



August 31, 2020

Hon. Erica A. Barker, Secretary
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Dear Ms. Barker:

Pursuant to the Postal Regulatory Commission's (Commission) rules on periodic reports, 39 C.F.R. § 3050, I filed the Third Quarter Billing Determinants reports for Fiscal Year (FY) 2020 via the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT).

Specifically, I filed two billing determinants reports:

1. Market Dominant Products Billing Determinants Report. This report consists of eight subparts, and is organized by class.¹
2. Competitive Products Billing Determinants Report. This report consists of nine subparts.²

The competitive products billing determinants report contains confidential business information and disclosure of this information would harm the Postal Service. Accordingly, the Postal Service is requesting non-public treatment of this information pursuant to 39 C.F.R. § 3011.201. See "Application of the United States Postal Service for Non-Public Treatment of Materials" filed as Attachment 1. Further, we respectfully request that the PRC treat the competitive products billing determinant report as **confidential** and **non-public**, and we request that the PRC refrain from posting the information contained in this report on its website. The Postal Service will not be submitting a redacted version of the competitive products billing determinants report as the Postal Service has determined that redaction of only parts of the report would be neither meaningful nor practicable.

¹ The Market Dominant Products Billing Determinants package includes: Alaska Bypass, Bound Printed Matter, First-Class Mail Domestic, First-Class Mail International, Media and Library Mail, Market Dominant Special Services, Periodicals, and USPS Marketing Mail.

² The Competitive Products Billing Determinants package includes: a cover page, Parcel Return Service, Priority Mail, Priority Mail Express, Special Services, First-Class Package Service, Parcel Select, and Retail Ground.

The market dominant products billing determinants report is **public** and may be posted on the Commission's website. Accordingly, I have uploaded electronic versions of each report to the appropriate Public and Non-Public folders in USPS SLFT.

If you have any questions regarding this submission or the discussion above, please do not hesitate to contact me.

Best regards,

/s/

Amanda Hamilton
Attorney, Pricing and Product Support

cc: Ms. Taylor

ATTACHMENT

ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § Part 3011, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The Postal Service is filing the third quarter, Fiscal Year (FY) 2020 billing determinants reports for competitive products and market dominant products. This application concerns only the competitive products report—both domestic and international. The market dominant products billing determinants report consists of publicly available information, and we have filed the market dominant products billing determinants report in Excel files separate from the competitive products billing determinants report.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3011.201(b) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.

The materials designated as non-public consist of sensitive commercial information as well as third party business information that, under good business practice, would not be disclosed to the public. The Postal Service does not believe any commercial enterprise would voluntarily publish the type of third-party information contained in the report. Thus, in the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2); 5 U.S.C. §

552(b)(4).¹ Because large portions of the materials filed non-publicly fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.²

The Postal Service has a proprietary interest in the non-public information contained within the competitive products report. Therefore, the Postal Service designates Nabeel R. Cheema, Chief Counsel, to accept written notice of a motion related to the non-public material or notice of the pendency of a subpoena or order requiring production of the materials. His email address is Nabeel.R.Cheema@usps.gov, and his telephone number is 202-268-2989.

In addition, the Postal Service believes that FedEx Express may have a proprietary interest in some of the data in the competitive product report. The Postal Service gives notice that it has informed FedEx Express, in compliance with 39 C.F.R. § 3011.200(b), of the nature and scope of these types of filings and its ability to address its confidentiality concerns directly with the Commission. The Postal Service identifies

¹ The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 4679, Order Adopting Final Rules relating to Non-Public Information, Docket No. RM2018-3, June 27, 2018, at 16 (reconfirming that the adopted final rules do not alter this long-standing practice); PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

² 39 C.F.R § 3011.200 provides that any person that has a proprietary interest in the information contained in the non-public materials may address any confidentiality concerns directly with the Commission.

James H. Ferguson, Corporate Vice President, Customer and Business Transactions, FedEx Corporation & General Counsel, FedEx Corporate Services, Inc., as the appropriate contact on behalf of FedEx Express. His email address is jferguson1@fedex.com, and his telephone number is (901) 434-8600.

Furthermore, the Postal Service believes the only other third parties with a proprietary interest in the materials are the negotiated service agreement (NSA) customers whose mailing profile information is included in the report. The Postal Service maintains that any customer identifying information should be withheld from public disclosure. Accordingly, the Postal Service declines to identify the NSA customers for purposes of this filing.

In compliance with 39 C.F.R. § 3011.200(b), the Postal Service gives notice that it has already informed each relevant NSA customer about the nature and scope of filings of quarterly Billing Determinants, and about that customer's ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for notifying the relevant NSA customers is Elizabeth A. Reed, Attorney. Her email address is Elizabeth.A.Reed@usps.gov and her telephone number is 202-268-3179.

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

In connection with this application, the Postal Service has filed the billing determinant reports for the third quarter of FY 2020. The billing determinants report for competitive products was filed under seal. The Postal Service maintains that the competitive products report should remain confidential.

Several of the Excel files filed with the report have a tab entitled “NSA.” This tab contains identifying information (i.e., postal patrons’ names) about the Postal Service’s NSA customers. This information may be withheld from mandatory public disclosure pursuant to 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2).³ The remaining data in the tab consists of commercially sensitive information—the revenue, volume, and weight information for each customer’s mailing profile.

The other tabs also contain commercially sensitive information such as: (1) domestic and international competitive product volume and revenue according to pricing level and weight step; (2) adjustment factor calculations (which are based on particular competitive product revenues); and (3) international insurance volume and revenue according to insured value level.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.

Public disclosure of the competitive products billing determinants report would result in commercial harm to the Postal Service. As described above, the report contains customer identifying information. The Postal Service has expended considerable resources winning and retaining its customers as well as protecting its customer list from disclosure. Such that public disclosure of any customer identifying information would result in immediate commercial harm to the Postal Service.

Any harm would be immediate due to the NSAs’ termination provision.

Competitors armed with customer identifying information would be able to identify and

³ In some or all cases, the names of NSA customers may have been coded according to Commission docket numbers. Notwithstanding this possibility, the Postal Service submits that certain customers could be identified by industry experts based on the mailing profile information. Therefore, even if the customer-identified information is coded, the Postal Service believes that the information itself could disclose customer identities. Consequently, the Postal Service seeks protection from disclosure on that basis.

target Postal Service's customers with precision. Any conversion of customers would likely take only a few months. This is because many of the NSAs contain a termination provision that allow the customer to cancel the contract without cause upon thirty-day notice.

Other non-public information filed consists of mailing profile information. This information, if disclosed, would offer competitors invaluable insight into the type of customers to whom the Postal Service is offering NSAs and the type of NSA offered to each category of customers. Even without identifying individual mailers, competitors would be able to direct their sales and marketing efforts at the customer segment that the Postal Service has had the most success at attracting. This would undermine both existing customer relationships and the potential for winning new NSA customers.

A similar rationale applies to information showing domestic and international published price product revenue and volume according to weight, pricing, and insured value levels and adjustment factor calculations based on product revenues. This information is commercially sensitive. The Postal Service protects this information from public disclosure and does not believe it would be disclosed under good business practices. Competitors could use the information to analyze the Postal Service's possible market strengths and weaknesses and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service.

Lastly, disclosure of certain statistical information could negatively impact a Postal Service's strategic alliance partner, FedEx Express. The statistical information is sufficiently disaggregated that FedEx Express' competitors could pinpoint traffic in the strategic alliance. This is particularly true in the international context where more

disaggregated product information is particularly vulnerable to analysis and use by competitors. Therefore, the Postal Service believes that disclosure of competitive products billing determinants report would hinder FedEx Express' ability to effectively negotiate contracts.

In sum, the Postal Service believes that outcome outlined above to be likely consequences of any disclosure—partial or full—of the competitive products billing determinants report.

(5) At least one specific hypothetical, illustrative example of each alleged harm.

Harm: Revealing any type of customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of one or more customers listed in this report is revealed to the public. Another expedited delivery service has an employee monitoring the filing of periodic reports and passes along the disclosed information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the Postal Service in favor of using the competitor's services.

Harm: Public disclosure of information in the report would be used by competitors of the NSA customers to their detriment.

Hypothetical: A competitor of a USPS NSA customer obtains an unredacted version of the competitive product billing determinants report from the Postal Regulatory Commission's website. It analyzes the work papers to assess the customer's underlying costs, and uses that information to identify lower cost alternatives to compete against the USPS customer.

Harm: Competitors could use customer mailing profile, product volume, weight, and revenue distribution, and product insured-value distribution

information to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.

Hypothetical: Customer mailing profile information in the competitive products billing determinant report is released to the public. Another delivery service's employee monitors the release of this information and passes the information to its sales and marketing functions. The competitor assesses the typical size, mailing volume, and content characteristics of Postal Service's NSA customers. The competitor then targets its advertising and sales efforts at actual or potential customers with similar profiles, hindering the Postal Service's ability to retain customers or win new customers.

This hypothetical also applies to more generic product-level data, from which one can calculate the volume and revenue performance of each identified competitive product and the distribution of the Postal Service's overall customer base in terms of item weight, revenue, or value (in the case of international insurance). For these reasons, release of any non-public information would pose actual commercial harm to the Postal Service.

Harm: Public disclosure of information contained in the non-public annex associated with international delivery services provided in arrangement with specific third parties would be used by those parties' competitors to their detriment.

Hypothetical: A competitor of FedEx Express, such as a competing international delivery service, obtains information contained in the competitive products billing determinant report. The competitor uses the information to assess the market's potential and, as a baseline, to negotiate with other parties to develop lower-cost alternatives and undermine FedEx Express' market offerings.

(6) The extent of protection from public disclosure alleged to be necessary.

The Postal Service maintains that the portions of the materials filed non-publicly and relating to competitive products should be withheld from persons involved in competitive decision-making for competitive delivery products (including private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for these or similar products should not be provided access to the non-public materials.

(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof.

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3011.401(a). However, because the Postal Service's relationships with customers often continue beyond ten years, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3011.401(b)-(c).

(8) Any other relevant factors or reasons to support the application.

None.

Conclusion

For the reasons discussed therein, the Postal Service respectfully requests that the Commission grant its application for non-public treatment.