

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Plus 1 Contracts (CP2008-8)
Negotiated Service Agreements

Docket No. CP2009-46
Docket No. CP2009-47

PUBLIC REPRESENTATIVE COMMENTS
IN RESPONSE TO ORDER NO. 249

(July 23, 2009)

The Public Representative hereby offers comments on the United States Postal Service's request to add two contracts to the existing Global Plus Contracts product.¹ These comments are filed in response to the Commission's notice and order requesting comment.²

I. Overview

This case is a proposal by the Postal Service to add two individual contracts into an existing mail product. The Public Representative has examined the materials filed under seal, and believes that the individual contracts appear on their face to satisfy the requisite statutory criteria. The availability of these contracts will benefit the general public.

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

² See PRC Order 249, Notice and Order Concerning Filing Two Functionally Equivalent Global Plus 1 Contracts Negotiated Service Agreements, July 16, 2009, at 4.

However, certain aspects of the information provided in support of these contracts, identified in the Commission's Chairman's Information Request No. 1,³ along with the short timeframe afforded for comments, preclude the Public Representative from providing an unqualified recommendation in support of contract approval.⁴

The Public Representative also offers a suggestion to help make future filings more self-contained to help implement a requirement identified by the Commission in a recent Order.

II. Public Interest in Satisfying the Statutory Criteria

Upon review of the contract and financial analysis documents, the Public Representative believes that on its face, this Negotiated Service Agreement meets the core statutory criteria, including the provisions of 39 U.S.C. 3632, 3633 and 3642.

Each Competitive Product should adequately cover its costs to help prevent cross-subsidization by market dominant products.⁵ There is a public interest in ensuring that these products pay their own way and are not supported

³ Chairman's Information Request No. 1 and Notice of Filing of Questions Under Seal, July 22, 2009; Attachment A to Chairman's Information Request No. 1 (filed under seal).

⁴ The Public Representative anticipates the Postal Service's response to the Chairman's Information Request will be helpful in clarifying uncertainties over the source of the proposed rates in a portion of the NSA.

⁵ See 39 U.S.C. § 3633 (a)(1) & (2).

by mailing prices paid by the general public or other mailers of market dominant products.⁶ The product offerings are also obliged by law to enable competitive products as a whole to cover their costs and by regulation to contribute a minimum of 5.5 percent to the Postal Service's total institutional costs.⁷

The Public Representative believes that on their face, the CP2009-46 and CP2009-47 contracts appear to satisfy those requirements.

The Public Representative also believes that the proposed contracts are appropriately categorized as Competitive Products, and that they are functionally equivalent to the existing Global Plus Product contracts under the CP2008-8 product umbrella.

III. Public Interest in Transparency

The public interest is served when the Postal Service and the Commission make available to the public the maximum amount of information about negotiated service agreements, taking into consideration the important need for preserving the confidentiality of sensitive or proprietary business information.

The Postal Service has done so in this docket. The Public Representative observes that during recent months, the Postal Service has taken steps toward greater transparency and accessibility in its filings. For example, the Postal

⁶ *Id.*

⁷ See 39 U.S.C. § 3633(b) and 39 CFR 3015.7(c).

Service has begun to file documents in OCR format so that the text is more accessible and searchable. In addition, the Postal Service has provided documents that are redacted only in specific places where such redactions are required. These are small but important aspects of greater transparency.

IV. Benefits to the General Public from these Contracts

The general public benefits from the availability of contracts of the type described in this docket in at least four ways.

First, well-prepared international mail pieces help move the international mail stream more efficiently. International mail rules can be complex and non-intuitive, and ill-prepared or non-uniform international mail pieces can cause impediments to the mail flow. Because Postal Qualified Wholesalers (PQWs) assist their customers in planning and preparing international mail pieces, and in that process they convey their specialized expertise and skills, those PQWs can help improve the overall efficiency of mail processing for the large quantities of mail they submit on behalf of their various customers.

Second, the aggregation of mail pieces sorted by country, and the encouragement of additional mail volume to a variety of destination countries, probably permits more regular, timely and efficient outbound shipments to destination countries that receive smaller volumes.

Third, by providing additional shipping opportunities these contracts are likely to result in an expansion of outbound mail volumes, and better utilization of existing postal capacity.

Finally, providing incentives for Postal Qualified Wholesalers encourages those companies to promote the use of outbound international shipping to new and existing customers, thus expanding the Postal Service's reach.

V. The Need for Self-Contained Docket Filings

In a previous docket, the Public Representative noted the importance of self-contained docket filings because of limitations in access to sealed materials due to confidentiality concerns.⁸ The Public Representative suggested that Notices of Competitive Products should be self-contained and include either a mention of, or a copy of, documents relating to the Notice, giving as an example the Governors' Decision.⁹

The Public Representative noted that the "general public may only access (absent a qualified [and granted] request to the Commission for access to confidential material) the public materials in this Docket posted online." Also, even if a member of the public gained access to the sealed material in the active

⁸ Public Representative Comments in Response to United States Postal Service Notice of Establishment of Rates and Class Not of General Applicability (Priority Contract 14), July 10, 2009, at 4.

⁹ *Id.* at 4. The Public Representative noted that the Governors' Decision had been filed with the Commission in a different docket.

docket, that would not provide that person with access to sealed material in a previous docket, even if the older material were necessary to assess the active docket.

In its Order¹⁰, the Commission agreed with the Public Representative's suggestion, instructing that "each docket should be self-contained" and that:

[i]n the future, the Postal Service should not cross-reference to other dockets (where documents in that referenced docket are filed under seal) in support of a different docket. This ensures that participants will have complete access to all information upon which the Postal Service proposes to rely.¹¹

The contracts in this docket rely upon cost methodologies and cost figures from the most recent International Cost and Revenue Analysis (ICRA), which is protected under seal within a different docket. An interested person, even one granted access to protected filings, would have a difficult time identifying the location of the ICRA (not to mention gaining access); this *lacuna* could impose an impediment to reasonable analysis or evaluation of the docket.

As a result, the Public Representative suggests that in light of the Commission's Order, the Postal Service's filings that reference the ICRA should include a pointer to the location of the ICRA utilized and cited in that docket.

¹⁰ PRC Order No. 247, Order Concerning Priority Mail Contract 14 Negotiated Service Agreement, July 14, 2009, at 6.

¹¹ *Ibid.*

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

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