

ORDER NO. 5453

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
GEPS 10 (MC2018-207)
Negotiated Service Agreements

Docket No. CP2020-99

ORDER APPROVING ADDITIONAL GEPS 10
NEGOTIATED SERVICE AGREEMENT

(Issued March 9, 2020)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Expedited Package Services 10 (GEPS 10) agreement (Agreement) within the GEPS 10 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 10 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, February 21, 2020 (Notice).

II. BACKGROUND

Agreements included within the GEPS 10 product offer price incentives to mailers that use Priority Mail Express International, Priority Mail International, or First-Class Package International Service.

On February 21, 2020, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline GEPS 10 product. Notice at 2. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the GEPS 10 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Postal Service will notify the customer of the effective date of the agreement. Notice at 3. It is set to expire June 30, 2020. *Id.*

On February 24, 2020, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

III. COMMENTS

The Public Representative filed comments on February 26, 2020.³ No other comments were received.

² Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, February 24, 2020.

³ Public Representative Comments on Notice of United States Postal Service Filing a Functionally Equivalent Global Expedited Package Services 10 Negotiated Service Agreement, February 26, 2020 (PR Comments).

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, and a comparison with the baseline GEPS 10 agreement, the Public Representative states that the "contract comports with relevant provisions of title 39." PR Comments at 1-2. He states that the contract's ability to cover its attributable costs is due to pricing incentives and other provisions favorable to the Postal Service. *Id.* at 2.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the GEPS 10 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 4800, the Commission approved the addition of GEPS 10 to the competitive product list and designated an agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the GEPS 10 product.⁴

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GEPS 10 product. Notice at 2. It asserts that the Agreement fits within the Mail Classification Schedule language for the GEPS 10 product. *Id.* The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms but states that prices may differ. *Id.* at 3. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not

⁴ See Docket Nos. MC2018-207 and CP2018-289, Order Adding Global Expedited Package Services 10 to the Competitive Product List and Designating Baseline Agreement, August 29, 2018, at 7 (Order No. 4800).

affect the fundamental service being offered or the fundamental structure of the Agreement.⁵

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the GEPS 10 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, 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 a 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, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

⁵ Differences are limited to the identity of the contract partner and terms that pertain specifically to contract administration, such as payment methods, the term of the agreement, notice requirements, and record-keeping.

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs.⁶ The addition of the Agreement to the GEPS 10 product will not cause cost coverage for the product to fall below 100 percent because, as the Commission found in the FY 2018 Annual Compliance Determination (ACD), the product as a whole covers its attributable costs.⁷ Consequently, the Commission finds that the addition of the Agreement to the GEPS 10 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the GEPS 10 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product 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 addition of the Agreement to the GEPS 10 product 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). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the GEPS 10 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the ACD to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service will notify the customer of the effective date of the agreement. Notice at 3. The Postal Service shall promptly notify the Commission of the effective date of the Agreement. It is set to expire June 30, 2020.

⁶ The Commission notes that when projecting cost coverage for this contract the Postal Service relied on revised unit cost data rather than the data filed in the International Cost and Revenue Analysis. The Commission has previously found that, for outbound international negotiated service agreements, the impact on cost coverage of using the revised unit cost data is negligible. Docket No. CP2020-95, Order Approving Additional GEPS 10 Negotiated Service Agreement, March 6, 2020, at 5-6 (Order No. 5477).

⁷ Docket No. ACR2018, Annual Compliance Determination Report, Fiscal Year 2018, April 12, 2019, at 109-111.

Id. If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2020-99 is included within the Global Expedited Package Services 10 (MC2018-107) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission of 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.

Erica A. Barker
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.3 Global Expedited Package Services (GEPS) Contracts

2510.3.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- GEPS 10
Baseline Reference
Docket Nos. MC2018-207 and CP2018-289
PRC Order No. 4800, August 29, 2018
Included Agreements

CP2020-99, expires June 30, 2020
