

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  
Priority Mail Contract 64 (MC2013-62)  
Negotiated Service Agreement

Docket No. CP2013-82

ORDER APPROVING AMENDMENT TO  
PRIORITY MAIL CONTRACT 64 NEGOTIATED SERVICE AGREEMENT

(Issued May 4, 2015)

I. INTRODUCTION

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

In Order No. 1848, the Commission approved the Priority Mail Contract 64 negotiated service agreement (Existing Agreement).<sup>2</sup> On December 24, 2014, the Postal Service filed notice of an amendment to Contract 64, which revised the pricing

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<sup>1</sup> Notice of United States Postal Service of Amendment to Priority Mail Contract 64, with Portions Filed Under Seal, April 22, 2015 (Notice). The Amendment is an attachment to the Notice (Amendment).

<sup>2</sup> See Docket Nos. MC2013-62 and CP2013-82, Order Adding Priority Mail Contract 64 to Competitive Product List, October 17, 2013 (Order No. 1848).

structure in section I.G. of the existing agreement.<sup>3</sup> In Order No. 2316, the Commission approved Amendment 1 to Contract 64.<sup>4</sup>

On April 22, 2015, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On April 23, 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.<sup>5</sup>

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 asserts that the Amendment will not materially affect the cost coverage of Priority Mail Contract 64 and that the supporting financial documentation and financial certification previously filed in this Docket on December 24, 2014, remain applicable. *Id.*

## II. COMMENTS

Comments were filed by the Public Representative.<sup>6</sup> No other person submitted comments. The Public Representative reviewed the Amendment and the Existing Agreement. *Id.* at 2. Based on that review, he recommends Commission approval of the Amendment to Contract 64. *Id.*

The Public Representative notes his concern that if the Postal Service does not seek a price adjustment, or proposes a decrease in generally applicable prices for Priority Mail Commercial Plus, the contract's cost coverage would decline, assuming costs rise during the remainder of the second year and the third year of the contract.

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<sup>3</sup> Docket Nos. MC2013-62 and CP2013-82, Notice of the United States Postal Service of Amendment to Priority Mail Contract 64, with Portions Filed Under Seal, December 24, 2014.

<sup>4</sup> See Order No. 2316, Order Approving Amendment to Priority Mail Negotiated Service Amendment, January 6, 2015 (Order No. 2316; Amendment 1).

<sup>5</sup> Order No. 2457, Notice and Order Concerning Amendment to a Priority Mail Negotiated Service Agreement, April 23, 2015 (Order No. 2457).

<sup>6</sup> Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Contract 64, April 30, 2015 (PR Comments).

*Id.* at 2-3. However, he believes this concern is mitigated by the fact that the Postal Service must file revenue and cost data for this contract in future Annual Compliance Reports, which will permit the Commission to annually review its compliance with 39 U.S.C. § 3633(a).

### III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal and the financial documentation filed with Amendment 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).

The Amendment changes the terms of the tiered pricing structure in section I.G. of the contract. Notice, Attachment A at 1. In Order No. 2316, the Commission found that the Existing Agreement as amended complied with the provisions applicable to rates for competitive products. Order No. 2316 at 3. The contract contains a price adjustment provision that does not hinder the likelihood that rates will cover attributable costs during the remainder of the contract term because the cost coverage is sufficiently high.

Based on the Commission's review of the financial documentation included with Amendment 1, the Amendment will not materially affect the underlying financial analysis of the Existing Agreement, as amended. The Postal Service asserts that the Amendment will not materially affect the cost coverage of Priority Mail Contract 64.

Notice at 1. 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. 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 3 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.<sup>7</sup>

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 Priority Mail Contract 64 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.

By the Commission.

Shoshana M. Grove  
Secretary

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<sup>7</sup> Order No. 1848 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.