

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

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

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

(March 24, 2010)

In accordance with 39 C.F.R. § 3007.21 and Order No. 225¹, the United States Postal Service (Postal Service) applies for non-public treatment of certain materials filed under seal with the Commission. The materials consist of information concerning the number of customers served by particular suspended postal facilities. Exhibit F to the Public Representative's 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 Public contains this information.

(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)

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

and (4).² Because the portions of the materials that the Postal Service applies to file under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials qualify as 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 does not believe that any third party has a proprietary interest in these 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;

The non-public material includes the number of customers served by each postal facility identified as suspended consequent to a lease termination. In such circumstances, most of the customer counts will consist exclusively of Post Office box customers. The Postal Service maintains that the non-public portions of these materials should remain confidential.

The Excel document filed under seal displays the data which may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). This facility-specific information is commercially sensitive.

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.

(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 protect from disclosure due to its commercially sensitive nature was disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. Revealing the number of customers served by a particular postal facility, in particular the number of Post Office box customers, would enable competitors to focus marketing efforts on particular Postal Service locations with many potential customers for the competitor. The Postal Service considers it highly probable that, if this information were made public, the Postal Service's competitors would take immediate advantage of it.

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

Harm: Revealing facility-specific customer counts, knowing most are Post Office box customers, would enable competitors to target the location for sales and marketing purposes.

Hypothetical: Facility-specific customer counts at a particular location are revealed to the public. A nearby private mailbox provider reviews the information, and determines that a suspension will affect enough potential customers at the postal location to justify an advertising campaign. The private company directs advertising for its mailbox service to the postal customers, perhaps using a billboard near the postal location and offering to match postal prices for a three-month trial.

(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 should be withheld from persons involved in competitive decision-making in relevant markets, including the market for Post Office box service, as well as their consultants and attorneys.

(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 this application for non-public treatment of the identified materials.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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