

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

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

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO UNITED STATES
POSTAL SERVICE REQUEST TO ADD CANADA POST—UNITED STATES POSTAL
SERVICE CONTRACTUAL BILATERAL AGREEMENT FOR COMPETITIVE
SERVICES TO THE COMPETITIVE PRODUCT LIST, AND NOTICE OF FILING
AGREEMENT AND ENABLING GOVERNORS' DECISION (UNDER SEAL)

(December 14, 2009)

In response to Order No. 351¹, the Public Representative hereby comments on the November 25, 2009, Postal Service Request to add a Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (Bilateral Agreement) to the Competitive Product List.

The instant Request comports with title 39 and Commission procedural rules.

Discussion of the issues identified for comment by interested parties follows.

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

The underlying contract with Canada Post Corporation 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).

¹ Commission Order 351, Notice and Order Concerning Bilateral Agreement with Canada Post for Inbound Competitive Services, December 1, 2009.

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

The instant Inbound Competitive Services negotiated service agreement with Canada Post complies with the 3-pronged requirements of 39 USC 3633(a); the Governors' review² and executive analysis of the agreement indicate this contract 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). Indeed, the Postal Service asserts that this contract improves the cost coverage for inbound Surface Parcel Post established in prior agreements with Canada Post. See Attachment 1, Governors' Decision 09-16, November 18, 2009 Attachment B, Management Analysis.

Compliance with 39 U.S.C. 3642 and CFR 3020 subpart B

The Postal Service Request fulfills the notice requirements of title 39 and Commission Rules of Practice and Procedure. The data accompanying the instant Request appears to include the necessary content, analyses and justifications. The Request also 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.³ Here, it would appear that the Postal Service has concisely justified the extent of confidentiality appropriate in

² Request, Attachment 1, Governors' Decision 09-16, November 18, 2009 (including its Attachments A, B, and C).

³ Request, Attachment 4, 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.

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 Canada Post Corporation for Postal Service delivery of Competitive Service products – Inbound Surface Parcel Post, and Xpresspost in the United States comports with provisions of title 39. This two-year 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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