

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 65

Docket No. MC2013-63

Competitive Product Prices
Priority Mail Contract 65 (MC2013-63)
Negotiated Service Agreement

Docket No. CP2013-83

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL CONTRACT 65
TO COMPETITIVE PRODUCT LIST

(October 18, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1844.¹ 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 Priority Mail Contract 65 to the competitive product list.² The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a copy of Governors' Decision No. 11-6 and proposed changes to the Mail Classification Schedule competitive product list. The Postal Service also filed (under seal) a contract related to the proposed new product, and supporting financial data.

According to the Postal Service, Priority Mail Contract 65 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1.

¹ Notice and Order Concerning the Addition of Priority Mail Contract 65 to the Competitive Product List, September 30, 2013 (Order No. 1844).

² Request of the United States Postal Service to Add Priority Mail Contract 65 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 27, 2013 (Request).

The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.³

COMMENTS

The Public Representative has reviewed the instant contract, the Statement of Supporting Justification, as well as the financial data and the model filed under seal that accompanies the Postal Service's Request.

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Contract 65 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, Attachment D. These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Contract 65 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's rates for competitive products 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

³ Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

Service's Request, it appears that the negotiated prices in the instant contract should generate sufficient revenues to cover costs during its first year and therefore meet the requirements of 39 U.S.C. 3633(a) during its first year. For the consequent years the contract terms include the adjustment of prices periodically. Request, Attachment B. It appears that the inclusion of these terms should help maintain the contract's ability to meet the requirements of 39 U.S.C. 3633(a) over the lifetime of the contract.

However, the Public Representative has a significant concern described below.

Analysis of the correspondence between the terms of the initial contract and the data provided in the financial spreadsheets revealed a discrepancy, which, if not rectified, would make the instant contract invalid. Paragraph I.F. of the contract includes the volume commitment for the annual number of contract packages to be mailed by the Customer (Request, Attachment B, at 2). At the same time, the correspondent annual volume of customer packages presented in the financial spreadsheets is almost 10 percent less than the minimum volume indicated in the referenced above paragraph I.F of the contract. (See, PM_65_Analysis_public, tab: PartnerProfileParcels, cell I95 and tab: PartnerUnitCosts, cell G6). The Public Representative suggests the Commission should request the Postal Service to clarify the discrepancy and file the amendment of the contract and financial spreadsheets, if applicable.

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

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