

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 October 5, 2016)

I. INTRODUCTION

The Postal Service seeks to amend a Parcel Select & Parcel Return 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 Parcel Select and Parcel Return Service Contract 5, with Portions Filed Under Seal, September 23, 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).² On September 23, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On September 27, 2016, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³ On the same day, the Commission issued Chairman's Information Request No. 2 requesting supplemental information.⁴ The Postal Service responded to CHIR No. 2 on September 30, 2016.⁵

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 asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.*

² 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. 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; Order No. 3109, Order Approving Amendment to Parcel Select & Parcel Return Service Negotiated Service Agreement, February 29, 2016. In addition, an attachment to the contract was later modified. See Order No. 3497, Order Approving Modification of Attachment A to Parcel Select & Parcel Return Service Negotiated Service Agreement, September 6, 2016.

³ Docket No. CP2014-1, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, September 27, 2016.

⁴ Chairman's Information Request No. 2, September 27, 2016 (CHIR No. 2).

⁵ Responses of the United States Postal Service to Chairman's Information Request No. 2, September 30, 2016 (Responses to CHIR No. 2).

II. COMMENTS

Comments were filed by the Public Representative.⁶ No other person submitted comments. The Public Representative reviewed the instant Amendment and previous amendments, the Existing Agreement, and the financial model previously filed under seal. PR Comments at 2. Based on that review, she concludes that the Amendment should not prohibit Parcel Select & Parcel Return Service Contract 5 from continuing to meet the requirements of 39 U.S.C. § 3633(a). *Id.* at 3.

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the Responses to CHIR No. 2, 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 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 changes the provision for the annual adjustment of contract prices. Notice, Attachment A at 1-4. The amendment also changes the contract's duration and period of notice for termination by the parties. *Id.* at 4.

The Amendment does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as

⁶ Public Representative Comments on Postal Service Notice of Amendment to Parcel Select & Parcel Return Service Contract 5, October 3, 2016 (PR Comments).

amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

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 Amendment also contains a provision that allows the parties to extend the Existing Agreement for two 90-day periods if a successor agreement is being prepared and the Commission is notified within at least seven days of the Existing Agreement expiring.⁷ During the extension periods, the price escalation clause in section I.J will be implemented. Notice, Attachment A at 4. The Commission finds the two potential 90-day extension periods are reasonable because: (1) prices automatically increase in the extension period, making it likely that the Existing Agreement, as amended, will continue to cover its attributable costs; and (2) the extension(s) should assist the Postal Service's contract negotiations by providing additional flexibility.

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.

⁷ Notice, Attachment A at 4. As the Commission noted in Order No. 1773, the Postal Service clarified that substantially similar language in Priority Mail Contract 60 contemplates the Postal Service filing any notices of extension with the Commission *at least one week prior to* the expiration of the contract, as opposed to the instant contract's "within at least seven (7) days of the contract expiring." See Docket Nos. MC2013-54 and CP2013-70, Order No. 1773, Order Adding Priority Mail Contract 60 to the Competitive Product List, July 8, 2013, at 3; *see also* Docket Nos. MC2013-54 and CP2013-70, Response of the United States Postal Service to Chairman's Information Request No. 1, July 1, 2013, question 2.

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