

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 21

Docket No. MC2010-3

Competitive Product Prices  
Priority Mail Contract 21 (MC2010-3)  
Negotiated Service Agreement

Docket No. CP2010-3

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO UNITED STATES  
POSTAL SERVICE REQUEST TO ADD PRIORITY MAIL CONTRACT 21  
NEGOTIATED SERVICE AGREEMENT TO THE COMPETITIVE PRODUCTS LIST

(October 26, 2009)

In response to Order 316,<sup>1</sup> the Public Representative hereby comments on the October 14, 2009 United States Postal Service Request to Add Priority Mail Contract 21 to the Competitive Product List (Request).

This proposed contract's documentation is persuasive. Each pertinent element of 39 U.S.C. 3632, 3622, and 3642 appears to be met by this contract. Furthermore, the contract is consistent with policies in 39 CFR part 3015 and 39 CFR 3020 subpart B.

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<sup>1</sup> Commission Order 316, Notice and Order Concerning Priority Mail Contract 20 Negotiated Service Agreement, October 16, 2009

The Public Representative has accessed and reviewed all materials the United States Postal Service submitted under seal in this matter, documentation in its original (not redacted) version. The Public Representative respectfully notes that because Priority Mail Contract 21 is based upon the same Governors' Decision (09-6, April 27, 2009) as Priority Mail Contracts 19 and 20, falling within the cost coverage parameters of that Decision, these comments track the Public Representative Comments in Dockets MC2010-1, CP2010-1, MC2010-2, and CP2010-2. This Public Representative begs the indulgence of the reader; the NSAs designated Priority Mail Contract 19, 20, 21 and 22 each employ the same Governors' Decision 09-6 costing formula, and while they are agreements with different customers, the analysis for each is virtually the same. Nevertheless, each agreement has been reviewed and scrutinized for compliance with title 39 requirements.

### **Accountability and Confidentiality**

The Notice contains a rationale for maintaining confidentiality concerning pricing, processes which enable discounted pricing, the attendant formulae and other contractual terms which are matters of commercial sensitivity.<sup>2</sup> Here, it would appear that the Postal Service has concisely justified the extent of confidentiality appropriate in this matter, providing a brief explanation for maintaining the confidentiality of each aspect of the matters remaining under seal.

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<sup>2</sup> Attachment F to the Request, Application for Non-Public Treatment of Materials.

## **Discussion**

The instant Priority Mail contract classification is based upon a formula approved by the Board of Governors, in which cost coverage is defined by a ratio between total contract revenue and total contract cost. This, in turn, is capped at a percentage demonstrated to comply with title 39 provisions.

Under the instant three-year agreement, the Postal Service will ship items prepared by the customer for the Priority Mail processing at negotiated rates which shall be adjusted annually. The Postal Service will provide the customer with Priority Mail packaging. The customer agrees to tender Priority Mail shipments using the Electronic Verification System (eVS) for shipment and manifesting of such pieces.

## **Procedural requirements**

Viewed as a whole, the Postal Service's Notice and Request appear to satisfy the procedural requirements for proposing a new product, a Priority Mail contract with a domestic customer. For a competitive products pricing schedule *not of general applicability*,<sup>3</sup> the Postal Service must demonstrate that the contract will be in compliance with 39 USC 3633(a): It will not allow market dominant products to subsidize competitive products, it will ensure that each competitive product covers its attributable costs; and enable competitive products as a whole to cover their costs (contributing a minimum of 5.5 percent to the Postal Service's total institutional costs).

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<sup>3</sup> See 39 CFR 3015.5.

## **Conclusion**

The Public Representative acknowledges that the pricing in the present Priority Mail Contract 21 comports with provisions of title 39. In addition to requiring the mailer to use eVS for shipment and manifesting, the contract employs pricing terms favorable to the customer, the Postal Service and thereby, the public.

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

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