

BEFORE THE
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

COMPLAINT ON POST E.C.S.

DOCKET NO. C99-1

ANSWER OF UNITED PARCEL SERVICE IN OPPOSITION
TO MOTION OF UNITED STATES POSTAL SERVICE
FOR FURTHER AMENDMENT TO PROTECTIVE CONDITIONS
(FEBRUARY 24, 2000)

United Parcel Service hereby responds to the United States Postal Service Answer in Opposition to United Parcel Service Motion for Further Clarification and Motion of United States Postal Service for Further Amendment to Protective Conditions ("Motion for Further Amendment to Protective Conditions").

On February 3, 2000, the Postal Service filed a Motion for Clarification and Correction of Order No. 1283 ("Original Clarification Motion"), in which the Postal Service requested the Commission to adopt changes to the Statement of Protective Conditions attached to Order No. 1283, issued January 28, 2000. On February 10, 2000, UPS filed an answer agreeing to the relief requested in the Original Clarification Motion. Answer of United Parcel Service to United States Postal Service Motion for Clarification and Correction of Order No. 1283 and Motion for Further Clarification ("Motion for Clarification"). UPS also requested that the Commission insert a comma after the phrase "legal advice" in the last sentence of paragraph 1 (b) of the Statement of Protective Conditions attached to Order No. 1283. In its Motion for Further Amendment of Protective Conditions, filed on February 17, 2000, the Postal Service


requested that the Commission deny UPS's Motion for Clarification and, in addition, strike the entire last sentence of paragraph 1(b) of the Statement of Protective Conditions (although the Postal Service had not sought to strike that sentence in the Original Clarification Motion).

It is clear from its most recent filing that the Postal Service has misconstrued UPS's position regarding access to commercially sensitive information by legal advisors. It is **not** UPS's position that legal advisors should always be permitted access to sensitive materials. See Motion for Further Amendment to Protective Conditions, at 2. Under UPS's proposal, a lawyer who is actually involved in competitive decisionmaking would still be precluded from having access to protected materials. UPS's requested comma is intended only to make it clear that a lawyer who merely provides legal advice, and nothing more, to those who are truly involved in competitive decisionmaking is not by that fact alone "involved in competitive decisionmaking," and should be permitted access to protected materials since the lawyer is not personally or "directly" involved in making the competitive decision. As UPS stated in its Motion for Clarification, the comma is necessary to clarify that, in general, legal advisors are permitted to have access to commercially sensitive materials unless they participate in actually making the competitive decision.

The Postal Service also requests that the Commission strike the last sentence of paragraph 1(b) from the Statement of Protective Conditions attached to Order No. 1283. The Postal Service provides no basis for this request, and, in fact, there is no justification for doing so. The Commission has already decided that this clarification of the term "involved in competitive decision making" is necessary. See Order No. 1283, at 9. The Postal Service's attempt to reopen that issue should be rejected.

WHEREFORE, United Parcel Service respectfully requests that (1) its Motion for Further Clarification be granted, and (2) the Postal Service's Motion for Further Amendment to Protective Conditions be denied.

Respectfully submitted,



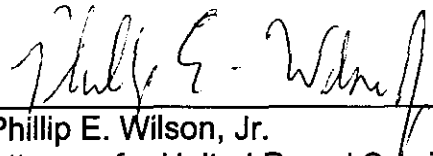
John McKeever
William J. Pinamont
Phillip E. Wilson, Jr.
Attorneys for United Parcel Service

Piper Marbury Rudnick & Wolfe LLP
3400 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103-2762
(215) 656-3310
(215) 656-3301 (FAX)
and
1200 Nineteenth Street, NW
Washington, DC 20036-2430
(202) 861-3900

Of Counsel.

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.



Phillip E. Wilson, Jr.
Attorney for United Parcel Service

Dated: February 24, 2000
Philadelphia, Pa.

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