Postal Regulatory Commission
Submitted 12/23/2015 3:52:33 PM
Filing ID: 94199
Accepted 12/23/2015

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices — Docket No. MC2016-47
Priority Mail
Priority Mail Contract 170

Competitive Product Prices — Docket No. CP2016-62
Priority Contract 170 (MC2016-47)
Negotiated Service Agreement

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PRIORITY MAIL CONTRACT 170 TO THE COMPETITIVE PRODUCT LIST

(December 23, 2016)

The Public Representative hereby provides comments pursuant to Order No. 2916.[1] In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's request to add Priority Mail Contract 170 to the competitive products list.[2]

Discussion

Under 39 U.S.C. § 3642(b) the criteria governing Commission review are whether the product (1) qualifies as market dominant, (2) is covered by the postal monopoly and therefore precluded from classification as a competitive product, and (3) reflects certain market considerations, including private sector competition, the impact on small businesses, and the views of product users. The Postal Service makes

[1] PRC Order No. 2916. Notice and Order Concerning the Addition of Priority Mail Contract 170 to the Competitive Product List. December 23, 2015.

[2] Request of the United States Postal Service to Add Priority Mail Contract 170 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. December 23, 2015

reasonable arguments that the Priority Mail Contract 170 satisfies these considerations found in section 3642(b).

Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial models filed under seal with the Postal Service's Notice, it appears the negotiated prices in the contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

Conclusion

The Public Representative has reviewed the Postal Service's Request, Statement of Supporting Justification, attached contract, Certification of Compliance with 39 U.S.C. 3633(a), and the Postal Service's proposed revised changes to the Mail Classification Schedule (MCS). The Public Representative has also reviewed the supporting financial models for the contract filed separately under seal. Based upon that review, the Public Representative concludes that the Priority Mail Contract 170 satisfies the criteria of section 3642(b), concerning the classification of new competitive products, and complies with the requirements of section 3633(a), concerning rates for competitive products.

The contract is expected to remain in effect for a period of three years.[3] The Postal Service provides no definite evidence to demonstrate that the contract will comply with the requirements of 39 U.S.C. § 3633(a) during the second and third years of the contract. This concern is largely mitigated by the fact that the terms of the contract provide a formula for an annual adjustment in the negotiated rates that should

[3] The contract may be (1) terminated by either party with 30 days' notice to the other party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent contract between the parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation. Request, Attachment B at 3.

permit revenues to cover costs during years 2 and 3.[4] The Commission also has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

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

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[4] *See* Appendix B of Request of the United States Postal Service to Add Priority Mail Contract 170 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. December 23, 2014. Page 4.