

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
Priority Mail
Priority Mail Contract 2

Docket No. MC2009-2

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

Docket No. CP2009-3

NOTICE AND ORDER CONCERNING
PRIORITY MAIL CONTRACT 2
NEGOTIATED SERVICE AGREEMENT

(Issued October 31, 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 Priority Mail Contract 2 to the Competitive Product List.¹ The Postal Service asserts that the Priority Mail Contract 2

¹ Request of the United States Postal Service to Add Priority Mail Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, October 24, 2008 (Request).

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. MC2009-2.

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 has been assigned Docket No. CP2009-3. 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).² Substantively, the Request seeks to add Priority Mail Contract 2 to the Competitive Product List. *Id.* at 1-2.

In the statement of supporting justification, Kim Parks, Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. *Id.*, Attachment D. Thus, Ms. Parks 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 Priority Mail Contract 2 is included with the Request. The contract is for 1 year and is to be effective 1 day after the Commission approves the required addition of this product to the product list unless that date is later than November 10, 2008; then the effective date is deferred until

² 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 Priority Mail Contract 2 (Governors’ Decision No.08-13). The Governors’ Decision includes an attachment which provides an analysis of the proposed Priority Mail Contract 2. Attachment B is a redacted version of the contract. Attachment C shows the requested changes in 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).

January 1, 2009.³ 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 A and Attachment D. It notes that there is some risk of not meeting the expected cost coverage; for instance, if the pieces become less dense, or if a greater number of pieces travel a longer distance than expected but concludes that the risks are manageable and the contract will remain profitable. *Id.*, Attachment A.

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Priority 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 the prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2009-2 and CP2009-3 for consideration of the Request pertaining to the Priority Mail Contract 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.⁴

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 3020 subpart B. The Postal Service expresses the hope that the Commission can complete its review and issue an order

³ Errata to Request of the United States Postal Service to Add Priority Mail Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, October 27, 2008 (Errata).

⁴ Docket No. MC2009-2 is reserved for those filings related to the proposed product and the requirements of § 3642, while Docket No. CP2009-3 is reserved for those filings specific to the contract and the requirements of § 3633.

approving Priority Mail Contract 2 no later than November 10, 2008.⁵ Recognizing that these filings have been available on the Commission's website since October 24, 2008 and in light of the Postal Service's Request, comments are due no later than November 6, 2008. The public portions of these filings can be accessed via the Commission's website (www.prc.gov).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned filings.

It is Ordered:

1. The Commission establishes Docket Nos. MC2009-2 and CP2009-3 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 6, 2008.

⁵ Errata at 1. The Commission appreciates the time pressures confronting the Postal Service regarding these types of agreements. Within the bounds of due process, the Commission endeavors to act expeditiously on the Postal Service's Requests. The Commission observes that the Postal Service has the responsibility to provide the Commission sufficient time to perform its review and analysis with due diligence.

4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Steven W. Williams
Secretary