

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 (MC2010-28)
Negotiated Service Agreement

Docket Nos. CP2010-73
CP2010-74

NOTICE AND ORDER CONCERNING FILING OF ADDITIONAL
GLOBAL EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENT

(Issued July 21, 2010)

I. INTRODUCTION

On July 20, 2010, the Postal Service filed a notice announcing that it has entered into two additional Global Expedited Package Services 3 (GEPS 3) contracts.¹ The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS contracts, and are supported by Governors' Decision No. 08-7, attached to the Notice and originally filed in Docket No. CP2008-4. *Id.* at 1-2, 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 3 Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, July 20, 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 1-2. In Order No. 290, the Commission approved the GEPS 2 product.² In Docket Nos. MC2010-28 and CP2010-71, the Postal Service requested that the Commission add GEPS 3 to the competitive product list.³ Additionally, the Postal Service requested that the contract in that docket be considered the baseline contract for future functional equivalence analyses of the GEPS 3 product.

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 3. The Postal Service relates that one of the instant contracts is for the same mailer as in Docket No. CP2009-51. It states that the mailer's current contract ends August 8, 2010, and it expects the new contract to begin August 9, 2010. 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 contract;
- 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

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).

³ See Docket Nos. MC2010-28 and CP2010-71, 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.

- 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 3 contracts fit within the Mail Classification Schedule language for GEPS. The Postal Service identifies customer–specific information and general contract terms that distinguish the instant contracts from the baseline GEPS 3 agreement all of which are highlighted in the Notice. *Id.* at 5. These modifications as described in the Postal Service’s Notice apply to each of the instant contracts.

The Postal Service contends that the instant contracts are functionally equivalent to the baseline contract for GEPS 3 and share the same cost and market characteristics as the previously filed GEPS contracts. *Id.* at 4. It states that in spite of differences including updates and volume or postage commitments of customers, the changes do not alter the contracts’ functional equivalency. *Id.* at 5. The Postal Service asserts that “[b]ecause the agreements incorporate the same cost attributes and methodology, the relevant characteristics of these two GEPS contracts are similar, if not the same, as the relevant characteristics of previously filed contracts.” *Id.*

The Postal Service also contends that its filings demonstrate that each of the new GEPS 3 contracts complies with the requirements of 39 U.S.C. 3633. It requests that the contracts be included within the GEPS 3 product. *Id.* at 6.

II. NOTICE OF FILING

The Commission establishes Docket Nos. CP2010-73 and CP2010-74 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 July 29, 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. CP2010-73 and CP2010-74 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 29, 2010.
3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as 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