

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Investigation of Suspended Post Offices)
) Docket No. PI2010-1
)

**OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO THE MOTION
FOR ORDER DIRECTING THE POSTAL SERVICE TO SHOW CAUSE WHY
EXHIBIT F AND EXHIBIT H TO THE INITIAL COMMENTS OF THE PUBLIC
REPRESENTATIVES SHOULD NOT BE MADE PUBLIC**
(March 24, 2010)

On March 17, 2010, the Public Representative assigned to PRC Docket No. PI2010-1 filed a motion requesting that the Commission unseal information made available by the Postal Service subject to a confidentiality agreement (the “Motion”). See Motion for Order Directing the Postal Service to Show Cause Why Exhibit F and Exhibit H to the Initial Comments of the Public Representatives[sic] Should Not Be Made Public (March 17, 2010). The information at issue concerns the area, district, name, state, ZIP Code, suspension date, justification, number of customers, alternate service, and 90-day plan of action for Post Offices whose operations were suspended due to lease termination; this information is referred to herein as the “suspended postal facility information.” The Postal Service Opposition explains why information regarding the number of customers served by a particular postal facility (“customer counts”) should remain under seal.¹ However, the Postal Service

¹ Although the Public Representative’s motion requests a show cause order, this Opposition treats it as a motion to unseal content pursuant to Rule 3007.31. Hence there is no need for the Commission to issue the requested order. This Opposition and the accompanying Application for Non-Public Treatment provide the information that might be required by a show cause order, so this matter will be ripe for Commission review without additional procedural steps.

does not contest public release of the remaining suspended postal facility information (in this instance).

The Postal Service provided the Public Representative with the suspended postal facility information only after the Public Representative consented to keeping the materials confidential. The Public Representative now seeks to remove the veil of confidentiality.

The Postal Service generally affords customer-specific and facility-specific information confidential treatment because the law often requires such care and because business imperatives and mail security considerations dictate the same treatment. The Commission has often shared this view for many of the same reasons, including the recognition that expert observers may use facility-specific mail volume information to make inferences regarding the source of mail.

All of the suspended postal facility information put at issue by the Public Representative's motion is facility-specific. Moreover what is not evident on the surface is that the customer counts largely consist of Post Office box customers. A Post Office whose operations are suspended pursuant to a lease termination typically has no carrier routes when suspension occurs. Customers on routes transferred prior to suspension would receive materials pertinent to any discontinuance study that might follow, but they would not be counted actively as customers at the time of suspension. And as documented most recently in the Postal Service direct case and cross-examination of its witnesses in PRC Docket No. N2009-1 (SBOC), retail customers may similarly receive such materials, but they also would not be counted as customers at the time of suspension. This is

why the counts of customers in the suspended postal facility information generally consist only of Post Office Box customers.

With good reason, the Postal Service considers the counts of Post Office box customers in a particular facility to be confidential, commercially sensitive information. This was most recently confirmed by the Request² to transfer a portion of Post Office box service to become a competitive product wherein the Postal Service asserts a commercial, proprietary interest in its counts of box customers, since these customers are vulnerable to poaching by commercial providers of mailbox services. For example, a competitor could use this information to identify the areas most vulnerable to competition in the private mailbox market, and then enter the market and capture Postal Service customers. The resulting commercial harm to the Postal Service far outweighs any public interest in disclosure of customer counts. Accordingly, the Postal Service respectfully requests that the Commission deny the Motion as to customer counts.

I. Public Disclosure of Information Concerning the Number of Customers Served by a Postal Facility Would Cause Commercial Harm to the Postal Service.

The Postal Service requests that counts of customers remain under seal because public disclosure of this information is likely to cause commercial harm to the Postal Service. The Postal Service faces competition for many of its products and services, and competitors could use such information to gain a competitive advantage over the Postal Service in many markets, including the market for mailbox services. This could result in a loss of customers. A more

² Request of the United States Postal Service (March 12, 2010).

detailed discussion of the likely competitive harm to the Postal Service appears in the Application of the United States Postal Service for Non-Public Treatment of Materials, filed concurrently with this Opposition.

The Public Representative's Motion does not provide an accurate assessment of the consequences likely to arise from public disclosure of customer counts. The Motion alleges that disclosure could cause no commercial harm to the Postal Service because "some of these [P]ost [O]ffices have already been suspended for years," and "any competitive harm from the suspension would have already occurred." But this reasoning fails to address recently suspended postal facilities and does not recognize the competitive value of information about customers. After the suspension of a postal facility, neighboring postal facilities capture many postal customers who previously received services from a suspended postal facility, and overall the Postal Service has a minimal loss of customers due to a suspension. However, if the Motion succeeds and Postal Service competitors gain access to customer counts, these competitors will enter some markets previously served by a suspended postal facility and capture Postal Service customers. Thus, the unsealing of customer counts will cause commercial harm to the Postal Service.

II. Information Concerning the Number of Customers Served by a Postal Facility is Confidential.

The Postal Service has maintained the confidentiality of customer counts. But where a party requested this information for use in furtherance of the public interest, the Postal Service has provided the information subject to a confidentiality agreement. For example, the Postal Service provided customer

information to the Public Representative for use in this docket, and the Public Representative has used this information in preparing materials for this docket. It appears that the Public Representative does not dispute the confidentiality of customer counts, as it limits its argument to alleging a lack of commercial harm. See Motion at pgs. 5-6 (addressing each category of information provided by Postal Service and asserting that other categories of information, but not customer counts, contain public information).

Conclusion

Information concerning the number of customers served by a particular postal facility is confidential, especially under the circumstances applicable here, and should remain under seal. It is likely that public disclosure of this information will cause commercial harm to the Postal Service.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux
Chief Counsel
Pricing and Product Support

Kenneth N. Hollies
James M. Mecone