

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Removal from the Competitive Product List
Parcel Return Service

Docket No. MC2022-95

PUBLIC REPRESENTATIVE COMMENTS

(September 16, 2022)

INTRODUCTION

- i. On August 15, 2022, the Postal Service filed a request to remove Parcel Return Service, a product of general applicability, from the competitive product list in the Mail Classification Schedule and Notice 123.¹ The Postal Service states that it intends to continue to offer Parcel Return Service via negotiated service agreements. Request at 1. The Request includes Attachment A, the Governors' Decision supporting the request in compliance with 39 CFR 3041.131 of the Commission's regulations; Attachment B, Statement of Supporting Justification per 39 CFR 3041.132 to fulfill the criteria set forth in 39 U.S.C. 3642; and Attachment C, proposed revisions to the Mail Classification Schedule. *Id.* The Request states that if approved, the changes are intended to take effect on January 22, 2023. *Id.*

The Request was noticed by the Commission on August 15, 2022, inviting comments no later than September 16, 2022, and appointed the undersigned as Public Representative for this proceeding. Pursuant to the Public Representative's motion for an information request,² a Chairman's Information Request was issued on September 1, 2022.³ The Postal Service responded to the request on September 8, 2022, with

¹ USPS Request to Remove Parcel Return Service from the Competitive Product List, August 12, 2022 (Request).

² Public Representative Motion for Issuance of Information Request, August 25, 2022.

³ Chairman's Information Request No. 1, September 1, 2022.

certain portions of the response filed under seal together with an application for non-public treatment of the material filed under seal.⁴

POSTAL SERVICE REQUEST

ii. The Postal Service states that eliminating Parcel Return Service from the competitive product list will “streamline the Postal Service’s offerings and avoid customer confusion.”⁵ Or, that is will “minimize customer confusion.”⁶ The source of the customer confusion was explained by the Postal Service. It states that customers may see Parcel Return Service “on the competitive list and think it is the Postal Service’s preferred, or perhaps only, option for package returns. In fact, Parcel Return Service only serves bulk returns, not single-piece returns from most retail customers or small to medium businesses.”⁷ The Postal Service notes that “[o]ver time, Parcel Return Service has evolved to become almost solely provided through negotiated service agreements (NSAs)” and that “[t]here are currently only three customers using Parcel Return Service at published rates.”⁸ These customers will still be able to use Parcel Return Service for these volumes, “as appropriate.”⁹

The Commission’s rules require the Postal Service to provide the views of the customers affected when requesting a change in the product lists. 39 CFR 3040(g). The Postal Service Request states that, because only a few customers use Parcel Return Service at published rates, “there will be limited negative reaction to the elimination of Parcel Return Service” and that “[b]ased on its contact with customers, the Postal Service believes that many customers support the Postal Service’s broader efforts to simplify and streamline its product offerings.” *Id.* at 3.

CHIR No. 1 requested the views of the three customers using Parcel Return Service at published rates and any other customers who used those published rates

⁴ USPS Response to Chairmans’s Information Request No. 1, with Portions Filed under Seal, September 8, 2022 (Response to CHIR No. 1).

⁵ Request, Attachment A, Governors’ Decision and Certification at 1.

⁶ Request, Attachment B, Statement of Supporting Justification at 1.

⁷ Response to CHIR No. 1, question 7.b.

⁸ Request, Attachment A at 1.

⁹ Request, Attachment B at 1.

during FY 2022 or FY 2021. The Postal Services states that it has received the views of the three customers using Parcel Return Service at published rates,¹⁰ and it provided those views under seal.¹¹ No other customers used PRS (RDU and RSCF) at published rates during FY 2021 and FY 2022.” *Id.* at question 1.c. It appears that the Postal Service has not obtained the views any other customers about the Request.

The Postal Service will continue to report Parcel Return Service data in its Annual Compliance Report under a single category “Parcel Return Service NSA.”¹²

COMMENTS

- iii. The Public Representative has reviewed the Request and supporting documentation. The Public Representative does not object to the request to remove from the MCS the rates and conditions for competitive Parcel Return Service subject to further consideration if any customers of the Postal Service come forward objecting to the Request and seeking to maintain the listing of prices for competitive Parcel Return Service at published rates. On the other hand, the Public Representative recommends that the competitive Parcel Return Service product should remain listed on the MCS at Section 2700 with a short summary and a note that “Prices are negotiated between the customer and the Postal Service.”

A. Removing Parcel Return Service Rates and Conditions from the MCS

There is no indication in the record that removing Parcel Return Service from the MCS may be a first step of a plan to eliminate entirely Parcel Return Service by later rejecting all customer attempts to enter into Parcel Return Service NSAs. First, the Postal Service has not indicated any operational difficulties with the Parcel Return Service product to suggest it would prefer to eliminate the product by discouraging future NSAs. For instance, there have not been any unsuccessful negotiations for a Parcel Return Service NSA in FY 2022.¹³

¹⁰ Response to CHIR No.1, question 1.b.

¹¹ Response to CHIR No. 1, question 1.d.

¹² Response to CHIR No. 1, question 12.

¹³ Response to CHIR No. 1, question 5.

Revenue from Parcel Return Service at published rates greatly expanded in FY 2021 to almost \$85 million and FY 2022 YTD revenue has so far been almost \$67 million, whereas earlier revenue in FY 2019 and FY 2020 was no more than about \$181,000 in either year. Similarly, Parcel Return Service volume at published rates greatly expanded in FY 2021 to 18.6 million pieces and so far in F Y2022 YTD to 14.0 million pieces. This surge in Parcel Return Service utilization at published rates indicates Parcel Return Service is likely increasing revenue for the Postal Service. Overall, as demonstrated in its filings under seal, Parcel Return Service and Parcel Select & Parcel Return Service provide significant revenue for the Postal Service.¹⁴ Given the success of Parcel Return Service, the Postal Service is unlikely to wish to discourage new Parcel Return Service NSAs and thereby cede that service to competitors.

Moreover, the Postal Service does not need to remove the product from the MCS because of the competitive nature of the product. That is the most significant factor related to this Request. If published rates and conditions are not included in the MCS, and so are not available as a fallback rate to customers who are unable to reach agreement with the Postal Service with an NSA then, by definition, Parcel Return Service is or should be available from Postal Service competitors. The Postal Service acknowledges this in section (f) of its Statement of Justification.¹⁵

Further, if the Request is denied, and the Postal Service is required to maintain a fallback Parcel Return Service rate, that would not prevent the Postal Service from increasing the fallback rate to a level where the only practical alternative for customers is to enter into an NSA for Parcel Return Service. The Postal Service is not required to continue to offer fallback competitive rates satisfactory to potential customers. The Postal Service could simply, at any time, file notice to raise those competitive Parcel Return Service rates to any level it chooses and thereby discourage any potential customers from using that fallback rate and essentially require them to use an NSA or otherwise obtain the service from a Postal Service competitor. In any event, the Postal Service assures the Commission that it intends to continue to offer Parcel Return

¹⁴ Response to CHIR No. 1, question 6.

¹⁵ See Request, Attachment B at 3.

Service through NSAs.¹⁶ Presumably, the Postal Service will exercise good business judgement and offer customers reasonable competitive NSA rates for its Parcel Return Service so that it does not lose profitable parcel return service customers to competitors.

For these reasons, in the competitive environment, unless otherwise required or useful, there appears to be no benefit in requiring a published Parcel Return Service product rate to be included in the MCS if the Postal Service wishes to limit that service to NSAs.

B. Maintaining a Reference to Parcel Return Service on the Competitive List

The Postal Service proposes to remove the Parcel Return Service from the Competitive Product List, Section 2000; more specifically, from within Domestic Products Section 2100, Included Services Section 2100.1, Parcel Return Service Section 2120.¹⁷ Yet, it emphasizes that it intends to continue to offer customers the Parcel Return Service product to its customers through NSAs.

In response to CHIR No. 1, the Postal Service stated that it does not believe it would be appropriate to continue to list Parcel Return Service on the competitive product list as this “could further contribute to customer confusion” since all the other domestic products in Section 2100.1 are publicly available and Parcel Return Service NSAs would continue to be listed under Section 2500, Negotiated Service Agreements of the MCS.¹⁸

The Postal Service states that if the listing of Parcel Return Service is deleted entirely from the MCS, new customers can determine if Parcel Return Service is available by a reference in the Postal Service’s DMM (Domestic Mail Manual) to contact a USPS Sales Representative who should communicate the requirements for the service and connect the customer to the contact group.¹⁹

¹⁶ Request at 1, Attachment A at 1, Response to CHIR No. 1, question 11.

¹⁷ Request, Appendix B, proposes to remove all of Section 2120 containing subsections 2020.1 and 2020.2.

¹⁸ Response, CHIR No. 1, question 9.

¹⁹ Response to CHIR No. 1, question 11.

No product involving the physical delivery of letters, printed matter or packages may be offered by the Postal Service unless it is assigned to the market dominant or competitive category of mail. 39 U.S.C. 3642(e). Products assigned to the competitive category of mail must be listed in the MCS. 39 CFR 3040.101. Although each product must be listed in the MCS, details regarding rates such as the general characteristics, size and weight limitations, minimum volume requirements, price categories and available optional features of each competitive product are required only “[w]here applicable.” 39 CFR 3040.104(b)(3)(ii)(A) and (C).

The Commission may therefore grant the request to remove the rate and conditions details of the Parcel Return Service from the MCS but must require that the MCS continue to include the availability of the Parcel Return Service product where it is currently located in Section 2120 of the MCS. This treatment would be equivalent to the treatment afforded three of the Nonpostal Services products in Section 2700 of the MCS: Advertising (Section 2701), Mail Service Promotion (Section 2703) and Rental, Leasing, Licensing or Other Non-Sale Disposition of Tangible Property (Section 2707). Each of those product listings includes a brief paragraph describing the product and the note that “Prices are negotiated between customer and the Postal Service.”²⁰ The other products in Section 2700 are all publicly available with the rates listed. Future NSA’s that include the Parcel Return Service would continue to be listed as products in the MCS, Section 2500, and under the Negotiated Service Agreements section of the Appendix in the Commission’s regulations at 39 CFR 3040.105, Appendix B to Subpart A of Part 3040-Competitive Product List.

IV.

CONCLUSION

The Public Representative submits the above comments for the Commission’s consideration.

Respectfully submitted,

²⁰ The Mail Service Promotion note refers to a merchant rather than a customer.

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