

ORDER NO. 3282

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
First-Class Package Service Contract 39 (MC2016-38)
Negotiated Service Agreement

Docket No. CP2016-47

ORDER APPROVING AMENDMENT TO
FIRST-CLASS PACKAGE SERVICE NEGOTIATED SERVICE AGREEMENT

(Issued May 10, 2016)

I. INTRODUCTION

The Postal Service seeks to amend a First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to First-Class Package Service Contract 39, with Portions Filed Under Seal, April 29, 2016 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 2926, the Commission approved the First-Class Package Service Contract 39 negotiated service agreement (Existing Agreement).² On April 29, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On May 2, 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.³

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 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. *Id.* Attachment B.

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. See PR Comments at 2. Based on that review, he 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.*

III. COMMISSION ANALYSIS

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

² See Docket Nos. MC2016-38 and CP2016-47, Order Adding First-Class Package Service Contract 39 to the Competitive Product List, December 24, 2015 (Order No. 2926).

³ Order No. 3272, Notice and Order Concerning Amendment to a First-Class Package Service Negotiated Service Agreement, May 2, 2016.

⁴ Public Representative Comments on Postal Service Notice of Amendment to First-Class Package Service Contract 39, May 5, 2016 (PR Comments).

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 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 updates the information listed in section I.G., the Custom First-Class Package Service Commercial Tier Tables, among other changes. Notice, Attachment A at 2.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. Consequently, the Commission finds that the Amendment should allow the First-Class Package Service product to continue to comply with 39 U.S.C. § 3633(a)(2). For this reason, the Commission finds that the Amendment 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 Amendment 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). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The Commission will review the cost coverage of the Existing Agreement, as amended, the cost coverage of the First-Class Package Service Contract 39 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service states that the Amendment shall become effective one business day after the date that the Commission completes its

review. Notice at 1. The Existing Agreement, as amended, is set to expire December 28, 2018.⁵

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 First-Class Package Service Contract 39 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.

By the Commission.

Stacy L. Ruble
Secretary

⁵ See Order No. 2926 at 9.