

ORDER NO. 5055

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

Before Commissioners:

Robert G. Taub, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Michael Kubayanda

Annual Compliance Report, 2018

Docket No. ACR2018

NOTICE OF A PRELIMINARY DETERMINATION TO  
UNSEAL LIBRARY REFERENCE PRC–LR–ACR2018–NP3

(Issued April 12, 2019)

I. INTRODUCTION

In conjunction with the issuance of the Annual Compliance Determination (ACD) Report for Fiscal Year (FY) 2018,<sup>1</sup> the Commission analyzed Inbound Letter Post<sup>2</sup> data provided by the Postal Service. Because the Postal Service submitted these underlying

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<sup>1</sup> Annual Compliance Determination Report, Fiscal Year 2018, April 12, 2019.

<sup>2</sup> The term “Inbound Letter Post” refers to the product offered by the Postal Service. See Postal Regulatory Commission, Mail Classification Schedule (MCS) (posted March 31, 2019), § 1130, available at <http://www.prc.gov/mail-classification-schedule>. This Postal Service product is a subset of a broader category of mailpieces referred to as “UPU letter post.” See Universal Postal Convention, Article 17 (adopted by the 2016 Universal Postal Union (UPU) Congress), available at [http://www.upu.int/uploads/tx\\_sbdownloader/actsActsOfThe26ThCongressIstanbul2016En.pdf](http://www.upu.int/uploads/tx_sbdownloader/actsActsOfThe26ThCongressIstanbul2016En.pdf). UPU letter post includes inbound and outbound items, single-piece and bulk items, and priority and non-priority items. See *id.* Accordingly, the term “UPU letter post” refers to several Postal Service products, in addition to Inbound Letter Post.

data under seal and requested that these data be accorded non-public treatment, the Commission has filed both its analysis and the underlying data under seal in Library Reference PRC–LR–ACR2018–NP3. In accordance with 39 U.S.C. §§ 3652(f)(2), 504(g)(3), and 39 C.F.R. § 3007.103(c), the Commission provides notice of its preliminary determination that it is not appropriate to accord non-public treatment to the data and analysis appearing in Library Reference PRC–LR–ACR2018–NP3, and that these materials should be unsealed.

## II. BACKGROUND

This section describes the purpose of the reporting requirement applicable to the data at issue, the Inbound Letter Post data provided by the Postal Service, and the Commission analysis of that data.

In recent ACD reports, the Commission has repeatedly expressed concerns about the poor financial performance of the Inbound Letter Post product.<sup>3</sup> When revising the required information that the Postal Service must file with its Annual Compliance Report (ACR) provided to the Commission pursuant to 39 U.S.C. § 3652, the Commission codified an additional reporting requirement specific to this product.<sup>4</sup> Pursuant to 39 C.F.R. § 3050.21(l), the Postal Service must provide Inbound Letter Post revenue, volume, attributable cost, and contribution data by UPU country group<sup>5</sup> and by

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<sup>3</sup> Docket No. RM2018-2, Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements, July 12, 2018, at 16 (Order No. 4706).

<sup>4</sup> Docket No. RM2018-2, Order Amending Rules for Periodic Reporting, September 25, 2018, at 29 (Order No. 4836). See Periodic Reporting Requirements, 83 Fed. Reg. 49286, 49293 (Oct. 1, 2018) (to be codified at 39 C.F.R. § 3050.21(l)).

<sup>5</sup> For purposes of UPU letter post remuneration, the UPU classifies its members into four country groups, which are based on a postal development indicator developed by the UPU. See Decisions of the UPU Istanbul Congress, Resolution C 7/2016, Classification of countries and territories for terminal dues and Quality of Service Fund (QSF) purposes for the 2018-2021 period, 2017, available at [http://www.upu.int/uploads/tx\\_sbdownloader/actsActsOfThe26ThCongressIstanbul2016En.pdf](http://www.upu.int/uploads/tx_sbdownloader/actsActsOfThe26ThCongressIstanbul2016En.pdf).

shape.<sup>6</sup> To enable trend analysis, these data must be provided for the fiscal year subject to review and each of the preceding four fiscal years.<sup>7</sup> In codifying this reporting requirement, the Commission explained that it would use these data to analyze trends that would be evident below the product level to help the Commission more accurately identify issues with this product. Order No. 4706 at 18; Order No. 4836 at 16-17.

The Postal Service provided the data required by 39 C.F.R. § 3050.21(l) in a non-public file appearing in Library Reference USPS–FY18–NP9.<sup>8</sup> This non-public file contains Inbound Letter Post revenue, volume, cost, and contribution data by UPU country group for FY 2014 through FY 2018, and further separated by shape for FY 2017 and FY 2018.<sup>9</sup> Although 39 C.F.R. § 3050.21(l) requires attributable cost data, this non-public file contains only volume-variable cost data. The remainder of the data necessary to calculate attributable cost data for Inbound Letter Post (product-specific cost data) are included in public Cost and Revenue Analysis (CRA) reports for FY 2014 through FY 2018.<sup>10</sup> Additionally, this non-public file includes revenue, volume, cost, and

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<sup>6</sup> Order No. 4836 at 13, 29; see 39 C.F.R. § 3050.21(l). The Postal Service reports Inbound Letter Post data as format P/G items (letters and flats) and format E items (bulky letters and small packets). Both format P/G items and format E items weigh up to 4.4 pounds.

<sup>7</sup> 39 C.F.R. § 3050.21(l). The Commission granted the Postal Service's request for a partial waiver of the requirement to report Inbound Letter Post revenue, volume, attributable cost, and contribution data by shape for fiscal years prior to FY 2017 based on the Postal Service's representation that such data were unavailable. Order Granting Partial Waiver, December 21, 2018, at 1-2 (Order No. 4943).

<sup>8</sup> United States Postal Service Fiscal Year 2018 Annual Compliance Report, December 28, 2018, at 12 (FY 2018 ACR).

<sup>9</sup> See Library Reference USPS–FY18–NP9, December 28, 2018, Excel file "IB LP Shape by UPU Group FY18.xlsx," tab "Summary."

<sup>10</sup> See Docket No. ACR2014, Library Reference USPS–FY14–1, December 29, 2014, Excel file "Public\_FY14CRA.xls," tab "Cost1," cell J21; Docket No. ACR2015, Library Reference USPS–FY15–1, December 29, 2015, Excel file "Public-FY15CRA.xls," tab "Cost1," cell J21; Docket No. ACR2016, Library Reference USPS–FY16–1, December 29, 2016, Excel file "Public\_FY16CRARReport.xls," tab "Cost1," cell J21; Docket No. ACR2017, Library Reference USPS–FY17–1, December 29, 2017, Excel file "Public\_FY17CRARReport.xlsx," tab "Cost1," cells F21, H21; Library Reference USPS–FY18–1, December 28, 2018 (revised February 11, 2019), Excel file "Public\_FY18CRA\_Expanded\_RevFeb11.xlsm," cell J20; see Notice of the United States Postal Service of Revisions to Multiple Annual Compliance Report Folders -- ERRATA, February 11, 2019 (Errata).

contribution data for international mail products other than the Inbound Letter Post product<sup>11</sup>—such as Inbound International Registered Mail,<sup>12</sup> inbound M-Bags,<sup>13</sup> bilateral negotiated service agreements,<sup>14</sup> and certain multilateral negotiated service agreements.<sup>15</sup>

To focus the Commission's evaluation on the data required by 39 C.F.R. § 3050.21(l), the Commission excluded the data relating to international mail products other than the Inbound Letter Post product and added the product-specific costs to the volume-variable costs to calculate the attributable costs for Inbound Letter Post.<sup>16</sup> The Commission analyzes the aggregated Inbound Letter Post data and highlights key trends underlying this product's continued negative contribution. See Library Reference

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<sup>11</sup> When conducting its annual compliance review, “[t]he Commission has consistently evaluated compliance at the product level because products, by definition, reflect distinct cost or market characteristics to which a rate or rates are applied.” Docket No. ACR2017, Annual Compliance Determination Report, Fiscal Year 2017, March 29, 2018, at 68.

<sup>12</sup> MCS § 1510.2. Inbound International Registered Mail is a component of the International Ancillary Services product. *Id.* § 1510. Foreign postal operators pay the Postal Service a supplemental remuneration in addition to terminal dues for this service. Universal Postal Convention Manual, Article 28.8 (2018), available at [http://www.upu.int/uploads/tx\\_sbdownloader/actInThreeVolumesManualOfConventionEn.pdf](http://www.upu.int/uploads/tx_sbdownloader/actInThreeVolumesManualOfConventionEn.pdf).

<sup>13</sup> MCS § 2330. Inbound M-Bags are a component of UPU letter post and foreign postal operators pay terminal dues to the Postal Service for the processing and delivery of inbound M-bags. Universal Postal Convention Manual, Article 28.7. However, M-bags are distinct from the Inbound Letter Post product. MCS § 1130. The Postal Service revised the data it provided in Library Reference USPS–FY18–NP9 to exclude M-Bag data. Responses of the United States Postal Service to Questions 1-20 of Chairman's Information Request No. 3, question 13, January 28, 2019; see Library Reference USPS–FY18–NP34, January 28, 2019, Excel file “ChIR.3.Q.13 IB LP Shape.Group.FY18.xlsx,” tab “Summary.”

<sup>14</sup> MCS § 1602.3. Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 includes negotiated service agreements with foreign postal operators for the processing and delivery of inbound UPU letter post items from foreign postal operators at negotiated rates. *Id.* § 1602.3.1.

<sup>15</sup> *Id.* §§ 1602.4, 1602.5, and 1602.6.

<sup>16</sup> Although attributable costs also include inframarginal costs calculated as part of a product's incremental costs, the data necessary to estimate inframarginal costs for individual international mail products continues to be unavailable. Accordingly, the best available estimate for the attributable costs of the Inbound Letter Post product is the sum of the volume-variable costs and product-specific costs for the product. See Library Reference USPS–FY18–43, December 28, 2018 (revised February 11, 2019), file “USPS-FY18-43 Preface.Rev.2.11.19.pdf,” at 2; see Errata.

PRC–LR–ACR2018–NP3, file “NONPUBLIC Library Reference PRC-LR-ACR2018-NP3 Analysis.pdf.” This analysis also discusses the impact that shape-based pricing has on cost and contribution. The Commission’s library reference also provides the underlying data—Inbound Letter Post revenue, volume, attributable cost, and contribution data by UPU country group for FY 2014 through FY 2018, and further separated by shape for FY 2017 and FY 2018. See Library Reference PRC–LR–ACR2018–NP3, Excel file “PRC-LR-ACR2018-NP3.xlsx,” tab “Data for Presentation.”

### III. THE POSTAL SERVICE’S APPLICATION FOR NON-PUBLIC TREATMENT

Concurrent with the filing of its FY 2018 ACR, the Postal Service filed 30 library references under seal and applied for non-public treatment of those materials, which contain over 650 individual files. See FY 2018 ACR, Attachment Two at 1 (Application). These materials contain a variety of information, including: the non-public CRA report and the background materials that feed into that report;<sup>17</sup> Special Cost Studies materials;<sup>18</sup> the International Cost and Revenue Analysis (ICRA) report and the supporting documentation;<sup>19</sup> and competitive product billing determinants.<sup>20</sup> The Postal Service states that the materials contain commercial information “that under good business practice would not be disclosed publicly.” Application at 2.

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<sup>17</sup> *Id.* at 3. These types of information appear in Library References USPS–FY18–NP10, –NP11, –NP14, –NP18, –NP25, and –NP27. *Id.*

<sup>18</sup> *Id.* at 4. These types of information appear in Library References USPS–FY18–NP15, –NP17, and –NP26. *Id.*

<sup>19</sup> *Id.* These types of information appear in Library References USPS–FY18–NP2 and –NP7. *Id.* Supporting documentation for the ICRA report appear in files from Library Reference USPS–FY18–NP9. See, e.g., Library Reference USPS–FY18–NP9, Excel file “FY18 EcomPro Results.xlsx,” Excel file “FY18ICRANP.PB.xlsx,” file “Joint Venture 2018 Information.docx,” Excel file “TRACS ICRA deliverables FY2018\_03Dec2018.xlsx.” Such information is outside the scope of the information at issue in this notice.

<sup>20</sup> Application at 5. These types of information appear in Library References USPS–FY18–NP1 and –NP8. *Id.*

The Postal Service classifies the data into the following groups: “product cost information; general product volume and revenue information; product billing determinants; and information pertaining to service and pricing agreements with particular mailers or suppliers (NSAs).” *Id.* at 8. The Postal Service adds that if detailed data related to international mail products are disclosed, two general commercial harms would be likely to result for both the Postal Service and a foreign postal operator: harm to competitive and negotiation interests. *Id.* at 14-15.

In total, the Postal Service identifies fourteen commercial harms likely to result from the disclosure of the information contained in the thirty non-public library references, along with at least one corresponding hypothetical example. *Id.* at 16-30. In general, the Postal Service asserts that a competitor could formulate an analysis of the sealed information that would inform the competitor’s decision-making, to the detriment of the Postal Service or its business partners. *See id.* at 15, 17, 19-20, 23-24, 26-30. Additionally, the Postal Service asserts that business partners or suppliers could formulate an analysis of the sealed information that would inform their decision-making when negotiating rates, to the detriment of the Postal Service or its business partners. *See id.* at 17, 21-22, 25, 29.

#### IV. PRELIMINARY DETERMINATION TO UNSEAL LIBRARY REFERENCE PRC–LR–ACR2018–NP3

##### A. Legal Standard

The Postal Accountability and Enhancement Act of 2006 (PAEA)<sup>21</sup> sets forth both a mechanism for the Postal Service to seek non-public treatment of information that it provides to the Commission and the legal standard for the Commission to evaluate the degree of appropriate confidentiality to be accorded to such information. As a threshold matter, for the Postal Service to seek non-public treatment, the information must be of

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<sup>21</sup> Pub. L. 109-435, 120 Stat. 3198 (2006).

the type and nature eligible for non-public treatment. Section 3652(f)(1) of title 39 of the United States Code enumerates certain types of information submitted in connection with the ACR for which the Postal Service may seek non-public treatment. This provision includes specific cross-references recognizing that the Postal Service may seek non-public treatment of “information which is described in section 410(c) [of title 39], or exempt from public disclosure under section 552(b) of title 5 [the Freedom of Information Act (FOIA)].”<sup>22</sup>

The Postal Service has asserted two statutory provisions for withholding the information appearing in its thirty non-public library references. Application at 2. First, 39 U.S.C. § 410(c)(2) provides that the Postal Service shall not be required to disclose “information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed.”<sup>23</sup> Second, the FOIA exempts from public disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4).

After the Postal Service has identified its basis for seeking non-public treatment of the materials that it provides to the Commission, the PAEA also establishes the Commission’s specific authority as it relates to the information that the Postal Service claims to be non-public. Information filed in this proceeding and claimed by the Postal Service to be non-public shall be treated subject to the procedures of 39 U.S.C. § 504(g)(2) and (3). 39 U.S.C. § 3652(f)(2). The Commission is not prohibited from publicly disclosing such information as long as two conditions are met. *Id.* § 504(g)(3)(A). First, the Commission must have engaged in a rulemaking to “establish a procedure for according appropriate confidentiality to information identified by the

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<sup>22</sup> 39 U.S.C. § 3652(f)(1); see 39 C.F.R. § 3007.101(a).

<sup>23</sup> 39 U.S.C. § 410(c)(2). The Postal Service also cites 5 U.S.C. § 552(b)(3), which exempts from public disclosure information that is specifically exempted by another statutory provision, such as 39 U.S.C. § 410(c)(2). Application at 2.

Postal Service [as non-public].”<sup>24</sup> Second, in determining the appropriate degree of confidentiality to be given to information alleged by the Postal Service to be non-public, the Commission must “balance 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).

Whenever non-public materials are provided to the Commission, an application for non-public treatment must also be provided. 39 C.F.R. § 3007.200(a). In addition to demonstrating that the materials designated as non-public contain information of a type and nature eligible for non-public treatment, the application must contain all of the information and arguments to fulfill the burden of persuasion that the materials should be withheld from the public. *Id.* § 3007.201(a). That application must include a “specific and detailed statement” containing, among other things, “[p]articular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.” *Id.* § 3007.201(b)(4). The Commission preliminarily treats those designated materials, and the information contained therein, as non-public.<sup>25</sup> The Commission’s long-standing practice is that it does not *accept* any rationale for non-public treatment given in the application for non-public treatment unless the Commission makes a determination of non-public status, which may occur in response to a motion by an interested person or *sua sponte*. See Order No. 4679 at 11.

Accordingly, because much of the data used in the development of Library Reference PRC–LR–ACR2018–NP3 was provided by the Postal Service under seal, the

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<sup>24</sup> *Id.* In 2009, the Commission satisfied this condition when it established procedures for treatment of materials filed by the Postal Service and claimed to be non-public. Docket No. RM2008-1, Final Rule Establishing Appropriate Confidentiality Procedures, June 19, 2009 (Order No. 225) (codified at 39 C.F.R. pt. 3007). In 2018, these procedures underwent revision through notice-and-comment rulemaking. See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018 (Order No. 4679); Non-Public Information, 83 Fed. Reg. 31,258, 31,258-94 (July 3, 2018) (to be codified at 39 C.F.R. pt. 3007).

<sup>25</sup> *Id.* § 3007.102(a). This is consistent with the Commission’s long-standing practice under former § 3007.23. See Order No. 4679 at 11.

Commission is filing Library Reference PRC–LR–ACR2018–NP3 under seal at this time. Concurrently, in this notice, the Commission undertakes a preliminary procedural step—issuance of a “notice of its preliminary determination concerning the appropriate degree of protection, if any, to be accorded to materials claimed by any person to be non-public.” 39 C.F.R. § 3007.103(c).

After allowing seven days for interested persons to respond to this preliminary determination, the Commission will issue an order containing its final determination of what non-public treatment, if any, will be accorded to Library Reference PRC–LR–ACR2018–NP3. This decision will follow the applicable standard appearing in 39 C.F.R. § 3007.104. Section 3007.104(a) incorporates the standard for issuing a determination to publicly disclose materials claimed by the Postal Service to contain non-public information from 39 U.S.C. § 504(g)(3)(A): “the Commission shall balance the nature and extent of the likely commercial injury identified by the Postal Service against the public interest in maintaining the financial transparency of a government entity competing in commercial markets.” 39 C.F.R. § 3007.104(a). In the sections that follow, the Commission first discusses its preliminary determination concerning the nature and extent of any likely commercial harm, followed by a discussion of the public interest in maintaining financial transparency.

#### B. Alleged Commercial Harms

The Postal Service asserts that two overarching types of commercial harms would be likely to result from disclosure of the information filed by the Postal Service under seal: harm to the competitive or negotiation interest of the Postal Service and its business partners. See Application at 16-30. However, the Postal Service does not cite or reference any specific library reference or file when discussing these alleged commercial harms. The Postal Service requests the non-public treatment of more than 30 library references, which contain over 650 individual files. In many cases, it is clear that the alleged commercial harm and the corresponding hypothetical example do not apply to the data and analysis contained in Library Reference PRC–LR–ACR2018–

NP3. For example, any alleged harm relating to the disclosure of Special Cost Studies data,<sup>26</sup> competitive product billing determinant data,<sup>27</sup> data related to negotiated service agreements,<sup>28</sup> or facility-specific service performance results<sup>29</sup> does not apply to the public disclosure of Library Reference PRC–LR–ACR2018–NP3 because this library reference does not contain such data.

In other instances, it is unclear if the Postal Service has asserted that particular alleged commercial harms (and the corresponding hypotheticals) would be likely to result from the disclosure of the revenue, volume, cost, and contribution data at the level of aggregation appearing in PRC–LR–ACR2018–NP3. For instance, the Postal Service generally alleges that commercial harm would result from the public disclosure of detailed cost, revenue, and volume data. Application at 16-22. The Postal Service provided international mail data at a far more detailed level in other library references<sup>30</sup> and in other portions of Library Reference USPS–FY18–NP9, none of which are at issue in this notice.<sup>31</sup> Accordingly, the Postal Service’s general discussion of these alleged harms does not apply to the Commission’s analysis at issue and does not support a claim that such harms would be likely to result from disclosure of the data and analysis at the level of aggregation appearing in Library Reference PRC–LR–ACR2018–NP3.

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<sup>26</sup> *Id.* at 20.

<sup>27</sup> *Id.* at 24-27.

<sup>28</sup> *Id.* at 21-22, 24-27.

<sup>29</sup> *Id.* at 27.

<sup>30</sup> See, e.g., Library Reference USPS–FY18–NP2, December 28, 2018, Excel file “Inbound Calcs.xls” (containing operator-specific revenue, weight, and volume data for inbound mail).

<sup>31</sup> See, e.g., Library Reference USPS–FY18–NP9, Excel file “FY18 PRC Intl CV Summary Canada.xlsx” (containing cost data specific to the Canada Post Corporation); Library Reference USPS–FY18–NP9, Excel file “FY18ICRANP.PB.xlsx” (containing inbound costs by cost segment specific to the Canada Post Corporation); Library Reference USPS–FY18–NP9, Excel file “FY18 EcomPro Results.xlsx” (containing country-specific volume, weight, and revenue data); Library Reference USPS–FY18–NP9, Excel file “ICRA PRC Results FY18.xlsx” (containing cost segment data specific to the Federal Express Corporation and the Canada Post Corporation).

The Postal Service separately alleges that commercial harms would result from the disclosure of Inbound Letter Post revenue data aggregated by UPU country group and by shape. Application at 27-29. The Postal Service alleges that competitors would use such revenue data to gain knowledge and insight so that they could divert business so that the Postal Service and at least one foreign postal operator would lose existing or new business. *Id.* The Postal Service also alleges that suppliers would use this revenue data to assess the economic opportunities in certain markets, and thereby negotiate more favorable rates to the detriment of the Postal Service or a foreign postal operator. *Id.* at 29.

The Commission finds that public disclosure of Library Reference PRC–LR–ACR2018–NP3 would not be likely to result in these commercial harms. The data and analysis are aggregated at the country group level. The UPU has 192 members.<sup>32</sup> Each of the four UPU country groups consists of at least 30 countries or territories.<sup>33</sup> This level of aggregation masks operator-specific revenue data. The Commission acknowledges that the Postal Service earns more Inbound Letter Post revenue from certain designated operators than others. However, determining operator-specific data from the aggregated data appearing in Library Reference PRC–LR–ACR2018–NP3 would require speculation. Furthermore, the Postal Service does not explain how the disclosure of the data and analysis, at this level of aggregation, would be useful for competitors or suppliers to target specific UPU member countries, designated operators, or markets, to the Postal Service’s (or anyone else’s) competitive disadvantage.

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<sup>32</sup> The UPU website, available at <http://www.upu.int/en/the-upu/the-upu.html>.

<sup>33</sup> Decisions of the 2016 Istanbul Congress, UPU (2017) at 251-257, available at [http://www.upu.int/uploads/tx\\_sbdownloader/actsActsOfThe26ThCongressIstanbul2016En.pdf](http://www.upu.int/uploads/tx_sbdownloader/actsActsOfThe26ThCongressIstanbul2016En.pdf). Group I consists of 41 countries and territories; Group II consists of 34 countries and territories; Group III consists of 39 countries and territories; and Group IV consists of 105 countries and territories. *Id.*

### C. Public Interest

Since FY 1998, the Postal Rate Commission (the predecessor agency to the Commission) and the Commission have continuously expressed concerns regarding the financial performance of the Inbound Letter Post product. See Order No. 4706 at 16. The Postal Service frequently referenced the UPU terminal dues system as the driver of the product's poor financial performance. See FY 2018 ACR at 10.

In recent years, participants have expressed similar concerns related to the financial performance of the Inbound Letter Post product and its unique pricing regime. For example, several U.S. Representatives and a U.S. Senator filed comments in Docket No. IM2018-1 that stated because terminal dues are less than domestic rates, U.S. mailers paying more to mail items within the U.S. and U.S. companies are on an uneven playing field when competing with foreign companies.<sup>34</sup> Numerous U.S. businesses echoed concerns that terminal dues harm U.S. companies that compete against foreign businesses.<sup>35</sup>

On August 23, 2018, President Donald J. Trump issued a presidential memorandum in which he expressed similar concerns related to the terminal dues system.<sup>36</sup> Specifically, the Presidential Memorandum notes that the United States is not fully reimbursed by foreign operators for the cost of delivering inbound mail and that the

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<sup>34</sup> Docket No. IM2018-1, Comment Received from U.S. Representative Daniel W. Lipiniski, July 5, 2018, at 1; Docket No. IM2018-1, Comments Received from U.S. Representatives Kenny Marchant and Ralph Abraham, July 3, 2018, at 2-3; Docket No. IM2018-1, Comment Received from U.S. Senator Bill Cassidy, M.D., July 3, 2018, at 1.

<sup>35</sup> Docket No. IM2018-1, Comments of Small Business & Entrepreneurship Council, July 2, 2018, at 1; Docket No. IM2018-1, Public Comment from Honey-Can-Do International, LLC, June 21, 2018, at 2; Docket No. IM2018-1, Comment Received from Range Kleen, June 19, 2018, at 2; Docket No. IM2018-1, Comment Received from Pretika Corporation, June 15, 2018, at 2; Docket No. IM2018-1, Comment Received from Dexas International Ltd., June 12, 2018, at 2.

<sup>36</sup> Presidential Memorandum for the Secretary of State, Secretary of the Treasury, Secretary of Homeland Security, Postmaster General, and Chairman of the Postal Regulatory Commission, August 23, 2018 (Presidential Memorandum), available at <http://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/>.

current system distorts the international flow of small packets by incentivizing the shipping of goods from countries that pay lower terminal dues. Presidential Memorandum, section 2(c)(i). In October 2018, the President concurred with a recommendation from the Department of State to adopt self-declared rates for terminal dues as soon as practical, but no later than January 1, 2020.<sup>37</sup> The Department of State also filed notice that the United States will withdraw from the UPU in one year, in accordance with the withdrawal provision set forth in the UPU Constitution. *See id.* The President instructed the Department of State to negotiate bilateral and multilateral agreements that resolve the problems discussed in the Presidential Memorandum. *Id.* If negotiations are successful, the Administration stated that it is prepared to rescind the notice of withdrawal and remain in the UPU. *Id.*

Library Reference PRC–LR–ACR2018–NP3 analyzes Inbound Letter Post volume, revenue, attributable costs, and contribution by UPU country group and by shape. This analysis identifies factors affecting the product’s negative financial performance. In light of this product’s continued poor financial performance and the national and international conversation surrounding the terminal dues system, it is appropriate for there to be greater transparency surrounding the Inbound Letter Post product. As efforts to move from the current terminal dues system to a system of self-declared rates continue, the public has a strong interest in having a transparent discussion of the strengths and weaknesses of the current terminal dues system. Furthermore, consistent with 39 U.S.C. § 504(g)(3)(A), the public has a strong interest in maintaining financial transparency of the Postal Service, a government establishment which competes in commercial markets.

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<sup>37</sup> Statement from the Press Secretary, October 17, 2018, available at <http://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/>.

V. INITIAL ADMINISTRATIVE ACTIONS

Pursuant to 39 C.F.R. § 3007.103(c), the Commission preliminarily determines that the data and analysis contained in Library Reference PRC–LR–ACR2018–NP3 should be unsealed. Any interested person, including the Postal Service, may file a response to this notice by April 19, 2019.

VI. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission preliminarily determines that Library Reference PRC–LR–ACR2018–NP3 should be unsealed.
2. Responses to this notice are due by April 19, 2019.

By the Commission.

Stacy L. Ruble  
Secretary