

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 32

Docket No. MC2011-11

Competitive Product Prices
Priority Mail Contract 32 (MC2011-11)
Negotiated Service Agreement

Docket No. CP2011-47

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO
UNITED STATES POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL CONTRACT 32 TO THE COMPETITIVE PRODUCTS LIST

(December 29, 2010)

In response to Order No. 612,¹ the Public Representative hereby comments on the December 16, 2010 Request of the United States Postal Service to Add Priority Mail Contract 32 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data (Request).² Order No. 612 established December 29, 2010 as the deadline for filing comments.

The Postal Service purports that the prices and classification underlying the instant contract are supported by Governors' Decision No. 09-6 in Docket No. MC2009-25. In addition, in the Statement of Supporting Justification, Josen Punnoose, Manager,

¹ PRC Order 612, Notice and Concerning Addition of Priority Mail Contract 32 to the Competitive Product List, December 17, 2010.

² The Postal Service Request contained the following attachments: Attachment A – a redacted version of Governor's Decision No. 09-6; Attachment B – a redacted version of the instant contract; Attachment C – the requested changes in the product list with the additions underlined; Attachment D – a statement of supporting justification for the request; Attachment E – the certification of compliance with 39 U.S.C. 3633(a)(1) and (3); and Attachment F – an application for nonpublic treatment of the materials filed under seal and a request for permanent confidentiality of customer identifying information.

Shipping Support (A), Shipping Services, states that the instant contract will cover its attributable costs and make a positive contribution toward the required 5.5 percent that competitive products collectively must recover of the Postal Service's total institutional costs.

Discussion

The instant contract appears to be consistent with 39 U.S.C. 3632, 3633, and 3642, and 39 CFR part 3015 and 39 CFR 3020, subpart B, policies.

The Request is consistent with 39 U.S.C. 3632, as evidenced by the inclusion of Governors' Decision No. 09-6, originally filed in Docket No. MC2009-25, which authorized certain Priority Mail contracts.

In addition, the Postal Service states that the instant contract is a competitive product "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3). Thus, the Postal Service must adhere to 39 CFR 3015.5 applicable to rates that are not of general applicability. The Postal Service's filing is consistent with 39 CFR 3015.5. The Postal Service filed its request with the Commission at least 15 days before the effective date of the contract which is in compliance with 39 CFR 3015.5(a). Also, the Request, Attachment E (Certification of Prices for Priority Mail Contract 32), and the supporting worksheets comply with 39 CFR 3015.5(b)-(c).

Further, for a competitive product pricing schedule that is not of general applicability, the Postal Service must demonstrate that the contract will comply with 39 U.S.C. 3633(a): (1) market dominant products may not subsidize competitive products;

(2) each competitive product must cover its attributable costs; and (3) competitive products, as a whole, must cover their costs (contributing a minimum of 5.5 percent towards the Postal Service's total institutional costs). The Postal Service's supporting worksheets sufficiently demonstrate that the revenue for the proposed contract is likely to cover its attributable cost and help to recover institutional costs.

In addition, the submission of the request to the Postal Regulatory Commission and publication in the Federal Register³ satisfies the relevant provisions of 39 U.S.C. 3642 with regard to adding new products.

Further, the Postal Service's request satisfies the relevant provisions of 39 CFR 3020, subpart B, for modifying the product list. The Request adheres to all relevant elements of sections 3020.31 and 3020.32.

Conclusion

The pricing provisions of the Priority Mail Contract 32 satisfy all relevant provisions of title 39. The contract appears to be able to generate sufficient revenue to cover its attributable costs and, thus, should not be subsidized by market dominant products. The contract should also assist competitive products as a whole in contributing toward a minimum of 5.5 percent of the Postal Service's total institutional costs. Thus, Priority Mail Contract 32 should be added to the competitive product list.

³ Federal Register, Vol. 75, No. 247, December 27, 2010.

The Public Representative respectfully submits the preceding Comments for the Commission's consideration.

Respectfully submitted,

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