



## **POSTAL REGULATORY COMMISSION**

**[Docket No. MC2020-73; Order No. 6853]**

### **Inbound Competitive PRIME Registered Service Agreement**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission acknowledges a recent Postal Service request regarding revised versions and updates concerning parties to Inbound Competitive Registered Service Agreement 1. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 27, 2023.

**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:** David A. Trissell, General Counsel, at 202-789-6820.

### **SUPPLEMENTARY INFORMATION:**

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#### **I. Introduction**

On December 8, 2023, the Postal Service filed notice of revised versions of and updates concerning parties to Inbound Competitive PRIME Registered Service Agreement 1 (Agreement).<sup>1</sup>

## **II. Contents of Filing**

The Postal Service acknowledges that due to an oversight, revisions to the Agreement that went into effect on January 1, 2023, and July 1, 2023, respectively, were not timely notified to the Commission at least 15 days before the effective dates of the respective changes in accordance with 39 CFR 3035.105. Notice at 2. The Postal Service also states that “it has taken action to correct future oversights by educating responsible team members on their responsibility to provide information to promote timely filing of changes to the Agreement.” *Id.* The Postal Service further states that it provides discussion “in greater detail” in the Notice regarding the oversight and the corrective action. *Id.* at 1. However, there is no such discussion in greater detail elsewhere in the Notice.

With the Notice, the Postal Service filed: a redacted copy of Governors’ Decision No. 19-1 (Attachment 1); redacted copies of the revised versions of the Agreement that went into effect on January 1, 2023, and July 1, 2023, respectively (Attachments 2 and 3, respectively); a redacted table listing the parties to the Agreement as of November 30, 2023 (Attachment 4); and a certified statement required by 39 CFR 3035.105(c)(2) (Attachment 5). Notice at 2; see *id.* Attachments 1-5. The Postal Service also filed redacted Excel versions of financial workpapers. Notice at 2.

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<sup>1</sup> Notice of United States Postal Service of Filing Revised Versions of and Updates Concerning Parties to Inbound Competitive PRIME Registered Service Agreement, and Application for Non-Public Treatment, December 8, 2023 (Notice).

Additionally, the Postal Service filed unredacted versions of Attachments 1-4 and unredacted Excel versions of financial workpapers under seal. *Id.* The Postal Service filed an application for non-public treatment of materials filed under seal. *Id.* at 2-3; *id.* Attachment 6.

The Postal Service lists the changes made in the revised versions of the Agreement that went into effect on January 1, 2023, and July 1, 2023, respectively. Notice at 3-4. The Postal Service states that the financial workpapers filed under seal show sufficient cost coverage for this Agreement. *Id.* at 4.

### **III. Commission Action**

The Commission reopens Docket No. MC2020-73 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632 and 3633 and 39 CFR part 3035. Comments are due no later than December 27, 2023. The public portions of the filing can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in this docket.

### **IV. Order Requiring Further Action by the Postal Service**

The Governors of the Postal Service "shall cause" each decision of rate or class not of general applicability and the record of the proceedings in connection with such decision "to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days." 39 U.S.C. 3632(b)(3). Accordingly, the Commission regulations require the Postal Service to file notice of such decision at least 15 days before the effective date of the change. 39

CFR 3035.105(a) (“When the Postal Service determines to add or change a rate or class not of general applicability, it shall file notice of its decision with the Commission at least 15 days before the effective date of the change.”). In Order No. 4016, the Commission discussed the Postal Service’s previous pattern of untimely filing of the revisions to the predecessor version (a Market Dominant PRIME Registered Services Agreement), and in response to a Presiding Officer’s Information Request, the Postal Service identified several steps it took to ensure timely filing of future revisions.<sup>2</sup> For purposes of the instant Agreement, it appears that these steps were not followed by the Postal Service, and they were insufficient to ensure timely filings notifying the Commission of modifications.

As noted above, the Postal Service acknowledges that an oversight led to the extremely late filing of the Notice and states it has taken corrective action to promote timely filing in the future. Notice at 2. The Postal Service also states that it provides discussion “in greater detail” in the Notice regarding the oversight and the corrective action. *Id.* at 1-2. However, there is no such discussion in greater detail elsewhere in the Notice. In addition, the Postal Service did not file a motion for late acceptance of its Notice either prior to or concurrent with the Notice, as required by Commission regulations. 39 CFR 3010.163.

Additionally, the Commission observes that there appears to be discrepancies between the list of current parties to the Agreement in Attachment

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<sup>2</sup> See Docket No. R2016-6, Order Approving Modifications of PRIME Registered Agreement, July 26, 2017, 6-7 (Order No. 4016). The Postal Service identified the following steps: (1) “[e]mployees who regularly work on the Inbound Market Dominant Registered Service Agreement 1 have been reminded of the Commission’s request that financial information be timely filed when a modification to the Agreement proposes changes to rates, fees, or mail classifications;” (2) “[c]hanges to Annex 3 delivery standards proposed by the Postal Service will be submitted to the Commission at the same time they are transmitted to the head of PRIME;” (3) “[t]he Postal Service’s lead representative to PRIME will notify the Postal Service’s Law Department as soon as possible concerning other proposed revisions to the PRIME Registered Service Agreement that affect rates, fees, and mail classifications so that filings can be made with the Commission as soon as possible.” *Id.* at 7.

4 and the parties reflected with rates in the financial workpapers. Some countries that are listed in Attachment 4 do not have rates reflected in the financial workpapers, some countries that are not listed in Attachment 4 have rates reflected in the financial workpapers, and one country listed in Attachment 4 is missing entirely in the financial workpapers.

To remedy the deficiencies identified above, the Commission orders the Postal Service to:

1. File a motion for late acceptance of its Notice no later than December 18, 2023.
2. In its motion for late acceptance:
  - a. Discuss in greater detail what oversight led to the filing of the Notice almost 1 year later and 6 months later than the correct filing dates pursuant to 39 CFR 3035.105, respectively, for the changes to the Agreement that went into effect on January 1, 2023, and July 1, 2023, respectively.
  - b. Discuss in greater detail what corrective action the Postal Service has taken (and will take) to prevent similar untimely filings in the future, including but not limited to, designating the Postal Service employee(s)(along with the individual's name and title) responsible for monitoring whether a modification requires notification to Commission as well as the Postal Service employee(s) (along with the individual's name and title) who will be accountable for ensuring timely filings notifying the Commission of such modifications in the future.
  - c. Explain the apparent discrepancy between the list of current parties to the Agreement in Attachment 4 and the parties reflected with rates in the

financial workpapers and provide revised Attachment 4 and/or financial workpapers as necessary.

## **V. Ordering Paragraphs**

*It is ordered:*

1. The Commission reopens Docket No. MC2020-73 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. The Postal Service shall file a motion for late acceptance no later than December 18, 2023. The motion shall include the content specified in the body of the Order.

4. Comments are due no later than December 27, 2023.

5. The Secretary shall arrange for the publication of this Order in the

**Federal Register.**

By the Commission.

**Erica A. Barker,**

*Secretary.*

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