

ORDER NO. 1625

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Global Expedited Package Services Contracts  
Non-published Rates

Docket No. MC2013-27

Competitive Product Prices  
Global Expedited Package Service Contracts  
Non-published Rates 4 (MC2013-27)

Docket No. CP2013-35

ORDER ADDING  
GLOBAL EXPEDITED PACKAGE SERVICES–NON-PUBLISHED RATES 4  
(GEPS–NPR 4) TO THE COMPETITIVE PRODUCT LIST

(Issued January 16, 2013)

I. INTRODUCTION

The Postal Service asks that the Commission add Global Expedited Package Services–Non-published Rates 4 (GEPS–NPR 4) to the competitive product list within the Mail Classification Schedule (MCS).<sup>1</sup> The Request includes a GEPS–NPR 4 model

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<sup>1</sup> Request of United States Postal Service to Add Global Expedited Package Services-Non-Published Rates 4 (GEPS–NPR 4) to the Competitive Products List and Notice of Filing GEPS–NPR 4 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, December 21, 2012 (Request).

contract and a new financial model.<sup>2</sup> For the reasons discussed below, the Commission approves the Request.

## II. BACKGROUND

*GEPS–NPR product history.* The GEPS–NPR grouping offers incentive pricing to small- and medium-sized businesses that are able to satisfy prescribed capability requirements and are willing to enter a contractual commitment to minimum levels of revenue through the use of Express Mail International (EMI), Priority Mail International (PMI), and (since the addition of GEPS–NPR 3) Global Express Guaranteed (GXG). *Id.* at 6; Attachment 2C at 1.

Under the approach developed for GEPS–NPR in Order Nos. 630<sup>3</sup> and 1161<sup>4</sup>, the Commission authorizes the Postal Service to enter into standard agreements, following approval of the product, and allows the Postal Service to file the executed agreements for review after execution, subject to several conditions. The latter include filing requirements, such as notice of the fact that the Postal Service has entered into a GEPS–NPR contract, the effective date, the termination date, and quarterly results. *See generally* Order Nos. 630 and 1161, as revised by Order No. 1333.<sup>5</sup>

*The instant Request.* This Request marks the fourth time the Postal Service has requested that a new GEPS–NPR product be established.<sup>6</sup> The Postal Service indicates that the Request is the result of changes in non-discounted EMI, PMI, and

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<sup>2</sup> The model contract was filed pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.*

<sup>3</sup> Docket No. CP2011-45, Order Adding Global Expedited Package Services–Non-Published Rates 2 to the Competitive Product List, December 30, 2010 (Order No. 630).

<sup>4</sup> Docket Nos. MC2012-4 and CP2012-8, Order Approving Postal Service Request to Add Global Expedited Package Services–Non-Published Rates 3 (GEPS–NPR 3) to the Competitive Product List, January 20, 2012 (Order No. 1161).

<sup>5</sup> Docket Nos. MC2012-4 and CP2012-8, Order on Motion for Partial Reconsideration, May 4, 2012 (Order No. 1333).

<sup>6</sup> The previous products are GEPS–NPR 1; GEPS–NPR 2; and GEPS–NPR 3. *See* Governors' Decision Nos. 10-2, 10-7, and 11-6, respectively. Request at 5. The Postal Service relies on Governors' Decision No. 11-6 to support this Request. *Id.* at 3.

GXG prices approved in Docket No. CP2013-3, and scheduled to become effective January 27, 2013, plus several changes to the model contract and financial model. *Id.* at 2-3.

Supporting documentation states that GXG is only available for GEPS–NPR 4 customers who choose postage payment through a permit imprint using Postal Service-provided Global Shipping Software (GSS) as one of their shipping software solutions. *Id.* Attachment 2C at 1. In addition, GEPS–NPR 4 EMI and PMI prices are based on the level of downstream access: Nationwide, Metro, and/or International Service Center (ISC) Drop Ship. *Id.*

In connection with the new product, the Postal Service, consistent with Order No. 1161, will provide a copy of each GEPS–NPR 4 customer agreement to the Commission, along with the financial cost inputs used to generate the rates for the customer, and the effective date of each GEPS–NPR 4 agreement. *Id.* at 5. All contracts using the GEPS–NPR 4 model customer contract and the rates in the supporting Management’s Analysis will be filed in a single docket and will be reported as a single competitive product in the appropriate Annual Compliance Report. *Id.* at 5. In addition, each GEPS–NPR 4 contract will bear a serial GEPS–NPR 4 model customer contract, and the rates in this number and subsequent information filed with the PRC concerning a specific contract, will be filed with reference to the docket and serial number. *Id.* at 5-6.

*Related Commission action.* In Order No. 1601, the Commission noticed the Request, described the accompanying supporting documentation (including an application for non-public treatment of certain material), appointed a Public Representative, and provided the public with an opportunity to comment.<sup>7</sup>

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<sup>7</sup> Notice and Order Concerning Addition of Global Expedited Package Services–Non-Published Rates 4 (GEPS–NPR 4) to Competitive Product List, December 28, 2012 (Order No. 1601). The Order identifies supporting documentation, filed in the form of redacted and unredacted versions of Governors’ Decision No. 11-6; the GEPS–NPR 4 Management Analysis; the GEPS–NPR 4 model contract; and the GEPS–NPR 4 financial model with maximum and minimum prices for GXG, EMI, and PMI, and related discussion addressing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5. *Id.* at 2-3.

### III. THE POSTAL SERVICE'S POSITION

*Appropriateness of model contract.* The Postal Service states that the GEPS-NPR 4 model contract includes certain changes that have been made to the existing (GEPS-NPR 3 model) contract. Request at 7. It identifies the main differences between the two models as (1) inclusion of the new rates scheduled to take effect January 27, 2013, and (2) revisions affecting all or certain paragraphs of Articles 4, 8, 17, 22, 23, 29 and 30. *Id.* at 7-8.

The Postal Service asserts that none of the changes to the referenced articles affects the rate design used to generate the rates for GEPS-NPR 4 or the market characteristics of the GEPS-NPR 4 product, which it claims "continues to be small- and medium-sized business mailers wishing to use international expedited delivery services for their correspondence and order fulfillment." *Id.* at 8. With respect to new rates, the Postal Service asserts that related changes are authorized by Governors' Decision No. 11-6, which states that for Outbound International Competitive Agreements, such as GEPS-NPR 4, "management is hereby authorized to prepare any necessary product description, including text for inclusion in the Mail Classification Schedule, and to present such product description to the Postal Regulatory Commission." *Id.*

*Consistency with section 3642.* The Postal Service states that under 39 U.S.C. 3642(b), the criteria for review are whether the product qualifies as market dominant; whether it is excluded from the postal monopoly; and whether the proposed classification reflects certain market considerations. *Id.* at 9. With respect to 39 U.S.C. 3642(b)(1), the Postal Service asserts that the product does not qualify as market dominant, as the Postal Service does not exercise sufficient monopoly market power to effectively set the price of EMI, PMI, and GXG "substantially above costs, raise prices significantly, decrease quality, or decrease output without risk of losing a significant level of business to other firms offering similar products." *Id.*

With respect to 39 U.S.C. 3642(b)(2), the Postal Service asserts that Qualifying Mail in GEPS-NPR 4 contracts consists of GXG, EMI, and PMI items, which are items

that fall outside the scope of the Private Express Statutes. *Id.* at 10. It states that shipping of merchandise outside of the definition of “letters” using GXG, EMI, and PMI is not subject to the Private Express Statutes. *Id.* It further states that any “letters” as defined by 39 CFR 310.1(a) that are inserted in such items would likely fall within the suspensions or exceptions of the Private Express Statutes. *Id.*

The Postal Service asserts that 39 U.S.C. 3642(b)(3) considerations (concerning certain market implications) are addressed in the Statement of Supporting Justification. *Id.*

*Section 3633(a).* The Postal Service includes a Statement of Supporting Justification to support a finding that the GEPS–NPR 4 product’s cost coverage will ensure that cross-subsidization of this product by market dominant products should not occur and demonstrates that the product should make an ample contribution to institutional costs, in addition to covering its attributable costs. *Id.* Attachment 2C.

#### IV. COMMENTS

Comments were filed by the Public Representative.<sup>8</sup> No other comments were received.

The Public Representative’s review of the Postal Service’s filing leads him to conclude that the GEPS–NPR 4 product should be added to the competitive product list. PR Comments at 2. He also concludes that it appears that the discount prices developed from the financial model should generate sufficient revenues to cover costs and satisfy 39 U.S.C. 3633. *Id.* at 2-3.

With respect to Part 3020 considerations, the Public Representative agrees with the Postal Service that the differences between the model contract presented in the Request and the predecessor model do not affect the rate design or the market

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<sup>8</sup> Public Representative Comments on Postal Service Request to Add Global Expedited Package Services–Non-Published Rates (GEPS–NPR) 4 to Competitive Product List, January 8, 2013 (PR Comments).

characteristics of the GEPS–NPR 4 product. *Id.* at 3. His assessment is that the changes identified by the Postal Service “generally clarify what constitutes qualifying mail, certain obligations of the mailer with respect to customs and export requirements, and the Limitation of Liability of the Postal Service and Indemnity.” *Id.* Moreover, the Public Representative considers the changes relatively limited in contrast to the changes introduced in the GEPS–NPR 3 model contract, which included the addition of GXG and an increase in the mailer’s minimum annualized revenue commitment from \$50,000 to \$200,000. *Id.*

## V. COMMISSION ANALYSIS

The Postal Service’s Request presents two issues: (1) whether GEPS–NPR 4 should be added to the competitive product list; and (2) whether the rates generated by the methodology presented in the accompanying GEPS–NPR 4 financial model satisfy 39 U.S.C. 3633(a) and 39 CFR part 3015. Based on a review of the Request and the supporting documentation, the Commission approves the Postal Service’s request to add GEPS–NPR 4 to the competitive product list.

*Inclusion on the competitive product list.* The applicable criteria, under 39 U.S.C. 3642(b), are whether the proposed product qualifies as market dominant or competitive; is excluded from the postal monopoly; and reflects several additional considerations related to the impact on the private enterprises engaged in delivery of the product, the views of those who use the product, and the likely impact on small business concerns.

GEPS–NPR 4 is the successor to GEPS–NPR 3, which, in Order No. 1161, was classified as a competitive product. The changes identified by the Postal Service do not require reconsideration of that determination. *See also* Order No. 630.

*Cost considerations.* The financial modeling presented by the Postal Service in support of the GEPS–NPR 4 product indicates that rates are sufficient to cover attributable costs, and that the product is not being cross-subsidized by market

dominant products and should make a positive contribution to institutional costs. Thus, based on a review of the Request, supporting data, and comments, the Commission finds that the rates for GEPS–NPR 4 contracts should cover their attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)).

*Conclusion.* The Commission approves the Request to add GEPS–NPR 4 (MC2013-27 and CP2013-35) as a new product to the competitive product list within the MCS.

## VI. ORDERING PARAGRAPHS

*It is ordered:*

1. Global Expedited Package Services–Non-published Rates 4 (MC2013-27 and CP2012-35) is added to the competitive product list within the Mail Classification Schedule.
2. Changes in rates due to changes to the model contract and/or changes to the financial model must be approved in advance by the Commission pursuant to 39 CFR part 3015.
3. When there is a change in rates or classifications of general applicability that affects more than the input sheet of the financial model, the Postal Service shall file a request pursuant to 39 CFR part 3015 and include a complete updated model.
4. A copy of each contract, along with the financial model inputs used to generate rates for each contract, must be filed with the Commission within a reasonable time, e.g., within 10 days of the effective date of the contract.

5. When the Postal Service notifies a mailer of a change in rates pursuant to Article 15 of the model contract, the Postal Service shall file with the Commission a copy of the notice along with the financial model inputs used to generate the new rates.
6. The Postal Service shall notify the Commission of the effective date of each contract. If any contract terminates earlier than scheduled, the Postal Service shall inform the Commission prior to the new termination date.
7. The Postal Service shall file, within 30 days of the end of each fiscal year quarter, costs, volumes, and revenues disaggregated by weight and country group associated with each contract that expires during that quarter, including any penalties paid.
8. The Secretary shall arrange for the publication in the *Federal Register* of an updated product list reflecting the change made in the body of this Order.

By the Commission.

Shoshana M. Grove  
Secretary

CHANGE IN MAIL CLASSIFICATION SCHEDULE  
CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified in Appendix A to 39 CFR part 3020, subpart A—Mail Classification Schedule. These changes reflect the Commission’s order in Docket Nos. MC2013-27 and CP2013-35. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2000 Competitive Product List

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Negotiated Service Agreements

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Outbound International

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Global Expedited Package Services—Non-published Rates 4 (MC2013-27  
and CP2013-35)

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