

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 Competitive Multi-Service Agreements
with Foreign Postal Operators

Docket No. CP2018-96

Canada Post Corporation – United States Postal
Service Contractual Bilateral Agreement (MC2010-34)
Negotiated Service Agreements

ORDER APPROVING MODIFICATION THREE TO AN INBOUND COMPETITIVE
MULTI-SERVICE AGREEMENT WITH FOREIGN POSTAL
OPERATORS 1 NEGOTIATED SERVICE AGREEMENT

(Issued December 31, 2019)

I. INTRODUCTION

Pursuant to 39 U.S.C. § 407(d)(2), the Postal Service filed notice that it signed a modification to an Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 negotiated service agreement (Agreement)¹ with the Canada Post

¹ Notice of the United States Postal Service of Filing Modification to an Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, December 10, 2019, at 1-2 (Notice). Modification Three is an attachment to the Notice (Modification Three).

Corporation (Canada Post). The Commission analyzes the proposed modification pursuant to 39 U.S.C. § 3633(a). For the reasons discussed below, the Commission approves Modification Three.

II. BACKGROUND

In Order No. 4309, the Commission added the competitive inbound portions of the Agreement to the Mail Classification Schedule under the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product.² On September 11, 2019, the Commission acknowledged a modification to this negotiated service agreement, adding rates for certain market dominant inbound and outbound letter post mail streams.³ Additionally, the Commission approved an extension of the market dominant rates associated with the Agreement.⁴

On December 10, 2019, the Postal Service filed notice that it has executed Modification Three of the Agreement with Canada Post. The Postal Service attached a copy of Modification Three, Governors' Decision 19-1, a certified statement required by 39 C.F.R. § 3015.5, and supporting financial documentation. The Postal Service states that Modification Three "extends the general terms of the bilateral agreement to June 30, 2020" and "replaces the rate table in Attachment 1 of the Agreement as it relates to inbound competitive service rates." Notice at 1. The Postal Service states that the intended effective date for Modification Three is January 1, 2020. *Id.* at 2.

² Order Approving Additional Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, December 28, 2017 (Order No. 4309).

³ Order Acknowledging Modification Two to an Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, September 11, 2019 (Order No. 5224).

⁴ Docket No. R2018-2, Order Approving Modification Three to Existing Agreement, November 19, 2019 (Order No. 5313).

On December 11, 2019, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.⁵

III. COMMENTS

The Commission received comments from the Public Representative on December 18, 2019.⁶ No other interested party filed comments. The Public Representative states that Modification Three is functionally equivalent to the baseline agreement and recommends approval. PR Comments at 1-2. She also asserts that Modification Three will generate sufficient revenues to cover cost and will not impair the ability of competitive products to cover the appropriate share of institutional costs. *Id.* at 2, 3.

However, the Public Representative notes that the Postal Service uses forecasted volumes in its financial model without explaining its forecasting methodology. *Id.* at 2. She avers that inaccurate volume forecasts can make an agreement that fails to cover cost appear to have adequate cost coverage. *Id.* She states that although “using existing volumes did not alter the conclusion that Modification Three covers cost, the cost coverage generated by Modification Three was reduced slightly.” *Id.* at 3. For that reason, she “urges the Commission to order the Postal Service to use existing volumes in its financial models” and to “petition the Commission to consider its volume forecast methodology in a rulemaking docket” if the Postal Service intends to “use forecasted volumes in the future.” *Id.* at 2.

⁵ Docket No. CP2018-96, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 11, 2019.

⁶ Public Representative Comments on Modification Three, December 18, 2019 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, Modification Three, supporting documentation, and Public Representative's comments.

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).

Modification Three revises the Agreement's prices. See Notice, Modification Three. The Agreement, as modified, should continue to cover costs and comply with 39 U.S.C. § 3633(a). Consequently, the Commission finds that the modification of the Agreement within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2).

Volume Projections. The Public Representative raises a concern with the Postal Service's use of volume projections in its workpapers. PR Comments at 2. The Commission finds that the volumes used by the Postal Service are reasonable because they are actual volume and weight data, but not for a full fiscal year.⁷ The Commission notes that the Public Representative's analysis using a full year of actual volumes also results in a positive cost coverage estimate.

Thus, the Commission approves the revisions made to the Agreement pursuant to Modification Three.

⁷ See Excel file "NONPUBLIC Mod Three-USPS-CP2018-96.xls," spreadsheet "10_Volume Projection," cells B24, B25, B27, and B28, December 10, 2019 (filed with the Notice).

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the revisions made to the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 negotiated service agreement with the Canada Post Corporation pursuant to Modification Three.
2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams
Acting Secretary