

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

Before Commissioners:

Robert G. Taub, Chairman;  
Michael Kubayanda, Vice Chairman;  
Mark Acton;  
Ann C. Fisher; and  
Ashley E. Poling

Annual Compliance Report, 2018

Docket No. ACR2018

ORDER UNSEALING LIBRARY REFERENCE

(Issued September 1, 2020)

On April 12, 2019, the Commission issued notice of its preliminary determination to unseal Library Reference PRC-LR-ACR2018-NP3.<sup>1</sup> 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.<sup>2</sup> In that order, 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

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

<sup>2</sup> Order Issuing the Determination to Unseal Library Reference PRC-LR-ACR2018-NP3, July 12, 2019 (Order No. 5151).

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

Subsequently, the unsealing of Library Reference PRC-LR-ACR2018-NP3 was postponed and then stayed, pending the resolution of judicial review before the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit).<sup>3</sup> On June 30, 2020, the D.C. Circuit issued an opinion, upholding the Commission's unsealing determination in Order No. 5151 as "neither contrary to law nor arbitrary and capricious."<sup>4</sup> The Postal Service did not appeal that decision, and the D.C. Circuit's mandate issued August 21, 2020.<sup>5</sup>

In accordance with Order No. 5151, Library Reference PRC-LR-ACR2018-NP3 is unsealed and posted on the Commission's website (<http://www.prc.gov>) as a public library reference (named PRC-LR-ACR2018-11),<sup>6</sup> concurrent with the issuance of this Order.

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<sup>3</sup> Order Granting Motion for Postponement, July 24, 2019 (Order No. 5167); Order Granting Stay Pending Judicial Review, August 2, 2019 (Order No. 5178).

<sup>4</sup> *United States Postal Serv. v. Postal Reg. Comm'n*, 963 F.3d 137, 143 (D.C. Cir. 2020).

<sup>5</sup> See *United States Postal Serv. v. Postal Reg. Comm'n*, No. 19-1155 (D.C. Cir. Sept. 1, 2020), Document #1859341.

<sup>6</sup> Library Reference PRC-LR-ACR2018-11 is identical to Library Reference PRC-LR-ACR2018-NP3, except that it is published publicly.

*It is ordered:*

Library Reference PRC-LR-ACR2018-NP3 is unsealed via posting on the Commission's website (<http://www.prc.gov>) as public library reference (PRC-LR-ACR2018-11).

By the Commission.

Erica A. Barker  
Secretary

Vice Chairman Kubayanda concurring.

## CONCURRING OPINION OF VICE CHAIRMAN MICHAEL KUBAYANDA

I concur with the Commission's decision to proceed to implement its Order No. 5151 pursuant to the D.C. Circuit's mandate. I believe, however, that the substantive issues identified by Commissioner Langley and I in our Concurrence in Part, Dissent in Part remain present.<sup>1</sup>

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<sup>1</sup> See Order Issuing the Determination to Unseal Library Reference PRC-LR-ACR2018-NP3, July 12, 2019, Concurrence in Part, Dissent in Part of Commissioner Michael Kubayanda and Vice Chairman Nanci E. Langley (Order No. 5151).