

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

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

Competitive Product Prices
Priority Mail Express, Priority Mail &
First-Class Package Service
Priority Mail Express, Priority Mail &
First-Class Package Service Contract 2

Docket No. MC2014-22

Competitive Product Prices
Priority Mail Express, Priority Mail &
First-Class Package Service Contract 2
(MC2014-22)
Negotiated Service Agreement

Docket No. CP2014-37

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PRIORITY MAIL EXPRESS, PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE
CONTRACT 2 TO THE COMPETITIVE PRODUCT LIST

(March 26, 2012)

The Public Representative hereby provides comments pursuant to Order No. 2027.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's request to add Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 to the competitive products list within the Mail Classification Schedule.

¹ PRC Order No. 2027, Notice and Order Concerning the Addition of Priority Mail Express, Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 to the Competitive Product List. March 19, 2014.

Discussion

The Public Representative has reviewed the Postal Service's Request and the Statement of Supporting Justification (Attachment A), the contract, and the Postal Service's proposed revised text of the Mail Classification Schedule (MCS). The Public Representative has also reviewed the supporting financial models for each Priority Mail Express, Priority Mail, and First-Class Package Service contract filed separately under seal for the contract that accompanied the Postal Service's Request. Based upon that review, the Public Representative concludes that the Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 satisfies the criteria of section 3642(b), concerning the classification of new competitive products, and complies with the requirements of section 3633(a), concerning rates for competitive products.

Under 39 U.S.C. § 3642(b) the criteria governing Commission review are whether the product (1) qualifies as market dominant, (2) is covered by the postal monopoly and therefore precluded from classification as a competitive product, and (3) reflects certain market considerations, including private sector competition, the impact on small businesses, and the views of product users. The Postal Service makes reasonable arguments that the Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 satisfy these considerations in section 3642(b).

Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices 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 models filed under seal with the Postal Service's Notice, it appears the negotiate prices in the instant contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

The contract is expected to remain in effect for a period of three years. The Postal Service provides no data to demonstrate that the contract will comply with the requirements of 39 U.S.C. § 3633(a) during the second and third years of the contract. This concern is largely mitigated by the fact that the terms of the contract provide a formula for an annual adjustment in the negotiated rates that should permit revenues to

cover costs during years 2 and 3.² The Commission also has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

Conclusion

The Public Representative, after reviewing all materials in the Postal Service's submitted under seal in this matter, acknowledges that the pricing in the present Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 appears to comport with relevant provisions of title 39.

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

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² See Appendix B of Request of the United States Postal Service to Add Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. March 19, 2014. Page 3.