

requested changes in the Mail Classification Schedule product list; (3) a Statement of Supporting Justification as required by 39 CFR 3020.32; and (4) certification of compliance with 39 U.S.C. 3633(a).<sup>2</sup> Substantively, the Request seeks to add Priority Mail Contract 16 to the Competitive Product List. *Id.* at 1–2.

In the statement of supporting justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, 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 C. Thus, Ms. Anderson 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 specific Priority Mail Contract 16 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by a party, but could continue for 1 year without modification. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a)(1). *See id.*, Attachment D.

The Postal Service will provide the shipper with customized pricing for eligible Priority Mail items shipped by the shipper, as well as Priority Mail packaging and labels. A party may not assign the agreement without the other party's consent, which may not be unreasonably withheld.

The Postal Service filed much of the supporting materials, including the specific Priority Mail Contract 16, under seal. In its Request, 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 2–3.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2009–36 and CP2009–55 for consideration of the Request pertaining to the proposed Priority Mail Contract 16 product and the related 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 and 39 CFR part 3015 and 39 CFR part 3020 subpart B. Comments are due no later than August 6, 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 these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2009–36 and CP2009–55 for consideration of the matter raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington 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 August 6, 2009.

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

Issued: July 29, 2009.

By the Commission.

**Judith M. Grady,**

*Acting Secretary.*

[FR Doc. E9–18768 Filed 8–4–09; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2009–37 and CP2009–56; Order No. 261]**

### Priority Mail Contract

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently-filed Postal Service Request to add Priority Mail Contract 17 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 August 6, 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,

at 202–789–6829 or [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

## SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Notice of Filings
- III. Ordering Paragraphs

### I. Introduction

On July 24, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Priority Mail Contract 17 to the Competitive Product List.<sup>1</sup> The Postal Service asserts that Priority Mail Contract 17 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09–6 in Docket No. MC2009–25. *Id.* at 1. The Request has been assigned Docket No. MC2009–37.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009–56.

*Request.* The Request includes (1) a redacted version of the contract; (2) requested changes in the Mail Classification Schedule product list; (3) a Statement of Supporting Justification as required by 39 CFR 3020.32; and (4) certification of compliance with 39 U.S.C. 3633(a).<sup>2</sup> Substantively, the Request seeks to add Priority Mail Contract 17 to the Competitive Product List. *Id.* at 1–2.

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, 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 C. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 17 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, July 24, 2009 (Request).

<sup>2</sup> Attachment A to the Request is the redacted version of the contract. Attachment B shows the requested changes to the Mail Classification Schedule product list. Attachment C provides a statement of supporting justification for this Request. Attachment D provides the certification of compliance with 39 U.S.C. 3633(a).

<sup>2</sup> Attachment A to the Request is the redacted version of the contract. Attachment B shows the requested changes to the Mail Classification Schedule product list. Attachment C provides a statement of supporting justification for this Request. Attachment D provides the certification of compliance with 39 U.S.C. 3633(a).

by market dominant products as a result of this contract. *Id.*

**Related contract.** A redacted version of the specific Priority Mail Contract 17 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by either party, but could continue for 3 years without modification. *See id.*, Attachment A. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a)(1). *See id.*, Attachment D.

The Postal Service will provide the shipper with customized pricing for eligible Priority Mail items shipped by the shipper, as well as Priority Mail packaging. The shipper will manifest pieces eligible for customized pricing, using a separate permit number to ship such pieces, and will begin using the Electronic Verification System (eVS) for shipments of such pieces. Annual price adjustments will be applied to shipper's eligible mailpieces. A party may not assign the agreement without the other party's consent, which may not be unreasonably withheld.

The Postal Service filed much of the supporting materials, including the specific Priority Mail Contract 17, under seal. In its Request, 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 2–3.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2009–37 and CP2009–56 for consideration of the Request pertaining to the proposed Priority Mail Contract 17 product and the related 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 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than August 6, 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 these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2009–37 and CP2009–56 for consideration of the matter raised in each docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington 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 August 6, 2009.

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

Issued: July 29, 2009.

By the Commission.

**Judith M. Grady,**

*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60399; File No. SR–NYSE–2009–72]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 476A To Add Rule 104(a)(1)(A) to Its “List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A”

July 30, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that, on July 22, 2009, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 476A to add Rule 104(a)(1)(A) to its “List of Exchange Rule Violations and Fines Applicable

Thereto Pursuant to Rule 476A.”<sup>3</sup> The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend NYSE Rule 476A to add Rule 104(a)(1)(A) to its “List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A.”

###### Current NYSE Rule 104

Current NYSE Rule 104 requires, *inter alia*, Designated Market Makers (“DMMs”) registered in one or more securities traded on the Exchange to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market, insofar as reasonably practicable, by contributing liquidity when lack of price continuity and depth, or disparity between supply and demand, exists or is reasonably to be anticipated.<sup>4</sup> This includes an affirmative obligation to provide quotes at the National Best Bid or Offer a minimum percentage of the trading day (“Affirmative Quote Obligation”).

The DMMs' Affirmative Quote Obligation is set forth in NYSE Rule 104(a)(1)(A). Section (a)(1)(A) of Rule 104 requires DMMs to maintain a bid or an offer at the National Best Bid and National Best Offer (“inside”) at least 10% of the trading day for securities in which the DMM unit is registered with an average daily volume on the Exchange of less than one million

<sup>3</sup> NYSE Amex LLC has submitted a companion rule filing proposing corresponding amendments to NYSE Amex Disciplinary Rule 476A. *See* SR–NYSE–Amex–2009–47, formally submitted July 22, 2009).

<sup>4</sup> *See* NYSE Rule 104(f)(ii).

<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.