

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 Expedited Package Services 3 (MC2010-28)  
Negotiated Service Agreement

Docket No. CP2013-76

ORDER APPROVING A GLOBAL EXPEDITED PACKAGE SERVICES 3  
NEGOTIATED SERVICE AGREEMENT

(Issued August 23, 2013)

I. INTRODUCTION

The Postal Service seeks to include a Global Expedited Package Services (GEPS) 3 contract (Agreement) within the GEPS 3 product.<sup>1</sup> For the reasons discussed below, the Commission approves the Postal Service's request.

---

<sup>1</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 14, 2013 (Notice).

## II. BACKGROUND

The Agreement is a successor to the agreement approved in Docket No. CP2012-34. Notice at 3. The Agreement is intended to take effect September 1, 2013, following the August 31, 2013 expiration of the existing agreement. *Id.* It is set to expire on the later of one calendar year after the effective date or the last day of the month that is one calendar year after the effective date. *Id.* Attachment 1 at 7.

In Order No. 1810, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory requirements and Commission regulations; appointed a Public Representative; and provided interested persons with an opportunity to comment.<sup>2</sup>

## III. THE POSTAL SERVICE'S POSITION

The Postal Service asserts that its filing demonstrates that the Agreement complies with the requirements of 39 U.S.C. § 3633, is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GEPS 3 product. Notice at 2. The Postal Service also contends that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id.* at 3-4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.<sup>3</sup>

---

<sup>2</sup> Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Service Agreement, August 15, 2013 (Order No. 1810).

<sup>3</sup> Differences include, among others, revisions to existing articles; the deletion of an article relating to service guarantees; the renumbering of several articles; and inclusion of new articles. *Id.* at 4-6.

#### IV. COMMENTS

The Public Representative filed comments in response to Order No. 1810.<sup>4</sup> No other comments were received.

Based upon his review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. *Id.* at 2. He asserts that the differences between the Agreement and the baseline agreement, including an increased revenue commitment, do not affect the fundamental service being offered or the fundamental structure of the Agreement. *Id.* at 3. He further concludes that the prices under the Agreement, in addition to cost contingency factors, should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633(a). *Id.*

#### V. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules.

*Functional equivalence.* The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in Governors' Decision No. 08-7; and comports with 39 U.S.C. § 3633 and related Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not undermine a finding of functional equivalency. The Commission therefore finds that the instant Agreement may be included within the GEPS 3 product.

---

<sup>4</sup> Public Representative Comments on Postal Service Notice of Filing of an Additional Global Expedited Package Services 3 Negotiated Service Agreement, August 22, 2013 (PR Comments).

*Cost considerations.* The Commission has reviewed the Postal Service's filing, including supporting financial analysis provided under seal, and the Public Representative's Comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. 39 U.S.C. § 3633(a)(2). Additionally, it finds that the Agreement should not result in competitive products being subsidized by market dominant products, satisfying the requirements of 39 U.S.C. § 3633(a)(1). It also finds the Agreement should have a positive effect on the contribution of competitive products to institutional costs, in furtherance of 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with the section 3633(a) provisions applicable to rates for competitive products.

*Follow-up submissions.* The Postal Service shall promptly notify the Commission if the effective date of the Agreement differs from the effective date identified in the Notice. Upon termination of the Agreement by either party, the Postal Service shall promptly inform the Commission of this development and the date of termination. In addition, within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues associated with the Agreement, including any penalties paid, disaggregated by weight and country group.

## VI. ORDERING PARAGRAPHS

*It is ordered:*

1. The Agreement filed in Docket No. CP2013-76 is included within the Global Expedited Package Services 3 (MC2010-28) product.
2. The Postal Service shall promptly notify the Commission if the effective date of the Agreement differs from the date identified in the Notice.
3. The Postal Service shall promptly notify the Commission of termination of the Agreement by either party.

4. Within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues, including any penalties paid, disaggregated by weight and country group.

By the Commission.

Shoshana M. Grove  
Secretary