

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 Contract 11 (MC2009-25)
Negotiated Service Agreement

Docket No. CP2009-37

NOTICE AND ORDER CONCERNING FILING
OF PRIORITY MAIL CONTRACT 11
NEGOTIATED SERVICE AGREEMENT

(June 17, 2009)

I. INTRODUCTION

On June 11, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, announcing that it has entered into an additional contract (Priority Mail Contract 11), which it contends fits within the previously proposed Priority Mail Contract Group product.¹ In support, the Postal Service filed the proposed contract and referenced Governors' Decision 09-6 filed in Docket No. MC2009-25. *Id.* at 1.

The Notice states that the "contract differs from the contract filed as Priority Mail Contract 6 only in regards to negotiated prices and a difference in termination provisions." *Id.* at 2. In addition, it states that the contract is scheduled to become effective the day that the Commission issues all necessary regulatory approval. *Id.* at 1.

¹ Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 11), June 11, 2009 (Notice).

The instant contract. The Postal Service filed the instant contract pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. It submitted the contract and supporting material under seal and attached a redacted copy of the contract and certified statement required by 39 CFR 3015.5(c)(2) to the Notice. *Id.*, Attachments A and B respectively.

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 FILING

The Commission establishes Docket No. CP2009-37 for consideration of the matters related to the contract identified in the Postal Service's Notice.

The Notice does not expressly use the term functionally equivalent to describe proposed Priority Mail Contract 11. Instead, it appears to implicitly make that claim by distinguishing the instant contract from Priority Mail Contract 6, filed in Docket No. CP2009-30 as part of the proposed Priority Mail Contract Group. *Id.* at 2. As the Postal Service recognizes, the scope of the Priority Mail Contract Group product is currently pending before the Commission. To that end, it acknowledges that the Commission's decision in Docket No. MC2009-25 may have an impact on the sufficiency of the Postal Service's filings in this case. *Id.* at 1, n.1. Depending on the outcome of Docket No. MC2009-25, the Postal Service may need to file additional support as required in 39 CFR 3020 subpart B. Such filings, if any, shall be due within three days of the Commission's order in Docket No. MC2009-25 addressing the scope of the proposed Priority Mail Contract Group product.

Interested persons may submit comments on whether the instant contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020, subpart B, and whether it should be classified within the Priority Mail Contract Group or as a separate product. Comments in this case are due no later than June 26, 2009.

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 this docket.

III. SUPPLEMENTAL INFORMATION

Pursuant to 39 CFR 3015.6, the Commission requests the Postal Service to provide the following supplemental information by June 23, 2009:

1.
 - (a) Please explain the cost adjustments made to each contract;
 - (b) Explain the mailer activities or characteristics that:
 - (i) yield cost savings to the Postal Service,
 - (ii) impose additional costs on the Postal Service;
 - (c) Please address every instance where an NSA partner's cost differs from the average cost.
2.
 - (a) Please provide a timeframe of when NSA partner volumes and cubic feet measurements were collected for each contract.
 - (b) Please provide a unit of analysis for volumes in each contract, *e.g.*, whole numbers, thousands, etc.
3. In the Excel files accompanying the instant contract, unit transportation costs are hard coded (See tab: "Partner Unit Cost" rows 18 and 19). Please provide up-to-date sources and show all calculations.

It is Ordered:

1. The Commission establishes Docket No. CP2009-37 for consideration of the issues raised in this docket.
2. As discussed in this Order, the Postal Service shall file supplemental information, if necessary, within three days of the Commission's order in Docket No. MC2009-25 addressing the scope of the proposed Priority Mail Contract Group product.
3. Comments by interested persons in these proceedings are due no later than June 26, 2009.
4. The Postal Service is to provide the information requested in section III of this Order no later than June 23, 2009.
5. 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.
6. The Secretary shall arrange for publication of this order in the *Federal Register*.

By the Commission.

Steven W. Williams
Secretary