

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

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

Docket No. R2014-7

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE
NOTICE AND ORDER CONCERNING TYPE 2 RATE ADJUSTMENT
AND CHINA POST 2014 NEGOTIATED SERVICE AGREEMENT

(Issued March 24, 2014)

I. INTRODUCTION

The Public Representative hereby provides comments pursuant to PRC Order No. 2024.¹ In that Order, the Commission established the above referenced docket to receive comments from interest persons, including the undersigned Public Representative.

On March 14, 2014, the Postal Service filed notice of a Type 2 rate adjustment in conjunction with a related service agreement with China Post Group involving the inbound portion of a multi-product bilateral agreement (Notice).² The Postal Service requests that the Commission include the 2014 China Post Agreement (2014 Agreement) within the same Inbound Market Dominant Multi-Service Agreements with

¹ PRC Order No. 2024, Notice and Order Concerning Type 2 Rate Adjustment and China Post 2014 Negotiated Service Agreement, March 18, 2014 (Order).

² Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement with China Post Group, March 14, 2014 (Notice).

Foreign Postal Operators 1 (MC2010-35, R2010-5, and R2010-6) product. *Id.* at 2 and 3. The Postal Service asserts that the 2014 Agreement is functionally equivalent to the 2013 China Post Agreement (2013 Agreement). The Notice indicates the Postal Service's intention to implement the 2014 Agreement on May 1, 2014.³ The contract's expiration date is June 30, 2015.⁴ As discussed below, the Public Representative recommends that the PRC approve the 2014 Agreement.

II. CONTENTS OF FILING

The Postal Service's filing consists of the Notice, two attachments, and redacted and unredacted versions of an Excel file, with supporting financial workpapers. Notice at 2. Attachment 1 is an application for non-public treatment of material filed under seal with the Commission. Attachment 2 is a redacted and unredacted copy of the 2014 Agreement. The 2014 Agreement includes delivery confirmation scanning with Letter Post small packets, a service also included in the China Post 2010, 2011 and 2013 Agreements. *Id.* at 4. The 2014 Agreement includes two versions of inbound scanning with small packets: China to the United States Small Packet with Delivery Scanning Dispatched by China EMS (the subject of Annex 2) and China to the United States Small Packet with Delivery Scanning Dispatched by China Letter Post (the subject of Annex 10). *Id.* The Postal Service asserts that the two versions of the 2014 Agreement acknowledge the roles of, differentiate processing by, and improve settlement procedures in relation to the two entities within China Post that dispatch inbound delivery confirmation scanning with small packets. *Id.*

III. COMMENTS

The Public Representative has reviewed the Postal Service's Notice, and the 2014 Agreement and the supporting financial model, filed under seal, which accompanied the Notice. Based upon that review, the Public Representative concludes

³ Assuming all the applicable regulatory approvals are obtained. See *a/so*, Notice at 2.

⁴ Notice, Attachment 2 at 8.

that the negotiated rates would improve the net financial position of the Postal Service. In addition, the Public Representative concludes that the 2014 Agreement is functionally equivalent to the China Post 2013 Agreement.

Statutory Criteria. The Postal Service states that pursuant to 39 U.S.C § 3622(c)(10), the Commission's review of a market dominant negotiated service agreement is to address three statutory criteria: whether such an agreement (1) improves the net financial position of the Postal Service 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.

With respect to criterion (1), the Public Representative concludes that the negotiated rates in the 2014 Agreement improve the net financial position of the Postal Service. The conclusion was reached after comparing the proposed 2014 Agreement rates with the applicable UPU rates that would otherwise be applicable to the inbound Letter Post from China.⁵ With the change, the results of the financial model indicate that negotiated rates generate additional contribution (i.e., a smaller negative contribution) to the Postal Service than would the applicable UPU terminal dues rates.

With respect to criterion (2), there are no other entities in a position to serve as designated operators for the relevant types of mail originating in China and destinating in the United States. *Id.* at 7. For example, China Post is the only designated operator for Letter Post originating in China. Therefore, it is unlikely there is a "similarly situated mailer" for the Postal Service to offer a similar agreement. *Id.* at 9. The Postal Service indicates that criterion (3) is inapplicable. *Id.* at 9. Thus, the Postal Service asserts that all the requirements set forth in 39 U.S.C. § 3622(c)(10) are met. The Public Representative concurs.

⁵ Docket No. R2014-7, Excel non-public file -- China_MD_IB_2014FINAL.xls, worksheet tab 17_Proj_Cost & Revenue.

Functional Equivalence. The Postal Service asserts that the 2014 Agreement is functionally equivalent to the 2013 Agreement and should be included within the same Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1(MC2010-35, R2010-5 and R2010-6) product. Notice at 2. The Postal Service contends that the 2014 Agreement is an improvement over the 2013 Agreement. Additionally, the Postal Service indicates that the following improvements to the previous agreement should enhance the performance of mail processing, transportation and other related functions. The improvements to the 2014 Agreement are:

- China Post and the Postal Service agreed to continue delivery confirmation service for small packets; (*Id.* at 5.)
- Annex 1 includes the updated rates for the two versions of inbound scanning with small packets; (*Id.*)
- Annex 6 has been revised to include more specific business rules regarding the settlement related to Small Packets with Delivery Scanning. (*Id.* at 6.)
- Annex 10 has been added to addresses requirements for the China to United States Small Packet with Delivery Scanning Dispatched by China Letter Post. (*Id.* at 7.)

In addition, the Postal Service identifies the differences between the 2014 Agreement and its predecessor. *Id.* at 10 through 12. However, the Postal Service does not consider the differences to affect the similarity of the market characteristics or the cost characteristics of the 2014 Agreement. The Public Representative concludes that the differences do not affect the similarity of the cost characteristics between the two agreements. Therefore, the Public Representative concludes that the 2014 Agreement is functionally equivalent to the 2013 Agreement.

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

/s/_____

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