

Before The  
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 Products Prices  
Outbound International Expedited Services  
Global Express Guaranteed  
Change In Rates Of General Applicability

Docket No. CP2013-54

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE REQUEST  
FOR TEMPORARY CHANGE IN RATES OF GENERAL APPLICABILITY  
FOR GLOBAL EXPRESS GUARANTEED  
COMPETITIVE INTERNATIONAL MAIL PRODUCT

(March 29, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1681.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service request for a temporary change in rates of general applicability for Global Express Guaranteed competitive international mail.<sup>2</sup>

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<sup>1</sup> Notice of Temporary Change in Rates of General Applicability For Global Express Guaranteed Competitive International Mail Product, March 25, 2013.

<sup>2</sup> United States Postal Service Notice of Promotional Rates for Global Express Guaranteed Service, March 20, 2013 (Notice).

The Notice, in conformance with Commission rules 3015.2(b) and 3015.3(b), includes an explanation and justification for the change; identifies the effective date and duration of the 2013 GXG Promotion; and presents a schedule of the changed rates. *Id.* at 2. Attachment 1 presents proposed Mail Classification Schedule language addressing the 2013 GXG Promotion. *Id.* Attachment 1. Attachment 2 is the certified statement regarding prices required by Commission rule 3015.3(c)(3). *Id.* Attachment 2. Attachment 3 is an Application for Non-Public Treatment of Materials filed under seal. *Id.* Attachment 3. The sealed materials include the discounted promotional rates for GXG and additional supporting documentation, including financial workpapers that detail resulting revenue effects. *Id.* at 3. The Postal Service also filed redacted versions of the sealed materials. *Id.*

The Postal Service states that Governors' Decision No. 12-02, issued September 13, 2012, provides that the Postal Service may offer one or more promotions in the form of a discount or rebate on certain GXG and EMI (Express Mail International) items, during an established promotional period, to mailers that comply with the promotional program's eligibility requirements. Notice at 2. (Footnote omitted.) It further states that the Commission has acknowledged that the Postal Service would be filing potential promotions and that appropriate language will be added to the draft MCS once the Commission reviews and approves particular promotions. *Id.* (Footnote omitted.)

In Docket No. CP2013-3, the Postal Service provided notice of changes in rates of general applicability and of corresponding classification changes for competitive products, including GXG. *Id.* at 1-2. The 2013 GXG Promotion will provide certain eligible mailers with a discount on GXG during the promotional period, which begins April 29, 2013 and extends, at the latest, to June 1, 2013, through a decrease off the applicable Commercial Base or Commercial Plus price for GXG items for existing customers using Global Shipping Software (GSS). *Id.* at 3. The Postal Service states that the purpose is to increase interest in GXG service among businesses by offering a promotional sale, and that it is designed to stimulate volume growth and provide customers with an incentive to use GXG. *Id.*

*Additional terms.* The following terms and conditions also apply:

- the promotion is only applicable to Postal Service customers with a GSS account during the promotion period;
- no registration is required;
- the promotion is not valid with any other USPS promotion, and excludes GSS customers that have a Global Expedited Package Services Contract, a Global Plus Contract, a Global Reseller Expedited Package Contract, or a Global Expedited Package Services–Non-Published Rates Contract;
- all other standards in International Mail Manual section 210 apply;
- the discount does not apply to optional insurance coverage in excess of \$100;
- the promotional discount is limited to the equivalent of \$10,000 in total discounts for Commercial Base and Commercial Plus postage for Global Express Guaranteed items per GSS account holder during the promotion period;
- customers may opt out of the promotion by contacting GSS customer support directly; and
- the Postal Service reserves the right, without prior notice, to end the promotion before June 1, 2013 and to make changes to the promotion (except for changes that affect the percentage discount offered under the promotion).

*Id.* at 3-4.

*Customer notification.* The Postal Service states that once the Commission completes its review of the 2013 GXG Promotion, eligible customers will be notified about the promotion, participation, and applicable terms and conditions by email. *Id.* at 4-5.

*Revenue effects and reporting.* The Postal Service states that financial workpapers provide estimates of the financial impact of the 2013 GXG Promotion. *Id.* at 5. It further states that GXG prices combined with the rates in the 2013 GXG Promotion are in compliance with 39 U.S.C. 3633. *Id.* The Postal Service states that it intends to report revenue for GXG published rates through the Annual Compliance Report, and therefore proposes that the Commission create no special report requirement concerning the 2013 GXG Promotion. *Id.*

## **Comments**

The Public Representative has reviewed the Postal Service's Notice, the Statement of Supporting Justification and the financial data and model filed under seal that accompanies the Postal Service's Notice. Based upon that review, the Public Representative concludes that the Postal Service's request for a temporary rate decrease should be approved by the Commission.

*Requirements of 39 U.S.C. § 3633.* Pursuant to 39 U.S.C. § 3633(a) and the Commission's regulations thereunder, the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service's request, the revenue per piece resulting from the temporary price reduction for GXG, including several allowances for contingencies, will generate sufficient revenues to cover attributable costs and will continue to enable Competitive

Products to contribute an appropriate share of institutional costs as required by 39 U.S.C. § 3633(a).

*Requirements of 39 U.S.C. § 3642.* Pursuant to 39 U.S.C. § 3642 and 39 CFR § 3020.30 which applies whenever the Postal service proposes to add, transfer, or remove a product from the Competitive Product List, the Postal Service is required to file notice with the Commission setting out its basis for determining that a product is properly classified as competitive and that the product satisfies the standards of section 3633. See 39 U.S.C. § 3642(d); 39 CFR § 3020.30.

The Commission has acknowledged that its regulations under 39 CFR § 3020.30, subpart B, are not a perfect fit for proceedings such as the GXG promotion proposed in this docket.<sup>3</sup> The Postal Service has not proposed to add, transfer or remove an entire product from the competitive product list, but rather to modify the existing GXG product to include additional features particular to this promotion.

The Public Representative believes that this proposed GXG promotion does not require a showing of compliance with respect to 39 CFR § 3020.30. However, should the Commission determine otherwise, in the absence of any evidence to the contrary, it appears that the standards of 39 U.S.C. § 3642(d) are met.

Section 3642(d) specifies the notification requirements for adding a product, removing a product, or transferring a product to a different category.<sup>4</sup> Section 3642(b)(3)(A-C) indicates that there are three additional considerations to be factored into any Commission decision: A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved; B) the views of those who

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<sup>3</sup> Docket No. MC20113-3, Order Approving Removal of International Restricted Delivery from the Competitive Product List, November 16, 2012, Order No. 1542 at 4.

<sup>4</sup> 39 U.S.C. § 3642(d), in turn, refers to the criteria laid out in § 3642(b). These sections are also silent on the issues of *modifications* to *existing* products.

use the product involved the appropriateness of the proposed action; and C) the likely impact of the proposed action small business concerns. *Id.*

While the Postal Service has not addressed the section 3642 criteria, it would appear that the short discount period would mitigate most, if not all, of any impact on any private sector entity engaged in the delivery of the product, particularly since in the instance of GXG, the Postal Service is partnered with FedEx. Those customers who are eligible and use the product would most likely view it favorably since it is a discount with few if any, disadvantages. Finally, the likely impact of the proposed action on small business concerns is positive as it will provide them a discount; again, with limited, if any, disadvantages.

*Additional Considerations.* The Postal Service's terms and conditions applicable to this program<sup>5</sup> serve to limit revenue loss caused by discounts on existing GXG volumes, *i.e.*, so-called "anyhow volumes." The total discount is limited to \$10,000 for Commercial Base and Commercial Plus postage for GXG items per GSS account holder. Moreover, the promotional period is limited to 30 days. The Postal Service's ability to modify or terminate the program early serves to protect it from even unforeseen difficulties.

An additional, although un-quantified, benefit to the Postal Service may occur to the extent that existing GXG customers, not currently utilizing GSS software, may continue to use the service after the close of the promotional period resulting in reduced costs to the Postal Service.

Although the Public Representative is satisfied the proposed short-term discount is not inconsistent with sections 3633 and 3642, the Notice raises some questions that the Commission may wish to explore through information requests.

1. The Postal Service says the discount is limited to existing customers, but it does not indicate whether it intends the discount to apply to existing GXG

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<sup>5</sup> Notice at 3.

customers or whether it applies to a broader group of “existing customers.”  
If so, to what group of existing customers does it apply?

2. If the discount is limited to GXG customers, then the justification for offering the discount is insufficient. The Postal Service says, “The Postal Service seeks to increase interest in GXG service among businesses by offering a promotion sale. The 2013 GXG Promotion is designed to stimulate volume growth and provide customers with an incentive to use GXG.”

How does the discount stimulate volume growth and provide an incentive to use GXG if it is available only to those who are already customers. Moreover, what is the anticipated volume growth beneficial to the Postal Service? The discount should increase volume over the short term, but that short term volume increase is not shown to increase net revenue for even the short term. There is nothing in the documentation that attempts to demonstrate longer term volume growth resulting from either permanent increases in their current volume or an increase in customers. In other words, even though statutory requirements for the modification may be met, the Postal Service’s justification for the discount program is unsupported and the supposed advantages are not apparent.

3. The purpose of the limitation to GSS account holders is unexplained. The limitation may be necessary to improve efficiencies and thereby justify the rate reduction, or the limitation may be a means to encourage implementing the use of GSS software by GXG customers. In either case, given the short time before implementation, the practical impact of such a limitation may be to restrict the discount unfairly to only a few customers currently using the GSS software who could benefit from the discount. The Postal Service should provide an explanation for the limitation to GSS account holders.

4. The Postal Service states that it intends to report revenue for GXG published rates through the Annual Compliance Report and therefore proposes that the Commission create no special report requirement concerning the GXG Promotion. Notice at 5. The Public Representative agrees that some form of reporting is appropriate. However, the Commission should require the Postal Service to report not only revenue from GXG published rates, but separately report volumes, revenues, and the dollar value of discounts resulting from this promotion.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

Respectfully submitted,

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