

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 248

Docket No. MC2017-5

Competitive Product Prices
Priority Contract 248 (MC2017-5)
Negotiated Service Agreement

Docket No. CP2017-11

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PRIORITY MAIL CONTRACT 248 TO THE COMPETITIVE PRODUCT LIST

(October 20, 2016)

The Public Representative hereby provides comments pursuant to a 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 Contract 248 to the competitive products list.

Discussion

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. The Postal Service makes reasonable arguments that the Priority Mail Contract 248 satisfies these considerations found in section 3642(b).

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings. October 17, 2016. (Notice)

Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of 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. Based upon a review of the financial models filed under seal with the Postal Service's Notice, it appears the negotiated prices in the contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

Conclusion

The contract is expected to remain in effect for a period of three years.² The Postal Service provides no definite 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 negotiated rates that should permit revenues to cover costs during years 2 and 3.³ The Commission also has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

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), the Postal Service's proposed revised changes to the Mail Classification Schedule (MCS), and the supporting financial models for the contract filed separately under seal.

The Public Representative concludes that the Priority Mail Contract 248 satisfies the criteria of section 3642(b), concerning the classification of new competitive products,

² The contract may be (1) terminated by either party with 30 days' notice to the other party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent contract between the parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation. Request, Attachment B at 3.

³ See Appendix B of Request of the United States Postal Service to Add Priority Mail Contract 248 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. October 14, 2016. Page 3.

and complies with the requirements of section 3633(a), concerning rates for competitive products.

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

Curtis Kidd
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6881
Curtis.Kidd@prc.gov