



July 1, 2022

Hon. Erica A. Barker, Secretary
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Dear Ms. Barker:

Pursuant to the Postal Regulatory Commission's Periodic Report Rule 3050.60(e)¹, I am submitting the following materials today:

- 1) Summary Description of USPS Development of Costs by Segments and Components, Fiscal Year 2021²;
- 2) Narrative Explanation of Econometric Demand Equations for Market Dominant Products Filed with Postal Regulatory Commission on January 21, 2022; and
- 3) Narrative Explanation of Econometric Demand Equations for Competitive Products Filed with Postal Regulatory Commission on January 21, 2022
(Non-Public).³

I have uploaded items (1) and (2) to the Public Periodic Reports folder on the United States Postal Service Secure External Large File Sharing (ELFS) Sharepoint Online.⁴ Items (1) and (2) may be made available to the public and posted on the Commission's public website.

I have uploaded an electronic copy of item (3) to the Non-Public Periodic Reports folder on USPS ELFS. The Postal Service believes that item (3) consists of commercial information that would not be disclosed under good business practices, and that it is exempt from mandatory disclosure, pursuant to

¹ This rule requires a "[s]uccinct narrative explanations of how the estimates in the most recent Annual Compliance Determination were calculated and the reasons that particular analytical principles were followed."

² As in past years, item (1) provides the information that was provided commonly in Library Reference 1 filed in previous omnibus rate cases.

³ As discussed in Commission Order No. 203, items (2) and (3) provide narrative explanations pertaining to the Postal Service's estimates of demand for its Market Dominant (item 2) and Competitive products (item 3). Notice of Final Rule Prescribing Form and Content of Periodic Reports, Order No. 203, Docket No. RM2008-4, at 39-40 (Apr. 16, 2009).

⁴ Please note that item (1) consists of 29 sub-files.

5 U.S.C. § 552(b)(3) and 39 U.S.C. § 410(c)(2). Accordingly, I have enclosed Attachment 1, "Application of the United States Postal Service for Non-Public Treatment of Materials."

Please do not hesitate to contact me if you have any questions.

Best regards,

/s/

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**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 explanatory materials, filed under seal today with the Commission, regarding the demand analysis and forecasting materials for competitive products filed with the Commission on January 21, 2022. Corresponding explanatory materials regarding the demand analysis and forecasting materials for market dominant products is being filed publicly.

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 under good business practice would not be publicly disclosed. 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) 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

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

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Commission to support its determination that these materials are exempt from public disclosure and grant its 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 and believes that no third parties have a proprietary interest in these materials. The Postal Service designates Jacob D. Howley, Acting Chief Counsel, 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. Howley's email address is Jacob.D.Howley@usps.gov, and his telephone number is 202-268-8917.

(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 this application, the Postal Service has filed two documents, one public, containing material explaining the Postal Service's demand equations and forecasts for market dominant products, and one nonpublic, containing comparable material explaining the Postal Service's demand equations and forecasts for competitive products. Thus, for example, the public material contains the elasticities calculated by the Postal Service for each of its market dominant products, while the non-public material contains the elasticities calculated by the Postal Service for each of its

² 39 C.F.R § 3011.200 provides that any person that has a proprietary interest in the information contained in the non-public materials may address any confidentiality concerns directly with the Commission.

competitive products. Examination of the public material would therefore allow one to thoroughly evaluate the basis for the nonpublic treatment of the nonpublic materials.

(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 that the Postal Service has 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 commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use estimated elasticities to analyze the Postal Service's possible market strengths and weaknesses and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Disclosure of this information would also undermine the Postal Service's position in negotiating favorable terms with potential customers, who would be able to ascertain critical demand information about relevant products (e.g., does the Postal Service consider the product to be price elastic; does the Postal Service expect demand for the product to be expanding or contracting). More broadly, interested parties could gain, at no effort or expense to themselves, valuable analytic information about how the Postal Service evaluates market demand, and structure their strategic behavior accordingly. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the material filed under seal.

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

Harm: Competitors could use elasticity information to alter their pricing strategies for products competing with Postal Service products, to the Postal Service's detriment.

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Hypothetical: Elasticity information for competitive products is released to the public. A competitor delivery service analyzes the information and determines that lowering the prices for a particular product that competes with a Postal Service product will lead to a profitable level of volume shifting to the competitor. The competitor prices the product accordingly, taking market share from the Postal Service.

Harm: Customers or competitors could use estimated price elasticities to guide their positions in NSA negotiations or price setting.

Hypothetical: Demand analysis and forecasting material for competitive products is released to the public. A customer preparing to negotiate an NSA with the Postal Service recognizes that the Postal Service considers demand for the product in question to be elastic (i.e., above unitary elasticity). On that basis, the customer pushes for deeper discounts than otherwise might seem achievable. The resulting lower rates generate less contribution from the NSA. Alternatively, a competitor could examine the cross-price elasticities and, in determining how to set its own annual price adjustments, could put a relatively larger share of the price increase on its product with the lower cross-price elasticity, and a relatively smaller share on its product with the higher cross-price elasticity. As a result, the Postal Service achieves less volume and revenue growth than it might have otherwise.

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

The Postal Service maintains that the portions of the materials filed non-publicly and relating to competitive products should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products (including private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or

potential customers of the Postal Service for these or similar products should not be provided access to the nonpublic 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). The Postal Service believes that the ten-year period of non-public treatment is sufficient to protect its interests with regard to the information it has determined should be withheld due to commercial sensitivity.

(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.