

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Tony L. Hammond, Vice Chairman;
Mark Acton;
Dan G. Blair; and
Nanci E. Langley

Transferring Selected Post Office Box Service
Locations to the Competitive Product List

Docket No. MC2010-20

ORDER DENYING MOTION TO
UNSEAL POSTAL SERVICE DATA

(Issued April 21, 2010)

I. INTRODUCTION

David B. Popkin (Popkin) moves to unseal data concerning the number of post office boxes rented and total annual revenues associated with those boxes.¹ In support, Popkin argues that the data he seeks to unseal are or have been publicly available. *Id.* at 1. Among other things, he contends that the Postal Service's website indicates box size and availability for rental at all facilities, and that local offices have been directed to put rental stickers on boxes that are available. Based on the latter, he concludes that the public could "visit the facility and determine the number of boxes in

¹ David B. Popkin Motion, March 25, 2010 (Motion); see also Notice of the United States Postal Service of Filing of USPS-MC2010-20/NP1, March 12, 2010.

use.” *Id.* Additionally, Popkin asserts that another publicly available website provides post office box usage and data at no cost. *Id.* at 2.

Popkin claims his need to have the redacted materials made public is necessary to determine the level of potential competition based on the number and size of rented boxes. *Id.* He also contends that the distribution of certain sizes of post office boxes is relevant to determine if boxes of a certain size should be excluded from the instant proceedings.

Postal Service Response. The Postal Service opposes Popkin’s request to make the redacted material public.² It contests Popkin’s claim that the data are publicly available, stating that its website shows the availability but not the number of boxes available. Further, the Postal Service asserts that its website does not indicate the number of boxes rented or associated revenue for any location. The Postal Service also states that “Please Rent Me” stickers are not typically used on all available boxes. *Id.* at 1. The Postal Service also notes that Popkin can obtain full access to the non-public materials if he agrees to comply with the relevant protective conditions. *Id.*

II. DISCUSSION

In considering Popkin’s motion, the Commission must “balance the nature and extent of the likely commercial injury identified by the Postal Service against the public interest in maintaining the financial transparency of a government entity competing in commercial markets.” 39 CFR 3007.33. In its application for non-public treatment, the Postal Service contends that if the information on box usage and box revenue is made public competitors could target those markets to the Postal Service’s detriment.³ Popkin does not challenge the Postal Service’s contention, but rather argues that the data he seeks are (or have been) available publicly, and that there is a need for the data. His claims are not persuasive.

² Opposition of the United States Postal Service to Motion of David B. Popkin, April 1, 2010.

³ Request of the United States Postal Service, March 12, 2010.

First, Popkin contends that information is or has been publicly available. The Commission's review of the sources cited by Popkin do not support that claim. The Commission is unable to verify the accuracy of Popkin's assertions that the information sought is publicly available.⁴ Moreover, even if some portion of the information may be gleaned from various public websites, there is no comprehensive data publicly available similar to the data Popkin requests be made public.

Second, Popkin's arguments concerning a need for the data appear to concede the point that the information he seeks is commercially sensitive. For example, he argues that "the percentage of boxes rented at a given facility is related to the level of potential competition." Motion at 2. Moreover, implicitly Popkin equates need for the data with making such information public. The two are not synonymous. Pursuant to appropriate protective conditions, Popkin may review the data. However, he has not demonstrated that the information sought should be made public. Accordingly, for these reasons, the Motion is denied.

It is Ordered:

The David B. Popkin Motion, filed March 25, 2010, is denied.

By the Commission.

Shoshana M. Grove
Secretary

⁴ The Commission's search of the information on the Postal Service website resulted in only being able to access the availability of specific post office box sizes at a given location.