

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

Market Dominant Product Prices  
Inbound Market Dominant Multi-Service Agreements  
with Foreign Postal Operators 1  
PostNL – United States Postal Service Bilateral  
Agreement (MC2010-35)  
Negotiated Service Agreement

Docket No. R2015-3

NOTICE AND ORDER CONCERNING TYPE 2 RATE ADJUSTMENT AND  
ROYAL POSTNL BV NEGOTIATED SERVICE AGREEMENT

(Issued November 17, 2014)

I. INTRODUCTION

On November 14, 2014, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.*, announcing a Type 2 rate adjustment in conjunction with a new negotiated service agreement.<sup>1</sup> The Notice concerns the inbound portion of a bilateral agreement with Royal PostNL BV (PostNL) (Agreement), which the Postal Service seeks to include within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (Docket Nos. MC2010-35, R2010-5 and R2010-6) product. Notice at 1.

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<sup>1</sup> United States Postal Service Notice of Type 2 Rate Adjustment, Notice Filing Functionally Equivalent Agreement and Application for Nonpublic Treatment, November 14, 2014 (Notice).

## II. CONTENTS OF FILING

The Postal Service's filing consists of the Notice, two attachments, and redacted and unredacted versions of an Excel file with supporting financial workpapers. *Id.* at 2. Attachment 1 is an application for non-public treatment of material filed under seal with the Commission. *Id.* Attachment 2 is a redacted copy of the Agreement. *Id.* The Postal Service includes a redacted version of the financial workpapers with its filing as a separate public Excel file.

The Postal Service states that the intended effective date of the Agreement is January 1, 2015; asserts that it is providing more than the 45 days advance notice required under 39 CFR 3010.41; and identifies the parties to the Agreement as the United States Postal Service and PostNL, the postal operator for the Netherlands. *Id.* at 3-4.

*Reporting requirements.* Rule 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection for the Agreement, the Postal Service proposes to report information on the Agreement through the Annual Compliance Report. *Id.* at 7. The Postal Service also invokes, with respect to service performance measurement reporting under rule 3055.3(a)(3), the standing exception in Order No. 996 for all agreements filed in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product grouping. *Id.*

*Consistency with applicable statutory criteria.* The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria, whether the agreement: (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly-situated mailers. *Id.* at 7-8 (citing 39 U.S.C. 3622(c)(10)). The Postal Service asserts that it addresses the first two criteria in its Notice and that the third is inapplicable, as there are no entities similarly situated to PostNL in terms of their ability to tender broad-based Letter Post flows from the Netherlands. *Id.* at 8.

*Functional equivalence.* The Postal Service addresses reasons why it considers the Agreement functionally equivalent to the Koninklijke TNT PostBV and TNT Post Pakketservice Benelux BV (TNT Agreement) baseline agreement, notwithstanding acknowledgement and identification of similarities and differences.<sup>2</sup> The Postal Service asserts that it does not consider that the specified differences detract from the conclusion that the Agreement is functionally equivalent to the baseline TNT Agreement. *Id.* at 11.

### III. COMMISSION ACTION

The Commission, in conformance with rule 3010.44, establishes Docket No. R2015-3 to consider issues raised by the Notice. The Commission invites comments from interested persons on whether the Agreement is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3010. Comments are due no later than December 2, 2014. The public portions of this filing can be accessed via the Commission's website (<http://www.prc.gov>). Information on how to obtain access to non-public material appears in 39 CFR part 3007.

The Commission appoints James F. Callow to represent the interests of the general public (Public Representative) in this docket.

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<sup>2</sup> *Id.* at 8-11. See also Docket Nos. MC2010-35, R2010-5, and R2010-6, Order No. 549, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, September 30, 2010; Docket No. R2013-9, Order No. 2148, Order Granting, in Part, Motion for Partial Reconsideration of Order No. 1864 and Modifying, in Part, Order No. 1864, August 11, 2014.

IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission establishes Docket No. R2015-3 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than December 2, 2014.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove  
Secretary