

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  
Bilateral  
Negotiated Service Agreement

Docket No. MC2009-8

Competitive Product Prices  
Canada Post—United States Postal Service  
Contractual Bilateral Agreement for Inbound  
Competitive Services (MC2009-8)  
Negotiated Service Agreement

Docket No. CP2009-9

NOTICE AND ORDER CONCERNING  
BILATERAL AGREEMENT WITH CANADA POST  
FOR INBOUND COMPETITIVE SERVICES

(Issued November 18, 2008)

I. BACKGROUND

On November 13, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add the Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services

(Bilateral Agreement) to the Competitive Product List.<sup>1</sup> The Postal asserts that the Contractual Bilateral Agreement is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2009-8.

The Postal Service contemporaneously filed notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, that the Governors have established prices and classifications not of general applicability for inbound competitive services as reflected in the Bilateral Agreement. More specifically, the Bilateral Agreement, which has been assigned Docket No. CP2009-9, governs the exchange of Inbound Parcel Post from Canada.

In support of its Request, the Postal Service filed a redacted version of the Governors’ Decision establishing prices for the Bilateral Agreement. Attached to the Governors’ Decision are: proposed Mail Classification Schedule language, a redacted version of management’s analysis of the Bilateral Agreement, certification of compliance with 39 U.S.C.3633 (a), certification of the Governors’ vote,<sup>2</sup> and a Statement of Supporting Justification as required by 39 CFR 3020.32.<sup>3</sup> In addition, the Postal Service indicates that it filed an unredacted copy of the Governors’ Decision, the Bilateral Agreement, and other supporting documents designed to establish compliance with 39 CFR 3015.5 under seal. Request at 2, n.2.

In the Statement of Supporting Justification, Lea Emerson, Executive Director, International Postal Affairs, asserts that “[t]he addition of the [Bilateral] Agreement as a competitive product will enable the Commission to verify that the agreement covers its attributable costs and enables competitive products, as a whole, to make a positive

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<sup>1</sup> Request of the United States Postal Service to Add Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling Governors’ Decision and Agreement, November 13, 2008 (Request).

<sup>2</sup> See Attachment 1 to the Request.

<sup>3</sup> See Attachment 2 to the Request.

contribution to coverage of institutional costs.” *Id.* at 2. W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). Request, Attachment 1. He observes that the Bilateral Agreement “should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.” *Id.*

As noted, the Postal Service filed much of the supporting materials, including the Governors’ Decision and the Bilateral Agreement, under seal. It maintains that the Bilateral Agreement, related financial information, and the Governors’ Decision should remain under seal as they contain pricing, cost, and other information that are highly confidential. Request at 2.<sup>4</sup>

The Postal Service has an existing bilateral agreement with Canada Post which is set to expire December 31, 2008. *Id.* at 3. The new prices and classifications modify the current agreement, extend it for 1 year, and are scheduled to take effect January 1, 2009, or “after filing with and review by the Postal Regulatory Commission, whichever is later.” Governors’ Decision at 2.

## II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2009-8 and CP2009-9 for consideration of the Request pertaining to the proposed Canada Post-United States Postal Service Contractual Bilateral Agreement product and the related Bilateral Agreement, 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.

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<sup>4</sup> The Postal Service indicates that the materials filed under seal constitute a subset of the overarching agreement between the parties, representing the parties’ agreement concerning inbound competitive services. The Postal Service further indicates that the parties anticipate finalizing “this and related agreements by mid-December, and any lingering details will not affect the rates, classification, or other fundamental basis for this Request and Notice.” Request at 5, n.12.

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, 39 CFR part 3015, and 39 CFR 3020 subpart B. Comments are due no later than December 3, 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.

*It is Ordered:*

1. The Commission establishes Docket Nos. MC2009-8 and CP2009-9 for consideration of the matters raised in each 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 December 3, 2008.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Steven W. Williams  
Secretary