

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

In the Matter of:

University Station
Eugene, Oregon 97403
(Steven Shapiro, Petitioner)

Docket No. A2011-4

**UNITED STATES POSTAL SERVICE NOTICE OF FILING AND APPLICATION
FOR NON-PUBLIC STATUS**
(March 7, 2011)

On December 7, 2010, the Postal Service filed the Final Determination to Close the Eugene University, OR Classified Station and Continue to Provide Retail Service and Post Office Box Service Through the Eugene, OR Post Office.¹ On January 26, 2011, Eugene Area Local No. 679 of the American Postal Workers Union, AFL-CIO (the "Eugene Local") filed a motion to compel the Postal Service to file the complete administrative record,² and the Postal Service filed a reply to this motion on February 2, 2011.³ While ruling that its order "neither represents a ruling on the merits of the jurisdictional issue nor whether the discontinuance is subject to section 404(d)," the Commission granted the Eugene Local's motion to compel on March 2, 2011.⁴

The Postal Service maintains its position that it has no obligation to provide the complete administrative record because the Commission lacks

¹ Notice of United States Postal Service, PRC Docket No. A2011-4 (December 7, 2010).

² Eugene Area Local No. 679 of the American Postal Workers Union, AFL-CIO Motion to Compel and Revise Procedural Schedule, PRC Docket No. A2011-4 (January 26, 2011).

³ Reply of United States Postal Service in Response to Eugene Area Local No. 679 of the American Postal Workers Union, AFL-CIO Motion to Compel and Revise Procedural Schedule, PRC Docket No. A2011-4 (February 2, 2011) ("Postal Service Reply").

⁴ Order Granting Motion to Compel, PRC Docket No. A2011-4 (March 2, 2011).
Commissioner Blair dissented from the Order.

jurisdiction to hear Petitioner's appeal.⁵ But in the interest of resolving this matter, the Postal Service today files the complete administrative record.⁶ As set forth in its Application for Non-Public treatment, filed concurrently with this Notice as Attachment 1, the Postal Service files an unredacted version⁷ of the administrative record under seal to protect confidential information shielded by the Freedom of Information and Privacy Acts. This approach accordingly protects the personal information of postal customers.

The Eugene Local has identified no compelling justification for obtaining the complete administrative record. As explained by the Postal Service, the content of an administrative record, or whether an administrative record exists at all, has no bearing on whether the Commission has subject matter jurisdiction to hear an appeal of a station discontinuance.⁸ The Eugene Local does not articulate any particular reason why it needs access to the redacted information for purposes of this docket beyond its preference to that effect. Should the Eugene Local nonetheless seek access to the redacted information by agreeing to the Commission's own terms limiting the use and release of information filed

⁵ Because University Station is not a Post Office, Commission jurisdiction under 39 U.S.C. § 404(d) does not attach. In addition, the procedural requirements of 39 U.S.C. § 404(d) do not apply because the discontinuance of University Station does not qualify as a closure as envisioned by 39 U.S.C. § 404(d). See Notice of United States Postal Service (December 7, 2010); Postal Service Reply (February 2, 2011).

⁶ If, as the Postal Service argues, the Commission lacks subject matter jurisdiction to consider this matter under section 404(d), the Commission also may not examine the administrative record for purposes such as whether the notice to customers complied with the regulations or any of the other claims the Petitioner and other concerned customers articulate. Recognizing, however, that this case has drawn attention well beyond the bounds of this docket, and given the Commission's request that the administrative record be filed as a matter of "comity" (Order No. 688 at 3), the Postal Service has decided to respond affirmatively.

⁷ The Postal Service also intends to file a redacted version.

⁸ Postal Service Reply at 1.

under seal, the Postal Service has no objection to it doing so. In the alternative, the Eugene Local remains free to make any arguments it wishes using the information already in its (or its proxy's) possession.

Respectfully submitted,

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March 7, 2011

ATTACHMENT 1

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In the Matter of:

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(Steven Shapiro, Petitioner)

Docket No. A2011-4

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS
(March 7, 2011)

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) applies for non-public treatment of certain materials filed under seal with the Commission. The University Station Administrative Record includes financial and customer information related to operations at University Station 97403.

(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) and (4). Materials designated as non-public also include personally identifiable information that was redacted in conformity with the Postal Service's obligations under the Freedom of Information Act and the Privacy Act. Because the portions of the materials that the Postal Service applies to file under seal fall within the

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

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;

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(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 contains names, addresses, contact information, and other personal information of Postal Service customers, and income, costs, staffing, and other confidential information of the Postal Service. The Postal Service maintains that the non-public portions of these materials 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 seeks to protect from disclosure due to its confidential nature was disclosed publicly, the Postal Service considers it quite likely that both the Postal Service and its customers would suffer harm. The disclosure of the personal identifying information of its customers would expose these customers to an increased risk of identity theft and related crimes.

Moreover, the Postal Service—by means of filing these materials under seal with the Commission—divests itself of responsibility for the release of such personally identifying information. Revealing Postal Service financial information 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: Disclosing personal identifying information of Postal Service customers would expose these customers to an increased risk of identity theft and related crimes.

Hypothetical: A party uses the personal identifying information of Postal Service customers to steal a customer’s identity and open up credit cards and take out loans in the customer’s name. This has a negative impact on the customer’s credit status, and prevents the customer from engaging in financial transactions in the future.

Harm: Revealing facility-specific financial information would enable competitors to target the location for sales and marketing purposes.

Hypothetical: Facility-specific financial information at a particular location is revealed to the public. A nearby private mailbox provider reviews the information, and determines that a discontinuance 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 any persons who have not agreed to the Commission's standard confidentiality requirements.

(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 confidential information. The Postal Service has not made any parallel determination that the release of personally identifying information would be consistent with the FOIA or Privacy Acts, or that any such release could avoid damage to the fiscal or privacy interests of individuals identified by their personal information in the administrative record.

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

As the Commission learned during the course of PRC Docket N2009-1 (SBOC), a discontinuance study for a station or branch, such as the University Station of the Eugene, OR Post Office, is not undertaken pursuant to the

standards for a discontinuance study affecting an independent Post Office, wherein a formal proposal is posted for sixty days, with the underlying administrative record also then made available for inspection. In discontinuance studies subject to section 404(b), customers participating in or providing input for the discontinuance study's purposes are customarily advised that their input may become part of a public record, a fact which customers may want to consider as they craft their comments or other input. With respect to participants in a discontinuance study affecting a station or branch, such as University Station, however, study participants are not necessarily made aware that their input may become part of a public record. The Postal Service instead proceeds with an expectation that, consistent with obligations pursuant to 39 U.S.C. §412 and 5 U.S.C. § 552(b)(6), other federal agencies will also keep such information confidential.

Conclusion

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

Respectfully submitted,

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