

ORDER NO. 5057

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
Parcel Select Contract 22 (MC2017-155)
Negotiated Service Agreements

Docket No. CP2017-219

ORDER APPROVING AMENDMENT TWO TO
PARCEL SELECT NEGOTIATED SERVICE AGREEMENT

(Issued April 15, 2019)

I. INTRODUCTION

The Postal Service seeks to amend a Parcel Select negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Amendment to Parcel Select Contract 22, Filed Under Seal, March 28, 2019 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 4004, the Commission approved the Parcel Select Contract 22 negotiated service agreement (Existing Agreement).² On March 28, 2019, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On March 29, 2019, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

On April 5, 2019, Chairman's Information Request No. 1 was issued.⁴ CHIR No. 1 asked the Postal Service to explain the basis for an assumption in the financial workpapers filed in support of the Notice. See CHIR No. 1, question 1. The Postal Service filed a response on April 12, 2019, in which it identified data submitted to the Commission for this Agreement in the FY 2018 Annual Compliance Review that supports the assumption made in the workpapers.⁵

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁶ No other person submitted comments. The Public Representative reviewed the Amendment and the financial

² See Docket Nos. MC2017-155 and CP2017-219, Order Adding Parcel Select Contract 22 to the Competitive Product List, July 17, 2017 (Order No. 4004). The contract was later amended. See Order Approving Amendment One to Parcel Select Negotiated Service Agreement, August 16, 2018 (Order No. 4762).

³ See Docket No. CP2017-219, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, March 29, 2019.

⁴ Chairman's Information Request No. 1 and Notice of Filing Under Seal, April 5, 2019 (CHIR No. 1).

⁵ USPS Response to Chairman's Information Request No. 1, Filed Under Seal, April 12, 2019.

⁶ Public Representative Comments on Postal Service Notice of Amendment to Parcel Select Contract 22, April 4, 2019 (PR Comments).

model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, 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 Amendment revises the types of Parcel Select packages receiving negotiated rates, and revises the negotiated rates. See Notice, Attachment A at 1-4. The Amendment additionally makes operational changes to the contract that are described under seal. See *id.* at 4.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, 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, it finds the Existing Agreement, as amended, 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). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in

section I.F. of the Existing Agreement, as amended, should help ensure that revenues cover costs for the duration of its term. Notice, Attachment A at 3.

However, the Commission notes that although the Existing Agreement covered its attributable costs through the end of FY 2018,⁷ the actual cost coverage of the contract differed sharply from its projected cost coverage.⁸ Based on this history, the Commission finds that the Existing Agreement, as amended, requires closer scrutiny to monitor its cost coverage on an ongoing basis. The Commission directs the Postal Service to report contract-specific volumes, costs, and workhours on a quarterly basis for the duration of this contract.

The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in this docket and in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. Notice at 1.

If the Existing Agreement, as amended, 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 amended.

⁷ See Docket No. ACR2018, Annual Compliance Determination Report, April 12, 2019, at 103 (FY 2018 ACD).

⁸ The Postal Service filed cost coverage projections as part of the financial workpapers accompanying the original request to add the Parcel Select Contract 22 to the competitive product list and its first request to amend the contract. See Docket Nos. MC2017-115 and CP2017-219, Request of the United States Postal Service to Add Parcel Select Contract 22 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 6, 2017; USPS Notice of Amendment to Parcel Select Contract 22, Filed Under Seal, August 3, 2018. See also Docket No. ACR2018, Library Reference USPS–FY18–NP27, December 28, 2018 (showing actual performance for FY 2018).

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Parcel Select Contract 22 negotiated service agreement, as amended.
2. The Postal Service shall report contract-specific volumes, costs, and workhours on a quarterly basis for the duration of this contract. Each report shall be filed in this docket within 30 days of the completion of each quarter of the fiscal year, with the first report due on July 30, 2019.
3. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary