

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

COMPETITIVE PRODUCTS PRICE CHANGES
RATES OF GENERAL APPLICABILITY

Docket No. CP2010-8

**NOTICE OF THE UNITED STATES POSTAL SERVICE
OF FILING RESPONSES TO CHAIRMAN'S
INFORMATION REQUEST NO. 1 UNDER SEAL**
(November 25, 2009)

The United States Postal Service hereby provides notice of filing its responses to Chairman's Information Request (CHIR) No. 1, under seal. CHIR No. 1 was issued on November 19, 2009, and responses were due by November 25, 2009. The Postal Service is concurrently filing redacted versions of these responses. An Application for Non-Public Treatment of these materials is attached.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials consist of: 1) a spreadsheet that contains calculations to demonstrate the derivation of the “Volume Distribution” and “Commercial Split” percentages, in response to Chairman’s Information Request (CHIR) No. 1, Question 2; and 2) some data referenced in other Postal Service responses to CHIR No. 1, that relate to other spreadsheets that the Postal Service previously filed under seal.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

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).² 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 PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

² 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. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

The Postal Service believes that no third parties have a proprietary interest in the redacted materials.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

In connection with this application, the Postal Service has filed: 1) a spreadsheet that contains calculations to demonstrate the derivation of the "Volume Distribution" and "Commercial Split" percentages, in response to Chairman's Information Request (CHIR) No. 1, Question 2; and 2) additional responses to CHIR No. 1, which contain commercially sensitive data that relate to other spreadsheets that the Postal Service has previously filed under seal in this docket.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the information that the Postal Service 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 the disaggregated volume information to analyze the Postal Service's possible market

strengths and weaknesses and to focus sales and marketing efforts on those rate cells where the Postal Service has considerable traffic, to the detriment of the Postal Service.

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

Harm: Competitors could use disaggregated product volume distribution information to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.

Hypothetical: Disaggregated volume information is released to the public. Another delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor assesses the lucrateness of certain services by the Postal Service's relative concentration in certain service offerings. The competitor then targets its advertising and sales efforts at actual or potential customers in market segments where the Postal Service appears to have made headway, hindering the Postal Service's ability to reach out effectively to these customers.

(6) The extent of protection from public disclosure deemed 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 non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

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 the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. 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 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.