

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

006237

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

SPECIAL SERVICES REFORM, 1996

Docket No. MC96-3

RESPONSE OF UNITED STATES POSTAL SERVICE
TO OCA MOTION TO STRIKE PORTIONS OF THE USPS-RT-3
(December 13, 1996)

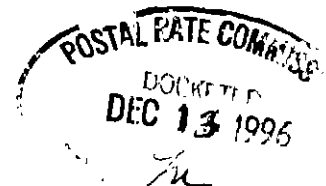
On December 10, the Office of the Consumer Advocate (OCA) filed a motion to strike sections II and IV of USPS-RT-3 (Motion), as well as references to those sections.¹ The OCA advances three reasons for striking section II and two reasons for striking section IV. Since all five reasons lack merit, the Motion should be denied.

SECTION II OF USPS-RT-3

In his testimony, witness Callow variously asserted, "quantitative information does not reveal a serious post office box shortage problem" (OCA-T-300 at 11),² "An office with a capacity problem in only one box size ... may have an abundance of boxes in the other four sizes" (*id.*), and "The quantitative information reveals that there is no nationwide box availability problem" (*id.* at 12). Witness Callow also draws upon data from the post office box study sponsored in USPS-T-3 in an attempt to rebut witness Lion's claim that 38 percent of post offices have all boxes of a single size in use, to assert that only five percent of offices have all installed boxes in use. *Id.* at 11-12. Section II of USPS-RT-3 directly rebuts these assertions by using information from the same study to quantify other relevant measures of capacity constraints to show that

¹Office of the Consumer Advocate Motion to Strike Portions of the Rebuttal Testimony of Postal Service Witness Paul Lion.

²OCA-T-300 appears in the transcript at Tr. 8/1517-49.



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they are far more of a nationwide problem than witness Callow asserts. As such, there can be no question but that it is proper rebuttal testimony.

The OCA identifies three grounds for striking section II: 1) witness Callow never used the words "capacity constraints" and therefore never raised the issue Section II addresses; 2) the Postal Service failed to provide certain supporting documentation;³ and 3) the range of values for capacity utilization presented by in USPS-RT-3 constitute a hypothetical exercise that "can never be determined" (emphasis in original).⁴ The first and third of these lack any merit, while to the extent there once was any merit to the second, it has been addressed and eliminated.

The first ground simply attempts to elevate the words used in testimony over the concepts and principles being addressed. There is no question that witness Callow introduced his five percent figure in opposition to witness Lion's 38 percent figure, see Tr. 5/1660-65, and that both are measures of capacity constraints, *id.* at 1663, lines 1-18. Indeed, witness Callow conceded that there might be other such measures, *id.* Section II of USPS-RT-3 simply presents alternate measures, using data that had already been filed. The fact that witness Callow may not have used the words "capacity constraints" matters not when he testified about the availability of boxes, and his testimony plainly criticized the one measure relied upon by the Postal Service in its direct case by putting another measure in play. Section II is perfectly appropriate

³As explained below, the OCA vastly overstates the scope of these asserted omissions by asserting they justify striking large portions of USPS-RT-3 when they apply only to a part of one table.

⁴Motion at 3. The OCA does not assert that the range of values are irrelevant, so this does not appear to be a legally cognizable basis for striking any testimony. Notwithstanding, this pleading explains why the range of values further elucidate the extent of box shortages.

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rebuttal of witness Callow's assertion to show that he overstates nationwide box availability.

The OCA's second ground for moving to strike section II is the supposed lack of supporting documentation. The Motion provides little detail regarding what appeared to be absent; however, counsel for the OCA provided further detail to counsel for the Postal Service by telephone. There were apparently two different problems, both of which have now been resolved.

The first problem was the supposed lack of SAS code.⁵ In fact, the SAS code was provided in hard copy form in LR-SSR-157 and the OCA had typed this code in PC-SAS and not been able to obtain the exact same results (one example was that a cell value had changed from 1019 to 1024, although overall percentages were not affected). Respective technicians for the OCA and Postal Service were put in direct contact to determine why the OCA was unable to replicate the postal results. To both parties' surprise, the problem was traced to distinctions between PC-SAS and mainframe SAS that was documented in the manuals; in any event the differences were not significant and the Postal Service has agreed to facilitate the proceedings by not objecting to the cross-examination exhibits (which have already been provided) on the grounds that they incorporate these small deviations from the witness' own calculations.

The second problem was the lack of supporting documentation for parts of Table 1 in USPS-RT-3. The Motion mischaracterizes the omission as pertaining to multiple tables and also fails to note that it applies only to capacity utilizations below 85 percent

⁵This first problem was brought to the attention of counsel to the Postal Service via voice mail message early on December 10. By the end of the day when that problem had been resolved, counsel for the Postal Service was further advised that there was a second problem, that both would be featured in the OCA's Motion, and that the Motion would be available by the close of business.

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in that table. The Postal Service responded immediately to the OCA's indication that something was missing by confirming that part of the documentation was missing, and then by providing that piece via email to an OCA technician and by filing a Part II to LR-SSR-157 on December 11.

This missing documentation was also substantially irrelevant for two reasons. First, it pertained only to the lower percentage rows in Table 1, upon which neither the OCA nor the Postal Service relies. Second, the OCA had ready access to the raw data and SAS program by which the documentation was produced, and could therefore have reproduced it quite easily.

In any event, counsel for the Postal Service now believes that both of these documentation concerns have been addressed completely.

The OCA's third ground for striking section II of USPS-RT-3 focuses upon the range of values presented for capacity utilization. These values reflect different assumptions regarding the percentage of installed boxes actually available for use by customers. The third ground is based upon the lack of any specific data indicating what percent of boxes become unavailable for the reasons discussed. The rebuttal testimony demonstrates why capacity utilization at any of the capacity utilization values used by witness Lion in Table 2 may nonetheless be full capacity since some boxes are routinely unavailable for various reasons.

As indicated above, section II properly rebuts witness Callow's claim that there is no nationwide box capacity problem by demonstrating why the one figure on which he relies understates the scope of the problem. The Motion, at page 3, states, "it is not possible to identify any particular level of utilization that would constitute full capacity." The OCA has missed the point. The series of measures that have been presented provide a better picture of the extent of the capacity problem than any single number

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could. It is a problem with many aspects that can be, as confirmed by witness Callow (Tr. 8/1623), examined with various measures.

Thus, the first and third bases cited by the OCA for striking section II of USPS-RT-3 lack any merit. To the extent the second basis once had any foundation, the OCA has overstated the import of the once-missing documentation⁶ which it could easily have produced with available information. The omissions, moreover, have been rectified. There exists, accordingly, no basis for striking section II of USPS-RT-3.

SECTION IV OF USPS-RT-3

Section IV of USPS-RT-3 addresses a problem that arises from the OCA's proposal for post office box fees and its resulting cost coverage of 101 percent. Aside from reasons such as equity (why should boxholders not contribute?) and the law (some institutional cost contribution is required) -- both of which can be argued on brief, section IV addresses an additional reason why boxholders should make a contribution to institutional costs: unless local managers have an incentive to respond to demand by investing in expanded box service, demand will continue to outstrip supply. The Postal Service proposed, and the Commission rejected, using market rather than book costs for box section space; that does not mean, however, that decisions to expand box sections ignore the economic facts. The Postal Service box fee proposal would alleviate much of this problem, since a higher cost coverage figure would mean that local managers would find themselves with the appropriate incentive to expand box sections when faced with demand. Under the OCA fee proposal, however, there is

⁶Even if the OCA's reasons for striking section II had merit, they would extend better to the latter portion of the section, that is, from page 6 line 5 through the end.

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almost no likelihood that the appropriate incentive will result. As such, section IV properly rebuts the OCA's and witness Callow's fee proposal.

The OCA's Motion asserts two grounds for striking Section IV of witness Lion's rebuttal testimony: 1) witness Callow never addressed market versus book costs; and 2) witnesses Callow and Lion agree so there is nothing to rebut. Much as with its arguments pertaining to section II, the OCA again misses the mark. Section IV does not rebut witness Callow's use of market versus book costs, but his testimony that 101 percent cost coverage adequately satisfies the pricing criteria of the Reorganization Act.⁷

The falsity of the OCA's assertion that there is nothing to rebut is patent; if the OCA is prepared to stipulate that witness Callow agrees with all of witness Lion's testimony while withdrawing witness Callow's testimony, perhaps the OCA might have a good point. The fact that the two witnesses relied upon similar procedures,⁸ rather than providing a basis for striking section IV, aids the Commission by making their respective points more readily comparable and by simplifying the analysis needed at this late stage of the case. The OCA's two asserted bases for striking section IV accordingly lack all merit.

⁷Witness Lion makes this connection explicit in his testimony. USPS-RT-3 at 1.

⁸Witness Lion does note one error in witness Callow's analysis (see LR-SSR-158 at 4, last full paragraph); since the effect is negligible, witness Lion chose to facilitate the Commission's understanding by ignoring that error.

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CONCLUSION

The OCA's Motion fails to satisfy the standards set forth in Special 1.C. since it constitutes a request for extraordinary relief that is used as a substitute for issues that can be argued on brief; the Motion was, moreover filed late and the OCA has not requested waiver of the fourteen day requirement. See PRC Order No 1143, at 2-3 (December 12, 1996).

WHEREFORE, for the reasons stated above, the United States Postal Service asks that the OCA Motion to strike sections II and IV of USPS-RT-3, and references to those sections, be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



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