

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

Competitive Product Prices
Priority Mail Contract 70 (MC2014-8)
Negotiated Service Agreement

Docket No. CP2014-9

ORDER APPROVING AMENDMENT TO PRIORITY MAIL CONTRACT 70
NEGOTIATED SERVICE AGREEMENT

(Issued July 15, 2014)

I. INTRODUCTION

The Postal Service seeks to amend the Priority Mail Contract 70 negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

In Order No. 1897, the Commission approved the Priority Mail Contract 70 negotiated service agreement (Existing Agreement).² On July 3, 2014, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On

¹ Notice of United States Postal Service of Amendment to Priority Mail Contract 70, July 3, 2014 (Notice). The Amendment is an attachment to the Notice (Amendment).

² See Docket Nos. MC2014-8 and CP2014-9, Order Adding Priority Mail Contract 70 to the Competitive Product List, December 3, 2013 (Order No.1897). The contract was later amended. See Order No. 2013, Order Approving Amendment to Priority Mail Contract 70 Negotiated Service Amendment, March 10, 2014.

July 7, 2014, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the cost coverage of Priority Mail 70. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. *Id.* at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* The Public Representative also observes that the Postal Service provides no data to demonstrate that the contract will comply with the requirements of 39 U.S.C. § 3633(a) during its second and third years. *Id.* However, he considers this concern largely mitigated by the fact that the contract includes an annual price adjustment formula that should permit revenues to cover costs during years 2 and 3. *Id.* at 2-3. He also states that the Commission has an opportunity to conduct a review in its Annual Compliance Determination. *Id.* at 3.

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

³ Order No. 2114, Notice and Order Concerning Amendment to Priority Mail Contract 70 Negotiated Service Agreement, July 7, 2014.

⁴ Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Contract 70, July 11, 2014 (PR Comments).

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement concerns shipping services at Priority Mail rates.⁵ The Amendment concerns the packages to which the contract applies and the locations from which the packages must originate. Notice, Attachment A at 1. It provides that the parties agree to amend contract terms I.B and I.C and that all other terms remain unchanged. *Id.*

The Amendment does not materially affect the underlying financial analysis of the Existing Agreement.⁶ Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7. The Commission also finds that Public Representative's concern about cost coverage after the first year of the contract is addressed, in part, by the inclusion of a price adjustment provision. Request, Attachment B at 2-3. This increases the likelihood that prices will cover attributable costs during additional contract years. The Commission will also review the contract's cost coverage in the Commission's Annual Compliance Determination to ensure that rates continue to cover costs.

⁵ Docket Nos. MC2014-8 and CP2014-9, Request of the United States Postal Service to Add Priority Mail Contract 70 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, November 19, 2013 (Request).

⁶ In this particular case, the Commission has determined that the Amendment does not constitute a rate change, and therefore it does not need to reassess the initial financial information provided by the Postal Service.

Other considerations. The Postal Service states that the Amendment shall become effective on the day after the date that the Commission completes its review. The Existing Agreement, as amended, is set to expire 3 years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁷

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Within 30 days of the termination of the Existing Agreement, as amended, the Postal Service shall file the annual (contract year) costs, volumes, and revenues, disaggregated by weight and zone associated with the amended agreement.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Contract 70 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

⁷ Request, Attachment B at 3. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

3. Within 30 days after the Existing Agreement, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

By the Commission.

Shoshana M. Grove
Secretary