

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts
Negotiated Service Agreements

Docket No. MC2010-21

Competitive Product Prices
Global Reseller Expedited Package Contracts
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2010-36

PUBLIC REPRESENTATIVE COMMENTS
ON UNITED STATES POSTAL SERVICE
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS

(April 15, 2010)

The Public Representative hereby comments on the Postal Service's March 29, 2010, request filed pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Global Reseller Expedited Package (GREP) Contracts to the Competitive Product Lists in the Mail Classification Schedule (MCS). The Request also includes notice pursuant to 39 CFR 3015.2 of a GREP contract to be added, together with any subsequent functionally equivalent GREP contracts, as a new product in the Competitive Product List.¹

The GREP contract classification provides for discounted Postal Service prices for outbound Express Mail International and/or Priority Mail International to a Sales Agent also known as a Reseller. The Reseller is not a mailer, but instead, markets Express Mail International and Priority Mail International at discounted prices to customers, particularly small and medium-sized businesses. Request at 3.

¹ Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, March 29, 2010 (Request). The request to add GREP contracts to the MCS has been assigned Docket No. MC2010-21. The notice of the GREP contract is docketed as CP2010-36.

I. POSTAL SERVICE PRESENTATION

The Request notices and includes Governors' Decision No. 10-1 establishing prices and classifications "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3) for the GREP Contracts product.² In support of the shell classification and the GREP contract, the Postal service relies upon the Governors' decision together with attachments and supporting financial documentation required pursuant to 39 CFR 3015.5 and 3015.7, and filed under seal. Request at 2.

The Postal Service demonstrates that the three criteria of section 3642(b) for adding new products to the mail classification list are met:

1. The product does not qualify as market dominant because the Postal Service does not exercise sufficient market power to effectively set the price for Express Mail International and Priority Mail International without losing significant business to other firms offering similar products. Request at 3-4.
2. The Express Mail International and Priority Mail International mailpieces are excluded from the postal monopoly because they fall outside the Private Express Statutes. *Id.* at 4.
3. Additional considerations required by section 3642(b)(3) are addressed in the Statement of Supporting Justification by Frank A. Cebello, Executive Director, Global Business Management.³
 - a. The availability of private sector enterprises engaged in the delivery of the product is discussed. The Postal Service cites to the types of competitors such as private consolidators, freight forwarders, and

² Governors' Decision No. 10-1, dated March 24, 2010, establishes new prices and changes in classifications not of general applicability for Global Reseller Expedited Package Contracts. A redacted copy was filed with the request. A true copy was filed under seal with attachments and financial documentation supporting the Request with application for non-public treatment. Request at Attachment 5.

³ Required pursuant to 39 CFR 3020.32(a)-(i). Request, Attachment 1.

integrators, but it does not cite specific competitors. *Id.* at 3, 39 CFR 3020.32(f).

- b. The views of those who use the GREP product on the appropriateness of the proposed action are also discussed. According to the Postal Service, the views are unknown to the Postal Service.⁴ However, the execution of a contract by one customer indicates a preference over similar products offered by competitors. *Id.*, 39 CFR 3020.32(g).
- c. The likely impact on small business concerns is discussed. The product will provide a positive option for small businesses shipping articles internationally that is beyond the services offered by competitors. Furthermore, the market for international services comparable to GREP is “highly competitive” and, therefore, likely to have little, if any, impact on small businesses. The Postal Service is unaware of any small businesses that offer comparable service for these volumes. *Id.* at 4, 39 CFR 3020.32(h).

Mr. Cebello also provides support for the Request with additional statements required by section 3020.32 of the Commission’s rules.

- The change in the product list is in accordance with Chapter 36 of title 39. *Id.* at 1, 39 CFR 3020.32(a).
- The product will not violate any of the standards of section 3633 specifying that prices for each competitive product must cover its attributable costs, not result in subsidization by market dominant products, and ensure that all competitive products collectively provide an appropriate share of the institutional costs of the Postal Service. *Id.*, 39 CFR 3020.32(c).

⁴ Apparently, the Postal Service has not attempted to determine the views of potential customers.

- The proposal classifies the product as competitive because the Postal Service's bargaining position is constrained by providers of similar services. *Id.* at 2-3, 39 CFR 3020.32(d).⁵
- Other relevant information is that the customer eligibility criteria are consistent with previously filed customized agreement product classifications. GREP customers must have capability of at least 5,000 pieces of international mail and paying at least \$100,000 in international postage to the Postal Service. *Id.* at 5, 39 CFR 3020.32(i).

The Postal Service Request includes further statements, required by 39 CFR 3015.5 for changes in rates not of general applicability. Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, of the Postal Service certifies (Request at Attachment 2 (Attachment D)):

1. The formulas in the Governors' decision represent all necessary cost elements and that, by entering into agreements with prices above the price floor, the Postal Service will comply with 39 U.S.C. 3633(a)(1),(2), and (3).
2. The costs underlying the prices in the instant contract are the appropriate costs to use in the formulas and represent the best available information.
3. The contract prices yield a cost coverage in excess of the minimum required by the Governor's Decision, exclusive of pickup on demand and international ancillary services fees, in compliance with 39 U.S.C. 3633(a)(1), (2), and (3).
4. The prices demonstrate the contract should cover its attributable costs and preclude the subsidization of competitive products by market dominant products.

⁵ This claim of market constraint appears inconsistent with the Mr. Cebello's statement, noted above, that the GREP service will provide an option "beyond the services offered by competitors." *Id.* at 4, 39 CFR 3020.32(h).

5. The international competitive mail is a small portion of competitive products, so that the agreement should not impair the ability of competitive products to cover an appropriate share of institutional costs on the whole. Request at Attachment 4.

II. COMMENTS

The Public Representative acknowledges that the price formulas proposed in the Governors' Decision comport with provisions of Chapter 36 of Title 39. The pricing formulas are designed to ensure that the negotiated prices will result in a contract that generates sufficient revenue to cover attributable costs, and that annually the appropriate share of institutional costs recovered by competitive products is, at a minimum, 5.5 percent to the Postal Service's total institutional costs. See 39 CFR 3020.15.7(c). These formulas are also intended to insure that there is no subsidization of GREPS negotiated service agreements by market dominant products.

For support, the Postal Service presents two financial models in its documentation. One model estimates the attributable costs and cost coverage for Express Mail International (EMI) and Priority Mail International (PMI) entered into specified 3-digit ZIP Codes within 200 miles of five USPS International Service Centers (*i.e.*, Annex 1 prices). The second model estimates the attributable costs and cost coverage for EMI and PMI entered into all ZIP Codes other than those specified in Annex 1 (*i.e.*, Annex 2 prices). The estimated revenues and attributable costs from both models are summed to develop cost coverage for the GREP contract as a whole. The financial models develop estimated revenues from the negotiated prices and a forecast of the Reseller's "future shipping behavior." Estimated costs reflect the entry and destination profile of the EMI and PMI pieces provided by the Reseller. Upon review, the Public Representative concludes that the resulting cost coverage for EMI and PMI pieces, and the contract as a whole, is positive.

Further, pursuant to 39 CFR 3015.5, based upon a review of the contract provisions and other materials submitted, the Public Representative believes the contract is in accordance with the Governors' Decision No. 10-1. The contract falls within the ranges of the classification established by the formula in the Governors' decision. The contract's pricing formula should preclude the subsidization of competitive products by market dominant products, cover the product's attributable costs, and make a positive contribution to institutional costs. Therefore, as a competitive product, the Postal Service contract meets the minimum standards of compliance within 39 U.S.C. 3633 as implemented by the Commission's rules in 39 CFR 3015.7.

The Postal Service states that the "Reseller is not a mailer," but rather a marketer of EMI and PMI "at discounted prices to its customers." Request at 3. The Postal Service's request is silent as to whether the EMI and PMI pieces to be entered pursuant to this contract constitute additional or incremental pieces, and thereby generate additional contribution to the Postal Service, or whether such pieces constitute "anyhow" volume that would be entered with the Postal Service even in the absence of the negotiated prices. To the extent the EMI and PIM pieces are "anyhow" volume, the contribution to the Postal Service will be reduced since discounts are being offered for pieces that otherwise would be entered at "undiscounted" rates. The Postal Service documentation also does not show any transactional savings that it may garner by accepting mail once from the Reseller under the GREP contract rather than from several individual mailers, each conducting separate acceptance transactions. As a result, the Postal Service has neither demonstrated, nor indicated if it has determined, that there will be improvement in contribution after accounting for "anyhow" volumes and any potential savings from the reduced number of acceptance transactions for international mail.

Although the Postal Service is provided wide flexibility in pricing its competitive products, before entering into special classifications, management ought to ascertain

that the product will provide some net benefit, such as improving the Postal Service's financial position, increase overall contribution, or enhance performance. The Postal Service may not have made that determination. In any event, recent reports of the results of incentive discount programs for market dominant rates have indicated the Postal Service's methodology for measuring mailer response to certain discounts for calculating potential contribution, even when undertaken, may not be appropriate.⁶

This competitive product represents another Postal Service attempt to design and implement a flexible pricing mechanism that may or may not yield an increase in net revenue.⁷ Hopefully, this product will attract sufficient additional volume from small and medium-sized businesses through the marketing efforts of Resellers advantaged by the opportunity to profit from discounted Postal Service GREP rates to offset any revenue leakage.

III. CONCLUSION

Pursuant to the Commission's notice and order requesting comment, the Postal Service's filings are consistent with the policies of 39 U.S.C. 3632, 3633, and 3642 and the Commission's rules implementing those provisions.

Respectfully submitted,

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⁶ PRC Annual Compliance Determination, FY2009 at 88.

⁷ Docket No. R2010-3. Order Approving Standard Mail Volume Incentive Pricing Program, April 7, 2010.