

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
Express Mail
Express Mail Contract 11

Docket No. MC2011-14

Competitive Product Prices
Express Mail Contract 11 (MC2011-14)
Negotiated Service Agreement

Docket No. CP2011-50

NOTICE AND ORDER CONCERNING ADDITION OF EXPRESS MAIL
CONTRACT 11 TO THE COMPETITIVE PRODUCT LIST

(Issued December 21, 2010)

I. INTRODUCTION

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Express Mail Contract 11 to the competitive product list.¹ The Postal Service asserts that Express Mail Contract 11 is a competitive product “not of general applicability” within the meaning of

¹ Request of the United States Postal Service to Add Express Mail Contract 11 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 17, 2010 (Request).

39 U.S.C. 3632(b)(3). Request at 1. The Postal Service states that the prices and classification underlying this contract are supported by Governors' Decision No. 09-14 in Docket Nos. MC2010-5 and CP2010-5. *Id.* The Request has been assigned Docket No. MC2011-14.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2011-50.

Request. In support of its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 09-14, originally filed in Docket Nos. MC2010-5 and CP2010-5, authorizing certain Express Mail contracts;
- Attachment B—a redacted copy of the contract;
- Attachment C—a proposed change in the Mail Classification Schedule competitive product list;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and supporting documents under seal.

In the Statement of Supporting Justification, Josen Punnoose, Manager, Shipping Support (A), Shipping Services, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment D. Thus, Mr. Punnoose contends there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. A redacted version of the specific Express Mail Contract 11 is included with the Request. *Id.*, Attachment B. The contract will become effective the

day after the Commission provides all necessary regulatory approvals. *Id.*, Attachment B, at 3. The contract will expire 5 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.*, Attachment D.

The Postal Service filed much of the supporting materials, including the specific Express Mail Contract 11, under seal. *Id.*, Attachment F. It maintains that the contract, customer-identifying information, and related financial information, including the accompanying analyses that provide prices, terms, conditions, cost data, and financial projections, should remain under seal. *Id.*, Attachment F, at 2-3. It also requests that the Commission order all customer-identifying information to remain under seal indefinitely, instead of ending after 10 years. *Id.*, Attachment F, at 7.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2011-14 and CP2011-50 for consideration of the Request pertaining to the proposed Express Mail Contract 11 product and the related contract, respectively.

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 and 39 CFR part 3015 and 39 CFR 3020, subpart B. Comments are due no later than January 4, 2011. The public portions of these filings can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Derrick D. Dennis to serve as Public Representative in these dockets.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket Nos. MC2011-14 and CP2011-50 for consideration of the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Derrick D. Dennis is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than January 4, 2010.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary