

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Market Dominant Product Prices  
Inbound Market Dominant Multi-Service Agreements  
With Foreign Postal Operators 1

Docket Nos. MC2010-35

Market Dominant Product Prices  
Strategic Bilateral Agreement Between United States  
Postal Service and Koninklijke TNT Post BV and  
TNT Post Pakketservice Benelux BV (MC2010-35)  
Negotiated Service Agreement

R2010-5

Market Dominant Product Prices  
China Post Group–United States Postal Service  
Letter Post Bilateral Agreement (MC2010-35)  
Negotiated Service Agreement

R2010-6

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO UNITED STATES  
POSTAL SERVICE FILING ADDING INBOUND MARKET DOMINANT MULTI-  
SERVICE AGREEMENTS WITH FOREIGN POSTAL OPERATORS 1  
TO THE MARKET DOMINANT PRODUCT LIST AND TWO  
FUNCTIONALLY EQUIVALENT NEGOTIATED SERVICE AGREEMENTS

(August 31, 2010)

In response to Order No. 518<sup>1</sup>, the Public Representative [hereby](#) comments on the August 13, 2010 Postal Service Request to add [Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1](#) to the Market Dominant Product List and [Two Functionally Equivalent Negotiated Service Agreements](#), and the August 27, 2010 Erratum filing. (Request)

---

<sup>1</sup> Commission Order 346, Notice and Order Concerning Adding Inbound Market Dominant Multi-service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Two Functionally Equivalent Negotiated Service Agreements, August 19, 2010.

These proposed multi-service bilateral agreements, between the Postal Service and Koninklijke TNT Post BV and TNT Post Pakketservice Benelux BV, collectively “TNT Post” (TNT Agreement), and between the Postal Service and China Post Group–United States Postal Service Letter Post Bilateral Agreement (CPG Agreement), appear to comport with title 39. The notice requirements of the Commission for the Mail Classification Schedule (MCS) -- 39 CFR 3020 Subpart B – appear to be met, for the most part, by this Request. One exception is noted below.

### **Discussion**

Scheduled implementation for both contracts is October 1, 2010.(Request, at 3)  
The TNT agreement covers inbound Letter Post in the form of letters, flats, small packets, bags, containers, and International Registered Mail service for Letter Post. It also includes a placeholder for additional ancillary services at rates yet to be determined. The CPG Agreement with the postal operator of the People’s Republic of China includes the same inbound Letter Post items, plus delivery confirmation scanning with Letter Post small packets.(Request 5-6)

The Postal Service requests exemptions for these two negotiated service agreements (NSAs) from periodic reporting of service performance measurement (see Docket No. RM2010-11) because they would be active market-dominant negotiated service agreements. The Postal Service notes that mail processed in these two agreements would be part of a larger group of measured mail (Request, at 8) and that results would be reflected in the Annual Compliance Report. More to the point, in the TNT agreement, performance incentives and penalties are adopted from the Universal

Postal Union (UPU) Acts. With scanning of different process and delivery events, the CPG agreement could foster incentives for better performance as well. Performance incentives included in the contract would appear to ensure more efficient service for both postal operators. Such provisions are favorable to the general public, since the United States Postal Service will benefit from this efficiency

The issue that an NSA must be available to similarly situated mailers, recognized and reasoned through in the Request, is resolved because these agreements are with the postal operators in the Netherlands and China, respectively.

. The Request (12-14) outlines terms of the two instant contracts which were negotiated between the parties, and vary somewhat. Nevertheless, the terms of the instant agreements do not appear to be significant enough to take these agreements out of functional equivalency (*f~*) with one another.

**Note:**

The Public Representative respectfully notes that it appears there is no documentation evidencing review by the Postal Service Board of Governors accompanying this Request, despite the Postal Service's observation noting that the prices conform with the Governors' Resolution concerning Inbound Market Dominant Mail. ( Attachment Two, Statement of Justification).

## **Conclusion**

The Public Representative acknowledges that these two bilateral agreements and the concurrent Type 2 rate adjustment, comport with provisions of title 39. The Public Representative respectfully submits the preceding Comments for the Commission's consideration.

---

Paul L. Harrington  
Public Representative

901 New York Ave., NW Suite 200  
Washington, D.C. 20268-0001  
(202) 789-6867; Fax (202) 789-6883  
e-mail: paul.harrington@prc.gov