

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

Market Dominant Product Prices
Inbound Market Dominant Registered Service Agreement
Negotiated Service Agreement

Docket No. MC2016-168

Market Dominant Product Prices
Inbound Market Dominant Registered Service Agreement
(MC2016-168)
Negotiated Service Agreement

Docket No. R2016-6

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO
ADD INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT
TO THE MARKET DOMINANT PRODUCT LIST,
TYPE 2 RATE ADJUSTMENT

(July 25, 2016)

BACKGROUND

The Public Representative hereby provides comments pursuant to the Commission's Notice Initiating Dockets.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 Notice of its request to add Inbound Market Dominant Registered Service Agreement to the Market Dominant Product List, Type 2 Adjustment.² The Registered Service Agreement is a multilateral agreement between some postal operators exchanging certain information in electronic

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings. July 14, 2016.

² Notice of United States Postal Service Request to Add Inbound Market Dominant Registered Service Agreement to the Market Dominant Product List, Notice of Type 2 Rate Adjustment, July 13, 2016 (Notice).

form related to the sending and delivering of registered items pursuant to Article 13 of the Universal Postal Convention. Notice at 1-2.

The Postal Service entered into this Registered Service Agreement on October 1, 2013 and since then has reported revenue from the Agreement under Market Dominant, International Ancillary Service. Id at 2. The Postal Service requests that this contract be added as a new product pursuant to 39 U.S.C. §§ 3622(c)(10) and 39 C.F.R. §3010.40 *et seq.* effective October 1, 2016 after which the Postal Service will report revenue from this agreement separately from Inbound Market Dominant, International Ancillary Service. Id at 2.

According to the Postal Service this Registered Service Agreement is an agreement with certain postal operators concerning the exchange of certain information in electronic format regarding the delivery of inbound registered items and in certain instances to establish remuneration for the provision of information. Id at 8. The Postal Service asserts that it will provide any necessary information about mail flows from the parties of the Registered Service Agreement within the course of the annual compliance review process and does not intend to provide any specific data collection plan. Id at 9. The Postal Service also requests that they be excepted from separate reporting under 39 C.F.R. § 3055.3(a)(3) because the Agreement concerns a product that is already being measured.³

DISCUSSION

Under 39 U.S.C. §§ 3622(c)(10) the Commission must determine whether a Registered Service Agreement improves the net financial position of the Postal Service or enhances the performance of operational functions, will not cause unreasonable harm to the marketplace, and will be available on public and reasonable terms to similarly situated mailers. The Postal Service asserts that this Agreement will improve the net financial position, enhance operational performance, and will not harm the marketplace. Notice at 10. The Postal Service also asserts that there are no similarly

³ The Commission granted similar exceptions in Docket No. R2011-6, PRC Order No. 876, at 8.

situated entities involved in this Agreement. Id. The Public Representative has reviewed the agreement and supporting financial model and finds these assertions to be accurate.

The Public Representative does however find it concerning that the Postal Service did not file this request prior to their accession into the Agreement, which according to the Postal Service was October 1, 2013. It does not appear that the Commission has received any revenue, volume, or cost coverage data specific to this agreement for prior years (FY 2014 or FY2015).

Participation in Registered Service Agreements is voluntary and as such requires review and approval from the Commission prior to execution by the Postal Service. If the Commission finds that prices set forth in a Registered Service Agreement are inconsistent with 39 U.S.C. §§ 3622(c)(10) its ability to prescribe a remedy is not constrained by the UPU treaty. Although the prices set forth in the financial models accompanying this request do cover costs and should improve the financial position of the Postal Service, the Public Representative recommends that the Commission inquire with the Postal Service as to why they are only now filing a request to add this Agreement to the Market Dominant product list. It may also be beneficial for the Commission to verify that there is no additional cost for the data collection process outlined in the Agreement.

Aside from the concerns noted above, the Public Representative agrees, based upon a review of the financial data, that the prices set forth in this Agreement do substantially cover costs and will improve the financial position of the Postal Service.

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

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MC2016-168/R2016-6 PR Comments

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