

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

Market Test of Experimental Product
Global eCommerce Marketplace (GeM)
Non-Published Rates

Docket No. MT2016-1

APPLICATION OF PITNEY BOWES INC.
FOR NON-PUBLIC TREATMENT OF RESPONSE TO NOTICE OF INQUIRY
(May 12, 2016)

Pursuant to Rule 3007.22, 39 C.F.R. § 3007.22, Pitney Bowes Inc. (Pitney Bowes) applies for non-public treatment of portions of the Response of Pitney Bowes Inc. to Notice of Inquiry No. 1 (Response), that Pitney Bowes is filing under seal with the Commission today. Pitney Bowes is separately filing a redacted version of its Response electronically on the Commission's website.

On April 29, 2016, the Commission issued Notice of Inquiry No. 1 (NOI) seeking company-specific revenue and volume information and market size estimations from the four companies identified by the Postal Service as companies that offer end-to-end services similar to the product the Postal Service seeks to offer as part of the market test of an experimental product identified as Global eCommerce Marketplace (GeM) Merchant.¹

Pitney Bowes is providing its response to the NOI to assist the Commission in making its determination "whether GeM Merchant will provide an unfair and inappropriate competitive advantage" to the Postal Service.² Pitney Bowes respectfully requests that the portions of the Response that contain company-specific revenue and volume information and Pitney Bowes'

¹ See PRC Docket No. MT2016-1, Notice of Inquiry No. 1 (Apr. 29, 2016).

² *Id.*, at 2

estimation of the annual revenues and volumes of related market as a whole be afforded non-public treatment.

The company-specific revenue and volume information and Pitney Bowes' estimation of the related market is confidential commercial and financial information that is being provided voluntarily and would not customarily be released to the public. *See Public Citizen Health Research Group v. National Institutes of Health*, 209 F. Supp. 2d 37, 43 (D.D.C. 2002)(Information is properly considered "commercial" if the "submitting party has a commercial interest in [it]."); *Critical Mass Energy Project v. Nuclear Regulatory Comm.*, 975 F.2d 871 (D.C. Cir. 1992); *McDonnell Douglas Corp. v. National Aeronautics and Space Admin.*, No. 93-1540, 1993 WL 796612 (D.D.C. 1993)(protecting disclosure of confidential commercial and financial information provided by private firm in the context of Freedom of Information Act). Disclosure of this information would inflict competitive harm on Pitney Bowes because the disclosure could reveal proprietary and confidential business processes and information regarding internal pricing, operations, costs, and capabilities, including concessions on profits. Competitors could use this confidential information to gain an unfair competitive advantage.

Disclosure would also be inappropriate because it would impair the Commission's ability to obtain voluntary information from third parties in the future. *See Board of Trade of City of Chicago v. CFTC*, 627 F.2d 392, 406 (D.C. Cir. 1980); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 767 (D.C. Cir. 1974)("Unless persons having necessary information can be assured that it will remain confidential, they may decline to cooperate with officials and the ability of the Government to make intelligent, well informed decisions will be impaired.").

Special consideration under Rule 3007.22(b)(3) is appropriate here because Pitney Bowes is voluntarily providing its Response to aid the Commission's review of the Postal Service's notice to conduct a market test of an experimental competitive product. The Commission specifically invited parties to file their responses to the NOI under seal because it recognized the commercially-sensitive nature of the information requested.³

For the reasons stated above, Pitney Bowes respectfully submits this application under Rule 3007.22 to file the non-redacted version of its Response under seal.

Respectfully submitted:

/s/
James Pierce Myers
Attorney at Law
320 South West Street, Suite 110
Alexandria, Virginia 22314
Telephone: (703) 627-5112
E-Mail: jpm@piercemyers.com

Michael F. Scanlon
K&L GATES LLP
1601 K Street, NW
Washington, DC 20006
Telephone: (202) 661-3764
E-Mail: michael.scanlon@klgates.com

Counsel to PITNEY BOWES INC.

³ See *id.*