

§ 3021.41

(b) The instructions for PRC Form 61 shall provide:

- (1) A concise explanation of the purpose of the form;
- (2) A copy of section 404(d)(2)(A) of title 39, United States Code; and
- (3) Notification that, if petitioner prefers, he or she may file a brief in lieu of or in addition to completing PRC Form 61.

[77 FR 6679, Feb. 9, 2012, as amended at 85 FR 9655, Feb. 19, 2020]

§ 3021.41 Due date for participant statement.

The statement or brief of petitioner and of any other participant seeking to have the Commission return the entire matter to the Postal Service for further consideration, shall be filed not more than 20 days after the filing of the administrative record.

§ 3021.42 Due date for Postal Service response.

The statement or brief of the Postal Service, and of any other participant opposing return of the matter for further consideration, shall be filed not more than 14 days after the date for filing of petitioner's statement.

§ 3021.43 Due date for replies to the Postal Service.

Petitioner, and any other participant seeking to have the Commission return the matter for further consideration, may file a reply to the Postal Service response not more than 10 days after the date of the Postal Service response. Replies are limited to issues discussed in the responses of the Postal Service and other participants seeking affirmation of the Postal Service determination.

PART 3022—RULES FOR COMPLAINTS

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AUTHORITY: 39 U.S.C. 503; 3662.

SOURCE: 74 FR 16744, Apr. 10, 2009, unless otherwise noted. Redesignated at 85 FR 9615, Feb. 19, 2020.

Subpart A—General

§ 3022.1 Applicability.

(a) The rules in this part govern the procedure for complaints filed under 39 U.S.C. 3662 that meet the form and manner requirements of subpart B of this part. Part 3010 of this chapter applies unless otherwise stated in this part or otherwise ordered by the Commission.

(b) Subpart E to part 3010 of this chapter does not apply to this part unless and until the Commission makes a finding under § 3022.30(a)(1) that the complaint raises material issues of fact or law and that the issues shall be considered through a hearing on the record.

[85 FR 9655, Feb. 19, 2020]

§ 3022.2 Scope and nature of complaints.

Any interested person (including a duly appointed officer of the Commission representing the interests of the general public) may file a written complaint with the Commission if that person believes that the Postal Service is not operating in conformance with:

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- (a) The provisions of 39 U.S.C. chapter 36, or 39 U.S.C. 101(d), 401(2), 403(c), 404a, or 601; or
- (b) Any rule, order, or other regulatory requirement based on any of these statutory provisions.

Subpart B—Form and Manner Requirements of Initial Pleadings

§ 3022.10 Complaint contents.

- (a) A complaint must:
 - (1) Set forth the facts and circumstances that give rise to the complaint;
 - (2) Clearly identify and explain how the Postal Service action or inaction violates applicable statutory standards or regulatory requirements including citations to the relied upon section or sections of title 39, order, regulation, or other regulatory requirements;
 - (3) Set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to the complainant;
 - (4) Include a description of persons or classes of persons known or believed to be similarly affected by the issues involved in the complaint, if applicable;
 - (5) State the nature of the evidentiary support that the complainant has or expects to obtain during discovery to support the facts alleged in the complaint;
 - (6) Include an explanation as to why such facts could not reasonably be ascertained by the complainant where claims are premised on information and belief;
 - (7) State whether the issues presented are pending in or have been resolved by an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party; and if so, provide an explanation why timely resolution cannot be achieved in that forum;
 - (8) State the specific relief or remedy requested and the basis for that relief; and
 - (9) Include a certification that states that prior to filing, the complainant attempted to meet or confer with the Postal Service's general counsel to resolve or settle the complaint, why the complainant believes additional such steps would be inadequate, and the reasons for that belief; and

(10) Include a certification that the complaint has been served on the United States Postal Service as required by §3022.11.

(b) The Commission may waive any of the requirements listed in paragraph (a) of this section to serve the interests of justice.

[74 FR 16744, Apr. 10, 2009, as amended at 85 FR 9655, Feb. 19, 2020]

§ 3022.11 Service.

Any person filing a complaint must simultaneously serve a copy of the complaint on the Postal Service at this address: *PRCCOMPLAINTS@usps.gov*. A person without internet access may contact the Secretary to obtain approval for alternative methods of service.

[85 FR 9655, Feb. 19, 2020]

§ 3022.12 Pleadings filed in response to a complaint.

(a) Unless otherwise ordered by the Commission, the Postal Service shall file its answer to a complaint within 20 days after the complaint is filed.

(b) If appropriate, the Postal Service may file a dispositive motion or otherwise move to delay disposition of the complaint. If the Postal Service files such a motion, unless otherwise ordered by the Commission, the period of time for filing its answer is altered as follows:

(1) If the Commission denies the motion or postpones disposition, the answer is due within 10 days of the Commission's action; or

(2) If the Commission invokes the rate or service inquiry special procedures under §3022.13 to the complaint, the answer is due contemporaneously with the Postal Service's report under §3023.11 of this chapter if the complaint has not been resolved by that date.

(c) If the Postal Service answer is delayed by the filing of a motion under paragraph (b) of this section, it may not obtain a further delay by filing another motion under paragraph (b) of this section raising an issue or objection that was available to the Postal Service but omitted from its earlier motion.

[74 FR 16744, Apr. 10, 2009, as amended at 85 FR 9656, Feb. 19, 2020]

§ 3022.13

§ 3022.13 Conditions for applying rate or service inquiry procedures to complaints.

(a) This section applies to complaints that concern rate or service matters that are isolated incidents affecting few mail users provided that the complaint does not either:

- (1) Raise unfair competition issues;
- (2) Raise issues affecting a significant number of mail users;
- (3) Represent a pattern, practice, or systemic issue that affects a significant number of mail users (or is reasonably likely to be evidence that such a pattern has begun); or
- (4) Impact a substantial region of the nation.

(b) The Commission may in its discretion, *sua sponte*, attempt to resolve a complaint through the rate or service inquiry procedures of § 3023.11 of this chapter if the Commission finds that there is a reasonable likelihood that such procedures may result in resolution of the complaint. The Commission will issue an order to apply the procedures of § 3023.11 of this chapter prior to the due date for the Postal Service answer set forth in § 3022.12.

(c) If the Commission determines that application of paragraph (a) of this section is appropriate and the Postal Service is unable to resolve the complaint within 45 days, or such other period of time as ordered by the Commission, the Postal Service shall file its answer in accordance with § 3022.12(b)(2).

[74 FR 16744, Apr. 10, 2009, as amended at 85 FR 9656, Feb. 19, 2020]

§ 3022.14 Answer contents.

(a) An answer must:

(1) Contain a clear and concise statement of any disputed factual allegations upon which the answer relies;

(2) Contain a clear and concise statement of any legal interpretation upon which the answer relies;

(3) Admit or deny, specifically and with explanatory detail, each material factual allegation of the complaint. Denials based on information and belief must include an explanation as to why such facts could not reasonably be ascertained by the Postal Service prior to filing the answer. Each fact alleged in a complaint not thus specifically an-

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swered shall be deemed to have been admitted;

(4) Set forth every defense relied upon. The answer shall advise the complainant and the Commission fully and completely of the nature of any defense, including factual allegations and law upon which the Postal Service relies. Affirmative defenses shall be specifically captioned as such and presented separately from any denials;

(5) State the nature of the evidentiary support that the Postal Service has or expects to obtain to support its factual allegations and defenses; and

(6) Include a certification that states that prior to the filing of its answer, the Postal Service met or conferred with the complainant to resolve or settle the complaint, whether the Postal Service believes additional such steps would be inappropriate and the reasons for that belief.

(b) The Commission may waive any of the requirements listed in paragraph (a) of this section to serve the interests of justice.

Subpart C—Supplemental Information

§ 3022.20 Sufficiency of information.

If, after review of the information submitted pursuant to this part, the Commission determines that additional information is necessary to enable it to evaluate whether the complaint raises material issues of fact or law, the Commission shall, in its discretion, either require the complainant and/or the Postal Service to provide additional information as deemed necessary, issue an appropriate order to appoint an investigator in accordance with § 3022.21, or do both.

[85 FR 9656, Feb. 19, 2020]

§ 3022.21 Investigator.

The Commission may appoint an investigator to examine issues raised by the complaint and responses thereto. The investigator will use appropriate due diligence under the circumstances and provide a public, written report to the Commission.

Subpart D—Proceedings**§ 3022.30 Beginning proceedings on complaints.**

(a) Within 90 days after receiving a properly filed complaint under this part, the Commission will issue:

(1) A notice and order in accordance with § 3010.151 of this chapter that finds the complaint raises one or more material issues of fact or law and begin proceedings on the complaint; or

(2) An order dismissing the complaint.

(b) Orders issued pursuant to paragraph (a) of this section shall include the Commission's written statement setting forth the bases of its determination.

(c) Contemporaneously with, or shortly after issuing a notice and order under paragraph (a)(1) of this section, the Commission will appoint a public representative to represent the interests of the general public in the complaint proceeding.

[74 FR 16744, Apr. 10, 2009, as amended at 85 FR 9656, Feb. 19, 2020]

Subpart E—Settlement**§ 3022.40 Policy on settlement.**

It shall be the general policy and practice of the Commission to encourage alternative dispute resolution and settlement of complaints by informal procedures, such as correspondence, conferences between the parties, and the conduct of proceedings off the record with the consent of the parties.

§ 3022.41 Satisfaction.

(a) If a complaint is resolved informally, in whole or in part, subsequent to Commission action under § 3022.30(a)(1), the complainant must promptly file:

(1) A statement explaining the resolution; and

(2) A motion to dismiss or amend the complaint based on the resolution.

(b) The Commission may order the submission of additional information before acting on any motion filed under paragraph (a)(2) of this section.

(c) In determining whether to allow the complaint to be dismissed or amended under this section, the Com-

mission will take into consideration whether the issues raised by the complaint may continue to impact a significant segment of the mailing community.

[74 FR 16744, Apr. 10, 2009, as amended at 85 FR 9656, Feb. 19, 2020]

Subpart F—Commission Determinations and Relief**§ 3022.50 Remedies.**

(a) If the Commission finds that a complaint is justified, it will order that the Postal Service take such action as the Commission determines appropriate to:

(1) Achieve compliance with the applicable requirements; and

(2) Remedy the effects of any non-compliance.

(b) If the Commission finds deliberate non-compliance on the part of the Postal Service, the Commission may order, based on the nature, circumstances, extent, and seriousness of the non-compliance, a fine for each incidence of non-compliance.

(c) In any case where the Commission is considering the extraordinary relief described in paragraph (b) of this section, the Commission will provide notice to the participants that such relief is being considered. It will allow the participants a reasonable opportunity to comment and present aggravating and mitigating factors for its consideration.

PART 3023—RULES FOR RATE OR SERVICE INQUIRIES**Subpart A—Rate or Service Inquiry Forms and Procedures**

Sec.

3023.10 Rate or service inquiry contents.

3023.11 Rate or service inquiry procedures.

3023.12 Treatment as a complaint.

Subpart B [Reserved]

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