



**FISCAL YEAR
2019**

ANNUAL REPORT TO THE PRESIDENT AND CONGRESS

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Acronyms

ANPR		Advanced Notice of Proposed Rulemaking
ACD		<i>Annual Compliance Determination</i>
ACR		<i>Annual Compliance Report</i>
C.F.R.		Code of Federal Regulations
CAG		Cost Ascertainment Group
CHIR		Chairman's Information Request
CIR		Commission Information Request
CPI		consumer price index
CY		Calendar Year
DSCF		destination sectional center facility
FEVS		Federal Employee Viewpoint Survey
FOIA		Freedom of Information Act
FSS		Flats Sequencing System
FY		Fiscal Year
GEPS		Global Expedited Package Service
IMb		Intelligent Mail barcode
IBRS		International Business Reply Service
IOCS		In-Office Cost System
NPR		non-published rates
MCS		<i>Mail Classification Schedule</i>
NOI		Notice of Inquiry
NPR		Notice of Proposed Rulemaking
NSA		negotiated service agreement
PAEA		Postal Accountability and Enhancement Act
RHBF		Postal Service Retirement Health Benefits Fund
RRM		Return Receipt for Merchandise
RTM		Round-Trip Mailer
SPM		service performance management
SPR		Special Purpose Route
TACS		Time and Attendance Collection System
U.S.C.		United States Code
UPU		Universal Postal Union
USO		Universal Service Obligation

PRC — Mission, Vision, and Guiding Principles



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Mission Statement

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

Vision Statement

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

We will look to achieve our vision by:

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

Guiding Principles

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

Openness

Public participation

Integrity

Fairness and impartiality
Timely and rigorous analysis

Merit

Commitment to excellence
Collegiality and multi-disciplinary approaches

Adaptability

Proactive response to the rapidly changing postal environment



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Chairman's Letter

JANUARY 2020

On behalf of the Postal Regulatory Commission, I am pleased to present the *Commission's Annual Report to the President and Congress for Fiscal Year 2019*. This report reflects the Commission's primary activities over the past year and details information required under the Postal Accountability and Enhancement Act of 2006 (PAEA) on Commission operations, including an estimate of the costs incurred by the Postal Service to provide universal service. This year, the Commission adds an additional activity to its estimate of universal service costs. In addition, the Commission has refined its calculations for the statutory monopoly's value.

In 2019, the Commission continued its commitment to provide comprehensive regulatory oversight of the nation's signature staple—the Postal Service. In that vein, we recently issued a revised Notice of Proposed Rulemaking related to the Commission's review of the system for regulating rates and classes for Market Dominant products. The proposals contained therein are the result of considerable examination of public comments, and our determination to provide the Postal Service with options that are measured and achievable and that would ultimately aid in strengthening the Postal Service's financial capacity and support operational efficiencies.

Among many other accomplishments in 2019, the Commission:

- Finalized rules adopting a formula-based approach to annually calculate the appropriate share of institutional costs for Competitive products
- Reorganized its regulations and revised its rules of practice simplifying processes that had been in effect since the enactment of the PAEA
- Increased efficiencies in the handling of Freedom of Information Act requests
- Adopted rules requiring the Postal Service to detail how an update to size or weight limitation adversely affects users of the mail or competitors
- Considered ratemaking procedures for Inbound Letter Post and related services
- Adopted rules improving transparency into cost and service performance issues related to flats
- Established procedures for conducting market tests
- Amended rules for the calculation of assumed Federal income tax on Competitive products

The Commission further thanks the President and the Senate for their timely appointments and confirmations of its newest members—Vice Chairman Michael Kubayanda, and Commissioners Ann Fisher and Ashley Poling. The efforts described in this report reflect the hard work and dedication of the Commission's professional staff. As we celebrate our 50-year anniversary in 2020, the Commission looks forward to building on these accomplishments. The agency's biggest challenge remains ensuring stable and sufficient appropriations to ensure we fully implement our mission of ensuring transparency and accountability of the Postal Service.

With best wishes, I am

Sincerely yours,

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

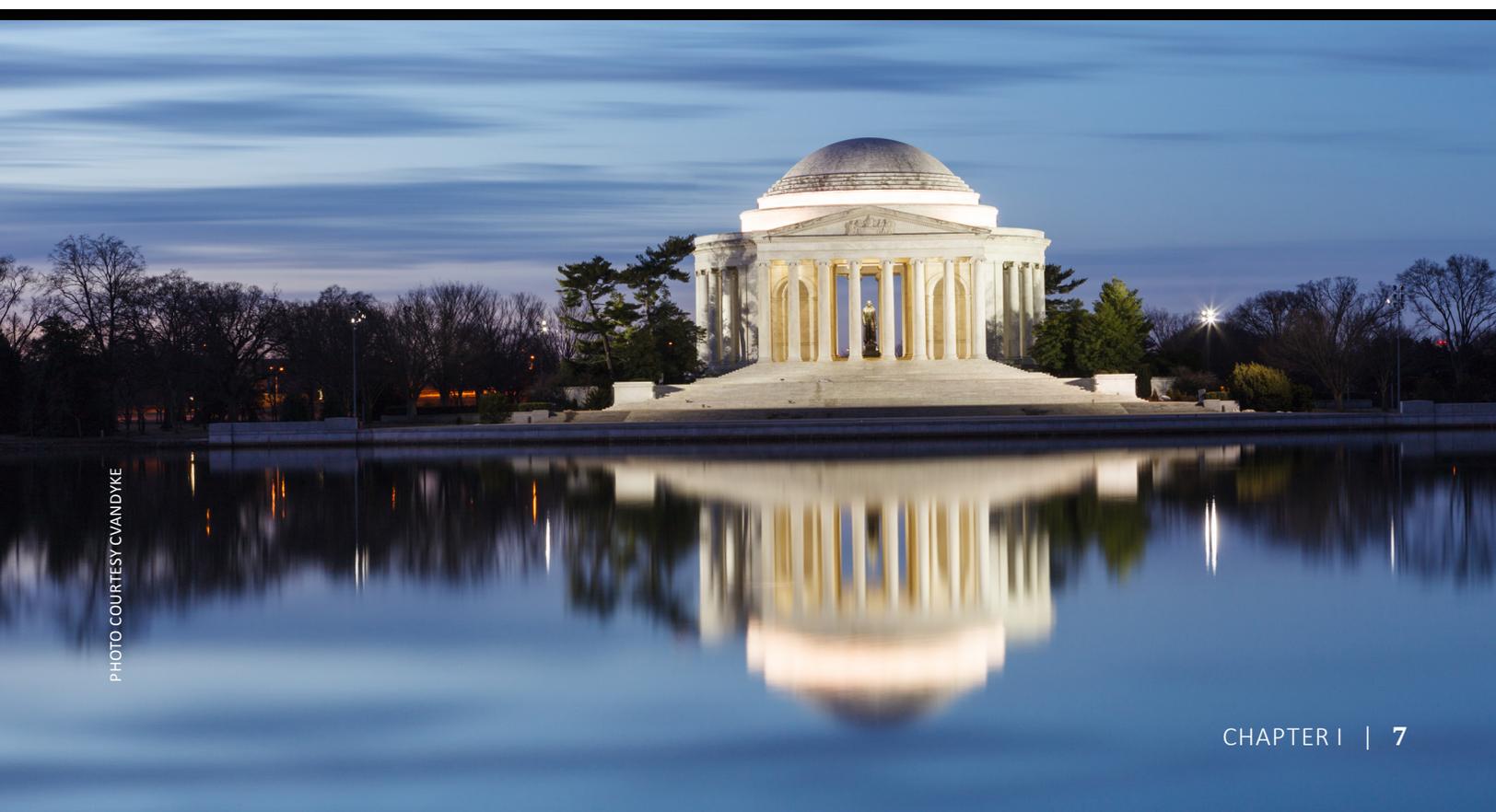
Robert G. Taub
CHAIRMAN

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CHAPTER I — Fiscal Year 2019 in Review

The Postal Regulatory Commission achieved significant accomplishments in Fiscal Year 2019 (FY 2019). All of the Commission's activities supported its mission: to ensure transparency and accountability of Postal Service operations and foster a vital and efficient universal mail system.

1. The Commission published four major reports in FY 2019:
 - *Annual Report to the President and Congress (Annual Report)*, describing the Commission's accomplishments and activities in FY 2018 as the regulator of the U.S. Postal Service
 - *Annual Compliance Determination (ACD) FY 2018*, reviewing the Postal Service's compliance with pricing and service standards
 - *Analysis of Postal Service Financial Results and 10-K Statement for Fiscal Year 2018*, providing an in-depth analysis of the Postal Service's financial health
 - *Review of Postal Service FY 2018 Performance Report and FY 2019 Performance Plan*, evaluating whether the Postal Service met its performance goals as required under Title 39 of the United States Code (U.S.C.), section 3653(d)



2. The Commission continued its review of two major proceedings in FY 2019:
 - The statutory review of the Market Dominant rate system – The Commission issued its revised Notice of Proposed Rulemaking (NPR) on December 5, 2019
 - The review of the institutional cost contribution requirement
3. The Commission presided over several other rulemaking proceedings in FY 2019. The Commission:
 - Issued final rules relating to the institutional cost contribution requirement for Competitive products
 - Issued an NPR reorganizing its regulations and revising its rules of practice
 - Issued a proposed direct final rule improving accountability and efficiency for processing requests under the Freedom of Information Act (FOIA)
 - Approved an update to the weight limitation for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats)
 - Issued an order closing Docket No. RM2018-11 relating to mail preparation changes and the price cap
 - Issued an Advanced Notice of Proposed Rulemaking (ANPR) to reconsider whether Market Dominant price cap applies to rates for Inbound Letter Post and certain other inbound international Market Dominant products
 - Adopted final rules to improve transparency into the cost and service performance issues and increase the Postal Service’s accountability regarding flats’ operational initiatives
- Adopted final rules establishing procedures for conducting market tests
- Issued final rules relating to the calculation of assumed Federal income tax on Competitive products
4. The Commission reviewed the Postal Service’s proposed rate changes and related Mail Classification Schedule (MCS) changes for Market Dominant and Competitive products in FY 2019.
5. The Commission reviewed and approved 216 Competitive Negotiated Service Agreements (NSAs): 191 (domestic), 25 (international).
6. In other proceedings, the Commission considered three public inquiry dockets relating to service performance, Inbound Letter Post, and city carrier costs.
7. In response to a request by the Secretary of State, the Commission provided its views on the consistency of proposals to amend rates or classifications for Market Dominant products or services within the Universal Postal Convention that were considered at the Third Extraordinary Universal Postal Union (UPU) Congress.
8. Other Commission activities included:
 - Testifying before the U.S. Senate Committee on Homeland Security and Governmental Affairs
 - Testifying before the U.S. House Committee on Oversight and Reform
 - Processing more than seven thousand questions, suggestions, comments, and inquiries from the general public primarily relating to undelivered, delayed, misdelivered, and missing mail

CHAPTER II — About the Commission



The Commission is an independent establishment of the Executive Branch of the United States Government. It has exercised regulatory oversight over the Postal Service since its creation by the Postal Reorganization Act of 1970, with expanded responsibilities under the PAEA of 2006. It has five commissioners, each appointed by the president, by and with the advice and consent of the Senate, for a term of 6 years.

Above: Commissioner Ann Fisher, Chairman Robert Taub, Commissioner Ashley Poling, Vice Chairman Michael Kubayanda, Commissioner Mark Acton

Commission Leadership



Robert G. Taub | CHAIRMAN

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



Michael M. Kubayanda | VICE CHAIRMAN

Vice Chairman Michael M. Kubayanda was nominated to the Commission on June 6, 2018, by President Donald J. Trump for a term expiring November 22, 2020. His nomination was confirmed by the U.S. Senate on January 2, 2019. He was named vice chairman in August 2019. Prior to joining the Commission, Michael Kubayanda served as a board member and privacy officer for a digital health startup. He previously worked with the Office of Inspector General (OIG) of the U.S. Postal Service, ending as director, government relations, a role in which he worked with OIG officials to support the work of inspectors general in data analytics. In the OIG's research group, he oversaw research on technical issues and wrote reports addressing postal economics, intellectual property, and public-private partnerships, while serving as an advisor to colleagues on issues such as privacy, knowledge management, and innovation. Prior to his work with the OIG, he served on the staff of the House Committee on Oversight and Government Reform.



Mark Acton | COMMISSIONER

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



Ann C. Fisher | COMMISSIONER

Ann C. Fisher was sworn in as a commissioner on August 8, 2019, for a first term, following her nomination by President Donald J. Trump and confirmation by the United States Senate. Prior to joining the Commission, Fisher spent more than a decade on Capitol Hill in various roles, including deputy staff director to former Chairman Susan Collins (R-ME) of the Senate Committee on Homeland Security and Governmental Affairs. She also served as an economist on the Senate Small Business Committee under former Chairman Larry Pressler (R-SD), and as a government relations manager at the U.S. Postal Service headquarters in Washington DC. Fisher's term expires October 14, 2024.



Ashley E. Poling | COMMISSIONER

Ashley Jay Elizabeth Poling was sworn in as commissioner for a first term on August 8, 2019, following her nomination by President Donald J. Trump and confirmation by the United States Senate. Prior to joining the Commission, Ms. Poling served as the Director of Governmental Affairs and Senior Counsel to Ranking Member Gary C. Peters (D-MI) on the Senate Homeland Security and Governmental Affairs Committee where she advised Senator Peters on policy issues, negotiated with stakeholders to advance bipartisan legislation, and implemented strategies to advance Senator Peters' governmental affairs priorities. Ms. Poling also served as senior policy counsel to Senator Heidi Heitkamp (D-ND) and as counsel to Senator Jon Tester (D-MT) on their respective Homeland Security and Governmental Affairs Subcommittees, where she focused on postal reform and federal workforce issues. Ms. Poling's term expires on November 22, 2024.

Staff and Office Structure

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

The Commission is organized into four operating offices:

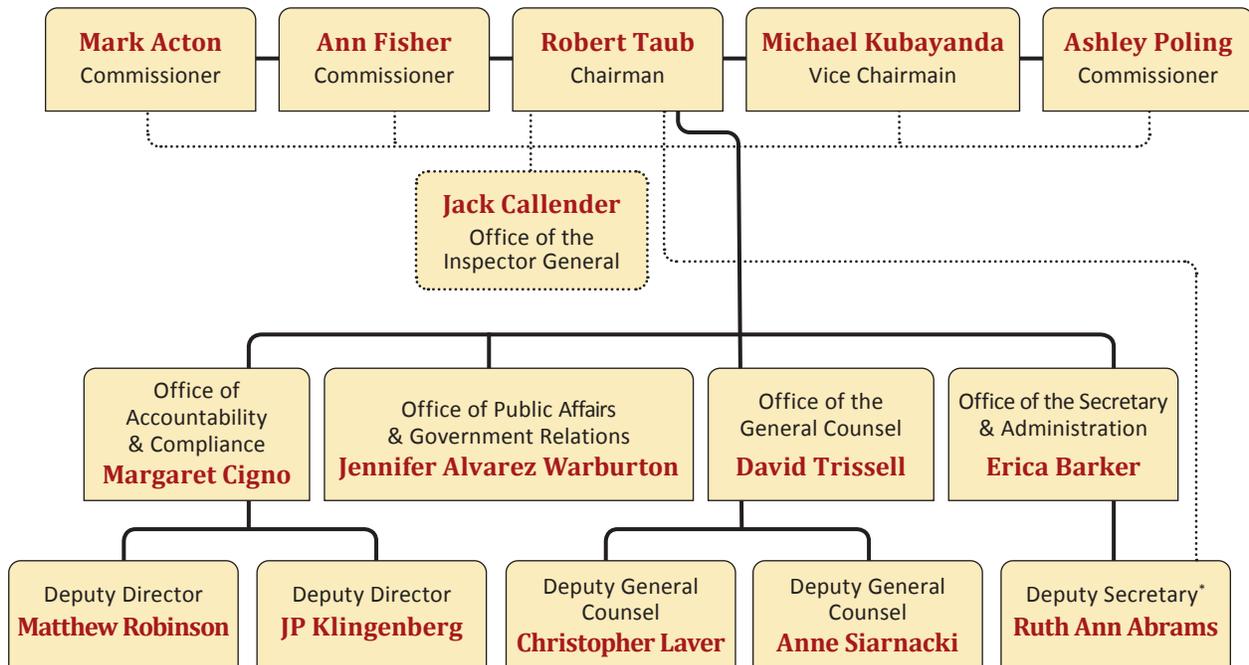
- **Accountability and Compliance.** The Office of Accountability and Compliance is responsible for technical analysis and formulating policy recommendations for the Commission on domestic and international matters.
- **General Counsel.** The Office of the General Counsel ensures the Commission fulfills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

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

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

Figure II-1 displays the Commission’s current organizational structure.

Figure II-1: Organizational Structure



*The Deputy Secretary (who serves as the Commission’s EEO Director) reports directly to the Chairman for EEO purposes

Commission Strategic Plan

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

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

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

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

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

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

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

To assist in measuring the effectiveness of its *Strategic Plan* efforts, the Commission participates annually in the *Federal Employee Viewpoint Survey* (FEVS). The agency’s FY 2019 response rate of 76 percent was higher than the government-wide average response rate of 43 percent. One prime measure is the Employee Engagement index, which ranks employees’ perceptions of the leadership within their agency, their supervisors, and the overall work experience. Compared to responses with Federal employees government-wide, Commission staff had a higher degree of satisfaction with their work and office environment: 78 percent rating in “Employee Engagement” versus the government-wide rating

of 68 percent. The Commission is committed to developing actionable plans based on the confidential feedback received from employees through the FEVS.

Throughout FY 2019, Chairman Taub met with office heads to review progress, accomplishments, and challenges related to each strategic goal and performance metric.

Key discussion points included the following:

- Ongoing prioritization of workload for legal and analytical staff
- Ongoing consideration of comments received in response to the Commission’s NPR in the 10-year docket and drafting of a revised NPR
- Need for adequate budget resources and workload for continuation of the Commission’s 10-year review of the existing statutory system for regulating rates and classes of mail for Market Dominant products
- Development of media, congressional, and public outreach plans for key Commission notices
- Review of Commission staff responses to congressional inquiries
- Progress updates regarding efforts to increase cybersecurity for IT systems
- Extent to which the Commission met Equal Employment Opportunity target employee recruitment goals
- Timeliness of Commission response to service-related consumer inquiries
- Ongoing communication between Commission and Postal Service staff in an effort to streamline the filing process for documents and reports
- Timeliness of Postal Service reporting
- Proposal to revise the Commission’s Practice and Procedure rules to simplify access and participation in Commission rulemakings

- Robust discussion regarding Commission employee responses to certain FEVS questions specifically linked to the *Strategic Plan*. Noteworthy positive or negative changes in employee feedback were carefully assessed by the Chairman and senior management
- Continued efforts to develop an improved records and docket management capability, including a modernized docketing system
- Proposed schedule for development of updated Commission Human Capital Plan
- Joint department collaboration in handling of FOIA requests, internal policy development, Commission ethics program, employment, and hiring matters

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

CHAPTER III — FY 2019 Proceedings

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

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

1. Maximize incentives to reduce costs and increase efficiency.
2. Create predictability and stability in rates.
3. Maintain high quality service standards established under 39 U.S.C. § 3691.
4. Allow the Postal Service pricing flexibility.
5. Assure adequate revenues, including retained earnings, to maintain financial stability.
6. Reduce the administrative burden and increase the transparency of the ratemaking process.
7. Enhance mail security and deter terrorism.
8. Establish and maintain a just and reasonable schedule for rates and classifications without prohibiting the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

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

2 39 U.S.C. § 3651(a).

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

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

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



9. Allocate the total institutional costs of the Postal Service appropriately between Market Dominant and Competitive products.⁶

The Commission established the Market Dominant Rate System in 2007 shortly after the PAEA was enacted.⁷ In FY 2017 and early FY 2018, the Commission reviewed the Market Dominant Rate System to determine if it was achieving the objectives established by Congress in 39 U.S.C. § 3622(b). The Commission’s review is discussed below under

the “Statutory Review of Market Dominant Rate System” section.

The Annual Report must also analyze the extent to which regulations are achieving the objectives under 39 U.S.C. § 3633 relating to Competitive products.⁸ The Commission’s regulations in 39 C.F.R. part 3015 support the requirements of section 3633, which are discussed below under the “Rate Changes — Competitive products” section. This chapter also describes the Commission’s major orders, reports, and proceedings during FY 2019.

Rulemakings Amending Commission Regulations

Statutory Review of Market Dominant Rate System

When enacting the PAEA, Congress intended that the Market Dominant Rate System achieve the nine objectives in 39 U.S.C. § 3622(b). Congress also required that the Commission review the Market Dominant Rate System 10 years after the PAEA was enacted “to determine if the system is achieving the objectives in [39 U.S.C. § 3622] (b), taking into account the factors in [39 U.S.C. § 3622] (c).”⁹ In accordance with this statutory mandate, the Commission established Docket No. RM2017-3 and issued an Advanced Notice of Proposed Rulemaking (ANPR) to establish a framework for its review and provide notice and an opportunity for public comments.¹⁰ After considering the 82 sets of comments received, the Commission issued Order No. 4257 containing its findings and determination of its review of the Market Dominant Rate System.¹¹

In Order No. 4257, the Commission identified three principal areas of the Market Dominant Rate System that encapsulate the nine objectives: (1) the structure of the ratemaking system, (2) the Postal Service’s financial health, and (3) service.¹² The Commission evaluated each principal area to determine whether the PAEA’s goals were achieved during the PAEA era.¹³ The Commission found that while the system achieved some of the goals of these principal areas, the overall system had not achieved the objectives taking into account the factors of the PAEA.

In its review of the structure of the ratemaking system, the Commission found that with respect to pricing, the system did not result in increased pricing efficiency.¹⁴ In its analysis of the financial health of the Postal Service, the Commission determined that “financial stability, including

6 39 U.S.C. § 3622(b).

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

8 39 U.S.C. § 3651(a).

9 39 U.S.C. § 3622(d)(3).

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

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

12 Order No. 4257 at 17.

13 *Id.* at 22-23.

14 *Id.* at 48.

retained earnings, has not been maintained for the Postal Service in the medium and long-term time frames and that cost reductions and operational efficiency gains have not been maximized.”¹⁵ In its review of service, the Commission determined that the system did not effectively encourage the maintenance of high quality service standards.¹⁶

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

The proposed rules made changes designed to address key issues with the Market Dominant Rate System by providing the Postal Service additional pricing authority that modifies rather than replaces the price cap.¹⁸ The proposed rules provided the Postal Service supplemental rate authority to generate additional revenue to cover its retirement obligations, and address declining mail density as well as performance-based rate authority upon meeting standards based on operational efficiency and service standards.¹⁹ They also expanded pricing authority for non-compensatory classes and prohibited reducing rates for non-compensatory products.²⁰ To

increase pricing efficiency, the proposed rules established bands—ranges with upper and lower limits—for workshare discount passthroughs.²¹

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

On December 5, 2019, the Commission issued a revised NPR to reflect comments received on the initial NPR.²⁴ The modified rules are aimed at improving and strengthening the initial proposal.²⁵ First, the Commission modified the proposed supplemental rate authority mechanism to address two specific drivers of the Postal Service’s inability to achieve net income during the PAEA era: (1) loss of density; and (2) the aggressive annual \$5.6 billion (on average) retirement health benefits fund (RHBF) payment obligations.²⁶ Second, the Commission retained the 1 percentage point of performance-based rate authority, but modified how specific performance requirements for operational efficiency and service will be measured.²⁷ Third, the Commission made minor revisions to the proposal for non-compensatory classes by proposing to provide an additional 2 percentage points of rate authority that the Postal Service can apply at its discretion.²⁸ It also removed the requirement that determinations be made in the ACD proceeding.²⁹

15 *Id.* at 148.

16 *Id.* at 4-5, 250.

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

18 Order No. 4258 at 34.

19 *Id.* at 38-45, 46-73.

20 *Id.* at 76-77, 84-85. Non-compensatory products do not cover their attributable costs.

21 *Id.* at 93-96. Passthroughs represent the relationship between the amount of the workshare discount and the avoided cost as a percentage. A workshare discount’s passthrough percentage is determined by dividing the workshare discount by costs avoided and expressing the result as a percentage.

22 *Id.* at 27, 98-106.

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

24 Docket No. RM2017-3, Revised Notice of Proposed Rulemaking, December 5, 2019 (Order No. 5337).

25 Order No. 5337 at 11.

26 *Id.* at 12-13.

27 *Id.* at 13-14.

28 *Id.* at 14.

29 *Id.*

Fourth, the Commission revised its approach for workshare discounts by dispensing with the 3-year grace period.³⁰ The revised approach prohibits workshare discounts that are equal to avoided cost from being changed; workshare discounts that are below avoided cost from being reduced; and workshare discounts that exceed avoided cost from being increased.³¹ The revisions also permit the Postal Service to propose to set a workshare discount below

its avoided costs or exceeding its avoided costs only under certain circumstances.³² Fifth, the Commission proposed new reporting requirements for costs and cost-reduction initiatives in light of revised proposals for additional rate authority and to respond to commenter concerns.³³ Sixth, the Commission proposed minor revisions to procedural rules.³⁴ This rulemaking is currently pending before the Commission.

Review of Institutional Cost Contribution Requirement

All postal costs are classified as either attributable or institutional.³⁵ The PAEA requires that the Commission’s regulations “ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.”³⁶ The “appropriate share” is the minimum amount that Competitive products as a whole are required to contribute to institutional costs annually.³⁷ In its initial rulemaking establishing regulations under the PAEA, the Commission set the appropriate share for Competitive products at 5.5 percent of total institutional costs.³⁸ The PAEA directs the Commission to revisit the appropriate share requirement for Competitive products every 5 years to determine whether to retain it in its

current form, modify it, or eliminate it.³⁹ The Commission conducted its first 5-year review in FY 2012 and decided to retain the appropriate share at 5.5 percent.⁴⁰ The Commission initiated its second 5-year review in Docket No. RM2017-1 and invited interested persons to submit initial and reply comments.⁴¹

After considering comments received, the Commission issued an NPR responding to comments and proposing that a formula be used to calculate the appropriate share. Proposed revisions were made to the related rule.⁴² The Commission explained that a formula-based approach would account for “each of the considerations required by 39 U.S.C. 3633(b): the prevailing competitive conditions in the market; the degree to which any costs are uniquely

30 *Id.*

31 *Id.*

32 *Id.* at 14-15.

33 *Id.* at 15.

34 *Id.*

35 Docket No. RM2017-1, Notice of Proposed Rulemaking to Evaluate the Institutional Cost Contribution Requirement for Competitive Products, February 8, 2018, at 2 (Order No. 4402). “Attributable costs” are defined by statute as “direct and indirect postal costs attributable to [individual products] through reliably identified causal relationships.” 39 U.S.C. § 3631(b). Institutional costs are residual costs that cannot be specifically attributed to either Market Dominant or Competitive products through reliably identified causal relationships. Order No. 4402 at 2. Examples of institutional costs include the Postmaster General’s salary, building project expenses, and area administration expenses. *Id.*, n.4.

36 39 U.S.C. § 3633(a)(3).

37 Docket No. RM2007-1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at ¶ 3056 (Order No. 26); Docket No. RM2012-3, Order Reviewing Competitive Products’ Appropriate Share Contribution to Institutional Costs, August 23, 2012, at 12 (Order No. 1449); Order No. 4402 at 81; Docket No. RM2017-1, Order Adopting Final Rules Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 3, 2019, at 17-19 (Order No. 4963).

38 Order No. 26 at ¶¶ 3049-3059.

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

40 See Order No. 1449.

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

42 See Order No. 4402.

or disproportionately associated with competitive products; and all other relevant circumstances.”⁴³ The NPR proposed that the formula adjust annually to reflect changes in market conditions.⁴⁴ The NPR provided interested persons with the opportunity to submit comments.⁴⁵

On August 7, 2018, in response to comments received, the Commission issued a revised NPR proposing modifications to its formula-based approach, along with additional revisions to

the related rule.⁴⁶ The revised NPR provided an opportunity for interested persons to submit comments on the revisions.⁴⁷ On January 3, 2019, the Commission issued a final rulemaking adopting its formula-based approach to annually calculate Competitive products’ appropriate share of institutional costs. The required appropriate share for FY 2019 was 8.8 percent.⁴⁸ On February 4, 2019, United Parcel Service, Inc. appealed the Commission’s order to the D.C. Circuit.⁴⁹

Amendments to Rules of Practice and Procedure

The Commission’s rules of practice and procedure are codified in 39 C.F.R. part 3001. On September 13, 2019, the Commission issued an NPR to reorganize its regulations and to revise its rules of practice.⁵⁰ The proposed amendments were designed to make the rules more user-friendly by organizing the Commission’s regulations under six new subchapter headings.⁵¹ Included in subchapter C was a new part 3010 containing rules of practice applicable to all Commission proceedings.⁵² Part 3010 was organized in six subparts. Subpart A addressed Commission dockets, the scope of presiding officers’ authority, the computation of time periods, and the mechanism for automatic closure of dockets. Subpart B established filing requirements for documents. Subpart C addressed participation in Commission

proceedings. Subpart D set forth procedures and requirements for notices, motions, and information requests. Subparts E and F established procedural frameworks for the two basic types of Commission proceedings—notice and comment proceedings and proceedings with hearings on the record. *Id.* at 20, 22.

The establishment of a separate framework for rulemaking proceedings, distinct from the framework for hearings on the record, was designed to eliminate confusion regarding the procedures that apply in notice and comment proceedings and reflected the fact that, since the enactment of the PAEA in 2006, the Commission has conducted most of its proceedings as notice and comment proceedings.

43 *Id.* at 53.

44 *Id.* at 30.

45 *Id.* at 100.

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

47 Order No. 4742 at 59.

48 FY 2018 ACD at 116.

49 Petition for Review, *United Parcel Service, Inc. v. Postal Regulatory Comm’n*, No. 19-1026 (D.C. Cir. filed February 4, 2019).

50 Docket No. RM2019-13, Notice of Proposed Rulemaking to Amend the Commission’s Rules of Practice and Procedure and to Reorganize its Regulations in the Code of Federal Regulations, September 13, 2019 (Order No. 5229).

51 Subchapter A (The Commission); subchapter B (Seeking Information from the Commission); subchapter C (General Rules of Practice Before the Commission); subchapter D (Special Rules of Practice for Specific Proceeding Types); subchapter E (Regulations Governing Market Dominant Products, Competitive Products, Product Lists, and Market Tests); and subchapter F (Periodic Reporting, Accounting Practices, and Tax Rules). Order No. 5229 at 12-18.

52 *Id.* at 14. Subchapter C consisted of four renumbered C.F.R. parts: Part 3010—Rules of practice and procedure (former part 3001); Part 3011—Non-public materials provided to the Commission (former part 3007); Part 3012—Ex parte communications (former part 3008); and Part 3013—Procedures for compelling production of information by the Postal Service (former part 3005). *Id.* at 15.

The rules in proposed subchapter D provided additional procedures for specific types of Commission proceedings and consisted of six renumbered C.F.R. parts:

- Part 3020—Rules applicable to requests for changes in the nature of postal services (former subpart D of part 3001)
- Part 3021—Rules for appeals of Postal Service determinations to close or consolidate post offices (former part 3025)
- Part 3022—Rules for complaints (former part 3030)
- Part 3023—Rules for rate or service inquiries (former part 3031)

- Part 3024—Special rules for complaints alleging violations of 39 U.S.C. 404a (former part 3032)
- Part 3025—Procedures related to Commission views (former part 3017). *Id.* at 16.

Each of the parts in subchapter D relied upon the generally applicable rules of practice in subchapter C and added additional rules tailored to the type of proceeding covered by that part. The Commission is currently considering comments received.

Amendments to Freedom of Information Act Rules

On September 27, 2019, the Commission issued a proposed direct final rule to transfer responsibility for processing requests under FOIA, 5 U.S.C. § 552, *et seq.*, from its Office of Secretary & Administration to its Office of General Counsel.⁵³ The Commission based the proposal on its determination that FOIA requests can

be processed most efficiently within the Office of General Counsel.⁵⁴ The Commission invited interested persons to comment on its proposal no later than 30 days from the date of its publication in the *Federal Register*.⁵⁵ Because no adverse comments were received, the proposed changes became effective on November 18, 2019.

Regulations Concerning Classification Changes that Modify Product Lists

In Docket No. MC2019-3, the Commission approved an update to the weight limitation for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats).⁵⁶ Noting that the practical impact of the change was that certain First-Class Mail International Flats would be transferred from the Market Dominant product list to the Competitive product list, the Commission expressed concern that “the Postal Service could use the size and weight limitation regulations to make extensive changes to product

lists without proper Commission oversight.”⁵⁷ The Commission, therefore, established Docket No. RM2019-3 to evaluate whether changes to MCS provisions, such as changes to size and weight limitations, that add products to, remove products from, or transfer products between product lists are changes that implicate the requirements of 39 U.S.C. § 3642.⁵⁸ The Commission invited comments on whether it should update its regulations to require information pursuant to section 3642 when

53 Docket No. RM2019-15, Order Proposing Final Rules Relating to the Freedom of Information Act, September 27, 2019 (Order No. 5257).

54 Order No. 5257 at 3.

55 *Id.* at 4. The proposed revisions were published in the *Federal Register* on October 4, 2019. Freedom of Information Act, 84 Fed. Reg. 53056 (October 4, 2019) (to be codified at 39 C.F.R. part 3004).

56 Docket No. MC2019-3, Order Approving Update to Weight Limitation, December 19, 2018, at 5 (Order No. 4932).

57 Order No. 4932 at 5.

58 See Docket No. MC2019-3, Advance Notice of Proposed Rulemaking Concerning Classification Changes Modifying Product Lists, January 29, 2019 (Order No. 4987).

changes to size and weight limitations appear to modify product lists.⁵⁹

Based on comments received in response to Order No. 4987, the Commission proposed changes to 39 C.F.R. § 3020.111(a) to include a requirement that the Postal Service explain how a proposed update to a size or weight limitation will adversely affect users of the mail or

competitors.⁶⁰ The Commission also proposed the addition to section 3020.111(a) of a requirement that the Postal Service explain how proposed size and weight limitations are in accordance with the policies and applicable criteria of chapter 36 of title 39 of the United States Code.⁶¹ On June 28, 2019, the Commission adopted its proposed changes to 39 C.F.R. § 3020.111(a).⁶²

Mail Preparation Changes and the Price Cap

In FY 2018, the Commission initiated Docket No. RM2018-11 and issued an ANPR⁶³ that requested proposals for a new standard and process to determine when a mail preparation change requires price cap compliance in accordance with a recent decision by the United States Court of Appeals for the District of Columbia (D.C. Circuit).⁶⁴ After considering comments received, the Commission issued an order closing Docket No. RM2018-11.⁶⁵ The Commission noted that the issue of whether a specific mail preparation change requires price cap compliance has appeared

infrequently.⁶⁶ Consequently, it concluded that it was “not convinced that issuing a notice of proposed rulemaking would be the best use of the Commission and the interested parties’ resources and determine[d] that the likelihood of harm to any party from considering a standard at a later date is low.”⁶⁷ The Commission stated that it continues to have authority to regulate mail preparation changes under the price cap and will continue to monitor these changes and take appropriate action consistent with the D.C. Circuit’s guidance if necessary.⁶⁸

Ratemaking Procedures for Inbound Letter Post and Related Services

In FY 2019, the Postal Service filed a petition asking the Commission to reconsider whether the Market Dominant price cap applies to rates for Inbound Letter Post and certain other inbound international Market Dominant products.⁶⁹ The Commission issued an ANPR initiating Docket No. RM2019-2, inviting public comment, and

appointing a Public Representative.⁷⁰ After considering comments received, the Commission issued an order closing Docket No. RM2019-2.⁷¹ The Commission noted that the Postal Service’s proposal to remove Inbound Letter Post from the price cap is one of many issues the Commission is currently considering in Docket No. RM2017-3,

59 Order No. 4987 at 3.

60 Docket No. RM2019-3, Notice of Proposed Rulemaking Concerning Classification Changes Modifying Product Lists, May 8, 2019, at 6 (Order No. 5088).

61 Order No. 5088 at 6.

62 Docket No. RM2019-3, Order Adopting Final Rules Concerning Classification Changes Modifying Product Lists, June 28, 2019 (Order No. 5140).

63 Docket No. RM2018-11, Advance Notice of Proposed Rulemaking, August 9, 2018 (Order No. 4750); see *FY 2018 Annual Report* at 20-21.

64 *U.S. Postal Serv. v. Postal Regulatory Comm’n*, 886 F.3d 1253 (D.C. Cir. 2018).

65 Docket No. RM2018-11, Order Closing Docket, June 3, 2019 (Order No. 5113).

66 Order No. 5113 at 5.

67 *Id.*

68 *Id.*

69 Docket No. RM2019-2, Petition of the United States Postal Service to Initiate a Rulemaking Concerning Ratemaking Procedures for Inbound Letter Post and Related Services, November 16, 2018 (Docket No. RM2019-2 Petition).

70 Docket No. RM2019-2, Advance Notice of Proposed Rulemaking Concerning Ratemaking Procedures for Inbound Letter Post and Related Services, November 20, 2018, at 3-4 (Order No. 4882).

71 Docket No. RM2019-2, Order Closing Docket, January 10, 2019 (Order No. 4984).

the Commission’s statutorily mandated review of the modern system of regulating rates and classes for Market Dominant products.⁷² It stated that Docket No. RM2017-3 provided the Postal Service and interested persons “ample time and

opportunity to comment on the price cap as a whole, as well as the applicability of the price cap to Inbound Letter Post and related products specifically.”⁷³ For this reason, the Commission closed Docket No. RM2019-2.⁷⁴

Flats Data Enhancements and Reporting Requirements

In FY 2018, the Commission established Docket No. RM2018-1 and issued an ANPR to explore potential enhancements to the Postal Service’s data systems and to facilitate the development of consistent reporting requirements.⁷⁵ These data enhancements and reporting requirements were intended to measure, track, and report flats’ cost and service performance issues.⁷⁶

Two Commission Information Requests (CIR) and a Notice of Inquiry (NOI) were issued seeking additional information about certain data systems and reports.⁷⁷ After reviewing responses received, the Commission issued proposed rules with

new data reporting requirements and requested comments from interested persons.⁷⁸ The purpose of the proposed rules was to provide sufficient information to improve transparency into the cost and service performance issues and increase the Postal Service’s accountability related to flats’ operational initiatives.⁷⁹ After considering comments received, the Commission issued an order adopting final rules on May 8, 2019.⁸⁰ The final rules incorporated many of the suggestions identified in the comments, as well as additional clarifying language added by the Commission, but the substance of the rules remained unchanged.⁸¹

Amendments to Market Test Rules

The PAEA authorizes the Postal Service to conduct market tests of experimental products.⁸² The Commission adopted rules in 39 C.F.R. part 3035 to establish procedures for conducting market tests.⁸³ Practice before the Commission has developed since these rules were adopted. To ensure that the market test rules better reflect modern practice, the Commission established Docket No. RM2018-12 and issued

a NPR proposing to amend the market test rules.⁸⁴ The amendments proposed revising rules concerning market test revenue limitations and requests to add a non-experimental product or price category based on an experimental product to the Market Dominant or Competitive product list.⁸⁵ After considering comments received, the Commission issued an order adopting final rules on January 8, 2019.⁸⁶

72 Order No. 4984 at 6-7.

73 *Id.* at 11.

74 *Id.*

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

76 Order No. 4142 at 1.

77 Docket No. RM2018-1, Commission Information Request No. 1, October 4, 2017; Docket No. RM2018-1, Commission Information Request No. 2, March 28, 2018; Docket No. RM2018-1, Notice of Inquiry No. 1, August 17, 2018.

78 Docket No. RM2018-1, Notice of Proposed Rulemaking for Reporting Requirements Related to Flats, March 1, 2019 (Order No. 5004).

79 Order No. 5004 at 7.

80 Docket No. RM2018-1, Order Adopting Final Rules on Reporting Requirements Related to Flats, May 8, 2019 (Order No. 5086).

81 *Id.* at 9.

82 39 U.S.C. § 3641.

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

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

85 Order No. 4822 at 1.

86 Docket No. RM2018-12, Order Amending Rules Relating to Market Tests, January 8, 2019 (Order No. 4973).

Amended Rules for Calculating Assumed Federal Income Tax on Competitive Products

39 U.S.C. § 3634(b) requires the Postal Service to calculate the assumed Federal income tax on its Competitive products each year and to transfer the assumed tax from the Competitive Products Fund to the Postal Service Fund. On December 18, 2008, the Commission issued its initial rules governing the calculation of the assumed income tax for Competitive products.⁸⁷

On May 16, 2019, the Commission issued an NPR to consider amendments to its Part 3060 rules.⁸⁸ The amendments were proposed to reflect changes to the Internal Revenue Code made by the Tax Cuts and Jobs Act⁸⁹ and to simplify the existing rules by eliminating obsolete provisions in sections 3060.40(c) and 3060.43(c).⁹⁰ The Tax Cuts and Jobs Act effectively eliminated the

Alternative Minimum Tax as a way the Postal Service could calculate its assumed tax liability for Competitive products. In light of this change, the Commission proposed replacing both cross-references to the Internal Revenue Code in section 3060.40(a) with a general instruction that the Postal Service use the applicable corporate tax rate in calculating its assumed tax liability.⁹¹ With this approach, future changes in the Internal Revenue Code could be accommodated without requiring additional amendments to section 3060.40(a).⁹²

After considering comments received, the Commission issued a final order adopting proposed changes to 39 C.F.R. §§ 3060.40 and 3060.43 on June 27, 2019.⁹³



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87 See Docket No. RM2008-5, Order Establishing Accounting Practices and Tax Rules for Competitive Products, December 18, 2008 (Order No. 151). The rules are codified in 39 C.F.R. part 3060 (2018) (Part 3060).

88 Docket No. RM2019-5, Notice of Proposed Rulemaking to Amend Assumed Federal Income Tax Calculation Rules, May 16, 2019 (Order No. 5097).

89 See Tax Cuts and Jobs Act, Pub. L. 115-97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

90 Order No. 5097 at 3.

91 *Id.*

92 *Id.*

93 Docket No. RM2019-5, Order Amending Assumed Federal Income Tax Calculation Rules, June 27, 2019 (Order No. 5136).

Annual Reports

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

Annual Compliance Determination

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

Consistent with the approach adopted in past years, the ACD focuses on compliance issues as defined in 39 U.S.C. § 3653(b)(1) and (b)(2). These statutory subsections require the Commission to make determinations on whether any rates and fees in effect during FY 2018 did not comply with 39 U.S.C. chapter 36 and whether any service standards in effect during FY 2018 were not met.

The Commission issued the FY 2018 ACD on April 12, 2019, and made several principal findings

Each year, the Commission analyzes the ACR and issues three related reports: (1) the ACD, (2) the Financial Analysis Report, and (3) the Analysis of Postal Service Performance Goals and Performance Plan. In FY 2019, these three reports were issued in Docket No. ACR2018 and respectively: (1) assessed the Postal Service's compliance with statutory pricing and service requirements, (2) analyzed the Postal Service's overall financial position, and (3) evaluated whether the Postal Service met its performance goals. Each report is discussed below.

and directives.⁹⁸ First, the Commission evaluated Market Dominant products for compliance with statutory pricing requirements. The Commission identified compliance issues related to 23 workshare discounts, finding that three of the discounts did not comply with section 3622(e).⁹⁹ The Commission required no further action for two of the three workshare discounts that did not comply with section 3622(e) because the rates approved in Docket No. R2019-1 aligned the discounts with avoided costs.¹⁰⁰ For the remaining one workshare discount out of compliance, the Commission directed the Postal Service to either align the workshare discount with its avoided cost in the next Market Dominant rate adjustment or provide support for an applicable statutory exception.¹⁰¹

In addition, the Commission found that the Postal Service meaningfully addressed the FY 2017 ACD directives to report on the cost and contribution impact of worksharing and progress in improving pricing efficiency for the Periodicals class of

94 39 U.S.C. § 3652(a).

95 39 U.S.C. § 3652(a)(1).

96 *Id.* § 3652(a)(2), (b), (c).

97 *Id.* § 3653(a), (b).

98 Docket No. ACR2018, *Annual Compliance Determination Report Fiscal Year 2018*, April 12, 2019 (FY 2018 ACD). The slight delay in publication of the ACD was due to the lapse in the Commission's appropriations that occurred in FY 2019.

99 FY 2018 ACD at 1.

100 *Id.*

101 *Id.*

mail.¹⁰² The Commission directed the Postal Service to continue reporting on Periodicals pricing issues in its FY 2019 ACR.¹⁰³

Second, the Commission identified eight non-compensatory Market Dominant products that did not generate sufficient revenue to cover their attributable costs in FY 2019: (1) Periodicals In-County, (2) Periodicals Outside County, (3) USPS Marketing Mail Flats, (4) USPS Marketing Mail Parcels, (5) Inbound Letter Post, (6) Media Mail/Library Mail, (7) Stamp Fulfillment Services, and (8) Market Dominant negotiated service agreement (NSA) with PHI Acquisitions, Inc.¹⁰⁴

The Commission found that additional transparency was necessary to hold the Postal Service accountable with respect to Periodicals In-County and Periodicals Outside County.¹⁰⁵

The Commission stated it would continue to explore cost and service issues related to flats in Docket No. RM2018-1.¹⁰⁶

For USPS Marketing Mail Flats, the Commission found that this product remains in violation of 39 U.S.C. § 101(d) and that the Postal Service has failed to comply with the Commission's FY 2010 ACD directive to increase cost coverage.¹⁰⁷

In the FY 2018 ACD, the Commission directed that in the next generally applicable Market Dominant rate adjustment, the Postal Service must propose a rate increase for USPS Marketing Mail Flats that is at least 2 percentage points above the USPS Marketing Mail class average.¹⁰⁸ For USPS Marketing Mail Parcels, the Commission found that revenue was not sufficient to cover attributable cost in FY 2018 and strongly recommended an

advanced remedy in light of the repeated failure of USPS Marketing Mail Parcels to cover its costs.¹⁰⁹

Third, the Commission evaluated Competitive products for compliance with 39 U.S.C. § 3633(a) in FY 2018. The Commission found that Competitive products complied with sections 3633(a)(1) and (3) because Market Dominant products did not subsidize Competitive products, and Competitive products collectively covered an appropriate share of the Postal Service's institutional costs.¹¹⁰ The Commission also determined that revenues for six Competitive products did not cover their attributable costs and, therefore, did not comply with 39 U.S.C. § 3633(a)(2).¹¹¹ The Commission directed the Postal Service to take corrective action, such as monthly reporting and providing additional transparency on investigations of cost estimates and rate and revenue discrepancies.¹¹²

Fourth, the Commission evaluated FY 2018 service performance for each Market Dominant product and found that service performance results decreased for most products compared to FY 2017.¹¹³ The Commission noted that the Postal Service met its service performance targets for USPS Marketing Mail High Density and Saturation Letters, USPS Marketing Mail Parcels, Bound Printed Matter Parcels, and most Special Services products.¹¹⁴ However, service performance targets were not met for all First-Class Mail products, both Periodicals products, USPS Marketing Mail High Density and Saturation Flats/Parcels, USPS Marketing Mail Carrier Route, USPS Marketing Mail Letters, USPS

102 *Id.*

103 *Id.* at 1-2.

104 *Id.* at 2.

105 *Id.*

106 *Id.*

107 *Id.*

108 *Id.*

109 *Id.*

110 *Id.* at 99.

111 *Id.* at 3. These products were two domestic NSAs, International Priority Airmail (IPA), International Money Transfer Service—Inbound (IMTS—Inbound), International Ancillary Services, and Officially Licensed Retail Product (OLRP). *Id.*

112 *Id.*

113 *Id.*

114 *Id.*

Marketing Mail Flats, USPS Marketing Mail Every Door Direct Mail—Retail, Bound Printed Matter Flats, Media Mail/Library Mail, and Post Office Box Service.¹¹⁵ The Commission made several findings and recommendations, such as directing the Postal Service to provide more transparency regarding the progress and effects of its existing multi-year national service performance improvement strategies.¹¹⁶

Fifth, the Commission found that unit costs for flats have continued to rise, contribution losses

have continued to grow, and flats products have still not met their service performance targets.¹¹⁷ The Commission stated that the proposed reporting requirements in Docket No. RM2018-1 should increase the transparency of information related to flats as well as the Postal Service's accountability when it reports on operational initiatives designed to reduce flats' costs.¹¹⁸ The Commission stated it continues to encourage the Postal Service to use its data to ensure it is making cost-effective decisions.¹¹⁹

Financial Analysis

On April 19, 2019, the Commission issued its *Financial Analysis of the United States Postal Service Financial Results and 10-K Statement* for FY 2018.¹²⁰ The Commission analyzed the Postal Service's overall financial position and evaluated relationships between the essential components of the Postal Service's financial statements to assess the Postal Service's viability, stability, and profitability.¹²¹ The Commission's report also incorporated select key financial data from the past 10 years.¹²² Volume, revenue, and cost trends for Market Dominant and Competitive products were also analyzed.¹²³

In summary, the Commission's analysis found that the Postal Service reported a net loss from operations of \$2.1 billion in FY 2018.¹²⁴ The loss was largely due to the continued decline of Market Dominant volume and higher operating expenses, and was nearly \$748 million more than the \$1.3

billion operating loss reported in FY 2017.¹²⁵ The Commission also found that when non-operating expenses are included, the Postal Service's total net loss was \$3.9 billion—a decline of \$1.2 billion when compared to the previous year.¹²⁶ This decline resulted from a \$1.8 billion increase in operating expenses and an \$823 million increase in the non-cash change to the workers' compensation expense, offset by a \$1 billion increase in operating revenue and a combined \$400 million decrease in expenses related to retirement.¹²⁷

The Commission also found that during FY 2018, total assets decreased by \$0.7 billion while total liabilities increased by \$3.2 billion.¹²⁸ At the end of FY 2018, the Postal Service recorded total assets of \$26.7 billion and total liabilities of \$89.3 billion.¹²⁹ Total assets and liabilities are comprised of current and noncurrent

115 *Id.*

116 *Id.* at 4.

117 *Id.* at 4.

118 *Id.*

119 *Id.*

120 Docket No. ACR2018, *Financial Analysis of United States Postal Service Financial Results and 10-K Statement Fiscal Year 2018*, April 19, 2019 (Docket No. ACR2018 FY 2018 Financial Analysis).

121 Docket No. ACR2018 FY 2018 Financial Analysis at 5.

122 *Id.*

123 *Id.*

124 *Id.* at 1.

125 *Id.*

126 *Id.*

127 *Id.* Workers' compensation expense consists of cash payments, miscellaneous expenses and the net increase (decrease) in the workers' compensation liability. The non-cash adjustment to workers' compensation liability represents the impact of discount and inflation rate changes and the actuarial re-evaluation of new and existing cases.

128 *Id.*

129 *Id.* at 2.

portions.¹³⁰ In FY 2018, the Postal Service had current assets of \$11.6 billion and current liabilities of \$69.5 billion.¹³¹ In FY 2018, for the first time since FY 2010, the Postal Service experienced a decline in its cash balance by \$452 million, but total liquidity continued to improve.¹³² Total liquidity (cash plus available debt) was \$11.9 billion at the end of FY 2018.¹³³ For the first time since FY 2011, the Postal Service paid down \$1.8 billion of its \$15 billion debt.¹³⁴ However, one reason for the improved

liquidity is that the Postal Service did not make the statutorily required payments to its unfunded retirement-related liabilities.¹³⁵ The FY 2018 statutorily required payments to its unfunded retirement-related liabilities totaled \$3.2 billion.¹³⁶

In FY 2018, revenue from Market Dominant products decreased 2.6 percent compared to FY 2017.¹³⁷ By contrast, total Competitive product revenue increased 11.3 percent, or \$2.4 billion, in FY 2018.¹³⁸

Analysis of Performance Goals

Each year, the Commission must evaluate whether the Postal Service met the performance goals established in the Postal Service's annual performance report and performance plan.¹³⁹ The Commission may also provide the Postal Service with recommendations related to protecting or promoting public policy objectives in title 39.¹⁴⁰

On May 13, 2019, the Commission issued a detailed analysis of the Postal Service's progress during FY 2018 toward its four performance goals: (1) High-Quality Service, (2) Excellent Customer Experiences, (3) Safe Workplace and Engaged Workforce, and (4) Financial Health.¹⁴¹

In its analysis, the Commission evaluated whether the FY 2019 Annual Performance Plan (FY 2019 Plan) and FY 2018 Annual Performance Report (FY 2018 Report)

complied with 39 U.S.C. §§ 2803 and 2804.¹⁴² The Commission's review found that the FY 2019 Plan and FY 2018 Report retained many improvements made to the prior annual performance plan and annual performance report.¹⁴³ The FY 2019 Plan complied with legal requirements and the Commission's directive to identify program activities and relate them to the performance goals.¹⁴⁴ However, while the FY 2018 Report met some requirements, it contained several legal compliance issues due to the lack of comparability of FY 2018 targets and results, related issues with comparability of the results from the past three fiscal years, and insufficient explanations for why goals were not met.¹⁴⁵

The Commission also evaluated whether the Postal Service met each performance goal,

130 *Id.* Current assets are the sum of cash and cash equivalents, receivables, and supplies and prepayments, which can be easily converted to cash for financing operations. Noncurrent assets are mainly buildings and equipment and are more difficult to convert to cash in the short term. Current liabilities are obligations that will come due within one year while noncurrent liabilities are long-term financial obligations.

131 *Id.*

132 *Id.* at 3.

133 FY 2018 *Financial Analysis Report* at 31, Table II-20.

134 *Id.*

135 *Id.*

136 FY 2018 *Financial Analysis Report* at 6, Table II-1.

137 *Id.* at 9.

138 *Id.* at 11.

139 39 U.S.C. § 3653(d).

140 *Id.*

141 Docket No. ACR2018, *Analysis of the Postal Service's FY 2018 Annual Performance Report and FY 2019 Performance Plan*, May 13, 2019, at 1 (Docket No. ACR2018 FY 2018 Analysis).

142 Docket No. ACR2018 FY 2018 Analysis at 6-21.

143 *Id.* at 9.

144 *Id.*

145 *Id.*

finding that the Postal Service either did not meet or only partially met each performance goal in FY 2018.¹⁴⁶ The Commission provided related observations and recommendations for

each performance goal to help the Postal Service meet the performance goal and better assess its performance in future years.¹⁴⁷

Rate Changes

One of the Commission's major statutory responsibilities is to ensure that rate changes for Market Dominant and Competitive products comply with applicable statutory and regulatory requirements. There are two types of postal rates: (1) rates of general applicability, and (2) rates not of general applicability. Rates of general applicability are available to all mailers equally on the same terms and conditions.¹⁴⁸ These rates are available to the general public; examples include Forever Stamps and Priority Mail Flat Rate boxes. Rates not of general applicability are offered by

the Postal Service to specific mailers through NSAs.¹⁴⁹ NSAs are written contracts, effective for a defined period of time, between the Postal Service and a mailer, that provide for customer-specific rates, fees, or terms of service according to the terms and conditions of the contract.¹⁵⁰

In FY 2019, the Commission reviewed the Postal Service's planned changes to rates of general applicability and rates not of general applicability for both Market Dominant and Competitive products. Each is discussed below.

Market Dominant Products

RATES OF GENERAL APPLICABILITY

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

- Rate changes for each Market Dominant mail class must not exceed the price cap, an annual limitation based on the Consumer Price Index for All Urban Consumers.¹⁵¹
- Workshare discounts must not exceed the Postal Service's avoided costs unless a statutory exception applies.¹⁵²

- Preferred rates must be set consistent with statutory requirements.¹⁵³

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

In early FY 2019, the Postal Service filed notice of its planned changes in rates of general applicability and related MCS changes for Market Dominant products.¹⁵⁴ The Commission reviewed the planned rate changes for compliance with applicable laws. After analyzing the filings and considering comments received, the Commission issued Order No. 4875, finding that the planned

146 *Id.* at 22. The Postal Service partially met the Excellent Customer Experiences performance goal and did not meet the High-Quality Service, Safe Workplace and Engaged Workforce, and Financial Health performance goals.

147 *Id.* at 24.

148 39 C.F.R. § 3001.5(u).

149 39 C.F.R. § 3010.1(g).

150 39 C.F.R. § 3001.5(r).

151 39 U.S.C. § 3622(d)(1)(A), (d)(2)(A).

152 39 U.S.C. § 3622(e)(2).

153 39 U.S.C. § 3626.

154 Docket No. R2019-1, United States Postal Service Notice of Market-Dominant Price Change, October 10, 2018.

rate changes complied with the requirements of title 39, the Commission’s regulations appearing in 39 C.F.R. part 3010, and other applicable legal requirements.¹⁵⁵ The Commission found that the planned workshare discounts were consistent with, or justified by an exception to, the workshare discount requirements in 39 U.S.C. § 3622(e).¹⁵⁶ The Commission also concluded

that the related MCS changes, with the revisions set forth in the Order, were consistent with applicable laws.¹⁵⁷

On December 11, 2018, Douglas F. Carlson appealed the portion of Order No. 4875 related to First-Class Mail to the D.C. Circuit.¹⁵⁸ This appeal is discussed in the “Court of Appeals Cases” section below.

RATES NOT OF GENERAL APPLICABILITY

For Market Dominant products, the Postal Service sets rates not of general applicability by entering into NSAs with mailers or groups of mailers.¹⁵⁹ The Commission reviews these NSAs to ensure they either improve the Postal Service’s net financial position or enhance the performance of various operational functions.¹⁶⁰ The NSAs must also not cause unreasonable harm to the marketplace and be available on public and reasonable terms to similarly situated mailers.¹⁶¹ This review also ensures that the NSAs comply with the Commission’s rules in 39 C.F.R. part 3010, subpart D.

In FY 2019, the Postal Service sought to add a new international Market Dominant NSA to its offerings if the U.S. withdrew from the UPU.¹⁶² The Commission found that it could not approve the request because it identified numerous issues with the request and model contract and was unable to find that the proposed NSA complied with applicable statutory and regulatory requirements. The Commission suggested that should the Postal Service seek to amend or supplement its request, it should address the deficiencies identified by the Commission.¹⁶³

Competitive Products

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

1. Competitive products must not be cross-subsidized by Market Dominant products.¹⁶⁴ The Commission uses incremental costs to test whether Competitive products are being cross-subsidized by Market Dominant

products.¹⁶⁵ There is no cross-subsidy if Competitive product revenues as a whole are equal to or exceed total incremental costs.

2. Each Competitive product must cover its attributable costs, which are “the direct and indirect postal costs attributable to such product through reliably identified causal relationships.”¹⁶⁶

155 Docket No. R2019-1, Order on Price Adjustments for First-Class Mail, USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 13, 2018, at 1 (Order No. 4875).

156 Order No. 4875 at 1-2.

157 *Id.* at 2.

158 Petition for Review, *Carlson v. Postal Reg. Comm’n*, No. 18-1328 (D.C. Cir. filed December 11, 2018).

159 39 C.F.R. § 3010.7.

160 See 39 U.S.C. § 3622(c)(10).

161 *Id.*

162 Docket Nos. MC2019-187 and R2019-2, Request of United States Postal Service to Add Inbound Market Dominant Non-Published Rate Agreements with Foreign Postal Operators to the Market Dominant Product List, Notice of a Type 2 Rate Adjustment in the Form of an Inbound Market Dominant NPR-FPO 1 Model Contract, and Application for Non-Public Treatment of Materials Filed Under Seal, August 14, 2019.

163 Docket Nos. MC2019-187 and R2019-2, Order Regarding Postal Service Request to Add Inbound Market Dominant Non-Published Rate Agreements with Foreign Postal Operators (MC2019-187) Negotiated Service Agreements, September 10, 2019 (Order No 5223).

164 39 U.S.C. § 3633(a)(1).

165 39 C.F.R. § 3015.7(a).

166 39 U.S.C. §§ 3633(a)(2), 3631(b). The Commission calculates a competitive product’s attributable costs as the sum of its volume-variable costs, product-specific costs, and those inframarginal costs calculated as part of the product’s incremental costs. 39 C.F.R. § 3015.7(b).

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

The Commission also reviews planned rate changes for Competitive products to ensure compliance with the Commission’s rules in 39 C.F.R. part 3015. In FY 2019, the Commission reviewed the Postal Service’s planned changes to both rates of general applicability and rates not of general applicability for Competitive products. Each is discussed below.

RATES OF GENERAL APPLICABILITY

On October 10, 2018, the Postal Service filed a notice of changes in rates of general applicability for several domestic and international Competitive products, along with proposed changes to the MCS.¹⁶⁸ After reviewing the

notice, the Chairman’s Information Request (CHIR) responses, and the comments received, the Commission approved the planned rate and MCS changes, finding that they complied with 39 U.S.C. § 3633(a).¹⁶⁹

RATES NOT OF GENERAL APPLICABILITY

For Competitive products, the Postal Service sets rates not of general applicability by entering into NSAs with specific mailers. These NSAs require prior Commission review for compliance with 39 U.S.C. § 3633(a) and 39 C.F.R. part 3015. In FY 2019, the Commission reviewed and approved 216 Competitive NSAs: 191 domestic and 25 international. Table III-1 shows the number of NSAs the Commission approved between FY 2014 and FY 2019.

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

**Table III-1: Competitive NSAs Approved by the Commission^a
FY 2014 through FY 2019**

Competitive NSAs	FY 2019	FY 2018 ^b	FY 2017	FY 2016	FY 2015	FY 2014
Domestic	191	226	211	187	81	40
International	25	81	104	97	58	36
TOTAL	216	307	315	284	139	76

^a This table shows approved NSAs the Postal Service filed as new products or as functionally equivalent to the baseline agreement of existing products. This table does not include NSA modifications or amendments.

^b FY 2018 totals differ from those reported in the *FY 2018 Annual Report*, which did not include some Priority Mail Express & Priority Mail NSAs.

¹⁶⁷ 39 U.S.C. § 3633(a)(3); 39 C.F.R. § 3015.7(c).

¹⁶⁸ Docket No. CP2019-3, Notice of Changes in Rates of General Applicability for Competitive Products Established in Governors’ Decision No. 18-1, October 10, 2018.

¹⁶⁹ Docket No. CP2019-3, Order Approving Price Adjustments for Competitive Products, November 13, 2018 (Order No. 4876).

**Table III-2: Non-Published Rate Contracts Implemented by the Postal Service
FY 2014 through FY 2019**

Non-Published Rate	FY 2019	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
Global Expedited Package Services Non-Published Rates 1-14	326	474	393	244	91	124
Priority Mail – Non-Published Rates	111	145	121	207	0	1
TOTAL	437	619	514	451	91	125

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

Table III-2 shows the number of non-published rate contracts implemented by the Postal Service between FY 2014 and FY 2019.

The Commission updates NSA statistics monthly on its website.¹⁷⁰

Public Inquiries

Public inquiry dockets are established by the Commission to provide a venue to explore issues of general interest. Three public inquiry dockets

were before the Commission in FY 2019 that dealt with matters related to service performance, Inbound Letter Post, and city carrier costs.

Service Performance

Service performance for Market Dominant products is measured using external or internal service performance measurement (SPM) systems. External measurement systems are under the direct control of an independent contractor. Internal measurement systems are under the direct control of the Postal Service. The PAEA requires the Postal Service to measure service performance for Market Dominant products using an objective external performance measurement system.¹⁷¹ However,

“with the approval of the Commission, an internal measurement system may be implemented instead of an external measurement system.”¹⁷²

On July 5, 2018, the Commission issued Order No. 4697 conditionally approving new internal service performance measurement systems for several Market Dominant products, including products within domestic First-Class Mail, Periodicals, USPS Marketing Mail and Package Services.¹⁷³ Among other changes, these systems replaced

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

171 39 U.S.C. § 3691(b)(1)(D).

172 39 U.S.C. § 3691(b)(2).

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

the External First-Class measurement system that had been run by an independent contractor. The Postal Service began using data generated from the new measurement systems in the first quarter of FY 2019 to fulfill the statutory and regulatory requirements for service performance measurement of the affected products.

On November 5, 2018, the Commission issued an order conditionally approving modifications to the internal service performance measurement systems approved in Order No. 4697.¹⁷⁴ The most noteworthy change was modifying the start-the-clock date of measurement for First-Class Mail, USPS Marketing Mail, and Periodicals from the acceptance day to the date following the applicable acceptance day for mailpieces that are entered into the postal system on Non-Airlift Days.¹⁷⁵

On May 21, 2019, the Postal Service filed a request with the Commission for the approval of further modifications to its service performance

measurement system.¹⁷⁶ These changes included: (1) the removal of references to the legacy external SPM system, consistent with the Commission's request in Order No. 4945; (2) a proposal to replace external SPM with internal SPM for two First-Class Mail International services: Single-Piece First-Class Mail International—Outbound Letters and Flats and Single-Piece First-Class Mail International—Inbound Letters and Flats, Return Receipt (Green Card) service; and (3) a request to use domestic SPM data as a proxy for certain aspects of international letters' and flats' service performance.¹⁷⁷ The Postal Service proposed to prepare service performance reports for those services using the internal SPM system, beginning with FY 2019, Quarter 4.¹⁷⁸ The Commission issued an order conditionally authorizing the Postal Service to proceed with these changes on July 17, 2019.¹⁷⁹

Inbound Letter Post

Inbound Letter Post consists of international mail that originates in foreign countries and is delivered in the United States.¹⁸⁰ Foreign postal operators reimburse the Postal Service for delivering Inbound Letter Post items at rates, called terminal dues, which are set by the UPU.¹⁸¹ In recent proceedings, including the FY 2017 ACD proceeding, the Postal Service claimed that Inbound Letter Post is subject to competition.¹⁸²

These claims raised the issue of whether Inbound Letter Post should be wholly or partially transferred from the Market Dominant product list to the Competitive product list.¹⁸³

To evaluate this issue, the Commission established Docket No. PI2018-1 to examine "issues related to the classification of the Inbound Letter Post product and parts thereof."¹⁸⁴ Two CIRs and one CHIR were issued to better understand the Inbound Letter

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

175 Non-Airlift Days are days on which limited air lift is available for transportation of mail to processing points due to a holiday. *FY 2018 Annual Report* at 33.

176 Docket No. PI2019-1, United States Postal Service Response to Order No. 4945 and Request for Approval of Service Performance Measurement System Modification, May 21, 2019 (Docket No. PI2019-1 Response to Order No. 4945).

177 Docket No. PI2019-1 Response to Order No. 4945 at 1.

178 *Id.* at 5.

179 Docket No. PI2019-1, Order Conditionally Authorizing the Postal Service to Proceed with Changes to its Market Dominant Service Performance Measurement Systems, July 17, 2019 (Order No. 5157).

180 FY 2017 ACD at 65.

181 *Id.*

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

183 *Id.* at 7.

184 *Id.*

Post product and the market in which it resides.¹⁸⁵ On March 5, 2019, the Commission issued an order closing Docket No. PI2018-1 because it considered the issues that it intended to examine in this docket when reviewing the Postal Service's request to

transfer Inbound Letter Post small packets and bulky letters from the Market Dominant Inbound Letter Post product to the Competitive product list in Docket No. MC2019-17.¹⁸⁶

City Carrier Costs

Another public inquiry docket concerning city carrier costs was also pending before the Commission in FY 2019. In FY 2017, the Commission established Docket No. PI2017-1 to evaluate the Postal Service's progress in its ongoing efforts to update its city carrier cost models and data collection capabilities as required by the Commission.¹⁸⁷ This docket has focused on the feasibility of a top-down, single-equation model to improve the Postal Service's variability estimates of city carrier cost drivers.¹⁸⁸ The Commission issued several CHIRs and provided an opportunity for interested persons to comment.¹⁸⁹

On November 2, 2018, the Commission issued an interim order in this proceeding. The Commission stated that based on the Postal Service's CHIR response and comments received, additional data are necessary to evaluate whether the Postal Service's city carrier costing models can be improved.¹⁹⁰ Accordingly, the Commission directed the Postal Service to provide an expanded dataset of city carrier delivery data, as well as report quarterly on the status of developing the expanded dataset.¹⁹¹ In FY 2019, the Postal Service began providing data as requested in that order. This proceeding is currently pending before the Commission.

Proposals to Change Analytical Principles

Analytical principles are theories or assumptions the Postal Service applies when producing reports it submits to the Commission each year.¹⁹² In these reports, the Postal Service must only use accepted analytical principles, which are analytical principles the Commission applied in the most recent ACD unless a different analytical principle is approved through a Commission proceeding.¹⁹³ The Commission's rules allow

any interested person, including the Postal Service and Public Representative, to petition the Commission to initiate proceedings to consider proposals to change an accepted analytical principle.¹⁹⁴ These proceedings, which are filed in rulemaking dockets, are intended to improve the quality, accuracy, or completeness of data or data analysis in the reports the Postal Service submits each year to the Commission.¹⁹⁵

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

186 Docket No. PI2018-1, Order Closing Docket, March 5, 2019, at 6 (Order No. 5005).

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

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

189 *Id.* at 2-5.

190 *Id.* at 1, 16.

191 *Id.* at 1, 16-17.

192 39 C.F.R. § 3050.1(c).

193 39 C.F.R. §§ 3050.1(a), 3050.10.

194 39 C.F.R. § 3050.11(a). The Commission, acting on its own behalf, may also initiate a proceeding to change an accepted analytical principle. *Id.*

195 *Id.*

During FY 2019, the Commission considered 12 Postal Service proposals to change various accepted analytical principles. The Commission issued final orders for seven of the proposals. Five proposals are pending before the Commission. Several of these proposals are discussed below.

City carrier costing. The Commission reviewed two proposals to change various accepted analytical principles related to city carrier costing. In Docket No. RM2018-5, the Postal Service filed a proposal that introduced new sampling and weighting procedures for the city carrier portion of the In-Office Cost System (IOCS).¹⁹⁶ The prior IOCS design used a multi-stage probability sample to randomly select city carriers whose activities were then sampled by telephone.¹⁹⁷ The Postal Service sought to change the IOCS sample design for city carriers to a cluster sampling approach using Time and Attendance Collection System (TACS) and Delivery Operations Information System data.¹⁹⁸ The Postal Service stated that the primary objective of Proposal Two was to replace telephone readings with on-site readings, particularly during times when carriers are on the premises and handling mail.¹⁹⁹ The Postal Service also stated that the new design improves data quality by obtaining far more data from on-site rather than telephone readings, while simultaneously improving data collection efficiency.²⁰⁰

In addition, the Postal Service noted that pilot data for Proposal Two indicated significant shifts in product costs.²⁰¹ The Postal Service pointed to a resulting decrease in attributable costs for First-Class Letters, and increases in costs for parcel-shaped products, carrier route bundled products, Periodicals, and international mail.²⁰²

On January 8, 2019, the Commission approved Proposal Two in part.²⁰³ The Commission approved the use of TACS workhours to develop Sunday and holiday city carrier costs and the use of Product Tracking and Reporting scan data as a distribution key for Sunday/holiday city carrier costs and the city carrier sampling mode 2 (morning readings in small zones) because it found that the completeness or overall accuracy of these data will likely be improved.²⁰⁴ However, the Commission denied the proposed city carrier supervisor methodology component of Proposal Two because the completeness of the overall city carrier supervisor data would likely not be improved.²⁰⁵ The Commission also denied the city carrier afternoon readings and morning readings in large zones because it was unable to determine the impact of these changes.²⁰⁶

In Docket No. RM2019-6, the Postal Service filed a proposal to update and improve the methodology for calculating attributable Special Purpose Route (SPR) city carrier costs.²⁰⁷ This would be “accomplished through a new study of SPR costs that relies upon operational carrier data and reflects the current structure of SPR activities.”²⁰⁸

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

197 Docket No. RM2018-5 Petition, Proposal Two, at 1-2.

198 *Id.* at 4-5.

199 *Id.* at 10.

200 *Id.* at 10-11.

201 *Id.* at 14-15.

202 *Id.*

203 Docket No. RM2018-5, Order Approving in Part Proposal Two, January 8, 2019 (Order No. 4972).

204 Order No. 4972 at 14.

205 *Id.*

206 *Id.* at 14-15.

207 Docket No. RM2019-6, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal One), June 21, 2019 (Docket No. RM2019-6 Petition). SPR carriers deliver packages to addresses across a designated geographic area and collect mail from specified collection points.

208 Docket No. RM2019-6 Petition, Proposal One, at 1.

The Postal Service explains that the existing SPR attributable cost model is based on a study presented in Docket No. R97-1.²⁰⁹ It notes that there have been substantial changes in the activities performed by SPR carriers since that time, which require an update and refinement of that study.²¹⁰

The Postal Service asserts that the new study makes several improvements to the analysis of SPR.²¹¹ First, to ensure that its structure reflects current operational practice and management, the new study is based upon ongoing consultations with Postal Service carrier operations experts.²¹² Second, the new study uses ongoing operational databases, which greatly expands the scope of the analysis, and includes data from all SPR locations in the country.²¹³ Third, the new study explicitly accounts for the December peak in package volumes to determine product costs and allows for other seasonal variation throughout the year.²¹⁴ Fourth, the study incorporates the differences in wages for different types of SPR carriers when forming cost pools.²¹⁵ Fifth, for the first time, the new study explicitly models Sunday package delivery costs based upon actual packages delivered.²¹⁶

The Postal Service identifies two primary cost shifts that occur under this proposal: (1) a shift from letter- and flat-shaped mail to packages, and (2) a shift from Market Dominant to Competitive products.²¹⁷ Several CHIRs have been issued, and the Commission is currently considering comments received.



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International mail costs. During FY 2019, the Commission approved five proposals to change various accepted analytical principles pertaining to international mail costs. Proposal Two revised the revenue distribution methodology for Inbound LC/AO mailpieces.²¹⁸ Proposal Three revised the costing methodology for the distribution of PRIME enhanced payments.²¹⁹ PRIME is an international agreement among approximately 141 designated postal operators working together in the tracked packet area.²²⁰ Under PRIME, designated postal operators provide each other with enhanced payments, in addition to the basic per item payment, for the timely return of scans.²²¹

Proposal Five modified the methodology used to calculate indemnity costs for both Domestic and International Indemnities cost calculations.²²² Proposal Six changed the methodology for reporting Revenue, Pieces, and Weight (RPW) of

209 *Id.*

210 *Id.* For example, the focus on SPR activities has shifted toward delivery and away from collection. *Id.* at 1-2

211 *Id.* at 3.

212 *Id.*

213 *Id.*

214 *Id.*

215 *Id.*

216 *Id.*

217 *Id.* at 5.

218 Docket No. RM2019-7, Order on Analytical Principles Used in Periodic Reporting (Proposal Two), October 1, 2019, at 2 (Order No. 5259). LC/AO is an abbreviation for “lettres et cartes” and “autres objets” and is French for “letters and cards” and “other objects.” LC/AO refers to international letters, cards, flats, bulky letters, and small packets, whether under the UPU terminal dues system or bilateral or multilateral agreements.

219 Docket No. RM2019-8, Order on Analytical Principles Used in Periodic Reporting (Proposal Three), October 7, 2019, at 1 (Order No. 5269).

220 Order No. 5269 at 2.

221 *Id.*

222 Docket No. RM2019-10, Order on Analytical Principles Used in Periodic Reporting (Proposal Five), August 29, 2019, at 1 (Order No. 5213).

Priority Mail Express International (PMEI) in the Postal Service’s RPW report.²²³

The Commission is also considering a proposal to change the costing methodology for the treatment of the non-NSA portions of International Priority Airmail and International Surface Airlift.²²⁴

Other proposals. The Commission approved several other proposals to change accepted analytical principles. First, the Commission approved a proposal designed to “reorganize Cost Segment 3 and certain mail processing cost pools to reflect operational changes and to better classify clerk and mail handler work activities.”²²⁵ Second, the Commission approved proposed modifications to the methodology for First-Class Mail Letter and USPS Marketing Mail Letter cost avoidance models.²²⁶ Third,

the Commission approved a proposal for establishing the methodology for which delivery cost estimates should be used to calculate the cost avoidance and passthrough for Carrier Route Basic.²²⁷ Fourth, in Proposal Eight, the Commission approved a Postal Service proposed change intended to improve the Parcel Select and Parcel Return Service mail processing and transportation cost models.²²⁸

The Commission is currently considering one other proposal to change accepted analytical principles. In Proposal Seven, the Postal Service is proposing to use TACS data to determine the share of costs for supervisors at delivery units on Sundays and holidays and then distribute these costs using the same distribution key used for city carriers delivering packages on Sundays and holidays.²²⁹

Other Proceedings

Several other proceedings were before the Commission in FY 2019. First, the Plus One Market Test allows users of letter-shaped mail to mail an advertising card as an add-on mailpiece with a USPS Marketing Mail Letters marriage mail envelope, which contains multiple advertising mailpieces.²³⁰ On September 20, 2019, the Commission issued an order authorizing the Plus One Market Test to proceed.²³¹ Second, the Commission considered a complaint filed by Randall Ehrlich under 39 U.S.C. §§ 3662(a) and 403(c) against the Postal Service.²³² Mr. Ehrlich

alleged an ongoing suspension of mail service to his home and sought specified actions to resolve his complaint. The Postal Service filed a motion to dismiss the complaint on November 23, 2018, citing that the case is appropriate for the rate or service inquiry process in accordance with 39 C.F.R. § 3010.13(a).²³³

On December 12, 2018, the Commission granted, in part, the Postal Service’s motion to dismiss with prejudice the complaint of Mr. Ehrlich. It further dismissed the complaint of Mr. Ehrlich without prejudice.²³⁴ The Commission dismissed

223 Docket No. RM2019-11, Order Approving Analytical Principles Used in Periodic Reporting (Proposal Six), October 22, 2019, at 2 (Order No. 5280).

224 Docket No. RM2019-9, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Four), July 9, 2019.

225 Docket No. RM2018-10, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), October 12, 2018, at 1-2 (Order No. 4855).

226 Docket No. RM2019-1, Order on Analytical Principles Used in Periodic Reporting (Proposal Eight), November 28, 2018, at 1 (Order No. 4894).

227 Docket No. RM2019-4, Order on Analytical Principles Regarding Periodicals Outside County Carrier Route Basic Flats, June 27, 2019, at 1 (Order No. 5137).

228 Docket No. RM2019-14, Order on Analytical Principles Used in Periodic Reporting (Proposal Eight), November 12, 2019 (Order No. 5299).

229 Docket No. RM2019-12, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Seven), August 23, 2019.

230 Docket No. MT2019-1, Order Authorizing Plus One Market Test, September 20, 2019, at 1 (Order No. 5239).

231 Order No. 5239 at 2.

232 Docket No. C2019-1, Complaint of Randall Ehrlich, November 2, 2018.

233 Docket No. C2019-1, United States Postal Service Motion to Dismiss with Prejudice the Complaint of Randall Ehrlich, November 23, 2018.

234 Docket No. C2019-1, Order Granting Motion to Dismiss, December 12, 2018, at 13 (Order No. 4924).

the complaint for lack of jurisdiction and failure to state a claim. It further concluded that a reasonable likelihood existed that rate or service inquiry procedures may result in a resolution of the complaint. Accordingly, the Commission referred the matter to the Postal Service for resolution through the rate or service inquiry process. The Commission's order directed the Postal Service to report to the Commission its resolution of the inquiry or its inability or refusal to reach a resolution within 45 days of the Commission's order. On January 10, 2019, Randall Ehrlich appealed the Commission's order to the D.C. Circuit.²³⁵

Third, the Commission reviewed Postal Service calculations related to Competitive products income. Each year, the Postal Service is required to calculate the assumed Federal income tax on income from its Competitive products and to transfer the amount calculated from the Competitive Products Fund to the Postal Service Fund.²³⁶ On January 10, 2019, the Postal Service filed its calculation of the assumed Federal income tax for FY 2018.²³⁷ On February 22, 2019, the Postal Service filed a revised calculation.²³⁸ Based upon its review of the Postal Service's revised calculation, the Commission approved the Postal Service's calculation of the assumed Federal income tax on its FY 2018 Competitive products income.²³⁹

Fourth, the Commission considered several dockets related to international mail in FY 2019. On November 16, 2018, the Postal Service

filed a request to remove Inbound Letter Post small packets and bulky letters from the Market Dominant Inbound Letter Post product, as well as remove associated inbound registered mail services from the Market Dominant product list.²⁴⁰ In the request, the Postal Service proposed to add identical services to the Competitive product list.²⁴¹ However, the Postal Service did not propose prices for the affected mailpieces.²⁴²

After reviewing the request, responses to CHIRs, and comments received, the Commission conditionally approved the request on January 9, 2019, pending the proposal, review, approval, and implementation of new prices.²⁴³ On February 15, 2019, the Commission held an off-the-record technical conference regarding the methodology the Postal Service intended to use for setting prices for the new Competitive product and service.²⁴⁴

On May 20, 2019, the Postal Service requested approval for a range of prices for the conditionally approved Competitive Inbound Letter Post Small Packets and Bulky Letters product.²⁴⁵ The Postal Service asserted that it needed approval of a range of prices to account for the variety of proposed reforms to the terminal dues system considered by UPU members at the Third Extraordinary Congress and the potential U.S. withdrawal from the UPU.²⁴⁶ The Commission approved the proposed range of prices and directed the Postal Service to provide notice of the effective date and the

235 Petition for Review, *Randall Ehrlich v. Postal Regulatory Comm'n*, No. 19-1004 (D.C. Cir. filed January 10, 2019).

236 39 U.S.C. § 3634; 39 C.F.R. § 3060.40, *et seq.*

237 Docket No. T2019-1, Notice of the United States Postal Service of Submission of the Calculation of the FY 2018 Assumed Federal Income Tax on Competitive Products, January 10, 2019.

238 See Docket No. T2019-1, Response of the United States Postal Service to Question 1 of Chairman's Information Request No. 1, February 22, 2019.

239 Docket No. T2019-1, Order Approving the Calculation of the FY 2018 Assumed Federal Income Tax on Competitive Products, March 12, 2019 (Order No. 5006).

240 Docket No. MC2019-17, United States Postal Service Request to Transfer Inbound Letter Post Small Packets and Bulky Letters, and Inbound Registered Service Associated with Such Items, to the Competitive Product List, November 16, 2018 (Docket No. MC2019-17 Request).

241 Docket No. MC2019-17 Request at 12-13. There would be a new Competitive product called Inbound Letter Post Small Packets and Bulky Letters and a new category of Competitive International Registered Mail called Inbound Competitive International Registered Mail. *Id.*

242 See *id.* at 9.

243 Docket No. MC2019-17, Order Conditionally Approving Transfer, January 9, 2019, at 19, 23 (Order No. 4980).

244 Docket No. CP2019-83, Notice Regarding Postal Service Response to Order No. 4997, February 8, 2019, at 4.

245 Docket No. CP2019-155, Notice of the United States Postal Service of Rates Not of General Applicability for Inbound E-Format Letter Post, and Application for Non-Public Treatment, May 20, 2019 (Docket No. CP2019-155 Notice).

246 Docket No. CP2019-155 Notice at 5.

specific prices at least 15 days before the prices went into effect.²⁴⁷

The Postal Service requested approval to add a new international Competitive non-published rates NSA to its offerings if the U.S. withdrew from the UPU.²⁴⁸ The Commission found that it could not approve the request and identified numerous issues with the request and model contract that the Postal Service should address if it amends or supplements its request.²⁴⁹

The Commission issued two other orders related to International Mail. First, the Commission approved the Postal Service request to update the weight limitation for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats).²⁵⁰ Second, the Commission approved changes to the MCS that correct the names of several foreign countries and make a minor accompanying editorial change.²⁵¹

Court of Appeals Cases

The D.C. Circuit issued two decisions in Commission court of appeals cases. First, the D.C. Circuit issued a decision regarding Order No. 4875, in which the Commission found that the Postal Service's planned Market Dominant rate and MCS changes were consistent with applicable law.²⁵² On December 11, 2018, Douglas F. Carlson appealed the portion of Order No. 4875 related to First-Class Mail to the D.C. Circuit.²⁵³ On September 13, 2019, the D.C. Circuit issued its opinion granting the petition for review and vacating the portion of Order No. 4875 addressing rate adjustments for First-Class Mail.²⁵⁴ Specifically, the court concluded that Order No. 4875 failed to provide an adequate explanation for the Stamped Letters price increase, failed to address the statutory objectives and factors relevant to the Stamped Letters price increase, and failed to respond to comments challenging the Stamped Letters

price increase under the statutory objectives and factors.²⁵⁵ In accordance with the court's decision, the Commission issued Order No. 5285, which applied the requirements of the PAEA, the Administrative Procedure Act, Pub. L. 79-404, 60 Stat. 237 (1946) (APA), and the Commission's regulations to determine whether the First-Class Mail price adjustments were consistent with applicable law.²⁵⁶ After considering the objectives and factors of 39 U.S.C. 3622(b) and (c), the reasons for the Stamped Letters price increase, and the comments received, the Commission concluded that the price adjustments for First-Class Mail were consistent with applicable law.²⁵⁷

Second, the D.C. Circuit issued a decision denying the appeal of Randall Ehrlich. The Commission dismissed the complaint of Mr. Ehrlich, which alleged an ongoing suspension of mail service to his home and sought specified

247 Docket No. CP2019-155, Order Approving Range of Rates for Inbound Letter Post Small Packets and Bulky Letters and Associated International Registered Mail Service, July 12, 2019 (Order No. 5152).

248 Docket Nos. MC2019-180 and CP2019-202, Request of the United States Postal Service to Add Inbound Competitive Non-Published Rate Agreements with Foreign Postal Operators to the Competitive Products List and Notice of Filing Inbound Competitive NPR-FPO 1 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, August 2, 2019.

249 Docket Nos. MC2019-180 and CP2019-202, Order Regarding Postal Service Request to Add Inbound Competitive Non-Published Rate Agreements with Foreign Postal Operators to the Competitive Product List, September 19, 2019 (Order No. 5237).

250 Order No. 4932 at 6.

251 Docket No. MC2019-4, Order Approving Minor Classification Changes, December 10, 2018, at 1, 3 (Order No. 4918).

252 Order No. 4875 at 1-2.

253 See *Carlson*, No. 18-1328.

254 *Carlson v. Postal Reg. Comm'n*, 938 F.3d 337 (D.C. Cir. 2019).

255 *Carlson*, 938 F.3d at 340, 351-52.

256 Docket No. R2019-1, Order Approving Price Adjustments for First-Class Mail, October 24, 2019, at 3 (Order No. 5285).

257 Order No. 5285 at 67.

actions to resolve his complaint.²⁵⁸ The D.C. Circuit found that the Commission provided a “well-reasoned” justification for its decision.²⁵⁹ It stated that Mr. Ehrlich “failed to show that the Postal Service has offered more favorable rates or terms and conditions [of mail service] to similarly situated individuals.”²⁶⁰ The D.C. Circuit concluded that the Commission’s decision withstood its deferential arbitrary-and-capricious standard of review.²⁶¹

The following court appeals are also pending before the D.C. Circuit:

- Statutory Review of Market Dominant Rate System²⁶²
- Appeal of Institutional Cost Contribution Requirement²⁶³
- Unsealing of Non-Public International Information²⁶⁴



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International Postal Policy

The Secretary of State is responsible for formulating, coordinating, and overseeing international postal policy, as well as concluding postal treaties such as those involving the UPU.²⁶⁵ Headquartered in Bern, Switzerland, the UPU is an international treaty organization responsible for facilitating high-quality universal mail service at affordable rates. Although the State Department has primary authority over international postal policy, it must request the Commission’s views on whether any treaty, convention, or amendment that establishes a rate or classification for a Market Dominant product is consistent with

the Market Dominant Rate System.²⁶⁶ The State Department must ensure that each treaty, convention, or amendment concluded is consistent with the Commission’s views unless there is a foreign policy or national security concern.²⁶⁷

On August 23, 2018, the White House issued a Presidential Memorandum for the Secretary of State, Secretary of the Treasury, Secretary of Homeland Security, Postmaster General, and Chairman of the Postal Regulatory Commission on “Modernizing the Monetary Reimbursement Model for the Delivery of Goods Through the International Postal System and Enhancing the Security and Safety of International

258 See “Other Proceedings” section above.

259 Judgment, *Randall Ehrlich v. Postal Reg. Comm’n*, No. 19-1004 (D.C. Cir. filed December 10, 2019) (unpublished).

260 *Ehrlich*, No. 19-1004 at 2.

261 *Id.* at 2-3.

262 Petition for Review, *National Postal Policy Council v. Postal Reg. Comm’n*, No. 17-1276 (D.C. Cir. filed December 29, 2017).

263 Petition for Review, *United Parcel Service, Inc., v. Postal Reg. Comm’n*, No. 19-1026 (D.C. Cir. filed February 4, 2019).

264 Petition for Review, *U.S. Postal Serv. v. Postal Reg. Comm’n*, No. 19-1155 (D.C. Cir. filed July 31, 2019).

265 39 U.S.C. § 407(b)(1).

266 39 U.S.C. § 407(c)(1).

267 39 U.S.C. § 407(c)(2).

Mail (Presidential Memorandum).²⁶⁸ In this Presidential Memorandum, the President affirmed the policy of the executive branch to support efforts that further a system of unrestricted and undistorted competition between the United States and foreign merchants. This system should include, *inter alia*, ensuring that rates charged for the delivery of foreign-origin mail containing goods do not favor foreign mailers over domestic mailers or postal operators over non-postal operators.²⁶⁹ This Memorandum also resulted in a Statement by the White House Press Secretary on October 17, 2018, regarding UPU rates.²⁷⁰ In this statement, the President concurred with the Department of State's recommendation for the United States to adopt self-declared rates no later than January 1, 2020.²⁷¹ The State Department notified the UPU of United States' withdrawal in 1 year, during which time it would seek to negotiate bilateral and multilateral agreements to resolve the issues identified in the August 23, 2018 Presidential Memorandum. The statement also noted that the United States would be willing to rescind its notice of withdrawal if these negotiations were successful. In direct response to the U.S. notice of withdrawal from the UPU, the UPU held its Third Extraordinary Congress on September 24-25, 2019, in Switzerland solely for the purpose of considering new rates for the delivery of small packets, most of which are generated by e-commerce. Pursuant to 39 C.F.R. § 3017.3(a), the Commission established Docket No. IM2019-1 to "solicit comments on the general principles that should guide the Commission's development of views on relevant proposals, in a general way, and on specific relevant proposals, if the Commission is able to make these available."²⁷²

On June 28, 2019, pursuant to 39 U.S.C. § 407(c) (1), the Secretary of State requested that the Commission provide its views on "the consistency of proposals to amend rates or classifications for [M]arket [D]ominant products or services within the Universal Postal Convention that will be considered at the upcoming Third Extraordinary Universal Postal Union (UPU) Congress with the standards and criteria established by the Commission under 39 U.S.C. § 3622."²⁷³

The Commission received comments representing a broad array of stakeholder interests. The Commission responded to the Secretary of State's request on August 20, 2019. Consistent with 39 C.F.R. § 3017.3(b), this letter was posted on the Commission's website.²⁷⁴

During FY 2019, the Commission supported the Administration through an inter-agency process to negotiate a favorable outcome at the Third Extraordinary Congress that would allow postal operators to self-declare rates for the delivery of small packets. After nearly a year of negotiations, the United States succeeded at the Third Extraordinary Congress in negotiating self-declared rates for small packets that met the objectives set out in the August 23, 2018, Presidential Memorandum. As a result, the United States will remain a member of the UPU. The Commission is currently reviewing these rates.²⁷⁵

268 Presidential Memorandum for the Secretary of State, Secretary of the Treasury, Secretary of Homeland Security, Postmaster General, and Chairman of the Postal Regulatory Commission, August 23, 2018 (Presidential Memorandum) available at: <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/>.

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

270 Statement from the Press Secretary, October 17, 2018, available at: <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/>.

271 *See id.*

272 Docket No. IM2019-1, Notice and Order Establishing Section 407 Proceeding, June 20, 2019, at 2 (Order No. 5127).

273 *See* Docket No. IM2019-1, Notice of Filing Correspondence, July 8, 2019, Letter from Nerissa J. Cook, Deputy Assistant Secretary, U.S. Department of State, Bureau of International Organization Affairs, on behalf of the Secretary of State, June 28, 2019.

274 Docket No. IM2019-1, Notice of Filing Correspondence and the Second Additional Protocol to the Universal Postal Convention, October 17, 2019.

275 *See* Docket No. CP2019-155, Notice of the United States Postal Service of Effective Date and Specific Rates Not of General Applicability for Inbound E-Format Letter Post, and Application for Non-Public Treatment, October 29, 2019.

CHAPTER IV — Universal Service Obligation and Postal Monopoly

Background

In this chapter, the Commission provides its annual estimates of the cost of the Universal Service Obligation (USO) and the value of the postal monopoly. In its *Report on Universal Postal Service and the Postal Monopoly*, the Commission stated that the overarching USO of the Postal Service is set forth in 39 U.S.C. § 101(a), which states that the Postal Service must “provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to

all communities.” The USO has seven principal attributes: (1) geographic scope, (2) product range, (3) access, (4) delivery, (5) pricing, (6) service quality, and (7) an enforcement mechanism.²⁷⁶

The postal monopoly is the Postal Service’s exclusive right to carry and deliver certain types of mail and deposit mail into mailboxes.²⁷⁷ Unlike the cost of the USO (USO Cost), the Commission is not required to estimate annually the value of the postal monopoly. The Commission provides estimates for both the USO Cost and a provisional value of the postal monopoly to present a balanced perspective.²⁷⁸

276 Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly*, December 19, 2008, at 18 (USO Report).

277 USO Report at 10 n.1.

278 The Commission is evaluating comments and suggestions for modifications and enhancements to the current estimation methodology to account specifically for recent Postal Service data changes and for any other aspects of the letter and mailbox monopolies (postal monopoly) estimation methodology. See Docket No. P12020-1, Notice and Order Providing an Opportunity to Comment, October 1, 2019 (Order No. 5260).



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

in the Annual Report. This year for the first time, the net cost of the Postal Inspection Service is included in the estimate of the cost of the USO.

Estimated USO Cost

The PAEA requires the Commission to estimate the costs incurred by the Postal Service in providing three types of public services or activities:²⁷⁹

- Postal services to areas of the nation the Postal Service would not otherwise serve
- Free or reduced rates for postal services as required by title 39
- Other public services or activities the Postal Service would not otherwise provide but for the requirements of law

The USO Cost is the total amount of costs incurred by the Postal Service in providing these public services or activities. Table IV-1 illustrates the estimated USO Cost for the last 5 fiscal years, FY 2014 to FY 2018.

In this chapter, the Commission provides estimates of the costs incurred by the Postal Service in providing the public services or activities under 39 U.S.C. § 3651(b)(1), describes related statutory requirements, and explains the methodologies used to estimate these costs.²⁸⁰

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

	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
Postal Services to Areas of the Nation the Postal Service Would Not Otherwise Serve¹	0.50	0.46	0.39	0.35	0.51
Estimated Revenue Not Received Due to Free or Reduced Rates	1.79	1.71	1.64	1.63	1.62
Other Public Services or Activities²	2.92	2.35	2.37	2.26	2.21
TOTAL	5.21	4.53	4.40	4.24	4.34

¹ The FY 2014 figure differs from past Annual Reports because the Commission recalculated the cost of maintaining small post offices. See Maintaining Small Post Offices section, *infra*. The sum of row components may not equal total due to rounding.

² The FY 2018 figure includes the net cost of the Postal Inspection Service.

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

The Commission must estimate the costs incurred by the Postal Service in providing

postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such

services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of [39 U.S.C.] section 101(b).²⁸¹

279 39 U.S.C. § 3651(b)(1).

280 See 39 U.S.C. § 3651(b)(2).

281 39 U.S.C. § 3651(b)(1)(A). 39 U.S.C. § 101(b) requires the Postal Service to “provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.” *Id.* § 101(b).

The Commission determines these costs by combining the estimated costs of maintaining small post offices, the Alaska Air Subsidy, and Group E Post Office Boxes. Table IV-2 compares the costs of each one from FY 2014 to FY 2018.

As shown in Table IV-2, the estimated cost of providing postal services to areas of the nation the Postal Service would not otherwise serve declined between FY 2014 and FY 2015. This

decline was due primarily to the initial large reductions in the cost of maintaining small post offices, as described below. However, since then, the estimated total cost of providing postal services to areas of the nation the Postal Service would not otherwise serve has increased annually mainly due to the annual increase in clerk costs for maintaining small post offices.

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

	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
Maintaining Small Post Offices*	340	309	245	209	366
Alaska Air Subsidy	120	114	113	107	112
Group E Post Office Boxes	35	34	34	33	33
TOTAL*	496	458	392	349	511

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

MAINTAINING SMALL POST OFFICES

The Postal Service maintains small post offices, which are generally located in rural or remote areas, as part of its duty “to establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.”²⁸² The Postal Service uses Cost Ascertainment Group (CAG) classifications A to L to categorize post offices based on revenue generated.²⁸³ Small post offices are those that fall within CAG K and L classifications.²⁸⁴

The Commission determines the cost of maintaining small post offices by estimating the amount the Postal Service would save if rural carriers on the street provided the same services as those provided at small post offices, as well as the amount of revenue lost from existing CAG K and L Post Office Boxes. The Commission uses the Rural Mail Count to estimate the cost of rural carriers providing retail services and for new delivery service to those who would no longer have a CAG K and L Post Office Box.²⁸⁵

282 39 U.S.C. § 403(b)(3).

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

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

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

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

Selected CAG K and L Post Offices Annual Operating Costs	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
CAG K and L Postmasters^a	35	30	25	26	228
CAG L Leave Replacements	22	21	29	102	216
CAG K Clerks	384	358	289	176	13
Total Potential Operating Costs Saved (If CAG K and L Post Offices Closed)	441	408	343	304	457
Annual Estimated Cost Saving Adjustments (If CAG K and L Post Offices Closed)					
Rural Carrier Now Provides Retail Services Costs^b	19	18	18	17	16
Rural Carrier Now Provides Delivery Service (CAG K and L Post Office Boxes No Longer Available)^c	43	42	42	42	41
CAG K and L Post Office Boxes Revenue Foregone^d	40	38	37	36	33
Total Annual Cost Savings Adjustment	101	99	97	96	91
Cost of Maintaining Small Post Offices (Potential Operating Costs Saved Less Cost Savings Adjustments)	340	309	245	209	366

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

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

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

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

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

Sources: Postmaster Position Schedule CAG Group Proportions: Library Reference 32 in Docket Nos. ACR2014, ACR2015, ACR2016, ACR2017, and ACR2018 (CRA "B" Workpapers, "I-Forms" workbook, "I-CS01.0.2" tab).

Postmasters, CAG L Leave Replacement and Clerks CAG K costs: Library Reference 5 in Docket Nos. ACR2014, ACR2015, ACR2016, ACR2017, and ACR2018 (Cost Segments and Components Reconciliation to Financial Statement and Account Reallocation, "seg 1" and "seg 4" tabs in workbook).

Rural Mail Count: Library Reference 40 in Docket Nos. ACR2014, ACR2015, ACR2016, ACR2017, and ACR2018.

Table IV-2 lists the estimated costs of maintaining small post offices from FY 2014 to FY 2018. In FY 2014 the cost of maintaining small post offices was recalculated to account for changes in the staffing of small post offices. The recalculated cost incorporates all of the categories of employees who may perform functions that were previously performed primarily by postmasters.²⁸⁶

Table IV-3 disaggregates the cost of maintaining small post offices by component and illustrates the recent large shifts among these components. It also illustrates changes in employee categories staffing CAG K and L post offices. Total Postmaster salary cost (along with overhead and other personnel and non-personnel related costs)

ALASKA AIR SUBSIDY

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

GROUP E POST OFFICE BOXES

Group E Post Office Boxes are provided free of charge to postal customers who do not receive mail delivery. The Postal Service provides this service to address potential discrimination issues arising from instances where customers do not receive carrier delivery.²⁸⁹ In FY 2011, the Commission approved treating the cost of providing Group E Post Office Boxes as an institutional cost to more equitably distribute the USO Cost. The Commission also concluded that this treatment was analogous

dropped sharply after FY 2014, while the costs of other employees assuming postmaster duties have had corresponding increases. Total Postmaster direct and indirect costs decreased from \$228 million in FY 2014 to \$26 million in FY 2015 and increased slightly between FY 2017 and FY 2018, from \$30 million to \$35 million. Similarly, in FY 2014, total CAG L leave replacement costs were \$216 million (more than double what they were in FY 2012).²⁸⁷ Between FY 2015 and FY 2017, total CAG L leave replacement costs dropped sharply before slightly increasing in FY 2018. Conversely, beginning in FY 2015, CAG K clerk costs have increased substantially, from \$13 million in FY 2014 to \$384 million in FY 2018.

With Alaska Bypass Service, the Postal Service pays for the cost of air transportation from hub airports to bush sites. The difference between this cost of air transportation from hub airports to bush sites and the average cost of ground transportation if it were available is called the Alaska Air Subsidy. The Commission previously concluded that the Alaska Air Subsidy is part of the USO.²⁸⁸ The Alaska Air Subsidy increased from \$114 million in FY 2017 to \$120 million in FY 2018.

to, and consistent with, the treatment of the Alaska Air Subsidy.²⁹⁰ Consequently, the Commission included the cost of Group E Post Office Boxes, which are primarily facility-related, in estimating the USO Cost. In FY 2018, servicing Group E Post Office Boxes cost approximately \$35 million.

286 See FY 2016 Annual Report at 42.

287 See Postal Regulatory Commission, *Annual Report to the President and Congress Fiscal Year 2017*, January 26, 2018, at 49.

288 USO Report at 139.

289 Docket No. RM2011-9, Order Concerning Analytical Principles Used in Periodic Reporting (Proposal One), June 9, 2011, at 2 (Order No. 744).

290 Order No. 744 at 4.

Free or Reduced Rates

The Commission must estimate the costs incurred by the Postal Service in providing “free or reduced rates for postal services as required by [Title 39.]”²⁹¹ The Commission estimates these costs by combining preferred rate discounts net of costs and the negative contribution of Periodicals (Periodicals Losses). Table IV-4 shows the estimated revenue not received as a result of preferred rate discounts and Periodicals Losses between FY 2014 to FY 2018.

PREFERRED RATE DISCOUNTS NET OF COSTS

39 U.S.C. § 3626 requires the Postal Service to provide reduced rates for preferred rate categories in USPS Marketing Mail, Periodicals, and Library Mail.²⁹² The Commission determines estimated revenue not received by quantifying the difference in revenue between mail that is statutorily required to receive a discount and the revenue the Postal Service would have received if those mailpieces were not discounted. This

PERIODICALS LOSSES

Periodicals Losses are the annual amount by which Periodicals’ attributable cost exceeds revenue.²⁹³ The PAEA’s price cap does not allow the Postal Service to fully recover Periodicals Losses through rate increases.²⁹⁴ It is assumed that, if not for the price cap, the Postal Service would raise Periodicals rates to the level necessary to cover attributable cost. Accordingly, the Commission considers these losses to be part of the USO Cost.



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increase in revenue is adjusted for potential decreases in costs. If not discounted, rates for these mailpieces would be higher, resulting in a loss of volume and, consequently, lower costs.

Table IV-4 illustrates that although there was some variation year-to-year, Periodicals Losses were about half a billion dollars each year between FY 2014 and FY 2016, and increased from \$609 million in FY 2017 to \$614 million in FY 2018.

The Periodicals class has not covered its attributable cost since the PAEA was enacted.²⁹⁵ The Commission has addressed this issue in two recent dockets. In

291 39 U.S.C. § 3651(b)(1)(B). The Postal Service provides free postage for blind and disabled persons and for overseas voting. *Id.* §§ 3403, 3406. The Postal Service receives appropriated funds reimbursing it for providing free postage. *Id.* § 2401(c). For this reason, the cost of providing free postage is not included in the USO Cost.

292 FY 2018 ACD at 39.

293 In this Annual Report, attributable cost means incremental cost. See Docket No. RM2016-2, Order Concerning United Parcel Service, Inc.’s Proposed Changes to Postal Service Costing Methodologies (UPS Proposals One, Two, and Three), September 9, 2016, at 125 (Order No. 3506). The attributable cost for years before FY 2016 reflect the accepted methodology for those years and has not been recalculated. 39 U.S.C. § 3622(c)(2) defines attributable cost as the “direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type[.]” In Order No. 3506, the Commission revised the methodology for determining attributable cost to include inframarginal costs, developed as part of the estimation of incremental costs. Before that order, attributable cost only included the sum of volume-variable costs, which rise as volume increases and fall as volume decreases, and product-specific fixed costs, which are costs caused by a specific product, but do not vary with volume. See FY 2016 *Financial Analysis Report* at 37.

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

295 FY 2018 ACD at 40-41.

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

	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
Preferred Rate Discounts Net of Costs*	1,172	1,104	1,105	1,116	1,114
Periodicals Losses	614	609	537	512	509
TOTAL	1,786	1,713	1,642	1,628	1,623

*The FY 2018 Preferred Rate Discounts Net of Costs figure includes Within County Periodicals. At the time of the USO Report, Within County Periodicals had little impact on the results of that analysis and were not included. See USO Report, Appendix F, Section 3 (Robert H. Cohen and Charles McBride, “Estimates of the Current Costs of the USO in the U.S.” at 18-19, n.20).

Docket No. RM2017-3, the Commission recently proposed changes to the current ratemaking system that would provide the Postal Service an additional 2 percentage points of rate authority per calendar year for classes of mail that do not cover their attributable costs.²⁹⁶ In Docket No. RM2018-1, the Commission proposed reporting requirements to increase the

transparency of information related to flats, and the accountability of the Postal Service when it reports on operational initiatives designed to reduce flats’ costs.²⁹⁷ In Order No. 5086, the Commission adopted final rules regarding reporting requirements related to flat-shaped mail products including Periodicals.²⁹⁸

Other Public Services or Activities

The Commission must estimate the costs incurred by the Postal Service in providing “other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.”²⁹⁹

These costs include the costs of providing Six-Day Delivery (rather than Five-Day Delivery) and uniform rates for First-Class Mail and Media Mail/Library Mail. Table IV-5 shows the costs of providing these public services or activities from FY 2014 to FY 2018.³⁰⁰

SIX-DAY DELIVERY

Since 1984, appropriations bills have included a provision requiring the Postal Service to continue providing Six-Day Delivery.³⁰¹ The cost of providing Six-Day Delivery is measured as the estimated savings the Postal Service would achieve by

providing residential delivery service 5 days a week instead of 6 days a week. Table IV-5 shows the cost of Six-Day rather than Five-Day Delivery from FY 2014 to FY 2018.³⁰²

296 Docket No. RM2017-3, Revised Notice of Proposed Rulemaking, December 5, 2019, at 174 (Order No. 5337).

297 See Docket No. MR2018-1, Notice of Proposed Rulemaking for Reporting Requirements Related to Flats, March 1, 2019, at 14-21 (Order No. 5004).

298 See Docket No. RM2018-1, Order Adopting Final Rules on Reporting Requirements Related to Flats, May 8, 2019 (Order No. 5086).

299 39 U.S.C. § 3651(b)(1)(C).

300 The net cost of the Postal Inspection Service in FY 2013 was \$410.7 million. Docket No. PI2014-1, Library Reference PRC-LR-PI2014-1/1, August 22, 2014, Attachment at 11. In future Annual Reports, this table will be revised to include previous years’ costs of the Postal Inspection Service.

301 See, e.g., Consolidated Appropriations Act, 2017, Pub. L. 115-31, 131 Stat. 135, 369 (2017) (“6-day delivery and rural delivery of mail shall continue at not less than the 1983 level”).

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

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

Public Service or Activity	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014
Six-Day Delivery	2,259	2,204	2,191	2,074	2,080
Uniform First-Class Mail Rates	99	52	78	86	93
Uniform Media Mail/Library Mail Rates	97	99	102	101	37
Postal Inspection Service (Net Cost)	462	N/A ^a	N/A	N/A	N/A
TOTAL	2,917	2,355	2,371	2,261	2,210

^a The Commission began including the net cost of the Postal Inspection Service in FY 2019.

UNIFORM RATES

Rates for First-Class Mail must be uniform throughout the United States.³⁰³ To determine the cost of uniform First-Class Mail rates, the Commission estimates the increased contribution that the Postal Service would earn if dropship discounts were allowed for workshared First-Class Mail. Table IV-5 shows the cost of uniform First-Class Mail rates. In FY 2018, the cost of uniform First-Class Mail rates increased from \$52 million in FY 2017 to \$99 million in FY 2018.

Media Mail/Library Mail rates must be uniform for mail of the same weight and must not vary with the distance transported.³⁰⁴ The Commission estimates the cost of the distance component by assuming that without this requirement, Media Mail/Library Mail would provide the unit contribution of Bound Printed Matter, a proxy that does not have this

restriction. The Commission estimates the additional unit contribution by determining the difference between the unit contributions of Bound Printed Matter and Media Mail/Library Mail. Media Mail/Library Mail total volumes are then multiplied by the estimated additional unit contribution to produce an estimate of the total additional contribution if Media Mail/Library Mail rates were not uniform.

In FY 2018, the estimated cost of providing uniform Media Mail/Library Mail rates was approximately \$97 million, a slight decrease from the estimated FY 2017 cost of \$99 million. The substantial increase in cost between FY 2014 and FY 2015 was due primarily to the large decrease in the unit contribution of Media Mail/Library Mail.³⁰⁵

303 39 U.S.C. § 404(c).

304 39 U.S.C. § 3683.

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



POSTAL INSPECTION SERVICE

The Commission previously issued an order interpreting “other public services or activities” under 39 U.S.C. § 3651(b)(1)(C).³⁰⁶ It interpreted “public services or activities” in section 3651(b)(1)(C) to include statutorily-required offerings and “public facing” actions by the Postal Service.³⁰⁷ “Other public services or activities” must relate to the USO and be similar in type to those enumerated under sections 3651(b)(1)(A) and (B).³⁰⁸ The Postal Service must have an active role offering, supplying, or performing “other public services or activities.”³⁰⁹

This year, after applying the framework described in that order, the Commission has

determined the net cost of the Postal Inspection Service should be included in the estimated cost of the USO as an “other public service or activity” under section 3651(b)(1)(C).³¹⁰ The Postal Inspection Service is required by statute in 39 U.S.C. § 204. Adding the Postal Inspection Service is supported by the PAEA’s legislative history, which explicitly mentions “law enforcement activities” as an example of “other public services or activities” under section 3651(b)(1)(C).³¹¹ The law enforcement activities of the Postal Inspection Service involve defending the nation’s mail from illegal or dangerous use by, for example, combatting illegal narcotics, mail fraud, and mail and package theft.³¹²

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

307 Order No. 2820 at 24.

308 *Id.*

309 *Id.*

310 The costs of the Postal Inspection Service are partially offset by fines collected and restitution, which are subtracted from the total cost to calculate the net cost. The mission of the Postal Inspection Service is “to support and protect the [Postal Service] and its employees, infrastructure, and customers; enforce the laws that defend the nation’s mail system from illegal or dangerous use; and ensure public trust in mail.” See <https://www.uspis.gov/leadership>.

311 See House Report No. 109-66, 109th Cong., 1st Sess., Part 1 (April 28, 2005), at 50.

312 See <https://www.uspis.gov/about/what-we-do/>.

Value of the Postal Monopoly

The postal monopoly is the Postal Service’s exclusive right to carry and deliver certain types of mail and deposit mail into mailboxes. The mailbox monopoly is the Postal Service’s exclusive right to deliver to and collect from mailboxes.³¹³ The letter monopoly is the Postal Service’s exclusive right to carry and deliver most addressed, paper-based correspondence.³¹⁴

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

Table IV-6 shows the values of the postal and mailbox monopolies from FY 2014 to FY 2018. Subtracting the value of the mailbox monopoly from the value of the postal monopoly does not yield the value of the letter monopoly because there is an overlap in the contestable mail and a different frequency of delivery by the competitor.³¹⁵ Without access to mailboxes, it is unlikely that the competitor could successfully capture mail directed to a specific person or address because those mailpieces are delivered to and collected from mailboxes.

Therefore, a separate estimate of the value of the letter monopoly alone (retaining the mailbox monopoly) is not provided.

The increase in the estimated value of the postal monopoly from FY 2014 to FY 2016 is largely due to increases in the percentage of mail that is considered contestable. In FY 2017, a decrease in the volume of Marketing Mail Letters and the expiration of the exigent surcharge resulted in a slight decrease in the estimated value of the postal monopoly. The value of the mailbox monopoly is estimated based on contestable mail volumes in Periodicals, select USPS Marketing Mail prepared in carrier route sequence, and Parcel Select. Changes in the volume of contestable mail affect the number of profitable routes the competitor could deliver to and the amount of profit the Postal Service would lose if the competitor captured the contestable mail on those routes.

On October 1, 2019, the Commission initiated a public inquiry in Docket No. PI2020-1, and requested suggestions for modifications and enhancements to the current estimation methodology to account for recent Postal Service data changes as well as for any other aspects of the

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

	FY 2018*	FY 2017	FY 2016	FY 2015	FY 2014
Postal Monopoly	5.51	5.34	5.68	5.45	4.61
Mailbox Monopoly	0.99	1.35	1.24	1.03	0.77

*The FY 2018 figures are provisional, and are based on FY 2017 sampled routes adjusted so that they are scaled to the FY 2018 mail products’ volumes.

313 18 U.S.C. § 1725.

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

315 Contestable mail is mail that is dropshipped to the processing facility or delivery unit closest to its destination. The competitor would need to perform little or no mail processing to prepare it for delivery. Most contestable mail volumes are comprised of First-Class Mail entered in bulk quantities and USPS Marketing Mail (e.g., primarily advertising mail).

letter and mailbox monopolies (postal monopoly) estimation methodology.³¹⁶ The estimated values for FY 2018 in Table IV-6 are provisional. The Commission is considering comments received in the public inquiry to determine the most appropriate revisions to the methodology.

The Commission uses the model described in the USO Report to update current estimates.³¹⁷ The model assumes that the competitor will “win” or “skim” all of the contestable mail on a route if the revenue it would earn from these mail volumes is greater than the fixed and attributable costs related to the volumes. The model also assumes the competitor would deliver only local and regional mail to focus on the most profitable delivery routes and avoid the need for significant capital to establish a processing and transportation network.

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

The key variables for estimating the values of the postal and mailbox monopolies are the competitor’s delivery frequency, the cost of entry to the competitor, the rates charged by the competitor, and the volume of the contestable mail. The model assumes that the competitor is 10 percent more efficient than the Postal Service, but needs to offer a 10 percent discount to entice customers to switch from the Postal Service. Because this discount offsets the competitor’s efficiency advantage, reducing delivery frequency is the only way for the competitor to lower delivery costs below that of the Postal Service.³¹⁸

The model currently evaluates the competitor’s entry for each route regardless of the extent of route clustering. Focusing on routes in the same cluster or area would reduce the competitor’s fixed costs.³¹⁹ Also, because the model assumes that the competitor does not incur mail processing costs, values of the postal and mailbox monopolies do not reflect the cost of sorting to carrier routes, which is necessary to deliver mail presorted to the 5-digit ZIP Code. The model also does not account for mailers’ switching costs or brand loyalty.³²⁰ In addition, bulk parcels, which are Competitive products, are considered contestable mail.

316 See Docket No. PI2020-1, Notice and Order Providing an Opportunity to Comment, October 1, 2019 (Order No. 5260).

317 See USO Report at 143-52.

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

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

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

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CHAPTER V — Public Affairs

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

Senate Briefings and Congressional Testimony

On March 12, 2019, Chairman Taub testified on behalf of the Commission at a hearing held by the U. S. Senate Committee on Homeland Security and Governmental Affairs. The hearing was entitled “A Path to Sustainability: Recommendations from the President’s Task Force on the United States Postal Service.” According to Chairman Ron Johnson, the purpose of the hearing was to discuss the historical and projective financial condition of the Postal Service. Chairman Taub’s statement focused on the Commission’s interpretation of the Task Force recommendations and what actions the Commission believed to be within its authority.

On April 30, 2019, Margaret Cigno, director of accountability and compliance, testified on behalf of the Commission at a hearing held by the U.S. House Committee on Oversight and Reform. The hearing was titled “The Financial Condition of the Postal Service.” The purpose of the hearing was to review the current financial condition of the Postal Service and the urgent need for reform legislation. Ms. Cigno presented an analysis of the Postal Service’s FY 2018 finances.



Consumer Relations – Comments and Inquiries

INQUIRIES BY SOURCE

During FY 2019, PAGR received over seven thousand questions, suggestions, comments, and inquiries through the online “Contact PRC” portal on the Commission’s website, by phone, fax, email, and hardcopy mail.

Commission Order No. 195 requires the Postal Service to file a monthly report summarizing the general nature of rate and service inquiries

forwarded by the Commission to its Office of Consumer Advocate. These reports are available on the Commission’s website. The order also directs the Postal Service to respond to these inquiries within 45 days of receipt. In FY 2019, the Commission forwarded 389 such inquiries to the Postal Service Office of Consumer Advocate.

INQUIRIES BY ISSUE

As in past years, undelivered mail (mail not being delivered), and delayed mail were among the largest category of service-related inquiries. Retail related concerns included collection box schedules and lobby hours. There was a slight increase in inquiries specifically related to the postal carrier not making an initial attempt to deliver packages, divergent employee behavior, and establishing delivery service in both new and existing communities.



PHOTO COURTESY CONGRESSMAN CONNOLLY STAFFER

Government Relations

Congressman Gerry Connolly Addresses Commission Staff

On May 7, 2019, Congressman Gerry Connolly recognized the work of the Commission and its staff during Public Service Recognition week.

Congressman Connolly is Chairman of the Government Operations Subcommittee of the House Oversight and Reform Committee.

PRC Welcomes New Commissioners

The Commission welcomed three new commissioners in FY 2019:

Vice Chairman Michael Kubayanda began his first term at the Commission after being confirmed by the Senate on January 2, 2019.

On September 26, 2019, Chairman Taub publicly swore in Commissioners Ann Fisher and Ashley Poling during a welcome reception. Ms. Fisher and Ms. Poling officially began their first term on August 8, 2019, after Senate confirmation.



PHOTO COURTESY JONATHAN POLING

CHAPTER VI — Administration

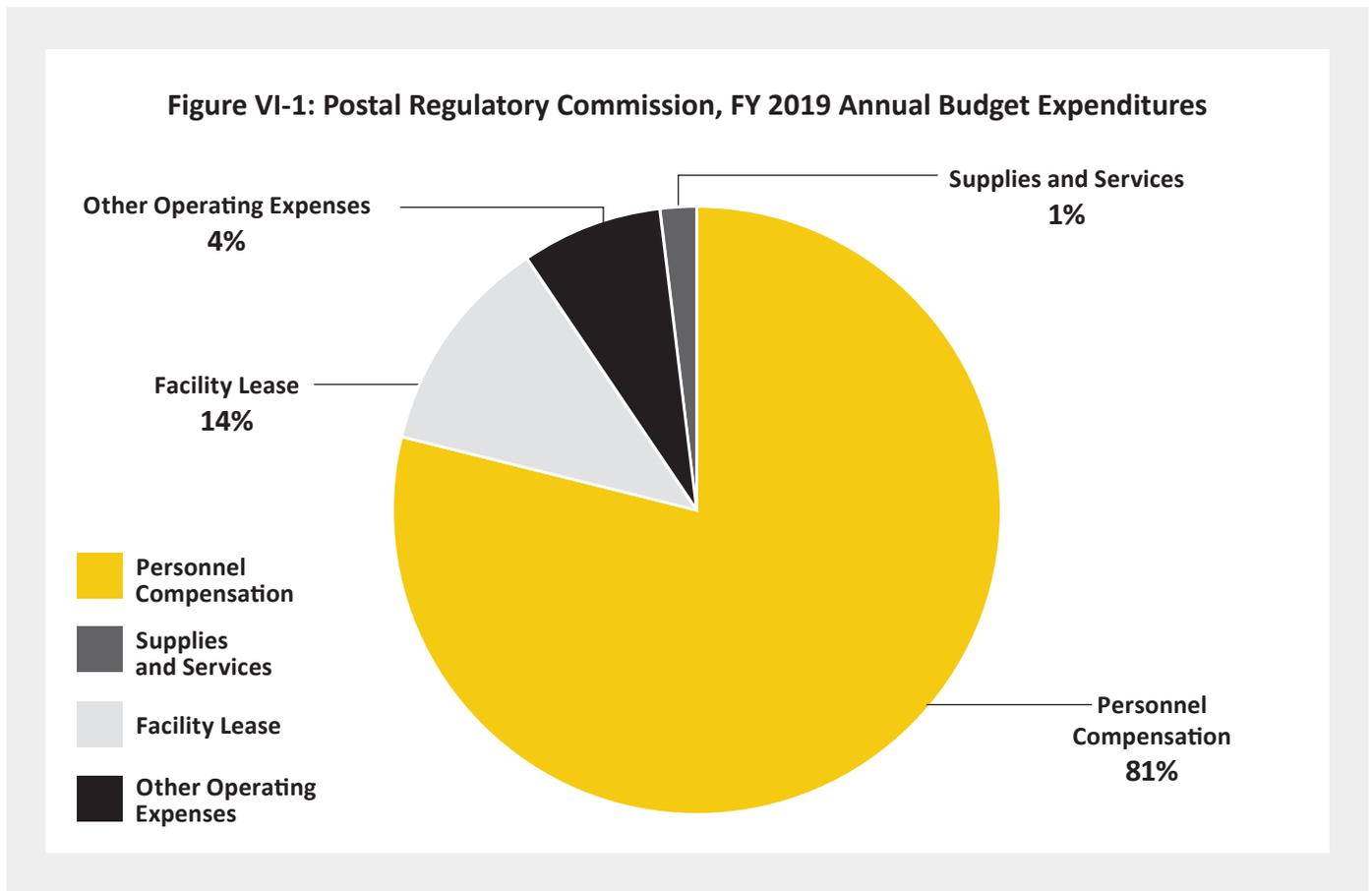
The Office of the Secretary and Administration (OSA) provides management and staff support to the Commission's operational offices (including the Office of Inspector General). The work of OSA is directly tied to the Commission's Strategic Plan, with particular attention to Goal 3 (provide an optimal internal infrastructure to support management of priorities, workload, and emerging requirements) and Goal 4 (recruit, develop, and retain a diverse, high-performing workforce). OSA ensures that the Commission has the physical, financial, technological, and human capital infrastructure needed to accomplish its mission. Responsibilities include financial management, records management, human resources management, information technology, equal employment opportunity, and administrative support.



Financial Management

The Commission continues to work within its budget and improve accounting and contracting processes making them more cost-effective and efficient. The Commission's FY 2019 appropriation totaled \$15,200,000.

Salaries and benefits accounted for 81 percent of expenditures, while the remaining 19 percent was allocated for operating expenses. Figure VI-1 below shows the division of the Commission's expenditures for FY 2019.



Records Management

In FY 2019, the Commission was committed to transparency, accountability, and open government through the administration of its records management program, including dockets, FOIA, and data governance. The Commission is pleased to report that the updated records schedule for Commission-specific records was signed by the Archivist of the United States on October 3, 2018.

The Commission opened 457 new dockets and processed 3,074 documents in FY 2019,

a decrease from last year's totals. The Commission provided responses to all FOIA requests within statutory deadlines and ended the fiscal year with zero FOIA requests backlogged.

The Commission expanded its technological capabilities to provide for video recording and webcasting of public meetings. Webcast recordings are available on the Commission's website, www.prc.gov.

Human Resources Management

The Commission's workforce is its primary asset, and Goal 4 of the 2017-2022 *Strategic Plan* affirms our commitment to enhancing a system that fosters recruitment, development, and retention of a talented, skilled, diverse, and adaptable workforce. Telework is an integral part of the Commission's continuity of operations plan, particularly situational or ad-hoc telework, to ensure the Commission's continued functioning during government closure or delay. During FY 2019, 24 percent of Commission staff participated in situational telework, and a majority—58 percent—teleworked on a regularly scheduled basis. Thirty-two percent of Commission staff participated in the Alternative Work Schedule program.

The Federal Employee Viewpoint Survey (FEVS) was developed by OPM to gauge how employees

feel about their work environment. In the FY 2019 FEVS results, the Commission's response rate of 76 percent compared favorably with the government-wide average response rate of 43 percent. The overall Employee Engagement Index score of 78 percent—well above the average of 69 percent among federal very small agencies and 68 percent government-wide—shows that employees rank the Commission as one of the best places to work in the Federal government. The Office of Personnel Management identified 55 items as strengths for the Commission and zero challenges. These results demonstrate the commitment of the Commission's leadership to its employees and the engagement of Commission employees with their work and the agency's mission.

Equal Employment Opportunity and Diversity

In FY 2019, the Commission continued its commitment to equal employment opportunity (EEO) in its initiatives to recruit, develop, and retain a skilled, high-achieving, and diverse workforce. Women and minorities accounted for 60 percent

and 34 percent, respectively, of its workforce. Women filled 50 percent of the agency's executive positions; minorities filled 13 percent. Over the course of FY 2019, the Commission had zero EEO complaints (formal and informal) filed.

Information Technology

During this past year, the Commission continued to make cost-effective improvements to the overall security and performance of its information technology (IT) infrastructure, following cybersecurity best practices to sharpen the emphasis on cross-agency goals and increase Federal Information Security Management Act (FISMA) compliance. The Commission continues to utilize and enhance the use of the Continuous Diagnostic and Monitoring program offered through the Department of Homeland Security (DHS) and other services such as phishing

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

In FY 2019, the Commission had zero incidents to report to DHS United States Computer Emergency Readiness Team (US-CERT) and did not experience any breaches of personally identifiable information.



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