

**ORIGINAL**

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

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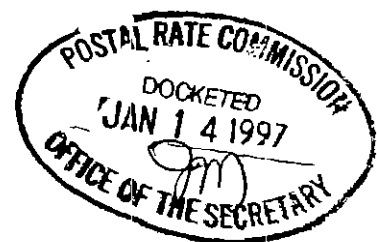
POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

**SPECIAL SERVICES FEES  
AND CLASSIFICATIONS**

**Docket No. MC96-3**

**INITIAL BRIEF OF  
MAJOR MAILERS ASSOCIATION**

January 14, 1997



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**SUMMARY OF POSITION**

The Commission needs to find a means to require the Postal Service to reveal the effect of its disapproved methodology for attributing the costs of city delivery carriers. It is too late now to accomplish this objective in this proceeding. For the sake of future cases, the Commission should act expeditiously to strengthen and adopt the regulation proposed in Docket No. RM97-1.

**DISCUSSION**

**A. The Need To Obtain Disclosure  
Has Been Clearly Established**

This is the third consecutive case in which the Postal Service has refused to employ the Commission-approved methodology for attributing the costs of city deliver carriers---or even to disclose the effect of using that methodology. In Docket No. R94-1 and in this proceeding, the Postal Service declined to comply with numerous Commission Orders directing disclosure of this information<sup>1</sup>

In its Orders and in its Notice in Docket No. RM97-1, the Commission has found repeatedly that it needs this information to perform its regulatory duties. In addition, the Commission has ruled again and again that the Service's excuses for nondisclosure are baseless.

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<sup>1</sup> In Docket No. R94-1, see P.O.R. No. R94-1/18, P.O.R. No. 94-1/26. See also P.O.R. No. R94-1/38. In Docket MC96-3, see Orders No. 1120, 1126 and 1134. See also Order No. 1143. In Docket No. MC95-1, see Opinion and Order at IV-55 to IV-60

The current record provides further justification for the Commission's decision. Thus, MMA witness Bentley testified (Tr. 6:1896) that--as compared with the Commission's methodology:

- The Postal Service's methodology attributes about a billion dollars less than the Commission's methodology;
- The Postal Service's methodology transfers about \$130 million of attributable costs *from* other subclasses *to* First-Class Mail; and
- The Postal Service's methodology transfers about \$174 million of attributable costs *from* Standard Mail *to* other subclasses and services

The Service's methodology is--and will continue to be--a device for overcharging First-Class Mail in order to lower rates for other classes of mail service.

Moreover, Mr. Bentley testified, the Postal Service's nondisclosure frustrates any comparison of financial data from one proceeding to another, from one year to another, and from Commission proceedings to the Service's published costing reports (Tr. 6:1895).

The Postal Service's cross-examination did not detract from any of Mr. Bentley's conclusions, and the Service declined to file any testimony rebutting Mr. Bentley.

**B. The Commission's Present Array of Powers  
Encourages the Service's Strategy Of Defiance**

Because the Commission lacks subpoena power, it is unable to enforce its Orders directing disclosure. Knowing this, the Service refuses to comply with those Orders.

It is true that, under 39 U.S.C. §3624(c)(2), the Commission can delay the 10-month period for its decision when the Service fails to comply with a lawful Order. But, once a proceeding begins, the Commission is understandably reluctant to invoke that power and to stay the proceeding. (See Order No. 1134.)

The result is that the Postal Service believes that it can defy the Commission with impunity. This situation should not be allowed to continue. As Mr. Bentley testified (Tr. 6:1999): "[T]he Postal Service must somehow be forced to provide that information before the next rate case as part of [its] original filing...."

C. **The Commission Should Expedite Its  
Adoption of the Docket RM97-1 Proposal.**

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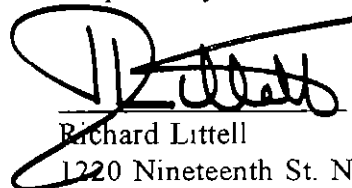
The time has come for the Commission to adopt a self-enforcing regulation that requires the Postal Service to reveal, as part of any new case, the effect of the Commission-approved methodology upon postal costs.

The Commission took a giant step in that direction when it instituted the rulemaking in Docket No. RM97-1. The proposed regulation tells the Postal Service that, when it proposes a change in Commission-approved cost attribution principles, it should supply a "statement" showing the effect on its costs if it had used the Commission-approved principle. (See 61 Fed. Reg. 67760-63 (Dec 24, 1996).)

The proposed regulation is laudable insofar as it goes. It is not self-executing, however, and does not provide for any sanction for noncompliance. Thus, if the Postal Service omits the requested information from its filing or asks for a waiver, the Commission will be forced to issue more Orders of the sort that the Postal Service has defied. And the proposed rule does not require the Service to provide information allowing the "statement" to be evaluated. There is a need to strengthen the regulation.

Once strengthened, the regulation should be made effective expeditiously so that it governs the Service's next general rate filing.

Respectfully submitted,



Richard Littell

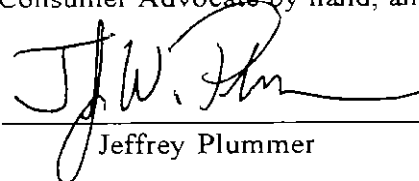
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January 14, 1997

Counsel for MMA

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document (1) upon the U.S. Postal Service by facsimile, (2) upon the Office of Consumer Advocate by hand, and (3) upon the other parties by First-Class Mail.



January 14, 1997

Jeffrey Plummer