

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
Priority Mail
Priority Mail Contract 17

Docket No. MC2009-37

Competitive Product Prices
Priority Mail Contract 17 (MC2009-37)
Negotiated Service Agreement

Docket No. CP2009-56

NOTICE AND ORDER CONCERNING PRIORITY MAIL CONTRACT 17
NEGOTIATED SERVICE AGREEMENT

(Issued July 29, 2009)

I. INTRODUCTION

On July 24, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Priority Mail Contract 17 to the Competitive Product List.¹ The Postal Service asserts that Priority Mail Contract 17 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). The Postal Service states that prices and classification underlying this contract are

¹ Request of the United States Postal Service to Add Priority Mail Contract 17 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, July 24, 2009 (Request).

supported by Governors' Decision No. 09-6 in Docket No. MC2009-25. *Id.* at 1. The Request has been assigned Docket No. MC2009-37.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009-56.

Request. The Request includes (1) a redacted version of the contract; (2) requested changes in the Mail Classification Schedule product list; (3) a Statement of Supporting Justification as required by 39 CFR 3020.32; and (4) certification of compliance with 39 U.S.C. 3633(a).² Substantively, the Request seeks to add Priority Mail Contract 17 to the Competitive Product List. *Id.* at 1-2.

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment C. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Priority Mail Contract 17 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by either party, but could continue for 3 years without modification. *See id.*, Attachment A. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a)(1). *See id.*, Attachment D.

The Postal Service will provide the shipper with customized pricing for eligible Priority Mail items shipped by the shipper, as well as Priority Mail packaging. The

² Attachment A to the Request is the redacted version of the contract. Attachment B shows the requested changes to the Mail Classification Schedule product list. Attachment C provides a statement of supporting justification for this Request. Attachment D provides the certification of compliance with 39 U.S.C. 3633(a).

shipper will manifest pieces eligible for customized pricing, using a separate permit number to ship such pieces, and will begin using the Electronic Verification System (eVS) for shipments of such pieces. Annual price adjustments will be applied to shipper's eligible mailpieces. A party may not assign the agreement without the other party's consent, which may not be unreasonably withheld.

The Postal Service filed much of the supporting materials, including the specific Priority Mail Contract 17, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2-3.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2009-37 and CP2009-56 for consideration of the Request pertaining to the proposed Priority Mail Contract 17 product and the related contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this Order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than August 6, 2009. The public portions of these filings can be accessed via the Commission's website (www.prc.gov).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. MC2009-37 and CP2009-56 for consideration of the matter raised in each docket.
2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than August 6, 2009.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Judith M. Grady
Acting Secretary