

Postal Regulatory Commission

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citations, and appendices shall not be considered as part of the word count.

(d) *Include by reference.* Briefs before the Commission or a presiding officer shall be completely self-contained and shall not incorporate by reference any portion of any other brief, pleading, or document.

(e) *Excerpts from the record.* Testimony and exhibits shall not be quoted or included in briefs except for short excerpts pertinent to the argument presented.

(f) *Filing and service.* Briefs shall be filed in the form and manner and served as required by subpart B to part 3010 of this chapter.

(g) *Statements of Position.* As an alternative to filing a formal brief, a participant may file a Statement of Position. To the extent practicable, the contents of each Statement of Position should include a clear, concise, and definitive statement of the position of the filing participant as to the Postal Service request, as well as any points or factors in the existing record that support the participant's position. Statements of Position shall be limited to the existing record and shall not include any new evidentiary material.

APPENDIX A TO PART 3020—PRO FORMA N-CASE PROCEDURAL SCHEDULE

Line	Action	Day number
1	Pre-Filing Consultations ¹	n/a.
2	Commission Order ²	n/a.
3	Filing of Postal Service Request	0.
4	Commission Notice and Order ³	1–3.
5	Technical Conference	10.
6	Participant Discovery on Postal Service Case Ends	28.
7	Responses to Participant Discovery on Postal Service Case	35.
8	Participants Confirm Intent to File a Rebuttal Case	37. ⁴
9	Filing of Rebuttal Cases (if submitted)	42.
10	Deadline for Motions to Leave to File Surrebuttal	44. ⁵
11	Deadline for Answers to Motions for Surrebuttal	46.
12	Filing of Surrebuttal Cases (if authorized)	49. ⁶
13	Hearings:	
	Hearings (with no Rebuttal Cases)	42–44.
	Hearings (with Rebuttal Cases, but no requests for leave to file Surrebuttal Cases).	49–51.
	Hearings (with Rebuttal Cases and requests for leave to file Surrebuttal Cases).	54–56.
14	Initial Briefs	(7 days after conclusion of hearings).
15	Reply Briefs	(7 days after filing of Initial Briefs).
16	Target Issuance Date of Advisory Opinion	90.

¹ The Postal Service would initiate pre-filing consultations and would file a notice with the Commission of such consultations prior to their commencement.

² This order would appoint a Public Representative.

³ This notice and order would announce the Postal Service request, set a deadline for interventions, set a date for a technical conference, and establish a procedural schedule.

⁴ If no participant elects to file a rebuttal case, hearings begin on Day 42.

⁵ If no surrebuttal cases are requested, hearings begin on Day 49.

⁶ If one or more surrebuttal cases are requested (whether or not authorized by the Commission), hearings begin on Day 54.

PART 3021—RULES FOR APPEALS OF POSTAL SERVICE DETERMINATIONS TO CLOSE OR CONSOLIDATE POST OFFICES

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AUTHORITY: 39 U.S.C. 404(d).

§ 3021.1

SOURCE: 77 FR 6679, Feb. 9, 2012, unless otherwise noted. Redesignated at 85 FR 9615, Feb. 19, 2020.

§ 3021.1 Definitions.

The following definitions apply in this part:

(a) *Final determination* means the written determination and findings required by 39 U.S.C. 404(d)(3).

(b) *Petitioner* means a person who files a Petition for Review.

(c) *Petition for Review* means a written document that the Commission accepts as an appeal of a post office closing or consolidation.

§ 3021.2 Applicability.

(a) The rules in this part apply when:

(1) The Postal Service decides to close or consolidate a post office, and

(2) A patron of that post office appeals the closing or consolidation.

(b) Subparts A through D to part 3010 of this chapter apply to appeals of post office closings or consolidations.

(c) Answers to motions filed by the Postal Service are due within 10 days.

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

§ 3021.3 Notice by the Postal Service.

(a) Pursuant to section 404(d) of title 39, United States Code, any decision to close or consolidate a post office must be preceded by 60 days' notice to persons served by such post office, the opportunity for such persons to present their views, and a written determination based upon consideration of each of the factors listed in section 404(d)(2) of title 39, United States Code.

(b) This notice must include a provision stating that, pursuant to section 404(d)(5) of title 39, United States Code, a final Postal Service determination to close or consolidate a post office may be appealed by any person served by such office to the Postal Regulatory Commission at 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001, within 30 days after such determination is made available to such person by the Postal Service.

§ 3021.10 Starting an appeal.

(a) A Postal Service decision to close or consolidate a post office may be appealed only by a person served by that

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office. An appeal is commenced by submitting a Petition for Review to the Postal Regulatory Commission.

(b) The Petition for Review must state that the person(s) submitting it is/are served by the post office that the Postal Service has decided to close or consolidate. The petition should include the name(s) and address(es) of the person(s) filing it and the name or location of the post office to be closed or consolidated. A petitioner may include other information deemed pertinent.

§ 3021.11 Submitting an appeal and other documents.

Petitions for Review, comments, motions, answers, and other documents may be submitted by persons other than the Postal Service by mail, electronically through the Commission's website, <http://www.prc.gov>, or by delivery to the Commission's offices at 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001.

[77 FR 6679, Feb. 9, 2012, as amended at 85 FR 9660, Feb. 19, 2020]

§ 3021.12 Duplicate appeals.

If the Commission receives more than one Petition for Review of the same post office closing or consolidation, the petitions will be considered in a single docket.

§ 3021.13 Deadlines for appeals.

(a) *In general.* If the Postal Service has issued a final determination to close or consolidate a post office, an appeal is due within 30 days of the final determination being made available in conformance with § 3021.3(b).

(b) *Appeals sent by mail.* If sent by mail, a Petition for Review must be postmarked no later than 30 days after the final determination has been made available.

(c) *Appeals sent by other physical delivery.* If sent by some other form of physical delivery, a Petition for Review must be received in the Commission's Docket Section no later than 4:30 p.m., eastern time, on the 30th day after the final determination has been made available.

(d) *Appeals sent electronically.* If submitted electronically, a Petition for

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Review must be received in the Commission's Docket Section no later than 4:30 p.m., eastern time, on the 30th day after the final determination has been made available.

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

§ 3021.14 Participation by others.

(a) A person served by the post office to be closed or consolidated pursuant to the Postal Service written determination under review who desires to intervene in the proceeding, or any other interested person, or any counsel, agent, or other person authorized or recognized by the Postal Service as such interested person's representative or the representative of such interested person's recognized group, such as Postmasters, may participate in an appeal by sending written comments to the Postal Regulatory Commission in the manner described in § 3021.11.

(b) Persons may submit comments supporting or opposing a Commission order returning the entire matter to the Postal Service for further consideration. Comments must be filed in accordance with the deadlines established in §§ 3021.41 through 3021.43. Commenters may use PRC Form 61, which is available on the Commission's website, <http://www.prc.gov>.

[85 FR 9655, Feb. 19, 2020]

§ 3021.20 The record on review.

(a) The record on review includes:

- (1) The final determination;
- (2) The notices to persons served by the post office to be closed or consolidated;
- (3) The administrative record; and
- (4) All documents submitted in the appeal proceeding.

(b) The record shall contain all evidence considered by the Postal Service in making its determination and shall contain no evidence not previously considered by the Postal Service.

§ 3021.21 Filing of the administrative record.

The Postal Service shall file the administrative record within 10 days of the date of posting of a Petition for Review on the Commission's website. The Commission may alter this time for

good cause. The Secretary will notify participants that they may view the administrative record at post offices where the final determination was posted.

[77 FR 6679, Feb. 9, 2012, as amended at 85 FR 9660, Feb. 19, 2020]

§ 3021.22 Making documents available for inspection by the public.

Copies of all filings (including the administrative record) related to an appeal shall be available for public inspection at the post offices where the final determination was posted. The Secretary will notify participants that they may view copies of filings at post offices where the final determination was posted.

§ 3021.30 Suspension pending review.

(a) *Application.* Application for suspension of a determination of the Postal Service to close or consolidate any post office pending the outcome of an appeal to the Postal Regulatory Commission shall be made at the time of the filing of a Petition for Review. The application shall show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by affidavits or other sworn statements or copies thereof. The applicant must be a person served by the affected post office. Immediate notice of the application shall be given to all parties to the proceeding. The application shall be filed with the Secretary of the Commission.

(b) *Answer and filing of the relevant record by the Postal Service.* Within 10 days after the application for suspension is filed, the Postal Service shall file with the Secretary of the Commission and serve on the petitioners an answer to the application supported by affidavits or other sworn statements or copies thereof.

§ 3021.40 Participant statement.

(a) When a timely Petition for Review of a decision to close or consolidate a post office is filed, the Secretary shall furnish petitioner with a copy of PRC Form 61. This form is designed to inform petitioners on how to make a statement of the petitioner's arguments in support of the petition.

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(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: