

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
Parcel Select
Parcel Select Contract 1

Docket No. MC2011-16

Competitive Product Prices
Parcel Select Contract 1 (MC2011-16)
Negotiated Service Agreement

Docket No. CP2011-53

NOTICE AND ORDER CONCERNING ADDITION OF PARCEL SELECT
CONTRACT 1 TO THE COMPETITIVE PRODUCT LIST

(Issued December 28, 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 Parcel Select Contract 1 to the competitive product list.¹ The Postal Service states that “[t]he product is for the licensing and distribution of the ‘Sample Showcase’ co-op box,” which is similar to the

¹ Request of the United States Postal Service to Add Parcel Select Contract 1 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 23, 2010 (Request).

Samples Co-op Box being tested by the Postal Service as an experimental product in Docket No. MT2010-1.²

The Postal Service will license the use of the Sample Showcase box and associated trademarks to StartSampling, Inc., a provider of sample-related services. Request, Attachment B at 1. StartSampling, Inc. will fund and manage all aspects of distributing the Sample Showcase box, including marketing, assembling, and tendering the box for delivery by the Postal Service. *Id.* at 1, 3. StartSampling, Inc. will pay the Postal Service a portion of all revenue exceeding a certain amount that is derived from the boxes. *Id.* at 8.

The Postal Service asserts that Parcel Select Contract 1 is a competitive product “not of general applicability” within the meaning of 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. 10-8, included as Attachment A to the Request.³ The Request has been assigned Docket No. MC2011-16.

The Postal Service contemporaneously filed a contract related to the proposed new product. Request, Attachment B. The contract has been assigned Docket No. CP2011-53.

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

- Attachment A—a redacted copy of Governors’ Decision No. 10-8 establishing prices and classification for Parcel Select Service and a certification of the Governors’ vote;
- Attachment B—a redacted copy of the contract;
- Attachment C—a proposed change in the Mail Classification Schedule competitive product list;

² Request at 1; see Docket No. MT2010-1, Order No. 452, Order Approving Samples Co-op Box Market Test, May 5, 2010.

³ See Request at 1; Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Parcel Select Service, Docket Nos. MC2011-16 and CP2011-53, issued December 16, 2010 (Governors’ Decision No. 10-8).

- 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.

As submitted, Attachment E is incomplete as it does not include the certification of compliance with 39 U.S.C. 3633(a)(1) and (3).⁴ To complete its Request, the Postal Service shall file the appropriate certification of compliance no later than January 4, 2011.

In the Statement of Supporting Justification, Marc D. McCrery, Manager, Specialty Shipping, 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. Request, Attachment D. Thus, Mr. McCrery 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 Parcel Select Contract 1 is included with the Request. *Id.*, Attachment B. The contract will become effective on the date of any final regulatory approvals. *Id.* at 1. The public version of the contract redacts the term of the agreement, but lists provisions enabling either party to terminate with or without cause. See *id.* at 11-13. 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 Parcel Select Contract 1, under seal. *Id.*, Attachment F. It maintains that redacted portions of the contract, Governors' Decision No. 10-8, and related financial information, should remain confidential. *Id.* at 2. This information includes the price structure and

⁴ It includes the certification of the Governors' vote that should have been included with Governors' Decision No. 10-8 in Attachment A.

terms, expected profit, underlying costs and assumptions, cost coverage projections, and customer-related information. *Id.* at 2-3.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2011-16 and CP2011-53 to consider the Request pertaining to the proposed Parcel Select Contract 1 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, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 14, 2011. The public portions of these filings can be accessed via the Commission's website (<http://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. MC2011-16 and CP2011-53 to consider the matters raised in each docket.
2. The Postal Service shall file the appropriate certification of compliance with 39 U.S.C. 3633(a)(1) and (3) no later than January 4, 2011.
3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
4. Comments by interested persons in these proceedings are due no later than January 14, 2011.

5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary