

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MARKET DOMINANT PRODUCT PRICES
HONGKONG POST - UNITED STATES POSTAL SERVICE
LETTER POST BILATERAL AGREEMENT (MC2010-35)
NEGOTIATED SERVICE AGREEMENT

Docket No.
R2011-4

**NOTICE OF UNITED STATES POSTAL SERVICE OF TYPE 2 RATE ADJUSTMENT,
AND NOTICE OF FILING FUNCTIONALLY EQUIVALENT AGREEMENT**
(January 31, 2011)

Pursuant to authorization from its Governors, the United States Postal Service (Postal Service) hereby provides notice of a Type 2 rate adjustment, in accordance with 39 C.F.R. § 3010.40 *et seq.*, that results in improvement over default rates established under the Universal Postal Union (UPU) Acts for inbound Letter Post items. This notice concerns the inbound portion of a bilateral agreement with HongKong Post, which is functionally equivalent to the Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 contracts added to the market dominant product list in Docket Nos. MC2010-35, R2010-5, and R2010-6.¹

Attachment 1 to this Notice is the Postal Service's application for non-public treatment of these materials. A redacted copy of the agreement is included in the public version of this filing as Attachment 2. The full text of the agreement and supporting financial documentation are being filed separately under seal with the Commission. A redacted version of the supporting financial documentation is included with this filing as a separate Excel file.

¹ PRC Order No. 549, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, Docket Nos. MC2010-35, R2010-5, and R2010-6, September 30, 2010.

I. Notice of Agreement and Rate Adjustment

A. Criteria under Part 3010, Subpart D of the Rules of Practice and Procedure

The Postal Service provides the following answers, descriptions, and affirmations in response to the criteria for contents of a notice of agreement in support of a negotiated service agreement, as provided in 39 C.F.R. § 3010.42. This statement provides support for the implementation of the Agreement and the establishment of the rates offered therein.

- (a) ... [A] notice of agreement that shall include at a minimum:*
- (1) A copy of the negotiated service agreement;*
 - (2) The planned effective date(s) of the proposed rates;*
 - (3) A representation or evidence that public notice of the planned changes has been issued or will be issued at least 45 days before the effective date(s) for the proposed new rates; and*
 - (4) The identity of a responsible Postal Service official who will be available to provide prompt responses to requests for clarification from the Commission.*

As described above, a copy of the agreement is being filed under seal in connection with the instant filing. The agreement's inbound market dominant rates are planned to become effective on April 1, 2010. Public notice of these rates is being given through the instant Notice at least 45 days before the effective date. Ms. Lea Emerson, Executive Director, International Postal Affairs, will be available to provide prompt responses to requests for clarification from the Commission.

- (b) A statement identifying all parties to the agreement and a description clearly explaining the operative components of the agreement.*

The parties to the HongKong Post Agreement are the United States Postal Service and HongKong Post, the postal operator for Hong Kong. This agreement includes inbound Letter Post, in the form of letters, flats, small packets, and bags, and

International Registered Mail service for Letter Post. As with the existing agreement with China Post Group in Docket No. R2010-6, the HongKong Post agreement also establishes an ancillary service for delivery confirmation scanning with Letter Post small packets.

(c) Details regarding the expected improvements in the net financial position or operations of the Postal Service. The projection of change in net financial position as a result of the agreement shall include for each year of the agreement:

(1) The estimated mailer-specific costs, volumes, and revenues of the Postal Service absent the implementation of the negotiated service agreement;

(2) The estimated mailer-specific costs, volumes, and revenues of the Postal Service which result from implementation of the negotiated service agreement;

(3) An analysis of the effects of the negotiated service agreement on the contribution to institutional costs from mailers not party to the agreement; and

(4) If mailer-specific costs are not available, the source and derivation of the costs that are used shall be provided, together with a discussion of the currency and reliability of those costs and their suitability as a proxy for the mailer-specific costs.

The Postal Service has provided information about expected financial improvements, costs, volumes, and revenues in the financial workpapers that it has filed under seal.

(d) An identification of each component of the agreement expected to enhance the performance of mail preparation, processing, transportation or other functions in each year of the agreement, and a discussion of the nature and expected impact of each such enhancement.

For the HongKong Post agreement, performance improvements include the following aspects:

- The parties' agreement suggests sortations for routing to the Postal Service's International Service Centers based on destination ZIP Codes; and

- The parties have created a delivery confirmation service for Letter Post small packets, which is designed to track and report specified scanning events for customers in Hong Kong and recipients in the United States. In addition, the parties provided for separation of these pieces for processing purposes.

(e) Details regarding any and all actions (performed or to be performed) to assure that the agreement will not result in unreasonable harm to the marketplace.

This agreement will not result in unreasonable harm to the marketplace.

HongKong Post maintains a generally dominant position in the market for Letter Post originating in its home country. Therefore, HongKong Post is the only entity in a position to avail itself of an agreement with the Postal Service of this type and scope. The United States' Private Express Statutes also generally prohibit entities other than the Postal Service from carrying inbound international letters commercially after entry at a U.S. port, at least below certain price and weight thresholds. The Postal Service is unaware of any private entity that would be able to serve the United States market for inbound Letter Post from Hong Kong on the terms and scale contemplated in this agreement.

In addition, the Postal Service and HongKong Post serve as their respective countries' designated operators for the exchange of mail, including in particular Letter Post, under rules set by the UPU. Designated operators ordinarily compensate one another for the delivery of Letter Post in accordance with terminal dues rates set by the UPU, unless a bilateral agreement is concluded.² Because no other entities are in a position to serve as designated operators for the relevant types of mail either originating

² See Universal Postal Convention Article 27 ¶ 9.

in Hong Kong or destined for the United States, and because no other entities are subject to terminal dues rates with respect to inbound Letter Post to the United States from Hong Kong, the market for the services offered under this agreement is in essence limited to its parties.

Because there is no significant competition in the relevant market when the inbound Letter Post flows are considered in totality, the Postal Service submits that the agreement is unlikely to pose competitive harm to the marketplace.³

(f) Such other information as the Postal Service believes will assist the Commission to issue a timely determination of whether the requested changes are consistent with applicable statutory policies.

In this docket, the Postal Service is presenting only an agreement to deliver Letter Post in the United States that is tendered by a foreign postal operator. The rates paid by the Postal Service to HongKong Post for outbound delivery of the Postal Service's products in Hong Kong have not been presented to the Commission. Those rates represent supplier costs to the Postal Service, which are built into the prices that the Postal Service charges its mailing customers for outbound products. An agreement concerning outbound services with either postal operator would no more need to be classified as a product or otherwise subjected to prior Commission review than would an agreement to purchase trucking services from highway contractors or to purchase air transportation from air carriers.

B. Data Collection Plan

Under 39 C.F.R. § 3010.43, the Postal Service must include with its notice of agreement "a detailed plan for providing data or information on actual experience under

³ This does not imply, however, that there is an absence of competition in this market. The market is liberalized to some degree, particularly for bulk business letters and heavier weight Letter Post.

the agreement sufficient to allow evaluation of whether the negotiated service agreement operates in compliance with 39 U.S.C. [§] 3622(c)(10).”⁴ The Postal Service intends to report information on this agreement through the Annual Compliance Report. The Postal Service will continue to cooperate with the Commission to provide any necessary information about mail flows from Hong Kong within the course of the annual compliance review process. Therefore, the Postal Service proposes that no special data collection plan be created for this agreement. Furthermore, with respect to performance measurement, because this agreement covers “merely a grouping of other products already being measured,”⁵ the Postal Service respectfully requests that they be excepted from separate reporting under 39 C.F.R. § 3055.3(a)(3), as have been the existing agreements in Docket Nos. R2010-5 and R2010-6.⁶

C. Statutory Criteria

Under 39 U.S.C. § 3622(c)(10), the criteria for the Commission’s review are whether the agreement (1) improves the net financial position of the Postal Service or enhances the performance of operational functions, (2) will not cause unreasonable harm to the marketplace, and (3) will be available on public and reasonable terms to similarly situated mailers. The first two criteria have been addressed in Part II.A above. With respect to the third criterion, there are no entities that are similarly situated to Hong Kong in their ability to tender the broad-based Letter Post flows from Hong Kong under similar operational conditions, nor any other entities that serve as a designated operator

⁴ 39 C.F.R. § 3010.43.

⁵ PRC Order No. 292, Notice of Proposed Rulemaking on Periodic Reporting of Service Performance Measurements and Customer Satisfaction, Docket No. RM2009-11, September 2, 2009, at 15.

⁶ PRC Order No. 549 at 9; see *also* PRC Order No. 570, Order Concerning Postal Service Request for Semi-Permanent Exceptions from Periodic Reporting of Service Performance Measurement, Docket No. RM2010-11, September 3, 2010, at 23 (approving semi-permanent exceptions from service performance reporting for active market-dominant negotiated service agreements, including the agreement for inbound market-dominant services with Canada Post Corporation).

for Letter Post originating in Hong Kong. Therefore, the Postal Service finds it difficult to conceive of a “similarly situated mailer” to which it could make a similar agreement available for each country-specific flow; accordingly, the Postal Service views this criterion as inapplicable in this instance.⁷ Because all of the criteria set forth in 39 U.S.C. § 3622(c)(10) have been met, the Postal Service respectfully urges the Commission to act promptly by allowing the Agreement’s rates to be implemented under 39 C.F.R. § 3010.40, as requested.

II. Functional Equivalency

The HongKong Post agreement is functionally equivalent to the TNT and China Post Group agreements previously filed. As discussed previously, the terms of the HongKong Post Agreement fit within the proposed MCS language for Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1. Therefore, the HongKong Post Agreement and the existing agreements conform to a common description.

All three instruments are constructed from a similar template and contain many similar terms and conditions. All three agreements provide rates for Letter Post tendered to the Postal Service from each postal operator’s territory, along with ancillary services to accompany inbound Letter Post. Each contract is with a foreign postal operator.

The benefits of the three contracts to the Postal Service are comparable as well. Because the agreements incorporate the same attributes and methodology, the relevant

⁷ See PRC Order No. 163, Order Concerning Bilateral Agreement with Canada Post for Inbound Market Dominant Services, Docket Nos. MC2009-7 and R2009-1, December 31, 2008, at 9-10 (“Given its narrow characterization of the underlying Agreement, the Postal Service’s position [as to ‘similarly situated mailers’] is correct. For purposes of this proceeding, the Commission concludes that it would be largely an academic exercise to consider whether a broader characterization should be employed.”).

characteristics of the contracts are similar, if not the same. Therefore, the Postal Service submits that the HongKong Post agreement is functionally equivalent to the earlier functionally equivalent agreements and should be added to the market dominant product list within the same product listing.⁸ There are, however, differences between the HongKong Post agreement and the two existing contracts. For the sake of convenience, the Postal Service will compare the HongKong Post agreement with the China Post Group agreement in Docket No. R2010-6 (“the CPG Agreement”).⁹

Differences between the two agreements include the following:

- The minor differences between the dispute resolution clauses in Article 9 of the agreements and the confidentiality clauses in Article 13 of the agreements reflect the outcome of negotiations between the parties.
- According to Article 22 (“Term”) of CPG Agreement, that agreement is effective for one year, subject to evaluation and potential extension or modification. Under the same article of the HongKong Post agreement, the initial term is the remainder of the first calendar year.

⁸ As noted in the Postal Service’s earlier classification request, “[i]f these agreements are added under a single product heading within the First-Class Mail class, then, presumably, other subsequent agreements similar to these instruments for country-specific inbound flows of Letter Post would be presented to the Commission under cover of a notice of filing, without the need for a separate classification request accompanying each such agreement.” Request of the United States Postal Service to Add Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators to the Market Dominant Product List, Notice of Type 2 Rate Adjustments, and Notice of Filing Two Functionally Equivalent Agreements (Under Seal), Docket Nos. MC2010-35, R2010-5, and R2010-6, August 13, 2010, at 14.

⁹ The agreements in Docket Nos. R2010-5 and R2010-6 were added simultaneously to the market dominant product list as functionally equivalent, without indicating which would serve as the “baseline” for functional equivalence comparisons with future agreements. To avoid redundancy with earlier comparisons between the two existing agreements, and because some aspects of HongKong Post and China Post Group’s agreements reflect regional similarities (for example, neither is a member of the E Parcels Group, which was reflected in TNT’s agreement), the Postal Service believes that the comparison offered here is more illuminating and appropriate than one that includes all three agreements, or one that compares the HongKong Post agreement to the TNT agreement. A different comparison might be appropriate in future instances.

- The settlement charges for similar services set forth in Annex 1 of the CPG Agreement and in Annex 1 of the HongKong Post Agreement differ.
- Annex 1 of the HongKong Post agreement reiterates the disclaimer of Articles 3 and 4 of the agreement, whereas the CPG Agreement contains no such additional disclaimer.
- Annex 1 of the HongKong Post agreement discusses the applicability of air conveyance charges and contains other explanatory notes for interpreting the settlement charges table, whereas the CPG Agreement contains no such discussion or notes.
- Annex 2 of the CPG Agreement contains a provision that reiterates and cites the Postal Service's mailability restrictions for inbound mail. Annex 2 of the HongKong Post agreement does not contain such a provision.
- Annex 2 of the HongKong Post agreement advises as to the labeling software and barcoding to be used by customers in Hong Kong, whereas the CPG Agreement is not so detailed. (The barcoding guideline is implied in the label template included as Annex 3 of the CPG Agreement.)

The Postal Service does not consider that the specified differences affect either the fundamental service the Postal Service is offering or the fundamental structure of the contracts. Nothing detracts from the conclusion that these agreements are functionally equivalent to each other.

III. Application for Non-Public Treatment

The Postal Service maintains that certain portions of the agreement and related financial information should remain confidential. In accordance with 39 C.F.R. §

3007.21, the Postal Service files as Attachment 1 to this Request its application for non-public treatment of materials filed under seal. A full discussion of the required elements of the application appears in Attachment 1.

IV. Conclusion

For the reasons discussed, the Postal Service believes that the agreement with HongKong Post discussed herein should be added to the product listing for Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Jacob Howley

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-8917; Fax -5628
January 31, 2011

ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials pertain to the inbound market dominant multi-service agreement with HongKong Post at issue in this proceeding (Agreement). The Agreement and supporting documents establishing compliance are being filed separately under seal with the Commission. A redacted copy of the Agreement is filed with the Request as Attachment 2. In addition, a redacted version of the supporting financial documentation is included with this public filing as a separate Excel file.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as non-public consist of information of a commercial nature that would not be publicly disclosed under good business practice. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).² Because the portions of the materials that the Postal Service is

¹ PRC Order No. 225, Final Rule Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

² In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely

applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

In the case of the instant Agreement, the Postal Service believes that the only third party with a proprietary interest in the materials is the foreign postal operators with whom the contract is made. Through text in the agreement, the Postal Service has already informed the postal operator, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and the operator's ability to address its confidentiality concerns directly with the Commission. Due to language and cultural differences as well as the sensitive nature of the Postal Service's rate relationship with the affected foreign postal operator, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators. The Postal Service identifies as an appropriate contact person Mr. Kang Zhang, Director, Global

commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

Business Solutions. Mr. Zhang's phone number is (202) 268-8918, and his email address is kang.zhang@usps.gov.³

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

In connection with its Request filed in this docket, the Postal Service included an Agreement and financial work papers associated with that Agreement. These materials were filed under seal, with redacted copies filed publicly, after notice to the affected postal operator. The Postal Service maintains that the redacted portions of the Agreement and related financial information should remain confidential.

With regard to the Agreement filed in this docket, the redactions withhold the actual prices being offered between the parties under the Agreement, as well as certain negotiated terms. The redactions applied to the financial work papers protect commercially sensitive information such as underlying costs and assumptions, negotiated pricing, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the work papers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b).

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

³ The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's filing might be construed as beyond the scope of the Commission's rules, the Postal Service respectfully requests a waiver to designate a Postal Service employee as the contact person under these circumstances, for the reasons provided in the text above.

If the portions of the Agreement that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Information about negotiated pricing is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Foreign postal operators could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service. Competitors could also use the information to assess the offers made by the Postal Service to foreign postal operators or other customers for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service. This latter concern applies to the extent that the prices in the filed Agreement cover certain competitive services, which are included in the Agreement filed under seal; market dominant services for which competition exists (e.g., with respect to Letter Post, heavier Letter Post small packets and outbound international items, which are included in the Agreement filed under seal); and monopoly letters, to the extent that competing providers are not fully cognizant of or compliant with the Private Express Statutes. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial work papers include specific information such as costs, assumptions used in pricing decisions, the negotiated prices themselves, projections of variables, and contingency rates included to account for market

fluctuations and exchange risks. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing, in light of statutory, regulatory, or policy constraints. Thus, competitors would be able to take advantage of the information to offer lower pricing to postal customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the relevant inbound delivery services markets. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Potential customers could also deduce from the rates provided in the Agreement or from the information in the work papers whether additional margin for net contribution exists under Agreement's prices. The settlement charges between the Postal Service and the foreign postal operator constitute costs underlying the postal services offered to each postal operator's customers, and disclosure of this cost basis would upset the balance of Postal Service negotiations with contract customers by allowing them to negotiate, rightly or wrongly, on the basis of the Postal Service's perceived supplier costs. From this information, each foreign postal operator or customer could also attempt to negotiate ever-decreasing prices, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even the foreign postal operator involved in the Agreement at issue in this docket

could use the information in the work papers in an attempt to renegotiate the rates in its instrument by threatening to terminate its current Agreements.

Price information in the Agreement and financial spreadsheets also consists of sensitive commercial information of the foreign postal operator. Disclosure of such information could be used by competitors of the foreign postal operator to assess the foreign postal operator's underlying costs, and thereby develop a benchmark for the development of a competitive alternative. The foreign postal operator would also be exposed to the same risks as the Postal Service in customer negotiations based on the revelation of their supplier costs.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Public disclosure of the prices in the Agreement, as well as any negotiated terms, would provide foreign postal operators or other potential customers extraordinary negotiating power to extract lower rates from the Postal Service.

Hypothetical: The negotiated prices are disclosed publicly on the Postal Regulatory Commission's website. Another postal operator sees the price and determines that there may be some additional profit margin below the rates provided to either operator. The other postal operator, which was offered rates comparable to those published in the Agreement, then uses the publicly available rate information to insist that it must receive lower rates than those the Postal Service has offered.

Harm: Public disclosure of information in the financial work papers would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing delivery service obtains unredacted versions of the financial work papers from the Postal Regulatory Commission's website. It analyzes the work papers to determine what the Postal Service would have to charge its customers in order to comply with business or legal considerations regarding cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers below that threshold and markets its purported ability to beat the Postal Service on price for international delivery services. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of one or more relevant international delivery markets. Even if the competing providers do not manage wholly to freeze out the Postal Service, they will significantly cut into the revenue streams upon which the Postal Service relies to finance provision of universal service.

Harm: Public disclosure of information in the financial workpapers would be used detrimentally by the foreign postal operator's competitors.

Hypothetical: A competing international delivery service obtains a copy of the unredacted version of the financial work papers from the Postal Regulatory Commission's website. The competitor analyzes the work papers to assess the foreign postal operator's underlying costs for the corresponding products. The competitor uses that information as a baseline to negotiate with U.S. companies to develop lower-cost alternatives.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international delivery products (including both private sector integrators and foreign postal operators), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products (including other postal operators) should not be provided access to the non-public materials. This includes the counter-party to the Agreement with respect to all materials filed under seal except for the text of the postal operator's Agreement, to which that counter-party already has access.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

**HONGKONG POST – UNITED STATES POSTAL SERVICE
LETTER POST BILATERAL AGREEMENT**

This Agreement ("Agreement") is between the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the Government of the United States with offices at 475 L'Enfant Plaza, SW, Washington, DC 20260, and Hongkong Post ("Hongkong Post"), a government branch of the Hong Kong Special Administrative Region of People's Republic of China, and having a place of business at 4/F Hongkong Post Headquarters 2 Connaught Place, Central, Hong Kong. The USPS and Hongkong Post may be referred to individually as a "Party" and together as the "Parties."

INTRODUCTION

WHEREAS, the Parties desire to enter into a non-exclusive relationship whereby the Parties will provide each other certain products and/or services pursuant to the terms and conditions contained herein;

WHEREAS, the Parties acknowledge and understand that the commencement of performance under this Agreement is subject to the approval of and/or non-objection by various entities with oversight responsibilities, which may include but not be limited to the USPS management's executive committee, the USPS Governors, and/or the U.S. Postal Regulatory Commission. Accordingly, Hongkong Post acknowledges and understands that the ability of the USPS to perform under this Agreement may not occur, and in this respect the provisions of Article 2 and 3 shall apply;

WHEREAS, in light of the aforementioned acknowledgements, the Parties desire to be bound by the terms of this Agreement as well as the terms of Article 3 of this Agreement entitled "Conditions Precedent";

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

Article 1: Purpose of the Agreement

The purposes of this Agreement are the following:

1. To develop new bilateral rates for existing letter class products as specified in Annex 1; and
2. To develop a new letter class product for small lightweight packets two kilograms or less that offer delivery scanning as specified in Annex 2.

Article 2: Oversight and Effective Date

The terms and pricing set forth under this Agreement require the approval from various entities that have oversight responsibilities for the USPS as set out in Article 3 below. Upon execution of this Agreement, the USPS shall seek such approval. This Agreement shall come into effect upon all such approvals having been obtained by USPS and notification to Hongkong Post by USPS that all such approvals have been obtained, and the date of notification shall be "the Effective Date," unless an alternative date is proposed in the USPS's notification and agreed to by Hongkong Post in a return communication, in which case that alternative date shall be the Effective Date. The Agreement will remain in effect from the Effective Date until terminated pursuant to Article 8.

Article 3: Conditions Precedent

The Parties acknowledge and understand that all obligations of the USPS under this Agreement shall be contingent on the USPS receiving approvals from, and/or non-objection by (hereinafter "Conditions Precedent") one or more internal and external bodies that have oversight responsibilities. Conditions Precedent may include but are not limited to: approvals or, if applicable, non-objection, from USPS management, the USPS executive committee, the Governors of the USPS, and the U.S. Postal Regulatory Commission. The Parties acknowledge that the Agreement might not be approved by such bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to provide the products or services contemplated under the Agreement, no obligation shall exist for the USPS or Hongkong Post and no benefit or rights granted through this Agreement shall inure to either Party unless and until the Effective Date occurs and upon such occurrence the Conditions Precedent shall have been fulfilled.

Article 4: Limitation on Liability and Costs

In the event that the Conditions Precedent are not fulfilled, the USPS and Hongkong Post shall have no liability, which shall include no obligation to pay costs associated with any action taken by Hongkong Post prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement or the failure of any Condition Precedent, neither Party shall be held liable for any damages including, without limitation, the following: actual damages; special damages; indirect damages; incidental damages; punitive damages; consequential damages; or any other damages, which shall include but not be limited to damages for loss of business profits, business interruption; any other loss; and/or any cost incurred by either Party attributable to such non-approval such as attorney's fees.

Article 5: Price Changes; No Effect on Service Terms

For each of the services with specific terms and conditions set forth in an attachment to this Agreement, any adjustments to the rates for the services shall be subject to the terms and conditions set forth in the Attachments or Annexes.

Article 6: Monetary Transactions

1. Each Party will bear the costs and retain the revenues for any work performed by itself and by agents or contractors on its behalf, unless the Parties agree to other arrangements to allocate costs or revenues and those arrangements are incorporated in an Amendment to this Agreement. Any such Amendment shall be governed by Article 18 below.
2. All taxes and duties are the sole responsibility of the Party to whom they are duly assessed and shall not be charged to any other Party in any form unless the Parties otherwise provide in an Amendment to this Agreement. Any such Amendment shall be governed by Article 18 below.

Article 7: Customs Inspection

USPS bears no responsibility for the disposition of items in the custody of U.S. Customs & Border Protection. Further, Hongkong Post understands that all contents of any item, including items that are treated as sealed mail under USPS regulations, are subject to inbound search and inspection by U.S. Customs & Border Protection, regardless of when the USPS elects to conduct verification and acceptance of any inbound items.

Article 8: Termination

1. Either Party may terminate this Agreement without cause upon 30 days advance written notice to be served on the other Party, with such termination effective as of the end of the calendar month in which the 30-day notice period expires. The right to terminate the Agreement for good cause remains unaffected.
2. In the event of termination of the Agreement under this Article, the Parties shall be liable to make final settlement of all amounts owing as of the effective date of the termination. Each Party shall bear its own costs in the event of termination. All further rights and remedies shall remain unaffected.
3. In the event of termination, and as of the effective date of termination, the Parties shall revert to the default rates applicable under the Universal Postal Union Convention effective at the time of such termination, and neither Party shall be liable to the other for any damages including, without limitation, actual, special, indirect, incidental, punitive, consequential or any other damages (including, without limitation, damages for loss of business profits, business interruption or any other loss) for any reason incurred as a result to the change of rates after termination.

Article 9: Dispute Resolution

1. The Parties intend to resolve all controversies under this Agreement informally through correspondence, oral communications, and informal meetings.
2. If the method described in the above paragraph proves insufficient to resolve a controversy, the Parties agree that the signatories to this agreement, or their replacement, shall be given a written description of the controversy by each Party and a suggested outcome. They will review the information provided and shall attempt in good faith to come to an agreement on the issue through correspondence, oral communications, or informal meetings.
3. If the methods described in the above paragraph prove insufficient to resolve a controversy, the Parties agree to refer that controversy to mediation, which shall consist of an informal, nonbinding conference or conferences between the Parties and the mediator, which shall perform mediation responsibilities in the English language. The mediator will be selected as mutually agreed by the Parties.
4. With the exception of controversies concerning cost or revenue liability, mediation will provide the sole means for addressing controversies related to this Agreement. If mediation does not resolve such a controversy, the parties may exercise their right to terminate.
5. For controversies related to cost or revenue liability, Hongkong Post and the USPS will first refer the matter to mediation as discussed in the above paragraph. If mediation does not resolve such a controversy, an action relating to cost or revenue liability may be instituted and maintained only in the United States District Court for the District of Columbia. The parties each irrevocably submit to the exclusive personal jurisdiction of the United States District Court for the District of Columbia and waive any objection to the laying of venue in that court, to the convenience of that forum, and to that court's personal jurisdiction over the Parties, including any arguments about sovereign immunity.
6. Notwithstanding the provisions of this Article 9, and without prejudice to Article 11, paragraph 1, in the event of conflict or inconsistency between the provisions of this Article 9 and Article 11, paragraph 1, the provisions of Article 11, paragraph 1 shall prevail.

Article 10: Construction

Except as otherwise provided in this Agreement, this Agreement shall be governed by and construed in accordance with the Federal law of the United States. To the extent this Agreement is not covered by the Federal law of the United States, the law of the state of New York shall apply.

Article 11: Indemnification and Liability

1. The Parties acknowledge that aspects of liability or indemnification (including, but not limited to registered mail and air parcels) not expressly governed by this Agreement or its regulations are subject to the appropriate provisions of the Acts of the Universal Postal Union and any reservations the Parties have taken to those instruments.
2. In the event that an entity not party to this Agreement asserts claims against Hongkong Post or USPS that are attributable to the actions of the other Party to this Agreement, the latter Party shall indemnify the defending Party for, and hold the defending Party harmless from, any losses, damages or liabilities suffered by the defending Party as a result. In that instance, the indemnifying Party shall also reimburse the defending Party for all reasonable expenses incurred in connection with investigating, preparing for, or defending any such claim, whether in an administrative, regulatory or judicial proceeding, and whether or not the indemnified Party is named in the proceeding.
3. Except for liability and indemnification as described in Article 11, paragraph 1, and final settlement under Article 8, no Party to this Agreement shall be liable to the others for any damages including, without limitation, actual, special, indirect, incidental, punitive, consequential or any other damages (including, without limitation, damages for loss of business profits, business interruption or any other loss) for any reason, including, but not limited to, breach of any term of this Agreement or negligence, unless required by applicable mandatory law.
4. Nothing in this Agreement shall be construed as an acknowledgment or concession regarding the validity of any claim or the entitlement of any Party to any amount of damages.

Article 12: Language

The official version of this Agreement, including all supporting documentation and correspondence, shall be in English. The English language shall be the controlling language for the purpose of interpreting this Agreement, and all correspondence between the Parties pertaining to this Agreement shall be in the English language. In the event of inconsistency between any terms of this Agreement, including its supporting documentation and correspondence, and any translation into another language, the English language meaning shall control.

Article 13: Confidentiality Requirements

1. The Parties consider the rate information included in this Agreement to be commercially sensitive information and agree that it should not be disclosed to third parties except as required by law. Hongkong Post will treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the U.S. Postal Regulatory Commission. Except as required by U.S. law, USPS will treat as confidential and not disclose to third parties, absent express written consent by Hongkong Post, any information related to this

Agreement and proprietary to Hongkong Post that is treated as non-public by the U.S. Postal Regulatory Commission.

2. Hongkong Post acknowledges that United States law may require that this agreement be filed with the U.S. Postal Regulatory Commission (Commission) and the U.S. Department of State. Hongkong Post authorizes the USPS to determine the scope of information that must be made publicly available under the Commission's rules. Hongkong Post further understands that any unredacted portion of this document may be posted on the Commission's public website, www.prc.gov. Hongkong Post has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the Commission for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22, on the Commission's website: www.prc.gov/Docs/63/63467/Order225.pdf. At Hongkong Post's request, the U.S. Postal Service will notify Hongkong Post of the docket number of the Commission proceeding, if any, used in connection with this agreement.

Article 14: Severability

If any of the provisions of this Agreement shall be held void or unenforceable, the other provisions shall survive and remain in full force and effect, subject only to either Party's unilateral right to terminate the Agreement.

Article 15: Notices

Any notice or other document to be given under this Agreement will be in writing and addressed as set out below. Notices may be delivered by hand, email, or Express Mail.

To the USPS:

Kang Zhang
Director, Global Business Solutions
United States Postal Service
475 L'Enfant Plaza, SW, Room 2P800
Washington, DC 20260
1-202-268-8918
kang.zhang@usps.gov

To HongKong Post:

Jeremy Wan
Senior Manager (International Letters)
External Affairs Division
Hongkong Post Headquarters
Room 2M06A
2 Connaught Place, Central
Hong Kong
Tel: 852- 2921 6026
Fax: 852- 2536 4247
email: jeremy_wan@hkpo.gov.hk

Article 16: Force Majeure

Neither party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes or shortages, governmental laws, ordinances, rules and regulations, whether valid or invalid, court orders, whether valid or invalid, inability to obtain material, equipment, or transportation, and any other similar or different contingency.

Article 17: Legal Status of this Agreement

This Agreement constitutes a legally binding agreement on the part of each signatory hereto and does not bind the Parties' respective governments. The Parties acknowledge that this Agreement sets out the terms and conditions of a negotiated contractual arrangement between the Parties and is not an agreement entered into or subject to international law. This Agreement does not involve the creation of a wholly-owned subsidiary of any Party or a joint venture company or partnership funded in any ratio by the Parties. The Parties do not intend that any agency or partnership relationship be created between any of them by this Agreement.

Article 18: Amendment

This Agreement may be amended or extended only by mutual written agreement signed by authorized representatives of Hongkong Post and USPS. Neither a Party's acquiescence in any performance at variance to this Agreement nor a Party's failure to exercise any right or enforce any obligation shall be deemed an amendment to this instrument. The Amendment may be contingent upon any and all necessary approvals by USPS management, the USPS Board of Governors, and/or the U.S. Postal Regulatory Commission. If such approvals are required, the Amendment will not become effective until such time as all necessary approvals are obtained.

Article 19: Assignment

This Agreement may not be assigned in whole or in part by any Party without the prior written consent of the other parties. Each Party may, however, delegate certain of its responsibilities under this Agreement to a subsidiary or other affiliate entity within its organizational structure without the need for consent by the other Parties so long as such subsidiary or entity would be bound by this Agreement.

Article 20: Applicability of Other Laws

1. The Parties acknowledge that this Agreement does not involve the USPS's acquisition of property or services and is not subject to the Contract Disputes Act (41 U.S.C. §§ 601 et seq.)
2. The Parties recognize that performance under this Agreement may be subject to laws enacted or enforced by governmental entities and is contingent on each Party obtaining all consents, authorizations, orders, or approvals required under applicable law or policy to effectuate the Agreement.
3. The Parties understand that USPS may be required to provide copies of this Agreement to the U.S. Department of State and the U.S. Postal Regulatory Commission. The entire Agreement, or portions thereof as the USPS determines to be appropriate, will be filed with the U.S. Postal Regulatory Commission with a notice to add it to the competitive and/or market dominant products list.

Article 21: Entire Agreement

1. This Agreement shall constitute the entire agreement between the Parties concerning the exchange of international mail described herein. Except as otherwise indicated in this agreement, any prior agreement, understanding, or representation of any kind pertaining to the subject matter of this Agreement and preceding the date of this Agreement shall not be binding upon either Party.
2. The Parties acknowledge that the provisions of the Universal Postal Convention and applicable regulations apply except to the extent inconsistent with this Agreement.

Article 22: Term

The USPS will notify Hongkong Post of the Effective Date of the Agreement within thirty (30) days after receiving the approval of the entities that have oversight responsibilities for the USPS. USPS shall have no obligation to notify Hongkong Post of the status of the approval process or of potential fulfillment of the approval process. The Agreement will remain in effect for the remainder of the calendar year after the Effective Date unless terminated sooner pursuant to Article 8. Upon the expiration of this year period, the Agreement shall be re-evaluated by both Parties on whether to extend the agreement for the next calendar year or modify the Agreement.

Article 23: Intellectual Property, Co-Branding, and Licensing

The Parties acknowledge that in the service of improving existing international products or developing new international products under this Agreement that such products may be enhanced through the use of co-branding or the use of each Party's trademarks, logos or intellectual property. In such instances, the Parties acknowledge and agree that any use shall be subject to separate written agreements. The Parties acknowledge and agree that neither Party shall use the other Party's trademarks, logos or intellectual property until such time that a license for each specific such use has been executed by the Parties and all laws and regulations required for such license's effectiveness have been perfected, which shall include but not be limited to any recordation requirements.

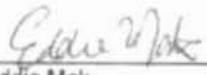
Article 24: Survival

The provisions of Articles 4, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, and 23 shall survive the conclusion or termination of this agreement, as well as any other terms insofar as they apply to the Parties' continuing obligations to one another under the articles listed above.

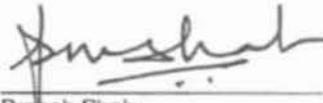
IN WITNESS WHEREOF, the Parties agree to be bound as of the latest date of signature to the terms and conditions of this Agreement.

Hongkong Post

United States Postal Service



Eddie Mak
Deputy Postmaster General



Prabh Shah
Vice President and Managing Director,
Global Business

27 Jan. 2011
Date

Jan 28, 2011
Date

Annex 1: Letter Post Settlement Rates

Rates

The rates below shall be in effect for the term of this Agreement, as set forth in Article 22. Changes in rates during the term of this Agreement will be negotiated and agreed to in accordance with Article 18.

The provisions of Articles 3 and 4 shall apply to the USPS's ability to give effect to any agreed-upon rates, such that the agreement of the USPS to any change in rates is accordingly contingent upon any and all necessary approvals by Postal Service Management, the USPS Board of Governors, and/or the U.S. Postal Regulatory Commission. The approval process may extend well beyond the originally intended effective date. If such approvals are required, the rates cannot become effective until such time as all necessary approvals are obtained.

Settlement rates listed in the tables included below are product stream rates per item and per kilogram stated in Special Drawing Rights (SDRs) unless noted otherwise. These rates do not include applicable Air Conveyance charges. Any changes to current specifications (i.e., sortation and preparation) must be agreed to in writing by both parties as provided in Article 18 of this Agreement.

HONG KONG TO THE USA

Stream /1	Service Description	IPK (I)/CENSUS(C)	2011 (in SDR) /2	
			PER ITEM	PER KG
A,UD,BG	SMALL PACKET WITH DELIVERY SCANNING			
A,UL,PU	PRIORITY LETTER TRAY			
A,UL,GU	PRIORITY FLAT TRAY			
A,UN,BG	PRIORITY BAG			
A,UN,BG-mbag	PRIORITY M-BAG			
A,UR,BG	PRIORITY REGISTERED BAG			
C,UN,BG	SURFACE BAG			
C,UR,BG	SURFACE REGISTERED			

USA TO HONG KONG

Stream /1	Service Description	IPK (I)/CENSUS(C)	2011 (in SDR) /2	
			PER ITEM	PER KG
A,CN/BG	AIR PARCELS			

/1 Streams represent a combination of Mail Category, Mail Subclass, and Receptacle Type.

/2 This Annex reflects all applicable rates between the Parties as of the Effective Date. The UPU rates shall continue to apply to all mail streams that are not reflected in this rate table. The registered surcharge is included in the per item rate for registered streams.

The UPU quality of service link to terminal dues does not apply. However, the UPU air conveyance charges do apply and are not reflected in the Annex.

Specifications of Mail Product Categories and Formats

The rates for the stream categories above shall be based upon the following format and product definitions:

Letters

- Any piece which has:
- a length less than or equal to 292 mm (11 1/2 inches) and
 - a width less than or equal to 155 mm (6 1/8 inches) and
 - a thickness equal to or less than 6 mm (1/4 inch)
 - and which has a weight of less than or equal to 2 kilograms

Flats

- Any piece exceeding any maximum limit for a Letter and which has:
- a length less than or equal to 381 mm (15 inches) and
 - a width less than or equal to 292 mm (11 1/2 inches) and
 - a thickness less than or equal to 20 mm (3/4 inch)
 - and which has a weight of less than or equal to 2 kilograms

Packets

Any piece exceeding any of the maximum size limits for a Flat, but within the maximum size limits as set forth in the Universal Postal Union Letter Post Regulations Article RL 122 and which has a weight of less than or equal to 2 kilograms

Registered Mail

Any piece that meets the size and weight dimensions of Letters, Flats, or Packets and bears a Registered label on the mail piece

Annex 2 – Small Packets with Delivery Scanning

Package Specific Preparation Requirements

1. **Package Dimensions and Weight.** Each package shipped under this agreement must conform to the size and weight limitations specified in the UPU Letter Post Manual or as bilaterally agreed. Specifically, each package shall not exceed 2 kilograms in weight or limits of size specified in UPU Article RL 122.
2. **Package Labeling.** The bilaterally agreed upon, co-designed label will be displayed on the outside of each package. Customers in Hong Kong will use the HKP-certified software to print labels which will include a valid UPU Letter-Post barcode. The sample label is presented in Annex 3. In addition, each item will display a completed and accurate customs declaration.

Receptacle Preparation Requirements

1. **Separation from other products.** The Small Packet with Delivery Scanning product that is described in this Agreement will be sorted in receptacles separate from other mail pieces. Other international products, including, but not limited to, other Letter Post products, Express Mail Service (EMS), Air Parcels (Air CP), and direct entry packages, may not be commingled in receptacles containing Small Packet with Delivery Scanning items.
2. **Receptacle Identification.** Each receptacle will contain a 29-character UPU barcode containing the bilaterally agreed-upon mail subclass code.
3. **Receptacle Routing.** To expedite the processing and delivery of these packages, the sending post may present receptacles to corresponding Offices of Exchange (OEs) per the routings outlined in Annex 5.

Dispatch Preparation Requirements

1. **Separation from other products.** The Small Packet with Delivery Scanning product that is described in this Agreement will be dispatched separately from other mail pieces. Other international products, including but, not limited to, other Letter Post products, Express Mail Service (EMS), Air Parcels (Air CP), and direct entry packages, may not be commingled in dispatches containing Small Packet with Delivery Scanning items.
2. **Dispatch Identification.** Each dispatch will contain the bilaterally agreed-upon mail subclass code and unique dispatch numbers, which shall not repeat within any settlement period.
3. **Dispatch Manifesting.** Each dispatch will be manifested using the existing PREDES messages, whereby the number of receptacles and the total weight and number of pieces contained in each receptacle will be transmitted as accurately and timely as possible.

Financial Requirements

Upon launching the Small Packet with Delivery Scanning, USPS and Hongkong Post shall settle these volumes, and other Letter Post volumes in accordance with current Letter Post settlement procedures. However, Small Packet with Delivery Scanning volumes will be identified and segregated from other Letter Post volume through the assignment of the "UD" mail subclass. At the end of the settlement period, the corresponding rate, as determined in this agreement, shall be

applied to the corresponding Letter Post volume, as identified by the mail subclass. Hongkong Post agrees to generate unique dispatch numbers throughout the course of the settlement period.

In the interim, USPS and Hongkong Post shall establish a working group to jointly develop and finalize the monthly invoicing and quarterly settlement procedures. The joint development of the quarterly settlement process will ensure each party's accounting and operational processes are taken into consideration and utilized in the future settlement process.

Return Service, Customer Inquiries and Compensation

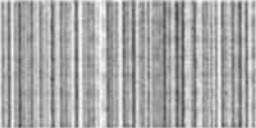
1. **Return Service.** Return service for undeliverable, refused, or missent packages will be provided consistent with the current procedures for letter-post small packets.
2. **Customer Inquiries.** USPS will not accommodate customer inquiries made by customers in either Hong Kong or the United States through retail units, customer service hotlines, or other channels for Small Packets with Delivery Scanning.
3. **Compensation.** USPS does not offer indemnity or insurance for Small Packages with Delivery Scanning. Accordingly, unless the Parties agree otherwise in a separate written agreement, USPS shall have no such liability.

Service Standards

Small Packets with Delivery Scanning under this Agreement carry no day- or time-specific guarantee. Applicable domestic service standards apply once the packages are cleared through U.S. Customs & Border Protection and entered into the U.S. domestic mailstream.

Annex 3 Co-Designed Label Samples

Below are sample labels for Small Packets with Delivery Scanning.

F	 UNITED STATES POSTAL SERVICE	Air Mail Postage Paid
<small>From:</small>		
FOREIGN SENDER STREET ADDRESS CITY COUNTRY POSTAL CODE	 ZIP 12345	
TO:	US RECIPIENT NAME STREET ADDRESS SUITE/ APT NUMBER WASHINGTON DC 12345-1234	
USPS DELIVERY CONFIRMATION 		

Annex 4 – Detailed Item Content Restrictions

All items mailed under this Agreement must conform to the mailability requirements of the United States Postal Service, as detailed in the International Mail Manual sections 135 and 710; the United States country listing in the Universal Postal Union's List of Prohibited Items; and Domestic Mail Manual section 601. As of the execution date of this Agreement, these materials are available at the following websites, respectively:

http://pe.usps.gov/text/imm/immc1_013.htm

http://pe.usps.com/text/imm/immc7_001.htm

http://www.upu.int/customs/en/country_list_en.pdf

<http://pe.usps.gov/text/dmm300/601.htm>

Annex 5 – Suggested Office of Exchange Routing Details

The following table illustrates the appropriate U.S. point of entry based on the first digit of the destination address postal code. A more detailed table based on the first three digits can be provided upon request.

First Digit of Postal Code	Desired U.S. Point of Entry
0	JFK - New York
1	JFK - New York
2	JFK - New York
3	JFK - New York
4	JFK – New York
5	JFK – New York
6	JFK – New York
7	SFO – San Francisco OR LAX – Los Angeles
8	SFO – San Francisco OR LAX – Los Angeles
9	SFO – San Francisco OR LAX – Los Angeles