

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

INSTITUTIONAL COST CONTRIBUTION
REQUIREMENT FOR COMPETITIVE PRODUCTS

Docket No. RM2012-3

UNITED STATES POSTAL SERVICE
APPLICATION FOR NON-PUBLIC TREATMENT OF
MATERIAL CONTAINED IN USPS-LR-RM2012-3/NP1
(April 13, 2012)

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service hereby applies for nonpublic treatment of the material contained in library reference USPS-LR-RM2012-3/NP1, filed in this docket on April 10, 2012. Specifically, the material is an Excel workbook that presents an analysis, commissioned by the Postal Service and performed by the Colography Group, of the competitive overnight delivery market and the competitive 2-3 day air and ground delivery market.

There are essentially two types of nonpublic data in the workbook. First, there are data regarding the volumes and revenues of the Postal Service's competitive products. Second, there are data proprietary to the Colography Group regarding the volumes and revenues of products offered by the Postal Service's competitors. As to the first type of data, the Postal Service hereby incorporates by reference the Application of the United States Postal Service for Nonpublic Treatment of Materials, filed as Attachment Two to the FY 2011 Annual Compliance Report on December 29, 2011, in Docket No. ACR2011. That Application contains the information required by 39

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

C.F.R. § 3007.21. As to the second type of data, namely data proprietary to the Colography Group, the information required by 39 C.F.R. § 3007.21 to justify their nonpublic treatment is presented below:

(1) The rationale for claiming that the materials are nonpublic, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as nonpublic consist of information that has been developed by the Colography Group, and is therefore proprietary to it, regarding the volumes and revenues of products offered by the Postal Service's competitors. As private sector firms, the Postal Service's competitors do not publicly release detailed volumes and revenues for their products. The Colography Group develops estimates of such volumes and revenues by combining what public information the firms do release with information gleaned from surveys that the Colography Group conducts with individuals at those firms and with other industry participants. As a consultant in the fields of delivery and logistics, part of the Colography Group's primary business is selling these estimates to interested parties.

In short, then, the estimates are trade secrets. They therefore constitute information of a commercial nature which under good business practice would not be publicly disclosed. It is the view of the Postal Service and of the Colography Group that the information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and (5), and 5 U.S.C. § 552(b)(3) and (4).

(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;

The Colography Group has a proprietary interest in the materials. The Postal

Service has informed the Colography Group of the nature and scope of the filing of USPS-LR-RM2012-3/NP1 and of the fact that the Colography Group may address its confidentiality concerns directly with the Commission. The Postal Service identifies the following person as an appropriate contact at the Colography Group: Mark Schoeman, President, Colography Group, Inc., 1900 The Exchange, S.E., Suite 450, Atlanta, GA 30309. Mr. Schoeman' telephone number is (678) 385-2500. He may be reached via email at colography@colography.com.

(3) A description of the materials claimed to be nonpublic 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 nonpublic;

As noted above, the materials are the Colography Group's proprietary estimates of the volumes and revenues of products offered by the Postal Service's competitors. Public library reference USPS-LR-RM2012-3/1 contains a redacted version of the nonpublic materials contained in USPS-LR-RM2012-3/NP1. The redacted version would allow a person to thoroughly evaluate the basis for the claims made herein regarding the nonpublic nature of the information.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

As noted above, part of the Colography Group's main business is selling estimates of the volumes and revenues of products offered by firms in the delivery and logistics markets. If the Colography Group's proprietary estimates were to be disclosed publicly, it is virtually certain that it would lose a significant source of its revenue. The Colography Group would therefore suffer significant financial detriment, and its viability could well be threatened.

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

Harm: The Colography Group would suffer significant financial detriment, potentially threatening its viability.

Hypothetical: The information in USPS-LR-RM2012-3/NP1 that is proprietary to the Colography Group is released publicly. The Colography Group's customers can now gain access to the information for free on the Commission's website. Therefore, they stop purchasing the information from the Colography Group. The Colography Group loses a significant source of revenue and cannot recoup the costs of producing the disclosed information. The Colography Group's profitability is hurt and its financial viability is threatened.

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

The Postal Service maintains that the information covered by this application should be withheld from any persons or firms connected to the delivery and logistics markets in any way, whether as providers, customers, or otherwise, as well as such parties' consultants and attorneys.

(7) The length of time deemed necessary for the nonpublic materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that nonpublic materials shall lose nonpublic 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 nonpublic treatment.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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April 13, 2012