

Postal Regulatory Commission

§ 3025.102

(c) As used in this section, the term *rule, regulation, or standard* includes, among other things, documents or policies issued by the Postal Service to exercise its regulatory authority or otherwise act as a governmental entity.

[79 FR 62294, Oct. 16, 2014, as amended at 85 FR 9656, Feb. 19, 2020]

§ 3024.6 Disclosure, transfer, and licensing of intellectual property.

(a) A complaint alleging a violation of 39 U.S.C. 404a(a)(2) must show that the Postal Service has compelled or attempted to compel the disclosure, transfer, or licensing of the intellectual property of the person filing the complaint to a third party.

(b) As used in this section, the term *intellectual property* includes, among other things, patents, copyrights, trademarks, trade secrets, and proprietary information.

(c) As used in this section, the term *disclosure, transfer, or licensing of intellectual property* includes, among other things, an action that has an adverse effect on the value of intellectual property.

§ 3024.7 Unlawfully obtaining information.

(a) A complaint alleging a violation of 39 U.S.C. 404a(a)(3) must show that:

(1) The person filing the complaint has provided or sought to provide a product;

(2) The Postal Service obtained information about such product from the person filing the complaint; and

(3) The Postal Service offers or offered a postal service that uses or is based, in whole or in part, on the information obtained from the person filing the complaint.

(b) As an affirmative defense to a complaint under 39 U.S.C. 404a(a)(3), the Postal Service may demonstrate that substantially the same information was obtained (or was obtainable) from an independent source or is otherwise obtained (or obtainable) through lawful means.

(c) As an affirmative defense to a complaint under 39 U.S.C. 404a(a)(3), the Postal Service may show that the information obtained was provided by written consent.

§ 3024.8 Statutorily authorized affirmative defense.

(a) As an affirmative defense to an allegation of a violation of 39 U.S.C. 404a(a), the Postal Service may demonstrate that it is specifically authorized by law to take the action or inaction alleged to be a violation of that section.

(b) Authority under 39 U.S.C. 401 or 39 U.S.C. 404 may not form the basis of an affirmative defense under paragraph (a) of this section.

(c) Paragraph (b) of this section does not preclude the Postal Service from arguing that a particular Postal Service regulation or other action (or inaction) does not have the requisite effect to violate 39 U.S.C. 404a(a).

PART 3025—PROCEDURES RELATED TO COMMISSION VIEWS SUBMITTED TO THE SECRETARY OF STATE

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AUTHORITY: 39 U.S.C. 407; 503.

SOURCE: 85 FR 13054, Mar. 6, 2020, unless otherwise noted.

§ 3025.101 Definitions in this part.

(a) *Commission views* refers to the opinion the Commission provides to the Secretary of State pursuant to 39 U.S.C. 407(c)(1) on the consistency of a relevant proposal with modern rate regulation.

(b) *Modern rate regulation* refers to the standards and criteria the Commission has established pursuant to 39 U.S.C. 3622.

(c) *Relevant proposal* means a proposed change to a treaty, convention, or amendment that establishes a market dominant rate or classification.

§ 3025.102 Purpose.

The rules in this part are intended to facilitate public participation in, and promote the transparency of, the development of Commission views.

§ 3025.103

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§ 3025.103 Establishment and scope of docket.

(a) On or about 150 days before a Universal Postal Union Congress convenes or such advance time as the Commission determines for any other 39 U.S.C. 407(c)(1) matter, the Commission shall establish a docket in order to solicit public comments as part of the development of Commission views.

(b) The Commission shall post relevant proposals in the applicable docket established pursuant to paragraph (a) of this section and may also include other materials related to the development of Commission views, such as other documents or related actions.

(c) Public comments should focus on the specific relevant proposals posted by the Commission and the general principles that should guide the development of Commission views as well as any other materials posted in the applicable docket pursuant to paragraph (b) of this section.

(d) The Commission shall arrange for publication in the FEDERAL REGISTER of the notice establishing each docket authorized under this part.

§ 3025.104 Comment deadline(s).

(a) The Commission shall establish a deadline for comments upon establishment of the docket that is consistent with timely submission of Commission views to the Secretary of State. The Commission may establish other deadlines for comments as appropriate.

(b) The Commission may suspend or forego solicitation of comments if it determines that such solicitation is not consistent with timely submission of Commission views to the Secretary of State.

§ 3025.105 Issuance of Commission views.

(a) The Commission will review timely filed comments responding to a Commission solicitation pursuant to § 3025.103(a) prior to submitting its views to the Secretary of State.

(b) After Commission views are developed, the Commission shall post Commission views in the applicable docket established pursuant to § 3025.103(a) and submit Commission views to the Secretary of State pursuant to 39 U.S.C. 407(c)(1).