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POSTAL REGULATORY  
COMMISSION  
U.S. DEPARTMENT OF JUSTICE

July 1, 2015

Hon. Shoshana M. Grove, Secretary  
Postal Regulatory Commission  
901 New York Avenue NW, Suite 200  
Washington, D.C. 20268-0001

Dear Ms. Grove:

In connection with the Commission's rules pertaining to periodic reports, 39 C.F.R. § 3050, I have enclosed copies of the following:

- 1) Summary Description of USPS Development of Costs by Segments and Components, Fiscal Year 2014
- 2) Narrative Explanation of Econometric Demand Equations for Market Dominant Products as of November, 2014
- 3) Narrative Explanation of Econometric Demand Equations for Competitive Products as of November, 2014 (**non-public**)

These reports provide the information specified in the Commission's final rule 39 C.F.R. § 3050.60(f), which describes the information required as follows:

- (f) Succinct narrative explanations of how the estimates in the most recent Annual Compliance Determination were calculated and the reasons that particular analytical principles were followed. The narrative explanations shall be comparable in detail to that which had been provided in Library Reference 1 in omnibus rate cases processed under the Postal Reorganization Act (by July 1 of each year)

As noted in my letter transmitting these items last year (July 1, 2014), item (1) provides the information that was provided commonly in Library Reference 1 filed in previous omnibus rate cases. As discussed in Commission Order No. 203, items (2) and (3) provide narrative explanations pertaining to the Postal Service's estimates of demand for its Market Dominant (item 2) and Competitive (item 3) products.<sup>1</sup>

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<sup>1</sup> Notice of Final Rule Prescribing Form and Content of Periodic Reports, Order No. 203, Docket No. RM2008-4, at 39-40 (April 16, 2009)

Items (1) and (2) may be made available to the public and posted on the Commission's public website. The Postal Service considers item (3) to be commercially sensitive and should not be made public or posted on the Commission's web site.

Item (3) concerns demand equations for the Postal Service's competitive products. Please note that this document directly relates to the competitive product demand analysis materials that were provided to the Commission on January 20, 2015. The Postal Service believes that item (3) consists of commercial information that would not be disclosed under good business practices, and that it is exempt from mandatory disclosure, pursuant to 5 U.S.C. § 552(b)(3) and 39 U.S.C. § 410(c)(2). An application for nonpublic treatment is attached to this letter.

I have enclosed computer discs, including duplicate discs, containing electronic versions of all of these reports. We have included the public versions of the reports and the non-public parts on separate discs.

If you have any questions concerning these reports, please contact us.

Sincerely,



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

Enclosures

cc: Ms. Taylor

**APPLICATION OF THE UNITED STATES POSTAL SERVICE  
FOR NONPUBLIC TREATMENT OF MATERIALS**

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,<sup>2</sup> the United States Postal Service (Postal Service) hereby applies for nonpublic treatment of explanatory materials, filed under seal today with the Commission in accordance with 39 C.F.R. § 3050.60(f), regarding the demand analysis and forecasting materials for competitive products filed with the Commission on January 20, 2015. Corresponding explanatory materials regarding the demand analysis and forecasting materials for market dominant products is being filed publicly.

**(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 materials designated as nonpublic consist of information of a commercial nature that under good business practice would not be publicly disclosed. In the Postal Service's view, 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) and (4).<sup>3</sup> Because the portions of the materials that 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 nonpublic treatment.

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<sup>2</sup> PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

<sup>3</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.

**(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;**

Not applicable.

**(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;**

In connection with this application, the Postal Service has filed two discs, one public, containing material explaining the Postal Service's demand equations and forecasts for market dominant products, and one nonpublic, containing comparable material explaining the Postal Service's demand equations and forecasts for competitive products. Thus, for example, the public material contains the elasticities calculated by the Postal Service for each of its market dominant products, while the nonpublic material contains the elasticities calculated by the Postal Service for each of its competitive products. Examination of the public material would therefore allow one to thoroughly evaluate the basis for the nonpublic treatment of the nonpublic materials.

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

If the information that the Postal Service has determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use estimated elasticities to analyze the Postal Service's possible market strengths and weaknesses and to focus sales and marketing efforts on those areas, to the detriment of the Postal

Service. Disclosure of this information would also undermine the Postal Service's position in negotiating favorable terms with potential customers, who would be able to ascertain critical demand information about relevant products (e.g., does the Postal Service consider the product to be price elastic; does the Postal Service expect demand for the product to be expanding or contracting). More broadly, interested parties could gain, at no effort or expense to themselves, valuable analytic information about how the Postal Service evaluates market demand, and structure their strategic behavior accordingly. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the material filed under seal.

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

Harm: Competitors could use elasticity information to alter their pricing strategies for products competing with Postal Service products, to the Postal Service's detriment.

Hypothetical: Elasticity information for competitive products is released to the public. A competitor delivery service analyzes the information and determines that lowering the prices for a particular product that competes with a Postal Service product will lead to a profitable level of volume shifting to the competitor. The competitor prices the product accordingly, taking market share from the Postal Service.

Harm: Customers or competitors could use estimated price elasticities to guide their positions in NSA negotiations or price setting.

Hypothetical: Demand analysis and forecasting material for competitive products is released to the public. A customer preparing to negotiate an NSA with the Postal Service recognizes that the Postal Service considers demand for the product in question to be elastic (i.e., above unitary elasticity). On that basis, the customer pushes for deeper discounts than otherwise might seem achievable. The resulting

lower rates generate less contribution from the NSA. Alternatively, a competitor could examine the cross-price elasticities and, in determining how to set its own annual price adjustments, could put a relatively larger share of the price increase on its product with the lower cross-price elasticity, and a relatively smaller share on its product with the higher cross-price elasticity. As a result, the Postal Service achieves less volume and revenue growth than it might have otherwise.

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

The Postal Service maintains that the portions of the materials filed nonpublicly and relating to competitive products should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products (including private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for these or similar products should not be provided access to the nonpublic materials.

**(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. The Postal Service believes that the ten-year period of nonpublic treatment is sufficient to protect its interests with regard to the information it has determined should be withheld due to commercial sensitivity.

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

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for nonpublic treatment of the identified materials.