

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

Market Dominant Product Prices  
HongKong Post–United States Postal Service  
Letter Post Bilateral Agreement (MC2010-35)  
Negotiated Service Agreement

Docket No. R2011-4

NOTICE AND ORDER CONCERNING RATE ADJUSTMENT FOR BILATERAL  
AGREEMENT WITH HONGKONG POST AND FUNCTIONALLY EQUIVALENT  
NEGOTIATED SERVICE AGREEMENT

(Issued February 4, 2011)

I. INTRODUCTION

On January 31, 2011, the Postal Service filed a notice pursuant to 39 U.S.C. 3622(c)(10) and 39 CFR 3010.40 *et seq.* concerning a Type 2 rate adjustment.<sup>1</sup> The Notice concerns the inbound portion of a bilateral agreement with HongKong Post as a

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<sup>1</sup> Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, January 31, 2011 (Notice). *See also* 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, September 30, 2010.

functionally equivalent agreement under the Inbound Multi-Service Agreements with Foreign Postal Operators 1 product in Docket Nos. MC2010-35, R2010-5 and R2010-6.

The Postal Service states that the Governors have authorized Type 2 rate adjustments for negotiated service agreements in accordance with 39 CFR 3010.40 *et seq.* that will result generally in more remunerative rates than the default rates set by the Universal Postal Union (UPU) Acts for inbound Letter Post items. *Id.* at 1. The agreement is scheduled to become effective April 1, 2011.<sup>2</sup>

In support of its Notice the Postal Service filed two attachments as follows:

- Attachment 1— an application for non-public treatment of materials to maintain redacted portions of the agreement and supporting documents under seal; and
- Attachment 2— a redacted copy of the agreement.

*Related agreements.* In Order No. 549, the Commission approved the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product and two functionally equivalent agreements, Strategic Bilateral Agreement Between United States Postal Service and Koninklijke TNT Post BV and TNT Post Pakketservice Benelux BV (TNT Agreement), and the China Post Group—United States Postal Service Letter Post Bilateral Agreement (CPG) Agreement. The Postal Service and HongKong Post, the postal operator for Hong Kong are parties to the instant agreement, which covers inbound Letter Post in the form of letters, flats, small packets, bags, and International Registered Mail service for Letter Post. *Id.* at 2-3. As in the current agreement with CPG in Docket No. R2010-6, the instant agreement also establishes an ancillary service for delivery confirmation scanning with Letter Post small packets. *Id.* at 3.

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<sup>2</sup> The Postal Service's Notice states inadvertently that the agreement's rates are intended to become effective April 1, 2010. *Id.* at 2. The bilateral agreement provides that the agreement becomes effective upon the Postal Service obtaining all regulatory approvals and notifying HongKong Post that all such approvals have been obtained. The date of notification is the effective date unless the parties agree to an alternative date. The agreement will continue in effect through the remainder of this calendar year. For the next calendar year, the parties will evaluate the agreement to determine if it will be modified. *Id.* Attachment 2.

The Postal Service states its filings comply with 39 CFR 3010.40 *et seq.* for the implementation of a negotiated service agreement. The Notice identifies performance attributes associated with the agreement, *e.g.*, sortations for routing to the Postal Service's International Service Centers based on destination ZIP Codes, and delivery confirmation service for Letter Post small packets that includes separation of the pieces for efficiency in processing. Notice at 3-4.

Under 39 CFR 3010.43, the Postal Service is required to submit a data collection plan. The Postal Service indicates that it intends to report information on this agreement through its Annual Compliance Report. While indicating its willingness to provide information on mail flows within the annual compliance review process, the Postal Service proposes that no special data collection plan be established for this agreement. With respect to performance measurement, it requests that the Commission exempt this agreement from separate reporting requirements under 39 CFR 3055.3 as determined in Order No. 549 for the agreements in Docket Nos. R2010-5 and R2010-6. *Id.* at 5-6.

*Functional equivalency.* The Postal Service advances reasons why the agreement is functionally equivalent to the previously filed TNT and CPG agreements and contains the same attributes and methodology. *Id.* at 7-9. It asserts that the instant agreement fits within the Mail Classification Schedule language for Inbound Multi-Service Agreements with the Foreign Postal Operators 1 product. Additionally, it states that it includes similar terms and conditions, *e.g.*, is with a foreign postal operator, conforms to a common description, and relates to rates for Letter Post tendered from the postal operator's territory with accompanying ancillary services. *Id.* at 7-8.

The Postal Service identifies specific terms that distinguish the instant agreement from the two existing agreements. *Id.* at 8-9. These include term, settlement charges and explanations, mail restrictions, and details on disclaimers, barcoding, and software. The Postal Service contends that the instant agreement is nonetheless functionally equivalent to existing agreements

and “[t]he 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.” *Id.* at 9.

In its Notice, the Postal Service maintains that certain portions of the agreement, prices, and related financial information should remain under seal. *Id.* at 1, Attachment 1.

The Postal Service concludes that the inbound portion of the bilateral agreement with HongKong Post should be added as a functionally equivalent agreement under the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.* at 10.

## II. NOTICE OF FILINGS

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. 3622 and 39 CFR part 3010.40. Comments are due no later than February 14, 2011.<sup>3</sup> The public portions of these filings can be accessed via the Commission’s website (<http://www.prc.gov>).

The Commission appoints Kenneth Moeller to serve as Public Representative in this docket.

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<sup>3</sup> To provide interested persons sufficient time to comment in these proceedings, the Commission finds it appropriate to waive the 10-day comment period specified in 39 CFR 3010.44(a)(5). The modest extension will not prejudice either party to the agreement given the 45 days’ advance notice required for Type 2 rate adjustments.

### III. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission establishes Docket No. R2011-4 to consider matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Kenneth Moeller is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than February 14, 2011.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams  
Acting Secretary