

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Inbound Air Parcel Post (at UPU Rates)  
(MC2010-11)

Docket No. CP2011-27

PUBLIC REPRESENTATIVE COMMENTS  
IN RESPONSE TO UNITED STATES POSTAL SERVICE  
FILING OF NOTICE CONCERNING CHANGES IN RATES  
FOR INBOUND AIR PARCEL POST AT UPU RATES

(November 22, 2010)

In response to Order No. 578<sup>1</sup>, the Public Representative hereby comments on the November 3, 2010 Postal Service notice announcing changes in rates not of general applicability for Inbound Air Parcel Post at Universal Postal Union (UPU) rates effective January 1, 2011.

The instant Request Comports with title 39, Commission procedural rules and Universal Postal Union (UPU) Convention provisions.

The Public Representative has accessed and reviewed all materials the United States Postal Service submitted under seal in this matter, documentation in its original (not redacted) version. Discussion of the salient issues follows.

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<sup>1</sup> Commission Order 578, Notice and Order Concerning Changes in Rates for Inbound Air Parcel Post at UPU Rates, November 4, 2010.

## **Overview**

The Postal Service asserts that Inbound Air Parcel Post is a competitive product within the meaning of 39 U.S.C. 3632(b)(3), and notes that the Commission approved Inbound Air Parcel Post at UPU Rates in Docket Nos. MC2010-11 and CP2010-11 by Order 362, December 15, 2009.

Attachment 1, the Postal Service's Application for Non-Public Treatment of Materials, articulates why materials in this Docket should be afforded non-public treatment.

The Governors' November 16, 2009 Decision No. 09-15 (Attachment 3) establishes the prices for Inbound Air Parcel Post at UPU Rates and the changes in classification necessary to implement those prices. That Decision, as well as Commission Order 43, notes that inward land rates for parcels are set pursuant to a prescribed rate-setting formula adopted by the UPU Postal Operations Council (POC).

Section 407(d) of title 39 authorizes the Postal Service to enter into bilateral contract agreements, subject to certain limitations, with foreign postal administrations concerning provision of international postal services. In the international arena, classifications of mail vary slightly from title 39 categories applicable to domestic mailings. The UPU identifies three types of inbound international mail: Letter Post, Parcel Post, and EMS (express mail service). The UPU Convention, Article 12, section 5 requires UPU member countries to accept, handle, convey and deliver parcels

weighing up to 20 kilograms (approximately 44 pounds) pursuant to the UPU Convention pricing or through bilateral agreements.

The rates authorized by the Governors' Decision No. 09-15 are inward land rates when there is no contractual relationship with the originating postal operator. These rates would be the highest possible inward land rate eligible for the United States under UPU Parcel Post regulations. The rates and classification changes which took effect at 12:01 a.m., January 1, 2010 shall be changed effective January 1, 2011. Although inward land rates are not available publicly, foreign postal operators would receive notice through the UPU.

### **Discussion**

This Request meets statutory requirements for consideration in Docket No. CP2011-27; the classification has been filed in a timely and complete manner.

Nevertheless, may be some concern regarding the cost coverage for inbound air parcels at inward land rates when there is no contractual relationship with the originating postal operator. Reasonably, the postal operators who provide the most volume in this classification would be wise to seek a bilateral contractual agreement. Operators who do not seek such agreements (it may be assumed), do not have an appreciable amount of volume that would make such an agreement worthwhile. The inward land rates are based upon historic data with provisions for inflation, and added incentives based upon performance reports. For the general public, there is some assurance that this relatively small volume of mail has been covering its costs; the U.S.

Postal Service and other operators have had years to move for increased fees. Bilateral agreements provide some flexibility to the operators and enable efficiencies that improve service. The default pricing, set by UPU, would logically be greater than postal operators could negotiate for a bilateral agreement.

However, despite the Postal Service's restraint by UPU inward land rates for parcels, Inbound Air Parcels are a competitive product. For a competitive products pricing schedule *not of general applicability*,<sup>2</sup> the Postal Service must demonstrate that the contract will be in compliance with 39 USC 3633(a): It will not allow market dominant products to subsidize competitive products, it will ensure that each competitive product covers its attributable costs; and enable competitive products as a whole to cover their costs (contributing a minimum of 5.5 percent to the Postal Service's total institutional costs). It appears that cost coverage could be met, and is met, by applying the highest possible inward land rate eligible. The Commission will also have a window into this particular class of mail through the annual compliance determination (ACD) process.

Otherwise, this Notice is consistent with the policies of title 39, in particular, section 3642, with regard to changes in the Mail Classification List (MCL), notice and publication.

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<sup>2</sup> See 39 CFR 3015.5.

## **Conclusion**

The Public Representative submits that the present Request (and Notice of classification and pricing) complies with title 39 and the Postal Service Notice fulfills all relevant requirements for Commission Rules of Practice and Procedure. The changes therein benefit customers of the United States Postal Service and the general public.

The Public Representative respectfully offers the preceding Comments for the Commission's consideration.

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