

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  
Global Direct Contracts (MC2009-9)  
Negotiated Service Agreement

Docket No. CP2009-29

ORDER CONCERNING CHANGE IN PRICES  
IN ACCORDANCE WITH ORDER NO. 216

(Issued January 8, 2010)

I. INTRODUCTION

The Postal Service proposes to change prices for a Global Direct contract as contemplated by the terms of the contract. For the reasons discussed below, the Commission approves the Postal Service's categorization of the change in prices as "objective and external" and does not pursue further review pursuant to 39 CFR 3015.5.

## II. BACKGROUND

On December 18, 2009, the Postal Service filed a notice of a change in prices in accordance with PRC Order No. 216.<sup>1</sup> The Notice includes three attachments: (1) a redacted version of the letter to the customer with the amended prices (Attachment 1); (2) a certified statement of compliance with 39 U.S.C. 3633(a) (Attachment 2); and (3) an application for non-public treatment for the material filed under seal (Attachment 3).

In Order No. 216, the Commission determined that certain costs for these types of contracts are determined by “objective, external events, which essentially remove the price changes from the Postal Service’s discretion.”<sup>2</sup> Order No. 216 defined these objective external factors as exchange rate fluctuations and changes in the rates Canada Post Corporation charges domestically (and are passed on to the Postal Service). *Id.* at 7. For rate changes based on such objective, external factors, the Commission allowed for streamlined review and only required that the Postal Service file a notice of such changes with the Commission.

On December 24, 2009, the Commission issued Order No. 368, which noticed the proposed change, appointed a Public Representative, and provided the public with an opportunity to comment on whether this proposed change is based on objective, external factors as contemplated in Order No. 216.<sup>3</sup> Order No. 368 noted that the Postal Service’s filing was not clear as to whether the rate change was based on objective, external factors. *Id.* at 2. Order No. 368 indicated if the rate change was based on such factors, review by the Commission may be unnecessary by the terms of Order No. 216. *Id.*

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<sup>1</sup> Notice of United States Postal Service of Change in Prices in Accordance with Order No. 216, December 18, 2009 (Notice).

<sup>2</sup> Order Concerning Filing of Additional Global Direct Contracts Negotiated Service Agreement, May 15, 2009 (Order No. 216).

<sup>3</sup> Notice and Order Concerning Change in Prices in Accordance with Order No. 216, December 24, 2009 (Order No. 368).

### III. COMMENTS

Comments were filed by the Public Representative<sup>4</sup> and the Postal Service.<sup>5</sup> No other interested persons submitted comments. The Public Representative acknowledges the need for some flexibility in pricing under competitive contracts due to the unique challenges of currency fluctuations, union regulations, and different mail classifications. Public Representative Comments at 2. However, the Public Representative encourages the Commission to undertake review pursuant to 39 CFR 3015.5 to ensure that competitive products comport with the law. *Id.* The Public Representative notes that the underlying agreement, including its price contingency clause being exercised in this proceeding, was already reviewed and approved by the Commission. *Id.* The Public Representative affirms that he has reviewed the supporting documentation filed under seal and acknowledges that the contract and rate change at issue comport with title 39 notwithstanding the scope of the Commission's review. *Id.* at 3.

The Postal Service comments that the proposed change is based on a change in Canada Post's published prices for domestic Lettermail. Postal Service Comments at 2. The Postal Service also claims that the way in which Canada Post is paid for services changes as a result of the change in the bilateral agreement, *i.e.*, that the Postal Service must pay the full domestic published rate rather than settlement charges. *Id.* Nevertheless, the Postal Service submits that both changes should be viewed as objective and external by the terms of Order No. 216, and require only "streamlined" Commission review. *Id.* at 3.

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<sup>4</sup> Public Representative Comments in response to United States Postal Service Notice of Change in Prices In Accordance with Order No. 216, January 7, 2010 (Public Representative Comments). The Public Representative's motion for late acceptance of these comments, filed contemporaneously with the comments is accepted.

<sup>5</sup> Comments of United States Postal Service in Response to Order No. 368, January 4, 2010 (Postal Service Comments).

#### IV. COMMISSION ANALYSIS

The Commission reviewed the comments, the letter sent to the customer explaining the new rates, the underlying contract, and the supporting financial documentation. The Commission finds that the price change is due to a change in Canada Post Corporation's domestic Lettermail rate. See Notice, Attachment 1.<sup>6</sup> While the Postal Service claims that the rate change is also due to a shift from settlement charges to Canada Post's domestic Lettermail rates, the Commission finds no evidence in the record that costs are increasing for this contract due to such a shift.

Therefore, because the only basis for the rate change is the Canada Post domestic Lettermail rate increase, a basis over which the Postal Service exerts no control, the instant price increase falls within the "objective, external" change contemplated by Order No. 216. The Commission accepts the Postal Service's notice of change in prices and ends its review.

In the future, the Commission anticipates that when the Postal Service files notice of a rate increase that is based entirely on objective, external factors as articulated in Order No. 216, further action on the notice will be unnecessary.

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<sup>6</sup> Contrast the explanatory letter sent to customers in a similar case which bases the change on a change in the bilateral agreement with Canada Post, Docket No. CP2009-48, Notice of United States Postal Service of Changes in Prices in Accordance. See Order No. 216, December 21, 2009, at Attachment 1.

*It is Ordered:*

The Commission accepts the Postal Service's Notice as consistent with Order No. 216.

By the Commission.

Shoshana M. Grove  
Secretary