Postal Regulatory Commission
Submitted 6/22/2018 4:16:46 PM
Filing ID: 105481
Accepted 6/22/2018

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

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| COMPETITIVE PRODUCT PRICES<br>GLOBAL EXPEDITED PACKAGE SERVICES CONTRACTS<br>NON-PUBLISHED RATES | Docket No. MC2018-186 |
| COMPETITIVE PRODUCT PRICES<br>GLOBAL EXPEDITED PACKAGE SERVICES CONTRACTS<br>NON-PUBLISHED RATES 14 (MC2018-186) | Docket No. CP2018-260 |

**REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD GLOBAL EXPEDITED PACKAGE SERVICES - NON-PUBLISHED RATES 14 (GEPS – NPR 14) TO THE COMPETITIVE PRODUCTS LIST AND NOTICE OF FILING GEPS – NPR 14 MODEL CONTRACT AND APPLICATION FOR NON-PUBLIC TREATMENT OF MATERIALS FILED UNDER SEAL**
(June 22, 2018)

In accordance with 39 U.S.C. § 3642, 39 C.F.R. § 3020.30 and Order No. 4423,[1] the United States Postal Service (Postal Service) hereby requests that Global Expedited Package Services – Non-Published Rates 14 (GEPS – NPR 14) be added to the competitive product list within the Mail Classification Schedule (MCS). The Postal Service also gives notice, pursuant to 39 U.S.C. § 3632(b)(3) and 39 C.F.R. § 3015.5, that the Postal Service has created a GEPS – NPR 14 model contract.

## *I. Introduction*

Prices and classifications not of general applicability for Global Expedited Package Services - Non-Published Rates were first established by the Decision of the

[1] Order No. 4423 - Order Concerning the Addition of Global Expedited Package Services (GEPS)—Non-Published Rates 13 to the Competitive Product List, PRC Docket Nos. MC2018-125 and CP2018-170, February 28, 2018.

Governors of the United States Postal Service on the Establishment of Prices and Classification for Global Expedited Package Services - Non-Published Rates (Governors' Decision No. 10-2).[2] Subsequently, various iterations of GEPS - Non-published Rates (GEPS - NPR), most recently GEPS – NPR 9[3], 10[4], 11[5], 12,[6] and 13[7] were added to the competitive product list within the Mail Classification Schedule (MCS). The Postal Service filed a substantial number of GEPS - NPR 2 through 13 contracts with the Commission.[8]

The Postal Service has created a Management's Analysis of the Prices and Methodology for Determining Prices for Negotiated Service Agreements under Global Expedited Package Services – Non-Published Rates 14 (GEPS – NPR 14 Management Analysis) along with an accompanying financial model that revise the previously filed GEPS - NPR 13 Management Analysis and its financial model. Consequently, pursuant

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[2] A redacted copy of this decision dated July 14, 2010, was filed as Attachment 2 to the Notice and Request of the United States Postal Service concerning Global Expedited Package Services – Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, PRC Docket Nos. MC2010-29 and CP2010-72, July 16, 2010. An unredacted copy of the decision was filed under seal with the Commission with that filing.

[3] Order No. 2967, Order Adding Global Expedited Package Services – Non-Published Rates Contract 9 (GEPS – NPR 9) to the Competitive Product List, PRC Docket Nos. MC2016-46 and CP2016-61, December 30, 2015, at 7.

[4] Order No. 3189, Order concerning the Addition of Global Expedited Package Services – Non-Published Rates Contract 10 (GEPS – NPR 10) to the Competitive Product List, PRC Docket Nos. MC2016-97 and CP2016-122, March 29, 2016, at 7.

[5] Order No. 3746, Order Concerning the Addition of Global Expedited Package Services – Non-Published Rates Contract 11 (GEPS – NPR 11) to the Competitive Product List, PRC Docket Nos. MC2017-72 and CP2017-99, January 11, 2017, at 8.

[6] Order No. 3865, Order concerning the Addition of Global Expedited Package Services – Non-Published Rates Contract 12 (GEPS – NPR 12) to the Competitive Product List, PRC Docket Nos. MC2017-105 and CP2017-152, April 20, 2017.

[7] Order No. 4423 at 8.

[8] *See* Customer Contract Filing Notices for: GEPS - NPR 2 filed in PRC Docket No. CP2011-45, GEPS - NPR 3 filed in PRC Docket No. CP2012-8, GEPS - NPR 4 filed in PRC Docket No. CP2013-35, GEPS - NPR 4 Version 2 filed in PRC Docket No. CP2014-22, GEPS - NPR 5 filed in PRC Docket No. CP2015-29, GEPS - NPR 6 filed in PRC Docket No. CP2015-65, GEPS - NPR 7 filed in Docket No. CP2015-83, GEPS - NPR 8 filed in PRC Docket No. 2016-5, GEPS - NPR 9 filed in Docket No. 2016-61, GEPS - NPR 10 filed in PRC Docket No. CP2016-122, GEPS - NPR 11 filed in Docket No. CP2017-99, GEPS – NPR 12 filed in Docket CP2017-152, and GEPS NPR 13 filed in Docket CP2018-170.

to 39 C.F.R. § 3015.5 and in accordance with the procedure set forth in 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30, as well as Order Nos. 630,[9] 1959,[10] and 2513,[11] the Postal Service seeks to add GEPS – NPR 14 to the competitive product list as a new GEPS – NPR product.

In support of this Request and Notice, the Postal Service is filing the following attachments:

- Attachment 1, an application for non-public treatment of materials filed under seal;
- Attachment 2A, a redacted version of Governors' Decision No. 11-6, which authorizes management to prepare any necessary product description of certain nonpublished competitive services, including text for inclusion in the MCS, and to present such matter for review by the Commission;[12]
- Attachment 2B, section 2510.8 Global Expedited Package Services (GEPS) – Non-Published Rates, as it currently appears on the Commission's website, with one strikethrough and a few underlined edits;[13]

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[9] Order No. 630, Order Adding Global Expedited Package Services – Non-Published Rates 2 to the Competitive Product List, Docket No. CP2011-45, December 30, 2010, at 3-4.
[10] Order No. 1959, Order Approving Change in Prices for Global Expedited Package Services – Non-Published Rates 4 (GEPS – NPR 4), Docket Nos. MC2013-27 and CP2014-22, January 10, 2014, at 5.
[11] Order No. 2513, Order Approving Changes in Prices and Model Contract and Adding Redesignated Global Expedited Package Services – Non-Published Rates 6 to the Competitive Product List, Docket Nos. MC2015-23 and CP2015-65, May 27, 2015, at 7-8.
[12] Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (Governors' Decision No. 11-6), March 22, 2011.
[13] *See* Mail Classification Schedule, posted April 1, 2018, available at http://www.prc.gov/mail-classification-schedule.

- Attachment 2C, a redacted version of the GEPS - NPR 14 Management Analysis;
- Attachment 2D, Maximum and Minimum Prices for Priority Mail Express International (PMEI), Priority Mail International (PMI), and First-Class Package International (FCPIS);
- Attachment 2E, the certified statement concerning the prices for applicable negotiated service agreements under GEPS - NPR 14, required by 39 C.F.R. 3015.5(c)(2);
- Attachment 3, a Statement of Supporting Justification of Donald W. Ross, Director, International Sales, which is similar to previous Statements of Supporting Justification used to support the classification of GEPS – NPR, and is filed pursuant to 39 C.F.R. § 3020.32; and
- Attachment 4, a redacted version of the GEPS - NPR 14 model contract.

Governors' Decision No. 11-6, the GEPS - NPR 14 Management Analysis, the GEPS - NPR 14 model contract, and the GEPS - NPR 14 financial model that includes maximum and minimum prices for PMEI, PMI, and FCPIS that establish compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5, are being filed separately under seal with the Commission. Redacted versions of the supporting financial documentation for the GEPS - NPR 14 model contract are included with this filing in separate Excel files.

## *II. Background*

The Postal Service's Governors established rates and the classification for GEPS - NPR by Governors' Decision 10-2,[14] and for GEPS - NPR 2 by Governors' Decision No. 10-7.[15] The changes that resulted in the rates and the classification for GEPS - NPR 3 through 13 were authorized by Governors' Decision No. 11-6, which states that with respect to Outbound International Competitive Agreements, such as GEPS – NPR 3 through 13, "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."[16]

GEPS - NPR 1 and 2 offered incentive pricing to small and medium-sized business mailers that satisfy prescribed capability requirements and that are willing to enter a contractual commitment to minimum levels of revenue from use of Priority Mail Express International (PMEI) and Priority Mail International (PMI) products. GEPS - NPR 3 through 7 offered such incentive pricing for not only PMEI and PMI, but also Global Express Guaranteed (GXG). GEPS – NPR 8, 9, 10, 11 and 12 offer such incentive pricing for not only GXG, PMEI, and PMI, but also First-Class Package

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[14] Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classification for Global Expedited Package Services - Non-Published Rates (Governors' Decision No. 10-2), July 14, 2010, Attachment 2 to Notice and Request of the United States Postal Service Concerning Global Expedited Package Services -- Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, PRC Docket Nos. MC2010-29 and CP2010-72, July 16, 2010.

[15] Decision of the Governors of the United States Postal Service on the Establishment of Prices for Global Expedited Package Services – Non-Published Rates 2 (Governors' Decision No. 10-7), Attachment 2 to Notice of the United States Postal Service concerning Global Expedited Package Services - Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, PRC Docket No. CP2011-45, December 15, 2010.

[16] Governors' Decision No. 11-6, at 1-2. Governors' Decision No. 11-6 states, at 1, that "Outbound International Competitive Agreements consist of negotiated service agreements with Postal Service customers for outbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2)."

International Service (FCPIS). GEPS NPR 13 offered incentive pricing only for PMEI, PMI, and FCPIS, as does GEPS NPR 14.

The Postal Service has decided to revise the Management Analysis and financial model. In accordance with Order No. 4423,[17] the Postal Service is providing notice of this change in rates not of general applicability, which results in a request to include GEPS - NPR 14 in the competitive products list.

## ***III. GEPS - NPR 14 Model Contract***

The GEPS - NPR 14 model contract is identical to the GEPS - NPR 13 model contract that the Commission reviewed in Order No. 4423.

The major differences between GEPS – NPR 13 and GEPS – NPR 14 are in the Management Analysis, the financial model, and the rates themselves. These changes to the GEPS - NPR product are authorized by Governors' Decision No. 11-6, which states that with respect to Outbound International Competitive Agreements, such as GEPS - NPR 14, "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."[18]

The Commission anticipated that notice of new rates for GEPS - NPR would necessitate the addition of successor groupings under this competitive product. Contracts with customers offered rates established for GEPS - NPR 14 will be filed in the docket in which this notice was filed. Unless the Commission indicates otherwise,

[17] Order No. 4423, at 8.
[18] Governors' Decision No. 11-6, at 1-2. Governors' Decision No. 11-6, at 1, states that "Outbound International Competitive Agreements consist of negotiated service agreements with Postal Service customers for outbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2)."

the Postal Service anticipates filing GEPS - NPR 14 contracts in this docket, in filings that are similar to the Postal Service's filings of GEPS – NPR 13 contracts.[19]

## *IV. Application for Non-Public Treatment*

The Postal Service maintains that certain portions of Governors' Decision No. 11-6, the GEPS - NPR 14 Management Analysis, the GEPS - NPR 14 model contract, the GEPS - NPR 14 financial model that includes maximum and minimum prices for PMEI, PMI, FCPIS, as well as related financial information, should remain confidential. As Attachment 1 to this Notice, the Postal Service files its application for non-public treatment of materials filed under seal. Consistent with Order No. 630 and as was done for GEPS – NPR 2 through 13, the Postal Service anticipates providing to the Commission the mailer agreements memorializing the sale of GEPS - NPR 14. A minimal amount of information in GEPS - NPR 14 agreements is considered to be confidential, because of the commercially sensitive nature of the information or its identification of a particular customer. The Postal Service is including with this filing as Attachment 4, the GEPS - NPR 14 model contract, with some information redacted.[20] The application for non-public treatment attached to this notice addresses the redactions to those materials, including some additional information that will be redacted in signed GEPS - NPR 14 agreements. When the Postal Service files actual customer agreements with the Commission in this docket, the Postal Service will rely on the application for non-public treatment included as Attachment 1 to this filing for protection

[19] In Order No. 4423, at 8, the Commission provided the following instructions concerning the filing of GEPS - NPR 13 contracts: "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."

[20] The Postal Service notes that the model agreement is for nationwide access to its network. Variations for other access options, including "Metro" and "ISC Drop Ship," are familiar to the PRC and the interested public from numerous GEPS – NPR filings.

of the information redacted from those materials. A full discussion of the requested elements of the application appears in Attachment 1.

## *V. Conclusion*

For the reasons discussed, and as demonstrated by the financial data filed under seal, the Postal Service has established that GEPS - NPR 14 is in compliance with the requirements of 39 U.S.C. § 3633. Accordingly, the Postal Service respectfully requests that the Commission add Global Expedited Package Services - Non-published Rates 14 to the GEPS - NPR product grouping in the competitive products list of the MCS.

Respectfully submitted,

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June 22, 2018

# APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials pertain to a Notice of changes in prices for Global Expedited Package Services - Non-published Rates (GEPS - NPR 14). Governors' Decision No. 11-6, the GEPS - NPR 14 Management Analysis, the GEPS - NPR 14 model contract, and the GEPS - NPR 14 financial model (including the maximum and minimum prices for PMEI, PMI, and FCPIS and related financial information) are being filed separately under seal with the Commission, although redacted copies of the materials are filed with the Notice as Attachments 2A, 2C, and 4, and in separate Excel files.

The Postal Service hereby furnishes below the justification for this application required by 39 C.F.R. § 3007.21(c).

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. §

504(g)(3)(A).[1] Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant the Postal Service's application for their non-public treatment.

**(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

Third parties that may have a proprietary interest in the information in this filing include the PC Postage vendors authorized to offer services to contract rate customers and the designated operators or foreign posts with which the U.S. Postal Service settles accounts.

The Postal Service employee responsible for providing notice to the PC Postage Provider(s) with proprietary interest in the materials filed in these dockets is Ms. Amy E. Douvlos, Marketing Specialist, Global Business, United States Postal Service, 475 L'Enfant Plaza, SW, Room 5427, Washington, DC 20260-4017, whose email address is Amy.E.Douvlos@usps.gov, and whose telephone number is 202-268-3777.[2]

[1] The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.
[2] The Postal Service has provided a blanket notice to PC Postage Providers in light of the fact that these filings are fairly routine. To the extent required, the Postal Service seeks a waiver from having to provide each PC Postage Provider notice of this docket.

As for foreign postal operators, the Postal Service provided notice to all foreign postal operators within the Universal Postal Union network through an International Bureau Circular issued on December 18, 2017, that the Postal Service will be regularly submitting certain business information to the Commission. Some UPU-designated foreign postal operators may have a proprietary interest in such information. The circular includes information on how third parties may address any confidentiality concerns with the Commission. In addition, contact information for all UPU Designated Operators is available at the following link, which is incorporated by reference into the instant application: http://pls.upu.int/pls/ap/addr_public.display_addr?p_language=AN.[3]

Consistent with the Commission's instructions in Order No. 4423, the Postal Service will, in the future, file with the Commission GEPS - NPR 14 customer-specific agreements.[4] Concerning those agreements, the customer with which the agreement is made would have a proprietary interest in the materials. Article 19 of the model agreement provides each customer with notice of the Postal Service's intent to file the agreement with the Commission and its intent to seek non-public treatment of the information the Postal Service determines may be withheld from public disclosure. The notice provides the customer with the docket number in which the agreement will be filed and gives the customer information about how to raise its confidentiality concerns directly with the Commission. Each customer will identify a point of contact in Article 31

[3] To the extent required, the Postal Service seeks a waiver from having to provide each foreign postal operator notice of this docket. It is impractical to communicate with dozens of operators in multiple languages about this matter. Moreover, the volume of contracts would overwhelm both the Postal Service and the applicable foreign postal operators with boilerplate notices.
[4] PRC Order No. 4423, Order Concerning the Addition of Global Expedited Package Services – Non-Published Rates Contract 13 (GEPS – NPR 13) to the Competitive Product List, Docket Nos. MC2018-125 and CP2018-170, February 28, 2018, at 8.

of the contract, which the Commission may use, should it determine that there is a need to provide notice of information requests or anticipated disclosures in the future.

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

In connection with its Notice filed in this docket, the Postal Service included the applicable Governors' Decision, a GEPS - NPR 14 Management Analysis, a model contract, and a financial model that the Postal Service will use to generate customer-specific rates. These materials were filed under seal, with redacted copies filed publicly. The Postal Service maintains that the redacted portions of these materials should remain confidential as sensitive business information. Additionally, the model contract includes highlighted sections that may contain information that will be redacted when the customer-specific agreements are filed in this docket in the future.

Governors' Decision No. 11-6 is reproduced as Attachment 2A and includes as supporting materials an Attachment A. In addition, Attachments 2B through 2D of this filing provide information specific to Postal Service management's preparation of the GEPS - NPR 14 product description. Redactions appear on page two of Governors' Decision No. 11-6, pages one and two of Attachment A of that Decision, throughout the GEPS - NPR 14 Management Analysis (Attachment 2C) and the table of GEPS - NPR 14 PMEI, PMI, and FCPIS minimum and maximum prices (Attachment 2D, which is included in the financial workpapers). These redactions protect sensitive commercial information concerning the incentive discounts and their formulation, the applicable cost-coverage, and the non-published rates themselves.

With regard to the model GEPS - NPR 14 agreement filed in this docket as Attachment 4, some customer-identifying information appears in the highlighted sections of the agreement on page 1, in Article 31, in the signature block, and in the footer of the agreement and its annex or annexes. This information constitutes the name or address of a postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). Therefore, such information will be redacted in signed GEPS - NPR 14 agreements. Additional redactions appear in Articles 2, 7, 9, 15, and 37. These redactions, along with the highlighted section of Article 11 that will also be redacted in signed GEPS - NPR 14 agreements, include information about PC Postage Providers, various penalties and interest that may be assessed under certain circumstances, the customer's revenue commitment, and the percentage of cost increase which may trigger a consequential price increase. In addition, the prices in the annexes to GEPS - NPR 14 contracts will be redacted.

Any performance reports filed in this docket will typically show the actual revenue and cost coverage of the customer's completed contract. The Postal Service will redact all of the values represented in such performance reports as commercially sensitive business information and will also protect any customer identifying information from disclosure.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

Governors' Decision No. 11-6 and its Attachment A, as well as Attachments 2C and 2D and the accompanying financial models, include the Postal Service's desired cost coverage for GEPS agreements, specific rate information and a detailed

description of the methodology used to establish the rates, which are highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of knowing the range of prices that may be offered by the Postal Service to its GEPS - NPR 14 customers for PMEI, PMI, and FCPIS with volume incentives applied and the contribution margin used to establish the prices. Thus, competitors would be able to take advantage of the information to offer lower pricing to the GEPS - NPR customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the expedited package services market.

Potential customers could also take advantage of the information in negotiating the specific rates to be applied to their circumstances, depending upon the downstream access choices they make and their revenue commitment level. They could demand the absolute floor, when it would otherwise be possible in some cases for the Postal Service to offer a higher, but still competitive rate.

If the portions of the contract that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Redacted information in the model contract (which is included as Attachment 4 to this Notice) includes various penalties, and the percentage of cost increase which may trigger a consequential price increase. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the offers made by the Postal Service to its customers for any possible comparative vulnerabilities and focus

sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, potential customers could use the information to their advantage in negotiating the terms of their agreements with the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

Customer-identifying information redacted from the customer agreements could be used by competitors to target their marketing efforts on current USPS customers.

The redactions in the financial models include commercially sensitive business information from which the particular prices to be offered to specific customers are generated, while maintaining statutory cost-coverage requirements. Public disclosure of this information would give competitors an exact model of Postal Service pricing that could be used to develop lower pricing to present to customers in an attempt to convert them from contracts with the Postal Service.

Information in the financial models may also include sensitive commercial information related to agreements between the Postal Service and PC Postage Providers. Such information would be extremely valuable to competitors of both the Postal Service and the PC Postage Providers. Using detailed information about such an agreement, competitors would be able to better understand the costs of the postage programs used, and identify areas where they could adapt their own operations to be more competitive. In addition, competitors of the PC Postage Providers could use such information to their advantage in negotiating the terms of their own agreements with the Postal Service.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Identified harm: Public disclosure of established rates and the financial model and methodology used to generate the rates would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing expedited package delivery service obtains a copy of the unredacted version of the Governors' Decision, the financial model, or Management Analysis from the Postal Regulatory Commission's website. The competing service reviews the rates or the model or both and then sets its own rates for products similar to what the Postal Service offers its GEPS - NPR 14 customers under the Postal Service's rates. The competing service markets its ability to guarantee to beat the Postal Service on price for international expedited delivery services. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the business-to-business and business-to-customer expedited delivery services markets for which the GEPS - NPR 14 product is designed.

Identified harm: Public disclosure of the rate charts in Attachment 2D would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: A customer with the rate information included in Attachment 2D could, on a cell by cell basis, demand the lowest possible rate in every rate cell, knowing that the Postal Service's approved rates include those floor amounts. Using the rate information, a customer could threaten that it would not use the Postal Service for its expedited

package service delivery needs if it did not receive the lowest possible rates. This would severely affect the Postal Service's ability to offer competitive but profitable rates to its customers within the minimum and maximum rates established by the Governors' for each rate cell.

Identified harm: Public disclosure of the information redacted from the model contract would provide competitors commercial advantages at the Postal Service's expense.

Hypothetical: A competitor is able to review the Postal Service's penalty clauses and underlying cost increase trigger for pass-through increases in pricing. The competitor takes that information and uses it to differentiate its own product from the Postal Service's product when it sells to potential customers, convincing those customers that the competitor's product is better.

Identified harm: Public disclosure of identifying information concerning a customer and of a performance report concerning a contract with that customer would give competitors a marketing advantage.

Hypothetical: A competitor is able to identify Postal Service customers being offered GEPS - NPR 14 rates for PMEI, PMI, and FCPIS from information provided on the PRC's website. The competitor uses this information to contact the customer directly and attempt to undersell the Postal Service and obtain new business from the Postal Service's customer. The competitor could use information included in a performance

report to “qualify” potential customers, choosing to focus marketing efforts only on those customers that have a mailing profile that is attractive to the competitor, based on its business operations.

Identified harm: Public disclosure of information in a GEPS - NPR 14 contract involving postage payment through a PC Postage Provider, and of information in related financial workpapers, would be used by the competitors of the PC Postage Provider to the Postal Service and/or the PC Postage Provider’s detriment.

Hypothetical: A firm competing with the customer’s PC Postage Provider obtains a copy of the unredacted version of a GEPS - NPR 14 contract involving postage payment through a PC Postage Provider, and financial workpapers, from the Commission’s website. The firm uses the information to assess the PC Postage Provider’s revenue sources and growth opportunities, and thereby develop benchmarks for competitive alternatives. In addition, disclosure of such information could provide leverage to other PC Postage Providers in their negotiations with the Postal Service concerning financial arrangements that PC Postage Providers make with the Postal Service in the future.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including both private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or

potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof;**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

**(8) Any other factors or reasons relevant to support the application.**

Consistent with PRC Order No. 3746, the Postal Service will file customer agreements in this docket. The Postal Service considers this Application sufficient to fulfill its regulatory requirements for justifying its determinations that the information redacted from those materials should be treated as non-public.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

# DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR DOMESTIC COMPETITIVE AGREEMENTS, OUTBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, INBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, AND OTHER NON-PUBLISHED COMPETITIVE RATES (GOVERNORS' DECISION NO. 11-6)

March 22, 2011

## STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings, and such changes in classification as are necessary to implement the new prices.

This decision establishes prices for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates. Domestic Competitive Agreements consist of negotiated service agreements with Postal Service customers for domestic services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Outbound International Competitive Agreements consist of negotiated service agreements with Postal Service customers for outbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Inbound International Competitive Agreements consist of negotiated service agreements with foreign postal operators or other entities for inbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Other Non-Published Competitive Rates consist of rates not of general applicability that are not embodied in contractual instruments, but nonetheless arise from other sources, such as the Universal Postal Convention.

With respect to any product within the above categories, 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.

The Postal Accountability and Enhancement Act (PAEA) requires that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. For agreements subject to this Decision, there are hereby established all prices that will cover [redacted] costs for the relevant product and that conform in all other respects to 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. As discussed in the accompanying management analysis, the Chief Financial Officer (or his delegee(s)) shall certify that all cost inputs have been correctly identified for prices subject to this Decision and that all prices subject to this Decision conform to this Decision and to the requirements of the PAEA.

No agreement, grouping of functionally equivalent agreements, or other classification authorized pursuant to this Decision may go into effect unless it is submitted to the Postal Regulatory Commission with a notice that complies with 39 U.S.C. § 3632(b)(3). On a quarterly basis, management shall furnish the Governors with a report on all non-published rate and classification initiatives. Not less than once each year, the Governors shall review the basis for this Decision and make such further determination as they may deem necessary. This Decision does not affect postal management's obligation to furnish to the Board of Governors information regarding any significant, new program, policy, major modification, or initiative, or any other matter under 39 C.F.R. § 3.7(d), including where such a matter also falls within the scope of this Decision.

This Decision does not supersede or otherwise modify Governors' Decision Nos. 08-5, 08-6, 08-7, 08-8, 08-10, 08-20, 08-24, 09-5, 09-6, 09-7, 09-14, 09-15, 09-16, 10-1, 10-2, 10-3, 10-6, and 10-7, nor does it affect the validity of prices and classifications established under those Decisions. Management may also continue to present to the Postal Regulatory Commission for its review, as appropriate, rate and classification changes to succeed the minimum and maximum non-published rates in Decision Nos. 10-2 and 10-6.

## ORDER

In accordance with the foregoing Decision of the Governors, the prices set forth herein for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates and the changes in classification necessary to implement those prices, are hereby approved and ordered into effect. An agreement is authorized under this Decision only if the prices fall within this Decision and the certification process specified herein is followed. Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of review by the Postal Regulatory Commission.

By The Governors:

Louis J. Giuliano
Chairman

## Attachment A

### Management Analysis of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates

This analysis concerns the inbound competitive prices and classifications in the Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (collectively, "competitive instruments"). Competitive instruments are often negotiated with customers and foreign postal operators for better cost coverage, higher overall contribution, and improved service with respect to postal services classified as competitive. They may also arise from other sources, such as the Universal Postal Convention.

The cost coverage for each competitive agreement or grouping of functionally equivalent instruments (collectively, each "product") will be [redacted]

The cost coverage for a product equals [redacted]

Each competitive instrument may have multiple price categories and negotiated components. Examples of such categories or components would be Priority Mail, Express Mail, Parcel Return Service, Priority Mail International, Express Mail International, International Priority Airmail, International Surface Air Lift, Inbound Air Parcel Post, Inbound Surface Parcel Post, Inbound Direct Entry, and Inbound International Expedited Services. These or other categories may include other services that the relevant customer or foreign postal operator offers to its customers under differing terms, but that nevertheless are processed and delivered in the same manner within the United States Postal Service's network. Such instruments may also establish negotiated rates for services ancillary to such items and for customized competitive services developed for application solely in the context of the agreement.

[redacted]

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

[redacted]

[redacted] Prices established by these formulas should not interfere with competitive products' ability as a whole to comply with 39 U.S.C.§ 3633(a)(3), which, as implemented by (39 C.F.R.§ 3015.7(c)) requires competitive products to contribute a minimum of 5.5 percent to the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C.§ 3633(a)(1)).

# CERTIFICATION OF GOVERNORS' VOTE IN THE GOVERNORS' DECISION NO. 11-6

I hereby certify that the Governors voted on adopting Governors' Decision No. 11-6, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.

Julie S. Moore

Date: 3/22/2011

Julie S. Moore
Secretary of the Board of Governors

## 2510.8 Global Expedited Package Services (GEPS)—Non-Published Rates

*****

2510.8.7 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

*****

- Global Expedited Package Services (GEPS)—Non-Published Rates 14
  *Baseline Reference*
  Docket Nos. MC2018-186 and CP2018-260
  PRC Order No. [####, Month Day, Year]
  *Included Agreements*

# Attachment 2C

## Management's Analysis of the Prices and Methodology for Determining Prices for Negotiated Service Agreements under Global Expedited Package Services - Non-Published Rates 14 (GEPS - NPR 14)

Through the establishment of Global Expedited Package Services Non-Published Rates (GEPS - NPR) 1, 2, 3, 4, 4 Version 2, 5, 6, 7, 8, 9, 10, 11, 12, and 13,[1] management has streamlined the process for approving GEPS agreements, while maintaining their profitability and competitive positioning in the market. This improvement reduces the administrative time and effort required to navigate the regulatory process and eliminates uncertainty for both the customers and the Postal Service concerning the implementation and activation of the sales agreements.

### Overview of the GEPS - NPR 14 product

The GEPS - NPR 14 product offers discounts based on revenue for Priority Mail Express International (PMEI), Priority Mail International (PMI), and First Class Package International Service (FCPIS), with the exception of PMEI Flat Rate items and PMI Flat Rate items. The Postal Service offers [redacted] for PMEI, PMI, and FCPIS.

GEPS - NPR 14 PMEI and PMI prices are based on the level of downstream access: Nationwide, Metro, International Service Center (ISC) Drop Ship, and ISC Presort Drop Ship.[2] Nationwide access does not restrict from which ZIP Code mail is tendered. The Metro offering requires that the mailer tender at designated locations within 300 miles of an ISC to avoid domestic air transportation costs. The ISC Drop Ship service requires the mailer to tender directly to an ISC, thereby eliminating both domestic air and local surface transportation costs to the USPS. In addition, at the mailer's option, a further discounted ISC Presort Drop Ship service is available for PMEI and PMI destined to

[1] Decision of the Governors of the United States Postal Service on the Establishment of Prices for Global Expedited Package Services - Non-Published Rates 2 (Governors' Decision No. 10-7), December 14, 2010; *see also* Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (Governors' Decision No. 11-6), March 22, 2011; as well as the Management Analysis included as an attachment in the Postal Service's initial filing concerning GEPS – NPR 3 (Docket Nos. MC2012-4 and CP2012-8, December 20, 2011, Attachment 2C); GEPS – NPR 4 (Docket Nos. MC2013-27 and CP2013-35, December 21, 2012, Attachment 2C); GEPS – NPR 5 (Docket Nos. MC2015-23 and CP2015-29, December 24, 2014, Attachment 2C); GEPS – NPR 5 Version 2 (redesignated as GEPS – NPR 6) (Docket Nos. MC2015-23 and CP2015-65, May 7, 2015, Attachment 2B); GEPS – NPR 7 (Docket No. CP2015-83, June 19, 2015, Attachment 2C); GEPS – NPR 8 (Docket Nos. MC2016-5 and CP2016-5, October 9, 2015, Attachment 2C); GEPS – NPR 9 (Docket Nos. MC2016-46 and CP2016-61, December 18, 2015, Attachment 2C); GEPS – NPR 10 (Docket Nos. MC2016-97 and CP2016-122, March 15, 2016, Attachment 2C); GEPS – NPR 11 (Docket Nos. MC2017-72 and CP2017-99, December 27, 2016, Attachment 2C); GEPS NPR 12 (Docket Nos. MC2017-105 and CP2017-152, March 31, 2017, Attachment 2C); and GEPS NPR 13 (MC2018-125 and CP2018-170, February 15, 2018, Attachment 2C)

[2] A few GEPS agreements include a combination of downstream access options; for example, in cases in which a customer has multiple shipping locations, one or more of which are in or proximate to cities where the Postal Service maintains an ISC. [redacted]

certain countries, which requires the mailer not only to tender directly to an ISC, but also to meet specific preparation requirements.[3]

GEPS – NPR 14 FCPIS prices are based on the level of downstream access: either Nationwide or ISC Presort Drop Ship. Nationwide access does not restrict from which ZIP Code mail is tendered. The ISC Presort Drop Ship service is available for FCPIS destined to certain countries, which requires the mailer not only to tender directly to an ISC, but also to meet specific preparation requirements.[4]

The following tables summarize the GEPS - NPR 14 options and potential pricing incentives for PMEI, PMI, and FCPIS. A GEPS - NPR 14 customer is required to meet an annualized minimum commitment of at least fifty thousand dollars ($50,000) in postage paid for PMEI, PMI, and FCPIS combined under a GEPS - NPR 14 agreement.[5]

[3]

[4]

[5] Each GEPS-NPR 14 contract will state an annualized minimum commitment that is at least $50,000 but could be higher. The Postal Service anticipates that some GEPS – NPR 14 agreements will not include rates for all three products (PMEI, PMI, and FCPIS) and may only include a subset of country groups within rate tables. This measure avoids the need to produce lengthy rate tables when a customer may only intend to mail to a single country or small set of countries.

## TABLE 1
## MAXIMUM PMEI AND PMI DISCOUNTS APPLIED TO RETAIL RATES

[redacted]

| | Nationwide Maximum Discount | | Metro Maximum Discount | | ISC Drop Ship Maximum Discount | | ISC Presort Drop Ship Maximum Discount | |
|---|---|---|---|---|---|---|---|---|
| PMEI and PMI Revenue | PMEI | PMI | PMEI | PMI | PMEI | PMI | PMEI | PMI |
| [redacted] | | | | | | | | |

[redacted]

| | Nationwide Maximum Discount | | Metro Maximum Discount | | ISC Drop Ship Maximum Discount | | ISC Presort Drop Ship Maximum Discount | |
|---|---|---|---|---|---|---|---|---|
| PMEI and PMI Revenue | PMEI | PMI | PMEI | PMI | PMEI | PMI | PMEI | PMI |
| [redacted] | | | | | | | | |

## TABLE 1 (Continued)
## PMEI AND PMI DISCOUNTS APPLIED TO RETAIL RATES

[redacted]

| | Nationwide Maximum Discount | | Metro Maximum Discount | | ISC Drop Ship Maximum Discount | | ISC Presort Drop Ship Maximum Discount | |
|---|---|---|---|---|---|---|---|---|
| PMEI and PMI Revenue | PMEI | PMI | PMEI | PMI | PMEI | PMI | PMEI | PMI |
| [redacted] | | | | | | | | |

[redacted]

| | Nationwide Maximum Discount | | Metro Maximum Discount | | ISC Drop Ship Maximum Discount | | ISC Presort Drop Ship Maximum Discount | |
|---|---|---|---|---|---|---|---|---|
| PMEI and PMI Revenue | PMEI | PMI | PMEI | PMI | PMEI | PMI | PMEI | PMI |
| [redacted] | | | | | | | | |

**TABLE 2**
**MAXIMUM FCPIS DISCOUNTS APPLIED TO RETAIL RATES**

| Minimum Revenue | Nationwide FCPIS Maximum Discount | ISC Presort Drop Ship FCPIS Maximum Discount |
|---|---|---|
| [redacted] | | |

## Minimum and Maximum Prices for PMEI, PMI, and FCPIS

PMEI, PMI, and FCPIS published rates are set by country of destination and weight of the article. Currently, FCPIS has 9 price groups and PMEI and PMI have a total of 17 price groups each. The weight steps for PMEI range from 0.5 pound to 70 pounds, and PMI ranges from 1 pound to 70 pounds. The weight steps for FCPIS range from 1 to 64 ounces.

The minimum potential prices for PMEI, PMI, and FCPIS under GEPS - NPR 14 are the prices that may be offered to a mailer making a revenue commitment [redacted]. Under these circumstances, the mailer could potentially be provided incentives resulting in prices that are [redacted] The potential minimum prices for each destination country group consist of [redacted]

For PMEI, PMI, and FCPIS, GEPS - NPR 14 customers who select postage payment through a permit imprint using USPS-provided Global Shipping Software (GSS) are required to meet minimum volume or weight requirements established for presentation of a manifest mailing and to use USPS-provided software to generate labels and customs declarations. GEPS – NPR 14 customers that prepare and pay for PMEI, PMI, and FCPIS would receive incentives off the published rate for PMEI, PMI, and FCPIS via online at USPS.com®, or as registered end-users using an authorized PC Postage vendor (with

the exception of Click-N-Ship service),[6] even if they were unable to present the articles using a manifest mailing.

The maximum potential price that GEPS - NPR 14 customers might pay for PMEI, PMI, and FCPIS is [redacted], in accordance with the Pricing Methodology section of this Management Analysis. The prices resulting from Governors' Decision No. 16-8,[7] which went into effect on January 21, 2018,[8] are the basis for the PMEI, PMI, and FCPIS ceiling prices for the GEPS - NPR 14 product grouping.

The minimum and maximum prices representing the floor and ceiling for PMEI, PMI, and FCPIS prices under GEPS - NPR 14 are included in the GEPS - NPR 14 financial work papers. The range of prices included in each cell represents all of the potential prices in one-cent increments that are to be considered for each cell, as if each one-cent increment actually appeared on the table. The potential prices that could be offered for GEPS - NPR 14 for PMEI, PMI, and FCPIS, as authorized in Governors' Decision No. 10-7[9] and Governors' Decision No. 11-6[10], are all of the prices, in one-cent increments, between the minimum and maximum prices appearing in each rate cell listed by country group and the weight steps available to the applicable destinations.

As an example, for PMEI, a GEPS mailer sending an item weighing four pounds to a destination in country Group 1 using Drop Ship could potentially be offered a price [redacted], including every price in between in one-cent increments [redacted]. The exact price would be determined by applying a consistent pricing methodology to the downstream access option, and payment option choices made by the customer.

## Pricing Methodology

Management's pricing methodology begins with the cost coverage evaluation of the Postal Service's published prices. The absolute floor for GEPS pricing is defined by the incentives offered to [redacted] for the lowest weight step at each country rate group available. For each of these price cells, the Postal Service determines if there is cost coverage to support the applicable GEPS Non-published Rate.

Rate design involves the following constraints applied to each price cell:

[6] *See* International Mail Manual 223.241, 233.13, and 253.231.
[7] Decision of the Governors of the United States Postal Service on Changes in Rates and Classes of General Applicability for Competitive Products (Governors' Decision No. 16-8), November 14, 2016.
[8] *See* PRC Order No. 4208, Order Approving Price Adjustments for Competitive Products, Docket No. CP2018-8, November 7, 2017.
[9] Decision of the Governors of the United States Postal Service on the Establishment of Prices for Global Expedited Package Services – Non-Published Rates 2 (Governors' Decision No. 10-7), December 14, 2010.
[10] Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (Governors' Decision No. 11-6), March 22, 2011.

- The GEPS NPR 14 discount percentages listed in Tables 1 and 2 are applied to the retail rates, and are valid, for each price cell, when the minimum attributable cost [redacted] If the [redacted] then the mailer is offered a price up to the full discount. [redacted]
- If the fully discounted price for a price cell does not [redacted], a lesser discount is calculated for that price cell [redacted] creating a rate for that price cell that is lower than retail rates.
- If this lesser discounted price is higher than [redacted] will replace the discounted price. [redacted]

To ensure that the prices are not stale in comparison to indices used as cost inputs or in comparison to foreign exchange rate fluctuations, management updates these factors on a monthly basis, but the rates generated will always be in accordance with the rate design set forth in the previous paragraph. Additionally, if the Postal Service files a revised version of its International Cost and Revenue Analysis (ICRA) Report, [redacted]

**Financial Review**

The application of the cost coverage mechanism described above results in prices offered to customers that will meet the thresholds established by statute and by regulation, based on an analysis of historical customer volumes. Management modeled a 12-month cost coverage analysis of the prices based on the volume and mailing profile of the GEPS – NPR agreements for a 12-month period.

The table below sets forth the expected cost coverage for GEPS – NPR agreements based on a 12-month historical profile of GEPS – NPR customers' mailing patterns for PMEI, PMI, and FCPIS based on the latest International Cost and Revenue Analysis report (ICRA) from fiscal year 2017. [redacted] The model demonstrates that the rates for PMEI, PMI, and FCPIS designed from the GEPS – NPR price formula would comfortably cover attributable costs.

**TABLE 3**
**EXPECTED COST COVERAGE FOR GEPS – NPR 14**

| | Volume | Total USPS Revenue | Estimated Cost | Estimated Contribution | Cost Coverage |
|---|---|---|---|---|---|
| **FY2017 GEPS – NPR PMEI, PMI, FCPIS (based on FY17 ICRA) Total** | [redacted] | | | | |

[redacted]

## Regulatory Review and Contract Implementation

In support of the Postal Service's notification to the PRC of these new rates not of general applicability, the Postal Service will submit prices to the Postal Regulatory Commission (PRC) for [redacted] These prices will represent the price floor for sales contracts offering GEPS - NPR 14 PMEI, PMI, and FCPIS rate incentives. The maximum potential price that GEPS - NPR 14 customers might pay for PMEI, PMI, and FCPIS is [redacted] in accordance with the Pricing Methodology section of this Management Analysis.

The Postal Service will continue to use a standard contract for GEPS - NPR 14, a product offered to customers in the small to medium sized enterprise market for FCPIS, PMEI and PMI. The GEPS - NPR 14 model agreement is included with this analysis and is a slightly modified version of the GEPS - NPR 13 model contract that was reviewed by the Commission in PRC Docket Nos. MC2018-125 and CP2018-170, and in Order No. 4423.[11] There are no differences between the GEPS - NPR 14 model agreement and the GEPS - NPR 13 model agreement.

In accordance with Governors' Decision No. 10-7 and Governors' Decision No. 11-6, the Postal Service will file the GEPS - NPR 14 product with the PRC. The filing will include this Management Analysis. Also, consistent with PRC Oder No. 4423, the Postal Service will provide a copy of each GEPS - NPR 14 customer agreement to the PRC, along with the financial cost inputs used to generate the rates for the customer, and the effective date of each GEPS - NPR 14 agreement. All contracts using the GEPS - NPR 14 model customer contract and the rates in this Management Analysis will be filed in a single docket and will be reported as a single competitive product in the appropriate Annual Compliance Report. Each GEPS - NPR 14 contract will bear a serial number, and subsequent information filed with the PRC concerning a specific contract will be filed with reference to the docket and serial number.

[11] PRC Order No. 4423, Order No. 4423 - Order Concerning the Addition of Global Expedited Package Services (GEPS)—Non-Published Rates 13 to the Competitive Product List, Docket Nos. MC2018-125 and CP2018-170, February 28, 2018.

With GEPS - NPR 14, using the methodology described above, the Postal Service provides the prices within the established range to qualified customers applying for the incentives. Once a customer signs a GEPS - NPR 14 agreement under this pricing approach, the Postal Service begins the customer's incentive program as soon as the Postal Service and the customer are ready to implement it.

## Benefits

In Order No. 728, the PRC stated that the development of the GEPS - NPR agreements "established an efficient process for the approval of GEPS agreements."[12] The methodology and process for implementing GEPS - NPR negotiated service agreements has proved advantageous. Under the GEPS - NPR process, the Postal Service has not had to certify the cost coverage of each contract, justify the addition of each contract to the competitive products list, and delay implementation of customer mailing incentives pending a positive review of the agreement by the PRC. The PRC, for its part, has not had to establish a docket for each contract, assign a Public Representative to review the contracts and related financial documents, and issue orders to add each contract to the competitive products list. It is anticipated that the GEPS - NPR 14 process will be quite similar to the GEPS - NPR 13 process, providing both the Postal Service and the PRC the means to decrease administrative costs associated with the GEPS contract review process. Since Postal Service revenues fund both organizations, savings to either organization result in overall savings for the Postal Service.

Additionally, the GEPS - NPR process makes it possible for the Postal Service to serve customers more effectively by enabling the Postal Service to promptly enter into sales contracts, instead of waiting for regulatory review of each individual contract and for a determination of each contract's functional equivalency to the established product grouping. As a result, the Postal Service is positioned better against competitors, and customers now have the certainty of knowing that when they sign a GEPS - NPR agreement with the Postal Service, they have a binding contract, not just a preliminary agreement that is contingent upon final regulatory review.

## Summary

The prices and methodology employed in the GEPS - NPR 14 product grouping proposal are appropriate for the highly competitive international expedited delivery service market, which includes small to medium sized enterprises as mailers. When a customer opts to tender mail at a location that reduces costs to the Postal Service, the GEPS - NPR 14 rates reward the customer with pricing incentives. Likewise, when a customer commits to a fixed level of revenue for FCPIS, PMEI and PMI (which are strong contribution products), the Postal Service rewards the customer with pricing incentives that compete with other international expedited delivery service providers while maintaining the cost coverage necessary to make a positive contribution to the Postal Service's institutional costs.

[12] PRC Order No. 728, Order Concerning Global Expedited Package Services - Non-Published Rates 2 Model Contract, Docket No. CP2011-45, at 2.

# Attachment 2E

## Certification As To The Prices For Determining Prices For Applicable Negotiated Service Agreements Under Global Expedited Package Services - Non-Published Rates 14

I, Steve Phelps, Manager of Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices that establish the price floor and the price ceiling for negotiated service agreements under the Global Expedited Package Services - Non-published Rates product grouping, which are presented in Attachment 2D. I am also familiar with the methodology described in Attachment 2C for determining the prices for customer-specific agreements. The prices contained in this filing were established in accordance with the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, issued March 22, 2011 (Governors' Decision No. 11-6), which established prices by means of price floor formulas.

I hereby certify that these prices are determined in a manner that satisfies applicable pricing criteria, using appropriate and accurate data. If the Postal Service were to enter into agreements and offer services that set prices at or above the price floors using the methodology described in Attachment 2C, the Postal Service would be in compliance with 39 U.S.C. § 3633(a)(1), (2) and (3). The minimum prices that establish the price floor and the methodology for determining the rates for individual customers provide that the agreements under Global Expedited Package Services—Non-published Rates should cover the product grouping's attributable costs, based on a distribution of historical customer volumes, and preclude the subsidization of competitive products by market dominant products. Even if all the agreements under Global Expedited Package Services - Non-published Rates were assigned prices at the price floor for the corresponding downstream access option, the prices and methodology used should prevent the product group from impairing the ability of competitive products on the whole to cover an appropriate share of institutional costs.

Steven Phelps

Digitally signed by Steven Phelps
DN: cn=Steven Phelps, o=Pricing and Costing, ou=Pricing, email=steven.r.phelps@usps.gov, c=US
Date: 2018.06.21 16:05:50 -04'00'

Steve Phelps

## Statement of Supporting Justification

I, Donald W. Ross, Director, International Sales, am sponsoring the Request that the Postal Regulatory Commission (Commission) add the Global Expedited Package Services (GEPS) Non-Published Rates 14 (GEPS - NPR 14) product filed in Docket Nos. MC2018-186 and CP2018-260 to the competitive products list for prices not of general applicability. The proposed revised Mail Classification Schedule (MCS) language for GEPS - NPR 14 describes the requirements for this product. My statement supports the United States Postal Service's (Postal Service's) Request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

*(a) Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.*

The addition of this new product is in accordance with the policies and applicable criteria of the Act, because GEPS - NPR 14 is a product designed to increase the efficiency of the Postal Service's processes and enhance its ability to compete in the marketplace, while assuring that the product is not subsidized by market dominant products, covers the costs attributable to it, and does not cause competitive products as a whole to fail to make the appropriate contribution to institutional costs.

*(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. § 3622(d), and that it advances the objectives of 39 U.S.C. § 3622(b), taking into account the factors of 39 U.S.C. § 3622(c).*

Not applicable.

*(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. § 3633.*

GEPS - NPR 14 is a product designed to enable the Postal Service's sales force to quickly establish, based on customer revenue commitments, selection of downstream access option, and projected mailing profile, whether a GEPS-type agreement will be profitable enough to justify entering into an incentive-based mailing plan with that customer for Priority Express Mail International (PMEI), Priority Mail International (PMI), and First-Class Package International Service (FCPIS). The customer has the option of selecting postage payment through a permit imprint using USPS-provided Global Shipping Software (GSS) or through a USPS-approved PC Postage Provider. To accomplish this goal, the product design for GEPS - NPR 14 includes actual rates that, on a cell-by-cell basis, cover their costs or default to the lowest published rate, which the customer could get, even without a specific arrangement with the Postal Service.[1] Governors' Decision No. 11-6 authorized Postal Service management to prepare, for any product within the Outbound International Competitive Agreement grouping, a product description, including

[1] The product design for GEPS – NPR 14 is a revision of the product design for GEPS - NPR 1 approved by the Governors in Governors' Decision No 10-2, the product design for GEPS – NPR 2 approved by the Governors in Governors' Decision No 10-7, and the product design for GEPS – NPR 3, GEPS – NPR 4, GEPS – NPR 4 Version 2, GEPS – NPR 5, GEPS – NPR 6, GEPS – NPR 7, GEPS – NPR 8, GEPS – NPR 9, GEPS – NPR 10, GEPS – NPR 11 , GEPS – NPR 12, and GEPS NPR 13 authorized by the Governors in Governors' Decision No.11-6.

text for inclusion in the MCS, and present such product description to the Commission. The product description for GEPS - NPR 14 is set forth in Attachments 2B, 2C, and 2D which establish the prices and classifications for GEPS NPR 14.

The Postal Service's financial modeling in support of the GEPS - NPR 14 product included a cost-coverage analysis that was based on a 12-month historical profile of GEPS – NPR customers' mailing patterns for PMEI, PMI, and FCPIS. This modeling demonstrated that GEPS - NPR 14, priced in accordance with the applicable Governors' Decision, and applied to the historical mailing profile resulted in adequate cost coverage to ensure that no cross subsidization of this product should occur. It also demonstrated that this new product should be able to contribute to institutional costs in addition to covering its own attributable costs.

*(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

The addition of the GEPS - NPR 14 product to the competitive products list will not result in classifying a product over which the Postal Service has market dominance as a competitive product. The GEPS - NPR 14 product consists of sales of PMEI, PMI, and FCPIS, which are a small part of all international revenue received by the Postal Service. International revenue makes up a tiny fraction of total Postal Service revenue. In the recent annual

reports of two of the Postal Service's competitors in the international package delivery market, Federal Express reported international revenue of $8.24 billion for its FY2017, and United Parcel Service reported international revenue of $12.35 billion for its FY2016. The Postal Service does not maintain a position of dominance in this market.

*(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. § 1696, subject to the exceptions set forth in 39 U.S.C. § 601.*

The GEPS - NPR 14 product consists of PMEI, PMI, and FCPIS. PMEI, PMI, and FCPIS are all classified as competitive products, falling outside the scope of the Private Express Statutes.

*(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

As noted in part (d) above, major competitors in the market for PMEI, PMI, and FCPIS, include Federal Express and United Parcel Service, which are widely available to customers in the United States. Private consolidators, freight forwarders, and integrators also offer international shipping arrangements whereby they provide analogous delivery services under similar conditions.

*(g) Provide any available information on the views of those who use the product on the appropriateness of the proposed modification.*

Customers using the prior stand-alone iterations of GEPS products have commented on their frustration with the regulatory process associated with implementing the agreements. Until their agreements are added to the competitive products list of the Mail Classification Schedule, they encounter risks

if they make changes to their businesses and processes prior to receiving confirmation that the rates are available for them to use. When they do business with the Postal Service's competitors, they are able to commit to a discounted shipping solution and immediately begin receiving the benefits.

Additionally, customers express frustration if they receive a provisional offer of prices from the Postal Service, which later must be rescinded because the customer's projected mailing profile shows that the GEPS agreement will not be able to cover its attributable costs.

The GEPS - NPR 14 product, like the GEPS - NPR 1 through GEPS – NPR 13 products, should address these problems by eliminating the need for each agreement to be added to the competitive products list individually and by making the rates for each weight step and country group destination based on certain factors and downstream access option available immediately for the customer's consideration.

I am not aware of any negative views from international negotiated service agreement customers concerning the proposal to add GEPS - NPR 14 to the competitive products list.

*(h) Provide a description of the likely impact of the proposed modification on small business concerns.*

The business concerns that engage in international package delivery services typically are not small business concerns, because of the resources necessary to compete in the industry. Large shipping companies, consolidators, and freight forwarders serve this market, particularly with respect to the type of

customers represented by the GEPS - NPR 14 product; the Postal Service is unaware of any small business concerns that could offer comparable service for these volumes.

The small business concerns utilizing the GEPS - NPR 14 product will likely observe a positive impact. By offering GEPS - NPR 14, the Postal Service will be able to more quickly provide the small businesses access to pricing incentives that will help them reduce their own cost of doing business.

*(i) Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

None of the numerous contracts presented to the Commission as customized GEPS contracts in separate dockets (such as GEPS 3 agreements) were rejected by the Commission. For each of these customized contracts that was added to the competitive product list, the Postal Service filed a notice and the Commission established a docket to review the agreement.

The GEPS-associated administrative costs to both the Postal Service and the Commission are substantial in comparison to the individual contribution that each GEPS agreement can produce. Collectively, the GEPS agreements make a substantial contribution to international revenue and are certainly worthwhile to both the Postal Service and its customers. By refining the reformulation of the product into a niche classification as GEPS - NPR 14, the Postal Service loses a minimal amount of pricing flexibility to capture more significant investment of time and resources and brings a better product to its customers.

# *GLOBAL CUSTOMIZED MAIL AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE AND COMPANY NAME*

This Agreement ("Agreement") is between Company Name ("Mailer"), with offices at Street Address, City, State ZIP+4, and the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the United States Government, with offices at 475 L'Enfant Plaza SW, Washington, DC 20260-9998. The Mailer and the USPS may be referred to individually as a "Party" and together as the "Parties."

**Introduction.** Whereas, the Parties desire to enter into a non-exclusive relationship whereby the USPS will provide certain products and/or services to the Mailer pursuant to the terms and conditions contained herein; whereas, the Parties desire to be bound by the terms of this Agreement; now, therefore, in consideration of the mutual promises set forth below, the Parties hereby agree as follows.

**1. Purpose of the Agreement.** This Agreement shall govern the use the Mailer may make of customized mail service for Priority Mail Express International, Priority Mail International, and First-Class Package International Service.

**2. Choice of Payment Method.** Initials or a mark by the Mailer or USPS next to one of the following two options indicate the Mailer's selection of a postage payment method for Qualifying Mail under this Agreement.

_____ **Option A. Postage Payment Through a PC Postage Provider.** The Mailer shall pay postage to the USPS through the intermediary of a USPS-approved PC Postage Provider that the USPS has authorized to offer services to contract rate customers. The Mailer retains the right to change the PC Postage Provider, provided that the new PC Postage Provider has been authorized by the USPS to offer services to contract rate customers. Initially, the Mailer chooses [redacted] as its USPS-approved PC Postage Provider.

_____ **Option B. Postage Payment through a Permit Imprint using USPS-provided Global Shipping Software (GSS).** The Mailer shall pay postage to the USPS through the use of a permit imprint subject to the conditions stated in IMM 152.6 and DMM 604.5.

**3. Definitions.** As used in this Agreement: (1) "IMM" means the *International Mail Manual* as found on the USPS website pe.usps.com on the date of mailing. (2) "DMM" means the *Domestic Mail Manual* as found on the USPS website pe.usps.com on the date of mailing. (3) "Effective Date" means the first date on which the USPS is willing to accept Qualifying Mail. (4) "PC Postage Provider" means a provider of software-based management of postage accounts, authorized by the USPS to offer services to contract rate customers. (5) "Qualifying Mail" means mail that meets the requirements set forth in Article 4 of this Agreement. (6) "Non-Qualifying Mail" means mail that does not meet the requirements set forth in Article 4 of this Agreement. Priority Mail Express International, Priority Mail International, and First-Class Package International Service tendered to the USPS at a Business Mail Entry Unit, at a USPS retail window, or at any commercial mail receiving agency are Non-Qualifying Mail under Option A above.

**4. Qualifying Mail.** Mail that meets the requirements set forth in IMM 220 for Priority Mail Express International, IMM 230 for Priority Mail International or IMM 250 for First-Class Package International Service, with the exception of: (1) Any Flat Rate item; (2) Any item destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740; (3) Any item addressed to persons or entities identified on the Office of Foreign Assets Control's (OFAC's) Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, the Bureau of Industry and Security's (BIS's) Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; and (4) Any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; shall be considered as Qualifying Mail, except as those requirements conflict with the applicable specific preparation requirements set forth in Article 6.

**5. Treatment of Non-Qualifying Mail.** (1) Under Option A and under Option B above, the USPS, at its option and without forfeiting any of its rights under this Agreement, may refuse to accept Non-Qualifying Mail or may accept Non-Qualifying Mail at the applicable published prices. (2) Under Option A above, the USPS may accept Non-Qualifying Mail at the applicable published prices and impose a penalty upon the Mailer. (3) Any mailings by the Mailer of Non-Qualifying Mail processed using Global Shipping Software (GSS) must be paid for through the use of a permit imprint that is different from the permit imprint used to pay postage for Qualifying Mail under this Agreement.

**6. Specific Preparation Requirements.** (1) Under Option A above, mailings processed using software provided by a USPS-approved PC Postage Provider that the USPS has authorized to offer services to contract rate customers must be accompanied by a PS Form 3152 Confirmation Services Certification, or a PS Form 5630 Shipment Confirmation Acceptance Notice, or an equivalent form produced by the PC Postage Provider's software. (2) Under Option B above: (a) Mailings of Qualifying Mail must be kept separate from any other type of mail the Mailer tenders. (b) International mailings must be separated from domestic mailings. (c) Mailings processed using Global Shipping Software (GSS) must: (i) Be accompanied by a postage manifest; (ii) Be paid for through the use of a Permit Imprint. (3) For all items destined for Cuba, the Mailer shall take all necessary measures to comply with all applicable BIS and OFAC provisions, and to ensure that electronic export information about shipments under this Agreement destined to Cuba are properly filed, if necessary, under regulations of the Bureau of Census.

**7. Obligations of the USPS.** The USPS hereby agrees: (1) Transportation To arrange with carriers to transport Qualifying Mail to international destinations where the proper authority will effect delivery. (2) Undeliverable Items To return: (a) Priority Mail Express International items refused by an addressee or that are undeliverable, to the Mailer via Priority Mail Express [redacted]. (b) Priority Mail International and First-Class Package International Service items refused by an addressee or that are undeliverable, to the Mailer in accordance with the provisions of IMM 771. (3) Postage To provide prices for Qualifying Mail paid for and tendered as required by this Agreement. (4) Pickup To provide pickup service for Qualifying Mail in accordance with the applicable local agreement, if any, as amended from time to time. (5) Confidentiality To seek non-public treatment of information it determines to be eligible for protection from public disclosure under applicable law and practice when it files the Agreement with the Postal Regulatory Commission, or when it files information (including data) in connection with the Agreement in accordance with other regulatory requirements. (6) Penalties for Non-Qualifying Mail under Option A To provide the Mailer with an invoice for any penalties imposed as a result of improper tender of mail. (7) Technical Assistance under Option B To provide the Mailer with technical assistance necessary to prepare information linkages, electronic data files, and data exchanges as required for proper functioning of USPS-provided Global Shipping Software (GSS).

**8. Obligations of the Mailer – General.** The Mailer hereby agrees: (1) Postage To pay postage: (a) For Priority Mail Express International and Priority Mail International Qualifying Mail in accordance with the price charts in Annex 1, and (b) For First-Class Package International Service Qualifying Mail in accordance with the price chart in Annex 2. (2) Customs and Export Documentation To provide any necessary documentation, including data provided in electronic format, in connection with each mailing, in the form and at the time specified by the USPS, Customs & Border Protection, Transportation Security Administration, the U.S. Census Bureau, a destination country foreign government, or other authority. The Mailer further understands that the failure to provide any such required documentation may result in refusal at acceptance, delay in processing, involuntary seizure by customs authorities, and/or return of mail to the sender. (3) Customs and Export Requirements. To comply with any regulation or order promulgated by the USPS, OFAC, the U.S. Department of the Treasury, the U.S. Census Bureau, BIS, the U.S. Department of Commerce, the U.S. Department of State, the U.S. Customs & Border Protection, the U.S. Fish and Wildlife Service, the Transportation Security Administration, a destination country foreign government, or other governmental unit, in accordance with any requirements specified by those authorities. See IMM 5 for additional information. (4) Tender Not to: (a) Tender or attempt to tender any item under this Agreement that is destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740; (b) Tender or attempt to tender any item addressed to persons or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; (c) Tender or attempt to tender any item on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382. (5) Confidentiality To treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the Postal Regulatory Commission. (6) Penalties To pay any fines or penalties as well as any other expenses, damages, and/or charges, including any applicable duties, taxes, and/or fees that result from an action of any other governmental entity that regulates exports and/or imports in relation to any item tendered under this agreement, or that results from the Mailer's failure to comply with applicable laws and regulations of the origin country, destination country, or any country through which a mailing tendered under this Agreement passes (including failure to provide necessary documentation and/or failure to obtain any required license or permit). (7) Advance Notification To provide the Manager, Customized Mail, USPS, via e-mail to icmusps@usps.gov with notification of the Mailer's intent to tender Qualifying Mail under this Agreement

that requires a license from OFAC, BIS, or the U.S. Department of State not less than ten (10) days prior to tender of such items. (8) To notify USPS, via e-mail to globaltradecompliance@usps.gov and internationalmailsecurity@uspis.gov, of all criminal, civil, or administrative investigations, prosecutions, or proceedings relating to violations or potential violations of export control, customs, fraud, data, or mailability laws concerning transactions involving the Mailer, brought against the Mailer, any of its subsidiaries or affiliates, or any of its directors, officers, employees, or agents, in no case more than 5 business days after discovery.

**9. Additional Obligations of the Mailer Under Option A.** The Mailer, having selected Option A above, hereby agrees: (1) Advance Notification (a) To provide the Manager, Customized Mail, USPS, via e-mail to icmusps@usps.gov, with notification of new PC Postage Provider account number(s) used for Qualifying Mail ten (10) days in advance of using the new PC Postage Provider account numbers. The message should include the PC Postage Provider account number, the name of the PC Postage Provider account owner, and the requested implementation date. (b) To provide the Manager, Customized Mail, USPS, via e-mail to icmusps@usps.gov with notification of the Mailer's intent to change and/or add PC Postage Providers and the name of the new PC Postage Provider(s) the Mailer intends to use at least twenty (20) days in advance of the anticipated change or addition; (2) Tender To present the mailings to the USPS, in accordance with the Annexes to this Agreement, using any means of tender the USPS authorizes for items for which postage payment is through a PC Postage Provider, with the exception of the following means of tender: tender at a USPS retail window, or a commercial mail receiving agency. (3) Software To apply address labels and Customs declarations to Qualifying Mail using the software provided by the USPS-approved PC Postage Provider which the Mailer has identified as its selected postage payment intermediary. (4) Postage Due To pay any postage due to the USPS as a result of discrepancies between the actual PC postage applied to the mailings and the postage required under this Agreement. (5) Penalty for the Improper Tender of Mail To pay: (a) Any penalty the USPS may assess under the terms of Article 37 for the improper tender of mail provided that the USPS has provided the Mailer with notice of the number of pieces of Non-qualifying Mail and an invoice for the total dollar amount of the penalty due; (b) The amount of the assessed penalties within thirty (30) days of the date of the invoice. All invoices that are not paid within thirty (30) days will incur [redacted] Any invoicing discrepancies will be resolved subsequent to payment of the invoice. In addition to [redacted] the USPS reserves the right to pursue other available remedies.

**10. Additional Obligations of the Mailer Under Option B.** The Mailer, having selected Option B above, hereby agrees: (1) Advance Notification To provide: (a) The Manager, Customized Mail, USPS, via e-mail to icmusps@usps.gov, with notification of new permit numbers used for Qualifying Mail ten (10) days in advance of using the new permit numbers. The message should include the permit number, the city, state, and ZIP Code where the permit is held, the name of the permit owner, and the requested implementation date. (b) The appropriate USPS acceptance site(s) with notice of intent to mail. (2) Tender To present the mailings at a Business Mail Entry Unit (BMEU) approved by the USPS to receive Qualifying Mail in accordance with the Annexes to this Agreement and the scheduling procedures in place at the appropriate acceptance site(s). (3) Address Labels and Customs Declarations. (a) To create Address labels for Priority Mail Express International, Priority Mail International, and First-Class Package International Service Qualifying Mail using USPS-provided Global Shipping Software (GSS); (b) To prepare Customs declarations for Priority Mail Express International, Priority Mail International, and First-Class Package International Service Qualifying Mail using USPS-provided Global Shipping Software (GSS). (4) Information Link To establish the necessary linkages with the USPS so that: (a) The Mailer and the USPS can exchange data transmissions concerning the Mailer's packages; (b) The USPS can, at the Mailer's request, extract information by scanning the Mailer-provided barcode on each package. (5) Data Transmission To exchange electronic information with USPS in accordance with instructions USPS provides.

**11. Minimum Commitment.** (1) The Mailer is required to meet an annualized minimum commitment of XXXXX thousand United States dollars ($X0,000) in postage paid for Qualifying Mail. The postage commitment is for postage after all discounts have been applied. (2) There is no penalty if the Mailer does not meet the annualized minimum commitment set forth in Article 11(1). However, if the Mailer does not meet its annualized minimum commitment set forth in Article 11(1), the USPS reserves the right not to enter into subsequent agreement with the Mailer during the subsequent calendar year.

**12. Term of the Agreement.** The USPS will notify the Mailer of the Effective Date of the Agreement as soon as possible, but no later than thirty (30) days, after receiving the signed Agreement from the Mailer. If the Effective Date of this Agreement is the first of the month, the Agreement shall remain in effect for one calendar year from the Effective Date (for example, if the Effective Date of the Agreement is April 1, the Agreement will expire on March

31 of the subsequent year), unless terminated sooner pursuant to Article 13, Article 14, or Article 34. If the Effective Date of this Agreement is not the first of the month, the Agreement shall remain in effect until the last day of the month in which the Effective Date falls in the year subsequent to the Effective Date (for example, if the Effective Date of the Agreement is April 2 or a later day in April, the Agreement will expire on April 30 in the subsequent year), unless terminated sooner pursuant to Article 13, Article 14, or Article 34.

**13. Termination of the Agreement.** (1) Either Party to this Agreement, in its sole discretion, may terminate the Agreement for any reason, without cost, fault, or penalty, except as provided for in Paragraph 3 of this Article, regardless of whether either Party is in default, upon a thirty (30) day written notification, unless a time frame longer than thirty (30) days that falls within the term of the Agreement is indicated by the terminating Party. (2) If the Mailer is not in compliance with this Agreement, USPS will have the right to immediately terminate or suspend performance under this Agreement. (3) In the event that this Agreement is terminated for any reason before the termination date provided for in Article 12 (including for the reasons and under the terms set forth in Article 34), any penalties arising under Articles 9, 37, and 38, or other article of this Agreement, shall be enforceable, and the minimum commitment in Article 11 shall be calculated on a pro rata basis to reflect the actual duration of the Agreement. (4) The USPS is under no obligation to remind the Mailer of the termination of this Agreement. In addition, the USPS is under no obligation to enter into a subsequent agreement with the Mailer.

**14. Modification of the Agreement.** (1) Any modification of this agreement or additional obligation assumed by either party in connection with this agreement, with the exception of changes to prices under the terms of Article 15, shall be binding only if placed in writing and signed by each party. (2) Modifications may be contingent upon any and all necessary approvals by USPS management's executive committee, the Board of Governors of the USPS, the Governors of the USPS, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the USPS. (3) If such approvals are required, the modifications will not become effective until such time as all necessary approvals are obtained. (4) The USPS will notify the Mailer of the date the modification becomes effective within thirty (30) days after receiving the approval of the entities that have oversight responsibility for the USPS. (5) The USPS shall have no obligation to notify the Mailer of the status of the approval process or of potential fulfillment of the approval process. (6) Any changes to or modification of the local agreement referred to in Article 7, Paragraph 4 are not subject to the provisions of this article.

**15. Postage Updates.** (1) In the event that the USPS incurs an increase in costs [redacted] the USPS shall notify the Mailer and modify the prices established under this Agreement. [redacted] (2) The USPS will give the Mailer thirty (30) days' notice of changes to the prices in the Annexes to this Agreement. (3) Any revision of prices in the Annexes shall not be retroactive. (4) No price shall increase beyond the non-discounted published price for the affected service.

**16. Customs Duties and Taxes.** Customs duties, taxes, and/or fees for packages mailed under this Agreement are the responsibility of the addressee.

**17. Entire Agreement and Survival.** This Agreement, including all Annexes thereto and any corresponding written local pickup agreement, shall constitute the entire agreement between the Parties regarding customized prices for Qualifying Mail commencing on the Effective Date of this Agreement, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either Party except to the extent incorporated in this Agreement. The provisions of Article 7, Paragraph 5; Article 8, Paragraph 5; and Article 19 shall expire ten (10) years from the date of termination or expiration of this Agreement.

**18. Force Majeure.** Neither Party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes or shortages; governmental laws, ordinances, rules and regulations, whether valid or invalid; court orders whether valid or invalid; inability to obtain material, equipment or transportation; and any other similar or different contingency.

**19. Confidentiality.** The Mailer acknowledges that this Agreement and supporting documentation will be filed with the Postal Regulatory Commission ("Commission") in a docketed proceeding. The Mailer authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding in which information related to this Agreement must be filed. The Mailer further understands that any unredacted portion of the Agreement or supporting information will be available on the Commission's public website, www.prc.gov. In addition, the USPS may be required to file information in connection with this Agreement (including revenue, cost, or volume data) in other Commission dockets, including the Commission docket number for the

Annual Compliance Report (ACR) for the USPS fiscal year(s) in which this Agreement is in effect. Each ACR docket has a distinct docket number, such as ACR201#, in which "201#" signifies the USPS fiscal year to which the ACR pertains. The Mailer has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the PRC for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22 found on the Commission's website: www.prc.gov/Docs/63/63467/Order225.pdf. The docket number in which this Agreement will be filed is CP2018-170.

**20. Effect of Partial Invalidity.** The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect.

**21. Intellectual Property, Co-Branding and Licensing.** The Mailer is allowed the use of the words "Priority Mail Express International®," "Priority Mail International®," and "First-Class Package International Service®," and the acronyms "PMEI™," "PMI™," "FCPIS®." The Parties acknowledge that in the service of marketing the products under this Agreement that such product marketing may be enhanced through the use of co-branding or the use of each Party's trademarks, logos or intellectual property. In such instances, the Parties acknowledge and agree that any use shall be subject to separate written agreements. The Parties acknowledge and agree that neither Party shall use the other Party's trademarks, logos or intellectual property until such time that a license for such use has been executed by the Parties and all laws and regulations required for such license's effectiveness have been perfected, which shall include but not be limited to any recordation requirements.

**22. Limitation of Liability.** (1) The liability of the USPS under this Agreement shall be limited to the refund of postage for Qualifying Mail that is lost or destroyed in bulk after being tendered to the USPS and prior to being received by the delivery authority outside of the United States. The USPS shall not be liable for any actual or consequential damages suffered by the Mailer as a result of late delivery or non-delivery of any Qualifying Mail. (2) The USPS shall not be liable for any loss or expense, including, but not limited to fines and penalties, for the Mailer's or any other person's failure to comply with any export laws, rules, or regulations. (3) The USPS shall not be liable for any act or omission by any person not employed or contracted by the USPS, including any act or omission of the Mailer, the Mailer's customer, or the recipient of an item tendered under this Agreement. (4) Priority Mail Express International, Priority Mail International, and First-Class Package International Service Qualifying Mail mailed under this Agreement are not guaranteed against delay in delivery. Neither indemnity payments nor postage refunds will be made in the event of delay. (5) Unless otherwise specified by notice published in a future issue of the *Postal Bulletin* that a date-certain, postage-refund guarantee will be offered for this particular type of Global Customized Mail Agreement, Priority Mail Express International With Money-Back Guarantee Service Qualifying Mail mailed under this agreement is not guaranteed against delay in delivery, and neither indemnity payments nor postage refunds will be made in the event of delay. (6) The USPS bears no responsibility for the refund of postage for Qualifying Mail in connection with actions taken by Customs authorities. (7) The USPS as well as its agents, suppliers, and vendors, shall not be liable for any damages of any type, including but not limited to, any lost profits (both actual and anticipated) or other incidental or consequential damages arising out of any action by the USPS. The USPS is further not liable for any loss due to the use of, programming related to, or inability to use the USPS or other vendors' or suppliers' software.

**23. Indemnity.** The Mailer shall indemnify and save harmless the USPS and its officers, directors, agents, and employees from any and all claims, losses, costs, damages, or expenses or liabilities, including but not limited to penalties, fines, liquidated damages, charges, taxes, fees, duties, or other money due ("Claims") growing out of or connected in any other way with the discharge by the Mailer or its agent(s) of any undertaking contained in this Agreement, including Claims that result from the noncompliance of the Mailer with the laws of the United States and other countries.

**24. Governing Law.** This Agreement shall be governed by, construed under, and enforced in accordance with United States federal law.

**25. Suspensions of Mail Service.** In the event that a suspension of Priority Mail Express International service, Priority Mail International service, or First-Class Package International Service from the United States to a country would prevent delivery of Qualifying Mail to addressees in that country, the Mailer shall not tender a Priority Mail Express International, Priority Mail International, or First-Class Package International Service shipment, as appropriate, to the USPS until service is restored. The annualized minimum commitment for Qualifying Mail set forth in Article 11 shall be recalculated pro rata to reflect the reduction in available service time.

**26. Assignment.** Neither Party may, or shall have the power to, assign its rights under this Agreement or, delegate its obligations hereunder, without the prior consent of the other; such consent is not to be unreasonably withheld. In addition, in the event that the Mailer is merged with or into or acquires another firm, corporation, or entity, pricing under this Agreement following such merger or acquisition shall apply only to mail sent by the entity existing prior to the merger or acquisition. Following any such merger or acquisition, the parties may negotiate in good faith to extend, modify or enter into a new Agreement applicable to the merged or acquired entity. Assignment by the Mailer to a subsidiary of the Mailer for which the Mailer is the majority owner shall be allowed.

**27. No Waiver.** The failure of either Party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if such forbearance or waiver had not occurred.

**28. Paragraph Headings and Reference Citations.** The titles to the paragraphs of this Agreement are solely for the convenience of the Parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement. All citations to provisions in the DMM, IMM or Code of Federal Regulations within this Agreement are intended to refer to the substantive information found within the cited section(s) at the time this Agreement was drafted. Subsequent changes to the citations or the relevant substantive information due to published revisions of the DMM, IMM or Code of Federal Regulations shall be applicable to this Agreement upon the effective date of such revisions.

**29. Mailability, Exportability, and Importability.** (1) All items mailed under this Agreement must conform to the mailability requirements of the USPS as detailed in the IMM 130 and USPS Publication 52; all applicable United States laws and regulations, including export control and customs laws and regulations; and all applicable importation restrictions of the destination countries. For each item mailed under this Agreement, the Mailer is responsible for notifying the Mailer's Customers of their responsibility for determining export and import requirements, obtaining any required licenses and permits, and ensuring that the recipient of the item is authorized by the laws of the United States as well as destination countries to receive the item, and for the exportation and importation status of the products mailed under this Agreement as detailed in IMM 112. (2) The Mailer is responsible for ensuring that no item mailed under this Agreement includes non-mailable dangerous goods. Internationally mailable dangerous goods include only certain biological substances, certain radioactive materials, and small lithium batteries packaged in the devices they are meant to operate, as described in greater detail in IMM 135. Hazardous materials listed within the Department of Transportation's regulations, including at 49 C.F.R. § 172.101, are known as dangerous goods that are prohibited from all international mail, as set forth in Exhibit 331 of USPS Publication 52. These substances and items are in addition to any prohibitions or restrictions on imports that may be found in the Individual Country Listings in the IMM. Penalties for knowingly mailing dangerous goods may include civil penalties pursuant to 39 U.S.C. § 3018 and criminal charges pursuant to 18 U.S.C. § 1716.

**30. Warranties, Representations and Covenants.** The Mailer warrants, represents, and covenants to the Postal Service as follows: (1) that the execution, delivery, and performance by the Mailer of its obligations under this Agreement (a) are within the Mailer's power and authority; (b) have been duly authorized; and (c) do not and will not contravene (i) any law or regulation binding on or affecting the Mailer, (ii) any contractual restriction binding on the Mailer, (iii) any order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on the Mailer, or (iv) the organizational documents of the Mailer; (2) that the Mailer is not subject to, and is not related to an entity that is subject to, a temporary or other denial of export privileges by BIS and that the Mailer is not listed on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382, and that the Mailer is not in arrears for any amount due to the USPS; (3) that the Mailer is not aware of any pending investigations that would be subject to the notice obligation under Article 8, Paragraph 8; (4) that there has been no criminal, civil, or administration enforcement action in the past 5 years against the Mailer, any of its subsidiaries or affiliates, or any of its directors, officers, employees, or agents; (5) that the individual signing the Agreement on behalf of the Mailer is a duly authorized officer of the Mailer with the power and authority to enter into the Agreement on behalf of Mailer; and (6) that the Mailer shall comply with all applicable federal, state and local laws, rules and regulations.

**31. Notices.** (1) All notices or demands to the Parties required by this Agreement shall be sufficient if delivered personally or mailed via Priority Mail Express, to the USPS: Managing Director, Global Business and Vice President; United States Postal Service; 475 L'Enfant Plaza SW Room 5012; Washington, DC 20260-4016; or to the Mailer: Contact Name; Title; Company Name; Street Address; City, State ZIP+4. Or via e-mail to the United States Postal

Service at: icmusps@usps.gov; or to the Mailer at: contact email. (2) The Mailer hereby agrees to provide the USPS with updates to the contact information in Paragraph 1 of this Article.

**32. Counterparts.** The Parties may execute this Agreement in one or more counterparts (including by facsimile or by electronic means such as .pdf format), not all Parties need be signatories to the same documents, and all counterparty-signed documents shall be deemed an original and one instrument.

**33. Conditions Precedent.** (1) The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the prices listed in the Annex(es), shall be contingent on the USPS receiving approvals hereinafter ("Conditions Precedent") from one or more internal and external bodies that have oversight responsibilities. Conditions Precedent may include, but are not limited to: approvals or, if applicable, non-objection, from responsible USPS management officials, the USPS Board of Governors, the USPS Governors, the Postal Regulatory Commission, and/or any other governmental body with oversight responsibility for the USPS. The Parties acknowledge that the Agreement might not be approved by such individuals or bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to allow the Postal Service to provide the products or services contemplated under the Agreement, no obligation shall exist for the USPS and no benefit shall inure to either Party. (2) In the event that the Conditions Precedent are not fulfilled, the USPS shall have no liability, which shall include no obligation to pay costs associated with any action taken by the Mailer prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement or the failure of any Condition Precedent, the USPS shall not be held liable for any damages including, without limitation, actual; special; indirect; incidental; punitive; consequential; or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or for costs incurred by either Party attributable to such non-approval such as attorney's fees.

**34. Sovereign Acts.** The USPS and the Mailer acknowledge and agree that this Agreement is subject to any legislation that might be enacted by the Congress of the United States or any orders or regulations that might be promulgated by any agency, branch, or independent establishment of the United States Government. The USPS and the Mailer further acknowledge and agree that this Agreement in no way waives the USPS's authority to act in its sovereign capacity and that, pursuant to the sovereign acts doctrine, the USPS shall not be held liable for any acts performed in its sovereign capacity, or for any acts performed by any branch, agency or independent establishment of the United States in their sovereign capacities that may directly or indirectly affect the terms of this Agreement. In the event that either Party is required by legislation enacted by the Congress of the United States or any orders or regulations that might be promulgated by any branch, agency or independent establishment of the United States Government to terminate, or otherwise as a result of such action is unable to perform its obligations under this Agreement, either Party may give notice of termination pursuant to Article 13 of this Agreement, which termination shall be effective immediately or on the effective date of such requirement, whichever is later. The Parties agree that in the event that this Agreement is terminated as set forth in the preceding two sentences, or in the event that either Party is enjoined from proceeding with this Agreement by any court of competent jurisdiction, such Party shall not be subject to any liability by reason of such termination or injunction. Further, the USPS will evaluate the impact on the Agreement of amendments to statutes affecting its ability to perform under this Agreement and may give notice of termination pursuant to Article 13 of this Agreement based upon such amendments, which termination shall be effective immediately or as determined by the USPS. To the extent of termination on this basis, the USPS shall not be subject to any liability by reason of such termination.

**35. Record Keeping and Audit.** Mailer shall prepare and maintain complete and accurate records, in accordance with good industry practice, to verify and document compliance with its obligations under this Agreement and substantiate any and all postage and penalties, and any related fees and expenses, payable by Mailer hereunder, in furtherance of the audit requirement under § 3654(c) of Title 39, United States Code, as well as compliance with export control laws. Mailer will retain all such records in the ordinary course of its business for a period of at least five (5) years after expiration or termination of this Agreement. Mailer shall respond to the USPS' or its designated auditor's quarterly and/or yearly transaction confirmations related to Postal Service transactions; and such other assistance as required by the Postal Service or its designated auditors in connection with Mailer's performance under this Agreement.

**36. Expiration of Agreement Rates.** The rates offered to the Mailer under this agreement expires unless the Mailer signs the agreement within the month, or the month subsequent to, the creation of the agreement as indicated by the month number in the footer of the agreement.

**Additional Articles 37 and 38 Which Apply Under Option A of Article 2**

**37. Penalty for the Improper Tender of Mail.** The penalty for the improper tender of mail under Option A shall be [redacted]

**38. Fraud.** Under Option A above, the Mailer understands that providing false information with the intent to access discounted rates through the use of a PC Postage Provider may subject the Mailer to criminal and/or civil penalties, including fines and imprisonment.

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In witness whereof, each Party to this Agreement has caused it to be executed on the latter of the two dates accompanying the Parties' signatures.

| **ON BEHALF OF USPS:** | | **ON BEHALF OF COMPANY NAME:** | |
|---|---|---|---|
| Signature: | _____ | Signature: | _____ |
| Name: | _____ | Name: | _____ |
| Title: | _____ | Title: | _____ |
| Date: | _____ | Date: | _____ |

ANNEX 1 PRICES FOR PRIORITY MAIL EXPRESS INTERNATIONAL AND PRIORITY MAIL INTERNATIONAL

ANNEX 2 PRICES FOR FIRST-CLASS PACKAGE INTERNATIONAL SERVICE

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