

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

Before Commissioners:

Dan G. Blair, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton;  
Ruth Y. Goldway; and  
Tony L. Hammond

Competitive Product Prices  
Express Mail  
Express Mail Contract 2

Docket No. MC2009-3

Competitive Product Prices  
Express Mail Contract 2 (MC2009-3)  
Negotiated Service Agreement

Docket No. CP2009-4

NOTICE AND ORDER CONCERNING  
EXPRESS MAIL CONTRACT 2  
NEGOTIATED SERVICE AGREEMENT

(Issued October 29, 2008)

I. INTRODUCTION

On October 24, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Express Mail Contract 2 to the Competitive Product List.<sup>1</sup> The Postal Service asserts that the Express Mail Contract 2 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). *Id.* at 1. The Request has been assigned Docket No. MC2009-3.

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<sup>1</sup> Request of the United States Postal Service to Add Express Mail Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, October 24, 2008 (Request). Due to issues with the filing of electronic documents under seal, the unredacted information was not filed until around 4:00 PM on October 27, 2008.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract is assigned Docket No. CP2009-4. The Postal Service represents that the contract fits within the proposed Mail Classification Schedule (MCS) language.

*Request.* The Request incorporates (1) a redacted version of the Governors' Decision authorizing the new product; (2) a redacted version of the contract; (3) requested changes in the MCS product list; (4) a statement of supporting justification as required by 39 CFR 3020.32; and (5) certification of compliance with 39 U.S.C. 3633(a).<sup>2</sup> Substantively, the Request asks the Commission to add the Express Mail Contract 2 product to the Competitive Product List. *Id.* at 1-2. The Postal Service states the services to be provided under the contract will cover their attributable costs and make a positive contribution to institutional costs. *Id.*, Attachment D. The Postal Service also asserts that the contract will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment D. As a result, the Request contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

*Related contract.* A redacted version of the specific Express Mail Contract 2 is included with the Request. The contract is for 3 years and is to be effective the day after the Commission provides all necessary regulatory approvals. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a) and 39 CFR 3015.7(c). See *id.*, Attachment to Governors' Decision and Attachment E. It notes that actual performance under this contract could vary from estimates, but concludes that the contract will remain profitable. *Id.*, Attachment to Governors' Decision.

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<sup>2</sup> Attachment A to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Express Mail Service (Governors' Decision No. 08-14). The Governors' Decision includes an attachment which provides an analysis of the proposed Express Mail Contract 2. Attachment B is the redacted version of the contract. Attachment C shows the requested changes to the MCS product list. Attachment D provides a statement of supporting justification for this Request. Attachment E provides the certification of compliance with 39 U.S.C. 3633(a).

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Express Mail Contract 2, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2.

## II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2009-3 and CP2009-4 for consideration of the Request pertaining to the proposed Express Mail Contact 2 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this Order; however, future filings should be made in the specific docket in which issues being addressed pertain.<sup>3</sup>

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR part 3020, subpart B. Comments are due no later than November 5, 2008. The public portions of these filings can be accessed via the Commission's website ([www.prc.gov](http://www.prc.gov)).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

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<sup>3</sup> Docket No. MC2009-3 is reserved for only those filings related to the proposed product and the requirements of § 3642, while Docket No. CP2009-4 is reserved for those filings specific to the contract and the requirements of § 3633.

*It is Ordered:*

1. The Commission establishes Docket Nos. MC2009-3 and CP2009-4 for consideration of the matters raised in each respective docket.
2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than November 5, 2008.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Steven W. Williams  
Secretary