

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail & First-Class Package Service
Priority Mail & First-Class Package Service
Contract 187

Docket No. MC2021-61

Competitive Product Prices
Priority Mail & First-Class Package Service
Contract 187 (MC2021-61)
Negotiated Service Agreement

Docket No. CP2021-63

PUBLIC REPRESENTATIVE COMMENTS ON USPS
REQUEST TO ADD PRIORITY MAIL AND FIRST-CLASS
PACKAGE SERVICE CONTRACT 187
TO COMPETITIVE PRODUCT LIST

(January 7, 2021)

The Public Representative hereby provides comments pursuant to the Commission notice initiating this docket.¹ In that notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Priority Mail & First-Class Package Service Contract 187 to the competitive product list.²

The Postal Service's Request includes a Statement of Supporting Justification (Statement), a certification of compliance with 39 USC § 3633(a), and proposed changes to the Mail Classification Schedule (MCS) competitive product list with the additions underlined. In addition, the Request includes a public (redacted) version of Governor's Decision No. 18-2 and related analysis, and Priority Mail & First-Class Package Service Contract 187. The Postal Service also filed under seal the full

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 29, 2020.

² USPS Request to Add Priority Mail & First-Class Package Service Contract 187 to the Competitive Product List and Notice of Filing Materials Under Seal, December 28, 2020 (Request).

(unredacted) text of Contract 187, Governor's Decision No. 18-2, and a supporting financial model estimating the contract value during the first year.

According to the Postal Service, the Contract is a competitive product "not of general applicability" with the meaning of 39 § U.S.C 3632(b)(3). Request at 1. The Postal Service maintains that the prices and classification underlying the Contract are supported by Governor's Decision No. 19-1.³

The effective date of Contract 187 is 3 business day following the day on which the Commission issues all necessary regulatory approvals. *Id.*, Attachment B at 8 (Article III). Contract 187 is scheduled to expire three years from the effective date unless either party terminates the contract on 30 days' prior written notification, or other specific events. *Id.* (Article IV).

COMMENTS

The Public Representative has reviewed the Postal Service's Request, the Contract, supporting attachments, and the financial model filed under seal. Based upon that review, the Public Representative concludes that Contract 187 should be classified as a competitive product and added to the competitive product list. In addition, Contract 187 is projected to generate sufficient revenues to cover costs in its first year and thereby satisfy 39 U.S.C. § 3633(a).

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Contract 187 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products."

³Decision of the Governors of the United States Postal Service on the Establishment Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, February 7, 2019 (Governors' Decision No. 19-1).

39 § U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such powers are categorized as market dominant while all others are categorized as competitive.

The Postal Service Statement makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D, at 2. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add the Contract to the competitive product is appropriate.

Sufficient Revenue Requirement. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

Based upon a review of the financial data, the negotiated prices for the Contract should generate sufficient revenues to cover costs during the first year of the Contract and therefore meet the requirements of 39 U.S.C. § 3633(a). The Contract is expected to remain in effect for a period of 3 years. During this 3 year period, the Contract contains a mechanism for annual upward adjustment of prices. Finally, the Postal Service must file revenue and cost data for the Contract for review in future Annual Compliance Reports. This data will permit the Commission to annually review the financial results for the Contract for compliance with 39 U.S.C. § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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