



POSTAL REGULATORY COMMISSION

39 CFR part 3050

[Docket No. RM2023-7; Order No. 6659]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is conducting further proceedings and will be accepting further comments with respect to a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Two). This document invites further public comment and takes other administrative steps.

DATES: *Comments are due:* October 16, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On May 26, 2023, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.¹ The Petition identified the proposed analytical changes as Proposal Two. In Order No. 6659 the Commission conditionally approved Proposal Two but directed the Postal Service to propose further changes to analytical principles relating to periodic reports to address what the Commission found to be outstanding issues with respect to cost identification and attribution for interagency agreements (IAAs).²

II. Proposal Two, Order No. 6659, and Direction for Further Proceedings

Background. The Postal Service Reform Act of 2022³ modified and expanded the Postal Service’s ability to enter into IAAs to provide property and services to, or on behalf of, other government agencies. Specifically, 39 U.S.C. 3703 for the first time authorizes the Postal Service to enter into agreements with agencies of any state government, local government, or tribal government to provide property or nonpostal services to the public on behalf of such agencies for non-commercial purposes. At the same time, with respect to the Postal Service’s pre-existing authority under 39 U.S.C. 411 to provide property and services to other Federal agencies, the PSRA specifies that “[t]he Postal Service may establish a program to provide property and nonpostal services to other

¹ Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), May 26, 2023 (Petition).

²² Docket No. RM2023-7, Order on Analytical Principles Used in Periodic Reporting (Proposal Two), Directing the Postal Service’s Participation in Further Proceedings, and Providing Notice of Filing Attachment Under Seal, August 31, 2023 (Order No. 6659).

³ Postal Service Reform Act of 2022 (PSRA), Pub. L. 117-108, 136 Stat. 1127 (2022).

Government [*i.e.*, federal] agencies within the meaning of section 411⁴, but only if such program provides a net contribution to the Postal Service, defined as reimbursement that covers at least 100 percent of the costs attributable....” 39 U.S.C. 3704.

Under the PSRA, the Postal Service must submit a report to the Commission after the close of each fiscal year that “analyzes costs, revenues, rates, and quality of service for each agreement or substantially similar set of agreements for the provision of property or nonpostal services under section 3703 or the program as a whole under section 3704, . . . using such methodologies as the Commission may prescribe, and in sufficient detail to demonstrate compliance with the requirements of [Chapter 37 of Title 39 of the United States Code].” 39 U.S.C. 3705(a). Upon receiving the Postal Service’s report and providing an opportunity for public comment, the Commission must make a written determination of compliance. 39 U.S.C. 3705(e).

In the Commission’s FY 2022 Annual Compliance Determination,⁵ the Commission directed the Postal Service to develop a proposed methodology (or methodologies) for calculating and attributing costs and revenue to IAAs authorized under 39 U.S.C. 3703 and 3704, and to initiate a rulemaking proceeding to establish such methodology (or methodologies) in accordance with 39 CFR 3050.11 by no later than May 31, 2023. *Id.* at 102. As directed, the Postal Service initiated the instant proceeding to propose a categorical approach

⁴ Prior to the enactment of the PSRA, the Postal Service’s authority for these agreements was governed by 39 U.S.C. 411, which authorizes the Postal Service to “furnish property and services” to “Executive agencies within the meaning of [5 U.S.C. 105] and the Government Publishing Office....” 39 U.S.C. 411. Section 105 of Title 5 of the United States Code specifies that an “Executive agency” means an Executive department, a Government corporation, and an independent establishment” of the U.S. Government, as those terms are defined in 5 U.S.C. chapter 1. 5 U.S.C. 105.

⁵ Docket No. ACR2022, Annual Compliance Determination Report, FY 2022, March 29, 2023.

to identifying costs and revenue for similar types, or groupings, of IAAs. Petition, Proposal Two at 2-3.

Order No. 6659 and direction for further proceedings. In Order No. 6659 the Commission conditionally approved Proposal Two, but directed the Postal Service to propose further changes to analytical principles relating to periodic reports to address specific issues that the Commission found remained unaddressed. First, the Commission directed the Postal Service to develop a proposed change in accepted analytical principles to develop a separate line item (or line items) in the Cost and Revenue Analysis (CRA) and related workbooks to enable the attribution of costs and related revenue to IAAs. Order No. 6659 at 16. Second, for agreements with government agencies that involve the provision of both postal services and property or nonpostal services, the Commission directed the Postal Service to develop a proposed change in analytical principles to separately account for the costs and revenue for those respective portions. *Id.* The Commission directed the Postal Service to file proposals related to these issues by September 29, 2023. *Id.* The Commission will then accept comments on the Postal Service's proposals until October 16, 2023. *Id.* at 18.

III. Notice and Comment

Docket No. RM2023-7 will remain open for consideration of matters raised in Order No. 6659. More information on this docket may be accessed via the Commission's website at <http://www.prc.gov>. Interested persons may submit comments on the Postal Service's proposals no later than October 16, 2023. Pursuant to 39 U.S.C. 505, Manon A. Boudreault shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. For purposes of periodic reporting to the Commission, the Commission conditionally approves the changes in analytical principles proposed by the Postal Service in Proposal Two.

2. Docket No. RM2023-7 will remain open for consideration of the matters raised in Order No. 6659.

3. The Postal Service shall file information addressing the issues identified in the body of this Order by September 29, 2023.

4. Comments by interested persons on the Postal Service's proposals are due no later than October 16, 2023.

5. Pursuant to 39 U.S.C. 505, Manon A. Boudreault shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

6. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

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