

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

NOTICE OF MARKET-DOMINANT
PRICE ADJUSTMENT

Docket No. R2015-4

**NOTICE OF FILING NONPUBLIC LIBRARY REFERENCE USPS-LR-R2015-4/NP2
AND APPLICATION FOR NONPUBLIC TREATMENT**
(January 30, 2015)

The United States Postal Service hereby gives notice of the filing today of the following nonpublic library reference in Docket No. R2015-4:

**USPS-LR-R2015-4/NP2 Nonpublic Materials Provided in Response to
Chairman's Information Request No. 1**

USPS-LR-R2015-4/NP2 contains a database of publications that mailed Periodicals through the Postal Service in FY 2014, along with volume and other data corresponding to each publication's mailings. 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-LR-R2015-4/NP2**

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-LR-R2015-4/NP2. This material, which has been prepared in response to Question 1 of Chairman's Information Request No. 1, contains a database of publications that mailed Periodicals through the Postal Service in FY 2014. While the names of the publications have been replaced with non-identifying numbers, each line contains extensive volume and other information for the mailings made by the publication represented in that line, from which one could potentially identify the publication. It would be impossible to create a redacted version of the database without redacting every 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 database contained in USPS-LR-R2015-4/NP2, as described under (4) below, 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 publication would assent to the very specific customer data contained in USPS-LR-R2015-4/NP2 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 publication that mails Periodicals through the Postal Service 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 database contained in USPS-LR-R2015-4/NP2 includes extensive volume and other data for the mailings made by every publication that mailed Periodicals

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.

through the Postal Service in FY 2014. While the names of the publications have been replaced with non-identifying numbers, one could potentially identify specific publications by analyzing the data listed for that publication. Once a publication is identified, one could determine, among other things, the publication's annual volumes, number of issues per year, volume per issue, average weight per copy, division of weight between advertising and non-advertising content, depth of presort, and how close to destination the mail is entered.

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

If the information contained in USPS-LR-R2015-4/NP2 were to be disclosed publicly, the Postal Service considers it quite likely that publications that are identified would suffer commercial harm. For each such publication whose data are identified, a competitor publication could use such data to target its customers, thereby causing its revenue to decline.

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

Harm: A publication whose data are identified loses subscribers to a competitor publication.

Hypothetical: USPS-LR-R2015-4/NP2 is disclosed publicly. Various publications analyze the data to identify their competitors. Publication A identifies its main competitor, Publication B, in the database. Publication A analyzes the mailing data for Publication B to determine which geographic areas Publication B has had the most success in obtaining subscribers. Publication A focuses its subscription efforts in those areas and gains customers from Publication B. Publication B's revenues decline.

(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 publishing and mailing industries, as well as their consultants and attorneys, and from any customers or potential customers of Periodicals or other similar Postal Service products.

(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-LR-R2015-4/NP2.