

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Plus 2 Contracts (MC2008-7, CP2009-48
and CP2009-49)
Negotiated Service Agreement

Docket No. CP2009-48

**PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO
UNITED STATES POSTAL SERVICE NOTICE OF CHANGE IN PRICES
IN ACCORDANCE WITH ORDER NO. 216**

(January 7, 2010)

In response to Order 370¹, the Public Representative hereby comments on the United States Postal Service's Notice regarding pricing changes for Global Plus 2 Negotiated Service Agreements (NSAs) (CP2009-48 and CP2009-49) filed December 21, 2009. As the Commission noted in Order 370 (at 2), some pricing factors could change based on factors such as exchange rate fluctuations or rate changes introduced by foreign postal administrations. In some cases, it would be reasonable to give effect to such contract modifications on a "notice-type basis," as envisioned in Order 216.

The general public's primary interest is not, however, the proper regulatory framework for the Postal Service's Notice. This Public Representative begs the indulgence of readers, because these comments track those submitted in Docket CP2009-29. The Public Representative would respectfully request that the Commission hold uppermost the requirements of 39 C.F.R. 3015.5. For a competitive products pricing schedule *not of general applicability*, the Postal Service must demonstrate that

¹ Notice and Order Concerning Change in Prices in Accordance with Order No. 216, December 24, 2009.

the contract will comply with 39 USC 3633(a): It may not allow market dominant products to subsidize competitive products, it will ensure that each competitive product covers its attributable costs; and it will 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).

The mechanics of price-setting must not shift any party's focus from Congress' basic design for providing postal services, enabling the Postal Service to provide Market Dominant and Competitive Products in a manner efficient for the needs of the general public. Whether discretionary, cost-based or "external and objective," competitive products' pricing must comport with the three requirements of 39 USC 3633(a). In the matter of the instant NSA, CP2009-48, as in CP2009-29, the underlying agreement has been reviewed and approved by the Commission.

Procedural Matters

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. The instant Notice, comports with title 39 stipulations and the relevant Commission Rules of Practice and Procedure. The underlying NSAs also comport with provisions of 39 U.S.C. 3632, as evidenced by the inclusion of all pertinent documentation along with analysis for the NSA with the Postal Service's previous filing in CP2009-48. Likewise, section 3642's notice and publication requirements are met by

the submission of the Notice itself. The relevant *Code of Federal Regulations* procedural requirements (Rules of Practice and Procedure) for Commission review are also fulfilled by the Postal Service's Notice in this matter.

Conclusion

The instant Notice changing pricing for the (MC2008-7) CP2009-48 NSA may afford the opportunity to consider anew whether the instant contract's pricing changes would still comport with the three-fold requirements of title 39. Will this NSA not allow market dominant products to subsidize competitive products? Will it ensure that each competitive product covers its attributable costs? And will it 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)? It would appear so, if the Postal Service proposes raising rates which were previously found in compliance with section 3633(a).

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