

ORDER NO. 5167

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

ORDER GRANTING MOTION FOR POSTPONEMENT

(Issued July 24, 2019)

On April 12, 2019, the Commission issued notice of its preliminary determination to unseal Library Reference PRC–LR–ACR2018–NP3.¹ After consideration of responses and replies, on July 12, 2019, the Commission issued Order No. 5151, which found that it is not appropriate to accord non-public treatment to the data and analysis appearing in Library Reference PRC–LR–ACR2018–NP3.² The Commission found that the public interest in maintaining the financial transparency of the Postal Service, a government establishment competing in commercial markets, outweighed the nature and extent of the likely commercial injury to the Postal Service that may result from

¹ Notice of a Preliminary Determination to Unseal Library Reference PRC–LR–ACR2018–NP3, April 12, 2019 (Order No. 5055).

² Order Issuing the Determination to Unseal Library Reference PRC–LR–ACR2018–NP3, July 12, 2019 (Order No. 5151).

public disclosure of the aggregated Inbound Letter Post data and analysis provided in Library Reference PRC–LR–ACR2018–NP3. Order No. 5151 at 69.

In its response to the Commission’s preliminary determination to unseal Library Reference PRC–LR–ACR2018–NP3, the Postal Service requested that any determination by the Commission to unseal the library reference, in whole or in part, be made “effective only following some reasonable period of time after its issuance (e.g., 20 days).”³ The Postal Service asserted that by delaying the order’s implementation date, it would have time to consider the final order and, if appropriate, seek a stay from the Commission pending appeal. Postal Service Response at 24. The Commission granted the Postal Service’s request and directed that the library reference be posted publicly on the Commission’s website on August 1, 2019, 20 days after the issuance of Order No. 5151. Order No. 5151 at 69.

On July 23, 2019, the Postal Service filed a motion seeking to postpone the implementation date of Order No. 5151.⁴ The Postal Service states that it will likely seek judicial review of Order No. 5151 pursuant to 39 U.S.C. § 3663. Motion at 1. Accordingly, the Postal Service requests that the Commission postpone the implementation date of Order No. 5151 until August 12, 2019, which is one business day after the end of the 30-day period for lodging an appeal under section 3663. *Id.* The Postal Service represents that “[g]ranted the instant motion would . . . give the Commission and the [Court of Appeals for the District of Columbia Circuit] the ability to consider the appropriateness of a stay in a less compressed timeframe.” *Id.* at 2.

The Motion is granted. The Commission postpones the implementation date of Order No. 5151 to August 12, 2019.

³ Response of the United States Postal Service to Order No. 5055, April 24, 2019, at 24 (Postal Service Response).

⁴ Emergency Motion of the United States Postal Service for Postponement of Implementation of Order No. 5151, July 23, 2019 (Motion).

It is ordered:

1. The Emergency Motion of the United States Postal Service for Postponement of Implementation of Order No. 5151, filed July 23, 2019, is granted.
2. Library Reference PRC–LR–ACR2018–NP3 will be unsealed via posting on the Commission’s website (<http://www.prc.gov>) as a public library reference on August 12, 2019.

By the Commission.

Ruth Ann Abrams
Acting Secretary

Commissioner Hammond dissenting.