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ORDER NO. 2649

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
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2015-118

ORDER APPROVING ADDITIONAL GLOBAL EXPEDITED PACKAGE SERVICES 3 NEGOTIATED SERVICE AGREEMENT

(Issued August 11, 2015)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Expedited Package Services 3 (GEPS 3) agreement (Agreement) within the GEPS 3 product.[1] For the reasons discussed below, the Commission approves the Postal Service's request.

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, July 31, 2015 (Notice).

II. BACKGROUND

Agreements included within the GEPS 3 product offer price incentives to mailers that use Priority Mail Express International and Priority Mail International.

On July 31, 2015, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the GEPS 3 product and requests that the Agreement be added to the existing GEPS 3 product. Notice at 3. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the GEPS 3 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect on August 15, 2015. Notice at 3. It is set to expire one year after its effective date or the last day of the month which falls one calendar year from the effective date, whichever is later, unless terminated sooner. *Id*.

In Order No. 2633, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.[2]

III. COMMENTS

The Public Representative filed comments on August 10, 2015.[3] No other comments were received.

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[2] Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Service Agreement, August 3, 2015 (Order No. 2633).

[3] Public Representative Comments on Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Service Agreement, August 10, 2015 (PR Comments).

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the contract pricing is consistent with the provisions of title 39, and appears able to generate sufficient revenue to cover attributable costs. PR Comments at 2.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the GEPS 3 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 503, the Commission approved the addition of GEPS 3 to the competitive product list and designated an agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the GEPS 3 product.[4]

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GEPS 3 product. Notice at 3. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the GEPS 3 product. *Id*. at 2-3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id*. at 4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.[5]

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[4] *See* Docket Nos. MC2010-28 and CP2010-71, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010, at 7 (Order No. 503).

[5] Differences include, among others, revisions to existing articles, the deletion of an article, and the inclusion of new articles. *Id.* at 4-7.

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the GEPS 3 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, 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 a 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, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. Consequently, the Commission finds that the addition of the Agreement to the GEPS 3 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the GEPS 3 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product 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 addition of the Agreement to the GEPS 3

product 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). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the GEPS 3 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The intended effective date of the Agreement is August 15, 2015. Notice at 3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. The contract is set to expire one year after the effective date, or the last day of the month that is one year after the effective date, whichever is later. *Id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2015-118 is included within the Global Expedited Package Services 3 (MC2010-28) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.

2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.

3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

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2500 Negotiated Service Agreements

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2510 Outbound International

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2510.3 Global Expedited Package Services (GEPS) Contracts

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2510.3.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- GEPS 3
  Baseline Reference
  Docket Nos. CP2010-71 and MC2010-28
  PRC Order No. 503, July 29, 2010
  Included Agreements

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  <u>CP2015-118, expires August 31, 2016</u>
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