

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 Air Parcel Post (at UPU Rates)
(MC2010-11)

Docket No. CP2011-27

ORDER CONCERNING FILING OF CHANGES IN RATES
FOR INBOUND AIR PARCEL POST AT UPU RATES

(Issued November 23, 2010)

I. INTRODUCTION

The Postal Service proposes a change in rates not of general applicability for Inbound Air Parcel Post at UPU Rates. For the reasons discussed below, the Commission approves the Postal Service's proposal.

II. BACKGROUND

On November 3, 2010, the Postal Service filed a notice announcing changes in rates not of general applicability for Inbound Air Parcel Post at Universal Postal Union (UPU) Rates effective January 1, 2011.¹ The Notice incorporates by reference the explanation of Inbound Air Parcel Post at UPU Rates and the mechanism for setting rates contained in its Request and supporting documentation filed in Docket Nos. MC2010-11 and CP2010-11.² *Id.* at 2.

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

- Attachment 1—an application for non-public treatment of materials to maintain redacted rates and supporting documents under seal;
- Attachment 2—a redacted copy of Governors' Decision No. 09-15 which establishes prices and classifications for Inbound Air Parcel Post at UPU Rates, proposed Mail Classification Schedule language which includes a description of Inbound Air Parcel Post at UPU Rates, certification of prices in conformity with 39 U.S.C. 3633, an analysis of the procedures for setting rates, and certification of the Governors' vote;
- Attachment 3—a redacted version of the new rates; and
- Attachment 4—a certified statement required by 39 CFR 3015.5(c)(2) for Inbound Air Parcel Post at UPU rates.

Background. The Notice states that Governors' Decision No. 09-15 established prices and classifications not of general applicability for Inbound Air Parcel Post at UPU Rates on November 16, 2009. *Id.* at 1. The rates authorized by Governors' Decision

¹ Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability and Application for Non-Public Treatment of Materials Filed Under Seal, November 3, 2010 (Notice).

² See Docket Nos. MC2010-11 and CP2010-11, Request of the United States Postal Service to Add Inbound Air Parcel Post at Universal Postal Union (UPU) Rates to the Competitive Products List, Notice of Establishment of Prices and Classifications Not of General Applicability for Inbound Air Parcel Post at UPU Rates Established in Governors' Decision No. 09-15, and Application for Non-Public Treatment of Materials Filed Under Seal, November 17, 2009 (Request).

No. 09-15 when there is no contractual relationship with the tendering postal operator are the highest possible inward land rates that the United States is eligible for under the parcel post regulations. *Id.* at 2. Air parcels are inbound parcels eligible to receive transportation by air rather than surface. *Id.*, Attachment 2, at 1.

In the Postal Service's Request in Docket Nos. MC2010-11 and CP2010-11, it explains the process for determining Inbound Air Parcel Post at UPU Rates. The Postal Service indicates that the United States receives both air and surface parcels from foreign postal administrations which compensate the Postal Service for delivery of these parcels in the United States. Request at 2. It maintains that it has negotiated separate agreements for parcel rates with certain foreign posts, but most compensate it at the United States default rates for inbound parcel delivery. *Id.* Payments between postal administrations for handling and delivering parcel post are referred to as inward land rates. The Postal Service notes that inward land rates are set according to formulas in the UPU Parcel Post Regulations which constitute international law. *Id.* More specifically, the UPU Postal Operations Council establishes inward land rates.³ Such rates are based on a percentage of each member's inward land rate in 2004. *Id.* at 3. UPU members may qualify for percentage "bonuses" to their base rate based upon their provision of certain value-added services.⁴ *Id.* The Postal Service states it is responsible for gathering information that the UPU Postal Operations Council uses to calculate the rates, including completion of a questionnaire on service bonus eligibility and submission of annual inflation information from the Consumer Price Index for All Urban Consumers. *Id.* Based on this and similar information from the member posts, the UPU International Bureau publishes an annual notice establishing postal administrations' parcel rates for the following year. *Id.*

³ The UPU Postal Operations Council is a designated body of the UPU which is responsible for rate setting.

⁴ The Postal Service states that services such as "track and trace, home delivery, published delivery standards, and use of a common inquiry system" qualify UPU members for bonuses. *Id.* Members may also seek an inflation-related adjustment to the base rate which is capped at 5 percent per year.

The Postal Service states that because of the unique mechanism for setting inward land rates, it chose to establish rates for inbound air parcels by reference to the Universal Postal Convention. *Id.*

In Order No. 362, the Commission approved the addition of Inbound Air Parcel Post at UPU Rates to the competitive product list.⁵

The Postal Service states in its Notice that the rates in its filing comport with the Governors' Decision and are "the highest possible inward land rates for which the Postal Service was eligible based on inflation increases and other factors." Notice at 2-3.

The Postal Service asserts that its filing demonstrates compliance with 39 U.S.C. 3633. *Id.* at 3. It also proposes no changes to the classification of Inbound Air Parcel Post at UPU Rates. *Id.* at 2.

In Order No. 578, the Commission gave notice of the docket, appointed a Public Representative, and provided the public with an opportunity to comment.⁶

III. COMMENTS

Comments were filed by the Public Representative.⁷ No other interested parties submitted comments. The Public Representative states that the Postal Service's Notice complies with applicable provisions of title 39, Commission rules and UPU parcel post regulations. *Id.* at 1. He further states that there could be some concerns regarding the cost coverage for Inbound Parcel Post at UPU Rates when there is no contract with the postal operator. However, the Public Representative states in the instant case, his

⁵ Docket Nos. MC2010-11 and CP2010-11, Order Adding Inbound Air Parcel Post at UPU Rates to Competitive Product List, December 15, 2009 (Order No. 362).

⁶ Notice and Order Concerning Filing of Changes in Rates for Inbound Air Parcel Post at UPU Rates, November 4, 2010 (Order No. 578).

⁷ 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 (Public Representative Comments). The Public Representative filed an accompanying Motion of the Public Representative for Late Acceptance of Comments on United States Postal Service Filing of Notice Concerning Changes in Rates for Inbound Air Parcel Post at UPU Rates. The motion is granted.

concerns are dispelled because it appears that the cost coverage in the instant agreement complies with 39 U.S.C. 3633. *Id.* at 3-4. Additionally, he notes that the Commission may review any inward land rate issues further in the Annual Compliance Determination. *Id.* at 4. The Public Representative concludes that the Postal Service's Notice complies with relevant provisions of title 39 and Commission rules and benefits the customers of the Postal Service and the general public. *Id.* at 5.

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, supporting financial documentation and the comments filed by the Public Representative.

Statutory requirements. Planned price changes for competitive products are reviewed pursuant to 39 U.S.C. 3633(a) and Commission regulations under 39 CFR 3015, which implements section 3633. In brief, these statutory and regulatory provisions require each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)), prohibit the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and require that competitive products collectively make an appropriate contribution to the recovery of the Postal Service's total institutional costs.

The Postal Service's Request in Docket Nos. MC2010-11 and CP2010-11 states that it has no discretion to establish the formula for prices for Inbound Air Parcel Post at UPU Rates since the formulas in the UPU Post Regulations constitute International Law. Request, Attachment 2, ¶ (d).

Based on the information provided, the Commission finds that the proposed rates cover attributable costs, 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 rates indicates that the rates comport with the provisions applicable to rates for competitive products.

Based on the record in this proceeding, the Commission finds that the proposed rates for Inbound Air Parcel Post at UPU Rates are in accord with the relevant statutory and regulatory requirements of 39 U.S.C. 3633(a) and 39 CFR 3015.7.

V. ORDERING PARAGRAPHS

It is Ordered:

The proposed rates for Inbound Air Parcel Post at UPU Rates scheduled to take effect January 1, 2011 are in accordance with the relevant statutory and regulatory requirements of 39 U.S.C. 3633(a) and 39 CFR 3015.7.

By the Commission.

Shoshana M. Grove
Secretary