

BEFORE THE
POSTAL RATE COMMISSION

INTERNATIONAL MAIL REPORT

Docket No. RM2000-1

REPLY COMMENTS OF FEDERAL EXPRESS
IN RESPONSE TO ORDER NO. 1270
JANUARY 10, 2000

By Order No. 1270 (Nov. 18, 1999), the Commission invited comment on a proposal to add new Rule 103 to its rules of practice. 64 FR 66436 (Nov. 26, 1999). Rule 103 would set out the elements of international mail data which the Postal Service is required to submit to the Commission annually in compliance with 39 USC 3663(b). The Commission also requested comment on the Commission's own report to Congress on International Mail Volumes, Costs and Revenue (hereafter, "International Mail Report" or "IMR"), which it prepares pursuant to 39 USC 3663(a). By the same order, the Commission invited submission of reply comments by January 10, 1999. In response, Federal Express (FedEx) is pleased to submit the following reply comment.

1. Comment of the Postal Service

At pages 3 and 4 of its comment, the Postal Service repeatedly implies that the Commission's authority to require international mail information of the Postal Service is limited by the confines of §3663. For example, the Postal Service declares,

It is well recognized that the Postal Service has the authority to develop its own system of accounts and to determine the form and contents of its business documentation. 39 U.S.C. §401(4) Nothing in 39 U.S.C. §3663 derogates from this or specifically alters postal

management's prerogatives in this regard [page 3].

. . . . to the extent that the proposed rules purport to dictate the timing or release of information in a manner not consistent with the exercise of the Postal Service's authority to determine its systems and documents, the rules would not be well-founded under section 3663 [page 4].

. . . . [the Postal Service' will cooperate in whatever ways are most appropriate to meet its own obligations under section 3663 [page 4]

In these pages, the Postal Service appears to overlook that, in adopting proposed Rule 103, the Commission is exercising general regulatory authority under the Postal Reorganization Act and not merely specific authority set out in §3663. In particular, under §3603, the Commission has sole authority to establish "regulations" and "procedures" which it determines necessary to prepare the International Mail Report required of the Commission by §3663(a). Section 3603 makes clear that "such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service." Reporting requirements in connection with the IMR issued under authority of §3603 (or other pertinent provisions of the Postal Reorganization Act) may extend beyond those specifically imposed on the Postal Service §3663(b). Thus, the Commission is vested with both the duty and the authority to determine the content and scope of the IMR and the nature and scope of data to be provided by the Postal Service in connection therewith.¹

¹In same vein, we disagree with the Postal Service's implication that it may second guess the Commission's judgment as to the content of the IMR: "it is open to question whether 39 U.S.C. § 3663 was ever intended by Congress to authorize the Commission, in effect, to service as a second auditor of the Postal Service's international financial data." Open to question by whom? In our view, there is no question that Congress has instructed the Commission to provide "a comprehensive report of the costs, revenues, and volumes" of international mail and has authorized the Commission to determine (i) what should be included in a comprehensive report and (ii) what information the Postal Service must supply in the preparation of such report. If the Commission considers any information produced by the Postal

2. Comment of the Office of the Consumer Advocate

The Office of the Consumer Advocate (OCA) urges the Commission, in substance, to amend proposed Rule 103 to require the Postal Service to file detailed descriptions of the methodologies used to develop international mail data. Requiring the submission of such information would provide the Commission with a better understanding of the reliability of the data and would allow the Commission to invite public comment on methodologies used. Most, if not all, of the information requested by the OCA appears to consist of manuals, etc., that the Postal Service has prepared for its own purposes. Its production would appear to be straightforward and non-burdensome. (Indeed, a lack of such manuals would also be material to the Commission's report.) FedEx supports the OCA's proposal to amend Rule 103 to include a requirement to file detailed information on the methodologies used to develop international mail data. The absence of cross examination and discovery to test the accuracy of international mail data argues for as complete a submission as possible in respect to international mail data.²

Respectfully submitted,

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Service to be unreliable, it is obliged by law to take whatever steps it deems appropriate to obtain reliable information for its report to Congress.

²FedEx also supports the OCA's suggestion that the Commission should, early its examination of the Postal Service submission, invite public comment on the methodologies used to gather international mail data; however, the procedures which the Commission will employ in the next such examination do not appear to be part of the instant rulemaking.

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January 10, 2000

Certificate of Service

I hereby certify that I have this day served the foregoing document on all participants of record in this proceeding in accordance with section 12 of the rules of practice.

James I. Campbell Jr.

January 10, 2000