

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  
Bilateral  
Negotiated Service Agreement

Docket No. MC2010-14

Competitive Product Prices  
Canada Post—United States Postal Service  
Contractual Bilateral Agreement for Inbound  
Market Dominant Services (MC2010-14)  
Negotiated Service Agreement

Docket No. CP2010-13

NOTICE AND ORDER CONCERNING BILATERAL AGREEMENT  
WITH CANADA POST FOR INBOUND COMPETITIVE SERVICES

(Issued December 1, 2009)

I. INTRODUCTION

On November 25, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add the Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services

(Bilateral Agreement) to the Competitive Product List.<sup>1</sup> The Postal Service asserts that the Bilateral Agreement is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2010-14.

The Postal Service contemporaneously filed notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, that the Governors have established prices and classifications not of general applicability for inbound competitive services as reflected in the Bilateral Agreement. More specifically, the Bilateral Agreement, which has been assigned Docket No. CP2010-13, governs the exchange of Inbound Parcel Post from Canada.

*Existing agreement.* The Postal Service acknowledges an existing bilateral agreement with Canada Post for inbound competitive services, which is set to expire at the end of calendar year 2009. *Id.* at 3. The Postal Service asserts that the proposed MCS language in Docket No. MC2010-14 “resembles the language” for the existing bilateral agreement and that the differences “reflect changes to certain operational details” including a reclassification of Canada Post’s “Xpresspost-USA” product from a market dominant product to a competitive product. *Id.* The Commission reviewed and approved that bilateral agreement in Docket Nos. CP2009-9 and MC2009-8. The Commission had previously approved the “Xpresspost-USA” product as a market dominant product in Docket No. MC2009-7.<sup>2</sup> Qualifying that approval, however, the Commission noted that “Xpresspost exhibits characteristics of a competitive product.” *Id.* at 7.

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<sup>1</sup> Request of United States Postal Service to Add Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling Governors’ Decision and Agreement, November 25, 2009 (Request).

<sup>2</sup> Docket No. MC2009-7, Order Concerning Bilateral Agreement with Canada Post for Inbound Market Dominant Services, December 31, 2008.

*Request.* In support of its Request, the Postal Service filed the following materials: (1) a redacted version of the Governors’ Decision including proposed Mail Classification Schedule (MCS) language, a management analysis of the Bilateral Agreement; certification of compliance with 39 U.S.C. 3633(a) and certification of the Governors’ vote;<sup>3</sup> (2) a Statement of Supporting Justification as required by 39 CFR 3020.32;<sup>4</sup> (3) a redacted version of the agreement<sup>5</sup> and (4) an application for non-public treatment of pricing and supporting documents filed under seal.<sup>6</sup> Request at 2.

The Bilateral Agreement covers parcels arriving in the United States by surface transportation rather than air. Governors’ Decision No. 09-16.<sup>7</sup> The Bilateral Agreement also covers Xpresspost, a Canadian service for documents, packets, and light-weight packages. *Id.* The Bilateral Agreement allows Canada Post to tender surface parcels and Xpresspost to the Postal Service at negotiated prices rather than the default prices set by the Universal Postal Union. *Id.*

In the Statement of Supporting Justification, Lea Emerson, Executive Director, International Postal Affairs, asserts that “[t]he addition of the [Bilateral] Agreement as a competitive product will enable the Commission to verify that the agreement covers its attributable costs and enables competitive products, as a whole, to make a positive contribution to coverage of institutional costs.” Request, Attachment 2. Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *Id.*, Attachment 1. He observes that the Bilateral Agreement “should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.” *Id.*

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<sup>3</sup> Attachment 1 to the Request.

<sup>4</sup> Attachment 2 to the Request.

<sup>5</sup> Attachment 3 to the Request.

<sup>6</sup> Attachment 4 to the Request. The Postal Service erroneously noted in its Request that an Attachment 5 which contained the application for non-public treatment was filed. The application for non-public treatment is Attachment 4; there is no Attachment 5.

<sup>7</sup> See Attachment 1 to the Request.

## II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2010-14 and CP2010-13 for consideration of the Request pertaining to the proposed Canada Post—United States Postal Service Contractual Bilateral Agreement product and the related Bilateral Agreement, 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, 39 CFR part 3015, and 39 CFR 3020 subpart B. Comments are due no later than December 14, 2009. The public portions of these filings can be accessed via the Commission's website ([www.prc.gov](http://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. MC2010-14 and CP2010-13 for consideration of the matters 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 December 14, 2009.

4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove  
Secretary