

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail Express
Priority Mail Express Contract 47

Docket No. MC2017-118

Competitive Product Prices
Priority Mail Express Contract 47 (MC2017-118)
Negotiated Service Agreement

Docket No. CP2017-169

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PRIORITY MAIL EXPRESS CONTRACT 47 TO THE COMPETITIVE PRODUCT LIST

(April 24, 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 Priority Mail Express Contract 47 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 Priority Mail Express Contract 47, and proposed changes to the Mail Classification Schedule

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, April 17, 2017.

² Request of the United States Postal Service to Add Priority Mail Express Contract 47 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, April 14, 2017 (Request).

(MCS). 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 Contract 47 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 Contract 47 are authorized by Governors' Decision No. 11-6. *Id.* The Postal Service further asserts that the Statement provides support for adding Contract 47 to the competitive product list and the compliance of Contract 47 with 39 U.S.C. § 3633(a). Request at 2; *Id.*, Attachment D.

Comments

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Contract 47 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 Contract 47 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 upon a review of the financial data, the negotiated prices for Contract 47 should generate sufficient revenues to cover costs during the first year of the contract and therefore meet the requirements of 39 U.S.C. § 3633(a). Based on a review of the contract terms and the cost coverage 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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