

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 SETTING TIME TO ANSWER THE
POSTAL SERVICE'S MOTION TO STAY

(Issued July 30, 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 replies² and the record before it, the Commission found that it is not appropriate to accord non-public treatment to the data and analysis appearing in Library

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

² On April 19, 2019, the Postal Service filed a motion requesting an extension of three business days to file its response to Order No. 5055. United States Postal Service Motion for Extension of Time to File Response to Order No. 5055, April 19, 2019. On April 22, 2019, the Commission granted the Postal Service's motion and extended the deadline by which interested persons could file a response to Order No. 5055. Order Extending Response Deadline and Setting Reply Period, April 22, 2019, at 2 (Order No. 5063). Additionally, because several participants filed their responses to Order No. 5055 on or before April 19, 2019, the Commission allowed replies to the responses to Order No. 5055 to be filed by April 29, 2019, in the interest of fairness to all participants. Order No. 5063 at 2.

Reference PRC–LR–ACR2018–NP3.³ 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 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).”⁴ 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. However, on July 23, 2019, the Postal Service requested that the Commission further delay implementation of Order No. 5151 until August 12, 2019.⁵ The Commission granted the Postal Service’s motion and postponed the implementation date of Order No. 5151 to August 12, 2019.⁶

On July 29, 2019, the Postal Service filed a motion, pursuant to 39 C.F.R. § 3001.21, seeking to stay Order No. 5151 pending review of that order before the

³ Order Issuing the Determination to Unseal Library Reference PRC–LR–ACR2018–NP3, July 12, 2019 (Order No. 5151).

⁴ Response of the United States Postal Service to Order No. 5055, April 24, 2019, at 24 (Postal Service Response).

⁵ Emergency Motion of the United States Postal Service for Postponement of Implementation of Order No. 5151, July 23, 2019 (Motion for Postponement).

⁶ Order Granting Motion for Postponement, July 24, 2019, at 2 (Order No. 5167).

United States Court of Appeals for the District of Columbia Circuit.⁷ The Commission's rules provide seven calendar days for answers to motions, unless the Commission prescribes another period of time. 39 C.F.R. § 3001.21(b). After balancing the public interest of providing an opportunity for interested persons to file answers to the Postal Service's Motion to Stay and ruling on the motion in a timely manner, the Commission provides that any interested person may file an answer to the Motion to Stay within three business days after the Postal Service filed the motion. Accordingly, any interested person may file an answer in support of or in opposition to the Postal Service's Motion to Stay no later than August 1, 2019.

It is ordered:

Answers to the Motion of the United States Postal Service to Stay Order No. 5151 Pending Judicial Review, filed July 29, 2019, are due no later than August 1, 2019.

By the Commission.

Ruth Ann Abrams
Acting Secretary

⁷ Motion of the United States Postal Service to Stay Order No. 5151 Pending Judicial Review, July 29, 2019, at 1 (Motion to Stay).