

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 Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2011-54

NOTICE AND ORDER CONCERNING FILING OF ADDITIONAL
GLOBAL EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENT

(Issued December 30, 2010)

I. BACKGROUND

On December 28, 2010, the Postal Service filed a notice announcing that it intends to enter into an additional Global Expedited Package Services 3 (GEPS 3) contract.¹ In its initial filing, the Postal Service included a draft of the contract, noting that a final agreement would be executed soon. *Id.* at 1 n.2. On December 29, 2010,

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 28, 2010; Notice of the United States Postal Service of Errata to Notice of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 30, 2010 (together, Notice).

the Postal Service submitted a redacted signed copy of the contract, replacing the draft version originally filed in the Notice.² The Postal Service also submitted a nonpublic version of the signed agreement separately under seal, also substituting the version originally filed. Revised Notice at 1-2.

GEPS contracts provide incentives for businesses that mail products directly to foreign destinations using Express Mail International, Priority Mail International, or both. Notice at 4. The Postal Service asserts that the instant contract is supported by Governors' Decision No. 08-7, which is attached to the Notice and was originally filed in Docket No. CP2008-4.³

The Postal Service believes that the instant agreement should be included within the GEPS 3 product because it is functionally equivalent to the contract filed in Docket No. CP2010-71.⁴ The Postal Service explains that, in Docket No. CP2010-71, the Commission added GEPS 3 to the competitive product list and established the contract filed as the GEPS 3 baseline agreement for comparing other functionally equivalent contracts. Notice at 1-2 (citing Order No. 503 at 7). It states that other GEPS contracts may be included within the GEPS 3 product if they are functionally equivalent to the GEPS 3 baseline agreement and meet the requirements of 39 U.S.C. 3633. *Id.* at 2.

The instant contract. The Postal Service filed the instant contract in accordance with 39 CFR 3015.5. The term of the instant agreement is 5 years from the effective date unless either party terminates the agreement sooner. *Id.* at 3; Revised Notice, Attachment 1 at 7. The Postal Service will notify the other party of the effective date within 30 days after receiving all necessary regulatory approvals. Revised Notice, Attachment 1 at 7. The effective date will be no earlier than February 17, 2011. *Id.*

² Notice of the United States Postal Service of Filing a Signed Global Expedited Package Services 3 Negotiated Service Agreement, December 29, 2010, at 1 (Revised Notice).

³ Notice at 1, Attachment 3; see Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Expedited Package Services Contracts, Docket No. CP2008-4, issued May 6, 2008 (Governors' Decision No. 08-7).

⁴ Docket Nos. MC2010-28 and CP2010-71, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010 (Order No. 503).

To support the Notice, the Postal Service filed four attachments as follows:

- Attachment 1—a redacted copy of the contract and an applicable annex;⁵
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors’ Decision No. 08–7 (with attachments) establishing prices and classifications for GEPS contracts and a certification of the Governors’ vote; and
- Attachment 4—an application for non–public treatment of materials to maintain redacted portions of the contract, related financial information, and customer-identifying information under seal.

The Postal Service contends that the instant agreement fits within the Mail Classification Schedule (MCS) language for GEPS contracts included in Governors’ Decision No. 08-7, but understands that the Commission considers the language illustrative until the MCS is completed. Notice at 3 (citing Order No. 86 at 6).

The Notice advances reasons why the instant GEPS 3 contract is functionally equivalent to the GEPS 3 baseline agreement in Docket No. CP2010-71. *Id.* at 3. The Postal Service believes that the instant contract shares similar cost and market characteristics with both the baseline agreement and previous GEPS contracts. *Id.* at 3-4. It also asserts that the instant contract fits within the parameters outlined by Governors’ Decision No. 08-7 establishing the rates for GEPS agreements. *Id.* at 4.

The Postal Service identifies several differences between the instant contract and the GEPS 3 baseline agreement, including customer-specific information, payment method, minimum revenue commitment, and term. *Id.* at 4-6. Despite these differences, the Postal Service asserts that the instant contract is “functionally equivalent in all pertinent respects” to the GEPS 3 baseline agreement.⁶

⁵ The Postal Service filed a redacted copy of the signed agreement as Attachment 1 to the Revised Notice.

⁶ Revised Notice at 6 (citing Docket Nos. CP2008-8, CP2008-9, and CP2008-10, Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008, at 8).

The Postal Service concludes that its filing demonstrates that the instant GEPS 3 contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the GEPS 3 baseline agreement. Notice at 6. Therefore, it requests that the Commission add the instant contract to the GEPS 3 product grouping. *Id.*

II. NOTICE OF FILING

The Commission establishes Docket No. CP2011-54 to consider matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 39 CFR part 3015. Comments are due no later than January 10, 2011. The public portions of this filing can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceeding.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. CP2011-54 to consider matters raised by the Postal Service's Notice.
2. Comments by interested persons in this proceeding are due no later than January 10, 2011.
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 this proceeding.

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

By the Commission.

Shoshana M. Grove
Secretary