

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 Expedited Package Services 2 (CP2009-50)
Negotiated Service Agreement

Docket Nos. CP2010-48
CP2010-49

NOTICE AND ORDER CONCERNING FILING OF TWO ADDITIONAL
GLOBAL EXPEDITED PACKAGE SERVICES 2
NEGOTIATED SERVICE AGREEMENTS

(Issued May 11, 2010)

I. INTRODUCTION

On May 7, 2010, the Postal Service filed a notice announcing that it has entered into two additional Global Expedited Package Services 2 (GEPS 2) contracts.¹ The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS 2 contracts, and are supported by Governors' Decision No. 08-7, attached to the Notice and originally filed in Docket No. CP2008-4. *Id.* at 1, Attachment 3. The Notice also explains that Order No. 86, which established GEPS 1

¹ Notice of United States Postal Service Filing of Two Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, May 7, 2010 (Notice).

as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1. In Order No. 290, the Commission approved the GEPS 2 product.²

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 2-3.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachments 1A, and 1B—redacted copies of the two contracts and applicable annexes;
- Attachments 2A, and 2B—a certified statement required by 39 CFR 3015.5(c)(2) for each of the two contracts;
- Attachment 3—a redacted copy of Governors’ Decision No. 08-7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis and certification of the formulas and certification of the Governors’ vote; and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 2 contracts fit within the Mail Classification Schedule language for GEPS 2. The Postal Service identifies customer-specific information, general contract terms and other differences that distinguish the instant contracts from the baseline GEPS 2 agreement, all of which are highlighted in the Notice. *Id.* at 3-6. These modifications as described in the Postal Service’s Notice apply to each of the instant contracts.

² Docket No. CP2009-50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

The Postal Service contends that the instant contracts are functionally equivalent to the GEPS 2 contracts filed previously notwithstanding these differences. *Id.* at 6-7.

The Postal Service asserts that several factors demonstrate the contracts' functional equivalence with previous GEPS 2 contracts, including the product being offered, the market in which it is offered, and its cost characteristics. *Id.* at 3. The Postal Service concludes that because the GEPS agreements "incorporate the same cost attributes and methodology, the relevant cost and market characteristics are similar, if not the same..." despite any incidental differences. *Id.* at 6.

The Postal Service contends that its filings demonstrate that each of the new GEPS 2 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to previous GEPS 2 contracts. It also requests that the contracts be included within the GEPS 2 product. *Id.* at 7.

II. NOTICE OF FILING

The Commission establishes Docket Nos. CP2010-48 and CP2010-49 for consideration of matters related to the contracts identified in the Postal Service's Notice.

These dockets are addressed on a consolidated basis for purposes of this Order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633 or 3642. Comments are due no later than May 19, 2010. The public portions of these filings can be accessed via the Commission's website (www.prc.gov).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. CP2010-48 and CP2010-49 for consideration of matters raised by the Postal Service's Notice.
2. Comments by interested persons in these proceedings are due no later than May 19, 2010.
3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary