

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

Before Commissioners:

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

Competitive Product Prices  
Global Expedited Package Services 1  
(CP2008-4)  
Negotiated Service Agreement

Docket No. CP2009-58

NOTICE AND ORDER CONCERNING ADDITIONAL  
GLOBAL EXPEDITED PACKAGE SERVICES 1  
NEGOTIATED SERVICE AGREEMENT

(Issued August 12, 2009)

I. INTRODUCTION

On August 7, 2009, the Postal Service filed a notice announcing that it has entered into an additional Global Expedited Package Services 1 (GEPS 1) contract.<sup>1</sup> GEPS 1 provides volume-based incentives for mailers that send large volumes of Express Mail International (EMI) and/or Priority Mail International (PMI). The Postal Service believes the instant contract is functionally equivalent to previously submitted GEPS 1 contracts, and is supported by the Governors' Decision filed in Docket No. CP2008-4.<sup>2</sup> Notice at 1. It further notes that in Order No. 86, which established GEPS 1 as a product, the Commission held that additional contracts may be included as part

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<sup>1</sup> Notice of United States Postal Service Filing of Functionally Equivalent Global Expedited Package Services 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 7, 2009 (Notice).

<sup>2</sup> See Docket No. CP2008-4, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Expedited Package Services Contracts, May 20, 2008.

of the GEPS 1 product if they meet the requirements of 39 U.S.C. 3633, and if they are functionally equivalent to previously submitted GEPS 1 contracts.<sup>3</sup> Notice at 1-2.

*The instant contract.* The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that the contract is in accordance with Order No. 86. It filed an application for non-public treatment of materials to maintain the contract and supporting documents under seal as Attachment 1 to the Notice. *Id.*, Attachment 1.

The Notice also includes, as Attachment 2, a redacted copy of Governors' Decision No. 08-7 which establishes prices and classifications for GEPS contracts. The Postal Service 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 as Attachments 3 and 4, respectively. *Id.* at 2. The term of the instant contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received.

The Notice advances reasons why the instant GEPS 1 contract fits within the Mail Classification Schedule language for GEPS 1. The Postal Service contends that the instant contract satisfies the pricing formula and classification system established in Governors' Decision No. 08-7. In addition, it states that several factors demonstrate the contract's functional equivalence with the previous GEPS 1 contracts, including the following: the customers are small or medium-sized businesses that mail directly to foreign destinations using EMI and/or PMI; the contract term of one year applies to all GEPS 1 contracts; the contracts have similar cost and market characteristics; and each requires payment through permit imprint. *Id.* at 3-4. It asserts that even though prices may be different based on volume or postage commitments made by the customers, or updated costing information, these differences do not affect the contract's functional equivalency because the GEPS 1 contracts share similar cost attributes and methodology. *Id.* at 4-5.

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<sup>3</sup> See Docket No. CP2008-5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008, at 7 (Order No. 86).

The Postal Service identifies other provisions which it states reflect minor differences between mailers.<sup>4</sup> These distinctions include provisions clarifying the correlation between regulatory oversight and contract expiration<sup>5</sup> and the availability of other Postal Service products and services; exclusion of certain flat rate products from the mail qualifying for discounts; a simpler mailing notice requirement along with provisions to meet scheduling needs; mail tender location changes; specific liquidated damages terms; provisions clarifying the mailer's volume and revenue commitment calculation in the event of early termination; and provisions clarifying aspects subject to regulatory oversight or revisions to update terms or references from a prior contract. *Id.* at 5-6.

The Postal Service states that these differences related to a particular mailer are "incidental differences" and do not change the conclusion that these agreements are functionally equivalent in all substantive aspects. *Id.* at 6.

The Postal Service concludes that this contract is functionally equivalent to previous GEPS 1 contracts and requests that this contract be included within the GEPS 1 product. *Id.*

## II. NOTICE OF FILING

The Commission establishes Docket No. CP2009-58 for consideration of matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3622 or 3642. Comments are

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<sup>4</sup> The Postal Service states that the instant contract is the same as the contract approved by the Commission in Docket No. CP2009-50, Order Concerning Filing of Additional Global Expedited Package Services 1 Negotiated Service Agreement, July 29, 2009. It asserts the only differences are the liquidated damages provisions and tender provisions. *Id.* at 2, n.4.

<sup>5</sup> The Postal Service states that some of the contracts generally provide that if all applicable reviews have not been completed at the time an older contract expires, the mailer must pay published prices until some alternative becomes available. In the instant case, the Postal Service seeks approval of a new GEPS 1 contract with a new customer.

due no later than August 19, 2009. The public portions of these filings can be accessed via the Commission's website ([www.prc.gov](http://www.prc.gov)).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned filing.

### III. ORDERING PARAGRAPHS

*It is Ordered:*

1. The Commission establishes Docket No. CP2009-58 for consideration of the issues raised in this docket.
2. Comments by interested persons in these proceedings are due no later than August 19, 2009.
3. 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.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ann C. Fisher  
Acting Secretary