

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
Global Expedited Package Services Contracts
Non-published Rates

Docket Nos. MC2010-29
CP2010-72

ORDER APPROVING POSTAL SERVICE REQUEST TO ADD
GLOBAL EXPEDITED PACKAGE SERVICES–NON-PUBLISHED RATES 1
TO THE COMPETITIVE PRODUCT LIST

(Issued November 22, 2010)

I. INTRODUCTION

The Postal Service seeks to add Global Expedited Package Services–Non-published Rates to the competitive product list within the Mail Classification Schedule (MCS).¹ This product grouping would create a classification in addition to existing Global Expedited Package Services (GEPS) products. *Id.* at 8-10. GEPS offers discounts to small and medium-size mailers of Express Mail International (EMI) and Priority Mail International (PMI). The existing GEPS product is similar to the new

¹ Notice and Request of the United States Postal Service Concerning Global Expedited Package Services–Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, July 16, 2010 (Request).

GEPS–Non-published Rates (GEPS–NPR). Each offers rates for EMI and PMI based on revenue tiers, entry points, country groups, and weight cells. *Id.* at 4-6. According to the Postal Service, nearly all current GEPS agreements would fit within GEPS–NPR. Any nonconforming agreement could be added to the competitive product list using the original GEPS product. *Id.* at 4. The Commission approves the Request with conditions.

On July 21, 2010, the Commission issued notice of the Request.² The Commission noted that the primary difference between GEPS and GEPS–NPR is that the Governors have approved a rate schedule that includes every possible rate between a minimum and maximum rate within cells defined by country group and weight.³ The maximum rate in each cell would be based on the published Click-N-Ship discounts of 8 and 5 percent for EMI and PMI, respectively. The minimum rate would be based on the unpublished maximum discount for entry at an International Service Center in GEPS revenue tier eight. *Id.*, Attachment C, at 1-2. The Postal Service would offer agreements to customers with rates between the minimum and maximum. To qualify for such agreements, a mailer must be capable of paying at least \$50,000 per year in international postage to the Postal Service. *Id.*, Attachment A, at section 2610.7.1.

² Notice and Order Concerning Request to Add a New Product to the Competitive Product List, July 21, 2010 (Order No. 494).

³ See Request, Governors' Decision No. 10-2 (Attachment 2), Attachment B.

The stated purpose of GEPS–NPR is to streamline the “process for approving GEPS agreements, while maintaining their profitability and competitive positioning in the market.” *Id.*, Attachment C, at 1. The Postal Service states:

The number of [GEPS] agreements continues to grow, and the number of renewing customers is substantial. Because the agreements typically have a term of one year, the transaction costs for developing the pricing and filing each agreement as a separate product are substantial as well. The resources of the Commission are also affected by these agreements, as the Commission and a Public Representative must review each agreement and its rates prior to determining the functional equivalence of the agreement under review in comparison to the baseline GEPS agreement.

Request at 8.

Included with the Request are several attachments. Attachment 1 is an application for non-public treatment of portions of the Request. Attachment 2 contains the Governors’ Decision and attachments thereto, including MCS language describing GEPS–NPR, rate schedules, a management analysis, and certification that prices satisfy applicable pricing criteria. Attachment 3 is a statement of justification by the Executive Director, Global Business Management. Attachment 4 is a representative agreement between the Postal Service and a customer of GEPS–NPR.

In Order No. 494, the Commission gave notice of the filing, appointed a Public Representative, and provided the public an opportunity to comment. Comments were filed by United Parcel Service (UPS) and the Public Representative; reply comments were filed by the Postal Service and the Public Representative.

II. INFORMATION REQUESTS

Three Chairman’s Information Requests were issued. The responses helped to complete the record in this proceeding. Of particular importance was the financial model used by the Postal Service to set rates for individual contracts, which was

provided in response to Chairman's Information Request No. 1.⁴ From that response, it was confirmed that prices for individual weight/country group cells had to generate a specific (under seal) cost coverage intended to be compensatory. If the rate in a cell does not generate the target cost coverage, the rate offered to the mailer would be the published Click-N-Ship rate. The contract as a whole, taking account of the shipper's volume distribution across weight/country group cells, also must generate a minimum (under seal) compensatory cost coverage.

Chairman's Information Request No. 2 requested that a spreadsheet with hard-coded numbers be replaced with a spreadsheet showing formulas.⁵ The response to Chairman's Information Request No. 3 clarified that the Postal Service's financial model produces an exact price tailored to options elected by the mailer.⁶ The financial model functions like a rate schedule: the mailer chooses a revenue commitment and entry location, and the spreadsheet generates rates for that mailer. There is no discretion for management to select the rates. In effect, the financial model generates 24 separate rate schedules—one for each possible revenue-tier/entry-point combination. These rate schedules would change over time, however, as inputs to the model, such as exchange rates, vary.⁷

⁴ Chairman's Information Request No. 1, July 28, 2010 (CHIR No. 1); *see also* Response of the United States Postal Service to Chairman's Information Request No. 1, August 4, 2010, question 2 (Response to CHIR No. 1).

⁵ Chairman's Information Request No. 2, August 10, 2010; *see also* Response of the United States Postal Service to Chairman's Information Request No. 2, August 12, 2010.

⁶ Response of the United States Postal Service to Chairman's Information Request No. 3, September 10, 2010 (Response to CHIR No. 3).

⁷ Response to CHIR No. 1, question 3.b; Response to CHIR No.3, question 1.a.

III. COMMENTS

A. United Parcel Service

UPS filed comments opposing the Postal Service's request for a new product.⁸ It contends that the product offered by the Postal Service is too broad and does not comport with the Postal Accountability and Enhancement Act of 2006 (PAEA) definition of a product. *Id.* at 1. Additionally, it states if the Commission grants the request, "the rates for the service should be treated as 'rates or classes of general applicability.'" *Id.* at 2.

UPS states that the Postal Service's description of the proposed product indicates that the contracts are not limited to those that share distinct cost and market characteristics. *Id.* at 2-3. It states that the product description in the instant case indicates that the market characteristics could vary greatly from one contract to another. *Id.* at 3. UPS observes that in Order No. 226, the Commission rejected the Priority Mail Group proposed by the Postal Service because the contracts would have had different product cost or market characteristics.⁹ *Id.* at 2-3. UPS states that the various options available to mailers such as revenue commitments, EMI and PMI combinations, and mail acceptance coupled with the variation in country categories and postage payments methods may alter the costs of the specific contract. *Id.* at 3. It states that the PAEA prohibits product groups with a different number of market characteristics. *Id.*

It argues further that in Order No. 226, the Commission established that volume minimums, postage payment methods, shape, weight, and other requirements for different mailers are characteristics that may not be considered functionally equivalent. *Id.* It also states that competitive product requirements are compromised by viewing the

⁸ Comments of United Parcel Service in Response to Notice and Order Concerning Request to Add New Product to the Competitive Product List, August 11, 2010 (UPS Comments).

⁹ See Docket Nos. MC2009-25 and CP2009-30 through CP2009-34, Order Concerning Priority Mail Contracts 6 through 10, June 19, 2009 (Order No. 226).

contracts together as one product since as a group they would have to cover their total attributable costs rather than each contract covering its own costs. *Id.* at 4.

Alternately, UPS contends that if the Postal Service's Request is approved, it should be subject to the requirements of rates or classes of general applicability. *Id.* at 2. It argues that the requirements of the contracts are not subject to negotiation and therefore, are comparable to worksharing and volume discounts for competitive products. UPS contends that there is no commercial harm in making the instant rates public. *Id.* at 5. UPS asserts that treating the rates as not generally applicable raises the possibility of unfairness among eligible mailers.

B. Public Representative

Initial comments. The Public Representative questions whether certain rates to be offered under the GEPS–NPR product will generate sufficient revenues to cover its attributable costs.¹⁰ He observes that the minimum rates for certain weight and country group combinations presented in Attachment B are less than the minimum rates resulting from application of the business rules in the financial model. As a result, the Public Representative “does not believe that the...minimum rates presented in Attachment B to the Governors’ Decision 10-2 (Attachment B) will cover costs.” PR Comments at 7. He suggests that the Commission defer approving the new product until the Postal Service demonstrates that the proposed minimum rates in Attachment B will cover costs.

Assuming such an analysis is provided and the Commission subsequently approves the product classification, the Public Representative identifies additional information that should be filed by the Postal Service. This information includes a copy of each contract (filed under seal)—the current practice with other GEPS products—and identification of certain non-price terms, including “the associated implementation date

¹⁰ Comments of the Public Representative, August 11, 2010 (PR Comments).

and termination date of each contract.” *Id.* (Footnote omitted.) The Public Representative also requests that the Postal Service provide annual volume, revenue, and cost data on each contract. *Id.* at 8. In addition, updated prices on a quarterly basis should be provided to the Commission “to better ensure that financial conditions do not materially affect the profitability of any contract.” *Id.* (Footnote omitted.)

The Public Representative discusses “four main additional points” with respect to the proposed classification for the GEPS–NPR product. *Id.* at 9-13. First, the Public Representative states “it appears premature to conclude from the record that each pertinent element of 39 USC 3633(a) appears to be met” given concerns as to the adequacy of financial data demonstrating that the product will cover costs. *Id.* at 10. Second, the Public Representative questions “whether the proposed rate matrix and service terms envisioned as a niche classification, subject to NSAs will work to the mutual benefit of the mail users and postal service as a whole.” *Id.* at 9. Third, the Public Representative questions whether the proposed classification provides adequate safeguards to ensure that contracts with “the same terms will be extended to other potential users willing to meet the same conditions of service.” *Id.* Fourth, the Public Representative addresses the Commission’s oversight role. In this regard, he asks whether the provision of supplemental data, notice, and the regular reporting of data “suffices to permit continuing oversight through [after-the-fact] monitoring by the Commission.” *Id.*

Reply comments. In his reply comments, the Public Representative addresses UPS’s comments.¹¹ The Public Representative appears to endorse UPS’s argument that rates for the service be subject to the requirements for “rates or classes of general applicability” under 39 U.S.C. 3632(b)(2), but only if the Postal Service fails to provide additional information and supplemental financial data previously identified by the Public Representative. PR Reply Comments at 5-6.

¹¹ Reply Comments of the Public Representative, August 18, 2010, at 2-6 (PR Reply Comments).

C. Postal Service

The Postal Service replied to the comments of UPS and the Public Representative.¹² The Postal Service distinguishes its proposal from that in Docket Nos. MC2009-25 and CP2009-30 through CP2009-34. Among other things, the Postal Service argues that the proposed classification is more narrowly drawn; contracts are based on a model contract filed with the request; and “business rules” severely constrain management discretion. Transparency will be ensured because each contract will be filed with the Commission. Postal Service Reply Comments at 2-4.

The Postal Service also argues that the GEPS–NPR product does not offer rates of general applicability. The rates are only available to business mailers (not retail customers) capable of generating at least \$50,000 per year in international mail revenue, and not all of those mailers would be offered a contract. *Id.* at 5.

The Postal Service also distinguishes its proposed GEPS–NPR product from the Commission’s findings in Order No. 226, which rejected a proposal to classify all domestic Priority Mail contracts as a single product. Unlike the rejected Priority Mail product, which included “much broader classification language” than that proposed for the instant product, the Postal Service states this filing includes a “model agreement...[to serve] as a basic template for all GEPS agreements.” *Id.* at 2. The filing also features fixed pricing tables with defined price categories (*i.e.*, Traditional, Metro, and ISC Drop Ship), eligibility tiers (*i.e.*, revenue commitment), and a specific methodological description for rate design. *Id.* The Postal Service observes that the methodology and business rules provide a very narrow and complex framework within which the Postal Service management must operate for the purpose of offering discounted pricing to a targeted group of customers. *Id.*

The Postal Service references previous Commission reviews wherein the Commission found that individual GEPS contracts with a broad range of mailers were

¹² Reply Comments of the United States Postal Service, August 18, 2010 (Postal Service Reply Comments).

functionally equivalent in spite of distinctions such as country destination, product volume and weight steps for combinations of EMI or PMI or both, and downstream access choice. *Id.* The Postal Service states that such distinctions have been recognized by the Commission as cost inputs, and may result in different prices in the pricing model, “but they do not affect the functional equivalence of one agreement to the others.” *Id.* Additionally, the Postal Service states other distinctions, such as differing payment methods and software solutions for international mail documentation, have not precluded the Commission from finding agreements functionally equivalent. *Id.* at 2-3.

The Postal Service identifies market characteristics that bind the agreements together, comprising a “commonality of the customers” that include small and medium-size businesses, capable of generating \$50,000 in international mail revenue, with a desire to use international expedited delivery services. *Id.* at 3.

The Postal Service contends that UPS’s concern that GEPS contracts within the proposed GEPS–NPR product do not share common cost characteristics, and therefore should not be grouped as a product, is “contrary to years of established practice in connection with mail classification.” *Id.* at 6. Rather than such a rigid approach to classification, “the Postal Service and the Commission have used other defining characteristics to group products in the mail classification schedule, such as speed of service, shape and content eligibility.” *Id.* It urges the Commission to reject the more restrictive approaches to product classification advocated by UPS. *Id.*

The Postal Service also refutes UPS’s argument that grouping all GEPS–NPR contracts into a single product would undermine the requirement that each competitive offering cover its attributable costs. UPS Comments at 4, citing 39 U.S.C. 3633(a)(2). The Postal Service asserts that “each agreement will meet its statutory obligation from the outset.” Postal Service Reply Comments at 4. It states prices are set on a cell-by-cell basis to ensure that only prices falling within the established limits approved by the Governors will be offered. *Id.* In addition, the Postal Service maintains that the business rules imposed upon management ensure that on a cell-by-cell basis, as well

as in the aggregate, each contract will cover its attributable cost and contribute to institutional costs. *Id.*

The Postal Service rejects UPS's claim that GEPS–NPR should be subject to the requirement for "rates and classes of general applicability." In contrast to Click-N-Ship rates, which are rates of general applicability available to both business and retail customers regardless of their use of EMI and PMI, the GEPS–NPR are available only to small and medium-size businesses capable of generating at least \$50,000 annually in international mail revenue. *Id.* at 5.

In response to UPS's concerns about transparency and availability, the Postal Service maintains that transparency is assured by the filing of each contract with the Commission, and the filing of product information in the Annual Compliance Report (ACR). *Id.* at 4. The Postal Service also states that it will take steps to effectively market the availability of the pricing incentives for PMI and EMI. *Id.*

The Postal Service addresses the Public Representative's major concern as to whether the minimum rates approved by the Governors will cover costs. *Id.* at 7. It explains the relationship of the minimum prices presented in Attachment B of the Governors' Decision to the prices for each rate cell based upon the customer's revenue commitment, downstream access, and postage payment option resulting from application of the approved methodology, as described in Attachment C of the Governors' Decision. *Id.* at 7-8. The Postal Service states that the lowest rates approved by the Governors reflect the discount percentages presented on page 1 of Attachment C applied to the current published rates for EMI and PMI. *Id.* at 8. The highest rate authorized in each rate cell presented in Attachment B reflect the discount generally available to any customer mailing EMI or PMI using Click-N-Ship or Postal Service approved software. *Id.*

The Postal Service also describes in detail its business rules as applied in the formulas included in its financial model, *i.e.*, the GEPS Master file. It states that the formulas produce a price chart which ensures that a minimum price falling below the

statutory cost coverage is not offered, unless it is the published discounted price. *Id.* The resulting prices are not only consistent with the rates approved by the Governors, but address the Public Representative’s concerns as to whether rates cover costs. *Id.* The Postal Service states that if the published or discounted retail rates change for both EMI or PMI, the Governors would need to issue a new decision to set new rates for the GEPS–NPR classification. By contrast, if cost inputs such as foreign exchange rates change, that would allow the Postal Service to offer lower rates than those currently produced by its formulas while maintaining the minimum cost coverage. Those rates could be offered without additional approval of the Governors.¹³

The Postal Service addresses the Public Representative’s concern as to whether the GEPS–NPR proposal should be considered a niche classification, despite the existence of individual agreements with customers. The Postal Service references information provided in its response to CHIR No. 1 as sufficient, and does not elaborate further in its reply comments. *Id.* at 10.

In response to the Public Representative’s concern that the Postal Service will discriminate unfairly through the non-price terms of the agreements, the Postal Service states it is not interested in “unique” agreements with customers. *Id.* Rather, the Postal Service expresses the belief that it and GEPS customers will benefit from a “template approach” to discounts as proposed in the GEPS–NPR product. *Id.* It observes that the administrative costs of preparing distinct agreements coupled with the time involved in approval will likely limit both parties’ demand for changes only to those involving substantial issues. *Id.* The Postal Service acknowledges that in the event of necessary substantial changes, it may be more appropriate to file the contract as a GEPS 3

¹³ *Id.* at 9. The Postal Service explains that fluctuating indices are a known risk that it and the mailer are aware of and as a business matter, it includes a contingency in its pricing model to account for some of the unacceptable risk, which it presumes competitors do as well. Once the mailer is offered prices, those prices are not adjusted unless either the costs to the Postal Service increase or the underlying EMI or PMI prices are adjusted, which would impact all GEPS customer rates. *Id.*

product, for instance, or propose a new mail classification for review by the Commission. *Id.* at 10-11.

The Postal Service finds the Public Representative's proposal for a separate report to verify statements in Governors' Decision No. 10-2, Attachment C regarding the profitability of GEPS products to be unnecessary. *Id.* at 11. The Postal Service contends such a report would provide information submitted at the end of the contract term for each GEPS contract and previously reported to the Commission in the 2009 ACR. The Postal Service states that this information verifies its statements as to the profitability of the GEPS–NPR product. *Id.*

IV. COMMISSION ANALYSIS

A. Legal Issues

1. Does GEPS–NPR Offer Rates of General Applicability?

UPS argues that GEPS–NPR should be classified as a product of general applicability. See 39 U.S.C. 3632(b). UPS states that making the rates for GEPS–NPR public would cause no more commercial harm to the Postal Service than generally applicable Parcel Select rates. UPS also expresses concern that eligible shippers would not be aware of GEPS–NPR rates if they are not generally applicable. UPS Comments at 4-5.

The Commission is not persuaded by these arguments. The new product is a variant of previous GEPS products, differing principally in the form of negotiation. None of the pre-existing GEPS products is of general applicability.¹⁴ Each is subject to a separate contract. So, too, is GEPS–NPR service.

Moreover, discounted rates of general applicability are available to any prospective EMI and PMI customer when using Click-N-Ship. These rates are available

¹⁴ See, e.g., Order No. 503, Docket Nos. MC2010-28 and CP2010-71, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010.

to business and retail customers, whereas GEPS–NPR will only be available to business mailers who are capable of spending \$50,000 on international postage and make specific contractual commitments enforced with penalties.

Lastly, UPS’s claim that publicizing GEPS–NPR rates would cause the Postal Service no commercial harm is not credible. Like the Postal Service, UPS has publicly available rates. Prices it negotiates with shippers, however, are not made public. Accordingly, the Commission finds that the GEPS–NPR product is properly classified as not of general applicability.

2. Does GEPS–NPR Consist of More Than One Product?

UPS argues that GEPS–NPR contracts will vary significantly in terms of cost and market characteristics and thus each should be classified as a separate product. UPS Comments at 2-4. UPS made similar arguments in Docket No. MC2009-25. In that case, the Commission agreed with UPS that the proposed classification was too broad to be considered a single product. The Postal Service had proposed that five contracts for domestic Priority Mail be grouped under a single product and that future Priority Mail contracts also be classified under that product. Under that proposal, as with the instant proposal, Commission pre-approval of individual contracts would be eliminated.

There are, however, significant distinctions between the Postal Service’s proposal in Docket No. MC2009-25 and the instant proceeding. Unlike the proposal here, the proposed Priority Mail product did not include a contract template or financial model. Nor did the rates for each contract come from a range that had been pre-approved. Rather, each of the five proposed Priority Mail contracts had been negotiated separately.

In Docket No. MC2009-25, the Commission raised the issue of functional equivalence, stating, “[t]he Postal Service provides no arguments or evidence

attempting to show that the five contracts at issue...are functionally equivalent.”¹⁵ In its comments, the Postal Service sought to minimize the differences between the five contracts. It said the only differences among the contracts were the negotiated prices, the lengths of the contracts, postage payment methods, packaging, and mail entry.¹⁶ However, the proposed Priority Mail classification language contained a “catch-all provision allowing future contracts to contain ‘any other customized terms or conditions’....” Order No. 226 at 9. The Commission concluded that this “catch-all approach is far too wide-ranging to allow the Commission to conclude that there are similar cost characteristics in the potential contractual partners’ mailing profiles.” *Id.* The classification language at issue here contains no such provision.

The Postal Service provides ample support for treating GEPS–NPR as a single product. See Postal Service Reply Comments at 1-7. Service is available only pursuant to a model contract, which contains very few options for mailers. A mailer may choose a postage payment method (permit or PC Postage), an entry point (at an ISC, near an ISC, or anywhere), and a revenue commitment (eight tiers). The first choice, postage payment method, does not affect cost or demand characteristics in any significant manner. The second choice, entry point, affects transportation and handling costs, just as the choice of zone affects costs in other products. This is not a basis for distinguishing products.¹⁷ The third choice, revenue commitment, does not affect costs at all and has little effect on market characteristics: all the revenue tiers are designed for small to medium-size businesses. Given the business rules which govern these contracts and require each GEPS–NPR contract to satisfy 39 U.S.C. 3633(a)(2), the

¹⁵ Order No. 217, Docket Nos. MC2009-25 and CP2009-30 through CP2009-34, Notice and Order Concerning Priority Mail Contracts 6 Through 10 Negotiated Service Agreements, May 26, 2009, at 4.

¹⁶ Comments of the United States Postal Service in Response to Order No. 217, June 8, 2009, at 2.

¹⁷ See Order No. 26, Docket No. RM2007-1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at 77 (rejecting a proposal to treat each weight/zone cell as a separate product).

Commission concludes that these contracts may be appropriately grouped under the GEPS–NPR product.

The price offered to a customer in each rate cell will more than cover attributable costs and make a contribution to institutional costs, unless the price is the published Click-N-Ship price. Some Click-N-Ship prices are currently below cost.¹⁸ Provided that the cost inputs for the financial model are accurate, each contract will cover costs and make a contribution to institutional costs. (A contract would not be offered to a mailer with disproportionate volumes in below-cost rate cells. Postal Service Reply Comments at 5.) Given that each contract will cover costs and make a contribution to institutional costs, it follows that the product as a whole will cover costs.

In sum, the model contract is based on business rules which ensure that each contract covers its attributable costs and makes a contribution to institutional costs. The latter findings are critical to the Commission’s approval of the new product.

3. Does GEPS–NPR Foster Undue Discrimination?

The Public Representative questions whether the same contract terms will be extended to similarly situated mailers. PR Comments at 11. This issue was addressed in the Postal Service’s response to CHIR No. 3, question 1, and in its reply comments.

Two identical mailers might be offered different prices, but only if variable inputs to the financial model (such as exchange rates) differ.¹⁹ As for non-price terms of the contracts, the Postal Service states that it is not interested in “unique” agreements with GEPS customers and that it does not plan to tweak the language of the model contract. Postal Service Reply Comments at 10. The Commission will require that any changes

¹⁸ However, the International Expedited Services (which includes EMI) and PMI products as a whole cover their costs and make significant contributions to institutional costs. See Docket No. ACR2009, 2009 Annual Compliance Determination, at 119.

¹⁹ See Response to CHIR No. 3, question 1.a.

to the model contract or to the financial model be approved in advance. This should allow the Commission to detect and prevent undue discrimination.

B. Future Filings

The Postal Service characterizes its proposal in this docket as “streamlining” the process for approval of GEPS agreements.²⁰ The Postal Service notes that both the Postal Service and the Commission have devoted substantial time and resources to litigating GEPS contracts, all of which have been approved. To speed up the approval process, the Postal Service has developed a contract template and a financial model that generates a rate sheet for each contract.²¹ By approving the model contract and financial model in advance, the Commission would eliminate several steps in the contract approval process. These steps include Commission pre-approval of individual contracts.

The Postal Service has developed an innovative way to speed up the process of approving contracts. The proposal includes sufficient checks and balances to ensure that each GEPS–NPR contract satisfies, at least preliminarily, 39 U.S.C. 3633(a). The Commission has reviewed the range of rates that will be available and the business rules applicable to the contracts and concludes that the rates offered to a customer will cover attributable costs and make a contribution to institutional costs. So long as the model contract and the financial model that the Commission has reviewed remain in use, each individual contract will comply with title 39. Thus, the Commission considers

²⁰ See, e.g., Postal Service Reply Comments at 5-6.

²¹ The model contract allows the Postal Service to increase rates if its costs increase by a specified percentage or if rates for EMI or PMI change. See Request, Attachment 4, Article 14.

the contract template and the financial model to be critical parts of the classification being approved. Any change to the contract template or to the financial model must be approved in advance by the Commission pursuant to 39 CFR part 3015.²²

A presumptive benefit of the new methodology and process for implementing GEPS negotiated service approved here is that the Postal Service will be able to implement GEPS-NPR contracts quickly. Each GEPS-NPR contract must be filed with the Commission within a reasonable time, *e.g.*, 10 days, of its effective date. To facilitate these filings, each contract must bear a unique serial number which shall be noted in the title of the notice filing the contract.²³ In addition, the notice shall indicate the effective date of each agreement. The contracts and filings related thereto are to be filed in Docket No. CP2010-72. For each GEPS-NPR contract that terminates earlier than scheduled, the Postal Service shall inform the Commission prior to the new termination date.

Pursuant to Article 14 of the model contract, the Postal Service may, on 30 days' advance notice to the mailer, change rates if it incurs an increase in costs above a threshold amount or if the published rates for EMI and PMI change.²⁴ Increases due to the latter are to be calculated using the same assumptions and constraints used to determine the superseded prices in the existing contract. If the Postal Service changes rates pursuant to Article 14, it must, no later than the effective date of the change, file

²² The Commission understands that inputs to the financial model may change without need for Commission review. Also, when there is a change in rates or classifications of general applicability that affects more than the input sheet of the financial model (such as the change from 10 country groups to 17 in Docket No. CP2011-26), the Postal Service will need to file a complete updated model pursuant to 39 CFR part 3015. Because the Postal Service will make subsequent filings to change GEPS-NPR rates, the Commission will label the instant filing GEPS-NPR 1 to distinguish it from subsequent filings. The latter would be numbered consecutively, *e.g.*, GEPS-NPR 2, etc.

²³ If multiple GEPS-NPR contracts are filed simultaneously, the title of the notice would indicate the range of serial numbers being filed. The body of the notice would identify each serial number and, as noted below, the effective date of each contract.

²⁴ Prices in GEPS-NPR contracts are related to the non-discounted published rates for EMI and PMI.

with the Commission a copy of the notice to the customer as well as a new input sheet.²⁵

As is the current practice, 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.

C. Mail Classification Schedule

Attachment A to Governors' Decision No. 10-2 contains language for the MCS. The MCS remains in draft form. The language filed by the Postal Service will be deemed illustrative until such time as the MCS is finalized.

V. ORDERING PARAGRAPHS

It is ordered:

1. Global Expedited Package Services–Non-Published Rates 1 (MC2010-29 and CP2010-72) is added to the competitive product list as a new product as discussed in the body of this Order.
2. Changes in rates due to changes to the model contract and/or changes to the financial model must be approved in advance by the Commission pursuant to 39 CFR part 3015.

²⁵ Notice of changes pursuant to Article 14 may be filed with the Commission on a consolidated basis. Thus, for example, the notice would identify the contracts (by serial number) for which rates are being changed. The accompanying rate details would be filed under seal.

3. When there is a change in rates or classifications of general applicability that affects more than the input sheet of the financial model, the Postal Service shall file a request pursuant to 39 CFR part 3015 and include a complete updated model.
4. As discussed in the body of this Order, a copy of each contract along with the financial model inputs used to generate rates for each contract must be filed with the Commission within a reasonable time, *e.g.*, within 10 days of the effective date of the contract.
5. As discussed in the body of this Order, whenever the Postal Service notifies a mailer of a change in rates pursuant to Article 14 of the model contract, the Postal Service shall file with the Commission a copy of the notice along with the financial model inputs used to generate the new rates.
6. 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.
7. 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.

8. The Secretary shall arrange for the publication in the *Federal Register* of an updated product list reflecting the change made in the body of this Order.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGE IN MAIL CLASSIFICATION SCHEDULE
CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified at 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule. These changes are in response to Docket Nos. MC2010-29 and CP2010-72. The Commission uses two main conventions when making changes to the product lists. The addition of text is indicated by underscoring. Deleted text is indicated by a strikethrough.

PART B—Competitive Products

2000 Competitive Product List

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Negotiated Service Agreements

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Outbound International

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Global Expedited Package Services—Non-Published Rates 1 (MC2010-29
and CP2010-72)

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