



## **POSTAL REGULATORY COMMISSION**

### **39 CFR Part 3030**

**[Docket Nos. RM2021-2, RM2022-5, RM2022-6, and RM2024-4; Order No. 8893]**

**RIN 3211-AA37**

### **System for Regulating Rates and Classes for Market Dominant Products**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The notice of proposed rulemaking proposes revisions to the system for regulating rates and classes for Market Dominant products (ratemaking system). In Order No. 8891, the Commission determined that the ratemaking system was not achieving the statutory objectives. Two proposed revisions address concerns: restricting rate adjustments to once per fiscal year from 2025 to 2030 and ensuring workshare discounts align with avoided costs to enhance efficiency by closing a regulatory gap allowing excessive passthrough reductions. These proposals aim to enhance predictability, reduce administrative burden, and maximize efficiency and cost reduction, ensuring a ratemaking system that better fulfills the statutory objectives. This document informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <https://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.

The Rule Summary can be found on the Commission's Rule Summary Page at <https://www.prc.gov/rule-summary-page>.

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

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Background
- II. Basis of Proposed Rules
- III. Proposed Rules

**I. Background**

On April 5, 2024, the Commission issued an advance notice of proposed rulemaking seeking comments on the Commission's review of the system for regulating rates and classes for Market Dominant products (ratemaking system).<sup>1</sup> In Order No. 8891, the Commission determined that the system for regulating rates and classes for Market Dominant products was not achieving the objectives appearing in 39 U.S.C. 3622(b), taking into account the factors in 39 U.S.C. 3622(c) and has determined to undertake a phased approach to considering modifications necessary to achieve the statutory objectives.<sup>2</sup>

**II. Basis of Proposed Rules**

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<sup>1</sup> Docket Nos. RM2021-2, RM2022-6, RM2022-5 and RM2024-4, Advance Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Class for Market Dominant Products, April 5, 2024 (Order No. 7032) (89 FR 25554, April 11, 2024). The Commission previously reviewed the ratemaking system and adopted final rules via Order No. 5763. See *generally* Docket No. RM2027-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Marketing Dominant Products, November 30, 2020 (5763) (85 FR 81124, December 15, 2020). After the final rules took effect on January 14, 2021, the Postal Service filed several rate adjustments for Market Dominant products, and Market Dominant volume and pieces declined year-over-year. These declines and stakeholder concerns prompted the Commission to initiate another review of the ratemaking system. See *generally* Order No. 7032.

<sup>2</sup> Order Presenting Findings on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products (Phase 1 Completion), June 9, 2025 (Order No. 8891); Procedural Order on Phased Rulemaking, June 9, 2025 (Order No. 8892).

Pursuant to 39 U.S.C. 503 and 3622, the Commission considers proposed revisions to its rules pertaining to two aspects of the ratemaking system at this time.

First, in response to Order No. 7032, many commenters express their concerns about the frequency of the Market Dominant rate adjustments that the Postal Service has implemented since the issuance of Order No. 5763. Since the issuance of Order No. 5763, the Postal Service established a schedule of implementing rate adjustments twice each year, with a few exceptions. Commenters generally assert that the Postal Service's current schedule of twice-per-year Market Dominant rate adjustments frustrates the achievement of the statutory objectives to "create predictability and stability in rates" and to "reduce the administrative burden and increase the transparency of the ratemaking process" as provided by Objectives 2 and 6 respectively. See 39 U.S.C. 3622(b)(2) and (6). To address the observed weaknesses relating to achieving these statutory objectives, the Commission proposes to restrict the Postal Service from adjusting rates of general applicability for Market Dominant products more than once per fiscal year from October 1, 2025, through October 1, 2030, unless such rate adjustment filings only include rate decreases or are de minimis rate increases. See *id.* At this time, the Commission finds it prudent to include a 5-year sunset period on the proposed rule (*i.e.*, the proposed rule will be effective from October 1, 2025, through October 1, 2030). This would promote stability for mailers in the next 5 years while also recognizing the uncertainties of the environment over which the ratemaking system regulates and in which the Postal Service operates. The Commission is interested in receiving comments from stakeholders on the proposed sunset period and the proposed effective dates of October 1, 2025, through October 1, 2030. Depending on

public comment, the Commission may decide to consider potential adjustments to the proposed sunset period and the proposed effective dates of October 1, 2025, through October 1, 2030.

Second, in response to Order No. 7032, several commenters express concerns that the Postal Service's approach to setting workshare discounts under the Modified Ratemaking System undermines efficiency and frustrates the achievement of multiple statutory objectives. As noted several times in Docket No. RM2017-3, workshare discounts are considered most efficient when discounts are set as closely as practicable to the avoided costs of the particular workshare activity (*i.e.*, 100 percent passthroughs). See *e.g.*, Order No. 5763 at 8. In Order No. 5763, the Commission codified § 3030.282, labeling it as a “do no harm” principle, intended to prohibit the Postal Service from making workshare discounts more inefficient. Order No. 5763 at 214. However, since its adoption of these rules, a regulatory gap in § 3030.282 inadvertently permits the Postal Service to reduce workshare discounts with excessive passthroughs down to the 85 percent passthrough floor found in § 3030.284(e), frustrating the “do no harm principle.” To correct this regulatory gap that directly affects the achievement of Objective 1 (maximizing incentives to reduce costs and increase efficiency), the Commission proposes an amendment to ensure that workshare discounts remain as close to avoided costs as possible. See 39 U.S.C. 3622(b)(1).

Each proposal is necessary to address areas that frustrate the ability of the ratemaking system to achieve the statutory objectives found in 39 U.S.C. 3622.

### **III. Proposed Rules**

The Commission proposes revisions to the system for regulating rates and classes for Market Dominant products (ratemaking system). These proposals aim to enhance predictability, reduce administrative burden, and maximize efficiency and cost reduction, ensuring a ratemaking system that better fulfills the statutory objectives.

### **List of Subjects in 39 CFR Part 3030**

Administrative practice and procedure, Fees, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend 39 CFR part 3030 as follows:

## **PART 3030—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS**

1. The authority citation for part 3030 continues to read as follows:

**Authority:** 39 U.S.C. 503; 3622.

2. Add § 3030.103 to read as follows:

### **§ 3030.103 Implementation of rate adjustments.**

(a) Except as described in paragraph (b) of this section, effective October 1, 2025, through October 1, 2030, the Postal Service may not adjust rates of general applicability for Market Dominant products using the rate authorities provided under subparts C through H of this part more than one time each fiscal year.

(b) Rate adjustment filings that only include rate decreases calculated pursuant to § 3030.244 or are de minimis rate increases compliant with § 3030.129 are not subject to paragraph (a) of this section.

3. In § 3030.282, add paragraph (d) to read as follows:

**§ 3030.282 Increased pricing efficiency.**

\* \* \* \* \*

(d) No proposal to adjust a rate associated with a workshare discount may increase the absolute value of the difference between the workshare discount and the cost avoided by the Postal Service for not providing the applicable service.

By the Commission. Commissioner Ann C. Fisher dissenting.

**Erica A. Barker,**

*Secretary.*

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