

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail & Parcel Select
Parcel Select Contract 19

Docket No. MC2017-66

Competitive Product Prices
Parcel Select Contract 19 (MC2017-66)
Negotiated Service Agreement

Docket No. CP2017-94

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PARCEL SELECT CONTRACT 19 TO
THE COMPETITIVE PRODUCT LIST
(January 4, 2017)

The Public Representative hereby provides comments pursuant to Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings.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 Parcel Select Contract 19 to the competitive products list.

The Postal Service's Request² includes a Statement of Supporting Justification (Statement), a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governor's Decision No. 11-6 and related analysis, a public version of Parcel Select Contract 19, and proposed changes to the Mail Classification Schedule (MCS).

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 22, 2016. (Notice)

² Request of the United States Postal Service to Add Parcel Select Contract 19 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 21, 2016 (Request).

The Postal Service also filed under seal an unredacted version of Governor's Decision No. 11-6, the contract, and a supporting financial model estimating the contract value during the first year.

The Postal Service states that Parcel Select Contract 19 is a competitive product featuring prices "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service also maintains that the classification and prices applicable to Parcel Select Contract 19 are authorized by Governors' Decision No. 11-6. *Id.* The Postal Service further asserts that the Statement provides support for adding Parcel Select Contract 19 to the competitive product list and the compliance of Parcel Select Contract 19 with 39 U.S.C. § 3633(a). Request at 2; *Id.*, Attachment D.

The contract's effective date will be set two (2) business days following the date on which the Commission issues all necessary regulatory approval. Attachment B at 3. The contract is to expire three (3) years from the effective date, unless 1) terminated by either Party within 30 days' notice with applicable restrictions, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent Agreement between the Parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation. *Id.*

Comments

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Parcel Select Contract 19 be added to the competitive product list. 39 U.S.C. § 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 level of business to other firms offering similar products." 39 U.S.C. § 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 2-3. These assertions appear reasonable. Based upon the Statement, the Public Representative concludes that the Postal Service's Request to add Parcel Select Contract 19 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. 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 on a review of the First-Class Package Service Contract 66 in the first year of the contract period, the Public Representative concludes that the risk that revenues will fail to cover costs during years 2 and 3 is minimal. The Commission also has an opportunity to conduct an annual review of this product in its Annual Compliance Determination.

Conclusion

The Public Representative, after reviewing all materials the Postal Service submitted under seal in this matter, recommends that the Commission approve the Postal Service's request.

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

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