

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

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Competitive Product Prices
Inbound Parcel Post (at UPU Rates)

Docket No. CP2019-210

ORDER APPROVING CHANGES IN PRICES NOT OF GENERAL APPLICABILITY
FOR CERTAIN INBOUND PARCEL POST (AT UPU RATES)

(Issued August 29, 2019)

I. INTRODUCTION

The Postal Service proposes a change in prices not of general applicability for certain Inbound Parcel Post (at Universal Postal Union (UPU) rates), effective January 1, 2020.¹ The Commission analyzes the proposed prices pursuant to 39 U.S.C. § 3633(a). For the reasons discussed below, the Commission approves the Postal Service's proposed price changes.

¹ Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Certain Inbound Parcel Post (at UPU Rates), and Application for Non-Public Treatment, August 14, 2019, at 1 (Notice).

II. BACKGROUND

Inbound Parcel Post (at UPU rates). At the time it established separate product lists for market dominant and competitive products in 2007, the Commission assigned Inbound Air Parcel Post to the competitive product list.² In 2009, Inbound Air Parcel Post was bifurcated.³ In Order No. 362, the existing product, Inbound Air Parcel Post, was renamed Inbound Air Parcel Post (at non-UPU rates). Order No. 362 at 8-9. The Commission also approved the addition of a new product, Inbound Air Parcel Post (at UPU rates) to the competitive product list. *Id.* An initial review of the new product's prices indicated compliance with statutory requirements. *Id.* at 8. On June 26, 2014, the Commission accepted proposed price changes for Inbound Air Parcel Post (at UPU rates).⁴

On August 19, 2014, the Commission approved the Postal Service's request to: (1) transfer Inbound Surface Parcel Post (at UPU rates) from the market dominant product list to the competitive product list, (2) merge the transferred product with Inbound Air Parcel Post (at UPU rates), and (3) identify the merged product as Inbound Parcel Post (at UPU rates).⁵ An initial review indicated compliance with statutory requirements. Order No. 2160 at 7. In Order No. 2160, Inbound Air Parcel Post (at

² Docket No. RM2007-1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007, at 100 (Order No. 43).

³ See Docket Nos. MC2010-11 and CP2010-11, Order Adding Inbound Air Parcel Post at UPU Rates to Competitive Product List, December 15, 2009 (Order No. 362).

⁴ Docket No. CP2014-52, Order Accepting Price Changes for Inbound Air Parcel Post (at UPU Rates), June 26, 2014, at 5 (Order No. 2102). In Order No. 2102, the Commission also directed the Postal Service to provide, in future filings, a citation to where the applicable inward land rates can be located in the relevant UPU International Bureau (IB) Circular and to provide a copy of that circular. *Id.* In addition, the Commission directed the Postal Service to provide an update, as part of each filing, of information and data that had been provided in the Management Analysis that had accompanied the prices proposed for Inbound Air Parcel Post (at UPU rates). *Id.* at 5-6. The Postal Service states that much of the requested data is inapplicable to the e-commerce parcel (ECOMPRO) prices, which are set by the Postal Service and then communicated to the UPU. Notice at 6.

⁵ Docket No. MC2014-28, Order Approving Product List Transfer, August 19, 2014, at 8 (Order No. 2160).

UPU rates) and Inbound Surface Parcel Post (at UPU rates) were merged into a single product identified as Inbound Parcel Post (at UPU rates). *Id.*

On January 11, 2017, the Commission approved, in part, the Postal Service's request to include ECOMPRO as part of the Inbound Parcel Post (at UPU rates) product.⁶ ECOMPRO allows designated postal operators of UPU member countries, including the Postal Service, to mutually consent to the UPU's e-commerce delivery options. Order No. 3748 at 5. There are several differences between Inbound Air Parcel Post and ECOMPRO offerings, including that ECOMPRO does not require signature upon delivery. *Id.* The Commission added ECOMPRO to the competitive product list at the same prices as the UPU inbound air parcel post rates. *Id.* at 7. The Commission did not approve the Postal Service's request to include future bilateral agreements for discounted ECOMPRO prices as part of the Inbound Parcel Post (at UPU rates) because the Postal Service neither proposed specific discounted prices nor provided financial models that incorporated the effect of the discounted prices. *Id.* at 9.

In Order No. 4792, the Commission reviewed and approved the Postal Service's proposed change in ECOMPRO prices.⁷ However, the Commission noted that the Postal Service used ACP⁸ volume and weight as a proxy for ECOMPRO volume and weight in its supporting financial workpapers. *Id.* at 5. The Commission accepted the Postal Service's use of this data but directed the Postal Service to "use ECOMPRO pieces exclusively in its analysis when requesting future changes to ECOMPRO prices." *Id.* at 6.

Initial Commission Action. On August 14, 2019, the Postal Service requested approval of new ECOMPRO prices, scheduled to take effect on January 1, 2020.

⁶ Docket Nos. MC2017-58 and CP2017-86, Order Approving in Part Classification Changes for Inbound Parcel Post (at UPU Rates), January 11, 2017, at 7 (Order No. 3748).

⁷ See Docket No. CP2018-286, Order Approving Changes in Prices Not of General Applicability for Certain Inbound Parcel Post (at UPU Rates), August 23, 2018 (Order No. 4792).

⁸ "ACP" stands for air colis postaux, "postal packages," and refers to Inbound Parcel Post pieces transmitted by air.

Notice at 1. Included with the Notice were public and non-public versions of two Excel spreadsheets.⁹ The “01_Narrative” tab of the public version of the “IB eCompro-CP2019-210.xlsx” Excel file was almost entirely redacted. On August 15, 2019, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.¹⁰

III. PROPOSED PRICE CHANGE

The Postal Service requests that the Commission approve its proposed new ECOMPRO rates for its Inbound Parcel Post (at UPU Rates) product. Notice at 1. The Postal Service states that the proposed prices are in compliance with the requirements of 39 U.S.C. § 3633(a)(2) and within the scope of Governors’ Decision No. 19-1, as required by 39 U.S.C. § 3632(b)(3). *Id.* at 5, 6.

The Postal Service filed separately, under seal with the Commission, the prices and supporting documents it represents show compliance with 39 U.S.C. § 3633(a)(2) and 39 C.F.R. § 3015.5. *See id.* at 4. The Postal Service’s Application for Non-Public Treatment of those materials is included in the Notice as Attachment 1. A redacted version of the proposed ECOMPRO prices is included as Attachment 2. The certified statement required by 39 C.F.R. § 3015.5(c)(2) is included as Attachment 3. A redacted copy of Governors’ Decision No. 19-1 is included as Attachment 4.

The Postal Service also filed supporting financial documentation that provides the special drawing rights conversion rate to U.S. dollars and the estimated cost coverage, assuming that all inbound air parcel post volume is exchanged using the ECOMPRO delivery option and prices. *Id.* at 5. The Postal Service states that the proposed ECOMPRO prices should generate sufficient revenue to cover costs and satisfy the requirements of 39 U.S.C. § 3633(a). *See id.*

⁹ Excel files “USPS IB eCompro-CP2019-210.xlsx” and “USPS EMS Fins-CP2019-210.xlsx.”

¹⁰ Notice and Order Concerning Changes in Rates for Inbound Parcel Post (at UPU Rates), August 15, 2019 (Order No. 5202).

IV. COMMENTS

The Public Representative filed comments on August 20, 2019.¹¹ The Public Representative notes that “[d]espite the Commission’s requirement to use actual data in its supporting workpapers when requesting future changes to ECOMPRO prices, the Postal Service continues to use ACP weight and volumes as proxies.” *Id.* at 2. She states that “the Postal Service did not explain why it did not use[] actual data in its supporting workpapers.” *Id.* For that reason, she recommends that the Commission request that the Postal Service update its supporting workpapers in accordance with the Commission’s directive in Order No. 4792. *Id.*

The Public Representative states that, if there is a valid reason for not using actual data, she supports using ACP weight and volume as proxies. *Id.* In that case, she concludes that “the supporting workpapers provided by the Postal Service, using proxies, do show that the prices comport with 39 U.S.C. § 3633(a).” *Id.* at 2-3.

The Postal Service also filed comments on August 20, 2019.¹² The Postal Service states that it provided an explanation, justifying its use of ACP proxy data, in the narrative section of its non-public supporting financial documents. Postal Service Comments at 2. The Postal Service asserts that it “provide[d] a valid reason as to why it did not use the ECOMPRO piece data” and therefore “established that the proposed new ECOMPRO rates in its Notice for its Inbound Parcel Post (at UPU Rates) product are in compliance with the requirements of 39 U.S.C. § 3633(a)(2).” *Id.*

V. COMMISSION ANALYSIS

The Commission reviews price changes for competitive products in terms of the criteria in 39 U.S.C. § 3633(a). These criteria prohibit the subsidization of competitive products by market dominant products (§ 3633(a)(1)), require each competitive product to cover its attributable costs (§ 3633(a)(2)), and require competitive products as a

¹¹ Public Representative Comments, August 20, 2019 (PR Comments).

¹² Comments of the United States Postal Service, August 20, 2019 (Postal Service Comments).

whole to cover an appropriate share of institutional costs (§ 3633(a)(3)). The Commission has reviewed the Notice, the materials filed under seal, the supporting workpapers, the Public Representative's comments, and the Postal Service's comments.

In the instant docket, the Postal Service failed to respond to the Commission's public directive in Order No. 4792 in its public filings. Instead, the Postal Service responded to the directive by filing documents under seal. The Commission stresses that transparency in the regulatory process requires that the Postal Service respond publicly to public directives from the Commission.

The Commission issued a Commission Information Request, requesting that the Postal Service "provide a public response to the Commission's directive in Order No. 4792" to use actual ECOMPRO piece data for future price requests.¹³ The Postal Service responded on August 29, 2019.¹⁴

The Commission accepts the Postal Service's justification for using ACP weights and volumes as proxy data in this case. The Postal Service provided valid reasoning for its decision not to use actual ECOMPRO data. However, the Postal Service must be more transparent regarding its justifications in future cases, and publicly respond to any public Commission directive.

The Commission finds that the Postal Service demonstrates that the proposed ECOMPRO prices are expected to comply with the statutory criteria intended to ensure that competitive products are not cross-subsidized by market dominant products, that they cover costs, and make a contribution to institutional costs. See 39 U.S.C. § 3633(a)(1)-(3). Thus, the proposed ECOMPRO prices comport with the provisions applicable to competitive products. The Commission approves the proposed ECOMPRO prices.

¹³ Commission Information Request No. 1, August 28, 2019, at 2.

¹⁴ Responses of the United States Postal Service to Commission Information Request No. 1 and Notice of Filing Under Seal, August 29, 2019.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Commission finds that the proposed ECOMPRO prices, scheduled to take effect on January 1, 2020, are in accordance with the relevant statutory and regulatory requirements of 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.
2. The Postal Service shall report separately the revenue, pieces, and weight of ECOMPRO pieces for each country in future Annual Compliance Reports, and must use ECOMPRO pieces exclusively in its analysis when requesting future changes to ECOMPRO prices or provide a valid justification for using other volume data.

By the Commission.

Darcie S. Tokioka
Acting Secretary