

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  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contracts  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 2

Docket No. MC2020-157

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 2 (MC2020-157)  
Negotiated Service Agreements

Docket No. CP2020-173

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contracts  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 3

Docket No. MC2020-158

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 3 (MC2020-158)  
Negotiated Service Agreements

Docket No. CP2020-174

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contracts  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 4

Docket No. MC2020-165

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 4  
(MC2020-165)  
Negotiated Service Agreements

Docket No. CP2020-188

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contracts  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 5

Docket No. MC2020-170

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 5  
(MC2020-170)  
Negotiated Service Agreements

Docket No. CP2020-193

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contracts  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 6

Docket No. MC2020-173

Competitive Product Prices  
Priority Mail Express International, Priority Mail  
International, First-Class Package International  
Service & Commercial ePacket Contract 6  
(MC2020-173)  
Negotiated Service Agreements

Docket No. CP2020-197

ORDER ADDING PRIORITY MAIL EXPRESS INTERNATIONAL, PRIORITY MAIL  
INTERNATIONAL, FIRST-CLASS PACKAGE INTERNATIONAL SERVICE AND  
COMMERCIAL EPACKET CONTRACTS TO THE COMPETITIVE PRODUCT LIST

(Issued June 26, 2020)

I. INTRODUCTION

In these dockets, the Postal Service seeks to add five new products (Agreements) to the competitive product list in the Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket product group. For the reasons discussed below, the Commission approves the requests.

II. BACKGROUND

On June 11, 2020 and June 15, 2020, in accordance with 39 U.S.C. § 3642, 39 C.F.R. §§ 3040.130 *et seq.*, and 39 C.F.R. § 3035.105, the Postal Service filed requests (Requests) requesting the inclusion of additional products, along with supporting documents. In the Requests, the Postal Service asserts that the Agreements are competitive products that establish rates “not of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Requests at 1. Among the supporting documents in each filing, the Postal Service included a copy of the Governors’ Decision authorizing the product, a contract related to the proposed new product, requested changes to the

competitive product list, a statement of supporting justification, 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 Governors' Decision and the contract, customer-identifying information, and related financial information remain under seal. *Id.* Attachment F.

On June 12 and June 16, 2020, the Commission issued a notice establishing the instant dockets, appointing Public Representatives, and providing interested persons with an opportunity to comment.<sup>1</sup>

### III. COMMISSION ANALYSIS

The Commission has reviewed the Requests, the contracts, the supporting data filed under seal, and the Public Representatives' comments.

*Product list requirements.* The Commission's statutory responsibilities when evaluating the Requests include assigning the Agreements to either the market dominant or competitive product list. See 39 U.S.C. § 3642(b)(1); 39 C.F.R. § 3040.134. Before adding a product to the competitive product list, the Commission must determine that the Postal Service does not exercise sufficient market power that it can effectively set the price of the product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. See 39 U.S.C. § 3642(b)(1). In addition, the Commission must consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. See 39 U.S.C. § 3642(b)(3); 39 C.F.R. §§ 3040.132(f), (g), and (h).

The Postal Service asserts that it provides postal services of the kind provided under the contracts in a highly competitive market, that other shippers who provide

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<sup>1</sup> See Docket No. MC2020-156, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 12, 2020; Docket No. MC2020-163, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 16, 2020.

similar services constrain its bargaining position, and that it can therefore neither raise prices nor decrease service, quality, or output without risking the loss of business to competitors. Requests, Attachment D at 2. The Postal Service states that the contract partners support the Requests, that expedited shipping is widely available from private firms, and that the Postal Service is unaware of any small business concerns that could offer comparable services to the contract partner. *Id.* at 3.

The Commission finds that the Postal Service does not exercise sufficient market power that it can effectively set the price of the proposed product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. The availability of other private sector providers supports this conclusion. The contract partners and the Public Representatives support the addition of the Agreements to the competitive product list. Further, there is no evidence of an adverse impact on small businesses. For these reasons, having considered the relevant statutory and regulatory requirements, the comments filed, and the Postal Service's supporting justification, the Commission finds that the Agreements are appropriately classified as competitive and are added to the competitive product list.

*Cost considerations.* Because the Commission finds the Agreements to be competitive products, the Postal Service must also show that each contract 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. §§ 3035.105 and 3035.107. As long as the revenue generated by each contract exceeds its attributable costs, the contract 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 contract covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

Based on a review of the record, the Commission finds that the rates during the term of the contracts should cover their attributable costs. 39 U.S.C. § 3633(a)(2).

Thus, the Commission also finds that the contracts 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, the Commission finds the contracts are 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). *See also* 39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the contracts indicates they are consistent with section 3633(a).

The Commission will review the contracts' cost coverage and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

*Other considerations.* The Postal Service shall promptly notify the Commission should there be a change in the effective date of any of the Agreements. If any of the Agreements are terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in the appropriate dockets.

The contracts contain a provision whereby the Postal Service can extend each contract for two 3-month periods provided the Commission is notified at least 7 days prior to the contract's expiration date. Request, Attachment B at 3. The Commission finds the two potential 3-month extension periods are reasonable because the extension(s) should assist the Postal Service's contract negotiations by providing additional flexibility.

Section IV contains a list of the docket numbers associated with each Postal Service request, the title and date of the Postal Service's filing, the term of the agreement, and a brief summary of the comments received.

The Commission approves the Agreements filed in the docket numbers listed in section IV as new products. Revisions to the competitive product list and the Mail Classification Schedule appear below the signature of this Order and are effective immediately.

#### IV. NEW PRODUCTS APPROVED

1. *Docket Nos.:* MC2020-157 and CP2020-173; *Filing:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal, June 11, 2020 (MC2020-157 and CP2020-173 Notice). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-157 and CP2020-173 Notice at 2. The Agreement is set to expire June 30, 2021. See MC2020-157 and CP2020-173 Notice, Attachment B at 3. *Public Comments:* The Public Representative filed comments on June 19, 2020.<sup>2</sup> No other comments were received. The Public Representative recommends approval of the contract, concluding that it satisfies the applicable statutes and will generate sufficient revenue to cover its attributable costs. MC2020-157 and CP2020-173 PR Comments at 2-3.

2. *Docket Nos.:* MC2020-158 and CP2020-174; *Filing:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 3 to Competitive Product List and Notice of Filing Materials Under Seal, June 11, 2020 (MC2020-158 and CP2020-174 Notice). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-158 and CP2020-174 Notice at 2. The Agreement is set to expire June 30, 2021. See MC2020-158 and CP2020-174 Notice, Attachment B at 3. *Public Comments:* The Public Representative filed comments on June 19, 2020.<sup>3</sup> No other comments were received. The Public Representative concludes that the

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<sup>2</sup> Docket Nos. MC2020-157 and CP2020-173, Public Representative Comments on USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial E-Packet Contract 2 to Competitive Product List, June 19, 2020 (MC2020-157 and CP2020-173 PR Comments).

<sup>3</sup> Docket Nos. MC2020-158 and CP2020-174, Public Representative Comments on USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial E-Packet Contract 3 to Competitive Product List, June 19, 2020 (MC2020-158 and CP2020-174 PR Comments).

contract satisfies the requirements to be classified as a new competitive product and should generate sufficient revenue to cover its attributable costs. MC2020-158 and CP2020-174 PR Comments at 3.

3. *Docket Nos.:* MC2020-165 and CP2020-188; *Filing:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 4 to Competitive Product List and Notice of Filing Materials Under Seal, June 15, 2020 (MC2020-165 and CP2020-188 Notice). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-165 and CP2020-188 Notice at 2. The Agreement is set to expire June 30, 2021. See MC2020-165 and CP2020-188 Notice, Attachment B at 3. *Public Comments:* The Public Representative filed comments on June 23, 2020.<sup>4</sup> No other comments were received. The Public Representative recommends approval of the contract, concluding that it satisfies the requirements to be classified as a competitive product and will generate sufficient revenue to cover its attributable costs. MC2020-165 and CP2020-188 PR Comments at 2-3.

4. *Docket Nos.:* MC2020-170 and CP2020-193; *Filing:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 5 to Competitive Product List and Notice of Filing Materials Under Seal, June 15, 2020 (MC2020-170 and CP2020-193 Notice). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-170 and CP2020-193 Notice at 2. The Agreement is set to expire June 30, 2021. See MC2020-170 and CP2020-193 Notice, Attachment 1 at 3. *Public Comments:* The Public Representative filed comments on June 23, 2020.<sup>5</sup>

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<sup>4</sup> Docket Nos. MC2020-165 and CP2020-188, Public Representative Comments on USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial E-Packet Contract 4 to Competitive Product List, June 23, 2020 (MC2020-165 and CP2020-188 PR Comments).

<sup>5</sup> Docket Nos. MC2020-170 and CP2020-193, Public Representative Comments on USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial E-Packet Contract 5 to Competitive Product List, June 23, 2020 (MC2020-170 and CP2020-193 PR Comments).



No other comments were received. The Public Representative recommends approval of the contract, concluding that it satisfies the requirements to be classified as a competitive product and will generate sufficient revenue to cover its attributable costs. MC2020-170 and CP2020-193 PR Comments at 2-3.

5. *Docket Nos.:* MC2020-173 and CP2020-197; *Filing:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 6 to Competitive Product List and Notice of Filing Materials Under Seal , June 15, 2020 (MC2020-173 and CP2020-197 Notice). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-173 and CP2020-197 Notice at 2. The Agreement is set to expire June 30, 2021. See MC2020-173 and CP2020-197 Notice, Attachment B at 3. *Public Comments:* The Public Representative filed comments on June 23, 2020.<sup>6</sup> No other comments were received. The Public Representative concludes that the contract satisfies the requirements to be classified as a new competitive product and should generate sufficient revenue to cover its attributable costs. MC2020-173 and CP2020-197 PR Comments Errata at 3-4.

## V. ORDERING PARAGRAPHS

*It is ordered:*

1. The Agreements filed in the dockets listed in section IV are added to the competitive product list as a new products under Negotiated Service Agreements, International. Revisions to the competitive product list and the Mail

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<sup>6</sup> Docket Nos. MC2020-173 and CP2020-197, Public Representative Comments on USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial E-Packet Contract 6 to Competitive Product List, June 23, 2020. The Public Representative also filed errata to their comments. Docket Nos. MC2020-173 and CP2020-197, Public Representative Notice of Filing Errata to Comments Filed on June 23, 2020, June 24, 2020 (MC2020-173 and CP2020-197 PR Comments Errata).

Classification Schedule appear below the signature of this Order and are effective immediately.

2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of any of the Agreements.
3. The Postal Service shall promptly file notice of an Agreement's termination with the Commission in the appropriate docket if that Agreement is terminated prior to the scheduled expiration date.
4. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Erica A. Barker  
Secretary

## CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified in Appendix B to 39 C.F.R. part 3040, subpart A—Competitive Product List. These changes reflect the Commission’s order in Docket Nos. MC2020-164 and CP2020-187. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

### **Appendix B to Subpart A of Part 3040—Competitive Product List**

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#### **Negotiated Service Agreements\***

International\*

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Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 2

Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 3

Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 4

Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 5

Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 6

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## 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** **2000 Competitive Product List**

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#### **Negotiated Service Agreements\***

International\*

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Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 2  
Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 3  
Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 4  
Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 5  
Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 6

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**2500**

**Negotiated Service Agreements**

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**2510**

**Outbound International**

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**2510.16**

**Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contracts**

These contracts provide incentives for Priority Mail Express International (PMEI) (2305), Outbound Priority Mail International (PMI) (2315), Outbound Single-Piece First-Class Package International Service (FCPIS) (2335) and Commercial ePacket (CeP) for all destinations served by each respective product or service. CeP is a commercial service designed for volume shipments of outbound international letter post packet items (destined for delivery to certain destinations outside of the United States). Individual item tracking is provided. CeP pieces are sealed against inspection and shall not be opened except as authorized by law. CeP pieces that are undeliverable-as-addressed are entitled to be forwarded or returned to the sender. Size and weight limitations for CeP are the same as for International Priority Airmail Packages (Small Packets) and Rolls (2320.2).

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

- Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 2

Baseline Reference

Docket Nos. MC2020-157 and CP2020-173

PRC Order No. 5568, June 26, 2020

Included Agreements

CP2020-173, expires June 30, 2021

- Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 3

Baseline Reference

Docket Nos. MC2020-158 and CP2020-174

PRC Order No. 5568, June 26, 2020

Included Agreements

CP2020-174, expires June 30, 2021

- Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 4

Baseline Reference

Docket Nos. MC2020-165 and CP2020-188

PRC Order No. 5568, June 26, 2020

Included Agreements

CP2020-188, expires June 30, 2021

- Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 5

Baseline Reference

Docket Nos. MC2020-170 and CP2020-193

PRC Order No. 5568, June 26, 2020

Included Agreements

CP2020-193, expires June 30, 2021

- Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 6

Baseline Reference

Docket Nos. MC2020-173 and CP2020-197

PRC Order No. 5568, June 26, 2020

Included Agreements

CP2020-197, expires June 30, 2021

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