

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Dan Blair; and
Tony L. Hammond

Competitive Product Prices
Global Expedited Package Services 1 (CP2008-4)
Negotiated Service Agreement

Docket No. CP2009-50

ORDER GRANTING CLARIFICATION AND
ADDING GLOBAL EXPEDITED PACKAGE SERVICES 2 TO THE
COMPETITIVE PRODUCT LIST

(Issued August 28, 2009)

I. INTRODUCTION

In Order No. 262, the Commission authorized the inclusion of an additional Global Expedited Package Service (GEPS) contract within the Global Expedited Package Services 1 (GEPS 1) product.¹ The Postal Service seeks clarification of that order.² In its initial filing in this docket, the Postal Service sought to have the instant contract designated as the new baseline agreement for purposes of determining the

¹ See PRC Order No. 262, Order Concerning Filing of Additional Global Expedited Package Services 1 Negotiated Services Agreement, July 29, 2009 (Order No. 262).

² United States Postal Service Response to Order No. 262 Concerning Termination Date of Additional Global Expedited Package Services 1 Negotiated Service Agreement and Request for Clarification, July 30, 2009, at 2 (Request). No party filed a response to the Request.

functional equivalence of future GEPS contracts.³ The issue was not addressed substantively in Order No. 262. Noting that the GEPS 1 contract currently serving as the baseline will terminate and be removed from the Competitive Product List, the Postal Service requests clarification “concerning the contract and docket number that it should use for future filings of additional contracts to be added to the GEPS 1 product.” Request at 2. By this Order, the Commission grants clarification.

II. DISCUSSION

In its initial Notice, the Postal Service asserts the new GEPS 1 contract is functionally equivalent to previous GEPS contracts, that it should be included within the GEPS 1 product, “and it should become the new baseline agreement for determining whether future contracts are functionally equivalent.” Notice at 2. In support of its contention that the instant contract is functionally equivalent, the Postal Service states that it shares similar cost and market characteristics with previously filed GEPS 1 contracts. *Id.* at 4. It also contends that the contract meets the criteria established in Governors’ Decision 08-7. Furthermore, the Postal Service identifies various similarities with other GEPS 1 contracts, *e.g.*, mailers are small and medium-sized businesses, the contract is for one year, and payment by permit imprint, as well as various differences, *e.g.*, volume or postage commitments. *Id.* at 4-5. In addition, the Postal Service identifies various provisions, which it characterizes as minor or incidental, which differ from those contained in the initial GEPS 1 contract. These include, for example, clarifying the availability of other postal products, simplifying notice of mailing requirements, and changes not related to either party’s obligation under the agreement. *Id.* at 5-7.

In its Notice, the Postal Service does not expand on its request that the instant contract “be considered the baseline agreement for determining functional equivalence

³ Notice of United States Postal Service Filing of Functionally Equivalent Global Expedited Package Services 1 Negotiated Service Agreement, July 16, 2009, at 2, 7 (Notice).

for additional agreements.” *Id.* at 7.⁴ Apparently, because the initial GEPS 1 contract is terminating and provisions have been added to subsequent GEPS 1 contracts, the Postal Service suggests that the instant GEPS 1 contract be designated as the baseline for purposes of determining the functional equivalence of future GEPS contracts.

The Commission’s expectation in labeling the initial GEPS contract (in Docket No. CP2008-5) as GEPS 1 was that it would be followed sequentially by additional GEPS contracts, *e.g.*, GEPS 2, GEPS 3, etc., that exhibited sufficient variation from the initial contract to warrant being classified as a new product. Given that the initial GEPS 1 contract is expiring and that the instant contract contains additional provisions, the Commission will label the latter as GEPS 2.⁵ Following the current practice, the Postal Service shall identify all significant differences between any new GEPS contract and the GEPS 2 product. Such differences would include terms and conditions that impose new obligations or new requirements on any party to the contract. The docket referenced in the caption should be Docket No. CP2009-50, in lieu of Docket No. CP2008-4. Following the current practice, a redacted copy of Governors’ Decision 08-7 should be included in the new filing along with an electronic link to it.⁶

Future requests to implement a new baseline agreement should be filed as an MC docket since it will result in adding a new product to the product list and may result in removing a product from the product list.⁷

⁴ The Postal Service references PRC Order No. 227 issued in Docket No. CP2009-35 and states that “[t]he only additional difference between the agreement currently presented in this instant docket and the one presented in Docket No. CP2009-35 is the tender provision, which is described further below. *Id.* at 4, n.6.

⁵ This designation would also apply to GEPS contracts filed subsequent to the one in Docket No. CP2009-50, namely Docket Nos. CP2009-51, CP2009-52, CP2009-53, CP2009-58, and CP2009-59.

⁶ The Postal Service requests that the Inbound Direct Entry (IDE) contract filed in Docket No. CP2009-62 be considered the new baseline agreement for future IDE contracts. Absent a showing otherwise, the Commission intends to act on this request in a similar manner.

⁷ See *e.g.*, Docket Nos. MC2009-34 and CP2009-24, Request of the United States Postal Service to Add Express Mail Contract 4 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, July 6, 2009.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The GEPS contract filed in Docket No. CP2009-50 is added to the Competitive Product List as a new product, Global Expedited Package Services 2 (Docket No. CP2009-50) under Negotiated Service Agreements, International.
2. The additional GEPS contracts filed in Docket Nos. CP2009-51, CP2009-52, CP2009-53, CP2009-58, and CP2009-59 will be classified as GEPS 2 contracts and be included within the Global Expedited Package Services 2 product (Docket No. CP2009-50).
3. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Judith M. Grady
Acting Secretary

CHANGE IN MAIL CLASSIFICATION SCHEDULE
CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified at 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule. These changes are in response to Docket No. CP2009-50. The Commission uses two main conventions when making changes to the product lists. The addition of text is indicated by underscoring. Deleted text is indicated by a strikethrough.

Part B—Competitive Products

2000 Competitive Product List

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Negotiated Service Agreements

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Outbound International

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Global Expedited Package Services 2 (CP2009-50)

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