

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
Parcel Select & Parcel Return Service Contract 3
(MC2012-15)
Negotiated Service Agreement

Docket No. CP2012-22

ORDER APPROVING AMENDMENT TO
PARCEL SELECT & PARCEL RETURN SERVICE CONTRACT 3
NEGOTIATED SERVICE AGREEMENT

(Issued October 31, 2014)

I. INTRODUCTION

The Postal Service seeks to amend a Parcel Select & Parcel Return Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

In Order No. 1348, the Commission approved the Parcel Select & Parcel Return Service Contract 3 negotiated service agreement (Existing Agreement).² On October

¹ Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Parcel Select & Parcel Return Service Contract 3, October 20, 2014 (Notice). The Amendment is an attachment to the Notice (Amendment).

² See Docket Nos. MC2012-15 and CP2012-22, Order Adding Parcel Select & Parcel Return Contract 3 to the Competitive Product List, May 21, 2012 (Order No. 1348).

20, 2014, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On October 22, 2014, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* Attachment B. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. *Id.* at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* at 2-3.⁵

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

³ Order No. 2219, Notice and Order Concerning Amendment to Parcel Select & Parcel Return Service Contract 3 Negotiated Service Agreement, October 22, 2014.

⁴ Public Representative Comments on Postal Service Amendment to Parcel Select and Parcel Return Service Contract 3, October 29, 2014 (PR Comments).

⁵ The Public Representative notes the Postal Service only provides data to demonstrate the Existing Agreement, as amended, will generate sufficient revenue to cover attributable costs for the first year the amendment is in effect. However, he argues the formula for periodic adjustments in contract prices included in the amended contract and the annual review by the Commission may serve as checks to ensure compliance with 39 U.S.C. § 3633(a) for the duration of the contract. *Id.*

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, 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 product exceeds its attributable costs, the product 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 a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment revises the contract terms to include prices for certain Parcel Select Service destination sectional center facility (DSCF) 3-digit parcels, resulting in a modification of contract rates in accordance with the annual adjustment calculations (of Table 1a in section I.D. and section I.E.). Notice, Attachment A at 1-3.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, 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). Similarly, it finds the amended agreement 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 Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.E. of the amended agreement should allow the amended agreement's revenues to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective one business day after the date that the Commission completes its review. The Existing Agreement, as amended, is set to expire May 31, 2019, unless,

among other things, either party terminates the contract with 12 months written notice to the other party or it is renewed by mutual agreement.⁶

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Within 30 days of the termination of the Existing Agreement, as amended, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by rate category and weight associated with the amended agreement.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Parcel Select & Parcel Return Service Contract 3 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.
3. Within 30 days after the Existing Agreement, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by rate category and weight associated with the contract.

By the Commission.

Shoshana M. Grove
Secretary

⁶ *Id.* Attachment B at 8. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.