

BEFORE THE
POSTAL REGULATORY COMMISSION

Annual Compliance Report 2018

:
: Docket No. ACR2018
:

REPLY COMMENTS OF UNITED PARCEL SERVICE, INC.
TO RESPONSE OF THE UNITED STATES POSTAL
SERVICE TO ORDER NO. 5055
(April 29, 2019)

United Parcel Service, Inc. (“UPS”) respectfully submits these reply comments to the Response of the United States Postal Service to Order No. 5055, Dkt. No. ACR2018 (Apr. 24, 2019) (“Postal Service Response”).

In arguing that the Commission’s preliminary determination to unseal PRC-LR-NP3 is overbroad, the Postal Service indicates that UPS previously stated that (1) “certain country group data may indirectly disclose data regarding the Postal Service’s international partners,” and (2) “further aggregation (i.e., above the country-group level) may be warranted.” See Postal Service Response at 8, 13 (citing Initial Comments of United Parcel Service, Inc. on United States Postal Service’s Annual Compliance Report for Fiscal Year 2018 (Feb. 19, 2019) (“UPS Comments”), at 18).

UPS submits this reply to correctly contextualize these previous statements. To clarify, UPS previously commented that “[t]here is nothing competitively sensitive about the top-line, aggregated ‘revenue, volume, attributable cost, and contribution’ data for Inbound Letter Post,” and that the “international competitive data **should be disclosed.**” UPS Comments at 18. UPS noted that, to the extent that “certain country group data may indirectly disclose data regarding the Postal Service’s international

partners,” such data could be potentially “aggregated to the extent there is a legitimate confidentiality concern and then disclosed.” *Id.* UPS’s statement was meant to encourage flexibility and transparency through the public disclosure of Postal Service Inbound Letter Post data.

To reiterate, UPS continues to support the Commission’s preliminary determination that the data and analyses contained in Library Reference PRC-LR-ACR2018-NP3 should be unsealed.

UPS also believes that newly raised objections by the Postal Service in their response to Order No. 5055 need to be briefly addressed.¹ *First*, the transfer of inbound packages and large letters to competitive products does not relieve the Postal Service from its transparency obligations. Significant data is required to be disclosed for competitive products and there is no rationale for treating international data any differently. The Postal Service’s claim that making such data public is discriminatory against posts does not reflect the full intent of the PAEA (39 U.S.C. § 504(g)(3)(A)), which is to balance any likely commercial injury against “the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.”

In addition, until the transfer is made, inbound packages and letters are still classified as market-dominant products and transparency should reflect their current classification. As in 2006, the Postal Service can begin to redact the appropriate data after the Commission has completed the transfer.

¹ In Order No. 5063, the Commission invited replies by April 29 to the responses to Order No. 5055.

Second, UPS does not understand the Postal Service’s assertion that public disclosure is contrary to the Administration’s position on terminal dues. Postal Service Response at 16-18. Rather, the Presidential Memorandum² indicates that the Administration would favor transparency on international packages and large letters as public disclosure will accelerate corrective action for:

- (i) “ensuring that rates charged for delivery of foreign-origin mail containing goods do not favor foreign mailers over domestic mailers”; and
- (ii) “setting rates charged for delivery of foreign-origin mail in a manner that does not favor postal operators over non-postal operators.”³

Third, the Postal Service references Extraterritorial Offices of Exchanges (“ETOEs”), where posts re-sell terminal dues, as another rationale to keep the data non-public. Postal Service Response at 3-4. In contrast, UPS believes that the existence and activities of ETOEs heightens the need for additional transparency.

In sum, UPS believes that additional transparency and awareness will advance the goals espoused by the White House and the Task Force, including reform of the terminal dues system. The analyses of the data to be disclosed by Universal Postal Union country group and by shape will shed light on important issues with the current terminal dues system. If the Postal Service aggregates the relevant data and analysis at the country group level, which will not reveal particularized, operator-specific information, see Order No. 5055 at 11, UPS believes that disclosure is unlikely to result in commercial harm to the Postal Service.

² See Presidential Memorandum, *Modernizing the Monetary Reimbursement Model for the Delivery of Goods Through the International Postal System and Enhancing the Security and Safety of International Mail*, 83 F.R. 47791 (Aug. 23, 2018), Sec. 2(d).

³ *Id.*

Respectfully submitted,

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