

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

FIRST-CLASS MAIL AND PERIODICALS SERVICE STANDARD
CHANGES, 2021

Docket No. N2021-1

**NOTICE OF UNITED STATES POSTAL SERVICE OF FILING
OF LIBRARY REFERENCES AND APPLICATION FOR NON-PUBLIC TREATMENT**
(April 21, 2021)

In accordance with Rule 31(b)(2), the United States Postal Service (Postal Service) hereby provides notice today that it is filing six public library references and two non-public library references to support its direct case and to aid the Postal Regulatory Commission's consideration of the Postal Service's Request for an advisory opinion in this docket. The preface page filed with each library reference reflects its category.

Docket No. N2021-1 Master Library Reference Lists -- Public and Non-Public

Public

	<u>Title</u>	<u>Witness</u>
LR-N2021-1-1	Model Input Data	Hagenstein
LR-N2021-1-2	Model Defining Tools	Hagenstein
LR-N2021-1-3	Model Results	Hagenstein
LR-N2021-1-4	Calculating Transportation Cost Changes	Whiteman
LR-N2021-1-5	Econometric Analysis of Impact of Delivery Service Standards on First-Class Mail and Periodicals Mail	Thress
LR-N2021-1-6	Informed Visibility Service Performance Metrics (Enterprise Analytics) Data	Cintron

Non-Public

	<u>Title</u>	<u>Witness</u>
LR-N2021-1-NP1	Model Input Data & Tools	Hagenstein
LR-N2021-1-NP2	Calculating Transportation Cost Changes	Whiteman

The materials for the six public library references have been uploaded to the Public Library References folder on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT), and the materials for the two non-public library references have been uploaded to the Non-public Library References folder on USPS SLFT.

An application for non-public treatment and protective conditions for materials within the two non-public library references listed above is attached to this Notice.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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

In accordance with 39 C.F.R. § 3011.201, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials covered by this application consist of detailed volume and cost information regarding purchased transportation, which is included in the non-public version of the Calculating Transportation Cost Changes library reference (USPS-LR-N2021-1-NP2), but redacted in the corresponding public version of that library reference (USPS-LR-N2021-1-4). This application also covers information in the non-public version of the Model Input Data library reference (USPS-LR-N2021-1-NP1), which contains information that is not available in the corresponding public version of the library reference (USPS-LR-N2021-1-1). The information in the Model Input Data library reference consists of data that reveal the volume, modes of transportation, and transportation windows for competitive products. This library reference has three files in its root folder:

NP1_NP.WEB_ODIN_MARCH_2019.txt

This file contains 3-Digit ZIP Code origin and destination pairs, class, shape, and volume data for the month of March 2019. Its public counterpart is N2021-1-1, 1_P.WEB_ODIN_MARCH_2019.txt. Unlike the public file, this non-public file contains data for competitive products; i.e., for every 3-Digit ZIP Code origin-destination pair, this file provides the volume of every class of competitive product in March 2019.

NP1_NP.Mode_Mapping.xlsx

This file contains data designating the approved mode of transportation between every 3-Digit ZIP Code origin and destination pair in the country. Its public counterpart is N2021-1-1, 1_P.Mode_Mapping.xlsx. Unlike the public file, this non-public file contains data for competitive products; i.e., for every 3-Digit ZIP Code origin-destination pair, this file provides the approved mode of transportation for competitive products.

NP1_NP.Shipment_Table.xlsx

This file contains the 3-digit ZIP Code pair volumes the model optimizes. Each shipment consists of an origin, destination transportation window, product, and volume. Several columns have no values but are included because their presence is necessary for the modeling software. Its public counterpart is N2021-1-1, 1_P.Shipment_Table.xlsx. Unlike the public file, this non-public file contains data for competitive products; i.e., for every 3-Digit ZIP Code origin-destination pair, this file provides the transportation window, product, and volume for every class of competitive product for a couple days in January 2018.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3011.201 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 commercial information concerning postal operations and finances that under good business practice would not be disclosed publicly. Based on its long-standing and deep familiarity with postal and communications business and markets generally, and its knowledge of many firms, including competitors, mailers, and suppliers, the Postal Service does not believe that any commercial enterprise would voluntarily publish detailed information pertaining to the costs, volumes, and related information regarding its transportation modes, costs, practices, and volumes. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. §§ 552(b)(3).¹

¹ In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). 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.

(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 information contained within the non-public materials. The Postal Service designates Micah T. Zomer to accept actual 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. Mr. Zomer's email address is micah.t.zomer@usps.gov, and his telephone number is 202-657-2918.

(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.

With respect to the Calculating Transportation Cost Changes library reference, the materials relate specifically to pounds and cubic feet of mail, including competitive products, transported by various carriers and the cost to the Postal Service of using those carriers to transport such mail.

With respect to the Model Input Data library reference, the information includes:

RM2008-1, Mar. 20, 2009, at 11.

² Section 3011.201(b)(2) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has a proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

(a) 3-Digit ZIP Code origin and destination pairs, class, shape, and volume data for competitive products for the month of March 2019; (b) data designating the approved mode of transportation for competitive products between every 3-Digit ZIP Code origin and destination pair in the country; and (c) for every 3-Digit ZIP Code origin-destination pair, the transportation window, product, and volume for competitive products for two days in January 2018.

Examination of the corresponding public library references should allow a person to understand the nature of the contents of the non-public library references and evaluate accordingly.

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

If the information the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. This information is clearly commercially sensitive to the Postal Service, and the Postal Service does not believe that it would be disclosed under good business practice. In this regard, the Postal Service is not aware of any business with which it competes (or in any other commercial enterprise), either within industries engaged in the carriage and delivery of materials and hard copy messages, or those engaged in communications generally, that would disclose publicly information and data of comparable nature at a disaggregated level and with the details furnished here.

The data and information considered to be non-public consists of transportation cost, weight and volume information, as well as the modes of transportation and transportation window data for competitive products. The Postal Service, which currently engages and will continue to engage in contracts for air and surface transportation

services, has a strong interest in being able to obtain the best prices possible. Revealing the Postal Service's cost, weight, and volume data with respect to certain transportation suppliers has the potential for interfering with the procurement process and defeating the Postal Service's interest in obtaining beneficial arrangements. Transportation suppliers could potentially use the transportation cost, weight, and volume information to seek higher prices for the services they provide.

Moreover, disclosing the volume, mode of transportation, and transportation window data for competitive products – *i.e.*, a category of postal products for which similar products are offered by private sector carriers – would unfairly, to the economic detriment of the Postal Service, permit competitors to:

- gain specific insight into modes of transportation and customer usage patterns;
- better gauge the size of the competitive product market in specific service areas; and
- develop strategies for determining what marketing resources to devote to further penetration of specific local markets.

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

Harm: Public disclosure of transportation costs for certain suppliers, together with the weight and volume information, would provide transportation suppliers extraordinary negotiating power.

Hypothetical: An air transportation supplier or its representative obtains a copy of the unredacted version of Library Reference USPS-LR-N2021-1-NP2. The supplier has already been in negotiations to provide air transportation services to the Postal Service and has determined an appropriate price to fit the supplier's cost structure. The supplier sees the Postal Service's average per-pound transportation costs and uses that information as a justification for pricing demands in negotiations. The Postal Service's ability to negotiate the best value from the

bargain suffers as a result. The same scenario would apply to a transportation supplier's ability to position itself in future, rather than ongoing, negotiations with the Postal Service, based on what the supplier knows, or believes it knows, about what the Postal Service is willing to pay.

Harm: Public disclosure of the competitive product volume or operational data in library reference USPS-LR-N2021-1-NP1 would be used by competitors of the Postal Service to the detriment of the Postal Service.

Hypothetical: A competitor's representative obtains access to the data in Library Reference N2021-1-NP1. It analyzes the data to assess the nature and scale of that portion of the Postal Service's competitive product business originating in a particular market in which that competitor operates or seeks to operate. Based upon these data, the competitor assesses the extent to which it wishes to adjust its product offerings, prices, operations and marketing activities to compete for the volume represented by these data. That competitor gains valuable market intelligence without having to make an investment in research. The competitor then can tailor marketing and/or pricing campaigns to acquire customers' business with the consequent loss of volume, revenue and market share to the Postal Service, which has no similar ability to access to data regarding its competitors expedited package volumes.

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

The Postal Service maintains that the portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets for air and surface transportation and competitive delivery products, including persons acting on behalf of the respective subjects of the non-public information, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or

potential customers of the Postal Service should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

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). The Postal Service seeks full protection during this time period and thereafter.

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

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.