

Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

**Related contract.** The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day following the date that the Commission issues all regulatory approvals. *Id.* at 10. The contract will expire 3 years from the effective date, unless, among other things, either party terminates the agreement with 30 days' written notice to the other party. *Id.* at 11. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2013-1 and CP2013-1 to consider the Request pertaining to the proposed Express Mail & Priority Mail Contract 11 product and the related contract, respectively.

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 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than October 18, 2012. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Natalie R. Ward to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2013-1 and CP2013-1 to

consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Natalie R. Ward is appointed to serve as an 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 October 18, 2012.

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

By the Commission.

**Ruth Ann Abrams,**

*Acting Secretary.*

[FR Doc. 2012-25432 Filed 10-16-12; 8:45 am]

**BILLING CODE 7710-FW-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2013-2 and CP2013-2; Order No. 1493]

### New Postal Product; Negotiated Service Agreement

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is establishing a docket to consider the Postal Service's request to add Priority Mail Contract 44 to the competitive product list. This notice provides public notice of the Postal Service's filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* October 18, 2012.

**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 the **FOR FURTHER INFORMATION CONTACT** portion of the preamble for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202-789-6824.

### SUPPLEMENTARY INFORMATION:

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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 Priority Mail Contract 44 to the

competitive product list.<sup>1</sup> The Postal Service asserts that Priority Mail Contract 44 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. MC2013-2.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013-2.

**Request.** To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11-6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

**Related contract.** The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day following the date that the Commission issues all regulatory approvals. *Id.* at 2. The contract will expire 3 years from the effective date, unless, among other things, either party terminates the agreement with 30 days' written notice to the other party. *Id.* The Postal Service represents that the

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 44 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 10, 2012 (Request).

contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2013-2 and CP2013-2 to consider the Request pertaining to the proposed Priority Mail Contract 44 product and the related contract, respectively.

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 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than October 18, 2012. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints Natalie R. Ward to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2013-2 and CP2013-2 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Natalie R. Ward is appointed to serve as an 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 October 18, 2012.

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

By the Commission.

**Ruth Ann Abrams,**  
*Acting Secretary.*

[FR Doc. 2012-25431 Filed 10-16-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68036; File No. SR-NYSEMKT-2012-50]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule Relating to Criteria for Rebates to Order Flow Providers

October 11, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on September 28, 2012, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (the "Fee Schedule") to establish criteria for Order Flow Providers ("OFPs")<sup>4</sup> to earn rebates based on the average daily volume ("ADV") of Customer<sup>5</sup> electronic equity and exchange-traded fund ("ETF") contracts executed by an OFP on the Exchange. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> An OFP is any ATP Holder that submits, as agent, orders to the Exchange. See Rule 900.2NY(57).

<sup>5</sup> The term "Customer" means an individual or organization that is not a broker-dealer. See Rule 900.2NY(18).

The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend the Fee Schedule to establish criteria for OFPs to earn rebates based on the ADV of Customer electronic equity and ETF contracts executed by an OFP on the Exchange. The Exchange proposes to implement these changes on October 1, 2012.

The Exchange proposes to establish a rebate for OFPs based on the ADV of Customer electronic equity and ETF contracts executed by an OFP on the Exchange (the "Tiers") relative to the overall Total Industry Customer equity and ETF option ADV.<sup>6</sup> In order to be eligible for the rebate, certain criteria must be met. Once all of the criteria have been met, the highest rebate earned will apply to all eligible volume for the particular month for the particular OFP. The criteria will be detailed in new endnote 17 to the Fee Schedule.

The first criterion is that an OFP must execute Customer electronic equity and ETF option volume on the Exchange that is equal to or greater than the percentage of Total Industry Customer equity and ETF option ADV shown in the table below (e.g., 2.7% of Total Industry Customer equity and ETF option ADV for the lowest tier). However, no rebate would be paid on Customer electronic equity and ETF option volume that is less than 120,000 ADV; thus, in a month where the Total Industry Customer equity and ETF option ADV as a whole drops substantially, it is possible that no rebates will be paid.

Volume from executions of Qualified Contingent Cross ("QCC") Orders,<sup>7</sup>

<sup>6</sup> Total Industry Customer equity and ETF option ADV would be that which is reported for the month by OCC in the month in which the rebates may apply. For example, October 2012 Total Industry Customer equity and ETF option ADV will be used in determining what, if any, rebate an OFP may be eligible for based on the Customer electronic equity and ETF option ADV it transacts on the Exchange in October 2012. Total Industry Customer equity and ETF option ADV is comprised of those equity and ETF option contracts that clear in the customer account type at OCC and does not include contracts that clear in either the firm or market maker account type at OCC or contracts overlying a security other than an equity and ETF security.

<sup>7</sup> A QCC Order is comprised of an order to buy or sell at least 1,000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Commentary .01 to Rule 900.3NY, coupled with a contra-side order to buy