Postal Regulatory Commission
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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices — Docket No. MC2016-69
Priority Mail
Priority Mail Contract 185

Competitive Product Prices — Docket No. CP2016-84
Priority Mail Contract 185 (MC2016-69)
Negotiated Service Agreement

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE REQUEST TO ADD PRIORITY MAIL CONTRACT 185 TO COMPETITIVE PRODUCT LIST

(December 30, 2015)

I. INTRODUCTION

The Public Representative hereby provides comments pursuant to Order No. 2955.[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's Request to add Priority Mail Contract 185 to the competitive product list.[2]

II. BACKGROUND

The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governors' Decision No. 11-6 and related analysis, a public version of Priority Mail

[1] Notice and Order Concerning the Addition of Priority Mail Contract 185 to the Competitive Product List, December 29, 2015 (Order No. 2955).

[2] Request of the United States Postal Service to Add Priority Mail Contract 185 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 28, 2015 (Request).

shipping services Contract 185, and proposed changes to the Mail Classification Schedule competitive product list with the addition underlined. The Postal Service also filed (under seal) an unredacted Governors' Decision No. 11-6, the contract related to the proposed new product, and supporting financial model.

According to the Postal Service, Priority Mail Contract 185 is a competitive product "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 prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6. [3]

The effective date of Priority Mail Contract 185 is two business days following the day on which the Commission issues all necessary regulatory approval. Request, Attachment B at 3. The contract is scheduled to expire 3 years from the effective date, subject to early termination provisions. *Id.*

III. COMMENTS

The Public Representative has reviewed the Postal Service's Request, including the Statement of Supporting Justification, the shipping services Contract 185 and the worksheets filed under seal with the Request. Based upon that review, the Public Representative concludes that Priority Mail Contract 185 should be categorized as a competitive product and added to the competitive product list. In addition, it appears that Priority Mail Contract 185 should generate sufficient revenues to cover costs in the first year, and thereby satisfy 39 U.S.C. § 3633(a) during the first year.

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Contract 185 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

[3] Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for 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).

output, without risk of 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 of Supporting Justification 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 these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Contract 185 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 rates for competitive products 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 spreadsheets and the contract filed under seal with the Request, it appears that the negotiated prices 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) during the first year.

As noted above, Priority Mail Contract 185 is expected to remain in effect for a period of three years. The financial model applies only to the first year of the contract. However, the contract includes a mechanism for the annual adjustment of prices, which should help maintain the contract's ability to meet the requirements of 39 U.S.C. § 3633(a) over the life of the contract. Request, Attachment B at 2-3. The Commission will have an opportunity to review the revenue, cost and volume data for Priority Mail Contract 185 in the future Annual Compliance Determination (ACD) reports.

IV. CONCLUSION

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

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