

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

Competitive Product Prices
Global Reseller Expedited Package Contracts 4
(MC2014-38)
Negotiated Service Agreement

Docket No. CP2016-21

PUBLIC REPRESENTATIVE COMMENTS
ON POSTAL SERVICE NOTICE OF FILING A
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 4
NEGOTIATED SERVICE AGREEMENT

(November 30, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2830.¹ 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 Notice of filing an additional Global Reseller Expedited Package (GREP) Contracts 4 negotiated service agreement (Agreement).²

In Order No. 2170, the Commission granted the Postal Service's request to add the Global Reseller Expedited Package Contracts 4 product to the competitive product list.³ The Postal Service's Notice seeks to add the Agreement to the GREP Contracts 4 product. Notice at 6.

Included as an attachment to the Notice is a redacted version of the Agreement that is the subject of this docket; a certified statement required by 39 C.F.R. §3015.5(c)(2); a redacted version of Governors' Decision No. 11-6; and the Postal Service's Application for Non-Public Treatment of materials filed under seal in this docket. The Notice also includes supporting financial workpapers for the Agreement.

¹ PRC Order No. 2830, Notice and Order Concerning Additional Global Reseller Expedited Package Contracts 4 Negotiated Service Agreement, November 20, 2015.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Contracts 4 Negotiated Service Agreement, November 19, 2015 (Notice).

³ PRC Order No. 2170, Order Adding Global Reseller Expedited Package Contracts 4 to the Competitive Product List and Approval of Designation as Baseline Agreement, Docket Nos. MC2014-38 and CP2014-67, August 25, 2014.

Prices and classifications not of general applicability for GREP agreements were previously established by Governors' Decision No. 10-1, issued March 24, 2010.⁴ In Order No. 445, Commission approved the addition of the Global Reseller Expedited Package Contracts 1 product (MC2010-21) to the competitive product list, and included a GREP Contracts 1 agreement (CP2010-36) within the product.⁵ The Commission subsequently added a number of GREP Contracts 1 agreements to the product.⁶ In Order No. 1746, Commission approved the addition of the Global Reseller Expedited Package Contracts 2 product (MC2013-51) to the competitive product list, and the inclusion of a GREP Contracts 2 agreement (CP2013-64) within the product.⁷ In Order No. 1870, the Commission approved the addition of the Global Reseller Expedited Package Contracts 3 product (MC2013-64) to the competitive product list, and included a GREP Contracts 3 agreement (CP2013-84) within the product.⁸ More recently, the Commission approved Order No. 2170, which added the Global Reseller Expedited Package Contracts 4 product (MC2014-38) to the competitive product list, and included the GREP Contracts 4 agreement (CP2014-67) within the product. PRC Order No.

⁴ The Postal Service's Request cites Governors' Decision No. 10-1 for the authority to establish prices and classifications for GREP agreements. Request at 2-3, *citing* Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010, Attachment 2.

⁵ PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.

⁶ PRC Order No. 561, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-1, October 15, 2010; PRC Order No. 648, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-55, January 13, 2011; PRC Order No. 755, Order Approving Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-65, June 30, 2011; PRC Order No. 811, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2011-67, August 18, 2011; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012; PRC Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-20, December 10, 2012; PRC Order No. 1669, Order Approving and Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-49, February 26, 2013; and, PRC Order No. 2004, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2014-29, February 28, 2014.

⁷ PRC Order No. 1746, Order Adding Global Reseller Expedited Package Contracts 2 to the Competitive Product List Negotiated Service Agreement, Docket Nos. MC2013-51 and CP2013-64, June 13, 2013.

⁸ PRC Order No. 1870, Order Adding Global Reseller Expedited Package Contracts 3 to the Competitive Product List and Approval of Designation as Baseline Agreement, Docket Nos. MC2013-64 and CP2013-84, November 7, 2013.

2170. That GREP Contracts 4 agreement serves as the “baseline” agreement for functional equivalency analysis with respect to subsequent GREP Contract 4 agreements. *Id.*, at 6.

Agreements included within the GREP Contracts 4 product offer discounted prices for Priority Mail Express International (PMEI), Priority Mail International (PMI), Outbound Single-Piece First-Class Package International Service (FCPIS), Global Express Guaranteed (GXG), and Priority Mail Regional Rate Boxes (PMI RRB) to U.S.-based consolidators, freight forwarders and large shipping companies. These companies in turn serve as resellers that market shipping services at discounted prices to their customers, especially small and medium-sized businesses. To qualify for a GREP agreement, a reseller must be capable of tendering at least 5,000 pieces of international mail, or paying at least \$100,000 in international postage, to the Postal Service.

The Agreement that is the subject of this docket is intended to replace the reseller’s current GREP Contracts 4 agreement, which was filed in Docket No. CP2014-80. Notice at 1-2. The Postal Service will notify the reseller of the effective date of the Agreement. *Id.*, Attachment 1 at 3 (Article 11). The Agreement will remain in effect for one calendar year, unless terminated sooner. *Id.*

The Postal Service asserts that financial data filed under seal establishes that the GREP Contracts 4 Agreement satisfies the requirements of 39 U.S.C. § 3633. Notice at 6. The Postal Service also maintains that the GREP Contracts 4 Agreement is functionally equivalent to the baseline agreement. *Id.* The Postal Service therefore seeks to add the GREP Contracts 4 Agreement to the GREP Contracts 4 product. *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the GREP Contracts 4 Agreement and the financial workpapers included with the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, it appears the negotiated

prices of the GREP 4 Contract Agreement should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

Functional Equivalence. The Postal Service states that the Agreement is “substantially similar to . . . [and] shares similar cost and market characteristics with” the contract filed in Docket Nos. MC2014-38 and CP2040-67,” which serves as the baseline agreement. *Id.* at 3. More specifically, the Postal Service asserts that the “functional terms of the contract at issue are the same as those” of the baseline agreement, and the “benefits of the contract . . . are comparable as well.” *Id.*

However, the Postal Service identifies differences between the instant contract and the baseline agreement. *Id.* at 4-5. The Postal Service does not consider that the specified differences affect either the fundamental service being offered by the Postal Service or the fundamental structure of the Agreement. In this regard, the Public Representative observes that most of the differences represent minor revisions or other small changes or additions. Moreover, the Postal Service maintains that nothing detracts from the conclusion that the instant contract is “functionally equivalent.” *Id.*, at 6.

Based upon the foregoing, the Public Representative finds no change in the cost or market characteristics of the Agreement compared to the baseline agreement. Therefore, the Public Representative concludes that the GREPS 4 Contract Agreement is functionally equivalent to the baseline agreement.

Requirements of 39 U.S.C. § 3633. 39 U.S.C. § 3633 requires that competitive product prices cover each product’s attributable costs, not result in the subsidization of competitive products by market dominant products, and enable competitive products as a whole to contribute an appropriate share to the institutional costs of the Postal Service. In addition, the Commission requires that each contract included within a GREP product cover its attributable costs.⁹

⁹ Mail Classification Schedule, Section 2510.7.1.d., Global Reseller Expedited Package Contracts, posted January 27, 2014, with updates through July 31, 2014.

In this proceeding, the Postal Service's financial workpapers indicate that the negotiated prices in the Agreement should generate sufficient revenues to cover its attributable costs. Consequently, the Public Representative finds that the Agreement, when added to the GREP Contracts 4 product, should result in product revenues covering costs, thereby satisfying 39 U.S.C. § 3633(a)(2), and 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). Moreover, the GREP Contracts 4 product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

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

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