

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

MARKET TEST OF EXPERIMENTAL PRODUCT-
GLOBAL ECOMMERCE MARKETPLACE (GEM)
NON-PUBLISHED RATES

Docket No.
MT2016-1

**UNITED STATES POSTAL SERVICE NOTICE OF FILING QUARTERLY DATA
COLLECTION REPORT AND APPLICATION FOR NONPUBLIC TREATMENT**
(August 9, 2018)

On May 25, 2016, the Postal Regulatory Commission (“Commission”) issued Order No. 3319, authorizing the GeM Merchant Solution market test to proceed.¹ In that Order, the Commission directed that the Postal Service file quarterly data collection reports in this docket 40 days after the close of each fiscal quarter.² In accordance with that order, the Postal Service is filing today under seal a data collection report concerning the GeM Merchant Solution market test for Quarter 3 of FY2018. The application for nonpublic treatment is attached to this notice as Attachment 1, and a redacted copy of the report is attached as Attachment 2.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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¹ PRC Order No. 3319, Order Authorizing Market Test of Global eCommerce Marketplace (GEM) Merchant, Docket No. MT2016-1, May 25, 2016.

² *Id.* at 19, 26.

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

In accordance with 39 C.F.R. Part 3007, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission in this docket. The materials pertain to a request that Global eCommerce Marketplace (GeM) Merchant product be added to the competitive product list within the Mail Classification Schedule (MCS) as a Market Test. The Postal Service is filing separately under seal with the Commission unredacted versions of the quarterly data collection report for Quarter 3 of Fiscal Year 2018. The Postal Service has filed a redacted version with the Notice.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.201(b) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials;

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). 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).¹ Because the portions of materials filed non-publicly in this docket fall

¹ 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

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) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable);

Both the Postal Service and third parties have a proprietary interest in the information contained within the non-public materials. Third parties that may have a proprietary interest in the information in this filing include customers who sign contracts to participate in the market test and the Postal Service's supplier(s) under contract to the Postal Service. Article 12.1 of the model contract provides each customer with notice of the Postal Service's intent to file the agreement with the Commission and its intent to seek non-public treatment of the information the Postal Service determines may be withheld from public disclosure. The notice gives the customer information about how to raise its confidentiality concerns directly with the Commission.

The identification of the future customers and suppliers is sensitive business information. As such, the Postal Service identifies a Postal Service employee who will provide notice and serve as point of contact to both customers and affected third parties, such as supplier(s). The Postal Service designates Franca Davis, Executive Director of International Strategy and Development, available at franca.s.davis@usps.gov and (202) 268-5459.

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 information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public;

The Postal Service maintains that the library reference filed under seal in this docket should remain confidential.

As part of its data reporting plan for the market test, the Postal Service is providing, on a quarterly basis, data collection reports with cost, revenue, and volume data.

The nonpublic material and redactions to the material identified above protect sensitive commercial information concerning revenues and the non-published rates themselves.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure;

The nonpublic material and redactions to the material identified above include the Postal Service's specific non-published rate information and its data collection reports with costs, revenues and volumes data, which are highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of knowing the range of prices that may be offered by the Postal Service to its GeM Merchant customers. Thus, competitors would be able to take advantage of the information to offer lower pricing to the GeM Merchant customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the international end-to-end market.

Potential customers could also take advantage of the information in negotiating the specific rates to be applied to their circumstances. They could demand the absolute floor, when it would otherwise be possible in some cases for the Postal Service to offer a higher, but still competitive rate. Further, the customer-identifying information redacted from the merchant agreements to be filed in the future could be used by competitors to target their marketing efforts on current USPS customers.

Finally, the data collection reports filed by the Postal Service reveal the unit costs of the Postal Service, which in turn may represent the unit prices of suppliers. Publication of this information could undermine the suppliers' ability to compete in future procurements and cause competitive harm to the suppliers in their position in the marketplace.

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

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of a GeM Merchant is revealed to the public. Another expedited delivery service has an employee monitoring the filing of GeM agreements and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the USPS in favor of using the competitor's services.

Identified harm: Public disclosure of potential rates, revenue projections, costs, volumes data and data collection report information would be used by competitors to the detriment of the Postal Service.

Hypothetical: A competitor offering an end-to-end service obtains a copy of the potential rates or future from the Postal Regulatory Commission's website. The competing service reviews the rates and then sets its own rates for products similar to what the Postal Service offers its GeM Merchant customers under the Postal Service's rates. The competing service promotes its ability to beat the Postal Service on price for international end-to-end services. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the business-to-customer international end-to-end services market for which the GeM Merchant product is designed. Similarly, information from the data collection reports would allow competitors unfair insight into the Postal Service's market information for the GeM Merchant product.

Identified harm: Public disclosure of the potential or future rate and data collection report information would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: A customer with the potential or future rate information could use it to demand the lowest possible rate, knowing that the Postal Service's approved rates include certain floor amounts. Armed with the rate information, a customer could threaten that it will not use the Postal Service for its international end-to-end service needs if it does not receive the lowest possible rates. This would severely threaten the Postal Service's ability to offer competitive but profitable rates to its customers within the minimum and maximum rates established by the Governors'. Information from the data collection reports would similarly allow customers an unfair bargaining position.

Identified harm: Public disclosure of information in a GeM Merchant contract and its financial workpapers would be used by the customer's competitors to its detriment.

Hypothetical: A firm competing with the customer obtains a copy of the unredacted version of a GeM Merchant contract and financial workpapers from the Postal Regulatory Commission's website. The competitor analyzes the prices and the workpapers to assess the customer's underlying costs, volumes, and volume distribution for the corresponding delivery products. The competitor uses that information to (i) conduct market intelligence on the customer's business practices, and (ii) develop lower-cost alternatives using the customer's mailing costs as a baseline.

Identified harm: Public disclosure of any cost, volume and revenue data concerning GeM Merchant agreements that the Commission may require the Postal Service to file after the contract's expiration would give competitors a marketing advantage.

Hypothetical: A competitor could use any cost, volume and revenue data associated with these agreements, which the Commission may require the Postal Service to file in this docket, to "qualify" potential customers. The competitor might focus its marketing efforts only on customers that have a certain mailing profile, and use information in the performance report to determine whether a customer met that profile.

Identified harm: Revealing supplier cost information would enable competitors to target the supplier's Postal contracts, as well as other customers for sales and marketing purposes.

Hypothetical: The financial information of a GeM Merchant supplier is revealed to the public. A competing enterprise has an employee monitoring the filing of GeM agreements and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service and attempt to undercut the supplier in related or unrelated matters. Additionally, the competitor could

contact the supplier's customers and offer the customer lower rates or other incentives to terminate its contract with the supplier in favor of using the competitor's services.

(6) The extent of the protection from public disclosure alleged to be necessary;

The Postal Service maintains that the nonpublic material and redacted portions of the material filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international end-to-end products (including both private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof;

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 otherwise provided by the Commission. 39 C.F.R. § 3007.401(a). However, because the Postal Service's relationships with customers often continue beyond ten years, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3007.401(b-c).

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

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

UNITED STATES POSTAL SERVICE QUARTERLY DATA COLLECTION REPORT
DOCKET NO. MT2016-1

TABLE 1

GeM Merchant Solution Market Test Data Reporting From April 1, 2018 to June 30, 2018			
		Q3 FY2018	FY2018 YTD Total

¹ In accordance with PRC order no. 3319, at 20, these costs are disaggregated as described by USPS in its response to question 2a in response of the United States Postal Service to chairman's information request no. 1, docket no. MT2016-1, April 6, 2016, question 2a.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

The objective of the GeM Merchant Solution market test is to assess the feasibility of a novel service for participating domestic e-commerce merchants and their international customers, which would allow participating domestic e-commerce merchants to offer their international customers the ability, at the time of purchase, to estimate and prepay duties and taxes that the foreign country’s customs agency will assess once the shipment arrives in the foreign destination.

The Postal Service acknowledges that the Commission directed “the Postal Service’s quarterly reports to disaggregate volumes, costs, and revenues based on:

- the specific GeM Merchant agreement,³⁵
- the package’s weight and dimensions (cubic feet),
- the destination country group,
- the shipping method (expedited or deferred delivery), and
- the specific GeM facility used for processing.³⁶

³⁵ To facilitate the Commission’s ability to review this aspect of the data collection, the quarterly reports shall list the GeM Merchant agreements that are newly executed or terminated during the reporting period. This part of the report shall include a serial number unique to each contract, as well as each contract’s effective date and expected termination date.

³⁶ See Response to CHIR No. 1, question 5c; see also Response to CIR No. 1, question 6.”⁷

The disaggregated information is provided below.

TABLE 2⁸

<u>April 1, 2018-June 30, 2018</u>			
GeM Merchant Agreement	Volume	Cost⁹	Revenue¹⁰
GeM01			
GeM02			
GeM03			

⁷ PRC Order No. 3319, at 20.

⁸ [REDACTED]

⁹ [REDACTED]

¹⁰ [REDACTED]

GeM04	[REDACTED]		
GeM05			
GeM06			
GeM07			
GeM08			
TOTAL			

Destination Country Group	Volume	Cost	Revenue
[REDACTED]			

Shipping Method (speed)	Volume	Cost	Revenue
Expedited	[REDACTED]		
Deferred			
TOTAL			

Shipping Method (type)	Volume	Cost	Revenue
[REDACTED]			

GeM Facility	Volume	Cost	Revenue
[REDACTED]			

TOTAL			
Weight and Dimensions	Min	Max	Avg.

Agreements Executed (Q3 FY2018)

Serial Number	Effective Date	Expected Termination Date
GeM06	April 10, 2018	May 1, 2019
GeM07	April 10, 2018	May 1, 2019
GeM08	May 21, 2018	June 1, 2019

Agreements Executed (Q3 FY2018)

Serial Number	Effective Date	Termination Date
GeM03	January 30, 2018	May 4, 2018