

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

Before Commissioners:

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

Competitive Product Prices  
Express Mail & Priority Mail  
Express Mail & Priority Mail Contract 12

Docket No. MC2013-33

Competitive Product Prices  
Express Mail & Priority Mail Contract 12  
(MC2013-33)  
Negotiated Service Agreement

Docket No. CP2013-44

NOTICE AND ORDER CONCERNING ADDITION OF EXPRESS MAIL  
& PRIORITY MAIL CONTRACT 12 TO THE COMPETITIVE PRODUCT LIST AND  
REQUEST FOR SUPPLEMENTAL INFORMATION

(Issued January 24, 2013)

I. INTRODUCTION

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Express Mail & Priority Mail Contract 12 to the competitive product list.<sup>1</sup> The Postal Service

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<sup>1</sup> Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 12 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, January 23, 2013 (Request).

asserts that Express Mail & Priority Mail Contract 12 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2013-33.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.*

Attachment B. The instant contract has been assigned Docket No. CP2013-44.

*Request.* To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors’ Decision No. 11-6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

*Related contract.* The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract does not appear to specify an effective date. *Id.* at 5; see Section III, *infra*. However, the contract is scheduled to expire 5 years from the effective date, unless, among other things, either party terminates the agreement with 30 days’ written notice to the other party. *Id.* at 6. The

Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

## II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2013-33 and CP2013-44 to consider the Request pertaining to the proposed Express Mail & Priority Mail Contract 12 product and the related contract, respectively.

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. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than January 31, 2013. The public portions of these filings can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

## III. SUPPLEMENTAL INFORMATION

To clarify the record, the Postal Service is requested to provide a written response to the following question. An answer should be provided as soon as it is developed, but no later than January 29, 2013.

Many of the terms of the contract, including the termination date and the timing of price adjustments, are dependent on the effective date of the contract. *Id.* Attachment B. The contract does not appear to specify an effective date. *Id.*

at 5. Please provide documentation establishing the effective date of the contract, as agreed to by the parties to the contract.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission establishes Docket Nos. MC2013-33 and CP2013-44 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than January 31, 2013.
4. The Postal Service's response to the request for supplemental information is due no later than January 29, 2013.
5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove  
Secretary