Postal Regulatory Commission
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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268–0001

COMPETITIVE PRODUCT PRICES EXPRESS MAIL & PRIORITY MAIL EXPRESS MAIL & PRIORITY MAIL CONTRACT 6	Docket No. MC2009–31
COMPETITIVE PRODUCT PRICES EXPRESS MAIL & PRIORITY MAIL CONTRACT 6 (MC2009-31) NEGOTIATED SERVICE AGREEMENT	Docket No. CP2009–42

ERRATA TO REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD EXPRESS MAIL & PRIORITY MAIL CONTRACT 6 TO COMPETITIVE PRODUCT LIST AND NOTICE OF ESTABLISHMENT OF RATES AND CLASS NOT OF GENERAL APPLICABILITY
(July 6, 2009)

The United States Postal Service hereby gives notice that it is filing errata to its Request and Notice in these dockets filed on July 2, 2009. The original filing did not include Attachments A and B. Those attachments are included in the revised version which follows.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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Chief Counsel, Pricing and Product Support

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July 6, 2009

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REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD EXPRESS MAIL & PRIORITY MAIL CONTRACT 6 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 6 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

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[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
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing and Product Support

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July 2, 2009

ATTACHMENT A

to Postal Service Request

Docket Nos. MC2009–31 & CP2009–42

REDACTED GOVERNORS' DECISION

DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON ESTABLISHMENT OF RATE AND CLASS NOT OF GENERAL APPLICABILITY FOR EXPRESS MAIL AND PRIORITY MAIL SERVICES (GOVERNORS' DECISION NO. 09–10)

June 30, 2009

STATEMENT OF EXPLANATION AND JUSTIFICATION

The Postal Service and [redacted] ("the contract partner") have entered into a shipping services contract that provides customized pricing for the contract partner's use of Express Mail service and Priority Mail service. The contract partner [redacted] The contract is for three years.

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish prices not of general applicability, and such changes in classifications as are necessary to implement the prices.

Under the contract, the contract partner will pay discounted prices for [redacted] In the second and third years of the contract, prices will be increased by [redacted]

The contribution level of this contract is estimated to be [redacted] percent.

We have reviewed management's analysis of the contract, which is attached. We have evaluated the new price and classification changes in this context in accordance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. We approve the changes, finding that they are appropriate, and are consistent with the regulatory criteria, as indicated by management.

ORDER

We direct management to file with the Postal Regulatory Commission appropriate notice of these classification and rate changes and to request any needed addition to the competitive product list. The changes in price and class set forth herein shall be effective on the day after the Commission approves any required addition to the product list under 39 C.F.R. § 3020 Subpart B, or 15 days from the date of the Postal Service's notice, as applicable.

By The Governors:

Carolyn Lewis Gallagher
Chairman

ANALYSIS OF THE EXPRESS MAIL AND PRIORITY MAIL CONTRACT WITH [redacted]

The Postal Service's Priority Mail contract with [redacted] ("the contract partner") provides discounted prices for the contract partner's use of Priority Mail and Express Mail services. The contract partner [redacted]

Compared to the typical Priority Mail piece, the contract partner's Priority Mail and Express Mail pieces will be less costly to handle within the postal transportation network, because the contract partner is a commercial mailer with high volume shipments entered in bulk rather than across the retail counter, [redacted]

In the first year of the contract, the contract partner will pay the prices set forth in the contract. In the second and third years of the contract, those prices will be increased by [redacted]

Based on management's discussions with the contract partner and the structure of the contract, we estimate that the contract partner will tender approximately [redacted] Priority Mail and [redacted] Express Mail pieces per year under this contract. This should result in [redacted] in incremental revenue in the first year of the contract. Because there are no volume commitments, actual performance could vary from this estimate if the contract partner does not tender the expected volume. The estimated contribution level for this contract is [redacted] percent overall.

Based on the estimated increase in contribution from this contract, in light of anticipated costs and volumes, this contract will cover its attributable cost (39 U.S.C. 3633(a)(2)) and will result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 U.S.C. 3015.7(c), requires competitive products to contribute a minimum of 5.5 percent to 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)).

CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 09-10

I hereby certify that the Governors voted on adopting Governors' Decision No. 09-10, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.

Julie S. Moore

Date: 6-30-09

Julie S. Moore
Secretary of the Board of Governors

SHIPPING SERVICES CONTRACT
BETWEEN
THE UNITED STATES POSTAL SERVICE
AND
[redacted]
REGARDING EXPRESS MAIL SERVICE AND PRIORITY MAIL SERVICE

This contract for shipping services is made by and between [redacted] ("Customer"), a corporation organized and existing under the laws of the State of [redacted], with its principal office at [redacted], and the United States Postal Service ("the Postal Service"), an independent establishment of the Executive Branch of the United States Government established by the Postal Reorganization Act, Public Law 91-375, with its principal office at 475 L'Enfant Plaza, SW, Washington, DC 20260. The Postal Service and Customer are referred to herein collectively as the "Parties" and each as a "Party."

WHEREAS, it is the intention of the Parties to enter into a shipping services contract that will benefit the Postal Service, the postal system as a whole, and Customer, and that will comply with the requirements of Title 39 United States Code, as amended by the Postal Accountability and Enhancement Act of 2006,

NOW, THEREFORE, the Parties agree as follows:

I. Terms

The following terms apply as of the implementation date, as defined below:

A. Except to the extent different terms or prices are specified in this Contract, applicable provisions of the Domestic Mail Manual (as may be regularly updated by the Postal Service and posted at http://pe.usps.com/text/dmm300/dmm300_landing.htm) and of other postal laws and standards apply to mail tendered under this Contract.

B. This contract applies to all Express Mail pieces and Priority Mail pieces that Customer tenders to the Postal Service for shipping.

C. Customer must use PC Postage to pay for Express Mail and Priority Mail shipments.

D. The Postal Service will provide Customer with standard Express Mail and Priority Mail packaging and labels.

E. First Year Express Mail Prices. The following prices apply to Express Mail pieces tendered under this contract, from this contract's effective date, as provided in Section II, until the first anniversary of the contract's effective date:

[redacted]

[redacted]

F. First Year Priority Mail Prices. The following prices apply to Priority Mail pieces tendered under this contract, from this contract's effective date, as provided in Section II, until the first anniversary of the contract's effective date:

[redacted]

[redacted]

G. Annual Adjustment

1. For the second year of the contract, beginning on the first anniversary of the contract's effective date, the prices for Express Mail and Priority Mail pieces shipped by Customer will be the first year's prices plus

2. For the third year of the contract, beginning on the second anniversary of the contract's effective date, the prices for pieces Express Mail and Priority Mail pieces shipped by Customer will be the second year's prices plus

3. Prices for the second and third years will be calculated by the Postal Service and rounded up to the nearest whole cent.

II. Regulatory Review and Effective Date

This contract is subject to approval by the Postal Service Governors and the Postal Regulatory Commission ("the Commission"). In accordance with Title 39 and the Commission's Rules of Practice and Procedure, and upon approval of the Postal Service Governors, the Postal Service will make required filings with the Commission. The effective date of this contract shall be the day following the date on which the Commission issues all necessary regulatory approval.

III. Expiration Date and Termination

This contract shall expire three years from the effective date, unless (1) terminated by either Party with 30 days notice to the other Party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent contract between the Parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation.

IV. Appeals

Customer may appeal a Postal Service decision regarding the calculation of prices, the amount of postage paid, or other implementation or operational issues under this contract by submitting a written appeal within 30 days of receipt of notification of the determination giving rise to the appeal to: Manager, Pricing and Classification Service Center, 90 Church St. Ste. 3100, New York, NY 10007-2951 ((212) 330-5300 / Fax: (212) 330-5320). The decision of the PCSC Manager will be administratively final. Any decision that is not appealed as prescribed becomes the final Postal Service decision.

V. Confidentiality

Neither Party shall make public the terms of this contract, except to the extent required by law. The Postal Service shall request that the Commission, in executing its functions under the Act, not disclose Customer's identity, the terms of this contract, or supporting data, in accordance with the Commission's rules and practices.

VI. Amendments

This contract shall not be amended except expressly, in writing, by authorized representatives of the Parties.

VII. Assignment

Neither Party may, or shall have the power to, assign its rights under the contract or, delegate its obligations hereunder, without the prior consent of the other; such consent is not to be unreasonably withheld. In addition, in the event that Customer is merged with or into or acquires another entity, pricing under this contract following such merger or acquisition shall apply only to mail sent by the entity existing prior to the merger or acquisition. Following any

such merger or acquisition, the parties may negotiate in good faith to extend, modify or enter into a new contract applicable to the merged or acquired entity.

VIII. Waiver

Any waiver by a party shall not constitute a waiver for any future occurrence. No waiver shall be valid unless set forth in a writing executed by the party waiving such provision.

IN WITNESS WHEREOF, the Parties hereto have caused this contract to be duly executed as of the later date below:

UNITED STATES POSTAL SERVICE

Signed by: _____

Printed Name: Gary Reblin

Title: Vice President, Expedited

Date: 5-15-2009

[redacted]

MAIL CLASSIFICATION SCHEDULE

PART B—COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

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NEGOTIATED SERVICE AGREEMENTS

Domestic

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[Express Mail & Priority Mail Contract 6]

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 6 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 6

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 6. 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. 09-9).

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