

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

ADDITION TO THE COMPETITIVE PRODUCT LIST COMPETITIVE ANCILLARY SERVICES	Docket No. MC2011-23
COMPETITIVE PRODUCT PRICES COMPETITIVE ANCILLARY SERVICES (MC2011-23) ADULT SIGNATURE SERVICE	Docket No. CP2011-62

**NOTICE OF THE UNITED STATES POSTAL SERVICE OF  
FILING MATERIALS UNDER SEAL AND APPLICATION FOR  
NON-PUBLIC TREATMENT FOR SUPPLEMENTAL INFORMATION  
PROVIDED IN RESPONSE TO ORDER NO. 683  
(March 8, 2011)**

The United States Postal Service hereby provides notice of filing materials under seal, along with an application for non-public treatment. In response to the Commission's request for supplemental information in Order No. 683, the Postal Service filed certain materials under seal on Friday, March 4, and on Monday, March 7. The Postal Service inadvertently omitted its application for non-public treatment for those materials. The application is attached to this pleading.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Pricing & Product Support

Elizabeth A. Reed

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-3179, Fax -6187  
March 8, 2011

## **APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS**

In accordance with 39 C.F.R. § 3007.21, the Postal Service hereby applies for non-public treatment of the materials provided in response to the Commission's request for supplemental information in Order No. 683. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.21(c), as enumerated below. For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

The materials designated as non-public consist of information of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3).<sup>1</sup> Because the portions of the materials which the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

None.

---

<sup>1</sup> In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

The materials consist of work papers that contain commercially sensitive information such as underlying costs and assumptions, and cost coverage projections, for Adult Signature services, in addition to proprietary business information and data related to the Postal Service's internal research and analysis of the Shipping Services market as it relates to Adult Signature services.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

The financial work papers include specific information such as costs, assumptions used in developing costs and prices, and projections of variables. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would likely take great advantage of this information. Unlike its competitors, the Postal Service is required to meet the standards of 39 U.S.C. § 3633. Competitors are not so constrained and could use the information to their advantage in gaining customers. The formulas shown in the spreadsheets in their native format provide additional sensitive information. In addition, revealing the Postal Service's profit margin information could also be used by current and prospective customers to attempt to renegotiate their own prices. Additionally, if competitors of the Postal Service were to have access to the Postal Service's own market research and analysis, they would have a better understanding of the Postal Service's position in the Shipping Services market, and could anticipate future Postal Service business strategies. Moreover, they could piggy-back on the Postal Service's own efforts to analyze its position in the market, and could take advantage of this opportunity to obtain free market research.

Although the extent of the commercial harm is difficult to quantify, given that Shipping Services is a multi-billion dollar enterprise, providing this advantage to the Postal Service's competitors could lead to millions of dollars in lost revenue, higher costs, and lower contribution margins for the Postal Service. It is highly likely that if this

information were made public, the Postal Service's competitors and suppliers would take advantage of it almost immediately.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Identified harm: Public disclosure of information in the financial work papers would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing package delivery service or its representative obtains a copy of the financial work papers. It analyzes the work papers to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for similar delivery services.

Identified harm: Competitors could use the Postal Service's market research to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.

Hypothetical: Detailed results of the Postal Service's market research are released to the public and available to a competitor. The competitor assesses the profitability of certain segments of the market, based on the data released. The competitor then targets its efforts at developing specific market segments where the Postal Service is relatively weak, and strengthening other segments, thereby hindering the Postal Service's ability to maintain its current customer base and expand postal offerings into new segments.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the market for domestic parcel shipping products, as well as their consultants and attorneys.

Additionally, suppliers of transportation or other services to the Postal Service that affect

costs for competitive services should not have access to these materials; this restriction should include their consultants and attorneys.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

**(8) Any other factors or reasons relevant to support the application.**

None.