

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

COMPLAINT OF GAMEFLY, INC.

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Docket No. C2009-1

**APPLICATION OF GAMEFLY, INC.,  
FOR NON-PUBLIC TREATMENT OF  
FOURTH DISCOVERY REQUESTS  
(September 18, 2009)**

Pursuant to Rule 3007.22, 39 C.F.R. § 3007.22, GameFly, Inc. ("GameFly") applies for nonpublic treatment of GameFly's Fourth Discovery Requests (GFL/USPS-103 through 169), which GameFly is filing under seal with the Commission today. GameFly is also separately filing a redacted version of the discovery requests electronically on the Commission's website.

The material that GameFly is filing under seal consists of interrogatories and document requests that follow up on documents that the Postal Service has produced in response to GameFly's initial discovery requests. The Postal Service has designated all of those documents as confidential under the protective conditions in this case. After reviewing the documents, GameFly believes that few if any of them satisfy the standards for protection established by the Commission in Order No. 225.

GameFly does not believe, however, that it is entitled to unseal the documents—or refer to their contents in a public filing—until the entities referred to in the documents have an opportunity to be heard. GameFly will file a motion under Rule 3007.31 early next week to unseal documents, and will work with the Postal Service to make sure that

interested third parties such as Netflix and Blockbuster receive notice of the motion so that they may respond as they believe necessary to protect their interests. Once the Commission has determined the extent to which the documents shall be unsealed, GameFly will file a revised public version of its discovery requests. In the interim, GameFly believes that the portions of GameFly's discovery requests that refer to the documents marked as confidential by the Postal Service should remain under seal.

### **CONCLUSION**

For the reasons stated above, GameFly respectfully submits this Application under Rule 3007.22 to file the non-redacted version of its Fourth Discovery Requests under seal.

Respectfully submitted,

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September 18, 2009