

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 2 (CP2009-50)
Negotiated Service Agreements

Docket No. CP2010-37

PUBLIC REPRESENTATIVE COMMENTS IN
RESPONSE TO ORDER No. 440

(April 15, 2010)

Background

In response to Order No. 440,¹ the Public Representative hereby comments on the April 7, 2010 Notice of United States Postal Service Filing of Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal (Notice). Order No. 440 set the deadline for public comment as April 15, 2010.

Discussion

This negotiated service agreement (NSA) is consistent with the policies of 39 U.S.C. sections 3632, 3622, and 3642. The NSA is authorized by Governors' Decision No. 08-7, comports with the Commissions rules concerning modern rate regulation and is properly classified as a competitive product. The Postal Service describes how it complies with these legal requirements in its Notice.

¹ Commission Order 440, Notice and Order Concerning Filing of an Additional Global Expedited Package Services 2 Negotiated Service Agreement, April 8, 2010.

The requirements of 39 U.S.C. 3633(a) appear to be met by this GEPS 2 contract. This NSA should also satisfy each of the requirements of 39 C.F.R. 3015.7(c).

Pricing and Costs

The GEPS 2 NSA model, which Docket No. CP2009-50 serves as the baseline, traditionally provides volume-based incentives for a mailer sending certain volumes of Express Mail International and/or Priority Mail International to foreign addressees. The “Description of Applicable Global Expedited Package Service Contracts” language for GEPS contracts provided in Governors’ Decision No. 08-7 Attachment A, describes the price categories as “incentives [that] are based on the volume or revenue commitment above a specified cost floor. Also, separate charges apply if the customer has labeling, harmonization, or return services.”² In Order No. 86 the Commission states this “language provided by the Postal Service will be deemed illustrative until such time as the MCS is finalized.”³

The materials filed under seal in the instant contract present an amended pricing table that supplements the elements listed in Governor’s Decision No. 08-7 Attachment A, and the pricing table presented under seal in Docket No. CP2009-50.⁴ When the draft Mail Classification Schedule (MCS) language is finalized, the Public Representative believes the GEPS language should be representative of the pricing components in the pricing table presented under seal in the instant docket. The amended pricing table does not significantly alter the former price structure for GEPS

² United States Postal Service Notice of Filing Redacted Copy of Governor’s Decision No. 08-7, Attachment A, July 23, 2008.

³ Order No. 86 at 6.

⁴ See Supporting Materials Filed Under Seal in Docket No. CP2010-37 at tab: 02_Narrative and Supporting Materials Filed Under Seal in Docket No. CP2009-50 at tab: 02_Narrative.

contracts, and therefore Public Representative does not believe it has an impact on the contract's functional equivalence to the baseline contract.

The instant contract reflects appropriate increases and adjustments to costs. The contract's prices are sufficient to satisfy the price floor established in Governors' Decision 08-7 (May 6, 2008), which first established the GEPS product. The Notice outlines terms of the instant contracts which were negotiated between the parties, and lists how the instant contract varies from the underlying GEPS NSA template (CP2009-50).⁵ Notice at 3-4. The Postal Service concludes that this agreement is functionally equivalent in all pertinent respects. *Id.*

The Public Representative believes that the differences listed by the Postal Service do not impact the contract's functional equivalence to the baseline contract. However, the Postal Service should continue to update this list of differences in the notices for future GEPS contracts. This list is informative when determining if the cumulative changes require the establishment of a new GEPS product.

Conclusion

The pricing in this GEPS 2 contract (CP2010-37) satisfies all relevant provisions of title 39. This contract appears to be able to generate sufficient revenue to cover its attributable costs. Positive cost contribution will aid in the GEPS 2 product as a whole generating sufficient revenues to recover attributable costs and thus not be subsidized by market dominant products. It will also enable competitive products as a whole to

⁵ Docket No. CP2009-50, reviewing Governors' Decision 08-7, found that the GEPS 2 NSA template met the requirements of 39 USC 3633(a) for cost coverage and contribution to the institutional costs of the Postal Service.

contribute a minimum of 5.5 percent of the Postal Service's total institutional costs.⁶

This contract employs pricing incentives based upon volumes and other provisions favorable to both the Postal Service and the mailer, which then may be passed along to the general public through lower shipping prices.

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

901 New York Ave., NW Suite 200
Washington, D.C. 20268-0001
Phone: (202) 789-6864
e-mail: natalie.rea@prc.gov

Natalie Rea
Public Representative

⁶ 39 C.F.R. § 3015.7(c).