

§ 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:

(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]