

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Parcel Return Service
Parcel Return Service Contract 5

Docket No. MC2014-4

Competitive Product Prices
Parcel Return Service Contract 5 (MC2014-4)
Negotiated Service Agreement

Docket No. CP2014-4

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PARCEL RETURN SERVICE CONTRACT 5
TO COMPETITIVE PRODUCT LIST

(October 31, 2013)

I. INTRODUCTION

The Public Representative hereby provides comments pursuant to Order No. 1861.¹ 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 Parcel Return Service Contract 5 to the competitive product list.²

II. BACKGROUND

The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a) and proposed changes to the Mail

¹ Notice and Order Concerning the Addition of Parcel Return Service Contract 5 to the Competitive Product List, October 24, 2013 (Order No.1861).

² Request of the United States Postal Service to Add Parcel Return Service Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 23, 2013 (Request).

Classification Schedule competitive product list. The Postal Service also filed (under seal) a contract related to the proposed new product, a copy of Governors' Decision No. 11-6³ and accompanying analysis.

The instant contract is the successor agreement to the contract that was filed in Docket Nos. MC2011-6 and CP2011-33 and is set to expire October 31, 2013⁴. The Postal Service has filed a motion with the Commission requesting a brief extension and explaining that "because of extenuating circumstances, the Postal Service and the customer were unable to reach an agreement on the terms of the new contract in time for the Postal Service to file the new agreement 15 days prior to the intended effective date"⁵. Motion at 1-2. The Motion was granted on October 23, 2013⁶.

According to the Postal Service, Parcel Return Service Contract 5 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.

On October 28, 2013 the Commission issued the Chairman's Information Request No. 1 and requested the Postal Service to clarify some statements in Paragraphs I.F.1 and I.F.4 of the contract⁷.

III. COMMENTS

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

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).

⁴ Order No. 602, Order Approving Parcel Return Service Contract 2 Negotiated Service Agreement, December 2, 2010 (Order No.602) and Order No. 1694, Order Concerning Amendment to Parcel Return Service Contract 2 Negotiated Service Agreement, April 9, 2013 (Order No. 1694).

⁵ Motion of the United States Postal Service for Temporary Relief, October 22, 2013 (Motion)

⁶ Order No. 1857, Order Granting Motion for Temporary Relief, October 23, 2013 (Order No.1857).

⁷ Chairman's Information Request No. 1, October 28, 2013 (CHIR No. 1).

Service Contract 5 should be categorized as a competitive product and added to the competitive product list. In addition, based on the financial workpapers filed by the Postal Service, it appears that the contract in its first year is expected to generate sufficient revenues 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 requests that Parcel Return Service Contract 5 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 Parcel Return Service Contract 5 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 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.

The contract includes several terms that adjust the prices periodically and also adjust them to account for changes in Customer's volume. Request, Attachment B at 6-7. It appears that the inclusion of these terms will help maintain the contract's ability to meet the requirements of 39 U.S.C. 3633(a) over the lifetime of the contract. An additional clarification of contract terms that the Postal Service is expected to provide in a written response to CHIR No. 1 will support the final determination of the contract's ability to satisfy the requirements of Title 39. The Public Representative is also mindful that the Postal Service will file cost, revenue and volume data in each year's Annual Compliance Report. That will aid the Commission in ensuring that the Parcel Return Service Contract 5 continues to comply with the requirements of 39 U.S.C. § 3633(a).

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

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