Postal Regulatory Commission
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UNITED STATES POSTAL SERVICE

May 3, 2010

Honorable Shoshana Grove
Secretary
Postal Regulatory Commission
901 New York Avenue, NW, Suite 200
Washington, DC 20268-0001

Dear Ms. Grove:

Pursuant to 39 U.S.C. § 407(d)(2), the U.S. Postal Service (Postal Service) is providing a copy of the enclosed instrument concerning EMS service between the Vietnam Post Express Joint Stock Company ("Vietnam Post") and the Postal Service. The Postal Service has marked the non-public version of the document as "Confidential" and "Non-Public" because the document contains information considered confidential and commercially sensitive by the affected postal operator and the Postal Service. The Postal Service considers certain portions of the document to be protected by 39 U.S.C. § 410(c)(2) and thereby not subject to mandatory disclosure under the Freedom of Information Act (FOIA). Further, the document contains the commercial information of the affected postal operator, and as such, certain portions of the instrument are subject to protection under Exemption 4 of the FOIA. Consequently, we have attached an application for non-public treatment of the document under 39 C.F.R. § 3007.21. In addition, we respectfully request that the Postal Regulatory Commission coordinate with us in the event that the document becomes subject to a FOIA request, so that we can engage in appropriate consultations with the affected postal operator.

Please feel free to contact me if further information would be helpful.

Sincerely,

Anthony F. Alverno
Chief Counsel, Global Business

Enclosure

475 L'ENFANT PLAZA SW
WASHINGTON, DC 20260-1137
WWW.USPS.COM

Pay-for-performance Partners' Agreement Form

EMS Operators entering the agreement:

United States Postal Service, USA

Vietnam Post

Date of Implementation: 01.01.2010.

Year/ Quarter	% delivery charge paid for penalized items below threshold	Threshold
2010 onwards	[redacted]	[redacted]

I, as a representative of United States Postal Service, hereby agree that my Administration will participate in the EMS Pay-for-performance Plan under the above-stated conditions.

Signature: Lea Emerson

Date: April 8, 2010

Please return to the EMS Unit:
International Bureau of the UPU
EMS Unit
Case postale
3000 Berne 15
Switzerland
FAX: + 41 31 351 52 00
E-mail: EMSUnit@upu.int

PAY FOR PERFORMANCE PARTNERS' AGREEMENT FORM

EMS Operators entering into this agreement:

Vietnam

USPS

Date of Implementation:

01st January 2010

Year/Quarter	% Delivery charge paid for items below threshold	Threshold
2010/Quarter 1	[redacted]	[redacted]

I, as a representative of Vietnam Post Express, hereby agree that my administration will participate in the EMS Pay-for-Performance Plan under the above-stated conditions.

Signature:

Dang Thi Bich Hoa (Mdm)
CEO & General Director
Vietnam Post Express JSC

Head office: No 1, Tan xuan, Xuan dinh, Tu liem, Hanoi, Vietnam
Telephone : 84 - 4 - 7575577 Fax : 84 - 4 – 7576144 Email : nghiepvu@ems.com.vn

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 the enclosed instrument concerning Express Mail Service (EMS) service. The Postal Service is transmitting this document to the Postal Regulatory Commission (Commission) in accordance with 39 U.S.C. § 407(d). A redacted version of the aforementioned document is enclosed with the instant transmittal. The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(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);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). 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).[2] Because the

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

[2] 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

portions of materials filed non-publicly 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 are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and e-mail 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;

In the case of documents such as the one transmitted here, the Postal Service believes that the postal operator that has signed the document is the only third party with a proprietary interest in the materials. Due to language differences, cultural sensitivities, and the intricacies of the Postal Service's relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operator.[3] The Postal Service identifies as an appropriate contact person Brian Hutchins, Manager, International Postal Relations. Mr. Hutchins' phone number is (703) 292-3591, and his email address is brian.hutchins@usps.gov. The Postal Service has already informed the postal operator, in compliance with 39 C.F.R. § 3007.20(b), about the nature and scope of this filing and about the postal operator's ability to address any confidentiality concerns directly with the Commission.

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a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

[3] The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's response might be construed as beyond the scope of this exception, the Postal Service respectfully requests a waiver that would allow it to designate a Postal Service employee as the contact person under these circumstances, in light of the practical considerations outlined herein.

(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;

As required by 39 U.S.C. § 407(d), the Postal Service is transmitting a document concerning EMS service with a foreign postal operator that is an agency of a foreign government. The document transmitted consists of a letter that defines the terms on which the Postal Service and the relevant operator exchange Express Mail Service (EMS) items under the EMS Cooperative Pay-for-performance Plan, including delivery performance thresholds. The Postal Service maintains that the redacted portions of the document should remain confidential.

(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 that it is 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 information to assess the offers and representations made to customers by the Postal Service and other EMS providers that partner with the Postal Service for any possible comparative vulnerabilities and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service and other EMS providers. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

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

Harm: Competitors could use performance thresholds to assess vulnerabilities and focus sales and marketing efforts to the postal operators' detriment.

Hypothetical: The information about EMS performance thresholds in the document is released to the public. Another expedited delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor then uses the postal performance level as a concrete comparison point, advertising itself to potential customers as offering performance better than the postal operators engaged in the exchange of EMS.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including private sector integrators), as well as their consultants and attorneys. Additionally, the Postal Service believes that, except for foreign postal operators that already have access to this information, actual or potential customers of the Postal Service for products related to inbound EMS and Outbound Express Mail International, 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.

(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.