

ORDER NO. 2736

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 Return Service Contract 5 (MC2014-4)  
Negotiated Service Agreement

Docket No. CP2014-4

ORDER APPROVING AMENDMENT TO  
PARCEL RETURN SERVICE NEGOTIATED SERVICE AGREEMENT

(Issued September 29, 2015)

I. INTRODUCTION

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

In Order No. 1867, the Commission approved the Parcel Return Service Contract 5 negotiated service agreement (Existing Agreement).<sup>2</sup> On September 18, 2015, the Postal Service filed notice that it has agreed to the Amendment to the Existing

---

<sup>1</sup> Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Parcel Return Service Contract 5, September 18, 2015 (Notice). The Amendment is an attachment to the Notice (Amendment). Notice, Attachment A.

<sup>2</sup> See Docket Nos. MC2014-4 and CP2014-4, Order Adding Parcel Return Service Contract 5 to the Competitive Product List, November 1, 2013 (Order No.1867).

Agreement. On September 21, 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>3</sup>

The Postal Service intends for the Amendment to become effective 1 business day after the date that the Commission completes its review. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. Notice, Attachment B at 1.

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 1. Based on that review, she concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* at 1-2.

## III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, the Existing Agreement, 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

---

<sup>3</sup> Order No. 2719, Notice and Order Concerning Amendment to a Parcel Return Service Negotiated Service Agreement, September 21, 2015.

<sup>4</sup> Public Representative Comments on Postal Service Notice of Amendment to Parcel Return Service Contract 5, September 25, 2015 (PR Comments).

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 Existing Agreement concerns domestic shipping services.<sup>5</sup> The Amendment replaces the price tables in the Existing Agreement and revises the annual price adjustment clause by placing a limit on price increases. Notice, Attachment A at 1, 5.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs, in accordance with 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 39 U.S.C. § 3633(a). The revised annual adjustment 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 completes its review. Notice at 1, Attachment A at 1. The Amendment does not alter a clause in the Existing Agreement providing that the Existing Agreement will expire 3 years after the initial

---

<sup>5</sup> Docket Nos. MC2014-4 and CP2014-4, Request of the United States Postal Service to Add Parcel Return Service Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 23, 2013, Attachment B.

effective date unless, among other things, either party terminates the contract with written notice to the other party or it is renewed by mutual agreement.<sup>6</sup>

The Existing Agreement also contains a provision that allows the parties to extend the Existing Agreement for two 90-day periods if a successor agreement is being prepared and the Commission is notified within at least 7 days of the Existing Agreement expiring.<sup>7</sup> During the extension periods, prices can be adjusted for price increases or decreases. The Amendment limits the percentage change in price increase per price cell. Notice, Attachment A at 5. The Commission finds the two potential 90-day extension periods continue to be reasonable because: (1) prices automatically increase in the extension period if there is an increase in the relevant prices of general applicability, making it likely that the Existing Agreement, as amended, will continue to cover its attributable costs; (2) the limit on a price increase per cell is not likely to interfere with the ability of the contract to continue to cover its attributable costs; and (3) the extension(s) should assist the Postal Service's contract negotiations by providing additional flexibility.

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.

---

<sup>6</sup> See Notice, Attachment A at 1. 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.

<sup>7</sup> Request, Attachment B at 8. As the Commission noted in Order No. 1773, the Postal Service clarified that substantially similar language in Priority Mail Contract 60 contemplates the Postal Service filing any notices of extension with the Commission at least 1 week prior to the expiration of the contract, as opposed to the instant contract's "within at least seven (7) days of the contract's expiration date." See Docket Nos. MC2013-54 and CP2013-70, Order No. 1773, Order Adding Priority Mail Contract 60 to the Competitive Product List, July 8, 2013, at 3; see also Docket Nos. MC2013-54 and CP2013-70, Response of the United States Postal Service to Chairman's Information Request No. 1, July 1, 2013, question 2.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Parcel Return Service Contract 5 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.

Ruth Ann Abrams  
Acting Secretary