

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 Direct Contracts 1 (MC2009-17)
Negotiated Service Agreement

Docket No. CP2010-19

ORDER GRANTING MOTION FOR TEMPORARY RELIEF

(Issued January 7, 2011)

The Global Direct Contracts 1 agreement approved in this proceeding is scheduled to expire on January 10, 2011. The Postal Service requests that the contract be permitted to remain in effect until the sooner of February 3, 2011, or 3 business days after the Commission completes its review in Docket No. CP2011-52, involving the successor to the instant contract.¹ The Motion for an extension of time is granted. Allowing the existing contract to remain in effect temporarily is in the public interest and will not prejudice any person.

¹ Motion of the United States Postal Service for Temporary Relief, January 5, 2011 (Motion).

Postal Service filing in Docket No. CP2011-52. On December 23, 2010, the Postal Service filed “a draft successor agreement” (*id.* at 1) to the instant contract, indicating that “the current agreement’s impending expiration and the regulatory time-frame demand that the Postal Service submit the agreement in its present state.”² The Postal Service further stated that the “agreement is expected to be executed soon.” *Id.*

In Order No. 624, the Commission gave notice of the filing, appointed a Public Representative, and provided the public an opportunity to comment.³ As of December 30, 2010, however, no finalized agreement had been filed by the Postal Service. In light of that, on December 30, 2010 the Commission, *sua sponte*, issued Order No. 632 extending the comment period until 7 days after the Postal Service filed an executed copy of the contract and any related changes to the Notice.⁴ The Commission observed that, “[w]ithout a finalized agreement, interested persons may lack sufficient information to evaluate whether the contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 39 CFR 3015.” *Id.* at 2. In addition, the Commission determined that, for purposes of its review in Docket No. CP2011-52, the 15-day notice period under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5(a) would not begin until the Postal Service’s filing in that docket was complete. *Id.*

In its Motion, the Postal Service states that it “filed a draft successor agreement with ample time for the Commission to complete its 15-day review by January 10, 2011.” Motion at 1 (footnote omitted). The Commission cannot fulfill its responsibilities under 39 U.S.C. § 3633 based on a draft agreement. When negotiations with the mailer preclude the Postal Service from submitting a complete notice, including an executed copy of the contract, sufficiently in advance of the scheduled expiration of the existing contract, it should, in lieu of submitting an incomplete notice, request an extension of

² Docket No. CP2011-52, Notice of United States Postal Service Filing of Functionally Equivalent Global Direct Contracts 1 Negotiated Service Agreement, December 23, 2010, at 1 n.2 (Notice).

³ Docket No. CP2011-52, Notice and Order Concerning Filing of an Additional Global Direct Contracts 1 Negotiated Service Agreement, December 28, 2010 (Order No. 624).

⁴ Docket No. CP2011-52, Order Extending Time for Comments, December 30, 2010 (Order No. 632).

the existing contract's term.⁵ On several occasions, the Postal Service has filed such requests and the Commission has acted with dispatch.

It is ordered:

1. The Motion of the United States Postal Service for Temporary Relief, filed January 5, 2011, is granted.
2. The instant contract may remain in effect until the sooner of February 3, 2011 or three business days after the Commission issues a final order concerning the Notice filed in Docket No. CP20011-52.
3. As discussed in the body of this Order, when negotiations with the mailer preclude the Postal Service from submitting a complete notice, including an executed copy of the contract, sufficiently in advance of the scheduled expiration of the existing contract, the appropriate remedy is for the Postal Service to request an extension of the existing contract's term.

By the Commission.

Ruth Ann Abrams
Acting Secretary

⁵ Similar to its filing in Docket No. CP2011-52, two recent filings by the Postal Service included a copy of a draft agreement in lieu of an executed copy. See Docket No. CP2011-54, 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; and Docket No. CP2011-55, Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 28, 2010. In both instances, however, the Postal Service submitted an executed copy of the contract the next business day. Consequently, the Commission found it unnecessary to address the issue.