

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

NOTICE OF PRICE ADJUSTMENT (TECHNOLOGY
CREDIT PROMOTION)

Docket No. R2013-6

NOTICE OF FILING OF NONPUBLIC LIBRARY REFERENCE
USPS-R2013-6/NP1 AND APPLICATION FOR NONPUBLIC TREATMENT
(May 7, 2013)

The United States Postal Service hereby gives notice of the filing today of the following Category 4 nonpublic library reference in Docket No. R2013-6:

**USPS-R2013-6/NP1 Nonpublic Material Provided in Response to
Chairman's Information Request No. 1**

The library reference contains an Excel workbook containing FY 2012 mail volumes for every mailer that qualifies for the Technology Credit Promotion. This information is commercially sensitive and, accordingly, is submitted as part of the nonpublic annex in this proceeding. An application for nonpublic treatment is attached to this pleading.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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**APPLICATION FOR NONPUBLIC TREATMENT
OF LIBRARY REFERENCE USPS-R2013-6/NP1**

In accordance with 39 C.F.R. § 3007.21 and Order No. 225, the United States Postal Service hereby applies for nonpublic treatment of data filed under seal with the Commission as USPS-R2013-6/NP1. This material, which has been prepared in response to Question 2 of Chairman's Information Request No. 1, contains a listing of every mailer or mail service provider that qualifies for the Technology Credit Promotion, along with information on the party's FY 2012 volume. It would be impossible to create a redacted version of the workbook without redacting every substantive cell of the workbook.

By operation of 39 U.S.C. § 410(c)(2), information of a commercial nature, which under good business practice would not be publicly disclosed, is not required to be disclosed to the public. 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). Because the information covered by this application falls within the scope of information not required to be disclosed publicly, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their nonpublic treatment.

(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 workbook contained in USPS-R2013-6/NP1 contains commercial information and trade secrets, and under good business practice it would not be publicly disclosed. Therefore, it should be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).¹ The Postal Service believes that no mailer or mail service provider would assent to the very specific customer data contained in USPS-R2013-6/NP1 being publicly disclosed, and the Postal Service believes that no commercial enterprise would disclose such information regarding its customers.

(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;

Every mailer and mail service provider that qualifies for the Technology Credit Promotion has a propriety interest in the materials. It would be impractical to list the contact information of all such parties.

(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;

The workbook contained in USPS-R2013-6/NP1 includes FY 2012 volumes by mailer or mail service provider for every such party that qualifies for the Technology

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

Credit Promotion.

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

If the information contained in USPS-R2013-6/NP1 were to be disclosed publicly, the Postal Service considers it quite likely that the parties that are identified would suffer commercial harm. For each listed mailer, competitor mailers could use the data to imitate their business, thus causing the mailer to lose revenue. For each such mail service provider, competitor mail service providers could use the data to target the provider's customers, thus causing the mail service provider to lose revenue.

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

Harm: A mailer loses revenue to a competitor mail service provider.

Hypothetical: USPS-R2013-6/NP1 is disclosed publicly. Mailer A's volumes are disclosed, along with its local address and other identifying information. Mailer B, engaged in a business similar to Mailer A's but in a different geographic region, determines that Mailer A's geographic region contains a large number of potential customers. Mailer B begins marketing itself through the mail to residents in Mailer A's geographic region, thus poaching customers.

Harm: A mail service provider loses revenue to a competitor mail service provider.

Hypothetical: USPS-R2013-6/NP1 is disclosed publicly. Mail Service Provider A's volumes are disclosed, along with its local address and other identifying information. Mail Service Provider B, located in a different geographic region, determines that Mail

for According Appropriate Confidentiality, Docket No. RM2008-1 (Mar. 20, 2009), at 11.

Service Provider A's geographic region contains a large number of customers. Mail Service Provider B begins marketing services in Mail Service Provider A's geographic region, thus poaching customers.

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

The Postal Service maintains that the materials filed nonpublicly should be withheld from persons in the mailing industries, as well as their consultants and attorneys, and from any customers or potential customers of mailing industry participants.

(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 foregoing reasons, the Postal Service requests that the Postal Regulatory Commission grant its application for nonpublic treatment of USPS-R2013-6/NP1.