

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

RETAIL ACCESS OPTIMIZATION
INITIATIVE, 2011

DOCKET NO. N2011-1

DAVID B. POPKIN MOTION

August 11, 2011

Respectfully submitted,

N20111MOTION2

DAVID B. POPKIN, POST OFFICE BOX 528, ENGLEWOOD, NJ 07631-0528

On July 27, 2011, the United States Postal Service filed a Notice of filing Library References with application for Non-Public Status ["Notice"].

NOTICE OF UNITED STATES POSTAL SERVICE
OF FILING OF INITIAL LIBRARY REFERENCES
AND APPLICATION FOR NON-PUBLIC TREATMENT OF MATERIAL
(July 27, 2011)

Two of the five Library References were filed as Nonpublic Material – USPS-LR-N2011-1/NP1 and USPS-LR-N2011-1/NP2.

Library Reference USPS-LR-N2011-1/NP 1 is entitled "Nonpublic Material Related to Postal Locations "Nearest Neighbor" Calculation and Results.

The five pages of the Notice appear to only reference the request for non-public treatment of Library Reference USPS-LR-N2011-1/NP2 and provide the data required by Commission's Rule 3007.21 and appear to make no reference to Library Reference USPS-LR-N2011-1/NP1.

On August 4, 2011, the Postal Service filed a RESPONSE OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION TO DAVID B. POPKIN MOTION ["RESPONSE"]

By not providing an explanation of what Nearest Neighbor Calculations show or why they should be non-public as required by Rule 3007.21, I am not able to evaluate the Postal Service's request and provide any reasons supporting non-public treatment of USPS-LR-N2011-1/NP1 as the Postal Service claims in their Response.¹

The Notice does not contain 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.²

My perception of the content of USPS-LR-N2011-1/NP1, based on the title of the Library Reference is that it has nothing to do with revenue but with the calculation of and the data resulting from the distances between two facilities. The information contained in the Notice in compliance with Rule 3007.21 deals with revenue data and does not appear to have any relationship to a Nearest Neighbor concept. The Postal Service claims that both Non-Public Library References contain facility-specific walk-in revenue data.³

The Postal Service claims that USPS-LR-N2011-1/NP1 contains the source data for Table 5 of the testimony.⁴ A word search of the Testimony for "NP1" and "NEIGHBOR" just indicates the listing of USPS-LR-N2011-1/NP1 as being associated with the Testimony.⁵

The Postal Service claims that I failed to indicate why I did not take advantage of a nondisclosure agreement.⁶ This is irrelevant since the Postal Service might be required to make this Library Reference public based on a motion filed based on the data required to be filed by Rule 3007.21.

¹ Response at 1
² Rule 3007.21[c][3]
³ Response at 2
⁴ Footnote 1 of Response at 2
⁵ Testimony at 1
⁶ Response at 3

My original Motion was filed on July 28, 2011, the first full day of appearance. It has now been two weeks since it was filed and the public does not have the information of Library Reference USPS-LR-N2011-1/NP1 as required by Rule 3007.21. Once this information is properly filed by the Postal Service, an evaluation will have to be made as to whether to file a Motion to make the Library Reference public, file a nondisclosure agreement to obtain access, or perhaps take no further action. Therefore, I request that the Commission issue an Order to provide the required data unless the Commission should believe that the Library Reference be made public.

The Postal Service has requested expedited treatment of this Docket and discovery of their direct case will end in only 19 days. Depending on the ruling obtained, it may be necessary to request additional time for discovery based on the failure of the Postal Service to comply with Rule 3007.21.

If necessary, I request leave to file this motion so that the record will be complete.