

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 211

Docket No. MC2016-126

Competitive Product Prices  
Priority Contract 211 (MC2016-126)  
Negotiated Service Agreement

Docket No. CP2016-160

PUBLIC REPRESENTATIVE COMMENTS ON  
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD  
PRIORITY MAIL CONTRACT 211 TO THE COMPETITIVE PRODUCT LIST

(May 9, 2016)

The Public Representative hereby provides comments pursuant to Order No. 3275.<sup>1</sup> 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 211 to the competitive products list.

**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

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<sup>1</sup> PRC Order No.3275. Notice and Order Concerning the Addition of Priority Mail Contract 211 to the Competitive Product List. May 2, 2016.

reasonable arguments that the Priority Mail Contract 211 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 211 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.<sup>2</sup> 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

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<sup>2</sup> 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 5.

permit revenues to cover costs during years 2 and 3.<sup>3</sup> 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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<sup>3</sup> See Appendix B of Request of the United States Postal Service to Add Priority Mail Contract 211 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. April 29, 2016. Page 2.