

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

Before Commissioners:

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

Annual Compliance Report, 2020

Docket No. ACR2020

ORDER GRANTING MOTION FOR ACCESS

(Issued January 28, 2021)

I. INTRODUCTION

On January 11, 2021, United Parcel Service, Inc. (UPS) filed a motion requesting access to certain non-public library references filed by the Postal Service as part of its *Annual Compliance Report (ACR)*.¹ For the reasons discussed below, the Commission grants the motion.

¹ United Parcel Service, Inc.'s Motion Requesting Access to Non-Public Materials Under Protective Conditions, January 11, 2021, at 1 (UPS Motion).

II. PROCEDURAL HISTORY

On January 11, 2021, UPS filed a motion requesting access to non-public Library References USPS-FY20-NP2, -NP3, -NP7, -NP8, -NP9, -NP10, -NP11, -NP12, -NP13, -NP14, -NP19, -NP20, -NP21, -NP22, -NP23, -NP24, and -NP30.² UPS also requests continued access to the non-public library references granted to it in Docket Nos. ACR2014, ACR2015, ACR2016, ACR2017, ACR2018, and ACR2019. *Id.* The motion includes a list of outside counsel and consultants and certifications for each. *Id.* at 8.

On January 19, 2021, the Postal Service filed a response to the UPS Motion, urging UPS to withdraw its request to access non-public materials with information related to third-party postal operators, specifically Library References USPS-FY20-NP2, -NP3, -NP7, -NP9, -NP14, -NP22, -NP23, and -NP24.³ It expresses concern that granting UPS access to the materials contained in these library references would place the data of these third-party postal operators at an unfair competitive risk. Postal Service Response at 2. The Postal Service attached to its response six letters from Canada Post Corporation,⁴ China Post Group Co., Ltd.,⁵ Deutsche Post AG,⁶ bpost SA/NV,⁷ Thailand Post Co., Ltd.,⁸ and Royal Mail Group Limited.⁹ The Postal Service requests that the Commission take into account this correspondence and urges UPS to

² UPS Motion at 1. A scrivener's error in the UPS Motion erroneously requests access to the Docket No. ACR2019 library references. The Commission construes UPS's request to pertain to the Docket No. ACR2020 library references.

³ United States Postal Service Response to United Parcel Service Inc.'s Motion Requesting Access to Non-Public Materials Under Protective Conditions, January 19, 2021, at 1-2 (Postal Service Response).

⁴ Postal Service Response, Attachment 1, Letter of Canada Post Corporation, January 14, 2021 (Canada Post Letter).

⁵ Postal Service Response, Attachment 2, Letter of China Post Group Co., Ltd., January 14, 2021 (China Post Letter).

⁶ Postal Service Response, Attachment 3, Letter of Deutsche Post AG, January 15, 2021.

⁷ Postal Service Response, Attachment 4, Letter of bpost SA/NV, January 15, 2021.

⁸ Postal Service Response, Attachment 5, Letter of Thailand Post Co., Ltd., January 18, 2021.

⁹ Postal Service Response, Attachment 6, Letter of Royal Mail Group Limited, January 14, 2021.

withdraw its request for access to non-public materials containing information related to third-party postal operators. Postal Service Response at 3. Subsequently, the Postal Service filed a motion for leave to file a supplemental response including two additional letters from foreign postal operators objecting to the UPS Motion.¹⁰

III. POSITIONS OF THE PARTIES

A. UPS Motion for Access

UPS requests access for 15 outside counsel and consultants only, so that “they may assist UPS in making informed comments in the Commission’s fiscal year (‘FY’) 2020 Annual Compliance Determination (‘ACD’) proceeding.” UPS Motion at 2, 8. UPS asserts that the information contained in the non-public library references will allow it to meaningfully comment on whether the Postal Service is in compliance with applicable provisions on cost coverage matters and service performance results, on whether figures are accurate and complete, on the extent to which costs attributed in certain cost components affect costs attributed in other cost components at the individual competitive product level, and to provide “[m]eaningful substantive commentary on the Postal Service’s international competitive costing practices” *Id.* at 3-6. Additionally, UPS contends that its outside counsel and consultants believe it may be useful to compare the non-public library references from Docket Nos. ACR2014, ACR2015, ACR2016, ACR2017, ACR2018, and ACR2019 to the current non-public information requested in order to compare cost trends. *Id.* at 6. It states that although its outside counsel and consultants have previously gained access to this information, it has not explicitly gained permission from the Commission for the purposes of making

¹⁰ Motion of the United States Postal Service for Leave to File Supplemental Response to United Parcel Service Inc.’s Motion Requesting Access to Non-Public Materials Under Protective Conditions, January 25, 2021. This motion is granted. See United States Postal Service Supplemental Response to United Parcel Service Inc.’s Motion Requesting Access to Non-Public Materials Under Protective Conditions, January 25, 2021.

comments in this docket. *Id.* at 6-7. It therefore requests that the Commission grant it that permission along with access to the non-public materials requested. *Id.* at 7.

B. Postal Service Response

The Postal Service opposes the request for access to non-public Library References USPS-FY19-NP2, -NP3, -NP7, -NP8, -NP9, -NP14, -NP22, -NP23, and -NP24. Postal Service Response at 2. It opposes any access to the non-public library references, even under the protective conditions, arguing that granting access would place commercially sensitive third-party customer information at risk. *Id.* It urges UPS to withdraw its request to reconsider and withdraw its request for access to these library references. *Id.* at 3.

IV. COMMISSION ANALYSIS

A. Legal Standard

The Postal Service may seek non-public treatment for materials that are submitted to the Commission if such information would be exempt from disclosure pursuant to 39 U.S.C. §§ 410(c), 504(g), 3652(f), or 3654(f).¹¹ Under 39 U.S.C. § 504(g)(3), the Commission has specific authority to determine whether production of the non-public material is required in the course of “any discovery procedure established in connection with a proceeding [before the Commission].” 39 U.S.C. § 504(g)(3)(B). Section 504(g)(3)(B) provides that, in the context of discovery, the Commission may disclose information obtained from the Postal Service if the disclosure is found to be appropriate and consistent with the kind of balancing of interest that is performed by federal civil courts when asked to establish protective conditions under

¹¹ Non-Public Information, 83 Fed. Reg. 31,258, 31,282 (July 3, 2018) (to be codified at 39 C.F.R. § 3007.101(a)). These regulations went into effect on August 2, 2018. *Id.* at 31,258. The Commission’s regulations were later reorganized, and the rules pertaining to non-public material are now found at 39 C.F.R. part 3011. See Docket No. RM2019-13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407) (effective April 20, 2020).

Fed. R. Civ. P. 26(c). *Id.* Specifically, the statute requires the Commission to establish procedures by regulation based on Fed. R. Civ. P. 26(c) to ensure “appropriate confidentiality for information furnished to any party.” *Id.*

The Commission’s regulations governing access to non-public information codify this statutory requirement by setting forth rules providing for access to non-public materials along with strict protective conditions based on Fed. R. Civ. P. 26(c). In the rulemaking proceeding amending the rules relating to non-public information, the Commission provided an overview of how the rules function:

Recognizing that public disclosure of certain information may be commercially harmful to the Postal Service, other persons, or both, [the] existing [non-public materials rules] permit[] the filing of commercially sensitive information to be non-public (also known as ‘sealed’ or ‘under seal’). At the same time, acknowledging the need for transparency, [the] existing [non-public materials rules] provide[] for procedures to allow for a person to request that non-public materials be disclosed to the public (also known as ‘unsealed’). Moreover, [the] existing [non-public materials rules] provide[] for procedures to allow for persons to request access to non-public materials, subject to protective conditions, in order to meaningfully participate in Commission proceedings.¹²

The UPS Motion concerns procedures relating to requests for access to non-public materials subject to protective conditions under subpart C of 39 C.F.R. part 3011. The parties do not dispute that the materials requested contain commercially sensitive information and that the material is designated by the Postal Service as non-public. Subpart C of 39 C.F.R. part 3011 sets forth rules allowing access to non-public materials that “allow non-public materials to remain under seal and allow specific persons to access the materials subject to protective conditions.”¹³

As directed by 39 U.S.C. § 504(g)(3)(B), the rules in subpart C of 39 C.F.R. part 3011 state that “[i]n determining whether to grant access to non-public materials, the

¹² Docket No. RM2018-3, Notice of Proposed Rulemaking Relating to Non-Public Information, February 13, 2018, at 2 (Order No. 4403).

¹³ Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, at 65 (Order No. 4679).

Commission shall balance the interests of the parties consistent with the analysis undertaken by a Federal court when applying the protective conditions appearing in Federal Rule of Civil Procedure 26(c).” 39 C.F.R. § 3011.301(e). Federal Rule of Civil Procedure 26(c) provides that a “court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” upon a motion from “[a] party or any person from whom discovery is sought . . . [coupled with] a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action.” Fed. R. Civ. P. 26(c)(1).

The party opposing access to non-public information, analogous to requesting a protective order under Fed. R. Civ. P. 26(c), “bears the burden of making the showing of good cause contemplated by the rule and therefore must make a specific demonstration of facts in support of the request[.]”¹⁴ Courts reviewing a request for a protective order “must weigh the movant’s proffer of harm against the adversary’s significant interest in preparing for trial.” *Smith*, 322 F.R.D. at 99 (internal citations and marks omitted). When determining whether to limit or deny discovery under this rule, the United States Court of Appeals for the District of Columbia Circuit balances several factors including “the requester’s need for the information from this particular source, its relevance to the litigation at hand, the burden of producing the sought-after material[,] and the harm which disclosure would cause to the party seeking to protect the information.”¹⁵ Other federal courts consider additional factors such as whether the party benefiting from a protective order is a public entity or official and whether the information relates to issues important to the public.¹⁶

¹⁴ *Smith v. Yeager*, 322 F.R.D. 96, 99 (D.D.C. 2017) (internal citations and marks omitted).

¹⁵ *Burka v. U.S. Dep’t of Health & Human Servs.*, 87 F.3d 508, 517 (D.C. Cir. 1996) (internal citations omitted). Here, because the Postal Service has already provided the library references at issue, the burden of producing the requested material is not a factor in the Commission’s analysis.

¹⁶ *Castellani v. Atl. City*, 102 F. Supp. 3d 657, 666 (D.N.J. 2015).

Accordingly, the Commission's rules permitting access to non-public materials set forth strict conditions that must be met prior to the disclosure of any information. Section 3011.301 requires that a motion requesting access to non-public materials shall "[i]dentify the particular non-public materials to which the movant seeks access" and "[i]nclude a detailed statement justifying the request for access[.]" 39 C.F.R. § 3011.301(b)(1) and (2). Additionally, "[i]f access is sought to aid participation in any pending Commission proceeding, the motion shall identify all proceedings (including compliance proceedings) in which the movant proposes to use the materials and how those materials are relevant to those proceedings[.]" *Id.* § 3011.301(b)(2)(i). The motion must "[a]ttach a description of protective conditions completed and signed by the movant's attorney or non-attorney representative," and it must "[a]ttach a certification to comply with protective conditions executed by each person (and any individual working on behalf of that person) seeking access[.]" *Id.* § 3011.301(b)(5) and (6). Furthermore, for individuals to be eligible for access, they must not be involved in "competitive decision-making for any individual or entity that might gain competitive advantage from using non-public materials[.]"¹⁷

In reviewing the UPS Motion and the Postal Service Response, the Commission will first determine whether UPS complied with the Commission's rules governing access to non-public material. If UPS complied, the Commission will then balance the interests of the parties to determine whether access should be granted or whether good cause has been shown to deny access.

In accordance with section 3011.301, the UPS Motion includes a list of non-public library references to which it requests access,¹⁸ specifies that access is for the

¹⁷ *Id.* § 3011.300(b). An individual is involved in "competitive decision-making" if he or she "consult[s] on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with an individual or entity having a proprietary interest in the protected material." *Id.*

¹⁸ UPS Motion at 1.

purpose of assisting UPS in preparing comments in the FY 2020 Annual Compliance Review proceeding,¹⁹ and provides the requisite statements of protective conditions and signed certifications from each individual for whom UPS seeks access.²⁰ Therefore, the UPS Motion satisfies the requirements under section 3011.301 and meets the necessary conditions to receive access to non-public information under protective conditions.

The UPS Motion properly identifies the non-public library references sought for the purpose of reviewing the Postal Service's compliance in this docket. UPS has established a legitimate need for accessing the requested library references, namely to review the compliance of the Postal Service with applicable statutes and regulations in FY 2020 and to provide informed comments in the instant docket. UPS Motion at 2. The Commission has previously recognized that the need to access non-public data for the purposes of participating in a proceeding is a legitimate purpose upon which the Commission may grant access.²¹

The UPS Motion also complies with the Commission's strict protective conditions required in order to gain access to non-public, commercially sensitive materials. The protective conditions provided under the Commission's rules strictly prohibit any "person involved in competitive decision-making for any individual or entity that might gain competitive advantage" from gaining access to the non-public library references at issue. 39 C.F.R. § 3011.300. None of the individuals for whom UPS requests access are involved in competitive decision-making. UPS states that it is requesting access for only outside counsel and outside consultants. UPS Motion at 2.

¹⁹ *Id.* at 2.

²⁰ *Id.* at 8-11, Appendix A.

²¹ Docket No. RM2016-10, Order Granting Motion for Access to Non-Public Materials Filed Under Seal, October 11, 2016, at 4 (Order No. 3560). In Order No. 3560, the Commission granted UPS access to information filed under seal, which included third-party information, on the condition that the parties first file an agreement regarding inadvertent disclosure. Order No. 3560 at 4-5. In a later rulemaking, the Commission added the provision clarifying the rights of any aggrieved third party to seek all available remedies before the Commission or a court of law, thereby alleviating the need for any additional agreements between parties. See Order No. 4679 at 69-70.

Additionally, the named individuals for whom access is requested certify that they will not disseminate information contained in the non-public library references to any person not granted access and will act to protect the material from any person not authorized to obtain access. *Id.* at 10. The certifications provide that the non-public materials will only be accessed for purposes of informing comments submitted in the instant proceeding and that any violation of the extensive protective conditions may result in sanctions by the Commission against any person who violates these protective conditions and/or on the persons or entities on whose behalf the individual was acting. *Id.* at 9-11.

Therefore, UPS has demonstrated compliance with the Commission's rules permitting access to non-public information.

B. The Postal Service has not made a showing of good cause to deny access.

The Postal Service has not made a showing of good cause to deny access to UPS's outside counsel and consultants for the reasons discussed below.

Although the Postal Service acknowledges that this assertion has been unsuccessful before the Commission in past years, the Postal Service maintains that the UPS Motion should be denied because of the continuing objections of affected third parties, including foreign postal operators. Postal Service Response at 2. In its opposition, the Postal Service includes letters from several third parties indicating their opposition to access because they fear that the data will not adequately be protected,²² or stating that access to commercially sensitive information by UPS will jeopardize its business.²³

²² See Canada Post Letter at 1.

²³ See China Post Letter at 1.

The Commission specifically rejected these arguments in the FY 2019 Annual Compliance Review docket, noting that the presence of confidential and commercially sensitive information is not sufficient justification by itself to deny access.²⁴ Contrary to the Postal Service's claim that the commercial nature of the information prevents access, subpart C of 39 C.F.R. part 3011 sets forth a process by which interested persons can gain access to commercially sensitive material under strict protective conditions.²⁵ To accept the Postal Service's argument would nullify subpart C of 39 C.F.R. part 3011 because no interested person could ever gain access to material filed under seal with the Commission. The rules permitting access take into consideration that information filed under seal with the Commission may contain sensitive commercial information and implement stringent safeguards to prevent the harms alleged by the Postal Service and the third parties. Moreover, the assertion that commercial harm might occur ignores the many requirements and protective conditions for any party requesting access to non-public information. Finally, accepting the Postal Service's position would necessarily foreclose any interested party in logistics or delivery from ever meaningfully participating in the Commission's annual compliance review process.

First, section 3011.300(b) provides that "[n]o person involved in competitive decision-making for any individual or entity that might gain competitive advantage from using non-public materials shall be granted access to non-public materials." 39 C.F.R. § 3011.300(b). The Commission's rules define "competitive decision-making" as including activities such as "consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals." *Id.* However, the rules explicitly state that competitive decision-making does not include "rendering legal advice or performing other services that are not directly in furtherance of activities in competition with an

²⁴ Docket No. ACR2019, Order Granting Motion for Access, January 29, 2021 (Order No. 5416).

²⁵ See Order No. 4403 at 9; Docket No. RM2008-1, Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, August 13, 2008, at 7 (Order No. 96).

individual or entity having a proprietary interest in the protected material.”²⁶ This strict prohibition on access mitigates concerns of commercial harm, as any person involved in competitive decision-making is not permitted access to non-public materials.²⁷ In their opposition to access, neither the Postal Service nor the third parties claim that the designated persons requesting access have any involvement in competitive decision-making. The arguments proffered by the Postal Service and third parties, conversely, appear predicated on the unsubstantiated implicit assumption that the non-public materials would be utilized by UPS’s competitive decision-making persons, despite the protective conditions in place.

Second, the Commission’s rules place restrictions on the use and misuse of any non-public information and prohibit unauthorized or public disclosure. For example, persons with access are prohibited from “disseminat[ing] the materials or the information contained therein, in whole or in part, to any person not allowed access[.]” 39 C.F.R. § 3011.302(a). Additionally, the non-public materials may only be used “for the purposes for which the non-public materials [were] supplied.” *Id.* § 3011.302(b). Here, UPS may only use the non-public materials to inform its comments submitted in this Annual Compliance Review docket. In addition, the Commission’s rules require individuals with access to take reasonable care in protecting the non-public material from any person not granted access. *Id.* § 3011.302(c). Reasonable care is defined to be the “same degree of care . . . to prevent the unauthorized disclosure of these

²⁶ *Id.* This is consistent with federal court restrictions on access to highly confidential information to independent outside counsel. See, e.g., *W. Convenience Stores, Inc. v. Suncor Energy (U.S.A.) Inc.*, No. 11-CV-01611, 2014 WL 561850, at *1 (D. Colo. Feb. 13, 2014) (“During discovery, [the non-party competitor’s] interest was addressed by a protective order that entitled Western’s counsel and retained experts to view [the non-party competitor’s] wholesale purchase and retail sales information, but forbade the recipients of the information from sharing it with [the plaintiff’s owner] . . .”).

²⁷ The United States Supreme Court acknowledged that even when confidential commercial information is at issue, “orders forbidding any disclosure . . . are rare.” *Fed. Open Market Comm. of Fed. Reserve Sys. v. Merrill*, 443 U.S. 340, 362 n.24 (1979). The Commission’s rules are akin to an “attorney’s eyes only” protective order, commonly issued by trial courts. *Merrill*, 443 U.S. at 362 n.24; see *United States ex rel. Purcell v. MWI Corp.*, 209 F.R.D. 21, 28 (D.D.C. 2002) (good cause shown for issuance of protective order negated by agreement to exclude plaintiff from access to certain proprietary information and having an “attorney’s eyes only” agreement).

materials as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.” *Id.* These restrictions protect against concerns expressed by the Postal Service and third parties of any potential improper disclosure of the information.

Third, the Commission’s rules provide that the Commission may sanction any person that violates the protective conditions under which he or she gained access. *Id.* § 3011.303(a). Sanctions include dismissing the proceeding, ruling by default against the person who violated the order, revoking access or restricting access in the future, and other sanctions as deemed appropriate. *Id.* The Commission’s rules also do not prevent the Postal Service or third parties harmed by any “violation of an order granting access subject to protective conditions from pursuing any remedies available under the law against the person who violated the order, the persons or entities on whose behalf the person was acting, or both.” *Id.* § 3011.303(b). These strict sanctions, whether delivered by the Commission or a court of law, provide adequate remedies in the event of any violation for both the Postal Service and any affected third party.²⁸

Finally, the Commission’s rules require interested participants seeking access to material filed under seal to comply with strict protective conditions. 39 C.F.R. § 3011.301(b)(5). The statement of protective conditions provided by UPS sufficiently negates concerns regarding improper use of commercially sensitive material.²⁹

Therefore, the Postal Service and third-party concerns about the commercially sensitive nature of the information and any potential improper disclosure are mitigated by the numerous protective conditions and prohibitions on improper disclosure of non-

²⁸ “Final § 3007.303(b) reserves the right of any person, including the Postal Service, to pursue other remedies.” Order No. 4679 at 28.

²⁹ *Castellani*, 102 F. Supp. 3d at 668 (citing *Reid v. Cumberland Cnty.*, 34 F. Supp. 3d 396, 408-09) (factors for whether good cause exists to prohibit release of information (issue a protective order) are negated by confidentiality order).

public information. Neither the Postal Service nor the third parties allege any history of improper disclosure by any individual seeking access under protective conditions that would provide grounds for denying access. To the contrary, UPS has an extensive history of participating in Commission proceedings and has routinely been granted access to other non-public library references without issue. In addition, while not explicitly challenging any inadequacy of the protective conditions proffered by UPS, neither the Postal Service nor the third parties have suggested any additional protective condition that would make access more palatable.

As mentioned above, federal civil courts consider several factors when balancing the interests to determine whether to grant a request for a protective order under Fed. R. Civ. P. 26(c). Such factors include whether the party benefitting from the protective order is a public entity or official and whether the case involves issues important to the public.³⁰ Here, both of these factors weigh in favor of granting access under the agreed upon protective conditions.

In overseeing the Postal Service's compliance with the Postal Accountability and Enhancement Act (PAEA), the Commission has routinely recognized the public's interest and right to participate in Commission proceedings. The Commission finds that denying access to non-public materials would significantly restrict the ability of interested persons to comment on the Postal Service's compliance under the PAEA. As a portion of the Postal Service's compliance under the law relates to products that contain third-party data, prohibiting access to these data on the basis of their commercial sensitivity would negatively impact the public's "interest in maintaining the financial transparency of a government establishment competing in commercial markets." 39 U.S.C. § 504(g)(3)(A).

³⁰ *Castellani*, 102 F. Supp. 3d at 666 (citing *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994)).

Here, where UPS has requested access to non-public library references containing commercially sensitive data under the strict protective conditions and restrictions set forth by the Commission's rules, the Commission finds that its rules provide adequate protective conditions to prevent any commercial harm or unauthorized disclosure. Should any party violate protective conditions put in place to access non-public material, the Commission notes the range of remedies available to the Postal Service and third parties, both before the Commission and externally. Having balanced the public interest in the financial transparency of the Postal Service against the Postal Service's claims of commercial harm, the Commission is compelled to grant access.

V. CONCLUSION

For the above reasons, the Commission grants the UPS Motion for access to Library References USPS-FY20-NP2, -NP3, -NP7, -NP8, -NP9, -NP10, -NP11, -NP12, -NP13, NP14, -NP19, -NP20, -NP21, -NP22, -NP23, -NP24, and -NP30.

VI. ORDERING PARAGRAPHS

It is ordered:

1. United Parcel Service, Inc.'s Motion Requesting Access to Non-Public Materials Under Protective Conditions, filed January 11, 2021, is granted, and access is hereby granted to the non-public materials for use in Docket No. ACR2020 for Library References USPS-FY20-NP2, -NP3, -NP7, -NP8, -NP9, -NP10, -NP11, -NP12, -NP13, NP14, -NP19, -NP20, -NP21, -NP22, -NP23, -NP24, and -NP30.
2. United Parcel Service, Inc. is hereby granted continued access to the non-public materials in Docket Nos. ACR2014, ACR2015, ACR2016, ACR2017, ACR2018, and ACR2019 for use in Docket No. ACR2020.

3. Effective upon issuance of this Order, the individuals covered by the UPS Motion are each granted access to the non-public materials.

By the Commission.

Erica A. Barker
Secretary