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results of the second step and subtracting 1 from the quotient. The result is expressed as a percentage.

(c) The formula for calculating the percentage change in rates for a class described in paragraph (b) of this section is as follows:

Percentage change in rates =

$$\left(\frac{\sum_{i=1}^N (R_{i,n})(V_i)}{\sum_{i=1}^N (R_{i,c})(V_i)} \right) - 1$$

Where,

N = number of rate cells in the class

i = denotes a rate cell (i = 1, 2, ..., N)

R_{i,n} = planned rate of rate cell i

R_{i,c} = current rate of rate cell i

V_i = volume of rate cell i

(d) The volumes for each rate cell shall be obtained from the most recent available 12 months of Postal Service billing determinants. The Postal Service shall make reasonable adjustments to the billing determinants to account for the effects of classification changes such as the introduction, deletion, or redefinition of rate cells. Whenever possible, adjustments shall be based on known mail characteristics. The Postal Service shall identify and explain all adjustments. All information and calculations relied upon to develop the adjustments shall be provided together with an explanation of why the adjustments are appropriate.

§ 3010.24 Treatment of volume associated with negotiated service agreements.

(a) Mail volumes sent at rates under negotiated service agreements are to be included in the calculation of percentage change in rates as though they paid the appropriate rates of general applicability. Where it is impractical to identify the rates of general applicability (*e.g.*, because unique rate categories are created for a mailer), the volumes associated with the mail sent under the terms of the negotiated service agreement shall be excluded from the calculation of percentage change in rates.

(b) The Postal Service shall identify and explain all assumptions it makes with respect to the treatment of nego-

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tiated service agreements in the calculation of the percentage change in rates and provide the rationale for its assumptions.

§ 3010.25 Limitation on unused rate adjustment authority rate adjustments.

Unused rate adjustment authority rate adjustments may only be applied together with inflation-based limitation rate adjustments or when inflation-based limitation rate adjustments are not possible. Unused rate adjustment authority rate adjustments may not be used in lieu of an inflation-based limitation rate adjustment.

§ 3010.26 Calculation of unused rate adjustment authority.

(a) Unused rate adjustment authority accrues during the entire period between notices of Type 1 rate adjustments.

(b) When notices of Type 1 rate adjustments are filed 12 months apart or less, either the annual or partial year limitation (developed pursuant to § 3010.21(a) or § 3010.22(b) respectively) is used to measure the accrued unused rate authority. In either circumstance, the new unused rate authority for each class is equal to the difference between the maximum allowable percentage change in rates under the applicable rate limitation and the actual percentage change in rates for that class.

(c) When a notice of rate adjustment is filed more than 12 months after the previous notice of rate adjustment, unused rate authority is computed in three steps:

(1) The unused rate authority for the 12 months represented by the annual limitation is computed as described in paragraph (b) of this section;

(2) The additional unused rate authority accrued is measured by dividing the Base Average applicable to the instant notice of rate adjustment (as developed pursuant to § 3010.21(a)) by the Recent Average utilized in the previous notice of rate adjustment (as developed pursuant to § 3010.21(a)) and subtracting 1 from the quotient. The result is expressed as a percentage; and

(3) The results from step 1 and step 2 are added together.

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(d) Unused rate adjustment authority lapses 5 years after the date of filing of the notice of rate adjustment leading to its computation.

§ 3010.27 Application of unused rate adjustment authority.

When the percentage change in rates for a class is greater than the applicable annual limitation, then the difference between the percentage change in rates for the class and the price cap shall be subtracted from the existing unused rate authority for the class, using a first-in, first-out (FIFO) method, beginning 5 years before the instant notice.

§ 3010.28 Maximum size of unused rate adjustment authority rate adjustments.

Unused rate adjustment authority exercised in notices of rate adjustments for any class in any 12-month period may not exceed the applicable limitations described in §§ 3010.21 or 3010.22 plus the lesser of:

- (a) 2 percent; or
- (b) The sum of any unused rate adjustment authority for that class.

§ 3010.29 Transition rule.

If the Postal Service initial exercise of its authority to file a Type 1–A notice of rate adjustment is preceded by a transitional rate case filing under 39 U.S.C. 3622(f):

- (a) The annual limitation as calculated in § 3010.21 is applicable if the notice of rate adjustment is 12 months or more after the date of the Decision of the Governors approving rate changes associated with the transitional filing; and
- (b) The annual limitation as calculated in § 3010.22 is applicable if the notice of rate adjustment is 12 months or more after the date of the Decision of the Governors approving rate changes associated with the transitional filing. In such circumstances, the date of the Decision of the Governors approving rate changes associated with the transitional filing is the most recent previous notice of rate adjustment.

Subpart D—Rules for Rate Adjustments for Negotiated Service Agreements (Type 2 Rate Adjustments)

§ 3010.40 Negotiated service agreements.

(a) In administering this subpart, it shall be the objective of the Commission to allow implementation of negotiated service agreements that satisfy the statutory requirements of 39 U.S.C. 3622(c)(10). Negotiated service agreements must either:

- (1) Improve the net financial position of the Postal Service (39 U.S.C. 3622(c)(10)(A)(i)); or
 - (2) Enhance the performance of operational functions (39 U.S.C. 3622(c)(10)(A)(ii)).
- (b) Negotiated service agreements may not cause unreasonable harm to the marketplace (39 U.S.C. 3622(c)(10)(B)).
- (c) Negotiated service agreements must be available on public and reasonable terms to similarly situated mailers.

§ 3010.41 Procedures.

The Postal Service, in every instance in which it determines to exercise its statutory authority to make a Type 2 rate adjustment for a market dominant postal product shall provide public notice in a manner reasonably designed to inform the mailing community and the general public that it intends to change rates not later than 45 days prior to the intended implementation date; and transmit a notice of agreement to the Commission no later than 45 days prior to the intended implementation date.

§ 3010.42 Contents of notice of agreement in support of a negotiated service agreement.

- (a) Whenever the Postal Service proposes to establish or change rates or fees and/or the Mail Classification Schedule based on a negotiated service agreement, the Postal Service shall file with the Commission a notice of agreement that shall include at a minimum:
 - (1) A copy of the negotiated service agreement;
 - (2) The planned effective date(s) of the proposed rates;