

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

Rate and Service Changes to Implement  
Baseline Negotiated Service Agreement  
With Bank of America Corporation

Docket No. MC2007-1

PRESIDING OFFICER'S RULING  
CONCERNING APPLICATION OF PROTECTIVE CONDITIONS

(Issued October 12, 2007)

On October 10, 2007, the Postal Service filed a motion requesting that it be allowed to disseminate the Docket No. MC2007-1 Opinion and Recommended Decision and library reference PRC-LR-1, both filed under seal, to postal personnel and postal contractors without filing certificates or otherwise complying with the terms and conditions of Presiding Officer's Ruling MC2007-1/11.<sup>1</sup> Presiding Officer's Ruling MC2007-1/11 establishes the terms and conditions for obtaining access to the material filed under seal. The Postal Service contends that the protected information consists of data that the Postal Service originally produced, and that it would be unwieldy for the Postal Service to administer the Commission's protective conditions each time an employee or contractor must obtain access to the protected information.

The source of the protected material referenced in the Decision and the associated library reference is a Postal Service library reference, USPS-LR-4, filed

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<sup>1</sup> Motion of United States Postal Service Concerning Application of Protective Conditions, October 10, 2007 (Motion). Although not specifically covered by the protective conditions, it seems completely appropriate to provide the Board of Governors with unredacted copies of the Commission Opinion and Recommended Decision.

under seal. The library reference was placed under seal based on the Postal Service's representation that it contained investment reports which were commercially sensitive, and predecisional and deliberative in nature, that merit protection from public disclosure.<sup>2</sup> It argued that the factual content of the material was inextricably intertwined with the deliberative content of the documents, and that disclosure of the material could significantly undermine the position of the Postal Service to negotiate contracts with its vendors.

After submission of the library reference, it was determined that the library reference provides three categories of information: investment reports, a cost model, and separate information relevant to read/accept rates. The separate information relevant to read/accept rates identified as items 8 and 9 in the table of contents of the library reference is the only information referenced in the Commission's Decision and library reference PRC-LR-1, and is the only material at issue in this ruling. The Postal Service's justification for protective conditions applies to the investment reports, and arguably to the cost model. However, the information relevant to read/accept rates is provided separately and not inextricably intertwined with other information, nor does it reveal anything specific to a vendor or the selection process for a vendor.

Previously in this docket, the Postal Service provided library reference USPS-LR-3 (under seal) which contained a series of memoranda and Decisional Analysis Reports. One of the Decisional Analysis Reports contained information relevant to read/accept rates that is similar in nature to the information at issue in USPS-LR-4. At the request of the American Postal Workers Union, AFL-CIO and with the concurrence of the Postal Service, this information was taken out from under seal.<sup>3</sup>

Furthermore, read/accept rates have been public information in previous omnibus rate proceedings. Participants, and the Commission, are likely to require that the Postal Service rely on the most recent and reliable data in future filings.

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<sup>2</sup> Motion of United States Postal Service for Leave to File Certain Documents as Provided in the Postal Service's Response to Ruling of the Presiding Officer at Hearing on June 14, 2007 Under Protective Conditions, June 20, 2007.

<sup>3</sup> Presiding Officer's Ruling MC2007-1/12 at 4.

The Postal Service has had time to consider whether the unredacted Docket No. MC2007-1 Opinion and Recommended Decision, library reference PRC-LR-1, and the source read/accept information provided by USPS-LR-4 continue to warrant protective conditions. To facilitate the resolution of the Postal Service's Motion, the following information is requested:

1. Postal Service justification for maintaining protective conditions on documents 8 and 9 listed in the table of contents of USPS-LR-4.
2. A description of the policy and specific procedure that the Postal Service applies to Postal Service personnel and contractors to control access to the material contained within documents 8 and 9 listed in the table of contents of USPS-LR-4.
3. Postal Service justification for maintaining protective conditions on the unredacted Docket No. MC2007-1 Opinion and Recommended Decision.
4. Postal Service justification for maintaining protective conditions on the Docket No. MC2007-1 library reference PRC-LR-1.

#### RULING

The United States Postal Service is to provide a response to the information requested in the body of this ruling by October 18, 2007.

Dan G. Blair  
Presiding Officer