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

COMPETITIVE PRODUCT PRICES INBOUND COMPETITIVE MULTI-SERVICE AGREEMENTS WITH FOREIGN POSTAL OPERATORS 1 NEGOTIATED SERVICE AGREEMENTS COMPETITIVE PRODUCT PRICES INBOUND COMPETITIVE PRIME REGISTERED SERVICE AGREEMENT 1 (MC2020-73) NEGOTIATED SERVICE AGREEMENT	Docket No. MC2020-73

NOTICE OF UNITED STATES POSTAL SERVICE PROVIDING UPDATES CONCERNING PARTIES TO INBOUND COMPETITIVE PRIME REGISTERED SERVICE AGREEMENT 1
(November 22, 2021)

On July 26, 2017, the Postal Regulatory Commission ("Commission") issued Order No. 4016, directing that the United States Postal Service ("Postal Service") file "frequent updates" concerning the parties to the Inbound Market Dominant Registered Service Agreement 1.[1] Subsequently, as a result of Order No. 5437, that agreement was transferred to the competitive product list and included in the competitive product list as the Inbound Competitive PRIME Registered Service Agreement 1.[2]

In response to Order No. 4016, based on information that PRIME has provided to the Postal Service, the Postal Service files, as Attachment 1, a redacted version of a table that lists the parties, as of November 5, 2021, to the Inbound Competitive PRIME Registered Service Agreement 1 that is the subject of Docket No. MC2020-73.

[1] PRC Order No. 4016, Order Approving Modifications of PRIME Registered Agreement, Docket No. R2016-6, July 26, 2017, at 7-8.
[2] PRC Order No. 5437, Order Approving Transfer of Market Dominant Negotiated Service Agreements to the Competitive Product List, Docket No. MC20202-73, February 19, 2020.

An unredacted version of Attachment 1 is filed under seal. With respect to the nonpublic version of the list of parties that is filed under seal, the Postal Service hereby includes an Application for Non-Public Treatment as Attachment 2.

Respectfully submitted,

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November 22, 2021

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

PARTIES TO THE
INBOUND MARKET DOMINANT REGISTERED SERVICE AGREEMENT 1
AS OF NOVEMBER 5, 2021

ISO Code	Country	Company Name	Registered Agreement
[redacted]			

ATTACHMENT 2

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

In accordance with 39 C.F.R. § 3011, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed separately under seal with the Commission in this docket. The materials consist of a list of parties to the Inbound Competitive PRIME Registered Service Agreement 1 that is the subject of Docket No. MC2020-73 ("list of parties"). A redacted copy of the list of parties is filed with the Notice as Attachment 1.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3011.201(b) 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 information of a commercial nature that would not be publicly disclosed under good business practice. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) as well as 5 U.S.C. § 552(b)(3) and (4).[1] Because the portions of the materials that the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support the

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

Postal Service's determination that these materials are exempt from public disclosure and requests the Commission to 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]

In the case of the list of parties, the Postal Service believes that the only third parties with a proprietary interest in the materials are the International Post Corporation (IPC) and the other parties to the PRIME Registered Service Agreement. The Postal Service has already informed the IPC and the other parties to the PRIME Registered Service Agreement, in compliance with 39 C.F.R. § 3011.200(b), of the nature and scope of this filing and the IPC's and the parties to the PRIME Registered Service Agreement's ability to address their confidentiality concerns directly with the Commission.[3] Because of language and cultural differences as well as the sensitive nature of the Postal Service's rate

[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.

[3] *See* Request of United States Postal Service to Add Inbound Market Dominant Registered Service Agreement to the Market Dominant Product List, Notice of Type 2 Rate Adjustment, and Application for Non-Public Treatment, Docket Nos. MC2016-188 and R2016-6, July 13, 2016, Attachment 4, at 2-3.

relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators. The Postal Service identifies as an appropriate contact person Mr. Richard K. Brown, Strategic Planning Specialist, International Policy & Business Development, Global Business, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260. Mr. Brown's telephone number is 828-275-3848 and his e-mail address is Richard.k.brown@usps.gov.[4]

(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;

In connection with its Notice filed in this docket, the Postal Service included a list of parties to the PRIME Registered Service Agreement. This list of parties was filed under seal, with a redacted copy filed publicly, after notice, as discussed above, to the IPC and the parties to the PRIME Registered Service Agreement. The Postal Service maintains that the redacted portions of the list of parties should remain confidential.

With regard to the list of parties, the redactions constitute the ISO Code, company name of various postal operators, and whether or not they are parties to the PRIME Registered Service Agreement.

[4] The Postal Service acknowledges that 39 C.F.R. § 3011.201(b)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's filing might be construed as beyond the scope of the Commission's rules, the Postal Service respectfully requests a waiver to designate a Postal Service employee as the contact person under these circumstances, for the reasons provided in the text above.

(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 portions of the list of parties that the Postal Service determined to be protected from disclosure because of their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that the Postal Service would suffer commercial harm. Information about negotiated pricing and quality of service performance information in relation to various postal operators is commercially sensitive, and the Postal Service does not believe that such information would be disclosed under good business practices. Foreign postal operators that are not parties to the PRIME Registered Service Agreement could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service. Competitors could also use the information about the Postal Service's participation with various postal operators in the PRIME Registered Service Agreement to locate any possible comparative vulnerabilities, and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

Information in the list of parties also consists of sensitive commercial information of the foreign postal operators that are included in the list. Disclosure of such information could be used by competitors of a foreign postal operator that is included in the list to develop competitive alternatives, to the detriment of the foreign postal operator.

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

Harm: Public disclosure of the list of parties would be used by competitors and customers to the detriment of the Postal Service and foreign postal operators.

Hypothetical: A competing delivery service obtains an unredacted version of the list of parties from the Commission's website. The competing delivery service analyzes the list of parties to learn more about the Postal Service's relations with various postal operators. The competing delivery service then revises its own rates and products based on information in the list of parties, to more effectively compete with the Postal Service, as well as foreign postal operators.

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

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant delivery services markets, products (including both private sector integrators, as well as foreign postal operators not included in the list of parties), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products (including postal operators not included in the list of parties) 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 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, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.