For the reasons described below, the United States Postal Service (“Postal Service”) opposes in part the Motion Requesting Access to Non-Public Materials Under Protective Conditions (“UPS Motion”) filed in this docket by the United Parcel Service, Inc. (“UPS”). While the Postal Service does not oppose the request for access to some of the folders identified in the UPS Motion, disclosure of the non-public information included in Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14 – even under the protective conditions proposed – would place commercially-sensitive third party customer information at risk. The Postal Service therefore requests that the Postal Regulatory Commission (“Commission”) deny UPS access to Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14.

As background, on January 9, 2019, UPS filed a motion for access “pursuant to 1

1 Although the Postal Service intended to complete this filing on January 16, 2019 pursuant to 39 C.F.R. § 3007.301(c), completion on that date was impossible because the Commission ceased operations due to a lapse in federal appropriations.

39 C.F.R. § 3001.21 and 39 C.F.R. § 3007.50,” seeking access under protective conditions to the following non-public materials the Postal Service filed with the Commission on December 28, 2018 in this docket:

1. USPS-FY18-NP2 – FY 2018 International Cost and Revenue Analysis (ICRA) Report;
2. USPS-FY18-NP3 – FY 2018 International Cost Segments and Components Report;
3. USPS-FY18-NP7 – Cost Segment 3 International Product Costs by Cost Pools (Volume Variable Cost Pools);
4. USPS-FY18-NP8 – FY 2018 International Billing Determinants;
5. USPS-FY18-NP9 – FY 2018 Miscellaneous International Data;
6. USPS-FY18-NP10 - FY 2018 Competitive Product Incremental and Group Specific Costs;
7. USPS-FY18-NP11 - FY 2018 Nonpublic Cost and Revenue Analysis (NPCRA) Report;
8. USPS-FY18-NP12 - FY 2018 Nonpublic Cost Segments and Components Report;
9. USPS-FY18-NP13 - FY 2018 CRA Model (Model Files, Cost Matrices, and Reports);
10. USPS-FY18-NP14 - FY 2018 CRA “B” Workpapers (Nonpublic Version);
11. USPS-FY18-NP19 – FY 2018 Non-Operation Specific Piggyback Factors (Nonpublic Portion);
12. USPS-FY18-NP21 - In-Office Cost System (IOCS) Documentation (Nonpublic Version);
13. USPS-FY18-NP22 - City Carrier Cost System (CCCS) Documentation (Nonpublic Version);
14. USPS-FY18-NP23 - Rural Carrier Cost System (RCCS) Documentation (Nonpublic Version); and
15. USPS-FY18-NP24 - Transportation Cost System (TRACS) Documentation (Nonpublic Version). ³

In addition, UPS requests an extension of its access to non-public material from

³ Id. at 1.
Docket Nos. ACR2014, ACR2015, ACR2016, and ACR2017, which was granted previously by the Commission during proceedings associated with earlier ACR docket.

As an initial matter, UPS has failed to comply with, or cite, the current rules concerning non-public information. In its motion, UPS cites 39 C.F.R. §§ 3001.21, 3007.42, and 3007.50, which are no longer in effect. In addition, UPS has failed to satisfy the criteria set forth in 39 C.F.R. § 3007.301, including Section 3007.301(b)(4), required for access to non-public information, or present a signed certification for each party requesting access to non-public information that complies with 39 C.F.R. § 3007.301 and Appendix A to Subpart C of Part 3007. Accordingly, the Commission should reject the UPS Motion and direct UPS to revise and refile its motion in compliance with the current rules concerning non-public information.

The Postal Service has consulted with third parties listed in Appendix 1 of the application for non-public treatment that the Postal Service filed in this docket. As discussed below, third parties listed in Appendix 1 have expressed concerns about the implications of this request with respect to Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14. The materials that are the subject of the UPS Motion are confidential and commercially sensitive, as outlined in the Postal Service’s application for non-public

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4 Id. The Postal Service has no objection with respect to the requested extension regarding material from prior years.
treatment initially filed in this docket.\textsuperscript{7} The non-public materials at issue are described in detail in that application. Furthermore, these materials are information of a commercial nature, which under good business practice would not be publicly disclosed. As such, this information normally would be exempt from mandatory public disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3), (b)(4). Moreover, this information is confidential within the broader shipping services market.

The third party information included in these materials is primarily data related to foreign postal operators and Postal Service customers with a Negotiated Service Agreement ("NSA"). With respect to the information related to foreign postal operators, it is not feasible for the Postal Service to remove, redact, or aggregate the information in a way that protects this third party information. The identity of each foreign postal operator is crucial for the development of the nonpublic materials in Non-public Folder USPS-FY18-NP2 because many of the data categories are country-specific. As such, there are piece, weight, and rate data for each foreign postal operator in Non-public Folder USPS-FY18-NP2, and individual country identification is required for the models in Non-public Folder USPS-FY-NP 2 to function. For the NSA customers, although the information is tied to docket numbers rather than customer identity, astute market observers may be able to engage in educated guesswork regarding those customers, and even if they could not determine customers’ identities, they would still be able to gauge substantial intelligence about the Postal Service’s customer base.

\footnote{The Postal Service herein incorporates by reference its arguments, and the identified harms that would arise from disclosure of these materials, which are contained in the Postal Service’s application for non-public treatment in this docket. See USPS FY2018 ACR, Attachment Two, Application of the United States Postal Service for Nonpublic Treatment of Materials.}
Disclosure of the requested non-public materials could have a negative effect on the Postal Service’s competitive contract business as a whole, as well as the Postal Service’s ability to compete in the shipping services market. The growth of the Postal Service’s shipping services business in recent years is a direct result of the successes that the Postal Service has achieved in entering into contracts with mailers for mailing and shipping services, including various forms of international negotiated service agreements and agreements with foreign posts. The Postal Service would be at a disadvantage if customers are forced to accept an uncertain risk that such information would be shared with third parties or their representatives, particularly a major competitor and supplier in the shipping industry. The UPS Motion has created uncertainty regarding the protection afforded to confidential information of third parties that is filed at the Commission. Likewise, the Postal Service is concerned that if the UPS Motion is granted with respect to Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14, the outcome will have an adverse effect on third-party interest in pursuing business with the Postal Service. In turn, the Postal Service would suffer potential loss of business and damaged business relationships. Disclosure of the non-public materials in the instant docket could have negative effects on the Postal Service’s shipping services business, and ultimately, its overall financial health.

While UPS and the Commission may rely on the fact that UPS representatives are willing to execute certifications representing their willingness to use the non-public materials solely for participation in this docket, and assert that they are not involved in competitive decision-making, the parties to whom the information would be disclosed do
not sign standard nondisclosure agreements that provide further legal protections, as well as indemnification in the event of unauthorized disclosure.

The Postal Service has indeed received expressions of concern from its business partners regarding potential UPS access to the information included in Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14. For example, in the letter included as Attachment 1 to this filing, Canada Post Corporation (“Canada Post”) describes its concerns related to the potential disclosure of non-public information filed in this docket. In its letter, Canada Post “most emphatically” supports the Postal Service’s opposition to the UPS Motion, requests that the Commission deny access to the non-public information filed in this docket, and articulates many of the views expressed by the Postal Service in this filing and its applications for non-public treatment. Canada Post cites “the seriousness and significance of the impact on [Canada Post]’s revenues and legitimate commercial interests of improper disclosure of its commercially-sensitive information, which [Canada Post] strongly believes would not be adequately protected by the Protective Conditions proposed by the [UPS Motion], especially considering the lack of enforcement tools for [Canada Post].”

Similarly, in the letter included as Attachment 2 to this filing, New Zealand Post registers its “agree[ment] with the efforts being made by USPS to oppose the access being requested by both UPS and PostCom pertaining to third party information.” It is particularly concerned about access by UPS, as it “note[s] that UPS is also a

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8 Letter from Joanne Hatt, Senior Legal Counsel, Canada Post Corporation, to Christopher C. Meyerson, Attorney, Global Business and Service Development, Corporate and Postal Business Law Section, U.S. Postal Service Law Department (Jan. 15, 2019), Attachment 1 to this Response.
commercial operator in New Zealand, and access to [the non-public] information [filed in Docket No. ACR2018] would provide [UPS] with insight they would not normally have access to.” Because of “serious concerns over the ability to monitor any controls around data protection and usage of data received [by UPS], … New Zealand Post strongly supports USPS' position requesting that all requests for access to non-public information relating to New Zealand as set forth in PRC Docket No. ACR2018 be denied (by any parties requesting this [information]).”

In letters included as Attachments 3, 4, and 5 to this filing, Australia Post, La Poste Groupe, and Royal Mail Group also express support for the Postal Service’s opposition to the UPS Motion. Australia Post, La Poste Groupe, and Royal Mail Group, in separate letters, explain that “the data and information [subject to the UPS Motion] is, by its nature, highly commercially sensitive, [and] disclosure of the information would have a significant detrimental impact upon [us], and would immediately provide postal industry participants and current or potential competitors with information which could harm [our] legitimate commercial interests, and interfere with existing customer relationships.” For these reasons, Australia Post, La Poste Groupe, and Royal Mail Group “strongly support[] the actions proposed to be taken by USPS to request that the PRC deny access to the non-public material as has been sought.”

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9 Letter from Rachael Manson, International Partnership Director, New Zealand Post to Christopher C. Meyerson, Attorney, Global Business and Service Development, Corporate and Postal Business Law Section, U.S. Postal Service Law Department (Jan. 15, 2019), Attachment 2 to this Response.
10 Letter from Scott Staunton, Special Counsel, Australia Post Legal Services to James M. Mecone, Attorney, Global Business and Service Development, Corporate and Postal Business Law Section, U.S. Postal Service Law Department (Jan. 16, 2019), Attachment 3 to this Response; Letter from Jean-Paul Forceville, Le Directeur, Direction des Relations Europeennes et Internationales to Mr. James Mecone, Attorney, Global Business and Service Development, Corporate and Postal Business Law Section, U.S. Postal Service Law Department (Jan. 15, 2019), Attachment 4 to this Response; Letter from Sebastian McMichael, Royal Mail Group Legal to Mr. James M Mecone, Attorney, Global Business and Service
In view of the potential risks and harm to the Postal Service and its business relationships, the Postal Service respectfully requests that UPS reconsider and withdraw its request for access to Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14. In similar situations, UPS has withdrawn its request when informed of third-party concerns regarding disclosure of commercially sensitive information,11 and that same approach is appropriate in this docket. In the event UPS declines to withdraw its request for access to Non-public Folders USPS-FY18-NP2, USPS-FY18-NP3, USPS-FY18-NP7, USPS-FY18-NP8, USPS-FY18-NP9, and USPS-FY18-NP14, the Postal Service urges the Commission to deny the UPS Motion with respect to these non-public folders.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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Chief Counsel, Global Business & Service Development

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January 15, 2019

CHRISTOPHER C. MEYERSON
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Re. Motions for Access to Non-public Material Containing Third Party Information in PRC Docket No. ACR2018

Dear Mr. Meyerson,

Canada Post Corporation (CPC) appreciates the efforts of USPS to oppose those elements of the above Motions pertaining to third-party information. Given the magnitude of the parcel flows between USPS and CPC; and the highly competitive nature of the United States/Canada cross-border parcels business; and the seriousness and significance of the impact on CPC’s revenues and legitimate commercial interests of improper disclosure of its commercially-sensitive information, which CPC strongly believes would not be adequately protected by the Protective Conditions proposed by the above Motions, especially considering the lack of enforcement tools for CPC; CPC most emphatically supports USPS’ position requesting the PRC to order that access should be denied to the non-public material set forth in PRC Docket No. ACR2018.

Thank you.

Yours sincerely,

Joanna Hatt
Senior Legal Counsel, Canada Post Corporation

JH/dfr
16 January 2019

Christopher C. Meyerson
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Christopher.c.meyerson@usps.gov

Dear Mr Meyerson

Re: UPS & PostCom Motion(s) for Access to Non-public Material Containing Third Party Information in PRC Docket No. ACR2018

New Zealand Post appreciates the contact made by USPS to our organisation and agrees with the efforts being made by USPS to oppose the access being requested by both UPS and PostCom pertaining to third party information.

Any information which is contained within PRC Docket No. ACR2018 relating to volume, weight of postal articles flowing between USA and New Zealand, as well as any elements of cost or revenue information is considered to be commercially sensitive and release of this to third parties would be considered an improper disclosure. We note that UPS is also a commercial operator in New Zealand, and access to this information would provide them with insight they would not normally have access to.

We have serious concerns over the ability to monitor any controls around data protection and usage of data received, should this information be released. Therefore New Zealand Post strongly supports USPS’ position requesting that all requests for access to non-public information relating to New Zealand as set forth in PRC Docket No. ACR2018 be denied (by any parties requesting this).

Yours sincerely

Rachael Manson
International Partnership Director – New Zealand Post
16 January 2019

Mr James M Mecone
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475 L’Enfant Plaza, SW
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James.M.Mecone@usps.gov

Dear Mr Mecone

United Parcel Service ("UPS") and Association for Postal Commerce ("PostCom")
Motions Requesting Access to Non-Public Materials contained within Docket No. ACR2018

I write on behalf of the Australian Postal Corporation ("Australia Post") which - as you are aware - is a statutory corporation established by laws of the Commonwealth of Australia, and the Designated Postal Operator in and for Australia and its external territories.

Australia Post has been made aware of, and has examined, the motions lodged by UPS and PostCom (filing ID’s 108001 and 108034) which request access to certain non-public materials which are contained with the USPS FY2018 Annual Compliance Report filed by USPS with the Postal Regulatory Commission on December 28th, 2018.

The market for exchange of postal articles, packets and parcels between Australia and the US is, as you are aware, highly competitive and strongly contested.

To the extent that the non-public information contains any data concerning the exchange of postal articles packets and parcels by and between Australia Post and USPS, and which is wholly or partially in the nature of data concerning article volumes, types, weights, sizes, dispersions, costs, charges, revenues, discounts, special lodgement processing or carriage terms, delivery timetables, and performance targets and measurements, Australia Post submits that:

a) the data and information is, by its nature, highly commercially sensitive, and represents a valuable component of Australia Post’s accrued corporate intellectual property,

b) disclosure of the information would have a significant detrimental impact upon Australia Post, and would immediately provide postal industry participants and current or potential competitors with information which could be used to harm Australia Post’s legitimate commercial interests, and interfere with existing customer relationships,

Australia Post accordingly endorses and strongly supports the actions proposed to be taken by USPS to request that the PRC deny access to the non-public material as has been sought.

Should you require any further information or comment, please feel free to make contact with me

Yours sincerely

Scott Staunton
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Mr James MECONE
Attorney, Global Business and Service Development
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U.S. Postal Service Law Department
475 L’Enfant Plaza, SW
WASHINGTON, DC USA 20260-1101

Paris, 15 January 2019

Dear Mr Mecone,


I write on behalf of La Poste Groupe ("Groupe La Poste") which - as you are aware - is a company established by laws of France, and the Designated Postal Operator in and for France and its external territories.

La Poste Groupe has been made aware of, and has examined, the motions lodged by UPS and PostCom (filing ID’s 108001 and 108034) which request access to certain non-public materials, which are contained with the USPS FY2018 Annual Compliance Report filed by USPS with the Postal Regulatory Commission on December 28th, 2018.

The market for exchange of postal articles, packets and parcels between France and the US is, as you are aware, highly competitive and strongly contested.

To the extent that the non-public information contains any data concerning the exchange of postal articles packets and parcels by and between La Poste Groupe and USPS, which is wholly or partially in the nature of data concerning article volumes, types, weights, sizes, dispersions, costs, charges, revenues, discounts, special lodgement processing or carriage terms, delivery timetables, and performance targets and measurements, La poste Groupe submits that

a) the data and information is, by its nature, highly commercially sensitive, and represents a valuable component of La Poste Groupe’s accrued corporate intellectual property,

b) disclosure of the information would have a significant detrimental impact upon La Poste Groupe, and would immediately provide postal industry participants and current or potential competitors with information which could be used to harm La Poste Groupe’s legitimate commercial interests, and interfere with existing customer relationships, La Poste Groupe accordingly endorses and strongly supports the actions proposed to be taken by USPS to request that the PRC deny access to the non-public material as has been sought.

Should you require any further information or comment, please feel free to make contact with me.

Yours sincerely,

Jean-Paul FORCIVILLE
25 January 2019

Mr James M Mecone
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Washington, DC USA 20260-1101
James.M.Mecone@usps.gov

Dear Mr Mecone

United Parcel Service ("UPS") and Association for Postal Commerce ("PostCom")
Motions Requesting Access to Non-Public Materials contained within Docket No. ACR2018

I write on behalf of Royal Mail Group Limited (Royal Mail), the UK's Designated Postal Operator for UPU purposes and the UK's universal postal service provider.

Royal Mail has examined the motions lodged by UPS and PostCom (filing IDs 108001 and 108034). These request access to certain non-public materials contained within the USPS FY2018 Annual Compliance Report filed by USPS with the Postal Regulatory Commission on December 28th 2018.

To the extent that the non-public information contains any data/information concerning the exchange of postal articles, packets and parcels by and between Royal Mail and USPS, which wholly or partially concerns volumes, types, weights, sizes, costs, charges, revenues, discounts, special lodgement processing or carriage terms, delivery timetables, performance targets and measurements, and/or customer details, Royal Mail submits that:

a) the data and information is, inherently, highly commercially sensitive and in the nature of business secrets;
b) disclosure of the information would have a significant/material detrimental impact on Royal Mail, and would immediately provide postal industry participants and current or potential competitors with information that could harm Royal Mail's legitimate commercial interests. Royal Mail would stress that there is intense competition in the provision of delivery services from (and to) the UK, including relative to the US.

Royal Mail strongly supports the actions proposed to be taken by USPS to request that the PRC deny access to the non-public material as has been sought.

Should you require any further information or comment, please let me know.

Yours sincerely,

Sebastian McMichael
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