

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 Plus 2A Contracts (MC2008-7)
Negotiated Service Agreements

Docket Nos. MC2010-27
CP2010-69
CP2010-70

NOTICE AND ORDER CONCERNING FILING OF
FUNCTIONALLY EQUIVALENT GLOBAL PLUS 2A CONTRACTS
NEGOTIATED SERVICE AGREEMENT

(Issued July 20, 2010)

I. INTRODUCTION

The Postal Service seeks to add a new product, Global Plus 2A, to the competitive product list and to that end, filed notice, pursuant to 39 CFR 3015.5, announcing that it has entered into two additional Global Plus 2A contracts.¹ The Postal Service states that the instant contracts are functionally equivalent to one another and to previously submitted Global Plus 2 contracts, and are filed in accordance with Order

¹ Notice of the United States Postal Service of Filing of Two Functionally Equivalent Global Plus 2A Contracts Negotiated Service Agreements, July 13, 2010 (Notice); see Errata to Notice of the United States Postal Service of Filing of Two Functionally Equivalent Global Plus 2A Contracts Negotiated Service Agreements, July 14, 2010; see *also* Notice of the United States Postal Service of Filing a Signed Global Plus 2A Negotiated Service Agreement, July 15, 2010.

No. 112.² It states further that the instant contracts are supported by Governors' Decision No. 08-10, which establishes prices and classifications not of general applicability for Global Direct, Global Bulk Economy and Global Plus Contracts.³

While the Postal Service's filing was not submitted pursuant to 39 U.S.C. 3020.30 *et seq.*, it appears to request the addition of a new product to the competitive product list. Docket No. MC2010-27 is established to consider this part of the filing.

The Postal Service contemporaneously filed copies of the contracts related to the proposed competitive product classification pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contracts have been assigned Docket Nos. CP2010-69 and CP2010-70, respectively.

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015. The Postal Service states that the instant contracts are the immediate successor contracts to those in Docket Nos. CP2009-48 and CP2009-49 that are scheduled to expire July 31, 2010. Notice at 2-3. The instant contracts are expected to begin August 1, 2010, and expire on the day prior to the day of any changes in the published rates that affect the Qualifying Mail subject to the contracts. *Id.* at 3-4.

The Postal Service filed copies of the contracts, Governors' Decision with attachments, and supporting financial documentation under seal. *Id.* at 2.

Additionally, in support of its Notice, the Postal Service filed the following five attachments:

- Attachment 1— a statement of supporting justification required by 39 CFR 3020.32;
- Attachments 2A and 2B— a redacted copy of each contract;

² See Docket Nos. MC2008-7, CP2008-16 and CP2008-17, Order Concerning Global Plus 2 Negotiated Service Agreements, October 3, 2008 (Order No. 112).

³ See Docket No. MC2008-7, CP2008-16, and CP2008-17, Request of the United States Postal Service to Add Global Plus 2 Negotiated Service Agreements to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling Governors' Decision and Two Functionally Equivalent Agreements, Attachment 1, August 8, 2010.

- Attachment 3A and 3B— a certified statement for each contract required by 39 CFR 3015.5(c)(2);
- Attachment 4—a redacted copy of Governors’ Decision No. 08-10, which establishes prices and classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, formulas for the prices, analysis and certification of the formulas and certification of the Governors’ vote; and
- Attachment 5— an application for non-public treatment of materials to maintain the contract and supporting documents under seal.

Functional equivalence. The Postal Service asserts that the instant contracts are functionally equivalent both to one another and to the precursor Global Plus 2 contracts in that they share similar cost and market characteristics. *Id.* at 4. It contends as a result the instant contracts should be grouped together as a single product. *Id.*

The Postal Service addresses similarities in the instant contracts and their predecessors, *e.g.*, that the customers are the same and that fundamental terms and conditions of the contracts remain essentially unchanged. In addition the Postal Service identifies what it characterizes as material changes in the contracts, *e.g.*, term, price incentives, and additional service options. It asserts that the differences do not affect either the service provided or the structure of the contracts. *Id.* at 5-7.

Baseline treatment. The Postal Service also states that each of the instant contracts takes the place of its immediate predecessor which served as the baseline contracts for the Global Plus 2 Contracts product.⁴ It requests that the instant contracts be considered “the new ‘baseline’ contracts for consideration of future such agreements’ functional equivalency.” *Id.* at 9.

Filing under part 3020. In support of its filing, the Postal Service submitted, as Attachment 1, a Statement of Supporting Justification. The Postal Service asserts that

⁴ See Docket No. CP2009-48, Order Concerning Filing a Functionally Equivalent Global Plus Contract Negotiated Service Agreement, July 31, 2009, at 7; and Docket No. 2009-49, Order Concerning Filing a Functionally Equivalent Global Plus Contract Negotiated Service Agreement, July 31, 2009, at 7,

analysis under 39 U.S.C. 3642(b) is unnecessary here, because of the Commission's findings in Order No. 43 that Negotiated Service Agreements for outbound International Mail are classified as competitive. *Id.* at 8.

The Postal Service contends that its filings demonstrate that the instant contracts comply with the requirements of 39 U.S.C. 3633, fit within the Mail Classification Schedule language for Global Plus 2 Contracts and are functionally equivalent to each other. *Id.* at 9. It urges the Commission to add Global Plus 2A Contracts to the competitive product list. *Id.*

II. NOTICE OF FILING

The Commission establishes Docket Nos. MC2010-27, CP2010-69, and CP2010-70 for consideration of matters raised in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are 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 these dockets.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket Nos. MC2010-27, CP2010-69, and CP2010-70 for consideration of matters raised by the Postal Service's Request.
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