

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

COMPETITIVE PRODUCT PRICES
EXPRESS MAIL
EXPRESS MAIL PADDED FLAT RATE ENVELOPE

Docket No. CP2012-39

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
CHAIRMAN'S INFORMATION REQUEST NO. 1 AND
APPLICATION FOR NON-PUBLIC TREATMENT**
(July 3, 2012)

The United States Postal Service hereby provides its response to Chairman's Information Request No. 1, which was issued on June 26, 2012. A response was requested no later than July 3, 2012. The question is reprinted verbatim and is followed by the Postal Service's response. Portions of an Excel file have been redacted, as part of the Postal Service's response. Attached to this pleading is the Postal Service's application for non-public treatment for that redacted material. A complete version of the Excel file has been filed under seal.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing and Product Support

Elizabeth A. Reed

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3179, Fax -6187
elizabeth.a.reed@usps.gov
July 3, 2012

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO CHAIRMAN'S INFORMATION REQUEST NO. 1

REQUEST:

Please provide the estimated unit cost for Express Mail Padded Flat Rate Envelopes, including the underlying calculations for arriving at such expected unit cost.

RESPONSE:

Please see the attached Excel file. A redacted version has been filed publicly; an unredacted version has been filed under seal.

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the Postal Service hereby applies for non-public treatment of the unredacted Excel file provided in response to Chairman's Information Request No. 1. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.21(c), as enumerated below.

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified 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 designated as non-public consist of information of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, 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), (b)(4).¹ Because the portions of the materials which the Postal Service is applying to file only 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;

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

Not applicable.

(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 Excel file contains detailed cost and volume data for Express Mail, as well as inflation factor data. The redactions applied to the Excel file protect commercially sensitive information such as underlying costs and assumptions, formulas, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions to the actual information it determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages or notes were redacted in their entirety due to the practical difficulties of redacting particular words or numbers within the text as presented in a spreadsheet format.

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

If the redacted information were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. The Excel file includes specific information such as costs, assumptions used in developing costs and prices, and projections of variables. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would likely take great advantage of this information. The formulas shown in the spreadsheets in their native format provide additional sensitive information. In addition, revealing the Postal Service's profit margin information could also be used by competitors to attempt to renegotiate contract prices.

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

Identified harm: Public disclosure of information in the Excel file would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing package delivery service or its representative obtains a copy of the unredacted version of the Excel file. It analyzes the Excel file to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for similar delivery services.

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

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the market for domestic parcel shipping products, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for such products should not be provided access to the non-public materials.

(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 it determined should be withheld due to commercial sensitivity.

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

None.