

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

Competitive Product Prices
Inbound Competitive Multi Service Agreements
With Foreign Postal Operators
Royal PostNL BV—United States Postal Service
Bilateral Agreement (MC2010-34)
Negotiated Service Agreement

Docket No. CP2015-18

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE CONCERNING ADDITIONAL
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENT
WITH FOREIGN POSTAL OPERATORS 1
NEGOTIATED SERVICE AGREEMENT
(WITH ROYAL POSTNL BV)

(December 12, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2275.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of its entry into an additional bilateral agreement for inbound competitive services with Royal PostNL BV (PostNL).² The Postal Service seeks to include the inbound portion of a bilateral agreement with PostNL (PostNL 2014 Agreement) within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (Competitive Multi-Service Agreements) product. Notice at 1. The PostNL 2014 Agreement establishes prices and classifications for the delivery of inbound Air Parcel Post and Express Mail Service (EMS) in the United States. *Id.* at 4.

¹ PRC Order No. 2275, Notice and Order Concerning Additional Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, December 5, 2014.

² United States Postal Service Notice of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Royal PostNL BV and Application for Non-Public Treatment of Materials Filed Under Seal, December 4, 2014 (Notice).

In Order No. 546, the Commission approved the addition of the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product to the competitive product list, and included within that product an agreement with Koninklijke TNT Post BV and TNT Post Pakketservice Benelux BV (TNT Agreement).³ In Order No. 840, the Commission “accepted the Postal Service’s designation of the TNT Agreement ‘as the baseline agreement for functional equivalency analysis of the Inbound Competitive Multi-Service Agreement[s] with Foreign Postal Operators 1 product.’”⁴ Subsequently, the Commission determined that bilateral agreements with Hongkong Post, Norway Post, Deutsche Post, the Australian Postal Corporation and the Canada Post Corporation should be included within the Competitive Multi-Service Agreements product.⁵

The PostNL 2014 Agreement is the successor to an existing bilateral agreement with Royal PostNL BV (PostNL 2012 Agreement), which expires December 31, 2014.⁶ The Postal Service states that the proposed Effective Date for the PostNL 2014 Agreement is January 1, 2015. Notice at 3. The PostNL 2014 Agreement is to remain in effect for two years after the Effective Date, unless terminated sooner. *Id.*, Attachment 1 at 10.

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, and the PostNL 2014 Agreement and supporting financial model filed under seal with the Notice. The Public Representative also reviewed the financial model for the TNT Agreement filed under seal in Docket Nos. MC2010-34 and CP2010-95. Based upon that review,

³ PRC Order No. 546, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, Docket Nos. MC2010-34 and CP2010-95, September 29, 2010.

⁴ Notice at 2, *citing* PRC Order No. 840, Order Concerning an Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. CP2011-69, September 7, 2011, at 5.

⁵ <http://www.prc.gov/prc-pages/library/mail-classification-schedule/default.aspx?view=mail>, (Draft) Mail Classification Schedule, January 27, 2014 (with revisions through: November 25, 2014), Section 2515.10.5, for a list of competitive multi-service agreements currently included in the product.

⁶ Notice at 3, *citing* PRC Order No. 1953, Order Approving Addition of Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement with Royal PostNL BV, Docket No. CP2013-24, December 26, 2012, at 6.

the Public Representative concludes that the PostNL 2014 Agreement is functionally equivalent to the TNT Agreement. Moreover, the negotiated inbound rates in the PostNL 2014 Agreement are likely to generate sufficient revenue to cover attributable costs.

Functional Equivalence. The Postal Service states that the PostNL 2014 Agreement is functionally equivalent to the baseline agreement because the terms of the agreements remain similar in scope and purpose, and share most terms and clauses in common. Notice at 2. Moreover, the PostNL 2014 Agreement is substantially similar to the inbound portion of the TNT Agreement in terms of the products and cost characteristics. *Id.* at 5. In this regard, the PostNL 2014 Agreement establishes prices for the delivery of inbound Air Parcel Post and EMS, the same competitive services as in the TNT Agreement. *Id.* at 3-4.

A review of the supporting financial models for the PostNL 2014 Agreement and the TNT Agreement reveals that the PostNL 2014 Agreement and the TNT Agreement share similar cost and market characteristics. In terms of market characteristics, both agreements establish negotiated prices inbound Air Parcel Post and EMS.⁷ In terms of cost characteristics, both financial models develop unit costs for mail processing, delivery, domestic transportation, and domestic other costs associated with inbound Air Parcel Post and EMS.⁸ The Public Representative therefore concludes that the PostNL 2014 Agreement is functionally equivalent to the TNT Agreement.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's negotiated prices for competitive products must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products

⁷ Compare the Service Descriptions and Stream codes in the TNT Agreement financial model, Excel file (Non-Public) Netherlands_Comp_IB_2010.08.09, worksheet tab 08_Pieces-Wgt & TDues_Rates, columns B and C to the Service Descriptions and Stream codes in the PostNL 2014 Agreement financial model, Excel file (Non-Public) Copy of Netherlands_Comp_IB_2014_FINAL, worksheet tab 08_Pieces-Wgt & TDues_Rates, columns B and C.

⁸ Compare the cost characteristics in the TNT Agreement financial model, Excel file (Non-Public) Netherlands_Comp_IB_2010.08.09, worksheet tab 05_Product_Unit_Cost_Inputs to the cost characteristics in the PostNL 2014 Agreement financial model, Excel file (Non-Public) Copy of Netherlands_Comp_IB_2014_FINAL, worksheet tab 05_Product_Unit_Cost_Inputs.

collectively contribute an appropriate share of the institutional costs of the Postal Service.

The Postal Service's financial model does not directly address whether the addition of the PostNL 2014 Agreement to the Competitive Multi-Service Agreements product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated prices in the PostNL 2014 Agreement will generate sufficient revenues to cover its attributable costs. The Public Representative notes that in the FY 2013 Annual Compliance Determination (ACD) Report, the Commission determined that the Competitive Multi-Service Agreements product covered costs. 2013 ACD at 91. Therefore, the addition of the PostNL 2014 Agreement to the Competitive Multi-Service Agreements product will not cause the product's cost coverage to fall below 100 percent. As a result, the addition of the PostNL 2014 Agreement to the Competitive Multi-Service Agreements product should allow the product to continue to 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). Finally, the addition of the PostNL 2014 Agreement to the Competitive Multi-Service Agreements 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).

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

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