

ORDER NO. 1928

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

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman; and  
Mark Acton

Market Dominant Product Prices  
Inbound Market Dominant Multi-Service Agreements  
with Foreign Postal Operators 1  
Hongkong Post – United States Postal  
Bilateral Agreement (MC2010-35)  
Negotiated Service Agreement

Docket No. R2014-4

NOTICE AND ORDER CONCERNING HONGKONG POST  
NEGOTIATED SERVICE AGREEMENT

(Issued December 26, 2013)

I. INTRODUCTION

On December 24, 2013, the Postal Service filed notice, pursuant to 39 CFR 3010.40 *et seq.*, announcing that it has entered into a bilateral agreement (Agreement) with Hongkong Post, along with a Type 2 rate adjustment.<sup>1</sup> It asks that the Commission include the Agreement within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators I (MC2010-35) product on grounds of functional equivalence.

---

<sup>1</sup> United States Postal Service Notice of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, December 24, 2013 (collectively, Notice).

## II. THE POSTAL SERVICE'S FILINGS

In addition to the Notice, the Postal Service filed an application for non-public treatment of materials filed under seal (Attachment 1); a redacted copy of the Hongkong Post Agreement (Attachment 2), and a redacted Excel file with supporting financial documentation. Notice at 1-2. The Postal Service also filed unredacted copies of the Agreement and the supporting financial documentation under seal. *Id.* at 2.

The Agreement is the successor agreement to one previously found to be functionally equivalent to the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators I (MC2010-35).<sup>2</sup> Notice at 1. The Postal Service identifies Hongkong Post, the postal operator for Hong Kong, and the Postal Service as the parties to the Agreement. *Id.* at 3.

The Postal Service states that the Agreement includes negotiated pricing for various inbound small packets with delivery scanning. *Id.* It asserts that the Agreement will not only improve financial performance over default Universal Postal Union (UPU) rates, but will also continue to improve operational performance. *Id.*

The Postal Service identifies March 1, 2014 as the intended effective date; states that its Notice provides the requisite advance notice; identifies a Postal Service official as a contact person; provides financial data and information in the unredacted workpapers filed under seal; describes expected operational improvements; and addresses why the Agreement will not result in unreasonable harm to the marketplace. *Id.* at 2-5. The intended expiration date is March 1, 2015, unless terminated sooner with at least 30 days' written notice by either party. Notice, Attachment 2 at 6; *see also id.* at 2.

*Data collection and performance reporting proposals.* The Postal Service proposes that no special data collection plan be created for the Agreement because it intends to report information on the Agreement through the Annual Compliance Report.

---

<sup>2</sup> See Docket No. R2013-3, Order No. 1597, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Hongkong Post), December 28, 2012.

Notice at 5. With respect to performance measurement, the Postal Service asks that it be excepted from separate reporting under 39 CFR 3055.3(a)(3) based on Order No. 996.<sup>3</sup> Notice at 5-6.

*Statutory criteria.* The Postal Service states that under 39 U.S.C. 3622(c)(10), the criteria for Commission review are whether the Agreement (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. *Id.* at 6. It states that it addresses the first two criteria in its Notice and views the third criterion as inapplicable, given Hongkong Post's status as the designated operator for letter post packets originating in Hong Kong. *Id.* at 4, 6.

*Functional equivalence.* The Postal Service notes that in Order No. 1864, the Commission requested that it put forth a proposal for identification of the appropriate baseline for comparison of agreements for functional equivalency purposes.<sup>4</sup> Notice at 6-7. The Postal Service states that the Agreement is functionally equivalent to the previously filed and included predecessor agreement with Hongkong Post, which was included within Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 product grouping. *Id.* at 8. It also states that the terms of the Agreement fit within the proposed Mail Classification Schedule (MCS) language for Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 and that the Agreement and its predecessor conform to a common description and share a common market. *Id.* at 7. The Postal Service asserts that in comparison with its predecessor,

---

<sup>3</sup> In Order No. 996, the Commission granted the Postal Service's request for a standing exemption to performance reporting requirements for all contracts that fall within the parameters of the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operations 1 product. See Docket No. R2012-2, Order No. 996, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011, at 7.

<sup>4</sup> Docket No. R2013-9, Order No. 1864, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Korea Post), October 30, 2013, at 7-8. In response, the Postal Service filed a motion for partial reconsideration. See Docket No. R2013-9, Motion for Partial Reconsideration of Order No. 1864, November 6, 2013.

cost characteristics and the financial models used to project costs and revenues are similar. *Id.* at 7-8. It states that while minor differences exist between the Agreement and its predecessor, none of the differences affect the cost or market characteristics nor do they detract from the conclusion that the Agreement is functionally equivalent to its predecessor agreement. *Id.* at 8-9.

### III. COMMISSION ACTION

The Commission, in conformance with 39 CFR 3010.44, establishes Docket No. R2014-4 to consider matters raised by the Notice. The Commission invites interested persons to submit comments on whether the Notice is consistent with the policies of 39 U.S.C. 3622 and 39 CFR part 3010.40. Comments are due no later than January 10, 2014.

The public portions of the Postal Service's filings have been posted on the Commission's website. They can be accessed at <http://www.prc.gov>. Information on how to obtain access to non-public material is available at 39 CFR part 3007.

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this proceeding.

### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission establishes Docket No. R2014-4 to consider matters raised by the Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, filed December 24, 2013.
2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due no later than January 10, 2014.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove  
Secretary