

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
PRIORITY MAIL CONTRACTS
PRIORITY MAIL--NON-PUBLISHED RATES

Docket No. CP2011-51

Docket No. MC2011-15

**REQUEST OF THE UNITED STATES POSTAL SERVICE
CONCERNING PRIORITY MAIL—NON-PUBLISHED RATES
AND NOTICE OF FILING MATERIALS UNDER SEAL**
(December 17, 2010)

On December 16, 2010, the Governors of the United States Postal Service established the Priority Mail—Non-Published Rates product as a competitive product not of general applicability, by their Decision No. 10-6. This approach is modeled after the Global Expedited Package Services—Non-Published Rates product that the Commission recently approved in Order No. 593 (November 22, 2010).

Now, in accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 et seq., the United States Postal Service hereby requests that the Commission add Priority Mail—Non-Published Rates to the competitive product list within the Mail Classification Schedule (MCS).¹ This is a competitive product not of general applicability within the meaning of 39 U.S.C. § 3632(b)(3).² Attachment 1 to this request document is a redacted version of the Governors' Decision, which contains the following associated attachments: Mail Classification Schedule language in Attachment A;³ Pricing and

¹ 39 C.F.R. § 3020.31(a), (c).

² *Id.* § 3020.31(d).

³ *Id.* § 3020.31(f).

Methodology in Attachment B; Management Analysis in Attachment C; and the financial certification of compliance with 39 U.S.C. § (a)(1) and (3) in Attachment D.⁴

Attachment 2 to this request document contains a model contract for agreements under the Priority Mail—Non-Published Rates product. Attachment 3 provides a statement of supporting justification for this request, as specified in 39 C.F.R. § 3020.32.⁵ Attachment 4 provides the Application for Nonpublic Treatment of the materials filed under seal.⁶ Those materials are the unredacted Governors Decision and attachments, and the required cost and revenue data.⁷

As explained in the supporting justification, the Postal Service believes that it is appropriate to add this product to the list of competitive products. The Commission should therefore approve this request as set forth in its rules. As required by 39 U.S.C. § 3642(d)(1), this Request is being published in the Federal Register.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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December 17, 2010

⁴ *Id.* § 3015.5(c)(2).

⁵ *Id.* § 3020.31(e).

⁶ *Id.* § 3007.21.

⁷ *Id.* § 3015.5(c)(1).

ATTACHMENT 1 TO REQUEST

REDACTED GOVERNORS' DECISION AND ATTACHMENTS A, B, C, D

**DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE
ESTABLISHMENT OF PRICES AND CLASSIFICATION CHANGES FOR
PRIORITY MAIL – NON-PUBLISHED RATES (GOVERNORS' DECISION NO. 10-6)**

December 16, 2010

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, United States Code, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings and such changes in classification as are necessary to implement the new prices. This decision establishes prices [REDACTED] [REDACTED] from the minimum possible to the maximum possible prices offered through Priority Mail negotiated service agreements. The types of contracts to which these prices will apply are described in Attachment A, the methodology for assigning the specific customer prices is specified in Attachment B, and management's analysis of the appropriateness of the prices and methodology is explained in Attachment C. We have reviewed that analysis and have concluded that the prices emerging from application of the methodology and the classification changes are in accordance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. Contracts that fall within the terms specified in Attachment A, and whose prices are approved as specified in Attachment B, are hereby authorized.

The PAEA provides that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. We have determined that prices assigned according to the methodology specified in Attachment B would be appropriate for the services covered by the Priority Mail contracts included in the product grouping classified in Attachment A. Management's analysis of the prices and the methodology for assigning the prices, included as Attachment C, supports our decision to establish these prices for the specified type of contracts.

We are satisfied that the prices and the methodology for assigning the prices as approved in Attachment B meet the applicable statutory and regulatory requirements. The minimum prices when assigned using the approved methodology provide greater than [REDACTED] percent coverage of the costs attributable to each agreement within this product grouping. We accept and rely upon the certification in Attachment D that the correct cost inputs for the prices have been identified. In addition, the methodology for assigning the minimum prices provides that the cost inputs are multiplied by a factor of [REDACTED] percent. This multiplier produces prices that should cover the agreements' attributable costs and provide a contribution toward the Postal Service's institutional costs. The prices should thus prevent cross-subsidies from market dominant products. As noted in the certification in Attachment D, entry into agreements pursuant to this Decision should not impair the ability of competitive products as a whole to cover an appropriate share of institutional costs.

Agreements authorized pursuant to this Decision may go into effect as specified by the terms of the agreement after the Priority Mail Non-Published Rates product grouping is added by the Postal Regulatory Commission to the competitive products list of the Mail Classification Schedule.

ORDER

In accordance with the foregoing Decision of the Governors, the prices set forth herein, the methodology for assigning the prices set forth herein, the model agreement for Priority Mail, and the changes in classification necessary to implement the prices, are hereby approved and ordered into effect. An agreement is authorized under this Decision only if the prices are assigned using the methodology set by this Decision.

Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of review by the Postal Regulatory Commission.

By The Governors:



Louis J. Giuliano, Chairman

**CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 10-6**

I hereby certify that the Governors voted on adopting Governors' Decision No. 10-6, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.



Julie S. Moore
Secretary of the Board of Governors

Date: 12-16-10

Attachment A

Mail Classification Schedule (MCS) Changes to Implement Priority Mail—Non-Published Rates

MAIL CLASSIFICATION SCHEDULE

PART B—COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

NEGOTIATED SERVICE AGREEMENTS

Domestic

Priority Mail—Non-Published Rates:

This group consists of standardized contracts for the Postal Service to provide Priority Mail service to an individual customer at non-published rates that fall between a pre-approved price floor and ceiling. Each individual contract will specify the applicable rates, postage payment methods, and whether packaging is provided by the Postal Service, along with standardized provisions for contract length, termination, and annual price adjustments.

Attachment B

Pricing and Methodology for Priority Mail--Non-Published Rates

Executive Summary:

The United States Postal Service has identified the opportunity to increase volume and revenue if the Postal Service were to offer prices that were more competitive, and if the Postal Service were to reduce cycle time associated with executing a customized pricing agreement. The increase in volume and process improvement involves the implementation of a standardized process referred to as the Priority Mail—Non-Published Rates approach. Through this process, uncertainty for both the customers and the Postal Service concerning the implementation of customized pricing agreements can be decreased, if not eliminated entirely.

This process involves the establishment of a set of discounts for Priority Mail, resulting in a flexible and easy-to-manage discount pricing structure for Priority Mail. With this pricing structure, the sales force will be empowered to close more sales expeditiously with fewer procedural hurdles, which effectively will increase revenue and contribution to the Postal Service.

Current Process:

The current business process in place to support the establishment of customized pricing agreements between the Postal Service and participating customers is as follows:

- 1) Sales engages customers
- 2) Customer signs non-disclosure agreement
- 3) Sales conducts a competitive analysis
- 4) Sales negotiates customized pricing
- 5) Product Manager submits customized pricing to Costing group for validation
- 6) Processes related to question, answer, fact finding occur
- 7) Costing Manager decision analysis
- 8) Upon Costing Manager approval, product manager prepares package for assessment by Pricing Steering Committee (PSC)
- 9) PSC decision analysis
- 10) Upon PSC approval, Public & Non-Public Financials are prepared
- 11) Costing Manager decision analysis
- 12) Upon Costing Manager approval, Legal prepares and submits filing with the Postal Regulatory Commission (PRC)
- 13) PRC decision analysis
- 14) Upon PRC approval, customized pricing agreement becomes active
- 15) Product Manager, Sales, and customer notification are communicated

Priority Mail--Non-Published Rates Process:

An application will be developed that automatically validates the proposed contract prices to ensure that it meets the pre-approved criteria, including cost coverage. The application will be certified by Finance prior to being deployed. With the application in place, the proposed business process to support establishment of customized pricing agreements between the USPS and participating customers using this process is as follows:

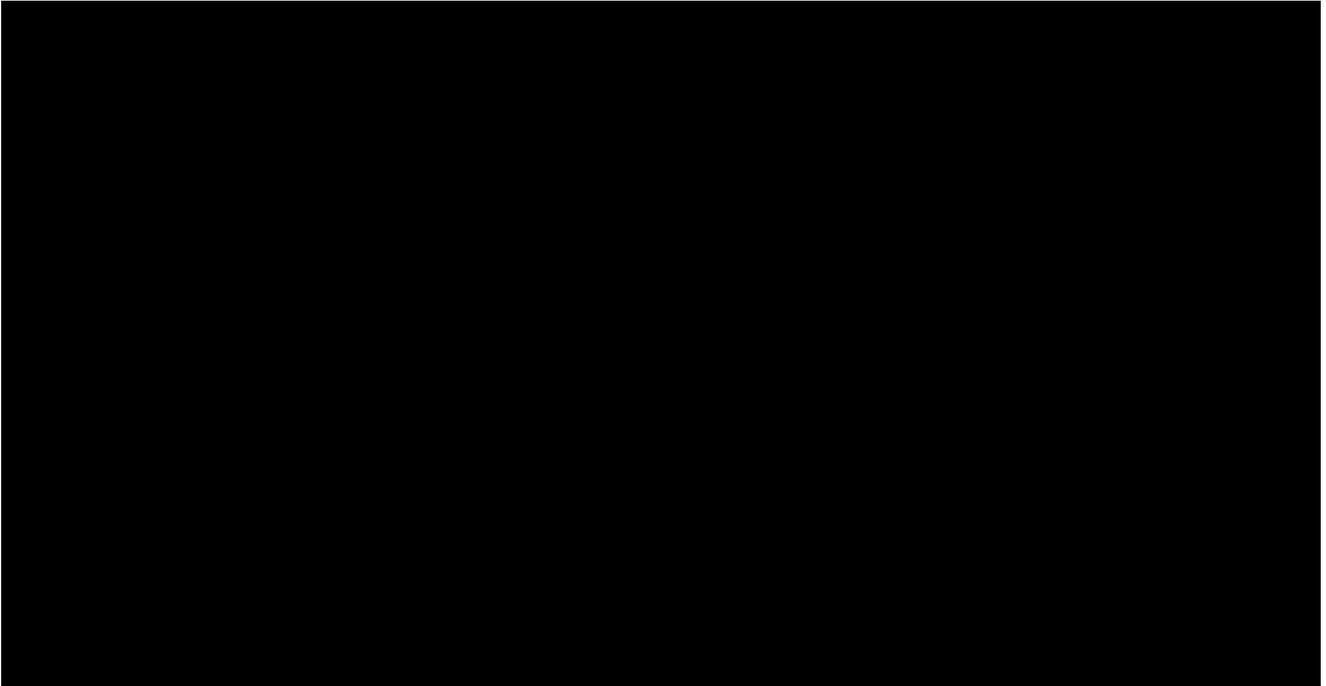
- 1) Sales engages customers
- 2) Customer signs non-disclosure agreement
- 3) Sales conducts a competitive analysis
- 4) Sales negotiates customized pricing
- 5) Sales uploads negotiated pricing into the application for validation
- 6) Application determines if minimum and maximum price values and overall cost coverage is met
- 7) Product Manager, Sales, Cost Systems, PRC, and customer are notified
- 8) Costing evaluates the contract to ensure the proper validation checks are being carried out

Prices and Pricing Methodology for Contracts:

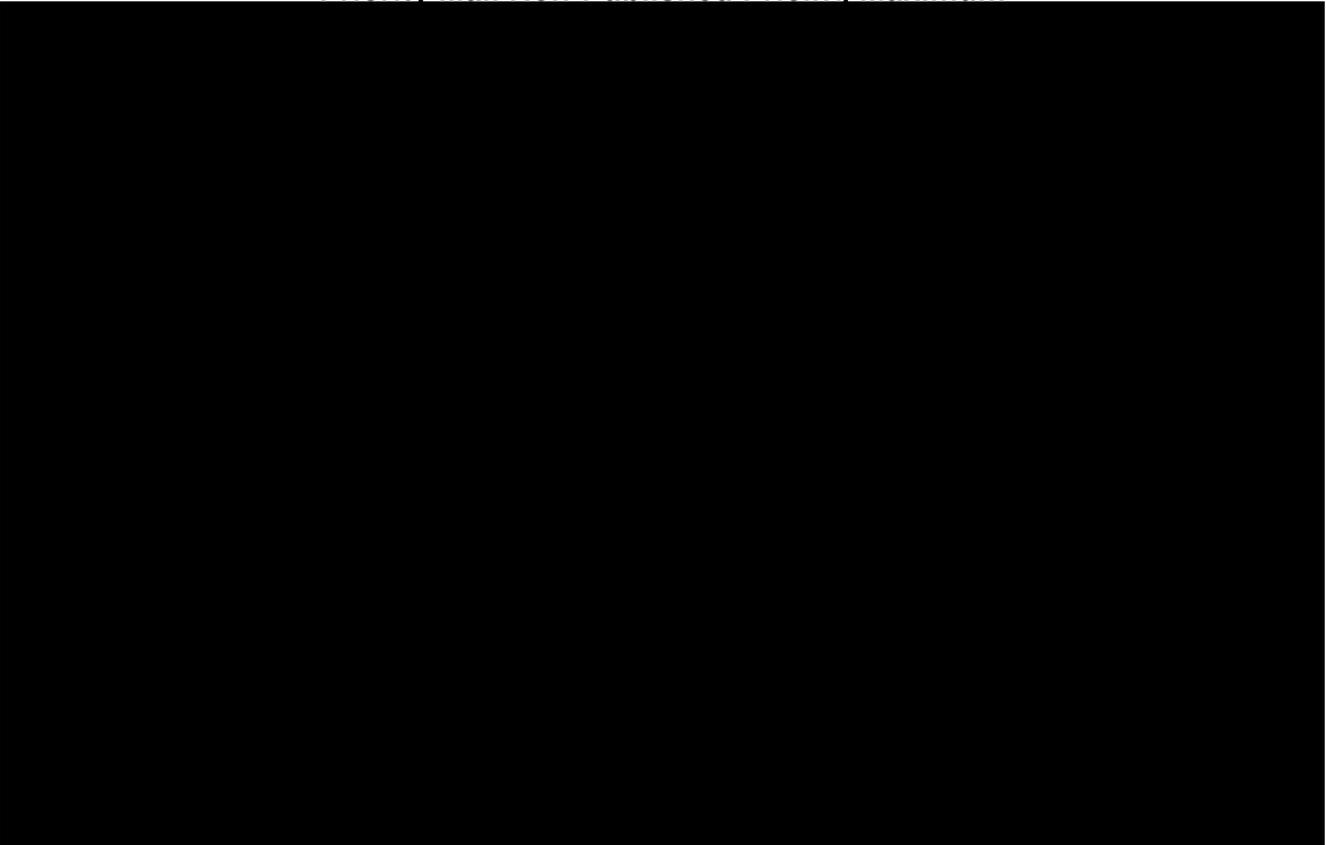
Minimum and Maximum Prices

The minimum and maximum prices representing the floor and ceiling for Priority Mail prices under the Priority Mail--Non-Published Rates are expressed in the charts on the following page.

Priority Mail Non-Published Pricing Minimum



Priority Mail Non-Published Pricing Maximum



Pricing Methodology

Management's pricing methodology begins with the cost coverage evaluation of the Postal Service's online published prices by weight and zone and flat rate products. For each of the price cells, the Postal Service determines if there is cost coverage to support the applicable discounted prices. The pricing floor is calculated to ensure a minimum cost coverage of [REDACTED] percent but not to exceed [REDACTED]

To ensure that the price meets the minimum cost coverage, the following constraints apply to each price cell:

- [REDACTED]

To ensure that the prices are not stale in comparison to changes in Postal Service costs, management will update the price schedule as needed.

Using information provided by the customer in an application process, management evaluates each potential agreement for its expected contribution using both the traditional and fully distributed cost methodologies. Management encourages those customers whose agreements would not result in cost coverage sufficient to meet statutory, regulatory, or internal postal thresholds for approval as Priority Mail contracts to make use of alternative Postal Service products to meet their mailing needs.

Terms and Conditions

Contract Length: All agreements will be executed for one year with an option for renewal for one additional year.

Contract Termination: In addition, all contracts can be subject to termination by either party or mutually within 30 days from the date of written notification; otherwise, all contracts will be terminated from one year after the contract active date unless renewed under the price escalation clause.

Sales Strategy

Shipping Services will conduct webinars with Sales personnel on the last Friday of each month to communicate the processes, constraints, and system features of Priority Mail—Non-Published Rates. Fifteen minutes of the webinar will be dedicated to the review of product strategies to emphasize selling Postal Service values over price.

Tracking & Auditing

The Postal Service will track the volume, weight, and revenue for each agreement on a monthly basis.

Attachment C

Analysis of the Prices and Methodology for Assigning Them to Negotiated Service Agreements Under Priority Mail—Non-Published Rates

Through the establishment of Priority Mail—Non-Published Rates, management proposes a more streamlined process for approving Priority Mail agreements, while maintaining their profitability and competitive positioning in the market. This process improvement seeks to minimize the administrative time and effort required by all parties involved, neutralize the risk caused by fluctuating inflation indices, and eliminate uncertainty for both the customers and the Postal Service concerning the implementation of the sales agreements.

The Postal Service will submit prices to the Postal Regulatory Commission (“Commission”) for pre-approved Priority Mail discounts. The maximum discounts will represent the price floor for all sales contracts offering Priority Mail Non-Published Rate incentives. [REDACTED]

[REDACTED] will represent the price ceiling. The Commission will review the price floor to determine that they meet the statutory and regulatory requirements for competitive prices not of general applicability. All other prices offered to customers between the price floor and ceiling, [REDACTED] [REDACTED] will necessarily be above the pricing floor and also meet the appropriate legal requirements.

If the Commission adds the Priority Mail Non-Published Rates product grouping to the competitive products list of the Mail Classification Schedule, the Postal Service will provide the pre-approved prices to qualified customers applying for the incentives, using the methodology described in Attachment B. Once a customer signs a Priority Mail agreement under this pricing approach, the Postal Service will begin the customer’s incentive program as soon as the Postal Service and the customer are ready to implement it. The functional equivalence of the negotiated service agreements will be determined in advance by the Commission, based on the Postal Service’s use of a standard contract offered to customers. The cost and market characteristics of the product grouping will not vary by customer. As it implements each new Priority Mail Non-Published Rates agreement, the Postal Service will provide a notice filing of the agreement’s effective date to the Commission.

The new methodology and process are advantageous in a number of respects. First, the application of the [REDACTED] cost coverage mechanism ensures that prices offered to customers will meet the thresholds established by statute and by regulation. The prices for Priority Mail—Non-Published Rates should cover the attributable costs of the product grouping and contribute to institutional costs.

Second, the new process will provide both the Postal Service and the Commission the means to decrease administrative costs associated with the current Priority Mail contract review process, which requires customer-specific pricing development. Since Postal Service revenues fund both organizations, savings to either organization result in overall savings for the Postal Service.

Third, the Postal Service will be better able to serve customers by quickly gaining commitment to enter into a sales contract without waiting for regulatory review of each individual contract for a determination of its functional equivalency to the established product grouping. This allows the Postal Service to be better positioned against competitors who currently have the capability and authority to implement agreements quickly with customers.

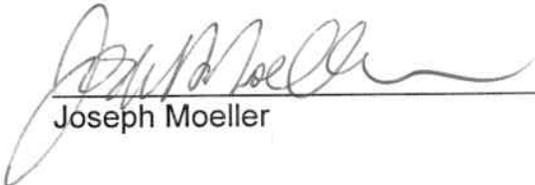
The prices and methodology employed in the Priority Mail—Non-Published Rates product grouping proposal are appropriate for the highly competitive shipping services market. When the customer commits to paying more in revenue for Priority Mail, which is a strong contribution product, the Postal Service rewards the customer with pricing incentives that compete with other expedited delivery service providers while maintaining the cost coverages necessary to make a positive contribution to the Postal Service's net profitability.

Attachment D

Certification as to the Prices, and Methodology for Assigning Them to Applicable Negotiated Service Agreements Under Priority Mail—Non-Published Rates

I, Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices that establish the price floor and the price ceiling for negotiated service agreements under the Priority Mail—Non-Published Rates product grouping, which is described in Attachment B. I am also familiar with the methodology described in Attachment B for assigning the prices to customer-specific agreements.

I hereby certify that these prices are determined in a manner that represents all necessary cost elements. If the Postal Service were to enter into agreements and offer services that set prices above the price floors using the methodology described in Attachment B, the Postal Service would be in compliance with 39 U.S. C. § 3633(a)(1), (2) and (3). The minimum prices that establish the price floor and the methodology for assigning them as rates to individual customers ensure that the agreements under Priority Mail—Non-Published Rates should cover the product grouping's attributable costs and preclude the subsidy of competitive products by market dominant products. Even if all the agreements under Priority Mail—Non-Published Rates were assigned prices at the price floor, the prices and methodology used should prevent the product group from impairing the ability of competitive products on the whole to cover an appropriate share of institutional costs.



Joseph Moeller

**ATTACHMENT 2 TO REQUEST
MODEL CONTRACT**

**SHIPPING SERVICES CONTRACT
BETWEEN
THE UNITED STATES POSTAL SERVICE
AND

REGARDING PRIORITY MAIL SERVICE**

This contract for shipping services is made by and between _____ (“Customer”), a corporation organized and existing under the laws of _____, with its principal office at _____, and the United States Postal Service (“the Postal Service”), an independent establishment of the Executive Branch of the United States Government established by the Postal Reorganization Act, Public Law 91-375, with its principal office at 475 L’Enfant Plaza, SW, Washington, DC 20260. The Postal Service and Customer are referred to herein collectively as the “Parties” and each as a “Party.”

WHEREAS, it is the intention of the Parties to enter into a shipping services contract that will benefit the Postal Service, the postal system as a whole, and Customer, and that will comply with the requirements of Title 39 United States Code, as amended by the Postal Accountability and Enhancement Act of 2006,

NOW, THEREFORE, the Parties agree as follows:

I. Terms

The following terms apply as of the implementation date, as defined below:

- A. Except to the extent different terms or prices are specified in this contract, applicable provisions of the Domestic Mail Manual (as may be regularly updated by the Postal Service and posted at http://pe.usps.com/text/dmm300/dmm300_landing.htm) and of other postal laws and standards apply to mail tendered under this contract.
- B. This contract applies to Customer’s _____ pound Priority Mail packages and Priority Mail Flat Rate _____ that meet the packaging specifications in paragraph I.E (“Contract Packages”).
- C. Customer will mail _____ pound Priority Mail packages and Priority Mail Flat Rate _____ during the term of this contract.
- D. Customer will utilize the following postage payment methods for Contract Packages:

_____.

- E. The Postal Service (will/will not) provide Customer with Priority Mail packaging.
- F. First Year Prices. The following prices apply to Customer's Contract Packages, from this contract's effective date, as provided in Section II, until the first anniversary of the contract's effective date:

(Insert Applicable Price Chart)

II. Annual Adjustment

If the contract is renewed by mutual agreement in writing for a second year:

- A. For the second year of the contract, beginning on the first anniversary of the contract's effective date, customized prices under this contract will be the first year's prices plus the most recent (as of the anniversary date) average increase in prices of general applicability, as calculated by the Postal Service, for Priority Mail Retail.
- B. Customized prices for the second year will be calculated by the Postal Service and rounded up to the nearest whole cent.

III. Effective Date

The Postal Service will notify Customer of the effective date within fifteen (15) business days after receiving the signed contract from Customer.

IV. Expiration Date

This contract shall expire one year from the effective date, unless (1) terminated by either Party with 30 days notice to the other Party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent contract between the Parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation.

V. Appeals

Customer may appeal a Postal Service decision regarding the calculation of prices, the amount of postage paid, or other implementation or operational issues under this contract by submitting a written appeal within 30 days of receipt of notification of the determination giving rise to the appeal to: Manager, Pricing and Classification Service Center, 90 Church St. Ste. 3100, New York, NY 10007-2951 ((212) 330-5300 / Fax: (212) 330-5320). The decision of the PCSC Manager will be administratively final. Any decision that is not appealed as prescribed becomes the final Postal Service decision.

VI. Confidentiality

Customer acknowledges that as part of the Postal Service's regulatory requirements, the contract and supporting documentation may be required to be filed with the Postal Regulatory Commission in a docketed proceeding. In that case, the Postal Service shall request from the Commission non-public treatment of information that the Postal Service deems to be eligible for protection from public disclosure when it files such material with the Commission, including Customer's identity, the terms of this contract, and supporting data relating to postal costs, prices, and Customer's shipping profile. The Postal Service will redact such information from its public filing. Customer authorizes the Postal Service to determine the scope of information that must be made publicly available in the Commission's docketed proceeding. Customer has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. Customer agrees to treat as confidential and not disclose to third parties absent express written consent by the Postal Service any information related to this contract that is determined by the Commission to be non-public.

VII. Amendments

This contract shall not be amended except expressly, in writing, by authorized representatives of the Parties.

VII. Assignment

Neither Party may, or shall have the power to, assign its rights under the contract or, delegate its obligations hereunder, without the prior consent of the other; such consent is not to be unreasonably withheld. In addition, in the event that Customer is merged with or into or acquires another entity, pricing under this contract following such merger or acquisition shall apply only to mail sent by the entity existing prior to the merger or acquisition. Following any such merger or acquisition, the parties may negotiate in good faith to extend, modify or enter into a new contract applicable to the merged or acquired entity.

VIII. Waiver

Any waiver by a party shall not constitute a waiver for any future occurrence. No waiver shall be valid unless set forth in a writing executed by the party waiving such provision.

IN WITNESS WHEREOF, the Parties hereto have caused this contract to be duly executed as of the later date below:

UNITED STATES POSTAL SERVICE

Signed by: _____

Printed Name: _____

Title: _____

Date: _____

(CUSTOMER NAME) _____

Signed by: _____

Printed Name: _____

Title: _____

Date: _____

**ATTACHMENT 3 TO REQUEST
STATEMENT OF SUPPORTING JUSTIFICATION**

Statement of Supporting Justification

I, Gary Reblin, Vice President, Shipping Services, am sponsoring this request that the Commission add Priority Mail—Non-Published Rates to the list of competitive products. This statement supports the Postal Service's request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

(a) *Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.*

As demonstrated below, the change complies with the applicable statutory provisions.

(b) *Explain why, as to the market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. § 3622(d), and that it advances the objectives of 39 U.S. C. § 3622(b), taking into account the factors of 39 U.S. C. § 3622(c).*

Not applicable. The Postal Service is proposing that this Priority Mail—Non-Published Rates product be added to the competitive products list.

(c) *Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.*

The service to be provided under the contracts established via the Priority Mail—Non-Published Rates product will cover its attributable costs and make a positive contribution to coverage of institutional costs. The contracts will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products arises (39 U.S.C. § 3633(a)(1)).

- (d) *Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

Contracts established via the Priority Mail—Non-Published Rates product set specific terms and conditions for providing Priority Mail service to the customer. Priority Mail service is provided in a highly competitive market. The Postal Service is unable to set prices substantially above costs, raise prices significantly, decrease quality, or decrease output, without losing this business to private competitors in the expedited shipping market.

In negotiating contracts under the Priority Mail—Non-Published Rates product, the Postal Service's bargaining position will be constrained by the existence of other providers of services similar to the Postal Service's. As such, the market precludes the Postal Service from taking unilateral action to increase prices or decrease service. As with Priority Mail services in general, the Postal Service may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. The market does not allow the Postal Service to raise prices or offer prices substantially above costs; rather, these contracts will be premised on prices and terms that provide sufficient incentive for the customer to ship with the Postal Service rather than a competitor.

- (e) *Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 189 U.S.C. 1696, subject to the exceptions set forth in 39 U.S.C. 601.*

I am advised that merchandise sent by Priority Mail services and this contract are not covered by these provisions. See part (d) above.

(f) *Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

See part (d) above. Expedited shipping, similar to Priority Mail service, is widely available from well-known and successful private firms at both published and contract prices.

(g) *Provide any available information of the views of those who use the product on the appropriateness of the proposed modification.*

Customers using Priority Mail have commented on their frustration with the regulatory process associated with implementing customized contract pricing. Until their contracts are added to the competitive products list of the Mail Classification Schedule, customers encounter risks if they make changes to their businesses and processes prior to receiving confirmation that the rates are available for them to use. However, when they do business with the Postal Service's competitors, they are able to commit to a discounted shipping solution and immediately begin receiving the benefits of contract prices.

The Priority Mail—Non-Published Rates product should address these concerns by eliminating the need for each contract to clear multiple regulatory hurdles before the contract pricing is available to the customer when they choose to do business with the Postal Service.

(h) *Provide a description of the likely impact of the proposed modification on small business concerns.*

The market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. Large shipping companies serve

this market. The Postal Service is unaware of any small business concerns that could offer comparable service for this customer.

- (i) *Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

The administrative costs to both the Postal Service and the Commission associated with approving each individual Priority Mail contract are substantial in comparison to the contribution that each individual contract can produce. However, collectively, Priority Mail contracts make a substantial contribution to Shipping Services revenue and are certainly worthwhile to both the Postal Service and its customers. The Priority Mail—Non-Published Rates product will decrease these administrative costs to the Postal Service and Commission, will ease the concerns raised by customers about the timing of the regulatory process (as discussed in part (g) above), and will allow the Postal Service to bring a better product to its customers in a more efficient manner.

**ATTACHMENT 4 TO REQUEST
APPLICATION FOR NON-PUBLIC TREATMENT**

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the Postal Service hereby applies for non-public treatment of: the unredacted Governors Decision and attachments; and the supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.21(c), as enumerated below.

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials. The Postal Service further requests that the Commission order that the duration of such treatment of customer identifying information be extended indefinitely.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as non-public consist of information of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3), (b)(4).⁸ Because the portions of the materials which the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

⁸ In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

- (2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

The Postal Service is not aware of a third party with a proprietary interest in the materials filed with this request.

- (3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

The applicable Governors' Decision, including attachments, and the financial workpapers supporting this request are being filed under seal in this docket. A redacted copy of the Governors' Decision is being filed publicly in this docket. The Postal Service maintains that the redacted portions of the Governors' Decision and financial workpapers should remain confidential.

The redactions applied to the Governors' Decision and the financial work papers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers to the actual information it determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages or notes were redacted in their entirety due to the practical difficulties of redacting particular words or numbers within the text as presented in a spreadsheet format.

- (4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the redacted information were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. The redacted information concerning the prices and related terms of the contract is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Revealing such information would provide a competitive advantage to competitors of the Postal Service. The Postal Service considers that it is highly

probable that if this information were made public, such entities would take immediate advantage of it and there is a substantial risk that the Postal Service would lose business as a result. Competitors could use the information to assess the offers made by the Postal Service to its customers for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, other postal customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service and other businesses could use the information to their advantage in negotiating with the customer. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial work papers include specific information such as costs, prices and pricing structure, assumptions used in developing costs and prices, and projections of variables. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would likely take great advantage of this information. Unlike its competitors, the Postal Service is required to meet the standards of 39 U.S.C. § 3633. Competitors are not so constrained and could use the redacted information to their advantage in gaining customers. The formulas shown in the spreadsheets in their native format provide additional sensitive information. In addition, revealing the Postal Service's profit margin information could also be used by current and prospective customers to attempt to renegotiate their own prices.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Identified harm: Public disclosure of information in the financial work papers would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing package delivery service or its representative obtains a copy of the unredacted version of the financial work papers. It analyzes the work papers to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal

Service offers its customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for similar delivery services.

Hypothetical: Competitors constantly monitor “cost to serve” scenarios to combine and alter facilities to lower costs. A competitor could add satellite pickup stations closer to the Postal Service’s customer in order to underbid the Postal Service’s prices.

Identified harm: Public disclosure of the rate charts in the Governors’ Decision would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: A customer with the rate information included in the Governors’ Decision could, on a cell by cell basis, demand the lowest possible rate in every rate cell, knowing that the Postal Service’s approved rates include those floor amounts. Armed with the rate information, a customer could threaten that it will not use the Postal Service for its expedited package service delivery needs if it does not receive the lowest possible rates. This would severely threaten the Postal Service’s ability to offer competitive but profitable rates to its customers within the minimum and maximum rates established by the Governors’ for each rate cell.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the market for domestic parcel shipping products, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for such products should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission’s regulations provide that non-public materials shall lose nonpublic status ten years after the date of filing with the Commission, unless the

Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.