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

Competitive Product Prices — Docket No. MC2017-188
Priority Mail
Priority Mail Contract 352

Competitive Product Prices — Docket No. CP2017-289
Priority Mail Contract 352 (MC2017-188)
Negotiated Service Agreement

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD PRIORITY MAIL CONTRACT 352 TO THE COMPETITIVE PRODUCT LIST

(September 11, 2017)

I. Introduction

The Public Representative hereby provides comments pursuant to the Commission Notice initiating this docket.[1] In that Notice, the Commission established the above-referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Request to add Priority Mail Contract 352 to the competitive product list.[2] The Postal Service's Request included a statement of supporting justification, a certification of compliance with 39 U.S.C. § 3633(a), and a copy of Governors' Decision No. 11-6. Additionally, the Postal Service filed public and non-public versions of the contract related to the proposed new product along with supporting financial models.

Under 39 U.S.C. § 3642(b), the criteria governing the Commission's determination regarding the addition of a product to the competitive product list are (1)

[1] PRC Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, September 7, 2017 (Notice).
[2] Request of the United States Postal Service to Add Priority Mail Contract 352 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 6, 2017 (Request).

whether the product qualifies as market dominant; (2) whether the product is covered by the postal monopoly and therefore excluded from classification as a competitive product; and (3) whether certain additional considerations, including private sector competition, the impact on small businesses, and the views of product users, warrant classification other than that supported by criteria (1) and (2).

Pursuant to 39 U.S.C. § 3633(a), the criteria for the Commission's review require that the Postal Service's competitive prices not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and ensure that all competitive products collectively cover an appropriate share of the institutional costs of the Postal Service.

II. Comments

The Public Representative has reviewed the Postal Service's Request, Statement of Supporting Justification, attached contract, Certification of Compliance with 39 U.S.C. § 3633(a), and proposed revised changes to the Mail Classification Schedule (MCS). The Public Representative has also reviewed the supporting financial models for the contract filed separately under seal.

The Postal Service makes a number of assertions that address the requirements of 39 U.S.C. § 3642(b). Request, Attachment D. These assertions are reasonable. The Public Representative concludes that the Priority Mail Contract 352 satisfies the criteria set forth in 39 U.S.C. § 3642(b) and therefore warrants classification as a competitive product.

Based upon a review of the financial model and the contract filed under seal with the Request, it appears that the negotiated prices set forth in the contract should generate sufficient revenues to cover costs during the first year of the contract and therefore comply with the requirements of 39 U.S.C. § 3633(a). Although the contract is expected to remain in effect for a period of three years, the Postal Service has provided no evidence to demonstrate that the contract will comply with the requirements of 39 U.S.C. § 3633(a) during the second and third years of the contract. However, this concern is partially mitigated by terms in the contract that link prices paid under the

contract to the prevailing Priority Mail prices, which should facilitate continued cost coverage through the second and third years of the contract. In addition, the Commission has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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