

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
Inbound International Expedited Services
Negotiated Service Agreement

Docket Nos. MC2010-37
CP2010-126

NOTICE AND ORDER CONCERNING ADDING INBOUND INTERNATIONAL
EXPEDITED SERVICES 4 TO THE COMPETITIVE PRODUCT LIST AND
CANADA–POST BILATERAL AGREEMENT

(Issued October 4, 2010)

I. INTRODUCTION

On September 30, 2010, the Postal Service filed a request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Inbound International Expedited Services 4 to the competitive product list.¹ The Postal Service asserts that Inbound International Expedited Services 4 is a competitive product within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2010-37.

¹ Request to Add Inbound International Expedited Services 4 to the Competitive Product List, and Notice of United States Postal Service of Filing Canada Post Group–United States Postal Service Contractual Bilateral Agreement (Under Seal), September 30, 2010 (Request).

The Postal Service contemporaneously filed notice pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5 that new rates for inbound Express Mail Service (EMS) from Canada will become effective January 1, 2011, as provided in the Canada Post–United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services (Bilateral Agreement), which governs bilateral rates for EMS with Canada Post Corporation (Canada Post), the postal operator in Canada. *Id.* at 1. It notes that prices and classifications “not of general applicability” for negotiated service agreements concerning Inbound International Expedited Services have been previously established in Governors’ Decision No. 08-5.² *Id.* at 1-2. The Postal Service states the rates authorized by the Governors are an exception to those offered through the Universal Postal Union (UPU) EMS Cooperative. *Id.* The new prices, which are effective January 1, 2011, have been assigned Docket No. CP2010-126.

Background. The Bilateral Agreement, which was added to the competitive product list by Order No. 376,³ covers parcels arriving in the United States by surface transportation and Xpresspost, a Canadian service for documents, packets, and light-weight packages. Governors’ Decision No. 09-16.⁴ Under the Bilateral Agreement, Canada Post may tender surface parcels and Xpresspost to the Postal Service at negotiated prices rather than the default prices through the UPU. The Bilateral Agreement establishes rates for 2010 and 2011. *Id.*

² Governors’ Decision No. 08-5, April 1, 2008, established prices for the inbound services offered under Express Mail International bilateral/multilateral agreements.

³ Docket Nos. MC2010-14 and CP2010-13, Order Concerning Bilateral Agreement with Canada Post for Inbound Competitive Services, December 30, 2009 (Order No. 376).

⁴ See Docket Nos. MC2010-14 and CP2010-13, Request of the United States Postal Service to Add Canada Post–United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services to the Competitive Product List, and Notice of Filing (Under Seal) the Enabling of Governors’ Decision and Agreement, November 25, 2009. See also Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Canada Post–United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services, November 18, 2009 (Governors’ Decision No. 09-16). The agreement became effective January 1, 2010 and is scheduled to expire December 31, 2011, unless terminated earlier by either party on 90 days’ prior notice. *Id.*, Attachment 3.

On August 2, 2010, the Postal Service filed a notice, pursuant to 39 CFR 3020.90 *et seq.*, of a classification change concerning the Bilateral Agreement.⁵ The classification change filed in Docket No. MC2010-33, effective August 23, 2010, was approved by the Commission in Order No. 522.⁶ The effect of this change is that inbound surface parcels tendered by Canada Post are now handled as Priority Mail and subject to the rates for Xpresspost merchandise established in the Bilateral Agreement. Additionally, for the period August 23, 2010 through December 31, 2010 a small volume of residual Xpresspost items will continue to be rated and handled as Xpresspost under the Bilateral Agreement.⁷

The classification change was prompted by Canada Post's decision to no longer dispatch parcels, referred to as Expedited Parcels, for entry into the Postal Service's Parcel Post network. Consequently, the service for Expedited Parcels is now provided at existing negotiated rates for Xpresspost in lieu of the negotiated surface parcel post rates. Xpresspost items are rated and handled as Express Mail with Canada as a Tier 1 country in the EMS country listing beginning August 23, 2010. In its Notice, the Postal Service stated "assuming that the rates charged to Canada Post for EMS-rated items are not the same as other rates charged to other countries, then before the end of CY 2010, the Postal Service will accordingly initiate a separate, combined mail classification and competitive price change proceeding to give effect to the CY 2011 rates for Xpresspost handled in the EMS network." Notice at 6. The Postal Service's instant Request represents that subsequent filing to give effect to CY 2011 rates for Xpresspost handled in the EMS network.

⁵ Notice of United States Postal Service of Proposed Minor Classification Change Concerning Canada Post–United States Postal Service Contractual Bilateral Agreement for Inbound Competitive Services, August 2, 2010 (Notice).

⁶ Docket No. MC2010-33, Order Accepting Minor Classification Changes Related to Canada Post–United States Postal Service Contractual Bilateral Agreement, August 20, 2010 (Order No. 522).

⁷ The Postal Service indicates the treatment of residual Xpresspost items is necessary to accommodate the use of existing Xpresspost mailing labels through the end of CY 2010.

Request. In support of its Request, the Postal Service filed the following materials:

- Attachment 1—an application for non-public treatment of pricing and supporting documents filed under seal;
- Attachment 2—a redacted version of Governors’ Decision No. 08-5 establishing prices and classifications for services offered under EMS bilateral/multilateral agreements; Mail Classification Schedule (MCS) language applicable to Inbound EMS bilateral /multilateral agreements; formulas for inbound prices under EMS bilateral/multilateral agreements; and an analysis of the formulas, certification of the Governors’ vote, and certification of compliance with 39 U.S.C. 3633(3)(a);
- Attachment 3—a redacted version of the portion of the Bilateral Agreement pertinent to the filing;
- Attachment 4—certification of prices for the Bilateral Agreement required by 39 CFR 3015.5 (c)(2);
- Attachment 5—a Statement of Supporting Justification as required by 39 CFR 3020.32; and
- Attachment 6—proposed Mail Classification Schedule language describing International Expedited Services 4.

In the Statement of Supporting Justification, Lea Emerson, Executive Director, International Postal Affairs , asserts that “[t]he addition of the relevant portions of this [Bilateral] Agreement as a competitive product will enable the Commission to verify that each contract covers its attributable costs and enables competitive products, as a whole, to make a positive contribution to coverage of institutional costs.” *Id.*, Attachment 5. She further states that as a result, “no issue of subsidization of competitive products by market dominant products arises.” *Id.*

Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *Id.*, Attachment 4. He asserts that the prices for the Bilateral Agreement “should cover its attributable costs and preclude the subsidization of competitive products by market dominant products.” *Id.*, Attachment 4.

The Postal Service filed much of the supporting materials, including the specific Bilateral Agreement, under seal. *Id.* at 5. In its Request, the Postal Service maintains that certain portions of the contract, the rates, descriptions of the rates, and related financial information should remain under seal. *Id.*, Attachment 1.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2010-37 and CP2010-126 for consideration of the Request pertaining to the proposed Inbound International Expedited Services 4 product, and the related Bilateral Agreement, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this Order; however, future filings should be made in the specific docket in which issues being addressed pertain.

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 October 14, 2010. The public portions of these filings can be accessed via the Commission's website (<http://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. MC2010-37 and CP2010-126 for consideration of the matters raised in each docket.
2. 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.
3. Comments by interested persons in these proceedings are due no later than October 14, 2010.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*

By the Commission.

Ruth Ann Abrams
Acting Secretary