



## Media Kit

# **Statutory Review of System for Regulating Rates and Classes for Market Dominant Products**

Docket No. RM2017-3

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## About The Postal Regulatory Commission

The Commission is an independent agency that has exercised regulatory oversight over the Postal Service since its creation by the Postal Reorganization Act of 1970, with expanded responsibilities under the Postal Accountability and Enhancement Act of 2006. The Commission is composed of five commissioners, each of whom is appointed by the president, by and with the advice and consent of the Senate, for a term of 6 years. A commissioner may continue to serve after the expiration of his or her term until a successor is confirmed, except that a commissioner may not continue to serve for more than 1 year after the date on which his or her term would have otherwise expired. Not more than three of the Commissioners may be adherents of the same political party.

<b>Current Commissioners</b>	<b>Term Expiration</b>
Chairman Robert G. Taub	October 14, 2022
Vice Chairman Michael M. Kubayanda	November 22, 2020
Commissioner Mark Acton	October 14, 2022
Commissioner Ann C. Fisher	October 14, 2024
Commissioner Ashley E. Poling	November 22, 2024

Assisting the Commission is a staff with expertise in law, economics, finance, statistics, and cost accounting. The Commission is organized into four operating offices:

- Accountability and Compliance
- General Counsel
- Public Affairs and Government Relations
- Secretary and Administration

The Commission maintains an independent office for its Inspector General.

The **Office of Accountability & Compliance** is responsible for technical analysis and formulation of policy recommendations for the Commission in both domestic and international matters. It provides the analytic support for Commission review of rate changes, negotiated service agreements, classifications of new products, post office closings, amendments to international postal treaties and conventions, as well as other issues.

The **Office of the General Counsel** provides legal assistance on matters involving the Commission's responsibilities, assists with the defense of Commission decisions before the courts, and manages the formal complaint process.

The **Office of Public Affairs & Government Relations** facilitates prompt and responsive communications for the Commission with the public, Congress and federal agencies, the Postal Service, and information media.

The **Office of Secretary & Administration** records the official actions of the Commission; preserves Commission documents; maintains personnel records; and provides other support services including managing the Commission's library, docket room, and computers.

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



## Frequently Asked Questions

### STATUTORY REVIEW OF THE SYSTEM FOR REGULATING RATES AND CLASSES FOR MARKET DOMINANT PRODUCTS - DOCKET NO. RM2017-3

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**Q. Does this final rulemaking require Postal Service approval?**

**A.** No. Under 39 U.S.C. § 3622(d)(3), the Commission has independent authority to modify the existing system for regulating rates and classifications for Market Dominant products or adopt an alternative system as necessary to achieve the objectives of 39 U.S.C. § 3622(b) as long as certain conditions are met. These conditions are a determination by the Commission that the current system for regulating Market Dominant rates and classifications is not achieving the objectives of 39 U.S.C. § 3622(b), taking into account the factors of 39 U.S.C. § 3622(c) after the Commission has provided an opportunity for notice and public comment. The Commission fulfilled these conditions previously in Docket No. RM2017-3.

**Q. Are comments the Commission received regarding this rulemaking available to the public?**

**A.** Yes. Information regarding all comments accepted through the Commission's online filing system are available in Appendix B of the final order and have been posted on the Commission's website under Docket No. RM2017-3.

**Q. What happens if the new system is not working the way the Commission intended it to work?**

**A.** The Commission set a 5-year review period to evaluate the effects of the new regulations. A thorough and insightful review must encompass more than two rate cycles to provide enough data points to accurately assess the impact of the changes to the Market Dominant ratemaking system. An abbreviated review period would not provide the Commission with sufficient data to evaluate the final rules in operation, account for outlying data, and determine the impact on stakeholders. The Commission retains the flexibility to review and adjust certain components of the system sooner than 5 years if necessary. Even if such a scenario were to occur, a holistic review of the system would also take place 5 years after implementation. This process allows for more predictability and transparency.

**Q. How has this final rulemaking changed from the first one in regards to the Postal Service’s rate authority?**

**A.** All rulemakings including this final rule maintain a CPI-based price cap system. The Commission’s original proposal provided supplemental rate authority and performance-based rate authority to the Postal Service. The original proposal also provided additional mandatory rate authority for mail classes that do not cover their costs (non-compensatory classes) in order to improve the cost coverage for products within those classes. In its revised proposal, the Commission modified the mechanisms for the supplemental rate authority in order to specifically address two major drivers of the Postal Service’s financial instability—declining density and retirement amortization payments—both of which are largely outside of the Postal Service’s control. In its revised proposal, the Commission also proposed adjustments to the performance-based rate authority, and made the Postal Service’s use of the additional rate authority related to non-compensatory classes optional. In the final rule, the Commission retains the rate authority related to density declines and retirement amortization payments as well as the rate authority related to non-compensatory classes. The Commission has elected to withdraw the proposed performance-based rate authority from these rules. The Commission intends to open a separate rulemaking to further study potential modifications to the ratemaking system that link financial incentives and/or consequences to efficiency gains, cost reductions, and the maintenance of service standards.

**Q. How has the Commission addressed workshare discounts in the final rule?**

**A.** In this final rulemaking, the final rules regarding workshare discounts prohibit workshare discounts that are equal to avoided costs from being changed; excessive workshare discounts from being increased; and below avoided costs discounts from being reduced. In addition, both excessive and below avoided costs discounts will be permitted if the discounts are new; would represent a 20 percent improvement from the prior discount; or if the discount was previously approved via a new waiver process. The waiver process is intended to require the Postal Service to submit the necessary data so that the Commission may analyze why some discounts are unable to be set closer to avoided costs. In addition, the Postal Service would be permitted to propose a below avoided costs workshare discount if its passthrough was at least 85 percent.

**Q. What are the final rules designed to accomplish?**

**A.** In accordance with 39 U.S.C. § 3622(d)(3), these final rules are designed to put in place a system for regulating rates and classes for Market Dominant products that achieves the objectives of 39 U.S.C. § 3622(b). In its prior determination that the current system for regulating rates and classes for Market Dominant products is not achieving the objectives of 39 U.S.C. § 3622(b) and taking into account the factors of 39 U.S.C. § 3622(c), the Commission identified several deficiencies of the current system. The Commission’s rules seek to remedy the deficiencies of the current ratemaking system as described in its prior determination.

**Q. The Governors of the Postal Service must approve rates and services proposed by the Postal Service. Will these final rules affect their role?**

A. No. These new regulations do not alter the role of the Governors. These rules modify the existing price cap to provide the Postal Service with additional pricing authority, but the Governors will retain the role of approving rates and services.

**Q. Will the Postal Service be allowed to make annual rate adjustments under the final rules?**

A. Yes. The Commission also modifies the schedule for regular and predictable rate adjustments by requiring the Postal Service to update it annually and provide certain information designed to increase transparency for mailers with regard to the Postal Service's planned price changes. It will also extend the minimum notice period between the date the Postal Service filed a notice of proposed rate adjustment and the date the proposed rates could go into effect from 45 days to 90 days. The final rules also discontinue the practice that the Commission addresses the objectives and factors of 39 U.S.C. 3622(b) and (c) in individual rate adjustment proceedings.

**Q. How will the price of a First-Class stamp be determined under the new regulations?**

A. The Postal Service's Governors will continue to have pricing flexibility to set the price of a First-Class stamp and the prices for all other products and services offered by the Postal Service within specific regulatory parameters. Exact future prices are not known at this time.

**Q. How will the new ratemaking system affect the general public and small businesses?**

A. Individual customers and small business users of postal products and services may experience price increases above what the previous CPI-U rate authority provided due to the new categories of additional rate authority. However, as previously mentioned, the Postal Service's Governors will continue to set prices for all products and services offered by the Postal Service. As a result, exact future prices are not known at this time. Under the final rules, workshare discounts should also be set closer to avoided costs and additional information, including that related to the Postal Service's efforts to reduce costs, will be provided by the Postal Service, providing the public greater transparency into the Postal Service's cost-control efforts.

**Q. Will the new rules affect the Postal Service's ability to enter into Negotiated Service Agreements with customers?**

A. No. The final rules do not affect the Postal Service's ability to enter into Negotiated Service Agreements.

**Q. How does the new ratemaking system address the Postal Service’s service standards?**

A. The past proposed rules would have provided for performance-based rate authority that the Postal Service would have received on an annual basis only if an operational efficiency requirement and a service standard requirement were met. In the final rules, the Commission has elected to withdraw that proposed authority in response to commenter concerns. However, the final rules do provide increased public transparency into service standards by requiring the Postal Service to file descriptions of any changes to service standards (including business rules) and explanations of the reasons for these changes, as a part of its *Annual Compliance Report*. The Commission will open a separate rulemaking to further study potential modifications to the ratemaking system that link financial incentives and/or consequences to efficiency gains, cost reductions, and the maintenance of service standards.

**Q. Is the Postal Service required to publicly report on whether the new ratemaking system is helping its financial position?**

A. Yes. Under the new ratemaking system, the Postal Service will continue to annually report on its finances. This includes information on Postal Service product and service cost coverage, cost reduction initiatives, and volume and revenue data, as well as other things.

**Q. What will happen to the final rules if/when the Administration and Congress propose and enact postal reform legislation?**

A. The Commission has committed to reviewing the system of ratemaking 5 years after the final rules are implemented. However, the Commission has also stated that it would review and adjust certain components of the system sooner than 5 years if necessary. These final rules are based on the law as currently written. While the Commission cannot predict how any future postal reform legislation would influence the effectiveness of its final rules, the Commission would consider whether any such legislation necessitated review of the system of ratemaking in whole or part at that time.

**Q. When will this new system go into effect?**

A. The new system of ratemaking will take effect 30 days after the Commission’s final rulemaking is published in the Federal Register.

**Q. By law, this final rule must be designed to achieve the nine statutory objectives. What are the objectives?**

A. Per 39 U.S.C. § 3622(b)

**(b) Objectives.**—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

**(1)** To maximize incentives to reduce costs and increase efficiency.

**(2)** To create predictability and stability in rates.

- (3) To maintain high quality service standards established under section 3691.
- (4) To allow the Postal Service pricing flexibility.
- (5) To assure adequate revenues, including retained earnings, to maintain financial stability.
- (6) To reduce the administrative burden and increase the transparency of the ratemaking process.
- (7) To enhance mail security and deter terrorism.
- (8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.
- (9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

**Q. Does this final rule apply to Competitive products such as the vast majority of packages and parcels?**

**A.** No. The final rules apply to the ratemaking system for Market Dominant products. Competitive products are regulated separately from Market Dominant products.



## Addendum

### COMMISSION PROCESS TO MODIFY THE RATEMAKING SYSTEM FOR CLASSES OF MARKET DOMINANT PRODUCTS

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- By law, after December 20, 2016, the Commission must review the price cap system for regulating Market Dominant products to A) determine if the system is achieving its statutory objectives and B) if it is not, to by regulation “make such modification or adopt such alternative system” to achieve the objectives. There are nine objectives listed in the law that the modern rate regulation system must be designed to achieve, as well as 14 factors that the Commission must take into account.
- From this time in 2016 until 2019, the Commission was comprised of four commissioners—one short of a full complement.
- On December 20, 2016, the Commission commenced docket RM2017-3 to review the price cap system for regulating Market Dominant products when it issued an Advanced Notice of Proposed Rulemaking. Ninety days were provided for public comments and reply comments from all interested parties. Numerous comments were submitted through the spring of 2017.
- On December 1, 2017, the Commission simultaneously issued two orders: 1) a 300 page order on the Findings and Determination that the system was not achieving the statutory objectives; and 2) a 200 page Notice of Proposed Rulemaking for the System for Regulating Rates and Classes for Market Dominant Products. Ninety days were provided for public comments and reply comments. Numerous and extensive divergent comments were submitted through the spring of 2018.
- Three new commissioners were appointed to the Commission in 2019, resulting in a full complement of members (one vacancy was filled, two new members replaced two commissioners whose terms had expired). The reconstituted Commission of five commissioners was fully in place by August 2019.
- On December 5, 2019, the Commission issued a 354 page Revised Notice of Proposed Rulemaking reflecting major revisions in response to numerous comments. Ninety days were provided for public comments and reply comments. Through the spring of 2020, robust public input provided numerous and extensive comments from all parties. Throughout the spring and summer of 2020, two dozen major mailing organizations filed motions to provide extensive supplemental comments, including motions for the Commission to suspend the review and/or hold the proceeding in abeyance in light of the pandemic. The Commission denied the motions for suspending the proceeding or holding it in abeyance.
- On November 30, 2020, the Commission promulgates this nearly 500 page Final Rule.