

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

Before Commissioners:

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

Competitive Product Prices
Global Plus Contracts
Global Plus 6

Docket No. MC2019-65

Competitive Product Prices
Global Plus 6 (MC2019-65)
Negotiated Service Agreements

Docket No. CP2019-70

ORDER ADDING GLOBAL PLUS 6 TO THE COMPETITIVE PRODUCT LIST
AND DESIGNATING BASELINE AGREEMENT

(Issued January 8, 2019)

I. INTRODUCTION

The Postal Service seeks to add Global Plus 6 to the competitive product list.¹
For the reasons discussed below, the Commission approves the Request.

¹ Request of the United States Postal Service to Add Global Plus 6 to the Competitive Product List and Notice of Filing a Global Plus 6 Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 21, 2018 (Request).

II. BACKGROUND

Contracts under the Global Plus products offer price incentives to mailers that use International Priority Airmail (IPA), International Surface Air Lift (ISAL), Global Bulk Economy (GBE), Global Express Guaranteed (GXG), Priority Mail Express International (PMEI), Priority Mail International (PMI), Outbound Single-Piece First Class Package International Service (FCPIS), Commercial ePacket (CeP), and/or International Business Reply Service (IBRS).² Certain Global Plus products also allow the mailer to act as a reseller for PMEI, PMI, and FCPIS. *Id.* § 2510.6.1(c).

Global Plus 6 is similar to Global Plus 4, but lacks the latter's alternate system permitting the mailer to pay customs duties to a certain country, instead of the recipient. Request at 6.

On December 21, 2018, the Postal Service filed the Request, supporting documents, and the negotiated service agreement (Agreement) it seeks to have designated as the baseline agreement for the Global Plus 6 product. See Request. The supporting documents include:

- A statement of supporting justification for adding Global Plus 6 to the competitive product list
- A copy of the Agreement
- A copy of Governors' Decision No. 18-2
- Proposed revisions to the Mail Classification Schedule (MCS)
- A certification of compliance with 39 U.S.C. § 3633(a)
- Financial workpapers

Request at 4; see *also id.* Attachments 1-5. Also, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. Request, Attachment 6.

² Mail Classification Schedule § 2510.6.1(a).

The Postal Service will establish the effective date of the Agreement after the Commission completes its review. Request at 5. The Agreement will expire September 30, 2019. *Id.*

The Commission was unable to issue its customary notice establishing the two dockets, appointing a Public Representative, and providing interested persons with an opportunity to comment due to the lapse in federal appropriation, which precluded the Commission from publishing in the *Federal Register*. This does not preclude the Commission from issuing this final order.³ A Public Representative was appointed internally.

III. COMMENTS

The Public Representative filed comments on January 3, 2019.⁴ No other interested person submitted comments. The Public Representative states Global Plus 6 should be categorized as a competitive product and that the instant contract will generate sufficient revenue to cover its costs. See PR Comments at 2. He characterizes as reasonable the Postal Service's assertions regarding the requirements of 39 U.S.C. § 3642. *Id.* at 3. He notes that the Commission will have an opportunity to review the financial results of the instant contract in a future Annual Compliance Determination (ACD). *Id.*

³ Although 39 C.F.R. § 3020.33 indicates the Commission will publish notice in the *Federal Register* and on its website, the Commission may relax its own procedural rules where they are "aids to the exercise of the agency's independent discretion" rather than grants of "important procedural benefits." *Am. Farm Lines v. Black Ball Freight Serv.*, 397 U.S. 532, 539 (1970); accord *Leslie v. Att'y Gen. of the U.S.*, 611 F.3d 171, 175-81 (3d Cir. 2010) (examining an agency's authority to depart from its promulgated regulations).

⁴ Public Representative Comments on Postal Service Notice to Add Global Plus 6 Contracts to the Competitive Product List, January 3, 2019 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Request, the contract, the supporting data filed under seal, and the Public Representative's comments.

Product list requirements. The Commission's statutory responsibilities when evaluating the Request include assigning Global Plus 6 to either the market dominant or competitive product list. See 39 U.S.C. § 3642(b)(1); 39 C.F.R. § 3020.34. Before adding a product to the competitive product list, the Commission must determine that the Postal Service does not exercise sufficient market power that it can effectively set the price of the product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. See 39 U.S.C. § 3642(b)(1). In addition, the Commission must consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. See 39 U.S.C. § 3642(b)(3); 39 C.F.R. §§ 3020.32(f), (g), and (h).

The Postal Service asserts that other shippers who provide similar services constrain its bargaining position, and that it can neither raise prices nor decrease service, quality, or output without risking the loss of business to competitors. Request, Attachment 1 at 2-3. It notes that IPA, ISAL, PMEI, PMI, and FCPIS have all been classified by the Postal Service as competitive by virtue of their exclusion from the postal monopoly and the level of competition in their respective markets. *Id.* at 2. The Postal Service states that the market for international delivery services is highly competitive, and that the Postal Service is unaware of any small business concerns that could offer comparable services to the contract partner. Request, Attachment 1 at 4-5.

The Commission finds that the Postal Service does not exercise sufficient market power that it can effectively set the price of the proposed product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. This finding

is supported by the fact that the Global Plus 6 product is similar to other Global Plus products that have been classified as competitive. Therefore, the Commission concludes that Global Plus, with regard to market power, is appropriately classified as a competitive product.

Regarding the other requirements of 39 U.S.C. § 3642(b), Global Plus 6 consists exclusively of competitive products not covered by the postal monopoly. Additionally, the Postal Service competes with other businesses in the market for international shipping services, customers such as the contract partner will likely be interested in the Global Plus 6 product, and there is no evidence of an adverse impact on small businesses.

For these reasons, having considered the relevant statutory and regulatory requirements and the Postal Service's supporting justification, the Commission finds that the Global Plus 6 product is appropriately classified as competitive and adds it to the competitive product list.

Cost considerations. Because the Commission finds that Global Plus 6 is a competitive product, the Postal Service must also show that the Agreement covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, 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 Agreement exceeds its attributable costs, the Agreement 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 the Agreement covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Request includes a certified statement that the Agreement complies with the requirements of 39 U.S.C. § 3633(a). Request, Attachment 5. The Postal Service also filed supporting revenue and cost data showing that the Agreement is expected to cover its costs. Based on its review of the record, the Commission finds that the rates should

cover the Agreement's attributable costs. See 39 U.S.C. § 3633(a)(2). For this reason, the Commission concludes that the Agreement should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, the Commission finds that the Agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c).

The Commission will review the cost coverage of the Agreement, the Global Plus 6 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the ACD to ensure that they continue to comply with 39 U.S.C. § 3633(a).

In conclusion, a preliminary review of the Agreement indicates that it is consistent with section 3633(a).

Baseline agreement. The Commission designates the Agreement as the baseline agreement for the Global Plus 6 product. Following current practice, in any future request to add a new negotiated service agreement to the Global Plus 6 product, the Postal Service shall identify all significant differences between the new negotiated service agreement and the baseline agreement. Significant differences include terms and conditions that impose new obligations or new requirements on any party to the negotiated service agreement. The docket referenced in the caption of the request should be Docket No. MC2019-65. Consistent with current practice, the request should include a redacted copy of Governors' Decision 18-2.

Other considerations. The Postal Service will establish the effective date of the Agreement after the Commission completes its review. Request at 5. The Agreement will expire on September 30, 2019. *Id.* If the Agreement terminates before the scheduled expiration date, the Postal Service shall promptly notify the Commission in this docket.

In conclusion, the Commission approves Global Plus 6 as a new product and designates the Agreement as the baseline agreement for the Global Plus 6 product. Revisions to the competitive product list and the MCS appear below the signature of this Order and are effective immediately.

V. ORDERING PARAGRAPHS

It is ordered:

1. Global Plus 6 (MC2019-65 and CP2019-70) is added to the competitive product list as a new product. Revisions to the competitive product list and the MCS appear below the signature of this Order and are effective immediately.
2. The Commission designates the Agreement as the baseline agreement for the Global Plus 6 product.
3. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.
4. If the Agreement terminates before the scheduled expiration date, the Postal Service shall promptly notify the Commission in this docket.
5. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Stacy L. Ruble
Secretary

CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified in Appendix B to 39 C.F.R. part 3020, subpart A—Competitive Product List. These changes reflect the Commission’s order in Docket Nos. MC2019-65 and CP2019-70. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Appendix B to Subpart A of Part 3020—Competitive Product List

Negotiated Service Agreements*

Outbound International*
Global Plus Contracts

Global Plus 6

CHANGE IN MAIL CLASSIFICATION SCHEDULE
CHANGE IN PRODUCT LIST

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products
2000 Competitive Product List

Negotiated Service Agreements*

Outbound International*
Global Plus Contracts

Global Plus 6

2500 **Negotiated Service Agreements***

2510 **Outbound International**

2510.6 **Global Plus Contracts**

2510.6.6 Products Included in Group (Agreements)

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

- Global Plus 6
Baseline Reference
Docket Nos. MC2019-65 and CP2019-70
PRC Order No. 4975, January 8, 2019
Included Agreements