

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

Competitive Product Prices
Priority Mail Express, Priority Mail,
First-Class Package Service & Parcel Select
Priority Mail Express, Priority Mail,
First-Class Package Service & Parcel Select
Contract 38

Docket No. MC2022-125

Competitive Product Prices
Priority Mail Express, Priority Mail,
First-Class Package Service & Parcel Select
Contract 38 (MC2022-125)
Negotiated Service Agreement

Docket No. CP2022-129

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL EXPRESS, PRIORITY MAIL,
FIRST-CLASS PACKAGE SERVICE &
PARCEL SELECT CONTRACT 38
TO THE COMPETITIVE PRODUCT LIST

(September 27, 2022)

The Public Representative hereby provides comments pursuant to the Commission's Notice in 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

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, September 20, 2022. (Notice).

Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38 to the competitive product list.²

The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governor's Decision No. 19-1 and related analysis, a public version of Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38, and proposed changes to the Mail Classification Schedule competitive product list with the additions underlined. The Postal Service also filed under seal an unredacted version of Governor's Decision No. 19-1 and Contract 38, and supporting financial data estimating the contract value during the first year.

According to the Postal Service, Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). *Request* at 1. The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 19-1.³ The Postal Service further asserts that the Statement of Supporting Justification provides support for adding Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38 to the competitive product list and the compliance of the contract with 39 U.S.C. § 3633(a). *Request* at 2.

The contract's effective date will be three (3) days following the Commissions issuance of all necessary regulatory approvals. *Attachment B* at 10. The contract is to expire three (3) years from the effective date unless terminated by either party with 30 days' notice to the other Party in writing or one of the other stated reasons per the contract. *Id.* at 10-11.

² Request of the United States Postal Service to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 19, 2022 (Request).

³ Decision of the Governors of the United States Postal Service on Establishment of 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).

COMMENTS

The Public Representative has reviewed the instant contract, the Statement of Supporting Justification, and the financial data and model filed under seal that accompanies the Postal Service's Request. Based upon that review, the Public Representative concludes that Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38 should be categorized as a competitive product and added to the competitive product list. In addition, it appears that the instant contract will generate sufficient revenues to cover costs in the first year and thereby satisfy the requirements of 39 U.S.C. § 3633(a). The Public Representative makes note of section O and section P as novel and intriguing. At first he was apprehensive towards the language, but after some reflection, finds the sections reasonable if the Postal Service expects to remain competitive. As always, the Public Representative encourages the Postal Service to try new things and adapt to their business environment.

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 38 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. 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service makes a number of assertions that address the considerations of section 3642(b)(1). *Attachment D.* These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Express, Priority Mail, First-Class

Package Service, and Parcel Select Contract 38 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. 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 Contract 38 are projected to 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). In addition, while Contract 38 is expected to remain in effect for three years, during this period, the contract contains a mechanism for the annual adjustment of prices.

Finally, the Postal Service must file revenue and cost data for Contract 38 in future Annual Compliance Reports. These data will permit the Commission to annually review the financial results for Contract 38 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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