

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

COMPETITIVE PRODUCT PRICES
INBOUND INTERNATIONAL EXPEDITED SERVICES 2
(MC2009-10)

Docket No.
CP2009-57

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO ORDER NO. 271,
NOTICE OF FILING REQUESTED MATERIALS, AND APPLICATION FOR NON-
PUBLIC TREATMENT OF MATERIALS FILED UNDER SEAL**
(August 10, 2009)

The Postal Service hereby provides information and documents in response to the Commission's Order No. 271.¹ In that Order, the Commission acknowledged the Postal Service's notice of a change in rates for Inbound International Expedited Services 2.² The Commission also requested that the Postal Service provide certain explanations and supplemental materials in connection with its Request, each point of which the Postal Service addresses in turn herein.

1. Please provide the 2010 EMS Pay for Performance Plan that will apply to EMS Cooperative members.

The 2010 version of the EMS Pay-for-performance Plan is not yet available. Consultations on the new plan among the EMS Cooperative membership will begin in September, and the EMS Cooperative will vote on the 2010 plan later this year.

2. Please provide the Postal Service's EMS Cooperative Report Cards, including performance measurements, for calendar year 2008 and the first three quarters of 2009, if available.

¹ PRC Order No. 271, Notice and Order Concerning Filing of Changes in Rates for Inbound International Expedited Services 2, Docket No. CP2009-57, Aug. 4, 2009, at 3-4.

² Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability, Docket No. CP2009-57, July 28, 2009.

At this time, the only responsive EMS Cooperative Report Cards cover calendar year 2008 and the first quarter of 2009, due to the calendar quarter used by the EMS Cooperative. These materials are filed under seal in connection with this Response, and the Postal Service's application for non-public treatment of the materials is included as Attachment 1 to this Notice. Redacted versions of the EMS Cooperative Report Cards are included as Attachment 2.

3. In Excel file WP_Inbound_EMS_2009.07.28, worksheet 02_Narrative, cell C107, the Postal Service makes an assumption about arrival scan performance. Please explain this assumption further, its rationale, and how its application comports with the provisions of the 2010 EMS Pay for Performance Plan and the Postal Service's performance.

Due to the commercially sensitive nature of scanning performance information, the Postal Service's response to this question is filed under seal. The application in Attachment 1 includes a justification of non-public treatment for this response as well. A redacted version of the Postal Service's answer is included as Attachment 3.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Jacob Howley

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-8917; Fax -6187
jacob.d.howley@usps.gov
August 10, 2009

ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,³ the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials respond to the Postal Regulatory Commission's (Commission's) request for additional information in Order No. 271.⁴ Redacted versions of the requested EMS Cooperative Report Cards and the Postal Service's answer to the Commission's third question are filed as Attachments 2 and 3, respectively, to the instant Response. The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). 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. §

³ PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

⁴ PRC Order No. 271, Notice and Order Concerning Filing of Changes in Rates for Inbound International Expedited Services 2, Docket No. CP2009-57, Aug. 4, 2009, at 3-4.

504(g)(3)(A).⁵ Because the portions of materials filed non-publicly in this docket 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 non-public treatment.

(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;

In the case of EMS Cooperative Report Cards and the answer to the Commission's question about scanning performance, the Postal Service believes that it is the only party with a proprietary interest in the materials.

(3) A description of the materials claimed to be non-public 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 non-public;

In connection with its Response filed in this docket, the Postal Service has filed the EMS Cooperative Report Cards for calendar year 2008 and the first quarter of 2009, and an answer to the Commission's question about scanning performance. These materials were filed under seal, with redacted copies filed publicly. The Postal Service maintains that the redacted portions of these materials should remain confidential.

The redactions made in the EMS Cooperative Report Cards protect commercially sensitive information about delivery, scanning, tracking, and call center performance.

The redactions applied to the answer to the Commission's third question protect commercially sensitive information about the Postal Service's scanning performance and assumptions on which the cost and revenue projections for the intended 2010

⁵ 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.

Inbound International Expedited Services 2 rates were based. This redaction is consistent with the Postal Service's filing of the financial work papers for those rates under seal in connection with its initial Notice in this docket.

(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 determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is 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 the information to assess the offers and representations made by the Postal Service to its customers for any possible comparative vulnerabilities and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

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

Harm: Competitors could use performance information to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.

Hypothetical: The delivery performance information in the EMS Cooperative Report Cards is released to the public. Another expedited delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor then uses the Postal Service's reported performance as a concrete comparison point, advertising itself to potential customers as offering performance better than the Postal Service's.

Alternatively, a potential customer is considering issuing a solicitation for inbound expedited delivery service. The Postal Service and its relevant EMS partners might be interested in collaborating on a response to the solicitation. Because the competitor is already providing other services to the potential customer, the competitor's sales representatives advise the potential customer to set performance criteria that the Postal Service cannot meet. For example, assume that the Postal Service's EMS Cooperative Report Card were to show on-time delivery of 98 percent for a certain period. Because this information would have been disclosed, the competitor is aware of it. Although this level of performance might be sufficient for the potential customer's needs, the competitor successfully convinces the customer to accept nothing less than a demonstrated performance record of 99 percent on-time delivery for that period. As a result, the Postal Service and its partners are fenced out of this business, notwithstanding the fact that the potential customer might otherwise have considered their bid acceptable.

The above scenarios can apply with equal force to other elements of the information submitted here. For example, a competitor could target its sales and marketing efforts on the basis of comparisons to the Postal Service's customer service, as evidenced by the call center information in the EMS Cooperative Report Cards. A competitor could also make comparisons to the Postal Service's ability to offer item tracking and visibility, based on the scanning and RESDES/RESCON messaging information in the EMS Cooperative Report Cards or the scanning information in the Postal Service's answer to the Commission's third question.

To the extent that the EMS Cooperative Report Cards show perfect performance in one or more areas, even this information could result in eventual, yet real, harm to the Postal Service. Release of this information could create a precedent for release of similar information in periods when performance is less than perfect. Moreover, even if the Postal Service were successful in withholding future indicators of less-than-perfect performance, release of the perfect scores now and non-release of corresponding information in the future would signal to competitors that the future information is sub-par and therefore ripe for marketing comparisons. For that reason, release of any of the redacted information would pose actual commercial harm to the Postal Service, regardless of the information's present favorability.

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

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including private sector integrators), as well as their consultants and attorneys. Additionally, the Postal Service believes that, except for foreign postal operators that already have access to this information, actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public 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 non-public treatment is sufficient to protect its interests with regard to the information it 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 non-public treatment of the identified materials.

EMS Cooperative Report Cards

Prepared by PricewaterhouseCoopers

Period

1. Quarter 2009 Aggregate Report Card

EMS Operator
Attachment 2 to Postal Service Response
PRC Docket No. CP2009-57

United States of America

1. Delivery Performance

Indicator	Current result	Last quarterly result	Current global result
Delivery on-time	████	████	████
No delivery information	████	████	████
Items Held in Customs	████	████	████

Results based on information provided by International Postal Corporation (IPC) using systems validated by PricewaterhouseCoopers (PwC). PwC is not responsible for the data shown in the results.

2. Call Center performance

Information published in the EMS Operational Guide	Current Result
Phone number	██
Fax number	██
E-mail	██

Indicator	Current result	Last quarterly result	Current global result
Phone answered within 20 seconds	████	████	████
Fax answered	██	██	██
E-mail answered	████	████	████
Response on-time through Rugby System	████	████	████

Results based on measurements/test carried out by PwC.

3. Tracking

Indicator	Current result	Last quarterly result	Current global result
A over C	████	████	████
D over C	████	████	████
F over E	████	████	████
H/I over D	████	████	████
Transmission on-time	████	████	████

REDES over PREDES	████	████	████
RESCON over PRECON	████	████	████

Missing H/I events	████	████	████
No delivery zone indicator	████	████	████
No Office of Exchange Code	████	████	████
H/I before D	████	████	████
No Standard	████	████	████

Results based on information provided by IPC using systems validated by PwC. PwC is not responsible for the data shown in the results.

4. EMS Service Identification

Indicator	Current result
Presence of item barcode	Yes
EMS item identifier according to UPU Standard S10b	Yes
Presence of receptacle barcode	Yes
EMS receptacle identifier according to UPU Standard S9	Yes
Presence of EMS logo*	

Results based on information provided by IPC using systems validated by PwC. PwC is not responsible for the data shown in the results.

* Results provided by the EMS Unit using procedures validated by PwC.

5. EMS Service Information

Indicator	Current result
Provision of Written Proof of Delivery - WPOD	Yes
EMS Operational Guide update	Yes
Participation in EMS Pay-for-Performance	Yes

Results based on information provided by the EMS Unit using procedures validated by PwC.



Annual Individual Report Card

1. Delivery Performance

Indicator	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Annual Score
Delivery on-time	■	■	■	■	■
Delivery 1 day late	■	■	■	■	■
Delivery 2 days late	■	■	■	■	■
Delivery 3 days late	■	■	■	■	■
Delivery more than 3 days late	■	■	■	■	■
No delivery information	■	■	■	■	■
Items Held in Customs	■	■	■	■	■

2. Tracking

Indicator	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Annual Score
A over C	■	■	■	■	■
C over A	■	■	■	■	■
D over C	■	■	■	■	■
C over D	■	■	■	■	■
F over E	■	■	■	■	■
F over D	■	■	■	■	■
H/I over D	■	■	■	■	■
D over H/I	■	■	■	■	■
Transmission on-time	■	■	■	■	■

RESDS over PREDESv2	■	■	■	■	■
RESCON over PRECON	■	■	■	■	■

Missing H/I events	■	■	■	■	■
No delivery zone indicator	■	■	■	■	■
No Office of Exchange Code	■	■	■	■	■
H/I before D	■	■	■	■	■
No Standard	■	■	■	■	■

3. Call Center performance

Indicator	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Annual Score
Response on-time through Rugby	■	■	■	■	■
Phone answered within 20 seconds	■	■	■	■	■
Phone answered in between 20 seconds and 1 minute	■	■	■	■	■
Phone busy	■	■	■	■	■
Phone not answered	■	■	■	■	■
Accessibility by fax 24 hours a day	■	■	■	■	■
Response by fax within 24 hours	■	■	■	■	■
Accessibility by e-mail 24 hours a day	■	■	■	■	■
Response by e-mail within 24 hours	■	■	■	■	■

4. EMS Service Identification

Indicator	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Annual Score
Presence of item barcode	Yes	Yes	Yes	Yes	Yes
EMS item identifier according to UPU Standard S10b7	Yes	Yes	Yes	Yes	Yes
Presence of receptacle barcode	Yes	Yes	Yes	Yes	Yes
EMS receptacle identifier according to UPU Standard S9	Yes	Yes	Yes	Yes	Yes
Presence of EMS logo*					

5. EMS Service Information

Indicator	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Annual Score
Provision of Written Proof of Delivery -	Yes	Yes	Yes	Yes	Yes
EMS Operational Guide update	Yes	Yes	Yes	Yes	Yes
Participation in EMS Pay-for-Performance	Yes	Yes	Yes	Yes	Yes



3. In Excel file WP_Inbound_EMS_2009.07.28, worksheet 02_Narrative, cell C107, the Postal Service makes an assumption about arrival scan performance. Please explain this assumption further, its rationale, and how its application comports with the provisions of the 2010 EMS Pay for Performance Plan and the Postal Service's performance.

RESPONSE

Billing for inbound EMS items under the EMS Pay-for-Performance Plan is based on the number of items receiving a delivery scan (H/I scan). Hence, it appears that cell C107 of WP_Inbound_EMS_2009.07.28, worksheet 02_Inputs should more accurately read "Delivery Scans Missed."

[REDACTED]