

ORDER NO. 4935

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

Before Commissioners:

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

Competitive Product Prices
GEPS 7 (MC2016-196)
Negotiated Service Agreements

Docket No. CP2018-90

ORDER APPROVING MODIFICATION ONE TO GEPS 7
NEGOTIATED SERVICE AGREEMENT

(Issued December 19, 2018)

I. INTRODUCTION

The Postal Service seeks to modify a Global Expedited Package Services (GEPS) 7 negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Modification.

¹ Notice of the United States Postal Service of Filing Modification One to a Global Expedited Package Services 7 Negotiated Service Agreement, December 18, 2018 (Notice). The modification is an attachment to the Notice (Modification).

In Order No. 4303, the Commission approved the Global Expedited Package Services 7 negotiated service agreement (Existing Agreement).² On December 18, 2018, the Postal Service filed notice that it has agreed to the Modification to the Existing Agreement. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Modification remain under seal. Notice, Attachment 2.³

II. COMMISSION ANALYSIS

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

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

The Existing Agreement is set to expire December 31, 2018.⁴ The Modification revises the expiration date of the Existing Agreement to February 28, 2019. Notice at 1. The Modification additionally permits the Postal Service to extend the Agreement up to

² Order Approving Additional GEPS 7 Negotiated Service Agreement, December 26, 2017 (Order No. 4303).

³ In its application for non-public treatment of materials, the Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* Attachment 2 at 4. The Commission has consistently denied similar requests for indefinite protection. See, e.g., Docket Nos. MC2011-1 and CP2011-2, Order No. 563, Order Approving Express Mail Contract 9 Negotiated Service Agreement, October 20, 2010, at 6-7.

⁴ Order No. 4303 at 5.

a further three months, provided notice is provided to the Commission at least seven days prior to the expiration date. *Id.* Attachment 1 at 1.

The Modification does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as modified, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

Other considerations. The Existing Agreement, as modified, is set to expire February 28, 2019. Notice at 1.

The Modification contains a provision that allows the Postal Service to extend the Existing Agreement for up to three months if the Commission is notified at least seven days prior to the contract's expiration date. The provision additionally states that "the USPS reserves the right to adjust the duration of such extension, depending on the effective date, if any, of a successor agreement with the Mailer." *Id.* Attachment 1 at 1. The Commission interprets this language as permitting a single such extension period, and permitting the Postal Service to shorten the length of that extension period if a successor agreement would take effect before the extension period ends.⁵ The Commission finds the potential extension period reasonable because the extension should assist the Postal Service's contract negotiations by providing additional flexibility.

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

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

⁵ Should the Postal Service exercise its option to shorten the extension period, the Postal Service shall promptly file a Notice of Termination with the Commission specifying the termination date of the Existing Agreement, as modified.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Global Expedited Package Services 7 negotiated service agreement, as modified.
2. The Postal Service shall notify the Commission if the Existing Agreement, as modified, terminates prior to the revised expiration date, February 28, 2019.

By the Commission.

Ruth Ann Abrams
Acting Secretary