

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

Periodic Reporting (Proposal Thirteen)

Docket No. RM2015-7

**UNITED PARCEL SERVICE, INC.'S MOTION REQUESTING ACCESS
TO NON-PUBLIC MATERIALS RELEVANT TO PROPOSAL THIRTEEN
UNDER PROTECTIVE CONDITIONS**

(February 18, 2015)

United Parcel Service, Inc. ("UPS"), a company affiliated with the delivery services industry, respectfully submits this Motion pursuant to Commission Rules 3007.21 and 3007.40, requesting access to a non-public library reference (USPS-RM2015-7/NP1), which the United States Postal Service filed with the Commission on December 11, 2014, as part of the Postal Service's Proposal Thirteen regarding the City Carrier Street Time Model.

UPS seeks access to this library reference for its outside counsel and consultants, so they may assist UPS in making informed comments regarding Proposal Thirteen. See PRC Dkt. No. RM2015-7, Order No. 2294 (December 18, 2014) (inviting comments). These outside counsel and consultants are identified in Exhibit 1, attached hereto, and each has executed a copy of the Commission's standard protective order conditions.

UPS conferred with the Postal Service regarding this request, and is authorized to report that the Postal Service does not object to this request.

I. THE REQUESTED MATERIALS ARE RELEVANT AND ACCESS TO THEM IS NECESSARY FOR UPS TO PARTICIPATE EFFECTIVELY IN THIS PROCEEDING.

In determining whether to grant access to non-public data, the Commission “shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).” 39 C.F.R. § 3007.42. UPS’s request clearly satisfies this test.

The requested library reference is directly relevant to Proposal Thirteen, and UPS has a substantial interest in this proposal. The cost segment implicated by Proposal Thirteen – City Carrier Street Time (CS7) – consisted of \$11.6 billion costs in 2014, the third highest Postal Service cost segment. See Dkt. ACR2014, LR FY14.A.Public. Of the \$11.6 billion in costs, less than 5% were attributed to competitive products. This low level of cost attribution warrants close examination in light of Congress’s directive in the Postal Accountability and Enhancement Act (“PAEA”) that the Postal Service’s competitive products pay their own costs, without subsidy from market-dominant products. See 39 U.S.C. § 3633.

The library reference at issue contains data that relates to how the Postal Service proposes to calculate the cost impacts of competitive products within this important cost segment. As stated by the Postal Service, “the cost impacts for all products, including Competitive products, are contained in USPS-RM2015-7/NP1.” See Library Reference RM2015.7.1, Preface. In addition, this library reference provides a “crosswalk” between the masked ZIP codes provided in the public files and the actual ZIP codes used in the study. *Id.* Access to the crosswalk is thus necessary for UPS’s consultants to analyze and assess the study data.

Moreover, as noted, the Postal Service does not object to this request.

Accordingly, the request should be granted.

II. UPS'S REQUEST IS ENTITLED TO EXPEDITED TREATMENT.

In addition to the Commission's standard protective conditions, which prohibit sharing protected materials with persons "involved in competitive decision-making," 39 C.F.R. Part 3007, Appendix A at 1, UPS has agreed to limit access to its outside counsel and consultants only. UPS agreed to this additional step in an effort to expedite UPS's ability to obtain access to these materials.¹

Each person seeking access to the library reference has executed a copy of the Commission's standard protective conditions. See Exhibit 1. These conditions were approved by the Commission in PRC Dkt. No. RM2008-1, Order No. 225 (June 19, 2009) ("Order No. 225") and are contained in part 3007 of the Commission's rules. Moreover, the Postal Service has not identified any third parties with a proprietary interest in the requested information. Accordingly, UPS's request for these files is entitled to expedited treatment under Rule 3007.40(b)(1). Such expedited treatment is warranted given the March 11, 2015 deadline for filing initial comments in this proceeding.

¹ UPS's willingness to agree to protective conditions that go above and beyond the Commission's standard protective conditions is not a concession that such extra protective conditions are necessary in this or any other proceeding. UPS only agrees to these extra conditions in this context to expedite the disposition of this Motion, given the time pressures it faces in this proceeding.

CONCLUSION

For the foregoing reasons, UPS respectfully requests that the Commission grant this Motion and provide prompt access to non-public library reference USPS-RM2015-7/NP1 for the UPS outside counsel and consultants identified in Exhibit 1.

Respectfully submitted,

UNITED PARCEL SERVICE, INC.,

By: /s/ Steig D. Olson
Steig D. Olson
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
(212) 849-7152
steigolson@quinnemanuel.com

Attorney for UPS

Exhibit 1

1. Steig Olson
2. Jonathan Eser
3. Shea Gibbons
4. Matthew Lee
5. David LeRay
6. Leslie Epstein
7. John McKeever
8. Laura Mitchell
9. Sarah Germain
10. Mitchell Levy
11. Kevin Neels
12. Nicholas Powers

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Commission Docket No. RM2015-7 by the Postal Service has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Commission Docket No. RM2015-7. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name	<u>Steig D. Olson</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Partner</u>
Representing	<u>United Parcel Service Inc.</u>
Signature	<u></u>
Date	<u>2/18/2015</u>

CERTIFICATION

The undersigned represents that:

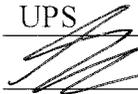
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Name	<u>Jonathan C. Eser</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan LLP</u>
Title	<u>Associate</u>
Representing	<u>UPS</u>
Signature	<u></u>
Date	<u>13 February 2015</u>

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Name	<u>Shea Gibbons</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan, LLP</u>
Title	<u>Associate</u>
Representing	<u>UPS</u>
Signature	 <u></u>
Date	<u>2/13/15</u>

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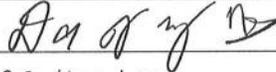
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Name	<u>MATTHEW LEE</u>
Firm	<u>QUINN EMANUEL URQUHART & SULLIVAN</u>
Title	<u>ASSOCIATE</u>
Representing	<u>UNITED PARCEL SERVICE</u>
Signature	<u>MATTHEW LEE</u>
Date	<u>2 / 13 / 15</u>

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Name	<u>David LeRay</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan</u>
Title	<u>Associate</u>
Representing	<u>UPS</u>
Signature	<u></u>
Date	<u>02/17/15</u>

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Name	<u>Leslie Epstein</u>
Firm	<u>Quinn Emanuel Urquhart & Sullivan, LLP</u>
Title	<u>Paralegal</u>
Representing	<u>UPS</u>
Signature	<u></u>
Date	<u>2/13/15</u>

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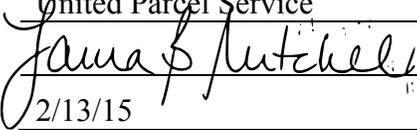
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Name	<u>JOHN E. MCKEEVER</u>
Firm	<u>MCKEEVER & MITCHELL</u>
Title	<u>PARTNER</u>
Representing	<u>UNITED PARCEL SERVICE</u>
Signature	<u></u>
Date	<u>2/13/15</u>

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Name	<u>Laura B. Mitchell</u>
Firm	<u>McKeever & Mitchell</u>
Title	<u>Partner</u>
Representing	<u>United Parcel Service</u>
Signature	<u></u>
Date	<u>2/13/15</u>

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Name	<u>Sarah Germain</u>
Firm	<u>The Brattle Group</u>
Title	<u>Research Analyst</u>
Representing	<u>UPS</u>
Signature	<u>Sarah Germain</u>
Date	<u>2/13/2015</u>

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Name	<u>Mitchell Levy</u>
Firm	<u>The Brattle Group</u>
Title	<u>RA</u>
Representing	<u>PS</u>
Signature	<u></u>
Date	<u>February 13, 2015</u>

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Name	Kevin Neels
Firm	The Brattle Group
Title	Principal
Representing	UPS
Signature	<i>Kevin Neels</i>
Date	2/13/15

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Name	Nicholas E. Powers
Firm	The Brattle Group
Title	Senior Associate
Representing	UPS
Signature	NE Powers
Date	2/13/2015