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Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 268

Docket No. MC2017-43

Competitive Product Prices
Priority Mail Contract 268 (MC2017-43)
Negotiated Service Agreement

Docket No. CP2017-68

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE REQUEST TO ADD PRIORITY MAIL CONTRACT 268 TO COMPETITIVE PRODUCT LIST

(December 13, 2016)

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 a Postal Service Request pursuant to 39 USC 3642 and 39 CFR 3020.30 *et seq*., to add Priority Mail Contract 268 to the competitive product list.[2]

The Postal Service's Request includes a Statement of Supporting Justification (Statement), a certification of compliance with 39 USC 3633(a), and proposed changes to the Mail Classification Schedule (MCS) competitive product list with the additions underlined. In addition, the Request includes a public (redacted) version of Governor's Decision No. 11-6 and related analysis, and Priority Mail shipping services Contract 268. The Postal Service also filed under seal the full (unredacted) text of Contract 268,

1 PRC Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 12, 2016 (Notice).
[2] Request of the United States Postal Service to Add Priority Mail Contract 268 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 09, 2016 (Request).

Governor's Decision No. 11-6, and a supporting financial model estimating the contract value during the first year.

The Postal Service states that Contract 268 is a competitive product featuring prices "not of general applicability" within the meaning of 39 USC 3632(b)(3). Request at 1. The Postal Service also maintains that the classification and prices applicable to Contract 268 are authorized by Governors' Decision No. 11-6.[3] The Postal Service further asserts that the Statement provides support for adding Contract 268 to the competitive product list and the compliance of Contract 268 with 39 USC 3633(a). Request at 2; *Id.*, Attachment D.

The effective date for Contract 268 is two business days following the day on which the Commission issues all necessary regulatory approvals. Request, Attachment B at 3 (Article II). Contract 268 will expire 1 year from the effective date unless either party terminates the contract on 30 days' prior written notification, or other specific events. *Id.* (Article III).

COMMENTS

The Public Representative has reviewed the Postal Service's Request, the Statement, as well as Priority Mail Contract 268 and the financial model filed under seal with the Request. Based upon that review, the Public Representative concludes that Contract 268 should be classified as a competitive product and added to the competitive product list. In addition, it appears that Contract 268 should generate sufficient revenues to cover costs during the first year and thereby satisfy 39 USC 3633(a).

Product List Assignment. Pursuant to 39 USC 3642, the Postal Service requests that Contract 268 be added to the competitive product list. 39 USC 3642 requires the Commission to consider whether "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant

[3] *Id.*, Attachment A, consisting of Decision of the Governors of the United States Postal Service on Establishment of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

level of business to other firms offering similar products." 39 USC 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service's Statement makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D at 2. These assertions appear reasonable. Based upon the Statement, the Public Representative concludes that the Postal Service's Request to add Contract 268 to the competitive product list is appropriate.

Requirements of 39 USC 3633. Pursuant to 39 USC 3633(a), the Postal Service's competitive prices must ensure that each competitive product will cover its attributable costs; ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service; and, not result in the subsidization of competitive products by market dominant products. Based upon a review of the financial model, the negotiated prices for Contract 268 should generate sufficient revenues to cover costs during the first year of the contract and therefore meet the requirements of 39 USC 3633(a).

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

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