

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
Priority Mail Contract 7 (MC2009-25)
Negotiated Service Agreement

Docket No. CP2009-31

ORDER CONCERNING AMENDMENT TO
PRIORITY MAIL CONTRACT 7
NEGOTIATED SERVICE AGREEMENT

(Issued February 23, 2011)

I. INTRODUCTION

The Postal Service proposes to amend and adjust prices for Priority Mail Contract 7. For the reasons discussed below, the Commission approves the proposed amendment and price adjustments.

II. BACKGROUND

On February 9, 2011, the Postal Service filed notice of a change in prices pursuant to an amendment to Priority Mail Contract 7.¹ The Notice includes three

¹ Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 7, February 9, 2011 (Notice).

attachments: (1) a redacted version of the amendment to Priority Mail Contract 7 as Attachment A; (2) a certified statement of compliance with 39 U.S.C. 3633(a) as Attachment B; and (3) an application for non-public treatment as Attachment C. Separate Excel files containing a redacted version of the supporting financial documentation were also filed. In addition, the Postal Service filed the unredacted amendment to the contract and supporting financial documentation under seal. Notice at 1.

Substantively, the Notice seeks approval of an amendment to the prices for Priority Mail Contract 7 while keeping the contract's existing duration. *Id.* Attachment A.² The Postal Service states that the price amendment will become effective the day the Commission completes its review of the Notice. Notice at 1.

In Order No. 670, the Commission gave notice of the reopening of Docket No. CP2009-31, appointed a public representative to consider the issues identified in the Postal Service's Notice, and provided the public with an opportunity to comment.³

III. COMMENTS

Comments were filed by the Public Representative.⁴ No other interested person submitted comments. The Public Representative states that each applicable element of 39 U.S.C. 3633(a) appears to be met by this amendment and that the underlying contract is consistent with the policies of 39 U.S.C. 3622, 3632, 3642 and 39 CFR part 3015. *Id.* at 3. The Public Representative notes that a new, unexplained adjustment has been made to attributable costs. *Id.* at 2. The Public Representative

² Priority Mail Contract 7 was originally approved, along with Priority Mail Contracts 6, and 8 through 10 by Order No. 226. See Docket Nos. MC2009-25 and CP2009-30 through CP2009-34, Order Concerning Priority Mail Contracts 6 through 10, June 19, 2009.

³ Notice and Order Concerning Amendment to Priority Mail Contract 7, Negotiated Service Agreement, February 11, 2011 (Order No. 670).

⁴ Public Representative Comments in Response to United States Postal Service Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 7, February 18, 2011.

also states that the Postal Service has provided adequate justification for maintaining confidentiality in this case. *Id.* at 3.

IV. COMMISSION ANALYSIS

The Postal Service proposes an amendment to Priority Mail Contract 7 that adjusts the price terms but maintains the original contract duration. The Commission has reviewed the Notice, the contract and its amendment, the financial analysis provided under seal that accompanies it, and the comments filed by the Public Representative.

Statutory requirements. The Commission reviews changes in competitive product prices for rates not of general applicability to ensure that they meet the applicable requirements of rules 3015.5 and 3015.7 and 39 U.S.C. 3633.

Based on the data submitted and the amendment to Priority Mail Contract 7, the Commission finds Priority Mail Contract 7 should cover its attributable costs (39 U.S.C. 3633(a)(2)),⁵ should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of the proposed pricing amendment to Priority Mail Contract 7 and the contract as a whole indicate that Priority Mail Contract 7 comports with the provisions applicable to rates for competitive products.

Other considerations. The Postal Service shall notify the Commission if the contract terminates prior to its scheduled termination date. Following the termination date of the agreement, the Commission will remove the product from the competitive product list.

⁵ As noted by the Public Representative, the Postal Service made one change to its calculation of attributable costs. It appears at Excel file: SupportPriority_FY10.xls, Tab: Inputs, line 36. This change is not explained in the Notice or in the financial documentation. The adjustment reduces the cost of the contract, thereby increasing the cost coverage. However, if the adjustment is removed from the analysis, the contract still has a healthy cost coverage.

Within 30 days after the instant contract terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

In conclusion, based on the record in this proceeding, the Commission finds that the price adjustments to Priority Mail Contract 7 satisfy 39 U.S.C. 3633(a).

V. ORDERING PARAGRAPHS

It is ordered:

1. As set forth in the body of this Order, the price adjustments to Priority Mail Contract 7 satisfy 39 U.S.C. 3633(a).
2. The Postal Service shall notify the Commission if the contract terminates prior to its scheduled termination date.
3. Within 30 days after the instant contract terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

By the Commission.

Shoshana M. Grove
Secretary