

Postal Regulatory Commission

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access, and whether that party is affiliated with the delivery services, communications or mailing industries.

(b) To expedite the process, each person seeking access to non-public materials may attach to the motion an executed copy of protective conditions such as those provided in Appendix A of this part.

(1) If an executed copy of protective conditions is attached and if actual notice of the motion has been provided by conversation or e-mail exchange to all persons identified by the Postal Service under §3007.21(c), answers are due within 3 days after such a motion is filed.

(2) In all other circumstances, answers are due within 7 days after such a motion is filed.

(c) Unless the Commission otherwise provides, no reply to an answer filed pursuant to paragraph (b)(1) or paragraph (b)(2) of this section shall be filed.

(d) Following the filing of answers, if any:

(1) The Commission will issue an order allowing or denying access and setting forth the appropriate protective conditions, if any, to be accorded the non-public materials, or

(2) If the Postal Service or third party with a proprietary interest does not contest a person's access subject to agreed protective conditions, the Commission or its authorized representative may issue an order allowing access subject to the agreed protective conditions.

§ 3007.51 Termination of access to non-public materials relevant to compliance.

(a) Access to non-public materials obtained under §3007.50 terminates either when the Commission issues its next Annual Compliance Determination (ACD) or the person withdraws or is otherwise no longer involved in the relevant proceeding, whichever occurs first.

(b) Access to non-public materials shall continue for persons seeking continued access under §3007.50.

(c) Upon termination of access under paragraph (a) of this section, all non-public materials in a person's possession must be destroyed, and the form

attached to the protective conditions certifying destruction must be executed and filed with the Commission.

§ 3007.52 Standard for decision for request for access to non-public materials relevant to compliance.

In determining whether to grant a request for access to non-public materials relevant to compliance, the Commission shall balance the interests of the parties based on Federal Rule of Civil Procedure 26(c).

§ 3007.60 Limitations on access to non-public materials.

To afford appropriate confidentiality to non-public materials during any stage of a proceeding before the Commission, or in connection with any other purpose under title 39 of the U.S. Code, the Commission may, based on Federal Rule of Civil Procedure 26(c):

(a) Prohibit the public disclosure of the non-public materials;

(b) Specify terms for public disclosure of the non-public materials;

(c) Order a specific method for disclosing the non-public materials;

(d) Restrict the scope of the disclosure of the non-public materials as they relate to certain matters;

(e) Restrict who may have access to non-public materials;

(f) Require that a trade secret be revealed only in a specific and limited manner or to limited or specified persons; and

(g) Order other relief as appropriate including, but not limited to, sealing a deposition or part of a proceeding.

§ 3007.61 Continued effectiveness of protective conditions.

(a) If a court or other administrative agency issues a subpoena or orders production of non-public materials which a person has obtained under protective conditions ordered by the Commission, the target of the subpoena or order shall, within 2 days of receipt of the subpoena or order for production, notify the Postal Service of the pendency of the subpoena or order to allow the Postal Service time to object to the production or to seek a protective order or seek such other relief as it deems appropriate.

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(b) Any person seeking to disclose non-public materials shall make a good faith effort to obtain protective conditions at least as effective as those set forth in the Commission order establishing the protective conditions.

(c) Protective conditions ordered by the Commission or its authorized representative shall remain in effect throughout any subsequent review unless overridden by the action of the reviewing court.

§ 3007.62 Sanctions for violations of protective conditions.

(a) No person who has been granted access to materials subject to protective conditions shall disseminate the materials in whole or in part to any person not authorized to obtain access under the protective conditions imposed by the Commission. If a person who has been granted access to such non-public materials under a protec-

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tive order violates the terms of such order, the Commission or its authorized representative shall impose sanctions on the person who violated the protective order or the individuals or entities on whose behalf the person was acting, or both. The sanctions may include:

(1) Dismissing the proceeding in whole or in part;

(2) Ruling by default against the person who violated the protective order; and

(3) Such other sanctions as the Commission or its authorized representative deems appropriate.

(b) The Postal Service, in its discretion, may pursue any remedies available to it under the law against the individual who violated the protective order, or the individuals or entities on whose behalf the person was acting, or both.