

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

COMPETITIVE PRODUCT PRICES
EXPRESS MAIL & PRIORITY MAIL
EXPRESS MAIL & PRIORITY MAIL CONTRACT 8

Docket No. MC2009-33

COMPETITIVE PRODUCT PRICES
EXPRESS MAIL & PRIORITY MAIL CONTRACT 8 (MC2009-33)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2009-44

**REQUEST OF THE UNITED STATES POSTAL SERVICE
TO ADD EXPRESS MAIL & PRIORITY MAIL CONTRACT 8
TO COMPETITIVE PRODUCT LIST
AND NOTICE OF ESTABLISHMENT OF RATES AND CLASS
NOT OF GENERAL APPLICABILITY**

(July 2, 2009)

In accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 et seq., the United States Postal Service hereby requests that Express Mail & Priority Mail Contract 8 be added to the competitive product list within the Mail Classification Schedule.¹ This is a competitive product not of general applicability within the meaning of 39 U.S.C. § 3632(b)(3).² A redacted version of the Governors' Decision establishing the prices and classification and a certification of the Governors' vote is provided in Attachment A.³ A redacted version of the contract is provided in Attachment B. Attachment C shows the requested changes in the Mail Classification product list with the addition in brackets.⁴ Attachment D provides a statement of supporting justification for this

¹ 39 C.F.R. § 3020.31(a), (c).

² *Id.* § 3020.31(d).

³ *Id.* § 3020.31(b).

⁴ *Id.* § 3020.31(f).

request, as specified in 39 C.F.R. § 3020.32.⁵ Attachment E provides the certification of compliance with 39 U.S.C. § 3633(a)(1) and (3).⁶

As explained in the supporting justification, the Postal Service believes that it is appropriate to add this contract to the list of competitive products. The Commission should therefore approve this request as set forth in its rules. As required by 39 U.S.C. § 3642(d)(1), this Request is being published in the Federal Register.

The Postal Service also gives notice, pursuant to 39 USC § 3632(b)(3) and 39 CFR § 3015.5, that the Governors have established prices and classifications not of general applicability for this contract.⁷ The prices and class are to be effective one day after the Commission approves the required addition to the product list.⁸ An explanation and justification is provided in the Governors' Decision and accompanying analysis, which are being filed in unredacted version under seal.⁹ Also, being filed under seal are the required cost and revenue data.¹⁰

The Postal Service maintains that the contract, related financial information, the customer's name and the portions of the Governors' Decision and accompanying analyses that provides prices, terms, conditions, and financial projections should remain confidential. The contract contains pricing and other information related to the customer and its processes as well as to Postal Service processes and procedures for handling the mail tendered under the contract. Related financial information contains cost and pricing information showing how prices are developed. Prices and other contract terms

⁵ *Id.* § 3020.31(e).

⁶ *Id.* § 3015.5(c)(2).

⁷ *Id.* § 3015.5(a).

⁸ *Id.* § 3015.5(b).

⁹ *Id.*

¹⁰ *Id.* § 3015.5(c)(1).

relating to the parties' processes and procedures are highly confidential in the business world and the Postal Service protects them in accordance with industry standards. The ability of the Postal Service to negotiate such contracts would be severely compromised if prices and other information pertaining to these types of agreements were publicly disclosed. Also, public disclosure would compromise the ability of the customer to negotiate favorable shipping services contracts in the future. The name of the customer should remain confidential due to the substantial likelihood that the Postal Service's competitors would use such information to target their efforts and undercut the Postal Service's prices. The Postal Service is aware of no competitor or private company of comparable size and scope that releases similar information to the public.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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July 2, 2009

ATTACHMENT A

to Postal Service Request

Docket Nos. MC2009–33 & CP2009–44

REDACTED GOVERNORS' DECISION

MAIL CLASSIFICATION SCHEDULE

PART B—COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

NEGOTIATED SERVICE AGREEMENTS

Domestic

[Express Mail & Priority Mail Contract 8]

Statement of Supporting Justification

I, Mary Prince Anderson, Manager, Sales and Communications, Expedited Shipping, am sponsoring this request that the Commission add Express Mail & Priority Mail Contract 8 to the list of competitive products. This statement supports the Postal Service's request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

- (a) *Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.*

As demonstrated below, the change complies with the applicable statutory provisions.

- (b) *Explain why, as to the market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. § 3622(d), and that it advances the objectives of 39 U.S. C. § 3622(b), taking into account the factors of 39 U.S. C. § 3622(c).*

Not applicable. The Postal Service is proposing that this Express Mail & Priority Mail contract be added to the competitive products list.

- (c) *Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.*

The service to be provided under the contract will cover its attributable costs and make a positive contribution to coverage of institutional costs. The contract will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products arises (39 U.S.C. § 3633(a)(1)).

- (d) *Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

The contract sets specific terms and conditions for providing Express Mail service & Priority Mail service to the customer. Express Mail service and Priority Mail service are provided in a highly competitive market. The Postal Service is unable to set prices substantially above costs, raise prices significantly, decrease quality, or decrease output, without losing this business to private competitors in the expedited shipping market.

In negotiating this contract, the Postal Service's bargaining position was constrained by the existence of other providers of services similar to the Postal Service's. As such, the market precludes the Postal Service from taking unilateral action to increase prices or decrease service. As with Express Mail service and Priority Mail service in general, the Postal Service may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. The market does not allow the Postal Service to raise prices or offer prices substantially above costs; rather, the contract is premised on prices and terms that provide sufficient incentive for the customer to ship with the Postal Service rather than a competitor.

- (e) *Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 189 U.S.C. 1696, subject to the exceptions set forth in 39 U.S.C. 601.*

I am advised that merchandise sent by Express Mail service and Priority Mail service and this contract are not covered by these provisions. See part (d) above.

- (f) *Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

See part (d) above. Expedited shipping services, similar to Express Mail service and Priority Mail service, are widely available from well-known and successful private firms at both published and contract prices.

- (g) *Provide any available information of the views of those who use the product on the appropriateness of the proposed modification.*

Having entered into this contract with the Postal Service, the customer supports the addition of the contract to the product list so that the contractual terms can be effectuated.

- (h) *Provide a description of the likely impact of the proposed modification on small business concerns.*

The market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. Large shipping companies serve this market. The Postal Service is unaware of any small business concerns that could offer comparable service for this customer.

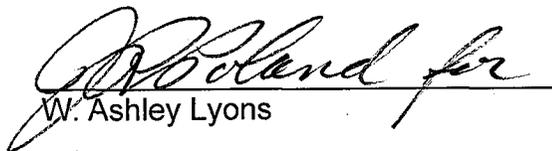
- (i) *Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

Additional details regarding the terms of the contract have been provided to the Commission under seal due to the sensitivity of the contract to both the customer and the Postal Service.

Certification of Prices for Express Mail & Priority Mail Contract 8

I, W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, am familiar with the prices and terms for Express Mail & Priority Mail Contract 8. The prices and terms are consistent with the formulas established by the Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Express Mail & Priority Mail Services, dated June 30 2009 (Governors' Decision No. 09-11).

I hereby certify, based on in the financial analysis provided herewith, that the prices are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). They are expected to cover attributable costs. There should therefore be no subsidization of competitive products by market dominant products. The contract should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.


W. Ashley Lyons