

3. All Others. International posts who choose not to be members of the EMS Cooperative.
Request at 2.

In support of its Request, the Postal Service filed a redacted version of the Governors' Decision establishing prices and classifications for Inbound Express Mail International.⁵ The Postal Service also filed a Statement of Supporting Justification as required by 39 CFR 3020.32,⁶ certification of the Governors' vote,⁷ and certification of compliance with 39 U.S.C. 3633(a).⁸ In addition, the Postal Service indicates that it filed an unredacted copy of the Governors' Decision, the agreements with foreign posts and other supporting documents designed to establish compliance with 39 CFR 3015.5 under seal. Request at 1, n.2.

In the Statement of Supporting Justification, Brian T. Hutchins, Manager, International Postal Relations, explains that in the instant case, the Postal Service has considered that the new product could have been requested to be merged with the existing product Inbound International Expedited Services 1. He observes, however, the Postal Service only deals with inbound EMS from foreign posts which have one set of demand and market characteristics and a single set of pricing formulas approved by the Governors. He also states that the prices are established through negotiation as with the China Post Group⁹ or unilaterally pursuant to the UPU EMS Cooperative.

He notes the rationale for the Postal Service's submission of a separate request is because the pricing formula for EMS was finalized through the UPU in August 2008 with the knowledge that the pricing would be established before the Commission had an opportunity to review the pricing formula for the first time under the Postal Accountability and Enhancement Act (PAEA). The decision was made to submit this Request as a second product for inbound EMS rather than as an addition to the existing product (Inbound International Expedited Services 1). The Postal Service views this as a method to simplify the process of adding the product. Request, Attachment 2, at 2. He observes that the Commission could determine that inbound EMS from foreign posts with the established UPU prices should be included with the existing inbound EMS product (Inbound

International Expedited Services 1). However, he states that with either approach, approval of the product will "improve the Postal Service's competitive posture, while enabling the Commission to verify that prices set according to EMS Cooperative procedures cover their attributable costs and make a positive contribution * * * toward the requisite 5.5 percent of the Postal Service's total institutional costs paid for by competitive products." *Id.* at 2-3.

W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). Request, Attachment 4. He asserts that the EMS agreement "prices demonstrate that EMS should cover its attributable costs and preclude the subsidization of competitive products by market dominant products." *Id.*

The Postal Service filed much of the supporting materials, including the Governors' Decision and the EMS agreements with foreign posts, under seal. It maintains that the EMS agreements with foreign posts, related financial information, and the Governors' Decision should remain under seal as they contain pricing, cost, and other information that are highly confidential. Request at 5.

The Postal Service's existing EMS agreements with the proposed pricing and classification changes established in the Governors' Decision are scheduled to take effect January 1, 2009 after review by the Commission. Governors' Decision at 3.

II. Notice of Filings

The Commission establishes Docket Nos. MC2009-10 and CP2009-12 for consideration of the Request pertaining to the proposed Inbound International Expedited Services 2 product and the related agreements, 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 December 5, 2008. The public portions of these filings can be accessed via the Commission's Web site (www.prc.gov).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

It is Ordered:

The Commission establishes Docket Nos. MC2009-10 and CP2009-12 for consideration of the matters raised in each docket.

1. 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.

2. Comments by interested persons in these proceedings are due no later than December 5, 2008.

3. The Secretary shall arrange for the publication of this Order in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

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POSTAL REGULATORY COMMISSION

[Docket Nos. MC2009-12 and CP2009-14; Order No. 143]

New Competitive Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Express Mail & Priority Mail Contract 2 to the Competitive Product List. The Postal Service has also filed one related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments due December 10, 2008.

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 November 25, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Express Mail & Priority Mail Contract 2 to the Competitive Product List.¹ The Postal Service asserts that the Parcel Express Mail & Priority Mail Contract 2 product is a competitive product "not of general applicability"

¹ Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, November 25, 2008 (Request).

⁵ See Attachment 1 to the Request.

⁶ See Attachment 2 to the Request.

⁷ See Attachment 3 to the Request.

⁸ See Attachment 4 to the Request.

⁹ See Docket No. CP2008-7, PRC Order No. 84, Order Concerning the China Post Group Inbound EMS Agreement, June 27, 2008.

within the meaning of 39 U.S.C. 3632(b)(3). *Id.* at 1. The Request has been assigned Docket No. MC2009–12.

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. CP2009–14.

Request. The Request incorporates (1) a redacted version of the Governors' Decision authorizing the new product; (2) a redacted version of the contract; (3) requested changes in the Mail Classification Schedule product list; (4) a statement of supporting justification as required by 39 CFR 3020.32; and (5) certification of compliance with 39 U.S.C. 3633(a).² Substantively, the Request seeks to add Express Mail & Priority Mail Contract 2 to the Competitive Product List. *Id.* at 1–2.

In the statement of supporting justification, Kim Parks, 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 D. Thus, Ms. Parks 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 Express Mail & Priority Mail Contract 2 is included with the Request. The contract is for 3 years and is to be effective 1 day after the Commission provides all necessary regulatory approvals. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a) and 39 CFR 3015.7(c). *See id.*, Attachment A and Attachment E. It notes that actual performance under this contract could vary from estimates, but concludes that the contract will remain profitable. *Id.*, Attachment A.

The Postal Service filed much of the supporting materials, including the Governors' Decision and the specific Express Mail & Priority Mail Contract 2,

² Attachment A to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Express Mail & Priority Mail Contract 2 (Governors' Decision No. 08–22). The Governors' Decision includes an attachment which provides an analysis of the proposed Express Mail & Priority Mail Contract 2. Attachment B is the redacted version of the contract. Attachment C shows the requested changes to the Mail Classification Schedule product list. Attachment D provides a statement of supporting justification for this Request. Attachment E provides the certification of compliance with 39 U.S.C. 3633(a).

under seal.³ 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. MC2009–12 and CP2009–14 for consideration of the Request pertaining to the proposed Express Mail & Priority Mail Contract 2 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 December 10, 2008. 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.

It is Ordered:

1. The Commission establishes Docket Nos. MC2009–12 and CP2009–14 for consideration of the matters 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 December 10, 2008.

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

By the Commission.

Steven W. Williams,

Secretary.

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³ Documents filed under seal must include a hard copy table of contents page listing, *inter alia*, the titles of the documents being filed under seal.

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2009–11 and CP2009–13; Order No. 142]

New Competitive Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Parcel Select & Parcel Return Service Contract 1 to the Competitive Product List. The Postal Service has also filed one related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments due December 10, 2008.

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 November 25, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Parcel Select & Parcel Return Service Contract 1 to the Competitive Product List.¹ The Postal Service asserts that the Parcel Select & Parcel Return Service Contract 1 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). *Id.* at 1. The Request has been assigned Docket No. MC2009–11.

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. CP2009–13.

Request. The Request incorporates (1) a redacted version of the Governors' Decision authorizing the new product; (2) a redacted version of the contract; (3) requested changes in the Mail Classification Schedule product list; (4) a statement of supporting justification as required by 39 CFR 3020.32; and (5) certification of compliance with 39 U.S.C. 3633(a).² Substantively, the

¹ Request of the United States Postal Service to Add Parcel Select & Parcel Return Service Contract 1 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, November 25, 2008 (Request).

² Attachment A to the Request consists of the redacted Decision of the Governors of the United States Postal Service on Establishment of Rate and Class Not of General Applicability for Parcel Select