

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

Competitive Product Prices
Priority Mail Contract 33 (MC2011-13)
Negotiated Service Agreement

Docket No. CP2011-49

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF CHANGE IN PRICES
PURSUANT TO AMENDMENT TO PRIORITY MAIL CONTRACT 33

(June 6, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1734.¹ 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 Notice of a Change in Prices Pursuant to Amendment to Priority Mail Contract 33.² The Postal Service's Notice includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), and Board of Governor's Decision No. 09-6. The Postal Service also filed (under seal) a contract amendment related to the price changes and supporting financial data as required by 39 C.F.R. 3015.5(c).

The Postal Service states that the amendment changes the prices under Priority Mail Contract 33 as contemplated by the contract's terms.³ The Amendment changes the prices that apply to packages sent under Priority Mail Contract 33 and provides for an annual adjustment of the new prices. The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors'

¹ PRC Order No. 1734, Notice and Order Concerning Amendment to Priority Mail Contract 33, May 30, 2013.

² Notice of the United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 33, May 24, 2013 (Notice).

³ *Id.* at 1.

Decision No. 09-6 and 39 U.S.C. 3633(a).⁴ The Postal Service further asserts that the Statement of Supporting Justification provides support for concluding that the resulting amended prices and terms should result in covering its attributable costs and will not result in subsidization of competitive products by market dominant products. Order No. 1734 at 2.

The instant contract is effective 1 business day after the Commission issues all necessary regulatory approvals. Order No. 1734 at 2.

COMMENTS

The Public Representative has reviewed the instant contract amendment, 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 amendment to Priority Mail Contract 33 will result in prices which should generate sufficient revenues in the initial year to cover costs and thereby satisfy the requirements of 39 U.S.C. § 3633(a).

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service had previously requested that Priority Mail Contract 33 be added to the competitive product list.⁵ The Commission approved the Postal Service's request on January 6, 2011 in Order No. 641. No further assertions as to 39 U.S.C. § 3642 have been made in this docket at the present time.⁶

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), 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

⁴ Decision of the Governors of the United States Postal Service on Establishment of Rates and Classes Not of General Applicability for Priority Mail Contract Group, April 27, 2009 (Governors' Decision No. 09-6).

⁵ Request of the United States Postal Service to Add Priority Mail Contract 33 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 17, 2010.

⁶ While the Postal Service characterizes this filing as a notice that prices under Priority Mail Contract 33 have changed as "contemplated" by the contract's terms, the Public Representative feels compelled to point out to the Commission that the amended contract is so different from the original contract that it is difficult to believe that such an amendment could have been "contemplated" under the terms of the original contract.

attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. As noted above, based upon a review of the financial model filed under seal with the Postal Service's Notice, it appears the amended prices in the instant contract should generate sufficient revenues to cover costs during its initial year.

As noted above, however, the amended contract is expected to continue in effect for a period of approximately three years. The Postal Service provides no data to demonstrate that the instant contract will comply with the requirements of 39 U.S.C. § 3633(a) during the remaining years of the contract. This concern is largely mitigated by the fact that the terms of the instant contract provide a formula for an annual adjustment in the negotiated rates that should permit revenues to cover costs during the remaining years of the contract. Of course, the Commission has an opportunity to review the financial results of the instant contract for compliance with 39 U.S.C. § 3633(a) each year of the contract in the Annual Compliance Determination.

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

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