

National Postal Policy Council

Postal Regulatory Report

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June 21, 2022

Potomac
LAW GROUP

Topics



Rates



Annual Compliance Determination



Challenges to new system for rates for market-dominant products



Service measurement/dashboards



Other

Rates: M-D rate increases set for July 10, 2022



USPS used maximum authority



NPPC Comments addressed

- Magnitude of two large rate increases in under 12 months
- USPS's failure to articulate a pricing strategy
- USPS's workshare discount passthroughs
- The unnecessarily large increase in FC Flats rates



Commission approved rates on May 27, 2022



Competitive prices also changing on July 10

Annual Compliance Determination

NPPC comments on ACR showed that FCM workshare discount passthroughs in effect during most of the year are inefficient and smaller than shown by USPS filings

NPPC urged PRC to raise minimum workshare discount passthrough percentage

NPPC urged PRC to ameliorate 2% above-average increase requirement for First-Class Flats

NPPC also addressed service and USPS's "targets"

Commission ACD issued March 29

Commission issued Financial Analysis on May 18

Market-Dominant Rate System

NPPC v. PRC (Order No. 5763) petition for writ of certiorari



Mailer petitions

"Stakeholder consultation"



Service Performance Incentive (RM2021-2)



NPPC v. PRC (10-year review appeal)



NPPC et al v. PRC petition for writ of certiorari

- Petition filed on Feb. 10
- Briefing on petition complete
- Circulated to Justices on June 7
- Scheduled for June 23 conference
- Then what?

Mailer “Second Look” Petitions



Two joint petitions filed on April 11

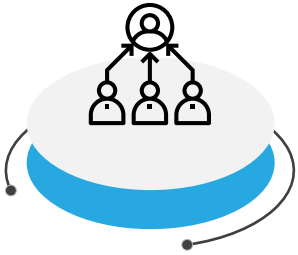


ANM/PostCom (RM2022-5) petition for rulemaking argues that PSRA’s erasure of RHB funding requirement eliminates foundational basis of Order 4257, which empowered PRC to modify system; and PRC logically cannot continue to allow additional rate authorities. Ask PRC to revisit regulations authorizing above-CPI increases

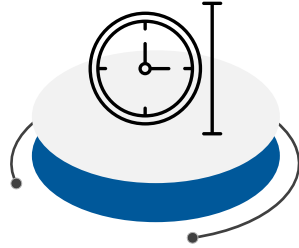


GCA/AFPA (RM2022-6) ask PRC to vacate Order 5763 and conduct *ab initio* new 10-year review

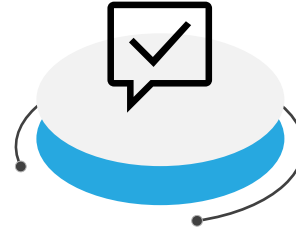
PSRA “Stakeholder Consultation”



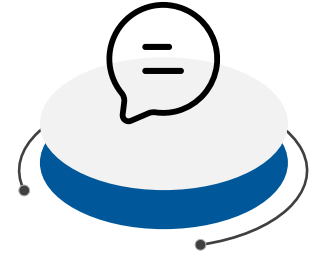
House of
Representatives Report
117-79 language on
Consolidated
Appropriations Act



Expressed concern with
size and timing of
August 2021 rate
increase and that
10-year review did not
account for effect of
Covid on Postal Service,
including package
revenues and
emergency funding



PRC did not institute a
formal proceeding;
instead asked for
comments submitted to
[stakeholderinput
@prc.gov](https://stakeholderinput.prc.gov)



Comments due
July 31, 2022

Service Performance, Measurement & "Dashboard"



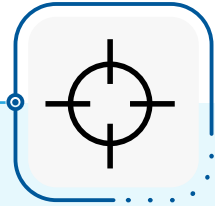
RM2021-2
(performance
incentive
mechanism)



Docket No. PI2022-3
(changes to service
measurement plan)



Docket No.
RM2022-7
(USPS dashboard)



Docket No. PI2022-2
(PRC dashboard)-PRC
terminated
proceeding on April
13, 2022, to focus on
USPS dashboard
required by PSRA

Performance Incentive Mechanism, RM2021-2



ANPRM issued Jan. 15, 2021

Revisiting “service performance” supplemental authority proposal that PRC did not adopt in 10-year review






Asks whether new rules needed to promote

- Financial stability
- Increased efficiency
- High quality service standards



On July 2, 2021, PRC held this proceeding in abeyance during pendency of *NPPC v. PRC*

PI2022-3 Service Performance Measurement System

-  USPS proposals to modify SPMS
-  NPPC Comments filed May 17, 2022
-  Supported addressing long-haul exception to “Start the Clock” to allow more plant-loaded FCM Presort to be included in service measurements
-  Supported USPS proposal to include Reply Mail separately in FCM SP measurements, both in and of itself and as step towards measuring Remittance Mail
-  NPPC took no position on controversial change affecting Periodicals CETs

Rulemaking regarding
USPS "dashboard"
required by the Postal
Service Reform Act

NPPC filed comments on
June 3, 2022



R2022-7 Reporting and Dashboard

NPPC said that for the
USPS dashboard to be
useful, it should provide
access to actionable
data items

Also supported
requiring USPS to report
on average days for
delivery (per product) in
addition to percentages
and on not-measured
IMb mail



Possible changes in carrier operations

“

We will be aggregating much of our carrier base into Sort and Delivery Centers. with adequate space, docks, conveyors, mail, and material handling equipment to operate more efficiently and provide greater reach

We will place large carrier operations inside our mail processing plants, dramatically reducing transportation, reducing mail handlings, increasing reliability, and decreasing time to delivery

– DeJoy at NPF

Costing/Data Proceedings

RM2022-1: Future Data Collection Priorities



NPPC Comments filed
March 25, 2022



Urged Commission to
research the use of
“nominal” instead of
“real” (inflation-
adjusted) postal rates in
USPS demand models



NPPC thinks that using
nominal rates could
produce a more
accurate estimate of
price elasticity
of demand

Other Proceedings

RM2022-4 Rules
of Procedures
(petitions for
reconsideration)

MT2020-1
Commercial PO
Box Redirect
Service

RM2022-2
"Appropriate
Share"

RM2020-4
Private Express
Statutes

RM2020-5 M-D
Promotions
Price Cap
treatment

PI2020-1 Postal
Monopolies
Inquiry

PI2021-1 USO
Valuation
Methodology

Rules of Procedure RM2022-4

PRC proposed
sua sponte to
amend its rules
to provide for
petitions for
reconsideration

Would have to
be based on
legal or factual
arguments not
previously able
to address

Would not
automatically
stay effect
of Orders

Commercial PO Box Redirect Service, MT2020-1

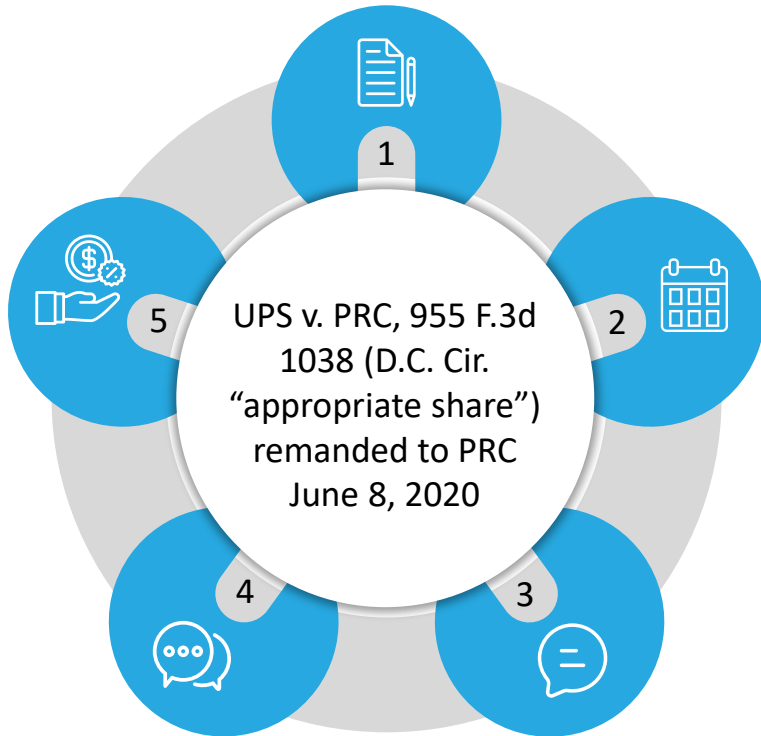
Market test of
experimental
service

Test is ongoing
and will expire
on June 8, 2022

USPS February
4 reported that
it has 3
customers and
slightly more
than \$6 million
in revenue

USPS has
notified
Commission
that it will allow
test to expire

“Appropriate Share” of Institutional Costs To Be Paid By Competitive Products



- 1 UPS filed motion on April 29, 2021, to restart proceeding
- 2 PRC issued Supplemental NPRM and Order on November 18, 2021
 - PRC proposed to retain its “dynamic formula” for setting institutional cost floor for Competitive Products
 - PRC also addressed Court’s statutory interpretation
- 3 Comments filed Feb. 25
- 4 Reply comments filed Mar. 25
- 5 Awaiting Commission action

Private Express Statutes, RM2020-4

Advance NPRM issued
Feb. 7, 2020



PRC issued NPRM on
Nov. 24, 2021

- No proposed substantive changes
- Asserted exclusive jurisdiction over PES regulations
- Proposes method for obtaining advisory opinions from PRC

NPPC/NAPM joint comments
filed on Apr. 7, 2020

- Recommended no substantive changes
- PES should not be viewed in isolation of related policies

Market-Dominant Promotions Price Cap Treatment, RM2020-5

◆ In May 2020, the PRC decided that a rate is not “of general applicability” if eligibility depends on “mailer-specific data, such as historical mailer volume”

◆ NPPC comments (3/23/20) generally opposed basing eligibility on historical volumes. Also said PRC should not discourage volume retention incentives that are “generally available”

◆ USPS filed petition for review USPS v. PRC (D.C. Cir. June 2020)

◆ PRC announced non-enforcement of rule and “notice of intent to reconsider” (Aug. 26, 2020). USPS and PRC filed joint motion for dismissal and vacatur on Sept. 11, which was granted Dec. 12, 2020

◆ Still awaiting new FNPRM

Postal Monopolies Inquiry, PI2020-1



Inquiry re updating how to calculate value of the postal monopolies
(Private Express Statutes & Mailbox Rule)



NPPC

- Supported the monopolies as a means to finance universal service
- Urged Commission to consider qualitative values to mailers and recipients,
- Asked Commission to affirm that the current methodology does not identify a maximum value



ChIR issued June 9, 2022, re certain carrier cost details



No deadline

USO Valuation Methodology, PI2021-1



• PRC initiated proceeding to revisit its methodology for estimating the cost of the USPS's universal service obligation

• At USPS's request, PRC published details of its USO valuation methodology on Feb. 10, 2021

• ChIR on June 9 asked about retail and clerk costs

• No deadline

Questions?

