

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
Negotiated Service Agreements

Docket No. MC2014-38

Competitive Product Prices
Global Reseller Expedited Package Contracts 4
(MC2014-38)
Negotiated Service Agreement

Docket No. CP2014-67

ORDER ADDING GLOBAL RESELLER EXPEDITED PACKAGE
CONTRACTS 4 TO THE COMPETITIVE PRODUCT LIST
AND APPROVAL OF DESIGNATION AS BASELINE AGREEMENT

(Issued August 25, 2014)

I. INTRODUCTION

The Postal Service seeks to add a new product identified as Global Reseller Expedited Package (GREP) Contracts 4 to the competitive product list.¹ For the reasons discussed below, the Commission approves the Request.

¹ Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts 4 to the Competitive Products List and Notice of Filing a Global Reseller Expedited Package 4 Negotiated Service Agreement, August 8, 2014 (Request).

II. BACKGROUND

On August 8, 2014, in accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*, the Postal Service filed the Request, supporting documents, and the negotiated service agreement it seeks to have designated as the baseline agreement for the GREP Contracts 4 product. In the Request, the Postal Service asserts that GREP Contracts 4 is a competitive product that establishes rates “not of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. Among the supporting documents, the Postal Service included a copy of the Governors’ Decision authorizing the product, *d.*, Attachment 2A; the contract related to the proposed new product, *id.*, Attachment 4; requested changes to the competitive product list, a statement supporting the Request, *id.*, Attachment 3; a certification of compliance with 39 U.S.C. § 3633(a), *id.*, Attachment 2C; and financial workpapers, See Request at 4. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that redacted portions of the Governors’ Decision and the contract, customer-identifying information, and related financial information remain under seal. *Id.*, Attachment 1.

The contract is intended to take effect September 1, 2014. Request at 6. It is set to expire on February 5, 2020. *Id.*, Attachment 4 at 7.

On August 13, 2014, the Commission issued an order establishing the two dockets, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

III. COMMENTS

The Public Representative filed comments on August 20, 2014.³ No other interested person filed comments. The Public Representative concludes that the GREP

² Order No. 2151, Notice and Order Concerning the Addition of Global Reseller Expedited Package Contracts Contract 4 to the Competitive Product List, August 13, 2014.

Contracts 4 product is appropriately classified as competitive. *Id.* at 5. He notes that the addition of Priority Mail International Regional Rate Boxes shipping services to the GREP Contracts 4 product, which differs from prior GREP Contracts product, does not alter the conclusion that the product is competitive. *Id.* The Postal Service's financial workpapers indicate that the negotiated prices in the GREP Contracts 4 Agreement should generate sufficient revenues to cover its attributable costs. *Id.* Consequently, the Public Representative concludes that, as the only agreement within the product, the GREP Contracts 4 product should comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). *Id.* Moreover, the GREP Contracts 4 product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *Id.*

IV. COMMISSION ANALYSIS

The Commission has reviewed the Request, the contract, the supporting data filed under seal, and the Public Representative's comments.

Product list requirements. The Commission's statutory responsibilities when evaluating the Request include assigning GREP Contracts 4 to either the market dominant or competitive product list. See 39 U.S.C. § 3642(b)(1); 39 C.F.R. § 3020.34. Before adding a product to the competitive product list, the Commission must determine that the Postal Service does not exercise sufficient market power that it can effectively set the price of the product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. See 39 U.S.C. § 3642(b)(1). In

³ Public Representative Comments on Postal Service Request to Add Global Reseller Expedited Package Contracts 4 to the Competitive Reseller Expedited Package Contracts 4 Negotiated Service Agreement, August 20, 2014 (PR Comments).

addition, the Commission must consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. See 39 U.S.C. § 3642(b)(3); 39 C.F.R. §§ 3020.32(f), (g), and (h).

The Postal Service asserts that it provides postal services of the kind provided under the contract in a highly competitive market, that other shippers who provide similar services constrain its bargaining position, and that it can therefore neither raise prices nor offer prices substantially above costs, nor decrease service, quality, or output without risking the loss of business to competitors. Request, Attachment 3 at 3. The Postal Service states that expedited shipping is widely available from private firms, that the contract partner's execution of the contract indicates the customer finds this product preferable to similar products of the Postal Service's competitors, and that the Postal Service is unaware of any small business concerns that could offer comparable services to the contract partner, and that the addition of the GREP Contracts 4 product to the competitive products list will have little, if any, effect on small business concerns. *Id.* at 4-5.

The Commission finds that the Postal Service does not exercise sufficient market power that it can effectively set the price of the proposed product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. The availability of other private sector providers supports this conclusion. The contract partner and the Public Representative support the addition of the GREP Contracts 4 product to the competitive product list. Further, there is no evidence of an adverse impact on small businesses. For these reasons, having considered the relevant statutory and regulatory requirements, the comments filed, and the Postal Service's supporting justification, the Commission finds that GREP Contracts 4 is appropriately classified as competitive and is added to the competitive product list.

Product list. The Commission added GREP Contracts 1, GREP Contracts 2 and GREP Contracts 3 to the competitive product list by operation of Order Nos. 445, 1746, and 1870, respectively.⁴ The Postal Service states the proposed classification change adding GREP Contracts 4 to the Mail Classification Schedule (MCS) is consistent with the requirements of 39 U.S.C. § 3642 and proposes conforming revisions to MCS section 2510.7, which covers GREP Contracts. *Id.* at 7-8, and Attachment 2B.

The agreement that is the subject of this proceeding will be the successor to the GREP contract scheduled to expire on August 31, 2014.⁵

Cost considerations. Because the Commission finds GREP Contracts 4 is a competitive product, the Postal Service must also show that the contract covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the contract exceeds its attributable costs, the contract is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if the contract covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Request includes a certified statement that the contract complies with the requirements of 39 U.S.C. § 3633(a). Request, Attachment 2A. In addition, the Postal Service filed supporting revenue and cost data showing that the contract is expected to cover its costs. Based on a review of the record, the Commission finds that the rates during the first year of the contract should cover the contract's attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the contract should not result in

⁴ Request at 2-3. See, *respectively*, Docket Nos. MC2010-21 and CP2010-36; Docket Nos. MC2013-51 and CP2013-64; and Docket Nos. MC2013-64 and CP2013-84.

⁵ Request at 6. See Docket No. CP2012-14, Order Granting Motion for Temporary Relief, July 15, 2014.

competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the contract is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the contract indicates it is consistent with section 3633(a).

Baseline agreement. The Commission designates the contract that is the subject of this docket as the baseline agreement for the GREP Contracts 4 product.⁶ Following current practice, in any future request to add a negotiated service agreement to the GREP Contracts 4 product, the Postal Service shall identify all significant differences between the new negotiated service agreement and the baseline agreement. Significant differences include terms and conditions that impose new obligations or new requirements on any party to the negotiated service agreement. The docket referenced in the caption of the request should be Docket No. MC2014-38. In conformity with current practice, a redacted copy of Governors' Decision No. 11-6 should be included with the request.

The contract contains price adjustment provisions in the event the Postal Service incurs an increase in costs of a confidential amount associated with providing this service. In the event non-discounted published rates for the services in Annexes 1, 2, and 3 of the contract change, the prices in the Annexes will change and the prices in Annex 4 shall be increased at the overall increase for non-discounted retail prices for Priority Mail International. *Id.*, Attachment 4 at 6. The adjustment provision increases

⁶ The Postal Service asks that the Agreement "be considered as the new 'baseline' contract for future functional equivalency analysis concerning the Global Reseller Expedited Package Contracts product." Request at 3. Because baseline agreements are generally established for each product within a grouping, the Commission views this as a request to consider the contract as the baseline agreement for the GREP Contracts 4 product, not for the GREP Contracts group as a whole. See, e.g., section 2510.3.6 of the draft MCS (establishing separate baseline agreements for GEPS 3 and GEPS 4) and section 2510.6.6 of the draft MCS (establishing separate baseline agreements for Global Plus 1C and Global Plus 2C).

the likelihood that rates will cover attributable costs during subsequent contract years. The Commission will review the contract's cost coverage and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Effective date/term. By the contract's terms, the Postal Service will notify the customer of the effective date of the contract within 30 days after the date that the Commission issues all necessary regulatory approvals. *Id.* at 7. The contract is intended to become effective September 1, 2014, and is scheduled to expire on February 5, 2020, unless, among other things, either party terminates the contract upon prior written notice to the other party that is by a confidential time period. *Id.* at 7.

Follow-up submissions. The Postal Service shall promptly notify the Commission of the effective date of the Contract. If the instant contract is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission. Within 30 days after the instant contract terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid and filings associated with the contract.

In conclusion, the Commission approves GREP Contracts 4 as a new product. The revision to the competitive product list appears below the signature of this Order and is effective immediately.

V. ORDERING PARAGRAPHS

It is ordered:

1. Global Reseller Expedited Package Contracts 4 (MC2014-38 and CP2014-67) is added to the competitive product list as a new product under Negotiated Service Agreements, Domestic. Revisions to the competitive product list and the Mail

Classification Schedule appear below the signature of this Order and are effective immediately.

2. The Postal Service shall notify the Commission if the contract that is the subject of this docket terminates prior to the scheduled expiration date as discussed in this Order.
3. Within 30 days after the instant contract terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid and filings associated with the contract.
4. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified in Appendix A to 39 C.F.R. part 3020, subpart A—Mail Classification Schedule. These changes reflect the Commission's order in Docket Nos. MC2014-38 and CP2014-67. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Part B—Competitive Products **2000 Competitive Product List**

Negotiated Service Agreements*

Outbound International*

Global Reseller Expedited Package Contracts

Global Reseller Expedited Package Contracts 4

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Part B—Competitive Products **2000 Competitive Product List**

Negotiated Service Agreements*

Outbound International*

Global Reseller Expedited Package Contracts

Global Reseller Expedited Package Contracts 4

2510.7 Global Reseller Expedited Package Contracts

2510.7.1 Description

- a. Global Reseller Expedited Package Contracts provide discounted prices to a reseller for Global Express Guaranteed (GXG), Priority Mail Express International (PMEI), Priority Mail International (PMI), ~~and~~ Outbound Single-Piece First-Class Package International Service (FCPIS), and Priority Mail International Regional Rate Boxes (PMI RRB) for destinations serviced by GXG, PMEI, PMI, and FCPIS. The reseller offers prices based on its contract to its customer (reseller's customers).
- b. Preparation requirements are the same as for all GXG, PMEI, PMI, and FCPIS shipments with the following exceptions:

- Mail preparation requirements for PMI RRB are similar to those required for a PMI Medium Flat Rate Box shipment, except that the mailer must use a Priority Mail Regional Rate Box A, B, or C with the specified markings, subject to size and weight limitations specific to PMI RRB that are set forth in the applicable Global Reseller Expedited Package Contract.

- e. Indemnity for ordinary, uninsured parcels is included in the price of postage for PMI RRB based on the weight of the item. The indemnity amount for PMI RRB is determined by the formula in UPU Parcel Post Regulations Article RC 149.2.1. This information is available in the Parcel Post Manual at www.upu.int. The formula, converted into U.S. equivalents of pounds and dollars, is shown in the International Mail Manual. It is updated annually to reflect the current SDR exchange rate.

2510.7.2 Size and Weight Limitations

Priority Mail International^{1, 2}

	Length	Height	Thickness	Weight
Minimum	<u>For customer-provided packaging, large enough to accommodate postage, address, customs labels, and any other required elements on the address side</u>			none
Maximum Parcels	79 inches			70 pounds
	108 inches in combined length and girth			

Notes

~~2. Items must be large enough to accommodate postage, address and other required elements on the address side.~~

Priority Mail International Regional Rate Box

	Length	Height	Thickness	Weight
<u>Regional Rate Box A¹</u>	<u>Outside dimensions:</u> <u>Top Loaded: 10.125 x 7.125 x 5.0 inches</u> <u>Side Loaded: 13.0625 x 11.0625 x 2.5 inches</u>			<u>10 pounds</u>
<u>Regional Rate Box B¹</u>	<u>Outside dimensions:</u> <u>Top Loaded: 12.25 x 10.5 x 5.5 inches</u> <u>Side Loaded: 16.25 x 14.5 x 3 inches</u>			<u>20 pounds</u>
<u>Regional Rate Box C¹</u>	<u>Outside dimensions:</u> <u>Top Loaded: 15 x 12 x 12 inches:</u>			<u>20 pounds</u>

Notes

1. Notwithstanding any marking on the package for domestic service, size, and weight limitations.

2510.7.3 Minimum Volume or Revenue Requirements

The reseller must commit to varying minimum volumes or postage of GXG, PMEI, PMI, ~~and/or~~ FCPIS, and/or PMI RRB on a quarterly or annualized basis.

2510.7.4 Price Categories

The following price categories are available for the product specified in this section:

- Global Reseller Expedited Package Contract – Priority Mail International Regional Rate Box

2510.7.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Reseller Expedited Package Contracts 4
Baseline Reference
Docket Nos. MC2014-38 and CP2014-67
PRC Order No. ^, August ^, 2014
Included Agreements
CP2014-67, expires February 5, 2020