

ORDER NO. 5798

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
Interconnect Remuneration Agreement –
United States Postal Service and
Specified Postal Operators (MC2010-34)
Negotiated Service Agreements

Docket No. CP2020-141

ORDER APPROVING MODIFICATIONS TO THE
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENT
WITH FOREIGN POSTAL OPERATORS 1 PRODUCT

(Issued December 31, 2020)

I. INTRODUCTION

The Postal Service seeks to modify the competitive multi-product “Interconnect Remuneration Agreement USPS and Specified Postal Operators” (IRA-USPS Agreement), which is included within the Inbound Competitive Multi-Service Agreement

with Foreign Postal Operators 1 (MC2010-34) product.¹ For the reasons discussed below, the Commission approves the Modifications.

II. BACKGROUND

The Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product was added to the competitive product list in Order No. 546.² The IRA-USPS Agreement was subsequently included within the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product in Order No. 5559.³

The Postal Service proposes two modifications. Firstly, it modifies the Link-Specific rates applicable to the Postal Service and a specific foreign postal operator (FPO) in sections 1.1 and 2.2.2 of Link-Specific Annex 2 – Appendix 1 of the IRA-USPS Agreement. Notice at 2. Secondly, it adds a paragraph to Annex 2, section 3.2 of the IRA-USPS Agreement that relates to a surcharge for a specific type of product covered by the agreement, in accordance with Article 9, Steering Committee, and Annex 8, Steering Committee Procedures. *Id.*

In addition, the Postal Service notes that an individual FPO suspended the IRA-USPS Agreement for this country-specific link, effective January 1, 2021. *Id.* at 2-3. The Postal Service further notes that a specific remuneration rate will apply to the exchange of certain tracked items between the Postal Service and this FPO, pursuant to section 4 of Link-Specific Annex 2 – Appendix 1. *Id.* at 3.

On December 17, 2020, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an

¹ Notice of the United States Postal Service of Filing Modifications to Inbound Competitive Multi-Service IRA-USPS Agreement, December 16, 2020 (Notice). The proposed modifications are included as an attachment to the Notice (Modifications).

² Docket Nos. MC2010-34 and CP2010-95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010 (Order No. 546).

³ Order Adding Agreement to the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Product, June 19, 2020 (Order No. 5559).

opportunity to comment.⁴ Chairman's Information Request No. 2 was issued on December 23, 2020.⁵ The Postal Service responded on December 29, 2020.⁶ The Public Representative filed comments on December 28, 2020.⁷

III. COMMENTS

The Public Representative comments that she has reviewed the proposed modifications, the supporting financial documentation under seal, and the questions posed in CHIR No. 2. PR Comments at 2. Based on that review, she "finds that the proposed modifications should allow the agreement to continue to meet the requirements of 39 U.S.C. § 3633(a)." *Id.* While the Public Representative notes that she was unable to review the Postal Service's Response to CHIR No. 2, in her view, "the available information is adequate to make a recommendation regarding the likelihood that the [requirements of] § 3633(a) will be met." Therefore, the Public Representative "supports approval of the modified agreement." *Id.*

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the Response to CHIR No. 2.

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

⁴ Docket No. CP2019-198, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 17, 2020.

⁵ Chairman's Information Request No. 2 and Notice of Filing Under Seal, December 23, 2020 (CHIR No. 2).

⁶ Response of the United States Postal Service to Chairman's Information Request No. 2, December 29, 2020 (Response to CHIR No. 2); see Notice of the United States Postal Service of Filing Errata Concerning Response of the United States Postal Service to Chairman's Information Request No. 2, December 30, 2020.

⁷ Public Representative Comments on Postal Service Notice of Modifications to Inbound Competitive Multi-Service IRA-USPS Agreement, December 28, 2020 (PR Comments).

institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. 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).

The Modifications do not materially affect the underlying financial analysis of the IRA-USPS Agreement. Thus, the Commission finds that the agreement, as modified, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3035.107.

Filing practices. The Postal Service filed the IRA-USPS Agreement on May 15, 2020.⁸ Subsequently, the Postal Service filed the Link-Specific Attachment 2 – Appendix 1, section 4 of the IRA-USPS Agreement on June 29, 2020.⁹ The June 29 Notice contained contractual language that was not included in the initial IRA-USPS Agreement filing. Although the Postal Service broadly noted that the June 29 Notice included “other FPO-specific information that is required by the IRA-USPS Agreement[,]” the Postal Service did not specify that this provision could have a financial impact, nor did it file additional financial workpapers to account for this provision’s potential enactment. June 29 Notice at 2.

The Commission notes that the financial impact of this additional contractual language is not projected to affect compliance with 39 U.S.C. § 3633(a) in FY 2021. However, the Postal Service must in future filings, to facilitate timely streamlined review and prevent potential compliance issues, more clearly describe any contractual changes that have the potential to affect cost coverage, and provide updated financial workpapers to account for the impact.

⁸ Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, May 15, 2020, Attachment 2.

⁹ Notice of United States Postal Service of Filing Additional Signatory and Other Related Information to Inbound Competitive Multi-Service IRA-USPS Agreement, June 29, 2020 (June 29 Notice).

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Modifications to the IRA-USPS Agreement.
2. The Postal Service shall notify the Commission if the IRA-USPS Agreement, as modified, terminates prior to the scheduled expiration date.

By the Commission.

Erica A. Barker
Secretary