

BEFORE THE
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

DOCKET NO. R2000-1

ANSWER OF UNITED PARCEL SERVICE TO MOTION OF
UNITED STATES POSTAL SERVICE FOR WAIVER AND FOR
PROTECTIVE CONDITIONS FOR ANALYSIS OF WITNESS YEZER
(February 14, 2000)

Pursuant to Commission Order No. 1279, United Parcel Service ("UPS") hereby responds to the Motion of the United States Postal Service for Waiver and for Protective Conditions for Analysis of Witness Yezer dated January 12, 2000 ("Motion"). In the Motion, the Postal Service requests that the Commission establish protective conditions for the econometric analysis of witness Yezer and the cost and box count data used by witness Kaneer. Motion, at 1.

The Postal Service attempts to prohibit access to the materials that would be subject to the protective order by "persons involved in competitive decision-making for any entity that might gain commercial benefit . . . from use of this information." Motion, Statement of Compliance with Protective Conditions, ¶ 1(b). The Postal Service defines the term "involved in competitive decision-making" to include "consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals." Motion, Statement of Compliance with Protective Conditions, ¶ 1(b). UPS submits that the

Postal Service's proposed protective conditions are overly restrictive and would deny access to those who have legitimate need for access, including possibly legal counsel.


In Docket No. C99-1, the Commission thoroughly reviewed just recently the issue of whether or not participants' counsel should be allowed access to commercially sensitive information of the Postal Service. In that case, the Commission concluded that the restriction that the Postal Service attempted to impose on access by those "involved in competitive decision-making," including legal counsel, was overly broad. Docket No. C99-1, Order No. 1283, January 28, 2000, at 9. Therefore, the Commission narrowed the definition of "involved in competitive decision-making" by explicitly stating that "rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material" is not involvement in competitive decision-making. Order No. 1283, at 9.

The Postal Service's definition of "involved in competitive decision-making" contained in the proposed protective conditions for this docket does not contain this language and thus is not consistent with Commission precedent on this issue. UPS submits that the Commission should make clear in this proceeding, as it did in Docket No. C99-1, that protective conditions do not apply to legal counsel in rendering legal advice.

WHEREFORE, UPS respectfully requests that the Commission revise the definition of "involved in competitive decision making" in paragraph 1(b) of the Postal Service's proposed Statement of Compliance with Protective Conditions by appending the following sentence to that paragraph:

It does not include rendering legal advice, or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.

Respectfully submitted,



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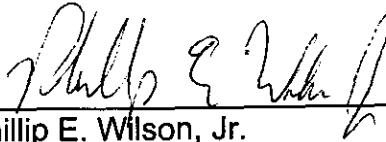
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document by first class mail, postage prepaid, in accordance with Section 12 of the Commission's Rules of Practice.



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Dated: February 14, 2000
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