

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

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Tony Hammond

Competitive Product Prices  
Parcel Select & Parcel Return Service Contract 5  
(MC2014-1)  
Negotiated Service Agreement

Docket No. CP2014-1

ORDER APPROVING AMENDMENT TO PARCEL SELECT & PARCEL RETURN  
SERVICE NEGOTIATED SERVICE AGREEMENT

(Issued February 29, 2016)

I. INTRODUCTION

The Postal Service seeks to amend a Parcel Select & Parcel Return Service negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the amendment.

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<sup>1</sup> Notice of United States Postal Service of Amendment to Parcel Select and Parcel Return Service Contract 5, February 12, 2016 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 1863, the Commission approved the Parcel Select & Parcel Return Service Contract 5 negotiated service agreement (Existing Agreement).<sup>2</sup> On February 12, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On February 16, 2016, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup> On February 24, 2016, Chairman's Information Request No. 1 was issued.<sup>4</sup> CHIR No. 1 sought information about the redaction of a product being added to the agreement. On February 26, 2016, the Postal Service filed its Response to CHIR No. 1 and indicated that the Amendment "does not specifically exclude Parcel Select Lightweight packages from the definition in § I.B., as they were excluded in the original contract language."<sup>5</sup>

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice, Attachment A at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. Notice, Attachment B.

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<sup>2</sup> See Docket Nos. MC2014-1 and CP2014-1, Order Adding Parcel Select & Parcel Return Service Contract 5 to the Competitive Product List, October 29, 2013 (Order No. 1863). The contract was later amended twice. See Order No. 2431, Order Approving Amendment to Parcel Select & Parcel Return Service Negotiated Service Agreement, April 8, 2015; Order No. 2813, Order Approving Amendment to Parcel Select & Parcel Return Service Negotiated Service Agreement, November 13, 2015.

<sup>3</sup> Order No. 3080, Notice and Order Concerning Amendment to a Parcel Select & Parcel Return Service Negotiated Service Agreement, February 16, 2016.

<sup>4</sup> Chairman's Information Request No. 1, February 24, 2016 (CHIR No. 1).

<sup>5</sup> Response of the United States Postal Service to Chairman's Information Request No. 1, February 26, 2016 (Response to CHIR No. 1).

## II. COMMENTS

Comments were filed by the Public Representative.<sup>6</sup> No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, she concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* at 3. She notes that the “amended contract makes changes that alter the contract and original financial model” and included “the tab: ‘DDU-PSLW-Sun’ in Excel file ‘PS\_Amendment3\_Public.xls,’ which was not present in the original filing.” *Id.* at 2. She further “observes that the Postal Service has taken a conservative approach to integrating the new terms of the contract into the financial model.” *Id.* As a result, she states that the “financial model is likely to overestimate the costs associated with the amended contract terms.” *Id.* at 2-3. Although she concludes that the amendment should generate sufficient revenue to cover attributable costs, she “suggests that the Postal Service update[] its financial model to incorporate actual costs, prices, and volumes.” *Id.* at 3.

## III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service’s institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely

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<sup>6</sup> Public Representative Comments on Postal Service Notice of Amendment to Parcel Select and Parcel Return Service Contract 5, February 23, 2016 (PR Comments).

affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment seeks to add Parcel Select Lightweight packages to the existing agreement and amends various sections of the Existing Agreement.<sup>7</sup>

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, 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). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *See also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination (ACD) to ensure that rates cover costs. Because this amendment adds a new product to the contract and affects the cost coverage, to the Commission must fully understand the agreement's volume, price, and revenue composition to evaluate it in the ACD.

Therefore, to ensure that the Postal Service collects data sufficient for the Commission to complete this determination, the Commission directs the Postal Service to report Parcel Select Lightweight annual contract volume, price, and revenue, disaggregated by ounce, in addition to the existing data reporting for Parcel Select, for the duration of this contract. This reporting will allow the Commission to confirm that the Postal Service's financial models contain reasonable cost assumptions and accurately account for all costs associated with the addition of this service. These new reporting requirements shall be included within the existing reporting provided on Parcel Select Lightweight in the Postal Service's Annual Compliance Report.

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<sup>7</sup> See Notice; Excel file "PS\_Amendment3\_Public.xls", tab "DDU-PSLW-Sun," February 12, 2016; Response to CHIR No. 1.

*Other considerations.* The Postal Service states that the Amendment shall become effective one day after the date that the Commission completes its review. Notice, Attachment A at 1. The Existing Agreement, as amended, is set to expire five years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.<sup>8</sup>

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Parcel Select & Parcel Return Service Contract 5 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

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<sup>8</sup> Docket Nos. MC2014-1 and CP2014-1, Request of the United States Postal Service to Add Parcel Select and Parcel Return Service Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 17, 2013, Attachment B at 13. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

3. The Postal Service shall report contract Parcel Select Lightweight volume, price, and revenue, disaggregated by ounce, as part of its existing annual data reporting for Parcel Select for the duration of this contract.

By the Commission.

Stacy L. Ruble  
Secretary