

Postal Regulatory Commission

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the applicable criteria of chapter 36 of title 39 of the United States Code.

(c) If the Commission finds the proposed update in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C., the Commission shall review the proposed Mail Classification Schedule language for formatting and conformance with the structure of the Mail Classification Schedule, and subject to editorial changes, shall change the Mail Classification Schedule to coincide with the effective date of the proposed update.

(d) If the Commission finds the proposed update not in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code, the Commission may direct other action as deemed appropriate.

[72 FR 63698, Nov. 9, 2007, as amended at 84 FR 32317, July 8, 2019. Redesignated at 85 FR 9615, Feb. 19, 2020]

§ 3040.212 Limitations applicable to competitive mail matter.

The Postal Service shall notify the Commission of updates to size and weight limitations for competitive mail matter pursuant to subpart E of this part.

[72 FR 63698, Nov. 9, 2007. Redesignated at 85 FR 9615, Feb. 19, 2020]

Subpart G—Requests for Market Dominant Negotiated Service Agreements

SOURCE: 85 FR 81138, Dec. 15, 2020, unless otherwise noted.

§ 3040.220 General.

This subpart imposes additional requirements whenever there is a request to add a negotiated service agreement to the market dominant product list. The additional supporting justification appearing in § 3040.221 also should be provided whenever the Postal Service proposes to modify the terms of an existing market dominant negotiated service agreement. Commission findings that the addition of a special classification is not inconsistent with 39 U.S.C. 3622 are provisional and subject to subsequent review. No rate(s) shall take effect until 45 days after the Post-

al Service files a request for review of a notice of a new rate or rate(s) adjustment specifying the rate(s) and the effective date.

§ 3040.221 Additional supporting justification for negotiated service agreements.

(a) Each request shall also include the items specified in paragraphs (b) through (j) of this section.

(b) A copy of the negotiated service agreement.

(c) The planned effective date(s) of the planned rates.

(d) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.

(e) A statement identifying all parties to the agreement and a description clearly explaining the operative components of the agreement.

(f) Details regarding the expected improvements in the net financial position or operations of the Postal Service (39 U.S.C. 3622(c)(10)(A)(i) and (ii)). The projection of the change in net financial position as a result of the agreement shall be based on accepted analytical principles. The projection of the change in net financial position as a result of the agreement shall include for each year of the agreement:

(1) The estimated mailer-specific costs, volumes, and revenues of the Postal Service absent the implementation of the negotiated service agreement;

(2) The estimated mailer-specific costs, volumes, and revenues of the Postal Service which result from implementation of the negotiated service agreement;

(3) An analysis of the effects of the negotiated service agreement on the contribution to institutional costs from mailers not party to the agreement;

(4) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, together with a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs; and

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(5) If the Postal Service believes the Commission's accepted analytical principles are not the most accurate and reliable methodology available:

(i) An explanation of the basis for that belief; and

(ii) A projection of the change in net financial position resulting from the agreement made using the Postal Service's alternative methodology.

(g) An identification of each component of the agreement expected to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement, and a discussion of the nature and expected impact of each such enhancement.

(h) Details regarding any and all actions (performed or to be performed) to assure that the agreement will not result in unreasonable harm to the marketplace (39 U.S.C. 3622(c)(10)(B)).

(i) A discussion in regard to how functionally similar negotiated service agreements will be made available on public and reasonable terms to similarly situated mailers.

(j) Such other information as the Postal Service believes will assist the Commission in issuing a timely determination of whether the requested changes are consistent with applicable statutory policies.

§ 3040.222 Data collection plan and report for negotiated service agreements.

(a) The Postal Service shall include with any request concerning a negotiated service agreement a detailed plan for providing data or information on actual experience under the agreement sufficient to allow evaluation of whether the negotiated service agreement operates in compliance with 39 U.S.C. 3622(c)(10).

(b) A data report under the plan is due 60 days after each anniversary date of implementation and shall include, at a minimum, the following information for each 12-month period the agreement has been in effect:

(1) The change in net financial position of the Postal Service as a result of the agreement. This calculation shall include for each year of the agreement:

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(i) The actual mailer-specific costs, volumes, and revenues of the Postal Service;

(ii) An analysis of the effects of the negotiated service agreement on the net overall contribution to the institutional costs of the Postal Service; and

(iii) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, including a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs.

(2) A discussion of the changes in operations of the Postal Service that have resulted from the agreement. This shall include, for each year of the agreement, identification of each component of the agreement known to enhance the performance of mail preparation, processing, transportation, or other functions in each year of the agreement.

(3) An analysis of the impact of the negotiated service agreement on the marketplace, including a discussion of any and all actions taken to protect the marketplace from unreasonable harm.

PART 3041—COMPETITIVE NEGOTIATED SERVICE AGREEMENTS

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