

ORDER NO. 6281

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

Before Commissioners:

Michael Kubayanda, Chairman;
Ann C. Fisher, Vice Chairman;
Mark Acton;
Ashley E. Poling; and
Robert G. Taub

Competitive Product Prices
Priority Mail Express, Priority Mail, First-Class Package
Service & Parcel Select Contract 8 (MC2021-66)
Negotiated Service Agreements

Docket No. CP2021-68

ORDER APPROVING AMENDMENT TWO TO
PRIORITY MAIL EXPRESS, PRIORITY MAIL, FIRST-CLASS PACKAGE SERVICE &
PARCEL SELECT NEGOTIATED SERVICE AGREEMENT

(Issued September 23, 2022)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Amendment to Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8, Filed Under Seal, September 13, 2022 (Notice). The amendment is an attachment to the Notice (Amendment).

II. BACKGROUND

In Order No. 5813, the Commission approved the Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8 negotiated service agreement (Existing Agreement).² On September 13, 2022, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On September 14, 2022, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective three business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3035.105. *Id.*

III. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* He notes that the Commission will have an opportunity to annually review the financial results for the contract for compliance with 39 U.S.C. § 3633(a). *Id.*

² See Docket Nos. MC2021-66 and CP2021-68, Order Adding Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8 to the Competitive Product List, January 12, 2021 (Order No. 5813). The contract was later amended. See Order Approving Amendment One to Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Negotiated Service Agreement, October 29, 2021 (Order No. 6027).

³ See Docket No. CP2021-68, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, September 14, 2022.

⁴ Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8, September 19, 2022 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

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 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 Amendment revises the Existing Agreement to include certain Parcel Select Ground cubic packages. Notice, Attachment A at 2. The Amendment also revises terms related to the pricing structure of the Existing Agreement and the contact information for customer appeals. *Id.* at 2-3. Finally, the amendment revises terms in the Existing Agreement and in the appendix to the Existing Agreement that pertain to providing pricing below published rates. *Id.* at 2, 4-5.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, 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, it finds the Existing Agreement, as amended, is 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 Amendment indicates it is consistent with section 3633(a). The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective three business days after the date that the Commission completes its review. Notice at 1. If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Erica A. Barker
Secretary