

bargaining agreement, or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) of ERISA applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement. In contrast, the general definition of complete withdrawal in § 4203(a) of ERISA defines a withdrawal to include permanent cessation of the obligation to contribute regardless of the continued activities of the withdrawn employer.

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. Under § 4208(d)(1) of ERISA, “[a]n employer to whom § 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer’s obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.” Under § 4208(d)(2) of ERISA, “[a]n employer to whom § 4203(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the [PBGC] by regulation.”

Section 4203(f)(1) of ERISA provides that PBGC may prescribe regulations under which plans in other industries may be amended to provide for special withdrawal liability rules similar to the rules prescribed in § 4203(b) and (c) of ERISA. Section 4203(f)(2) of ERISA provides that such regulations shall permit the use of special withdrawal liability rules only in industries (or portions thereof) in which PBGC determines that the characteristics that would make use of such rules appropriate are clearly shown, and that the use of such rules will not pose a significant risk to the insurance system under Title IV of ERISA. Section 4208(e)(3) of ERISA provides that PBGC shall prescribe by regulation a procedure by which plans may be amended to adopt special partial withdrawal liability rules upon a finding by PBGC that the adoption of such rules is consistent with the purposes of Title IV of ERISA.

PBGC’s regulations on Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) prescribes procedures for a multiemployer plan to ask PBGC to approve a plan amendment that establishes special complete or partial

withdrawal liability rules. The regulation may be accessed on PBGC’s Web site (<http://www.pbgc.gov>).

Section 4203.5(b) of the regulation requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal liability rules in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

The Request

PBGC received a request, dated July 9, 2010, from The I.A.M. National Pension Fund National Pension Plan (“I.A.M. Fund”), which the I.A.M. Fund subsequently amended, for approval of a plan amendment providing for special withdrawal liability rules. PBGC’s summary of the actuarial reports provided by the I.A.M. Fund may be accessed on PBGC’s Web site (<http://www.pbgc.gov>). A copy of the complete filing may be requested from the PBGC Disclosure Officer. The fax number is 202-326-4042. It may also be obtained by writing the Disclosure Officer, PBGC, 1200 K Street NW., Suite 11101, Washington, DC 20005.

In brief, the I.A.M. Fund is a multiemployer plan covering workers with various skill-sets including those providing services to federal and District of Columbia government agencies. The I.A.M. Fund’s submission represents that the industry for which the rule is requested has characteristics similar to those of the construction industry. The I.A.M. Fund submitted an amendment prescribing special withdrawal liability rules, which, if approved by PBGC, would be retroactively effective as of January 1, 2009, to the extent permitted by ERISA § 4214(a). Under the proposed amendment, complete withdrawal of an employer would occur only: (a) Under conditions similar to those described in ERISA § 4203(b)(2) for the building and construction industry; (b) upon the employer’s sale or transfer of a substantial portion of its business or assets to another entity who performs such work in the jurisdiction of the collective bargaining agreement but has no obligation to contribute to the I.A.M. Fund; or (c) when the employer ceases to have an obligation to contribute in connection with the withdrawal of every or substantially all employer(s) from the I.A.M. Fund. Partial withdrawal of an employer would occur only under conditions similar to those described in ERISA § 4208(d)(1). The request includes the actuarial data on which the I.A.M. Fund relies to support its contention that the amendment will not pose a significant risk to the

insurance system under Title IV of ERISA.

Issued at Washington, DC, December 17, 2012.

Joshua Gotbaum,
Director.

[FR Doc. 2012-30934 Filed 12-21-12; 8:45 am]

BILLING CODE 7709-01-P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013-28; Order No. 1587]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request concerning a contingent pricing arrangement related to an international mail contract. This document invites public comments on the request and addresses several related procedural steps.

DATES: *Comments are due:* December 27, 2012.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Notice of Filing
- III. Commission Action
- IV. Ordering Paragraphs

I. Introduction

On December 14, 2012, the Postal Service filed notice of a contingency price arrangement (Pricing Arrangement) pursuant to a provision in an expired International Business Reply Service (IBRS) competitive contract.¹ The Postal Service intends for the new prices, which apply to certain postage-prepaid items returned from overseas locations to a U.S.-based entity, to begin

¹ Notice of United States Postal Service of Prices Under Functionally Equivalent International Business Reply Service Competitive Contract 1 Negotiated Service Agreement, December 14, 2012 (Notice). The Notice was filed pursuant to 39 CFR 3015.5. Notice at 1.

January 1, 2013 and to continue indefinitely. *Id.* Attachment 1 at 1.

The Postal Service requests that the Commission include the Pricing Arrangement within the IBRS Competitive Contract 1 product on the competitive products list based on its functional equivalence to IBRS contracts in Docket Nos. CP2009–20 and CP2009–22. *Id.* at 4.

II. Contents of Filing

The filing includes a Notice and the following attachments:

- Attachment 1—a redacted copy of the Postal Service's notice to the customer concerning the intended application of contingency prices;
- Attachment 2—a redacted copy of the certification under 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–24; and
- Attachment 4—an application for non-public treatment of material filed under seal.

The Postal Service also provided a redacted copy of the Pricing Arrangement and supporting financial documentation as a public Excel file. *Id.* at 5.

Product history. The Commission added International Business Reply Service Contract 1 to the competitive product list in Order No. 178, following consideration in two baseline cases.² The controlling Governors' Decision is No. 08–24. *Id.* at 1–2.

IBRS competitive contracts are for U.S.-based entities that seek a channel for returned merchandise or other articles from their overseas customers. These entities typically supply preprinted, prepaid IBRS packaging in which overseas customers can place used or defective consumer items and enter them into the mailstream at no direct cost. *Id.* at 1. The Postal Service's contracting partner is the recipient of IBRS items, not the sender, and therefore has no control over the contingency that IBRS items might be tendered after expiration of the contract. *Id.* at 2. Given that costs are incurred in accepting and delivering these items, the Postal Service and its IBRS contracting partners have agreed to let the Postal Service set prices to cover costs and potentially incentivize customers to enter into new arrangements. *Id.*

Instant docket. The contract that triggered the prices in the Pricing Arrangement was executed before the Commission's current rules for competitive and market dominant products took effect. *Id.* That contract

expired March 31, 2008 and no successor contract was executed. The Postal Service asserts that the prices in the Pricing Arrangement occur under a surviving contractual term. *Id.* It expects the prices to apply to an extremely small number of postal items due to the mailer's profile and the passage of time since expiration of the contract. *Id.* at 4.

Related dockets. The Postal Service states that it has filed three previous notices of changes in contingency prices under the underlying expired contract (covering calendar years 2010, 2011 and 2012), and that the Commission has added each pricing arrangement to the competitive product list under the IBRS Competitive Contract 1 product based on functional equivalence. *Id.* at 3–4. The Postal Service addresses several points about the status of the underlying contract under Commission rules, and concludes that filing materials under 39 CFR 3015.5, as it has done here, resolves any inconsistency. *Id.* at 4.

Functional equivalency. The Postal Service asserts that the Pricing Arrangement is essentially identical to those envisioned in the contracts the Commission included in the IBRS Competitive Contract 1 product in Docket Nos. CP2009–20 and CP2009–22, with minor procedural variations due to different negotiation outcomes. *Id.* at 5–6. It asserts that the nature of the service provided in all three contracts is essentially the same. *Id.* at 6. The Postal Service also incorporates by reference its position on functional equivalence in Docket No. CP2009–22. *Id.* at 6.

III. Commission Action

The Commission establishes Docket No. CP2013–28 for consideration of matters raised in the Notice. The Commission invites comments on whether the Pricing Arrangement is consistent with the requirements of 39 CFR 3015.5 and the policies of 39 U.S.C. 3632 and 3633. The Commission also invites comments on the Postal Service's intention to have the new contingency prices apply indefinitely. Comments are due no later than December 27, 2012. The public portions of the Postal Service's filing can be accessed via the Commission's Web site at <http://www.prc.gov>. Information on how to obtain access to nonpublic material appears at 39 CFR 3007.40.

The Commission appoints James F. Callow to represent the interest of the general public (Public Representative) in this case.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2013–28 to consider matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public.

3. Comments by interested persons in this proceeding are due no later than December 27, 2012.

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

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–30942 Filed 12–21–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2013–21 and CP2013–29; Order No. 1583]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 31 to the competitive product list, along with a related contract. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 27, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
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I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 31 to the competitive product list.¹ The

¹ Request of the United States Postal Service to Add First-Class Package Service Contract 31 to

² See Docket Nos. M2009–14 and CP2009–20.