

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

Before Commissioners:

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

Market Dominant Product Prices
Express Service Multilateral Agreement (MC2010-35)
Negotiated Service Agreement

Docket No. R2011-6

ORDER ACKNOWLEDGING REVISED VERSION OF INBOUND MARKET DOMINANT
EXPRESS SERVICE AGREEMENT 1

(Issued November 17, 2017)

I. INTRODUCTION

The Postal Service filed a notice of a revised version of the Express Service Agreement.¹ For the reasons discussed below, the Commission acknowledges the Revised Agreement.

In Order No. 876, the Commission added Inbound Market Dominant Express Service Agreement 1 to the market dominant product list.² On July 7, 2016, the Postal Service filed updated versions that revised some of the documents that were included in

¹ Notice of United States Postal Service of Filing Revised Version of Inbound Market Dominant Express Service Agreement 1, November 15, 2017 (Notice). The revised version is an attachment to the Notice (Revised Agreement).

² Order Adding Inbound Market Dominant Express Service Agreement 1 to the Market Dominant Product List, September 26, 2011 (Order No. 876).

the Postal Service's initial request.³ The Commission approved these modifications to the Exprès Service Agreement on August 8, 2016.⁴ On May 31, 2017, the Postal Service filed revisions to the Exprès Service Agreement; specifically, the Postal Service filed two additional versions of the Postal Service's Annex 2 (Existing Agreement).⁵ The Commission approved these modifications on July 26, 2017.⁶

On November 15, 2017, the Postal Service filed notice that it has agreed to the Revised Agreement.

The Postal Service states that the Revised Agreement is scheduled to go into effect on January 1, 2018. Notice at 4. The Postal Service identifies numerous differences between the Existing Agreement and the Revised Agreement, but asserts that the differences do not affect the rates, fees, or mail classification of the Exprès Service Agreement.⁷

II. COMMISSION ANALYSIS

The Commission has reviewed the Notice and the accompanying materials filed under seal.

The Commission analyzes a market dominant negotiated service agreement (NSA) under 39 U.S.C. § 3622(c)(10), which requires that a market dominant NSA: (1) improves the net financial position of the Postal Service or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. Pursuant

³ Notice of United States Postal Service Providing Update Concerning Exprès Service Agreement, July 7, 2016.

⁴ Order No. 3457, Order Approving Modification of Exprès Service Agreement, August 8, 2016.

⁵ Notice of United States Postal Service Providing Update Concerning Inbound Market Dominant Exprès Service Agreement 1, May 31, 2017.

⁶ Order No. 4015, Order Approving Modifications of Exprès Service Agreement, July 26, 2017.

⁷ *Id.* Differences include, among others, revisions to existing articles (including the deletion and addition of paragraphs), addition of Articles 20 and 21, revisions to Annexes 3 and 5, revisions to Annex 6, and addition of Annexes 7 and 8. *Id.* at 2-4. The Postal Service describes the changes as "clarifications to the text of the Exprès Service Agreement." *Id.* at 4.

to 39 U.S.C. § 407(d)(2), the Postal Service is required to provide the Commission with a copy of a contract with foreign agencies related to providing international postal and/or delivery services.

The Revised Agreement revised various articles and annexes of the contract. Notice at 2-4. The Commission concludes that the Revised Agreement is substantially similar to the Existing Agreement and the differences between them do not fundamentally alter the service the Postal Service will provide under the Existing Agreement or the structure of the Existing Agreement. Nor should the differences in the Revised Agreement affect the costs and revenue of the Existing Agreement. Thus, the Commission finds that the Revised Agreement comports with the statutory and regulatory provisions applicable to rates for market dominant products.

It is ordered:

The Commission acknowledges the revisions made to the Exprès Service Agreement.

By the Commission.

Stacy L. Ruble
Secretary