

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
Priority Mail Contract 85 (MC2014-34)
Negotiated Service Agreement

Docket No. CP2014-60

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL CONTRACT 85 NEGOTIATED SERVICE AGREEMENT

(Issued October 31, 2014)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to Priority Mail Contract 85, with Portions Filed Under Seal, October 20, 2014 (Notice). The Amendment is an attachment to the Notice (Amendment).

In Order No. 2141, the Commission approved the Priority Mail Contract 85 negotiated service agreement (Existing Agreement).² On October 20, 2014, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On October 21, 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 2. 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 The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. *Id.* at 2. In her comments, the Public Representative notes that the Postal Service has not updated the financial model, the Postal Service having stated that the initially provided financial documentation remains applicable. However, because the agreement changes the customized pricing structure of the agreement, the Public Representative believes that filing of updated financial documentation would be useful. *Id.*

In the absence of an updated financial model, she concludes that the amended contract should generate sufficient revenue to cover its costs and satisfy the requirements of 39 U.S.C. § 3633(a) during its first year. *Id.* at 2-3. Finally, the Public

² See Docket Nos. MC2014-34 and CP2014-60, Order Adding Priority Mail Contract 85 to Competitive Product List, August 4, 2014 (Order No. 2141).

³ Order No. 2218, Notice and Order Concerning Amendment to Priority Mail Contract 85 Negotiated Service Agreement, October 21, 2014.

⁴ Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Contract 85, October 28, 2014 (PR Comments).

Representative opines that the quarterly adjustment of prices included in the terms of the amended contract should help maintain the contract's ability to meet the requirements of 39 U.S.C. § 3633(a) over the lifetime of the contract. *Id.* at 3.

III. COMMISSION ANALYSIS

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

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 Existing Agreement contains a price adjustment provision that changes contract provisions during subsequent contract years.⁵ The Amendment changes the customized pricing structure of the Existing Agreement. Notice at 2.

The Amendment does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

Other considerations. The Postal Service states that the Amendment shall become effective on the day after the date that the Commission completes its review.

⁵ Docket Nos. MC2014-34 and CP2014-60, Request of the United States Postal Service to Add Priority Mail Contract 85 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 23, 2014, Attachment B.

Notice at 2. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 30 days' 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, 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 Priority Mail Contract 85 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 associated with the contract.

By the Commission.

Shoshana M. Grove
Secretary

⁶ Existing Contract, Attachment B at 5. 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.