

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

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

**SUPPLEMENTAL OBJECTION OF THE UNITED STATES POSTAL SERVICE  
TO OFFICE OF THE CONSUMER ADVOCATE INTERROGATORY (OCA/USPS-31)  
(February 11, 2000)**

In accordance with Rule 26 of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby files this supplemental objection to interrogatory OCA/USPS-31, dated January 27, 2000.

The Postal Service filed a partial objection to this interrogatory on February 4, 2000, and filed a partial response on February 10, 2000.<sup>1</sup> On February 8, 2000, counsel for the OCA informed Postal Service counsel that parts (a) and (b) of the interrogatory should be interpreted as including all documents which were submitted by postal management and counsel to the USPS Governors in connection with their consideration of the Courtesy Envelope Mail (CEM) recommendation of the Postal Rate Commission in Docket No. R97-1.<sup>2</sup>

In response to this broader interpretation of OCA/USPS-31, the Postal Service

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<sup>1</sup> The Postal Service's February 10, 2000, response to OCA/USPS-31 makes clear that postal management has not studied the CEM issue since its disposition by the Governors in Docket No. R97-1, but anticipates that it might re-evaluate the CEM issue, should the need arise in the instant proceeding.

<sup>2</sup> The Postal Service does not regard this interpretation to be self-evident, and appreciates the OCA's clarification. Had this interpretation been self-evident, the Postal Service would have filed this objection concurrently with the one filed on February 4, 2000. The Postal Service respectfully urges that no party will be prejudiced by the filing of this supplemental objection today -- only three days after notice of the OCA's interpretation and four days after the original deadline for filing objections.

has identified six documents which were submitted by senior management and counsel to the Governors for consideration in connection with the closed meetings on June 1 and 29, 1998, at which the Governors reviewed the Commission's Docket No. R97-1 Opinion. A list of these documents is attached. The Postal Service objects to the OCA's request -- under its broader interpretation of OCA/USPS-31(b) -- for copies of these documents.

The Governors Decision on CEM in Docket No. R97-1 speaks for itself. Judicial review of Docket No. R97-1 has concluded. Both in its February 4, 2000, objection and its February 8, 2000, response to OCA/USPS-31, the Postal Service indicated that it has prepared no analysis of a CEM proposal since Docket No. R97-1.

Under the Commission's Rules, the scope of discovery in Docket No. R2000-1 is restricted to non-privileged matter relevant to the Request in this proceeding. However, rather than focus on such matter, the OCA now wishes turn Docket No. R2000-1 into a *post mortem* examination of the internal deliberative process which resulted in the Governors' Docket No. R97-1 decision to reject the Commission's recommendation of a CEM classification. Such an inquiry delves into matters which are not relevant to the Docket No. R2000-1 Request.

Moreover, the Postal Service considers that any documents generated by postal counsel which reflect legal and policy advice to the Governors regarding their 39 U.S.C. § 3625 options with respect to any aspect of Docket No. R97-1 are protected from disclosure by the attorney-client privilege. The Postal Service also considers any documents generated by postal management which reflect policy advice to the Governors regarding their 39 U.S.C. § 3625 options in Docket No. R97-1 to be

protected from disclosure by the deliberative process privilege.

The materials now requested by the OCA are no more relevant to the Docket No. R2000-1 Request -- and equally privileged from disclosure -- as any documents reflecting evidentiary, policy and legal analysis submitted to the Commission by its technical analysts and legal counsel for consideration as it deliberated what to recommend to the Governors in Docket No. R97-1.

Together, OCA/USPS-31(a)&(b) also request identification and disclosure of documents, "whether or not in final form". The Postal Service regards a request for draft copies of Docket No. R97-1 advice documents to the Governors to be an even more objectionable attempt to pierce the attorney-client and deliberative process privileges than a request for access to final versions of such documents.

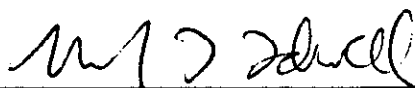
What next? Drafts of Docket No. R97-1 CEM rebuttal testimony?

For these reasons, the Postal Service objects to OCA/USPS-31, to the extent that it seeks access to documents in the attached list, or to any drafts of such documents.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:



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February 11, 2000

Documents Responsive to OCA/USPS-31(a)

Closed BOG Meeting

Documents Transmitted In Advance Or Presented At:

June 1, 1998

Management Briefing Sheet to BOG

PowerPoint Slides

June 29, 1998

Memorandum from General Counsel to BOG


Draft Governors Decision

Management Briefing Sheet to BOG

PowerPoint Slides

**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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