

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Dan G. Blair;
Tony L. Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Plus 1B Contracts (MC2011-7)
Negotiated Services Agreements

Docket Nos. MC2011-7
CP2011-39
CP2011-40

NOTICE AND ORDER CONCERNING FILING
OF FUNCTIONALLY EQUIVALENT GLOBAL PLUS 1B CONTRACTS
NEGOTIATED SERVICE AGREEMENTS

(Issued December 13, 2010)

I. INTRODUCTION

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service seeks to add Global Plus 1B as a new product, to the competitive product list.¹ The Request has been assigned Docket No. MC2011-7. In addition, the Postal Service filed notice, pursuant to 39 CFR 3015.5, announcing that it has entered into two Global Plus 1B contracts. The Postal Service states that the instant contracts are functionally

¹ Request of the United States Postal Service to Add Global Plus 1B to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 1B Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, December 9, 2010 (Request).

equivalent with one another and to previously submitted Global Plus 1A contracts.² It states further that the instant contracts are supported by Governors' Decision No. 08-8, which establishes prices and classifications not of general applicability for Global Plus Contracts.³ The two contracts have been assigned Docket Nos. CP2011-39 and CP2011-40, respectively.

The instant contracts. The Postal Service states that the instant contracts are the immediate successors to the Global Plus 1A contracts in Docket Nos. CP2010-67 and CP2010-68 that are scheduled to expire at 11:59 p.m. on the day prior to the date of any change in the published rates that affect the qualifying mail (as defined in the contract) in the agreement. The change in published rates is expected to occur for Express Mail International and Priority Mail International on January 2, 2011. Request at 4. The instant contracts are expected to begin January 2, 2011, and expire at 11:59 p.m. on the day prior to the day of any change in the published rates that affect the qualifying mail subject to the contracts in the month of January 2012.⁴ *Id.* at 4-5.

The Postal Service filed copies of the contracts, Governors' Decision with attachments, and supporting financial documentation under seal. *Id.* at 3.

Additionally, the Postal Service filed the following five attachments:

- Attachment 1—a statement of supporting justification required by 39 CFR 3020.32;
- Attachments 2A and 2B—a redacted copy of each contract and applicable annexes;
- Attachments 3A and 3B—certified statements required by 39 CFR 3015.5(c)(2);

² See Docket Nos. CP2008-8 through CP2008-10, Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008 (Order No. 85).

³ See Docket No. CP2008-8, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Plus Contracts, June 2, 2008, at 1.

⁴ The Postal Service states that if the date of the change in published prices for qualifying mail does not occur before January 31 2012, the contracts' termination date is January 31, 2012. *Id.* at 5.

- Attachment 4—a redacted copy of Governors’ Decision No. 08-8, which establishes prices and classifications for Global Plus Contracts, formulas for the prices, analysis and certification of the formulas and certification of the Governors’ vote;
- Attachment 5—an application for non-public treatment of materials to maintain the contract and supporting documents under seal.

Functional equivalence. The Postal Service asserts that the instant contracts are functionally equivalent to one another and to the precursor Global Plus 1 contracts in that they share similar cost and market characteristics. *Id.* at 5. It contends that as a result, the instant contracts should be grouped together as a single product. *Id.*

The Postal Service addresses similarities between the instant contracts and their predecessors, e.g., that the customers are the same and the fundamental terms and conditions of the contracts remain essentially unchanged. *Id.* at 6. It identifies minor changes in contract terms that distinguish the instant contracts from each other, e.g., customer name, postage prices, penalties, identification of prior agreements, and preservation after termination provisions. The Postal Service asserts that the differences do not affect either the service provided or the structure of the contracts. It also states that the differences do not affect functional equivalency. *Id.* at 5-6.

Baseline treatment. The Postal Service states that each of the instant contracts takes the place of its immediate predecessor which served as the baseline contracts for the Global Plus 1A Contracts product.⁵ It requests that the instant contracts be considered “the new ‘baseline’ contracts for future functional equivalency analyses concerning the Global Plus 1 product.” (Footnote omitted.) Request at 4.

Filing under part 3020. In support of its filing, the Postal Service submitted a statement of Supporting Justification and a copy of Governors’ Decision No. 08-8 as Attachments 1 and 4 respectively. The Postal Service asserts that analysis under

⁵ See Docket Nos. MC2010-26, CP2010-67 and CP2010-68, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreement, July 30, 2010.

39 U.S.C. 3642(b) is unnecessary here because of the Commission findings in Order No. 43 that Negotiated Service Agreements for outbound International Mail are classified as competitive. Further, it contends that the classification requirements of section 3642 have been met and that there is, “no further need to ponder whether Global Plus 1B contracts are market dominant or covered within the postal monopoly.” *Id.* at 7.

The Postal Service states that its filings demonstrate that the instant contracts comply with the requirements of 39 U.S.C. 3633, fit within the Mail Classification Schedule language for Global Plus Contracts and are functionally equivalent to each other. *Id.* at 8. It urges the Commission to add Global Plus 1B Contracts to the competitive product list and to establish the instant contracts as the baseline contracts for the Global Plus 1B product. *Id.*

II. NOTICE OF FILING

The Commission establishes Docket Nos. MC2011-7, CP2011-39 and CP2011-40 for consideration of matters raised in the Postal Service’s Notice.

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 December 21, 2010. The public portions of these filings can be accessed via the Commission’s website (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. MC2011-7, CP2011-39 and CP2010-40 for consideration of matters raised by the Postal Service's Request.
2. Comments by interested persons in these proceedings are due no later than December 21, 2010.
3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary