

in Docket No. MC2009-7.² Qualifying that approval, however, the Commission noted that "Xpresspost exhibits characteristics of a competitive product." *Id.* at 7.

Request. In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision including proposed Mail Classification Schedule (MCS) language, a management analysis of the Bilateral Agreement; certification of compliance with 39 U.S.C. 3633(a) and certification of the Governors' vote;³ (2) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁴ (3) a redacted version of the agreement⁵; and (4) an application for non-public treatment of pricing and supporting documents filed under seal.⁶ Request at 2.

The Bilateral Agreement covers parcels arriving in the United States by surface transportation rather than air. Governors' Decision No. 09-16.⁷ The Bilateral Agreement also covers Xpresspost, a Canadian service for documents, packets, and light-weight packages. *Id.* The Bilateral Agreement allows Canada Post to tender surface parcels and Xpresspost to the Postal Service at negotiated prices rather than the default prices set by the Universal Postal Union. *Id.*

In the Statement of Supporting Justification, Lea Emerson, Executive Director, International Postal Affairs, asserts that "[t]he addition of the [Bilateral] Agreement as a competitive product will enable the Commission to verify that the agreement covers its attributable costs and enables competitive products, as a whole, to make a positive contribution to coverage of institutional costs." Request, Attachment 2. Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *Id.*, Attachment 1. He observes that the Bilateral Agreement "should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs." *Id.*

² Docket No. MC2009-7, Order Concerning Bilateral Agreement with Canada Post for Inbound Market Dominant Services, December 31, 2008.

³ Attachment 1 to the Request.

⁴ Attachment 2 to the Request.

⁵ Attachment 3 to the Request.

⁶ Attachment 4 to the Request. The Postal Service erroneously noted in its Request that an Attachment 5 which contained the application for non-public treatment was filed. The application for non-public treatment is Attachment 4; there is no Attachment 5.

⁷ See Attachment 1 to the Request.

II. Notice of Filing

The Commission establishes Docket Nos. MC2010-14 and CP2010-13 for consideration of the Request pertaining to the proposed Canada Post-United States Postal Service Contractual Bilateral Agreement product and the related Bilateral Agreement, 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 14, 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. MC2010-14 and CP2010-13 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 14, 2009.

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

By the Commission.

Judith M. Grady,
Acting Secretary.

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POSTAL REGULATORY COMMISSION

[Docket Nos. MC2010-13 and CP2010-12; Order No. 347]

New Postal Product

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Inbound International Expedited Services 1 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: December 10, 2009.

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

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6820 or stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION:

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

I. Introduction

On November 20, 2009, the Postal Service filed a request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Inbound International Expedited Services 1 to the Competitive Product List.¹ The Postal Service asserts that Inbound International Expedited Services 1 is a competitive product within the meaning of 39 U.S.C. 3632(b)(3).

The Postal Service states that prices and classifications underlying these rates are supported by Governors' Decision No. 08-5.² *Id.* at 1-2. This Request has been assigned Docket No. MC2010-13.

The Postal Service states that Governors' Decision No. 08-5 establishes the prices for Inbound International Expedited Services 1 and the changes in classification "not of general applicability" necessary to implement those prices. *Id.* at 1.

The Postal Service contemporaneously filed notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, that it has entered into a contractual bilateral agreement governing bilateral rates for Express Mail Service (EMS) with China Post Group, the public postal operator in the People's Republic of China. The Postal Service states that the supporting financial materials included in this

¹ Request to Add Inbound International Expedited Services 1 to the Competitive Product List, and Notice of United States Postal Service of Filing China Post Group-United States Postal Service Contractual Bilateral Agreement (Under Seal), November 20, 2009 (Request).

² Governors' Decision No. 08-5, April 1, 2008, established prices for the inbound services offered under Express Mail International bilateral/multilateral agreements.

filing indicate that the inbound EMS rates comply with the requirements of 39 U.S.C. 3633(a). *Id.* at 2. The rates as established in the bilateral agreement are assigned Docket No. CP2010–12.

Request. In support of its Request, the Postal Service filed the following materials: (1) An application for non-public treatment of pricing and supporting documents filed under seal;³ (2) a redacted version of Governors' Decision No. 08–5 establishing prices and classifications for services offered under EMS bilateral/multilateral agreements; Mail Classification Schedule (MCS) language applicable to Inbound EMS bilateral /multilateral agreements; formulas for inbound prices under EMS bilateral/multilateral agreements; and an analysis of the formulas, certification of the Governors' vote, and certification of compliance with 39 U.S.C. 3633(3)(a);⁴ (3) a redacted version of the China Post Group bilateral agreement;⁵ (4) certification of prices for the bilateral agreement;⁶ and (5) a Statement of Supporting Justification as required by 39 CFR 3020.32.⁷

On June 1, 2008, the Postal Service filed notice of Governors' Decision No. 08–5 in Docket Nos. CP2008–6 and CP2008–7.⁸ Those dockets gave notice of a competitive negotiated service agreement with China Post Group covering EMS prices.⁹ In Order No. 84, the Commission added the China Post Agreement as a product not of general applicability to the competitive product list as Inbound International Expedited Services 1.¹⁰ The Postal Service states the agreement became effective on July 15, 2008, and continued in effect until July 14, 2009. Request at 3. The Postal Service entered into a new agreement with the China Post Group on November 16, 2009. The Postal Service now requests to restore the Inbound International Expedited Services 1 product to the Competitive Product List.

Related contract. The bilateral agreement establishes alternative,

negotiated rates to China Post Group for inbound EMS, instead of the EMS 2 product rates that would otherwise be applicable.¹¹ The Postal Service notes that the inbound portion of the bilateral agreement fits within the MCS language included as Attachment A to Governors' Decision No. 08–5. The agreement becomes effective upon completion of all necessary regulatory reviews, but in no case earlier than January 1, 2010. The agreement continues in effect until terminated, which may occur upon 30 days' notice by either party. The negotiated prices are subject to change based upon contingencies included in the agreement. Request at 4. If rates change, the Postal Service will offer China Post Group EMS rates reflecting an adjusted rate. *Id.*

The Postal Service states that the new agreement is functionally similar to the prior contract reviewed by the Commission except for different rates that may be applicable to certain flows in the new agreement. *Id.* at 5. It notes the instant agreement exhibits the same cost and market characteristics as the previous agreement. The Postal Service describes minor changes in the instant agreement which include changes in standard clauses due to the Commission's confidentiality rules and other internal issues. *Id.*

In the Statement of Supporting Justification, Kang Zhang, General Manager, Business Development, Asia/Pacific, Global Business Development, asserts that “[t]he addition of the [Bilateral] Agreement as a competitive product will enable the Commission to verify that each contract covers its attributable costs and enables competitive products, as a whole, to make a positive contribution to coverage of institutional costs.” He further states that as a result, “no issue of subsidization of competitive products by market dominant products arises.” *Id.*, Attachment 5.

Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *Id.*, Attachment 4. He asserts that the prices for the China Post Group bilateral agreement “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 specific

bilateral agreement, under seal. *Id.* at 5. In its Request, the Postal Service maintains that certain portions of the contract, the rates, descriptions of the rates, and related financial information should remain under seal. *Id.*, Attachment 1.

II. Notice of Filings

The Commission establishes Docket Nos. MC2010–13 and CP2010–12 for consideration of the Request pertaining to the proposed Inbound International Expedited Services 1 product, the China Post Group bilateral agreement, and the related rates and classifications, 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 10, 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. MC2010–13 and CP2010–12 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, 2009.

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

By the Commission.

Judith M. Grady,
Acting Secretary.

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³ Attachment 1 to the Request.

⁴ Attachment 2 to the Request.

⁵ Attachment 3 to the Request.

⁶ Attachment 4 to the Request.

⁷ Attachment 5 to the Request.

⁸ See Docket Nos. CP2008–6 and CP2008–7, Notice and Order Concerning Prices Under Express Mail International Bilateral/Multilateral Agreements, June 3, 2008. The Commission consolidated Docket No. CP2008–6 with Docket No. CP2008–7 in this order.

⁹ See Docket No. CP2008–7, Notice of United States Postal Service of Filing an Agreement for Inbound Express Mail International (EMS) Prices, May 20, 2008.

¹⁰ Docket No. CP2008–7, Order Concerning the China Post Group Inbound EMS Agreement, June 27, 2008 (Order No. 84).

¹¹ The Postal Service states that in absence of this negotiated agreement, EMS rates for calendar year 2010 as reviewed by the Commission in Docket No. CP2009–57 would apply. See Docket No. CP2009–57, PRC Order No. 281, Order Concerning Filing of Changes in Rates for Inbound International Expedited Services 2, August 19, 2009.