

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Inbound International Expedited Services 1  
Negotiated Service Agreement

Docket No. MC2010-13

Competitive Product Prices  
Inbound International Expedited Services 1  
(MC2010-13)  
Negotiated Service Agreement

Docket No. CP2010-12

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO  
UNITED STATES POSTAL SERVICE REQUEST TO ADD INBOUND  
INTERNATIONAL EXPEDITED SERVICES 1 TO THE COMPETITIVE PRODUCT LIST  
AND CHINA POST GROUP BILATERAL AGREEMENT

(December 10, 2009)

In response to Order No. 347<sup>1</sup>, the Public Representative hereby comments on the November 20, 2009, Postal Service Request to add Inbound International Expedited Services 1 to the competitive product list and Notice of China Post Group bilateral agreement (Request). This Request is persuasive.

**Discussion**

As the Postal Service notes, the instant contract, an agreement to deliver Express Mail in the United States, is based upon the structure of the previous competitive product of the same name (reviewed in Docket No. CP2008-7, and approved by the Commission in Order 84, June 27, 2008). The previous Expedited Services 1 contract expired July 14, 2009. The Postal Service asserts (Request, at 5), that the instant Express Mail Services (EMS) is functionally equivalent to the 2008

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<sup>1</sup> Commission Order 347, [Notice and Order Concerning Adding Inbound International Expedited Services 1 to the Competitive Product List and China Post Group Bilateral Agreement](#), November 25, 2009.

product. In fact, it relies on the same Governors' Decision, No. 08-5, April 1, 2008 (Attachment 2), and the pricing formulae outlined therein. It would appear to be functionally equivalent, with the same cost and market characteristics, and minimal, rather than substantive changes to the terms.

**Compliance with 39 U.S.C. 3632 and 39 CFR 3015.5**

The underlying contract with China Post Group (CPG) has been approved by the Postal Service Governors in a rightful exercise of their authority, and presented to the Commission for timely publication in the Mail Classification Schedule (MCS).

**Compliance with 39 U.S.C. 3633(a)**

This functionally equivalent EMS agreement (see Docket No. CP2008-7) with CPG complies with the 3-pronged requirements of 39 USC 3633(a); the Governors' review and executive analysis of the agreement indicate Expedited Services 1 contract with CPG 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).

**Compliance with 39 U.S.C. 3642 and 39 CFR 3020.30 et seq.**

The Postal Service Request fulfills the notice requirements of title 39 and Commission Rules of Practice and Procedure.

**Compliance with 39 CFR 3020 subpart B**

The data accompanying the instant Request appears to include the necessary content, analyses and justifications. 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.

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.

### **Conclusion**

The Public Representative acknowledges that the bilateral agreement with China Post Group for Postal Service delivery of Express Mail in the United States comports with provisions of title 39. This contract, beginning January 1, 2010 or thereafter, employs negotiated pricing, dispatch methods and other provisions favorable to both the Postal Service and the public.

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

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<sup>2</sup> Attachment 1 to the Request, Application for Non-Public Treatment of Materials.