

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

SIX-DAY TO FIVE DAY STREET DELIVERY
AND RELATED SERVICE CHANGES, 2010

Docket No. N2010-1

NOTICE OF THE UNITED STATES POSTAL SERVICE
OF FILING LIBRARY REFERENCE USPS-LR-N2010-1/NP9
(July 9, 2010)

The Postal Service hereby gives notice of the filing of the material indicated below as part of the **Non-Public Annex** in this proceeding:

USPS-LR-N2010-1/NP9

Materials Filed Under Seal in Response to
Chairman's Information Request No. 6,
Question 7 (Neri)

As indicated, this Category 2 library reference relates to Question 7 of Chairman's Information Request No. 6, in which the Commission seeks data that supplement and support the data provided in USPS-LR-N2010-1/5. An application for non-public treatment of Library Reference NP9 is attached to this Notice.

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 sought to be protected comprise USPS-LR-N2010-1/NP9 and consist of facility-specific daily MODS volumes and workhours data extending from Fiscal Year 2006 through Fiscal Year 2009. Given the significant size of the requested database, it was not technically feasible for the Postal Service to remove the facility identifiers used in the data and replace them with encrypted identifiers that match the identifiers used in USPS-LR-2010-1/5 within the deadline for responding to Chairman's Information Request No. 6. Once the Postal Service completes the process of replacing the facility identifiers used in the material with encrypted identifiers, it will file a public version of the materials.

(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 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.

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

§ 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).² Because the materials that the Postal Service is applying 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 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;

None.

(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 USPS-LR-N2010-1/5, Postal Service witness Neri provided data demonstrating the calculation of the net savings in mail processing workhours for a 5-day delivery environment. USPS-LR-N2010-1/NP9, the material claimed to be non-public, provides daily MODS volumes and workhours extending from Fiscal Year 2006 through Fiscal Year 2009 for the same operations at the same sites used in USPS-LR-N2010-1/5. Whereas the information in USPS-LR-N2010-1/5 identified sites with

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

encrypted identifiers, USPS-LR-N2010-1/NP9 identifies the sites with their names and finance numbers.

(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 has 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. When the data are associated with facility-specific identifiers, like the finance number, competitors could use the information to identify geographic locations where it would be profitable for such competitors to extend or build up their collection and processing networks. Vendors from whom the Postal Service purchases equipment could use the information to their advantage in negotiating equipment prices. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the material filed non-publicly.

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

Identified harm: Public disclosure of information contained in Library Reference USPS-LR-N2010-1/NP9 would help competitors capture portions of the Postal Service's market share, by facilitating the identification of geographic locations where it would be profitable for such competitors to extend or build up their collection and processing networks.

Hypothetical: Unlike the Postal Service, whose universal service obligation requires its collection and processing network to extend throughout the entire country, a parcel shipping company may have left portions of the country out of its network or underserved by its network. By analyzing the facility-specific daily volume data contained in USPS-LR-N2010-1/NP9, the company identifies geographic locations where, based on unexpectedly high mail volumes, it would be profitable for the company to extend or further build up its network. By taking these steps, the company is in a better position to compete with the Postal Service and capture portions of the Postal Service's market share of parcel shipping business.

Identified harm: Public disclosure of information in Library Reference USPS-LR-N2010-1/NP9 would weaken the Postal Service's bargaining power in negotiating prices for equipment from its vendors.

Hypothetical: A mail processing equipment manufacturer analyzes the facility-specific daily volume and workhours data contained in USPS-LR-N2010-1/NP9 to better understand the Postal Service's need for and uses of such manufacturer's equipment in particular facilities. The manufacturer uses this information to its advantage when negotiating the price at which it will sell its equipment to the Postal Service.

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

The Postal Service maintains that the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets, and from actual or potential vendors, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service should not be provided access to the nonpublic materials. Once the Postal

Service completes encryption of the finance numbers associating the data with specific facilities, it will file the encrypted material in public form, which should satisfy the needs of all interested parties.

(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 covered by this application.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed above, the Postal Service requests that the Commission grant its application for non-public treatment of the identified materials.