

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  
International Priority Airmail, International Surface  
Air Lift, Commercial ePacket, Priority Mail Express  
International, Priority Mail International & First-Class  
Package International Service with Reseller Contracts  
International Priority Airmail, International Surface  
Air Lift, Commercial ePacket, Priority Mail Express  
International, Priority Mail International & First-Class  
Package International Service with Reseller Contract 1

Docket No. MC2020-172

Competitive Product Prices  
International Priority Airmail, International Surface  
Air Lift, Commercial ePacket, Priority Mail Express  
International, Priority Mail International & First-Class  
Package International Service with Reseller Contract 1  
(MC2020-172)  
Negotiated Service Agreements

Docket No. CP2020-195

Competitive Product Prices  
International Priority Airmail, International Surface  
Air Lift, Commercial ePacket, Priority Mail Express  
International, Priority Mail International & First-Class  
Package International Service with Reseller Contracts  
International Priority Airmail, International Surface  
Air Lift, Commercial ePacket, Priority Mail Express  
International, Priority Mail International & First-Class  
Package International Service with Reseller Contract 2

Docket No. MC2020-175

Competitive Product Prices  
International Priority Airmail, International Surface  
Air Lift, Commercial ePacket, Priority Mail Express  
International, Priority Mail International & First-Class  
Package International Service with Reseller Contract 2  
(MC2020-175)  
Negotiated Service Agreements

Docket No. CP2020-199

ORDER ADDING INTERNATIONAL PRIORITY AIRMAIL, INTERNATIONAL SURFACE  
AIR LIFT, COMMERCIAL EPACKET, PRIORITY MAIL EXPRESS INTERNATIONAL,  
PRIORITY MAIL INTERNATIONAL, AND FIRST-CLASS PACKAGE INTERNATIONAL  
SERVICE WITH RESELLER CONTRACTS TO THE COMPETITIVE PRODUCT LIST

(Issued June 30, 2020)

## I. INTRODUCTION

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

## II. BACKGROUND

On 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 requested the inclusion of additional products, along with supporting documents (Requests). 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 applications for non-public treatment of materials requesting that unredacted portions of the Governors' Decision and the contracts, customer-identifying information, and related financial information remain under seal. *Id.* Attachment F.

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

On June 19, 2020, Chairman's Information Request No. 1 was filed.<sup>2</sup> Although CHIR No. 1 was filed only in the dockets pertaining to International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1, the question and response are relevant to both contracts in these dockets. The Postal Service filed its response on June 23, 2020.<sup>3</sup>

Similarly, while the CHIR in Docket Nos. MC2020-159 and CP2020-177<sup>4</sup> was filed only in the dockets pertaining to International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 1, some of the questions and responses also are relevant

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<sup>1</sup> See Docket No. MC2020-169, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 16, 2020; Docket No. MC2020-174, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 16, 2020.

<sup>2</sup> Docket Nos. MC2020-172 and CP2020-195, Chairman's Information Request No. 1 and Notice of Filing Under Seal, June 19, 2020 (MC2020-172 and CP2020-195 CHIR No. 1).

<sup>3</sup> Docket Nos. MC2020-172 and CP2020-195, Response of the United States Postal Service to Chairman's Information Request No. 1, June 23, 2020 (MC2020-172 and CP2020-195 Response to CHIR No. 1).

<sup>4</sup> Docket Nos. MC2020-159 and CP2020-177, Chairman's Information Request No. 1 and Notice of Filing Under Seal, June 19, 2020 (MC2020-159 and CP2020-177 CHIR No. 1).

to other contemporaneously filed contracts, including the reseller contracts in these dockets. The Postal Service filed its response to that CHIR on June 24, 2020.<sup>5</sup>

### III. COMMISSION ANALYSIS

The Commission has reviewed the Requests, the contracts, the supporting data filed under seal, the CHIRs, and the Public Representative's 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 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 partners. *Id.* at 3.

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<sup>5</sup> Docket Nos. MC2020-159 and CP2020-177, Response of the United States Postal Service to Chairman's Information Request No. 1, June 24, 2020 (MC2020-159 and CP2020-177 Response to CHIR No. 1).

The Commission finds that the Postal Service does not exercise sufficient market power that it can effectively set the prices of the proposed products 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 Representative 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 justifications, 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 terms 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).

*Financial Workpapers.* The Commission's review of the financial workpapers in these dockets was hampered by numerous errors in the Postal Service's filings. Issues pertaining to cost coverage were addressed in MC2020-172 and CP2020-195 CHIR No. 1 and MC2020-159 CP2020-177 CHIR No. 1.<sup>6</sup> Other issues included reporting incorrect information in summary tables, reporting zero weight corresponding to non-zero volume and vice-versa, and errors relating to adjustments for customer-specific costs that potentially understated cost coverage.

The Commission is cognizant that the transition to self-declared rates for certain international mailpieces on July 1, 2020 created a large workload for the Postal Service. Accordingly, and to be able to complete its review of the large number of contemporaneously filed contracts in time for their intended July 1, 2020 effective date, the Commission, exceptionally, opted not to require the Postal Service to refile corrected workpapers to address these issues. The Commission was able to determine that the contracts in these dockets satisfy applicable statutory and regulatory requirements. However, the Commission reminds the Postal Service that accurate financial workpapers are necessary not only to facilitate timely Commission review, but also to create an accurate and transparent record pertaining to each contract.

*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

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<sup>6</sup> See MC2020-172 and CP2020-195 CHIR No. 1, question 1; MC2020-159 CP2020-177 CHIR No. 1, questions 2-4.

shall promptly file notice of such termination with the Commission in the appropriate dockets.

The contracts do not indicate an expiration date in the event that the contracts take effect on the first day of the month. See Requests, Attachment B at 9. Based on the commonality of language with other contracts, the Commission interprets the term of such contracts to be one year.

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. Requests, Attachment B at 10. 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.:* MC2020-172 and CP2020-195; *Filing:* USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1 to Competitive Product List and Notice of Filing Materials Filed Under Seal, June 15, 2020 (MC2020-172 and CP2020-195 Request). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-172 and CP2020-195 Request at 2. The Agreement is set to expire June 30, 2021. See MC2020-172 and CP2020-195

Request, Attachment B at 9-10; *see also supra*, at 7 (regarding term of contracts with effect dates on the first of the month). *Public Comments:* The Public Representative filed comments on June 23, 2020.<sup>7</sup> No other comments were received. The Public Representative concludes that the contract should be classified as a competitive product and that it should generate sufficient revenue to cover its costs. MC2020-172 and CP2020-195 PR Comments at 2-3. He notes that there is a potential cost coverage issue addressed in CHIR No. 1. *Id.* at 3.

2. *Docket Nos.:* MC2020-175 and CP2020-199; *Filing:* USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2 to Competitive Product List and Notice of Filing Materials Filed Under Seal, June 15, 2020 (MC2020-175 and CP2020-199 Request). *Term:* The intended effective date of the Agreement in the above-referenced docket is July 1, 2020. MC2020-175 and CP2020-199 Request at 2. The Agreement is set to expire June 30, 2021. *See* MC2020-175 and CP2020-199 Request, Attachment B at 9-10; *see also supra*, at 7 (regarding term of contracts with effect dates on the first of the month). *Public Comments:* The Public Representative filed comments on June 23, 2020.<sup>8</sup> No other comments were received. The Public Representative concludes that the contract should be classified as a competitive product and that it should generate sufficient revenue to

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<sup>7</sup> Docket Nos. MC2020-172 and CP2020-195, Public Representative Comments on Postal Service Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1 to the Competitive Product List June 23, 2020 (MC2020-172 and CP2020-195 PR Comments).

<sup>8</sup> Docket Nos. MC2020-175 and CP2020-199, Public Representative Comments on Postal Service Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2 to the Competitive Product List, June 23, 2020 (MC2020-175 and CP2020-199 PR Comments).

cover its costs. MC2020-175 and CP2020-199 PR Comments at 2-3. He notes that there is a potential cost coverage issue addressed in CHIR No. 1. *Id.* at 3.

## 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 new products under Negotiated Service Agreements, International. Revisions to the competitive product list and the Mail 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. MC2020-172 and CP2020-195, *et al.* 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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International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1

International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2

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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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International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1

International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2

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#### **2500 Negotiated Service Agreements**

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#### **2510 Outbound International**

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2510.2 Negotiated Service Agreement Groups

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- International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contracts (2510.21)

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#### **2510.21 International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contracts**

These contracts provide incentives to the contractholder as mailer for International Priority Airmail (IPA)(2320), International Surface Air Lift (ISAL)(2325), Commercial ePacket (CeP), Priority Mail Express International (PMEI) (2305), Outbound Priority Mail International (PMI) (2315), and Outbound Single-Piece First-Class Package International Service (FCPIS)(2335). 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). For certain destinations for which the Postal Service has made arrangements with the destination country postal operator, as an optional feature, the Postal Service may offer destination country duty and taxes chargeback service, through which custom duties and taxes are paid by the mailer in lieu of the recipient.

These contracts also provide incentives to the contract holder as reseller for PMEI (2305), PMI (2315), and FCPIS (2335). The contract holder as reseller offers prices based on its contract to its customers (reseller's customers). Preparation requirements are the same as for all PMEI, PMI, and FCPIS shipments with some specific criteria for payment, preparation, and tender.

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

- International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1

Baseline Reference

Docket Nos. MC2020-172 and CP2020-195  
PRC Order No. 5572, June 30, 2020

Included Agreements

CP2020-195, expires June 30, 2021

- International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2

Baseline Reference

Docket Nos. MC2020-175 and CP2020-199  
PRC Order No. 5572, June 30, 2020

Included Agreements

CP2020-199, expires June 30, 2021