

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

OUTBOUND SINGLE-PIECE FIRST-CLASS
PACKAGE INTERNATIONAL SERVICE

Docket No. MC2021-91

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
CHAIRMAN'S INFORMATION REQUEST NO. 1**

(May 27, 2021)

The United States Postal Service (Postal Service) hereby provides its response to Chairman's Information Request No. 1, issued in this docket on May 21, 2021. A response was due no later than May 27, 2021.¹ The Commission filed the request publicly; however, due to the commercial sensitivity of the response information, the Postal Service is filing its responses under seal. Attachment 1 to this Notice consists of an application for non-public treatment of materials filed under seal. The application protects from disclosure the confidential information that is included in the responses that the Postal Service is filing under seal today

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel
Global Business and Service Development
Corporate and Postal Business Law Section

Christopher C. Meyerson
Attorney

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1101
(202) 268-7820
christopher.c.meyerson@usps.gov

¹ Chairman's Information Request No. 1, Docket No. MC2021-91, May 27, 2021.

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 with the Commission in this docket. The materials covered by this application consist of the responses to Questions 1, 2, and 3 to Chairman's Information Request No. 1 in this docket.

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

(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 information of a commercial nature 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 that any commercial enterprise would voluntarily publish commercial information concerning detailed information about the implementation of a new initiative affecting a competitive product before it is ready to be advertised and offered to customers. Thus, 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).² Because the

² 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. See 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. 194, Second

portions of materials filed non-publicly in this docket by the Postal Service fall within the scope of information not required to be publicly disclosed, the Postal Service requests that the Commission support its determination that these materials are exempt from public disclosure and grant the Postal Service's 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.³

The Postal Service believes that only the Postal Service has a proprietary interest in the information contained within the non-public materials. The Postal Service identifies as an appropriate contact person Frank Cebello, Manager, International Products & Major Accounts. Mr. Cebello's phone number is (202) 268-8058, and his email address is Frank.A.Cebello@usps.gov.

(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.

Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1 (Mar. 20, 2009), at 11.

³ 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 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.

In connection with its response to Chairman's Information Request No. 1 filed in this docket, the Postal Service filed responses to three questions under seal, which include information about the Postal Service's plans and timing for, as well as the scope of, OCPI, especially in relation to the Outbound Single-Piece First Class Package International Service (FCPIS) product. The Postal Service maintains that these materials should remain confidential because they contain commercially sensitive information about an initiative related to the international competitive FCPIS product.

(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 materials that the Postal Service determined to be protected from disclosure were to be disclosed publicly, the Postal Service considers that it is quite likely that the Postal Service would suffer commercial harm. Information about the Postal Service's plans for OCPI, especially in relation to the FCPIS product are commercially sensitive, and the Postal Service does not believe that such information would be disclosed under good business practices. For instance, competitors could use the information to assess the Postal Service's plans for OCPI for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service before it has had the opportunity to formalize its product offering to the public.

The data also include specific information concerning the timing and scope of OCPI, especially in relation to FCPIS. This information is highly confidential in the business world. Indeed, foreign postal operators (or other potential customers) could use this information to assess the Postal Service's plans in relation to OCPI, thereby

giving them an advantage when negotiating the terms of their own agreements with the Postal Service.

Disclosure of such information could be used by competitors of a commercial operator to assess the operators' plans in relation to OCPI, and thereby develop a competitive alternative. Eventually, this could impact the Postal Service's volume and revenue. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the responses to Questions 1, 2, and 3 of the Chairman's Information Request in this docket.

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

Identified harm: Public disclosure of information in the responses to Questions 1, 2, and 3 would be used by foreign postal operators to the detriment of the Postal Service.

Hypothetical: Foreign postal operators use the information to learn more about OCPI and use that information to structure their offers to the Postal Service for access to their delivery networks, which are substitutes for those of OCPI suppliers, and also develop competing products with other network industries. The operators could then use this information to their advantage in negotiating the terms of their own agreements with the Postal Service.

Identified harm: Public disclosure of the information in the responses to Questions 1, 2, and 3 would provide a market advantage to competitors, to the detriment of the Postal Service.

Hypothetical: A competing international delivery service obtains a copy of the responses to Questions 1, 2, and 3 from the Postal Regulatory Commission's website. The competitor uses the information in the rates to assess the Postal Service's plans, and thereby attempts to advertise and market its services to foreign destinations on that basis. Competitors of the USPS would also learn more about the Postal Service's plans and product structure, which would enable them to gain a competitive advantage prematurely, before the Postal Service is ready to formalize its product offering.

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

The Postal Service maintains that the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international delivery products (including both private sector integrators and foreign postal operators), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service (including foreign postal operators) for this 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 including foreign postal operators often continue beyond ten years or decades, 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 in this application, the Postal Service requests that the Commission grant its application for non-public treatment of the identified materials.