

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
GLOBAL DIRECT CONTRACTS (MC2009-9)
NEGOTIATED SERVICES AGREEMENT

Docket No.
CP2009-29

**NOTICE OF UNITED STATES POSTAL SERVICE OF CHANGE IN PRICES
IN ACCORDANCE WITH ORDER NO. 216**
(October 16, 2009)

In accordance with the Commission's Order No. 216,¹ the Postal Service hereby provides notice that prices under the Global Direct contract at issue in the above-captioned proceeding have changed as contemplated by the contract's terms. In that Order, the Commission acknowledged the contract's mechanism for changing prices in response to objective, external factors such as exchange rate changes and changes to Canada Post Corporation prices, rather than at the Postal Service's discretion.² The Commission advised that the Postal Service may file such changes on a "notice-type basis."³

As provided in the contract, the Postal Service has identified an exchange rate fluctuation that triggers the price change mechanism. Accordingly, the Postal Service has advised the customer of the impending change in prices. The Postal Service is submitting a copy of the relevant correspondence in conjunction with this notice.

Because the Postal Service considers certain information in the correspondence to

¹ PRC Order No. 216, Order Concerning Filing of Additional Global Direct Contracts Negotiated Service Agreement, Docket No. CP2009-29, May 15, 2009.

² Id. at 7.

³ Id.

warrant non-public treatment, a complete copy of the documentation is being filed under seal, and a redacted version is being filed publicly as Attachment 1 to this notice. An application for non-public treatment is also included as Attachment 2.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Jacob Howley

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-8917; Fax -6187
jacob.d.howley@usps.gov
October 16, 2009



October 15, 2009

Sent via Express Mail [REDACTED]

Dear [REDACTED]:

This is in regard to the Global Customized Mail Agreement (Agreement) between the United States Postal Service (USPS) and [REDACTED] which was signed on behalf of [REDACTED] on April 22, 2009.

In accordance with Article 9 of the Agreement, the USPS reviewed the exchange rate of the Canadian Dollar as measured in United States Dollars reported on the International Monetary Fund website [REDACTED]. That review showed a change [REDACTED] from the exchange rate [REDACTED] upon which the rates in the Agreement were based. Consequently, in accordance with Article 9 of the Agreement, the USPS is adjusting the prices in for Global Direct – Canada Lettermail in Annex 1 of your Agreement. A revised Annex 1 to the Agreement containing the revised prices for Global Direct – Canada Lettermail is attached to this letter. The revised prices for Global Direct – Canada Lettermail shall go into effect on November 1, 2009.

Please note that U.S. law requires that these prices and any supporting financial documentation be filed with the Postal Regularity Commission (PRC). Any unredacted portion of this documentation may be posted on the PRC's public website, www.prc.gov, under docket number CP2009-29. In addition, the USPS may file information in connection with this Agreement (including revenue, cost, or volume data) in other PRC dockets or reports. Under the PRC's rules, certain information must be made publicly available. [REDACTED] has the right, in accordance with the PRC's rules, to address its confidentiality concerns directly with the PRC.

Thank you for your business and your continued support of the USPS.

Sincerely,

A handwritten signature in cursive script that reads "James Crawford".

James Crawford
Manager
Customized Mail Agreements

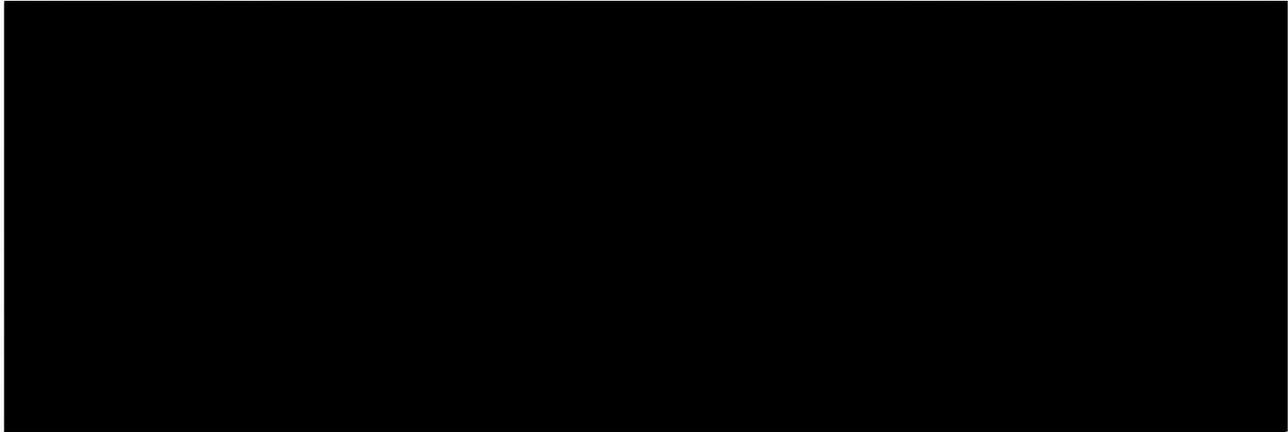
Enclosure

cc: Mark Curry
Lee Ingram

Customized Mail Agreements
1735 North Lynn Street Room 2030
Arlington, VA 22209-2039
TEL: 703-292-3614
FAX: 703-292-3729

ANNEX 1
PRICES FOR
GLOBAL DIRECT – CANADA LETTERMAIL

Global Direct – Canada Lettermail



ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials consist of Postal Service correspondence notifying the holder of the Global Direct contract at issue in this docket of a change in prices. The materials are being filed separately under seal with the Commission, although a redacted copy is filed with the Notice as Attachment 1.²

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. §

¹ PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

² As shown in the correspondence at issue, the Postal Service informed the customer prior to filing its notice that it would be seeking non-public treatment of the redacted portions of the contract.

504(g)(3)(A).³ Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

In the case of Global Direct contracts, the Postal Service believes that the only third party with a proprietary interest in the materials is the customer with whom the contract is made. The Postal Service maintains that customer-identifying information should be withheld from public disclosure. Therefore, rather than identifying the customer, the Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third party with proprietary interest in the materials filed in this docket is Mr. Jacob Howley, Attorney. Mr. Howley's email address is jacob.d.howley@usps.gov, and his telephone number is 202-268-8917.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

In connection with its Notice filed in this docket, the Postal Service included a copy of the correspondence notifying the Global Direct customer of the change in prices

³ The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

pursuant to Article 9 of the contract. These materials were filed under seal, with redacted copies filed publicly, after notice to the customer. The Postal Service maintains that the redacted portions of the contract should remain confidential.

The redactions on the cover letter and the footer of Annex 1 of the contract constitute the name or address of a postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). The redactions made in the updated version of Annex 1 of the contract, other than those involving the customer's name, withhold the actual prices that are being offered to this customer in exchange for its commitment and performance of its obligations under the terms of the agreement.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the portions of the contract that the Postal Service has determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. First, revealing customer-identifying information would enable competitors to focus marketing efforts on current postal customers, undermining the effort and resources that the Postal Service has invested in cultivating business relationships with those customers. The Postal Service considers that it is highly probable that if this information were made public, its competitors would take immediate advantage of it. The Global Direct contract includes a provision allowing the mailer to terminate the contract without cause by providing at least 30 days' notice. Therefore, there is a substantial likelihood of losing the customer to a competitor that targets them with lower pricing.

The redacted price information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the offers made by the Postal Service to its customers for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, other potential customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer in this contract is revealed to the public. Another expedited delivery service has an employee monitoring the filing of Global Direct agreements and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer potentially lower rates or other incentives to terminate its contract with the USPS in favor of using the competitor's services.

Identified harm: Public disclosure of the price charts in Annex 1 would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: Customer A's negotiated rates are disclosed publicly on the Postal Regulatory Commission's website. Customer B sees the rates and determines that there may be some additional profit margin between the rates provided to Customer A and the statutory cost coverage that the Postal Service must produce in order for the agreement to be added to the competitive products list. Customer B, which was offered rates identical to those published in Customer A's agreement, then uses the publicly available rate information to insist that it must receive lower rates than those the Postal Service has offered it, or it will not use the Postal Service for its expedited package service delivery needs.

Identified harm: Public disclosure of price information would be used by the customer's competitors to its detriment.

Hypothetical: A competitor of the customer obtains a copy of the unredacted version of the price chart from the Postal Regulatory Commission's website. The competitor analyzes the chart to assess a portion of the shipping costs underlying the customer's own services. The customer's competitor uses that information as a baseline to tailor its own pricing and attempt to undercut the customer's business.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including both private sector integrators and foreign postal administrations), as well as their

consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials. This includes all competitors of the relevant customer, whether or not they are currently actual Postal Service customers.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. The Postal Service believes that the ten-year period of non-public treatment is sufficient to protect its interests with regard to the information it determined should be withheld due to commercial sensitivity, other than customer-identifying information.

The Postal Service believes that customer-identifying information should be protected permanently and asks the Commission to extend the duration of non-public status of that information indefinitely. As discussed above, disclosure of customer-identifying information leaves the Postal Service vulnerable to competitive "cherry-picking." Customers may continue to renew their Global Direct contracts, but the implementation of a new ten-year period of non-public treatment with each renewed contract does not affect the expiration of non-public treatment of the same information under the original contract. For transparency purposes, the Postal Service routinely discloses which Global Direct contracts are with new or existing customers. In the case of existing customers, the Postal Service also identifies the Commission docket in which the prior agreement was reviewed. This will make it possible for competitors to

determine the customers' identities and focus sales and marketing efforts on them when the initial ten-year period of non-public treatment expires. While this may seem inconsequential at the outset, in reality it has the same effect in ten years as it would for the information to be made public from the start. Therefore, the Postal Service seeks indefinite non-public treatment of the customer's name, address, and other identifying information in the non-public materials.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials. The Postal Service further requests that the Commission order that the duration of such treatment of customer identifying information be extended indefinitely.