

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
Parcel Select
Parcel Select Contract 1

Docket No. MC2011-16

Competitive Product Prices
Parcel Select Contract 1 (MC2011-16)
Negotiated Service Agreement

Docket No. CP2011-53

ORDER APPROVING AMENDMENT TO
PARCEL SELECT CONTRACT 1
NEGOTIATED SERVICE AGREEMENT

(Issued March 18, 2011)

I. INTRODUCTION

The Postal Service proposes to amend prices for Parcel Select Contract 1. For the reasons discussed below, the Commission approves the proposed price amendment.

II. BACKGROUND

On March 1, 2011, the Commission approved the Postal Service's request to add Parcel Select Contract 1 to the competitive product list.¹ Parcel Select Contract 1 involves an agreement (Agreement) between the Postal Service and StartSampling, Inc. (StartSampling) to license and distribute the "Sample Showcase" box.² StartSampling must pay the Postal Service a per-piece charge for each box, which includes postage under Parcel Select pricing. *Id.* Attachment B at 10.

On March 3, 2011, the Postal Service filed notice of a change in prices to Parcel Select Contract 1.³ The Notice includes a redacted version of the Addendum to Licensing and Shipping Services Agreement Between the United States Postal Service and StartSampling Regarding Sample Showcase (Addendum). The Postal Service also filed a redacted version of Governors' Decision No. 11-3,⁴ a certification of prices, an application for non-public treatment of materials, and supporting financial documentation under seal. *Id.* at 1-2.

Substantively, the Notice seeks approval of the Addendum, which establishes an alternative per-piece charge for Sample Showcase boxes that comply with certain weight and revenue restrictions. The alternative per-piece charge equals "an applicable published postage rate" (as defined in the Addendum) plus the costs to the Postal Service of procuring the Sample Showcase box. *Id.* Attachment B at 1.

The Addendum also enables StartSampling to mail certain Sample Showcase boxes previously prohibited under the Agreement as long as those boxes meet specific

¹ Order Approving Parcel Select Contract 1 Negotiated Service Agreement, March 1, 2011 (Order No. 686).

² Request of the United States Postal Service to Add Parcel Select Contract 1 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 23, 2010, at 1.

³ Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Parcel Select Contract 1, March 3, 2011 (Notice).

⁴ Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Parcel Select Service (Governors' Decision No. 11-3), February 28, 2011.

content restrictions. The Postal Service states that the Addendum will become effective the day the Commission completes its review of the Notice. *Id.* at 1.

On March 4, 2011, the Commission reopened Docket Nos. MC2011-16 and CP2011-53, appointed a Public Representative, and provided interested persons with an opportunity to comment.⁵

III. COMMENTS

The Public Representative was the only interested person to file comments.⁶ He discusses the financial risk that some Sample Showcase boxes mailed under the Addendum will not cover costs. He states that this risk arises because many parcel rates of general applicability fail to cover their costs. *Id.* at 2. Although he questions some of the assumptions underlying the costing methodology, the Public Representative concludes that the Commission should approve the price amendment. *Id.* at 2-3. He recommends that the Commission monitor Parcel Select Contract 1 by requiring the Postal Service to report additional data quarterly. *Id.* at 3.

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

The Addendum raises potential issues relating to products covered by the postal monopoly. See Governors' Decision No. 11-3 at 1. Under the Addendum, StartSampling may mail Sample Showcase boxes that were previously prohibited under the Agreement. However, the Addendum requires that these boxes meet specific content restrictions so that they contain no coupons or advertising material other than

⁵ Order No. 690, Notice and Order Concerning Amendment to Parcel Select Contract 1 Negotiated Service Agreement, March 4, 2011.

⁶ Comments of the Public Representative in Response to Order No. 690, March 11, 2011.

samples. Notice, Attachment B at 2. These restrictions address concerns regarding the postal monopoly.

Cost considerations. The Commission reviews changes in competitive product prices for rates not of general applicability to ensure that they meet applicable requirements of 39 U.S.C. § 3633(a) and 39 CFR 3015.5. A review of the Addendum and the Agreement as a whole indicates that Parcel Select Contract 1 complies with these provisions.

Data submitted by the Postal Service⁷ demonstrate that Parcel Select Contract 1 will continue to have a reasonable cost coverage, even though some Sample Showcase boxes mailed at the alternative per-piece rate will not cover their costs. Importantly, this finding assumes that StartSampling will mail a certain percentage of boxes at the alternative rate. The Postal Service recognizes the risk that, particularly during the first year of the Agreement, this percentage could be higher than expected and adversely affect cost coverage. Governors' Decision No. 11-3 at 4.

Because of this risk, the Commission finds that quarterly reporting, as suggested by the Public Representative, is appropriate during the first year of the Agreement. The Postal Service shall, within 30 days after the close of each (fiscal year) quarter, provide the Commission with volumes, revenues, and costs data for Sample Showcase boxes mailed at both Parcel Select rates and the alternative per-piece charge.

Other considerations. Consistent with Order No. 686, the Postal Service shall promptly notify the Commission of the effective dates of the Addendum. The Postal Service shall notify the Commission if the Agreement, as amended, terminates before its scheduled termination date. Within 30 days after the Agreement terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the Agreement.

⁷ In the order approving Parcel Select Contract 1, the Commission stated that “supporting revenue and cost data for competitive products must also use currently acceptable methodologies.” Order No. 686 at 6. The supporting revenue and cost data for the Addendum use currently acceptable methodologies.

In conclusion, the Commission approves the proposed price amendment to Parcel Select Contract 1.

V. ORDERING PARAGRAPHS

It is ordered:

1. As set forth in the body of this Order, the Commission approves the proposed price amendment to Parcel Select Contract 1.
2. The Postal Service shall, within 30 days after the close of each (fiscal year) quarter, provide the Commission with volumes, revenues, and costs data for Sample Showcase boxes mailed at both Parcel Select rates and the alternative per-piece charge.
3. The Postal Service shall promptly notify the Commission of the effective dates of the Addendum.
4. The Postal Service shall notify the Commission if the Agreement, as amended, terminates before its scheduled termination date.
5. Within 30 days after the Agreement terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the Agreement.

By the Commission.

Ruth Ann Abrams
Acting Secretary