

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

Before Commissioners:

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

Competitive Product Prices
Express Mail
Express Mail Contract 5

Docket No. MC2010-5

Competitive Product Prices
Express Mail Contract 5 (MC2010-5)
Negotiated Service Agreement

Docket No. CP2010-5

NOTICE AND ORDER CONCERNING EXPRESS MAIL CONTRACT 5
NEGOTIATED SERVICE AGREEMENT

(Issued October 30, 2009)

I. INTRODUCTION

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Express Mail Contract 5 to the Competitive Product List.¹ The Postal Service asserts that Express Mail Contract 5 is a competitive product “not of general applicability” within the meaning of 39 U.S.C.

¹ Notice of Establishment of Rates and Class Not of General Applicability, Request of the United States Postal Service to Add Express Mail Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract and Supporting Data, October 28, 2009 (Request). On October 29, 2009, the Postal Service filed errata to its Request. See Notice of the United States Postal Service of Filing Errata to Request and Notice, October 29, 2009. Accordingly, the filing of the entire set of documents related to this Request was not completed until October 29, 2009.

3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09-14. *Id.* at 1. The Request has been assigned Docket No. MC2010-5.

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. CP2010-5.

Request. In support of its Request, the Postal Service filed the following materials: (1) a redacted version of the Governors' Decision authorizing certain Express Mail contracts;² (2) a redacted version of the contract;³ (3) a requested change in the Competitive 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 non-public 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 Express Mail Contract 5 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'

² Attachment A to the Request, reflecting Governors' Decision No. 09-14, October 26, 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.

notice by a party, but could continue for 3 years with annual adjustments. 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 Express Mail packaging for eligible Express Mail items mailed by the shipper.

The Postal Service filed much of the supporting materials, including the specific Express Mail Contract 5, 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 10 years. *Id.*, Attachment F at 1 and 7.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2010-5 and CP2010-5 for consideration of the Request pertaining to the proposed Express Mail Contract 5 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 November 9, 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. MC2010-5 and CP2010-5 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 November 9, 2009.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary