

PRESIDING OFFICER'S
RULING NO. C2009-1/2

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Complaint of GameFly, Inc.

Docket No. C2009-1

PRESIDING OFFICER'S RULING
CERTIFYING JOINT MOTION FOR ESTABLISHING PROTECTIVE CONDITIONS
TO THE COMMISSION

(Issued August 21, 2009)

On July 22, 2009, GameFly, Inc. and the United States Postal Service filed a joint motion that concerns discovery issues related to protective conditions for information that a party asserts is confidential.¹ The Joint Motion requests the Commission's approval of a stipulation of "Protective Conditions in Docket No. C2009-1" (Stipulation).

The Stipulation proposes a set of "rules concerning access to, and use of, information that is designated by a party as confidential in this proceeding." Joint Motion at 1. Granting the Joint Motion without qualification would have a two-fold effect: (i) it would control the parties' relationship with each other; and (ii) it would control the parties' relationships with the Commission, and potentially conflict with the Commission's new confidentiality rules.²

¹ Joint Motion of the United States Postal Service and GameFly, Inc. for the Establishment of Protective Conditions, July 22, 2009 (Joint Motion).

² 39 CFR 3007.1 *et seq.* These rules were adopted under Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, June 19, 2009.

A ruling on this Joint Motion potentially may affect the due process afforded one or more parties, the treatment of information a party claims is confidential, and have a material impact on the ultimate termination of this proceeding. See 39 CFR 3001.32(b). Because of the importance of this matter, I certify this Joint Motion to the full Commission for consideration pursuant to my discretionary authority provided by 39 CFR 3001.23(a)(8).

RULING

The Joint Motion of the United States Postal Service and GameFly, Inc., for the Establishment of Protective Conditions, filed July 22, 2009, is certified to the Commission for its consideration and disposition.

Dan G. Blair
Presiding Officer