

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 G. Blair; and
Tony L. Hammond

Competitive Product Prices
Priority Mail
Priority Mail Contract 18

Docket No. MC2009-42

Competitive Product Prices
Priority Mail Contract 18 (MC2009-42)
Negotiated Service Agreement

Docket No. CP2009-63

NOTICE AND ORDER CONCERNING PRIORITY MAIL CONTRACT 18
NEGOTIATED SERVICE AGREEMENT

(Issued September 15, 2009)

I. INTRODUCTION

On September 11, 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 18 to the Competitive Product List.¹ The Postal Service asserts that Priority Mail Contract 18 is a competitive product “not of general applicability” within the meaning of 39 U.S.C.

¹ Request of the United States Postal Service to Add Priority Mail Contract 18 to Competitive Product List, September 11, 2009 (Request).

3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09-6 in Docket No. MC2009-25. *Id.* at 1. The Request has been assigned Docket No. MC2009-42.

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. CP2009-63.

Request. In support of its Request, the Postal Service filed the following materials: (1) a redacted version of the Governors' Decision, filed in Docket No MC2009-25, authorizing the Priority Mail Contract Group;² (2) a redacted version of the contract;³ (3) a requested change in the Mail Classification Schedule product list;⁴ (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁵ (5) a certification of compliance with 39 U.S.C. 3633(a);⁶ and (6) an application for nonpublic treatment of the materials filed under seal.⁷

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 D. 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 18 is included with the Request. The new contract purports to supersede in part a prior

² Attachment A to the Request, reflecting Governors' Decision No. 09-6, April 27, 2009.

³ Attachment B to the Request.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ Attachment E to the Request.

⁷ Attachment F to the Request.

contract for Express Mail and Priority Mail solely with respect to Priority Mail. Attachment B at 1. The Postal Service will provide the shipper with new customized pricing for eligible Priority Mail items shipped by the shipper, as well as Priority Mail packaging. The shipper will manifest pieces eligible for customized pricing, using a separate permit number to ship such pieces, and will use the Electronic Verification System (eVS) for shipments of such pieces. *Id.* Annual price adjustments will be applied to the shipper's eligible mailpieces.

The new agreement will become effective on the day that the Commission provides all necessary regulatory approvals. *Id.* at 3. It is terminable upon 30 days' notice by either party, but could continue until March 11, 2012 without modification, except as to price adjustments. *See id.* The Postal Service represents that the new contract is consistent with 39 U.S.C. 3633(a). *See id.*, Attachment E.

The existing contract's terms and conditions for Express Mail remain in effect.

The Postal Service filed much of the supporting materials, including the specific Priority Mail Contract 18, 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, cost data, and financial projections should remain under seal. *Id.* at 2. It also requests that the Commission order that the duration of such treatment of all customer identifying information be extended indefinitely, instead of ending after ten years. *Id.*, Attachment F at 1 and 7.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2009-42 and CP2009-63 for consideration of the Request pertaining to the proposed Priority Mail Contract 18 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 September 23, 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. SUPPLEMENTAL INFORMATION

The Commission requests the Postal Service to provide the following supplemental information regarding the new agreement by September 21, 2009:

1. Please explain if the spreadsheets filed on February 20, 2009 need to be revised to reflect the modifications in the current spreadsheets, and clarify whether all volumes, weight, and cubic feet figures are actual shipper's data.
2. Please verify that the existing contract, as revised, still complies with 39 U.S.C. 3633(a).

IV. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. MC2009-42 and CP2009-63 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 September 23, 2009.
4. Responses to the supplemental information request are due by September 21, 2009.
5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary