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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES INBOUND INTERNATIONAL EXPEDITED SERVICES 2 (MC2009-10)	Docket No. CP2010-90

NOTICE OF THE UNITED STATES POSTAL SERVICE OF FILING CHANGES IN RATES NOT OF GENERAL APPLICABILITY AND APPLICATION FOR NON-PUBLIC TREATMENT OF MATERIALS FILED UNDER SEAL
(August 6, 2010)

In accordance with 39 C.F.R. § 3015.5, the United States Postal Service (Postal Service) hereby gives notice of a change in rates not of general applicability for Inbound International Expedited Services 2. Prices and classifications not of general applicability for Inbound International Expedited Services 2 were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of New Prices and Classifications for Inbound Express Mail International (EMS), issued on November 3, 2008 (Governors' Decision No. 08-20).[1] The Postal Regulatory Commission (Commission) previously determined that Inbound International Expedited Services 2 is appropriately classified as a competitive product and that an initial review of the rates indicated compliance with statutory requirements.[2] With this

[1] A redacted copy of this decision appears as Attachment 2 to this Notice. An unredacted copy of the decision was filed under seal with the Request of the United States Postal Service Regarding Inbound Express Mail International (EMS) from Foreign Posts to Add Inbound International Expedited Services 2 to Competitive Product List; and Notice of Establishment of Rates and Classifications Not of General Applicability, Docket Nos. MC2009-10 and CP2009-12, Nov. 19, 2008.
[2] PRC Order No. 162, Order Adding Inbound International Expedited Services 2 to Competitive Product List, Docket Nos. MC2009-10 and CP2009-12, Dec. 31, 2008, at 8.

filing, the Postal Service notifies the Commission of changes to those rates that are intended to take effect January 1, 2011.[3]

The rates and supporting documents establishing compliance with 39 U.S.C. § 3633(a)(2) and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission. The Postal Service's Application for Non-public Treatment of those materials is included with this Notice as Attachment 1. A redacted copy of the Governors' Decision establishing the classification is included as Attachment 2. A redacted version of the new rates is included as Attachment 3, and the certified statement required by 39 C.F.R. § 3015.5(c)(2) is included as Attachment 4.

I. Explanation of Change in Classification and Rates

No changes to the classification of Inbound International Expedited Services 2 are included with this notice. The Postal Service incorporates by reference the explanations of Inbound International Expedited Services 2 contained in its 2009 Request and other materials filed in Docket No. CP2009-57, where the Postal Service explained that the two-tiered rate structure for Inbound Expedited Services exists as a result of the EMS Cooperative's expectation that all of its members will participate in the Pay-for-performance Plan. The Postal Service further incorporates by reference its most recent listing of countries indicating which designated postal operators fall into each price tier.[4]

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[3] Ordinarily, notice of a change in rates not of general applicability must be filed not less than 15 days prior to the effective date of the new rates. 39 U.S.C. § 3632(b)(3). In the case of Inbound EMS rates, however, the Commission previously advised the Postal Service that the Commission's review would be more meaningful if the notice of the change were filed at least 15 days prior to the Postal Service's deadline for informing the Universal Postal Union's International Bureau of the new rates, which is August 31 of each year. Id. at 9.

[4] United States Postal Service Quarterly Update in Response to Order No. 162, Docket Nos. MC2009-10 and CP2009-12, June 21, 2010.

II. Confidentiality

The Postal Service maintains that the portions of the Governors' Decision, the new rates, and related financial information should remain confidential. The Postal Service provides its Application for Non-public Treatment of materials filed under seal as Attachment 1.

III. Conclusion

For the reasons discussed above, and on the basis of the financial data filed under seal, the Postal Service has established that these new Inbound International Expedited Services 2 rates are in compliance with the requirements of 39 U.S.C. § 3633(a)(2). Accordingly, the Postal Service respectfully submits that it has met its burden of providing notice to the Commission of changed rates within the scope established by Governors' Decision No. 08-20, as required by 39 U.S.C. § 3632(b)(3).

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Laree Martin

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1135
(202) 268-3816; Fax -5628
Laree.k.martin@usps.gov
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APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Postal Regulatory Commission (Commission) in this docket. The materials pertain to the Inbound International Expedited Services 2 (EMS) rates which will be effective on January 1, 2011. The rates and the financial work papers used to demonstrate compliance with 39 C.F.R. § 3015.5(c)(1) are being filed separately under seal with the Commission. The Postal Service furnishes the justification for this application required by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).[1] Because the portions of materials filed non-publicly in this docket fall within the scope of

[1] The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

information not required to be disclosed publicly, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

In the case of the Inbound International Expedited Services 2, the other members of the EMS Cooperative of the Universal Postal Union may have a proprietary interest in the materials. Therefore, for these purposes, the EMS Unit Manager is the appropriate person to whom notice should be provided. That person is Mr. Brian Hutchins, who will assume responsibility as EMS Unit Manager on August 16, 2010. He anticipates that his telephone number will be +41 31 350 35 64 and that his email address will be Brian.Hutchins@upu.int.[2]

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

In connection with its Notice filed in this docket, the Postal Service includes the new rates and supporting financial work papers. The rates and financial work papers are being filed under seal, with a redacted copy filed publicly, after notice to the International Bureau of the Universal Postal Union.

The redactions applied to the financial work papers protect commercially

[2] Due to the practical difficulties of providing adequate notice to the over 150 members of the EMS Cooperative, the Postal Service proposes that it be deemed sufficient for the International Bureau's (IB) EMS Unit Manager to be treated as the point of contact for all such third party interests. Not only is the IB's EMS Unit cognizant of the EMS membership's interests, it is also best-positioned to communicate efficiently with other EMS operators if need be.

sensitive information such as underlying costs and assumptions, volumes, pricing formulas, and cost coverage projections. The redactions to the rate chart are applied to the actual prices established for 2011.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the portions of the withheld materials that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Information about pricing is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practice. The financial work papers concerning the EMS rates include specific information such as costs, assumptions used in pricing formulas, the formulas themselves, incoming volumes, and projections of variables. All of this information is highly confidential in a competitive business environment, and the Postal Service does not believe that it would be disclosed under good business practice. If the portions of the financial work papers that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm.

Competitors could use such information to assess the rates charged by the Postal Service to foreign postal operators for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas. Likewise, competitors would be able to take advantage of the information to offer lower

pricing to customers, which can include foreign posts because they are not required to use the Postal Service for delivery of EMS items destined to the United States. Unlike the Postal Service, its competitors can subsidize any product-specific losses with profits from other customers and products.

Additionally, foreign postal operators or other potential customers could use costing information to their advantage in negotiating the terms of their own agreements with the Postal Service. Potential customers, including foreign posts, could also deduce from the rates provided in the work papers whether additional margin for net profit exists. From this information, each foreign postal operator or customer could attempt to negotiate ever-decreasing prices, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Public disclosure of information in the financial work papers would be used by the Postal Service's competitors to its detriment.

Hypothetical: A competing package delivery service obtains a copy of the unredacted version of the financial work papers from the Postal Regulatory Commission's website. The competitor analyzes the work papers to determine what the Postal Service would have to charge its customers in order for the Postal Service to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. The competing package delivery service then

sets its own rates for products similar to what the Postal Service offers other posts under that threshold and markets its ability to guarantee to beat the Postal Service on price for inbound EMS delivery. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the inbound EMS delivery market.

Harm: Public disclosure of information in the financial work papers would be used by the EMS Cooperative members' competitors to the detriment of the EMS Cooperative members.

Hypothetical: A competing international delivery service obtains a copy of the unredacted version of the financial work papers from the Postal Regulatory Commission's website. The competitor analyzes the work papers to assess the underlying costs for the corresponding products of the foreign postal operators. The competitor uses that information as a baseline to negotiate with U.S. customs brokers and freight companies to develop lower-cost alternatives. Alternatively, competitors of the foreign postal operators extract information regarding the volumes they are sending to the United States as a means of gaining market intelligence for targeting their own global expansion efforts.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including both private sector integrators and foreign postal operators),

as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products (including other postal operators), as well as actual or potential customers of a postal operator or expedited/parcel integrator for this or similar products should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE ESTABLISHMENT OF NEW PRICES AND CLASSIFICATIONS FOR INBOUND EXPRESS MAIL INTERNATIONAL (EMS) (GOVERNORS' DECISION NO. 08-20)

November 3, 2008

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability produced pursuant to EMS Cooperative[1] procedures for inbound Express Mail International (EMS) tendered by foreign postal administrations,[2] and such changes in classification as are necessary to implement the new prices.[3] [4] This decision establishes three price tiers, effective January 1, 2009, that fall within price floor and price ceiling formulas for inbound EMS. The price floor and price ceiling formulas are specified in Attachment B, and management's analysis of and recommendation in favor of their use is explained in Attachment C. We have reviewed the analysis and conclude that the three price tiers established by EMS Cooperative procedures and the prices for each tier set by management are consistent with the formulas, and that the classification changes are in accordance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7.

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[1] The EMS Cooperative is a voluntary group established in 1998 by the Universal Postal Union's (UPU's) Postal Operations Council. The UPU is a specialized United Nations multilateral organization that facilitates the exchange of international mail. One hundred fifty EMS operators are currently members. Inbound EMS prices for those international posts who are not members of the EMS Cooperative are also set using the same timetable and procedures.

[2] Under these procedures, each destination administration sets its charges once a year by notifying all partners either directly or through the UPU's International Bureau no later than August 31 of the year prior to the effective date. The Postal Service normally makes notification through the UPU International Bureau, but also sends letters directly to the origin administrations.

[3] The Mail Classification Schedule (MCS) language describing the three EMS price tiers seeks to address Postal Regulatory Commission (Commission) suggestions that a consistent approach be adopted for "organizing competitive product negotiated agreements within the Mail Classification Schedule." PRC Order No. 84, Order Concerning the China Post Group Inbound EMS Agreement, Docket No. CP2008-7, June 27, 2008, at 6. Classification language appears as Attachment A.

[4] Specific operational agreements must also define how EMS is exchanged between and among posts. The USPS has many such bilateral/multilateral agreements, at least some of which may be supplanted by an umbrella operational agreement while the price tiers approved herein are effective.

The PAEA provides that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. We have previously determined that prices established according to the formulas listed in Attachment B are appropriate for EMS.[5] Inclusion of those formulas here, and management's analysis of them, confirms our decision that they retain their vitality and that such formulas are appropriate in the instant circumstances. Under the UPU process, each destination administration sets prices for three tiers:

1) Pay-for-performance: available to members of the Kahala Post Group and EMS Cooperative members who elect to comply with pay-for-performance provisions;
2) EMS Cooperative: EMS Cooperative members who elect not to comply with pay-for-performance provisions; and
3) All Others: International posts who choose not to be members of the EMS Cooperative.

As a general matter, the three tiers are mutually exclusive; at times, however, a foreign post may migrate from the second tier to the first.

We are satisfied that the prices established pursuant to EMS Cooperative processes and falling within the formulas in Attachment B meet the applicable statutory and regulatory requirements. The price floor formula provides greater than 100 percent coverage of the costs attributable to each of the price tier. We accept and rely upon the certification in Attachment D that the correct cost inputs for the formulas have been identified. In addition, [redacted] should cover attributable costs and provide a contribution toward the Postal Service's institutional costs. The formula should thus prevent a cross-subsidy from market dominant products. As noted in the certification in Attachment D, the price tiers established pursuant to this Decision should not impair the

[5] The same formula ranges were established and made applicable to incoming EMS from China Post in a non-UPU context. *See* Governors' Decision No. 08-5 filed in PRC Docket No. CP2008-7. An unredacted copy of our decision was filed under seal on May 20, 2008, while a redacted copy was filed on July 23, 2008.

ability of competitive products as a whole to cover an appropriate share of institutional costs.

The three price tiers authorized pursuant to this Decision may not go into effect until submitted to the Postal Regulatory Commission with a notice that complies with 39 C.F.R. § 3015.5. The notice must include a financial analysis demonstrating that the price tiers cover attributable costs, based on [redacted] Attachment B. The notice must also include a certification from a Postal Service official that the numerical values chosen for the price tiers are appropriate, in that they represent the best available information and that the price tiers should not result in a cross-subsidy from market dominant products and should not impair the ability of competitive products, as a whole, to cover an appropriate share of institutional costs.

ORDER

In accordance with the foregoing Decision of the Governors, the formulas set forth herein which establish the three price tiers produced pursuant to EMS Cooperative processes for inbound EMS, and the classification changes necessary to establish those prices, are hereby approved and ordered into effect.

Prices and classification changes established pursuant to this Decision will take effect on January 1, 2009, after review by the Postal Regulatory Commission.

By The Governors:

Alan C. Kessler
Chairman

CHANGE IN MAIL CLASSIFICATION SCHEDULE

The Postal Service requests the addition of one new product to Competitive Product List:

Inbound International Expedited Services 2 (MC2009-10, CP2009-12)

This new language should appear as follows in the Competitive Product List:

PART B—COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

EXPRESS MAIL

Express Mail
Outbound International Expedited Services
Inbound International Expedited Services
Inbound International Expedited Services 1 (CP2008-7)
Inbound International Expedited Services 2 (CP2009-12)

* * *

Three pricing tiers also should be included in the Mail Classification Schedule (MCS).[1] *]*

Inbound International Expedited Services 2 (MC2009-10, CP2009-12).

Pursuant to EMS Cooperative procedures, each destination administration sets three price categories or tiers:

1) Pay-for-performance: available to members of the Kahala Post Group and EMS Cooperative members who elect to comply with pay-for-performance provisions;
2) Not pay-for-performance: EMS Cooperative members who elect not to comply with pay-for-performance provisions; and
3) All Others: International posts who choose not to be members of the EMS Cooperative.

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[1] Based on PRC Order Nos. 79 and 84, the proposed MCS language is a clean sheet approach.

Attachment B

Price Formulas for Inbound Express Mail International (EMS)

[redacted]

Attachment C

Analysis of Price Formulas for Inbound Express Mail International (EMS)

[redacted]

Attachment D

Certification as to the Price Formulas for Inbound Express Mail International (EMS)

I, W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, United States Postal Service, am familiar with the price floor formula and price ceiling formula for Inbound Express Mail International (EMS) which are set forth in Attachment B.

I hereby certify that these formulas adequately represent all necessary cost elements. If the Postal Service were to enter into agreements that set prices above the price floor, the Postal Service would be in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The price floor formula is designed to ensure that each agreement should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. Even if all the agreements for Inbound EMS are signed at the price floor, they should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

W. Ashley Lyons

W. Ashley Lyons

Certification of Prices for Inbound Express Mail International (EMS) Entered by Foreign Posts

I, W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, United States Postal Service, am familiar with the rate elements and prices for Inbound Express Mail International (EMS) sent by foreign posts for delivery in the Postal Service domestic service area; these prices were set in accordance with UPU/EMS Cooperative procedures by a letter to the International Bureau of the Universal Postal Union (UPU) dated August 28, 2008.

I hereby certify that the numerical cost values underlying the EMS prices are the appropriate costs to use in the formulas and represent the best available information. The prices, resulting in a cost coverage of more than [redacted], are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The prices demonstrate that EMS should cover its attributable costs and preclude the subsidization of competitive products by market dominant products.

W. Ashley Lyons

Inbound International Expedited Services 2
Rates to Become Effective January 1, 2011

	Rate per item	Rate per kilogram
Tier 1 (Pay-for-performance Plan, Kahala Posts Group)	SDR [redacted]	SDR [redacted]
Tier 2 (Other Posts)	SDR [redacted]	SDR [redacted]

Certification of Prices for Inbound International Expedited Services 2

I, Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices for Inbound International Expedited Services 2. These prices were established by means of price floor and ceiling formulas set forth in the Decision of the Governors of the United States Postal Service on the Establishment of New Prices and Classifications for Inbound Express Mail International (EMS), issued on November 3, 2008 (Governors' Decision No. 08-20).

I hereby certify that the numerical cost values underlying the new Inbound International Expedited Services 2 prices are the appropriate costs to use in the formulas and represent the best available information. The prices, resulting in a cost coverage of in excess of the minimum required by the Governor's Decision, exclusive of pickup on demand and international ancillary services fees, are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The prices demonstrate that Inbound International Expedited Services 2 should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. These prices should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

Joseph Moeller