

ORDER NO. 1733

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
Global Reseller Expedited Package Contacts
Negotiated Service Agreements

Docket No. MC2013-51

Competitive Product Prices
Global Reseller Expedited Package Contacts 2
(MC2013-51)
Negotiated Service Agreements

Docket No. CP2013-64

NOTICE AND ORDER CONCERNING FILING OF
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 2
NEGOTIATED SERVICE AGREEMENT

(Issued May 29, 2013)

I. INTRODUCTION

On May 24, 2013, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Global Reseller Expedited Package (GREP) Contracts 2 to the competitive product list.¹ The Postal Service contemporaneously

¹ Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts 2 to the Competitive Products List and Notice of Filing a Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 24, 2013 (Request).

filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. On May 28, 2013, the Postal Service filed the certified statement and supporting financial information required by 39 CFR 3015.5(c).² For purposes of 39 CFR 3015.5(a), the Commission considers May 28, 2013 (the day the Postal Service submitted all information required under that section), to be the date of filing of the Request. In the future, the Postal Service should file all of its supporting information contemporaneously with its request.

Customers for GREP contracts are sales agents, or “Resellers,” who market Express Mail International, Priority Mail International, and First-Class Package International Service at discounted prices to mailers, particularly small and medium-size businesses. Request at 5. Governors’ Decision No. 10-1 established prices and classifications “not of general applicability” for the GREP Contracts 1 product, and the Commission added GREP Contracts 1 to the competitive product list by operation of Order No. 445 in Docket Nos. MC2010-21 and CP2010-36. *Id.* at 1-2. The Postal Service now seeks to establish a new baseline agreement for a product it proposes to designate as GREP Contracts 2. *Id.* at 2.

The Postal Service asserts that Governors’ Decision No. 11-6 authorizes Postal Service management to prepare and present to the Commission product descriptions for competitive services with non-published rates that include text for inclusion in the Mail Classification Schedule (MCS). *Id.* at 1-2, 3. The Postal Service asserts this classification change is consistent with the requirements of 39 U.S.C. 3642 and proposes conforming MCS language that it styles as a revision to the language for GREP Contracts 1. *Id.* at 7, Attachment 2B. The request to add GREP Contracts 2 to the MCS has been assigned Docket No. MC2013-51.

² Notice of the United States Postal Service of Filing Supplemental Materials, May 28, 2013 (Supplement).

The Postal Service states that the instant contract is the immediate successor to the contract included in GREP Contracts 1 in Docket No. CP2011-55. *Id.* at 4. The contract has been assigned Docket No. CP2013-64.

II. CONTENTS OF FILING

In support of its Request, the Postal Service filed the following six attachments:

- Attachment 1— an application for non-public treatment of materials to maintain the contract and supporting documents under seal;
- Attachment 2A—a redacted copy of Governors’ Decision No. 11-6, which authorizes Postal Service management to prepare any necessary product description of nonpublished competitive services, including text for inclusion in the MCS, and to present such matter for review by the Commission;
- Attachment 2B—draft MCS language;
- Attachment 2C—a certified statement required by 39 CFR 3015.5(c)(2);³
- Attachment 3—a Statement of Supporting Justification as required by 39 CFR 3020.32; and
- Attachment 4—a redacted copy of the contract.

The Postal Service also filed supporting financial documents for the contract as part of the Supplement.

The Postal Service filed a copy of the contract and Governors’ Decision No. 11-6 with attachments under seal. Request at 4. It later filed the certified statement required by 39 CFR 3015.5(c)(2) and supporting documents establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5 under seal, incorporating by reference the application for non-public treatment submitted with its Request. Supplement at 2.

In the Statement of Supporting Justification, Frank Cebello, Executive Director, Global Business Management, asserts that the service to be provided under the contract will “improve the Postal Service’s competitive posture,” make a positive

³ This certification was filed on May 28, 2013, as part of the Supplement.

contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Notice, Attachment 3 at 2. Thus, Mr. Cebello contends, there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.* He states that he is unaware of any small business concerns that could offer comparable services, and that the contract will have a positive net impact on small business concerns because the contract provides "an additional option for shipping articles internationally." *Id.* at 5.

In the certified statement required under 39 CFR 3015.5, Steven Phelps, Acting Manager, Regulatory Reporting and Cost Analysis, Finance Department, states that the prices under the contract result "in a cost coverage of in excess of the minimum required by the Governors' Decision [No. 11-6], exclusive of pickup on demand and international ancillary services fees." Supplement, Attachment 2C. Nevertheless, Mr. Phelps concludes that the contract "should cover its attributable costs and preclude the subsidization of competitive products by market dominant products." *Id.*

The contract is scheduled to take effect upon the termination of the contract approved in Docket No. CP2011-55. Request at 5. The contract is scheduled to expire 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. *Id.* Either party may terminate the contract with 30 days written notice. *Id.* Attachment 4 at 8.

III. COMMISSION ACTION

The Commission establishes Docket Nos. MC2013-51 and CP2013-64 for consideration of matters raised in the Request.

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 part 3015, and 39 CFR 3020 subpart B. Comments are due no later than June 4, 2013. The public portions of these filings can be accessed via the

Commission's website (www.prc.gov). Information on how to obtain access to non-public material appears at 39 CFR 3007.40.

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket Nos. MC2013-51 and CP2013-64 for consideration of matters raised by the Postal Service's Request.
2. Comments by interested persons in these proceedings are due no later than June 4, 2013.
3. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary