

BEFORE THE
POSTAL REGULATORY COMMISSION

Periodic Reporting (Proposal One)

⋮

Docket No. RM2022-3

**UNITED PARCEL SERVICE, INC.'S MOTION REQUESTING
ACCESS TO NON-PUBLIC MATERIALS UNDER
PROTECTIVE CONDITIONS
(April 29, 2022)**

United Parcel Service, Inc. (“UPS”) respectfully submits this Motion pursuant to 39 C.F.R. § 3011.301 requesting access to the non-public library reference filed by the Postal Service and by Amazon.com Services LLC (“Amazon”) in this docket on April 5, 2022.¹ Specifically, UPS requests access to the full, unredacted version of USPS-RM2022-3-NP3 (Nonpublic Material Supporting Professor Bradley’s Report Accompanying the Postal Service’s Reply Comments) and ASL-LR-RM2022-3/NP1 (Workpapers Supporting Technical Appendix to ASL Comments). This access is sought “for the purpose of aiding participation in a pending Commission proceeding (including compliance proceedings) or aiding the initiation of a proceeding before the Commission.” 39 C.F.R. § 3011.300(c). Both the Postal Service and Amazon have indicated that they do not oppose the motion for access under protective conditions.

UPS seeks access to the materials for its outside counsel and consultants only, so they may aid UPS in its evaluation of the issues in the above-captioned proceeding.

¹ See Notice of Filing of USPS-RM2022-3-2 and USPS-RM2022-3-NP3 and Application for Nonpublic Treatment, Dkt. No. RM2022-3 (Apr. 25, 2022), at 1; Notice of Amazon.com Services LLC of Filing of Library Reference ASL-LR-RM2022-3/NP1 and Application for Nonpublic Treatment, Dkt. No. RM2022-3 (Apr. 25, 2022).

These outside counsel and consultants are identified in Exhibit 1 to this motion and each has executed a copy of the Commission's protective order conditions.

In determining whether to grant access to non-public data, the 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)." See 39 C.F.R. § 3011.301(e). UPS's request satisfies this test. UPS has a substantial interest in the methodology for calculating attributable city carrier, letter route, and street time costs. This methodology relates to the present docket, RM2022-3. The requested materials include "cost impact information regarding competitive products of the types provided under seal within several folders in the FY2021 Annual Compliance Report, as well as further analysis of that material," as well as "city carrier data linked to specific ZIP Codes,"² and are valuable to interested persons who may wish to evaluate the city carrier cost methodology.

The requested materials are relevant to evaluating the city carrier cost methodology and developing meaningful, informed feedback on this system. The materials will enable UPS in the present docket because carrier costing information forms a major part of the Postal Service's competitive product costs and affects the calculation of attributable costs, while the "appropriate share" of institutional costs that must be covered by competitive revenues has a relationship with the growing competitive products' business, which in turn impacts city carrier costs.

For the foregoing reasons, UPS respectfully requests that this Motion be granted.

² Notice of Filing of USPS-RM2022-3-2 and USPS-RM2022-3-NP3 and Application for Nonpublic Treatment, Dkt. No. RM2022-3 (Apr. 25, 2022), at 1; see *a/so* Notice of Amazon.com Services LLC of Filing of Library Reference ASL-LR-RM2022-3/NP1 and Application for Nonpublic Treatment, Dkt. No. RM2022-3 (Apr. 25, 2022).

Respectfully submitted,

UNITED PARCEL SERVICE, INC.,

By: /s/ Steig D. Olson

Steig D. Olson

Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Ave., 22nd Floor

New York, NY 10010

(212) 849-7152

steigolson@quinnemanuel.com

Attorney for UPS

Exhibit 1

1. Steig Olson
2. David Cooper
3. Christopher Seck
4. David LeRay
5. David Chardack
6. Nicholas Powers
7. Kevin Neels
8. James Banovetz
9. Findley Bowie
10. Elijah LoCicero
11. Shea Peretz

Protective Conditions Statement

The Postal Service requested confidential treatment of non-public materials identified as USPS-RM2022-3-NP3 (Periodic Reporting (Proposal One)). In addition, Amazon.com Services, LLC (“Amazon”) requested confidential treatment of non-public materials identified as ASL-LR-RM2022-3/NP1. UPS (“the movant”) requests access to these materials that have been filed in Docket No. RM2022-3.

The movant has provided to each person seeking access to these materials:

- this Protective Conditions Statement,
- the Certification to Comply with Protective Conditions,
- the Certification of Compliance with Protective Conditions and Termination of Access; and
- the Commission’s rules applicable to access to non-public materials filed in Commission proceedings (subpart C of part 3011 of the U.S. Code of Federal Regulations).

Each person (and any individual working on behalf of that person) seeking access to these materials has executed a Certification to Comply with Protective Conditions by signing in ink or by typing /s/ before his or her name in the signature block. The movant attaches the Protective Conditions Statement and the executed Certification(s) to Comply with Protective Conditions to the motion for access filed with the Commission.

The movant and each person seeking access to these materials agree to comply with the following protective conditions:

1. In accordance with 39 CFR 3011.303, the Commission may impose sanctions on any person who violates these protective conditions, the persons or entities on whose behalf the person was acting, or both.
2. In accordance with 39 CFR 3011.300(b), no person involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials shall be granted access to these materials. Involved in competitive decision-making includes consulting 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.

3. In accordance with 39 CFR 3011.302(a), a person granted access to these materials may not disseminate these materials in whole or in part to any person not allowed access pursuant to 39 CFR 3011.300(a) (Commission and court personnel) or 3011.301 (other persons granted access by Commission order) except in compliance with:

- a. Specific Commission order,
- b. Subpart B of 39 CFR 3011 (procedure for filing these materials in Commission proceedings), or
- c. 39 CFR 3011.305 (production of these materials in a court or other administrative proceeding).

4. In accordance with 39 CFR 3011.302(b) and (c), all persons granted access to these materials:

- a. must use these materials only related to this matter; and
- b. must protect these materials from any person not authorized to obtain access under 39 CFR 3011.300 or 3011.301 by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of these 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.

5. The duties of each person granted access to these materials apply to all:

- a. Disclosures or duplications of these materials in writing, orally, electronically, or otherwise, by any means, format, or medium;
- b. Excerpts from, parts of, or the entirety of these materials;
- c. Written materials that quote or contain these materials; and
- d. Revised, amended, or supplemental versions of these materials.

6. All copies of these materials will be clearly marked as "Confidential" and bear the name of the person granted access.

7. Immediately after access has terminated pursuant to 39 CFR 3011.304(a)(1), each person (and any individual working on behalf of that person) who has obtained a copy of these materials must execute the Certification of Compliance with Protective Conditions and Termination of Access. In compliance with 39 CFR 3011.304(a)(2), the movant will attach the executed Certification(s) of Compliance with Protective Conditions and Termination of Access to the notice of termination of access filed with the Commission.

8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.

Respectfully submitted,

UNITED PARCEL SERVICE, INC.,

By: /s/ Steig D. Olson

Steig D. Olson
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
(212) 849-7152
steigolson@quinnemanuel.com

Attorney for UPS

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Steig D. Olson</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan</u>
Title	<u>Partner</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>April 28, 2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>David Cooper</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan, LLP</u>
Title	<u>Partner</u>
Representing	<u>United Parcel Service</u>
Signature	<u><i>David Cooper</i></u>
Date	<u>April 27, 2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Christopher M. Seck</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan, LLP</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>Apr. 27, 2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

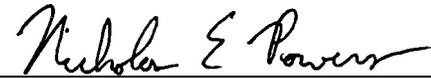
Name	<u>David Chardack</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan, LLP</u>
Title	<u>Law Clerk</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>4/29/2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

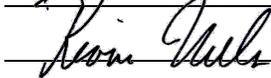
Name	<u>Nicholas Powers</u>
Firm	<u>The Brattle Group</u>
Title	<u>Principal</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>April 27, 2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Kevin Neels</u>
Firm	<u>The Brattle Group</u>
Title	<u>Principal</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>April 27, 2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>James Banovetz</u>
Firm	<u>The Brattle Group</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u><i>YMB III</i></u>
Date	<u>4/27/2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Findley Bowie</u>
Firm	<u>The Brattle Group</u>
Title	<u>Senior Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u><i>C. Findley Bowie AAA</i></u>
Date	<u>4/27/2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Eli LoCicero</u>
Firm	<u>The Brattle Group</u>
Title	<u>Associate</u>
Representing	<u>United Parcel Service</u>
Signature	<u>Eli LoCicero</u>
Date	<u>4-27-2022</u>

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2022-3 (City Carrier) has been authorized by the Commission, for use in the same docket. The cover or label of the copy obtained is marked with my name.

I certify that I have read and understand the protective conditions statement and this certification to comply with protective conditions. I certify that I am eligible to receive access to materials because I am not involved in competitive decision-making for any individual or entity that might gain competitive advantage from using these materials. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Lauren Shea Peretz</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Analyst</u>
Representing	<u>United Parcel Service</u>
Signature	<u><i>Lauren Shea Peretz</i></u>
Date	<u>4/28/22</u>