

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
Global Plus 2 Contracts (MC2008-7)
Negotiated Service Agreements

Docket Nos. CP2009-48

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NOTICE OF FILING OF TWO FUNCTIONALLY EQUIVALENT
GLOBAL PLUS 2 NEGOTIATED SERVICE AGREEMENTS

(Issued July, 16, 2009)

I. INTRODUCTION

On July 13, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3633 and 39 CFR 3015.5, announcing that it has entered into two additional Global Plus 2 contracts, which it states fit within the previously established Global Plus 2 Contracts product.¹ The Postal Service states that the instant contracts are functionally equivalent to previously

¹ Notice of the United States Postal Service of Filing Two Functionally Equivalent Global Plus 2 Negotiated Service Agreements, July 13, 2009 (Notice).

submitted Global Plus 2 contracts, are filed in accordance with Order No. 112 and are supported by Governors' Decision No. 08-10 filed in Docket No. MC2008-7.² Notice at 1.

The Notice also states that in Docket No. MC2008-7, the Governors established prices and classifications for competitive products not of general applicability for Global Plus 2 contracts. The Postal Service relates that the instant contracts are the immediate successor contracts to those in Docket Nos. CP2008-16 and CP2008-17, which will expire soon, and which the Commission found to be functionally equivalent in Order No. 112. The Postal Service contends that the instant contracts should be included within the Global Plus 2 product on the Competitive Product List. *Id.* In support, the Postal Service has filed redacted versions of each contract and related materials as Attachments 1-A and 1-B. Redacted versions of the certified statements required by 39 CFR 3015.5 are included as Attachments 2-A and 2-B, respectively. The Postal Service states that the contracts should be included within the Global Plus 2 product and requests that the instant contracts be considered the "baseline contracts for future functional equivalency analyses concerning this product." *Id.* at 2.

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. The contracts become effective August 1, 2009, unless regulatory reviews affect that date, and have a one-year term.

The Postal Service maintains that certain portions of each contract and certified statement required by 39 CFR 3015.5(c)(2), names and identifying information of the Global Plus 2 customers, related financial information, portions of the certified statement which contain costs and pricing as well as the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 3.

The Postal Service asserts the contracts are functionally equivalent because they share similar cost and market characteristics and should be classified as a single product. *Id.* at 3. It states that while the precursor contracts filed in Docket Nos. CP2008-16 and

² See Docket Nos. MC2008-7, CP2008-16 and CP2008-17, Order Concerning Global Plus 2 Negotiated Service Agreements, October 3, 2008 (Order No. 112).

CP2008-17 exhibited minor distinctions based on differences in customers' negotiations, business needs or relationship with the Postal Service, the new versions of the agreements are identical to one another. *Id.* at 4.

The Postal Service also states that the instant contracts' customers are the same Postal Qualified Wholesalers (PQWs) as the parties to the contracts in Docket Nos. CP2008-16 and CP2008-17. Even though some terms and conditions of the contracts have changed, it states the essence of the service to the PQW customers is offering price-based incentives to commit large amounts of mail volume or postage revenue for Global Bulk Economy (GBE) and Global Direct (GD).³

The Postal Service indicates that the instant contracts have material differences which include removal of retroactivity provisions, explanations of price modification as a result of currency rate fluctuations or postal administration fees; removal of language on enforcement of mailing requirements; and restructuring of price incentives, commitments, penalties and clarification of continuing contractual obligations in the event of termination.

The Postal Service maintains these differences only add detail or amplify processes included in prior Global Plus 2 contracts. It contends because the contracts have the same cost attributes and methodology as well as similar cost and market characteristics, the differences do not affect the fundamental service being offered or the essential structure of the contracts. *Id.* at 8. It states the contracts are substantially similar both to one another and to the precursor Global Plus 2 contracts. Therefore, it asserts these contracts are "functionally equivalent in all pertinent respects." *Id.* at 8.

II. NOTICE OF FILING

The Commission establishes Docket Nos. CP2009-48 and CP2009-49 for consideration of the matters related to the contract identified in the Postal Service's Notice.

³ The Postal Service states the commitments also account for International Priority Airmail (IPA), International Surface Air Lift (ISAL), Express Mail International (EMI), and Priority Mail International (PMI) items mailed under a separate but related Global Plus 1 contract with each customer. The Global Plus 1 contracts are the subject of a separate competitive products proceeding.

Interested persons may submit comments on whether the instant contracts are consistent with the policies of 39 U.S.C. 3632, 3622, or 3642. Comments are due no later than July 23, 2009. The public portions of these filings can be accessed via the Commission's website (www.prc.gov).

The Commission appoints Michael J. Ravnitzky to serve as Public Representative in these dockets.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. CP2009-48 and CP2009-49 for consideration of the issues raised in these dockets.
2. Comments by interested persons on issues in these proceedings are due no later than July 23, 2009.
3. Pursuant to 39 U.S.C. 505, Michael J. Ravnitzky is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Judith M. Grady
Acting Secretary