

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 3
Negotiated Service Agreement

Docket Nos. MC2010-28
CP2010-71

NOTICE AND ORDER CONCERNING FILING OF ADDITIONAL
GLOBAL EXPEDITED PACKAGE SERVICES
NEGOTIATED SERVICE AGREEMENT

(Issued July 16, 2010)

I. INTRODUCTION

On July 14, 2010, the Postal Service filed a notice announcing that it has entered into an additional Global Expedited Package Services (GEPS) contract and seeks to add it as Global Expedited Package Services 3 to the Competitive Product List.¹ The Postal Service believes the instant contract is functionally equivalent to previously submitted GEPS 2 contracts, and is supported by Governors' Decision No. 08-7, attached to the Notice and originally filed in Docket No. CP2008-4. *Id.* at 1,

¹ Notice and Request of the United States Postal Service to Add Global Expedited Package Services 3 to the Competitive Products List and Notice of Filing of Functionally Equivalent Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, July 14, 2010 (Notice); see *also* Notice of Errata Concerning Electronic Filing, July 15, 2010.

Attachment 4. The Notice also explains that Order No. 86, which established GEPS 1 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 Postal Service seeks to add the GEPS 3 product to the competitive product list. *Id.* at 2. Although the filing is styled as a “request,” it does not appear to have been submitted pursuant to 39 CFR 3020.30 *et seq.* Docket No. MC2010-28 is established to consider this aspect of the Postal Service’s filing. Docket No. CP2010-71 is established to consider the instant contract.

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that the contract is in accordance with Order No. 86. The term of the contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. The Postal Service relates that the instant contract is for the same mailer as in Docket No. CP2009-50. It states the mailer’s current contract ends July 31, 2010, and it expects the new contract to begin August 1, 2010.

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

- Attachment 1—statement of supporting justification required by 39 CFR 3020.32;
- Attachment 2—a redacted copy of the contract a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 4—a redacted copy of Governors’ Decision No. 08-07, which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis and certification of the Governors’ vote; and

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).

- Attachment 5—an application for non-public treatment of materials to maintain redacted portions of the contract and supporting documents under seal.

Functional equivalence. The Notice advances reasons why the instant GEPS 3 contract fits within the Mail Classification Schedule language for GEPS contracts. The Postal Service contends that instant contract is functionally equivalent to previous GEPS 2 contracts and should be added to the Competitive Product List as GEPS 3 to replace GEPS 2 contracts as they expire. *Id.* at 4. It asserts that the instant contract shares the same cost and market characteristics as the previously filed GEPS 2 contracts and the same customers, small or medium-sized businesses, that mail products directly to foreign destinations using Express Mail International, Priority Mail International, or both. *Id.*

The Postal Service identifies customer-specific information, general contract terms and other differences that distinguish the instant contract from the baseline GEPS 2 agreement, all of which are highlighted in the Notice. *Id.* at 5-8.

The Postal Service contends that in spite of these differences the instant contract is functionally equivalent to previously filed GEPS contracts and fits within the requirements of the Governors Decision for GEPS agreements. *Id.* at 5. *See also id.* (“[T]he relevant characteristics are similar, if not the same, for this GEPS contract and the previously filed contracts.”).

The Postal Service also contends that its filings demonstrate that the new GEPS 3 contract complies with the requirements of 39 U.S.C. 3633, is functionally equivalent to other GEPS contracts and should be considered the baseline for future GEPS agreements. It requests approval for the contract to be included within the GEPS 3 product. *Id.* at 8.

Baseline treatment. The Postal Service states that the instant contract takes the place of its immediate predecessor which served as the baseline contract for the GEPS 2 product. It requests that the instant contract be considered the new ‘baseline’ agreement for consideration of future GEPS 3 agreements’ functional equivalency.” *Id.* at 8.

II. NOTICE OF FILING

The Commission establishes Docket Nos. MC2010-28 and CP2010-71 for consideration of matters raised in the Postal Service’s Notice.

Interested persons may submit comments on whether the Postal Service’s contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR 3020 subpart B. Comments are due no later than July 27, 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 filings.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. MC2010-28 and CP2010-71 for consideration of matters raised by the Postal Service’s Notice.
2. Comments by interested persons in these proceedings are due no later than July 27, 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