

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Royal Mail Inbound Air Parcel Post Agreement

Docket No. MC2009-24

Competitive Product Prices
Royal Mail Inbound Air Parcel Post Agreement
(MC2009-24)
Negotiated Service Agreement

CP2009-28

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO
UNITED STATES POSTAL SERVICE REQUEST TO ADD ROYAL MAIL INBOUND
AIR PARCEL POST AGREEMENT TO THE COMPETITIVE PRODUCTS LIST

(May 5, 2009)

In response to Order No. 207,¹ the Public Representative hereby comments on the April 21, 2009 United States Postal Service Request to Add Royal Mail Inbound Air Parcel Post Agreement to the Competitive Products List (Request). The Request comports with title 39, and fulfills the relevant Commission Rules of Practice and Procedure. Accordingly, this Negotiated Service Agreement (NSA) is beneficial to the general public.

Discussion

The Public Representative has accessed and reviewed all materials the United States Postal Service submitted under seal in this matter, documentation in its original (not redacted) version. The Request (and its accompanying documentation) is

¹ Notice and Order Concerning Royal Mail Inbound Parcel Post Negotiated Service Agreement, April 27, 2009.

persuasive. Each element of 39 USC 3633(a) appears to be met by this Inbound International Air Parcel Post Agreement.

For a competitive products pricing schedule *not of general applicability*,² the Postal Service must demonstrate that the contract will comply with 39 USC 3633(a): It will not allow market dominant products to subsidize competitive products, it will ensure that each competitive product covers its attributable costs; and enable competitive products as a whole to cover their costs (contributing a minimum of 5.5 percent to the Postal Service's total institutional costs). In the Governors' Decision 09-5 (at 1), the Governors assert that these conditions are met.

The Public Representative notes that a Public Representative has previously raised an issue of "fairness" in Inbound International Mail Agreements; whether competitors are effectively preempted from competing for providing such competitive product services for foreign mailers.³ While this argument may have merit, it is beyond the scope of inquiry assigned to the Public Representative in these dockets examining NSAs. This Public Representative would respectfully suggest that such questions, outside the parameters of policies articulated by 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B, are best advanced by advocates representing the interests of specific (or groups of) competitors, not the interests of the general public.⁴

² See 39 C.F.R. 3015.5-7.

³ See, for example, Docket No. CP2009-18.

⁴ Conceding, *arguendum*, that competition, and its attendant economic efficiencies, may be beneficial to the general public

Accountability and Confidentiality

The Postal Service Request contains a rationale for maintaining confidentiality concerning pricing, processes which enable discounted pricing, the attendant formulae and other contractual terms which are matters of commercial sensitivity.⁵ Here, it would appear that the Postal Service has concisely justified the extent of confidentiality appropriate in this matter, providing a brief explanation for maintaining the confidentiality of each aspect of the matters remaining under seal. It appears that the Postal Service has made a good faith effort to supply enough pertinent details to demonstrate the need for material under seal to be protected.

Conclusion

The Public Representative submits that the present Royal Mail Inbound Air Parcel Post Negotiated Service Agreement complies with 39 U.S.C. 3632, 3633, and 3642, and the Postal Service Request fulfills all relevant requirements for Commission Rules of Practice and Procedure.

The Public Representative respectfully offers the preceding Comments for the Commission's consideration.

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⁵ Postal Service Request, at 2-3.