

# National Postal Policy Council

Postal Regulatory Report

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September 14, 2022

Potomac  
LAW GROUP

# Topics



October rate case



Challenges to new system for rates for market-dominant products



Postal Service Reform Act implications for USPS accounting



Service measurement/dashboards

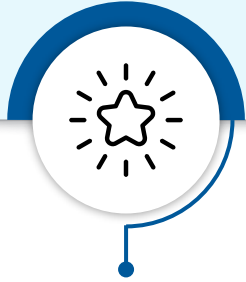


Sort and Delivery Centers



Other rulemakings

# Rate Changes



New rates took effect in July



But already another upcoming rate case (October 2022)



PSRA Ramifications

# Market-Dominant product rate filing expected in October 2022



## Size

- Using August data, USPS has about 4.2 CPI authority
- Using September data, USPS likely would have 4.9 to 5.2% CPI authority
- If USPS uses only August data – as rumored -- the September CPI will be available for the increase in summer 2023
- Density and retirement authority not applicable as this would be second filing since those were approved
- Specific rates could increase by different amounts



New rates likely take effect on January 22, 2023

# NPPC v. PRC (10-year review appeal)



## NPPC et al v. PRC petition for writ of certiorari

Petition filed on Feb. 10

Supreme Court denied cert on June 27

Ended litigation over Commission's changes to system for regulating market-dominant rates

# Mailer “Second Look” Petitions



Two joint petitions filed on April 11



ANM/PostCom (RM2022-5) petition for rulemaking asks PRC to revisit new regulations authorizing above-CPI increases because that PSRA’s erasure of RHB funding requirement eliminates foundation for Order 4257, which empowered PRC to modify system



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



Awaiting Commission action

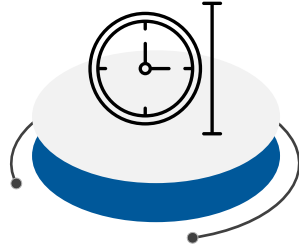


Legislation?

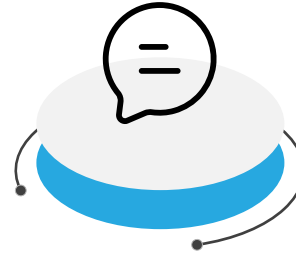
# PSRA “Stakeholder Consultation”



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

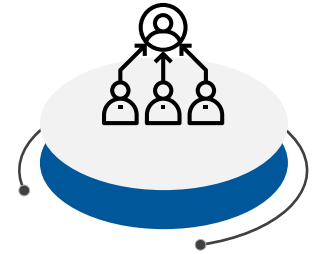


Expressed concern with size and timing of August 2021 rate increase and that 10-year review did not account for effect of Covid on Postal Service, including package revenues and emergency funding



Comments were filed July 31, 2022

NPPC also filed its in both mailer “second look” petitions



PRC will make them public when it sends report to Congress

# USPS Letter re PSRA effect on Accounting

USPS 3Q reported one-time \$59.6 Billion non-cash benefit due to PSRA

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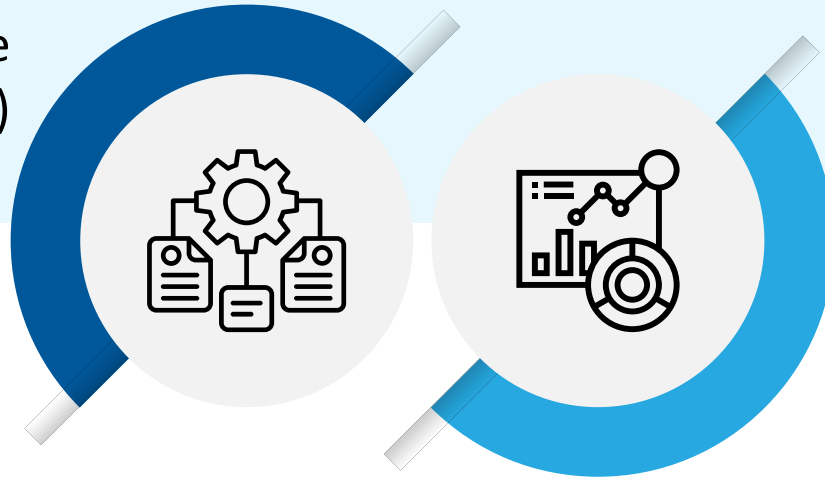
August 12 letter

- USPS financial statements will adhere to accounting rules
- For regulatory purposes (ACR), USPS will
  - Ignore the \$57 billion reduction in unpaid RHB premiums because not doing so would make institutional costs negative
  - Treat repeal of FY22 current-year RHB “normal cost” (\$2.150B) and amortization (\$0.5B) payments as eliminating those costs in FY22 (i.e., non-accrued)
- Issue: PSRA eliminated payment obligation, not the accrual of the costs. Could affect worksharing costs avoided



# Service Performance, Measurement & "Dashboard"

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



Docket No.  
RM2022-7 (USPS  
dashboard)

# PI2022-3 Service Performance Measurement System



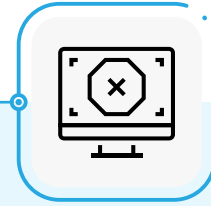
**USPS proposals to modify SPMS**



**NPPC Comments filed  
May 17, 2022, supported**

Revising the long-haul exception to “Start the Clock” to allow more plant-loaded FCM Presort to be included in service measurements

USPS proposal to include Reply Mail separately in FCM SP measurements, both in and of itself and as step towards measuring Remittance Mail



**PRC approved both proposals but disapproved a separate proposed change in Periodicals Critical Entry Times**

# R2022-7 Reporting and Dashboard



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



NPPC filed comments on June 3, 2022

- To be useful, the USPS dashboard should provide access to a number of actionable data items
- Urged PRC to require USPS to report on average days for delivery (per product) in addition to percentages and on not-measured IMb mail



No action by Commission to date

# 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***



**Still in abeyance**

## IV Sort and Delivery Centers



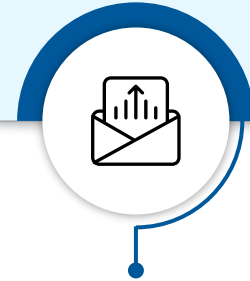
**Joshua Colin outlined this at June NPPC meeting**

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Aggregating carrier operations within processing plants



**First list of sites for conversion released July 29**



**TBD what effect this will have on entry times, costs, worksharing, and worksharing discounts (including presort and Marketing Mail destination entry discounts)**

## RM2022-1: Future Data Collection Priorities



In Comments filed March 25, 2022, NPPC urged the Commission to research the use of “nominal” instead of “real” (inflation-adjusted) postal rates in USPS demand models



NPPC expects that using nominal rates would produce a more accurate estimate of price elasticity of demand



Awaiting Commission action

# Other Proceedings

RM2022-4 Rules of  
Procedures (petitions  
for reconsideration)

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 adopted  
*sua sponte* an  
amendment to its  
rules to provide for  
petitions for  
reconsideration

Petitions must be  
based on legal or  
factual arguments not  
previously able  
to address

Timely petition for  
reconsideration  
causes order subject  
to reconsideration to  
be deemed  
not final for  
appellate review



# Private Express Statutes, RM2020-4



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

Recommended no  
substantive changes

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PES should not be viewed in isolation  
of related policies



**PRC adopted final order on  
July 8, 2022**

No substantive changes

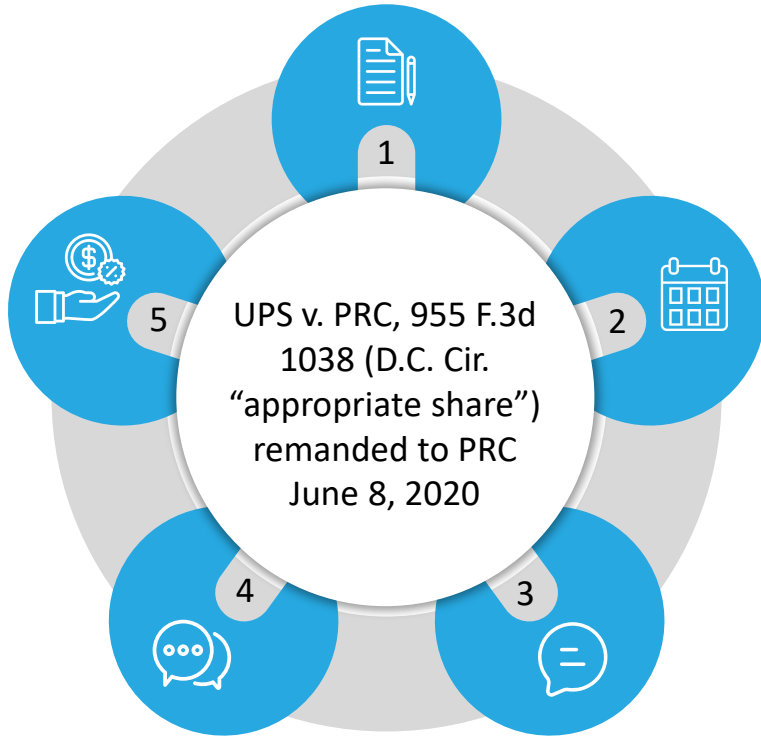
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Asserted exclusive jurisdiction over  
PES regulations

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Created method for obtaining  
advisory opinions from PRC

# “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

# 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”

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◆ 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”

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


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◆ 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

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◆ 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**

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- 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

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

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- ChIR on June 9 asked about retail and clerk costs

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- No deadline

Questions?

