

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Competitive Product Prices
Global Plus 2C (MC2012-5)
Negotiated Services Agreements

Docket Nos. MC2012-5
CP2012-10
CP2012-11

ORDER ADDING GLOBAL PLUS 2C TO THE
COMPETITIVE PRODUCT LIST AND APPROVING
FUNCTIONALLY EQUIVALENT GLOBAL PLUS 2C AGREEMENTS

(Issued January 13, 2012)

I. INTRODUCTION

The Postal Service seeks to add a new product identified as Global Plus 2C to the competitive product list. For the reasons discussed below, the Commission approves the Request.

II. BACKGROUND

Introduction. On December 30, 2011, the Postal Service filed a Request to add Global Plus 2C as a new product to the competitive product list, along with a related notice announcing it has entered into two Global Plus 2C contracts (Agreements).¹ It concurrently filed redacted versions of supporting information and financial data and an application for non-public treatment of the unredacted versions of the redacted material.² The Commission noticed the Postal Service's filing in Order No. 1111.³

Identification of the Agreements. The Postal Service believes the instant Agreements fit within the MCS language for Global Plus 2 and characterizes them as the immediate successors and counterparts of the Global Plus 2B agreements addressed in Docket Nos. CP2011-41 and CP2011-42, which are expiring. It says the new Agreements are set to begin on January 16, 2012 at the expiration of the Global Plus 2B agreements, and will remain in effect until 11:59 p.m. on the date prior to the date in January 2013 when Canada Post Corporation institutes a price change for certain products, or in the absence of such change, at 11:50 p.m. on January 31, 2013. Request at 5.

Functional equivalence. The Postal Service considers the instant Agreements functionally equivalent, in that they share similar cost and market characteristics. It notes that Governors' Decision No. 08-10 established a pricing formula and classification that ensure each Global Plus 2 agreement meets section 3633 criteria and

¹ Request of the United States Postal Service to add Global Plus 2C to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 2C Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed under Seal, December 30, 2011 (Request). The Request was filed pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*

² The application is Attachment 1. No one opposed the application. See Attachments 2A and 2B for the referenced material (which includes redactions). Attachment 2C contains revised Mail Classification Schedule (MCS) language; it is not redacted.

³ Notice and Order on Request Concerning Global Plus 2C Contracts, January 6, 2012 (Order No. 1111).

related regulations promulgated, and that the pricing formula for the instant Agreements is included in Governors' Decision No. 11-6. *Id.* at 6. The Postal Service also asserts that the instant Agreements conform to a common description and that the proposed MCS language requires each of the instant Agreements to cover attributable costs. *Id.* It therefore says they meet the Governors' criteria, exhibit cost, and market characteristics similar to the previous Global Plus 2 agreements, and therefore should be classified as a single product. *Id.*

The Postal Service asserts the instant Agreements are very similar, except for customer's identifying information and a limited number of terms in Article 17, paragraph 1, and Article 13, paragraph 1. The salient differences, attributed to the result of negotiations, are in the commitment to tender a certain amount of postage (in Article 7, paragraph 1) and a resulting variation in the penalties for non-achievement of commitments (in Article 13, paragraph 1). *Id.* at 6-7. The Postal Service asserts that these differences do not affect the rate design or the market characteristics of the Global Plus 2 product. *Id.* at 7.

The Postal Service notes that the Global Plus 2C product is distinct from Global Plus 2B because of the addition of International Business Reply Services to the Global Plus 2 product. *Id.* Financial models submitted in this case reflect this distinction. *Id.*

Filing under part 3020. The Postal Service reviews the material it has filed with the Commission in this and previous related cases, and asserts that it demonstrates the consistency of the Global Plus 2 Agreements with applicable statutory criteria. See generally *id.* at 7-9. It notes that all Global Plus 2C agreements are negotiated service agreements concerning outbound international mail, and therefore contends there is no further need to ponder whether Global Plus 2C agreements are market dominant or covered within the postal monopoly. *Id.* at 9.

Request for baseline status. In addition to asking that Global Plus 2C be added to the competitive product list, the Postal Service asks the instant Agreements be

included within the Global Plus 2C product, and be considered the baseline agreements for future functional equivalency analyses for the Global Plus 2C product. *Id.* at 9-10.

III. COMMENTS

The Commission received comments from the Public Representative.⁴ The Public Representative concludes that the instant Agreements (1) satisfy the criteria of 39 U.S.C. 3642(b) concerning classification of new competitive products; and (2) comply with the requirements of 39 U.S.C. 3622(a) concerning rates for new products. *Id.* at 3. He also believes that treating the instant functionally equivalent Agreements as new baseline agreements is appropriate. *Id.*

The Public Representative finds, with respect to product classification, that the Postal Service makes reasonable arguments that the instant Agreements, which involve outbound mail, are neither market dominant nor covered within the postal monopoly and includes, in the Statement of Supporting Justification, information addressing the additional considerations listed in 39 U.S.C. 3642(b)(3). *Id.* He also notes that the Commission has previously classified the predecessor Global Plus 2A and 2B products as competitive. *Id.* He therefore concludes that the Global Plus 2C product satisfies section 3642(b) criteria for classification as competitive, and should be added to the competitive product list. *Id.*

With respect to product costs, the Public Representative observes that Agreements' cost estimates are developed using FY 2010 cost information and other data presented in the FY 2010 International Cost and Revenue Analysis (ICRA) Report, and then adjusted for estimates of future inflation. *Id.* at 4. He says the use of FY 2010 ICRA data instead of FY 2011 ICRA data suggests the estimates in the instant Agreements are less certain, and thus less reliable, as they are adjusted for inflation

⁴ Public Representative Comments on Request of the Postal Service to Add Global Plus 2C to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 2C Negotiated Service Agreements, January 11, 2012 (PR Comments). No other comments were filed.

estimates for a period of more than two years: Quarter 1 of FY 2011, CY 2011, and the contract year of CY 2012. *Id.* In the future, he suggests that the Postal Service use cost information from the most recent ICRA in its financial models to develop contract cost estimates for future Global Plus agreements; however, he finds the financial models in this case support a conclusion that the negotiated prices for the instant Agreements should cover their estimated costs and that the product is therefore compliant with section 3633(a). *Id.*

With respect to functional equivalence, the Public Representative notes the Postal Service's acknowledgment that the instant Agreements are distinct from the predecessor Global Plus 2B agreements due to the addition of International Business Reply services as a service offering and differences in each customer's identifying information and a limited number of terms. *Id.* at 4-5. The Public Representative agrees these differences do not alter the conclusion that the two Global Plus 2C Agreements are functionally equivalent or that they should serve as the "baseline" agreements for future tests of functional equivalency. *Id.* at 5.

IV. COMMISSION ANALYSIS

Issues. At issue is whether Global Plus 2C qualifies for addition as a new product under 39 U.S.C. 3642; whether the Global Plus 2C Agreements satisfy the criteria in 39 U.S.C. 3633; and whether the Global Plus 2C Agreements should serve as new baseline agreements.

Product classification. The Postal Service observes that the Commission, in Order No. 43, found that products for outbound International Mail are competitive. Request at 9. The Global Plus 2C product is likewise properly classified as competitive.

Cost considerations. The Postal Service asserts that Governors' Decision No. 08-10 supporting this Agreement establishes a pricing formula and classification that ensures each Agreement meets the criteria of 39 U.S.C. 3633 and related

regulations. *Id.* at 6. The Public Representative agrees that the Agreements satisfy 39 U.S.C. 3633. PR Comments at 3.

Based on analysis of the data and information filed in this case, the Commission finds that the contracts should cover their attributable costs (consistent with 39 U.S.C. 3633(a)(2)); 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 (in satisfaction of 39 U.S.C. 3633(a)(3)). Thus, initial review of the instant contracts indicates they comport with statutory provisions applicable to rates for competitive products.

Status of contracts as the new baseline. The Public Representative supports the Postal Service' proposal that the instant Agreements serve as new baseline agreements for future analyses of Global Plus 2C agreements. PR Comments at 5. Having considered the points raised in support of the requested treatment, the Commission agrees that the instant Agreements should have the status of baseline agreements in future analyses of Global Plus 2C agreements.

ICRA data. The Public Representative usefully notes that reliance on FY 2010 ICRA increases reliance on extended inflation-related estimates. The Commission agrees that in future filings, the Postal Service should use the most current ICRA data or provide a detailed explanation of why it is not possible to do so.

MCS. The Commission believes it is more appropriate for the MCS to include stand-alone provisions. Due to time constraints and perhaps other considerations, the MCS language the Postal Service submitted does not use the stand-alone approach. The Commission accepts this approach as a temporary expedient.

Required follow-up submissions. Global Plus 2B agreements (in Docket Nos. CP2011-41 and CP2011-42) expire at 11:59 p.m. on January 15, 2012. The Commission, in Order No. 623, directed the Postal Service to file costs, volumes, and revenues disaggregated by weight and country group associated with the current contracts, including any penalties paid, within 30 days of the expiration of these

contracts. The Postal Service shall file the same data and information within 30 days of the termination of the instant contracts.

Formal action on Request. The Commission adds Global Plus 2C to the competitive product list. It also finds the negotiated service agreements filed in Docket Nos. CP2012-10 and CP2012-11 are appropriately included within the Global Plus 2C product.

V. ORDERING PARAGRAPHS

It is ordered:

1. Global Plus 2C (MC2012-5, CP2012-10 and CP2012-11) is added to the competitive product list as a new product, under Negotiated Service Agreements, Outbound International.
2. The Postal Service shall inform the Commission of the effective dates of each contract and notify the Commission if either contract terminates earlier than scheduled, as discussed in this Order.
3. Within 30 days of the expiration of the instant contracts (Docket Nos. CP2012-10 and CP2012-11), the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the respective Agreements, including any penalties paid.

4. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGE IN MAIL CLASSIFICATION SCHEDULE
CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified at 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule. These changes are in response to Docket Nos. MC2012-5, CP2012-10 and CP2012-11. The Commission uses two main conventions when making changes to the product lists. The addition of text is indicated by underscoring. Deleted text is indicated by a strikethrough.

PART B—Competitive Products

2000 Competitive Product List

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Negotiated Service Agreements

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Outbound International

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Global Plus 2C (MC2-12-5, CP2012-10 and CP2012-11)

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