

ORDER NO. 3564

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 51 (MC2016-119)
Negotiated Service Agreement

Docket No. CP2016-149

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

(Issued October 13, 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 51, with Portions Filed Under Seal, September 30, 2016 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 3251, the Commission approved the First-Class Package Service Contract 51 negotiated service agreement (Existing Agreement).² On September 30, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On October 3, 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

The Postal Service intends for the Amendment to become effective two business days 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. See Notice at 1.

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. PR Comments at 2. Based on that review, she concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues 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 Docket Nos. MC2016-119 and CP2016-149, Order Adding First-Class Package Service Contract 51 to the Competitive Product List, April 19, 2016 (Order No. 3251).

³ Docket No. CP2016-149, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, October 3, 2016.

⁴ Public Representative Comments on Postal Service Request to Add First-Class Package Service Contract 51 to Competitive Product List, October 12, 2016 (PR Comments). The Public Representative also filed a motion for late acceptance of her comments. Public Representative Motion for Late Acceptance of Comments on United States Postal Service Notice Regarding Amendment to First-Class Package Service Contract Negotiated Service Agreement, October 12, 2016 (Motion). The Motion is granted.

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 applies a percentage-based price discount for First-Class Package Service packages weighing from 1 to 3 ounces.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, 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 amended agreement 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). *See also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days following the day that the Commission completes its review. Notice at 1. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates

the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.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 51 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 Request, Attachment B at 2. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.