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ORDER NO. 2006

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

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

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2014-30

ORDER APPROVING AN ADDITIONAL GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 1 NEGOTIATED SERVICE AGREEMENT

(Issued February 28, 2014)

I. INTRODUCTION

On February 14, 2014, the Postal Service filed notice, pursuant to 39 C.F.R. § 3015.5 stating that it has entered into an additional Global Reseller Expedited Package Contracts (GREP) 1 agreement (Agreement).[1] The Postal Service seeks to have the Agreement included with the existing GREP 1 product on the grounds of functional equivalence to the baseline agreement filed in Docket No. CP2010-36.[2] For the reasons discussed below, the Commission approves the request.

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[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 1 Negotiated Service Agreement, February 14, 2014 (Notice).

[2] *See* Docket Nos. MC2010-21 and CP2010-36, Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010.

II. POSTAL SERVICE'S POSITION

The Postal Service identifies the Agreement as the successor to the agreement approved in Docket No. CP2011-1 (2011 Agreement).[3] The Postal Service intends for the Agreement to take effect March 1, 2014, one day after expiration of the 2011 Agreement. Notice at 3. The Agreement will remain in effect for one calendar year unless terminated sooner pursuant to contractual terms. *Id.* Attachment 1 at 6.

The Postal Service asserts that the Agreement fits within the Mail Classification Schedule (MCS) language for GREP agreements appearing in Attachment A to Governors' Decision No. 10-1. Notice at 3. The Postal Service states that the referenced Governors' Decision establishes a pricing formula and classification, which ensure that each GREP agreement meets the criteria of 39 U.S.C. § 3633 and related regulations, and that costs conform to a common description. *Id*. at 4.

The Postal Service asserts that the Agreement is functionally equivalent to the GREP 1 baseline agreement because it shares similar cost and market characteristics with previously filed GREP 1 agreements. *Id*. The Postal Service states that the functional terms of the Agreement and the functional terms of the baseline agreement are the same. *Id*.

The Postal Service states that prices offered in the Agreement may differ from previous GREP 1 agreements due to factors such as volume or postage commitments, date of signing, and incorporation of updated costing information. *Id*. at 5. However, the Postal Service states these differences do not alter the Agreement's functional equivalency with the baseline agreement. *Id*. Moreover, the Postal Service states that because the Agreement incorporates the same cost attributes and methodology as the GREP 1 baseline agreement, the Agreement's relevant characteristics and those of the GREP 1 baseline agreement are similar, if not the same. *Id*.

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[3] Notice at 3. *See also* Docket No. CP2013-20, Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, December 10, 2012.

The Postal Service does, however, identify differences between the baseline agreement and the Agreement. *Id.* at 5-7. The Postal Service does not consider these differences to affect either the fundamental service it is offering or the fundamental structure of the contract. *Id.* at 7.

III. COMMENTS

The Public Representative filed comments on February 25, 2014.[4] No other comments were received.

The Public Representative concludes, based on his review of the Notice, the Agreement, and the supporting financial model, that the Agreement is functionally equivalent to the baseline agreement. PR Comments at 3. He also states that it appears that negotiated prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633. *Id*.

IV. COMMISSION ANALYSIS

Scope and nature of review. 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 concluding that the instant Agreement shares similar cost and market characteristics with the baseline agreement, meets the pricing formula and classification established in Governors' Decision No. 10-1, and comports with 39 U.S.C. § 3633 and related Commission's rules. It also has considered the Public Representative's views. The Commission concludes that the Agreement and the baseline agreement are substantially similar and that the differences the Postal Service identifies do not

[4] Public Representative Comments on Postal Service Notice of Filing an Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, February 25, 2014 (PR Comments).

undermine a finding of functional equivalency. The Commission therefore finds that the instant Agreement may be included in the GREP 1 product.

Cost considerations. The Commission reviews competitive products to ensure they meet the applicable requirements of 39 U.S.C. § 3633 and 39 C.F.R. §§ 3015.5 and 3015.7. The Commission has reviewed the financial analyses underlying the Agreement and the Public Representative's Comments. Based on the information provided, the Commission finds that the Agreement should cover its attributable costs (39 U.S.C. § 3633(a)(2)); not lead to the subsidization of competitive products by market dominant products (39 U.S.C. § 3633(a)(1)); and have a positive effect on the contribution of competitive products to institutional costs (39 U.S.C. § 3633(a)(3)). Thus, a preliminary review of the proposed Agreement indicates it is consistent with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633.

Other considerations. The Postal Service shall notify the Commission if the Agreement terminates earlier than described in Article 11. In addition, within 30 days of the termination of the instant Agreement, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2014-30 is included within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.

2. The Postal Service shall notify the Commission if the Agreement terminates earlier than described in Article 11.

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

By the Commission.

Ruth Ann Abrams
Acting Secretary