Postal Regulatory Commission
Submitted 8/9/2018 11:28:15 AM
Filing ID: 106122
Accepted 8/9/2018

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

Competitive Product Prices
Global Expedited Package Services 7
(MC2016-196 / CP2016-280)
Negotiated Service Agreement

Docket No.CP2018-280

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE NOTICE CONCERNING ADDITIONAL GLOBAL EXPEDITED PACKAGE SERVICES 7 NEGOTIATED SERVICE AGREEMENT

(August 9, 2018)

The Public Representative hereby provides comments pursuant to Commission's Notice initiating this docket.[1] In that Notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of filing an additional Global Expedited Package Services (GEPS) 7 agreement (Agreement).[2]

The Postal Service's Notice includes a public (redacted) version of the Agreement, a certified statement of compliance required by 39 CFR 3015(c)(2), and a public version of Governors' Decision No. 11-6. The Postal Service also filed under seal the full (unredacted) text of the Agreement, Governor's Decision No. 11-6 and a supporting financial model estimating the contract value.

Background. Agreements within the GEPS 7 product offer incentive pricing to mailers that send items to foreign destinations using Priority Mail Express International (PMEI), Priority Mail International (PMI), or First Class Package International Service (FCPIS). Notice at 4. Prices offered pursuant to an agreement may differ from mailer

[1] Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, August 2, 2018.

[2] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 1, 2018 (Notice).

to mailer depending upon the volume or postage commitments made by such mailers. *Id.*

Prices and classifications not "of general applicability" for GEPS agreements were previously established by Governors' Decision No. 08-7.[3] In Order No. 86, the Commission established GEPS as a product on the competitive product list.[4] The Commission subsequently approved the addition of the GEPS 7 product to the competitive product list (MC2016-196), and included within that product a GEPS 7 agreement (CP2016-280), which would serve as the baseline agreement for functional equivalence comparisons with future agreements.[5]

The intended effective date is September 1, 2018. Notice at 3. The Agreement is to remain in effect for one calendar year from the effective date, or the last day of the month which falls one calendar year from the effective date, unless terminated sooner. *Id*.

The Postal Service states that the Agreement is functionally equivalent to the baseline agreement and is in compliance with the requirements of 39 USC 3633. Notice at 5. The Postal Service therefore states that the Agreement "should be added to the GEPS 7 product grouping." *Id.*

[3] *See* United States Postal Service Notice of Filing Redacted Copy of Governors' Decision No. 08-7, Docket No. CP2008-5, July 23, 2008.

[4] *See* PRC Order No. 86, Order Concerning Global Expedited Package Services Contracts, Docket No. CP2008-5, June 27, 2008.

[5] *See* PRC Order No. 3542, Order Adding Global Expedited Package Services 7 to the Competitive Product List and Designating Baseline Agreement, Docket Nos. MC2016-196 and CP2016-280, September 27, 2016.

COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the Agreement, and supporting financial model filed under seal accompanying the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, the negotiated prices in the Agreement should generate sufficient revenues to cover costs and thereby satisfy the requirements of 39 USC 3633.

Functional Equivalence. The Postal Service asserts that the Agreement "shares similar cost and market characteristics . . . [and the] functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2016-280, which serves as the baseline agreement for the GEPS 7 product grouping." *Id.* at 3. In this regard, the Postal Service identifies a number of differences between the Agreement and the GEPS 7 baseline agreement. *Id.* at 4-5. Most of these differences consist of changes to contract terms that affect certain obligations of the mailer and are similar to those included in other recent GEPS 7 agreements, or are specific to the mailer (*i.e.*, mailer name, address, and identification of mailer's representative to receive notice). The Postal Service maintains that these specified differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the Agreement. *Id*.

The Public Representative's review of the financial model reveals that the Agreement features similar cost and market characteristics to the baseline agreement as both agreements involve the PMEI, PMI, and/or FCPIS shipping services. Therefore, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement and should be added to the GEPS 7 product.

39 USC 3633. Pursuant to 39 USC 3633(a), the Postal Service's competitive prices must ensure that each competitive product will cover its attributable costs; ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service; and, not result in the subsidization of competitive products by market dominant products.

The Postal Service's financial model does not directly address whether the addition of the Agreement to the GEPS 7 product will result in the product as a whole covering costs as required by 39 USC 3633(a)(2). However, the financial model does indicate that the negotiated rates in the Agreement will generate sufficient revenues to cover its attributable costs. Therefore, the addition of the Agreement to the GEPS 7 product should not cause the product's cost coverage to fall below 100 percent. As a result, the addition of the Agreement to the GEPS 7 product should allow the product to continue to comply with 39 USC 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 USC 3633(a)(1). Moreover, the GEPS 7 product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 USC 3633(a)(3).

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

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