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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. R2000-1/114

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes

Docket No. R2000-1

PRESIDING OFFICER'S RULING GRANTING
UNCONTESTED MOTION FOR PROTECTIVE CONDITIONS

(Issued August 11, 2000)

On August 9, 2000, the Postal Service filed an uncontested motion to establish protective conditions for a library reference, designated LR-I-432, to be filed August 14, 2000, along with the Postal Service's rebuttal testimony to witness Nelson, who appeared on behalf of Magazine Publishers of America, Inc. (MPA) *et al.*¹ The Postal Service explains that in his analysis witness Nelson used material, deemed proprietary by the software providers, which was omitted from the documentation supporting his testimony.² The Postal Service purchased that software, thereby gaining access to the material.

The Postal Service indicates that as part of its rebuttal case it intends to submit testimony based on an analysis using the same proprietary information. The Postal Service states that "[i]t would seem appropriate to make that analysis available to the Commission and any other interested parties."³ To expedite access to this material, the

¹ Uncontested Motion of the United States Postal Service for Protective Conditions for a Library Reference that Will Accompany Testimony Rebutting MPA Witness Nelson, August 9, 2000 (Motion).

² The Postal Service indicates that the material concerned highway mileage for specific origin-destination pairs.

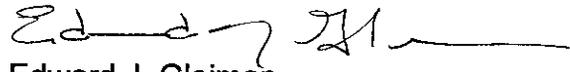
³ Motion at 1. While the term "parties" is used in the motion, access extends to "participants" as specifically permitted under prior rulings, including that suggested by the Postal Service as appropriate in this instance.

Postal Service requests that protective conditions be established prior to the filing of its rebuttal case August 14, 2000. To that end, the Postal Service suggests that the protective conditions established in Presiding Officer's Ruling No. R2000-1/55, April 25, 2000, would be appropriate. Finally, the Postal Service indicates that counsel for MPA and United Parcel Service have been consulted and that neither party opposes the motion.

The Postal Service's request is reasonable and its motion is granted. As a convenience to the participants, the applicable protective conditions are appended as Attachment A.

RULING

1. The Uncontested Motion of the United States Postal Service for Protective Conditions for a Library Reference that Will Accompany Testimony Rebutting MPA Witness Nelson, filed August 9, 2000, is granted.
2. The library reference designated LR-I-432, which the Postal Service indicates will be filed August 14, 2000 as part of its rebuttal case, is subject to the protective conditions specified in Attachment A.


Edward J. Gleiman
Presiding Officer

**STATEMENT OF COMPLIANCE
WITH PROTECTIVE CONDITIONS**

The following protective conditions limit access to materials provided in Docket No. R2000-1 by the Postal Service in response to Presiding Officer Ruling No. R2000-1/114 (hereinafter, "these materials"). Individuals seeking to obtain access to such material must agree to comply with these conditions, complete the attached certifications, provide the completed certifications to the Commission, and serve them upon counsel for the party submitting the confidential material.

1. Only a person who is either:
 - (a) an employee of the Postal Rate Commission (including the Office of the Consumer Advocate) with a need-to-know; or
 - (b) a participant in Postal Rate Commission Docket No. R2000-1; or a person employed by such participant, or acting as agent, consultant, contractor, affiliated person, or other representative of such participant for purposes related to the litigation of Docket No. R2000-1; shall be granted access to these materials. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information 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 a person or entity having a proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. The final date of any participant's access shall be:
 - (a) the date on which the Postal Rate Commission issues its recommended decision or otherwise closes Docket No. R2000-1; or
 - (b) the date on which that participant formally withdraws from Docket No. R2000-1; or

- (c) the last date on which the person who obtains access is under contract or retained or otherwise affiliated with the Docket No. R2000-1 participant on whose behalf that person obtains access, whichever comes first. The participant immediately shall notify the Postal Rate Commission and counsel for the party who provided the protected material of the termination of any such business and consulting arrangement or retainer or affiliation that occurs before the closing of the evidentiary record.
4. Immediately after the Commission issues its last recommended decision in Docket No. R2000-1, a participant (and any person working on behalf of that participant) who has obtained a copy of these materials shall certify to the Commission:
 - (a) that the copy was maintained in accordance with these conditions (or others established by the Commission); and
 - (b) that the copy (and any duplicates) either have been destroyed or returned to the Commission.
5. The duties of any persons obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
6. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document 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.
7. These conditions shall apply to any revised, amended, or supplemental versions of materials provided in Docket No. R2000-1.
8. The duty of nondisclosure of anyone obtaining access to these materials is continuing, terminable only by specific order of the Commission.
9. Any Docket No. R2000-1 participant or other person seeking access to these materials by requesting access, consents to these or such other conditions as the Commission may approve.

CERTIFICATION

The undersigned represents that:

Access to materials provided in Docket No. R2000-1 by the Postal Service in response to Presiding Officer Ruling Nos. R2000-1/114 (hereinafter, "these materials") has been authorized by the Commission.

The cover or label of the copy obtained is marked with my name.

I agree to use the information only for purposes of analyzing matters at issue in Docket No. R2000-1.

I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain in strict confidence these materials in accordance with all of the protective conditions set out above.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

**CERTIFICATION UPON RETURN OF
PROTECTED MATERIALS**

Pursuant to the Certification which I previously filed with the Commission regarding information provided in Docket No. R2000-1 by the Postal Service in response to Presiding Officer Ruling Nos. R2000-1/114 (hereinafter, "these materials"), received on behalf of myself and/or the party which I represent (as indicated below), I now affirm as follows:

1. I have remained eligible to receive access to materials under paragraph 1 of the protective conditions throughout the period those materials have been in my possession. Further, I have complied with all conditions, and have maintained these materials in strict confidence in accordance with all of the protective conditions set out above.
2. I have used the information only for purposes of analyzing matters at issue in Docket No. R2000-1.
3. I have returned the information to the Postal Rate Commission.
4. I have either surrendered to the Postal Rate Commission or destroyed all copies of the information that I obtained or that have been made from that information.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____