

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

Competitive Product Prices
Global Plus 2C (MC2012-5)
Negotiated Service Agreements

Docket No. CP2014-46

PUBLIC REPRESENTATIVE COMMENTS ON
NOTICE OF THE UNITED STATES POSTAL SERVICE
OF FILING FUNCTIONALLY EQUIVALENT GLOBAL PLUS 2C CONTRACT
NEGOTIATED SERVICE AGREEMENT

(April 25, 2014)

In response to Order No. 2057,¹ the Public Representative hereby comments on the April 18, 2014, Request² the Postal Service filed. In that Order, the Postal Regulatory Commission (Commission) established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice regarding it entering into a Global Plus 2C contract. Request at 2. Global Plus 2C Negotiated Service Agreements, include prices not of general applicability between the Postal Service and Postal Qualified Wholesalers (PQW) that offer mailing service to end users for shipping articles via Global Direct and/or International Business Reply Service. The Global Plus 2C contract prices offered under prior contracts may differ depending on the volume or postage commitments made by the customers. Also, prices may differ depending upon when

¹ Notice and Order Concerning Additional Global Plus 2C Negotiated Service Agreement, April 18, 2014, (Notice).

² Notice of the United States Postal Service of Filing A Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, April 15, 2014, (Request).

the agreement is signed, due to the incorporation of updated costing information. *Id.* at 5. The Postal Service seeks to add the successor contract, the subject of this filing, to the agreement that the Commission found to be eligible for inclusion in the Global Plus 2C contract in Docket No. CP2013-38.³ The Postal Service asserts that this Global Plus 2C contract fits within the applicable Mail Classification Schedule language for Global Plus 2C, which was included as Attachment A to Governors' Decision No. 08-10, as revised in Attachment 2C of the Postal Services initial filing in Docket Nos. MC2012-5, CP2012-10, and CP2012-11. *Id.*

The Postal Service intends the effective date of the Docket No. CP2014-46 contract to be May 1, 2014, upon termination of the agreement that is the subject of Docket No. CP2013-38. *Id.* The new contract would remain in effect until 11:59 p.m. March 31, 2015, unless terminated early pursuant to Article 14 or 27 of the contract. *Id.* Attachment 1 at 9.

For the following reasons, the Public Representative recommends that the Commission approve contract CP2014-46.

BACKGROUND

Prices and classifications not of general applicability for Global Plus 2 Contracts were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, issued on July 16, 2008 (Governors' Decision No. 08-10). *Id.* at 1. Subsequently, the Commission determined that the

³ *Id.* at 3. See also, PRC Order No. 2022, Order Granting Motion for Temporary Relief in Global Plus 2C Contract Negotiated Service Agreement, Docket No. CP2013-38, March 14, 2014.

Global Plus 2 contracts filed in Docket Nos. CP2008-16 and CP2008-17, and the Global Plus 2 contracts filed in Docket Nos. CP2009-48 and CP2009-49 were functionally equivalent to each other and included them within the Global Plus 2 product on the competitive products list. *Id.* at 1 and 2. The contracts filed in Docket Nos. CP2012-10 and CP2012-11 serve as the baseline agreements for comparison of potential functionally equivalent agreements under the Global Plus 2C grouping, if the requirements of 39 U.S.C. § 3633 are met. *Id.* at 2.

COMMENTS

PRC Order No. 2057 seeks comments on whether the contract is consistent with the requirements of 39 U.S.C. 3632, 3633, or 3642, 39 C.F.R. part 3015 and 39 C.F.R. part 3020, subpart B. The Public Representative has reviewed the Postal Service's Notice, the Global Plus 2C Negotiated Service Agreement filed under seal, the supporting financial models also filed under seal and all other materials filed with the Notice. In addition, the Public Representative has reviewed previous filings and Orders related to this Notice as well as the provisions of 39 U.S.C. §§ 3632 and 3633 and 39 C.F.R. § 3015.

Functional Equivalency. The Postal Service contends that the instant contract is substantially similar to the baseline contracts filed in Docket Nos. CP2012-10 and CP2012-11. *Id.* at 4. However, the Postal Service identifies a number of differences between the instant contract and the baseline contracts. For example, the non-inclusion of Global Bulk Economy (GBE) service. In addition, the Postal Service includes a contingency to address changes in the Exchange Rate as well as contingency prices for

any International Business Reply Service qualifying mail received after the termination or expiration date of the contract as applicable.⁴ However, the Postal Service does not consider the changes made will affect either “the fundamental service the Postal Service is offering or the fundamental structure of the contract.” *Id.* at 7.

The Public Representative has reviewed the Global Plus 2C contract that is the subject of Docket Nos. CP2014-46 and the baseline contracts in Docket Nos. CP2012-10 and CP2012-11 and considers them functionally equivalent. Differences between the contracts do not impact any cost or market characteristics that would differentiate the contracts at any substantive level.

Statutory Criteria. 39 U.S.C. §§ 3632, 3633 and 39 C.F.R. § 3015.5

39 U.S.C § 3632. Section 3632 of Title 39 grants authority to the Postal Service’s Board of Governors to establish rates and classes for products in the competitive category of mail in accordance with the requirements of the subchapter and regulations promulgated under 39 U.S.C. § 3633. It further provides procedures for the establishment of such rates and classifications. The Public Representative concludes that the Notice and attachments appear consistent with 39 U.S.C. § 3632 requirements.

39 U.S.C. § 3633. The Postal Service asserts that the instant contract meets the requirements of 39 U.S.C. § 3633 that apply to competitive products. *Id.* at 8. The three relevant criteria for competitive products are that: (1) they are not cross-subsidized by market dominant products; (2) revenues cover attributable costs; and (3) it contributes what the Commission determines to be an appropriate share of the Postal

⁴ Notice, Attachment 1 Articles 15 and 34.

Service's institutional costs. The Postal Service's financial models indicate that the negotiated prices should generate sufficient revenues to cover costs and provide an appropriate share of the Postal Services institutional costs. Therefore, the Postal Service's filing appears to comport with the requirements of 39 U.S.C. § 3633.

39 C.F.R. § 3015.5. The Postal Service asserts that the instant contract satisfies the requirements of 39 C.F.R. § 3015.5, which includes: giving the Commission at least 15 days' notice before adding or changing a rate or class, providing an explanation and justification for the change and filing revenue and cost data for the 12-month period following the effective date, to ensure that the product is in compliance with 39 U.S.C. § 3633. Section 3015.5 requires a certified statement by a Postal Service representative attesting to the accuracy of the data. The Postal Service's filing appears to satisfy the requirements of 39 C.F.R. § 3015.5.

IV. CONCLUSION

After accessing and reviewing all materials the Postal Service submitted in this docket to include documents filed under seal, the Public Representative believes that the proposed Global Plus 2C contract will cover its attributable costs and make a positive contribution of at least 5.5 percent toward the Postal Service's institutional costs.

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

Respectfully submitted,

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