

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES  
GLOBAL DIRECT CONTRACTS (MC2009-9)  
NEGOTIATED SERVICES AGREEMENT

Docket No.  
CP2009-29

**NOTICE OF UNITED STATES POSTAL SERVICE OF CHANGE IN PRICES  
IN ACCORDANCE WITH ORDER NO. 216**  
(December 18, 2009)

In accordance with the Commission's Order No. 216,<sup>1</sup> the Postal Service hereby provides notice that prices under the Global Direct contract at issue in the above-captioned proceeding will change as contemplated by the contract's terms. In that Order, the Commission acknowledged the contract's mechanism for changing prices in response to objective, external factors such as exchange rate changes and changes to Canada Post Corporation prices, rather than at the Postal Service's discretion.<sup>2</sup> The Commission advised that the Postal Service may file such changes falling under Article 9, paragraphs 1, 3, and 4 of the contract on a "notice-type basis."<sup>3</sup> By negative implication, price changes pursuant to Article 9, paragraph 2 of the contract remain subject to the requirements of 39 C.F.R. § 3015.5.

The Postal Service hereby gives notice that it is changing prices under this Global Direct contract in accordance with Article 9, paragraph 2, as well as paragraphs 1, 3, and 4. Accordingly, the Postal Service has advised the customer of the impending

<sup>1</sup> PRC Order No. 216, Order Concerning Filing of Additional Global Direct Contracts Negotiated Service Agreement, Docket No. CP2009-29, May 15, 2009.

<sup>2</sup> *Id.* at 7.

<sup>3</sup> *Id.*

change in prices, effective January 11, 2010. The Postal Service is submitting a copy of the relevant correspondence in conjunction with this notice. Because Article 9, paragraph 2 of the contract forms part of the basis for this price change, the Postal Service is also filing supporting financial documentation and a certified statement as required by 39 C.F.R. § 3015.5.

The notice to the customer of new prices and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission. A redacted version of the notice is attached as Attachment 1. The certified statement required by 39 C.F.R. § 3015.5(c)(2) is Attachment 2. The Postal Service's application for non-public treatment of these materials is included with this filing as Attachment 3. A redacted version of the supporting financial documentation is included with this filing as a separate Excel file.

Respectfully submitted,

UNITED STATES POSTAL SERVICE  
By its attorneys:

Anthony F. Alverno  
Chief Counsel, Global Business

Jacob Howley

475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260-1137  
(202) 268-8917; Fax -6187  
jacob.d.howley@usps.gov  
December 18, 2009



December 9, 2009

Sent via Express Mail number [REDACTED]

Dear [REDACTED]:

Thank you for your continued use of the United States Postal Service (USPS) international package services. We value and appreciate our business relationship with [REDACTED] and look forward to continuing our excellent business partnership.

Article 9 of the Global Customized Mail Agreement (Agreement) between the USPS and [REDACTED] provides in part that:

[t]he prices for Global Direct – Canada Lettermail listed in Annex 1 are based on Canada Post Corporation prices. The USPS will adjust the prices in Annex 1 if Canada Post Corporation changes its prices for domestic Canadian Lettermail during the term of this Agreement.

Canada Post Corporation (CPC) has announced a change in its prices for domestic Canadian Lettermail that will become effective on January 11, 2010. Consequently, in accordance with Article 9 of our Agreement, the prices in Annex 1 to that Agreement shall change effective 12:01 a.m. on Monday, January 11, 2010. Enclosed is the new price table in Annex 1 for Global Direct – Canada Lettermail for the prices effective January 11, 2010.

Under U.S. law, the Postal Service is required to transmit information about your company's Agreement, as well as modifications to it, to the U.S. Postal Regulatory Commission (PRC). The USPS believes that non-public treatment is appropriate for certain commercially sensitive information relating to the instrument, such as information about rates, revenues, costs, and volumes of Qualifying Mail. Therefore, in accordance with Title 39, Code of Federal Regulations, Section 3007.20(b), the USPS is notifying you that it will be filing information with the Commission, together with an application for the PRC to treat the information as non-public material. Under current practice, documents relating to this contract will likely appear in a docketed PRC proceeding, with a redacted version publicly available on the PRC's website, [www.prc.gov](http://www.prc.gov). USPS will inform you of the docket number for its filing once it is assigned if it differs from the docket number previously assigned to your contract.

You also may address any confidentiality concerns that you may have directly with the PRC. The procedure for making a third-party application for non-public treatment of materials believed to be protected from disclosure may be found at Title 39, Code of Federal Regulations, Section 3007.22. If you have any questions or concerns about confidentiality matters, please feel free to contact Anthony Alverno, Chief Counsel, US Postal Service Law Department, at 202-268-2997 or via e-mail at [anthony.f.alverno@usps.gov](mailto:anthony.f.alverno@usps.gov).

We do not expect this review to affect the prices prepared for [REDACTED]. However, should the Postal Regulatory Commission cause us to make any changes to the prices, we will advise you of any corrections to the enclosure(s) as soon as possible.

The prices in the attached price table are subject to the provisions of Article 9. Postage Updates  
of the Agreement

Thank you for your business and continued support of the USPS.

Sincerely,

A handwritten signature in cursive script that reads "Frank A. Cebello".

Frank A. Cebello  
Executive Director  
Global Business Management

Enclosure: Revised Annex 1 with Price Tables for January 11, 2010

cc: Lee Ingram

**ANNEX 1**

**GLOBAL DIRECT – CANADA PRICE CHART  
EFFECTIVE JANUARY 11, 2010**

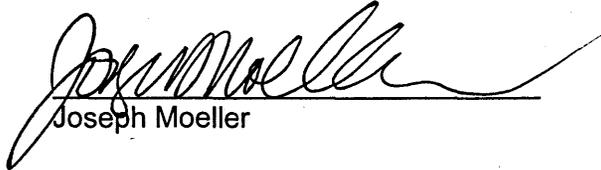
**Global Direct – Canada Lettermail**



**Certification of Prices for the Global Direct Contract with**  
[REDACTED]

I, Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices for the Global Direct Contract with [REDACTED]. The prices contained in this Contract were established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Direct, Global Bulk Economy and Global Plus Contracts, issued July 16, 2008 (Governors' Decision No. 08-10), which established prices by means of price floor and ceiling formulas.

I hereby certify that the numerical cost values underlying the prices in the [REDACTED] contract are the appropriate costs to use in the formulas and represent the best available information. The prices, resulting in a cost coverage of in excess of the minimum required by the Governor's Decision are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The prices demonstrate that the contract should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. In Fiscal Year 2008, all international competitive mail accounted for a relatively small percentage of the total contribution by all competitive products. Contribution from Global Direct Contracts should be even smaller. The contract with [REDACTED] should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

  
Joseph Moeller

### ATTACHMENT 3

#### APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,<sup>1</sup> the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials pertain to a change in prices for the negotiated service agreement at issue in this docket. The notice to the customer of the new prices, the certification required by 39 C.F.R. § 3015.5(c)(2), and supporting financial documentation establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission.<sup>2</sup> The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of

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<sup>1</sup> PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

<sup>2</sup> The Postal Service informed the customer prior to filing that it would be seeking non-public treatment of the redacted portions of the price change notice. The Postal Service also informed the customer that it could file its own application for non-public treatment of these materials in accordance with 39 C.F.R. § 3007.22.

a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).<sup>3</sup> Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

In the case of contract prices, the Postal Service believes that the only third party with a proprietary interest in the materials is the customer with whom the contract is made. The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the customer, the Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third party with proprietary interest in the materials filed in this docket is Jacob Howley, Attorney, 475 L'Enfant Plaza SW, Washington, D.C. 20260-1137, whose email address is jacob.d.howley@usps.gov, and whose telephone number is 202-268-8917.

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

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<sup>3</sup> The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

In connection with its Notice filed in this docket, the Postal Service included its price change notice to the customer, a certified statement as required by the Commission's rules, and financial work papers showing that the new prices should meet the requirements of 39 U.S.C. § 3633(a)(1), (2), and (3). These materials were filed under seal, with redacted copies filed publicly, after notice to the customer. The Postal Service maintains that the redacted portions of these materials should remain confidential.

With regard to the price change notice, certain redactions in the header block of the cover letter and elsewhere constitute the name or address of a postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). The redacted portions of the certified statement also protect the customer's identifying information from disclosure.

The redactions made in the price change notice, other than those involving the customer's identifying information, withhold the new prices that are being offered to this customer in exchange for its commitment and performance of its obligations under the terms of the agreement.

The redactions applied to the financial work papers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the mailing profile of the customer, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the work papers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages, such as words or numbers in text, were replaced with general terms

describing the redacted material. For example, where the mailer's name appears in the spreadsheet within a cell, it has been replaced by the word "Mailer."

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the portions of the contract that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. First, revealing customer identifying information would enable competitors to focus marketing efforts on current postal customers which have been cultivated through the efforts and resources of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, its competitors would take immediate advantage of it. The agreement includes a provision allowing the mailer to terminate the contract without cause by providing at least 30 days' notice. Therefore, there is a substantial likelihood of losing the customer to a competitor that targets it with lower pricing.

Disclosure of the prices in the price change notice would reveal to competitors the Postal Service's levels of negotiated pricing for this service, thereby allowing them to offer lower prices and undercut the Postal Service's marketing efforts. Potential customers could also deduce from the rates provided in the price change notice or from the information in the work papers whether additional margin for net profit exists between the contract being filed and the contribution that such contracts must make. From this information, each customer could attempt to negotiate ever-increasing incentives, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even the customer involved in this filing could use

the information in the work papers in an attempt to renegotiate its own rates by threatening to terminate its current agreement, although the Postal Service considers this risk to be lower in comparison to those previously identified.

Finally, the financial workpapers include specific information such as costs, assumptions used in pricing formulas, the formulas themselves, mailer profile information, projections of variables, contingency rates included to account for market fluctuations and the exchange risks. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing. Unlike its competitors, the Postal Service is required by the mail classification schedule to demonstrate that each negotiated agreement within this group covers its attributable costs. Thus, competitors would be able to take advantage of the information to offer lower pricing to customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the international delivery services market. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer for this contract is revealed to the public.

Another expedited delivery service has an employee monitoring the filing of outbound

international contracts and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the Postal Service in favor of using the competitor's services.

Identified harm: Public disclosure of information in the financial work papers would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing expedited package delivery service obtains a copy of the unredacted version of the financial work papers from the Postal Regulatory Commission's website. It analyzes the work papers to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for international expedited delivery services. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the business-to-business and business-to-customer expedited delivery services markets for which this product is designed.

Identified harm: Public disclosure of the rate charts in the price change notice would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: Customer A's negotiated rates are disclosed publicly on the Postal Regulatory Commission's website. Customer B sees the rates and determines that there may be some additional profit margin between the rates provided to Customer A and the statutory cost coverage that the Postal Service must produce in order for the agreement to be added to the competitive products list. Customer B, which was offered rates identical to those published in Customer A's agreement, then uses the publicly available rate information to insist that it must receive lower rates than those the Postal Service has offered it, or it will not use the Postal Service for its expedited package service delivery needs.

Identified harm: Public disclosure of information in the financial workpapers and price change notice would be used by the customer's competitors to its detriment.

Hypothetical: A firm competing with the customer obtains a copy of the unredacted version of the contract and financial work papers from the Postal Regulatory Commission's website. The competitor analyzes the prices and the work papers to assess the customer's underlying costs for the corresponding delivery products. The competitor uses that information as a baseline to develop lower-cost alternatives.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including both

private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. The Postal Service believes that the ten-year period of non-public treatment is sufficient to protect its interests with regard to the information it determined should be withheld due to commercial sensitivity.

**(8) Any other factors or reasons relevant to support the application.**

None.