

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

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DISCOVER FINANCIAL SERVICES NSA

Docket No. MC2015-3

DISCOVER FINANCIAL SERVICES NSA

Docket No. R2015-2

**NOTICE OF FILING OF  
USPS-MC2015-3/NP1 AND APPLICATION FOR NONPUBLIC TREATMENT**

(December 19, 2014)

The United States Postal Service hereby provides notice of filing the following material under seal in association with the Responses of the United States Postal Service to Commission's Information Request No. 1, Questions 1-18, filed today, December 19, 2014:

**USPS-MC2015-3/NP1**

The Postal Service believes that this material, which consists of an Excel workbook, is exempt from public disclosure, pursuant to 5 USC 552(b)(3) and 39 USC 410(c)(2), as it contains sensitive commercial information pertaining to Discover Financial Services that would not be publicly disclosed under good business practice. Accordingly, an Application for Non-Public Treatment for the protection of this information is being submitted with this pleading as Attachment A.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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

Valerie J. Pelton

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-3179, Fax -6187

**APPLICATION FOR NONPUBLIC TREATMENT  
OF USPS-MC2015-3/NP1**

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service hereby applies for nonpublic treatment of information filed under seal with the Commission as USPS-MC2015-3/NP1. This material, which is being filed as part of the Postal Service's request to add the Discover Financial Services Negotiated Service Agreement to the Market-Dominant Product List, contains sensitive commercial information pertaining to Discover Financial Services that would not be publicly disclosed under good business practice. It would be impractical to create a redacted version of the workbook without redacting every substantive cell.

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 Excel workbook contained in USPS-MC2015-3/NP1 includes commercial information related to the Postal Service's proposed addition of the Discover Financial Services Negotiated Service Agreement to the Market-Dominant Product List, which under good business practice, 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).<sup>1</sup> The Postal Service believes that no commercial enterprise would voluntarily disclose the product revenue and volume information of 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;**

Apart from Mr. Harit Talwar, the Executive Vice President – US Card of Discover Financial Services (“Discover”), a Delaware corporation, with its principal place of business located at 2500 Lake Cook Road, Riverwoods, IL 60015, there are no known third parties with any proprietary interest in the materials being filed under seal. Mr. Talwar's phone number is 1-224-405-0900 and his email address is [harittalwar@discover.com](mailto:harittalwar@discover.com).

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<sup>1</sup> 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.

**(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 Excel workbook submitted as part of USPS-MC2015-3/NP1 contains revenue and volume information related to the Postal Service's request to add the Discover Financial Services Negotiated Service Agreement to the Market-Dominant Product List.

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

If the Excel workbook contained in USPS-MC2015-3/NP1 were to be disclosed publicly, the Postal Service considers it is quite likely that Discover would suffer commercial harm and thus cause financial harm to the Postal Service as it could cause other Postal Customers to re-evaluate their decision to do business with us. Competitors could use the data to draw business away from Postal Service, thereby causing it to lose revenue.

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

**Harm:** Discover loses customers to a competitor.

**Hypothetical:** USPS-MC2015-3/NP1 is disclosed publicly. Discover's estimated revenues and volumes are disclosed. Company B, a business in competition with Discover, obtains a copy of the unredacted version of the Excel workbook. Company B analyzes the information in the workbook to assess Discover's underlying volumes and revenues. Company B uses that information as a baseline to adjust its mailing behavior and target Discover's customer base.

**(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 the information contained in USPS-MC2015-3/NP1.