

ORDER NO. 5215

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  
Global Plus 1D (CP2016-193)  
Negotiated Service Agreements

Docket No. CP2017-254

ORDER APPROVING MODIFICATION THREE TO  
GLOBAL PLUS 1D NEGOTIATED SERVICE AGREEMENT

(Issued August 29, 2019)

I. INTRODUCTION

The Postal Service seeks to modify a Global Plus 1D 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 Three to a Global Plus 1D Negotiated Service Agreement, August 28, 2019 (Notice). The modification is an attachment to the Notice (Modification).

In Order No. 4048, the Commission approved the Global Plus 1D negotiated service agreement (Existing Agreement).<sup>2</sup> On August 28, 2019, the Postal Service filed notice that it has agreed to the Modification to the Existing Agreement. The Postal Service additionally filed a motion for late acceptance.<sup>3</sup>

## 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 Modification revises the expiration date of the Existing Agreement from August 31, 2019, to January 31, 2020, and provides for early termination if “the United States does not express its unequivocal intention to rescind its notice of withdrawal from the Universal Postal Union” (UPU). Notice, Attachment 1 at 1. The Modification

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<sup>2</sup> See Approving Additional Global Plus 1D Negotiated Service Agreements and Conditionally Approving Modifications, August 16, 2017 (Order No. 4048). The contract was later modified. See Notice of the United States Postal Service of Filing a Modification in Response to Order No. 4048, October 5, 2017; Order Approving Modification Two(A) to Global Plus 1D Negotiated Service Agreement, August 22, 2018 (Order No. 4779); Order Approving Modifications Two and Two(B) to Global Plus 1D Negotiated Service Agreement, October 2, 2018 (Order No. 4847).

<sup>3</sup> United States Postal Service Motion for Late Acceptance and Request for Urgent Review of Modification Three to a Global Plus 1D Negotiated Service Agreement, August 28, 2019 (Motion). The Motion is granted.

additionally adds new contract language concerning notification of the approval process and a provision for two three-month extensions. *Id.*

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.

*Timeliness.* The Notice is untimely. The Commission requires modifications extending negotiated service agreements to be filed at least seven days prior to contract expiration.<sup>4</sup> Instead, the Postal Service filed the Notice three days prior to contract expiration. See Notice at 1. In its Motion, the Postal Service explains that the delay was caused by the customer's failure to sign the Modification until August 27, 2019, and that the Postal Service filed the Modification with the Commission the next day. Motion at 2. Untimely filings create the risk that the Commission will not be able to act prior to contract expiration.

The Commission notes that the delay on the part of the customer would not have prevented the Postal Service from timely filing a motion for temporary relief seven days prior to contract expiration. A timely filed motion for temporary relief would have reduced the risk that the Commission would have been unable to act to extend the contract prior to its expiration.<sup>5</sup> Due to the range of available extension options described in Order No. 4866, the Commission expects that there should not be a need for untimely filings requesting a contract extension less than seven days prior to contract expiration.

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<sup>4</sup> Docket Nos. CP2017-253, *et al.*, Order Approving Modifications and Providing Guidance Regarding Extending Negotiated Service Agreements, October 30, 2018, at 4 (Order No. 4866).

<sup>5</sup> The Commission notes that when a modification has been sent to the customer well in advance of the filing deadline, the Commission has recognized a delay on the part of the customer as showing a good faith effort to comply with the requirement that motions for temporary relief not be used as standard practice. See, e.g., Docket No. CP2016-152, Order Granting Motion for Temporary Relief, April 24, 2018, at 2 (Order No. 4588); *cf.* Docket No. CP2017-266, Order Denying Motion for Temporary Relief, August 30, 2018 (Order No. 4803) (denying temporary relief where, among other issues, the modification was submitted to the customer after the deadline for filing with the Commission had already passed).

*Other considerations.* The Modification contains provisions that allow the Postal Service to extend the Existing Agreement for two three-month periods if the Commission is notified at least seven days prior to the contract's expiration date. Notice, Attachment 1 at 1. The Commission finds the two potential three-month extension periods reasonable because the extension(s) 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 dates (including if the early termination provisions related to withdrawal from the UPU are triggered), the Postal Service shall promptly notify the Commission.

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

### III. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Global Plus 1D 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, as described in the body of this Order.

By the Commission.

Darcie S. Tokioka  
Acting Secretary