

POSTAL REGULATORY COMMISSION**[Docket Nos. MC2009–26 and CP2009–36; Order No. 228]****New Postal Product****AGENCY:** Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service request to add Direct Entry Parcels (DEP) Contracts, International Return Service, and Harmonization Service to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due June 29, 2009.**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.**FOR FURTHER INFORMATION CONTACT:**Stephen L. Sharfman, General Counsel, 202–789–6820 and stephen.sharfman@prc.gov.**SUPPLEMENTARY INFORMATION:****I. Introduction**

On June 11, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Direct Entry Parcels (DEP) Contracts, International Return Service, and Harmonization Service to the Competitive Product List.¹ The Postal Service indicates that Governors' Decision No. 09–7, filed June 10, 2009, establishes prices and classifications not of general applicability for the three products.² The Request has been assigned Docket No. MC2009–26.

The Postal Service contemporaneously filed a DEP contract related to the new products pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request at 1. The contract has been assigned Docket No. CP2009–36.

Request. The Request incorporates (1) A statement of supporting justification as required by 39 CFR 3020.32; (2) Governors' Decision No. 09–7 authorizing the new products, which include certification of the vote, requested changes to the Mail Classification Schedule (MCS) product

list, and certification of the pricing formulas for compliance with 39 U.S.C. 3633(a); (3) price formulas and related information for DEP contracts, International Return Service and Harmonization Service Offered with Customized Agreements; and (4) Certification of Compliance with 39 U.S.C. 3633(a) for contract prices and ancillary services.³ Substantively, the Request seeks to add the Direct Entry Parcels Contracts, International Return Service, and Harmonization Service to the Competitive Product List. *Id.* at 1.

In the statement of supporting justification, Frank Cebello, Global Business Management, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment 1. Thus, Mr. Cebello contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

Related contract. A redacted version of the instant contract is included with the Request. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a), 39 CFR 3015.5 and 39 CFR 3015.7. *See id.*, Attachment 2. The DEP contract includes International Return Service and Harmonization Service as optional features which reflect the proposed MCS language in Attachments A–2 and A–3 of the Governors' Decision,

³ Attachment 1 to the Request consists of the Statement of Supporting Justification. Attachment 2 is the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Direct Entry Parcels Contracts, International Return Service Offered with Customized Agreements and Harmonization Service Offered with Customized Agreements (Governors' Decision No. 09–7). The Governors' Decision includes Attachment A–1, requested changes in the MCS product list; Attachment A–2, a Description of International Service Offered with Customized Agreements; Attachment A–3, Description of Harmonization Service Offered with Customized Agreements; Attachment B–1 Formulas for Prices Under Applicable Direct Entry Parcels Contracts; Attachment B–2, Formulas for Prices Under International Return Service Offered with Customized Agreements; Attachment B–3, Formulas for Prices Under Harmonization Service Offered with Customized Agreements; Attachment C–1, Analysis of the Formulas for Prices Under Direct Entry Parcels Contracts; Attachment C–2, Formulas for Prices Under International Return Service Offered with Customized Agreements; Attachment C–3, Formulas for Prices Under Harmonization Service Offered with Customized Agreements; and Attachment D, Certification as to the Formulas for Prices Offered Under Applicable Direct Entry Parcels Contracts, International Return Service Offered with Customized Agreements, and Harmonization Service Offered with Customized Agreements.

respectively.⁴ DEP contracts provide for mail acceptance within the United States, transportation to a receiving country of parcels bearing the appropriate foreign indicia, transportation to customs within the receiving country, and customs clearance and prepayment of customs duties and taxes to the receiving country. The Postal Service explains that International Return Service provides for the return of refused or undeliverable items. It states that Harmonization Service offers review of outbound items by a licensed customs broker and the broker's assignment of Harmonized Tariff Schedule codes to facilitate assessment of customs duties. Request at 2–3. The Postal Service notes that the latter two services will only be available through customized agreements, in particular through DEP contracts similar to the instant contract.

The contract becomes effective within 30 days after the Postal Service notifies the customer that it has received all required reviews and the Commission has provided all necessary regulatory approvals. The term of the agreement is one year from the effective date.

The Postal Service filed much of the supporting materials, including Governors' Decision 09–7, and financial information, including analysis of the instant contract in redacted versions and under seal. In its Request, the Postal Service maintains that the contracts and related financial information, including the customers' names and the accompanying analyses that provide prices, terms, conditions, and financial projections, should remain under seal. *Id.* at 3–4.

The Postal Service requests that the Commission approve this DEP contract, as well as any subsequent functionally equivalent DEP contracts, as one product on the Competitive Product List. *Id.* at 1–2. The Request advances reasons why the DEP contracts as described in the proposed MCS language are in conformity with the requirements of 39 U.S.C. 3642 as competitive products. Among other things, the Postal Service asserts the DEP contracts are intended for merchandise exempt from the Private Express Statutes; that that Postal Accountability and Enhancement Act

¹ Request of the United States Postal Service to Add Direct Entry Parcels Contracts, International Return Service, and Harmonization Service to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, June 11, 2009 (Request).

² Governors' Decision No. 09–10, filed June 10, 2009, establishes prices and classifications not of general applicability for Direct Entry Parcels Contracts, International Return Service and Harmonization Service Offered with Customized Agreements.

⁴ The Postal Service states that the Governors' Decision establishes prices and classifications for Direct Entry Parcels Contracts. In addition, the Governors' Decision also establishes prices and classifications for both Harmonization Service and International Return Service which serve as ancillary services for the parcel service offered for DEP contracts. The Postal Service intends the complement of services offered for DEP to include Harmonization Service and International Return Service.

classifies bulk international mail as competitive; and that classifying the DEP contracts as competitive is consistent with Commission precedent. It contends that even though the senders of DEP items may mail individual pieces, the contract customer has committed to compensate the Postal Service for a bulk volume of DEP items. The Postal Service also notes that Direct Entry Parcels, Harmonization, and International Return Services are contractual services not available to individual retail customers. *Id.* at 4–5.

II. Notice of Filings

The Commission establishes Docket Nos. MC2009–26 and CP2009–36 for consideration of the Request to add Direct Entry Parcels Contracts, International Return Service, and Harmonization Service to the Competitive Product List, and the related DEP Contract, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR 3020 subpart B. Comments are due no later than June 29, 2009. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Emmett Rand Costich to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is Ordered:

1. The Commission establishes Docket Nos. MC2009–26 and CP2009–36 for consideration of the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than June 29, 2009.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Steven W. Williams,
Secretary.

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POSTAL REGULATORY COMMISSION

[Docket No. CP2009–39; Order No. 224]

Priority Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add an additional Priority Mail contract to the Competitive Product List. This notice addresses procedural steps associated with this filing.

DATES: Postal Service responses are due June 23, 2009. Comments are due June 26, 2009.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 15, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, announcing that it has entered into an additional contract (Priority Mail Contract 13), which it contends fits within the previously proposed Priority Mail Contract Group product.¹ In support, the Postal Service filed the proposed contract and referenced Governors' Decision 09–6 filed in Docket No. MC2009–25. *Id.* at 1.

The Notice states that the “contract differs from the contract filed as Priority Mail Contract 6 only in regards to negotiated prices.” *Id.* at 2. In addition, it states that the contract is scheduled to become effective the day that the Commission issues all necessary regulatory approval. *Id.* at 1.

The instant contract. The Postal Service filed the instant contract pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. It submitted the contract and supporting material under seal, and attached a redacted copy of the contract and certified statement required by 39 CFR 3015.5(c)(2) to the Notice. *Id.*, Attachments A and B respectively.

The Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2.

¹ Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 13), June 15, 2009 (Notice).

II. Notice of Filing

The Commission establishes Docket No. CP2009–39 for consideration of the matters related to the contract identified in the Postal Service's Notice.

The Notice does not expressly use the term functionally equivalent to describe proposed Priority Mail Contract 13. Instead, it appears to implicitly make that claim by distinguishing the instant contract from Priority Mail Contract 6, filed in Docket No. CP2009–30 as part of the proposed Priority Mail Contract Group. *Id.* at 2. As the Postal Service recognizes, the scope of the Priority Mail Contract Group product is currently pending before the Commission. To that end, it acknowledges that the Commission's decision in Docket No. MC2009–25 may have an impact on the sufficiency of the Postal Service's filings in this case. *Id.* at 1, n.1. Depending on the outcome of Docket No. MC2009–25, the Postal Service may need to file additional support as required in 39 CFR 3020 subpart B. Such filings, if any, shall be due within 3 days of the Commission's order in Docket No. MC2009–25 addressing the scope of the proposed Priority Mail Contract Group product.

Interested persons may submit comments on whether the instant contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020, subpart B, and whether it should be classified within the Priority Mail Contract Group or as a separate product. Comments in this case are due no later than June 26, 2009.

The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Paul L. Harrington to serve as Public Representative in this docket.

III. Supplemental Information

Pursuant to 39 CFR 3015.6, the Commission requests the Postal Service to provide the following supplemental information by June 23, 2009:

1. Please provide a timeframe of when NSA partner volumes and cubic feet measurements were collected for each contract.

2. Please provide a unit of analysis for volumes in each contract, e.g., whole numbers, thousands, etc.

IV. Ordering Paragraphs

It is Ordered:

1. The Commission establishes Docket No. CP2009–39 for consideration of the issues raised in this docket.

2. As discussed in this order, the Postal Service shall file supplemental