

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Transfer of Inbound Letter Post Small
Packets to the Competitive Product List

Docket No. MC2019-17

Competitive Product Prices
Inbound E-Format Letter Post

Docket No. CP2019-155

PUBLIC REPRESENTATIVE COMMENTS
(December 10, 2019)

INTRODUCTION

In accordance with Order No. 5323,¹ the Public Representative comments on the Postal Service's motion² to transfer Inbound Letter Post Small Packets and Bulky Letters to the Competitive product list on January 1, 2020.

Along with the Motion, the Postal Service also filed financial workpapers demonstrating compliance with 39 U.S.C. § 3633(a). The Postal Service's calculations rely on two sets of prices: terminal dues established by the Universal Postal Convention and its Regulations that will apply from January 1, 2020, to June 30, 2020, and self-declared prices for countries with mail flows that exceed applicable annual tonnage thresholds, which the Postal Service intends to implement on July 1, 2020. *Id.*

COMMENTS

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its

¹ Notice And Order of Proposed Revised Transfer Date and Price Adjustment for Inbound Letter Post Small Packets and Bulky Letters, November 26, 2019 (Order No. 5323).

² Docket No. MC2019-17, Motion of the United States Postal Service to Effectuate Transfer on January 1, 2020, and Application for Non-Public Treatment, November 20, 2019, at 1 (Motion).

attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

The Public Representative finds that based on the information provided by the Postal Service in the Motion and the supporting financial documentation, effectuating the transfer in January would create a competitive product that would fail to comply with 39 U.S.C. § 3633(a). The Public Representative made this determination based on the prices going into effect in January. The prices going into effect in January will not provide sufficient revenues to cover cost. Therefore, Public Representative urges the Commission to reject the Motion.

The Postal Service contends that the Commission should evaluate compliance based on the 12-month period following the transfer, which includes both the CY 2020 terminal dues, and the self-declared prices. *Id.* at 7. However, the Commission has previously rejected the notion that competitive prices need not cover cost immediately upon transfer. As the Commission explained, “Section 3633 requires, in part, that the Commission shall “ensure” that each competitive product covers its attributable costs and “prohibits” subsidization of competitive products by market dominant products. The PAEA requires each competitive product to cover its attributable costs at the time of transfer.”³ In fact, if the Commission approved the transfer, a legitimate complaint could be brought before the Commission. But, due to the unique nature of products subject to terminal dues, the Postal Service would be limited in its ability to take remedial action, even if the Commission required it.

If the Postal Service desires to move forward with the transfer in January, the Public Representative suggests that the Postal Service amend its transfer request. The Postal Service could propose a new competitive product called Single-Piece First-Class Package International Service with two price categories: (1) Outbound Single-Piece First-Class Package International Service, which would consist of the current product Outbound Single-Piece First-Class Package International Service, and (2) Inbound

³ Docket No. MC2010-36, Order Conditionally Granting Request to Transfer Commercial Standard Mail Parcels to the Competitive Product List (Order No. 689), March 2, 2011, at 18-19.

Single-Piece First-Class Package International Service, which would consist of the currently market-dominant product, Inbound Letter Post Small Packets and Bulky Letter. Then, the Postal Service could amend its transfer request to add Inbound Letter Post Small Packets and Bulky Letters product to Inbound Single-Piece First-Class Package International Service category. Adding Inbound Letter Post Small Packets and Bulky Letters to the Single-Piece First-Class Package International Service product would not prevent Single-Piece First-Class Package International Service from covering cost, and meeting all the requirements of Section 3633.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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