

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

Before Commissioners:

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

Annual Compliance Report

Docket No. ACR2010

ORDER GRANTING MOTION TO UNSEAL RESPONSE TO CHAIRMAN'S
INFORMATION REQUEST NO. 4, QUESTION 27

(Issued March 28, 2011)

On March 9, 2011, the Public Representative filed a motion to unseal a list of suspended post offices, stations, and branches filed by the Postal Service under seal as library reference USPS-FY10-NP34.¹ The list was provided in response to Chairman's Information Request No. 4, question 27.² The Motion is granted. The Public Representative may re-file library reference USPS-FY10-NP34 as a public document.

The Postal Service did not file a responsive pleading to the Motion. See 39 CFR 3007.31(b).

¹ Public Representative Motion to Unseal Response to Chairman's Information Request Number 4, Question 27, March 9, 2011 (Motion).

² Response of the United States Postal Service to Question 27 of Chairman's Information Request No. 4, March 7, 2011 (Response).

In its response to CHIR No. 4, question 27, the Postal Service indicated that, despite its efforts, the “list may still contain errors.” Response at 2. It contends that the list should remain confidential, citing data quality problems, changes to its discontinuance process, and the possibility for public confusion. *Id.*

In addition, in its application for non-public treatment, the Postal Service contends that public disclosure may “complicate the deliberative process leading to changes in and development of future [retail facility] discontinuance procedures.”³ Application at 3. The Postal Service argues that public disclosure may lead to widespread public confusion concerning the status of the suspended retail facilities as occurred in connection with the release of the station and branch list in Docket No. N2009-1. *Id.* at 5. Finally, the Postal Service contends that disclosure would “enable competitors to target certain locations for sales and marketing and other competitive purposes.” *Id.* at 6.

The Public Representative notes that in Docket No. PI2010-1, the Postal Service filed a similar list of suspended post offices under seal. Motion at 1. In Docket No. PI2010-1, the Commission granted the Public Representative’s motion to unseal the suspended post office list.⁴ The Public Representative contends that “[n]one of the problems described by the Postal Service arose the last time such a list was made public.” Motion at 1.

The Public Representative also contends there is no basis for causing public confusion. *Id.* Suspended post offices are not open for service. Whereas, the Docket No. N2009-1 station and branch list included facilities that were open, but under consideration for discontinuance of service.

Commission analysis. The standard for issuing a decision on the termination of non-public status of material filed under seal is provided under 39 CFR 3007.33(a).

³ See Notice of the United States Postal Service of Filing of USPS-FY10-NP34, March 7, 2011 (Notice). Attached to the Notice is the Application of the United States Postal Service for Non-Public Treatment of Materials (Application).

⁴ Docket No. PI2010-1, Order on Motion to Show Cause, May 10, 2010 (Order No. 458).

In determining whether to publicly disclose non-public materials filed by the Postal Service, the Commission shall 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.

In this instance, the public interest in maintaining the financial transparency of a government entity outweighs any likely commercial injury that has been identified by the Postal Service. The customers of the retail facilities identified in library reference USPS-FY10-NP34 know that they are not receiving postal services from these post offices. This is not the same as in Docket No. N2009-1, where customers may have been anxious to know whether their community would retain a station or a branch and be able to continue access to postal services as they have in the past.

The Postal Service is not persuasive in arguing that public disclosure will hinder the development of future discontinuance procedures. Services at these facilities already are effectively discontinued. The development of future discontinuance procedures can only aid in resolving the status of these facilities.

The status of individual suspended post offices is already public. Arguably, competitors of the Postal Service have this information. Finally, a similar suspended post office list, including more extensive information on the status of each post office, was filed under seal in Docket No. PI2010-1. Pursuant to Order No. 458, the Commission authorized the list be made public.⁵

⁵ The Docket No. PI2010-1 suspended post office list also contained information which the Postal Service considered sensitive. Thus, Order No. 458 also addressed the redaction of this information. Similar sensitive information is not included in library reference USPS-FY10-NP34 and is not at issue here.

It is ordered:

1. The Public Representative Motion to Unseal Response to Chairman's Information Request Number 4, Question 27, filed March 9, 2011, is granted.
2. The Public Representative may re-file library reference USPS-FY10-NP34 as a public document as set forth in this Order.

By the Commission.

Shoshana M. Grove
Secretary