

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

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 151

Docket No. MC2016-12

Competitive Product Prices  
Priority Mail Contract 151 (MC2016-12)  
Negotiated Service Agreement

Docket No. CP2016-14

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE REQUEST TO ADD  
PRIORITY MAIL CONTRACT 151 TO  
COMPETITIVE PRODUCT LIST

(November 4, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2786.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request pursuant to 39 USC 3642 and 39 CFR 3020.30 *et seq.*, to add Priority Mail Contract 151 to the competitive product list.<sup>2</sup>

The Postal Service's Request includes a Statement of Supporting Justification (Statement), a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governor's Decision No. 11-6 and related analysis, a public version of Priority Mail shipping services Contract 151, and proposed changes to the Mail Classification Schedule (MCS) competitive product list with the additions underlined. The Postal Service also filed under seal an unredacted version of Governor's Decision No. 11-6,

---

<sup>1</sup> Order No. 2786, Notice and Order Concerning the Addition of Priority Mail Contract 151 to the Competitive Product List, October 28, 2015 (Notice).

<sup>2</sup> Request of the United States Postal Service to Add Priority Mail Contract 151 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 27, 2015 (Request).

Contract 151, and a supporting financial model estimating the contract value during the first year.

The Postal Service states that Contract 151 is a competitive product featuring prices “not of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service also maintains that the classification and prices applicable to Contract 151 are authorized by Governors’ Decision No. 11-6.<sup>3</sup> The Postal Service further asserts that the Statement provides support for adding Contract 151 to the competitive product list and the compliance of Contract 151 with 39 U.S.C. § 3633(a). Request at 2; *Id.*, Attachment D.

The effective date for Contract 151 is two business days following the day on which the Commission issues all necessary regulatory approvals. Request, Attachment B at 3 (Article II). Contract 151 will expire 3 years from the effective date unless either party terminates the contract on 30 days’ prior written notification, or other specific events. *Id.* (Article III).

## COMMENTS

The Public Representative has reviewed the Postal Service’s Request, the Statement, as well as Priority Mail Contract 151 and the financial model filed under seal with the Request. Based upon that review, the Public Representative concludes that Contract 151 should be classified as a competitive product and added to the competitive product list. In addition, it appears that Contract 151 should generate sufficient revenues to cover costs during the first year and thereby satisfy 39 U.S.C. § 3633(a).

*Product List Assignment.* Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Contract 151 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of

---

<sup>3</sup> *Id.*, Attachment A, consisting of Decision of the Governors of the United States Postal Service on Establishment of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors’ Decision No. 11-6).

losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service’s Statement makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D at 2. These assertions appear reasonable. Based upon the Statement, the Public Representative concludes that the Postal Service’s Request to add Contract 151 to the competitive product list is appropriate.

*Requirements of 39 U.S.C. § 3633.* Pursuant to 39 U.S.C. § 3633(a), the Postal Service’s competitive prices must ensure that each competitive product will cover its attributable costs; ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service; and, not result in the subsidization of competitive products by market dominant products. Based upon a review of the financial model, the negotiated prices for Contract 151 should generate sufficient revenues to cover costs during the first year of the contract and therefore meet the requirements of 39 U.S.C. § 3633(a).

As indicated above, Contract 151 is expected to remain in effect for a period of three years. The contract includes a mechanism for the adjustment of contract prices during the second and third years. Adjustments to contract prices are linked to price increases of general applicability for Priority Mail Commercial Plus. If the Postal Service does not seek any price change, or proposes a decrease in generally applicable prices for Commercial Plus, it appears there will be no change in the contract prices since the contract specifies only contract price increases in response to an increase in generally applicable prices. This price adjustment mechanism should therefore improve the likelihood that Contract 151 meets the requirements of 39 U.S.C. § 3633(a) over its lifetime.

Moreover, the possibility of a decrease in contract prices is mitigated by the fact that the Postal Service must file revenue and cost data for Contract 151 in future Annual Compliance Reports. This data will permit the Commission to annually review the

financial results for Priority Mail Contract 151 in future Annual Compliance Determination (ACD) reports for compliance with 39 U.S.C. § 3633(a).

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

---

James F. Callow  
Public Representative

901 New York Ave. NW  
Washington, DC 20268-0001  
202-789-6839  
callowjf@prc.gov