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POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

September 2, 2014

Ms. Lisa M. Manson
O'Donnell, Schwartz & Anderson, P.C.
1300 L Street, N.W., Suite 1200
Washington, D.C. 20005-4126

RE: Freedom of Information Act Appeal No. 14-2
Freedom of Information Act Request No. 14-18

Dear Ms. Manson:

This letter is in response to your August 8, 2014 letter appealing, on behalf of the American Postal Workers Union, AFL-CIO, the Chief FOIA Officer's June 11, 2014 determination regarding the above referenced Freedom of Information Act (FOIA) request. Your letter of appeal seeks the following records:

1. The docket numbers of any proceedings involving the Postal Service's negotiated service agreements(s) with Staples, Inc.; and
2. Documents in the files(s) related to those proceedings.

For the reasons explained below, the Commission denies your appeal.

Confidential Business Information

Exemption 4 of the FOIA protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). In proceedings involving competitive negotiated service agreements, the Postal Service applies for non-public treatment of information of a commercial nature, including the identity of its contracting partner, the negotiated price terms and pricing structure, and

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related financial information. See 39 U.S.C. § 504(g); 39 C.F.R. part 3007; see also 39 U.S.C. § 410(c). The Commission treats this information as confidential commercial or financial information; and the public filing entered in the Commission's docket typically contains Governors' Decisions, contracts, and other supporting documents in which any confidential commercial or financial information is redacted. Information that is treated as non-public is filed under seal. Non-public information will generally include: the Postal Service customer's identifying information, including its name and address; negotiated contract terms; actual prices offered to the customer; underlying costs and assumptions; pricing formulas; and other confidential commercial and financial information. These redactions protect the Postal Service's competitive position by ensuring that the Postal Service's confidential commercial and financial information is not disclosed.

Were the Commission to grant a request for the docket number of any proceedings involving negotiated service agreements between the Postal Service and a specific customer, this would necessarily reveal confidential commercial information, such as the very existence of a negotiated service agreement, the identity of the customer, or the number and types of agreements. Such information is exempt from disclosure pursuant to Exemption 4 of the FOIA. See 5 U.S.C. § 552(b)(4).

Likewise, the Commission cannot provide the "documents in the file(s)" that you requested, as producing such documents as to any specific Postal Service customer would reveal the identity of the Postal Service's customer and other confidential commercial or financial information, such as contract terms, price, and other sensitive information. Such information is exempt from disclosure under Exemption 4 of the FOIA. See 5 U.S.C. § 552(b)(4).

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Exemption from Disclosure by Statute

Exemption 3 of the FOIA exempts records “specifically exempted from disclosure by statute.” 5 U.S.C. § 552(b)(3). Section 410(c) of title 39 lists several exemptions from disclosure, including “the name or address, past or present, of any postal patron” and “information of a commercial nature, including trade secrets, . . . which under good business practice would not be publicly disclosed.” 39 U.S.C. § 410(c)(1), (2); 39 U.S.C. § 504(e); *see also* 39 C.F.R. § 3004.11(d)(1)(2).

As explained above, the Commission cannot provide the docket number of proceedings involving negotiated service agreements treated by the Commission as non-public under 39 C.F.R. Part 3007 without potentially releasing the name or address of a postal patron or information of a commercial nature, which under good business practice would not be publicly disclosed. Such information is exempt from disclosure pursuant to Exemption 3 of the FOIA. *See* 5 U.S.C. § 552(b)(3).

Similarly, the Commission cannot provide the “documents in the file(s)” that you requested, as producing such documents as to any specific Postal Service customer would potentially reveal the name or address of a postal patron or information of a commercial nature, which under good business practice would not be publicly disclosed. Such information is exempt from disclosure under Exemption 3 of the FOIA. *See* 5 U.S.C. § 552(b)(3).

You may seek judicial review of this decision by bringing suit for that purpose in the United States District Court for the district in which you reside or have your principal place of business, the district where the alleged records are located, or in the District of Columbia. As an alternative to litigation, you may wish to utilize the service of the Office of Government Information Services (OGIS), National Archives and Records Administration. OGIS was created to offer mediation services to resolve disputes between FIOA requesters and Federal agencies as a non-exclusive alternative to

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litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-60001

Email: ogis@nara.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 877-684-6448

By the Commission.


Shoshana M. Grove
Secretary