

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

Before Commissioners:

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

Competitive Product Prices
Priority Mail & Parcel Select Contract 5
(MC2021-56)
Negotiated Service Agreements

Docket No. CP2021-58

ORDER APPROVING AMENDMENT THREE TO PRIORITY MAIL & PARCEL SELECT
NEGOTIATED SERVICE AGREEMENT

(Issued March 1, 2023)

I. INTRODUCTION

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

¹ USPS Notice of Amendment to Priority Mail and Parcel Select Contract 5, Filed Under Seal, February 6, 2023 (Notice). The amendment is an attachment to the Notice (Amendment).

II. BACKGROUND

In Order No. 5804, the Commission approved the Priority Mail & Parcel Select Contract 5 negotiated service agreement (Existing Agreement).² On February 6, 2023, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On February 7, 2023, 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.

On February 16, 2023, Chairman's Information Request No. 1 was issued.⁴ CHIR No.1 asked the Postal Service to confirm the effective date of the contract, specify current prices under the contract as to the annual adjustment provisions, and confirm current prices reflected in the financial workpapers. The Postal Service filed its Response to CHIR No. 1 on February 23, 2023.⁵

III. COMMENTS

The Public Representative filed comments on February 10, 2023.⁶ No other interested person filed comments. The Public Representative concludes that Priority

² See Docket Nos. MC2021-56 and CP2021-58, Order Adding Priority Mail & Parcel Select Contract 5 to the Competitive Product List, January 7, 2021 (Order No. 5804). The contract was later amended. See Order Approving Amendment One to Priority Mail & Parcel Select Negotiated Service Agreement, March 24, 2021 (Order No. 5849). The contract was amended again. See Order Approving Amendment Two to Priority Mail & Parcel Select Negotiated Service Agreement, October 8, 2021 (Order No. 6002).

³ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, February 7, 2023.

⁴ Chairman's Information Request No. 1, February 16, 2023 (CHIR No. 1).

⁵ USPS Response to Chairman's Information Request No. 1 with Portions Filed Under Seal, February 23, 2023 (Response to CHIR No. 1).

⁶ Public Representative Comments on Postal Service Notice of Amendment Priority Mail & Parcel Select Contract 5, February 10, 2023 (PR Comments).

Mail & Parcel Select Contract 5, as amended, should continue to generate sufficient revenue to cover costs and thereby satisfy 39 U.S.C. § 3633(a). PR Comments at 2. He notes that the Commission will have an opportunity to annually review the financial results of the Contract for compliance with 39 U.S.C. § 3633(a). *Id.*

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, the Response to CHIR No. 1, 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 terms relating to the weight requirements for Customer's Parcel Select and Priority Mail packages, revises the tier thresholds that the Customer must meet, amends the annual adjustment provision for the Existing Agreement, and updates provisions related to appeals. Notice, Attachment A at 1-5.

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

39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a) and comports with the provisions applicable to rates for Competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3035.107.

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 & Parcel Select Contract 5 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