

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts
Negotiated Service Agreement

Docket No. MC2013-51

Competitive Product Prices
Global Reseller Expedited Package Contracts
(MC2013-51)
Negotiated Service Agreement

Docket No. CP2013-64

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 2
TO THE COMPETITIVE PRODUCTS LIST

(June 4, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1733.¹ 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 to add Global Reseller Expedited Package (GREP) Contracts 2 to the competitive product list.² GREP Contracts 2 includes agreements by which the Postal Service provides discounted prices for Express Mail International (EMI), Priority Mail International (PMI) and/or First-Class Package International Service (FCPIS) to the Sales Agent (Reseller), who, in turn, markets EMI,

¹ Notice and Order Concerning Filing of Global Reseller Expedited Package Contracts 2 Negotiated Service Agreement, May 29, 2013 (Order No.1733).

² 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). The Postal Service also filed supplemental material including supporting financial information required by 39 CFR 3015.5(c). See: Notice of the United States Postal Service of Filing Supplemental Materials, May 28, 2013 (Supplement).

PMI and FCPIS at discounted prices to its customers, particularly small and medium-sized businesses. Request at 5.

Prices and classifications not of general applicability for GREP contracts were previously established by Governors' Decision No. 10-1, issued March 24, 2010, which is filed in the current docket (Request, Attachment 2A). The contract filed with the request is the successor to the GREP Contract 1 filed in Docket No. CP2011-55 that will be terminated the day prior to the Effective Date established for GREP Contracts 2 agreement. Request at 5-6.

In the current docket, the Postal Service seeks to establish a new baseline agreement for a proposed product designated as GREP Contracts 2. Request at 2. The Postal Service believes that the additional GREP Contracts 2 that is subject to this docket fit within the proposed Mail Classification Schedule (MCS) language set forth in the Request, Attachment 2B. Accordingly, it proposes the revision of MCS language for GREP Contracts. *Id.* at 8.

COMMENTS

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that GREP Contracts 2 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service makes a number of assertions that address the considerations of section 3642(b)(1). Request at 6-7. These assertions appear reasonable. Additional considerations required by section 3642(b)(3) are addressed in the Statement of Supporting Justification by Mr. Cebello. Request, Attachment 3. Based upon the review of justifications provided by the Postal Service, the Public

Representative concludes that the Postal Service's request to add GREP Contracts 2 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. Pursuant to section 3633(a), prices for competitive products must cover each product's attributable costs, not result in subsidization of competitive products by market dominant products, 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 worksheets filed under seal as Supplement to the Postal Service's Request, it appears that the negotiated prices in the instant contract should generate sufficient revenues to cover costs, as well as exceed the minimum cost coverage approved in Governor's Decision No. 10-1. The Public Representative concludes that the negotiated prices satisfy the requirements of section 3633(a).

New Baseline Agreement for GREP Contracts 2. The Postal Service states that the contract subject to this docket and designated as GREP Contracts 2 is the immediate successor to the contract that the Commission found to be eligible for inclusion in GREP Contracts 1 in Docket No. CP2011-55. Request at 1, 4. After reviewing the documents, the Public Representative concludes that both GREP Contracts 1 and GREP Contracts 2 contain the agreements that provide discounted prices for EMI and PMI to Reseller. However, GREP Contracts 2, in comparison with GREP Contracts 1, provides discounted prices for an additional mail product - FCPIS that was recently included in the competitive product list.³ The Public Representative finds reasonable the Postal Service's request to use the instant contract as the new baseline contract for future equivalency analysis concerning the GREP Contracts product.

Revision to section 2510.7 of the MCS for GREP Contracts 2. The Public Representative has reviewed the proposed revision for MCS language filed as Attachment 2B to the Request. The Public Representative concludes that the major

³ In September 2012, the Commission approved the Postal Service's request to transfer FCPIS from the market dominant product list to the competitive product list. See: Order Approving Request for Product List Transfer, Docket No. MC2012-44, September 10, 2012, at 1. (Order No. 1461)

reason for the proposed revision is the addition of both FCPIs to the categories of mail covered by GREP contracts and GREP Contracts 2 to the list of agreements. The Public Representative confirms the importance of such revision.

However, upon the review of Section 2510.7 of MCS presented in the Request, Attachment 2B, the Public Representative has concerns regarding the proposed revision of MCS language.

First, there is no indication in 2510.7.6 that GREP Services 2 becomes a new baseline reference for future functional equivalency analysis concerning GREP Contracts product under the Postal Service's request filed in the current docket. This information should be added to MCS.

Second, in the body of the Request, the Postal Service refers to FCPIs as to First-Class Package International Service (e.g., Request at 5). However, in section 2510.7 (Global Reseller Expedited Package Contracts) filed in Attachment 2B to the Request, the Postal Service uses the name Outbound Single-Piece First-Class Package International Service under abbreviation FCPIs. This is not consistent.

Third, there is no revision of the expiration date for the agreement subject to the Docket No. CP2011-55 (it is scheduled to expire on February 2016). However, upon the Request, the instant contract agreement is the immediate successor to the contract filed in Docket No. CP2011-55 and will be terminated 1 day prior to CP2013-64 Effective Date. It is not fully clear whether the Postal Service is going to revise section 2510.7.6 of MCS after the Effective Date of the instant contract becomes available.

The Public Representative suggests that the Postal Service performs the additional review of the proposed revision of MCS language especially considering the issues described above. The Public Representative believes that the Postal Service should provide the clarification to the Commission regarding the expressed concerns and/or issue an amendment if applicable.

Other Considerations. The Public Representative suggests that the Postal Service notifies the Commission of the Effective Date of the instant contract. The Postal

Service states that the agreement subject to this docket will remain in effect for one year from an Effective Date, unless termination of the agreement occurs prior to the expiration of the agreement. Request at 5-6. The Public Representative is mindful that the Postal Service notifies the Commission if the contract terminates earlier than scheduled and also files cost, revenue and volume data associated with the instant contract either prior to its expiration or shortly after.

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

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