

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

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2016-95

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE NOTICE OF
FILING A FUNCTIONALLY EQUIVALENT GLOBAL EXPEDITED PACKAGE
SERVICES 3 NEGOTIATED SERVICE AGREEMENT
(January 25, 2016)

The Public Representative hereby provides comments pursuant to Order No. 3034.¹ In that Order, the Commission established the above-referenced docket to receive comments on a Postal Service Notice of filing an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).²

Agreements included within the GEPS 3 product offer incentive pricing to mailers that send items directly to foreign destinations using Priority Mail Express International (PMEI), Priority Mail International (PMI), or both. Notice at 4. Prices offered pursuant to a GEPS 3 agreement may differ depending upon the volume or postage commitments made by the mailers. Id. To qualify for a GEPS agreement, a business mailer must be capable, on an annualized basis, of paying at least \$200,000 in international postage to the Postal Service.³

Prices and classifications not of general applicability for GEPS agreements were previously established by Governors' Decision No. 08-7.⁴ In Order No. 86, the

¹ PRC Order No. 3034, Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Service Agreement, January 15, 2016.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 14, 2016 (Notice).

³ See PRC, (Draft) Mail Classification Schedule, posted June 4, 2015 (with revisions through: November 2, 2015)

⁴ See Docket No. CP2008-5, United States Postal Service Notice of Filing Redacted Copy of Governors' Decision No. 08-7, July 23, 2008 (Governors' Decision No. 08-7). A redacted copy of the Governors' Decision was also filed as Attachment 3 to the Notice. An unredacted copy of the Governors' Decision

Commission established GEPS as a product on the competitive product list.⁵ The Commission subsequently approved the addition of the GEPS 3 product to the competitive product list (MC2010-28), and included within that product a GEPS 3 agreement (CP2010-71) that would serve as the baseline agreement for functional equivalence comparisons with future agreements.⁶ Since the addition of the GEPS 3 product to the competitive product list, the Commission has determined that additional GEPS 3 agreements were functionally equivalent to the baseline agreement and should be included in the GEPS 3 (MC2010-28) product.

The Postal Service states that the Agreement is functionally equivalent in all pertinent respects to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. Notice at 7. The Postal Service therefore requests that the Agreement be added to the GEPS 3 product grouping. *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the Agreement, and the supporting financial model filed under seal with the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement for the GEPS 3 product. In addition, it appears that the negotiated prices in the Agreement should generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633.

Functional Equivalence. The Postal Service asserts that the Agreement shares similar cost and market characteristics as those of the baseline GEPS 3 agreement. Notice. at 3. However, the Postal Service identifies some differences between the Agreement and the baseline agreement. *Id.* at 4-7. Most of these differences consist of

was filed previously under seal. See Docket No. CP2008-4, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Expedited Package Service Contracts, May 20, 2008.

⁵ Docket No. CP2008-5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008 (Order No. 86).

⁶ Docket Nos. MC2010-28 and CP2010-71, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010 (Order No. 503).

changes similar to those included in other recent GEPS 3 agreements,⁷ or are specific to the customer (e.g., the customer's name and address).

The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the Agreement. Notice at 7. The Public Representative concludes that the Agreement exhibits similar cost and market characteristics as the baseline agreement. Therefore, the Public Representative concurs with the Postal Service that the Agreement is functionally equivalent to the baseline agreement and should be added to the GEPS 3 product.

Requirements of 39 U.S.C. § 3633. 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; must ensure that each competitive product covers its attributable costs; and, must ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

As presented, the Postal Service's financial model does not directly address whether the addition of the Agreement to the GEPS 3 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated rates in the Agreement will generate sufficient revenue to cover attributable costs. Therefore, the addition of the Agreement to the GEPS 3 product should not cause the product's cost coverage to fall below 100 percent because the product currently covers its attributable costs.⁸ Consequently, the addition of the Agreement should allow the GEPS 3 product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive

⁷ See e.g., Docket No. CP2015-79, Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 27, 2015, at 4-7; Docket No. CP2015-64, Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 6, 2015, at 4-7.

⁸ In the FY 2014 Annual Compliance Determination (ACD) Report, the Commission determined that the GEPS 3 product covered the attributable costs. See Docket No. ACR2014, Annual Compliance Determination, March 27, 2014, at 77-78. Moreover, in its FY 2015 Annual Compliance Report, the Postal Service indicated that the GEPS 3 product covered its costs in FY 2015. See Docket No. ACR2015, United States Postal Service FY 2015 Annual Compliance Report, December 29, 2015, at 66.

products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Also, the addition of the Agreement is unlikely to prevent competitive products as a whole from contributing 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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