Postal Regulatory Commission
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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	Docket Nos. CP2011-20
Global Expedited Package Services 3 (MC2010-28)	CP2011-21
Negotiated Service Agreement	CP2011-22
	CP2011-23
	CP2011-24
	CP2011-25

ORDER APPROVING SIX ADDITIONAL GLOBAL EXPEDITED PACKAGE SERVICES 3 NEGOTIATED SERVICE AGREEMENTS

(Issued October 29, 2010)

I. INTRODUCTION

The Postal Service proposes to add six specific Global Expedited Package Services contracts to the Global Expedited Package Services 3 (GEPS 3) product established in Docket No. MC2010-28. For the reasons discussed below, the Commission approves the proposed contracts.

II. BACKGROUND

On October 19, 2010, the Postal Service filed a notice announcing that it has entered into six additional 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, Attachment 3. The Notice explains that Order No. 86, which established GEPS 1 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 2. In Order No. 290, the Commission approved the GEPS 2 product.[2] In Order No. 503, the Commission approved the GEPS 3 product. Additionally, the Postal Service requested to have the contract in Docket No. CP2010-71 serve as the baseline contract for future functional equivalence analyses of the GEPS 3 product.

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.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachments 1A through 1F—redacted copies of the six contracts and applicable annexes;
- Attachments 2A through 2F—certified statements 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

[1] Notice of United States Postal Service of Filing Six Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreements and Application For Non-Public Treatment of Materials Filed Under Seal, October 19, 2010 (Notice).

[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).

applicable GEPS contracts, formulas for prices, an analysis of the formulas, and certification of the Governors' vote; and

- 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 the GEPS 3 product. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contracts from the baseline GEPS 3 agreement. *Id*. at 4-5. It states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contracts' functional equivalency. *Id*. at 3-4. The Postal Service asserts that "[b]ecause the agreements incorporate the same cost attributes and methodology, the relevant characteristics of these six GEPS contracts are similar, if not the same, as the relevant characteristics of previously filed contracts." *Id.* at 4.

The Postal Service concludes that its filings demonstrate that each of the new GEPS 3 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GEPS 3 contract. Therefore, it requests that the instant contracts be included within the GEPS 3 product. *Id.* at 5.

In Order No. 564, the Commission gave notice of the docket, appointed a Public Representative, and provided the public with an opportunity to comment.[3]

[3] Notice and Order Concerning Six Additional Global Expedited Package Services 3 Negotiated Service Agreements, October 20, 2010 (Order No. 564).

III. COMMENTS

Comments were filed by the Public Representative.[4] No other interested person submitted comments. The Public Representative states that each applicable element of 39 U.S.C. 3633(a) appears to be met by these additional GEPS 3 contracts. *Id.* at 1. He also affirms that the Postal Service's filing complies with applicable Commission rules. *Id.* at 1-2. The Public Representative observes that the instant contracts have incidental differences from prior GEPS 3 contracts because of negotiation with individual mailers. He relates that the modifications to the instant contracts are not significant enough to alter their functional equivalence with prior GEPS contracts. *Id.* at 2. The Public Representative states that his review of the materials under seal indicates that the instant contracts comply with the pricing formula established in Governors' Decision No. 08-7, should not lead to the subsidization of competitive products by market dominant products, should cover their attributable costs, and should have a positive net contribution to institutional costs. *Id*. at 3. He concludes that the instant contracts' terms are favorable to the Postal Service and the general public. *Id.*

IV. COMMISSION ANALYSIS

The Postal Service proposes to add six additional contracts to the GEPS 3 product that was created in Docket No. MC2010-28. First, the Commission reviews each contract to ensure that it is substantially equivalent to the contract approved in Docket No. CP2010-71, and thus belongs as part of the GEPS 3 product. Second, the Commission must ensure that each contract at issue in this proceeding satisfies the requirements of rules 3015.5 and 3015.7, and 39 U.S.C. 3633.

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[4] Public Representative Comments in Response to United States Postal Service Filing of Six Additional Global Expedited Package Services 3 Negotiated Service Agreements, October 28, 2010 (Public Representative Comments).

Functional equivalence. The Postal Service states that the instant contracts differ from the contract in Docket No. CP2010-71 concerning customer-specific information and certain general terms, *e.g.*, customer's name, address, representative, signatory, payment method, mail tender options, and minimum revenue commitment. Notice at 4-5.

The instant contracts appear to be similar to the contract filed in Docket No. CP2010-71, although they differ in some minor respects relative to customer-specific information and general terms. These differences notwithstanding, the Commission concludes that the instant contracts may be included in the GEPS 3 product.

Cost considerations. The Commission reviews competitive products to ensure that they meet the applicable requirements of rules 3015.5 and 3015.7, and 39 U.S.C. 3633. The Commission has reviewed the financial analyses provided under seal that accompanies the instant contracts as well as the comments filed in this proceeding.

Based on the information provided, the Commission finds that the contracts submitted should cover their attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, a preliminary review of the proposed contracts indicates that they comport with the provisions applicable to rates for competitive products.

Other considerations. Each of the instant contracts states that the Postal Service will notify the mailer of its effective date within 30 days after receiving all necessary regulatory approvals and will remain in effect for one year from the effective date. The Postal Service shall notify the Commission of the effective date of each contract. If any of the contracts terminates earlier than scheduled, the Postal Service shall inform the Commission prior to the new termination date.

In addition, within 30 days of the expiration of each contract, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with that contract, including any penalties paid.

In conclusion, the Commission finds that the contracts submitted in Docket Nos. CP2011-20 through CP2011-25 are appropriately included within the GEPS 3 product.

V. ORDERING PARAGRAPHS

It is Ordered:

1. The contracts filed in Docket Nos. CP2011-20 through CP2011-25 are included within the Global Expedited Package Services 3 (MC2010-28) product.

2. The Postal Service shall notify the Commission of the effective date of each contract and update the Commission if any of the termination dates change as discussed in this Order.

3. Within 30 days of the expiration of each contract, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with that contract, including any penalties paid.

By the Commission.

Shoshana M. Grove
Secretary