

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Inbound Direct Entry Contracts (MC2008-6)  
With Foreign Postal Administrations

Docket No. CP2009-41

PUBLIC REPRESENTATIVE COMMENTS  
IN RESPONSE TO UNITED STATES POSTAL SERVICE  
REQUEST TO ADD INBOUND DIRECT ENTRY CONTRACT  
TO THE COMPETITIVE PRODUCTS LIST

(July 13, 2009)

In response to Order 237<sup>1</sup>, the Public Representative hereby comments on the June 29 United States Postal Service Notice Filing Functionally Equivalent Inbound Direct Entry (IDE) contract with P&T Express Mail Service Joint stock Company (VNPE).(Notice) VNPE handles shipment of expedited postal products – Express and Priority Mail equivalents – from Vietnam to the United States.

The instant contract's Notice is persuasive. Each pertinent element of 39 U.S.C. 3632, 3622, and 3642 appears to be met by this contract.

The Public Representative has accessed and reviewed all materials the United States Postal Service submitted under seal in this matter, documentation in its original (not redacted) version.

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<sup>1</sup> Commission Order 237, Notice and Order Concerning Filing of Functionally Equivalent Inbound Direct Entry Contracts Negotiated Service Agreements July2, 2009.

### **Accountability and Confidentiality**

The Notice contains a rationale for maintaining confidentiality concerning pricing, processes which enable discounted pricing, the attendant formulae and other contractual terms which are matters of commercial sensitivity.<sup>2</sup> Here, it would appear that the Postal Service has concisely justified the extent of confidentiality appropriate in this matter, providing a brief explanation for maintaining the confidentiality of each aspect of the matters remaining under seal.

### **Discussion**

Governors' Decision 08-6 established new shell pricing not of general applicability and changes to enable these IDE contracts. Indeed, as the public representative noted in Docket MC2008-6, the Governors' vote on the shell pricing was unanimously in favor. Once again, the Postal Service has proposed an IDE contract which provides incentives for customers to ship expedited packages with the Postal Service, rather than a competitor. Removing costs from the system benefits everyone – not just the parties – because it brings or increases efficiency.

### **Pricing, Cost Coverage and Contribution**

The Public Representative acknowledges that the pricing in the instant IDE contract comports with pricing, cost coverage and contribution provisions of title 39. In addition to having the mailer prepare mailings for less costly handling by the Postal

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<sup>2</sup> Postal Service Request, at 2-3.

Service, this particular IDE adds small Flat-Rate Box options. The Postal Service notes (Notice, at 4):

The core IDE service consists of the sack handling and entry as domestic mail, and does not necessarily depend on the underlying domestic mail services. It is notable, however, that this IDE Contract covers the same domestic services as those in Docket Nos. CP2008-14 and CP2008-15 ... In almost all substantive respects, this IDE contract resembles the contracts in Docket Nos. CP2008-14 and CP2008-15. Any differences in the amount of fees or in the underlying domestic mail services offered do not alter the IDE Contracts' functional equivalence, because the total costs associated with IDE Contracts are volume-variable and the basic service offered – handling of inbound sacks and induction into the domestic mail stream – is the same.

Because First-Class and Priority Mail parcels will be subject to the published rates offered to domestic customers, there is an element of fundamental fairness towards Postal Service Domestic customers using Market Dominant and Competitive products.

For a competitive products pricing schedule *not of general applicability*,<sup>3</sup> the Postal Service must demonstrate that the contract will be in compliance with 39 USC 3633(a): It will not allow market dominant products to subsidize competitive products, it will ensure that each competitive product covers its attributable costs; and enable competitive products as a whole to cover their costs (contributing a minimum of 5.5 percent to the Postal Service's total institutional costs). Pricing in the instant IDE contract does meet that criterion. And, as its precedent, the IDE contract approved in Docket MC2008-6, the instant contract falls within the pricing shell unanimously endorsed by Governors' Decision 08-6, subsequently approved by the Commission in

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<sup>3</sup> See 39 C.F.R. 3015.5.

Order 105, September 4, 2008. The Postal Service presents the instant contract as functionally equivalent (*f~*) to the Docket No. MC2008-6, Inbound Direct Entry Contracts. Indeed, because the circumstances of this contract, the shipper contracting with the Postal Service, the services available are all similar and because, it appears to fall within the parameters of that approved pricing shell, the instant agreement appears to be *f~* to the contract the Commission approved in Docket MC2008-6.

### **Conclusion**

The Public Representative acknowledges that the pricing in the present Inbound Direct Entry contract comports with provisions of title 39. This contract appears to be able to generate sufficient revenue to cover its attributable costs, enable competitive products as a whole to cover their costs, and contribute a minimum of 5.5 percent to the Postal Service's total institutional costs.<sup>4</sup> In addition to having the mailer prepare mailings for less costly handling by the Postal Service, the contract employs pricing incentives based upon volumes and other provisions favorable to both the Postal Service and the public.

The Public Representative respectfully submits the preceding Comments for the Commission's consideration.

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<sup>4</sup> 39 C.F.R. 3015.7(c).