

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail Express
Priority Mail Express Contract 42

Docket No. MC2016-208

Competitive Product Prices
Priority Mail Express Contract 42 (MC2016-208)
Negotiated Service Agreement

Docket No. CP2016-297

Public Representative Comments on
Request of the United States Postal Service to
Add Priority Mail Express Contract 42 to the Competitive Product List

(October 5, 2016)

I. Introduction

The Public Representative hereby provides comments pursuant to the Commission Notice initiating this docket.¹ In that Notice, 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 Express Contract 42 to the competitive products list.²

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.

Pursuant to 39 U.S.C. § 3633(a), the criteria for the Commission's review are that the Postal Service's competitive prices must not result in the subsidization of

¹ PRC Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, September 28, 2016 (Notice).

² Request of the United States Postal Service to Add Priority Mail Express Contract 42 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 27, 2016 (Request).

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.

On September 30, 2016 the Chairman issued Chairman's Information Request No. 1 (CHIR No. 1). The Chairman questions if adjustments were made to the contract's cost related to additional delivery services. The Postal Service responded to CHIR No. 1 on October 4, 2016. The Postal Service asserts that "the Postal Service does not expect to incur any additional costs for 10:30 AM or Sunday/Holiday delivery". Response to CHIR No. 1.

II. Comments

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.

The Postal Service makes a number of assertions that address the considerations of section 3642(b). Request at Attachment D. These assertions appear reasonable. Based upon that review, the Public Representative concludes that Priority Mail Express Contract 42 satisfies the criteria of section 3642(b), concerning the classification of new competitive products.

The Public Representative has some concerns about discounted delivery services offered under the contract. While there are revenue adjustments for the discounted delivery services there are no cost adjustments for the additional delivery services. Priority Mail Express unit costs do include average costs associated with 10:30 AM and Sunday/Holiday delivery because those delivery services are offered for generally applicable Priority Mail Express mail pieces. However, if the contract partner is expected to use these more costly services more than the average Priority Mail Express mail piece, the Postal Service should make reasonable adjustments to the financial workpapers to support those contract terms. To alleviate these concerns, the

Public Representative assumed a large cost increase associated with these delivery services and the contract still met the requirements of 39 U.S.C. § 3633(a).

The Public Representative suggests that the Postal Service develop costs adjustments associated with Sunday Delivery and 10:30 am Delivery for Priority Mail Express mail pieces to ensure the financial workpapers accurately reflect the costs of contract mail pieces.

Based upon a review of the financial model (including the assumption discussed above) and the contract filed under seal with the Request, it appears that the negotiated prices should generate sufficient revenues to cover costs during the first year of the contract, and therefore will comply with the requirements of 39 U.S.C. § 3633(a). The contract is expected to remain in effect for a period of three years. The Postal Service provides no 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 contract prices that should permit revenues to cover costs during years two and three. 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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