

ORDER NO. 1936

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

Competitive Product Prices
Inbound Air Parcel Post (At UPU Rates)
(MC2010-11)

Docket No. CP2014-14

ORDER ACCEPTING PRICE CHANGES
FOR INBOUND AIR PARCEL POST (AT UPU RATES)

(Issued December 30, 2013)

I. INTRODUCTION

The Postal Service proposes a change in rates not of general applicability for Inbound Air Parcel Post (at Universal Postal Union (UPU) Rates), effective January 1, 2014.¹ For the reasons discussed below, the Commission concludes that the planned price changes satisfy applicable statutory criteria.

¹ Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability and Application for Non-Public Treatment of Materials Filed Under Seal, December 16, 2013 (Notice). The Postal Service does not propose any changes to the classification of Inbound Air Parcel Post (at UPU Rates). *Id.* at 2.

II. BACKGROUND

Product history. In 2007, the Commission established separate lists for competitive and market dominant products as part of the Mail Classification Schedule, consistent with its obligations under 39 U.S.C. § 3642.² The Commission assigned inbound air parcel shipments to the competitive product list. *Id.* at 100 and Appendix A (Mail Classification Schedule 2215, Inbound Air Parcel Post).

The original product was later bifurcated by operation of Order No. 362, following Commission consideration of a Postal Service request in Docket Nos. MC2010-11 and CP2010-11.³ One product was labeled Inbound Air Parcel Post (at UPU rates); the other product was labeled Inbound Air Parcel Post (at non-UPU rates). Order No. 362 at 11.

Pricing. The pricing approach the Commission approved for the two products was based on explanations provided in the Request concerning the role of international law, the UPU, and the Postal Service in the pricing of air parcel post. Specifically, under the Universal Postal Convention, postal operators tender air parcels to each other for delivery in the destination country at prices set by the UPU Postal Operations Council, except where postal operators have negotiated alternative prices (such as in a bilateral agreement.) Payments between postal administrations for handling and delivering parcel post are referred to as inward land rates, but are also informally known as "default" rates because they apply in the absence of a negotiated agreement. In practice, the UPU Postal Operations Council relies on formulas in the UPU Parcel Post Regulations, which constitute international law, to set inward land

² See generally RM2007-1, Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007.

³ See Docket Nos. MC2010-11 and CP2010-11, Order Adding Inbound Air Parcel Post at UPU Rates to Competitive Product List, December 15, 2009 (Order No. 362). See also Docket Nos. MC2010-11 and CP2010-11, Request of the United States Postal Service to Add Inbound Air Parcel Post at Universal Postal Union (UPU) Rates to the Competitive Products List, Notice of Establishment of Prices and Classifications Not of General Applicability for Inbound Air Parcel Post at UPU Rates Established in Governors' Decision No. 09-15, and Application for Non-Public Treatment of Materials Filed Under Seal, November 17, 2009 (Request). The Request proposed one product with pricing for inbound air parcels at both UPU and non-UPU pricing.

rates. The formulas generate rates based on a percentage of each member's inward land rate in 2004. UPU members may also qualify for "bonuses" to their base rate upon provision of certain value-added services. Members may also seek an inflation-related adjustment to the base rate, which is capped at five percent per year. Request, Attachment 3C at 1.

The Postal Service has a limited role in this process, as it consists only of gathering information that the Postal Operations Council uses to calculate rates. This includes completing a questionnaire each year on eligibility for the service bonus and submitting annual inflation information. Based on this information and similar information from other posts, the UPU International Bureau publishes a notice in the fall of each year as to each postal administration's parcel rates for the following calendar year. *Id.*, Attachment 3C at 1-2.

Given the unique role international law plays in pricing for air parcel post shipments, Governors' Decision No. 09-15 incorporated by reference the UPU pricing practice; established rates for Inbound Air Parcel Post as the highest rates for which the Postal Service is eligible under the UPU pricing mechanism; and authorized the Postal Service to transmit to the Commission annual filings at UPU rates for Inbound Air Parcel Post not covered by a bilateral or multilateral agreement. *Id.*, Attachment 3.

Post-Order No. 362 developments. Since issuance of Order No. 362, the Postal Service has filed -- and the Commission has approved -- three additional annual rate adjustments for Inbound Air Parcel Post (at UPU rates) based on the UPU pricing mechanism.⁴ On December 16, 2013, the Postal Service filed its Notice concerning an annual adjustment for the coming calendar year, effective January 1, 2014. In Order

⁴ Docket No. CP2011-27, Order No. 595, Order Concerning Filing of Changes in Rates for Inbound Air Parcel Post at UPU Rates, November 23, 2010; Docket No. CP2012-3, Order No. 1079, Order Accepting Price Changes for Inbound Air Parcel Post at UPU Rates, December 29, 2011; and Docket No. CP2013-27, Order No. 1599, Order Accepting Price Changes for Inbound Air Parcel Post at UPU Rates, December 28, 2012.

No. 1910, the Commission informed the public of the Notice, invited comments, and took related administrative steps.⁵

III. THE POSTAL SERVICE'S POSITION

The Notice, filed pursuant to 39 CFR § 3015.5, incorporates by reference the explanation of the UPU Postal Operations Council's mechanism for setting rates for Inbound Air Parcel Post provided in the Postal Service's original Request addressing the UPU rate process for Inbound Air Parcel Post. Notice at 1-2. It also explains that the Governors, in Governors' Decision No. 09-15, established inward land rates for which there is no contractual relationship with the tendering postal operator as the highest possible inward land rate for which the United States is eligible under the UPU's Parcel Post Regulations due to the role international law plays in the pricing of Inbound Air Parcel Post. *Id.* at 2-3.

The Postal Service further states that Article RC 193.3 allows implementation of modifications to the bonus payment portion of inward land rates twice each year, on January 1 and July 1. *Id.* at 2 n.3. It states that the UPU's International Bureau will confirm, by March 31, any changes to the inward land rates that apply beginning July 1. *Id.* at 2-3, n.3.

The Notice states that the planned rates comport with Governors' Decision 09-15 because they are the highest possible inward land rates for which the Postal Service is eligible, based on inflation increases and other factors. *Id.* at 2-3. It therefore asserts it has established that the new rates are in compliance with the requirements of 39 U.S.C. § 3633(a)(2) and has met the requisite burden of proof. *Id.* at 3 (citing 39 U.S.C. § 3632(b)(3)).

⁵ Order No. 1910, Notice and Order Concerning Changes Affecting Inbound Air Parcel Parcel Post (at UPU Rates), December 17, 2013.

IV. COMMENTS

The Public Representative filed comments on December 20, 2013.⁶ No other comments were received. The Public Representative states that her review of the Postal Service's documentation, including the financial model filed under seal, leads to a conclusion that the competitive rate changes for Inbound Air Parcel Post at UPU Rates, appear to be sufficient such that the revenues cover costs and provide a sufficient contribution to institutional costs, "thereby satisfying the requirements of 39 U.S.C. § 3633(a)(2) and [are] within the scope established by the Governors' Decision No. 09-15, as required by 39 U.S.C. § 3632(b)(3)." PR Comments at 2. The Public Representative therefore recommends that the proposed rates be accepted. *Id.* She also suggests that to improve transparency, "in future dockets each Certification page include the date, docket number and attachment identifier as appropriate[.]" to ensure "that the Certification applies to the appropriate docket." *Id.*

V. COMMISSION ANALYSIS

Standard of review. The Commission reviews price changes for competitive products in terms of the criteria in 39 U.S.C. § 3633(a). These criteria prohibit the subsidization of competitive products by market dominant products (§ 3633(a)(1)); require each competitive product to cover its attributable costs (§ 3633(a)(2)); and enable competitive products as a whole to cover an appropriate share of institutional costs (§ 3633(a)(3)).⁷

The Commission has reviewed the Notice, supporting documentation, and the Public Representative's Comments in light of the criteria in 39 U.S.C. §§ 3633(a)(1)-

⁶ Public Representative Comments on the Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability, December 20, 2013 (PR Comments).

⁷ The UPU Convention, Article 12, section 5 requires UPU member countries to accept, handle, convey and deliver parcels weighing up to 20 kilograms (approximately 44 pounds) pursuant to the UPU Convention pricing or through bilateral agreements.

(a)(3).⁸ As a result of this review, the Commission finds that the planned rates should not lead to the subsidization of competitive products by market dominant products; should cover attributable costs; and should have a positive effect on the contribution that competitive products make to institutional costs. Thus, the Commission preliminarily finds that the planned rates for Inbound Air Parcel Post (at UPU Rates) are consistent with the relevant statutory criteria and regulatory requirements of 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

VI. ORDERING PARAGRAPH

It is ordered:

The planned rates for Inbound Air Parcel Post at UPU Rates, scheduled to take effect January 1, 2014, are in accordance with the relevant statutory and regulatory requirements of 39 U.S.C. § 3633(a) and 39 CFR § 3015.7.

By the Commission.

Shoshana M. Grove
Secretary

⁸ The Public Representative suggests that the Certification filed by the Postal Service include the date and docket. While that might be useful, the Certification filed appears to satisfy the Commission's rules.