereof over 5,000.00
	Greater than		15,000,000.00	27,766.50 plus amount determined by the Postal Service based on weight, space, and value
Additional Fees for Optional Features:				
Registered Mail Restricted Delivery				5.85
Registered COD				6.60

1505.13 Return Receipt

1505.13.1 Description

a. A Return Receipt may be requested only at the time of mailing and provides a mailer with evidence that a mailpiece has been received at the delivery address, including an original (hardcopy) or electronic copy of the recipient's signature.

b. Return Receipt service is available with:

- Priority Mail Express (hardcopy PS Form 3811 only);
- First-Class Mail and First-Class Package Service when purchased at the time of mailing with Adult Signature (hardcopy PS Form 3811 only), Certified Mail, COD, Registered Mail, or insurance for more than $500.00 (hardcopy PS Form 3811 only);
- Priority Mail (when purchased at the time of mailing with Adult Signature (PS Form 3811 only), Certified Mail, COD, Insured mail for more than $500.00, or Registered Mail);
- Priority Mail (hardcopy PS Form 3811) when purchased at the time of mailing with Adult Signature or insurance for more than $500.00, or Priority Mail with Certified Mail, COD, or Registered Mail;
- USPS Marketing Mail (hardcopy PS Form 3811 only); when purchased at the time of mailing with bulk insurance for more than $500.00 and prepared as parcels);
- Parcel Select Lightweight (hardcopy PS Form 3811 only); when purchased at the time of mailing with Adult Signature or bulk insurance for more than $500.00;
- USPS Retail Ground and Package Services when purchased at the time of mailing with COD, or insurance for more than $500.00 (hardcopy PS Form 3811 only); and
- Parcel Select, except Parcel Select Lightweight when purchased at the time of mailing with COD, or (hardcopy PS Form 3811) with insurance for more than $500.00 or Adult Signature (Parcel Select Ground only).

c. Mailers requesting Return Receipt service will be provided with an original or electronic copy of the signature of the recipient, the date delivered, and the address of delivery (if different from the address on the mailpiece).

1505.13.2 Prices

	($)
Original signature (hardcopy)	3.05
Copy of signature (electronic)	1.85

1505.14 [Reserved]

1505.15 [Reserved]

1505.16 Shipper-Paid Forwarding/Return

1505.16.1 Description

a. Shipper-Paid Forwarding/Return service enables mailers to have undeliverable-as-addressed parcels, initially mailed as USPS Marketing Mail (Commercial and Nonprofit) parcels, Package Services, Parcel Select, or USPS Retail Ground, to be forwarded at applicable First-Class Package Service or Priority Mail prices for up to one year from the date that the addressee filed a change-of-address order.

b. If Shipper-Paid Forwarding/Return service is elected for a parcel that is returned, the permit holder will pay the applicable First-Class Package Service or Priority Mail price, or the Bulk Parcel Return Service price, if that service was elected.

c. Shipper-Paid Forwarding/Return service is available only if automated Address Correction Service is used.

d. Mailers must receive authorization from the Postal Service to use Shipper-Paid Forwarding/Return service and, if an advance deposit account is used, pay an advance deposit account maintenance fee.

1505.16.2 Prices

	($)
Account Maintenance Fee (per year)	800.00

1505.17 Signature Confirmation

1505.17.1 Description

a. Signature Confirmation service provides mailers of First-Class Package Service, Package Services, Parcel Select (except Parcel Select Lightweight), USPS Retail Ground, and Priority Mail pieces with a record of delivery, the recipient's signature, and end-to-end tracking updates as the item travels to its destination. If the initial attempt to deliver the item is not successful, a notice of attempted delivery will be provided to the addressee.

b. If the item is successfully delivered, a delivery record (including the signature of the recipient) is maintained by the Postal Service for one year. If the item is returned to the sender, the Postal Service does not include the sender's return signature as part of the delivery record. An electronic copy of the delivery record is available upon request.

c. Tracking updates may be obtained over the internet, by telephone, via mobile smartphone application, or by electronic file transfer for mailers who provide an electronic manifest. Tracking updates include the location, date, and time of: delivery or attempted delivery; the item's arrival and departure from certain postal facilities; and if the item is forwarded or returned to the sender.

d. Signature Confirmation service may only be obtained: online; by taking the item to a Post Office, branch, station, self-service kiosk, or business mail entry unit; or by giving the item to a rural carrier.

e. Signature Confirmation service must be requested at the time of mailing.

f. Signature Confirmation service also provides, as an optional feature at an additional fee:

Restricted Delivery which directs delivery only to the addressee or addressee's agent. The addressee must be an individual (a natural person) specified by name.

1505.17.2 Prices

	($)
Electronic	2.90
Retail	3.45
Additional Fee for Optional Feature:	
Signature Confirmation Restricted Delivery	5.85

1505.18 Special Handling

1505.18.1 Description

a. Special Handling service may be requested at the time of mailing, based on the content and class of mail, and provides preferential handling of Priority Mail Express, First-Class Mail, First-Class Package Service, Priority Mail (except Critical Mail), Package Services, USPS Retail Ground, and Parcel Select (except Parcel Select Lightweight) pieces, to the extent practicable during dispatch and transportation.

b. Special Handling service is mandatory for matter that requires special attention in handling, transportation and delivery.

c. If undeliverable-as-addressed, Special Handling mail that is forwarded to the addressee is given special handling without requiring payment of an additional handling fee. However, additional postage at the applicable price is collected from the addressee on delivery.

1505.18.2 Prices

	($)
Fragile	12.15

1505.19 Stamped Envelopes

1505.19.1 Description

Plain Stamped Envelopes and Personalized Stamped Envelopes are envelopes with imprinted or impressed First-Class Mail postage. Personalized Stamped Envelopes, including the premium options, may be obtained by special request.

1505.19.2 Prices

	($)
Plain stamped envelopes	
Basic, size 6-3/4, each	0.15
Basic, size 6-3/4, 500	19.55
Basic, over size 6-3/4, each	0.15
Basic, over size 6-3/4, 500	22.30
Personalized stamped envelopes	
Basic, size 6-3/4, 50	6.50
Basic, size 6-3/4, 500	30.05
Basic, over size 6-3/4, 50	6.50
Basic, over size 6-3/4, 500	34.05
Additional Charges for premium options, per 50 envelopes	
Pressure-sensitive sealing	5.90
Font size, font style, and/or ink color (for one, two, or all three)	1.20
Window	1.20
Additional Charges for premium options, per 500 envelopes	
Pressure-sensitive sealing	17.30
Font size, font style, and/or ink color (for one, two, or all three)	2.45
Window	2.45

	($)
Shipping—Boxes of 50	
1 box	6.05
2 boxes	7.40
3 boxes	8.75
4 boxes	9.90
5 boxes	12.20
6 boxes	13.10
7 boxes	14.55
8 boxes	16.00
9 or more boxes	18.20
Shipping—Boxes of 500	
1 box	11.15
2 or more boxes	18.20

1505.20 Stamped Cards

1505.20.1 Description

Stamped Cards are postcards with imprinted or impressed First-Class Mail postage. Double Stamped Cards consist of two attached postcards, one of which may be detached by the receiver and returned by mail as a single Stamped Card. The premium options allow customization of large orders for an additional charge.

1505.20.2 Prices

	($)
Single card	0.05
Double reply-paid card	0.10
Sheet of 40 cards (uncut)	2.00
Pack of 10 sheets of 4 cards each	2.25
Premium Options (Additional Charge)	**($)**
Per order of 250 cards	
Printing of return address	21.50
Font size, font style, and/or ink color (for one, two, or all three)	1.10
Monogram	1.10
4-Color logo – first 250 cards	88.00
4-Color logo – additional 250 cards	5.45
Per Order of 1,000 cards	
Printing of return address	54.00
Font size, font style, and/or ink color (for one, two, or all three)	2.15
Monogram	2.15
4-Color logo – first 1,000 cards	93.00
4-Color logo – additional 1,000 cards	10.95

1505.21 Premium Stamped Stationery

1505.21.1 Description

Premium Stamped Stationery is decorated stationery with imprinted or impressed First-Class Mail postage.

1505.21.2 Prices

Per Unit	($)
Minimum	2 times the First-Class Mail price imprinted on the stationery
Maximum	3 times the First-Class Mail price imprinted on the stationery

1505.22 Premium Stamped Cards

1505.22.1 Description

Premium Stamped Cards are postcards with imprinted or impressed First-Class Mail postage, decorated on the reverse side.

1505.22.2 Prices

Per Card	($)
Minimum	1 times the First-Class Mail price imprinted on the card
Maximum	3 times the First-Class Mail price imprinted on the card

1510 International Ancillary Services

1510.1 International Certificate of Mailing

1510.1.1 Description

International Certificate of Mailing service furnishes evidence that mail has been presented to the Postal Service for mailing. It is available for unregistered outbound First-Class Mail International items.

1510.1.2 Prices

Individual Piece Prices

	($)
Original certificate of mailing for listed pieces of ordinary Single-Piece First-Class Mail International items	1.65
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.47
Each additional copy of original certificate of mailing or firm mailing bills (each copy)	1.65

Multiple Piece Prices

	($)
Up to 1,000 identical-weight pieces (one certificate for total number)	9.35
Each additional 1,000 identical-weight pieces or fraction thereof	1.20
Duplicate copy	1.65

1510.2 International Registered Mail

1510.2.1 Description

Outbound International Registered Mail

a. Outbound International Registered Mail service provides additional protection and security in dispatch and conveyance in the United States for items mailed as First-Class Mail International. In the United States, registered mail items are handled separately from all other mail and are kept in a secure area with restricted access. In destination countries, registered mail items are handled in accordance with the internal procedures of the destination country.

b. Registered items may weigh up to 4 pounds.

c. For each registered item a mailing receipt is issued by the office of mailing and a record of delivery is maintained at the office of destination.

d. Regardless of the declared value of a registered item, the maximum amount of indemnity payable for loss, damage, or missing contents is limited to the amount set by UPU Letter Post Regulations Article RL 155.4. This information is available in the Letter Post Manual at www.upu.int.

e. Outbound International Registered Mail service is subject to both U.S. Postal Service requirements specified in the International Mail Manual and the prohibitions and restrictions of the destination country.

Inbound International Registered Mail

a. Inbound International Registered Mail Service is available for inbound letter post items. Inbound Registered Mail pieces are entered, identified, and accepted at the International Service Center and are conveyed in the domestic First-Class Mail stream to the office of delivery. A signed receipt is obtained at the time of delivery. Indemnity in the event of loss or damage is limited to the amount set by the Universal Postal Convention. Inbound Registered Mail service is subject to both the regulations of the country of origin and U.S. Postal Service. Indemnity between administrations is reciprocal.

1510.2.2 Prices

Outbound International Registered Mail Prices

	($)
Per Piece	17.15

Inbound International Registered Mail Prices

Payment is made in accordance with Part III of the Universal Postal Convention. This information is available in the Letter Post Manual at www.upu.int.

1510.3 International Return Receipt

1510.3.1 Description

Outbound International Return Receipt

a. Outbound International Return Receipt service provides evidence to the mailer that an article has been received at the delivery address. The return receipt, which is attached to the article mailed, is signed at the point of delivery and is returned to the sender.

b. Outbound International Return Receipt service is available for registered outbound First-Class Mail International items.

c. Outbound International Return Receipt must be purchased at the time of mailing.

Inbound International Return Receipt

a. Inbound International Return Receipt service provides evidence to the mailer that an article has been received at the delivery address. A return receipt is signed for at the point of delivery and is returned to the sender.

b. International Return Receipt service is available for registered letter post items.

1510.3.2 Prices

Outbound International Return Receipt Prices

	($)
Per Piece	4.75

Inbound International Return Receipt Prices

No additional payment.

1510.4 Customs Clearance and Delivery Fee

1510.4.1 Description

The Postal Service collects a fee on each inbound package on which Customs duty or Internal Revenue tax is collected.

1510.4.2 Prices

	($)
Per Dutiable Item	7.05

1515 Address Management Services

1515.1 Description

Address Management Services ensure that address elements and address lists are correct and up-to-date. In addition to providing software or information about ZIP Code lists, addresses, or moves, the services also include certifying systems to ensure that the proper address information is used. Some services allow the purchaser or licensee to make unlimited copies or to make additional copies for a fee.

Address Sequencing

Address Sequencing service provides for the removal of incorrect addresses, notation of missing addresses, and addition of missing addresses.

AEC II (Address Element Correction II) Service

AEC II Service sends addresses with errors that cannot be resolved through other Address Management services to the field for resolution based on knowledge of delivery personnel. The mailer is provided with the correct address or with information that the address is not a recognized deliverable address.

AIS (Address Information System) Viewer

The AIS Viewer is an interactive software that provides the ability to retrieve, view, and print accurate and current ZIP Code information for all 50 states on demand, eliminating hardcopy reports.

CRIS (Carrier Route Information System)

The CRIS service provides reference information needed to apply carrier route codes to addresses. Copying is allowed for an additional fee.

CASS (Coding Accuracy Support System) Certification

CASS evaluates and certifies the accuracy of address-matching software that applies ZIP + 4, DPV (Delivery Point Validation), LACS^{Link} (Locatable Address Conversion Service), CRIS (Carrier Route Information System), DSF^{2} (Delivery Sequence File—2nd Generation), eLOT (enhanced Line of Travel), RDI (Residential Delivery Indicator) and Five-Digit ZIP. The Postal Service certifies software meeting its standards until the expiration of the applicable CASS cycle. Software must be re-certified for each CASS cycle. Ordinarily, a CASS testing cycle extends from August 1st through July 31st of the next year, and permits software use until the following July 31st.

Change-of-Address Customer Notification Letter Reprint

Change-of-Address Customer Notification Letter Reprint provides customers with a copy of the letter that is sent to the customer's new address following the filing of a Change-of-Address order with the Postal Service.

Change-of-Address Information for Election Boards and Registration Commissions

Change-of-Address Information for Election Boards and Registration Commissions service provides election boards and voter registration commissions with the current address of a resident addressee, if known to the Postal Service.

City State

The City State service is a comprehensive ZIP Code list associated with the appropriate city, county, and Post Office names. Copying is allowed for an additional fee.

CDS (Computerized Delivery Sequence)

CDS service provides and updates delivery sequence address information by carrier route for qualified mailers. The CDS No Stat service provides and updates nondelivery address information about new construction and rural route vacancies by carrier route for qualified mailers.

Correction of Address Lists

Correction of Address Lists service provides current information concerning name and address mailing lists or correct information concerning occupant mailing lists to certain owners of such lists. New names will not be added to a name and address mailing list, and street address numbers will not be added to or changed for an occupant mailing list.

Delivery Statistics

The Delivery Statistics service provides statistical information regarding delivery by carrier route and Post Office Box section. Copying is allowed for an additional fee.

DPV (Delivery Point Validation) System

The DPV System, in conjunction with CASS Certified address matching software, validates delivery points. Unlimited sub-licensing is allowed by software developers without further payment.

DSF^2 (Delivery Sequence File—2nd Generation) Service

The DSF^2 Service is used to check mailing address accuracy, identify address types, and obtain walk sequence numbers. The DSF^2 database is the most complete Postal Service address database available, containing every deliverable mailing address in the United States, and is used to: verify that address lists are correct and complete, identify business versus residential addresses, recognize commercial mail receiving agencies, provide walk sequence numbers and postal codes, identify seasonal addresses, detect addresses vacant for over 90 days, and categorize addresses by delivery type, *e.g.,* curb, door slot, box, etc. DSF^2 processing includes address standardization that may be used to apply for CASS (Coding Accuracy Support System) qualification.

eLOT (enhanced Line of Travel) Service

eLOT service gives mailers the ability to sort their mailings in approximate carrier-casing sequence. Copying is allowed for an additional fee.

Five-Digit ZIP

The Five-Digit ZIP service provides detailed street data for multi-coded cities (*i.e.,* cities that have more than one 5-Digit ZIP Code number), so that the proper ZIP Code number can be identified. Copying is allowed for an additional fee.

Labeling Lists

Labeling Lists contain destination ZIP Code numbers with the corresponding Postal Service facility destination information. Copying is allowed for an additional fee.

LACS^{Link} (Locatable Address Conversion Service)

LACS^{Link} service provides mailers an automated method of obtaining new addresses when rural style addresses are converted to streetstyle addresses. The three types of licenses are:

- Interface Developer which grants the right to develop an interface between address-matching software and the LACS^{Link} database service;
- Interface Distributor which grants the right to sub-license the interface and the LACS^{Link} database service to third parties; and
- End User which grants the right to obtain the LACS^{Link} database service directly from the Postal Service for use in updating mailing lists.

MAC (Manifest Analysis and Certification) Batch System Certification

The MAC Batch System Certification service evaluates and certifies that manifest/presort mailing products accurately list and calculate postage for presorted non-identical piece mailings consistent with DMM, IMM and Manifest Mailing System processing standards. Software is certified until the expiration of the applicable MAC Batch System cycle.

MAC (Manifest Analysis and Certification) Gold System Certification

The MAC Gold System evaluates and certifies that manifest mailing systems (software, weigh scales, and label printers) accurately list and calculate postage for non-identical piece mailings consistent with DMM, IMM and Manifest Mailing system itemized pricing standards. Software is certified until the expiration of the applicable MAC Gold System cycle.

MAC (Manifest Analysis and Certification) System Certification

The MAC System evaluates and certifies that manifest mailing software accurately lists and calculates postage for non-identical piece mailings consistent with DMM, IMM and Manifest Mailing System standards, until the expiration of the applicable MAC System cycle.

MASS (Multiline Accuracy Support System) Certification

MASS provides certification for multiline optical character readers, remote video encoding, local video encoding, and encoding stations (equipment). The MASS certification process is designed to evaluate the ability of the equipment to process address information using CASS (Coding Accuracy Support System) Certified™ software, and apply an accurate delivery point barcode to a mailpiece. The Postal Service separately certifies the equipment for a manufacturer and the user. Certified equipment can be used until the expiration of the applicable MASS cycle. Ordinarily, a MASS testing cycle extends from August 1st through July 31st of the next year, and permits use until the following July 31st. One-half the applicable fee is charged for recertification of a machine due to a move, transfer, or upgrade of the system.

NCOA^{Link} (National Change of Address) Service

The NCOA^{Link} service makes change-of-address information for moves available to mailers. The six types of licenses are:

- NCOA^{Link} Interface Developer which grants the right to develop a software interface between address-matching software and the NCOA^{Link} service database;
- NCOA^{Link} Interface Distributor which grants the right to unlimited sublicensing of software interfaces developed pursuant to an NCOA^{Link} Interface Developer License;
- NCOA^{Link} Full Service Provider (FSP) which grants the right to perform address list updating services for both the licensee and third party mailers using 48 months of change-of-address data. Postal Service database services such as DPV and LACS^{Link} are included;
- NCOA^{Link} Limited Service Provider (LSP) which grants the right to perform address list updating services for third party mailers, as well as for licensee's own mail using 18 months of change-of-address data;
- NCOA^{Link} End User Mailer (EUM) which grants a mailer the right to perform address list updating for its own mail using 18 months of change-of-address data; and
- NCOA^{Link} Mail Processing Equipment (MPE) which grants a mailer the right to perform address updating directly onto its mailpieces using 18 months of change-of-address data and a multiline optical character reader (MLOCR).

The Postal Service tests the systems under the Developer, FSP, LSP, and MPE licenses to ensure that they meet Postal Service performance requirements.

NCOA^{Link} (National Change of Address) Service—ANK^{Link} (Address Not Known) Service Option

ANK^{Link} provides an option for NCOA^{Link} Limited Service Provider and End User Mailer licensees to acquire an additional 30 months of change-of-address information. ANK^{Link} informs mailers that a customer has moved, along with the move effective date. It does not provide the new address.

Official National Zone Charts

The Official National Zone Charts identify the appropriate distance code assigned to each originating and destination pairing for every ZIP Code in the nation. Copying is allowed for an additional fee.

PAGE (Presort Accuracy, Grading, and Evaluation) System Certification

The PAGE System evaluates and certifies the accuracy of publication and print planning (PPP) software that calculates virtual copy weight and the percentage of advertising consistent with DMM Periodicals price computation standards, and certifies users of PPP software who demonstrate knowledge of the software for Periodicals mailings based on DMM standards and applicable Postal Service Customer Support Rulings. Software and users are certified until the expiration of the applicable PAGE cycle.

PAVE (Presort Accuracy, Validation, and Evaluation) System Certification

The PAVE System evaluates and certifies the accuracy of presort software that sorts mailing lists consistent with DMM mail preparation standards. Software is certified until the expiration of the applicable PAVE cycle.

RDI (Residential Delivery Indicator) Service

The RDI data service verifies whether a delivery type is classified as residential or business. Copying is allowed for an additional fee.

Z4CHANGE

The Z4CHANGE service provides the information necessary to facilitate frequent and cost-effective updating of very large computerized mailing lists for automation compatibility and improved deliverability. Copying is allowed for an additional fee.

Z4INFO

Z4INFO is an add-on utility to the ZIP + 4 service that can be integrated into address-matching software to improve address quality.

ZIP + 4 Service

The ZIP + 4 service is the base reference that can be used to assign the correct ZIP + 4 Code associated with a physical address. Copying is allowed for an additional fee.

ZIPMove

The ZIPMove data file assists address-matching software in providing up-to-date, accurate ZIP + 4 codes. Copying is allowed for an additional fee.

ZIP Code Sortation of Address Lists

ZIP Code Sortation of Address Lists service provides sortation of addresses to the finest possible ZIP Code level.

99 Percent Accurate Method

The 99 Percent Accurate Method provides testing of mailers' address lists to determine how up-to-date the lists are. Lists deemed to meet threshold requirements are considered to be Move Update compliant.

1515.2 Prices

	($)
Address Sequencing	
Per correction (removal of each undeliverable address, or addition of each missing or new address)	0.52
Insertion of blanks	0.00
AEC II Service	
1-100 records resolved, minimum fee	39.00
Additional records resolved, per record	0.39
AIS (Address Information System) Viewer (per year, per site)	
City State Delivery Type Retrieval Annual Subscription	95.00
County Name Retrieval Annual Subscription	95.00
Delivery Statistic Retrieval Annual Subscription	120.00
ZIP + 4 Retrieval Annual Subscription	95.00
CRIS Route (per year)	
Per state (annual subscription)	70.00*
All States (annual subscription)	1,100*
CASS Certification	
Cycle Testing: (for next cycle) August-January	200.00
Cycle Testing: February, March	500.00
Cycle Testing: April	600.00
Cycle Testing: May	700.00
Cycle Testing: June	800.00
Cycle Testing: July	900.00
Cycle Testing: (for current cycle) After July 31st	1,000.00

	($)
Change-of-Address Information for Election Boards and Registration Commissions	
Per change of address	0.52
Change-of-Address Customer Notification Letter Reprint	60.00
City State (per year)	
All States (annual subscription)	450.00*
CDS (per address, per year)	0.014
Minimum (per year)	70.00
Correction of Address Lists	
Per submitted address	0.52
Minimum charge per list (30 items)	15.60
Delivery Statistics (per year)	
All States (annual subscription)	465.00*
DMM Labeling Lists	71.00*
DPV System (per year)[3]	13,200.00
DSF[2] Service (per year)[4]	132,000.00
Each additional location per year	66,000.00
Each additional platform per location per year	66,000.00
eLOT Service (per year)	
Per state (annual subscription)	70.00*
All States (annual subscription)	1,100.00*

	($)
Five-Digit ZIP (per year)	
All States (annual subscription)	650.00*
LACS[Link5]	
Interface Developer (first year)	1,350.00[6]
Interface Developer (each one-year extension)	400.00[6]
Interface Distributor (per year)	1,550.00[7]
Data Distributor (per year)	400.00
End User (per year)	400.00[8]
MASS Certification	
MASS Manufacturers (MLOCR)	
Cycle Testing: (for next cycle) November – June	500.00[9]
Cycle Testing: July	1,000.00[9]
Cycle Testing: (for current cycle) After July 31st	1,500.00[10]
MASS End-Users (MLOCR)	
Cycle Testing: (for next cycle) March – June	500.00[9]
Cycle Testing: July	1,000.00[9]
Cycle Testing: (current cycle) After July 31st	1,500.00[10]
MASS Manufacturers (Encoder)	
Cycle Testing: (for next cycle) November – June	300.00[9]
Cycle Testing: July	750.00[9]
Cycle Testing: (for current cycle) After July 31st	1,000.00[10]
MASS End-Users (Encoder)	
Cycle Testing: (for next cycle) March – June	300.00[9]
Cycle Testing: July	750.00[9]
Cycle Testing: After July 31st	1,000.00[10]
MASS IMb Quality Testing	300.00

	($)
NCOA[Link] Service[11]	
Initial Interface Developer (first year fee)	7,350.00
Interface Developer (per each one year extension)	1,500.00
Interface Distributor (per year)	35,500.00
Full Service Provider (per year)	245,000.00
Full Service Provider Each Additional Site (per year)	121,000.00
Limited Service Provider (per year)	20,600.00
Limited Service Provider (per each one year extension)	
One Site only	20,600.00
Each additional site	10,300.00
ANKLink Service Option (per year)	
First Site	4,850.00
Each Additional Site	2,250.00
End User/MPE (first year)	10,300.00
End User/MPE (each renewal year)	
One site (each site for MPE)	10,300.00
Each additional site (End User only)	4,850.00
ANK[Link] Service Option (per year)	1,100.00
NCOA[Link] Test, Audit (each)	1,500.00
Official National Zone Charts (per year)	
Matrix	70.00*
RDI Service (per year)[1]	415.00*
Z4 Change (per year)	
All States	3,950.00*
ZIP + 4 Service (per year)	
Per state (annual subscription)	70.00*
All States (annual subscription)	1,100.00*

	($)
ZIP Code Sortation of Address Lists	
Per 1,000 addresses, or fraction	170.00
ZIP Move (per year)	
All States (annual subscription)	145.00*
99 Percent Accurate Method (per 1,000 addresses per year)	1.35
Minimum (per year)	135.00

Notes

*. See AMS Price Table for Single Issues or Additional Copies appearing below.

1. When rural routes have been consolidated or changed to another Post Office, no charge will be made for correction if the list contains only names of persons residing on the routes involved.

2. Note number not to be used.

3. Fees are prorated for first year based on the Postal fiscal quarter ~~month~~ the agreement is executed.

4. Initial fee is prorated for first year based on the Postal fiscal quarter ~~month~~ the agreement is executed. There is no proration for additional locations or platforms.

5. Fees are prorated for the first year for LACS^{Link} Interface Distributor, Data Distributor, and End User based on the Postal fiscal quarter ~~month~~ the Postal Service certifies system. Interface Developer test fees are waived if part of CASS certification; otherwise, CASS test fees apply for stand-alone testing.

6. Interface Developer fees are waived for certified CASS and NCOA^{Link} Full Service Provider distributors fulfilling requirement to provide users access to LACS^{Link}.

7. Interface Distributor fee are waived for certified CASS distributor who provides End Users of LACS^{Link} Distributor products with access to LACS^{Link} System.

8. End User fee is waived for certified NCOA^{Link} Full Service Providers who fulfill requirement to offer LACS^{Link} as component of its products and services.

9. MASS fees are prorated at 50 percent of regular fee for new, transferred, or upgraded MLOCR/Encoder systems during testing cycle.

10. MASS fees are ~~pro~~ prorated at 50 percent of regular fee for new, transferred, or upgraded MLOCR/Encoder systems outside of testing cycle.

11. NCOA[Link] fees (excluding Interface Developer) are prorated for the first year based on ~~month~~ the Postal fiscal quarter the Postal Service certifies system. No proration for fees for additional sites.

AMS Price Table for Single Issues or Additional Copies

Address Management Services with an asterisk allow copying for an additional fee, and provide a single issue instead of an annual subscription for a reduced fee. The fee is calculated by multiplying the list price by a factor based on a single issue or the total number of copies to be made, as shown below.

Price* (per year, from above) x Factor corresponding to single issue or number of copies (far right column below) = $ Total Price (per year)

Number of Copies	*Price (from above)	Multiply by	Factor
Single Issue	*Price	x	0.75
1-100	*Price	x	2.0
101-200	*Price	x	4.0
201-300	*Price	x	6.0
301-400	*Price	x	8.0
401-500	*Price	x	10.0
501-600	*Price	x	12.0
601-700	*Price	x	14.0
701-800	*Price	x	16.0
801-900	*Price	x	18.0
901-1000	*Price	x	20.0
1001-10,000	*Price	x	25.0
10,001 – 20,000	*Price	x	30.0
20,001 – 30,000	*Price	x	35.0
30,001 and over	*Price	x	40.0
Unlimited quantity of any of the following: Five-Digit ZIP, City State, CRIS, Delivery Statistics, eLot, RDI Service, Z4Change, ZIPMove, ZIP + 4, DMM Labeling Lists, Official National Zone Charts	$12,000.00	n/a	n/a

1520 Caller Service

1520.1 Description

a. Caller Service provides a means for receiving mail, and enables an eligible customer to have properly addressed mail delivered through a call window or loading dock.

b. Caller Service is provided to customers at the discretion of the Postal Service, based on mail volume received and conditions at the location.

c. Caller Service is not available to a customer whose sole purpose for using this service is to obtain free forwarding or transfer of mail by filing change-of-address orders.

1520.2 Prices

	($)
Groups based on Post Office location (Semi-Annual):	
Group 1	885.00
Group 2	815.00
Group 3	750.00
Group 4	705.00
Group 5	670.00
Group 6	625.00
Group 7	595.00
Call Number Reservation (Annual[1])	61.00

Notes

1. For customers using the Enterprise PO Box Online system, the semi-annual and annual fees may be prorated one time to align payment periods for multiple caller service numbers. The prorated fee for each such caller service number will be based on the number of months between the expiration of the current fee and the month of the payment alignment.

1525 Credit Card Authentication

1525.1 Description

The Credit Card Authentication fee is charged when customers use a credit card to verify their identity to the Postal Service, and/or authenticate a credit card.

1525.2 Prices

	($)
Per credit card authentication	1.10

1535 International Reply Coupon Service

1535.1 Description

Inbound International Reply Coupon Service

Inbound International Reply Coupon Service allows a sender in member countries of the UPU to prepay a reply by purchasing reply coupons that are exchangeable for U.S. postage stamps. One coupon is exchangeable for the purchase of postage stamps and/or embossed stamped envelopes regardless of the country where they were purchased in accordance with UPU Letter Post Regulations Articles RL 142.2 and 142.3. This information is available in the Letter Post Manual at www.upu.int. International Reply Coupons for all administrations are bought and exchanged through the UPU.

1535.2 Prices

Inbound International Reply Coupon Service Prices

Payment is made in accordance with Part III of the Universal Postal Convention and associated UPU Letter Post Regulations. This information is available in the Letter Post Manual at www.upu.int.

1540 International Business Reply Mail Service

1540.1 Description

Outbound International Business Reply Mail Service

a. Outbound International Business Reply Mail Service (IBRS) allows a permit holder or its representative to distribute and deposit postcards and envelopes for return to the addressee in the United States without prepayment of postage.

b. A Business Reply Mail permit and payment of the prescribed accounting fee to participate in the Qualified Business Reply Mail program are required. The permit holder guarantees payment on delivery of postage and fees for the Business Reply Mail pieces that are returned to the addressee, including any pieces that the addressee refuses.

Inbound International Business Reply Mail Service

a. Inbound International Business Reply Mail Service (IBRS) provides for the return of properly distributed postcards and envelopes to addressees in other countries. Payment of postage and fees are the responsibility of the addressee.

1540.2 Size and Weight Limitations

Outbound Cards

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inches	0.007 inch	See Note 1
Maximum	6 inches	4.25 inches	0.016 inch	

Notes

1. Weight restrictions apply to the paper stock that is allowable for printing IBRS postcards as specified in the International Mail Manual.

Outbound Envelopes

	Length	Height	Thickness	Weight
Minimum	5.5 inches	3.5 inches	0.007 inch	none
Maximum	11.5 inches	6.125 inches	0.2 inch	2 ounces

1540.3 Prices

Outbound International Business Reply Mail Service Prices

	($)
Card	1.75
Envelope	2.25

Inbound International Business Reply Mail Service Prices

Payment is made in accordance with Universal Postal Convention Article 13. This information is available in the Letter Post Manual at www.upu.int.

1545 Money Orders

1545.1 Description

a. Money Order service provides the customer with an instrument for payment of a specified sum of money. The maximum value for which a domestic postal money order may be purchased is $1,000.00. Other restrictions on the number or dollar value of postal money order sales, or both, may be imposed by law or as specified in the Domestic Mail Manual.

b. A receipt for purchase is provided at no additional cost.

c. On the date of original issue, the Postal Service will replace, without charge, money orders that are spoiled or incorrectly prepared. After the date of original issue, the applicable money order fee is charged.

d. Inquiries or claims may be filed by the purchaser, payee, or endorsee.

1545.2 Prices

	($)		($)	($)
Domestic	0.01	to	500.00	1.45
Domestic	500.01	to	1,000.00	1.95
APO/FPO/DPO	0.01	to	1,000.00	0.50
Inquiry, including a copy of paid money order				6.95

1550 Post Office Box Service

1550.1 Description

a. Post Office Box service provides the customer with a locked receptacle for the receipt of mail during specified hours of access to the receptacle.

b. Two box keys are available upon payment of a refundable deposit. Additional keys, including replacement keys, will be provided upon payment of the key duplication or replacement fee and a refundable deposit. Changing the lock on a box is available upon request of the primary box customer and payment of the lock replacement fee. The lock replacement fee may also be charged as a late payment fee, regardless of whether the lock is changed.

c. Prorated prices are available for postal facilities primarily serving academic institutions or the students of such institutions.

d. The Postal Service may limit the number of Post Office Box receptacles occupied by any one customer.

e. Post Office Box service is not available to a customer whose sole purpose for using the service is to obtain free forwarding or transfer of mail by filing change-of-address orders.

f. The market dominant Post Office Box service is available at all locations that do not qualify as, or are not treated as, competitive Post Office Box service locations.

1550.2 Box Sizes

Box Size	Cubic Inches
1	under 296
2	296 to 499
3	500 to 999
4	1000 to 1999
5	2000 cubic inches and larger

1550.3 Price Categories

The following price categories are available for the product specified in this section:

- Regular – Fees depend on box size and Post Office location
- No Fee – When the Postal Service determines not to provide carrier delivery to customer's location
- Academic Institutions
- Ancillary Post Office Box Services

1550.4 Prices

Regular and No Fee

Box Size	Semi-annual Fees[1] (Groups based on Post Office location) ($)							
	1	2	3	4	5	6	7	E[2]
1	63.00	50.00	42.00	35.00	31.00	27.00	24.00	0.00
2	91.00	75.00	61.00	50.00	42.00	36.00	31.00	0.00
3	158.00	127.00	105.00	80.00	65.00	51.00	46.00	0.00
4	287.00	237.00	93.00	148.00	113.00	83.00	69.00	0.00
5	450.00	371.00	303.00	255.00	182.00	145.00	20.00	0.00

Box Size	3-Month Fees (Groups based on Post Office location) ($)						
	1	2	3	4	5	6	7
1	38.00	29.00	26.00	21.00	18.00	15.00	14.00
2	55.00	45.00	36.00	30.00	25.00	21.00	19.00
3	94.00	75.00	63.00	49.00	39.00	31.00	29.00
4	170.00	140.00	115.00	90.00	68.00	50.00	41.00
5	267.00	220.00	181.00	152.00	108.00	86.00	72.00

Notes

1. For customers using the Enterprise PO Box Online system, the semi-annual fees may be prorated one time to align payment periods for multiple boxes. The prorated fee for each such box will be based on the number of months between the expiration of the current fee and the month of the payment alignment.

2. When the Postal Service determines not to provide carrier delivery to a customer's physical address or business location that constitutes a potential carrier delivery point, as defined by the Postal Service, that customer becomes eligible for one Post Office Box at the Group E fee.

Postal Facilities Primarily Serving Academic Institutions or Their Students

Period of box use (days)	Price
95 or less	½ semiannual price
96 to 140	¾ semiannual price
141 to 190	Semiannual price
191 to 230	1 ¼ semiannual price
231 to 270	1 ½ semiannual price
271 to full year	Two times semiannual price

Ancillary Post Office Box Services

	($)
Key duplication or replacement	9.00
Lock replacement[1]	25.00
Key deposit	5.00

Notes

1. The lock replacement fee may also be charged as a late payment fee, regardless of whether the lock is changed.

1555 [Reserved]

1560 Stamp Fulfillment Services

1560.1 Description

Stamp Fulfillment Services provides the fulfillment of stamp orders placed by mail, phone, fax or online to the Stamp Fulfillment Services organization.

1560.2 Prices

Orders mailed to domestic United States destinations	**($)**
Orders up to $50.00	1.40[1], add 2.55[2] for custom orders
Orders over $50.00	2.00[1], add 2.55[2] for custom orders
Orders mailed to destinations outside of domestic United States	**($)**
Orders up to $50.00	7.45 add 2.55[2] for custom orders
Orders over $50.00	8.05 add 2.55[2] for custom orders

Notes

1. Fee does not apply if the comparable fee from the Philatelic Sales pricing section is being charged for the shipment of a combined order of stamps and philatelic items. Fee also does not apply for orders consisting solely of stamped cards with a printed return address, or stamps sent as part of a subscription, in which the customer agrees to purchase a series of items of a specified type, and establishes a means of payment in advance. If a customer requests expedited shipping, then the order will be shipped using Priority Mail Express, with actual postage charged instead of the listed fees.

2. A custom order is a stamp order in configurations other than those listed for each item in the USA Philatelic catalog.

1600 Negotiated Service Agreements

1600.1 Description

Negotiated service agreements between the Postal Service and a mailer for customer-specific rates or fees and/or terms of service may be provided for a defined period of time in accordance with the terms and conditions of a written contract. A price associated with a negotiated service agreement is a price not of general applicability. The terms of a negotiated service agreement can specify prepayment or other methods for payment of postage and fees.

1600.2 Negotiated Service Agreement Groups

- Domestic (1601)
- International (1602)

1601 Domestic

1601.1 Description

The Postal Service enters into contracts, on a mailer-specific basis, to provide domestic services and respective rates that are available only to mailers meeting defined eligibility requirements.

1601.2 Negotiated Service Agreement Groups

- [Reserved]

1601.4 [Reserved]

1601.5 [Reserved]

1602 International

1602.1 Description

The Postal Service enters into contracts, on a mailer-specific basis, to provide international services and respective rates that are available only to mailers meeting defined eligibility requirements.

1602.2 Negotiated Service Agreement Groups

- Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (1602.3)

1602.3 Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1

1602.3.1 Description

a. Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 provide prices for acceptance, transportation within the United States, and delivery of inbound Letter Post tendered by foreign postal operators. In particular, such agreements establish negotiated rates for inbound priority and/or non-priority letter trays, bags, and/or containers, including transit items. These items may also include direct entry letters and flats bearing domestic postage and indicia. Such agreements may also establish negotiated rates for services ancillary to such items and for customized market-dominant services developed for application solely in the context of the agreement.

b. Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 may set forth general operating terms and conditions, on-time delivery and scanning service performance targets and standards, specifications for mail product categories and formats, processes for indemnity, and shared transportation arrangements that modify the requirements generally applicable to the services covered by each agreement.

c. Items tendered under Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 items are either sealed or not sealed against inspection, according to the general nature of each underlying service.

1602.3.2 Size and Weight Limitations

Size and weight requirements are the requirements for any applicable type of inbound Letter Post, subject to any applicable country-specific modifications.

1602.3.3 Price Categories

The following price categories are available for the product specified in this section:

- Bilateral/Multilateral Agreements

1602.3.4 Optional Features

The Postal Service may offer such optional features as may be mutually agreed with the relevant foreign postal operator.

1602.3.5 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1
  Baseline Reference
  Docket Nos. MC2010-35, R2010-5 and R2010-6
  PRC Order No. 549, September 30, 2010
  Included Agreements

1602.4 [Reserved]

1602.5 [Reserved]

1602.6 [Reserved]

1700 Nonpostal Services

1700.1 Description

A Nonpostal Service is any service authorized by the Commission that is not a postal service. A service is any ongoing, commercial activity offered to the public for the purpose of financial gain.

1700.2 Nonpostal Service Groups

- Alliances with the Private Sector to Defray Cost of Key Postal Functions (1701)
- Philatelic Sales (1702)

1701 Alliances with the Private Sector to Defray Cost of Key Postal Functions

1701.1 Description

Alliances with the Private Sector to Defray Cost of Key Postal Functions service includes alliances or agreements with private sector entities for the provision of a core postal function or the funding of the function. The costs of the alliance or agreement are defrayed through activity of the private sector entity. Any revenues in excess of costs of the alliance or agreement are shared between the entity and the Postal Service. The Postal Service does not charge its customers for the core postal function.

1701.2 Price Categories

The following price categories are available for the product specified in this section:

- MoverSource—MoverSource is an alliance that supports the system whereby the Postal Service processes and confirms change-of-address information it receives from customers who wish to have their mail forwarded. Customers receive move-related advertising and general information about moving. Customers do not pay for the change-of-address function. The Postal Service shares in the net revenue of the agreement.

- WhitePages—WhitePages is an agreement that allows users of usps.com to access information about the locations, hours, phone numbers, and operations of and services available at post offices nationwide. The users of usps.com connect with WhitePages website which has been customized to provide the post office information. WhitePages solicits advertising that is shown on its website. Customers do not pay for the post office information. The Postal Service shares in any net revenue from the agreement.

1701.3 Prices

The Postal Service receives a negotiated share of net revenue after costs.

1702 Philatelic Sales

1702.1 Description

Philatelic items are stamp-related items that support the hobby of stamp collecting. They are intended to be collected by serious, casual and topical collectors and typically include a postage stamp or stamps. Examples of philatelic items include first day covers, ceremony programs, uncut press sheets, framed stamps, binders for storing stamps, stamp yearbooks, and philatelic guides.

1702.2 Prices

	($)
All items	Not less than face value of included postage, and not more than face value of included postage plus 300.00[1]
Handling—Orders mailed to domestic (United States) destinations[2]	
Orders up to $50.00	1.25; add $2.00 for custom orders
Orders over $50.00	1.75; add $2.00 for custom orders
Handling—Orders mailed to non-domestic (outside the United States) destinations[2]	
Orders up to $50.00	6.25; add $2.00 for custom orders
Orders over $50.00	6.75; add $2.00 for custom orders
Expedited service	Actual Priority Mail Express postage

Notes

1. Maximum price limit does not apply if price is determined using an auction.

2. There is no handling charge for philatelic items sent as part of a subscription for a series of philatelic items of a specified type, with a means of payment established in advance. The custom order fee is applied to stamp sales, including press sheets, when the customer requests configurations other than those listed for each item in the USA Philatelic catalog, specific plate positions, or special handling. The custom order fee does not apply to philatelic items, other than press sheets, or subscription program orders.

1800 Market Tests

The Postal Service may conduct market tests of experimental products pursuant to 39 U.S.C. § 3641. Generally, a market test may be conducted over a period not to exceed 24 months. The Postal Service identifies the product as either market dominant or competitive consistent with the criteria under 39 U.S.C. § 3642(b)(1). For informational purposes all market dominant product market tests are tracked under this section.

1801 Plus One

Reference
Docket No. MT2019-1
PRC Order No. 5239, September 20, 2019
Expires
September 30, 2021

1802 Commercial PO Box Redirect Service

Reference
Docket No. MT2020-1
PRC Order No. 5528, June 3, 2020
Expires
June 8, 2022

1803 Extended Mail Forwarding

Reference
Docket No. MT2020-2
PRC Order No. 5591, July 20, 2020
Expires
August 1, 2022

ATTACHMENT B

WORKSHARE DISCOUNTS AND PASSTHROUGHS

Please see "Attachment B R2021-2.xlsx", which has been filed alongside this Notice on the PRC docketing website.

ATTACHMENT C

PRICE CAP CALCULATION

ATTACHMENT C: PRICE CAP CALCULATION

Calculation of amount of applicable change in CPI-U and Price Cap

	CPI [1]	Last 12 Months Point-to-Point [2]	12-Month Total [3]	12-Month Total Divided by 12 [4]	Base Average [5]	12-Month Moving Average [6]
Jan-18	247.867	2.1%	2946.5	245.539	240.501	2.095%
Feb-18	248.991	2.2%	2951.9	245.988	241.042	2.052%
Mar-18	249.554	2.4%	2957.6	246.467	241.514	2.051%
Apr-18	250.546	2.5%	2963.6	246.969	241.953	2.073%
May-18	251.588	2.8%	2970.5	247.540	242.328	2.151%
Jun-18	251.989	2.9%	2977.5	248.126	242.656	2.254%
Jul-18	252.006	2.9%	2984.7	248.728	243.003	2.356%
Aug-18	252.146	2.7%	2991.4	249.280	243.392	2.419%
Sep-18	252.439	2.3%	2997.0	249.749	243.841	2.423%
Oct-18	252.885	2.5%	3003.2	250.267	244.252	2.463%
Nov-18	252.038	2.2%	3008.6	250.714	244.695	2.460%
Dec-18	251.233	1.9%	3013.3	251.107	245.120	2.443%
Jan-19	251.712	1.6%	3017.1	251.427	245.539	2.398%
Feb-19	*252.776*	1.5%	3020.9	251.743	245.988	2.340%
Mar-19	254.202	1.9%	3025.6	252.130	246.467	2.298%
Apr-19	255.548	2.0%	3030.6	252.547	246.969	2.259%
May-19	256.092	1.8%	3035.1	252.922	247.540	2.174%
Jun-19	256.143	1.6%	3039.2	253.268	248.126	2.072%
Jul-19	256.571	1.8%	3043.8	253.649	248.728	1.978%
Aug-19	256.558	1.7%	3048.2	254.016	249.280	1.900%
Sep-19	256.759	1.7%	3052.5	254.376	249.749	1.853%
Oct-19	257.346	1.8%	3057.0	254.748	250.267	1.791%
Nov-19	257.208	2.1%	3062.1	255.179	250.714	1.781%
Dec-19	256.974	2.3%	3067.9	255.657	251.107	1.812%
Jan-20	257.971	2.5%	3074.1	256.179	251.427	1.890%
Feb-20	258.678	2.3%	3080.1	256.671	251.743	1.958%
Mar-20	258.115	1.5%	3084.0	256.997	252.130	1.930%
Apr-20	256.389	0.3%	3084.8	257.067	252.547	1.790%
May-20	256.394	0.1%	3085.1	257.092	252.922	1.649%
Jun-20	257.797	0.6%	3086.8	257.230	253.268	1.564%
Jul-20	259.101	1.0%	3089.3	257.441	253.649	1.495%
Aug-20	259.918	1.3%	3092.7	257.721	254.016	1.458%
Sep-20	260.280	1.4%	3096.2	258.0143	254.3764	1.430%
Oct-20	260.388	1.2%	3099.2	258.2678	254.7482	1.382%
Nov-20	260.229	1.2%	3102.2	258.5195	255.1790	1.309%
Dec-20	260.474	1.4%	3105.7	258.8112	255.6574	1.234%
Jan-21	261.582	1.4%	3109.3	259.1121	256.1790	1.145%
Feb-21	263.014	1.7%	3113.7	259.4734	256.6708	1.092%
Mar-21	264.877	2.6%	3120.4	260.0369	256.9969	1.183%
Apr-21	267.054	4.2%	3131.1	260.9257	257.0670	[7] **1.244%**

[1] Consumer Price Index -- All Urban Consumers, U.S. All Items (the "CUUR0000SA0" series)
[2] The current month CPI [Column 1] divided by CPI for same month, previous year
[3] Sum of the most recent 12 months CPI measurements in Column [1]
[4] Column [3] / 12
[5] The 12-month average of [1] from the 12 months prior to [4]. Only necessary to calculate cap when more than 12 months have passed.
[6] (The current month value in Column [4] / value from same month, previous year) - 1
[7] Exactly 8 CPI-U months have passed since the previous price adjustment for all Market Dominant mail classes so the price cap is the 8-month moving average (Column 6) or 1.244%.

ATTACHMENT D

2022 PROMOTIONS CALENDAR

2022 Promotions Calendar

Overview:

Building upon the success of prior mailing promotions, the Postal Service has developed a Mailing Promotion Calendar for Calendar Year (CY) 2022. The general purpose of the CY 2022 Promotions is to encourage marketers, printers, and mailers to utilize new technology and print techniques that enhance the traditional benefits of a physical mailpiece. The Mailing Promotions are an integral part of the Postal Service's strategy to strengthen the value of mail. Promotions are intended to facilitate engagement between marketers and USPS to elevate mail and drive industry best practices; and add value for First-Class Mail mailers. The promotion periods will range between 3 to 6 months in duration, starting as early as February 1, 2022. Ultimately, the Postal Service decided to focus the CY 2022 Promotions on the following areas: USPS Informed Delivery, Augmented/Virtual/Mixed Reality, Near Field Communication, Voice Assistant Integration, Video in Print, Mobile Shopping, Tactile, Sensory and Interactive Print, and Transpromotional Messaging.

The promotions developed for CY 2022 are:

- **Tactile, Sensory and Interactive Mailpiece Engagement Promotion**
- **Emerging and Advanced Technology Promotion**
- **Earned Value Reply Mail Promotion**
- **Personalized Color Transpromo Promotion**
- **Mobile Shopping Promotion**
- **Informed Delivery Promotion**

Tactile, Sensory and Interactive Mailpiece Engagement Promotion

The print industry continues to develop innovations in papers/stocks, substrates, finishing techniques and inks. Print elements can be incorporated in a mail campaign to engage a multi-sensory experience through special visual effects, sound, scent, texture/tactile treatments, and even taste. By leveraging advances in print and finishing technology, marketers and mailers can enhance the way consumers interact and engage with mail to drive customer engagement and response rates.

Eligible Mail: First-Class Mail letters, cards and flats, USPS Marketing Mail letters and flats, and Nonprofit USPS Marketing Mail letters and flats
Discount: 4 percent off eligible mailpieces
Registration Period: December 15, 2021 – July 31, 2022
Promotion Period: February 1, 2022 – July 31, 2022
Mailpiece Requirements: Mailpieces must be reviewed by the Promotion Office in advance of any mailing submissions to qualify for the promotion discount. Mailpieces must contain at least one element from one of the three following categories:

1. Specialty Inks (including but not limited to: Conductive inks, Leuco Dyes/Thermochromic, Photochromics, Optically Variable Ink, piezochromatic ink, and hydro chromic ink)

2. Specialty Papers that make use of at least one of the following features (use of these features must be connected to the marketing message of the mailpiece):
- Scent: Paper infused with scent, or microencapsulated

- Sound: Paper that incorporates sound chip/speakers
- Taste: Paper that incorporates edible components
- Visual: Paper that incorporates special effects (e.g., filters, holographic effects, lenticular effects)
- Textural: Paper that incorporates certain textural treatments such as sandpaper, soft/velvet touch, and UV finishes

3. Interactive mailpieces that make use of dynamic folds that the user can twist, spin, dial or bend, and other dimensional enhancements (such as 3-dimensional features and pop-ups)

Enrollment	Participants and/or Mail Service Providers (MSPs) should register on the Business Customer Gateway (BCG) via the Incentive Programs (gateway.usps.com). Promotion participants should complete their registration (including agreeing to the promotion terms) at least 2 hours prior to presenting the first qualifying mailing and specify which permits and CRIDs will be participating in the promotion.
Mailing Date and Mail Preparation	Mail must be tendered for acceptance during the promotion period, February 1 – July 31, 2022. All promotion eligible mailings must be finalized in *PostalOne!* no earlier than February 1, 2022 and no later than July 31, 2022 (the last day of the promotion). Plant-Verified Drop Shipment (PVDS) mailings that are verified and paid for during the promotion period and that qualify for the promotion, will be accepted at destination entry postal facilities through August 15, 2022 (at the discounted rate), when presented with appropriate verification and payment documentation (PS Form 8125).
Postage Payment	Postage must be paid using a Permit Imprint or Precanceled Stamp Permit. OMAS and "Official Government Mail" mailings are eligible for the promotion. Select meter permit mailings may qualify. Every Door Direct Mail (EDDM) deposited at a Business Mail Entry Unit may qualify, but EDDM Retail mailings taken to local Post Office retail units are ineligible to participate.
eDoc	Mailings must be submitted electronically via Postal Wizard, Mail.dat or Mail.XML. The eDoc must identify the mail owner and mail preparer in the By/For fields by Customer Registration ID (CRID) and/or Mailer ID (MID).
Commingled Mail	The promotion discount can be applied to qualifying pieces within a combined or commingled mailing, but the qualifying pieces must be submitted on separate postage statements or by mailpiece version.
Pre-Verification and Mailpiece Samples	Mailers must submit a hard copy sample to the program office for pre-verification prior to mailing to ensure that program requirements are met. Participants must provide a hard copy mailpiece claiming the promotion discount to the Business Mail Entry Unit (BMEU)/acceptance clerk at the time of mailing. If a mailing agent submits promotional mailings from multiple mailers, a hard copy of each mailer's mailpiece must be presented to the BMEU.

Emerging and Advanced Technology Promotion

As mobile and other print technologies evolve, mail has the potential to offer greater value by engaging customers in new and exciting ways. In order to ensure that direct mail continues to be a relevant part of the marketing mix, the Postal Service is offering another promotion encouraging customers to incorporate technologies such as "Enhanced" Augmented Reality, Virtual Reality and Mixed Reality, Near Field Communication (NFC), Video in Print (ViP) featuring Shoppable Video, and Integration with Voice Assistants.

Eligible Mail: First-Class Mail letters, cards, and flats, USPS Marketing Mail letters and flats, and Nonprofit USPS Marketing Mail letters and flats
Discount: 2 percent or 3 percent off eligible mailpieces

2% Eligible Techniques:

- Enhanced Augmented Reality (AR)
- Basic Integration with Voice Assistant

3% Eligible Techniques:

- Video in Print
- NFC
- Virtual Reality(VR)/Mixed Reality (MR)
- Advanced Integration with Voice Assistant

Registration Period: January 15, 2022 – August 31, 2022
Promotion Period: March 1, 2022 – August 31, 2022
Mailpiece Requirements: To be eligible for the promotion, the mailpiece must incorporate any of the following elements:

1. Interactive NFC technology (examples include the ability to create calendar events; toggle on and off device features; or trigger messaging services, video, or other device features).

2. "Enhanced" Augmented Reality: must include two or more of the following elements:
   - 3D elements or modules;
   - Animation;
   - Interplay between the physical mailpiece and the digital world that actively uses the viewer's perspective.

   Enhanced AR also includes "print and visual search integration" which allows the recipient to scan an image from the mailpiece using image recognition software and interact with the 3D image of the item on their mobile device.

3. Virtual Reality (VR): the mailpiece must provide a link to immersive VR experiences, and can either provide a low-cost paper/cardboard version of a VR viewing device OR may link users to specific VR experiences from the mailpiece, leveraging the recipient's own viewing device .

4. Mixed Reality (MR): Mixed Reality combines both augmented and virtual experiences through a combined immersive technology that can include sight, sound, and touch. Mixed Reality can include different experiences but some of the most common include blending physical and virtual experiences via a head-set. For purposes of the promotion, the direct

mailpiece must have a trigger leading to a Mixed Reality experience, similar to the requirement for augmented reality and VR.

5. Video in Print (ViP) Technology: ViP is video advertising that integrated into a printed piece that is featured in print catalogs and/or mailpieces. Simply linking to video content is not adequate to meet the criteria for ViP. ViP can be integrated into a printed piece in several ways including:
   - Integrated video screen within a printed, mailable piece;
   - Integrated Video/Picture utilizing translucent paper;
   - 360 degree view of mobile optimized website or video;
   - Shoppable Video.

6. Integration with Voice Assistant~~s~~: A voice assistant is a digital assistant that uses voice recognition, language processing algorithms, and voice synthesis to listen to specific voice commands and return relevant information or perform specific functions as requested by the user. Mailpieces that contain printed voice assistant commands that enable voice assisted tasks or experiences that are aligned to the to the marketing message on the printed mailpiece may qualify for the promotion. Basic tasks and interactions will qualify for a 2% discount and Advanced Voice Assistant tasks and interactions will qualify for a 3% discount.
   1. **Basic Voice Assistan**t will provide a 2% discount on all eligible mailpieces that integrate with voice technology that makes use of existing search or skill functionality. These experiences typically have minimal customization and require less development by the mailer.
   2. **Advanced Voice Assistant** will provide a 3% discount on all eligible mailpieces that use more complex voice skills or actions that require greater development and investment. These experiences are unique and customized to the brand and may require that a customized skill or action be built.

Enrollment	Participants and/or Mail Service Providers (MSPs) should register on the Business Customer Gateway (BCG) via the Incentive Programs (gateway.usps.com). Promotion participants should complete their registration (including agreeing to the promotion terms) at least 2 hours prior to presenting the first qualifying mailing and specify which permits and CRIDs will be participating in the promotion.
Mailing Dates and Mail Preparation	Mail must be tendered for acceptance during the promotion period, March 1 – August 31, 2022. All promotion eligible mailings must be finalized in *PostalOne!* no earlier than March 1, 2022 and no later than August 31, 2022 (the last day of the promotion). Plant-Verified Drop Shipment (PVDS) mailings that are verified and paid for during the promotion period and that qualify for the promotion, will be accepted at destination entry postal facilities through September 15, 2022 (at the discounted rate), when presented with appropriate verification and payment documentation (PS Form 8125).
Postage Payment	Postage must be paid using a Permit Imprint or Precanceled Stamp Permit. OMAS and "Official Government Mail" mailings are eligible for the promotion. Select Meter Permit mailings may qualify. Every Door Direct Mail (EDDM) deposited at a Business Mail Entry Unit may qualify, but EDDM Retail mailings taken to local Post Office retail units are ineligible to participate.

eDoc	Mailings must be submitted electronically via Mail.dat and Mail.XML or Postal Wizard. Mailings that are prepared and entered by an entity other than the mail owner must indicate the owner's identity in the electronic documentation ("eDoc"). The eDoc must identify the mail owner and mail preparer in the By/For fields by Customer Registration ID (CRID) and/or Mailer ID (MID).
Commingled Mail	The promotion discount can be applied to qualifying pieces within a combined or commingled mailing, but the qualifying pieces must be submitted on separate postage statements or by mailpiece version.
Pre-Verification and Mailpiece Samples	Mailpieces must be reviewed by the program office prior to mailing to ensure that promotion requirements are met. Participants must provide a hard copy mailpiece sample at the time of mail entry, unless other sample submission options specified in the promotion requirements are applicable.

Earned Value Reply Mail Promotion

The 2022 Earned Value Reply Mail Promotion encourages mailers to continue distributing Business Reply Mail (BRM), Courtesy Reply Mail (CRM) and Share Mail pieces. Mailers who register their Mailer ID (MID) information and use eligible Intelligent Mail barcodes on their BRM and CRM letters and cards, and Share Mail pieces may receive a postage credit for each mailpiece that is placed in the mailstream by the recipient and scanned during the promotion period.

The Earned Value Reply Mail Promotion will run from April 1, 2022 through June 30, 2022 during which time, eligible reply pieces will be counted. At the end of the promotion, the eligible BRM and CRM letters and cards and Share Mail pieces will be totaled and the earned postage credit applied to the customer permit accounts. The participant can apply the earned credits to future mailings of First-Class Mail® Presort and Automation cards, letters and flats, and USPS Marketing Mail™ letters and flats. Earned Value credits will expire on December 31, 2022.

Eligible Mail: BRM and CRM letters and cards, and Share Mail (Permit Reply Mail and Ballot Mail are excluded)
Credit Amount: All Participants: $0.02 credit for each BRM and CRM and/or Share Mail piece counted
Registration Period: February 15, 2022 – March 31, 2022
Promotion Period: April1, 2022 – June 30, 2022
Credit Redemption Period: July 1, 2022 – December 31, 2022
Credit Expiration: December 31, 2022
Mailpiece Requirements: BRM, CRM, and Share Mail mailpieces must contain an IMb with the registered MID encoded to qualify. BRM must be barcoded with a valid and properly used ZIP+4 code on the mailpiece, and the same ZIP+4 code must be encoded within the IMb. The IMb on all BRM, CRM, and Share Mail pieces must contain the barcode ID, qualifying service type ID, and correct ZIP+4 routing code. (Qualifying service type IDs include: 708, 052, 703, 050, 030, 733, 734, 070, 030, 072, and 032.)

Enrollment	Mailers must register their permits and MIDs no later than March 31, 2022 and select the Permit Imprint account(s) to which future earned credits will be applied.

Tracking	All mailpiece counts for BRM, CRM, and Share Mail pieces with qualifying barcodes that contain the registered MID(s) will be counted in the mailstream during the promotion period.
Credit Calculation/Application	At the end of the promotion, the applicable credit amount will be multiplied by the total BRM, CRM, and Share Mail pieces counted, for each enrolled CRID. Once credits are accepted, they will be applied to the Permit accounts.
Acceptance Period for Credits:	Credits will be released, beginning on July 1st, when the mailer agrees to their piece counts, after the promotion ends. Agreement on piece counts must be reached by September 15, 2022; otherwise the credits will be forfeited.

2022 Personalized Color Transpromo Promotion

This promotion encourages mailers of bills and statements to use color messaging in order to create a greater connection to and response from consumers. The Promotion is intended to increase the value of First-Class Mail and encourage mailers to invest in color print technology. An upfront postage discount is provided to mailers who use dynamic/variable color print for personalized and transpromotional marketing messages on their bills and statements. For companies/mail owners who have not previously participated in the promotion, only the dynamic color messaging requirement must be satisfied in their first year of participation.

- **Eligible Mail:** First-Class Mail® presort and automation letters
- **Discount:** 3 percent off eligible mailpieces
- **Registration Period:** May 15, 2022 – December 31, 2022
- **Promotion Period:** July 1, 2022 – December 31, 2022
- **Mailpiece Content Restriction:** Bills and statements only

Enrollment	Participants and/or Mail Service Providers (MSPs) should register on the Business Customer Gateway (BCG) via the Incentive Programs (gateway.usps.com). Promotion participants should complete their registration (including agreeing to the promotion terms) at least 2 hours prior to presenting the first qualifying mailing and specify which permits and CRIDs will be participating in the promotion.
Mail Preparation	Letters must be prepared according to First-Class Mail standards
Mailing Date	Mail must be tendered for acceptance during the promotion period, July 1, 2022 – December 31, 2022. All promotion eligible mailings must be finalized in ***PostalOne!*** no earlier than July 1, 2022 and no later than December 31, 2021 (the last day of the promotion).
Postage Payment	Postage must be paid using a Permit Imprint or Precanceled Stamp Permit. Select Meter Permit mailings may qualify.
eDoc	Mailings must be submitted electronically via Postal Wizard, Mail.dat or Mail.XML. The eDoc must identify the mail owner and mail preparer in the By/For fields by Customer Registration ID (CRID) and/or Mailer ID (MID).

Commingled Mail	The promotion discount can be applied to qualifying pieces within a combined or commingled mailing, but the qualifying mail must be submitted on separate postage statements or by mailpiece version.
Pre-Verification and Mailpiece Samples	Mailpieces must be reviewed by the program office prior to mailing to ensure that promotion requirements are met. Participants must provide a hard copy mailpiece sample at the time of mail entry, unless other sample submission options specified in the promotion requirements are applicable.

2022 Mobile Shopping Promotion

This promotion is aimed at businesses and mailers offering products for sale, especially during the 2022 holiday shopping season. The CY 2022 Mobile Shopping Promotion encourages mailers to use techniques that help reduce friction from moving the recipient from a hard copy mailpiece to a mobile online shopping experience.

Eligible Mail: USPS Marketing Mail letters and flats, and USPS Nonprofit Marketing Mail letters and flats
Discount: 2 percent off eligible mailpieces
Registration Period: July 15, 2022 – December 31, 2022
Promotion Period: September 1, 2022 – December 31, 2022
Mailpiece Requirements: All qualifying mail must contain a barcode, printed command, or other technology that allows the user to engage in a mobile shopping experience. Qualifying technologies include but are not limited to: open-sourced barcodes; proprietary barcodes or tags; an image embedded with a digital watermark; intelligent print image recognition; Augmented Reality; Shoppable Video; and Voice Assistant Command.

In addition, the print/mobile technology must lead to a mobile optimized shopping site or a social media web page with a click to shop feature, or an app enabled barcode payment.

Enrollment	Participants and/or Mail Service Providers (MSPs) should register on the Business Customer Gateway (BCG) via the Incentive Programs (gateway.usps.com). Promotion participants should complete their registration (including agreeing to the promotion terms) at least 2 hours prior to presenting the first qualifying mailing and specify which permits and CRIDs will be participating in the promotion.
Mailing Date and Mail Preparation	All promotion eligible mailings must be finalized in *PostalOne!* during the promotion period, September 1, 2022 – December 31, 2022. PVDS mailings that are verified and paid for during the promotion period and that qualify for the promotion, will be accepted at destination entry postal facilities through January 15, 2023 (at the discounted rate), when presented with appropriate verification and payment documentation (PS Form 8125).
Postage Payment	Postage must be paid using a Permit Imprint or Precanceled Stamp Permit. OMAS and “Official Government Mail” mailings are eligible for the promotion. Select meter permit mailings may qualify. EDDM deposited at a Business Mail Entry Unit may qualify, but EDDM Retail mailings taken to local Post Office retail units are ineligible to participate.

eDoc	Mailings must be submitted electronically via Postal Wizard, Mail.dat or Mail.XML. The eDoc must identify the mail owner and mail preparer in the By/For fields by Customer Registration ID (CRID) and/or Mailer ID (MID).
Commingled Mail	The promotion discount can be applied to qualifying pieces within a combined or commingled mailing, but the qualifying pieces must be submitted on separate postage statements or by mailpiece version.
Pre-Verification & Mailpiece Samples	Mailpieces must be reviewed by the program office prior to mailing to ensure that promotion requirements are met. Participants must provide a hard copy mailpiece sample at the time of mail entry, unless other sample submission options specified in the promotion requirements are applicable.

2022 Informed Delivery Promotion

The Postal Service has created its own omni-channel tool for mail through the development of the Informed Delivery platform. In an effort to help mailers improve the results of their Informed Delivery campaigns, the Postal Service is offering a 4 percent discount off postage for mailings that use best practices and techniques in their Informed Delivery campaigns. Mailers who seek to qualify for this promotion by using Informed Delivery must:

- Create an Informed Delivery campaign through the Informed Delivery Portal or through eDoc submission;
- Ensure the dates of the Informed Delivery campaign coincide with the physical mailing claiming the promotion;
- Ensure the serial number range for that campaign is sufficient to include all the volumes in the mailing;
- Supply the Program Office with an image sample of the campaign ride-a-long image prior to mailing submission; The ride-a-long image must include a call-to-action and meet best practice requirements;

Eligible Mail: First-Class Mail automation letters, cards, and flats, USPS Marketing Mail automation letters and flats, and Nonprofit USPS Marketing Mail automation letters and flats (The following exclusions apply: First-Class Mail or USPS Marketing Mail automation letters and flats that do not generate an informed delivery image; Examples may include mailings to business addresses, Saturation, EDDM or DDU entry)

Discount: 4 percent off eligible mailpieces
Registration Period: June 15, 2022 – December 31, 2022
Promotion Period: August 1, 2022 – December 31, 2022
Mailpiece Requirements: To be eligible for the promotion, the mailpiece must incorporate an Informed Delivery campaign with their mailings.

Enrollment	Participants and/or Mail Service Providers (MSPs) should register on the Business Customer Gateway (BCG) via the Incentive Programs (gateway.usps.com). Promotion participants should complete their registration (including agreeing to the promotion terms) at least 2 hours

	prior to presenting the first qualifying mailing and specify which permits and CRIDs will be participating in the promotion.
Mailing Dates and Mail Preparation	Mail must be tendered for acceptance during the promotion period, August 1, 2022 – December 31, 2022. All promotion eligible mailings must be finalized in *PostalOne!* no earlier than August 1, 2022 and no later than December 31, 2022 (the last day of the promotion). Plant-Verified Drop Shipment (PVDS) mailings that are verified and paid for during the promotion period and qualify for the promotion will be accepted at destination entry postal facilities through January 15, 2022 (at the discounted rate), when presented with appropriate verification and payment documentation (PS Form 8125).
Postage Payment	Postage must be paid using a Permit Imprint or Precanceled Stamp Permit. OMAS and "Official Government Mail" mailings are eligible for the promotion. Some Meter Permit mailings may qualify.
eDoc	Mailings must be submitted electronically via Mail.dat and Mail.XML or Postal Wizard. Mailings that are prepared and entered by an entity other than the mail owner must indicate the owner's identity in the electronic documentation ("eDoc"). The eDoc must identify the mail owner and mail preparer in the By/For fields by Customer Registration ID (CRID) and/or Mailer ID (MID).
Commingled Mail	The promotion discount can be applied to qualifying pieces within a combined or commingled mailing, but the qualifying mail must be submitted on separate postage statements or by mailpiece version.
Pre-Verification and Mailpiece Samples	Mailpieces and accompanying digital images must be reviewed by the program office prior to mailing to ensure that promotion requirements are met. Participants must provide a hard copy mailpiece sample at the time of mail entry, unless other sample submission options specified in the promotion requirements are applicable.

EXHIBIT 6

Postal Regulatory Commission
Submitted 6/1/2021 12:02:39 PM
Filing ID: 118224
Accepted 6/1/2021

ORDER NO. 5905

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

Before Commissioners: Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Market-Dominant Price Change Docket No. R2021-2

NOTICE AND ORDER ON PRICE ADJUSTMENTS AND
CLASSIFICATION CHANGES FOR MARKET DOMINANT PRODUCTS

(Issued June 1, 2021)

I. INTRODUCTION

On May 28, 2021, the Postal Service filed a notice of price adjustments affecting market dominant domestic and international products and services, along with temporary mailing promotions and proposed classification changes to the Mail Classification Schedule (MCS).[1] The planned price adjustments described in the Notice are the first to be filed and reviewed pursuant to the new regulations of 39 CFR part 3030, which were finalized in Order No. 5763 and include new forms of rate authority.[2] The intended effective date for the planned price adjustments is August 29, 2021.

[1] United States Postal Service Notice of Market-Dominant Price Change, May 28, 2021 (Notice).

[2] Docket No. RM2017-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

Notice at 1. The Notice, which was filed pursuant to 39 CFR part 3030, triggers a notice-and-comment proceeding. 39 CFR 3030.125.

II. OVERVIEW OF THE POSTAL SERVICE'S FILING

The Postal Service's filing consists of the Notice, which the Postal Service represents addresses the data and information required under 39 CFR 3030.122 and 39 CFR 3030.123; four attachments (Attachments A-D) to the Notice; and six public library references and one non-public library reference.

Attachment A presents the planned price and related product description changes to the MCS. Notice, Attachment A. Attachments B and C address workshare discounts and the price cap calculation, respectively. *Id.* Attachments B and C. Attachment D presents the 2022 promotions schedule and descriptions of the 2022 promotions. *Id.* Attachment D.

Five public library references provide supporting documentation for the five classes of mail. Notice at 5. The Postal Service also filed a public library reference containing workpapers for Seamless Volumes for all mail classes. *Id.* at 12. It also filed a library reference pertaining to the two international mail products within First-Class Mail (Outbound Single-Piece First-Class Mail International and Inbound Letter Post) under seal and applied for non-public treatment of those materials.[3]

The Postal Service's planned percentage changes by class are, on average, as follows:

[3] *See* USPS Notice of Filing USPS-LR-R2021-2-NP1, May 28, 2021, Attachment 1.

Market Dominant Class	Planned Price Adjustment (%)
First-Class Mail	6.814
USPS Marketing Mail	6.815
Periodicals	8.806
Package Services	8.806
Special Services	6.808

Notice at 5.

Price adjustments for products within classes vary from the average. *See, e.g.*, *id.* at 7, 12 (Table 6 showing range for First-Class Mail products and Table 10 showing range for USPS Marketing Mail products). Most of the planned adjustments entail increases to market dominant rates and fees; however, in a few instances, the Postal Service proposes either no adjustment or a decrease. *See id.* at 7, 21, 27.

The Postal Service identifies the effect of its proposed classification changes on the MCS in Attachment A. *Id*. at 36; *id.* Attachment A. The Postal Service also seeks approval for the following six promotions for the indicated periods:

- Tactile, Sensory and Interactive Mailpiece Engagement Promotion (February 1 – July 31, 2022);
- Emerging and Advanced Technology Promotion (March 1 – August 31, 2022);
- Earned Value Reply Mail Promotion (April 1 – June 30, 2022);
- Personalized Color Transpromo Promotion (July 1 – December 31, 2022);
- Mobile Shopping Promotion (September 1 – December 31, 2022); and
- Informed Delivery Promotion (August 1 – December 31, 2022).

Id. Attachment D.

III. INITIAL ADMINISTRATIVE ACTIONS

Pursuant to 39 CFR 3030.124(a), the Commission establishes Docket No. R2021-2 to consider the planned price adjustments for market dominant postal products and services, as well as the related classification changes, identified in the Notice. The Commission invites comments from interested persons on whether the Postal Service's planned price adjustments are consistent with applicable statutory and regulatory requirements. 39 CFR 3030.125. The applicable statutory and regulatory requirements the Commission considers in its review are the requirements of 39 CFR part 3030, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629. 39 CFR 3030.126(b). Comments are due no later than June 28, 2021. 39 CFR 3030.124(f).

The public portions of the Postal Service's filing are available for review on the Commission's website (*http://www.prc.gov*). Comments and other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on non-public materials (including access to documents filed under seal) appear in 39 CFR part 3011.

Pursuant to 39 U.S.C. 505, the Commission appoints Richard A. Oliver to represent the interests of the general public (Public Representative) in this proceeding.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. R2021-2 to consider the planned price adjustments for market dominant postal products and services, as well as the related classification changes, identified in the Postal Service's May 28, 2021 Notice.

2. Comments on the planned price adjustments and related classification changes are due no later than June 28, 2021.

3. Pursuant to 39 U.S.C. 505, Richard A. Oliver is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the *Federal Register.*

By the Commission.

Erica A. Barker
Secretary

EXHIBIT 7

Postal Regulatory Commission
Submitted 7/19/2021 1:41:07 PM
Filing ID: 119291
Accepted 7/19/2021

ORDER NO. 5937

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

Before Commissioners: Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Market-Dominant Price Change Docket No. R2021-2

ORDER ON PRICE ADJUSTMENTS FOR FIRST-CLASS MAIL, USPS MARKETING MAIL, PERIODICALS, PACKAGE SERVICES, AND SPECIAL SERVICES PRODUCTS AND RELATED MAIL CLASSIFICATION CHANGES

Washington, DC 20268-0001
July 19, 2021

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ORDER NO. 5937

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

Before Commissioners: Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Market-Dominant Price Change Docket No. R2021-2

ORDER ON PRICE ADJUSTMENTS FOR FIRST-CLASS MAIL, USPS MARKETING MAIL, PERIODICALS, PACKAGE SERVICES, AND SPECIAL SERVICES PRODUCTS AND RELATED MAIL CLASSIFICATION CHANGES

(Issued July 19, 2021)

I. INTRODUCTION AND OVERVIEW

On May 28, 2021, the Postal Service filed notice of its planned price adjustments and related mail classification changes for Market Dominant products.[1] The planned price adjustments described in the Notice are the first to be filed and reviewed pursuant to the new regulations of 39 C.F.R. part 3030, which were finalized in Order No. 5763 and include new forms of rate authority.[2] The Commission applies the requirements of 39 C.F.R. part 3030, Commission directives and orders, and 39 U.S.C. §§ 3626, 3627,

[1] United States Postal Service Notice of Market-Dominant Price Change, May 28, 2021 (Notice).

[2] Docket No. RM2017-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

and 3629 to determine whether the Postal Service's proposals are consistent with applicable law. 39 C.F.R. § 3030.126(b).

The Commission concludes that the planned price adjustments, including workshare discounts, are consistent with the regulations of 39 C.F.R. part 3030 and applicable Commission directives and orders. The planned price adjustments are also consistent with the pricing requirements appearing in 39 U.S.C. § 3626 and do not implicate the pricing requirements appearing in 39 U.S.C. §§ 3627 and 3629. The Commission also concludes that the planned classification changes, with the revisions described in the body of this Order, are consistent with applicable law. All changes to the Mail Classification Schedule (MCS) appear in the Attachment following the signature line of this Order.

Table I-1 shows the percentage increases and total unused price authority as a result of this proceeding for each class as calculated by the Commission.

Table I-1
Percentage Increases and Total Unused Price Authority (By Class)

Class of Mail	Price Changes %	Total Unused Price Authority %
First-Class Mail	6.814	0.004
USPS Marketing Mail	6.814	0.002
Periodicals	8.771	0.037
Package Services	8.804	0.008
Special Services	6.808	0.005
Source: Library References PRC-LR-R2021-2-1 through PRC-LR-R2021-2-5, July 19, 2021.		

In Sections II. and III. of this Order, the Commission summarizes the relevant background and procedural history. In Section IV., the Commission resolves issues that apply across multiple classes relating to the proposed Calendar Year (CY) 2022

promotions and comments addressing the planned price adjustments generally. In Sections V. through IX., the Commission discusses the planned price adjustments for First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services, respectively. Non-compensatory products, workshare discounts, mail classification changes, statutory preferential rates, nonprofit discounts, and class-specific comments are also discussed where applicable to a particular class.

II. BACKGROUND

On May 28, 2021, the Postal Service filed its first notice of a Market Dominant price change pursuant to the new 39 C.F.R. part 3030 regulations finalized in Order No. 5763. *See generally* Notice. The new regulations differ from the prior regulations in several key respects applicable to this proceeding.

First, the new regulations provide for multiple forms of rate authority. 39 C.F.R. § 3030.127(a). In particular, the maximum rate adjustment authority available to the Postal Service for each Market Dominant class is made up of the rate authority available under 39 C.F.R. part 3030, subpart C (Consumer Price Index Rate Authority); 39 C.F.R. part 3030, subpart D (Density Rate Authority); 39 C.F.R. part 3030, subpart E (Retirement Obligation Rate Authority); 39 C.F.R. part 3030, subpart G (Non-compensatory Classes or Products); and 39 C.F.R. part 3030, subpart H (Accumulation of Unused and Disbursement of Banked Rate Adjustment Authority). *Id.*

Pursuant to 39 C.F.R. part 3030, subpart C, the amount of Consumer Price Index Rate Authority available to the Postal Service for each class of mail in this proceeding is 1.244 percent. Notice at 3. Pursuant to 39 C.F.R. part 3030, subparts D and E, the Density Rate Authority and Retirement Obligation Rate Authority available to the Postal Service for each class of mail in this proceeding are 4.500 and 1.062 percent,

respectively.[3] In addition, 39 C.F.R. part 3030, subpart G provides for an additional 2 percentage points of rate authority for any class of mail where the attributable cost for that class exceeded the revenue from that class. 39 C.F.R. § 3030.222(a). In FY 2020, the classes for which attributable cost exceeded revenue and are thus eligible for the additional 2 percentage points of rate authority are Periodicals and Package Services.[4] Finally, the amount of banked rate authority pursuant to 39 C.F.R. part 3030, subpart H varies by class, ranging from 0.002 percent for Periodicals to 0.012 percent for First-Class Mail. Notice at 3. Added together, these forms of rate authority make up the total available rate adjustment authority available to the Postal Service for each class of mail in this proceeding, as shown in Table II-1.

Table II-1
Total Available Rate Adjustment Authority (By Class)

Class	CPI-U (%)*	Density (%)	Retirement (%)	Non-Compensatory (%)	Banked (%)	Total (%)
First-Class Mail	1.244	4.500	1.062	0.000	0.012	6.818
USPS Marketing Mail	1.244	4.500	1.062	0.000	0.010	6.816
Periodicals	1.244	4.500	1.062	2.000	0.002	8.808
Package Services	1.244	4.500	1.062	2.000	0.006	8.812
Special Services	1.244	4.500	1.062	0.000	0.007	6.813

* Pursuant to 39 C.F.R. § 3030.143, the calculation for a Partial Year Limitation = (Recent Average/Previous Recent Average)−1. In the Notice, Attachment C, column "12-Month Total Divided by 12," the value for April 2021 is 260.926 (Recent Average) and the value for August 2020 is 257.721 (Previous Recent Average). Thus, the Partial Year Limitation = (260.926/257.721)−1 = 1.244 percent.

Source: Library References PRC-LR-R2021-2-1 through PRC-LR-R2021-2-5; Order No. 5861 at 4, 6.

Second, the regulations have requirements specific to non-compensatory products, which are products where the attributable cost for that product exceeds the revenue from that product. Whether a product is non-compensatory is determined by

[3] *Id.*; Docket No. ACR2020, Determination of Available Market Dominant Rate Authority, April 6, 2021, at 4, 6 (Order No. 5861).

[4] Docket No. ACR2020, *Annual Compliance Determination*, March 29, 2021, at 3, 20 (FY 2020 ACD); Order No. 5861 at 6; Notice at 4.

the Commission. 39 C.F.R. § 3030.220. The regulations provide that rates may not be reduced for any non-compensatory product. *Id.* § 3030.127(b). In addition, if a non-compensatory product is part of class of mail that is compensatory overall, the rates for each non-compensatory product must increase by a minimum of 2 percentage points above the percentage increase for that class. *Id.* § 3030.221. However, this requirement "does not apply to a non-compensatory product for which the Commission has determined that the Postal Service lacks independent authority to set rates (such as rates set by treaty obligation)." *Id.*

Third, 39 C.F.R. part 3030, subpart J contains new requirements for workshare discounts. If a workshare discount is equal to the cost avoided by the Postal Service,[5] the size of the discount cannot be changed. *Id.* § 3030.282(a). If a workshare discount exceeds the cost avoided by the Postal Service, then the size of the discount cannot be increased. *Id.* § 3030.282(b). Likewise, if a workshare discount is less than the cost avoided by the Postal Service, then the size of the discount cannot be decreased. *Id.* § 3030.282(c).

In addition, the regulations provide specific limitations on how workshare discounts that do not equal avoided costs can be set. Workshare discounts that exceed the cost avoided by the Postal Service are permissible only if: (1) the proposed workshare discount is associated with a new postal service, a change to an existing postal service, or a new workshare initiative; (2) the proposed workshare discount is a minimum of 20 percent less than the existing workshare discount; or (3) the proposed workshare discount is provided in connection with a subclass of mail, consisting exclusively of mail matter of educational, cultural, scientific, or informational value and is

[5] The cost avoided refers to the cost avoided by the Postal Service for not providing the applicable service that the worksharing mailer is providing in lieu of the Postal Service. For the purposes of this proceeding, the cost avoided by the Postal Service refers to the amount identified in the FY 2020 ACD. *Id.* § 3030.280.

in compliance with 39 C.F.R. § 3030.285(c).[6] Workshare discounts that are less than the cost avoided by the Postal Service are permissible only if: (1) the proposed workshare discount is associated with a new postal service, a change to an existing postal service, or a new workshare initiative; (2) the proposed workshare discount is a minimum of 20 percent more than the existing workshare discount; or (3) the percentage passthrough[7] for the proposed workshare discount is at least 85 percent.[8]

III. PROCEDURAL HISTORY

A. Notice and Initial Commission Action

On May 28, 2021, the Postal Service filed its Notice with the Commission pursuant to 39 C.F.R. part 3030. In its Notice, the Postal Service announced its intention to adjust the prices for Market Dominant products on August 29, 2021, at 12:01 a.m. by amounts that are within the available price adjustment authority for each class of mail. Notice at 1.

The Notice includes four attachments, which present the planned price and related product description changes to the MCS, workshare discount calculations, price

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[6] *Id.* § 3030.283. There is also an exception for workshare discounts that have received an advance waiver from the Commission pursuant to 39 C.F.R. § 3030.286 that is inapplicable to this proceeding. *Id.* § 3030.283(d).

[7] The relationship between workshare discounts and avoided costs is usually expressed as a percentage called a passthrough, which is generally calculated by dividing the discount by the cost avoided. Workshare discounts with passthroughs below 100 percent are considered below avoided cost workshare discounts.

[8] *Id.* § 3030.284. There is also an exception for workshare discounts that have received an advance waiver from the Commission pursuant to 39 C.F.R. § 3030.286. *Id.* § 3030.284(d). Prior to this proceeding, the Postal Service requested a waiver from the requirements of 39 C.F.R. § 3030.284 for the First-Class Mail Letters 5-Digit Automation workshare discount. Docket No. RM2021-5, United States Postal Service Application for Waiver Under 39 CFR 3030.286, March 26, 2021, at 1 (Docket No RM2021-5 Application for Waiver). The Commission denied the Docket No. RM2021-5 Application for Waiver for failure to satisfy the requirements of 39 C.F.R. § 3030.286. Docket No. RM2021-5, Order Denying Postal Service Application for Waiver Under 39 C.F.R. § 3030.286, April 21, 2021, at 10-12 (Order No. 5873). Thus, the requirements of 39 C.F.R. § 3030.284 are applicable to the First-Class Mail Letters 5-Digit Automation workshare discount in this proceeding.

cap calculations, and the CY 2022 promotions schedule, respectively. Notice, Attachments A-D. The Postal Service filed six public library references and one non-public library reference in support of its Notice:

• Library Reference USPS-LR-R2021-2/1, May 28, 2021	First-Class Mail Workpapers
• Library Reference USPS-LR-R2021-2/2, May 28, 2021	USPS Marketing Mail Workpapers
• Library Reference USPS-LR-R2021-2/3, May 28, 2021	Periodicals Workpapers
• Library Reference USPS-LR-R2021-2/4, May 28, 2021	Package Services Workpapers
• Library Reference USPS-LR-R2021-2/5, May 28, 2021	Special Services Workpapers
• Library Reference USPS-LR-R2021-2/6, May 28, 2021	Seamless Volumes Workpapers
• Library Reference USPS-LR-R2021-2/NP1, May 28, 2021	First-Class Mail International and Inbound Letter Post Workpapers (Nonpublic)

The Postal Service requested non-public treatment of information pertaining to Outbound Single-Piece First-Class Mail International (Outbound Single-Piece FCMI) and Inbound Letter Post contained in Library Reference USPS-LR-R2021-2/NP1.[9]

On June 1, 2021, the Commission issued Order No. 5905, which provided public notification of the Notice; established Docket No. R2021-2 to consider the planned price adjustments' consistency with applicable statutory and regulatory requirements;

[9] *See* USPS Notice of Filing USPS-LR-R2021-2-NP1, May 28, 2021, Attachment 1.

appointed a Public Representative; and provided an opportunity for interested persons to comment.[10]

B. Additional Information Regarding the Notice

In response to questions presented in Chairman's Information Requests (CHIRs), the Postal Service provided additional information relating to the planned price adjustments and classification changes. The following summary, organized by class, highlights the Postal Service's filing of corrections to the MCS, Attachments, and workpapers responsive to issues identified in the CHIRs. In addition, two questions were posed related to compliance with 39 C.F.R. part 3030,[11] to which the Postal Service responded with the required information.[12]

Five questions were posed to the Postal Service relating to First-Class Mail.[13] In response to these questions, the Postal Service provided additional information regarding the new rate structure for Nonautomation Machinable and Nonmachinable Letters, the application of internal air conveyance to certain Inbound Letter Post mailpieces and the related impact on the price cap calculation, and the First-Class Mail

[10] Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products, June 1, 2021 (Order No. 5905).

[11] Chairman's Information Request No. 1, June 3, 2021, questions 7-8 (CHIR No. 1).

[12] Response of the United States Postal Service to Questions 1 and 5-8 of Chairman's Information Request No. 1, June 10, 2021, questions 7-8 (June 10 Response to CHIR No. 1).

[13] Chairman's Information Request No. 2, June 4, 2021, question 1 (CHIR No. 2); Chairman's Information Request No. 3, June 9, 2021, questions 1-2 (CHIR No. 3); Chairman's Information Request No. 4, June 10, 2021, questions 1-2 (CHIR No. 4).

promotions, including related changes to Attachments A and D to the Notice.[14]

Twelve questions were posed to the Postal Service relating to USPS Marketing Mail.[15] In response to these questions, the Postal Service provided additional information regarding workshare discounts, changes that need to be made for accuracy to Attachment A of the Notice related to the USPS Marketing Mail promotions, revisions to Library Reference USPS-LR-R2021-2/2 and Attachment A to the Notice necessary to correct an error related to Every Door Direct Mail (EDDM)—Retail volumes, and information required by the FY 2010 ACD.[16]

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[14] Response of the United States Postal Service to Questions 1-4 and 6-8 of Chairman's Information Request No. 2, June 11, 2021, question 1 (June 11 Response to CHIR No. 2); United States Postal Service Responses to Chairman's Information Request No. 3, June 16, 2021, questions 1-2 (Response to CHIR No. 3); Response of the United States Postal Service to Questions 1 and 3-9 of Chairman's Information Request No. 4, June 17, 2021, question 1 (June 17 Response to CHIR No. 4); Response of the United States Postal Service to Question 2 of Chairman's Information Request No. 4, June 21, 2021, question 2 (June 21 Response to CHIR No. 4). Portions of the Response to CHIR No. 3, question 1 were filed under seal in a new Library Reference. *See* USPS Notice of Filing USPS-LR-R2021-2-NP2, June 16, 2021 (USPS-LR-R2021-2-NP2 Notice). Attachment 1 to the USPS-LR-R2021-2-NP2 Notice contains an Application for Non-Public Treatment of Library Reference USPS-LR-R2021-2-NP2. USPS-LR-R2021-2-NP2 Notice, Attachment 1. The Postal Service also motioned for late acceptance of the June 21 Response to CHIR No. 4, stating that it "required additional time to confirm changes to Attachments A and D" and that "it would appear that no party will be prejudiced." Motion of the United States Postal Service for Late Acceptance of Response to Chairman's Information Request No. 4, June 21, 2021, at 1 (June 21 Motion). The June 21 Motion is granted.

[15] CHIR No. 1, question 1; CHIR No. 2, questions 2-4; CHIR No. 3, question 3; CHIR No. 4, questions 3-5; Chairman's Information Request No. 5, June 14, 2021, question 1 (CHIR No. 5); Chairman's Information Request No. 7, June 22, 2021, question 1 (CHIR No. 7); Chairman's Information Request No. 8, July 12, 2021, questions 1-2 (CHIR No. 8).

[16] June 10 Response to CHIR No. 1, question 1; Notice of the United States Postal Service of Filing Errata to its Response to Question 1 of Chairman's Information Request No. 1, June 11, 2021 (attaching omitted workpapers); June 11 Response to CHIR No. 2, questions 2-4; Response to CHIR No. 3, question 3; June 17 Response to CHIR No. 4, questions 3-5; United States Postal Service Responses to Chairman's Information Request No. 5, June 21, 2021, question 1 (Response to CHIR No. 5); USPS Notice of Filing Amended Library References, June 21, 2021 (noticing the filing of USPS-LR-R2021-2-2-REV-6-21-21); United States Postal Service Notice of Errata and Revisions, June 21, 2021, at 1-2 (Postal Service Errata); United States Postal Service Response to Question 1 of Chairman's Information Request No. 7, June 24, 2021, question 1 (Response to Question 1 of CHIR No. 7); Response of the United States Postal Service to Chairman's Information Request No. 8, July 12, 2021, questions 1-2 (Response to CHIR No. 8).

Eleven questions were posed to the Postal Service relating to Periodicals.[17] In response to these questions, the Postal Service provided additional information regarding the bottom-up costs for trays and workshare discounts, revised Attachment B to the Notice, provided revised pages to Attachment A to the Notice, revised several Periodicals prices, and revised Library Reference USPS-LR-R2021-2/3.[18]

One question was posed to the Postal Service relating to Package Services. CHIR No. 1, question 6. In response to this question, the Postal Service clarified the average price increase and remaining pricing authority for the Package Services class. June 10 Response to CHIR No. 1, question 6.

Seven questions were posed to the Postal Service relating to Special Services.[19] In response to these questions, the Postal Service provided additional detail regarding International Ancillary Services' non-compensatory status, revised Library Reference USPS-LR-R2021-2/5, provided additional information about revised Library Reference USPS-LR-R2021-2/5 and the Special Services' billing determinants, and provided

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[17] CHIR No. 1, questions 2-5; CHIR No. 2, questions 5-8; CHIR No. 5, question 2; Chairman's Information Request No. 6, June 15, 2021, questions 1-2 (CHIR No. 6).

[18] June 10 Response to CHIR No. 1, question 5; June 11 Response to CHIR No. 2, questions 6-8; Response of the United States Postal Service to Questions 2-4 of Chairman's Information Request No. 1, June 14, 2021, questions 2-4 (June 14 Response to CHIR No. 1); Response of the United States Postal Service to Question 5 of Chairman's Information Request No. 2, June 14, 2021, question 5 (June 14 Response to CHIR No. 2); USPS Notice of Filing Revised Library Reference – USPS-LR-R2021-2/3 Periodicals Workpapers, June 14, 2021; Response to CHIR No. 5, question 2; Response of the United States Postal Service to Questions 1 and 2 of Chairman's Information Request No. 6, June 21, 2021, questions 1-2 (Response to Questions 1 and 2 of CHIR No. 6); USPS Notice of Filing Amended Library References, June 21, 2021 (noticing the filing of USPS-LR-R2021-2-3-REV-6-21-21); Postal Service Errata at 2-4. The Postal Service motioned for late acceptance of the June 14 Response to CHIR No. 1 and the June 14 Response to CHIR No. 2, stating that "additional time was required for high level review and approval" and that "it would appear that no party will be prejudiced." Motion of the United States Postal Service for Late Acceptance of Responses to Chairman's Information Request Nos. 1 and 2, June 14, 2021, at 1 (June 14 Motion). The June 14 Motion is granted.

[19] CHIR No. 3, question 4; CHIR No. 4, questions 6-9; CHIR No. 6, question 3; CHIR No. 7, question 2.

additional explanation for the planned changes to the proration schedule for certain Address Management Services.[20]

C. Comments

The Commission received comments on the planned price adjustments from the following participants: the Association of National Advertisers and the Association of National Advertisers Nonprofit Federation (ANA), Raymond Briggs, Lilit Danielyan, Disabled American Veterans (DAV), the Greeting Card Association (GCA), JLS Mailing Services (JLS), MPA - The Association of Magazine Media (MPA) and the Alliance of Nonprofit Mailers (ANM), the National Association of Presort Mailers (NAPM), the National Postal Policy Council (NPPC), the National Rural Electric Cooperative Association (NRECA), the News Media Alliance (NMA), the North Carolina Association of Electric Cooperatives (NC Electric Cooperatives), the North Dakota Association of Rural Electric Cooperatives (ND Electric Cooperatives), Pioneer Utility Resources, Inc. (Pioneer Utility), Pitney Bowes Inc. (Pitney Bowes), the Association for Postal

[20] Response to CHIR No. 3, question 4; June 17 Response to CHIR No. 4, questions 6-9; USPS Notice of Filing Public Library Reference, June 17, 2021 (noticing the filing of revised USPS-LR-R2021-2-5); Response of the United States Postal Service to Question 3 of Chairman's Information Request No. 6, June 21, 2021, question 3 (Response to Question 3 of CHIR No. 6); Response of the United States Postal Service to Question 2 of Chairman's Information Request No. 7, June 24, 2021, question 2 (Response to Question 2 of CHIR No. 7). The Response to CHIR No. 3, question 4 was filed under seal in a non-public Library Reference. *See* USPS-LR-R2021-2-NP2 Notice.

Commerce (PostCom), and the Public Representative.[21] This Order summarizes and analyzes these comments where relevant to the issues presented.

IV. RESOLUTION OF CROSS-CLASS ISSUES

This section resolves issues that apply across multiple classes relating to the proposed CY 2022 promotions and comments that generally object to the Postal Service's planned price adjustments or otherwise address the planned price adjustments more generally.

A. CY 2022 Promotions

1. Introduction

The Postal Service plans to continue offering six promotions applicable to First-Class Mail and USPS Marketing Mail during CY 2022. Notice at 29-30. Four of

[21] Comments by the ANA and the ANA Nonprofit Federation, June 28, 2021 (ANA Comments); Statement of Position from Raymond Briggs, June 17, 2021 (Briggs Comments); Statement of Position from Lilit Danielyan, June 1, 2021 (Danielyan Comments); Comment of Disabled American Veterans (DAV), June 28, 2021 (DAV Comments); Comments of the Greeting Card Association, June 28, 2021 (GCA Comments); Notice of Erratum, June 29, 2021, Attachment (JLS Comments); Comments of MPA – the Association of Magazine Media and the Alliance of Nonprofit Mailers, June 28, 2021 (MPA/ANM Comments); Comments of the National Association of Presort Mailers, June 28, 2021 (NAPM Comments); Comments of the National Postal Policy Council, June 28, 2021 (NPPC Comments); Comments of the National Rural Electric Cooperative Association, June 28, 2021 (NRECA Comments); Comments of the News Media Alliance, June 28, 2021 (NMA Comments); Comment of North Carolina Association of Electric Cooperatives, June 28, 2021 (NC Electric Cooperatives Comments); Comment of North Dakota Association of Rural Electric Cooperatives, June 28, 2021 (ND Electric Cooperatives Comments); Comment of Pioneer Utility Resources, June 28, 2021 (Pioneer Utility Comments); Comments of Pitney Bowes Inc., June 28, 2021 (Pitney Bowes Comments); Comments of the Association for Postal Commerce, June 28, 2021 (PostCom Comments); Public Representative Corrected Comments, June 29, 2021 (PR Comments). The Public Representative initially filed comments on June 28, 2021. On June 29, 2021, he filed corrected comments along with a motion seeking authority to file the corrected comments, which replace an illegible table. Motion of the Public Representative to File Corrected Comments, June 29, 2021 (PR Motion). The PR Motion is granted and citations to PR Comments in this Order reference the corrected comments. Similarly, JLS filed a Notice of Erratum on June 29, 2021 with a revised version of its comments attached. References in this Order to JLS Comments reference the revised comments.

the planned promotions apply to both eligible First-Class Mail products and eligible USPS Marketing Mail products—the Tactile, Sensory, and Interactive Mailpiece Engagement Promotion; the Emerging and Advanced Technology Promotion; the Earned Value Reply Mail Promotion; and the Informed Delivery Promotion. *Id.* at 30. In addition, the Personalized Color Transpromo Promotion applies only to eligible First-Class Mail, and the Mobile Shopping Promotion applies only to eligible USPS Marketing Mail. *Id.*; June 17 Response to CHIR No. 4, question 1. All six promotions were offered in CY 2021 although several have changes for CY 2022.[22]

2. Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (Feb. 1 – Jul. 31, 2022)

The Postal Service plans to offer an upfront 4 percent postage discount on First-Class Mail letters, cards, and flats, and USPS Marketing Mail letters and flats that meet the Tactile, Sensory, and Interactive Mailpiece Engagement Promotion requirements. Notice at 33. The Postal Service states that the CY 2022 promotion would encourage mailers to enhance customer engagement with mailpieces by using "advanced print innovations in paper and stock, substrates, inks, interactive elements, and finishing techniques." *Id.*

[22] Notice at 30. Key differences include that the Tactile, Sensory, and Interactive Mailpiece Engagement Promotion has been extended to eligible First-Class Mail letters, cards, and flats and offers an increased 4 percent discount. *See id.*, Attachment A, at 18; June 17 Response to CHIR No. 4, question 1. The Emerging and Advanced Technology Promotion offers a 2 or 3 percent discount depending on the technology used when in CY 2021 only a 2 percent discount was offered. *See* Notice at 30, 31-32; *id.,* Attachment A at 18. The Personalized Color Transpromo Promotion offers a 3 percent upfront discount rather than the 2 percent one offered in CY 2021. Notice at 30. The Informed Delivery Promotion offers an increased discount of 4 percent (up from 2 percent in CY 2021). *Id*. In addition, the Mobile Shopping and Informed Delivery Promotions are offered during different time periods in CY 2022. *See* Notice, Attachment A at 44.

3. Emerging and Advanced Technology Promotion (Mar. 1 – Aug. 31, 2022)

The Postal Service plans to offer an upfront 2 or 3 percent postage discount on eligible First-Class Mail letters, cards, and flats, and USPS Marketing Mail letters and flats that meet the Emerging and Advanced Technology Promotion requirements. *Id.* at 31. The promotion "encourages mailers to incorporate mobile and other technologies into their mailpieces." *Id.* To qualify for the 2 percent discount, "eligible techniques include Enhanced Augmented Reality (AR) and Basic Integration with Voice Assistant." *Id.* Techniques eligible for the 3 percent discount "include Video in Print, NFC, Virtual Reality (VR)/Mixed Reality (MR), and Advanced Integration with Voice Assistant." *Id.* at 31-32.

4. Earned Value Reply Mail Promotion (Apr. 1 – Jun. 30, 2022)

The Postal Service plans to offer a $0.02 postage credit for each eligible Business Reply Mail, Courtesy Reply Mail, and Share Mail piece entered into the mailstream and scanned during the promotion period. *Id.* at 31. The Postal Service explains that credits may be applied to postage for future mailings of First-Class Mail presort and automation cards, letters, and flats and USPS Marketing Mail letters and flats. *Id.* The Postal Service states that unused credits will expire December 31, 2022. *Id*.

5. Personalized Color Transpromo Promotion (July 1 – Dec. 31, 2022)

The Postal Service plans to offer an upfront 3 percent postage discount on First-Class Mail presort and automation letters—bills and statements only—that meet the Personalized Color Transpromo Promotion requirements. *Id*. at 33. The promotion encourages mailers "to incorporate color marketing messaging in order to foster a better connection and response from their customers" and "to invest in color print technology."

Id. For mailers who participated in this promotion in a prior year, the mailpiece must incorporate both dynamically printed color and personalized messaging to qualify for the CY 2022 promotion unless it meets specific exceptions. June 21 Response to CHIR No. 4, question 2.a.; *id.*, Attachment 1. Mailers who did not participate in this promotion in a prior year need only satisfy the dynamic color printing requirement to qualify for the CY 2022 promotion. *Id.*

6. Mobile Shopping Promotion
(Sept. 1 – Dec. 31, 2022)

The Postal Service plans to offer an upfront 2 percent postage discount on USPS Marketing Mail letters and flats that meet the Mobile Shopping Promotion requirements. Notice at 32. The Postal Service asserts that the CY 2022 promotion encourages mailers "to integrate their direct mail pieces with technologies…that facilitate a convenient online shopping experience for consumers during the holiday season." *Id.*

7. Informed Delivery Promotion
(Aug. 1 – Dec. 31, 2022)

The Postal Service plans to offer an upfront 4 percent discount off postage for First-Class Mail automation letters, cards, and flats and USPS Marketing Mail automation letters and flats "that incorporate best practices and techniques in their Informed Delivery campaigns." *Id*. The Postal Service intends for this promotion to continue increasing the adoption rate of the Postal Service's Informed Delivery platform. *Id.*

8. Comments

The Public Representative states that the proposed promotions are consistent with applicable law and the requirements of 39 C.F.R. part 3030. PR Comments at 21. NAPM supports the proposed promotions, stating they help retain volume and mitigate the impact of price increases and are supported by various objectives and factors of

39 U.S.C. § 3622(b) and (c). NAPM Comments at 5. NAPM suggests the Commission encourage the Postal Service to develop additional promotions and simplify existing promotions requirements. *Id.*

9. Commission Analysis

The Commission approves all CY 2022 promotions as proposed.[23] The Commission encourages the Postal Service to engage in dialogue with its stakeholders regarding the potential to develop additional proposals for promotional pricing in the future as well as the potential to make changes to existing promotions to simplify requirements for stakeholders.

Over the course of this proceeding, several typographical errors in Attachment A to the Notice related to the CY 2022 promotions were identified. In CHIR responses, the Postal Service confirmed the correct language.[24] The Commission has corrected those errors in the Attachment to this Order. The Postal Service also provided revisions to the MCS language related to the Personalized Color Transpromo Promotion with the June 21 Response to CHIR No. 4. June 21 Response to CHIR No. 4, Attachment 1. Those changes have also been incorporated into the Attachment to this Order.

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[23] The Commission notes that the Personalized Color Transpromo Promotion has differing requirements for prior year and new participants as it did in CY 2021. June 21 Response to CHIR No. 4, question 2.a.; *id.*, Attachment 1. In Docket No. R2021-1, the Commission noted that the structure of the CY 2021 Personalized Color Transpromo Promotion could be interpreted as raising issues that were the subject of a previous Commission rulemaking and stated that the Commission would consider these issues in a new rulemaking. Docket No. R2021-1, Order on Price Adjustments for First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 18, 2020, at 11 n.17 (Order No. 5757). *See* Docket No. RM2020-5, Order Adopting Final Rules Regarding Rate Incentives for Market Dominant Products, May 15, 2020, at 6-7, 10-11 (Order No. 5510); Docket No. RM2020-5, Notice of Intent to Reconsider, August 26, 2020, at 2 (Order No. 5655). Those issues remaining pending before the Commission.

[24] June 11 Response to CHIR No. 2, question 2; June 17 Response to CHIR No. 4, questions 3-5; Response to CHIR No. 8, questions 1-2.

The Commission also notes the majority of the proposed MCS changes shown in the Attachment to this Order go into effect with the new prices on August 29, 2021. However, that is not true of the CY 2022 promotions because several of the CY 2021 promotions will still be on-going on and after August 29, 2021 and should not be overridden in the MCS by the CY 2022 promotions. As a result, the MCS changes related to the CY 2022 promotions should not be added to the MCS until January 1, 2022. Thus, the promotion-related MCS changes in sections 1110.4, 1110.5, 1115.4, 1115.5, 1205.5, 1205.6, 1210.5, 1210.6, 1215.5, 1215.6, 1220.5, 1220.6, 1225.5, and 1225.6 are not effective until January 1, 2022.

B. Comments Generally Addressing the Planned Price Adjustments

1. Introduction

Multiple commenters raise objections and make comments generally addressing the Postal Service's planned price adjustments that are not targeted toward a specific class, product, or rate cell.[25] In this Section, the Commission summarizes and addresses those comments by topic. Topics addressed in this Section include the legality of above inflation price increases, the calculation of the available consumer price index for all urban consumers (CPI-U) Rate Authority, the applicability of the objectives and factors of 39 U.S.C. § 3622(b) and (c) to this proceeding, the schedule for regular and predictable rate adjustments, the necessity of the rate adjustments as

[25] Each of the Market Dominant classes consists of multiple products. The term product "means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied." 39 U.S.C. § 102(6). Within each product, there may be multiple rate cells, which refer to each price. Where helpful, this Order also refers to categories, which refer to groups of rate cells, either within a single product or multiple products. By way of example, Periodicals (class) consists of two products (In-County and Outside County). The Outside County product has over a hundred rate cells that provide prices based on numerous criteria such as per pound rates versus per piece rates, presortation level and barcoding, usage of a container (pallet versus sack/tray) versus bundle, induction point or zone, advertising content, and statutory preferences accorded to certain publications such as nonprofit or classroom. *See* Library Reference PRC-LR-R2021-2-3, Excel file "PRC-CAPCALC-PER-R2021-2.xlsx."

related to the Postal Service's financial health, the application of the rules in 39 C.F.R. part 3030, subpart J, service performance and reductions in service standards, the effects of the proposed price adjustments, pricing incentives, the Postal Service's use of the available pricing authority, the application of 39 C.F.R. § 3030.121(b), and the Retirement Obligation Rate Authority. To the extent comments raise specific issues or topics covered elsewhere in this Order, those comments are addressed where relevant to the issues presented.

2. The Legality of Above Inflation Price Increases

Comments. Multiple commenters generally allege above inflation price increases violate 39 U.S.C. § 3622(d)(1) and that the Postal Service cannot raise prices above inflation.[26] MPA and ANM claim that the proposed price adjustments are "illegal" because they "violate the straightforward, unambiguous language" of 39 U.S.C. § 3622(d)(1)(A). MPA/ANM Comments at 3. PostCom also argues that the Commission lacks the legal authority to authorize above inflation price adjustments and reiterates many of the statutory interpretation arguments raised in Docket No. RM2017-3. PostCom Comments at 2. PostCom, MPA and ANM, and NPPC all acknowledge that this issue is before the United States Court of Appeals for the District of Columbia Circuit (Court of Appeals for the D.C. Circuit) in the pending appeal of Docket No. RM2017-3.[27] PostCom urges the Commission to delay implementation of the price increases "to allow the court to resolve this question of the Commission's authority."[28] In addition, MPA and ANM newly assert that the recent Supreme Court decision in *AMG Capital Mgmt. v. Fed. Trade Comm'n* supports their reading of

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[26] *See, e.g.,* MPA/ANM Comments at 3; NRECA Comments at 2; NMA Comments at 1 n.2; Pioneer Utility Comments at 2-3; PostCom Comments at 1-2; NPPC Comments at 1.

[27] PostCom Comments at 2; MPA/ANM Comments at 4; NPPC Comments at 1 n.3.

[28] PostCom Comments at 3. *See* ANA Comments at 6 (acknowledging the appeal before the Court of Appeals for the D.C. Circuit could lead to additional uncertainty and urging the Commission to reject the proposed price increases).

39 U.S.C. § 3622(d). MPA/ANM Comments at 4 (citing *AMG Capital Mgmt. v. Fed. Trade Comm'n*, 141 S.Ct. 1341 (2021)).

Commission analysis. As described in Section II., *supra*, this is the first price change filed pursuant to the modified Market Dominant ratemaking system and new 39 C.F.R. part 3030 regulations finalized in Order No. 5763. Prior to the modifications to the Market Dominant ratemaking system finalized in Order No. 5763, price increases for Market Dominant products were generally capped at the rate of inflation as measured by the change in CPI-U.[29] In Docket No. RM2017-3, the Commission undertook the review required by 39 U.S.C. § 3622(d)(3). That provision required the Commission to review the initial Market Dominant ratemaking system 10 years after the enactment of the Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006) (PAEA) to determine if the initial ratemaking system had achieved 9 statutory objectives specified by the PAEA, taking into account 14 statutory factors. 39 U.S.C. § 3622(b), (c), and (d)(3). If the Commission determined that the initial ratemaking system had not achieved the statutory objectives, taking into account the statutory factors, then the Commission is permitted to, "by regulation, make such modification or adopt such alternative system . . . as necessary to achieve the objectives." 39 U.S.C. § 3622(d)(3).

The Commission found that the Market Dominant ratemaking system failed to achieve the statutory objectives, taking into account the statutory factors.[30] The Commission, therefore, set about the task of "mak[ing] such modification or adopt[ing] such alternative system . . . as necessary to achieve the objectives." 39 U.S.C.

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[29] *See* 39 U.S.C. § 3622(d)(1)(A). The Commission notes that the Postal Service was previously allowed to exceed CPI-U due to banked rate authority (39 U.S.C. § 3622(d)(2)(C)) and due to "extraordinary or exceptional circumstances" (39 U.S.C. § 3622(d)(1)(E)). Neither of those forms of rate authority are at issue here.

[30] Docket No. RM2017-3, Order on the Findings and Determination of the 39 U.S.C. § 3622 Review, December 1, 2017 (Order No. 4257).

§ 3622(d)(3). On the same day that it released its findings, the Commission issued a notice of proposed rulemaking proposing a number of regulatory modifications to the initial ratemaking system intended to enable the system to achieve the statutory objectives and seeking comments on its proposals.[31] Based on the comments received, the Commission issued a revised notice of proposed rulemaking, again seeking public comment on the Commission's further revised proposals.[32] On November 30, 2020, the Commission issued Order No. 5763, which adopted final rules for the modified Market Dominant ratemaking system. As described in Section II., *supra*, the new regulations provided for multiple forms of rate authority tied to specific drivers of the previous system's failure to achieve the objectives, in addition to rate authority derived from the change in CPI-U. *See* 39 C.F.R. § 3030.127(a).

One of the primary areas of dispute in Docket No. RM2017-3 was whether 39 U.S.C. § 3622(d)(3) provides the Commission with the authority to modify the CPI-U price cap. Throughout the docket, multiple parties provided comments arguing that the Commission did not have the authority to modify the CPI-U price cap, while the Commission provided extensive legal analysis addressing the arguments raised by commenters and supporting its view of the authority plainly granted by 39 U.S.C. § 3622(d)(3).[33] Ultimately, the Commission maintained that 39 U.S.C. § 3622(d)(3) expressly authorizes it with statutory authority to modify all aspects of the ratemaking system under section 3622, including the price cap provisions at paragraphs (d)(1) and (d)(2), and thus stated that "the final rules adopted in . . . [Order No. 5763] would survive judicial scrutiny under *Chevron* step one." Order No. 5763 at 37, 39. The Commission further stated that "even if there were any ambiguity as to whether the

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

[32] Docket No. RM2017-3, Revised Notice of Proposed Rulemaking, December 5, 2019 (Order No. 5337).

[33] Order No. 4258 at 4-25; Order No. 5337 at 16-58; Order No. 5763 at 32-71.

Commission had the authority to adopt the final rules, because the Commission's interpretation is based on a permissible and reasonable construction of section 3622, the Commission would be accorded deference under *Chevron* step two." *Id.* at 39.

As the commenters acknowledge, this issue is now before the Court of Appeals for the D.C. Circuit.[34] Although the Commission appreciates the commenters' desire to maintain consistent positions on this issue, the appropriate forum for resolution of the scope of the Commission's legal authority under 39 U.S.C. § 3622(d)(3) is the Court of Appeals for the D.C. Circuit in the currently pending appeal and not this proceeding. Because the Court of Appeals for the D.C. Circuit previously denied a request to stay implementation of the final rules pending appeal,[35] the final rules promulgated by Order No. 5763, including the additional forms of rate authority contained therein, have been implemented and are current law. As a result, the Commission finds there is no basis to delay implementation of the planned price increases utilizing the new forms of rate authority until the appeal is resolved.

As it pertains to MPA's and ANM's claim that the recent Supreme Court decision in *AMG Capital Mgmt. v. Fed. Trade Comm'n* supports their reading of 39 U.S.C. § 3622(d), the Commission notes that MPA and ANM provide no specific analysis supporting this claim and simply quote phrases from the decision without any additional context. MPA/ANM Comments at 4. After review of the decision, the Commission observes no similarities between the statutory interpretation question before the Supreme Court in *AMG* and the Commission's legal authority pursuant to 39 U.S.C. § 3622(d)(3). In *AMG*, the Supreme Court found Section 13(b) of the Federal Trade Commission Act did not authorize the Federal Trade Commission to bypass its administrative process and seek "equitable monetary relief such as restitution or

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[34] PostCom Comments at 2; MPA/ANM Comments at 4; NPPC Comments at 1 n.3.

[35] *Nat'l Postal Policy Council v. Postal Reg. Comm'n*, No. 17-1276 (D.C. Cir. Mar. 1, 2021), ECF Document No. 1887800, at 1.

disgorgement" from the federal courts under a provision allowing for "permanent injunction" because among other reasons, "the provision focuses upon relief that is prospective, not retrospective" and the overall structure of the statute supports a different interpretation. *AMG*, 141 S.Ct. at 1344, 1348, 1349. The statutory language at issue in *AMG* does not appear to have any parallels to the language used by Congress in 39 U.S.C. § 3622(d)(3).

3. The Calculation of the Available CPI-U Rate Adjustment Authority

Comments. NPPC argues that the Postal Service's proposed rates violate the PAEA's annual limitation provision, which provides that the Market Dominant ratemaking system shall, *inter alia*:

> [I]nclude an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates.

NPPC Comments at 2; 39 U.S.C. § 3622(d)(1)(A). However, separate from the arguments that the new additional forms of rate authority violate 39 U.S.C. § 3622(d)(1)(A), NPPC alleges that the way the CPI-U Rate Authority of 39 C.F.R. part 3030, subpart C was calculated in this proceeding violates 39 U.S.C. § 3622(d)(1)(A). NPPC Comments at 2-3.

Specifically, NPPC asserts that, when added to the CPI-U rate increases the Commission approved in Docket No. R2021-1, which took effect in January 2021, the CPI-U portion of the price increases proposed in this proceeding exceeds CPI-U over the 12-month period preceding May 2021, when this proceeding was initiated. *Id.* at 2-5. NPPC maintains that "the plain language of Section 3622(d) appears to limit not only the amount by which the Postal Service may raise market-dominant rates based on CPI[-U] looking back, but also the cumulative amount by which the Postal Service is

able to raise rates over any 12-month period." *Id.* at 3. NPPC claims that this "prevents the Postal Service from imposing maximum cumulative rate increases within a comparatively short period of time." *Id.* at 4. NPPC states that the 1.244 percent of CPI-U Rate Authority from this proceeding,

> [W]hen added to the 1.831 percent increase that took effect in January 2021 (as a result of Docket No. R2021-1) results in a total increase of 3.075 percent[,] . . . [which exceeds] CPI[-U] for the most recent 12-month period preceding . . . May 28[,] . . . [the date the Notice was filed in this proceeding], which was approximately 1.55 percent.

Id. at 3. NPPC asserts that this is "a question of first impression" and that it "is unaware that this timing issue has been addressed in any previous rate case." *Id.* at 2, 4.

Commission analysis. As a preliminary matter, the Commission notes that although the Commission allowed for additional forms of rate authority as a result of Docket No. RM2017-3, the Commission also retained the CPI-U Rate Authority as part of the overall price cap in 39 C.F.R. part 3030, subpart C. In doing so, the Commission did not make changes to the way it calculates the amount of CPI-U Rate Authority in rate adjustment proceedings and continued using the methods for calculating the CPI-U Rate Authority that have been utilized in Market Dominant rate adjustment proceedings since the passage of the PAEA.

Although the PAEA calls for an annual limitation based on the change in CPI-U "over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates," 39 U.S.C. § 3622(d)(1)(A), no provision of the PAEA limits how frequently the Postal Service can seek to adjust rates. Furthermore, allowing pricing flexibility for the Postal Service is one of the explicit objectives for the Market Dominant ratemaking system under the PAEA. 39 U.S.C. § 3622(b)(4) (Objective 4). In Docket No. RM2017-3, the Commission found that allowing the Postal Service to exercise broad discretion over the timing of price changes was an important element of the achievement of Objective 4. Order No. 4257 at 144.

In order, therefore, to implement section 3622(d)(1)(A)'s requirement in a way that could be effectively administered, the Commission promulgated rules adopting a "moving average" method for calculating the annual limitation that utilizes monthly CPI-U values derived from the Bureau of Labor Statistics.[36] Although NPPC claims that how to interpret and apply 39 U.S.C. § 3622(d)(1)(A) is an issue of first impression in this proceeding, both the interpretation of 39 U.S.C. § 3622(d)(1)(A) and the correct methodology to apply were extensively contemplated when rules were initially implemented following the PAEA's enactment. *See* NPPC Comments at 2; Order No. 26 at 25-27. These rules and the Commission's methodology were supported by the majority of commenters, including NPPC, at the time they were promulgated with commenters, including NPPC, generally agreeing the approach was consistent with the statute.[37]

In accordance with those rules, when a Postal Service request to adjust rates is filed exactly 12 months after the most recent rate adjustment, then the annual limitation is calculated using the average of the most recently available 12 monthly CPI-U values (a full-year limitation). 39 C.F.R. § 3030.142; *see* Order No. 26 at 28. When a Postal Service request to adjust rates is filed more than 12 months after the most recent rate adjustment, then the annual limitation is limited to the average of the most recently available 12 monthly CPI-U values (a full-year limitation), consistent with 39 U.S.C. § 3622(d)(1)(A), with any interim months between the most recently approved rate change and the 12 months immediately preceding the proposed rate change being

[36] *See* 39 C.F.R. part 3030, subparts B and C. *See also* Docket No. RM2007-1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at 25-27 (Order No. 26).

[37] Docket No. RM2007-1, Comments of National Postal Policy Council on Order No. 26, September 24, 2007, at 5-6 ("The 'moving average' average method proposed by the Commission for calculating the CPI-U limitation is reasonable and consistent with the statute."); Order No. 26 at 25-26.

credited to the Postal Service as "interim" unused rate authority, which is separately authorized pursuant to 39 U.S.C. § 3622(d)(2)(C).[38]

When, as is the case in the instant proceeding, a Postal Service request to adjust rates is filed less than 12 months after the most recent rate adjustment, then the annual limitation is reduced to a "partial year limitation," calculated using the average of the most recently available 12 monthly CPI-U values as compared to the most recently available 12 monthly CPI-U values from the most recently approved rate adjustment. *See* 39 C.F.R. § 3030.143; Order No. 26 at 29. When the Commission initially proposed this approach, it stated that without this adjustment the Postal Service would benefit from double counting months of CPI-U data, which would violate the statutory limitation of 39 U.S.C. § 3622(d)(1)(A). Order No. 26 at 29. The Commission found that the partial year limitation remedied that problem. *Id.*

The Commission notes that the CPI-U average for the 12-month period preceding the Notice in this proceeding (May 2020 – April 2021) is 1.501 percent, not 1.55 percent as represented by NPPC.[39] Consistent with the Commission's long-standing rules, because the instant rate adjustment request was filed less than 12 months after the rate adjustment request in Docket No. R2021-1, the annual limitation

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[38] *See* 39 C.F.R. § 3030.142; *id.* § 3030.243; Order No. 26 at 30-31; Docket No. RM2013-2, Notice of Proposed Rulemaking Requesting Comments on Proposed Commission Rules for Determining and Applying the Maximum Amount of Rate Adjustments, March 22, 2013, at 8-9 (Order No. 1678); Docket No. RM2013-2, Order Adopting Final Rules for Determining and Applying the Maximum Amount of Rate Adjustments, July 23, 2013, at 12-13 (Order No. 1786).

[39] Pursuant to 39 C.F.R. § 3030.142, the calculation for a Full Year Limitation = (Recent Average/Base Average)−1, expressed as a percentage, rounded to three decimal places. In the Notice, Attachment C, column "12-Month Total Divided by 12," the value for April 2021 is 260.926 (Recent Average) and the value for April 2020 is 257.067 (Base Average). Thus, the Full Year Limitation = (260.926/257.067)–1 = 1.501 percent.

must be adjusted to reflect the effects of the prior rate increase.[40] The adjusted partial year limitation based on the 8 month period between the rate adjustment request in Docket No. R2021-1 and the instant rate adjustment request (September 2020 – April 2021) is 1.244 percent.[41]

The CPI-U based rate authority in Docket No. R2021-1 (September 2019 – August 2020) was 1.458 percent.[42] Thus, the total CPI-U based rate authority over the last 20 months (September 2019 – April 2021, the period covered by Docket No. R2021-1 and this proceeding) was 2.702 percent (1.458 percent from Docket No. R2021-1 plus the 1.244 percent partial year limitation available in this proceeding). The Commission notes that the annual limitation in this case would also have been 2.702[43] percent if Docket No. R2021-1 had not been filed, because the Postal Service would then be entitled to an annual limitation of 1.501 percent plus 1.201 percent in interim

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[40] *See* 39 C.F.R. § 3030.143. Despite NPPC's claim that this issue has not come up in any previous rate adjustment proceeding, the Commission emphasizes that its methodology in this proceeding is consistent with Commission precedent. *See, e.g.*, Docket No. R2012-3, in which the request for rate adjustment was filed 9 months after the request for rate adjustment in Docket No. R2011-2.

[41] Pursuant to 39 C.F.R. § 3030.143, the calculation for a Partial Year Limitation = (Recent Average/Previous Recent Average)−1. In the Notice, Attachment C, column "12-Month Total Divided by 12," the value for April 2021 is 260.926 (Recent Average) and the value for August 2020 is 257.721 (Previous Recent Average). Thus, the Partial Year Limitation = (260.926/257.721)–1 = 1.244 percent.

[42] Docket No. R2021-1, United States Postal Service Notice of Market-Dominant Price Change, October 9, 2020, Attachment C. NPPC asserts that the CPI-U-based rate authority in Docket No. R2021-1 was 1.831 percent. NPPC Comments at 3. NPPC appears to have derived this figure from the First-Class Mail calculations in Docket No. R2021-1, where the total price increase for First-Class Mail was 1.831 percent because the Postal Service combined 1.458 percent of new CPI-U rate authority with 0.373 percent in unused rate authority from previous cases. *See* 39 U.S.C. § 3622(d)(2)(C); Docket No. R2021-1, Library Reference PRC-LR-R2021-1/1, Compliance Calculations for First-Class Mail, November 18, 2020.

[43] This does not include unused rate adjustment authority previously banked by the Postal Service for individual classes of mail pursuant to 39 U.S.C. § 3622(d)(2)(C). For example, for First-Class Mail, the total rate authority available would be the CPI-U rate authority of 2.702 percent plus the unused rate authority (available from Docket Nos. R2020-1 and R2017-7) of 0.385 percent.

rate authority for the period from September 2019 to April 2020.[44] Thus, it is not the case that the Postal Service is being afforded rate authority in this proceeding in excess of CPI-U as a result of it having been filed less than 12 months after Docket No. R2021-1.

4. The Applicability of the Objectives and Factors

Comments. Multiple commenters assert that the Commission must apply the objectives of 39 U.S.C. § 3622(b) and the factors of 39 U.S.C. § 3622(c) in this proceeding.[45] MPA and ANM point to 39 C.F.R. §§ 3030.122(j) and 3030.126(i) and allege that those rules mean "that the Commission 'must apply the relevant objectives and factors to individual rate adjustments' such as this one." MPA/ANM Comments at 3 (citing *Carlson v. Postal Reg. Comm'n*, 938 F.3d 337, 344 (D.C. Cir. 2019)). PostCom and NPPC also cite to *Carlson* and argue that the objectives and factors must be applied to individual rate adjustments with NPPC further asserting the Commission should reject the proposed rates because the Postal Service has not attempted to justify how the rates satisfy the objectives and factors. PostCom Comments at 4; NPPC Comments at 10.

Several commenters make general allegations that the price increases violate specific objectives of 39 U.S.C. § 3622(b). With respect to Objective 1 (maximize incentives to reduce costs and increase efficiency), PostCom and MPA and ANM assert that substantial rate increases weaken the Postal Service's incentive to reduce costs

[44] As explained above, for notices of rate adjustment filed more than 12 months apart, interim rate authority is unused rate authority based on the interim period between the most recently approved rate change and the 12 months immediately preceding the currently proposed rate change. *See* 39 C.F.R. § 3030.243. If the Postal Service had not adjusted rates in Docket No. R2021-1, then the next most recent rate change would have occurred in Docket No. R2020-1, which would have been more than 12 months prior to this proceeding.

[45] MPA/ANM Comments at 3; PostCom Comments at 4; NPPC Comments at 9-10.

and increase efficiency. PostCom Comments at 4; MPA/ANM Comments at 7. PostCom asserts that "[t]he higher [the Postal Service] is permitted to raise rates, the less incentive it has to reduce costs and operate more efficiently." PostCom Comments at 4-5. PostCom claims that "the duty of a regulator is to act as a surrogate for competition and ensure that the regulated entity is acting efficiently,"[46] and it alleges that the Commission "has been disinclined to evaluate whether the Postal Service is actually operating efficiently . . . [and] has 'refused to perform its statutory duty' of thoroughly investigating the efficiency of Postal Service operations." *Id.* at 5. PostCom also claims that the price increases in this docket will reduce the Postal Service's incentives to reduce costs. *Id.* ANA echoes the importance of pressure on the Postal Service to be efficient and reduce expenses. ANA Comments at 4.

With respect to Objective 2 (create predictability and stability in rates), PostCom alleges that the proposed rate increases are "drastic and uneven" and "[f]ar from being stable and predictable." PostCom Comments at 6. PostCom argues that the Commission rejected a proposal in Docket No. RM2017-3 that would have led to increases 5.7 percent above inflation for undermining the stability of rates, and PostCom expresses that the Commission "should be just as concerned about the instant rates." *Id.* PostCom also states that the rates "are wildly divergent within classes." *Id.* As an example, PostCom notes that First-Class Mail Flats are receiving a price increase that is nearly double the increase for First-Class Mail Single-Piece Letters/Postcards, with both increases "greatly" exceeding the change in CPI-U. *Id.* As another example, PostCom raises that the prices for "detached marketing and address labels are increasing by a staggering 16.7 and 18.2 percent, respectively." *Id.* at 7. PostCom acknowledges that "[t]hese within-class differences have always been unpredictable," but states that "the provision of more overall rate authority to the Postal

[46] PostCom cites to *Democratic Cent. Comm. of D.C. v. WMATA*, 485 F.2d 866, 906 (D.C. Cir. 1973) in making this claim, but does not further explain how that case is applicable to the instant proceeding.

Service has only exacerbated this problem." *Id.* ANA is also concerned that the above inflation price increases permitted by the new rules are less predictable than CPI-U based increases. ANA Comments at 4.

With respect to Objective 8 (establish and maintain a just and reasonable schedule for rates and classifications), PostCom alleges that disparate increases within classes "could lead to unjust and unreasonable rates." PostCom Comments at 7. PostCom cites several First-Class Mail and USPS Marketing Mail products for which "significant increases" are proposed despite the products covering substantially more than their attributable costs. *Id.* PostCom claims these prices indicate "the Postal Service is exploiting its monopoly status[,]" and PostCom asserts that "[t]here is good reason to believe" the rates exceed a level that is just and reasonable. *Id.* MPA and ANM claim more generally that the above-CPI increases violate Objective 8. MPA/ANM Comments at 7.

With respect to the other objectives, PostCom asserts that "[t]here is nothing in the record to indicate that the instant change is specifically needed to maintain high quality service standards . . ., assure adequate revenues, reduce administrative burden, increase transparency, enhance security, or deter terrorism." PostCom Comments at 5-6 (referencing Objectives 3, 5, 6, and 7).

Commission analysis. As part of the modified ratemaking system the Commission designed in Docket No. RM2017-3, the Commission proposed, and after notice and comment, finalized changes to the rules that discontinued the need to address the objectives of 39 U.S.C. § 3622(b) and factors of 39 U.S.C. § 3622(c) in individual rate adjustment proceedings.[47] The modified ratemaking system was designed to properly balance the PAEA's statutory objectives and factors in advance of

[47] Order No. 5337 at 239-240; Order No. 5763 at 258. *See* 39 C.F.R. §§ 3030.122, 3030.123, and 3030.126.

individual rate adjustments. Order No. 5763 at 260. In Order No. 5763, the Commission undertook an extensive balancing of the objectives in conjunction with each other to reach the conclusion that the modifications made to the ratemaking system are those designed "to address deficiencies that frustrate the achievement of the objectives of the PAEA" and "are necessary for the system of ratemaking to achieve the objectives enumerated in section 3622(b)."[48] Therefore, the Commission concluded "that its modified ratemaking system will achieve the PAEA's objectives as required under 39 U.S.C. § 3622(d)(3)[,]" and as a result, "review for consistency with the objectives and factors is unnecessary in individual rate adjustments under the Commission's modified system." *Id.* at 258. Because the modified ratemaking system governs the Postal Service's rate design, the Commission found that there is no need to justify each rate adjustment proceeding individually as consistent with the objectives and factors. *Id.* at 260.

MPA and ANM, PostCom, and NPPC all argue that the Court of Appeals for the D.C. Circuit's 2019 *Carlson* decision requires the Postal Service and the Commission to specifically analyze, in every individual rate adjustment proceeding, how the Postal Service's proposed rates comply with the objectives and factors.[49] However, as the Commission explained in Docket No. RM2017-3, the *Carlson* decision relied on an interpretation of the regulations then in effect and "did not rest on the premise that the PAEA unambiguously required the Commission to apply the objectives and factors in rate adjustments or to issue regulations that would require the Commission's

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[48] *Id.* at 364. *See id.* at 285-365. The Commission also notes that in Order No. 5763 it made clear that it intends to undertake a holistic review of the modified ratemaking system 5 years after the date that the final rules went into effect and that it would open such a review sooner if necessary. *Id.* at 260, 267. The Commission notes that any such review and related further modifications to the ratemaking system would involve renewed consideration of whether the ratemaking system is achieving the objectives of 39 U.S.C. § 3622(b) and whether changes are necessary to achieve those objectives consistent with 39 U.S.C. § 3622(d)(3).

[49] MPA/ANM Comments at 3; PostCom Comments at 4; NPPC Comments at 9-10.

pre-implementation review of the Postal Service's planned rate adjustments to explicitly consider the objectives and factors."[50]

In Docket No. RM2017-3, the Commission found that under the new regulations, "[i]f the Postal Service proposes a rate adjustment compliant with the final rules, then that planned rate adjustment would be consistent with the objectives and factors." Order No. 5763 at 261. Given that, the new rules call for a bounded review, with the Commission's role being limited to reviewing planned price adjustments for consistency with applicable law. Applicable law is defined as the applicable requirements of 39 C.F.R. part 3030, Commission directives and orders, and 39 U.S.C. §§ 3626, 3627, and 3629. 39 C.F.R. § 3030.126(b).

MPA and ANM point to 39 C.F.R. §§ 3030.122(j) and 3030.126(i) and assert that they mean that the Commission must apply the objectives and factors in this proceeding. MPA/ANM Comments at 3. However, 39 C.F.R. §§ 3030.122(j) and 3030.126(i) cannot be read that way. As discussed above, the Commission was clear when it implemented the modified ratemaking system that specific analysis of the objectives and factors was no longer necessary in rate adjustments proceedings. 39 C.F.R. § 3030.122(j) is a catch all provision that requires the Postal Service to include with its rate adjustment filing "[s]uch other information as the Postal Service believes will assist the Commission in issuing a timely determination of whether the planned rate adjustments are consistent with applicable statutory policies." 39 C.F.R. § 3030.122(j). No reasonable reading of that rule would lead one to interpret it as requiring the Commission do anything, let alone a requirement that the Commission apply the objectives and factors in individual rate adjustment proceedings. 39 C.F.R. § 3030.126(i) states that "[i]f the planned rate adjustments in an amended rate

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[50] *Carlson,* 938 F.3d at 343, 345; Order No. 5337 at 239 n.327; Order No. 5763 at 257. The Commission also provided extensive discussion in Order No. 5763 to explain the basis for its change in approach. Order No. 5763 at 255-265.

adjustment filing are found to be inconsistent with applicable law, the Commission shall explain the basis for its determination and suggest an appropriate remedy. Noncompliant rates may not go into effect." 39 C.F.R. § 3030.126(i). However, the Postal Service has not filed an amended rate adjustment in this proceeding, and thus it is 39 C.F.R. § 3030.126(b)-(d), and not 39 C.F.R. § 3030.126(i), that is applicable to this proceeding. Further, "[a]pplicable law means only the applicable requirements of [39 C.F.R. part 3030], Commission directives and orders, and 39 U.S.C. [§§] 3626, 3627, and 3629" and does not include the objectives and factors of 39 U.S.C. § 3622(b) and (c). 39 C.F.R. § 3030.126(b).

Given that the Commission's authority to streamline the process for rate adjustment dockets was extensively commented on in Docket No. RM2017-3,[51] the appropriate forum for resolution of this issue is the Court of Appeals for the D.C. Circuit in the currently pending appeal of Docket No. RM2017-3 and not this proceeding. Petitioners in that proceeding have elected not to pursue a challenge related to this issue.[52]

Although the Commission maintains that rate adjustments compliant with the new regulations are consistent with the objectives and factors and further analysis is not necessary, the Commission has nevertheless considered the comments alleging the proposed price adjustments are inconsistent with the objectives and factors, and finds that the proposed price adjustments are consistent with the objectives and factors. Comments making general allegations about the price adjustments vis-à-vis the objectives are addressed in the remainder of this section, while comments related to

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[51] *See* Order No. 5763 at 246-248.

[52] NPPC and the Major Mailers Association mentioned this issue in their petition for review in that case, but did not raise it in their briefs. *See Nat'l Postal Policy Council v. Postal Reg. Comm'n*, No. 17-1276 (D.C. Cir. Jan. 27, 2021), ECF Document No. 1882037, at 2 (listing this issue on the NPPC and Major Mailers Association petitioners' statement of issues to be raised on appeal).

specific prices or other topics that are addressed elsewhere in this Order are discussed where relevant to the issues presented.

MPA and ANM and PostCom argue that the rates proposed in this docket are inconsistent with Objective 1 (maximize incentives to reduce costs and increase efficiency) because the rate increases will undermine the Postal Service's incentives to reduce costs and increase efficiency.[53] In Order No. 5763, the Commission explained how the modified ratemaking system, which includes the additional forms of rate authority being utilized for the first time in this proceeding, was designed to facilitate achievement of Objective 1 in conjunction with the other objectives.

As the Commission noted, "[c]ontinued financial pressure, particularly in the near term, may hinder the Postal Service's ability to make investments that would increase efficiency[ ] [and] reduce costs . . . ." Order No. 5763 at 301. While price cap systems theoretically contain inherent incentives for the regulated entity to increase efficiency and reduce costs, a confluence of circumstances occurring after the PAEA's enactment resulted in total costs increasing more than CPI-U and a sudden divergence between total Postal Service costs and total Postal Service revenues, which made it challenging for the Postal Service to achieve either Objective 1 or Objective 5 (assure adequate revenues, including retained earnings, to maintain financial stability). *Id.* at 301-302; *see* 39 U.S.C. § 3622(b)(5).

The discrete sources of new rate authority approved by the Commission in Docket No. RM2017-3, which were found to be necessary to facilitate the achievement of Objective 5, were "not designed to allow the Postal Service to respond to its financial challenges through rate increases alone[,]" and specifically "address the deficiencies highlighted by the challenges experienced after the PAEA's enactment." Order No. 5763 at 302. The Commission stated that "[b]y closely tailoring the modifications to the

[53] PostCom Comments at 4; MPA/ANM Comments at 7. *See* 39 U.S.C. § 3622(b)(1).

identified deficiencies, these modifications are designed to provide correct incentives and to encourage prudent pricing and operational decision-making by the Postal Service." *Id.* The Commission further acknowledged that the PAEA was intended to allow the Postal Service the opportunity to retain earnings as an incentive for the Postal Service to increase efficiency and reduce costs. *Id.* at 302-303. The Commission stated that "[b]y providing the Postal Service with the needed pricing tools to narrow the existing formidable gap between revenues and costs, the ability for the Postal Service to bridge that gap fully via efficiency gains and cost reductions is more meaningful [under the modified ratemaking system] than under the [initial one]." *Id.* at 303.

In addition, the Commission noted that the modified ratemaking system introduced several rules targeting pricing inefficiency, consistent with Objective 1. First, the rules provide for increased rate authority for non-compensatory mail classes, which is designed to address longstanding issues related to non-compensatory classes that undermine pricing efficiency. *Id.* at 305-306. Second, the rules implement pricing requirements for non-compensatory products designed to increase pricing efficiency. *Id.* at 306-308. Third, the rules set limitations on the inefficient pricing of workshare discounts in order to improve pricing and operational efficiency. *Id.* at 308-309.

Ultimately, the Commission concludes that the planned price increases in this proceeding are consistent with Objective 1. It is the Commission's expectation that price increases like the ones proposed in this proceeding will enhance the Postal Service's ability to make investments that increase efficiency and reduce costs, while also narrowing the formidable gap between costs and revenues, thus motivating the Postal Service to take further steps to reduce costs and increase efficiency. The Commission also expects there to be marked increases in pricing efficiency as a result of the application of the new rules that provide additional rate authority for non-compensatory classes, impose pricing requirements on non-compensatory products, and provide enhanced regulation of the pricing of workshare discounts.

With respect to PostCom's claims that the Commission has refused to perform the "statutory duty" of thoroughly investigating the efficiency of Postal Service operations and ensuring that the Postal Service is operating efficiently, the Commission is unclear what "statutory duty" PostCom is referring to, given that the PAEA did not give the Commission regulatory authority over the Postal Service's operations. *See* PostCom Comments at 5. If PostCom is referring to the Commission's responsibility under 39 U.S.C. § 3622(d)(3) to review the initial Market Dominant ratemaking system to assess whether it was achieving the objectives of the PAEA, including the operational efficiency component of Objective 1, the Commission notes that it provided extensive analysis related to operational efficiency as part of its overall discussion of Objective 1 in its review of the initial Market Dominant ratemaking system. Order No. 4257 at 203-221, 225-226. The Commission also notes that it has opened a separate rulemaking to consider the potential inclusion of a performance incentive mechanism in the modified ratemaking system intended to incentivize operational efficiency improvements by the Postal Service.[54]

PostCom also argues that the rates proposed in this docket are inconsistent with Objective 2 (create predictability and stability in rates) because the proposed price increases are drastic and uneven.[55] Objective 2 encompasses both the timing and magnitude of rate adjustments. *See* Order No. 5763 at 310. Discussion and analysis of the timing component of Objective 2 can be found in Section IV.B.5., *infra.* PostCom's comments pertaining to the magnitude of the proposed rate adjustments are addressed in this Section.

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[54] Docket No. RM2021-2, Advance Notice of Proposed Rulemaking Regarding Performance Incentive Mechanism, January 15, 2021, at 1, 7-12 (Order No. 5816). The Commission recently granted a motion to hold this proceeding in abeyance pending the resolution of Docket No. RM2017-3 before the Court of Appeals for the D.C. Circuit. Docket No. RM2021-2, Order Granting Motion to Hold Proceeding in Abeyance, July 2, 2021, at 1-2 (Order No. 5928).

[55] PostCom Comments at 6. *See* 39 U.S.C. § 3622(b)(2).

As a preliminary matter, the Commission notes that the new rules were designed to continue to allow the Market Dominant ratemaking system to facilitate achievement of Objective 2 in conjunction with the PAEA's other objectives. Order No. 5763 at 310-311. The Commission recognized that the new forms of rate authority increased the amount of rate authority available to the Postal Service; however, the Commission also noted that the 10-year period between the establishment of the initial PAEA ratemaking system and the Commission's first ability to review it and consider modifications pursuant to 39 U.S.C. § 3622(d)(3) was significantly longer than the usual period for periodically rebasing and restructuring price cap systems. *Id.* at 311-312. Periodic rebasing and restructuring of price cap systems is necessary because "'price cap formulae are based upon predictions of costs and, over time, divergences between prices and costs are inevitable.'" *Id.* at 312 (citations omitted). The Commission noted that "[t]he longer timeframe between the establishment of the existing system and the implementation of the changes . . . tends to exacerbate the misperception that raising the annual limitation would necessarily disrupt predictability and stability." *Id.*

The Commission explained the ways in which rates under the initial Market Dominant ratemaking system had frustrated the achievement of multiple other objectives, including Objectives 5 (assure adequate revenues, including retained earnings, to maintain financial stability) and 8 (establish and maintain a just and reasonable schedule for rates and classifications), thus necessitating additional forms of rate authority. *Id.* at 313. The Commission has also explained the various ways in which the modified ratemaking system was designed to account for Objective 2. In particular, the new forms of rate authority were all designed "to enable the modified ratemaking system to achieve predictable and consistent timing of rate changes, a forecastable magnitude of rate changes, and minimization of sudden or extreme fluctuation." *Id*. at 315.

For example, the density-based rate authority is designed to conservatively approximate the amount by which average cost-per-piece is expected to unavoidably increase due to density declines, which reduces the magnitude of potential rate increases and limits fluctuations in rate authority. *Id.* at 316. The density-based rate authority relies on actual measured per-unit cost increases caused by density declines, rather than projections, and it approximates declining density for Market Dominant products as a whole, rather than individual mail classes, both of which reduce fluctuations. *Id.* at 316-317. In addition, the inputs to the density formula are transparent, and the corresponding calculation of rate authority eligible for use in a particular fiscal year is publicly knowable on a predictable basis. *Id.* at 317. The Commission gave similar consideration to how the modified ratemaking system would achieve predictability and stability of rates with its design of the other sources of additional rate authority. *Id.* at 317-319.

The Commission also explained how other aspects of its new rules demonstrated consideration for the achievement of Objective 2. For example, new pricing requirements for non-compensatory products represent an incremental approach to improving cost coverage, and the modified ratemaking system also takes an incremental approach to phasing out inefficient pricing practices with respect to workshare discounts. *Id.* at 320-321. Thus, while the Commission recognizes that the initial transition to the modified ratemaking system after over a decade of rate increases being limited solely to increases in CPI-U is a major adjustment for mailers, the Commission has accounted for Objective 2 extensively in the design of the modified ratemaking system while also balancing the PAEA's other objectives.

PostCom alleges the Commission rejected a proposal of a 5.7 percent increase above inflation in Docket No. RM2017-3 as "likely to undermine interests in the stability of rates." PostCom Comments at 6. However, the Commission notes it did not reject the proposal because it ran afoul of Objective 2; instead, it elected to initially propose

spreading out additional supplemental authority over a period of 5 years for a variety of reasons. Order No. 4258 at 43-45. After receiving comments, the Commission abandoned the supplemental authority approach altogether in favor of forms of additional rate authority that were targeted to address specific deficiencies of the initial Market Dominant ratemaking system. Although the new forms of rate authority have resulted in more pricing authority (for non-compensatory classes) in this proceeding than the proposal referenced by PostCom, they are the amounts the Commission ultimately determined were necessary to achieve the objectives pursuant to 39 U.S.C. § 3622(d)(3).

With respect to PostCom's claim that the price increases are "wildly divergent within classes," the Commission first notes that Objective 2 cannot be read in isolation. Order No. 5763 at 315. As the Commission noted in Order No. 5763, Objective 8 (establish and maintain a just and reasonable schedule for rates and classifications) plainly states that it "shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail." *Id.*; 39 U.S.C. § 3622(b)(8). The Commission also finds PostCom's two examples instructive. PostCom Comments at 6. First, PostCom points out that the First-Class Mail Flats product's prices are increasing approximately double those of the First-Class Mail Single-Piece Letters/Postcards product. *Id.* Second, PostCom asserts the prices for detached marketing and address labels are "increasing by a staggering 16.7 and 18.2 percent, respectively." *Id.* at 6-7.

Although the Postal Service's proposed pricing design often results in adjustments that vary from the class average, the planned price adjustments demonstrate consideration for continued achievement of Objective 2. To compare, in a past price adjustment proceeding, the Commission found that an exceptional planned price increase appeared to be discriminatory on its face and observed that the Postal Service failed to meaningfully address Objective 2 with respect to its plan to increase

the subscription fee for Platinum tier mailing agents by 963 percent (over $225,000 annually).[56] Generally, it is not outside the realm of recent mailer experience for certain products to have price increases more than the class average in some years and to have price increases less than the class average in other years. It is also reasonable for the Postal Service to take into account other factors, such as costs, demand, and efficiency in making these determinations. In fact, the operation of the price cap at the class level necessarily means that the Postal Service must, in order to have a pricing proposal that does not have each product moving in lock step with the available pricing authority, vary the size of increases among products within each class.

With respect to the above-class average increase for First-Class Mail Flats, the Commission notes that in the FY 2020 ACD, the Commission found that the First-Class Mail Flats "barely covered its costs and had a negligible contribution" in FY 2020, and that the contribution from First-Class Mail Flats had declined from $804 million in FY 2015 to just $4 million in FY 2020. FY 2020 ACD at 237. Given its barely-compensatory cost coverage, it was certainly predictable that the Postal Service would elect to give an above-average increase to First-Class Mail Flats. This approach is also consistent with Objective 1 and Objective 8 because the Postal Service is using available pricing authority to take steps to increase revenues for a product that has had declining and negligible contribution, thus increasing pricing efficiency (Objective 1) and maintaining compensatory, and thus just and reasonable, rates (Objective 8). *See* Order No. 4257 at 130-132, 235-236.

With respect to the price increases for detached marketing and address labels in the USPS Marketing Mail class, it is necessary to note that detached marketing and address labels must accompany a High Density or Saturation Flat. While detached marketing and address labels are both proposed to increase by more than the class

[56] Docket No. R2009-2, Order Reviewing Postal Service Market Dominant Price Adjustments, March 16, 2009, at 72 n.59 (Order No. 191).

average, the High Density and Saturation Flats/Parcels product overall is proposed to increase by less than the class average. In order to appropriately analyze this increase, the Commission considers the price change proposed for the entire mailpiece, as opposed to the detached marketing and address labels prices in isolation. For example, the baseline Docket No. R2021-1 rate for a commercial Saturation Flat dropped at a destination delivery unit (DDU) with a detached marketing label is $0.223 ($0.163 + $0.060), while the proposed Docket No. R2021-2 price for the same mailpiece is $0.237 ($0.167 + $0.070), which represents an approximately 6.3 percent increase for the mailpiece. Thus, the overall increase for the mailpiece is in line with, albeit slightly below, the class average increase for the USPS Marketing Mail class.

MPA and ANM and PostCom also argue that the rates proposed in this proceeding are inconsistent with Objective 8 (establish and maintain a just and reasonable schedule for rates and classifications) because their magnitude and their disparate application within classes render them unjust and unreasonable.[57] Objective 8 requires just and reasonable rates—that is, rates that are neither excessive to mailers nor threaten the financial integrity of the Postal Service. *See* Order No. 5763 at 351. The Commission found that under the initial ratemaking system rates were not excessive to mailers but did threaten the financial integrity of the Postal Service. *See id.*

In Order No. 5763, the Commission explained how the modified ratemaking system was designed to facilitate achievement of Objective 8 in conjunction with the other objectives. The Commission found that "any concerns that the provision of the additional forms of rate authority would unjustly enrich the Postal Service at the expense of the ratepayers are largely overstated." Order No. 5763 at 352. The Commission noted that "[t]he significance of the financial pressures faced by the Postal

[57] MPA/ANM Comments at 7; PostCom Comments at 7. *See* 39 U.S.C. § 3622(b)(8).

Service is well documented[,]" and that the modified ratemaking system would increase the Postal Service's price adjustment authority and "thereby improve the ability of the Postal Service to set rates that would not threaten its financial integrity." *Id.* The Commission stated the overall design of the modified ratemaking system targets "a range of prices that would be just and reasonable to the Postal Service and its mailers." *Id.* at 352-353.

The Commission has also explained the various ways in which the modified ratemaking system was designed to account for Objective 8. For example, the retirement obligation authority is designed to address a primary loss driver that is outside the Postal Service's direct control, and is limited to the amount necessary to ensure that the Postal Service receives the appropriate amount of revenue to fund its retirement liabilities. *Id.* at 354. The retirement obligation rate authority formula includes the volume of competitive products in the calculation of retirement obligation rate authority, which safeguards against rates being set at a level that would be excessive to Market Dominant ratepayers. *Id.* In addition, all revenue collected as a result of the retirement obligation rate authority must be remitted to pay for outstanding liabilities. *Id.* at 355.

The Commission also took specific steps to address classes and products that are non-compensatory and thus directly threaten the financial integrity of the Postal Service. The rate authority for non-compensatory mail classes is necessary as an incremental approach to addressing longstanding cost coverage deficiencies for mail classes in which rates cannot be effectively rebalanced. *Id.* at 356-357. It is designed to result in rates that, by covering the costs of the products to which they apply, are just and reasonable to both mailers and the Postal Service. *Id.* at 357. It ceases to be available once such a mail class becomes compensatory, and by taking an incremental approach (rather than allowing for a one-time reset), the rate authority for

non-compensatory mail classes reduces the magnitude and speed of rate increases that could be excessive to mailers. *Id.* at 358.

Likewise, the rate requirements for non-compensatory products are just and reasonable to both mailers and the Postal Service. *Id.* at 355. These requirements do not result in any additional rate authority; they simply require the Postal Service to incrementally rebalance rates within a compensatory mail class to reduce the cross-subsidies received by non-compensatory products. *Id.* Non-compensatory product rates are not just and reasonable, impede pricing efficiency, and threaten the Postal Service's financial integrity, undermining Objectives 1, 5, and 8. *Id.* The rate requirements for non-compensatory products cease to be applicable once such a product becomes compensatory. *Id.*

PostCom specifically takes issue with the proposed price increases for several products that cover substantially more than their attributable costs and implies that these proposed increases are excessive to mailers. PostCom Comments at 7. PostCom's approach appears to conflate the two separate prongs of Objective 8. While the Commission has used cost coverage to determine whether specific products threaten the financial integrity of the Postal Service (by being non-compensatory), the Commission has not used cost coverage to assess whether rates are excessive to mailers. *See* Order No. 4257 at 119-122.

In addition, extending PostCom's argument to its logical extreme would mean that prices for products should be set such that revenues for a given product equal that product's attributable costs. This would be inconsistent with Objective 8 by creating enhanced risks that products become non-compensatory when costs shift. It would also be inconsistent with Objectives 4 and 5, which allow the Postal Service pricing flexibility in setting prices and assure the Postal Service adequate revenues, respectively. *See* 39 U.S.C. § 3622(b)(4), (5). This approach would be especially problematic with regard to Objective 5 because the Postal Service needs products to contribute more than their

attributable costs in order to ensure that the institutional costs of the Postal Service as a whole are covered by total revenues in order to break even and retain earnings consistent with Objective 5.

The planned price adjustments in this proceeding are consistent with Objective 8. Specifically, they take substantial steps to improve the cost coverage of non-compensatory products and classes by utilizing the additional pricing authority for non-compensatory classes and implementing above-average price increases on non-compensatory and low-cost coverage products. At the same time, the planned price adjustments do not result in a schedule for rates and classifications that would be excessive to the mailers. The rate authority has been specifically designed to be limited in multiple ways, including by permitting incremental changes rather than large, one-time adjustments, to protect mailers from excessive rates.

The Commission concludes that even if the commenters are correct and the Commission is obligated to assess the planned price adjustments vis-à-vis the objectives and factors, the price adjustments proposed in this proceeding are consistent with the relevant statutory objectives and factors. No commenter raises an argument that leads the Commission to find that on balance the proposed prices are inconsistent with the objectives and factors, and ultimately, the Commission determines that the weight of the balance favors approval of the proposed prices. *See* Section IV.B.3, *supra* and Sections IV.B.5., IV.B.6., IV.B.9., V.F.3., and VI.H.3., *infra.*

5. Schedule for Regular and Predictable Rate Adjustments

Comments. Multiple commenters express concern that the price adjustment proposed in this proceeding is not reflected in the schedule for regular and predictable rate adjustments, which reflects that price adjustments are expected to occur each January, and therefore, these commenters urge the Commission to reject or delay the

proposed increases as contrary to the schedule.[58] Commenters assert that the failure to update the schedule violates 39 U.S.C. § 3622(d)(1)(B) and 39 C.F.R. § 3030.102.[59]

PostCom states that 39 C.F.R. § 3030.102 requires "the Postal Service to provide even more detail about its rate schedule" than the prior rules, including estimated filing and implementation dates for the next three years. PostCom Comments at 8, 9. PostCom asserts that it is "not a defense that the Governors have not yet determined whether the [s]chedule will apply in future years" when the rule requires a set schedule for the next three years. *Id.* at 9. PostCom asserts that the rules allow the Postal Service to vary the magnitude of adjustments from those in the schedule, but not the timing absent filing a revised schedule. *Id.* at 8. PostCom notes that the latest version of the schedule was filed on October 18, 2011, and shows that price changes will be implemented in January of each year. *Id.* Given the rates in this docket are planned to go into effect in August, PostCom states that "[t]he present filing, quite clearly, deviates from the [s]chedule." *Id.* at 9.

NPPC similarly asserts that the Postal Service violates 39 C.F.R. § 3030.102(a)(1), (2), and (3) in this proceeding by filing for the current increase "with absolutely no warning or transparency." NPPC Comments at 5. MPA and ANM also take issue with the August implementation date, asserting that this violates the Commission's regulations and undermines Objective 2 (create predictability and stability in rates). MPA/ANM Comments at 8. PostCom also notes that the timing of this price adjustment is problematic with respect to Objective 2, stating that the Commission's proposed modifications to the schedule were specifically to respond to mailers'

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[58] *See, e.g.,* NMA Comments at 7; MPA/ANM Comments at 7-8; PostCom Comments at 2-3, 8-10; NPPC Comments at 5, 9.

[59] NMA Comments at 7; PostCom Comments at 8-9; MPA/ANM Comments at 8; NPPC Comments at 5.

concerns that the new rules would reduce the predictability and stability of rates. PostCom Comments at 9.

NPPC raises a similar concern, stating that under the prior rules and schedule commercial mailers could budget over the summer for the upcoming year, but that the increases proposed in this proceeding were not anticipated last summer when budgets were prepared, particularly because the rules granting the Postal Service additional rate authority were not issued until December 2020. NPPC Comments at 6. NPPC asserts that the failure to update the schedule leaves mailers in the dark as to the timing of future increases. *Id.* at 7-8.

NMA asserts that the Postal Service's failure to update the schedule "injects a harmful uncertainty into the use of the mail" and indicates that mailers can no longer expect transparency and predictability in the timing and amount of rate adjustments and that the schedule cannot be trusted going forward. NMA Comments at 7. PostCom echoes this concern, criticizing the Postal Service for failing to provide information about what timeline will apply in future years and asserting that "the Postal Service is in effect claiming the authority to enact *de facto* changes in the [s]chedule whenever it so desires." PostCom Comments at 9. MPA and ANM also criticize the fact that the Postal Service does not provide additional information about when future increases will occur, which they assert creates uncertainty for mailers. MPA/ANM Comments at 7-8.

NAPM "urges" the Postal Service to communicate its future plans for rate adjustments and opposes "a continued pattern of 2 price changes in the same year." NAPM Comments at 5. NAPM asserts that the uncertainty as to if there will continue to be two price changes per year or just one and when those would occur "causes huge disruption to the mailing industry and supply chain." *Id.* NAPM supports moving back to an annual adjustment where both Market Dominant and Competitive prices are changed at the same time, which it states saves costs due to necessary software changes. *Id.* at 5-6. It also asserts an annual price adjustment schedule is supported by Objectives 2

(create predictability and stability in rates) and 8 (establish and maintain a just and reasonable schedule for rates and classifications). *Id.* at 6.

Commission analysis. 39 U.S.C. § 3622(d)(1)(B) required that the initial Market Dominant ratemaking system "establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts." 39 U.S.C. § 3622(d)(1)(B). The initial rule promulgated by the Commission required the Postal Service maintain a schedule for regular and predictable rate changes on file with the Commission that would be displayed on the Commission's website.[60] The rule also required that the schedule provide mailers with estimated implementation dates for future price increases for each class of mail as well as an explanation that would allow mailers to predict with reasonable accuracy the amounts of future rate changes.[61] The rule also provided that the Postal Service file a revised schedule and explanation with the Commission "[w]henever the Postal Service deems it appropriate" to change the schedule and allowed the Postal Service to vary rate adjustments from the schedule "for good cause shown."[62]

The Postal Service filed schedules with the Commission on two occasions. First, when the Postal Service provided notice of the first price adjustment under the initial ratemaking system, it also filed a schedule for regular and predictable price changes that stated that the Postal Service expected to implement price changes for all Market Dominant classes on May 12, 2008, and in mid-May of each subsequent year.[63] The Postal Service filed a revised schedule in Docket No. R2012-3 and announced its plan

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[60] Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007, at 114 (Order No. 43) (displaying former 39 C.F.R. § 3010.7(a)).

[61] *Id.* (displaying former 39 C.F.R. § 3010.7(b), (c)).

[62] *Id.* at 115 (displaying former 39 C.F.R. § 3010.7(e), (f)).

[63] Docket No. R2008-1, United States Postal Service Filing of Schedule of Regular and Predictable Price Changes, February 11, 2008, at 3.

to implement price adjustments each January instead of each May.[64] The FY 2012 Schedule remains the most recent schedule filed with the Commission.

Over the years, the Postal Service mostly followed the timing laid out in the schedules; however, it also deviated from the planned timing on several occasions. Order No. 4257 at 59-61. For example, because the price adjustments proposed in Docket No. R2015-4 were requested in January and implemented in May, the FY 2015 price adjustments were inconsistent with the FY 2012 Schedule. These deviations from the schedule were never used as a basis to reject, remand, or delay proposed price adjustments that were filed inconsistent with the posted schedule.

Despite these deviations from the schedule, in Docket No. RM2017-3, the Commission found that they did not rise to a level that would be considered unpredictable because informed mailers and postal customers would have been aware of the "external influences that may impact the Postal Service's ability or intent to adjust prices at a particular time." *Id.* at 61. The Commission concluded that because the deviations from the schedule were "explained by external influences observable to mailers," "the timing of price adjustments ha[d] been predictable and stable" consistent with Objective 2 (create predictability and stability in rates). *Id.* at 62.

Despite this finding, the Commission noted that the rule under the initial ratemaking system "did not require the Postal Service to update its schedule of regular and predictable price changes, which resulted in mailers' need to refer to other sources to get updated information if the schedules changed." *Id.* To remedy this and otherwise enhance the rule concerning the schedule of regular and predictable rate adjustments, the Commission made two modifications to the rule in Docket No. RM2017-3. *See* Order No. 4258 at 101. First, 39 C.F.R. § 3030.102(b) directs the Postal Service to file

[64] Docket No. R2012-3, United States Postal Service Filing of Updated Schedule of Regular and Predictable Price Changes, October 18, 2011, at 3 (FY 2012 Schedule).

a schedule "annually with the Commission at the time of filing the Postal Service's section 3652 report." 39 C.F.R. § 3030.102(b). Second, 39 C.F.R. § 3030.102(a)(2) requires that the schedule shall "[p]rovide estimated filing and implementation dates (month and year) for future rate adjustments for each class of mail expected over a minimum of the next 3 years." *Id.* § 3030.102(a)(2). The Commission's primary reason for making the modifications was to "improve the mailing community's ability to plan budgets" and "improve accessibility of information for all mailers." Order No. 4258 at 101-102. The other aspects of the rule raised by the commenters in this proceeding were substantively unchanged by Docket No. RM2017-3, including that rate adjustments are to be scheduled at specific regular intervals and that the Postal Service has discretion to revise the schedule whenever appropriate.[65]

Given the limited changes to the rule concerning the schedule for regular and predictable rate adjustments in Docket No. RM2017-3 and that the Commission had previously permitted deviations from the schedule under the prior rule, the Commission determines that it would be inappropriate to reject or delay the Postal Service's planned price adjustments. As outlined above, two modifications to the rule concerning the schedule for regular and predictable rate adjustments were made in Docket No. RM2017-3. The first modification newly required the Postal Service to update the schedule "annually with the Commission at the time of filing the Postal Service's section 3652 report." 39 C.F.R. § 3030.102(b). However, this provision was not in effect when the Postal Service last filed its section 3652 report. The Postal Service's section 3652 report is filed with the Commission in late December each year as it is due "no later than 90 days after the end of each [fiscal] year."[66] The Postal Service's most recent section

[65] *Compare* 39 C.F.R. § 3030.102, *with* former 39 C.F.R. § 3030.509 (2020). *See* Order No. 5337 at 238.

[66] 39 U.S.C. § 3652(a). *See id.* § 102(10).

3652 report was filed on December 29, 2020,[67] and the requirement that the Postal Service annually update the schedule at the time of the filing of that report did not go into effect until January 14, 2021.[68] Thus, the Commission does not have a basis pursuant to the new rule to find the Postal Service out of compliance with the annual filing requirement. The second modification requires enhanced detail be provided in the schedule by requiring estimated filing and implementation dates over a minimum of the next 3 years. 39 C.F.R. § 3030.102(a)(2). This requirement will come into play when the Postal Service first updates the schedule, which by the rules is required no later than late December of this year. Given that the other rule provisions were not substantively changed in Docket No. RM2017-3 and the Commission has not previously interpreted those provisions to necessitate the rejection, delay, or remand of a price adjustment that deviates from the schedule, the Commission cannot justify such an extreme change in its approach in this proceeding without providing any advance notice to the Postal Service of such a change.

Despite its determination to not delay or reject the planned price increases, the Commission is nonetheless sympathetic to the mailers' needs to have regular and transparent information about upcoming price adjustments to allow for advance budgeting. It was an unfortunate coincidence that the timing of the finalization of the new rules was such that it relieved the Postal Service of the annual filing requirement of an updated schedule until later this year, as the change in the rule was specifically targeted to "improve the mailing community's ability to plan budgets." Order No. 4258 at 101. This is an issue the Commission intends to watch closely, and should the revised rule not be effective at ensuring regular and transparent information is available

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[67] *See* Docket No. ACR2020, United States Postal Service FY 2020 Annual Compliance Report, December 29, 2020.

[68] Order No. 5763 at 370 (stating that revised rules are to take effect 30 days after publication in the *Federal Register);* System for Regulating Market Dominant Rates and Classifications, 85 Fed. Reg. 81124 (December 15, 2020).

regarding future price adjustments, the Commission would consider changes to 39 C.F.R. § 3030.102 in its 5-year review of the Market Dominant ratemaking system. *See* Order No. 5763 at 267. In the meantime, the Commission strongly encourages the Postal Service to file an updated schedule consistent with 39 C.F.R. § 3030.102 as soon as possible to communicate clearly with stakeholders its future plans and to alleviate the concerns raised in this proceeding by many of the commenters.

With respect to the claim by commenters that the lack of updated schedule and proposed August implementation date undermine Objective 2 (create predictability and stability in rates), the Commission notes that it specifically looked at previous deviations from the schedule in Docket No. RM2017-3 and found that they did not affect the achievement of Objective 2 because "there are external influences that may impact the Postal Service's ability or intent to adjust prices at a particular time" that "are known to mailers and postal customers and are generally communicated by the Postal Service to mailers through a variety of channels." Order No. 4257 at 61. The Commission, therefore, concluded that the off-schedule price adjustments could not be viewed as unpredictable or unstable. *Id.* at 62.

Docket No. RM2017-3 opened on December 20, 2016 with an advance notice of proposed rulemaking, which was followed by Order No. 4257 finding the Market Dominant ratemaking system was not achieving the objectives of the PAEA, Order Nos. 4258 and 5337 noticing proposed rules, and Order No. 5763 ultimately adopting final rules on November 30, 2020.[69] Throughout the nearly 4-year rulemaking process, the Postal Service emphasized its need for additional pricing authority and its dire financial

[69] *See* Docket No. RM2017-3, Advance Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products, December 20, 2016 (Order No. 3673); Order No. 4257; Order No. 4258; Order No. 5337; Order No. 5673.

situation at every opportunity.[70] The Postal Service's comments left no question that the Postal Service believes it needs substantial additional rate authority beyond the CPI-U price cap. *See id.*

The rules did not become final until January 14, 2021, and thereafter, there was a motion to stay implementation of the rules before the Court of Appeals for the D.C. Circuit that was not resolved under March 1, 2021.[71] However, a few weeks later, the Postal Service was publicly acknowledging its plans to file a rate adjustment proceeding utilizing the new forms of rate authority. In the Delivering for America Plan issued on March 23, 2021, the Postal Service stated that the plan's "strategic initiatives are designed to reverse a projected $160 billion in losses over the next ten years by achieving break-even operating performance," which would be accomplished by among other things the "effective use of newly acquired and existing pricing authorities."[72] Under a heading of "Implement New Pricing Authorities," the Postal Service further represented that it would "apply judicious and prudent strategies to optimize revenues and contribution within applicable regulatory constraints." *Id.* at 38. Three days after issuance of the Delivering for America Plan, the Postal Service announced in a filing before the Commission that it expected to file a price adjustment docket "on or about May 28, 2021." Docket No. RM2021-5 Application for Waiver at 1. Because rate

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[70] *See, e.g.,* Docket No. RM2017-3, Comments of the United States Postal Service, March 20, 2017; Docket No. RM2017-3, Initial Comments of the United States Postal Service in Response to Order No. 4258, March 1, 2018; Docket No. RM2017-3, Reply Comments of the United States Postal Service in Response to Order No. 4258, March 30, 2018; Docket No. RM2017-3, Initial Comments of the United States Postal Service in Response to Order No. 5337, February 3, 2020; Docket No. RM2017-3, Reply Comments of the United States Postal Service in Response to Order No. 5337, March 4, 2020.

[71] *Nat'l Postal Policy Council v. Postal Reg. Comm'n*, No. 17-1276 (D.C. Cir. Mar. 1, 2021), ECF Document No. 1887800, at 1.

[72] United States Postal Service, Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence, March 23, 2021, at 3, available at *https://about.usps.com/what/strategic-plans/delivering-for-america/assets/USPS_Delivering-For-America.pdf* (Delivering for America Plan).

adjustment filings must be noticed no later than 90 days prior to the planned implementation date,[73] it was clear at that point that an August 2021 implementation date was likely. 39 C.F.R. § 3030.121(c).

Given these facts, the Commission finds that the timing of price adjustments at issue in this proceeding was dictated by external circumstances, like the final rules going to into effect and the Court of Appeals for D.C. Circuit ruling on the motion to stay implementation of the rules, but that mailers and postal customers were aware of those circumstances and the Postal Service indicated its intended plans through formal and informal channels. Thus, consistent with how the Commission has viewed past deviations from the schedule, the Commission finds the instant price adjustment and August implementation date do not undermine achievement of Objective 2.

With respect to NAPM's comment that the Postal Service adjust rates once per year, which it states is consistent with Objectives 2 (create predictability and stability in rates) and 8 (establish and maintain a just and reasonable schedule for rates and classifications), the Commission notes that the PAEA does not limit how frequently the Postal Service can adjust rates. As discussed in Section IV.B.3, *supra*, the Commission previously found that allowing the Postal Service to exercise broad discretion over the timing of price changes was an important element of the achievement of Objective 4 (allow the Postal Service pricing flexibility). Order No. 4257 at 144. The Commission also previously found that the timing of price adjustments, including a situation where two price adjustments were filed within a 12-month period, was predictable and stable consistent with Objective 2. *Id.* at 60, 143. Objective 8, which focuses on whether the entire rate schedule threatens the financial integrity of the Postal Service or is excessive

[73] The Commission notes that the 90-day notice requirement is also a new requirement of the modified ratemaking system. Order No. 5673 at 248-249. Previously, the Postal Service was required to provide notice only 45 days in advance, and the Commission found that 90 days' advance notice would provide additional benefits to mailers, including facilitating their ability to generate budgets and giving mailers time to implement the planned rates. *Id.* at 249; Order No. 4258 at 104.

to mailers, is not implicated by the timing of price adjustments. *Id.* at 113, 226. Although there is no statutory or regulatory requirement for annual price adjustments, the Commission strongly encourages the Postal Service to work with mailers and other stakeholders to set a schedule for price adjustments that minimizes costs and disruptions to the largest extent possible.

6. Rate Increases and the Postal Service's Financial Health

Comments. Multiple commenters assert that the rate increases in this proceeding are not necessary to support the Postal Service's financial health.[74] NRECA asserts that Postal Service revenues are $10 billion above the prior year's levels and that the Postal Service has achieved positive net income for the first 6 months of FY 2021, which are indicators of financial health that should be weighed against the economic impact of the rate increase on mailers. NRECA Comments at 3.

PostCom advocates for a delay in the implementation of the price increases until either January 2022 or when the Court of Appeals for the D.C. Circuit issues a decision in the Docket No. RM2017-3 appeal, whichever is later. PostCom Comments at 3-4. As an alternative, PostCom suggests the Postal Service could be permitted to raise rates solely by the available amount of rate authority based on CPI-U. *Id.* at 4. It asserts this delay will protect mailers while the Postal Service "will not be seriously harmed by a four-to-five month delay in implementing these rates." *Id.* at 3. In support of this position, PostCom points out that operating revenue year-to-date has exceeded plan by 7.4 percent and improved 9.1 percent over the same period last year (SPLY), and that the current period numbers show even greater improvement at 15.1 percent over plan and 12.5 percent over SPLY. *Id.* PostCom asserts that Market Dominant volumes are rebounding, and Competitive volumes remain robust. *Id.* PostCom also

[74] *See, e.g.,* NRECA Comments at 3; Pioneer Utility Comments at 3; PostCom Comments at 3-4, 6; ANA Comments at 5.

argues that the Postal Service has a substantial cash balance, which is "more than enough to tide it over." *Id.*

Commission analysis. As the Commission has explained, the modifications to the ratemaking system adopted in Docket No. RM2017-3 were necessary to appropriately balance the PAEA's statutory objectives, including, as relevant to these comments, Objective 5. Objective 5 provides that the ratemaking system is to "assure adequate revenues, including retained earnings, to maintain financial stability." 39 U.S.C. § 3622(b)(5). After reviewing the initial ratemaking system pursuant to 39 U.S.C. § 3622(d)(3), the Commission found that financial stability had not been achieved because total revenue had been inadequate to cover total costs, resulting in the Postal Service suffering a net loss every year during the first decade of the PAEA era. Order No. 4257 at 165-169, 247-249. Over time, the accumulation of net losses resulted in accumulated deficits, which prevented the Postal Service from being able to achieve retained earnings. *Id.* at 169-171. In the decade after the PAEA was enacted, the Postal Service suffered a cumulative net loss of $59.1 billion, and defaulted on the vast majority of its statutory payment obligations. Order No. 5763 at 7. The Commission determined that since the enactment of the PAEA, the Postal Service had not had any working capital (assets in excess of liabilities), its capital expenditure ratio had declined, and its debt ratio had steadily increased. Order No. 4257 at 172-175. The Commission also found that cost reductions and efficiency gains alone were not likely to be enough to address the Postal Service's financial challenges, given that existing and future opportunities for cost reductions and efficiency gains by the Postal Service were likely limited. Order No. 5763 at 340-341.

In balancing Objective 5 against the PAEA's other objectives, the Commission focused on providing the Postal Service with additional revenue to address discrete sources of costs over which the Postal Service does not have direct control, and thus cannot address through cost reductions or efficiency improvements. The Commission

found that providing additional rate authority to mitigate the near-term financial pressure on the Postal Service is necessary to lead to financial stability. *Id.* at 341. Furthermore, financial pressure due to such costs inhibits the Postal Service's ability to make needed capital investments in order to reduce costs and improve efficiency. *Id.* at 301.

The Commission's findings in Docket No. RM2017-3 with respect to the Postal Service's financial instability remain applicable.[75] In its FY 2020 Financial Analysis, the Commission found that the Postal Service's liabilities continued to far exceed its assets, and its ability to make sufficient capital investments continued to be limited in FY 2020. *Id.* at 30-38. The Commission explained how the COVID-19 pandemic drove substantial changes in the mail mix in FY 2020, with large volume increases for Competitive products, which consist primarily of parcels, and large volume decreases for Market Dominant products. *Id.* at 11-14. Revenue gains associated with increased Competitive volumes were significantly offset by revenue declines associated with decreased Market Dominant volumes in FY 2020.[76] The Postal Service's net operating revenue for FY 2020 was higher than it was in FY 2019, but its FY 2020 net operating expenses were also higher, primarily driven by the COVID-19 pandemic-related increases in compensation, transportation, and supplies and services costs due to more labor-intensive parcel shipping, enhanced safety measures, and disruptions in air and highway transportation. *Id.* at 11. When these offsetting effects are accounted for, the Postal Service's net loss for FY 2020 was greater than its net loss for FY 2019, before the COVID-19 pandemic began. *Id.*

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[75] *See* Docket No. ACR2020, Postal Regulatory Commission, Financial Analysis of United States Postal Service Financial Results and 10-K Statement, Fiscal Year 2020, April 26, 2021 (FY 2020 Financial Analysis).

[76] *Id*. at 11-14. While Competitive revenue in FY 2020 increased 26.5 percent, a $6.4 billion increase, Market Dominant revenue declined 8.7 percent, an approximately $4.0 billion decrease. *Id.* at 12-13.

The Postal Service's liquidity improved in FY 2020 over FY 2019, largely as a result of increases to its cash balance and COVID-19 pandemic-relief legislation that made available to the Postal Service an additional $10 billion from the U.S. Treasury to fund operating expenses.[77] However, its overall financial position remained poor, with an FY 2020 net loss of $9.2 billion and an FY 2020 net deficit of $80.7 billion. *Id.* at 6. Such net losses and the resulting accumulated deficit are what the Commission identified as a primary deficiency in the initial ratemaking system because they undermine the Postal Service's financial stability.[78] It is these losses that the additional sources of above-CPI-U rate authority approved in Docket No. RM2017-3 are intended to address. *Id.*

Although the Commission generally provides its analysis of the Postal Service's finances on a fiscal year basis, with the FY 2020 Financial Analysis being the most recent annual and audited analysis available, the Postal Service provides unaudited financial reports to the Commission on a monthly basis. The most recent report filed by the Postal Service contains unaudited financial information current through May 2021 and confirms that the Postal Service remains financially unstable.[79] The May 2021 Unaudited Financial Report shows that year-to-date, the Postal Service's net loss has been approximately $1.3 billlion and that its net loss for May 2021 alone was $846 million. *Id.* at 1. Although the year-to-date numbers represent an improvement over SPLY and the FY 2021 plan, the May monthly numbers are worse than both SPLY and the FY 2021 plan. *Id.* Further, the fact that the Postal Service is continuing to have net losses on both a year-to-date and monthly basis demonstrates that the Postal Service's

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[77] *Id.* at 6, 38-42 (citing Public Law 116-136, Coronavirus Aid, Relief, and Economic Security Act, March 27, 2020 (CARES Act)).

[78] Order No. 5763 at 30 (citing Order No. 4257 at 247-249).

[79] USPS Preliminary Financial Information, Unaudited, May 2021, file "2021.6.24 May 2021 Financial Report to the PRC.pdf," June 24, 2021, available at *https://www.prc.gov/docs/119/119055/2021.6.24%20May%202021%20Financial%20Report%20to%20the%20PRC.pdf* (May 2021 Unaudited Financial Report).

net operating revenue continues to be less than the Postal Service's total expenses and that the Postal Service is far from achieving financial stability. *Id.*

Volume trends indicate that year-to-date Competitive volumes are higher compared to SPLY, while Market Dominant volumes are lower. *Id.* However, the month of May alone shows a reversal in that trend with Market Dominant volumes increasing 16.9 percent over SPLY and Competitive volumes decreasing 21.4 percent. *Id.* Given the shifts in volume trends that have been occurring since the start of the COVID-19 pandemic, there are many questions as to what the mail mix will look like in the near term, including whether gains in Competitive volumes and revenues will be sustained, whether Market Dominant volumes will recover, and whether gains in Competitive revenue will be sufficient to off-set any losses from declines in Market Dominant revenue.

With respect to NRECA's and PostCom's specific comments,[80] the Commission notes that while the numbers they cite are largely accurate for specific time periods,[81] they do not reflect the most up-to-date numbers available. Those numbers are reflected in the May 2021 Unaudited Financial Report as described above. Further, PostCom focuses on revenue alone rather than also considering total expenses. When total expenses are also considered, the picture painted by the April 2021 Unaudited Financial

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[80] *See* NRECA Comments at 3; PostCom Comments at 3-4.

[81] NRECA refers to the first 6 months of FY 2021, which would be covered by the March 2021 Unaudited Financial Report. USPS Preliminary Financial Information, Unaudited, March 2021, file "2021.5.7 March 2021 Financial Report to the PRC.pdf," May 7, 2021, available at *https://www.prc.gov/docs/117/117275/2021.5.7%20March%202021%20Financial%20Report%20to%20PRC.pdf*. Although NRECA is correct that the Postal Service reported having net income year-to-date in March, NRECA's assertion that revenues are $10 billion greater than SPLY is incorrect. *Id.* at 1 (showing about a $3 billion difference). PostCom's numbers reference the April 2021 Unaudited Financial Report. USPS Preliminary Financial Information, Unaudited, April 2021, file "2021.5.21 April 2021 Fin. Report.pdf," May 24, 2021, available at *https://www.prc.gov/docs/117/117926/2021.5.21%20apr%202021%20fin.%20report.pdf* (April 2021 Unaudited Financial Report).

Report is far less rosy, showing net losses for both the month and year-to-date. April 2021 Unaudited Financial Report at 1.

Ultimately, with the Postal Service having a $1.3 billion net loss year-to-date, the Commission concludes that it is imperative that the new rates take effect and there is nothing in the most recently available information that would lead the Commission to change its conclusions from Docket No. RM2017-3 that the new forms of pricing authority are necessary for the Postal Service to achieve financial stability consistent with Objective 5. As explained in Section IV.B.2., *supra*, the new forms of pricing authority being utilized in this proceeding are current law, and the Commission further finds no basis to delay implementation of the new rates or limit price increases to the change in CPI-U as PostCom suggests would be appropriate. *See* PostCom Comments at 3-4.

7. Application of the Workshare Discount Rules in 39 C.F.R. Part 3030, Subpart J

Comments. Several commenters are supportive of the proposed workshare discounts and the improvements to pricing efficiency driven by compliance with 39 C.F.R. part 3030, subpart J.[82] However, commenters also raise concerns about the application of 39 C.F.R. part 3030, subpart J.[83]

NPPC acknowledges that the First-Class Mail workshare discounts comply with 39 C.F.R. part 3030, subpart J. NPPC Comments at 13. However, NPPC takes issue with the workshare discounts for First-Class Mail Automation Letters, which NPPC

[82] *See, e.g.,* NAPM Comments at 2; Pitney Bowes Comments at 1; PR Comments at 12, 15, 16. The Commission notes that this Section focuses primarily on the comments pertaining to alleged deficiencies in 39 C.F.R. part 3030, subpart J. Discussion of the workshare discounts proposed in this proceeding and analysis of whether those discounts comply with the requirements of 39 C.F.R. part 3030, subpart J can be found in Sections V.D., VI.D., VII.D., and VIII.D., *infra.*

[83] *See, e.g.,* NPPC Comments at 13-14; MPA/ANM Comments at 8; PR Comments at 11-18.

asserts "were set at the most inefficient level permitted" under the rules with passthroughs close to 85 percent. *Id.* NPPC is concerned that 39 C.F.R. § 3030.284(e) "allows the Postal Service to set the discounts at no more than an 85 percent passthrough and contains no mechanism to force those passthroughs any closer to the 100 percent level needed to maximize efficiency." *Id.* NPPC suggests that the Commission should move the minimum permissible passthrough to 100 percent and suggests the Commission initiate a rulemaking making that change. *Id.* at 13-14. Similarly, the Public Representative suggests the exception of 39 C.F.R. § 3030.284(e) be changed to facilitate greater movement toward pricing efficiency and passthroughs near 100 percent. PR Comments at 17.

MPA and ANM acknowledge that the Postal Service complied with 39 C.F.R. part 3030, subpart J, but raise similar concerns about the Periodicals workshare discounts. They assert that the Periodicals workshare discounts "barely meet the . . . new workshare requirements" and "are still well below their corresponding avoided costs." MPA/ANM Comments at 8. As an example, MPA and ANM point to the Periodicals Outside County Carrier Route Basic passthrough of 85.9 percent and state that "most other Periodicals discounts are similarly barely above the 85 percent minimum." *Id.*

The Public Representative also raises a separate concern about the rules, stating that "the Commission should consider revising its workshare rules prospectively to prohibit workshare discounts that exceed avoided costs from being reduced by more than necessary to reach a 100 percent passthrough." PR Comments at 17. He is concerned that the current rules "permit discounts to bounce from above 100 percent passthrough[s] to below 100 percent passthrough[s,]" which he asserts is contrary to the goal of having workshare discounts achieve greater pricing efficiency. *Id.* at 17-18.

Commission analysis. NPPC, MPA and ANM, and the Public Representative are all concerned that 39 C.F.R. § 3030.284(e) allows passthroughs to be set at or just

above 85 percent without incentivizing or requiring any additional movement toward passthroughs closer to 100 percent.[84]

The Commission notes that these commenters are correct in stating that the exception in 39 C.F.R. § 3030.284(e) allows a workshare discount to be set below the cost avoided by the Postal Service if "[t]he percentage passthrough for the proposed workshare discount is at least 85 percent." 39 C.F.R. § 3030.284(e). The Commission also notes that this issue was raised in Docket No. RM2017-3 by commenters before 39 C.F.R. § 3030.284(e) was finalized, and after consideration of the comments, the Commission elected to maintain the exception in 39 C.F.R. § 3030.284(e). *See* Order No. 5763 at 202-204, 213.

In Order No. 5763, the Commission acknowledged that the exception for below-avoided-costs workshare discounts with passthroughs above 85 percent was less restrictive than many of other workshare discount requirements, but explained that the exception in 39 C.F.R. § 3030.284(e) was appropriate given the regulatory requirements related to below-avoided-costs workshare discounts were new; the consequences of below-avoided-costs workshare discounts are less detrimental to the Postal Service than excessive workshare discounts; and the Commission sought to provide continued pricing flexibility to the Postal Service. Order No. 5763 at 212. The Commission emphasized that "the 85 percent passthrough floor phases out the most inefficient of the Postal Service's pricing practices related to below-avoided-costs workshare discounts" and that 39 C.F.R. § 3030.284(e) "strikes an appropriate balance between improving pricing efficiency and providing sufficient pricing flexibility for below-avoided-costs workshare discounts that were not previously regulated." *Id.* The Commission, however, also noted that if over time, the Postal Service was using the 85 percent passthrough floor as a safe harbor for below-avoided-costs workshare discounts and

[84] NPPC Comments at 13; PR Comments at 17; MPA/ANM Comments at 8.

not taking steps to move those workshare discounts toward 100 percent passthroughs, the Commission would reconsider the rules on workshare discounts as part of its planned review in 5 years. *Id.* at 212-213.

The Commission maintains that the approach it implemented in Order No. 5763 remains appropriate. This is the first price adjustment proceeding under the new rules, and the first proceeding to impose pricing requirements on workshare discounts set below their avoided costs. The Commission notes that it will likely take multiple price adjustments before it would be reasonable to assess if 39 C.F.R. part 3030, subpart J as a whole is having its intended effect. However, the Commission also reiterates that should the Postal Service use the exception in 39 C.F.R. § 3030.284(e) to not move workshare discounts closer to 100 percent on a consistent basis, the Commission may find it appropriate to regulate workshare discounts set below avoided costs more stringently when it undertakes its next review.

For similar reasons, the Commission declines to revise the rules to prohibit workshare discounts with a passthrough over 100 percent from being set below 100 percent as the Public Representative suggests. *See* PR Comments at 17-18. Given that this is the first proceeding in which these rules are being applied, the Commission maintains it will likely take multiple price adjustments before it would be reasonable to assess if 39 C.F.R. part 3030, subpart J as a whole is having its intended effect and determine if changes are necessary. However, should the Postal Service consistently use the ability to move a workshare discount from an above 100 percent passthrough to a below 100 percent passthrough to avoid making workshare discounts more efficient, the Commission may find it appropriate to make further changes to the rules when it undertakes its next review. *See* Order No. 5763 at 267. In the meantime, the Commission encourages the Postal Service to continue to take steps to make workshare discounts more efficient by moving passthroughs closer to 100 percent in future rate adjustment proceedings.

With regard to the specific First-Class Mail and Periodicals workshare discounts raised by NPPC and MPA and ANM, as these commenters acknowledge,[85] these workshare discounts comply with the requirements of 39 C.F.R. part 3030, subpart J. *See* Sections V.D. and VII.D., *infra.* With respect to the First-Class Mail Automation Letters workshare discounts raised by NPPC, the Commission notes that comparing the passthroughs calculated using Docket No. R2021-1 rates and Docket No. ACR2020 avoided costs with the passthroughs calculated using the rates proposed in this proceeding and Docket No. ACR2020 avoided costs illustrates that all three of these passthroughs have been moved closer to 100 percent.[86] For example, for Automation 5-Digit Letters, the passthrough calculated using Docket No. R2021-1 rates and Docket No. ACR2020 avoided costs is 73.2 percent while the passthrough calculated using the rates proposed in this proceeding and Docket No. ACR2020 avoided costs is 85.4 percent, an improvement of 12.2 percentage points. *See id.* Similarly, with respect to the Periodicals Outside County Carrier Route Basic workshare discount, the Commission notes that comparing the passthrough calculated using Docket No. R2021-1 rates and Docket No. ACR2020 avoided costs (71.2 percent) with the passthrough calculated using the rates proposed in this proceeding and Docket No. ACR2020 avoided costs (85.9 percent) illustrates that this passthrough has also been increased substantially (14.7 percentage points). *See* Notice at 23. Percentage point increases of 12.2 and 14.7 percentage points are certainly indicative of workshare discounts with improved pricing efficiency as envisioned by the rules.

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[85] NPPC Comments at 13; MPA/ANM Comments at 8.

[86] *See* Library Reference PRC-LR-R2021-2-1, Excel file "PRC_CAPCALC-FCM-R2021-2.xlsx," tab "FCM Worksharing."

8. Service Performance and Reductions in Service Standards

Comments. Multiple commenters raise concerns about the Postal Service's recent service performance and proposed reductions in service standards.[87] Raymond Briggs states that the proposed price adjustments combined with slower service standards result in customers paying more for slower service. Briggs Comments at 1. ANA asserts that recent service changes have disrupted the predictability of mail delivery, which has increased costs for mailers, caused business disruption, and will lead to volume declines. ANA Comments at 3. Lilit Danielyan alleges that the above-inflation price increases are not justified given the Postal Service's delivery issues with First-Class Mail Letters.[88] NPPC states that the Postal Service's decision to reduce service standards and claim that "reliably slow delivery . . . is preferable to generally faster but perhaps less consistent service" puts the Postal Service at risk of "charging down a path towards irrelevance in the communications marketplace." NPPC Comments at 12. MPA and ANM note that the Postal Service's productivity has decreased over the past 5 years and that the Postal Service has failed to meet its service performance targets in FY 2020 and proposed to further reduce service performance standards for Market Dominant products. MPA/ANM Comments at 7.

Commission analysis. The Commission finds that changes to service standards and the Postal Service's service performance are beyond the scope of this proceeding.

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[87] *See, e.g.,* ANA Comments at 3; Briggs Comments at 1; Danielyan Comments at 1; NPPC Comments at 12; MPA/ANM Comments at 7; PostCom Comments at 5. Service standards specify the amount of time within which a customer may ordinarily expect that a particular mailpiece will be delivered, in accordance with a detailed set of business rules. FY 2020 ACD at 96. Service performance refers to the comparison of the percentage of mailpieces that achieve the stated service standard against targets established by the Postal Service. *Id.* at 97.

[88] Danielyan Comments at 1. Lilit Danielyan also raises concerns with higher package prices and offers suggestions for improving the Postal Service's finances. *Id.* Both issues are outside the scope of this proceeding. The Commission notes that the vast majority of packages are Competitive products, and particularly those used by retail customers, and their prices will remain unaffected by this proceeding. With regard to Lilit Danielyan's suggestions regarding improvement of the Postal Service's finances, the Commission notes that the suggestions raised by this commenter require Congressional action.

In this proceeding, the Commission's role is limited to reviewing the planned price adjustments for consistency with applicable law, which is defined as the applicable requirements of 39 C.F.R. part 3030, Commission directives and orders, and 39 U.S.C. §§ 3626, 3627, and 3629. 39 C.F.R. § 3030.126(b). The Commission notes there are multiple other proceedings in which the Commission addresses service-related issues. For example, the Commission reviews the Postal Service's service performance annually as part of the ACD. *See, e.g.,* FY 2020 ACD at 96-208. In addition, the Commission provides an advisory opinion anytime "the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis." 39 U.S.C. § 3661(b). There are two such cases, proposing changes to service standards, currently pending before the Commission in Docket Nos. N2021-1 and N2021-2. Those proceedings are more appropriate forums for stakeholders to raise concerns about service standards and service performance.

With regard to assertions that above-inflation price increases are not justified in light of the Postal Service's delivery and service issues, the Commission emphasizes that when it allowed for additional forms of rate authority in Order No. 5763 it found that the Postal Service had responded to its financial distress "with an aggressive attempt to cut costs by reducing service standards," and above-inflation price increases were necessary to achieve the objectives of 39 U.S.C. § 3622(b) pursuant to its authority in 39 U.S.C. § 3622(d)(3). Order No. 5763 at 2-3, 5-10, 16, 325. The additional forms of rate authority, which are being utilized for the first time in this proceeding, are specifically targeted to address areas where the inflation-based price cap was preventing the ratemaking system from meeting the statutorily mandated objectives. *Id.* at 5-10, 16-19.

9. Effects of the Proposed Price Adjustments

Comments. Many commenters raise concerns about the effects the price increases will have on their businesses and the mailing industry.[89] ANA expresses concern about the higher rates "at a time when the nation is still trying to recover from the global pandemic and its terrible economic fallout" and states that customers "cannot afford multiple increases in this short period of time." ANA Comments at 2.

NMA explains that newspapers frequently use Periodicals mail to distribute their newspapers and USPS Marketing Mail to distribute Total Market Coverage (TMC) program mailings that provide advertising to residents who do not subscribe to the print newspaper. NMA Comments at 2. NMA asserts that newspapers are sensitive to postal costs as they have not been able to pass postage rate increases onto readers and advertising customers. *Id.* at 3. Thus, increases in postage rates have caused newspapers to decrease their TMC mailings as even current rates "are too high in many geographic markets, judging by the willingness of advertisers to pay." *Id.* NMA expects this trend to continue with the price increases proposed in this proceeding. *Id.* at 6. NMA also asserts that the price increases may cause some newspapers to reduce staff or coverage or shut down completely. *Id.* at 5.

DAV and ANA assert that a substantial increase in postal prices will directly impact nonprofits' resources and ability to provide needed services and request that the Commission consider the impact of the increases on nonprofits. DAV Comments at 1; ANA Comments at 5. ANA states that nonprofits do not have funds set aside for these price increases and cannot pass on the costs as they are sustained by voluntary donors. ANA Comments at 5. Other commenters raise concerns about the effect of the

[89] *See, e.g.,* Briggs Comments at 1; DAV Comments at 1; ANA Comments at 2; NAPM Comments at 2; NRECA Comments at 1-2; Pioneer Utility Comments at 1-2; NC Electric Cooperatives Comments at 1-2; ND Electric Cooperatives Comments at 1-2; NMA Comments at 1.

increased rates on rural areas.[90] These commenters state that increased costs will be passed on to rural customers.[91] NRECA and Pioneer Utility assert that counter to the policy of the current Administration, the proposed price increases for First-Class Mail and Periodicals will worsen inequity and poverty in rural America and request that the Commission reject the proposed price increases. NRECA Comments at 1-3; Pioneer Utility Comments at 1-3. NC Electric Cooperatives and ND Electric Cooperatives also maintain the proposed price increases should be reconsidered. NC Electric Cooperatives Comments at 1; ND Electric Cooperatives Comments at 1.

Several commenters also raise that the proposed price increases will result in reduced mail volumes.[92] ANA, Raymond Briggs, and NPPC assert that mailers will reduce the volumes of their mailings as a result of these price increases in order to stay on budget.[93] NPPC states that this may cause the Postal Service to collect about the same amount of revenue, but volumes will decrease, and that reduction will put additional pressure on the density factor, which will cause remaining pieces to shoulder even greater increases. NPPC Comments at 8. NPPC further asserts that this will cause mailers to reduce their exposure by reducing future mailings and ultimately their investments in mailing technology. *Id.* at 9. ANA agrees stating that increased prices will create "a downward spiral of nonprofit mail and the [First-Class Mail] it generates with postal volumes decreas[ing] at a rate greater than the postal increases and compounding the loss in volume and revenue each year." ANA Comments at 4. ANA

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[90] NRECA Comments at 1-3; Pioneer Utility Comments at 1-3; NC Electric Cooperatives Comments at 1; ND Electric Cooperatives Comments at 1.

[91] NRECA Comments at 3; NC Electric Cooperatives Comments at 2; ND Electric Cooperatives Comments at 2.

[92] *See, e.g.,* NPPC Comments at 7-8; ANA Comments at 2, 4-5; Briggs Comments at 1; Danielyan Comments at 1; NMA Comments at 8; ND Electric Cooperatives Comments at 2.

[93] ANA Comments at 4; Briggs Comments at 1; NPPC Comments at 7, 8.

asserts that lower volumes will lead to efficiency loss, while affordable rates would enable mailers to maintain stable volume levels. *Id.* at 4, 5.

NMA claims that the price increases "will inflict much damage on newspapers that rely on the mail to distribute their products, will reduce the amount of profitable Periodicals and USPS Marketing Mail in the postal system, and ultimately harm the public interest while doing little to improve the Postal Service's financial condition." NMA Comments at 1. NMA asserts that "such rate increases unquestionably will cause some publishers to take their newspapers out of the system," which "will simply divert locally-entered, likely profitable mail, from the system." *Id.* at 4, 5.

Commission analysis. In Docket No. RM2017-3, the Commission considered the impact of the changes it was proposing to the Market Dominant ratemaking system on mailers after receiving a significant number of comments from the mailing community. Order No. 5763 at 268-270, Appendix B. The Commission explained that it considered how the modifications to the ratemaking system are necessary to achieve the objectives in conjunction with each other and how they apply to the system as a whole. Order No. 5763 at 268. The Commission acknowledged that "although some aspects of the final rules may be in tension with particular components of certain objectives, ultimately, . . . the weight of the balance favor[ed] implementation of the final rules." *Id.* at 281. The Commission stated that it "considered the impact of above CPI[-U] price increases on mailers as well as the Postal Service and . . . balanced these considerations with all of the objectives." *Id.* at 269. The Commission ultimately determined that additional pricing authority was necessary, and that "under the parameters set forth in the final rules, the Postal Service will be able to obtain necessary revenue while minimizing the burden on mailers." *Id.* Additionally, the Commission noted that "the final rules provide safeguards to protect mailers from deleterious effects of the increased rates – not only will the Commission perform a holistic review of the revised Market Dominant ratemaking system in 5 years, it also

possesses the ability to adjust components of that system sooner than 5 years if serious ill effects are alleged and proven." *Id.* at 269-270.

The Commission fully addressed this issue in Docket No. RM2017-3, and none of the comments in this proceeding cast any doubt on those conclusions. The planned price increases are consistent with the additional pricing authority the Commission determined was necessary in Order No. 5763, and nothing in the comments received in this proceeding reflects substantially different alleged harms than those considered in Docket No. RM2017-3. As explained in Section IV.B.6., *supra*, the Postal Service suffered a cumulative net loss of $59.1 billion in the decade after the PAEA was enacted and defaulted on the vast majority of its statutory payment obligations, and the Postal Service's year-to-date net loss this year is $1.3 billion. The fact is that increases in postal prices affect all mailers, and may affect some more so than others. However, in Docket No. RM2017-3, the Commission was tasked with reviewing the initial Market Dominant ratemaking system and permitted to modify it as necessary to achieve all the objectives of 39 U.S.C. § 3622(b) in conjunction with each other. 39 U.S.C. § 3622(d)(3). Ultimately, the Commission found after multiple rounds of notice-and-comment that above-inflation price increases were necessary to achieve the objectives. Order No. 5763 at 2-3, 5-10, 16. The new forms of rate authority that give rise to the price increases in this proceeding are available to the Postal Service under current law, and the Commission's role in this proceeding is limited to reviewing the planned price adjustments for consistency with applicable law, which specifically means the requirements of 39 C.F.R. part 3030, Commission directives and orders, and 39 U.S.C. §§ 3626, 3627, and 3629. *See* Sections IV.B.2. and IV.B.4., *supra*; 39 C.F.R. § 3030.126(b). As a result, the Commission has no basis for rejecting the proposed price increases due to alleged effects on specific mailers.

With regard to assertions that volumes will decrease due to the price increases, the Commission also discussed comments raising concerns that price increases would

result in declining mail volumes in Docket No. RM2017-3. The Commission emphasized that the Board of Governors of the Postal Service sets the rates for postal services, not the Commission, and "is in the best position to determine how to best utilize the pricing authority and make decisions about specific price increases." Order No. 5763 at 81, 270. The Commission expected "the Postal Service to use its business judgment in utilizing the tools provided in the system of ratemaking to craft pricing schemes and specific prices" and noted the Postal Service "can choose not to use all of its available rate authority if it decides that doing so would be counterproductive." *Id.* at 83, 270. The Commission also noted that "[i]n the Commission's experience, demand for Market Dominant products has been relatively price inelastic." *Id.* at 82. This means that the decrease in volume induced by the increased rate authority is expected to be less in proportional terms than the amount of the increased rate authority. *Id.* However, the Commission also stated that if price elasticities for Market Dominant products changed and volume effects were outside the expected range, then the Commission retained the ability to revisit the issue sooner than the planned 5-year review. *Id.* at 83. This does not mean that the price increases approved in this Order are foreclosed from causing some volume declines. However, the Commission ultimately concludes that the balancing of how much rate authority to utilize and which products and rate cells to apply it to is within the Postal Service's discretion, so long as the proposed rates comply with the requirements of applicable law. *See* 39 C.F.R. § 3030.126(b).

10. Pricing Incentives

Comments. NAPM and Pitney Bowes support the Postal Service's continued use of pricing incentives, which they assert encourages efficiency, cost reduction, and transparency. NAPM Comments at 3; Pitney Bowes Comments at 3. With regard to the Seamless Acceptance incentive, NAPM suggests the Postal Service should increase the price incentive for Seamless Acceptance in the next price change given the

costs that mailers incur to support it and the benefits the Postal Service accrues from mailer participation. NAPM Comments at 3-4. With regard to the Full-Service Intelligent Mail barcode (IMb) incentive, NAPM "commends the Postal Service's decision to maintain the existing Full-Service price incentives," which it asserts "continues to partially offset the ongoing and increasing costs for mailers to prepare high value, data-rich, streamlined mail for the [Postal Service]." *Id.* at 4. NAPM notes that "[a]t a time when many mailers are facing increased economic pressures brought on by the pandemic, it is critical to preserve the necessary price incentives to partly defray their ongoing costs and investment to meeting the IMb Full-Service requirements." *Id.* Pitney Bowes echoes this, stating that it "commends the Postal Service for continuing to use these price incentives to stimulate investments and help recover the considerable ongoing expenses incurred by mailers and mail service providers as they support a more efficient mail stream." Pitney Bowes Comments at 3.

Commission analysis. The Commission finds the Seamless Acceptance and Full-Service IMb incentives consistent with applicable law. 39 C.F.R. § 3030.126(b). In addition, as the Commission has previously stated, these incentives encourage more efficient mailpieces that have lower costs to process while also encouraging increased mail volumes. Order No. 5757 at 73, 104, 106. The Postal Service should continue to consider the positive effects of these incentives when exercising its pricing flexibility related to these incentives.

11. The Postal Service's Use of Available Pricing Authority

Comments. MPA and ANM argue that "[s]hielding [Market Dominant] mailers against potential abuses of the Postal Service's market power was Congress' expressed policy[,]" which it effectuated through "a price cap on market-dominant price increases." MPA/ANM Comments at 5. MPA and ANM point out that the Postal Service "has persistently sought near-unfettered pricing authority" while "simultaneously insist[ing] that it could be entrusted not to price-gouge its customers." *Id.* at 6. MPA

and ANM describe multiple instances where they allege the Postal Service represented that it would not use all of the pricing authority granted to it and allege that the Commission "perpetuated this narrative." *Id.* MPA and ANM state that the proposed price changes in this proceeding demonstrate the falsity of this narrative. *Id.* at 6-7.

Commission analysis. MPA and ANM appear to argue that the new forms of rate authority that allow for price increases above those based on CPI-U and the Postal Service's decision to utilize those new forms of rate authority in this proceeding violate the intent of the PAEA. The appropriate forum for resolution of the question of whether the new forms of rate authority violate the intent of the PAEA is the Court of Appeals for the D.C. Circuit in the currently pending appeal of Docket No. RM2017-3 and not this proceeding. In this proceeding, the Commission's task is limited to reviewing the planned price adjustments for consistency with applicable law, which specifically means the requirements of 39 C.F.R. part 3030, Commission directives and orders, and 39 U.S.C. §§ 3626, 3627, and 3629. 39 C.F.R. § 3030.126(b).

That said, the Commission emphasizes that it was Congress that tasked the Commission with reviewing the initial Market Dominant ratemaking system and Congress that allowed the Commission to modify or adopt an alternative system "as necessary to achieve the objectives" of 39 U.S.C. § 3622(b). 39 U.S.C. § 3622(d)(3). In Docket No. RM2017-3, the Commission found the initial Market Dominant ratemaking system was not achieving the objectives of 39 U.S.C. § 3622(b), taking into account the factors of 39 U.S.C. § 3622(c). *See generally* Order No. 4257. After making that determination, the Commission took steps to modify the Market Dominant ratemaking system as necessary to achieve the objectives pursuant to 39 U.S.C. § 3622(d)(3). *See generally* Order No. 5763. The new forms of rate authority to which MPA and ANM object were among the modifications the Commission found necessary to achieve the objectives. *Id.* at 23.

In response to MPA's and ANM's allegations that the Postal Service and the Commission perpetuated a false narrative that the Postal Service would not use all of the pricing authority available, the Commission asserts that it has consistently stated that the decision on how much pricing authority to use is within the Postal Service's discretion. Order No. 5763 at 81, 270, 346. The Commission never foreclosed that the Postal Service would elect to use nearly all of the available pricing authority; it instead acknowledged that the role of the ratemaking system is to set the maximum pricing authority available while the Postal Service's role is to use its business judgment and act in its own best interests in determining how much pricing authority to use. *Id.* at 270, 346. Similarly, none of the Postal Service's statements quoted in the MPA/ANM Comments reflect any kind of commitment on the part of the Postal Service to not use all of the available pricing authority and instead reflect an acknowledgment on the part of the Postal Service of its discretion to decide how much of the available pricing authority to use. *See* MPA/ANM Comments at 6-7.

12. Application of 39 C.F.R. § 3030.121(b)

Comments. NPPC states that the Commission should reject the Notice for non-compliance with 39 C.F.R § 3030.121(b) because there is no indication the Postal Service has taken into consideration how the planned rate adjustments are in accordance with the provisions of 39 U.S.C. chapter 36. NPPC Comments at 10. NMA makes a similar assertion, stating the Notice did not address how the price adjustments were consistent with 39 U.S.C. § 101(a) and other statutory requirements. NMA Comments at 3-4, 6.

Commission analysis. 39 C.F.R. § 3030.121(b) requires that the Postal Service "take into consideration how the planned adjustments are in accordance with the provisions of 39 U.S.C. chapter 36." 39 C.F.R. § 3030.121(b). It does not, however, impose any related filing or other requirements on the Postal Service related to that provision in rate adjustment proceedings. *See id.* § 3030.122, § 3030.123. As a result,

the Commission finds that there are no grounds to reject the Notice for non-compliance with 39 C.F.R. § 3030.121(b).

13. Retirement Obligation Rate Authority

Comments. ANA states that the cost of retiree health benefits have been referenced as a major factor in past price increases, and that mailers have been charged higher rates for those costs, which the Postal Service has not paid. ANA Comments at 3. ANA asserts that prefunding retiree health benefits should not be allowed to cause price increases without the Postal Service making those payments. *Id.* at 3-4. ANA further asserts that prefunding retiree health benefits "is an obligation that is a matter for the United States Congress to fix." *Id.* at 5.

Commission analysis. As discussed in Section IV.B.2., *supra*, prior to the implementation of the modified ratemaking system, price increases for Market Dominant products were generally capped at the rate of inflation as measured by CPI-U. 39 U.S.C. § 3622(d)(1)(A). Thus, in prior rate adjustment proceedings, the cost of retiree health benefits had no bearing on the amount of pricing authority available to the Postal Service.

The modified system of ratemaking and the new rules promulgated in Docket No. RM2017-3 added additional forms of rate authority, including a form of rate authority called the Retirement Obligation Rate Authority. *See* 39 C.F.R. part 3030, subpart E. The Retirement Obligation Rate Authority was specifically designed to provide the Postal Service revenue to address statutorily mandated amortization payments for retirement costs. Order No. 5763 at 17. However, unlike the other forms of new rate authority, any revenue collected from utilizing the Retirement Obligation Rate Authority must be remitted to the Postal Service's outstanding liabilities. *Id.* at 101; 39 C.F.R. § 3030.184.

In addition, the Commission notes that it addressed comments stating that retiree health benefits were best addressed by Congress in Order No. 5763. It concluded that although Congress certainly has the authority to act to address the retirement obligations of the Postal Service, in the absence of Congressional action, the Commission has the authority and responsibility "to take action to address the identified retirement costs, which remain a primary driver of the Postal Service's ongoing losses, thus preventing the Postal Service from achieving net income." Order No. 5763 at 116.

V. FIRST-CLASS MAIL

A. Introduction

This section discusses the price adjustment authority, non-compensatory products, workshare discounts, and classification changes applicable to First-Class Mail. This section also discusses comments related to First-Class Mail not addressed elsewhere in this Order.

B. Price Adjustment Authority

1. Introduction

Five products are assigned to First-Class Mail: (1) Single-Piece Letters/Postcards; (2) Presorted Letters/Postcards; (3) Flats; (4) Outbound Single-Piece FCMI; and (5) Inbound Letter Post. The planned price increase for First-Class Mail is, on average, 6.814 percent, which results in 0.004 percent remaining unused price adjustment authority.[94] Table V-1 shows the percentage price change for each First-Class Mail product as calculated by the Commission.

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[94] As shown in Table II-1, *supra*, the Postal Service has 6.818 percent in available pricing authority. Subtracting the 6.814 percent the Postal Service is using in this proceeding from its available pricing authority calculates to 0.004 percent remaining as unused rate adjustment authority. *See* Library Reference PRC-LR-R2021-2-1, Excel file "PRC_CAPCALC-FCM-R2021-2.xlsx."

Table V-1
First-Class Mail Price Changes (by Product)

First-Class Mail Product	**Price Change %**
Single-Piece Letters/Postcards	5.001
Presorted Letters/Postcards	7.440
Flats	10.318
Outbound Single-Piece FCMI	8.351
Inbound Letter Post	6.568
Overall	6.814
Source: Library Reference PRC-LR-R2021-2-1, Excel file "PRC_CAPCALC-FCM-R2021-2.xlsx."	

2. The Postal Service's Position

The Postal Service asserts that it complied with the applicable price cap requirements. *See* Notice at 4-5. The Postal Service proposes to make three adjustments to the hybrid year billing determinants for First-Class Mail. *Id.* at 11. First, the Postal Service adjusts the Nonautomation Presorted Letters volume to account for the revised pricing structure it is proposing in this proceeding. *Id.* The revised pricing structure is discussed in detail in Section V.E., *infra.* Second, the Postal Service converts Picture Permit's revenues to volumes as it has in prior proceedings. *Id.* Third, the Postal Service uses Postal One data to determine the volume that would have qualified for the Seamless Acceptance incentive for the part of the hybrid year before the incentive went into effect. *Id.* at 11-12.

3. Comments

No commenter disputes that the proposed price adjustments comply with the price cap. The Public Representative asserts that the planned price adjustments comply with the requirements of the price cap. PR Comments at 5, 7.

4. Commission Analysis

The Commission finds the Postal Service's price adjustments for First-Class Mail comply with the price cap limitations specified by 39 C.F.R. part 3030. The Postal Service's planned price adjustment of 6.814 percent is less than the total available authority of 6.818 percent; therefore, the total unused price adjustment authority available for First-Class Mail as a result of this proceeding is 0.004 percent.[95] The Commission accepts the Postal Service's adjustments to the billing determinants for First-Class Mail as reasonable.

C. Non-Compensatory Products

1. Introduction

In FY 2020, Inbound Letter Post was the only First-Class Mail product that did not cover its attributable costs.[96]

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[95] The new pricing authority available to First-Class Mail in this proceeding is 6.806 percent. In addition to that pricing authority, First-Class Mail had 0.012 percent of existing unused rate adjustment authority available. Therefore, the total pricing authority available for First-Class Mail in this proceeding is 6.818 percent. *See* Library Reference PRC-LR-R2021-2-1, Excel file "PRC_CAPCALC-FCM-R2021-2.xlsx."

[96] FY 2020 ACD at 56. 39 C.F.R. § 3030.220 provides that the Commission determines when a product is non-compensatory. Except when exceptional circumstances apply, the Commission expects it will generally use the findings of the most recent ACD to make this determination.

2. The Postal Service's Position

The proposed percentage change in prices for Inbound Letter Post as a result of this proceeding is lower than the First-Class Mail average price increase of 6.814 percent. Notice at 7. The Postal Services notes that "[t]his is based on the expected terminal dues price increases that are likely to be adopted at the next Universal Postal Union Congress" and that the rates are expected to take effect on January 1, 2022. *Id.* at 10 and n.18.

3. Comments

The Public Representative states that the Inbound Letter Post price adjustment complies with the FY 2020 ACD and 39 C.F.R. § 3030.221. PR Comments at 22. No other commenters raise issues pertaining to Inbound Letter Post's status as a non-compensatory product.

4. Commission Analysis

As described in Section II., *supra*, there are two regulatory requirements specific to non-compensatory products in compensatory classes: (1) rates may not be reduced for non-compensatory products; and (2) rates for each non-compensatory product must increase by a minimum of 2 percentage points above the average percentage increase for its compensatory class. 39 C.F.R. § 3030.127(b); *Id.* § 3030.221. The Commission also provided one narrow exception to the required increase of 2 percentage points above the class average. Specifically, 39 C.F.R. § 3030.221 "does not apply to a non-compensatory product for which the Commission has determined that the Postal Service lacks independent authority to set rates (such as rates set by treaty obligation)." *Id.* § 3030.221.

The Commission finds that the proposed price increase for Inbound Letter Post complies with 39 C.F.R. § 3030.127(b) because Inbound Letter Post prices are

increasing. Additionally, although the proposed increase for Inbound Letter Post is below the First-Class Mail class average increase of 6.814 percent, Inbound Letter Post prices are set by treaty obligation, and therefore, are exempted from the pricing requirements of 39 C.F.R. § 3030.221. FY 2020 ACD at 56; Order No. 5763 at 188.

D. Workshare Discounts

1. Introduction

As described in Section II., *supra*, the rules in 39 C.F.R. part 3030, subpart J govern the pricing requirements for workshare discounts. The Postal Service asserts that all First-Class Mail workshare discounts comply with 39 C.F.R. part 3030, subpart J. Notice at 10.

2. The Postal Service's Position

The Postal Service states that one First-Class Mail passthrough, Automation area distribution center (ADC) Flats, is equal to 100 percent. *Id.* It asserts that "[a]ll other First-Class Mail passthroughs are set between 85 and 100 percent, complying with the condition in 39 C.F.R. § 3030.284(e)." *Id.* at 10-11.

3. Comments

The Public Representative states that the proposed workshare discounts comply with 39 C.F.R. part 3030, subpart J and reflect an improvement in bringing workshare discounts closer to avoided costs. PR Comments at 12. He also notes that the new workshare discounts for First-Class Mail comply with 39 C.F.R. § 3030.284.[97]

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[97] *Id.* The new workshare discounts for First-Class Mail are discussed further in Section V.E., *infra.*

Pitney Bowes states that the "planned price adjustments demonstrate the value of the Commission establishing clear regulatory standards for workshare discounts." Pitney Bowes Comments at 1. Pitney Bowes emphasizes the importance of the 5-Digit Automation Letters workshare discount and notes the Postal Service's proposed increase in the discount "is an important first step" to setting this discount to more fully reflect the work performed by mailers. *Id.* at 2. Pitney Bowes suggests that the Commission encourage the Postal Service to continue to incrementally improve workshare discounts by moving passthroughs closer to 100 percent. *Id.*

To the extent commenters raised concerns about the sufficiency of 39 C.F.R. part 3030, subpart J and referenced First-Class Mail workshare discounts in a related discussion, those comments are discussed in Section IV.B.7., *supra.*

4. Commission Analysis

In accordance with 39 C.F.R. § 3030.282, if a workshare discount is currently equal to the cost avoided by the Postal Service, the size of the discount cannot be changed; if a workshare discount currently exceeds the cost avoided by the Postal Service, then the size of the discount cannot be increased; and if a workshare discount currently is less than the cost avoided by the Postal Service, then the size of the discount cannot be decreased. 39 C.F.R. § 3030.282. The Commission has verified that all First-Class Mail workshare discounts proposed in this proceeding comply with 39 C.F.R. § 3030.282.

The regulations also provide specific limitations on how workshare discounts that do not equal avoided costs can be set. The Postal Service asserts that with the exception of the Automation ADC Flats workshare discount, which is set equal to avoided costs, all other First-Class Mail workshare discounts are set to result in passthroughs between 85 and 100 percent. Notice at 10. In accordance with 39 C.F.R. 3030.284, "[n]o proposal to adjust a rate may set a workshare discount that would be

below the cost avoided by the Postal Service for not providing the applicable service" unless one of several exceptions applies. 39 C.F.R. § 3030.284(a). One of the exceptions permits workshare discounts where "[t]he percentage passthrough for the proposed workshare discount is at least 85 percent." *Id.* § 3030.284(e). The Commission has confirmed that all First-Class Mail workshare discounts set below avoided costs result in a passthrough of at least 85 percent, thus complying with 39 C.F.R. § 3030.284. The Commission encourages the Postal Service to continue to move passthroughs closer to 100 percent in future rate adjustments.

E. Mail Classification Changes

1. Introduction

The classification changes for First-Class Mail pertaining to the proposed CY 2022 promotions are addressed in Section IV.A., *supra*. In addition to the promotions-related changes, the Postal Service proposes a new rate structure for Nonautomation Machinable and Nonmachinable Letters in this proceeding.

2. The Postal Service's Position

The Postal Service states that the new rate structure for Nonautomation Machinable and Nonmachinable Letters "essentially aligns these products with the corresponding [USPS] Marketing Mail structure by differentiating presort levels." Notice at 8. Specifically, for Nonautomation Machinable Letters, the Postal Service proposes to replace the previous Nonautomation Presort Letter discount with a new Nonautomation Machinable Letters Mixed automated area distribution center (AADC) discount. June 11 Response to CHIR No. 2, question 1.a. In addition, the Postal Service adds a Nonautomation Machinable Letters AADC discount. *Id.* For Nonmachinable Letters, the Postal Service adds new Nonautomation Nonmachinable 3-Digit and 5-Digit Letters discounts. *Id.* In addition, a new price for Nonautomation

Nonmachinable Letters Mixed ADC replaces the previous Nonautomation Presort Letter discount. *Id.* The Postal Service claims that the new Nonmachinable Letters Mixed ADC price is not a workshare discount because machinability is not considered worksharing. *Id.*, question 1.b.

The Postal Service explains that "it intends for this rate restructuring to incentivize greater presortation by mailers, increase pricing flexibility, and better align pricing structures across classes." Notice at 9. The Postal Service states that it expects to "benefit operationally from these discounts if customers' preparation practices are altered in response to these incentives to produce more finely presorted nonautomation letters." Response to CHIR No. 3, question 2.a. The Postal Service asserts that "[b]enefits should, therefore, accrue both to mailers and to the Postal Service." Notice at 9. The Postal Service states that "the new discounts will not adversely affect the customers who do not choose to take advantage of them, as they can continue to use their existing discounts (or other products, as applicable)." *Id.* The Postal Service also represents that it "is not aware of any reason that timeliness of processing, delivery, or transportation" or "service performance would be impacted by the proposed discounts." Response to CHIR No. 3, question 2.d., e.

3. Comments

NPPC supports the new rate structure for Nonautomation Machinable and Nonmachinable Letters, stating that "restructuring the rates to better match costs is generally desirable rate design." NPPC Comments at 14. NAPM also supports the new rate structure. NAPM Comments at 2. The Public Representative states that the discounts "have characteristics that constitute a 'workshare activity' within the meaning of [39 U.S.C. §] 3622(e)" and that they "are not likely to have an adverse effect on customers who forgo the discounts." PR Comments at 12.

4. Commission Analysis

The Commission accepts the proposed changes to the MCS with respect to the new rate structure for Nonautomation Machinable and Nonmachinable Letters. The Commission finds that the new rate structure should incentivize more presortation, benefiting both the Postal Service and mailers, as well as better align pricing structures between First-Class Mail and USPS Marketing Mail.

The Postal Service benchmarks the new Nonautomation Machinable Letters Mixed AADC workshare discount to Metered Letters. Notice at 8. The Postal Service claims that the new Nonmachinable Letters Mixed ADC price is not a workshare discount. June 11 Response to CHIR No. 2, question 1.b. However, the Commission finds that the new Nonautomation Machinable Letters Mixed AADC and the new Nonmachinable Letters Mixed ADC prices are both workshare discounts because they are "rate discounts provided to mailers for the . . . handling . . . of mail" and thus provide mailers a lower price for performing work that the Postal Service would otherwise perform. 39 U.S.C. § 3622(e)(1). The Commission finds it notable that the Postal Service previously considered this work by mailers worksharing as it benchmarked the prior Nonautomation Presort price to Metered Letters. *See* Notice at 8. Given that the prior Nonautomation Presort rate cell is being deaveraged into the new Nonautomation Machinable Letters Mixed AADC and Nonmachinable Letters Mixed ADC rate cells, the Postal Service should also deaverage the prior Metered Letters benchmark for machinability. Within 90 days of this Order, the Postal Service must file a petition for rulemaking developing a methodology accomplishing this.

F. Other Comments Related to First-Class Mail

1. Introduction

Several commenters raise concerns related to First-Class Mail that have not been addressed elsewhere in this Section.

2. Comments

NPPC generally opposes the proposed price increases for the Presorted Letters/Postcards product. NPPC Comments at 11. NPPC asserts that the Postal Service is targeting Presorted Letters/Postcards, the most profitable product within First-Class Mail, with the highest increase. *Id.* It states that because Presorted Letters/Postcards "will have received the highest rate increase in each of the last two cases, the Postal Service should expect to see its volume declines accelerate." *Id.* at 11-12. NPPC states that it is unexplained "[w]hy the Postal Service thinks it is wise or prudent to accelerate the departure of its most profitable product" and unclear why the Postal Service would "threaten to throttle" volumes and revenues beginning to rebound from the COVID-19 pandemic lows. *Id.* at 12. NPPC claims that the Postal Service does not have a coherent pricing strategy for First-Class Mail. *Id.*

Several commenters make comments concerning specific prices.[98] Raymond Briggs expresses concern about the Automation First-Class Mail Postcard price, which he states is increasing by approximately 14 percent. Briggs Comments at 1. He questions how the overall increase for the Presorted Letters/Postcards product can be 7.440 percent when the increase for Automation Postcards is 14 percent and further questions why the Postal Service has elected to raise prices for a product where volumes have been steadier, which he claims will not result in the revenue increase the Postal Service is seeking. *Id.*

GCA raises concerns with the increase in the Single-Piece Letter Nonmachinable surcharge, which is increasing from $0.20 to $0.30 as a result of this proceeding. GCA Comments at 1. GCA claims that the First-Class Mail price cap calculations improperly

[98] *See, e.g.,* Briggs Comments at 1; GCA Comments at 1-3; Pitney Bowes Comments at 2-3; NPPC Comments at 14; JLS Comments at 1; NAPM Comments at 2-3. Pitney Bowes voices support for the Postal Service's proposal to restore the 5-cent price differential between Stamped and Metered Letters. Pitney Bowes Comments at 2-3.

show no volume effect from the increased surcharge and asserts that a 50 percent increase is inconsistent with Objective 2 (create predictability and stability in rates), Objective 8 (establish and maintain a just and reasonable schedule for rates and classifications), and Factor 3 (the effect of rate increases on the general public). *Id.* at 1-3. GCA also criticizes the delinking of the extra-ounce price and Nonmachinable surcharge, stating that the Postal Service has ended the convenience of mailers being able to use a single form of indicia for either an additional ounce or a Nonmachinable piece. *Id.* at 2. GCA supports the additional ounce price remaining at $0.20, but is concerned as to how consumers may react to what it asserts is "increased complexity and inconvenience." *Id.* at 2-3.

Several commenters raise concern that the price for an AADC Machinable Letter and an AADC Automation Letter are set the same as a result of this proceeding.[99] NPPC states "there is no obvious reason why the two rates should be equal, as the AADC Automation Letter, which bears a barcode, should cost less to process than the Machinable letter, which does not." NPPC Comments at 14. JLS raises similar concerns, stating that the Postal Service previously incentivized barcoded trays with lower prices, which reduces Postal Service costs and improves mail quality. JLS Comments at 1. JLS asserts that equalizing the two prices encourages mailers to not automate and incentivizes a reduction in mail quality, hurting the Postal Service and mailers and destabilizing "the entire Automated Presort industry." *Id.* NAPM echoes this stating that this pricing decision disincentivizes pre-barcoded mail, which will cause mail to move to non-barcoded categories that are less dense and efficient for the Postal Service. NAPM Comments at 2-3. NAPM also states that barcoded mail is presented as Full-Service IMb or Seamless Acceptance mail, which provide many additional benefits to the Postal Service. *Id.* at 3. NPPC suggests the Postal Service should lower the AADC Automation rate in the future, while NAPM asserts that if this was an

[99] NPPC Comments at 14; JLS Comments at 1; NAPM Comments at 2-3.

oversight on the part of the Postal Service, the equalized prices should be addressed in this proceeding to prevent smaller mail service providers from losing customers "as a result of this anomaly." NPPC Comments at 14; NAPM Comments at 2-3.

3. Commission Analysis

With regard to concerns about specific price increases exceeding the average increase for a class or product, the Commission notes that pricing flexibility for the Postal Service is an important component of the Market Dominant ratemaking system and that Objective 4 specifically calls for the Market Dominant ratemaking system to allow the Postal Service pricing flexibility. *See* 39 U.S.C. § 3622(b)(4). The authority to establish prices is vested primarily in the Governors of the Postal Service. 39 U.S.C. § 404(b). Under the ratemaking system, the Governors of the Postal Service have the discretion to use some, none, or all of the available rate authority and to select individual prices for products and rate cells that comply with the class-level price cap. Order No. 5763 at 313-14, 315-16. The Commission previously found that the class-level application of the price cap allows the Postal Service pricing flexibility to vary the size of rate changes at the class, product, and rate cell levels, which is consistent with Objective 4 and Objective 8, which explicitly states that it "shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail."[100] Thus, the Postal Service retains flexibility to vary proposed prices within classes and products, so long as the proposed prices comply with the requirements of 39 C.F.R. part 3030, Commission directives and orders, and 39 U.S.C. §§ 3626, 3627, and 3629. *See* 39 C.F.R. § 3030.126(b).

With regard to NPPC's concerns that the Presorted Letters/Postcards product is receiving the highest increase without an articulated pricing strategy by the Postal Service and at the risk of volume loss, the Commission reiterates that such a decision is

[100] *Id.* at 315-316. *See* 39 U.S.C. § 3622(b)(4), (8).

within the Postal Service's discretion and pricing flexibility. *See* NPPC Comments at 11-12. The Postal Service's ability to vary the size of rate changes at the class, product, and rate cell level has been in place since the creation of the initial Market Dominant ratemaking system following the passage of the PAEA and was not altered by Order No. 5763. Nonetheless, the Commission encourages the Postal Service to better communicate its pricing strategies with mailers and stakeholders, so they have more insight into the reasoning behind the Postal Service's pricing decisions.

With regard to the specific concerns about Automation Postcards raised by Raymond Briggs, the Commission has verified that the approximately 14 percent increase for those rate cells is permissible under the First-Class Mail price cap and otherwise meets the requirements of applicable law. *See* 39 C.F.R. § 3030.126(b). As explained above, prices at the rate cell level can differ from the class- and product-level averages as long as the planned price increases for a given class comply with applicable law.

With regard to the concerns raised by GCA about the increase in the Nonmachinable surcharge, the Commission observes that GCA's claims that the increase in the Nonmachinable surcharge is inconsistent with Objective 2 (create predictability and stability in rates), Objective 8 (establish and maintain a just and reasonable schedule for rates and classifications), and Factor 3 (the effect of rate increases on the general public) are based solely on GCA's claim that the price is increasing 50 percent. GCA Comments at 3. As a preliminary matter, the Commission notes that Nonmachinable surcharge is not a standalone price, but rather a price added onto the price for a Single-Piece First-Class Mail Letter. Therefore, as a result of this proceeding, the price of a Single-Piece First-Class Mail Nonmachinable Letter is increasing from $0.75 to $0.88, an approximately 17 percent increase and a difference of 13 cents for a given Nonmachinable mailpiece. To characterize the price increase as

a 50 percent increase, as GCA does, misrepresents the actual change in price mailers will experience for an individual Nonmachinable Letter.

The Commission also notes that the Nonmachinable surcharge is charged to pieces that generally require manual processing and therefore are more costly for the Postal Service to process. This is in contrast to additional ounce pieces, which generally do not require manual processing and the associated costly additional processing steps. Thus, the Commission finds that the delinking of the extra-ounce price and the Nonmachinable surcharge appears to be targeted to disincentivize pieces requiring manual processing, which is consistent with assigning higher price increases to more costly and less efficient rate cells and Objective 1 (maximize incentives to reduce costs and increase efficiency). Further, as described above, the class-level application of the price cap allows the Postal Service pricing flexibility to vary the size of rate changes at the rate cell level, which is consistent with Objective 4. As noted above, Objective 8 expressly authorizes price changes of unequal magnitude within First-Class Mail. 39 U.S.C. § 3622(b)(8). Thus, the Commission concludes that balancing the relevant objectives and factors of 39 U.S.C. § 3622(b) and (c) in conjunction with one another supports the changes proposed by the Postal Service related to the Nonmachinable surcharge. The Commission has also verified that this proposed price change is consistent with applicable law and the related First-Class Mail price cap calculations were correctly performed.

With respect to the concerns that the price for an AADC Machinable Letter and an AADC Automation Letter are set the same as a result of this proceeding, the Commission notes that both prices are set consistent with the workshare pricing regulations of 39 C.F.R. part 3030, subpart J, and as a result, there is not a basis for denying or otherwise requiring changes to the proposed prices. *See* Section V.D., *supra.* The following table details how these prices are part of a worksharing tree and shows the applicable prices, discounts, avoided costs, and passthroughs.

Table V-2
Automation and Machinable Presort Letters Workshare Discounts

	Price ($)	Discount ($)	Avoided Cost ($)	Passthrough (%)
Metered Letters	0.530			
Automation Mixed AADC Letters	0.485	0.045	0.052	86.5
Automation AADC Letters	0.461	0.024	0.028	85.7
Metered Letters	0.530			
Machinable Mixed AADC Letters	0.494	0.036	0.042	85.7
Machinable AADC Letters	0.461	0.033	0.038	86.8
Source: Library Reference PRC-LR-R2021-2-1, Excel file "PRC_CAPCALC-FCM-R2021-2.xlsx", tab "Passthrough Calculations."				

As shown in Table V-2, there are two worksharing relationships in the worksharing tree for each of the AADC prices: the worksharing relationship between the Metered Letters price and the Mixed AADC Letters price; and the worksharing relationship between the Mixed AADC Letters price and the AADC Letters price.

In the Automation worksharing tree, the costs that are avoided when mailers tender Automation Mixed AADC Letters instead of Metered Letters is 5.2 cents per piece. In this proceeding, the Postal Service has used its pricing flexibility in proposing a discount of 4.5 cents for these pieces, which results in a passthrough of 86.5 percent. This passthrough is consistent with the exception in 39 C.F.R. § 3030.284(e), which permits workshare discounts to be set below avoided costs as long as "[t]he percentage passthrough for the proposed workshare discount is at least 85 percent." 39 C.F.R. § 3030.284(e). The costs that are avoided when mailers tender Automation AADC Letters instead of Automation Mixed AADC Letters is 2.8 cents per piece. In this proceeding, the Postal Service has used its pricing flexibility in proposing a discount of 2.4 cents for these pieces, which results in a passthrough of 85.7 percent. This passthrough also complies with 39 C.F.R. § 3030.284(e).

In the Machinable worksharing tree, the costs that are avoided when mailers tender Machinable Mixed AADC Letters instead of Metered Letters is 4.2 cents per

piece. In this proceeding, the Postal Service has used its pricing flexibility in proposing a discount of 3.6 cents for these pieces, which results in a passthrough of 85.7 percent. This passthrough also complies with 39 C.F.R. § 3030.284(e). The costs that are avoided when mailers tender Machinable AADC Letters instead of Machinable Mixed AADC Letters is 3.8 cents per piece. In this proceeding, the Postal Service has used its pricing flexibility in proposing a discount of 3.3 cents for these pieces, which results in a passthrough of 86.8 percent. This passthrough also complies with 39 C.F.R. § 3030.284(e).

The Commission notes that the Automation AADC and Machinable AADC prices that commenters raise concerns about are part of a broader set of worksharing relationships as discussed above. Because all of the discounts in the applicable worksharing trees comply with the regulations of 39 C.F.R. part 3030, subpart J, the Postal Service otherwise has pricing flexibility to select the proposed prices for Machinable and Automation AADC Letters. If stakeholders believe that the current worksharing cost avoidance models do not correctly estimate the avoided costs associated with the worksharing activities related to these prices, the Commission encourages them to file a petition for refinement of these models. *See* 39 U.S.C. § 3652(e)(2); 39 C.F.R. § 3050.11.

VI. USPS MARKETING MAIL

A. Introduction

This section discusses the price adjustment authority, non-compensatory

products,[101] workshare discounts, classification changes, statutory preferential rates, and nonprofit discounts applicable to USPS Marketing Mail. This section also discusses comments related to USPS Marketing Mail not addressed elsewhere in this Order.

B. Price Adjustment Authority

1. Introduction

The USPS Marketing Mail class consists of seven products: (1) Letters; (2) Flats; (3) Parcels; (4) High Density and Saturation Letters; (5) High Density and Saturation Flats/Parcels; (6) Carrier Route; and (7) EDDM—Retail. The planned price increase for USPS Marketing Mail is, on average, 6.814 percent, which results in 0.002 percent remaining unused price adjustment authority.[102] Table VI-1 shows the percentage price change for each USPS Marketing Mail product as calculated by the Commission.

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[101] This section includes discussion regarding compliance with specific pricing directives and recommendations contained in the FY 2010, FY 2018, FY 2019, and FY 2020 ACDs. *See* Docket No. ACR2010, *Annual Compliance Determination,* March 29, 2011, at 107 (FY 2010 ACD); Docket No. ACR2018, *Annual Compliance Determination*, April 12, 2019, at 70-72, 78 (FY 2018 ACD); Docket No. ACR2019, *Annual Compliance Determination*, March 25, 2020, at 43, 46, 52 (FY 2019 ACD); FY 2020 ACD at 41, 46, 50.

[102] As shown in Table II-1, *supra*, the Postal Service has 6.816 percent in available pricing authority. Subtracting the 6.814 percent the Postal Service is using in this proceeding from its available pricing authority calculates to 0.002 percent remaining as unused rate adjustment authority. *See* Library Reference PRC-LR-R2021-2-2, Excel file "PRC-CAPCALC-MM-R2021-2.xlsx."

Table VI-1
USPS Marketing Mail Price Changes (By Product)

USPS Marketing Mail Product	**Price Change %**
Letters	6.581
Flats	8.819
Parcels	9.367
High Density and Saturation Letters	5.992
High Density and Saturation Flats/Parcels	5.454
Carrier Route	8.866
EDDM—Retail	4.167
Overall	6.814
Source: Library Reference PRC-LR-R2021-2-2, Excel file "PRC-CAPCALC-MM-R2021-2.xlsx."	

2. The Postal Service's Position

The Postal Service asserts that it complied with the applicable price cap requirements. *See* Notice at 4-5. The Postal Service proposes to make three adjustments to the hybrid year billing determinants for USPS Marketing Mail. *Id.* at 19. First, the Postal Service split High Density Flats volume between 5-Digit (direct) and other pallets using Postal One data to account for the new proposed workshare discount for High Density Flats pieces on 5-Digit (direct) pallets. *Id.* at 20. The new proposed workshare discount for High Density Flats is discussed in detail in Section VI.E., *infra.* Second, to give effect to the rate and classification changes for lightweight Nonautomation Nonmachinable letter-shaped pieces under 4 ounces that were approved in Docket No. R2021-1, hybrid year volumes are moved to the Flats product from the Letters product in the price cap calculation. *Id.* Third, the Postal Service uses Postal One data to determine the volume that would have qualified for the Seamless

Acceptance incentive for the part of the hybrid year before the incentive went into effect. *Id.* at 11-12, 20.

3. Comments

No commenter disputes that the proposed price adjustments comply with the price cap. The Public Representative asserts that the planned price adjustments comply with the requirements of the price cap. PR Comments at 5, 8.

4. Commission Analysis

The Commission finds the Postal Service's price adjustments for USPS Marketing Mail comply with the price cap limitations specified by 39 C.F.R. part 3030. In the Notice, the Postal Service states that it uses 6.815 percent of its available pricing authority for USPS Marketing Mail and that the total unused price adjustment authority available for USPS Marketing Mail after this proceeding is 0.001 percent. Notice at 5. During the proceeding, the Postal Service revised the rate for EDDM—Retail and adjusted related volumes in its workpapers. Response to CHIR No. 3, question 3.a. These changes also resulted in the Postal Service filing a revised version of Library Reference USPS-LR-R2021-2/2.[103] As a result of these changes, the Commission calculates the Postal Service's planned price adjustment for USPS Marketing Mail to be 6.814 percent, which is less than the total available authority of 6.816 percent and results in total unused price adjustment authority available for USPS Marketing Mail as a result of this proceeding of 0.002 percent.[104] The Commission also incorporates the Postal Service's revised price for EDDM—Retail into the Attachment to this Order.

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[103] USPS Notice of Filing Amended Library References, June 21, 2021.

[104] The new pricing authority available to USPS Marketing Mail in this proceeding is 6.806 percent. In addition to that pricing authority, USPS Marketing Mail had 0.010 percent of existing unused rate adjustment authority available. Therefore, the total pricing authority available for USPS Marketing Mail in this proceeding is 6.816 percent. *See* Library Reference PRC-LR-R2021-2-2, Excel file "PRC-CAPCALC-MM-R2021-2.xlsx."

Postal Service Errata at 2. In addition, the Commission accepts the Postal Service's adjustments to the billing determinants for USPS Marketing Mail as reasonable.

C. Non-Compensatory Products

1. Introduction

In FY 2020, three USPS Marketing Mail products did not cover their attributable costs. FY 2020 ACD at 30, 42, 46. These products were USPS Marketing Mail Flats, Parcels, and Carrier Route. *Id.* The FY 2020 ACD directed the Postal Service to increase prices for each of these products by at least 2 percentage points above the class average in the next rate adjustment. *Id.* at 41, 46, 50. These directives were consistent with the Commission's prior directives and recommendations in the FY 2018 and FY 2019 ACDs. *See* FY 2018 ACD at 70-72, 78; FY 2019 ACD at 43, 46, 52.

In addition, the FY 2018 directive for USPS Marketing Mail Flats also required that "the Postal Service must continue responding to the requirements of the FY 2010 ACD directive . . . ." FY 2018 ACD at 72. The FY 2010 ACD directive, in turn, required the Postal Service to provide in future notices of Market Dominant price adjustment the following information with respect to the Flats product: a schedule of future above consumer price index price increases; an explanation of how proposed prices will move the cost coverage for Flats closer to 100 percent; and a statement estimating the effect that proposed prices will have in reducing the subsidy for the Flats product. FY 2010 ACD at 107. The Postal Service did not provide this information in the Notice. An information request was therefore issued to obtain the information required by the FY 2010 ACD directive. CHIR No. 5, question 1.

2. The Postal Service's Position

The Postal Service acknowledges that the FY 2020 ACD requires it to raise rates for the USPS Marketing Mail Flats, Parcels, and Carrier Route products by at least 2

percentage points above the class average. Notice at 12. The Postal Service states that it is raising prices for these products by 8.819, 9.367, and 8.866 percent, respectively. *Id.*

For the information required by the FY 2010 ACD directive, the Postal Service states that it "hopes that the 8.819 percent increase, much larger than previous increases for [USPS] Marketing Mail Flats, will help reverse the decline in cost coverage for the product, move cost coverage toward 100 percent, and reduce the Flats['] subsidy." Response to CHIR No. 5, question 1. Regarding a schedule of future price increases, the Postal Service explains that:

> [T]he Commission has, in the ACDs for FY 2018 – 2020, now issued three directives requiring an increase in prices for Flats by at least 2 percentage points above the class average, and it has adopted 39 C.F.R. § 3030.221, requiring the same for any non-compensatory product in a compensatory class.

Id. The Postal Service asserts that "these actions have superseded the 2010 directive for a schedule of future price increases, in so far as the Commission has effectively determined the product's price increases until such time as the product is compensatory or the Commission revises 39 C.F.R. § 3030.221." *Id.*

3. Comments

The Public Representative states that the proposed price increases for the USPS Marketing Mail Flats, Parcels, and Carrier Route products comply with the FY 2020 ACD and 39 C.F.R. § 3030.221. PR Comments at 22-23. No other commenters raise issues pertaining to USPS Marketing Mail Flats', Parcels', or Carrier Route's status as non-compensatory products or the related ACD directives.

4. Commission Analysis

As described in Section II., *supra*, there are two regulatory requirements specific to non-compensatory products in compensatory classes: (1) rates may not be reduced for non-compensatory products; and (2) rates for each non-compensatory product must increase by a minimum of 2 percentage points above the average percentage increase for its compensatory class. 39 C.F.R. § 3030.127(b); *id.* § 3030.221.

In this price adjustment, the Postal Service has proposed price increases for the Flats, Parcels, and Carrier Route products that are at least 2 percentage points above the USPS Marketing Mail class average increase of 6.814 percent. This is consistent with the requirements of 39 C.F.R. § 3030.127(b) and 39 C.F.R. § 3030.221 as well as the Commission's FY 2018, FY 2019, and FY 2020 ACD directives and recommendations.[105]

In future notices of Market Dominant price adjustment, the Postal Service must provide the information required by the FY 2010 ACD directive until such time that the Commission changes the requirement. Although the Postal Service claims that the 39 C.F.R. § 3030.221 supersedes this requirement, the Commission finds that is not the case. In requiring a price increase of at least 2 percentage points above the USPS Marketing Mail class average increase, 39 C.F.R. § 3030.221 sets a pricing floor for non-compensatory products in the USPS Marketing Mail class. However, because the rules provide the Postal Service with the discretion to set prices for Flats so long as they comply with the requirements of the rules, including 39 C.F.R. § 3030.221, it is reasonable to expect the Postal Service to continue to undertake analysis of the effects of proposed price increases on the Flats product. It is also reasonable to expect the Postal Service to provide its plans for future increases along with an explanation of how

[105] *See* FY 2018 ACD at 70-72, 78; FY 2019 ACD at 43, 46, 52; FY 2020 ACD at 41, 46, 50.

those prices will improve Flats' cost coverage and reduce the subsidy of the Flats product in each rate adjustment proceeding.

D. Workshare Discounts

1. Introduction

As described in Section II., *supra*, the rules in 39 C.F.R. part 3030, subpart J govern the pricing requirements for workshare discounts. The Postal Service asserts that all but one of the USPS Marketing Mail workshare discounts comply with 39 C.F.R. part 3030, subpart J. Notice at 14-19.

2. The Postal Service's Position

The Postal Service states that "[t]he large majority of [USPS] Marketing Mail passthroughs fall within the 85 percent to 100 percent range, . . . and ten passthroughs are set at 100 percent." *Id.* at 14. The Notice provides more detail about passthroughs that fall outside of the 85 to 100 percent range. *Id.* Specifically, the Postal Service proposes to increase several below avoided costs workshare discounts by a minimum of 20 percent consistent with the exception in 39 C.F.R. § 3030.284(c). *Id.* at 14, 15-16, 18-19. In addition, for the new discount for High Density Flats on 5-Digit (direct) pallets, the Postal Service justifies a passthrough of 47.6 percent pursuant to the exception in 39 C.F.R. § 3030.284(b) because the workshare discount is new. *Id.* at 19. There is also one USPS Marketing Mail Parcels workshare discount with a passthrough greater than 100 percent. *Id.* at 18. The Postal Service states it is reducing that discount by at least 20 percent consistent with the exception in 39 C.F.R. § 3030.283(c). *Id.*

The Postal Service explains that there is one passthrough above 100 percent that does not qualify for an exception under 39 C.F.R. § 3030.283. *See id.* at 16. Specifically, the passthrough for Basic Carrier Route flats entered at the DDU is 134.3 percent. *Id.* The other five Carrier Route flats dropship discounts fall below 85 percent,

but each of the discounts is a minimum of 20 percent more than the existing workshare discount in accordance with the exception in 39 C.F.R. § 3030.284(c). *See id.*, Table 12. The Postal Service explains that "[e]ach of the six Carrier Route [f]lats dropship discounts comprises both a per-piece rate and a per-pound rate[, and] [a]ccordingly, the passthroughs for these discounts cannot be calculated in the straightforward manner that passthroughs for other discounts are calculated." *Id.* The Postal Service asserts that "these six passthroughs are the result of a more complex calculation that first weights the per-piece and per-pound rates with actual mailed volumes and then compares the weighted discounts to the cost avoidance." *Id.* at 17.

The Postal Service further asserts that:

> Given this calculation method, it is not possible to bring all six Carrier Route [f]lats discounts into alignment with the Commission's new workshare discount rules without introducing prices that are irrational on their face, such as higher prices for dropshipping at the DDU than at the [destination sectional center facility (DSCF)].

Id. The Postal Service provides workpapers it represents demonstrate this issue.[106] The Postal Service states that "the Governors have determined to set Carrier Route rates in the manner that accomplishes the fullest possible compliance while retaining rationality." Notice at 18. The Postal Service asserts that "because the passthrough associated with . . . [the Basic Carrier Route flats DDU entry workshare discount] is being set above 100 percent, its non-alignment with the band accrues to the benefit of mailers rather than the Postal Service." *Id.* The Postal Service states that it "intends to bring this passthrough into compliance as soon as practicable given changes in dropship cost avoidances and changes in the mail mix." *Id.*

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[106] *See* Library Reference USPS-LR-R2021-2/2, May 28, 2021, Excel file "Carrier Route Flats Dropship R2021-2.xlsx."

3. Comments

NAPM "supports the improved workshare discount rate relationships for DSCF dropship entry of [USPS] Marketing Mail." NAPM Comments at 3. The Public Representative asserts that with the exception of the Basic Carrier Route flats DDU entry workshare discount, all of the proposed USPS Marketing Mail workshare discounts comply with 39 C.F.R. part 3030, subpart J. PR Comments at 13, 15. He notes that the Basic Carrier Route flats DDU entry workshare discount is inconsistent with 39 C.F.R. part 3030, subpart J. *Id.* at 13. He states that the Postal Service should have sought a waiver pursuant to 39 C.F.R. § 3030.286(c)(5) or filed a petition seeking to change the analytical principles for calculating the Carrier Route flats workshare discounts further in advance of this proceeding. *Id.* Although he expresses some concern with the Carrier Route flats workshare discounts as proposed, he "urges the Commission to allow a one-time exception to the workshare rules" and "to strictly enforce the rules going forward." *Id.* at 13-14.

4. Commission Analysis

In accordance with 39 C.F.R. § 3030.282, if a workshare discount is currently equal to the cost avoided by the Postal Service, the size of the discount cannot be changed; if a workshare discount currently exceeds the cost avoided by the Postal Service, then the size of the discount cannot be increased; and if a workshare discount currently is less than the cost avoided by the Postal Service, then the size of the discount cannot be decreased. 39 C.F.R. § 3030.282. The Commission has verified that all USPS Marketing Mail workshare discounts proposed in this proceeding comply with 39 C.F.R. § 3030.282 with the exception of the Basic Carrier Route flats DDU entry workshare discount, which is discussed in more detail below.

The regulations also provide specific limitations on how workshare discounts that do not equal avoided costs can be set. Workshare discounts that exceed the cost

avoided by the Postal Service are permissible if an exception listed in 39 C.F.R. § 3030.283(b)-(e) applies. One of these exceptions permits a workshare discount exceeding the cost avoided by the Postal Service if the proposed workshare discount is a minimum of 20 percent less than the existing workshare discount. *Id.* § 3030.283(c). Workshare discounts that are less than the cost avoided by the Postal Service are permissible if an exception listed in 39 C.F.R. § 3030.284(b)-(e) applies. These exceptions include: (1) the proposed workshare discount is associated with a new postal service, a change to an existing postal service, or a new workshare initiative; (2) the proposed workshare discount is a minimum of 20 percent more than the existing workshare discount; or (3) the percentage passthrough for the proposed workshare discount is at least 85 percent. *Id.* § 3030.284(b), (c), (e).

With the exception of the Basic Carrier Route flats DDU entry workshare discount, the workshare discounts proposed by the Postal Service for USPS Marketing Mail comply with the requirements of 39 C.F.R. part 3030, subpart J. The Commission has verified the USPS Marketing Mail workshare discounts that are less than the costs avoided by the Postal Service are associated with a new workshare initiative; a minimum of 20 percent more than the existing workshare discount; or have a passthrough of at least 85 percent consistent with the exceptions of 39 C.F.R. § 3030.284(b), (c), and (e). The Commission has also confirmed that with the exception of the Basic Carrier Route flats DDU entry workshare discount, the sole other workshare discount exceeding the cost avoided by the Postal Service is a minimum of 20 percent less than the existing workshare discount consistent with the exception in 39 C.F.R. § 3030.283(c).

The workshare discount for Basic Carrier Route flats entered at the DDU has a passthrough of 134.3 percent and does not qualify for any of the exceptions of 39 C.F.R. § 3030.283. Due to the way the six Carrier Route flats dropship discounts are calculated, it is not possible for the Postal Service to set all six discounts consistent with

the Commission's regulations without introducing irrational prices, such as higher prices for dropshipping to the DDU (which is closer to the delivery point) than to the DSCF (which is farther from the delivery point). The Excel file "Carrier Route Flats Dropship R2021-2.xlsx" provided as part of Library Reference USPS-LR-R2021-2/2 demonstrates that it is mathematically impossible for all six discounts to simultaneously comply with 39 C.F.R. part 3030, subpart J and produce rational prices.[107] Given the demonstration of mathematical impossibility in this case, the Commission grants a one-time exemption from the rules of 39 C.F.R. part 3030, subpart J for the Basic Carrier Route flats entered at the DDU workshare discount. In a separate docket, the Postal Service has filed a petition for a rulemaking to change the methodology for calculating and reporting these workshare discounts and their associated passthroughs that the Postal Service asserts will remedy the issue.[108] That petition is currently under review by the Commission, and the Commission expects the issues with the calculation of the six Carrier Route flats dropship discounts to be resolved within the scope of that docket prior to any future rate case.

E. Mail Classification Changes

1. Introduction

The classification changes for USPS Marketing Mail pertaining to the proposed CY 2022 promotions are addressed in Section IV.A., *supra*. In addition to the promotions-related changes, the Postal Service proposes a new 1-cent discount for High Density Flats on 5-Digit pallets in this proceeding.

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[107] *See* Library Reference USPS-LR-R2021-2/2, May 28, 2021, Excel file "Carrier Route Flats Dropship R2021-2.xlsx."

[108] Docket No. RM2021-6, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Three), April 8, 2021.

2. The Postal Service's Position

With respect to the new 1-cent discount for High Density Flats on 5-Digit pallets, the Postal Service explains that "it is establishing this discount because pallets prepared this way allow the Postal Service to avoid moving these pallets to bundle sorters within the plant, sorting the bundles, and moving them back to the dock to be transported to the [DDU]." Notice at 13. The Postal Service explains that "[w]hen mail is prepared on 5-Digit pallets, all of these operations are avoided and mail can be loaded directly to the delivery unit." June 11 Response to CHIR No. 2, question 3.a. The Postal Service provides workpapers that it asserts demonstrate the higher efficiency of High Density Flats on 5-Digit pallets. *Id.*, Excel file "CHIR2Q3c_d." The Postal Service states that the Commission "favorably reviewed an analogous discount for Carrier Route pieces on 5-Digit (direct) pallets in 2015." Notice at 13.

The Postal Service states that the "new discount will not adversely affect either the rates or the service levels of users of postal services who do not take advantage of the workshare discount" because "[t]he discount is generally available, and for those mailers that do not take advantage of it, the rate for High Density Flats not on 5-Digit [p]allets (direct) still exists." *Id.* at 13-14. The Postal Service asserts that it "is not aware of any reason that this discount would affect the processing of other flat shaped mailpieces, including the timeliness of processing, delivery, and transportation" and that it is "not aware of any reason that mail prepared pursuant to the requirements of the new discount would achieve better service performance." June 11 Response to CHIR No. 2, question 3.e., f.

3. Comments

No commenter specifically addresses the Postal Service's proposed classification change for USPS Marketing Mail.

4. Commission Analysis

The Commission accepts the proposed changes to the MCS with respect to the new 1-cent discount for High Density Flats on 5-Digit pallets. The Commission finds that this new discount will encourage efficiency by providing lower prices for High Density Flats on 5-Digit pallets, which require less processing than other High Density Flats, as demonstrated in the June 11 Response to CHIR No. 2, Excel file "CHIR2Q3c_d."[109]

F. Statutory Preferential Rates

Nonprofit rates are required to yield per-piece revenues that equal, as nearly as practicable, 60 percent of commercial per-piece revenues. 39 U.S.C. § 3626(a)(6)(A). The Postal Service states that it has complied with this requirement in this proceeding. Notice at 34-35. The Public Representative agrees the Postal Service has complied with this requirement. PR Comments at 19. For the planned prices in this proceeding, the percentage ratio of the nonprofit average revenue per-piece to the commercial average revenue per-piece is 60.08 percent.[110] The Commission finds that the revenue per-piece percentage ratio proposed by the Postal Service fulfills the requirement of 39 U.S.C. § 3626(a)(6)(A).

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[109] In the Response to Question 1 of CHIR No. 7, the Postal Service states that, within the cost model used to calculate avoided costs for High Density Flats on 5-Digit pallets (*see* June 11 Response to CHIR No. 2, Excel file "CHIR2Q3c_d.xlsx"), allied costs associated with transporting containers from the dock to the bundle sorting operation and transporting mail back to the dock are assumed to be the same proportion to direct costs as all other allied costs. Response to Question 1 of CHIR No. 7. Although this is technically consistent with the Commission's accepted methodology, it is probable that the actual allied costs for High Density Flats on 5-Digit pallets differ significantly from the allied costs of all other products. The Commission encourages the Postal Service to continue improving its avoided cost models, so they more accurately represent the cost avoided by the Postal Service for each workshare discount.

[110] Library Reference PRC-LR-R2021-2-2, Excel file "PRC-CAPCALC-MM-R2021-2.xlsx."

G. Nonprofit Discounts

The Postal Service is required to either equalize or adequately justify all unequal nonprofit and commercial discounts.[111] The Postal Service states that it has complied with this requirement in this proceeding. Notice at 35. No commenter challenges the Postal Service's compliance with this requirement. The Commission finds that the Postal Service's planned nonprofit discounts comply with this requirement by equalizing comparable nonprofit and commercial discounts.

H. Other Comments Related to USPS Marketing Mail

1. Introduction

MPA and ANM raise concerns related to USPS Marketing Mail that have not been addressed elsewhere in this Section.

2. Comments

MPA and ANM assert that "huge price increases—as much as 26 percent for nonprofit flats and 14 percent for commercial flats—will be levied on highly-efficient, High Density . . . mail entered at the Sectional Center Facility (SCF)."[112] MPA and ANM allege these increases "will disincentivize co-mailing, a practice that substantially reduces Postal Service costs" and thus is inconsistent with Objective 1 (maximize incentives to reduce costs and increase efficiency) and Factor 5 (degree of preparation of mail by mailer and its effect on reducing Postal Service costs). *Id.* at 8-9 (citing 39 U.S.C. § 3622(b)(1) and (c)(5)).

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[111] *See* 39 U.S.C. § 403(c); *Nat'l Easter Seal Soc. for Crippled Children & Adults v. U.S. Postal Serv.*, 656 F.2d 754 (D.C. Cir. 1981).

[112] MPA/ANM Comments at 8. The Commission notes that MPA and ANM refer to "High Density Carrier Route mail" in their comments, but based on their citation, it appears "Carrier Route" was added in error. As such the Commission interprets the MPA/ANM Comments to be referencing High Density Flats.

3. Commission Analysis

With respect to MPA's and ANM's assertion that the increase on High Density mail entered at the SCF is inconsistent with Objective 1 and Factor 5, the Commission finds that planned price increases for the High Density/Saturation Flats and Parcels product as a whole are consistent with an approach that encourages mailers to use the most efficient rate cells and thus are consistent with Objective 1 and Factor 5. Specifically, within the High Density/Saturation Flats and Parcels product, High Density Plus and Saturation flats require more density in mailings than High Density flats. High Density Plus and Saturation flats also have lower prices and are receiving small price increases as a result of this proceeding than High Density flats. Thus, the Postal Service appears to be using the price increases in this proceeding to encourage higher efficiency mail within the High Density/Saturation Flats and Parcels product, which is consistent with Objective 1 and Factor 5.

VII. PERIODICALS

A. Introduction

This section discusses the price adjustment authority, non-compensatory products, workshare discounts, and statutory preferential rates applicable to Periodicals. The Postal Service does not propose any classification changes related to Periodicals in this proceeding.

B. Price Adjustment Authority

1. Introduction

The Periodicals class consists of two products: (1) In-County;[113] and (2) Outside County. The planned price increase for Periodicals is, on average, 8.771 percent, which results in 0.037 percent remaining unused price adjustment authority.[114]

Table VII-1 shows the percentage price change for each Periodicals product as calculated by the Commission.

Table VII-1
Periodicals Price Changes (By Product)

Periodicals Product	Price Change %
Outside County	8.845
In-County	7.326
Overall	8.771
Source: Library Reference PRC-LR-R2021-2-3, Excel file "PRC-CAPCALC-PER-R2021-2.xlsx."	

2. The Postal Service's Position

The Postal Service asserts that it complied with the applicable price cap requirements. *See* Notice at 4-5. The Postal Service proposes only one adjustment to the hybrid year billing determinants for Periodicals. *Id.* at 24. The Postal Service uses

[113] Although the Notice refers to this product as "Within County," this product is named In-County Periodicals in the MCS. Postal Regulatory Commission, (draft) Mail Classification Schedule posted January 25, 2021, § 1300.2 (with revisions through March 31, 2021), available at *http://www.prc.gov/mail-classification-schedule*.

[114] As shown in Table II-1, *supra*, the Postal Service has 8.808 percent in available pricing authority. Subtracting the 8.771 percent the Postal Service is using in this proceeding from its available pricing authority calculates to 0.037 percent remaining as unused rate adjustment authority. *See* Library Reference PRC-LR-R2021-2-3, Excel file "PRC-CAPCALC-PER-R2021-2.xlsx."

Postal One data to determine the volume that would have qualified for the Seamless Acceptance incentive for the part of the hybrid year before the incentive went into effect. *Id.* at 11-12, 24.

3. Comments

No commenter disputes that the proposed price adjustments comply with the price cap. The Public Representative asserts that the planned price adjustments comply with the requirements of the price cap. PR Comments at 5, 9.

4. Commission Analysis

The Commission finds the Postal Service's price adjustments for Periodicals comply with the price cap limitations specified by 39 C.F.R. part 3030. In the Notice, the Postal Service states that it uses 8.806 percent of its available pricing authority for Periodicals and that the total unused price adjustment authority available for Periodicals after this proceeding is 0.002 percent. Notice at 21. In response to various CHIRs, the Postal Service revised several rate cells to bring several workshare discounts into compliance with the requirements of 39 C.F.R. part 3030, subpart J as well as to adjust prices for advertising pounds for Outside County Science of Agriculture mail in Zones 1 and 2 and for Nonmachinable Automation Mixed ADC flats.[115] These changes also resulted in the Postal Service filing revised versions of Library Reference USPS-LR-R2021-2/3 as well as revisions to Attachments A and B to the Notice.[116] As a result of these clarifications and corrections, the Commission calculates the Postal Service's

[115] June 14 Response to CHIR No. 1, questions 3-4; June 14 Response to CHIR No. 2, question 5; Response to Questions 1 and 2 of CHIR No. 6, questions 1-2.

[116] USPS Notice of Filing Revised Library Reference – USPS-LR-R2021-2/3 Periodicals Workpapers, June 14, 2021, at 1; June 14 Response to CHIR No. 1, Attachment 1 and Excel file "2021-06-14-Attachment B – R2021-2.xlsx;" Postal Service Errata at 7-8 and Excel file "Attachment B R2021-2 6.21.21.xlsx;" USPS Notice of Filing Amended Library References, June 21, 2021, at 1.

planned price adjustment for Periodicals to be 8.771 percent, which is less than the total available authority of 8.808 percent and results in total unused price adjustment authority available for Periodicals as a result of this proceeding of 0.037 percent.[117] The Commission also incorporates the Postal Service's revisions to Attachment A of the Notice into the Attachment to this Order.

The Commission notes that the Postal Service is adding unused rate adjustment authority for the Periodicals class as a result of this proceeding. Because the Retirement Obligation Rate Authority of 39 C.F.R. part 3030, subpart E cannot be used to generate unused rate authority pursuant to 39 C.F.R. § 3030.181(c)(5), 39 C.F.R. § 3030.242(b) states that "unused rate adjustment authority cannot exceed the unused portion of rate authority calculated pursuant to subparts C and D . . . [of 39 C.F.R. part 3030], and [39 C.F.R.] § 3030.222." 39 C.F.R. § 3030.242(b). Of the 0.037 percent in total unused rate adjustment authority available for Periodicals after this proceeding, 0.035 percent is the result of authority derived from this proceeding. Because 0.035 percent is less the rate authority available pursuant to subparts C and D of 39 C.F.R. part 3030 and 39 C.F.R. § 3030.222, the Periodicals class complies with 39 C.F.R. § 3030.242(b). In addition, the Commission accepts the Postal Service's adjustment to the billing determinants for Periodicals as reasonable.

[117] The new pricing authority available to Periodicals in this proceeding is 8.806 percent. In addition to that pricing authority, Periodicals had 0.002 percent of existing unused rate adjustment authority available. Therefore, the total pricing authority available for Periodicals in this proceeding is 8.808 percent. *See* Library Reference PRC-LR-R2021-2-3, Excel file "PRC-CAPCALC-PER-R2021-2.xlsx."

C. Non-Compensatory Products

1. Introduction

In FY 2020, both In-County and Outside County did not cover their attributable costs. FY 2020 ACD at 20. As a result, the Periodicals class as a whole was non-compensatory in FY 2020 with a class cost coverage of 56.9 percent. *Id.*

2. The Postal Service's Position

The proposed percentage changes in prices for In-County and Outside County as a result of this proceeding are 7.326 and 8.845 percent, respectively.[118] The Postal Service acknowledges that the Periodicals class as a whole was non-compensatory in FY 2020 and utilizes the additional 2 percentage points of rate authority available to non-compensatory classes in this proceeding. Notice at 21. The Postal Service asserts that the price changes incorporate four strategies aimed at improving cost coverage: (1) creating a single price for all zone-based advertising pound prices; (2) lowering pound prices to facilitate shifting to uniform advertising zone prices and using the resulting cap authority in more efficient areas; (3) continuing to apply lower prices to tubs as compared to sacks for Periodicals entered at the DSCF and DDU; and (4) increasing the price differential between basic Carrier Route and Machinable Automation 5-Digit flats. *Id.* at 21-22.

3. Comments

No commenters raise issues pertaining to In-County's and Outside County's status as non-compensatory products.

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[118] Library Reference PRC-LR-R2021-2-3, Excel file "PRC-CAPCALC-PER-R2021-2.xlsx."

4. Commission Analysis

As described in Section II., *supra*, non-compensatory products cannot have their rates reduced. 39 C.F.R. § 3030.127(b). Because the prices for both In-County and Outside County are increasing as a result of this proceeding, the proposed prices comply with 39 C.F.R. § 3030.127(b). The Commission notes that the pricing requirements of 39 C.F.R. § 3030.221 are inapplicable to non-compensatory products in non-compensatory classes and thus are inapplicable to both Periodicals products. The Commission recommends that the Postal Service continue to explore pricing strategies aimed at improving the cost coverage of the Periodicals class.

D. Workshare Discounts

1. Introduction

As described in Section II., *supra*, the rules in 39 C.F.R. part 3030, subpart J govern the pricing requirements for workshare discounts. The Postal Service asserts that all Periodicals workshare discounts comply with 39 C.F.R. part 3030, subpart J. Notice at 22.

2. The Postal Service's Position

The Postal Service states that no planned Periodicals workshare discounts exceed their avoided costs. *Id.* The Postal Service asserts that "[w]hile many Periodicals workshare discounts have passthrough ratios below 100 percent, the Postal Service is bringing all of them into compliance with 39 C.F.R. § 3030.284, either by ensuring that the passthrough ratio is at least 85 percent or by raising the discount by at least 20 percent."[119] The Postal Service also sets one workshare discount, 3-Digit

[119] *Id.*; June 14 Response to CHIR No. 1, question 4; June 14 Response to CHIR No. 2, question 5.

Automation Letters, such that the resulting passthrough is 100 percent. June 14 Response to CHIR No. 1, question 3.

3. Comments

The Public Representative states that the proposed workshare discounts comply with 39 C.F.R. part 3030, subpart J and reflect an improvement in bringing workshare discounts closer to avoided costs. PR Comments at 16. To the extent a commenter raised concerns about the sufficiency of 39 C.F.R. part 3030, subpart J and referenced Periodicals workshare discounts in a related discussion, those comments are discussed in Section IV.B.7., *supra.*

4. Commission Analysis

In accordance with 39 C.F.R. § 3030.282, if a workshare discount is currently equal to the cost avoided by the Postal Service, the size of the discount cannot be changed; if a workshare discount currently exceeds the cost avoided by the Postal Service, then the size of the discount cannot be increased; and if a workshare discount currently is less than the cost avoided by the Postal Service, then the size of the discount cannot be decreased. 39 C.F.R. § 3030.282. The Commission has verified that all Periodicals workshare discounts proposed in this proceeding comply with 39 C.F.R. § 3030.282.

The regulations also provide specific limitations on how workshare discounts that do not equal avoided costs can be set. The Postal Service asserts that no planned Periodicals workshare discounts exceed their avoided costs, one discount has a passthrough of 100 percent, and all other Periodicals workshare discounts have been increased by at least 20 percent or are set to result in passthroughs of at least 85

percent.[120] In accordance with 39 C.F.R. § 3030.284, "[n]o proposal to adjust a rate may set a workshare discount that would be below the cost avoided by the Postal Service for not providing the applicable service" unless one of several exceptions applies. 39 C.F.R. § 3030.284(a). One of the exceptions permits workshare discounts where "[t]he percentage passthrough for the proposed workshare discount is at least 85 percent." *Id.* § 3030.284(e). Another permits a workshare discount set below avoided costs where "[t]he proposed workshare discount is a minimum of 20 percent more than the existing workshare discount." *Id.* § 3030.284(c). The Commission has confirmed that all Periodicals workshare discounts set below avoided costs are permitted under one of the exceptions in 39 C.F.R. § 3030.284.

Separate from compliance with 39 C.F.R. part 3030, subpart J, the Commission raises potential issues with the Outside County Periodicals Unit Mail Processing Costs model that was expanded to include separate bottom-up costs for trays and submitted with the June 10 Response to CHIR No. 1, question 5. June 10 Response to CHIR No. 1, Excel file "ChIR1Q5.xlsx."

In its initial filing in this proceeding, the Postal Service stated that "[d]ue to the unavailability of Tray Costs, Sack Costs are used as proxies for Tray Costs."[121] This is consistent with how the Postal Service treated tray costs in Docket No. R2021-1 when the Postal Service proposed separate sack and tray prices for the first time. Order No. 5757 at 32. In that docket, the Postal Service was asked whether it planned to develop separate bottom-up costs for trays rather than continuing to use the sack costs as proxies, and the Postal Service stated that it intended to do so in FY 2021.[122]

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[120] Notice at 22; June 14 Response to CHIR No. 1, question 4; June 14 Response to CHIR No. 2, question 5.

[121] Notice, Excel file "Attachment B R2021-2.xlsx," table "Per. Bundle-Container Pricing," cell B91.

[122] Docket No. R2021-1, Response of the United States Postal Service to Chairman's Information Request No. 2, October 26, 2020, question 9.b.ii.

CHIR No. 1, question 5 asked for an update on the status of the development of separate bottom-up costs for trays. CHIR No. 1, question 5. In its response, the Postal Service submitted a revised Outside County Periodicals Unit Mail Processing Costs model that included separate bottom-up costs for trays. June 10 Response to CHIR No. 1, Excel file "ChIR1Q5.xlsx." CHIR No. 5, question 2 requested that the Postal Service provide additional information concerning if and when it intended to file a petition for rulemaking requesting approval of the changes in a separate proceeding. CHIR No. 5, question 2. In its response, the Postal Service indicated it did not intend to file such a petition, explaining that it viewed the changes as "merely the extension of the established methodology for calculating the unit costs of containers to now generate the unit costs for [trays]." Response to CHIR No. 5, question 2.

The Commission notes that the proposed changes to the Outside County Periodicals Unit Mail Processing Costs model in the June 10 Response to CHIR No. 1 raise several questions that would need to be vetted in a separate proceeding. For example, although trays in theory should cost less to process than sacks because of their uniform size, the proposed model shows that trays on average cost more than sacks.[123] In addition, some of the data do not line up precisely with the current methodology. *See* Response to CHIR No. 5, question 2. For example, in the June 10 Response to CHIR No. 1, Excel file "ChIR1Q5.xlsx," tab "TUB COSTS," the conversion source is listed as "2008 Field Study," whereas in tab "SACK COSTS," the conversion source is listed as "Docket No. R97-1, LR-H-111, Appendix F." In addition, in the June 10 Response to CHIR No. 1, Excel file "ChIR1Q5.xlsx," tab "Model Volumes," there is not a source for the disaggregated sack and tray volumes. These issues only serve as examples of areas that need more complete vetting and are not necessarily the totality of issues with the proposed changes.

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[123] *See* June 10 Response to CHIR No. 1, Excel file "ChIR1Q5.xlsx," tab "CONTAINER COSTS CRA" (showing average unit tray costs are $3.71 and average unit sack costs are $2.54).

Due to the limited nature of a rate adjustment proceeding, during which the Commission generally completes its review in a relatively short amount of time, the Commission cannot fully review changes like these within a rate adjustment docket. *See* 39 C.F.R. § 3030.124(f); § 3030.126(b). Should the Postal Service believe such changes improve the quality, accuracy, or completeness of the Outside County Periodicals Unit Mail Processing Costs model, the Postal Service should file a petition for rulemaking in accordance with 39 C.F.R. § 3050.11(a). Until the Postal Service files and the Commission approves such a petition for rulemaking, the Commission will continue to use sack costs as a proxy for tray costs.

E. Statutory Preferential Rates

1. Introduction

The Periodicals class is accorded several statutory pricing preferences. *See* 39 U.S.C. § 3626.

2. The Postal Service's Position

The Postal Service states that it has complied with these requirements in this proceeding. Notice at 34.

In-County. 39 U.S.C. § 3626(a)(3) requires that the prices for In-County Periodicals reflect this product's preferred status relative to the prices for regular rate (Outside County) Periodicals. The Postal Service asserts that it "continues to recognize the preferential status of Within County Periodicals by keeping its prices below those of regular Outside County Periodicals." *Id*.

Outside County—Nonprofit and Classroom. 39 U.S.C. § 3626(a)(4)(A) requires that Nonprofit and Classroom Periodicals receive, as nearly as practicable, a 5 percent discount from regular rate postage, except for advertising pounds. The Postal Service asserts that, consistent with past practice, it continues this rate preference by giving

Nonprofit and Classroom pieces a 5 percent discount on all components of postage, except for advertising pounds and ride-along postage. *Id*.

Outside County—Science of Agriculture Periodicals. 39 U.S.C. § 3626(a)(5) requires that Science of Agriculture Periodicals be given preferential treatment for advertising pounds. The Postal Service states that it will continue to provide these publications with advertising pound prices for DDU, DSCF, and destination area distribution center (DADC) that are 75 percent of the advertising pound prices applicable to regular Outside County Periodicals. *Id*. In addition, the Postal Service revised its planned prices such that the advertising pound price for Outside County Science of Agriculture Periodicals in Zones 1 and 2 has been set to 75 percent of the rate applicable to regular Outside County Periodicals. Response to Questions 1 and 2 of CHIR No. 6, question 1.b.

Limited circulation discount. 39 U.S.C. § 3626(g)(4)(C) provides preferential treatment for Outside County pieces of a Periodicals publication with fewer than 5,000 Outside County pieces and at least one In-County piece. The Postal Service states that it is continuing the "limited circulation" discount that provides these pieces with a discount equivalent to the Nonprofit and Classroom discount. Notice at 35.

3. Comments

The Public Representative states that the Postal Service fulfills the requirements of 39 U.S.C. § 3626(a)(3), (a)(4)(A), (a)(5), and (g)(4)(C). PR Comments at 19.

4. Commission Analysis

The planned prices are consistent with statutory preferences for mail in the Periodicals class. Specifically:

- *In-County.* The average per-piece revenue for In-County is approximately 38.16 percent of the average per-piece revenue for Outside County pieces. This satisfies 39 U.S.C. § 3626(a)(3).
- *Outside County—Nonprofit and Classroom*. Nonprofit and Classroom publications receive a 5 percent discount from regular Outside County piece, bundle, sack, and pallet prices, and editorial pound prices, consistent with 39 U.S.C. § 3626(a)(4)(A).
- *Outside County—Science of Agriculture Periodicals.* Applicable Science of Agriculture advertising pound rates are 25 percent less than regular Periodicals, consistent with 39 U.S.C. § 3626(a)(5).
- *Limited circulation discount*. The planned limited circulation discount for qualifying Outside County pieces is 5 percent, consistent with 39 U.S.C. § 3626(g)(4)(C).

VIII. PACKAGE SERVICES

A. Introduction

This section discusses the price adjustment authority, non-compensatory products, workshare discounts, and statutory preferential rates applicable to Package Services. The Postal Service does not propose any classification changes related to Package Services in this proceeding.

B. Price Adjustment Authority

1. Introduction

The Package Services class consists of four products: (1) Alaska Bypass Service; (2) Bound Printed Matter (BPM) Flats; (3) BPM Parcels; and (4) Media Mail/Library Mail. The planned price increase for Package Services is, on average,

8.804 percent, which results in 0.008 percent remaining unused price adjustment authority.[124] Table VIII-1 shows the percentage price change for each Package Services product as calculated by the Commission.

Table VIII-1
Package Services Price Changes (By Product)

Package Services Product	**Price Change %**
Alaska Bypass Service	6.989
BPM Flats	7.453
BPM Parcels	6.666
Media Mail/Library Mail	10.865
Overall	8.804
Source: Library Reference PRC-LR-R2021-2-4, Excel file "PRC-CAPCALC-PACKSERV-R2021-2.xlsx."	

2. The Postal Service's Position

The Postal Service asserts that it complied with the applicable price cap requirements. *See* Notice at 4-5. The Postal Service proposes only one adjustment to the hybrid year billing determinants for Package Services. *Id.* at 26. The Postal Service uses Postal One data to determine the volume that would have qualified for the Seamless Acceptance incentive for the part of the hybrid year before the incentive went into effect. *Id.* at 11-12, 26.

[124] As shown in Table II-1, *supra*, the Postal Service has 8.812 percent in available pricing authority. Subtracting the 8.804 percent the Postal Service is using in this proceeding from its available pricing authority calculates to 0.008 percent remaining as unused rate adjustment authority. *See* Library Reference PRC-LR-R2021-2-4, Excel file "PRC-CAPCALC-PACKSERV-R2021-2.xlsx."

3. Comments

No commenter disputes that the proposed price adjustments comply with the price cap. The Public Representative asserts that the planned price adjustments comply with the requirements of the price cap. PR Comments at 5, 9.

4. Commission Analysis

The Commission finds the Postal Service's price adjustments for Package Services comply with the price cap limitations specified by 39 C.F.R. part 3030. The Postal Service's planned price adjustment of 8.804 percent is less than the total available authority of 8.812 percent; therefore, the total unused rate adjustment authority available for Package Services as a result of this proceeding is 0.008 percent.[125]

The Commission also notes that the Postal Service is adding unused rate adjustment authority for the Package Services class as a result of this proceeding. Because the Retirement Obligation Rate Authority of 39 C.F.R. part 3030, subpart E cannot be used to generate unused rate authority pursuant to 39 C.F.R. § 3030.181(c)(5), 39 C.F.R. § 3030.242(b) states that "unused rate adjustment authority cannot exceed the unused portion of rate authority calculated pursuant to subparts C and D . . . [of 39 C.F.R. part 3030], and [39 C.F.R.] § 3030.222." 39 C.F.R. § 3030.242(b). Of the 0.008 percent in total unused rate adjustment authority available for Package Services after this proceeding, only 0.002 percent is the result of authority derived from this proceeding. Because 0.002 percent is less the rate authority available pursuant to subparts C and D of 39 C.F.R. part 3030 and 39 C.F.R. § 3030.222, the

[125] *See* June 10 Response to CHIR No. 1, question 6. The new pricing authority available to Package Services in this proceeding is 8.806 percent. In addition to that pricing authority, Package Services had 0.006 percent of existing unused rate adjustment authority available. Therefore, the total pricing authority available for Package Services in this proceeding is 8.812 percent. *See* Library Reference PRC-LR-R2021-2-4, Excel file "PRC-CAPCALC-PACKSERV-R2021-2.xlsx."

Package Services class complies with 39 C.F.R. § 3030.242(b). The Commission also accepts the Postal Service's adjustment to the billing determinants for Package Services as reasonable.

C. Non-Compensatory Products

1. Introduction

In FY 2020, two Package Services products, Media Mail/Library Mail and BPM Parcels, did not cover their attributable costs. FY 2020 ACD at 51. As a result, the Package Services class as a whole was non-compensatory in FY 2020 with a class cost coverage of 92.5 percent. *Id.* In the FY 2020 ACD, the Commission recommended that the Postal Service apply an above-average price increase to Media Mail/Library Mail and BPM Parcels in the next rate case. *Id.* at 53, 54.

2. The Postal Service's Position

The proposed percentage changes in prices for Media Mail/Library Mail and BPM Parcels as a result of this proceeding are 10.865 and 6.666 percent, respectively. Notice at 24. The Postal Service acknowledges that the Package Services class as a whole was non-compensatory in FY 2020 and utilizes the additional 2 percentage points of rate authority available to non-compensatory classes in this proceeding. *Id.* The Postal Service states that it is "applying Package Services' largest price increase to Media Mail/Library Mail, because that product has the lowest cost coverage in the class." *Id.* The Postal Service asserts that the increase for Media Mail/Library Mail is higher than the class average. *Id.* at 25. The Postal Service claims that the below class average proposed increase for BPM Parcels strikes a balance between "the need to address the product's cost coverage" and "the need to ensure that a non-compensatory class's price cap space is not wasted on a product that may not remain on the market-dominant [product] list" due to the Postal Service's pending request to transfer BPM

Parcels to the Competitive product list.[126] The Postal Service asserts that the proposed BPM Parcels price increase results in a projected cost coverage of 100.6 percent. Notice at 25.

3. Comments

The Public Representative states that the proposed price increases for Media Mail/Library Mail and BPM Parcels comply with the FY 2020 ACD and 39 C.F.R. § 3030.221. PR Comments at 26. No other commenters raise issues pertaining to Media Mail/Library Mail's and BPM Parcels' status as non-compensatory products.

4. Commission Analysis

As described in Section II., *supra*, non-compensatory products cannot have their rates reduced. 39 C.F.R. § 3030.127(b). Because the prices for both Media Mail/Library Mail and BPM Parcels are increasing as a result of this proceeding, the proposed prices comply with 39 C.F.R. § 3030.127(b). The Commission notes that the pricing requirements of 39 C.F.R. § 3030.221 are inapplicable to non-compensatory products in non-compensatory classes and thus are inapplicable to both Media Mail/Library Mail and BPM Parcels. As a result, the Postal Service is not required to give Media Mail/Library Mail and BPM Parcels above average price increases in this proceeding. Although this not a requirement, the Commission expresses concern that the Postal Service has elected not to give BPM Parcels an above average price increase given the amount of rate authority available to Package Services. If BPM Parcels are not transferred to the Competitive product list, the Commission expects to

[126] *Id.* The requested transfer referenced by the Postal Service is currently pending before the Commission in Docket No. MC2021-78. *See* Docket No. MC2021-78, United States Postal Service Request to Transfer Bound Printed Matter Parcels to the Competitive Product List, March 26, 2021.

look closely at the cost coverage of BPM Parcels in the next ACD and consider whether further regulatory action is needed at that time.

D. Workshare Discounts

1. Introduction

As described in Section II., *supra*, the rules in 39 C.F.R. part 3030, subpart J govern the pricing requirements for workshare discounts. The Postal Service asserts that all Package Services workshare discounts comply with 39 C.F.R. part 3030, subpart J. *See* Notice at 25.

2. The Postal Service's Position

The Postal Service states that one Package Services passthrough, BPM Parcels, Carrier Route dropshipped at the DSCF, is equal to 100 percent. *Id*. at 25. It asserts that "[a]ll other Package Services passthroughs are set between 85 and 100 percent, complying with the condition in 39 C.F.R. § 3030.284(e)." *Id.*

3. Comments

The Public Representative states that the proposed workshare discounts comply with 39 C.F.R. part 3030, subpart J and reflect an improvement in bringing workshare discounts closer to avoided costs. PR Comments at 16.

4. Commission Analysis

In accordance with 39 C.F.R. § 3030.282, if a workshare discount is currently equal to the cost avoided by the Postal Service, the size of the discount cannot be changed; if a workshare discount currently exceeds the cost avoided by the Postal Service, then the size of the discount cannot be increased; and if a workshare discount currently is less than the cost avoided by the Postal Service, then the size of the

discount cannot be decreased. 39 C.F.R. § 3030.282. The Commission has verified that all Package Services workshare discounts proposed in this proceeding comply with 39 C.F.R. § 3030.282.

The regulations also provide specific limitations on how workshare discounts that do not equal avoided costs can be set. The Postal Service asserts that with the exception of the BPM Parcels, Carrier Route dropshipped at the DSCF workshare discount, which is set equal to avoided costs, all other Package Services workshare discounts are set to result in passthroughs of at least 85 percent. Notice at 25. In accordance with 39 C.F.R. 3030.284, "[n]o proposal to adjust a rate may set a workshare discount that would be below the cost avoided by the Postal Service for not providing the applicable service" unless one of several exceptions applies. 39 C.F.R. § 3030.284(a). One of the exceptions permits workshare discounts where "[t]he percentage passthrough for the proposed workshare discount is at least 85 percent." *Id.* § 3030.284(e). The Commission has confirmed that all Package Services workshare discounts set below avoided costs result in a passthrough of at least 85 percent, thus complying with 39 C.F.R. § 3030.284.

E. Statutory Preferential Rates

The Postal Service is required to set prices for Library Mail as nearly as practicable to 95 percent of Media Mail prices. 39 U.S.C. § 3626(a)(7). The Postal Service explains that it satisfies this requirement by setting each Library Mail price element equal to 95 percent of its corresponding Media Mail price element. Notice at 35. The Public Representative agrees that the Postal Service has complied with this requirement. PR Comments at 19. The Commission finds that the prices for Media Mail and Library Mail comply with 39 U.S.C. § 3626(a)(7) because Library Mail prices are set as nearly as practicable to 95 percent of corresponding Media Mail prices.

IX. SPECIAL SERVICES

A. Introduction

This section discusses the price adjustment authority, non-compensatory products, and classification changes applicable to Special Services.

B. Price Adjustment Authority

1. Introduction

Special Services consists of nine products: (1) Ancillary Services; (2) International Ancillary Services; (3) Address Management Services; (4) Caller Service and Reserve Numbers; (5) Credit Card Authentication; (6) International Business Reply Mail Service; (7) Money Orders; (8) Post Office Box Service; and (9) Stamp Fulfillment Services. The planned price increase for Special Services is, on average, 6.808 percent, which results in 0.005 percent remaining unused price adjustment authority.[127] Table IX-1 shows the percentage price change for each Special Services product as calculated by the Commission.

[127] As shown in Table II-1, *supra*, the Postal Service has 6.813 percent in available pricing authority. Subtracting the 6.808 percent the Postal Service is using in this proceeding from its available pricing authority calculates to 0.005 percent remaining as unused rate adjustment authority. *See* Library Reference PRC-LR-R2021-2-5, Excel file "R2021-2 Special Services CapCalc.xlsx."

Table IX-1
Special Services Price Changes (By Product)

Special Services Product	**Percent Change %**
Ancillary Services[128]	5.801
International Ancillary Services	5.449
Address Management Services	7.383
Caller Service and Reserve Numbers	6.766
Credit Card Authentication	4.762
International Business Reply Mail Service	10.096
Money Orders	11.514
Post Office Box Service	9.269
Stamp Fulfillment Services	7.784
Overall	6.808
Source: Library Reference PRC-LR-R2021-2-5, Excel file "R2021-2 Special Services CapCalc.xlsx."	

2. The Postal Service's Position

The Postal Service asserts that it complied with the applicable price cap requirements. *See* Notice at 4-5. The Postal Service does not make any adjustments to the hybrid year billing determinants for Special Services. *Id.* at 29.

3. Comments

No commenter disputes that the proposed price adjustments comply with the price cap. The Public Representative asserts that the planned price adjustments comply with the requirements of the price cap. PR Comments at 5, 11.

[128] *See* Library Reference PRC-LR-R2021-2-5 for entire list of Ancillary Services and their respective price changes.

4. Commission Analysis

The Commission finds the Postal Service's price adjustments for Special Services comply with the price cap limitations specified by 39 C.F.R. part 3030. The Postal Service's planned price adjustment of 6.808 percent is less than the total available authority of 6.813 percent; therefore, the total unused price adjustment authority available for Special Services as a result of this proceeding is 0.005 percent.[129]

C. Non-Compensatory Products

1. Introduction

In FY 2020, two Special Services products did not cover their attributable costs. FY 2020 ACD at 54, 64. These products were Money Orders and International Ancillary Services. *Id.* For Money Orders, the Commission recommended in the FY 2020 ACD that the Postal Service propose an above-average price increase for this product moving forward. *Id.* at 55. For International Ancillary Services, the Commission noted that the product's failure to cover its costs was due to two components of the product, Inbound International Registered Mail and Outbound International Return Receipt, which were both non-compensatory. *Id.* at 65. The Commission acknowledged that Inbound International Registered Mail was only part of the Market Dominant International Ancillary Services product in FY 2020, Quarter 1, after which it was transferred to the Competitive product list. *Id.* The Commission concluded that it "will continue to evaluate the cost coverage of this product in future years, and makes no recommendations on Outbound International Return Receipt at this time." *Id.* at 65-66.

[129] The new pricing authority available to Special Services in this proceeding is 6.806 percent. In addition to that pricing authority, Special Services had 0.007 percent of existing unused rate adjustment authority available. Therefore, the total pricing authority available for Special Services in this proceeding is 6.813 percent. *See* Library Reference PRC-LR-R2021-2-5, Excel file "R2021-2 Special Services CapCalc.xlsx."

2. The Postal Service's Position

The proposed percentage changes in prices for Money Orders and International Ancillary Services as a result of this proceeding are 11.514 and 5.449 percent, respectively. Notice at 26. The Postal Service states that it "is increasing the rates for Money Orders and International Return Receipt to improve cost coverage" "[i]n response to recommendations made by the Commission in the FY 2020 Annual Compliance Determination." *Id.* at 27. The Postal Service asserts that "[p]rice increases of 11.5 percent for Money Orders and 11.8 percent for International Return Receipt should address the cost coverage concerns identified in the Annual Compliance Determination." *Id.*

3. Comments

The Public Representative states that the proposed price increase for Money Orders complies with the FY 2020 ACD and 39 C.F.R. § 3030.221. PR Comments at 23. With respect to International Ancillary Services, the Public Representative states that "[i]n light of the Commission's action in the FY 2020 ACD, it would appear that the proposed increase in International Return Receipt is acceptable." *Id.* at 24. However, he further states that "it remains unclear whether the proposed increase will result in an increase in the cost coverage of the International Ancillary Services product." *Id.* No other commenters raise issues pertaining to Money Orders' and International Ancillary Services' status as non-compensatory products.

4. Commission Analysis

As described in Section II., *supra*, there are two regulatory requirements specific to non-compensatory products in compensatory classes: (1) rates may not be reduced for non-compensatory products; and (2) rates for each non-compensatory product must increase by a minimum of 2 percentage points above the average percentage increase for its compensatory class. 39 C.F.R. § 3030.127(b); *Id.* § 3030.221. The prices for

Money Orders are increasing by 11.514 percent, which is more than 2 percentage points above the class average increase of 6.808 percent, thus complying with both 39 C.F.R. § 3030.127(b) and 39 C.F.R. § 3030.221.

Prices for International Ancillary Services are increasing by 5.449 percent, which is below the class average increase of 6.808 percent. However, International Ancillary Services also presents an exceptional circumstance where the situation that caused International Ancillary Services to be non-compensatory in FY 2020 has changed substantially. 39 C.F.R. § 3030.220 provides that whether a product is non-compensatory is determined by the Commission. As the Commission previously stated, the Commission expects it will generally use the findings of the most recent ACD to make this determination. *See* Section V.C.1., *supra.* However, it also acknowledges that there may be rare circumstances where the most recent ACD finding, which is a backward-looking review of the prior fiscal year, does not provide an accurate assessment of whether a product is currently non-compensatory due to a substantial change in circumstances compared to those that were in play during the prior fiscal year.

International Ancillary Services presents such a situation. In the FY 2020 ACD, the Commission found International Ancillary Services was non-compensatory because two components of the product, Inbound International Registered Mail and Outbound International Return Receipt, were both non-compensatory. FY 2020 ACD at 65. However, during FY 2020, the composition of International Ancillary Services changed substantially as Inbound International Registered Mail was transferred to the Competitive product list during FY 2020 and therefore is no longer a part of the International Ancillary Services product. *Id.* CHIR No. 3, question 4 requested that the Postal Service provide additional information concerning the compensatory status of International Ancillary Services, in light of the fact that Inbound International Registered Mail had transferred to the Competitive product list. CHIR No. 3, question 4.a. In

Response to CHIR No. 3, question 4, the Postal Service provided workpapers under seal. Library Reference USPS-LR-R2021-2-NP2, filed June 16, 2021. The Commission finds the analysis provided by the Postal Service in Library Reference USPS-LR-R2021-2-NP2 better reflects International Ancillary Services' compensatory status given the change in the composition of the product during FY 2020. As a result, the Commission finds that International Ancillary Services should be considered compensatory for purposes of this proceeding. 39 C.F.R. § 3030.220. In future rate adjustment proceedings, should the Postal Service believe that the most recent ACD does not accurately reflect a product's non-compensatory status, the Postal Service should provide its basis for such an assertion and supporting analysis with its initial notice of rate adjustment.

D. Mail Classification Changes

1. Introduction

The Postal Service proposes a mail classification change that adjusts the proration schedule for licensing fees for certain Address Management Services. Notice at 28.

2. The Postal Service's Position

The Postal Service states that Delivery Point Validation (DPV), Delivery Sequence File (DSF^2), Locatable Address Conversion System ($LACS^{Link}$), and National Change of Address ($NCOA^{Link}$) "are licensed products that allow for proration of new license fees based on the month the Postal Service certifies the system." *Id.* This allows mailers to certify at any point in the year during their first year, and align with an annual renewal cycle that begins on October 1 of each calendar year for future years. *See id.* The Postal Service states that:

> Under the existing proration schedule, a new license that is certified in October pays 11/12ths of the current annual price for the current license year[, and that] [t]his decreases to 10/12ths if certified in November, 9/12ths if certified in December, and ultimately decreases to 1/12th if certified in August for the current license year.

Id. n.42. Under the existing proration schedule, if a license is certified in September, the customer is charged the full annual rate. *Id.*

In this proceeding, the Postal Service proposes to shift from the monthly proration schedule to a quarterly one, aligning with the Postal Service's fiscal quarters. Notice at 28. Thus, under the new proration schedule,

> A new license certified in October, November, or December would pay the full annual rate for the current license year; if certified in January, February, or March, the new license would pay 75 percent of the annual rate for the current license year; if certified in April, May, or June, the license would pay 50 percent of the annual rate for the current license year; [and] if certified in July, August, or September of the current license year, the license would pay 25 percent of the annual rate.

Id. n.43. The Postal Service states the change in the proration schedule will only impact new licensees. *Id.* at 28.

The Postal Service states that it is making this change "to reduce errors and improve the operational efficiency of the onboarding process for new licensees by simplifying accounting procedures." Response to Question 3 of CHIR No. 6. The Postal Service explains that "[t]he complexity of the existing monthly proration schedule has at times complicated the billing process when payment is not received in the same period the license is initiated." *Id.* The Postal Service asserts that by reducing the number of proration periods, "this change will minimize the possibility of similar occurrences in the future." *Id.*

3. Comments

No commenter addresses these planned mail classification changes for Address Management Services.

4. Commission Analysis

The Commission accepts the proposed changes to the MCS with respect to the new proration structure for DPV, DSF^2, LACS^{Link}, and NCOA^{Link}. The Commission agrees that the new proration structure simplifies the proration schedule, which should ease some of the billing complications identified by the Postal Service in the Response to Question 3 of CHIR No. 6.

X. ORDERING PARAGRAPHS

It is ordered:

1. The Commission finds that the Postal Service's planned price adjustments relating to First-Class Mail as identified in the United States Postal Service Notice of Market-Dominant Price Change, filed May 28, 2021, are consistent with applicable law and may take effect as planned.

2. The Commission finds that the Postal Service's planned price adjustments relating to USPS Marketing Mail as identified in the United States Postal Service Notice of Market-Dominant Price Change, filed May 28, 2021, are consistent with applicable law and may take effect as planned.

3. The Commission finds that the Postal Service's planned price adjustments relating to Periodicals as identified in the United States Postal Service Notice of Market-Dominant Price Change, filed May 28, 2021, are consistent with applicable law and may take effect as planned.

4. The Commission finds that the Postal Service's planned price adjustments relating to Package Services as identified in the United States Postal Service Notice of Market-Dominant Price Change, filed May 28, 2021, are consistent with applicable law and may take effect as planned.

5. The Commission finds that the Postal Service's planned price adjustments relating to Special Services as identified in the United States Postal Service Notice of Market-Dominant Price Change, filed May 28, 2021, are consistent with applicable law and may take effect as planned.

6. Revisions to the Mail Classification Schedule appear below the signature of this Order. The promotions-related revisions in sections 1110.4, 1110.5, 1115.4, 1115.5, 1205.5, 1205.6, 1210.5, 1210.6, 1215.5, 1215.6, 1220.5, 1220.6, 1225.5, and 1225.6 are effective January 1, 2022. All other revisions are effective August 29, 2021.

7. The Postal Service is directed to file a proposed methodology for deaveraging the prior Metered Letters benchmark for machinability as it pertains to the new First-Class Mail Nonautomation Machinable Letters Mixed AADC and Nonmachinable Letters Mixed ADC workshare discounts, as described in the body of this Order, within 90 days of the date of this Order.

Erica A. Barker
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part A—Market Dominant Products
*****

1100 First-Class Mail
*****

1105 Single-Piece Letters/Postcards
*****

1105.5 Prices

Single-Piece Machinable Stamped Letters[1, 2, 3]

Maximum Weight (ounces)	Machinable Letters ($)
1	0.58
2	0.78
3	0.98
3.5	1.18

*****

Single-Piece Machinable Metered Letters

Maximum Weight (ounces)	Machinable Letters ($)
1	0.53
2	0.73
3	0.93
3.5	1.13

Single-Piece Nonmachinable Stamped Letters[1]

Maximum Weight (ounces)	Nonmachinable Letters ($)
1	0.88
2	1.08
3	1.28
3.5	1.48

*****

Single-Piece Nonmachinable Metered Letters

Maximum Weight (ounces)	Nonmachinable Letters ($)
1	0.83
2	1.03
3	1.23
3.5	1.43

Single-Piece QBRM Letters

Maximum Weight (ounces)	QBRM Letters ($)
1	0.561
2	0.761

Single-Piece Residual Machinable Letters

Maximum Weight (ounces)	**Residual Machinable Letters ($)**
1	0.58[1]
2	0.58[1]
3	0.58[1]
3.5	0.58[1]

*****

Single-Piece Postcards[1, 2]

Maximum Weight (ounces)	**Postcards ($)**	**Single-Piece Double Card ($)**
not applicable	0.40	0.80

*****

Single-Piece QBRM Postcards

Maximum Weight (ounces)	**QBRM Postcards ($)**
not applicable	0.381

Share Mail Letters and Postcards[1, 2]

Maximum Weight (ounces)	Share Mail Letters ($)	Share Mail Postcards ($)
1	0.58	0.40

*****

1110 Presorted Letters/Postcards

*****

1110.3 Price Categories

The following price categories are available for the product specified in this section:

*****

- Nonautomation Presorted Machinable Letters
  - AADC
  - Mixed AADC

- Nonmachinable Letters – Either have an aspect ratio that does not fall between 1 to 1.3 and 1 to 2.5 inclusive or do not meet other machinability requirements
  - 5-Digit
  - 3-Digit
  - Mixed ADC

*****

1110.4 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

- Emerging and Advanced Technology Promotion (March 1, 2022~~2021~~ to August 31, 2022~~2021~~)

- Earned Value Reply Mail Promotion (April 1, 2022~~2021~~ to June 30, 2022~~2021~~)

- Personalized Color Transpromo Promotion (July 1, 2022~~2021~~ to December 31, 2022~~2021~~)

- Informed Delivery Promotion (August~~September~~ 1, 2022~~2021~~ to December 31~~November 30~~, 2022~~2021~~)

1110.5 Prices

Automation Letters

Maximum Weight (ounces)	5-Digit ($)	AADC ($)	Mixed AADC ($)
1	0.426	0.461	0.485
2	0.426	0.461	0.485
3	0.426	0.461	0.485
3.5	0.426	0.461	0.485

Nonautomation Presorted Machinable Letters

Maximum Weight (ounces)	AADC ($)	Mixed AADC ($)
1	0.461	0.494
2	0.461	0.494
3	0.461	0.494
3.5	0.461	0.494

Nonmachinable Letters

Maximum Weight (ounces)	5-Digit ($)	3-Digit ($)	Mixed ADC ($)
1	0.586	0.684	0.794
2	0.586	0.684	0.794
3	0.586	0.684	0.794
3.5	0.586	0.684	0.794

Automation Postcards

Maximum Weight (ounces)	5-Digit ($)	AADC ($)	Mixed AADC ($)
not applicable	0.306	0.318	0.326

Nonautomation Presorted Machinable Postcards

Maximum Weight (ounces)	Presorted ($)
not applicable	0.335

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

Provide a four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Emerging and Advanced Technology Promotion (March 1, 2022~~2021~~ to August 31, 2022~~2021~~)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, 2022~~2021~~ to June 30, 2022~~2021~~)

*****

Personalized Color Transpromo Promotion (July 1, 2022~~2021~~ to December 31, 2022~~2021~~)

Provide a three ~~2~~ percent discount on qualifying postage for First-Class Mail presort and automation letters sent during the established program period. All mailpieces must contain bills or statements with dynamic variable color ~~(four-color-process)~~ messaging. In addition, in mailpieces sent by a prior year's participant the color messaging ~~must~~ will be required to be personalized to the recipient, unless it meets the exceptions in the program requirements for sales-related content. The color messaging must be on the bill or statement and be for marketing or consumer information purposes. To receive the discount, mailers must comply with the eligibility requirements of the program.

Informed Delivery Promotion (August 1, 2022~~2021~~ to December 31, 2022~~2021~~)

Provide a four ~~2~~ percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1115 Flats

*****

1115.4 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)
- Emerging and Advanced Technology Promotion (March 1, 2022~~2021~~ to August 31, 2022~~2021~~)
- Earned Value Reply Mail Promotion (April 1, 2022~~2021~~ to June 30, 2022~~2021~~)
- Informed Delivery Promotion (August~~September~~ 1, 2022~~2021~~ to December 31~~November 30~~, 2022~~2021~~)

1115.5 Prices

Automation Flats

Maximum Weight (ounces)	5-Digit ($)	3-Digit ($)	ADC ($)	Mixed ADC ($)
1	0.555	0.730	0.783	0.891
2	0.755	0.930	0.983	1.091
3	0.955	1.130	1.183	1.291
4	1.155	1.330	1.383	1.491
5	1.355	1.530	1.583	1.691
6	1.555	1.730	1.783	1.891
7	1.755	1.930	1.983	2.091
8	1.955	2.130	2.183	2.291
9	2.155	2.330	2.383	2.491
10	2.355	2.530	2.583	2.691
11	2.555	2.730	2.783	2.891
12	2.755	2.930	2.983	3.091
13	2.955	3.130	3.183	3.291

Presorted Flats

Maximum Weight (ounces)	**Presorted ($)**
1	1.000
2	1.200
3	1.400
4	1.600
5	1.800
6	2.000
7	2.200
8	2.400
9	2.600
10	2.800
11	3.000
12	3.200
13	3.400

Single-Piece Flats[1]

Maximum Weight (ounces)	Single-Piece ($)
1	1.160
2	1.360
3	1.560
4	1.760
5	1.960
6	2.160
7	2.360
8	2.560
9	2.760
10	2.960
11	3.160
12	3.360
13	3.560

*****

Keys and Identification Devices

Maximum Weight (ounces)	**Keys and Identification Devices ($)**
1	3.75
2	3.95
3	4.15
4	4.35
5	4.55
6	4.75
7	4.95
8	5.15
9	5.35
10	5.55
11	5.75
12	5.95
13	6.15
1 (pound)	Priority Mail Retail Zone 4 postage plus 0.92
2 (pounds)	Priority Mail Retail Zone 4 postage plus 0.92

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, 2022 to July 31, 2022)

Provide a four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Emerging and Advanced Technology Promotion (March 1, 2022~~2021~~ to August 31, 2022~~2021~~)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in a technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, 2022~~2021~~to June 30, 2022~~2021~~)

*****

Informed Delivery Promotion (August~~September~~ 1, 2022~~2021~~to December 31, 2022 ~~November 30, 2021~~)

Provide a four ~~2~~ percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1125 Outbound Single-Piece First-Class Mail International

*****

1125.6 Prices

Machinable Letters[1]

Maximum Weight (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30
2	1.30	1.96	2.43	2.43	2.43	2.25	2.25	2.25	2.25
3	1.83	2.60	3.55	3.55	3.55	3.20	3.20	3.20	3.20
3.5	2.36	3.25	4.68	4.68	4.68	4.14	4.14	4.14	4.14

*****

]
Nonmachinable Letters

Maximum Weight (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60
2	1.60	2.26	2.73	2.73	2.73	2.55	2.55	2.55	2.55
3	2.13	2.90	3.85	3.85	3.85	3.50	3.50	3.50	3.50
3.5	2.66	3.55	4.98	4.98	4.98	4.44	4.44	4.44	4.44

Postcards

Maximum Weight (ounces)	Canada ($)	Mexico ($)	All Other Countries ($)
not applicable	1.30	1.30	1.30

\

Large Envelopes (Flats)

Maximum Weight (ounces)	Country Price Group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60
2	2.85	3.38	3.67	3.67	3.67	3.62	3.62	3.62	3.62
3	3.09	4.14	4.73	4.73	4.73	4.61	4.61	4.61	4.61
4	3.31	4.92	5.81	5.81	5.81	5.62	5.62	5.62	5.62
5	3.55	5.69	6.87	6.87	6.87	6.63	6.63	6.63	6.63
6	3.79	6.45	7.93	7.93	7.93	7.64	7.64	7.64	7.64
7	4.03	7.23	9.00	9.00	9.00	8.64	8.64	8.64	8.64
8	4.27	7.99	10.06	10.06	10.06	9.64	9.64	9.64	9.64
12	5.45	9.64	12.20	12.20	12.20	11.73	11.73	11.73	11.73
15.994	6.63	11.31	14.33	14.33	14.33	13.80	13.80	13.80	13.80

*****

1200 USPS Marketing Mail (Commercial and Nonprofit)

*****

1205 High Density and Saturation Letters

*****

1205.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Emerging and Advanced Technology Promotion (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)
- Earned Value Reply Mail Promotion (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)
- Mobile Shopping Promotion (~~August 1, 2021 to December 31, 2021~~ September 1, 2022 to December 31, 2022)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1205.6 Prices

Saturation Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.197	0.117
DNDC	0.176	0.096
DSCF	0.172	0.092

High Density Plus Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.210	0.125
DNDC	0.189	0.104
DSCF	0.185	0.100

High Density Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.239	0.153
DNDC	0.218	0.132
DSCF	0.214	0.128

*****

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic or automated Address Correction Service, forwarded letters pay ~~$0.49~~ $0.52 per piece. All other letters requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail price for the piece multiplied by a factor of 2.472.

*****

Emerging and Advanced Technology Promotion (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low

barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)

*****

Mobile Shopping Promotion (~~August~~September 1, ~~2021~~2022 to December 31, ~~2021~~2022)

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1210 High Density and Saturation Flats/Parcels

*****

1210.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Emerging and Advanced Technology Promotion: Flats Only (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)
- Earned Value Reply Mail Promotion: Flats Only (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)
- Mobile Shopping Promotion: Flats Only (~~August~~ September 1, ~~2021~~2022 to December 31, ~~2021~~2022)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Flats Only (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1210.6 Prices

Saturation Flats (4.0 ounces or less)

Entry Point	Commercial ($)		Nonprofit ($)	
	EDDM	Other	EDDM	Other
Origin	0.235	0.234	0.147	0.146
DNDC	0.196	0.195	0.108	0.107
DSCF	0.189	0.188	0.101	0.100
DDU	0.168	0.167	0.080	0.079

Saturation Flats (greater than 4.0 ounces)

*****

a. Per Piece

	Commercial ($)		**Nonprofit ($)**	
	EDDM	**Other**	**EDDM**	**Other**
Per Piece	0.077	0.076	0.032	0.031

b. Per Pound

Entry Point	**Commercial ($)**		**Nonprofit ($)**	
	EDDM	**Other**	**EDDM**	**Other**
Origin	0.630	0.630	0.458	0.458
DNDC	0.474	0.474	0.302	0.302
DSCF	0.447	0.447	0.275	0.275
DDU	0.365	0.365	0.193	0.193

Saturation Parcels

a. Per Piece

Mailing Volume Tier	Commercial		Nonprofit	
	Small ($)	**Large ($)**	**Small ($)**	**Large ($)**
0-200,000	0.357	0.411	0.268	0.309
200,001 and above	0.343	0.398	0.258	0.299

b. Handling Fees for DNDC/DSCF Entry

	Commercial ($)	**Nonprofit ($)**
Entry Point/ Presort	**Pallet**	**Pallet**
DNDC – 3-Digit	62.492	49.993
DNDC – 5-Digit	101.609	81.287
DSCF – 5-Digit	47.606	38.221
Pallet Presort	**Carton/Sack**	**Carton/Sack**
3-Digit	8.510	6.934

High Density Plus Flats (4.0 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.241	0.153
DNDC	0.202	0.114
DSCF	0.195	0.107
DDU	0.174	0.086

High Density Plus Flats (greater than 4.0 ounces)

*****

a. Per Piece

	Commercial ($)	**Nonprofit ($)**
Per Piece	0.083	0.038

b. Per Pound

Entry Point	**Commercial ($)**	**Nonprofit ($)**
Origin	0.630	0.458
DNDC	0.474	0.302
DSCF	0.447	0.275
DDU	0.365	0.193

High Density Flats (4.0 ounces or less)

~~**Entry Point**~~	~~**Commercial ($)**~~	~~**Nonprofit ($)**~~
~~Origin~~	~~0.258~~	~~0.168~~
~~DNDC~~	~~0.220~~	~~0.130~~
~~DSCF~~	~~0.213~~	~~0.123~~
~~DDU~~	~~0.197~~	~~0.107~~

Entry Point	**Commercial ($)**		**Nonprofit ($)**		
	5-Digit Pallet	**Other**	**5-Digit Pallet**	**Other**	
Origin	0.279	0.289	0.191	0.201	
DNDC	0.240	0.250	0.152	0.162	
DSCF	0.233	0.243	0.145	0.155	
DDU	0.212	0.222	0.124	0.134	

High Density Flats (greater than 4.0 ounces)

*****

a. Per Piece

	~~Commercial ($)~~	~~Nonprofit ($)~~
~~Per Piece~~	~~0.106~~	~~0.059~~

Entry Point	**Commercial ($)**		**Nonprofit ($)**	
	5-Digit Pallets	**Other**	**5-Digit Pallets**	**Other**
Origin	0.121	0.131	0.076	0.086
DNDC	0.121	0.131	0.076	0.086
DSCF	0.121	0.131	0.076	0.086
DDU	0.121	0.131	0.076	0.086

b. Per Pound

~~Entry Point~~	~~Commercial ($)~~	~~Nonprofit ($)~~
~~Origin~~	~~0.609~~	~~0.437~~
~~DNDC~~	~~0.454~~	~~0.282~~
~~DSCF~~	~~0.426~~	~~0.254~~
~~DDU~~	~~0.365~~	~~0.193~~

Entry Point	**Commercial ($)**		**Nonprofit ($)**	
	5-Digit Pallets	**Other**	**5-Digit Pallets**	**Other**
Origin	0.630	0.630	0.458	0.458
DNDC	0.474	0.474	0.302	0.302
DSCF	0.447	0.447	0.275	0.275
DDU	0.365	0.365	0.193	0.193

*****

Flat-shaped pieces including a Detached Address Label

Add ~~$0.055~~ $0.065 for each piece addressed using a Detached Address Label with no advertising, and ~~$0.060~~ $0.070 for each piece using a Detached Address Label containing advertising (Detached Marketing Label).

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded flats pay ~~$1.60~~ $1.74 per piece and forwarded parcels pay ~~$4.99~~ $5.42 per piece. All other pieces requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail or First-Class Package Service price for the piece multiplied by a factor of 2.472.

*****

Emerging and Advanced Technology Promotion: Flats Only (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion: Flats Only (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)

*****

Mobile Shopping Promotion: Flats Only (~~August~~September 1, ~~2021~~2022 to December 31, ~~2021~~2022)

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Flats Only (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1215 Carrier Route

*****

1215.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Emerging and Advanced Technology Promotion: Letters and Flats Only (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)
- Earned Value Reply Mail Promotion: Letters and Flats Only (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)
- Mobile Shopping Promotion: Letters and Flats Only (September 1, 2022 to December 31, 2022 ~~August 1, 2021 to December 31, 2021~~)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Letters and Flats Only (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)
- Informed Delivery Promotion (August 1, 2022 to December 31, 2022 ~~September 1, 2021 to November 30, 2021~~)

1215.6 Prices

Carrier Route Letters (3.5 ounces or less)

Entry Point	Commercial ($)	Nonprofit ($)
Origin	0.332	0.246
DNDC	0.311	0.225
DSCF	0.308	0.222

Carrier Route Letters weighing greater than 3.5 ounces, but not more than 4.0 ounces

*****

Carrier Route Letters weighing greater than 4.0 ounces

*****

Carrier Route Flats (4.0 ounces or less)

Entry Point	Commercial ($)		Nonprofit ($)		
	5-Digit Pallet	Other	5-Digit Pallet	Other	
Origin	0.332	0.353	0.244	0.265	
DNDC	0.288	0.309	0.200	0.221	
DSCF	0.276	0.297	0.188	0.209	
DDU	0.268	0.289	0.180	0.201	

Carrier Route Flats (greater than 4.0 ounces)

*****

a. Per Piece

Entry Point	Commercial ($)		Nonprofit ($)		
	5-Digit Pallets	Other	5-Digit Pallets	Other	
Origin	0.126	0.147	0.080	0.101	
DNDC	0.126	0.147	0.080	0.101	
DSCF	0.126	0.147	0.080	0.101	
DDU	0.126	0.147	0.080	0.101	

b. Per Pound

Entry Point	Commercial ($)		Nonprofit ($)		
	5-Digit Pallets	Other	5-Digit Pallets	Other	
Origin	0.822	0.822	0.654	0.654	
DNDC	0.647	0.647	0.479	0.479	
DSCF	0.598	0.598	0.430	0.430	
DDU	0.566	0.566	0.398	0.398	

Carrier Route Parcels

a. Per Piece

Mailing Volume Tier	Commercial		Nonprofit	
	Small ($)	**Large ($)**	**Small ($)**	**Large ($)**
0-200,000	0.495	0.547	0.370	0.411
200,001 and above	0.479	0.533	0.361	0.401

b. Handling Fees for DNDC/DSCF Entry

	Commercial ($)	**Nonprofit ($)**
Entry Point/ Presort	**Pallet**	**Pallet**
DNDC – 3-Digit	62.492	49.993
DNDC – 5-Digit	101.609	81.287
DSCF – 5-Digit	47.606	38.221
Pallet Presort	**Carton/Sack**	**Carton/Sack**
3-Digit	8.510	6.934

*****

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic or automated Address Correction Service, forwarded letters pay ~~$0.49~~ $0.52 per piece, forwarded flats pay ~~$1.60~~ $1.74 per piece, and forwarded parcels pay ~~$4.99~~ $5.42 per piece. All other pieces requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail or First-Class Package Service price for the piece multiplied by a factor of 2.472.

*****

Emerging and Advanced Technology Promotion: Letters and Flats Only (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion: Letters and Flats Only (April 1, ~~2021~~ 2022 to June 30, ~~2021~~ 2022)

*****

Mobile Shopping Promotion: Letters and Flats Only (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion: Letters and Flats Only (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1220 Letters

*****

1220.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Emerging and Advanced Technology Promotion (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)
- Earned Value Reply Mail Promotion (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)
- Mobile Shopping Promotion (~~August~~September 1, 2022~~2021~~ to December 31, 2022~~2021~~)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1220.6 Prices

Automation Letters (3.5 ounces or less)

Entry Point	Commercial			Nonprofit		
	5-Digit ($)	**AADC ($)**	**Mixed AADC ($)**	**5-Digit ($)**	**AADC ($)**	**Mixed AADC ($)**
Origin	0.277	0.309	0.330	0.146	0.178	0.199
DNDC	0.256	0.288	0.309	0.125	0.157	0.178
DSCF	0.250	0.282	n/a	0.119	0.151	n/a

Machinable Letters (3.5 ounces or less)

Entry Point	Commercial		Nonprofit	
	AADC ($)	**Mixed AADC ($)**	**AADC ($)**	**Mixed AADC ($)**
Origin	0.323	0.336	0.192	0.205
DNDC	0.302	0.315	0.171	0.184
DSCF	0.296	n/a	0.165	n/a

*****

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic or automated Address Correction Service, forwarded letters pay ~~$0.49~~ $0.52 per piece. All other letters requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail price for the piece multiplied by a factor of 2.472.

*****

Emerging and Advanced Technology Promotion (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)

*****

Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~2022 to December 31, ~~2021~~2022)

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a ~~two~~ four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1225 Flats

*****

1225.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

*****

- Emerging and Advanced Technology Promotion (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)
- Earned Value Reply Mail Promotion (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)
- Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~2022 to December 31, ~~2021~~2022)
- Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~2022 to July 31, ~~2021~~2022)
- Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

1225.6 Prices

Automation Flats (4.0 ounces or less)

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.482	0.640	0.729	0.798
DNDC	0.413	0.571	0.660	0.729
DSCF	0.403	0.561	0.650	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.278	0.436	0.525	0.594
DNDC	0.209	0.367	0.456	0.525
DSCF	0.199	0.357	0.446	n/a

Automation Flats (greater than 4.0 ounces)

*****

a. Per Piece

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.219	0.377	0.466	0.535
DNDC	0.219	0.377	0.466	0.535
DSCF	0.219	0.377	0.466	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.053	0.211	0.300	0.369
DNDC	0.053	0.211	0.300	0.369
DSCF	0.053	0.211	0.300	n/a

b. Per Pound

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	1.052	1.052	1.052	1.052
DNDC	0.776	0.776	0.776	0.776
DSCF	0.734	0.734	0.734	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.900	0.900	0.900	0.900
DNDC	0.624	0.624	0.624	0.624
DSCF	0.582	0.582	0.582	n/a

Nonautomation Flats (4.0 ounces or less)

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.573	0.697	0.759	0.825
DNDC	0.504	0.628	0.690	0.756
DSCF	0.494	0.618	0.680	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.369	0.493	0.555	0.621
DNDC	0.300	0.424	0.486	0.552
DSCF	0.290	0.414	0.476	n/a

Nonautomation Flats (greater than 4.0 ounces)

*****

a. Per Piece

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.310	0.434	0.496	0.562
DNDC	0.310	0.434	0.496	0.562
DSCF	0.310	0.434	0.496	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.144	0.268	0.330	0.396
DNDC	0.144	0.268	0.330	0.396
DSCF	0.144	0.268	0.330	n/a

b. Per Pound

Commercial				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	1.052	1.052	1.052	1.052
DNDC	0.776	0.776	0.776	0.776
DSCF	0.734	0.734	0.734	n/a

Nonprofit				
Entry Point	**5-Digit ($)**	**3-Digit ($)**	**ADC ($)**	**Mixed ADC ($)**
Origin	0.900	0.900	0.900	0.900
DNDC	0.624	0.624	0.624	0.624
DSCF	0.582	0.582	0.582	n/a

Nonmachinable Letters Commercial and Nonprofit (4.0 ounces or less)

*****

Nonmachinable Letters Commercial and Nonprofit (greater than 4.0 ounces)

*****

Customized MarketMail Prices

	Commercial ($)	**Nonprofit ($)**
Per Piece	0.535	0.395

*****

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded flats pay ~~$1.60~~ $1.74 per piece. All other flats requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Mail price for the piece multiplied by a factor of 2.472.

*****

Emerging and Advanced Technology Promotion (March 1, ~~2021~~2022 to August 31, ~~2021~~2022)

Provide a two or three percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that are sent during the established program period, and which either include affixed or embedded technology that allows the recipient to engage in technological experience, or were automatically generated by the recipient's applicable online activities. Mailers will receive a discount based on the complexity of the technology involved and its perceived benefit to the recipient. Qualifying mail utilizing technology with low barriers to entry will receive a two percent discount, while technology featuring high barriers to entry will receive a three percent discount. To receive the discount, mailers must comply with the eligibility requirements of the program.

Earned Value Reply Mail Promotion (April 1, ~~2021~~2022 to June 30, ~~2021~~2022)

*****

Mobile Shopping Promotion (~~August~~ September 1, ~~2021~~ 2022 to December 31, ~~2021~~ 2022)

*****

Tactile, Sensory, and Interactive Mailpiece Engagement Promotion (February 1, ~~2021~~ 2022 to July 31, ~~2021~~ 2022)

Provide a ~~two~~four percent discount on the qualifying postage for First-Class Mail letters, postcards, and flats, and USPS Marketing Mail letters and flats that incorporate scent, sound, visual, textural, dimensional, or other qualifying enhancements. To receive the discount, the qualifying mail must be sent during the established program period by mailers that comply with the eligibility requirements of the program.

Informed Delivery Promotion (~~September 1, 2021 to November 30, 2021~~ August 1, 2022 to December 31, 2022)

Provide a ~~2~~ four percent discount on the qualifying postage for First-Class Mail automation letters, postcards, and flats, and USPS Marketing Mail automation letters and flats that are sent during the established program period, and which incorporate Informed Delivery campaigns as a component of their mailings. To receive the discount, mailers must comply with the eligibility requirements of the program.

1230 Parcels

*****

1230.6 Prices

Marketing Parcels (3.3 ounces or less)

Entry Point	Commercial				Nonprofit			
	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)
Origin	n/a	n/a	1.712	2.088	n/a	n/a	1.548	1.924
DNDC	1.057	1.349	1.643	n/a	0.893	1.185	1.479	n/a
DSCF	0.981	1.273	n/a	n/a	0.817	1.109	n/a	n/a
DDU	0.887	n/a	n/a	n/a	0.723	n/a	n/a	n/a

Marketing Parcels (greater than 3.3 ounces)

*****

a. Per Piece

	Commercial				Nonprofit			
	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)
Per Piece	0.800	1.092	1.386	1.762	0.682	0.974	1.268	1.644

b. Per Pound

Entry Point	Commercial				Nonprofit			
	5-Digit ($)	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**	**5-Digit ($)**	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	n/a	1.582	1.582	n/a	n/a	1.359	1.359
DNDC	1.245	1.245	1.245	n/a	1.022	1.022	1.022	n/a
DSCF	0.878	0.878	n/a	n/a	0.655	0.655	n/a	n/a
DDU	0.422	n/a	n/a	n/a	0.199	n/a	n/a	n/a

Nonprofit Machinable Parcels Prices (3.5 ounces or more)

*****

a. Per Piece

	5-Digit ($)	**NDC ($)**	**Mixed NDC ($)**
Per Piece	0.835	1.311	1.673

b. Per Pound

Entry Point	**5-Digit ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	1.410	1.410
DNDC	1.115	1.115	n/a
DSCF	0.425	n/a	n/a
DDU	0.285	n/a	n/a

Nonprofit Irregular Parcels (3.3 ounces or less)

Entry Point	**5-Digit ($)**	**SCF ($)**	**NDC ($)**	**Mixed NDC ($)**
Origin	n/a	n/a	2.058	2.308
DNDC	1.065	1.448	1.997	n/a
DSCF	0.923	1.306	n/a	n/a
DDU	0.894	n/a	n/a	n/a

Nonprofit Irregular Parcels (greater than 3.3 ounces)

*****

a. Per Piece

Entry Point	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)
Per Piece	0.835	1.218	1.767	2.017

b. Per Pound

Entry Point	5-Digit ($)	SCF ($)	NDC ($)	Mixed NDC ($)
Origin	n/a	n/a	1.410	1.410
DNDC	1.115	1.115	1.115	n/a
DSCF	0.425	0.425	n/a	n/a
DDU	0.285	n/a	n/a	n/a

*****

Forwarding-and-Return Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded parcels pay ~~$4.99~~ $5.42 per piece. All other parcels requesting Forwarding-and-Return Service that are returned are charged the appropriate First-Class Package Service or Priority Mail price for the piece multiplied by a factor of 2.472.

*****

1235 Every Door Direct Mail—Retail

*****

1235.6 Prices

Saturation Flats (3.3 ounces or less)

Entry Point	($)
DDU	0.200

1300 Periodicals

*****

1305 In-County Periodicals

*****

1305.6 Prices

In-County Automation

*****

a. Pound Prices (per pound or fraction thereof)

*****

b. Piece Prices (per addressed piece)

Presort Level	Letters ($)	Flats ($)
5-Digit	0.059	0.140
3-Digit	0.081	0.182
Basic	0.088	0.200

In-County Nonautomation

*****

a. Pound Prices (per pound or fraction thereof)

*****

b. Piece Prices (per addressed piece)

Presort Level	Letters, Flats, and Parcels ($)
Carrier Route Saturation	0.039
Carrier Route High Density	0.055
Carrier Route Basic	0.076
5-Digit	0.184
3-Digit	0.228
Basic	0.257

Worksharing Discount for DDU

Each DDU entered piece receives a discount of ~~$0.008~~$0.010.

In-County Periodicals including a Ride-Along piece

Add ~~$0.180~~ $0.181 for a Ride-Along item enclosed with or attached to an In-County Periodical.

*****

1310 Outside County Periodicals

*****

1310.6 Prices

*****

Pound Prices (per pound or fraction thereof)

Entry Level or Zone	Regular		Science of Agriculture	
	Advertising ($)	**Editorial ($)**	**Advertising ($)**	**Editorial ($)**
DDU	0.120	0.088	0.090	0.088
DSCF	0.176	0.132	0.132	0.132
DADC	0.188	0.141	0.141	0.141
Zones 1 & 2	0.292	0.157	0.219	0.157
Zone 3	0.292	0.157	0.292	0.157
Zone 4	0.292	0.157	0.292	0.157
Zone 5	0.292	0.157	0.292	0.157
Zone 6	0.292	0.157	0.292	0.157
Zone 7	0.292	0.157	0.292	0.157
Zone 8	0.292	0.157	0.292	0.157
Zone 9	0.292	0.157	0.292	0.157

Piece Price (per addressed piece)

a. Carrier Route Letters, Flats, and Parcels

Bundle Level	Letters, Flats, and Parcels ($)
Saturation	0.167
High Density	0.185
Basic	0.218

b. Barcoded Letters

Bundle Level	Barcoded Letters ($)
5-Digit	0.309
3-Digit/SCF	0.333
ADC	0.338
Mixed ADC	0.357

c. Machinable Flats and Nonbarcoded Letters

Bundle Level	Barcoded Flats ($)	Nonbarcoded Flats ($)	Nonbarcoded Letters ($)
5-Digit	0.381	0.394	0.394
3-Digit/SCF	0.485	0.513	0.513
ADC	0.525	0.566	0.566
Mixed ADC	0.579	0.633	0.633

d. Nonmachinable Flats and Parcels

Bundle Level	Barcoded Flats ($)	Nonbarcoded Flats ($)	Parcels ($)
5-Digit	0.543	0.545	0.545
3-Digit/SCF	0.630	0.632	0.632
ADC	0.671	0.679	0.679
Mixed ADC	0.781	0.781	0.781

*****

f. Firm Bundle Piece Price

*****

Bundle Prices (per bundle)

Bundle Level	Container Level				
	Carrier Route ($)	**5-Digit ($)**	**3-Digit/SCF ($)**	**ADC ($)**	**Mixed ADC ($)**
Firm	0.151	0.151	0.393	0.437	0.625
Carrier Route	0.191	0.191	0.675	0.888	1.138
5-Digit		0.393	0.458	0.571	0.846
3-Digit/SFC			0.400	0.521	0.800
ADC				0.415	0.683
Mixed ADC					0.224

Container Prices (per pallet, tray, or sack)

a. Pallet Container

Entry Point	Carrier Route ($)	5-Digit ($)	3-Digit/SCF ($)	ADC ($)	Mixed ADC ($)
DDU	3.062				
DSCF	28.883	45.790	28.339		
DADC	53.382	70.651	54.131	29.208	
DNDC	53.970	71.247	54.438	53.206	
Origin	76.364	93.972	76.037	75.652	13.394

b. Sack Container

Entry Point	Carrier Route/ 5-Digit ($)	3-Digit/SCF ($)	ADC ($)	Mixed ADC ($)
DDU	1.549			
DSCF	2.310	1.374		
DADC	2.923	2.284	1.335	
DNDC	3.158	2.384	2.345	
Origin	4.287	3.454	3.502	1.198

Tray Container

Entry Point	Carrier Route/ 5-Digit ($)	3-Digit/SCF ($)	ADC ($)	Mixed ADC ($)
DDU	1.434			
DSCF	2.140	1.247		
DADC	2.923	2.284	1.335	
DNDC	3.158	2.384	2.345	
Origin	4.287	3.454	3.502	1.198

Outside County Periodicals including a Ride-Along piece

Add ~~$0.180~~ $0.181 for a Ride-Along item enclosed with or attached to an Outside County Periodical.

*****

1400 Package Services

*****

1405 Alaska Bypass Service

*****

1405.6 Prices

Alaska Bypass

*****

Maximum Weight (pounds)	Zones 1 & 2 ($)	
70	29.24	

1415 Bound Printed Matter Flats

*****

1415.6 Prices

Carrier Route

*****

1. Destination Entry

	DDU ($)	DSCF ($)	DNDC Zone 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zone 5 ($)
Per Piece	0.443	0.623	1.066	1.066	1.066	1.066
Per Pound	0.024	0.044	0.1	0.1	0.1	0.1

2. Other Than Destination Entry

	Zone 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
Per Piece	1.177	1.177	1.177	1.177	1.177	1.177	1.177
Per Pound	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Presorted

*****

1. Destination Entry[1]

	DDU ($)	DSCF ($)	DNDC Zone 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zone 5 ($)
Per Piece	0.595	0.775	1.218	1.218	1.218	1.218
Per Pound	0.024	0.044	0.1	0.1	0.1	0.1

2. Other Than Destination Entry

	Zone 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
Per Piece	1.329	1.329	1.329	1.329	1.329	1.329	1.329
Per Pound	0.2	0.2	0.2	0.2	0.2	0.2	0.2

*****

Nonpresorted

Maximum Weight (pounds)	Zone 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
1.0	2.23	2.23	2.23	2.23	2.23	2.23	2.23
1.5	2.35	2.35	2.35	2.35	2.35	2.35	2.35
2.0	2.48	2.48	2.48	2.48	2.48	2.48	2.48
2.5	2.62	2.62	2.62	2.62	2.62	2.62	2.62
3.0	2.76	2.76	2.76	2.76	2.76	2.76	2.76
3.5	2.91	2.91	2.91	2.91	2.91	2.91	2.91
4.0	3.08	3.08	3.08	3.08	3.08	3.08	3.08
4.5	3.24	3.24	3.24	3.24	3.24	3.24	3.24
5.0	3.42	3.42	3.42	3.42	3.42	3.42	3.42
6.0	3.61	3.61	3.61	3.61	3.61	3.61	3.61
7.0	3.81	3.81	3.81	3.81	3.81	3.81	3.81
8.0	4.02	4.02	4.02	4.02	4.02	4.02	4.02
9.0	4.24	4.24	4.24	4.24	4.24	4.24	4.24
10.0	4.47	4.47	4.47	4.47	4.47	4.47	4.47
11.0	4.72	4.72	4.72	4.72	4.72	4.72	4.72
12.0	4.98	4.98	4.98	4.98	4.98	4.98	4.98
13.0	5.25	5.25	5.25	5.25	5.25	5.25	5.25
14.0	5.54	5.54	5.54	5.54	5.54	5.54	5.54
15.0	5.85	5.85	5.85	5.85	5.85	5.85	5.85

*****

Forwarding-and-Return-Service

If Forwarding Service is used in conjunction with electronic Address Correction Service, forwarded flats pay ~~$3.27~~ $3.30 per piece. All other pieces requesting Forwarding-and-Return Service that are returned are charged the appropriate Bound Printed Matter Flats Nonpresorted price for the piece.

*****

1420 Bound Printed Matter Parcels

*****

1420.6 Prices

Carrier Route

*****

a. Destination Entry

	DDU ($)	**DSCF ($)**	**DNDC Zones 1 & 2 ($)**	**DNDC Zone 3 ($)**	**DNDC Zone 4 ($)**	**DNDC Zone 5 ($)**
Per Piece	0.697	0.88	1.329	1.329	1.329	1.329
Per Pound	0.048	0.081	0.102	0.135	0.183	0.254

b. Other Than Destination Entry

	Zones Local 1 & 2 ($)	**Zone 3 ($)**	**Zone 4 ($)**	**Zone 5 ($)**	**Zone 6 ($)**	**Zone 7 ($)**	**Zones 8 & 9 ($)**
Per Piece	1.441	1.441	1.441	1.441	1.441	1.441	1.441
Per Pound	0.190	0.226	0.275	0.340	0.415	0.479	0.626

Presorted

*****

a. Destination Entry

	DDU ($)	**DSCF ($)**	**DNDC Zones 1 & 2 ($)**	**DNDC Zone 3 ($)**	**DNDC Zone 4 ($)**	**DNDC Zone 5 ($)**
Per Piece	0.852	1.035	1.484	1.484	1.484	1.484
Per Pound	0.048	0.081	0.102	0.135	0.183	0.254

b. Other Than Destination Entry

	Zones Local 1 & 2 ($)	**Zone 3 ($)**	**Zone 4 ($)**	**Zone 5 ($)**	**Zone 6 ($)**	**Zone 7 ($)**	**Zones 8 & 9 ($)**
Per Piece	1.596	1.596	1.596	1.596	1.596	1.596	1.596
Per Pound	0.190	0.226	0.275	0.340	0.415	0.479	0.626

Nonpresorted

Maximum Weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zones 8 & 9 ($)
1.0	2.87	2.94	3.00	3.10	3.23	3.29	3.51
1.5	3.04	3.12	3.18	3.29	3.42	3.49	3.72
2.0	3.01	3.09	3.17	3.30	3.47	3.55	3.87
2.5	3.14	3.25	3.36	3.52	3.74	3.85	4.24
3.0	3.28	3.41	3.54	3.73	4.00	4.13	4.61
3.5	3.43	3.58	3.73	3.96	4.28	4.43	4.99
4.0	3.56	3.73	3.90	4.16	4.52	4.69	5.34
4.5	3.69	3.88	4.07	4.38	4.78	4.97	5.69
5.0	3.83	4.05	4.27	4.61	5.06	5.28	6.08
6.0	4.10	4.38	4.66	5.07	5.61	5.89	6.85
7.0	4.39	4.71	5.03	5.51	6.16	6.48	7.60
8.0	4.65	5.01	5.37	5.92	6.65	7.01	8.28
9.0	4.93	5.34	5.75	6.37	7.20	7.61	9.05
10.0	5.19	5.65	6.11	6.80	7.71	8.17	9.76
11.0	5.49	6.00	6.51	7.27	8.29	8.80	10.57
12.0	5.75	6.30	6.85	7.68	8.78	9.33	11.26
13.0	6.02	6.61	7.20	8.09	9.28	9.87	11.95
14.0	6.31	6.96	7.61	8.58	9.85	10.50	12.75
15.0	6.58	7.27	7.96	8.99	10.38	11.07	13.49

Pickup On Demand Service

Add ~~$24.00~~ $25.00 for each Pickup On Demand stop.

1425 Media Mail/Library Mail

*****

1425.6 Prices

Media Mail

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
1	1.91	2.97	3.19
2	2.54	3.60	3.82
3	3.17	4.23	4.45
4	3.80	4.86	5.08
5	4.43	5.49	5.71
6	5.06	6.12	6.34
7	5.69	6.75	6.97
8	6.32	7.38	7.60
9	6.95	8.01	8.23
10	7.58	8.64	8.86
11	8.21	9.27	9.49
12	8.84	9.90	10.12
13	9.47	10.53	10.75
14	10.10	11.16	11.38
15	10.73	11.79	12.01
16	11.36	12.42	12.64
17	11.99	13.05	13.27
18	12.62	13.68	13.90
19	13.25	14.31	14.53
20	13.88	14.94	15.16
21	14.51	15.57	15.79
22	15.14	16.20	16.42
23	15.77	16.83	17.05
24	16.40	17.46	17.68
25	17.03	18.09	18.31

Media Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
26	17.66	18.72	18.94
27	18.29	19.35	19.57
28	18.92	19.98	20.20
29	19.55	20.61	20.83
30	20.18	21.24	21.46
31	20.81	21.87	22.09
32	21.44	22.50	22.72
33	22.07	23.13	23.35
34	22.70	23.76	23.98
35	23.33	24.39	24.61
36	23.96	25.02	25.24
37	24.59	25.65	25.87
38	25.22	26.28	26.50
39	25.85	26.91	27.13
40	26.48	27.54	27.76
41	27.11	28.17	28.39
42	27.74	28.80	29.02
43	28.37	29.43	29.65
44	29.00	30.06	30.28
45	29.63	30.69	30.91
46	30.26	31.32	31.54
47	30.89	31.95	32.17
48	31.52	32.58	32.80
49	32.15	33.21	33.43
50	32.78	33.84	34.06

Media Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
51	33.41	34.47	34.69
52	34.04	35.10	35.32
53	34.67	35.73	35.95
54	35.30	36.36	36.58
55	35.93	36.99	37.21
56	36.56	37.62	37.84
57	37.19	38.25	38.47
58	37.82	38.88	39.10
59	38.45	39.51	39.73
60	39.08	40.14	40.36
61	39.71	40.77	40.99
62	40.34	41.40	41.62
63	40.97	42.03	42.25
64	41.60	42.66	42.88
65	42.23	43.29	43.51
66	42.86	43.92	44.14
67	43.49	44.55	44.77
68	44.12	45.18	45.40
69	44.75	45.81	46.03
70	45.38	46.44	46.66

Library Mail

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
1	1.81	2.82	3.03
2	2.41	3.42	3.63
3	3.01	4.02	4.23
4	3.61	4.62	4.83
5	4.21	5.22	5.43
6	4.81	5.82	6.03
7	5.41	6.42	6.63
8	6.01	7.02	7.23
9	6.61	7.62	7.83
10	7.21	8.22	8.43
11	7.81	8.82	9.03
12	8.41	9.42	9.63
13	9.01	10.02	10.23
14	9.61	10.62	10.83
15	10.21	11.22	11.43
16	10.81	11.82	12.03
17	11.41	12.42	12.63
18	12.01	13.02	13.23
19	12.61	13.62	13.83
20	13.21	14.22	14.43
21	13.81	14.82	15.03
22	14.41	15.42	15.63
23	15.01	16.02	16.23
24	15.61	16.62	16.83
25	16.21	17.22	17.43

Library Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
26	16.81	17.82	18.03
27	17.41	18.42	18.63
28	18.01	19.02	19.23
29	18.61	19.62	19.83
30	19.21	20.22	20.43
31	19.81	20.82	21.03
32	20.41	21.42	21.63
33	21.01	22.02	22.23
34	21.61	22.62	22.83
35	22.21	23.22	23.43
36	22.81	23.82	24.03
37	23.41	24.42	24.63
38	24.01	25.02	25.23
39	24.61	25.62	25.83
40	25.21	26.22	26.43
41	25.81	26.82	27.03
42	26.41	27.42	27.63
43	27.01	28.02	28.23
44	27.61	28.62	28.83
45	28.21	29.22	29.43
46	28.81	29.82	30.03
47	29.41	30.42	30.63
48	30.01	31.02	31.23
49	30.61	31.62	31.83
50	31.21	32.22	32.43

Library Mail (Continued)

Maximum Weight (pounds)	5-Digit ($)	Basic ($)	Single-Piece ($)
51	31.81	32.82	33.03
52	32.41	33.42	33.63
53	33.01	34.02	34.23
54	33.61	34.62	34.83
55	34.21	35.22	35.43
56	34.81	35.82	36.03
57	35.41	36.42	36.63
58	36.01	37.02	37.23
59	36.61	37.62	37.83
60	37.21	38.22	38.43
61	37.81	38.82	39.03
62	38.41	39.42	39.63
63	39.01	40.02	40.23
64	39.61	40.62	40.83
65	40.21	41.22	41.43
66	40.81	41.82	42.03
67	41.41	42.42	42.63
68	42.01	43.02	43.23
69	42.61	43.62	43.83
70	43.21	44.22	44.43

Pickup On Demand Service

Add ~~$24.00~~ $25.00 for each Pickup On Demand stop.

*****

1500 Special Services
*****
1505 Ancillary Services

1505.1 Address Correction Service
*****
1505.1.2 Prices

	($)
Manual correction, each	
First-Class Mail or First-Class Package Service piece, on-piece correction only	0.00
Other	0.67
Electronic correction, each	
First-Class Mail or First-Class Package Service piece	0.16
Other	0.35
Automated correction (Letters Only)	
First-Class Mail piece	
First two notices, for a given address change, each	0.10
Additional notices, for a given address change, each	0.17
USPS Marketing Mail piece	
First two notices, for a given address change, each	0.13
Additional notices, for a given address change, each	0.31
Full-service correction, each	0.00

1505.2 Applications and Mailing Permits

*****

1505.2.2 Prices

	($)
First-Class Mail Presort Mailing Fee (per year)	265.00
USPS Marketing Mail Mailing Fee (per year)	265.00
Periodicals Application Fees (one-time only for each)	
A. Original Entry	805.00
B. Re-entry	105.00
C. Registration for News Agents	105.00
Bound Printed Matter: Destination Entry Mailing Fee (per year)[1]	265.00
Application to Use Permit Imprint (one-time only)	265.00

*****

1505.3 Business Reply Mail

*****

1505.3.2 Prices

	($)
Permit (All categories)	265.00[1]
Regular (no account maintenance fee)	
Per-piece charge	0.92
Regular (with account maintenance fee)	
Account maintenance (per year)	800.00
Per-piece charge	0.110
Qualified Business Reply Mail, low-volume	
Account maintenance (per year)	800.00
Per-piece charge	0.077
Qualified Business Reply Mail, high-volume	
Account maintenance (per year)	800.00
Quarterly	2,675.00
Per-piece charge	0.016
Bulk Weight Averaged (Non-letters only)	
Account maintenance (per year)	800.00
Per-piece charge	0.023
Monthly maintenance	1,310.00

*****

1505.4 Bulk Parcel Return Service

*****

1505.4.2 Prices

	($)
Per-piece charge	3.90

1505.5 Certified Mail

*****

1505.5.2 Prices

(Per piece)	**($)**
Certified Mail	3.75
Certified Mail with Restricted Delivery and/or Adult Signature	9.75

1505.6 Certificate of Mailing

*****

1505.6.2 Prices

Individual Piece Prices

	($)
Original Certificate of Mailing, Form 3817, individual article presented at retail	1.65
Three or more pieces individually listed on Form 3665-Firm or USPS approved customer provided manifest (per piece listed)	0.47
Each additional copy of original Certificate of Mailing, or original mailing receipt (Form 3877) for Registered Mail, insured mail, Certified Mail, and COD mail (each copy)	1.65

Quantity of Pieces

	($)
Up to 1,000 identical-weight pieces (one Form 3606 for total number)	9.35
Each additional 1,000 identical-weight pieces or fraction thereof	1.20
Each additional copy of the original Form 3606	1.65

1505.7 Collect on Delivery

*****

1505.7.2 Prices

($)		($)	($)
Amount to be collected, or insurance coverage desired, whichever is higher:			
0.01	to	50.00	8.60
50.01	to	100.00	10.70
100.01	to	200.00	13.05
200.01	to	300.00	15.40
300.01	to	400.00	17.75
400.01	to	500.00	20.10
500.01	to	600.00	22.45
600.01	to	700.00	24.80
700.01	to	800.00	27.15
800.01	to	900.00	29.50
900.01	to	1,000.00	31.85
Additional Fees for Optional Features:			
COD Restricted Delivery			5.85

1505.8 USPS Tracking

*****

1505.8.2 Prices

	($)
USPS Marketing Mail Parcels	
Electronic	0.24

1505.9 Insurance

*****

1505.9.2 Prices

Merchandise Coverage[1, 2, 3]

($)		($)	($)
0.01	to	50.00	2.45
50.01	to	100.00	3.15
100.01	to	200.00	3.85
200.01	to	300.00	5.05
300.01	to	400.00	6.40
400.01	to	500.00	7.65
500.01	to	600.00	10.35
600.01	to	5,000.00	10.35 plus 1.55 for each 100.00 or fraction thereof over 600.00
Additional Fee for Optional Feature			
Insurance Restricted Delivery			5.85

*****

1505.11 Parcel Airlift (PAL)

*****

1505.11.2 Prices

	($)
For pieces weighing:	
Not more than 2 pounds	1.00
Over 2 but not more than 3 pounds	1.65
Over 3 but not more than 4 pounds	2.25
Over 4 but not more than 30 pounds	2.90

1505.12 Registered Mail

*****

1505.12.2 Prices

($)		($)	($)
Declared Value:			
0.00			13.75
0.01	to	100.00	14.35
100.01	to	500.00	16.50
500.01	to	1,000.00	18.35
1,000.01	to	2,000.00	20.20
2,000.01	to	3,000.00	22.05
3,000.01	to	4,000.00	23.90
4,000.01	to	5,000.00	25.75
5,000.01	to	15,000,000.00	25.75 plus 1.85 for each 1,000.00 or fraction thereof over 5,000.00
Greater than		15,000,000.00	27,766.50 plus amount determined by the Postal Service based on weight, space, and value
Additional Fees for Optional Features:			
Registered Mail Restricted Delivery			5.85
Registered COD			6.60

1505.13 Return Receipt

*****

1505.13.2 Prices

	($)
Original signature (hardcopy)	3.05
Copy of signature (electronic)	1.85

1505.16 Shipper-Paid Forwarding/Return

****

1505.16.2 Prices

	($)
Account Maintenance Fee (per year)	800.00

1505.17 Signature Confirmation

*****

1505.17.2 Prices

	($)
Electronic	2.90
Retail	3.45
Additional Fee for Optional Feature:	
Signature Confirmation Restricted Delivery	5.85

1505.18 Special Handling

*****

1505.18.2 Prices

	($)
Fragile	12.15

1505.19 Stamped Envelopes

*****

1505.19.2 Prices

	($)
Plain stamped envelopes	
Basic, size 6-3/4, each	0.15
Basic, size 6-3/4, 500	19.55
Basic, over size 6-3/4, each	0.15
Basic, over size 6-3/4, 500	22.30
Personalized stamped envelopes	
Basic, size 6-3/4, 50	6.50
Basic, size 6-3/4, 500	30.05
Basic, over size 6-3/4, 50	6.50
Basic, over size 6-3/4, 500	34.05
Additional Charges for premium options, per 50 envelopes	
Pressure-sensitive sealing	5.90
Font size, font style, and/or ink color (for one, two, or all three)	1.20
Window	1.20
Additional Charges for premium options, per 500 envelopes	
Pressure-sensitive sealing	17.30
Font size, font style, and/or ink color (for one, two, or all three)	2.45
Window	2.45

	($)
Shipping—Boxes of 50	
1 box	6.05
2 boxes	7.40
3 boxes	8.75
4 boxes	9.90
5 boxes	12.20
6 boxes	13.10
7 boxes	14.55
8 boxes	16.00
9 or more boxes	18.20
Shipping—Boxes of 500	
1 box	11.15
2 or more boxes	18.20

1505.20 Stamped Cards

*****

1505.20.2 Prices

	($)
Single card	0.05
Double reply-paid card	0.10
Sheet of 40 cards (uncut)	2.00
Pack of 10 sheets of 4 cards each	2.25
Premium Options (Additional Charge)	**($)**
Per order of 250 cards	
Printing of return address	21.50
Font size, font style, and/or ink color (for one, two, or all three)	1.10
Monogram	1.10
4-Color logo – first 250 cards	88.00
4-Color logo – additional 250 cards	5.45
Per Order of 1,000 cards	
Printing of return address	54.00
Font size, font style, and/or ink color (for one, two, or all three)	2.15
Monogram	2.15
4-Color logo – first 1,000 cards	93.00
4-Color logo – additional 1,000 cards	10.95

1510 International Ancillary Services

1510.1 International Certificate of Mailing

*****

1510.1.2 Prices

Individual Piece Prices

	($)
Original certificate of mailing for listed pieces of ordinary Single-Piece First-Class Mail International items	1.65
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.47
Each additional copy of original certificate of mailing or firm mailing bills (each copy)	1.65

Multiple Piece Prices

	($)
Up to 1,000 identical-weight pieces (one certificate for total number)	9.35
Each additional 1,000 identical-weight pieces or fraction thereof	1.20
Duplicate copy	1.65

1510.2 International Registered Mail

*****

1510.2.2 Prices

Outbound International Registered Mail Prices

	($)
Per Piece	17.15

*****

1510.3 International Return Receipt

*****

1510.3.2 Prices

Outbound International Return Receipt Prices

	($)
Per Piece	4.75

*****

1510.4 Customs Clearance and Delivery Fee

*****

1510.4.2 Prices

	($)
Per Dutiable Item	7.05

1515 Address Management Services

*****

1515.2 Prices

	($)
Address Sequencing	
Per correction (removal of each undeliverable address, or addition of each missing or new address)	0.52
Insertion of blanks	0.00
AEC II Service	
1-100 records resolved, minimum fee	39.00
Additional records resolved, per record	0.39
AIS (Address Information System) Viewer (per year, per site)	
City State Delivery Type Retrieval Annual Subscription	95.00
County Name Retrieval Annual Subscription	95.00
Delivery Statistic Retrieval Annual Subscription	120.00
ZIP + 4 Retrieval Annual Subscription	95.00
CRIS Route (per year)	
Per state (annual subscription)	70.00*
All States (annual subscription)	1,100*
CASS Certification	
Cycle Testing: (for next cycle) August-January	200.00
Cycle Testing: February, March	500.00
Cycle Testing: April	600.00
Cycle Testing: May	700.00
Cycle Testing: June	800.00
Cycle Testing: July	900.00
Cycle Testing: (for current cycle) After July 31st	1,000.00

	($)
Change-of-Address Information for Election Boards and Registration Commissions	
Per change of address	0.52
Change-of-Address Customer Notification Letter Reprint	60.00
City State (per year)	
All States (annual subscription)	450.00*
CDS (per address, per year)	0.014
Minimum (per year)	70.00
Correction of Address Lists	
Per submitted address	0.52
Minimum charge per list (30 items)	15.60
Delivery Statistics (per year)	
All States (annual subscription)	465.00*
DMM Labeling Lists	71.00*
DPV System (per year)[3]	13,200.00
DSF[2] Service (per year)[4]	132,000.00
Each additional location per year	66,000.00
Each additional platform per location per year	66,000.00
eLOT Service (per year)	
Per state (annual subscription)	70.00*
All States (annual subscription)	1,100.00*

	($)
Five-Digit ZIP (per year)	
All States (annual subscription)	650.00*
LACS[Link5]	
Interface Developer (first year)	1,350.00[6]
Interface Developer (each one-year extension)	400.00[6]
Interface Distributor (per year)	1,550.00[7]
Data Distributor (per year)	400.00
End User (per year)	400.00[8]
MASS Certification	
MASS Manufacturers (MLOCR)	
Cycle Testing: (for next cycle) November – June	500.00[9]
Cycle Testing: July	1,000.00[9]
Cycle Testing: (for current cycle) After July 31st	1,500.00[10]
MASS End-Users (MLOCR)	
Cycle Testing: (for next cycle) March – June	500.00[9]
Cycle Testing: July	1,000.00[9]
Cycle Testing: (current cycle) After July 31st	1,500.00[10]
MASS Manufacturers (Encoder)	
Cycle Testing: (for next cycle) November – June	300.00[9]
Cycle Testing: July	750.00[9]
Cycle Testing: (for current cycle) After July 31st	1,000.00[10]
MASS End-Users (Encoder)	
Cycle Testing: (for next cycle) March – June	300.00[9]
Cycle Testing: July	750.00[9]
Cycle Testing: After July 31st	1,000.00[10]
MASS IMb Quality Testing	300.00

	($)
NCOA[Link] Service[11]	
Initial Interface Developer (first year fee)	7,350.00
Interface Developer (per each one year extension)	1,500.00
Interface Distributor (per year)	35,500.00
Full Service Provider (per year)	245,000.00
Full Service Provider Each Additional Site (per year)	121,000.00
Limited Service Provider (per year)	20,600.00
Limited Service Provider (per each one year extension)	
One Site only	20,600.00
Each additional site	10,300.00
ANKLink Service Option (per year)	
First Site	4,850.00
Each Additional Site	2,250.00
End User/MPE (first year)	10,300.00
End User/MPE (each renewal year)	
One site (each site for MPE)	10,300.00
Each additional site (End User only)	4,850.00
ANK[Link] Service Option (per year)	1,100.00
NCOA[Link] Test, Audit (each)	1,500.00
Official National Zone Charts (per year)	
Matrix	70.00*
RDI Service (per year)[1]	415.00*
Z4 Change (per year)	
All States	3,950.00*
ZIP + 4 Service (per year)	
Per state (annual subscription)	70.00*
All States (annual subscription)	1,100.00*

	($)
ZIP Code Sortation of Address Lists	
Per 1,000 addresses, or fraction	170.00
ZIP Move (per year)	
All States (annual subscription)	145.00*
99 Percent Accurate Method (per 1,000 addresses per year)	1.35
Minimum (per year)	135.00

Notes

*****

3. Fees are prorated for first year based on the Postal fiscal quarter ~~month~~ the agreement is executed.

4. Initial fee is prorated for first year based on the Postal fiscal quarter ~~month~~ the agreement is executed. There is no proration for additional locations or platforms.

5. Fees are prorated for the first year for LACS^{Link} Interface Distributor, Data Distributor, and End User based on the Postal fiscal quarter ~~month~~ the Postal Service certifies system. Interface Developer test fees are waived if part of CASS certification; otherwise, CASS test fees apply for stand-alone testing.

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11. NCOA^{Link} fees (excluding Interface Developer) are prorated for the first year based on ~~month~~ the Postal fiscal quarter the Postal Service certifies system. No proration for fees for additional sites.

AMS Price Table for Single Issues or Additional Copies

*****

Number of Copies	*Price (from above)	Multiply by	Factor
Single Issue	*Price	x	0.75
1-100	*Price	x	2.0
101-200	*Price	x	4.0
201-300	*Price	x	6.0
301-400	*Price	x	8.0
401-500	*Price	x	10.0
501-600	*Price	x	12.0
601-700	*Price	x	14.0
701-800	*Price	x	16.0
801-900	*Price	x	18.0
901-1000	*Price	x	20.0
1001-10,000	*Price	x	25.0
10,001 – 20,000	*Price	x	30.0
20,001 – 30,000	*Price	x	35.0
30,001 and over	*Price	x	40.0
Unlimited quantity of any of the following: Five-Digit ZIP, City State, CRIS, Delivery Statistics, eLot, RDI Service, Z4Change, ZIPMove, ZIP + 4, DMM Labeling Lists, Official National Zone Charts	$12,000.00	n/a	n/a

1520 Caller Service

*****

1520.2 Prices

	($)
Groups based on Post Office location (Semi-Annual):	
Group 1	885.00
Group 2	815.00
Group 3	750.00
Group 4	705.00
Group 5	670.00
Group 6	625.00
Group 7	595.00
Call Number Reservation (Annual[1])	61.00

*****

1525 Credit Card Authentication

*****

1525.2 Prices

	($)
Per credit card authentication	1.10

1540 International Business Reply Mail Service

*****

1540.3 Prices

Outbound International Business Reply Mail Service Prices

	($)
Card	1.75
Envelope	2.25

*****

1545 Money Orders

*****

1545.2 Prices

	($)		($)	($)
Domestic	0.01	to	500.00	1.45
Domestic	500.01	to	1,000.00	1.95
APO/FPO/DPO	0.01	to	1,000.00	0.50
Inquiry, including a copy of paid money order				6.95

1550 Post Office Box Service

*****

1550.4 Prices

Regular and No Fee

Box Size	Semi-annual Fees[1] (Groups based on Post Office location) ($)							
	1	2	3	4	5	6	7	E[2]
1	63.00	50.00	42.00	35.00	31.00	27.00	24.00	0.00
2	91.00	75.00	61.00	50.00	42.00	36.00	31.00	0.00
3	158.00	127.00	105.00	80.00	65.00	51.00	46.00	0.00
4	287.00	237.00	93.00	148.00	113.00	83.00	69.00	0.00
5	450.00	371.00	303.00	255.00	182.00	145.00	20.00	0.00

Box Size	3-Month Fees (Groups based on Post Office location) ($)						
	1	2	3	4	5	6	7
1	38.00	29.00	26.00	21.00	18.00	15.00	14.00
2	55.00	45.00	36.00	30.00	25.00	21.00	19.00
3	94.00	75.00	63.00	49.00	39.00	31.00	29.00
4	170.00	140.00	115.00	90.00	68.00	50.00	41.00
5	267.00	220.00	181.00	152.00	108.00	86.00	72.00

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Postal Facilities Primarily Serving Academic Institutions or Their Students

*****

Ancillary Post Office Box Services

	($)
Key duplication or replacement	9.00
Lock replacement[1]	25.00
Key deposit	5.00

*****

1560 Stamp Fulfillment Services

*****

1560.2 Prices

Orders mailed to domestic United States destinations	**($)**
Orders up to $50.00	1.40[1], add 2.55[2] for custom orders
Orders over $50.00	2.00[1], add 2.55[2] for custom orders
Orders mailed to destinations outside of domestic United States	**($)**
Orders up to $50.00	7.45 add 2.55[2] for custom orders
Orders over $50.00	8.05 add 2.55[2] for custom orders

*****

EXHIBIT 8

Postal Regulatory Commission
Submitted 4/6/2021 3:45:26 PM
Filing ID: 116530
Accepted 4/6/2021

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

Before Commissioners: Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Annual Compliance Report, 2020 Docket No. ACR2020

DETERMINATION OF AVAILABLE MARKET DOMINANT RATE AUTHORITY

(Issued April 6, 2021)

I. INTRODUCTION

Pursuant to 39 C.F.R. §§ 3030.160(c), 3030.181(c), and 3030.222(b), the Commission determines the amount of Market Dominant rate authority available to the Postal Service for the density-based rate authority, the retirement-based rate authority, and rate authority for non-compensatory classes of mail.

II. BACKGROUND

On November 30, 2020, the Commission issued Order No. 5763, which revised the ratemaking system for Market Dominant products pursuant to 39 U.S.C. § 3622(d)(3).[1] Under that revised system, the Postal Service is required to file a notice

[1] Docket No. RM2017-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

with the Commission by December 31 of each year that calculates the amount of density-based and retirement-based rate authority eligible to be authorized by the Commission.[2] The Postal Service filed the required notice on December 31, 2020.[3] The Commission's role is to review the Postal Service's notice and determine the amount of density-based and retirement-based rate authority, if any, to be authorized.[4] The Commission is also tasked under the revised system with determining the amount of rate authority, if any, authorized for non-compensatory classes of mail. 39 C.F.R. § 3030.222(b).

Additional rate authority authorized by the Commission under the revised system is available to the Postal Service as of the date of the Commission's announcement.[5]

III. DENSITY-BASED RATE AUTHORITY

Formulas. As specified by 39 C.F.R. § 3030.162(a)(1), the density-based rate authority available to the Postal Service is calculated as the greater of zero and:

$$-1 * \frac{\mathrm{IC_T}}{\mathrm{TC_T}} * \%\Delta\mathrm{D}_{[\mathrm{T-1,T}]}$$

Where,

T = most recently completed fiscal year;
T-1 = fiscal year prior to year T;
IC_T = institutional cost in fiscal year T;
TC_T = total cost in fiscal year T; and
$\%\Delta D_{[T-1,T]}$ = Percentage change in density from fiscal year T-1 to fiscal year T.

The percentage change in density from fiscal year T-1 to fiscal year T is specified in 39 C.F.R. § 3030.162(a)(2) as:

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[2] 39 C.F.R. §§ 3030.160(b) and 3030.181(b).

[3] Postal Service Notice of Calculations of Future Rate Authorities, December 31, 2020.

[4] 39 C.F.R. §§ 3030.160(c) and 3030.181(c).

[5] 39 C.F.R. §§ 3030.160(c)(1), 3030.181(c)(1), and 3030.222(b)(1).

$$\frac{\frac{V_T}{DP_T}}{\frac{V_{T-1}}{DP_{T-1}}} - 1$$

Where,

T = most recently completed fiscal year;
T-1 = fiscal year prior to fiscal year T;
V_T = volume in fiscal year T (either Market Dominant volume or total volume as discussed in 39 C.F.R. § 3030.162(b)(2)); and
DP_T = delivery points in fiscal year T.

Input Data. Under the Commission's regulations, the values for Market Dominant volume and total volume shall be obtained from the Revenue, Pieces, and Weight (RPW) report.[6] The values for institutional costs and total costs shall be obtained from the Cost and Revenue Analysis report. 39 C.F.R. § 3030.161(c). The value for delivery points shall be taken from the input data for the Total Factor Productivity estimates. 39 C.F.R. §3030.161(d).

Calculation. Starting with the formula for the percentage change in density, the necessary input values are Market Dominant volume, total volume, and delivery points for FY 2019 and FY 2020. The values for Market Dominant volume are 136,898 million for FY 2019 and 122,054 million for FY 2020.[7] The values for total volume are 142,570 million for FY 2019 and 129,184 million for FY 2020.[8] The values for delivery points are 139.96 million for FY 2019 and 141.39 million for FY 2020.[9]

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[6] 39 C.F.R. § 3030.161(b). The RPW data filed with the Commission can differ from the RPW data reported on the Postal Service's website. The Commission uses the filed data to calculate the available density-based rate authority. *See* 39 C.F.R. § 3030.161(a) and (b).

[7] Library Reference USPS-FY19-42, December 27, 2019, Excel file "EOY_FY2019_RPWsummaryreport_public," tab FY 2019 Public, cell L71 (FY2019 RPW Summary); Library Reference USPS-FY20-42, December 29, 2020, Excel file "FY2020_RPWsummaryreport_public.xlsx," tab "FY 2020 Public," cell L71 (FY2020 RPW Summary).

[8] FY2019 RPW Summary, cell L233; FY2020 RPW Summary, cell L233.

[9] Library Reference USPS-FY20-17, December 29, 2020, Excel file "TFP Table Annual 2020 ACR Public.xlsx," tab "Out-46," cells K70-K71.

Using Market Dominant volume, the percentage change in density from FY 2019 to FY 2020 is (all non-percentage values in millions):

$$\frac{\frac{122{,}054}{141.39}}{\frac{136{,}898}{139.96}} - 1 = -11.744\%$$

Using total volume, the percentage change in density from FY 2019 to FY 2020 is (all non-percentage values in millions):

$$\frac{\frac{129{,}184}{141.39}}{\frac{142{,}570}{139.96}} - 1 = -10.304\%$$

Pursuant to 39 C.F.R. § 3030.162(b)(2), the larger of these values, –10.304%, is used as the percentage change in density from FY 2019 to FY 2020 in the first formula. The other inputs for the first formula are institutional cost and total cost for FY 2020. The institutional cost for FY 2020 is $35,986 million and the total cost for FY 2020 is $82,400 million.[10]

Using these input values, the amount of the density-based rate authority is the greater of zero and (all non-percentage values in millions):

$$-1 * \frac{\$35{,}986}{\$82{,}400} * -10.304\% = 4.500\%$$

IV. RETIREMENT-BASED RATE AUTHORITY

Formulas. As specified by 39 C.F.R. § 3030.183, the retirement-based rate authority available to the Postal Service is calculated as:

$$\left(1 + \frac{AP_T}{TR_T} - PARA_T\right)^{\frac{1}{5-N}} - 1$$

Where,

[10] Library Reference USPS-FY20-1, December 29, 2020, Excel file "Public_FY20CRAReport.xlsx," tab "Cost3."

T = most recently completed fiscal year;
AP_T = total amortization payment for fiscal year T;
TR_T = total revenue in fiscal year T;
$PARA_T$ = previously authorized retirement obligation rate authority, compounded through fiscal year T, expressed as a proportion of the Market Dominant rate base and calculated using [a subsequent formula]; and
N = number of previously issued determinations in which retirement obligation rate authority was made available under this subpart.

As this is the first determination of available retirement-based rate authority, there is no previously authorized retirement rate authority, and thus $PARA_T$ and N are both equal to zero. Accordingly, the formula shown in the regulations for $PARA_T$ is not yet necessary to calculate the available retirement-based rate authority. Similarly, no revenue has yet been raised by the retirement-based rate authority, and so the formulas for calculating the amount of revenue raised (and thus the amount of the minimum remittance) are also not yet necessary.

Input Data. Under the Commission's regulations, the value for total revenue shall be obtained from the value reported in the RPW report. 39 C.F.R. § 3030.182(b). The value for the total amortization payment shall be obtained from notifications to the Postal Service by the Office of Personnel Management (OPM). 39 C.F.R. § 3030.182(a).

Calculation. The value for the total amortization payment in FY 2020 is $3,970 million.[11] The value for total revenue in FY 2020 is $73,224 million.[12] Using the formula above, the amount of available retirement-based rate authority is (all non-percentage values in millions):

[11] Library Reference USPS-FY20-17, folder "OPM Funding Determinations" (OPM Folder). The subtotals for amortized Civil Service Retirement System and Federal Employees Retirement System supplemental liabilities are $1,816,755,000 and $1,343,164,000, respectively. OPM Folder, PDF file "USPS CRS.FERS Letter for FY20.pdf," at 2-3. The subtotal for the amortized Federal Employees Health Benefit unfunded liability is $810,014,525. OPM Folder, PDF File "USPS PSRHBF Letter for FY20.pdf," at 2.

[12] FY2020 RPW Summary, cell D237.

$$\left(1+\frac{\$3{,}970}{\$73{,}224}-0\right)^{\frac{1}{5-0}}-1=1.062\%$$

V. ADDITIONAL RATE AUTHORITY FOR NON-COMPENSATORY CLASSES

39 C.F.R. § 3030.222(a) provides for an additional 2 percentage points of additional rate authority for any class of mail where the attributable cost for that class exceeded the revenue from that class. In FY 2020, the classes for which attributable cost exceeded revenue were Periodicals and Package Services.[13]

VI. DETERMINATION OF AVAILABLE RATE AUTHORITY

The Commission determines that the available amount of density-based rate authority is 4.500 percent. The amount of available retirement-based rate authority is 1.062 percent. An additional 2 percentage points of rate authority is available for Periodicals and Packages Services. These amounts of rate authority are available for use in a subsequent Market Dominant rate adjustment filed under 39 C.F.R. § 3030.121.

VII. ORDERING PARAGRAPH

It is ordered:

The additional rate authority determined to be available under 39 C.F.R. §§ 3030.160(c), 3030.181(c), and 3030.222(b) as described in the body of this order is available for a Market Dominant rate adjustment filed under 39 C.F.R. § 3030.121.

By the Commission.

Erica A. Barker
Secretary

[13] Annual Compliance Determination Report, March 29, 2021, at 3, 20.

EXHIBIT 9

PETER R. PASTRE
VICE PRESIDENT, GOVERNMENT RELATIONS AND PUBLIC POLICY

UNITED STATES POSTAL SERVICE

July 13, 2021

The Honorable Glenn Grothman
House of Representatives
Washington, DC 20515-4906

Dear Congressman Grothman:

This responds to your July 1 letter to Postmaster General Louis DeJoy, cosigned by several of your colleagues, requesting that the U.S. Postal Service reconsider the implementation of the proposed price increase in August 2021 and the full use of new pricing authority provided by the Postal Regulatory Commission (PRC).

Thank you for sharing your concerns. As you know, under the Postal Accountability and Enhancement Act (PAEA) of 2006, the PRC administers regulations and pricing rules based on whether a product is considered "market dominant" or "competitive." Since the enactment of PAEA, we have not had sufficient pricing authority for our market dominant products to adequately respond to changing market realities. The pricing model for our market dominant products was predicated on a price cap that did not account for volume changes, growing costs, or other factors, including those largely outside of the Postal Service's control. For nearly four years, the PRC reviewed the pricing system, considering feedback from all stakeholders, and concluded that this system was unsuitable for ensuring the Postal Service's ability to provide prompt and reliable universal services in a self-sufficient manner. The PRC made adjustments to the system accordingly. While we do not believe the new rules went far enough, they provide much needed additional pricing authority to enable the Postal Service to achieve our goals as laid out in the "Delivering for America" plan, and help us to achieve the self-sufficiency that is required under the law.

The PAEA capped price increases for mailing services at the Consumer Price Index (CPI); however, recognizing this cap as a detriment to the financial stability of the Postal Service, the PRC adopted new rules in November 2020 that adjust the CPI price cap based on factors outside of the Postal Service's control, such as declining density and retirement-related amortization costs. Had the Postal Service previously been able to respond to changing market realities by adjusting prices under this new authority, it is likely that we would not be in such a dire financial state. It is estimated that the Postal Service would have generated an additional $55 billion in cumulative gross revenue since 2006 with this new authority. As it stands, however, the Postal Service has suffered more than $80 billion in cumulative net losses since the PAEA's enactment, including a $9.2 billion net loss in Fiscal Year (FY) 2020 alone.

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WASHINGTON, DC 20260-3500
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The Postal Service certainly recognizes the educational, cultural, scientific, and informational value of magazines, periodicals, and newspapers and the importance of solicitations for charitable causes. We also understand the importance of ensuring affordable rates for our customers. Following these increases, our prices will remain among the world's most affordable, while also enabling us to begin addressing the issues that led the PRC to give us additional pricing authority. In this regard, it is important to note that many of these products have not covered their costs for many years. Furthermore, even if the Postal Service were to use all the pricing authority granted by the PRC, we would still incur a net loss of about $10 billion in FY 2022 and fail to generate sufficient cash to meet our legal obligations and to fund our operations.

The income from a price change in August 2021, along with our other strategic initiatives, is an essential component of our plan to achieve fiscal solvency. The Postal Service's Board of Governors took all these considerations into account when they made the pricing decisions.

Clearly, COVID-19 impacted our market dominant products; however, products like First-Class Mail, Marketing Mail, and Periodicals have been exhibiting long-term declining trends prior to last year. From 2014 through 2019, First-Class Mail had been declining about 2.9 percent per year; in FY 2020, it declined 4.8 percent. Moreover, our most recent data indicate that First-Class Mail declined 4.6 percent through May of 2021. Marketing Mail declined 1.2 percent per year prior to the COVID-19 pandemic, declined 15.4 percent in FY 2020, and recently increased 0.4 percent through May 2021. Nonprofit Marketing Mail declined 6 percent in FY 2020, but increased 8.1 percent through Quarter 2 of FY 2021. Periodicals declined 5.2 percent annually before COVID-19, 13.6 percent in FY 2020, and 10.2 percent through May 2021. Generally, it appears that at least in the short-term, market dominant mail is recovering from the impacts of the pandemic, but the preexisting declines will continue.

We estimate that the annual volume declines due to the price increase using the full pricing authority granted by the PRC will be about 2.6 billion pieces per year, or 2.3 percent. Even though volumes are expected to decline, revenues are expected to increase on average by about $1.7 billion each year, or 4.2 percent. It is important to note that, historically, market dominant volumes experience some decline when rates increase; however, the overall revenue increase more than offsets any losses from the drop in volume. If we delayed the price increase implementation by 5 months, from August to January, as you suggest, the decline in volume is expected to be about 880 million fewer pieces in the first year and about 830 million fewer pieces in subsequent years, but we will earn $750 million less in revenue in the first year and about $540 million less in each subsequent year.

As requested, the impacts of the proposed price increase on mail use and volume for one year, three years, and five years are provided in the table below.

	August 2021		**January 2022**		**Difference**	
	Volume	Revenue	Volume	Revenue	Volume	Revenue
Total 1 Year	(1,943)	$2,084	(1,060)	$1,331	(883)	$753
3 Years	(6,262)	$5,168	(5,431)	$4,620	(831)	$548
5 Years	(10,405)	$8,162	(9,574)	$7,614	(831)	$548

Lastly, generating additional revenue through price increases is only one component of the Postal Service's "Delivering for America" plan to provide excellent service and attain long-term financial solvency. The plan also depends on Congress's passage of a bill to reform its benefits obligations, and we thank you for your work on the legislation referenced in your letter. The "Delivering for America" plan also comprises an array of initiatives that drive revenue and growth, reduce costs, and invest in much-needed capital improvements. Moreover, the Postal Service will be able to achieve improvements in reliability, cost effectiveness, and on-time delivery. Equally important, we will also increase our relevancy to the public through innovations to our products and services that better reflect evolving consumer behavior.

If I can be of assistance in other postal matters, please let me know.

Sincerely,

Peter R. Pastre

EXHIBIT 10

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

National Postal Policy Council, *et al.,* Petitioners v. Postal Regulatory Commission, Respondent.	Nos. 17-1276, 20-1505, 20-1510, 20-1521 (consolidated)

Declaration of Meta A. Brophy

I, Meta A. Brophy, declare as follows:

1. I joined Consumer Reports, Inc. (CR) more than 35 years ago, and have served as Director, Procurement Operations since the early 2000s. CR is a nonprofit organization exempt from federal income tax under Internal Revenue Code Section 501(c)(3), and is headquartered at 101 Truman Ave., Yonkers, NY.

2. I am Past President and an active member of the Alliance of Nonprofit Mailers Board of Directors. I have continuously advocated for maintaining affordable, sustainable postage costs and service standards.

3. In my position, I oversee the team that produces CR's flagship periodical, *Consumer Reports* magazine, the *Consumer Reports on Health* newsletter, direct mail acquisition, retention, and fundraising print programs. I monitor postage costs and impact on the organization as it works to increase acquisition and donor responses and revenue. This income funds our testing, reporting, and advocacy programs that inform consumers on marketplace products and services.

Consumer Reports Promotes the Public Interest Through Its Testing, Research, and Advocacy

4. Founded in 1936, CR has a mission to create a fair and just marketplace for all. Widely known for our rigorous research and testing of products and services, we also survey millions of consumers each year, report extensively on marketplace issues, and advocate for consumer rights and protections around safety, digital rights, financial fairness, and sustainability. CR is independent and nonprofit, and uses all funds it collects to support its tax-exempt mission.

5. CR tests thousands of products and services in 63 labs at its National Headquarters and Testing Center in Yonkers, New York, and at its 327-acre Auto Test Center in Colchester, Connecticut, and reaches tens of millions of people across print, digital and broadcast media. CR spends more than $30M annually to test, rate, and review products and services,

buying products and services at retail, just as consumers do, to ensure that they are identical to the ones consumers take home.

6. The CR team of advocates works for pro-consumer laws and regulations in Washington, D.C., the states, and directly in the marketplace. A recent example of our consumer advocacy can be seen in the 2021 enactment by the Consumer Product Safety Commission of new rules requiring a federal safety standard for infant sleep products. In addition, CR's Survey Research team fields more than 50 surveys each year, reaching hundreds of thousands of consumers. CR proactively engages with industry and manufacturers to share consumer-driven data and insights with the goal of improving products and services before they get to market. CR does not accept advertising, sponsorships, gifts, or free samples for testing and only advertises its own products and services.

The U.S. Postal Service is Crucial to Consumer Reports' Mission

7. CR mailed more than 141,000,000 pieces of mail in 2020, including 8.5 million pieces of First-Class mail. Our postal spend was more than $27 million, about 11 percent of our overall expenses.

8. CR mails primarily First-Class letters and cards, Nonprofit Periodicals, and Nonprofit Marketing Mail letters and flats. Each response to a Marketing Mail flat piece generates a First-Class Business Reply Card or Envelope, 12-13 Periodical mailings and several Marketing Mail letter gift and renewal mailings, as well as First Class letter invoices.

9. CR relies heavily on hard-copy mail. Nearly half of our membership revenue derives from print. Our members express a preference for hard copy. Hard copy reaches more prospective members and donors than alternative media. 80 percent of our fundraising donations come to us in the mail. 77 percent of our paid members receive a print publication as part of their membership. And many of our members and donors are senior citizens who prefer hard copy to digital.

10. Because of our members' and donors' preference for physical mail, and because we must attract new and service existing members in the most cost-effective way possible, CR is extremely sensitive to U.S. Postal Service rate increases. Postage is our only major cost that is non-negotiable and continuously increasing, and we have seen our postage costs increase steadily.

11. This stands in stark contrast to our non-postage costs: over the past decade, non-postage distribution costs have fluctuated with fuel prices. Other goods and services that we purchase through competitive bidding, such as premium gifts, mail package inserting, list and data costs have remained near flat. The printing and paper manufacturing industries have experienced sweeping consolidation and capacity reduction. Decreases in printing prices offset paper increases.

12. On the other hand, for the classes and categories of mail that CR uses, postage price increases often have exceeded the overall rate of inflation as measured by the Consumer Price Index. We routinely negotiate vendor contracts with a CPI escalation shared between the supplier and CR, as we cannot pass along this annual increase to our customers. No other vendor competes with the Postal Service to win our business.

The August 2021 Rate Increases Will Cause Immediate and Irreparable Harm

13. At our current volume levels, following implementation of the new rates, we will pay an additional $1.78 million in postage in the next year. We estimate cumulative rate hikes from 2021 – 2025 will raise our postage spend by 31 to 38 percent (three to four times the rate of inflation)—a cumulative total exceeding $9 million more than our inflation-based estimated postal spend. Moreover, because the Postal Service will be able to charge us even higher rates as volumes decline, we will potentially pay much more than these estimates.

14. Since the PRC will permit the Postal Service to raise prices on market-dominant mail in this way, we estimate needing to cut our acquisition Marketing Mail volume by about 9.5 million pieces in the same time period—a cumulative loss of 18.35 percent in our prospecting volume alone, which creates a downstream effect. When acquisition volume declines, so do retention and periodical volumes.

15. When nonprofit and all other mailers facing the same scenario start cutting mail volumes, the universe of available prospect names contracts, exacerbating the situation exponentially. Revenue declines mean that CR cannot do as much for consumers, as our testing and advocacy programs are dependent on this income generated by our mailings.

16. The actual August 2021 rate changes that were just approved by the Postal Regulatory Commission will have greater impacts than we had budgeted for. In setting our fiscal budget, which runs from June 2021 through May 2022, we budgeted a 6 percent postage increase for First Class and Nonprofit Marketing Mail letters, and an 8.5 percent increase for Nonprofit Marketing Mail flats and Periodicals. Now that the actual rates are published, we expect 7 to 10.5 percent increases on Periodicals (*Consumer Reports* magazine and *Consumer Reports on Health* newsletter) and 12 to 15 percent increases on supplemental mail. CR customers are avid readers and like more rather than less information. A Marketing Mail flat, which is our best solicitation vehicle or control mail piece, is therefore a large-format, multi-page mailer, which will realize a 12.5 percent increase.

17. Postage increases reduce CR mail volume. When we do not grow our acquisition base through direct mail, we also do not renew a commensurate number of members and donors through the mail, and we do not send as many publications (including print premiums) through the mail. ***Once this mail leaves the system, it will not return***.

18. It will be extremely difficult, if not impossible, for CR to mitigate these major additional postage expenses. We are considering and testing the implementation of drastic cost-cutting efforts, including reducing the frequency of our flagship *Consumer Reports* magazine and other titles, collapsing mail efforts and reducing the frequency of mail campaigns, trimming the size and page count of our flat-shaped mailpiece, and attempting to push customers to increased use of digital channels. All of these drastic changes are likely to reduce our membership, donations, and revenue as a whole.

19. In summary, the Postal Service price increase will force us to reduce mail volume. In turn, we will lose members and donors, we will deliver less value to our members and donors,

and we will have less revenue for testing, advocacy, and communicating our core mission to the public.

I declare under penalty of perjury that the foregoing is true and correct.

Date	Signature
July 21, 2021	Meta A Brophy Meta A. Brophy

EXHIBIT 11

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

National Postal Policy Council, *et al.*, Petitioners	)	
v.	)	Nos. 17-1276, 20-1505, 20-1510, 20-1521 (consolidated)
Postal Regulatory Commission, Respondent.	)	

Declaration of Craig D. Finstad

I, Craig D. Finstad, declare as follows:

1. I joined the American Lung Association ("ALA") nearly 39 years ago, and currently serve as Assistant Vice President of Direct Response Operations. American Lung Association is a nonprofit organization exempt from federal income tax under Internal Revenue Code Section 501(c)(3), and is headquartered at 55 W. Wacker Drive, Suite 1150, Chicago, IL 60601. I also serve as Treasurer and an active member of the Alliance of Nonprofit Mailers Board of Directors.

2. In my position, I oversee ALA's direct response program including direct mail acquisition, renewal, planned giving, mid-level donor cultivation and acknowledgments as well as our telemarketing campaigns. I monitor postage costs and their impact on the organization as we strive to maximize the net income available to fund critical lung disease research, advocacy, and education programs.

Mail-Funded ALA Activities Benefit the American Public

3. Founded in 1904, the American Lung Association was created to conquer the tuberculosis epidemic, which we were successful in accomplishing. ALA was perhaps the first nonprofit organization in the country to use direct mail to raise funds, launching its iconic Christmas Seal® program in 1907. Our mission has expanded to focus on all factors that affect lung health including clean indoor and outdoor air, smoking cessation, and a wide array of lung disease research and education programs from lung cancer, COPD, asthma, and many more including, most recently, the COVID-19 pandemic.

4. ALA is America's champion for lung health. Our nation faces many risks to lung health today, and lung cancer claims 150,000 lives each year. ALA is fighting these challenges head-on. We eradicated tuberculosis in the U.S. in the early 20th century. We have protected the Clean Air Act for 50 years. We have helped millions of Americans with lung disease live longer, fuller lives. Now, we are working tirelessly to overcome the challenges to lung health of today. Our mission is to save lives by improving lung health and preventing lung disease.

5. In support of our charitable mission, ALA engages in numerous initiatives including: (i) lung health promotion that educates and improves outcomes for Americans; (ii) health equity initiatives that address social determinants of lung health and help groups that are disproportionally burdened by lung disease; (iii) research studies that advance our understanding of lung disease and discover life-saving preventions, treatments and—one day—cures; and (iv) advocacy efforts that amplify the voices of people impacted by lung disease to our nation's lawmakers, to champion clear air, improve lung health and safeguard access to healthcare. As an example, on April 9, 2020 ALA launched a three-year initiative to end COVID-19 and defend against future respiratory viruses. The initiative highlighted our response to a dire health crisis, as well as our century-long and ever-deepening commitment to lung health.

6. ALA is a trustworthy charity. Eighty-nine cents of every dollar donated to the organization fuels education, research and advocacy efforts. We have been awarded the highest rating from Charity Navigator, the nation's largest independent non-profit evaluator.

The Value of Mail to the American Lung Association

7. ALA mailed more than 17,000,000 pieces of mail in fiscal year 2020-21. Our postal spend was more than $4 million, which is over 35 percent of our overall direct response budget.

8. ALA mails primarily Nonprofit Marketing Mail letters and a large volume of flats (about 45 percent of total mail volume). Each response to a Marketing Mail and flat piece generates a First-Class or Business Reply Envelope (nearly 900,000 letters).

9. ALA relies heavily on direct mail and cannot feasibly convert its communications and fundraising appeals to digital channels. Our average donor is 73 years old, looks forward to receiving mail, and does not donate online. The vast majority of our mailings includes some type of premium that cannot be sent electronically. Hard copy mail reaches more prospective members and donors than does alternative media. And 70 percent of our fundraising donations come to us in the mail.

10. Because of our donors' preference for direct mail, and because we must attract new and service existing donors in the most cost-effective way possible, ALA is extremely sensitive to U.S. Postal Service rate increases. Postage is our only major cost that is non-negotiable and continuously increasing. Because our direct mail program relies heavily on the use of flats, the price increases often have exceeded the overall rate of inflation as measured by the Consumer Price Index. No other vendor competes with the Postal Service to win our business.

The Approved Rate Hikes Will Immediately and Irreparably Harm Our Organization

11. At ALA's current volume levels, in this next year following implementation of the new postal rates, we will pay an additional $400,000 in postage. We estimate cumulative rate hikes from 2021 – 2025 will raise our postage spend by 31 to 38 percent. This translates to a cumulative total exceeding $1.5 million more in postage spending than our inflation-based estimates. Moreover, because the Postal Service will be able to charge us even higher rates as volumes decline, we will potentially pay much more in future years.

12. The impact on ALA is simple: these rate hikes will cause our organization to reduce the mail volume that acquires new donors and sustains existing giving. Reduced mail volume will lead to revenue declines. Revenue declines mean that ALA cannot do as much for constituents, as our education, research and advocacy programs are dependent on this mail-generated income.

13. While ALA is prepared to make major changes to our operations in response to these headwinds, it will be extremely difficult to effectively mitigate the additional postage expenses. We are considering options such as reducing the frequency of our mail campaigns, diminishing our mailing efforts, reducing the size and weight of our most proven and effective mail pieces, attempting to convert our donors to increased electronic communications (against their preferences), and eliminating the print premiums that our donors enjoy receiving. All of these drastic changes run a strong risk of reducing our donor base, donations, and revenue as a whole.

14. Postage increases reduce ALA mail volume. When prices go up, we have nowhere to pass along these increases and our expense budget cannot absorb the extra cost. That means we cannot afford to grow our acquisition base through direct mail, and consequently our renewal donor base will shrink as well. Once this mail leaves the system, it will not return.

15. A stay of the rate increases will not only help ALA avoid serious harm, but will benefit our entire network as well: this includes the new donors and repeat donors that sustain our charitable mission and the vast network of suppliers that make up the mailing industry infrastructure. Without a stay, we will lose donors, deliver less value to our constituents, and will earn less revenue for our health equity initiatives, research, education, and advocacy.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 22, 2021.

Craig D. Finstad
American Lung Association

EXHIBIT 12

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

National Postal Policy Council, *et al.*, Petitioners v. Postal Regulatory Commission, Respondent.	Nos. 17-1276, 20-1505, 20-1510, 20-1521 (consolidated)

Declaration of Tracey Burgoon

I, Tracey Burgoon, declare as follows:

1. I have had the pleasure of serving as the Director of Direct Marketing for Disabled American Veterans ("DAV") for the last 9 years and have served overall with the organization for almost 24 years. I oversee all direct response fundraising efforts, including direct mail, digital, direct response television, face-to-face marketing, and telemarketing.

2. DAV is a congressionally chartered nonprofit charity that provides a lifetime of support for veterans of all generations and their families, helping more than 1 million veterans in positive, life-changing ways each year. The organization's address is 860 Dolwick Drive, Erlanger, KY 41018.

DAV's Work on Behalf of Our Nation's Veterans

3. Annually, DAV typically provides more than 675,000 free rides for veterans attending medical appointments at VA medical facilities provided by DAV volunteers. Nearly 19 million rides have been provided by DAV through the years. Since the program's inception in 1987, DAV departments and chapters have donated 3,797 vehicles to the VA, at a cost of over $88 million, to provide these rides to our nation's ill and injured veterans. It is one of the country's largest voluntary transportation programs serving 228 VA medical centers and outpatient clinics.

4. Since being chartered by Congress in 1932, DAV has submitted over 11.8 million claims for benefits on behalf of veterans and their families. In 2020, DAV's professional veterans advocates—all wartime injured or ill veterans—filed nearly 140,000 new claims, which included claims for nearly 380,000 specific injuries or illnesses, with the Veterans Benefits Administration and obtained more than $23 billion in benefits for veterans and their families. Veterans do not have to be members to take advantage of our free assistance.

5. DAV is also a leader in connecting veterans with meaningful employment, hosting job fairs, and providing resources to ensure they have the opportunity to participate in the American Dream their sacrifices have made possible. Since 2014, over 240,000 active-duty,

Guard, and Reserve members, veterans and their spouses have connected with employers, resulting in more than 150,000 job offers. Moreover, in 2020 almost $2 million in COVID-19 unemployment relief was distributed nationwide to nearly 8,000 disabled veterans who lost employment or income in the wake of the virus outbreak.

6. In short, DAV empowers our nation's heroes and their families by helping to provide the resources they need and ensuring America keeps the promises made to them.

DAV Relies on Direct Mail

7. For DAV, hard copy mail is the primary, and donor preferred, channel we use to communicate with our active and prospective supporters (letters, calendars, name and address labels to encourage giving through the mail), members (magazines and newsletters) and volunteers). The average age of our constituents is 74 years and older. Those constituents trust fundraising requests for one time, monthly, and planned giving through USPS mail.

8. We mail approximately 80 million pieces of mail annually with nearly 3 million pieces of returned mail. Our data shows that over 90 percent of our donations are received from donors and members acquired through direct mail. Equally, over 90 percent of our donations come back to us through the mail.

9. In addition, hard copy mail gives us the opportunity to let disabled veterans know of our national and local programs and services. This is especially true for veterans living in rural areas, where broadband is not adequate or strong, something that was made abundantly clear to all of us during the pandemic.

The August 2021 Postage Rate Increases Will Irreparably Harm Our Ability to Serve Veterans

10. We have dire concerns about the negative impact the now-approved postage rate increases that are slated to take effect in late August will have on our ability to accomplish our mission in the near future. We estimate nearly half a million dollars in additional costs this year alone, and one and a half million dollars in additional costs in 2022.

11. These rate increases will force our organization to reduce mail volume, which will result in reduced revenue and will force us to consider reducing the number of rides provided to medical appointments, the career fairs that ensure meaningful employment, or the free benefits counseling services and disaster relief on which so many veterans depend.

12. The Postal Service has succeeded in generating the funds necessary to meet its ongoing operational needs, while also providing those that rely on mail with a stable and predictable rate structure. This year's rate increases were unpredictable, far above the cost of inflation, unfair and, frankly, unjust. It is critical to our organization's ability to continue to use and rely on the mail to generate the necessary revenue to support the needs of disabled veterans and their families that the proposed rate increases be rescinded.

I declare under penalty of perjury that the foregoing is true and correct.

Date	Signature
7/22/21	Tracey Burgoon Tracey Burgoon

EXHIBIT 13

AFFIDAVIT

STATE OF WISCONSIN)
) **SS:**
COUNTY OF BROWN)

I, David Wood, of Green Bay, in Brown County, Wisconsin, MAKE OATH AND SAY THAT:

1. I am the Group Manager of Publications for Multi Media Channels LLC ("MMC"), a Wisconsin limited liability company.
2. MMC is engaged in the business of community newspaper publishing for cities, towns, and villages in the central, northern, and northeastern regions of Wisconsin.
3. MMC publishes 22 community newspapers in these regions of Wisconsin.
4. MMC's coverage area extends from east to west from Green Bay, Wisconsin, to Neillsville, Wisconsin, and from north to south from Minocqua, Wisconsin, to Mayville, Wisconsin.
5. MMC's coverage area totals 34,026 square miles.
6. Within its coverage area, MMC mails 238,123 newspapers using the Every Door Direct Mail ("EDDM") service of the Unites States Postal Service ("USPS"). These papers are processed and charged at the Destination Delivery Unit ("DDU") rate.
7. Within its coverage area, MMC mails 18,575 newspapers using Second Class service of the United States Postal Service.
8. The total number of newspapers mailed per week is 256,698.
9. There is no other economically viable alternative for MMC to deliver its newspapers.
10. Most of the communities MMC serves are small, rural, under 6,000 residents, and have low population density.
11. MMC is the only media provider in many of the communities it serves. For these communities, if MMC stops publishing, the community will become a "news desert."
12. Between April 1, 2020, and March 31, 2021, MMC paid $2,158,866 to the USPS. These fees were for postage costs only; they did not include any of MMC's other costs such as printing, processing, and delivering the newspapers to the local post offices.
13. MMC's postal payments were distributed among 80 local post offices in cities, towns, and villages in Wisconsin.
14. It is our belief and understanding that for most of these post offices, MMC was the largest single customer.
15. It is our belief and understanding that were MMC to cease mailing through these local post offices, these post offices would suffer a substantial revenue decline and be forced to cut costs by reducing

staff, hours of operation, services, or all of the above.

16. Our company has been notified of pending postage rate increases that will increase costs of our Periodicals publications by an average of 8.8 percent and our Marketing Mail publications by at least 6 percent.

17. The company estimates that these increases would add $194,298 in cost to MMC this year.

18. The additional cost would exceed MMC's average annual net earnings for 2018, 2019 and 2020 fiscal years and cause the company to continue to lose money even with planned efficiency changes to our operation.

19. To maintain continued viability, MMC will be forced to make irreparable changes to its publications and operations by reducing news coverage and providing less service to our customers. In MMC's experiences, lost customer relationships driven by cuts in our news coverage are irreversible. Lost news coverage is irreversible for the time in which coverage is not provided. MMC believes these changes, while necessary, will cause irrevocable harm to our company, our work force, our customers and our readers.

20. If these postage increases go into effect on August 29, MMC will eliminate:
    a. Three editorial positions costing a total of $120,000 in salary, benefits and taxes.
    b. Three customer service positions, costing a total of $81,000 in salary, benefits and taxes.

STATE OF WISCONSIN)
) **SS:**
COUNTY OF BROWN)

Personally came before me this 1st day of July, 2021, the above named David Wood, to me known to be the person who executed the foregoing instrument and acknowledged the same.

MISTY HOLZMAN
Notary Public
State of Wisconsin

Dave Wood

Misty Holzman

My commission expires: 11.24.2024

EXHIBIT 14

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

National Postal Policy Council, *et al.*, Petitioners v. Postal Regulatory Commission, Respondent.	Nos. 17-1276, 20-1505, 20-1510, 20-1521 (consolidated)

Declaration of Jamie Trowbridge

I, Jamie Trowbridge, declare as follows:

1. I am the President and CEO of Yankee Publishing, Inc. ("Yankee"). Founded in 1935, Yankee is a New Hampshire-based and family-owned company. It is the publisher of *Yankee* magazine and other titles such as the Old Farmer's Almanac and *New Hampshire* magazine.

***Yankee* Magazine Depends on U.S. Postal Service Delivery**

2. *Yankee*, our primary title, is a bimonthly magazine about lifestyle, travel, and culture in New England. It has a print circulation of approximately 300,000. Subscriptions make up 73 percent of the magazine's revenue, making *Yankee* highly dependent on the Postal Service ("USPS") as a business. New subscriptions are marketed to customers via mail, subscription renewals and invoices are sent via mail, and the magazines are delivered to subscribers via mail.

3. Although *Yankee* has a digital business in its website NewEngland.com, we have not been successful, despite many efforts, to transition print subscribers to digital readership. Our magazine customers prefer print, and that has made it difficult to sustain this 86-year-old business. While the cost to manufacture and distribute the magazine keeps increasing, our customers remain price sensitive when it comes to renewing their subscriptions.

Our Business Will Be Immediately Harmed By The Announced USPS Price Increases

4. While we have made progress recently in improving *Yankee's* profitability after many years of losses, the business is still barely profitable after corporate allocations. The annual impact of the price increase USPS is planning on *Yankee* magazine is substantial and will make it difficult for *Yankee* as a business to achieve profitability in the coming year.

5. The increase in postal rates that were approved for August 29, 2021 will have an immediate impact on our business. Postage is our biggest production expense, representing 43 percent of *Yankee's* cost for printing, paper, and mailing. The total additional postal cost we are

anticipating in the coming year is $93,727, which accounts for about half of the small profit we are forecasting for *Yankee* in the fiscal year just ended. These increased postal costs will be comprised of:

(a) Mailing copies to subscribers: We calculate the rate increase to be 6.4 percent for *Yankee*, with an annual cost of $40,900;

(b) Acquiring direct mail subscribers: We send over 1.5 million direct mail solicitations a year. We calculate the rate increase to be 6.8 percent, with an annual cost of $28,488; and

(c) Mailing renewal notices and bills: An annual rate increase of 6.8 percent, translating to an increase in cost of $24,339.

6. There is nothing we can do to avoid this cost or recover from it. We certainly cannot pass the increased postage rates onto our subscribers. We test our pricing with every direct mail solicitation, and we know our subscribers will not pay more. Our top subscription rate is already $29.97 for six issues.

7. Direct mail is still our primary source of new subscriptions. Our alternative sources of subscriptions are not good enough to reduce or eliminate our use of direct mail. The same is true for renewal notices and invoices. We have tried to convert these communications to email, but most *Yankee* customers will not give us their email addresses and those who have given us their emails do not respond well to email solicitations.

8. The USPS has not given any incentives in its rate structure that allow us to mitigate the increase. The rates for Zones 1 and 2 increased the same amount as the other zones, so there is no more incentive than we already had for delivering the mail closer to the delivery point. The increased cost of trucking makes delivery closer to the delivery point infeasible in any event.

9. The only remaining option to reduce our postal cost is to reduce the number of pages of the magazine. We have done this over the years, but it would be counterproductive to reduce our pages any further because we are already at the minimum size to co-mail *Yankee* with other magazines from our printer.

10. Ultimately, the only way we will be able to offset the cost of the postal price increase – and future postal increases – is by eliminating jobs.

I declare under penalty of perjury that the foregoing is true and correct.

Date: July 20, 2021

Signature: J. R. Trowbridge

Jamie Trowbridge

EXHIBIT 15

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Alliance of Nonprofit Mailers, Association for Postal Commerce, MPA – The Association of Magazine Media, American Catalog Mailers Association, *Petitioners*,	)	
v.	)	Case No. 20-1510
Postal Regulatory Commission, *Respondent*.	)	

DECLARATION OF JOHN HAMRE
ON BEHALF OF WOUNDED WARRIOR PROJECT, INC.

I, John Hamre, declare as follows:

1. I am Vice President – Resource Development: Direct Response for Wounded Warrior Project, Inc. ("WWP"). WWP is a not-for-profit corporation exempt from income tax under Internal Revenue Code Section 501(c)(3), and is headquartered in Jacksonville, FL. My business address is 370 Seventh Avenue, Suite 1802, New York, NY 10001.

2. I have worked for WWP for over 13 years and have served in my current position for over 10 years. As Vice President – Resource Development: Direct Response, I lead and manage WWP's direct response team, which handles all fundraising solicitations delivered through direct mail, online platforms, and direct response television.

3. Since 2015, I have also served as a member-at-large on the Board of Directors for the Alliance of Nonprofit Mailers ("ANM"). As a Board member, I help guide the strategic planning for ANM's mission to preserve affordable, reliable postal services so that our nation's nonprofit sector can continue to fulfill vital missions.

4. Between my position at WWP and role on the ANM Board of Directors, I draw from over 25 years of personal experience working in the nonprofit direct mail industry and advocating for affordable rates and reliable service from the United States Postal Service.

5. WWP was established in 2003 with a mission to honor and empower wounded warriors and a vision to foster the most successful, well-adjusted generation of wounded service members in our nation's history. WWP provides more than 20 life-changing programs

and services to over 195,000 registered post-9/11 warriors and their families. Through its programs, WWP connects these individuals with each other and their communities; serves them by providing physical and mental health programs, job placement services, and federal benefits assistance; and empowers them to live life on their own terms. All of WWP's programs are provided at no charge to veterans or their families.

6. In Fiscal Year 2020 (October 1, 2019 to September 30, 2020), WWP spent approximately $197 million on programs and services for wounded warriors, Service members, and their families. Across our programming landscape, WWP hosted more than 4,300 virtual and in-person events to keep warriors connected; facilitated over 900 warrior-only peer-to-peer support group meetings; provided more than 149,500 hours of mental health treatment across our continuum of mental health care and support programs; connected more than 1,850 warriors and family members to meaningful employment with veteran-friendly employers; delivered over 190,000 hours of in-home and local care through our Independence Program to the most severely injured warriors, helping them reach and maintain a level of autonomy that would not otherwise be possible; and extended more than $11 million in direct COVID-19 relief payments to help 11,000 warriors in financial crisis cover food and shelter expenses during the public health emergency.

7. Because WWP relies on direct mail campaigns, higher postage rates will limit our reach and reduce the net revenue that our organization can spend on life-changing programs and services.

8. Direct mail has been and continues to be a key component of WWP's success in raising the funds necessary to honor and empower wounded warriors. In Fiscal Year 2020, WWP delivered over 102 million pieces of mail to the public to raise awareness and resources for our organizations programs and services.

9. Since its founding in 2003, WWP has raised $1 billion through direct mail solicitations, which amounts to 33 percent of all money raised. In Fiscal Year 2020 alone, direct mail solicitations returned over $92 million, or approximately 34 percent of WWP's annual income. Many who receive direct mail solicitations eventually become sustaining donors who support WWP with monthly donations. Such contributions constituted an additional 22 percent of WWP's annual income.

10. Postage increase will reduce WWP mailing volume. WWP strives to maximize the impact of every dollar spent and continually measures the return of direct mail campaigns and makes modifications such as reducing the frequency of direct mail campaigns and curtailing the number of direct mail recipients. When we do not grow our acquisition base through direct mail, we face reduced capacity to raise funds for programs and services.

11. Applying the U.S Postal Service's proposed increases to nonprofit automated letters and increased stamp premiums on WWP's Fiscal Year 2020 direct mail activity would have resulted in approximately $1.7 million less revenue to support WWP's mission. This level of funding would support approximately 680 warriors' participation in Soldier

Ride®, a unique multi-day cycling event that helps warriors build their confidence and strength through shared physical activities and bonds of service in a supportive environment. Similarly, this level of funding can support 77 warriors to receive mental health treatment through Warrior Care Network, a partnership between WWP and four world-renowned academic medical centers to heal invisible wounds of service and improve the psychological healing of our nation's veterans. Participating warriors receive a year's worth of mental health care during a 2–3-week intensive outpatient program, using evidence-based treatments with alternative therapies.

12. Alternative solicitation methods cannot replace the value of direct mail to WWP's donor audience. Online and e-mail outreach is limited to those who have an e-mail address. WWP's donor base skews demographically toward the elderly, many of whom do not use e-mail. Those in our donor base who do not have an e-mail address are typically unwilling to donate online with a credit card. In contrast, direct mail puts information directly into the hands of our supporters and allows them to maintain it for future reference. Our fundraising would suffer and limited the critical programs and services we offer to wounded warriors, Service members, their families, and their caregivers.

13. While investment in the U.S. Department of Veterans Affairs (VA) continues to grow, non-profit organizations have been recognized as a critical partner in providing supplementary support and outreach that the federal government simply cannot provide. The Commander John Scott Hannon Veterans Mental Health Improvement Act (P.L. 116-171) recently recognized the particular importance of non-profits in reducing veteran suicide. 11 out of every 17 veterans who died by suicide in 2017 were not connected to VA, and non-profits can provide both a critical link to emergency services and upstream support to address a range of challenges before they become too much to bear.

14. A strong network of care and support is vital to the health and well-being of America's veterans. As the non-profit sector continues to evolve to meet needs at both a local and national scale, dramatic changes to the cost of doing business have the potential to limit the reach of awareness campaigns, reduce the quality of available services, and lessen the return on generosity provided by a patriotic community hoping to give back to those who have selflessly served their country.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 22, 2021.

John Hamre
Wounded Warrior Project, Inc.

EXHIBIT 16

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

National Postal Policy Council, *et al.,* Petitioners v. Postal Regulatory Commission, Respondent.	Nos. 17-1276, 20-1505, 20-1510, 20-1521 (consolidated)

Declaration of Thomas H. Harty in Support of Motion for Stay

I, Thomas H. Harty, declare as follows:

1. I am the Chairman, CEO, and President of Meredith Corporation ("Meredith" or the "Company"). I have served as the CEO and President since 2018 and as Chairman since 2020. I have been a director of the Company since 2017. I was President of Meredith's National Media Group from 2010 – 2016. I joined Meredith in 2004.

2. Meredith is a publicly-traded media and marketing company headquartered in Des Moines, Iowa with an approximately $2 billion market cap.

3. Meredith operates two groups: the national media group, which consists of digital and magazine businesses, and the local media group. The national media group includes leading national consumer media brands delivered via multiple media platforms, including print magazines, digital and mobile media, brand licensing activities, database-related activities, affinity marketing, and business-to-business marketing products and services.

4. The national media group contributed approximately 65 percent of Meredith's consolidated revenues in fiscal year 2021, ending June 30, 2021.

5. Meredith is the largest magazine publisher in the U.S., measured by both revenue and audience reach. Meredith published approximately 30 subscription magazines in fiscal year 2021, including Better Homes & Gardens, People, Southern Living, Shape, Parents, Martha Stewart Living, Real Simple, EatingWell, In Style, and Entertainment Weekly, and over approximately 300 special interest publications. Two of Meredith's most popular magazines, Better Homes & Gardens and People, have a "rate base" guaranteed circulation for advertisers, of approximately 7.6 million and 3.4 million, respectively. In total, Meredith mailed approximately 475 million individual magazines through the United States Postal Service ("USPS") in fiscal year 2021.

6. Meredith's digital business includes web, mobile, video, social, audio, and over-the-top content. Meredith owns and operates 50 websites serving an average of approximately 150 million unique visitors each month and produces digital magazine editions.

Meredith's Print Magazine Business Relies on the Postal System

7. Meredith's print magazine business relies on USPS. Over 90% of Meredith's magazines are sold by subscription, and most subscriptions are delivered through the mail.

8. Indeed, Meredith's magazines reach 100 million consumers every month. Meredith had approximately 36 million active subscriptions at December 31, 2020, and the majority of Meredith's subscription brands are issued between six and 12 times annually. On average, Meredith sells more than approximately 30 subscriptions every minute.

9. Meredith continually seeks the most economical and effective methods for mail delivery, including cost-saving strategies that leverage work-sharing opportunities within the Postal Service.

10. Still, postage is a significant expense of the magazine segment. Periodical postage accounts for approximately 80 percent of Meredith's postage costs, while postage costs for other mail items—direct mail, replies, and bills—account for approximately 20 percent.

11. Meredith mail generated approximately $145 million in USPS revenue in fiscal year 2021. Of that total, Periodicals class mail comprised approximately $120 million, with approximately $25 million spent on First Class and Marketing Mail lettermail in support of the magazines.

Impact of the Proposed Price Increase

12. Meredith has actively worked independently and with others, including through industry trade organizations, to encourage and help the USPS to find and implement efficiencies to contain rate increases. In years past, we filed comments with the Postal Regulatory Commission in which we stated that the then-proposed rate increases would cause us and our customers significant harm, including potential magazine closures, circulation cuts, issue frequency reductions, and diversion away from physical mail channels.

13. Still, postage prices have risen in each of the last three years. The most recent rate change was an increase of approximately 1.8 percent for First-Class Mail and 1.5 percent for other categories effective January 2021. On May 28, 2021, the USPS filed a notice of additional and much higher price increases to take effect August 29, 2021. The Postal Regulatory Commission approved these price increases on July 19, 2021. We understand the price increase to be the largest percentage increases to date.

14. The price increase on postage will affect Meredith's individual magazines differently depending on each title's characteristics (such as, for example, its circulation and

weight). Even with Meredith's scale and efficient mailing practices, we estimate that the impact on our individual magazines' spend will range from approximately 5 to 13 percent, with Meredith's postage costs for Periodicals increasing by approximately 6 percent. We further estimate that these price increases will result in Meredith's First Class and Marketing Mail postage costs to increase by approximately 7 percent each. In addition, we expect that the approved price increases will result in higher subscription rates for consumers, which will result in reduced direct mail responses and renewals, and further drive up Meredith's circulation related costs. This will require Meredith to take increasingly aggressive cost saving actions.

15. Historically, Meredith has been able to significantly mitigate postage increases through aggressive cost reductions in paper and print and by partnering with our vendors to develop creative preparation initiatives that make our mailings more efficient and less costly for the USPS. In today's leaner business environment, particularly with the COVID-19 pandemic and contraction in the paper and printing industries, cost reduction opportunities are more limited.

16. With the postal price increases, Meredith will be left with no option other than to consider: reducing print circulation, diverting magazine delivery in high-density areas to more economical but less consumer-friendly delivery options, and/or moving even more aggressively into digital platforms. We estimate the proposed price increases will result in an approximately 30 percent reduction in our mailpiece volume.

17. The price increases will significantly impact consumers. First, these price increases will be passed on to consumers as they bear some of the increased costs to Meredith. Second, Periodicals mail has significant value to the American people. Postal customers look forward to receiving their print magazines and having their "mailbox moment." This proposed price increase would impede the ability of mail with unique educational, cultural, scientific, and informational value to reach its readers. We expect that certain demographics of consumers, such as those in rural communities or the elderly, would be particularly impacted as they are less easily able to switch to digital content if Meredith were to reduce its print circulation.

I declare under penalty of perjury that the foregoing is true and correct.

Date Signature

___7/23/21_____ _____

Thomas H. Harty
Chairman, President, CEO, Meredith Corporation

EXHIBIT 17

[ORAL ARGUMENT NOT SCHEDULED]

Nos. 17-1276, 20-1505, 20-1510, 20-1521

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES POSTAL SERVICE,
Petitioner,

v.

POSTAL REGULATORY COMMISSION,
Respondent.

NATIONAL POSTAL POLICY COUNCIL, *et al.*,
Petitioners,

v.

POSTAL REGULATORY COMMISSION,
Respondent.

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), the undersigned counsel certifies as follows:

A. Parties and Amici

The Alliance of Nonprofit Mailers, the Association for Postal Commerce, MPA – The Association of Magazine Media, the American Catalog Mailers Association, the Major Mailers Association, and the National Postal Policy Council are petitioners in cases 17-1276, 20-1505, 20-1510 and intervened in support of respondent in case 20-1521. The News Media Alliance intervened in support of petitioners in cases 17-1276, 20-1505, 20-1510. Valpak Franchise Association, Inc. intervened in 17-1276, but subsequently withdrew.

The United States Postal Service is the petitioner in case 20-1521 and intervened in support of respondent in cases 17-1276, 20-1505, 20-1510.

The Postal Regulatory Commission is the respondent in all four cases.

B. Rulings Under Review

The Commission orders under review are Order No. 4257, Dkt. No. RM2017-3 (P.R.C. Dec. 1, 2017), and Order No. 5763, Dkt. No. RM2017-3 (P.R.C. Nov. 30, 2020).

C. Related Cases

This case has not previously been before this Court, and we are not aware of any additional cases related to these consolidated cases within the meaning of D.C. Circuit Rule 28(a)(1)(C).

/s/ Michael Shih
MICHAEL SHIH

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Accountability Act/Act	Postal Accountability and Enhancement Act, Pub. L. No. 109-435, 120 Stat. 3198 (2006)
JA	Deferred Joint Appendix
Mailers' Br./Br.	Initial Brief of Petitioners in Case Nos. 17-1276, 20-1505, and 20-1510
Order No. 4257	Order No. 4257, Dkt. No. RM2017-3 (P.R.C. Dec. 1, 2017)
Order No. 5337	Order No. 5337, Dkt. No. RM2017-3 (P.R.C. Dec. 5, 2019)
Order No. 5763/Order	Order No. 5763, Dkt. No. RM2017-3 (P.R.C. Nov. 30, 2020)
Stay Order	Order No. 5818, Dkt. No. RM2017-3 (P.R.C. Jan. 19, 2021)
USPS Br.	Corrected Initial Brief of Petitioner in Case No. 20-1521

INTRODUCTION

In the Postal Accountability and Enhancement Act, Pub. L. No. 109-435, 120 Stat. 3198 (2006) (Accountability Act or Act), Congress directed the Postal Regulatory Commission to create an initial ratemaking system to govern certain postal products. Congress instructed the Commission to review that system ten years after the system's creation to determine whether the system was meeting the Act's objectives. 39 U.S.C. § 3622(d)(3). Congress further authorized the Commission to "make . . . modification[s]" to the system or to "adopt such alternative system . . . as necessary to achieve th[ose] objectives." *Id.*

The Commission's ten-year review, which it conducted with the benefit of notice and comment, revealed that the initial system had failed to meet the Accountability Act's objectives. The Commission traced many of these failures to the system's price cap, which limited the Postal Service from increasing rates beyond the rate of inflation. Due to significant changes in the marketplace for postal goods that occurred almost immediately after the Act became law, the Postal Service incurred billions of dollars in costs that were not tied to

inflation and were out of its direct control. By preventing the Postal Service from raising rates to a level sufficient to recoup some of those costs, the inflation-linked price cap left the agency chronically underfunded and in significant financial distress. Indeed, in the decade after the Act was enacted, the Postal Service suffered a cumulative net loss of over $59 billion and defaulted on billions of dollars of statutory payment obligations. The Commission thus proposed to alter the initial price cap to grant the Postal Service the ability to address those costs, and issued an order to that effect after multiple opportunities for public comment.

This case involves four consolidated petitions for review of the Commission's decision. Three petitions were filed by organizations whose members buy market-dominant products (the mailers). The mailers argue that the Commission lacked statutory authority to deviate from the inflation-linked price cap. They also argue that, by giving the Postal Service discretion to raise rates beyond what that cap would permit, the Commission acted arbitrarily and capriciously. The fourth petition was filed by the Postal Service. Unlike the mailers, the Postal Service agrees that the Accountability Act authorized the

Commission to revise or replace the initial system, including its price cap. But the Postal Service contends that the Commission's actions were arbitrary and capricious for reasons diametrically opposed to those supplied by the mailers—that is, because the Commission did not take sufficiently drastic action to fix the Postal Service's financial problems.

Petitioners' arguments all lack merit. As a statutory matter, the Accountability Act unambiguously authorizes the Commission to modify or replace any and all aspects of the initial ratemaking system. The price cap is indisputably part of that system. The Commission thus acted well within the bounds of its authority when it altered the price cap to address the initial system's deficiencies. As a policy matter, the Commission reasonably concluded that its alterations appropriately balanced the competing interests of the Postal Service and its customers. Although both the Postal Service and the mailers profess dissatisfaction with the Commission's compromise approach, Congress left it up to the agency to determine how best to vindicate the Act's objectives. Because the Commission's approach was both reasonable and reasonably explained, this Court should decline petitioners' invitation to second-guess the Commission's expert judgment.

STATEMENT OF JURISDICTION

This appeal involves four consolidated petitions for review. Petitioner in Case No. 17-1276 sought review of Postal Regulatory Commission Order No. 4257, Dkt. No. RM2017-3 (P.R.C. Dec. 1, 2017) (Order No. 4257) (JA__-__). The petition was timely filed on December 29, 2017. JA__-__. Petitioners in Case Nos. 20-1505 and 20-1510 sought review of Postal Regulatory Commission Order No. 5763, Dkt. No. RM2017-3 (P.R.C. Nov. 30, 2020) (Order No. 5763 or Order) (JA__-__), which incorporated Order No. 4257. The petition was timely filed on December 18, 2020. JA__-__. Petitioner in Case No. 20-1521 likewise sought review of Order No. 5763. The petition was timely filed on December 29, 2020. JA__-__. This Court has jurisdiction under 39 U.S.C. § 3663.[1]

[1] These orders cited in this brief were issued in Docket RM2017-3. *See* Postal Regulatory Comm'n, *Docket Details: RM2017*-3, https://go.usa.gov/xs3dj (last visited June 14, 2021).

STATEMENT OF THE ISSUES

The questions presented are:

1. Whether the Commission had statutory authority to grant the Postal Service additional rate authority beyond that permitted by the initial ratemaking system's price cap; and

2. Whether the Commission's alterations to the price cap were arbitrary and capricious.

PERTINENT STATUTES

Pertinent statutory provisions are reproduced in the addendum to this brief.

STATEMENT OF THE CASE

I. Statutory and Regulatory Background

For most of the Nation's history, Congress regulated postal rates directly. *National Ass'n of Greeting Card Publishers v. U.S. Postal Serv.*, 462 U.S. 810, 813 (1983). In 1970, Congress conferred ratemaking authority on the agency now called the Postal Regulatory Commission. Postal Reorganization Act, Pub. L. No. 91-375, § 3621, 84 Stat. 719, 760. Congress did so because "the increasing economic, accounting, and engineering complexity of ratemaking issues" made them ill-suited for Congress and its staff and because it believed that

ratemaking duties were better entrusted to an "expert[]" agency "composed of 'professional economists, trained rate analysts, and the like.'" *National Ass'n of Greeting Card Publishers*, 462 U.S. at 822-23.

In 2006, Congress enacted the Postal Accountability and Enhancement Act to further govern postal rates. The Act classifies the Postal Service's mail products into two categories—"competitive" and "market-dominant," 39 U.S.C. § 3642(b)(1)—and imposes different parameters on the rates for each category. This case concerns the ratemaking system for market-dominant products. These products are those over which the Postal Service either "enjoys a statutory monopoly" or "exercises sufficient market power so that it can effectively dictate the[ir] price . . . without risk of losing much business to competing firms." *U.S. Postal Serv. v. Postal Regulatory Comm'n*, 785 F.3d 740, 744 (D.C. Cir. 2015) (citing 39 U.S.C. § 3642(b)(1), (2)).

The Act instructs the Commission to "establish" a ratemaking system for market-dominant products within 18 months of the Act's enactment. 39 U.S.C. § 3622(a). In its initial form, the system had to include certain features, including a price cap limiting annual rate increases to annual changes "in the Consumer Price Index for All Urban

Consumers." *Id.* § 3622(d)(1)(A). This index measures "the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services." U.S. Bureau of Labor Statistics, *Consumer Price Index*, https://www.bls.gov/cpi/ (last visited June 14, 2021). The cap thus prevented rates for each class of market-dominant products from rising faster than the index, which is linked to inflation. *See U.S. Postal Serv.*, 785 F.3d at 744.

To guide the Commission, the Act enumerates nine objectives for the initial system to achieve. 39 U.S.C. § 3622(b). These objectives include: (1) "maximiz[ing] incentives to reduce costs and increase efficiency"; (2) "creat[ing] predictability and stability in rates"; (3) "maintain[ing] high quality service standards"; (4) "allow[ing] the Postal Service pricing flexibility"; (5) "assur[ing] adequate revenues, including retained earnings, to maintain financial stability"; (6) "reduc[ing] the administrative burden and increas[ing] the transparency of the ratemaking process"; (7) "enhanc[ing] mail security and deter[ring] terrorism"; (8) "maintain[ing] a just and reasonable schedule for rates"; and (9) "allocat[ing] the total institutional costs of the Postal Service appropriately between market-dominant and

competitive products." *Id.* Congress instructed the Commission to "appl[y]" each objective "in conjunction with the others," notwithstanding the fact that some objectives point in different directions. *Id.* For example, creating a predictable and stable rate system is in some tension with giving the Postal Service pricing flexibility.

The Act further enumerates fourteen factors for the Commission to consider when implementing the initial system. 39 U.S.C. § 3622(c) (listing factors such as the "importance of pricing flexibility," the "effect of rate increases upon" mail users, and the "need for the Postal Service to increase its efficiency and reduce its costs," and "the policies of [the Accountability Act] as well as such other factors as the Commission determines appropriate"). These factors, like the nine statutory objectives, likewise point in multiple directions and leave significant room for the Commission to deploy its expertise in balancing different policy goals.

The Accountability Act does not set the initial ratemaking system in stone. To the contrary, the Act contains two different mechanisms for changing it. First, § 3622(a) gives the Commission discretion to

"revise" the system "from time to time." 39 U.S.C. § 3622(a). When doing so, the Commission must consider the fourteen factors enumerated in § 3622(c).

Second, § 3622(d)(3) provides that, ten years after the Act's enactment, the Commission must review the "system for regulating . . . market-dominant products established under this section [39 U.S.C. § 3622]." This review must "determine if the system is achieving" the Act's nine "objectives," "taking into account the [Act's fourteen] factors." 39 U.S.C. § 3622(d)(3). "If the Commission determines . . . that the system is not achieving th[ose] objectives," "taking into account the [fourteen] factors," the Commission "may . . . make such modification or adopt such alternative system for regulating rates . . . for market-dominant products as necessary to achieve the objectives." *Id.* By its terms, this authority is more expansive than that conferred by § 3622(a).

II. Factual Background

This case arises from the Commission's mandatory ten-year review under § 3622(d)(3). The Commission determined, with the benefit of notice and comment, that the initial ratemaking system was

not achieving the Accountability Act's objectives, taking into account the statutory factors. *See generally* Order No. 4257(JA__-__). After reviewing the available economic evidence, the Commission concluded that the Postal Service's "operating environment" "rapidly" changed after the Accountability Act's enactment in 2006. Order 5(JA__). The 2007 Great Recession "had a substantial negative impact on Postal Service volume and revenues." *Id.* That economic downturn coincided with "emergent technological trends (*e.g.*, email, text messaging, and other electronic transmission of messages and information) that resulted in even greater volume declines for First-Class Mail[] in particular—the Postal Service's most profitable mail class." Order 5-6(JA__-__). At the same time, the Postal Service's liabilities skyrocketed thanks to the Accountability Act's new requirement that the agency prefund health benefits for retirees. *Id.* Those statutorily mandated payments averaged $5.6 billion per year. *Id.*

These problems were further compounded by the initial system's price-cap provision, which limited the Postal Service's ability to raise rates by capping rate increases at the rate of inflation. Congress adopted the price cap to "enable the Postal Service to achieve sufficient

revenues to cover all of its . . . costs and statutorily mandated obligations while . . . motivat[ing] the Postal Service to cut costs and become more efficient." Order No. 4257, at 3(JA__). Linking the Postal Service's ability to raise rates to the rate of inflation was reasonable because, when the Accountability Act was enacted, the Postal Service's finances were stable and increases in the costs of delivering mail were largely correlated with inflation. *Id.* at 37(JA__).

That correlation began to break down almost immediately after the Act's enactment. Order 282-83 & n.349(JA__-__ & n.349). In particular, the period of deflation that followed the 2007 economic downturn significantly constrained the Postal Service's ability to increase rates in response to technological changes and diminishing mail volume. Order 6(JA__). Since 2007, the Postal Service's costs have risen by more than 54 percent, while inflation-based rate authority has risen by just 27 percent. Order 88(JA__). This "sudden divergence made it extremely challenging for the Postal Service to manage retained earnings through sustained net income." Order 283(JA__) (quotation marks omitted).

Given these findings, the Commission determined that the inflation-linked price cap had failed to achieve several important statutory objectives. In particular, the price cap had not allowed the Postal Service to maintain "financial stability," had not "maximized" "incentives to reduce costs and increase operational efficiency," and had not achieved "reasonable rates." Order 9(JA__-___). Indeed, in the decade after the Accountability Act was enacted, the Postal Service suffered a cumulative net loss of $59.1 billion, and defaulted on the vast majority of its statutorily mandated benefits payments. Order 7(JA__).

The Commission initiated another round of notice and comment on its proposed changes to the initial ratemaking system. *See* Order 11(JA__). It revised those proposals after considering the comments that it received. *See* Order 16(JA__). After an additional round of notice-and-comment, the Commission issued an order finalizing its alterations. *See generally* Order(JA__-__), *published at* 85 Fed. Reg. 81,124 (Dec. 15, 2020).

The final order does not eliminate the price cap. Instead, the order gives the Postal Service the authority to increase rates beyond the rate of inflation in certain limited respects. This authority addresses

three areas where the initial price prevented the ratemaking system from achieving the Accountability Act's objectives, as described in greater detail below. *Infra* pp. 14-22. Importantly, "[t]he provision of additional rate authority to the Postal Service does not automatically or necessarily translate into price increases." Order No. 5818, Dkt. No. RM2017-3, at 19 (P.R.C. Jan. 19, 2021) (Stay Order) (JA__-__). That is because the ratemaking system merely "sets the outer parameters of rates that the Postal Service may charge." *Id.* The Postal Service retains discretion to decide whether to invoke any or all of its rate authorities and to what degree. *Id.* If it does, it must give the public 90 days' notice. *Id.* Any proposed rate increases will then be reviewed by the Commission in a further notice-and-comment proceeding. Stay Order 19-20. The results of that proceeding will be subject to judicial review. Stay Order 20.[2]

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[2] On May 28, 2021, the Postal Service filed its first notice of a price change under the new ratemaking system. U.S. Postal Service Notice of Market Dominant Price Change, Dkt. No. R2021-2, (P.R.C. May 28, 2021), https://go.usa.gov/x6kSP. The Postal Service proposes to use nearly all of its available rate-adjustment authority. *Id.* at 1, 4-5. Comments are due on June 28, 2021. Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products, Order No. 5905, Dkt. No. R2021-2, at 4 (P.R.C. June 1, 2021), https://go.usa.gov/x6kSV.

A. Density-Based Rate Authority

First, the order gives the Postal Service authority to raise rates to account for per-unit cost increases caused by declines in mail density. Order 72-73(JA__). The concept of density reflects the fact that the Postal Service is a "network industry"—that is, an industry where "goods and services are provided over a geographic network of nodes and links." Order 74(JA__). The Postal Service delivers mail to mailboxes and other delivery points nationwide using a network of delivery routes. Mail density is the ratio between the total number of mail pieces that the Postal Service must deliver and the total number of delivery points that the Postal Service must serve. Order, App. A, at 2(JA__).

In network industries, "handling multiple products together leads to important cost advantages." Order 74(JA__). As relevant here, "[e]conomies of density occur when a greater volume of goods and services is provided per . . . delivery point[]." Order 75(JA__). The more mail that the Postal Service delivers, the cheaper it is to deliver each mail piece. That is because the costs of reaching each mailbox can be "spread over a larger volume of goods and services." *Id.* Conversely,

the less mail the Postal Service delivers, the more expensive the cost of delivering each mail piece becomes. *Id.*

From Fiscal Year 2007 to Fiscal Year 2019, the total volume of market-dominant mail declined by 35 percent. Order 87(JA__). Over the same period, the number of delivery points increased by 10 percent. *Id.* "[T]hese trends mean that the density of Market Dominant mail has decreased by 41 percent during the [Accountability Act] era." *Id.* This decline reduced the Postal Service's ability to take advantage of economies of density, and raised the cost of delivering the over one hundred billion pieces of mail that the Postal Service handles each year by about 9 to 11 cents per piece. Order 89-90(JA__).

The Commission found that these cost increases are outside the Postal Service's direct control and "cannot be avoided through operational changes, particularly not in the short- and medium-term." Order 90(JA__). The Postal Service is legally prohibited from decreasing the number of delivery points that it serves. Under current law, the Postal Service must deliver mail "6 days per week to virtually every address," Order 76 & n.118(JA__ & n.118), and it lacks authority to "unilaterally change" those statutorily prescribed requirements,

Order 76(JA__). Nor can the Postal Service directly control the amount of mail that consumers ask it to deliver. Order 77(JA__). By capping the Postal Service's ability to raise rates at the rate of inflation, the initial system prevented the Postal Service from "rais[ing] additional revenue to cover the increase," thus "forc[ing]" the Postal Service to "absorb" the "above-inflation increase in per-unit costs driven by the loss of density." Order 90(JA__).

The density-based rate authority gives the Postal Service the ability to increase rates in response to future fluctuations in density. The specific amount is tied to year-to-year changes in density. If density does not decline, the Postal Service cannot invoke this authority to raise rates. Order 79(JA__). But if density does decline, the Postal Service may raise rates up to the "amount by which unit costs are expected to increase as a result of the measured decline in density." *Id.*; *see* Order, App. A, § I.B(JA__) (technical explanation).

B. Retirement-Based Rate Authority

The order also gives the Postal Service authority to raise rates "equal to the percentage by which total revenue would need to increase to provide sufficient revenue for the Postal Service to make its required

retirement obligation payments." Order 17(JA__). This temporary authority will help the Postal Service achieve financial stability by helping the Postal Service cover statutorily mandated retirement obligations that it currently cannot pay—a second "driver[] . . . of net losses" that is outside the Postal Service's control. *Id.*

Before Congress enacted the Accountability Act, the Postal Service was required to pay its share of health-insurance premiums for all current retirees and their survivors on a pay-as-you-go basis. *See* Order 101(JA__). The Act altered this system by establishing a Postal Service Retiree Health Benefits Fund and requiring the Postal Service to prefund long-term health benefits for current employees, retirees, and their survivors. *See* Order 102(JA__); *see also* 5 U.S.C. § 8906(g)(2)(a)-(b). No other governmental or private-sector entity is required to prefund retiree health benefits at this level. Order 102 & n.143(JA__ & n.143). Between 2007 and 2019, the Postal Service has missed or defaulted on over $81 billion in required payments. Order 102(JA__).

The Postal Service is also required by law to prefund its retirees' pension benefits and to make up any shortfalls with interest, as calculated by the Office of Personnel and Management. 5 U.S.C.

§ 8348(h)(2)(B) (Civil Service Retirement System); *id.* § 8423(b)(2) (Federal Employees Retirement System). Between Fiscal Year 2017 and Fiscal Year 2019, the Postal Service defaulted on all $4.8 billion of its Civil Service Retirement System shortfall payments, and on all $2.9 billion of its Federal Employees Retirement System shortfall payments. Order 103-04(JA__-__).

The retirement-based rate authority "precisely target[s] these loss drivers" using several detailed formulas. Order 105(JA__). For each year, the formulas "calculate the percentage amount by which revenue on all products . . . would need to increase" for the Postal Service to pay its shortfall payments for the most recent fiscal year. Order 106(JA__); *see* Order, App. A, § II.A(JA__) (technical explanation). A portion of that percentage "is authorized as additional rate authority" each year for five years, at which point the full percentage will have been phased in. Order 106(JA__).

This rate authority is subject to several conditions. Most significantly, the Postal Service cannot raise rates by the calculated percentage all at once. Order 106(JA__). The Postal Service must instead spread out that increase over a period of five years, as set by a

formula tying the amount of available rate authority to changes in mail volume. *Id.* By accounting for annual volume changes, the formula protects the Postal Service from receiving too little additional revenue during the phase-in period if volume decreases. *Id.* At the same time, the existence of the phase-in period protects mailers from the prospect of a sudden price spike. *Id.* Additionally, to prevent the Postal Service from using this additional rate authority and spending it on costs other than retirement benefits, the Postal Service "must remit the entire amount of revenue raised under this authority . . . towards the targeted amortization payments." Order 107(JA__).[3]

C. Rate Authority for Non-Compensatory Products and Classes

Finally, the order establishes certain requirements for "non-compensatory [mail] products"—that is, products whose profits do not cover the costs incurred to provide them. Order 181-82(JA__-__). In the Commission's judgment, these products "are not reasonably or

[3] Congress is currently considering several bills that would alter or eliminate the Postal Service's prefunding requirement. *E.g.*, Postal Service Reform Act of 2021, H.R. 3076, 117th Cong. § 102; Postal Service Reform Act of 2021, S. 1720, 117th Cong. If these proposals become law, the retirement-based rate authority could be altered or removed as appropriate. *See* Order 129-30(JA__-__).

efficiently priced" and "threaten the financial integrity of the Postal Service." Order 182(JA__). To improve these products' viability, the order prohibits the Postal Service from reducing rates for non-compensatory products. *Id.* The order also requires that, whenever the Postal Service exercises its existing authorities to increase rates for a mail class that covers its costs but that contains a non-compensatory product, the proposal must include a minimum increase for the non-compensatory product of 2 percentage points above the percentage increase for that class. *Id.* This does not allow the Postal Service to increase rates by more than is permitted by existing rate authorities. Rather, it requires the Postal Service to prioritize non-compensatory products by devoting rate increases to them, with the goal of ensuring that no products remain underwater. *Id.*

The order also addresses the problem of "non-compensatory [mail] classes"—that is, classes "for which the costs of all products exceed the revenues of all products." Order 189(JA__). Like non-compensatory products, non-compensatory classes "threaten the financial integrity of the Postal Service." *Id.* Improving their profitability is difficult because the Postal Service cannot increase the total rates for any given class of

mail beyond what the price cap permits. *Id.* When relatively few products in a mail class do not cover their costs, the Postal Service can increase rates for products that are underwater and decrease rates for products that are profitable. *Id.* But non-compensatory classes typically contain no profitable products "against which such offsets can be made." *Id.*

To address this problem, the order allows the Postal Service to increase the total rates for any non-compensatory class by an additional 2 percentage points above what existing rate authorities would permit. Order 190(JA__). The Postal Service is not required to exercise this authority for all non-compensatory classes every year; instead, the Postal Service retains the "flexibility to determine if and when this additional authority" should be used. Order 191(JA__). The Commission recognized, however, that "the ability to use the additional authority is equivalent to a requirement." Order 195(JA__). To discourage the Postal Service from using the authority for no reason other than to avoid losing it, the order allows the Postal Service to bank it as unused rate authority for the future. *Id.*; *see* 39 U.S.C. § 3622(d)(2)(C) (establishing generally applicable procedures for

banking and exercising unused rate authority). This feature of the system incentivizes the Postal Service to consider demand and other market conditions before determining whether to invoke this rate authority in any given year. Order 195(JA__).[4]

III. Procedural History

Seven petitioners filed four petitions for review of the Order in this Court. The petitions in Case Numbers 17-1276, 20-1505, and 20-1510 were filed by six organizations whose members buy market-dominant products.[5] In general, the mailers allege that the Commission's decision to grant the Postal Service additional rate authorities violates the Administrative Procedure Act because the Commission lacks statutory authority to alter the initial inflation-

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[4] In its notices of proposed rulemaking, the Commission suggested granting the Postal Service additional rate authority every year as an incentive to meet certain performance and efficiency goals. *See* Order 132(JA__) (discussing proposals). After considering the comments that it received, the Commission decided not to adopt a performance-based rate authority in the order. Order 162(JA__). The Commission has initiated a separate rulemaking to consider the issue in detail. *See* Advance Notice of Proposed Rulemaking Regarding Performance Incentive Mechanism, Order No. 5816, Dkt. No. RM2021-2 (P.R.C. Jan. 15, 2021), https://go.usa.gov/x65eQ.

[5] A seventh such organization intervened in support of the mailers and joined their opening brief in full.

linked price cap and because the order's provision of additional rate authorities is arbitrary and capricious. The Postal Service intervened in support of the Commission in all three cases. The petition in Case Number 20-1521 was filed by the Postal Service. The Postal Service alleges that the order is arbitrary and capricious because among other things, the Commission did not take sufficiently aggressive action to address the Postal Service's financial issues. The mailers intervened in support of the Commission. This Court consolidated the four petitions.

In December 2020, the mailers asked the Commission to stay the effective date of the order. The Commission denied their motion. Stay Order 26(JA__). The Commission found that the mailers were unlikely to prevail on the merits of their arguments, *see generally* Stay Order 4-18(JA__-__); that they had "failed to present convincing evidence to show that they would be irreparably harmed in the absence of a stay," Stay Order 18-23, 25(JA__-__, __); and that any delay in implementing the order "would prolong the Postal Service's financial difficulties" and would undermine the public interest, Stay Order 24-25(JA__-__). The mailers then sought to stay the order pending appeal in this Court. The Court denied that motion but expedited consideration of the appeal.

SUMMARY OF ARGUMENT

A. The Commission acted well within its authority when it altered the failed inflation-linked price cap to reflect changing economic conditions. The Accountability Act requires the Commission to "review the system . . . established under this section [39 U.S.C. § 3622]" ten years after its enactment. 39 U.S.C. § 3622(d)(3). If the Commission determines that the system is not meeting the Act's objectives, the Commission may either "modif[y]" the system or "adopt such alternative system . . . as necessary to achieve the objectives." *Id.* This language unambiguously empowers the Commission to alter or replace any aspect of the initial system if the Commission determines that doing so would better advance Congress's aims. And the Commission's interpretation is further buttressed by the Act's structure, history, and purposes.

The mailers emphasize that, when Congress created the initial ratemaking system, it stated that "[t]he system for regulating rates . . . for market-dominant products shall . . . include" a price cap. 39 U.S.C. § 3622(d)(1). But the very same subsection also empowers the Commission to modify or replace the "system . . . established under this section." *Id.* § 3622(d)(3). That phrase clearly refers to the entirety of

the initial ratemaking system established by § 3622, of which the price-cap provision is a part. The price-cap requirement of § 3622(d)(1) is thus part of the "system . . . established under" § 3622 that the Commission can modify or replace under § 3622(d)(3).

B. Both the mailers and the Postal Service argue that the Commission's alterations to the price cap were arbitrary and capricious. Their arguments, however, are diametrically opposed. The mailers suggest that the order departs too radically from the initial price cap. The Postal Service suggests that the order's departure from the initial cap was not radical enough. And both the mailers and the Postal Service contend that the Commission should have given more weight to the statutory objectives that favor their own parochial interests, and given less weight to the objectives that favor their opponents.

The Commission reasonably declined to adopt either extreme. Instead, the Commission took a balanced approach in light of the Accountability Act's nine objectives and fourteen factors, many of which point in different directions. *See* 39 U.S.C. § 3622(b), (c). And the Commission meticulously addressed and rejected each of petitioners'

arguments. The Commission's complex policy judgments and determinations warrant deference.

C. Finally, the mailers ask this Court to vacate the Commission's decision on account of a litany of highly technical objections to the Commission's economic analysis. But this Court's precedents decisively foreclose the mailers' invitation to substitute their economic predictions for the Commission's. In any event, none of the mailers' technical objections has merit.

STANDARD OF REVIEW

The Commission's orders may be set aside only if they were "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A); 39 U.S.C. § 3663. "The scope of review under the 'arbitrary and capricious' standard is narrow and a court is not to substitute its judgment for that of the agency." *Motor Vehicle Mfrs. Ass'n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The Commission's reasonable interpretation of the statutes it administers receives *Chevron* deference. *United Parcel Serv., Inc. v. Postal Regulatory Comm'n*, 890 F.3d 1053, 1062 (D.C. Cir. 2018).

ARGUMENT

I. The Commission Lawfully Altered The Inflation-Linked Price Cap

A. Congress Unambiguously Authorized the Commission To Revise or Replace the Price Cap During Its 10-Year Review of the Initial Ratemaking System

The Accountability Act instructs the Commission to create a "modern system for regulating [postal] rates and classes." 39 U.S.C. § 3622(a). The Act sets out Congress's goals and objectives for "such system," *id.* § 3622(b)-(c), and defines initial requirements for that "system," *id.* § 3622(d). The Act then requires the Commission to "review the system . . . established under this section [39 U.S.C. § 3622]" "[t]en years after the date of enactment." *Id.* § 3622(d)(3). If the Commission determines that "the system is not achieving" congressional objectives, the Commission may either "make . . . modification[s]" to the system or "adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives." *Id.*

The word "modification" means "the making of a limited change in something." Order 41(JA__) (quotation marks omitted). By contrast, the word "alternative" means "a proposition or situation offering a

choice between two or more things *only one of which may be chosen*." *Id*. (quotation marks omitted) (emphasis in original). Section 3622(d)(3) uses both words to describe the scope of the Commission's authority. Accordingly, the statute unambiguously allows the Commission to "replace[] . . . the existing ratemaking system with a different ratemaking system" if the Commission determines that the system is falling short of its statutory aims. *Id*.

It is equally clear that the price cap is part of the initial ratemaking system that the Commission can modify or replace. Section 3622(d)(1)(A) describes the price cap as an element of the "system for regulating rates and classes." 39 U.S.C. § 3622(d)(1). Section 3622(d)(3) instructs the Commission to review that system in its entirety, and allows the Commission either to modify it or to adopt a different system in its place. That authority thus extends to altering or even eliminating the price cap.

The structure of the Act confirms this conclusion. The Act separately permits the Commission to "from time to time . . . revise" the system of regulations that it promulgated to implement Congress's initial ratemaking design. 39 U.S.C. § 3622(a). But § 3622(d)(3) speaks

in substantially broader terms. It does not merely allow the Commission to revise or modify the system; it allows the Commission to adopt an alternative system entirely. Order 42-46(JA__-__). Reflecting the breadth of that authority, Congress placed more restrictions on § 3622(d)(3) than it did on § 3622(a). Unlike the authority in § 3622(a), which can be exercised in the Commission's discretion, the authority in § 3622(d)(3) can be exercised only after the Commission conducts a review of the system using notice and comment, and finds that the existing "system is not achieving" congressional objectives and that an alternative system is "necessary." 39 U.S.C. § 3622(d)(3).

The mailers cannot prevail even assuming that § 3622(d)(3) is susceptible to multiple interpretations. At a minimum, the Commission's interpretation is a reasonable reading of the statute in light of its text and structure. Order 39-41(JA__-__). The interpretation is also consistent with the history of § 3622(d)(3), which makes clear that Congress intended to allow the Commission to retain, modify, or eliminate the price cap. Order 62-66(JA__-__); *see infra* pp. 35-36. The interpretation thus warrants *Chevron* deference.

B. The Mailers' Counterarguments Lack Merit

1. The mailers principally argue (Br. 19-20) that the Act forbids the Commission from altering the price-cap provision because Congress stated that "[t]he system for regulating rates . . . for market-dominant products shall . . . include" a price cap. 39 U.S.C. § 3622(d)(1). But the very same subsection empowers the Commission to modify or replace the "system . . . established under this section." *Id.* § 3622(d)(3). That phrase clearly refers to the entirety of the initial ratemaking system established by § 3622, of which the price-cap provision is a part. Accordingly, the price-cap requirement of § 3622(d)(1) is part of the "system . . . established under" § 3622 that the Commission can modify or replace under § 3622(d)(3).

The implication of the mailers' argument is that the term "system" has two different meanings within the same subsection of the same statute. They contend (Br. 19-20) that the price-cap requirement is a never-changing feature of the "system" referenced in § 3622(d)(1) but is not part of the "system . . . established under" § 3622 that the Commission can modify or replace under § 3622(d)(3). Petitioners suggest that the latter "system" only refers to the regulations that the

Commission promulgated to implement the initial ratemaking system under § 3622(a).

The Court should reject the mailers' convoluted interpretation, which is contrary to settled rules of statutory interpretation. As a textual matter, § 3622(d)(3) refers to the "system . . . established under this section"—that is, the system established by the entirety of § 3622, and not merely the regulatory system created by subsection 3622(a). The price cap, which appears in § 3622(d)(1), is indisputably part of the "system . . . established under" § 3622. And as a structural matter, the mailers' interpretation would render § 3622(d)(3) superfluous. To reiterate, the Commission already has power to "revise" regulations issued to implement the Act's initial ratemaking system, 39 U.S.C. § 3622(a). Yet in the mailers' view, § 3622(d)(3) grants the Commission no additional power—notwithstanding the breadth of that provision's text, which permits not merely "modification" but also the adoption of an entirely different "alternative system." The mailers' interpretation is thus "at odds" with the fundamental principle that a "statute should be construed so that effect is given to all its provisions." *See Corley v. United States*, 556 U.S. 303, 314 (2009).

The mailers also accord undue significance (Br. 22-23) to Congress's use of the preposition "under" in the phrase "system . . . established under this section." 39 U.S.C. § 3622(d)(3). The mailers concede (Br. 23) that, if Congress had authorized the Commission to alter or revise the system established "*by* this section," that language would indisputably "empower the Commission with expansive authority to override" the initial system's terms. But the mailers argue that, because the word "under" can mean "subject to" or "governed by," the phrase "system . . . established *under* this section" must mean "system created by the Commission and *governed by* th[is] section." Br. 23 (quotation marks omitted).

The word "under" cannot bear that weight. In plain English, the phrase "system . . . established under this section" is most naturally read to mean "system established within the group or designation of this section." *See* Merriam-Webster Online Dictionary, *Under*, https://www.merriam-webster.com/dictionary/under (last visited June 14, 2021) (using the phrase "under this heading" as an example of this definition); 39 U.S.C. § 3622(d)(3). There is thus no meaningful distinction between the phrase "established under" and the phrase

"established by"—much less a distinction so clear-cut as to render the Commission's contrary interpretation unreasonable.

2. The mailers also argue (Br. 26) that the price cap's centrality to the initial system means that Congress would not have allowed the Commission to change it using § 3622(d)(3) without expressly referring to the price cap in that provision. But Section 3622(d)(3) grants the Commission power to adopt an alternative system in place of the "system . . . established under" § 3622. This power is undeniably significant, but the provision conferring that power is "written in starkly broad terms." *Cf. Bostock v. Clayton County*, 140 S. Ct. 1731, 1753 (2020). Accordingly, this proverbial elephant "has never hidden in a mousehole; it has been standing before us all along." *Id.*

The mailers incorrectly suggest (Br. 25) that the Commission's interpretation contradicts prior statements underscoring the price cap's importance. As the Commission explained, none of those statements purports to restrict the scope of the Commission's authority under § 3622(d). Order 65-67(JA__-__). The statements merely confirm that the price cap plays an important role in the initial ratemaking system,

see id.—a system that has failed to achieve Congress's objectives, as the Commission reasonably found.

The mailers note that other provisions of § 3622(d) refer to the price cap expressly. Br. 21 (citing 39 U.S.C. § 3622(d)(1)(E), (d)(2)(C)). But those provisions do so simply to explain how the cap interacts with other features of the initial ratemaking system. One provision states that, notwithstanding the price cap, the initial system should contain "procedures whereby rates may be adjusted . . . due to either extraordinary or exceptional circumstances." 39 U.S.C. § 3622(d)(1)(E). The other provision states that, if the Postal Service does not raise rates to the level that the price cap would allow, the Postal Service may roll over that unused rate authority into subsequent years. *Id.* § 3622(d)(2)(C). These provisions bear no resemblance to § 3622(d)(3), which expressly allows the Commission to modify or replace the system established under § 3622—a system that includes but is not limited to the price cap—in its entirety. That broad grant of authority necessarily includes authority to alter various components of the initial system, thus obviating the need for Congress to spell out all of those components once again.

Nor is it "unlikely" (Br. 25-26) that the Commission's interpretation is consistent with congressional intent. The Accountability Act was a compromise between a House bill that did not require a price cap and a Senate bill that made the price cap permanent. Order 34-35(JA__-__). Senator Susan Collins—the sponsor of the compromise bill—explained that "[a]fter 10 years, the Postal Regulatory Commission will review the rate cap and, if necessary," will "modify or adopt an alternative system." Order 36(JA__) (quoting 152 Cong. Rec. S11,675 (daily ed. Dec. 8, 2006) (statement of Sen. Collins)). Senator Collins further stated that, although she continued to believe that a "permanent" rate cap would be the "preferable approach," Congress had "reached this compromise to allow" the bill to pass. *Id.* (quotation marks omitted). Senator Collins noted that, after the ten-year review, the Commission might "well decide that it is best to continue with a [inflation-linked] rate cap in place." *Id.* (quotation marks omitted). And she explained that, if the Commission decided to eliminate the price cap, Congress could always "reimpose the . . . cap after it expires." *Id.* (quotation marks omitted).

The available legislative history thus confirms that Congress never required the price cap to be permanent. The mailers cite no evidence indicating that Congress would have wanted the Commission to retain a failed price cap when, in the Commission's judgment, the price cap must be altered to achieve the Accountability Act's objectives.

3. Finally, the mailers contend (Br. 26-30) that the canon of constitutional avoidance requires this Court to interpret § 3622(d)(3) to forbid the Commission from altering the price cap. That canon "comes into play only when, after the application of ordinary textual analysis, the statute is found to be susceptible of more than one construction." *Jennings v. Rodriguez*, 138 S. Ct. 830, 842 (2018) (quotation marks omitted). Because the Act plainly grants such authority to the Commission, the avoidance canon does not apply.

In any event, the mailers have failed to demonstrate that the Act raises any serious constitutional questions. *See Reno v. Flores*, 507 U.S. 292, 314 n.9 (1993) ("Statutes should be interpreted to avoid *serious* constitutional doubts, not to eliminate all possible contentions that the statute *might* be unconstitutional." (citation omitted) (emphasis in original)). For example, the mailers suggest (Br. 28) that the

Commission's modifications to the price cap violate the Presentment Clause. This claim depends on the mistaken assumption that the modifications are statutorily barred. But § 3622(d)(3) grants the Commission precisely that authority. And that provision was approved by both Houses of Congress, presented to the President, and signed into law.

The mailers also suggest that if the Commission were allowed to alter the price cap, the Act would no longer contain any "intelligible principle" to constrain the Commission's discretion. Br. 27 (quotation marks omitted). That argument ignores the nine objectives and fourteen factors that the Commission must consider when undertaking its responsibilities under § 3622(d)(3). Those highly reticulated provisions are far more detailed than other statutes the Supreme Court has upheld against similar challenges over several decades. *See, e.g.*, *Whitman v. American Trucking Ass'ns*, 531 U.S. 457, 465 (2001) (authorizing Environmental Protection Agency to set standards that are "requisite to protect the public health" with "an adequate margin of safety" (quotation marks omitted)); *Federal Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 600 (1944) (authorizing Federal Power

Commission to determine "just and reasonable rate[s]" for wholesale sales of natural gas (quotation marks omitted)); *Yakus v. United States*, 321 U.S. 414, 420 (1944) (authorizing Price Administrator to fix commodity prices in a "fair and equitable" manner that would "effectuate" statutory purposes (quotation marks omitted)); *see generally Gundy v. United States*, 139 S. Ct. 2116, 2123 (2019) (listing cases).

II. The Order Is Not Arbitrary And Capricious

Both the mailers and the Postal Service argue that the order must be vacated because it is arbitrary and capricious. But their arguments are diametrically opposed. The mailers argue (Br. 16-17) that the order is unlawful because it departs too radically from the initial system's price cap and, in their view, disserves some of the Accountability Act's objectives. By contrast, the Postal Service argues (USPS Br. 24-25) that the order is unlawful because its departure from the initial system is not radical enough. Both sets of arguments lack merit on their own terms, as the Commission explained and as set forth below.

Broadly speaking, however, petitioners' dueling conceptions of appropriate postal policy only underscore the complexity of the

Commission's task. The Commission reasonably balanced the competing interests of the Postal Service and its customers in light of the Accountability Act's nine objectives and fourteen factors, many of which point in different directions. *See* 39 U.S.C. § 3622(b), (c). Those policy determinations warrant deference. *See Gas Transmission Nw. Corp. v. FERC*, 504 F.3d 1318, 1322 (D.C. Cir. 2007) (deferring to "policy determinations invoking [agency] expertise in evaluating complex market conditions" (quotation marks omitted)).

A. The Commission Reasonably Balanced Conflicting Statutory Objectives and Petitioners' Competing Interests

Order No. 5763 is a reasonable revision of the initial ratemaking that precisely targets the inadequacies in the initial system's inflation-linked price cap. With the benefit of notice and comment, the Commission found that the initial system's inflation-linked price cap was preventing the Postal Service from maintaining "financial stability"; from "maximiz[ing]" "cost reductions and efficiency"; and from "achiev[ing]" "reasonable rates." Order No. 4257, at 4(JA__). This was because of a "sudden divergence" between the Postal Service's costs and the consumer price index. Order No. 4257, at 38, 40(JA__, __). As

a result of that divergence, the Postal Service suffered a cumulative net loss of $59.1 billion in the decade after the Accountability Act was enacted, and defaulted on the vast majority of its statutory payment obligations. Order 7(JA__).

The Commission recognized that, if properly calibrated, a price cap on market-dominant products can encourage efficiency and limit price increases. Order 311, 339-40(JA__, __-__). But the Commission found that the inflation-linked price cap failed to achieve those goals. Because the Postal Service faced significant costs that were unrelated to—and much greater than—inflation, the initial price cap did not provide sufficient rate authority to allow the Postal Service to recoup its losses by increasing rates. Order 5-6(JA__-__). In particular, the Commission concluded that the Postal Service's retirement pre-funding obligations and declines in mail density were significant cost drivers that exceeded inflation and were largely outside of the Postal Service's control. Order 77, 88, 100-04(JA__, __, __-__).

The Commission thus adopted a "balanced system" that retained the initial system's price cap but adjusted it to address two types of postal costs for which the initial cap did not adequately account. First,

the Commission gave the Postal Service authority to raise rates to compensate for increased per-unit costs due to declining mail density. Second, the Commission gave the Postal Service authority to raise rates to pay for statutorily mandated benefits payments. The Commission also altered the price cap to encourage the Postal Service to address the persistent problem of underwater mail products and mail classes, whose inability to generate profits undermines the Postal Service's financial health.

In the Commission's judgment, this new system maintains the predictable prices that are a feature of a price-capped system; grants the Postal Service flexibility to adapt to changing market conditions; addresses the Postal Service's near-term revenue problems; encourages the Postal Service to become more efficient; and gives the Postal Service the tools it needs to achieve financial stability. Order 285, 298, 301-22, 345-48(JA__, __, __-__, __-__).

The Commission's approach differs markedly from those preferred by the mailers and by the Postal Service. The mailers object to the Postal Service receiving any new rate authority whatsoever. By contrast, the Postal Service faults the Commission for failing to adopt a

complete "rate reset" that would allow the Postal Service to increase prices to fully cover its current costs. In designing the new system, however, the Commission was required to balance nine statutory objectives, including "maximiz[ing] incentives to reduce costs and increase efficiency," "creat[ing] predictability and stability in rates," "maintain[ing] high quality service standards," "allow[ing] the Postal Service pricing flexibility," "assur[ing] adequate revenues, including retained earnings, to maintain financial stability," "reduc[ing] the administrative burden and increas[ing] the transparency of the ratemaking process," and "establish[ing] and maintain[ing] a just and reasonable schedule for rates and classifications." Order 279(JA__) (quoting 39 U.S.C. § 3622(b)). "[S]ome aspects of the[se] objectives are in tension with each other, whereas other aspects may overlap." Order 281(JA__).

The Commission recognized that "some aspects" of the order "may be in tension with particular components of certain objectives." Order 281(JA__). In particular, the Commission noted the tension between the objective of "creat[ing] predictability and stability in rates"—which would be supported by maintaining the initial price cap as the mailers

wish—and the objectives of assuring the Postal Service "adequate revenues, including retained earnings, to maintain financial stability" and ensuring a "just and reasonable" rate schedule—which would be furthered by resetting rates to a level that would be sufficient to cover costs as the Postal Service advocates. Order 279(JA__) (quotation marks omitted). But every ratemaking scheme involves tradeoffs of this sort. The Commission thus exercised its "reasoned, expert judgment to determine which tradeoffs should be made from a holistic view of the system's design." Order 297(JA__). And the Commission reasonably concluded that "the weight of the balance" tips in favor of the approach that it adopted. Order 281(JA__).

The mailers and the Postal Service contest that conclusion on the theory that the Commission should have been more solicitous toward their respective interests when evaluating five of the Act's nine objectives. The Commission properly addressed all of their concerns, and none of petitioners' arguments casts doubt on the reasonableness of the Commission's judgment.

1. Incentives to increase efficiency

For opposite reasons, both the Postal Service and the mailers assert that the final order will not promote efficiency. The Postal Service suggests that the increases in revenue under the order will not be sufficient to allow it to fund efficiency improvements. USPS Br. 27-28, 38-41. The mailers suggest that the Postal Service will not have adequate incentives to increase efficiency if it can increase rates by more than the rate of inflation. Mailers' Br. 31-32.

The Commission carefully balanced these concerns and concluded that, although a price cap can induce the Postal Service to make efficient choices, the initial system's price cap failed to do so. Because the initial system's price cap did not allow the Postal Service to raise rates to cover all of its losses, the Postal Service responded by "deferring capital investments," resulting in "dated, worn out, and malfunctioning facilities, vehicles, and equipment that may negatively impact efficiency and cost-reduction efforts." Order 335-36(JA__-__). The Postal Service also responded to this financial pressure with "an aggressive attempt to cut costs by reducing service standards," contrary to another of the Accountability Act's objectives. Order 325(JA__); *see also* Order

284(JA__); 39 U.S.C. § 3622(b)(3). Accordingly, the Commission reasonably found that the initial system failed to maximize efficiency gains by not giving the Postal Service enough capital to make efficiency-improving investments. Order 301(JA__); *see* 39 U.S.C. § 3622(b)(1).

At the same time, the Commission reasonably rejected an approach that would allow the Postal Service "to respond to its financial challenges through rate increases alone." Order 302, 348(JA__, __). Rather, it designed a new system that retains the incentives to reduce costs because—just like in the initial system—the Postal Service will still be limited in its authority to raise rates, will still need to reduce costs further to make up for prior losses, and will still be able to retain savings generated by efficiency improvements. Order 302, 304-05, 348(JA__, __-__, __). At the same time, the system provides the Postal Service with additional funds that can be used to improve efficiency. Order 302-03(JA__-__).

The mailers err in asserting that the Commission failed to consider the power of the price cap to reduce costs. Mailers Br. 33. The Commission considered this issue at length. *See generally* Order 298-310(JA__-__). Indeed, the Commission expressly concluded that "it

would be inappropriate to design a system that lacks a mechanism to limit the magnitude of price adjustments." Order 312(JA__). But although "[t]heoretically, a price cap system contains inherent incentives" to "increase efficiency and reduce costs," Order 301(JA__), the Postal Service's ability to make efficiency improvements was undermined by its lack of capital and by the fact that the specific costs targeted by the new rate authority are beyond the Postal Service's control, Order 301-06(JA__-__). As the Commission observed, "price caps are designed to encourage efficiency, [but] they do not do so by holding the regulated entity's prices chronically underwater"—a result that would also undermine other statutory objectives. Order 339-40(JA__-__).

The Postal Service asserts that, having recognized that its "poor" financial health stands in the way of it making efficiency gains," Order 294, 301(JA__, __) (quotation marks omitted), the Commission could not reasonably decline to give the Postal Service all of the rate authority that it requested. USPS Br. 39. But the Commission fully addressed these concerns. The Commission explained that it was making tradeoffs in order to balance cross-cutting statutory goals, and that it

was taking a gradual approach in order to avoid introducing new problems in an attempt to fix others. Order 297-310(JA__-__). And the Commission concluded that some form of price cap remained important in encouraging the Postal Service to reduce costs and optimize operational efficiency. *See* Order 301-02, 304, 339-40, 351-59(JA__-__, __, __-__, __-__).

The Postal Service also asserts (Br. 40) that the Commission disregarded the fact that the Postal Service cannot achieve long-term financial stability simply by cutting costs. But the Commission expressly acknowledged that "cost reductions alone are unlikely to be enough" to resolve the Postal Service's financial issues. Order 341(JA__). The Commission nevertheless determined that, given the Accountability Act's other objectives, it would be inappropriate to allow the Postal Service to respond to all of its challenges exclusively by raising rates. Order 340, 347(JA__, __). The Commission instead adopted a more balanced approach that "mitigate[s] the imminent financial pressure on the Postal Service" while "retain[ing]" the Postal Service's "incentives to pursue cost reductions and efficiency gains." Order 347(JA__).

2. Assuring adequate revenues

The Postal Service asserts that the Commission's approach is insufficient to satisfy the statutory objective of assuring it adequate revenues, including retained earnings, to maintain financial stability. The mailers, in contrast, assert that the Commission gave too much weight to this objective and that the Postal Service has sufficient funds. Mailers' Br. 32. The Commission properly considered these arguments and adopted a reasonable approach in light of the various factors.

There can be no doubt that the Postal Service's "overall financial health is poor." Order 271(JA__). In the decade after the Accountability Act was enacted, the Postal Service suffered a cumulative net loss of $59.1 billion, and defaulted on the vast majority of its statutory payment obligations. Order at 5-7(JA__-__); Order No. 4257, at 171(JA__).

Although the statutory objective of assuring the Postal Service's financial stability might favor allowing the Postal Service to increase rates as much as the Postal Service would prefer, *see* USPS Br. 31, that observation does not end the analysis. Congress required the Commission to balance this objective with other, competing objectives.

Order 281(JA__); *see* 39 U.S.C. § 3622(d)(3). In the Commission's judgment, that balance militates against accepting the Postal Service's proposed rate reset—which would trigger a dramatic price increase that, even if introduced gradually, would adversely impact both "mailers and mail volume." Order 196(JA__). Because that result would undermine Congress's express interest in price stability, the Commission declined to allow the Postal Service to "respond to its challenges" by "*solely* rais[ing] rates." Order 347(JA__) (emphasis in original).

The Commission further explained that granting the Postal Service more rate authority than was ultimately provided could result in "shocks and unintended consequences," particularly in light of the "numerous [other] changes to the existing ratemaking system" that the Commission was making simultaneously. Order 162(JA__). The Commission reasonably chose to "focus first" on the Postal Service's near-term problems "so as not to introduce problems related to objectives that were generally being achieved" under the initial system. Order 162, 298(JA__). The Commission then opened a separate rulemaking to consider whether the Postal Service should be granted

any additional rate authority beyond that conferred by the order, *see supra* p. 22 n.4, and committed to conducting an additional review in five years "or earlier if necessary." Order at 162, 266-67, 298(JA__, __-__, __). The Postal Service does not challenge the Commission's conclusion that making too many changes to the regulatory system at once could introduce unanticipated problems. And "an agency need not solve every problem before it in the same proceeding." *Mobil Oil Expl. & Producing Se. v. United Distribution Cos.*, 498 U.S. 211, 231 (1991).

For their part, the mailers contend (Br. 32) that, although the order is tailored in part to help the Postal Service resolve its near-term financial problems, that tailoring cannot be reconciled with the Commission's finding that the Postal Service had been able to maintain "short-term financial stability." Order No. 4257, at 165(JA__). But the mailers misapprehend the Commission's statement. The Commission defined "short-term financial stability" to mean that the Postal Service could "meet its operational needs using mail revenue, unused borrowing authority, and accumulated cash reserves." Order No. 4257, at 160(JA__). The Commission went on to explain, however, that the Postal Service's "total revenue was not sufficient to cover total costs" on

any time scale. Order No. 4257, at 4(JA__). As a result of that deficit, the Postal Service resorted to "extraordinary measures to preserve liquidity," including taking on large amounts of debt, "suspend[ing] all but the most essential capital investments," and defaulting on congressionally mandated benefits payments. Order 335(JA__).

3. Just and reasonable rates

The mailers and the Postal Service assert, for opposite reasons, that the new rate authority will not generate just and reasonable rates. The mailers posit that the new rate authority could result in rates that are unjustly or unreasonably high. Mailers' Br. 31. By contrast, the Postal Service argues that the new rate authority will force rates to remain unjustly and unreasonably low. USPS Br. 44. The Commission considered and "balance[d] these differing views," and took a reasonable middle path. Order 352(JA__); *see also* Order 351-59(JA__-__).

No evidence supports the mailers' assertion that the new rates will be unjust or unreasonable to them. This Court has explained that whether a rate "cover[s] the cost of debt and other expenses" is critical to determining whether it is "reasonable to a producer." *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1502 (D.C. Cir. 1984) (quoting

City of Chicago v. Federal Power Comm'n, 458 F.2d 731, 750-51 (D.C. Cir. 1971)). The Commission deliberately refused to allow the Postal Service to raise rates to a level sufficient to cover all of the Postal Service's costs. Order 80(JA__). Indeed, the Commission's rejection of a one-time rate reset to fully compensatory levels is one basis of the Postal Service's petition.

On the other side of the ledger, the Postal Service argues (USPS Br. 44) that the only way to ensure just and reasonable rates is to allow it to raise prices high enough to recoup all of its costs. The Postal Service emphasizes (USPS Br. 44) the Commission's decision to help the Postal Service address the problem of non-compensatory mail products and classes—that is, products and classes that do not generate enough revenue to cover their costs. But not every product is non-compensatory, and the Commission reasonably targeted the rate authority accordingly. In any event, Congress charged the Commission with balancing this objective with eight others. That balance counsels against accepting a proposal that would elevate this objective over the need to "provid[e] predictability and stability to ratepayers, [to] improv[e] allocative efficiency," and to encourage the Postal Service to

"focus on increasing operational efficiency and cost reductions." Order 358(JA__).

4. Predictable and stable rates

Petitioners likewise take opposing views of the significance of the statutory objective of "creat[ing] predictability and stability in rates." 39 U.S.C. § 3622(b)(2). The mailers argue (Br. 31) that the revised price cap undermines predictability and stability of rates because annual rate changes could be significant and will only be known when the proposed rates are filed. The Postal Service, by contrast, criticizes (USPS Br. 37, 41-43) the Commission for finding that resetting all rates to compensatory levels is not consistent with this objective. The Commission considered both sets of concerns. Order 310-22(JA__-__).

The Commission recognized that a price cap "limit[s] the magnitude of price adjustments" and is necessary to achieve this objective. Order 312(JA__) (citation and quotation marks omitted). The Commission thus declined to eliminate the price cap when revising the system. *Id.* The Commission also recognized that the Postal Service has an "inherent incentive[]" to exercise business judgment about what rates the market can bear. Order 313-14(JA__-__). In the

Commission's judgment, the combination of the price cap and the Postal Service's inherent incentives will "smooth out rate adjustments" and "promote predictability and stability of rates overall." Order 314(JA__).

The Commission further found that this objective is not undermined by the use of formulas. "[P]ublic utility regulators have accepted rates based on formula[s] since the early 1970s." Order 314(JA__). And the particular formulas adopted by the Commission were designed to achieve predictability and stability by, among other things, providing mechanisms to smooth out rate variations and by relying on publicly available data. Order 316-21(JA__-__); *see infra* p. 56. The Commission also attempted to increase the foreseeability of rate changes by altering its procedures to require additional notice. Order 321(JA__). Finally, even if formula-based rates did undermine predictability (which they do not), the Commission reasonably concluded that a formula-based approach better advances the Accountability Act's objectives as a whole. Order 311-12(JA__-__).

The Postal Service does not take issue with the formulas that the Commission adopted. Instead, it suggests that the Commission did not adequately explain why a rate reset would disserve this statutory

objective. That is inaccurate. The Commission acknowledged that, generally speaking, "price cap systems allow rebasing and restructuring after 4 to 5 years." Order 311-12(JA__-__). But the Commission went on to find that the Postal Service's proposal "would likely represent a regression" in the predictability and stability of postal rates. Order 297(JA__). To balance these competing objectives, the Commission reasonably adopted an incremental approach that prioritizes the Postal Service's short-term budgetary problems, and that gradually "moves prices toward full coverage" while the Commission continues to study whether any additional rate authority is required. *See* Order 195, 281, 311-22(JA__, __, __-__).

5. Transparency and administrative burden

The mailers assert that the new price cap is contrary to the statutory objective of "reduc[ing] the administrative burden and increas[ing] the transparency of the ratemaking process." 39 U.S.C. § 3622(b)(6); Br. 31. Although their argument is difficult to parse, they appear to believe that this objective requires the price cap to be based on a publicly posted index that can be consistently tracked, instead of being based on formulas. Br. 31.

The Commission considered this argument and reasonably rejected it. As noted, there is nothing inappropriate about using formulas to set rates. *Supra* pp. 54-55. Indeed, the initial system's inflation-linked price cap—the mailers' preferred approach—likewise "use[d] a formula to compute the maximum rate authority" per year. Order 348-49(JA__-__).

The Commission also took steps to make the additional formulas more transparent. The formulas use "inputs from publicly available data and information." Order 349(JA__). The Commission published a detailed technical appendix describing how each of the formulas is to function. Order 349(JA__); *see* Order, App. A(JA__). It pledged to "maintain[] the underlying calculations" on its public website and to continue "calculat[ing] and publish[ing]" the Postal Service's remaining price-cap authority each month. Order 349 & n.447(JA__ & n.447). And it imposed enhanced reporting requirements on the Postal Service. Order 349(JA__); *see* 39 C.F.R. § 3050.55. More broadly, the Commission adopted procedural changes to "improv[e] the transparency and accountability of the ratemaking process." Order 350(JA__). For example, the Commission extended the time periods for advance notice,

public comment, and Commission review of any rate increase that the Postal Service may request. Order 349 & n.447(JA__ & n.447). The mailers have failed to explain why these steps are insufficient to address any concerns about transparency.

B. The Commission's Density-Based Rate Authority Is Reasonable.

The mailers and the Postal Service separately challenge the Commission's decision to adopt a density-based rate authority for the Postal Service. The mailers assert that it was unreasonable for the Commission to provide any such rate authority at all. Mailers' Br. 34-46. The Postal Service asserts that this form of rate authority does not go far enough. USPS Br. 29. Here too, the Commission took the middle path. The Commission's approach maintains the Postal Service's incentive to cut costs while giving it the tools it needs to recover costs that are beyond its direct control. That conclusion was both reasonable and reasonably explained.

The Postal Service began experiencing a precipitous decline in mail density soon after the Accountability Act became law, due to the Great Recession and the increasing use of electronic communication technologies. Order 5-6(JA__-__); *see supra* pp. 15-16. And Congress

has prohibited the Postal Service from reducing the number of mailboxes and other delivery points that it serves. Order 75-76(JA__). As a result, the Postal Service was required to deliver a decreasing amount of mail to an increasing number of delivery points, as illustrated by the table below.

Table 1: Market-Dominant Volume, Delivery Points, and Density, FY 2007-2019[6]

Fiscal Year	Market Dominant Volume (millions)	Delivery Points (millions)	Density
2007	210,603.10	127.02	1,658.03
2008	201,128.00	128.43	1,566.05
2009	175,677.24	129.51	1,356.48
2010	169,154.12	130.39	1,297.29
2011	166,460.88	131.14	1,269.34
2012	157,325.68	131.93	1,192.49
2013	155,114.14	132.72	1,168.73
2014	151,926.68	133.78	1,135.65
2015	150,197.94	134.86	1,113.73
2016	149,823.80	136.03	1,101.40
2017	144,387.07	137.32	1,051.46
2018	140,737.79	138.58	1,015.57
2019	136,897.53	139.96	978.12

These developments increased the cost of delivering each individual mail piece by approximately 9 to 11 cents. Order 90(JA__). And the

[6] Order 88(JA__)

Postal Service delivers over one hundred billion pieces of mail each year.

The Commission found that these density-driven losses were a "specific driver[]" of the Postal Service's perilous financial situation that was "largely beyond the Postal Service's control." Order 72(JA__). The Commission further found that these losses significantly outstripped the rate authority granted by the initial system's price cap, which was tied to the rate of inflation, and that the decline in mail density drove above-inflation increases in per-unit cost. Order 88-90(JA__). Accordingly, the Commission concluded that a price cap tied to inflation was inadequate to offset these costs. Order 72(JA__).

The Commission carefully designed its density-based rate authority to address these costs while encouraging the Postal Service to keep costs low. For example, the Commission tied the density-based rate authority to "the *expected* increase in per-unit costs, rather than [the] *observed* increase" in per-unit costs. Order 73(JA__) (second emphasis added). If the Postal Service is able to keep costs below that expected increase, it can bank the resulting savings. But if the Postal Service's costs exceed expected costs, the Postal Service cannot increase

rates to cover that additional loss. *Id.* This approach creates a "powerful incentive" for the Postal Service to act efficiently and to "achieve financial health." Order 85, 96(JA__, __).

The Postal Service does not disagree with the Commission's assessment of its financial state and of the market for postal products. Indeed, the Postal Service appears to acknowledge (USPS Br. 33) that the order, including the density-based rate authority, "address[es] the root cause of the initial system's failure." The Postal Service simply asserts (USPS Br. 33) that the density-based rate authority does not go far enough to address other causes of the Postal Service's financial distress. In particular, the Postal Service faults the Commission for not permitting recovery of losses—including losses resulting from significant decreases in mail density from 2007 onwards—that were incurred before the order took effect. *See generally* USPS Br. 33-38. This argument lacks merit. As explained, the Commission carefully balanced the Postal Service's interests against the interests of consumers and of the public, and prudently decided to attack the problem incrementally. *See generally supra* pp. 44-57. And nothing in the Administrative Procedure Act compels the Commission to address

all of the Postal Service's financial problems in one fell swoop. *See Mobil Oil Exploration & Prod. Se.*, 498 U.S. at 231.

C. The Commission Reasonably Rejected the Mailers' Objections to Its Economic Analysis

The mailers raise a litany of technical objections to the Commission's formula for calculating the amount of density-based rate authority that will be available to the Postal Service each year. But this Court does not sit as a "peer review board for an academic journal of econometrics." *Alliance of Nonprofit Mailers v. Postal Regulatory Comm'n*, 790 F.3d 186, 197 (D.C. Cir. 2015). To the contrary, the Court is "obliged" to affirm a Commission order if it is "reasonable," even if "some or many economists would disapprove of the [Commission's] approach." *City of Los Angeles v. U.S. Dep't of Transp.*, 165 F.3d 972, 977 (D.C. Cir. 1999). For these reasons, the Court should decline the mailers' invitation to second-guess the Commission's economic analysis.

In any event, the mailers' objections to the formula lack merit.

1. The mailers contend that the formula is arbitrary and capricious because it will "true up" every year to reflect the Postal Service's actual losses, thus eliminating any incentive for the Postal Service to act efficiently. Mailers' Br. 37 (quotation marks omitted).

But the formula does not do anything of the sort. The formula simply compensates the Postal Service for increases in per-unit costs that would be expected for a given decline in density. Order 85, 93(JA__, __). In response, the mailers note (Br. 39) that the formula determines each year's expected increase based on data from prior years. But they have failed to explain how this feature of the formula—which simply ensures that the formula's predictions are based on the most recent available data—would pervert the Postal Service's decision-making.

Nor would any such argument succeed. Because density-related losses are beyond the Postal Service's direct control, Order 77(JA__), the Postal Service cannot manipulate its behavior to maximize the amount of rate authority that the formula confers. Moreover, the Postal Service has an incentive to achieve "cost savings and efficiency gains" separate and apart from the formula. Order 85(JA__). After all, the density-based rate authority "only provides additional revenue to cover the expected increase in average cost per piece, and does not otherwise compensate the Postal Service for lost volume and revenue." Order 96(JA__). The formula maximizes that incentive by tying each year's available rate authority to the expected density-driven increase in

per-unit costs *for that year*. Order 96(JA__). If the Postal Service manages to offset these increases "through efficiency improvements in other areas," the Postal Service can retain those additional cost savings as revenue. Order 85-86(JA__-__). Although the mailers suggest that these incentives are not sufficient to prevent the Postal Service from attempting to exploit the formula, the Commission's contrary judgment warrants deference. *Newspaper Ass'n of Am. v. Postal Regulatory Comm'n*, 734 F.3d 1208, 1216 (D.C. Cir. 2013).

2. The mailers contend (Br. 40) that allowing the Postal Service to increase rates will reduce volume and cause mail density to decline still further, and fault the Commission for failing to fully discuss their experts' projections to that effect. But the Commission reasonably deemed that concern to be ephemeral. *See generally* Order 81-84(JA__-__). As the Commission explained, the mailers' projections depend on the assumption that demand for market-dominant products is extremely elastic—that is, extremely sensitive to changes in price. Order 82(JA__). But the Commission reasonably concluded, based on its many decades of experience regulating postal rates, that demand has actually been "relatively price inelastic in both the pre-

[Accountability Act] period and the [Accountability Act] period." *Id.* Based on those historical data, the Commission projected that the Postal Service will make more money from raising prices than it will lose from any reduction in volume that might ensue. The mailers' disagreement with the Commission's economic analysis does not render the analysis arbitrary and capricious.

The Commission further explained why the mailers' doomsday scenario is unlikely to arise. Notwithstanding the mailers' contrary assertions, the Commission does not have any statutory authority to set postal rates directly. It is up to the Postal Service to determine whether to deploy the rate authority available to it, as well as how much of a rate increase to request. Order 96(JA__). The Postal Service "can choose not to use all of its available rate authority if it decides that doing so would be counterproductive." Order 83(JA__).

The mailers respond (Br. 44-45) that the Commission unreasonably assumed that the Postal Service would act rationally. But the Commission found that the Postal Service has a strong incentive to avoid triggering the "death spiral" that is the source of the mailers' fears. Order 81-83(JA__). These predictive judgments about

the economic effects of a rule are entitled to deference. *Newspaper Ass'n of Am.*, 734 F.3d at 1216. As a further backstop against the mailers' concerns, the Commission reserved the right to alter the density-based rate authority if its predictive judgments about the marketplace and the Postal Service's incentives turned out to be incorrect. Order 82(JA__).

The mailers argue (Br. 41) that, at a minimum, the Commission should have discussed their hired experts' quantitative projections at greater length. But the Commission is under no obligation to respond to comments that do not present a "significant problem" in light of the record before the Commission—and for the reasons explained, this problem does not. *See National Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 215 (D.C. Cir. 2013) (cleaned up); *accord Public Citizen, Inc. v. FAA*, 988 F.2d 186, 197 (D.C. Cir. 1993). In any event, the Commission did not ignore the mailers' studies. As the order makes clear, the Commission simply disagreed with the studies' assumptions, making further elaboration unnecessary. Order 81-84(JA__-__).

3. The mailers contend (Br. 35-38) that the density-based rate authority unreasonably fails to account for the fact that certain mail products and classes may be more profitable than others. In the

mailers' telling, any density-based rate authority must account for "the relative unit contribution from the volume that has left the system compared to that which remains." Br. 36.

The mailers' assertion that any reasonable ratemaking system must account for the Postal Service's revenue gains is puzzling. Even the initial system created pursuant to the Accountability Act allowed the Postal Service to raise rates without reference to whether the Postal Service was making money or not. *See* 39 U.S.C. § 3622(d)(1)(A) (permitting the Postal Service to raise rates up to the inflation-linked price cap without consideration of the Postal Service's earnings). Indeed, one objective of the Accountability Act is to allow the Postal Service to "retain[] earnings" for the purpose of "maintain[ing] financial stability." *Id.* § 3622(b)(5). The mailers have cited no authority supporting the remarkable proposition that the only reasonable price cap is one that varies in proportion to each class or product's profitability.

In any event, the Commission reasonably addressed the mailers' concerns. Order 94-95(JA__-__). The purpose of the density-based rate authority is to "compensat[e] the Postal Service for unavoidable

increases in per-unit costs." Order 95(JA__). The magnitude of these increases bears no relation to whether each particular unit of mail turns a profit. *Id.* (explaining that "changes to per-unit costs are not isolated to specific classes" of mail). Accordingly, the Commission reasonably declined to convert its density-based rate authority into a mechanism for capping the amount of profits that the Postal Service can earn.

The Commission also expressed practical reservations about linking the amount of rate authority to the revenues earned by particular classes or products. Order 95(JA__); *see also* Order No. 5337, Dkt. No. RM2017-3, at 76-77 (P.R.C. Dec. 5, 2019) (Order No. 5337) (JA__). The Commission's approach ties rate authority to volume losses—that is, to "specific cost increases over which the Postal Service has minimal control." Order 85(JA__). The same cannot be said for an approach that ties rate authority to a product's profitability (or lack thereof), since the Postal Service controls its own pricing decisions. Order 95(JA__). The Commission thus concluded that tying rate authority to profitability could encourage the Postal Service to make inefficient pricing decisions. *Id.*

This is not to say that the Commission entirely refused to account for the relative profitability of mail classes and products. The order recognizes that the Postal Service's market-dominant products (for which it holds a statutory monopoly) occupy a different position in the marketplace than its competitive products (for which it must compete against private companies). Order 78(JA__). The order addresses this difference by requiring the Commission to calculate the amount of available rate authority twice. Order 79(JA__). The first calculation is based on changes in the density of market-dominant products; the second is based on changes in the density of all postal products—both market-dominant and competitive. *Id.* If density trends for competitive products favor the Postal Service in the future (as the mailers contend that they will), the order will account for this difference by using "whichever figure produces less available rate authority." *Id.*

4. The mailers contend (Br. 38) that the Commission failed to reconcile its methodology for estimating the density-driven increase in per-unit costs with the so-called "roll-forward model" that the Commission allegedly adopted in prior orders. But the Commission reasonably explained why it declined to use that approach here. Order

91(JA__). Using the roll-forward model to "[p]roject future density would be more complicated," "entail more uncertainty," and would require creating an entirely new mechanism "to correct for inaccurate projections." *Id.* It would also "impose[] additional administrative burdens[] and reduce[] the predictability of the resulting amount of rate authority." Order 91 n.136(JA__ n.136). And it would "reduce[]" the "transparency" of the density-based rate authority if the authority's mechanics were "hidden behind complicated economic models that attempt to predict future volume losses." *Id.* The Commission's approach—which "bases future rate increases on actual, measured declines in density"—has none of these flaws. Order 91(JA__). And in the Commission's judgment, "[n]one of the commenters have shown that" the roll-forward model "would have sufficiently improved accuracy over the Commission's backward-looking estimate to justify these tradeoffs." Order 91 n.136(JA__ n.136).

5. The mailers contend (Br. 46-48) that the Commission should not have adopted any form of density-based rate authority without "refresh[ing] its record" to account for marketplace changes occasioned by the COVID-19 pandemic. But the Commission reasonably concluded

that the existing record, which was compiled before the pandemic, was sufficient to support its order. Order 26(JA__) ("[G]iven what is currently known about the pandemic and its effects, . . . nothing specific to the pandemic undermines the [Commission's] findings . . .").

The mailers respond (Br. 47) that, by declining to supplement the record, the Commission failed to account for the significant decline in mail density occasioned by the pandemic. But as the Commission explained, the density-based rate authority already responds to this concern. Order 26(JA__). Indeed, a signal virtue of the Commission's formula-based approach is its ability to account for unanticipated changes in mail density, such as those caused by the pandemic. *See* Order No. 5337, at 62(JA__) (explaining that the Commission had decided not to adopt a static rate authority because doing so would "not adequately respond to ongoing changes that drive the Postal Service's inability to achieve net income"). And the Commission's reason for adopting a density-based rate authority—to allow the Postal Service to recoup density-based losses that are out of its control—remains valid whether or not those losses are caused by a global pandemic or some other market force.

The mailers also argue (Br. 47-48) that, because the Postal Service's market position has improved as a result of the pandemic, the Commission's findings are out of date. But the Commission examined the mailers' data and came to the opposite conclusion about the Postal Service's financial health. Order 26(JA__). That conclusion is borne out by recent developments. The Postal Service suffered a net operating loss of $9.2 billion in Fiscal Year 2020, comparable to its losses every prior year since Congress adopted the price cap in 2006. Its operating expenses increased by $2.4 billion, and its profitability substantially declined. Postal Regulatory Comm'n, *Financial Analysis of United States Postal Service Financial Results and 10-K Statement, Fiscal Year 2020* 4-5, Dkt. No. ACR2020, (Apr. 26, 2021), https://go.usa.gov/x6kzR (footnotes omitted).

For these reasons and others, the Governmental Accountability Office continues to classify the Postal Service as a "High Risk" government program that is "vulnerable to waste, fraud, abuse, or mismanagement, or in need of transformation." U.S. Gov't Accountability Office, *High Risk List*, https://go.usa.gov/x6KFq (last visited June 14, 2021). Indeed, the Office agrees with the Commission

that "[t]he use of [the Postal Service's] most profitable product—First-Class Mail—is expected to continue declining for the foreseeable future"; that the Postal Service "faces increasing competition in its growing but less profitable package shipping business"; and that the Postal Service's "key costs, such as compensation and benefits, are rising." U.S. Gov't Accountability Office, *USPS Financial Viability*, https://go.usa.gov/x6K6e (last visited June 14, 2021). The Commission thus reasonably rejected the mailers' contention that the pandemic has materially improved the Postal Service's finances to the point at which no additional rate authority is necessary.

Vacating the order to require the Commission to consider pandemic-related evidence would be especially anomalous because the ratemaking system has several safeguards in case the Commission's economic predictions do not bear fruit. To reiterate, nothing in the order compels the Postal Service to propose rates at the maximum level that the order allows. The Commission also "retains the flexibility to . . . adjust certain components of the system" whenever it deems necessary. Order 287(JA__). And the order itself requires the

Commission to undertake a "holistic review" of the order's effects five years after the order's effective date. *Id.*

CONCLUSION

For these reasons, the petitions for review should be denied.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with this Court's order of March 8, 2021, because it contains 13,412 words. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Microsoft Word 2016 in Century Schoolbook 14-point font, a proportionally spaced typeface.

/s/ Michael Shih
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ADDENDUM

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39 U.S.C. § 3622

§ 3622. Modern rate regulation

(a) Authority Generally.—

The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

(b) Objectives.—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

(1) To maximize incentives to reduce costs and increase efficiency.

(2) To create predictability and stability in rates.

(3) To maintain high quality service standards established under section 3691.

(4) To allow the Postal Service pricing flexibility.

(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

(6) To reduce the administrative burden and increase the transparency of the ratemaking process.

(7) To enhance mail security and deter terrorism.

(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

(c) Factors.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but

not limited to the collection, mode of transportation, and priority of delivery;

(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

(A) either—

(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and

(B) do not cause unreasonable harm to the marketplace.

(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

(14) the policies of this title as well as such other factors as the Commission determines appropriate.

(d) Requirements.—

(1) In general.—The system for regulating rates and classes for market-dominant products shall—

(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

(i) require the Postal Service to provide public notice of the adjustment;

(ii) provide an opportunity for review by the Postal Regulatory Commission;

(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

(E) notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

(2) Limitations.—

(A) Classes of mail.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

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(C) Use of unused rate authority.—

(i) Definition.—In this subparagraph, the term "unused rate adjustment authority" means the difference between—

(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

(II) the amount of the rate adjustment the Postal Service actually makes in that year.

(ii) Authority.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

(iii) Limitations.—In exercising the authority under clause (ii) in any year, the Postal Service—

(I) may use unused rate adjustment authority from more than 1 year;

(II) may use any part of the unused rate adjustment authority from any year;

(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

(3) Review.—Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

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