

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 23

Docket No. MC2010-9

Competitive Product Prices  
Priority Mail Contract 23 (MC2010-9)  
Negotiated Service Agreement

Docket No. CP2010-9

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO UNITED STATES  
POSTAL SERVICE REQUEST TO ADD PRIORITY MAIL CONTRACT 23  
NEGOTIATED SERVICE AGREEMENT TO THE COMPETITIVE PRODUCTS LIST

(November 18, 2009)

In response to Order 336,<sup>1</sup> the Public Representative hereby comments on the October 14, 2009 United States Postal Service Request to Add Priority Mail Contract 23 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.

The Public Representative has accessed and reviewed all materials the United States Postal Service submitted under seal in this matter, documentation in its original

---

<sup>1</sup> Commission Order 336, Notice and Order Concerning Priority Mail Contract 23 Negotiated Service Agreement, November 9, 2009

(not redacted) version. The Public Representative respectfully notes that because Priority Mail Contract 23 is based upon the same Governors' Decision (09-6, April 27, 2009) as Priority Mail Contracts 19 through 22, falling within the cost coverage parameters of that same Governors' Decision, these comments track the Public Representative Comments in those Dockets. The Postal Service's November 13 Response to the Information Request in Order 336, noted that Priority Mail Contract 23 is the successor contract to Priority Mail Contract 2, (established through Docket Nos. MC2009-2 and CP2009-3). This Public Representative begs the indulgence of the reader; these comments track comments filed regarding Priority Mail Contracts 19 through 22. Because these NSAs each employ the same Governors' Decision 09-6 costing formulae, while they are agreements with different customers, the analysis for each is virtually the same. Furthermore, Priority Mail Contract 2 was based upon the same Governors' Decision. Nevertheless, each of these agreements 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

---

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

this matter, providing a brief explanation for maintaining the confidentiality of each aspect of the matters remaining under seal.

### **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.

Unlike Priority Mail Contracts 19 through 22, however, the instant agreement is for a term of one year.

### **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).

---

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

## **Conclusion**

The Public Representative acknowledges that the pricing in the present Priority Mail Contract 23 comports with provisions of title 39. In addition to requiring the mailer to use PC postage, 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.

---

Paul L. Harrington  
Public Representative

901 New York Ave., NW Suite 200  
Washington, D.C. 20268-0001  
(202) 789-6867; Fax (202) 789-6883  
e-mail: [paul.harrington@prc.gov](mailto:paul.harrington@prc.gov)