

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton;  
Ruth Y. Goldway; and  
Tony L. Hammond

Competitive Product Prices  
International Business Reply Service  
International Business Reply Service Contract 1

Docket No. MC2009-14

Competitive Product Prices  
International Business Reply Service Contract 1  
(MC2009-14)  
Negotiated Service Agreement

Docket No. CP2009-20

NOTICE AND ORDER CONCERNING  
INTERNATIONAL BUSINESS REPLY SERVICE CONTRACT 1  
NEGOTIATED SERVICE AGREEMENT

(Issued January 5, 2009)

I. INTRODUCTION

On December 24, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add International Business Reply Service Contract 1 to the Competitive Product List.<sup>1</sup> The Postal Service asserts that the

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<sup>1</sup> Request of the United States Postal Service to Add International Business Reply Service Contracts to the Competitive Products List, and Notice of Filing (Under Seal) Contract and Enabling Governors' Decision, December 24, 2008 (Request). The Postal Service proposes to call this new product "International Business Reply Service Contracts." In this Notice, the Commission proposes to slightly alter that proposed name to "International Business Reply Service Contract 1" to provide for the possibility that more than one type of International Business Reply Service contract may exist in the future that is not functionally or substantially equivalent to the proposed Docket No. CP2009-20 contract. This may occur even though other future contracts may meet the parameters set by the Governors' Decision No. 08-24.

new International Business Reply Service Contract 1 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2009-14.

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. CP2009-20.

*Request.* The Request incorporates (1) a statement of supporting justification as required by 39 CFR 3020.32, (2) a redacted version of the Governors’ Decision authorizing the new product; (3) requested changes to the Mail Classification Schedule; and (4) a certification of compliance with 39 U.S.C. 3633(a).<sup>2</sup> Substantively, the Request seeks to add International Business Reply Service Contract 1 to the Competitive Product List. *Id.* at 1-2.

In the statement of supporting justification, Jo Ann Miller, Director, Global Business Development, 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, Ms. Miller contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

*Product description.* As part of her statement of supporting justification, Ms. Miller describes the proposed product. She explains that IBRS contracts are for

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<sup>2</sup> Attachment 1 consists of a statement of supporting justification for this Request. Attachment 2 is the redacted Decision of the Governors of the United States Postal Service on Establishment of Prices and Classifications for International Business Reply Service (IBRS) Contracts (Governors’ Decision No. 08-24). The Governors’ Decision includes three attachments. Attachment A is proposed Mail Classification Schedule language. Attachment B is the price floor and price ceiling formulas approved by the Governors. Attachment C provides an analysis of the proposed price floor and price ceilings discussed in Attachment B. Attachment D is a certification as to the formulas for prices offered under applicable International Business Reply Service contracts. Attachment 3 is a redacted certification for the IBRS contract at issue in Docket No. CP2009-20. Unredacted copies of the Governors’ Decision, the IBRS contract, the certification, and other supporting documentation establishing compliance with 39 CFR 3015.5 were filed separately with the Commission under seal.

U.S.-based entities seeking a channel for returned merchandise or other articles from their overseas customers. Such entities typically supply preprinted, prepaid IBRS packaging in which their customers can place used or defective consumer items into the mailstream at no direct cost. The business entity compensates the Postal Service for this service, and the Postal Service remits to the relevant foreign postal administration the amount due for collection and transportation of the items in the foreign country. *Id.*, Attachment 1, section (d).

*Related contracts.* An unredacted version of the specific International Business Reply Service Contract 1 is included with the Request filed under seal. Unlike past practice, the entirety of the Docket No. CP2009-20 contract was filed under seal, and no redacted version was filed publicly. The Commission requests the Postal Service to explain why no portions of this contract can be filed publicly no later than January 12, 2009.

The contract is for 1 year from the date the Postal Service notifies the customer that all necessary approvals and reviews of the agreement have been obtained. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). See *id.*, Attachment 1 and Attachment 3.

The Postal Service also explains that it has two ongoing similar arrangements with two customers whose prior contracts officially expired. These “contingency arrangements” survive the contracts’ expiration and govern any residual items that third parties might continue to enter into the mailstream for return to the IBRS customers. The Postal Service states when the Docket No. CP2009-20 contract expires, this contingency arrangement will continue with respect to this contract partner until such time as a new IBRS contract can take effect after all necessary approvals and reviews. The Postal Service shall provide any and all IBRS contingency arrangements currently in effect no later than January 12, 2009. See Request at 3.

*Confidentiality.* The Postal Service filed much of the supporting materials, including the Governors’ Decision and the specific International Business Reply Service

Contract 1, under seal. In its Request, the Postal Service maintains that the contract, related financial information, the customer's name, the accompanying analyses and certified statements that provide cost, prices, terms, conditions, and financial projections should remain under seal. *Id.* at 3-4. It notes that prices and other contract terms relating to parties' processes and procedures are confidential in the business world and should be protected in accordance with industry standards. *Id.*

## II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2009-14 and CP2009-20 for consideration of the Request pertaining to the proposed International Business Reply Service Contract 1 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.

The Commission appoints Michael J. Ravnitzky to serve as Public Representative in these dockets.

*Comments.* 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 January 16, 2009. The public portions of these filings can be accessed via the Commission's website ([www.prc.gov](http://www.prc.gov)).

Pursuant to 39 CFR 1315.6, the Commission requests that the Postal Service address the following issues by January 12, 2009:

1. Ms. Miller's statement describing the product and why it should be classified as competitive, at least preliminarily, seems as though it could also apply to the domestic Merchandise Return Service product which is currently classified as market dominant. See Request, Attachment 1,

section (d). Should this proposed product category be called “International Merchandise Return Service” to better align it with its domestic counterpart (Merchandise Return Service) and to avoid confusion with the market dominant product of the same name “International Business Reply Service”? See Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 at Appendix A, sections 1540 and 1505.10.

2. For the reasons set forth in Attachment 1, section (d), should a proceeding be initiated to consider moving the domestic Merchandise Return Service product to the competitive rate category? If not, please explain the processing and market characteristic differences between the proposed new product and Merchandise Return Service.

Other interested persons also may find it appropriate to address these issues in their comments.

*It is Ordered:*

1. The Commission establishes Docket Nos. MC2009-14 and CP2009-20 for consideration of the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Michael J. Ravnitzky 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, including those addressing questions (1) and (2) of section II above, are due no later than January 16, 2009.
4. The Postal Service shall address questions (1) and (2) of section II above no later than January 12, 2009.
5. The Postal Service shall provide any and all IBRS contingency arrangements currently in effect no later than January 12, 2009.
6. The Postal Service shall explain why no portions of this contract can be filed publicly no later than January 12, 2009.
7. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Steven W. Williams  
Secretary