

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
ROYAL MAIL INBOUND AIR PARCEL POST AGREEMENT
NEGOTIATED SERVICE AGREEMENT

Docket No. MC2009-24

COMPETITIVE PRODUCT PRICES
ROYAL MAIL INBOUND AIR PARCEL POST AGREEMENT (MC2009-24)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2009-28

**REPLY OF UNITED STATES POSTAL SERVICE TO COMMENTS
BY THE EXPRESS DELIVERY AND LOGISTICS ASSOCIATION
IN RESPONSE TO ORDER NO. 207**

(May 6, 2009)

On May 5, 2009, the Express Delivery and Logistics Association (“XLA”) filed comments in response to Order No. 207, which established the above-captioned dockets.¹ XLA’s comments essentially rehash the criticisms about implementation of 39 U.S.C. § 407(e)(2) that International Transit Solutions, Inc., raised in Docket Nos. MC2009-10 and CP2009-12.² The Postal Service notes that the Commission has ruled that comments in the nature of those raised by XLA are outside the scope of rate and classification proceedings,³ and the Postal Service respectfully submits that the same

¹ Comments of Express Delivery and Logistics Association Pursuant to PRC Order 207, Docket Nos. MC2009-24 and CP2009-28, May 5, 2009.

² Comments of William Gensburg of International Transit Solutions, Inc. Pursuant to the PRC Order No. 141, Docket Nos. MC2009-10 and CP2009-12, Dec. 9, 2008.

³ Order No. 162, Order Adding International Expedited Services 2 to Competitive Products List, Docket Nos. MC2009-10 and CP2009-12, Dec. 31, 2008, at 8; Order No. 150, Order Concerning Additional Global Expedited Package Services 1 Negotiated Service Agreement, Docket No. CP2009-15, Dec. 17, 2008, at 6. See also Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, Docket No. RM2007-1, Oct. 29, 2007, at 82 fn.39 (mentioning FedEx’s comments about the interplay between the Commission’s classification regulations and other agencies’ responsibilities under 39 U.S.C. § 407(e)(2), and finding it “unnecessary . . . to address the issues substantively” in that proceeding).

conclusion should result here. In particular, in Order No. 150, the Commission ruled that:

[t]he issue raised by XLA is beyond the scope of this proceeding[, namely,] whether the proposed agreement is consistent with the policies of sections 3632, 3633, and 3642 of title 39[, United States Code,] and with the Commission's standards for functional equivalence in Docket No. CP2008-5. If XLA believes that the regulatory advantages it cites fall within the Commission's purview, it would need to develop its claim more fully.⁴

XLA has no more fully developed a relevant claim here than in its previous comments, and hence its present comments should warrant no greater consideration than its previous submission.

To the extent that a substantive response would prove helpful, the Postal Service hereby incorporates by reference its entire response to Mr. Gensburg's earlier comments, which it filed on December 15, 2008, all of which retain currency with respect to the instant XLA comments.⁵ In particular, the Postal Service would like to underscore the following passage from its earlier reply comments:

Section 407(e)(2) is not being ignored. As required by that provision and other statutes applicable to exportation of postal items, the Postal Service, Customs and Border Protection, and the Department of State are collaborating with each other and other UPU members on the practical implementation of section 407(e)(2). Therefore, the Commission need not address customs clearance in this proceeding.⁶

This proceeding concerns the establishment of a bilaterally agreed rate of exchange, which were negotiated against the backdrop of generally applicable inward land rates established by the Universal Postal Union (UPU). The negotiated discount does not affect the application of other UPU rules or any other aspect of the Postal

⁴ Order No. 150 at 6. See also Order No. 162 at 8.

⁵ Reply to Comments of William Gensburg of International Transit Solutions, Docket Nos. MC2009-10 and CP2009-12, Dec. 15, 2008.

⁶ Id. at 3.

Service's processing of inbound parcel post items. Hence, XLA's comments are particularly ill-placed in this case, which does not implicate customs procedures. In any event, as stated in the Postal Service's earlier comments, the Postal Service is in the ongoing process of implementing Section 407(e)(2) in a manner that is feasible for all concerned. To take sudden action in this proceeding would compromise that process, and it would unduly complicate the Postal Service's contractual relations with a foreign postal administration that do not concern customs processes. Hence, the Postal Service respectfully urges the Commission not to entertain XLA's requests.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Jacob Howley

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-8917; Fax -6187
jacob.d.howley@usps.gov
May 6, 2009