

ORDER NO. 2431

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

Before Commissioners:

Robert G. Taub, Acting Chairman;
Tony Hammond, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Nanci E. Langley

Competitive Product Prices
Parcel Select & Parcel Return Service Contract 5
(MC2014-1)
Negotiated Service Agreement

Docket No. CP2014-1

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

(Issued April 8, 2015)

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.

¹ Notice of United States Postal Service of Amendment to Parcel Select and Parcel Return Service Contract 5, with Portions Filed Under Seal, March 27, 2015 (Notice). The Amendment is an attachment to the Notice (Amendment). *Id.* Attachment A.

In Order No. 1863, the Commission approved the Parcel Select & Parcel Return Service Contract 5 negotiated service agreement (Existing Agreement).² On March 27, 2015, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On March 30, 2015, 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 On March 31, 2015, Chairman's Information Request No. 1 (CHIR No. 1) was issued.⁴ CHIR No. 1 sought additional information about the Amendment's impact on the contract's overall cost coverage and requested updated supporting financial workpapers. On April 6, 2015, the Postal Service filed its response to CHIR No. 1 and provided the requested workpapers under seal.⁵

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission issues all necessary regulatory approval. Notice, Attachment A at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. Notice at 1.

II. COMMENTS

Comments were filed by the Public Representative.⁶ No other person submitted comments. The Public Representative states that the Postal Service did not provide revised revenue and cost data supporting the Amendment.⁷ Thus, she is unable to

² See Docket Nos. MC2014-1 and CP2014-1, Order Adding Parcel Select & Parcel Return Service Contract 5 to the Competitive Product List, October 29, 2013 (Order No. 1863).

³ Order No. 2417, Notice and Order Concerning Amendment to a Parcel Select & Parcel Return Service Negotiated Service Agreement, March 30, 2015.

⁴ Chairman's Information Request No. 1, March 31, 2015 (CHIR No. 1).

⁵ Responses of the United States Postal Service to Chairman's Information Request No. 1, with Portions Filed Under Seal, April 6, 2015 (Response to CHIR No. 1).

⁶ Public Representative Comments on Postal Service Request to Amend a Parcel Select & Parcel Return Service Negotiated Service Agreement, April 6, 2015 (PR Comments).

⁷ At the time she filed her comments, the Public Representative does not appear to have had an opportunity to review the Postal Service's Response to CHIR No. 1.

conclude with certainty that the contract will meet the requirements of 39 U.S.C. § 3633(a) for the first or subsequent years of the agreement, as amended. PR Comments at 2.

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, the Response to CHIR No. 1, 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).

In Response to CHIR No. 1, the Postal Service provided revised financial workpapers, demonstrating that the Existing Agreement, as amended, is projected to continue to cover its costs. The revised financial workpapers respond to the Public Representative's reservations by showing that the Amendment should allow the Postal Service to continue compliance with 39 U.S.C. § 3633(a)(2). Based on a review of the record, including the revised financial workpapers, 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.J. 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 on the day after the date that the Commission issues all necessary regulatory approval. Notice, Attachment A at 1. The Existing Agreement, as amended, is set to expire 5 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.⁸

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

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 5 negotiated service agreement, as amended.

⁸ Docket Nos. MC2014-1 and CP2014-1, Request of the United States Postal Service to Add Parcel Select & Parcel Return Service Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 17, 2013, Attachment B at 13. 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.

2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams
Acting Secretary