

ORDER NO. 4989

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

Before Commissioners:

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

Competitive Product Prices  
Global Reseller Expedited Package Services 2  
(MC2013-51)  
Negotiated Service Agreements

Docket No. CP2016-92

ORDER APPROVING MODIFICATION TWO TO GLOBAL RESELLER EXPEDITED  
PACKAGE SERVICES 2 NEGOTIATED SERVICE AGREEMENT

(Issued January 29, 2019)

I. INTRODUCTION

The Postal Service seeks to modify a Global Reseller Expedited Package Services 2 negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the Modification.

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<sup>1</sup> Notice of the United States Postal Service of Filing Modification Two to a Global Reseller Expedited Package 2 Negotiated Service Agreement, January 28, 2019 (Notice). The modification is an attachment to the Notice (Modification).

In Order No. 3022, the Commission approved the Global Reseller Expedited Package Services 2 negotiated service agreement (Existing Agreement).<sup>2</sup> On January 28, 2019, the Postal Service filed notice that it has agreed to the Modification to the Existing Agreement. The Postal Service also filed a motion for late acceptance and requested urgent review of the Modification.<sup>3</sup>

## II. COMMISSION ANALYSIS

The Commission has reviewed the Notice and the accompanying materials filed under seal, and the comments filed by the Public Representative.

*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 Modification revises the contract to include a contract extension provision. Notice, Attachment 1 at 1. The Postal Service states that it wishes to extend the

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<sup>2</sup> See Order Approving Additional Global Reseller Expedited Package Services 2 Negotiated Service Agreement, January 12, 2016 (Order No. 3022). The contract was later modified. See Order Approving Modification One to a Global Reseller Expedited Package Services 2 Negotiated Service Agreement, May 27, 2016 (Order No. 3324).

<sup>3</sup> United States Postal Service Motion for Late Acceptance and Request for Urgent Review of Modification Two to a Global Reseller Expedited Package 2 Negotiated Service Agreement, January 28, 2019 (Motion for Late Acceptance).

contract to April 30, 2019. Notice at 3. The Commission interprets this statement as providing notice of activation of the extension clause included in the Modification.<sup>4</sup>

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 April 30, 2019. See Notice at 3.

The extension provision in the Modification 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 Reseller." *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.<sup>5</sup> 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.

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<sup>4</sup> To ensure clarity of the procedural record, in future proceedings the Postal Service should file notice of activation of an extension clause separately from an amendment or modification that adds the extension clause to an existing agreement.

<sup>5</sup> 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 Reseller Expedited Package Services 2 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, April 30, 2019.
3. The Postal Service's Motion for Late Acceptance is granted.

By the Commission.

Stacy L. Ruble  
Secretary