

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

MARKET-DOMINANT PRICE CHANGE

Docket No. R2021-2

USPS NOTICE OF FILING USPS-LR-R2021-2-NP2
(June 16, 2021)

The Postal Service has filed the following library reference in the **Non-Public Annex** in this proceeding:

USPS-LR-R2021-2-NP2

**NON-PUBLIC PORTIONS OF RESPONSES TO
QUESTIONS 1 AND 4 IN CHAIRMAN'S
INFORMATION REQUEST NO. 3**

This library reference has been uploaded to the Non-Public Library References folder on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT). This material contains the non-public version of the responses to Questions 1 and 4. The materials include commercially sensitive information, such as outbound and inbound volume, cost, and revenue data, and underlying calculations related to price adjustments. The files associated with these calculations are accordingly submitted in the non-public annex in this proceeding. The Postal Service also includes with this filing an application for non-public treatment, Attachment 1.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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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 contents of library reference USPS-LR-R2021-2-NP2, which includes one PDF file with the responses to Questions 1 and 4 of Chairman's Information Request No. 3, and an Excel file that is part of the response to Question 4 of Chairman's Information Request No. 3.

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 information pertaining to volume, cost, and revenue data, as well as underlying calculations related to price adjustments. 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).¹ Because the portions of

¹ 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 Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No.

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.²

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 Christopher C. Meyerson, Attorney, Corporate and Postal Business Law Section, Law Department, United States Postal Service. Mr. Meyerson's phone number is (202) 268-7820, and his email address is christopher.c.meyerson@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.

The non-public portion of the response to Question 1 in USPS-LR-R2021-2-NP 2 includes commercially sensitive information, such as inbound volume and revenue data and underlying calculations related to price adjustments. This includes data pertaining to

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 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.

Outbound Single-Piece First-Class Mail International and Inbound Letter Post. These data underlie the proposed price changes that are the subject of this docket. The Postal Service maintains that these materials should remain confidential because they contain commercially sensitive information such as certain Inbound Letter Post volume and revenue data, as well as underlying calculations related to price adjustments for Outbound Single-Piece First-Class Mail International.

The response to Question 4 in USPS-LR-R2021-2-NP 2 includes certain revenue, volume, and cost data related to the market-dominant International Ancillary Services 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 data 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 any non-published pricing is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. For instance, competitors could use the information to assess any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service.

The data include specific information related to rates and flows for Inbound Letter Post, as well as information concerning the outbound International Ancillary Services product. This information is highly confidential in the business world. Indeed, foreign postal operators (or other potential customers) could use this information to assess the relative weight of their mail flows to or from the United States, thereby giving them an advantage when negotiating the terms of their own agreements with the Postal Service.

Given that the spreadsheet contained in library reference USPS-LR-R2021-2-NP2 is filed in its native format, the Postal Service's assessment is that they are very likely to be used in this manner.

The volume, revenue and cost information included in the Excel file also consists of sensitive commercial information. Disclosure of such information could be used by competitors of a foreign postal operator to assess certain products of the Postal Service and their costs, and thereby develop a benchmark for the creation of 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 library reference USPS-LR-R2021-2-NP2.

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

Identified harm: Public disclosure of information in USPS-LR-R2021-2-NP2 would provide a market advantage to competitors.

Hypothetical: A competing international delivery service obtains a copy of the non-public materials filed in USPS-LR-R2021-2-NP2. The competitor uses the information to evaluate various Postal Service products and thereby attempts to advertise and market its services on that basis.

(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 in library reference USPS-LR-R2021-2-NP2.

(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.