

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 Products Price Changes
Rates of General Applicability

Docket No. CP2009-23

REVIEW OF NOTICE CONCERNING
CHANGES IN RATES OF GENERAL APPLICABILITY
FOR COMPETITIVE PRODUCTS

(Issued March 12, 2009)

On February 10, 2009, the Postal Service filed notice of planned changes in rates of general applicability for certain competitive products and related classification changes.¹ On February 20, 2009, the Postal Service filed an errata correcting rates for International Surface Airlift M-Bag dropshipped in rate group 11.² The price changes

¹ Notice of the United States Postal Service of Changes in Rates of General Applicability for Competitive Products Established in Governors' Decision No. 09-01, February 10, 2009 (Notice).

² United States Postal Service Notice of Errata to Notice of Changes in Rates of General Applicability for Competitive Products, February 20, 2009 (Errata). The corrected prices are limited to one rate group for ISAL M-Bag service and have no appreciable effect on the product's cost coverage. Because the Commission already noticed the initial filing, the corrected planned rates are properly considered in this proceeding. The Commission notes that the Postal Service, as required by 39 U.S.C. 3632(b)(2), published notice of the planned changes in the *Federal Register*. See 74 FR 8434 (February 24, 2009). That notice does not contain the corrected rates as reflected in the Errata. As a consequence, the Postal Service should publish notice of the corrected rates in the *Federal Register* at least 30 days before the proposed May 11, 2009 effective date for these planned changes.

are scheduled to become effective May 11, 2009. For the reasons discussed below, the Commission approves the planned rate changes.

I. BACKGROUND

As required by the Commission's rules, the Postal Service's Notice provided the Governors' Decision establishing the changes, including in support thereof a statement of explanation and justification.³ The Governors' Decision includes two attachments. Attachment A provides an analysis intended to demonstrate that the price adjustments and classification changes comply with the statutory requirements.⁴ Attachment B sets forth the planned prices and proposed classification changes for inclusion in the Mail Classification Schedule.

The Postal Service believes that the planned price changes are appropriate and consistent with 39 U.S.C. 3632 and 3633 and applicable regulatory criteria. *Id.* Two domestic competitive products are affected by the changes: (1) Parcel Select with an average price increase of approximately 0.5 percent, and (2) Premium Forwarding Service with an average increase of 20.2 percent. Three international competitive products are affected: (1) International Priority Airmail with an increase in non-contractual IPA of 20.8 percent; (2) International Surface Air Lift non-contractual with an increase of 2.4 percent; and (3) International Ancillary Services will increase on average 6.1 percent.

Initial Commission action. In Order No. 179, the Commission noticed the Postal Service's filing, established Docket No. CP2009-23 to consider the planned changes,

³ Decision of the Governors of the United States Postal Service on Changes in Rates and Classes of General Applicability for Competitive Products (Governors' Decision No. 09-01), February 3, 2009, at 1 (Decision).

⁴ Attachment A also includes a non-public annex providing cost, revenue, and volume information for the competitive products. A redacted version was included with the Notice. Attachment A to the Governors' Decision at 3.

appointed a Public Representative, and provided an opportunity for interested persons to submit comments.⁵

Chairman's information requests. The Chairman issued two information requests in this proceeding. The first, issued February 11, 2009, sought supporting spreadsheets and underlying data on cost coverages by product. The Postal Service filed its response on February 19, 2009.⁶

The second information request, issued on February 25, 2009, requested data on weights used to calculate the percentage increases by product. The Postal Service filed its response on March 2, 2009.⁷

Comments. The Commission received comments from the Public Representative.⁸ No filings were submitted by other interested parties.

II. COMMENTS

Overall, the Public Representative finds the proposed classification changes reasonable and that the planned price changes will, in satisfaction of 39 U.S.C. 3633(a)(3), contribute to the recovery of the minimum 5.5 percent of the Postal Service's total institutional costs assigned to competitive products. *Id.* at 2. The Public Representative, however, criticizes the Postal Service's filing as deficient because the revenue and volume figures contained in non-public spreadsheets are hard coded thus

⁵ PRC Order No. 179, Notice and Order Concerning Changes in Rates of General Applicability for Competitive Products, February 11, 2009.

⁶ Chairman's Information Request No. 1, February 11, 2009; Notice of the United States Postal Service of Filing of Responses to Chairman's Information Request No. 1, February 19, 2009; *see also* Notice of the United States Postal Service Filing of USPS-CP2009-23/NP1, February 19, 2009, and Notice of the United States Postal Service of Filing of USPS-CP2009-23/NP2, February 19, 2009. The Postal Service also filed Motion of the United States Postal Service for Late Acceptance of Response to Chairman's Information Request No. 1 and Notice of Filing of USPS-CP2009-23/NP2. The motion is granted.

⁷ Chairman's Information Request No. 2, February 19, 2009 (CHIR No. 2); Notice of the United States Postal Service of Filing of Responses to Chairman's Information Request No. 2, March 2, 2009; *see also* USPS-CP2009-23/NP3—Materials Filed in Response to Chairman's Information Request No. 2 (Under Seal), March 2, 2009.

⁸ Public Representative Comments, February 24, 2009.

thwarting attempts to determine how they were developed. Consequently, the Public Representative is unable to say affirmatively that the planned prices satisfy either sections 3633(a)(1) or (a)(2) of title 39.⁹

The Public Representative devotes the bulk of his comments to the Postal Service's planned increase in Premium Forwarding Service (PFS). Public Representative Comments at 2-7. He notes that in July 2008, the Commission authorized, at the Postal Service's request, the transfer of PFS from the Market Dominant Product List to the Competitive Product List.¹⁰ In support of its request in that docket, the Postal Service asserted that competitive alternatives existed precluding it from taking unilateral action to increase prices or decrease service without the risk of losing volume to private companies in the mail forwarding business. Order No. 88 at 7, citing Request, Attachment B, at 2-4.

The Public Representative comments on the size of the PFS planned increase, an overall 20.2 percent, noting that it cannot be verified based on the data filed. Public Representative Comments at 4-5. Given the size of the increase so soon after the transfer of PFS to the Competitive Product List, the Public Representative suggests that it may signal, in contravention of section 3642(b) of title 39, that the Postal Service has sufficient market power so that it can raise PFS rates significantly without the risk of

⁹ When the Commission reviewed the change in rates of general applicability for competitive products in Docket No. CP2009-8, it expressed concern that the Postal Service's filing did not include data necessary for the Commission to evaluate the planned changes fully. Docket No. CP2009-8, Review of Notice Concerning Changes in Rates of General Applicability for Competitive Products, December 11, 2008, at 2, n.3 (Order No. 146). Filings noticing planned price changes should provide the underlying data and supporting spreadsheets for each product, including the calculation of cost coverages and the percentage change in prices by product.

¹⁰ *Id.* at 3-4; see Docket No. MC2008-4, Order Granting Postal Service's Request to Transfer Premium Forwarding Service to the Competitive Product List, July 16, 2008 (Order No. 88).

losing a significant level of business to other firms offering similar products. *Id.* at 6.¹¹ The Public Representative recognizes, however, that PFS rates have not increased since inception of the service in 2005. Thus, he does not advocate that the planned increase be rejected. Instead, he urges the Commission to closely monitor future PFS price changes to ensure against excessive price increases and that PFS is properly classified as a competitive product. *Id.* at 7.

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the supplemental financial data filed under seal, and the comments filed by the Public Representative.

Statutory requirements. Planned price changes for competitive products are reviewed pursuant to 39 U.S.C. 3633(a) and Commission regulations under 39 CFR 3015, which implements section 3633. In brief, these statutory and regulatory provisions require each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)), prohibit the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and require that competitive products collectively make an appropriate contribution to the recovery of the Postal Service's total institutional costs.

A. Parcel Select

Parcel Select may contain any mailable matter, except that required to be mailed by First-Class Mail, and publications required to be entered as Periodicals mail. The Postal Service states that the changes proposed for these products are to correlate with similar changes for the market dominant services on which their pricing is based.

¹¹ Section 3642(b)(1) provides as follows:

The market-dominant category of products shall consist of each product in the sale of which 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. The competitive category of products shall consist of all other products.

In Docket No. CP2009-8, the Postal Service filed price increases for competitive products which included Parcel Select. In Order No. 146, the Commission approved the price increases for specific competitive products, including an increase for Parcel Select of 5.9 percent, which became effective January 18, 2009. In the instant case, the additional proposed price adjustment for Parcel Select prices is 0.5 percent overall.

The Parcel Select increases are limited to three categories not included in the January 2009 competitive products' price increase for shipping services: Origin Bulk Mail Center Presort (OBMC), BMC Presort, and Barcoded Inter-BMC and Intra-BMC. The prices for these categories are based on market dominant Single-Piece Parcel Post prices. The price changes in these categories are scheduled to take effect May 11, 2009 concurrent with the market dominant price changes.

Classification language changes proposed include minor changes to the OBMC Presort and BMC Presort rate schedules reflecting the discount for barcoding. In addition, the Postal Service plans to merge non-presort Barcoded Inter-BMC and Intra-BMC into one category Barcoded Nonpresort.

No comments specifically addressing Parcel Select service were received other than as discussed above.

Based on the information currently before it, the Commission finds that the planned prices for Parcel Select scheduled to take effect May 11, 2009, are in accord with the relevant statutory and regulatory requirements of 39 U.S.C. 3633(a) and 39 CFR 3015.7.

B. Premium Forwarding Service

PFS provides residential postal customers with a forwarding service for their mail when they are away from their primary residences. Most mail from a customer's permanent address is forwarded once a week via Priority Mail to the customer's temporary address. The customer is charged an enrollment fee and a weekly fee. PFS is used by postal customers with multiple residences, those on extended travel, and recreational vehicle owners.

The PFS enrollment price will increase from \$10.00 to \$15.00, and the weekly reshipment price will increase from \$11.95 to \$13.95.¹² The Postal Service states that the overall percentage increase in prices for PFS is 20.2 percent. Decision at 2. The Postal Service states that this is the first price increase for this service since its inception in 2005. *Id.*, Attachment to the Governors' Decision, at 1.

The Postal Service does not propose any classification changes for PFS.

As noted above, the Public Representative comments extensively on the planned PFS price increase. His suggestion that the Commission monitor future PFS price increases to ensure compliance with section 3642(b) of title 39 is reasonable. As the Commission noted in Order No. 88:

[A] transfer of a product between product lists is not necessarily permanent. If circumstances should warrant in the future, for example, if the Postal Service appeared to be price gouging users of this service, the Commission under section 3642 and its own rules can initiate a transfer of PFS from the competitive product list back to the market dominant product list. Moreover, users of the mail also can request such a transfer. See 39 U.S.C. 3642 and 39 CFR 3020.30 *et. seq.*

Order No. 88 at 8.

The Public Representative also argued that the Postal Service's initial filing was deficient because the claimed 20.2 percent increase could not be verified. He urged the Commission to seek clarification of the claim. Public Representative Comments at 5. As noted above, two Chairman's information requests were directed to the Postal Service. The first sought the supporting spreadsheets and underlying data used to calculate the volumes, revenues, and costs associated with the planned price changes.

CHIR No. 2 directed the Postal Service to provide data on weights used to calculate the percentage increase by product. The information submitted by the Postal

¹² Initially, as an experimental service, the fees for PFS consisted of a \$10.00 enrollment fee plus a weekly per-shipment charge of \$10.00, consisting of a \$2.85 packaging fee added to the Priority Mail rate of \$7.15 applicable to a 3-pound, zone 6 piece. See PRC Op. MC2005-1, April 15, 2005, at 5. When PFS was approved as a permanent service, the enrollment fee remained at \$10.00, but the reshipment fee was \$11.95. See PRC Op. MC2007-3, January 7, 2008, at 7. In that proceeding, the reshipment fee was restated without reference to either a packaging fee or the 3-pound, zone 6 Priority Mail rate.

Service in response to these requests addresses the concerns raised by the Public Representative and supports the claim that the planned increase is 20.2 percent.

In the abstract, the planned increase appears to be significant. Neither the \$10.00 enrollment fee nor \$2.85 packaging fee has increased since inception of the service in 2005.¹³ Taking into account the current filing, PFS fees have increased since 2005 by approximately 34 percent. As a point of comparison, Priority Mail rates for a 3-pound, zone 6 piece have increased since Docket No. R2005-1 by more than 31 percent. From that perspective, the respective increases are reasonably comparable. The Commission's rules, however, allow it or any interested person to propose that PFS be reclassified as a market dominant product.

Accordingly, based on the information before it in this proceeding, the Commission finds that the planned prices for Premium Forwarding Service appear to satisfy the statutory and regulatory requirements under 39 U.S.C. 3633 and 39 CFR 3015.7.

C. International Priority Airmail (IPA)

IPA is a bulk international airmail service for mailing First-Class Mail International items. The planned increases relate to the single-piece First-Class Mail International letter prices that will change in May. On average, IPA prices will increase by 20.8 percent. The Postal Service states this price change is prompted by new cost information for non-contractual volumes. Attachment A to the Governors' Decision at 2.

The Postal Service proposes new country-specific price groups where pricing will be distinguished by presort level (Direct Country, Mixed Country, and Worldwide Non-presort). Mixed country sacks are proposed to be applicable to dropshipped items. The minimum volume per mailing for IPA is raised to 50 pounds. Additionally, Worldwide Non-presort, previously applicable only to IPA, will also be applicable to ISAL. Also, the

¹³ The 3-pound, zone 6 Priority Mail rate did increase during the interim.

non-contractual price increases will result in increases in the rates charged to customers that have executed customized agreements with the Postal Service. *Id.* at 1.

No comments specifically addressing International Priority Airmail service were received.

Based on the information before it in this proceeding, the Commission finds that the planned IPA prices appear to satisfy the statutory and regulatory requirements under 39 U.S.C. 3633 and 39 CFR 3015.7.

D. International Surface Air Lift (ISAL)

ISAL is a bulk mailing service for fast, economical, international delivery of First-Class Mail International items. Mail is airlifted directly to the country of destination or routed through key destination centers. ISAL shipments are flown to the foreign destinations and entered into that country's surface or non-priority mail system for delivery.

As similar to IPA, ISAL products are aligned with single-piece First-Class International Letter prices that will change in May. Also, as stated above, Worldwide Non-presort previously applicable only to IPA will also apply to ISAL. Accordingly, as in IPAL, mixed country sacks would only be applicable to dropshipped items. On average, non-contractual ISAL prices increase by 2.4 percent.

No comments specifically addressing ISAL service were received.

Based on the information before it in this proceeding, the Commission finds that the planned prices for International Surface Air Lift appear to satisfy the statutory and regulatory requirements under 39 U.S.C. 3633 and 39 CFR 3015.7.

E. International Ancillary Services

The Postal Service's filing includes plans to increase certain International Ancillary Services that may be combined with other competitive products. These include the following services: International Registered Mail, which provides additional security and limited indemnity protection; International Return Receipt, which provides the sender evidence of delivery; International Restricted Delivery, which limits delivery to an identified recipient; and International Certificate of Mailing, which furnishes evidence of mailing.

Competitive International Ancillary Services are increased to align with identical increases in the prices for market dominant International Ancillary Services.

The average increase for these International Ancillary Services is 6.1 percent. The average increase by service is as follows: International Certificate of Mailing 6.7 percent; International Registered Mail 6.5 percent; International Restricted Delivery 4.7 percent; and International Return Receipt 4.5 percent.

No classification changes are proposed for any International Ancillary Services.

No comments specifically addressing International Ancillary Services were received.

Based on the information before it in this proceeding, the Commission finds that the planned prices for International Ancillary Services appear to satisfy the statutory and regulatory requirements under 39 U.S.C. 3633 and 39 CFR 3015.7.

IV. CONCLUSION

In summary, having reviewed the record in this proceeding, including the Decision of the Governors, dated February 3, 2009, materials filed in support of the planned price changes, and comments received, the Commission finds, based on the information before it, that the planned price changes satisfy the relevant statutory and regulatory requirements. The proposed classification changes will be incorporated into the draft Mail Classification Schedule.¹⁴

It is Ordered:

The planned price adjustments for competitive products addressed in this Order appear to comply with the requirements set forth in 39 U.S.C. 3633(a) and 39 CFR 3015.7.

By the Commission.

Steven W. Williams
Secretary

¹⁴ As indicated in previous orders, the language suggested by the Postal Service in its filing is illustrative and subject to change in the Mail Classification Schedule the Commission ultimately adopts.