

UNITED STATES OF AMERICA
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

OFFICE OF THE CONSUMER ADVOCATE
MOTION TO COMPEL RESPONSES
TO OCA/USPS-T9-27 TO WITNESS TAYMAN AND
OCA/USPS-81 TO THE POSTAL SERVICE
(March 23, 2000)

The Office of the Consumer Advocate hereby moves to compel responses to the Office of the Consumer Advocate ("OCA") interrogatories OCA/USPS-T9-27 directed to witness Tayman and OCA/USPS-81 directed to the Postal Service. In accordance with the Commission's Rules 26(d) and 27(d), the interrogatories filed February 23, 2000 and March 6, 2000, respectively, are attached hereto together with the Postal Service objection filed March 10, 2000.

THE REQUEST

Interrogatory OCA/USPS-T9-27(a) requests from the Postal Service the most current USPS FY 2000 Operating Plan by accounting periods for operating revenues, appropriation, investment income, expenses and volumes. OCA/USPS-T9-27(b) further requests a break-out of operating revenues by mail class and subclass cost categories for each of the thirteen accounting periods of that plan. OCA/USPS-81 requests the full

detail of the Postal Service's FY 2000 budget plan (i. e., by Accounting Period and mail class and subclass).

The Postal Service objection does not distinguish between the two different interrogatories, although OCA/USPS-T9-27 is somewhat narrower in scope than OCA/USPS-81. The former interrogatory is limited to operating revenue and the latter requests "full detail" of the plan by mail class and subclass, which would include additional information such as appropriations, investment income, expenses and volumes or any other detail for each class and subclass that may be covered in the budget plan.

The Postal Service objections to the questions are limited. It asserts that some of the information sought is (a) predecisional, (b) subject to change and (c) of no value or relevance with regard to issues in this case until finalized. The Postal Service states that it has no objection to providing "finalized accounting period plans" and has done so, it says, in accordance with the Commission's reporting rules. It has thus made available plans for accounting period 1-6 (now completed) but "preliminary accounting period plans for accounting periods 7-13 are not finalized and subject to continuous change." It says the information on actual accounting information is not yet available but will be made available when the financial operating statements required to be reported by the Commission's rules. Although not specifically saying so, in the Postal Service parlance apparently operating plans are only "finalized" after the accounting period has ended and the actual amounts are known and finally accounted for (although perhaps subject to final audit).

ARGUMENT

I. OCA/USPS-T-9(a)

The Postal Service's three objections to OCA/USPS-T-9(a) are without merit. The relevance of the budget plan to an omnibus rate proceeding was demonstrated several times in the previous rate proceeding, Docket No. R97-1, and its relevance is equally applicable in this case. The interrogatory asks for the current operating plan for FY 2000 broken down by into five specific areas. The Postal Service provided a similar plan for FY 98, without objection, in response to an OCA interrogatory OCA/USPS-120 in Docket No. R97-1. Subsequently, at the hearing on March 19, 1998, during the middle of FY 98, that plan was the subject of a significant amount of cross-examination by OCA, the Presiding Officer, and others. See Docket No. R97-1, Tr. 33/18668-84. The plan was copied into the record. Tr. 33/18661. That plan consisted of the information now requested by OCA in OCA/USPS-T9-27(a) for FY 2000 is essentially the same as that provided without objection in Docket No. R97-1.

The Commission in its Docket No. R97-1 opinion even discussed the operating plan, still not finalized at the time of the Commission's Opinion on May 11, 1998, and utilized the plan in its decisional process. See, for instance, PRC Op. at 39-41 and 49-58. The availability of the full year's plan was important even though part of the year was not completed. It assisted the OCA and the Commission in determining the yearly profit expectations of the Postal Service. This was plainly relevant to the issue raised by OCA and ANM as to the Postal Service's need for the revenue requested inasmuch as the Postal Service claims of profit shortfalls and overall operating plan estimates were proving to be inaccurate. The operating plan was also important in determining

the likelihood of the Postal Service spending the amounts anticipated for new programs during the test year. If the spending were significantly less than originally planned, then the need for the revenue requirement was significantly diminished. The operating plan now being requested was a key document in resolving the issues raised by OCA and ANM.

Similarly, in this proceeding the issue as to the Postal Service's revenue requirement needs continues to be an important issue for the same reasons. Several of the interrogatories of ANM also indicate the operating plan of the Postal Service for the entire year is relevant. See ANM/USPS-T9-45a and b.

The Postal Service also objects that the operating budget process is flexible and may involve a reallocation of resources among organizational units and programs. However, this objection does not apply to the requested overall operating plan. The Postal Service has already indicated in response to ANM/USPS T9-45 that the overall operating plan is not subject to change.¹ Likewise, the Postal Service claim that the information sought is predecisional and is still subject to change, *i.e.* the Postal Service has not decided finally on the plan, is not applicable to the overall plan.

II. OCA/USPS-T9-27(b) and OCA/USPS-81

OCA/USPS-T9-27(b) requests "the most current USPS FY 2000 Operating Plan with operating revenues broken out by mail class and subclass cost categories. More

¹ Postal Service March 14, 2000 response to ANM/USPS-T9-45a, in part, "The Total Revenue plan has not changed since the beginning of the year and it will remain constant throughout the year." Postal Service response to ANM/USPS-T9-45b, in part, "The Total Expense plan has not changed since the beginning of the year and it will remain constant throughout the year."

broadly, and inclusive of OCA/USPS-T9-27(b), the OCA also requests in OCA/USPS-81 the "FY 2000 budget plan in full detail (i.e., by Accounting Period and mail class and subclass)."

Initially, it should be emphasized that these requests are not onerous or difficult nor should compliance require an inordinate amount of Postal Service resources, and the Postal Service does not claim otherwise. The Postal Service is currently in the middle of FY 2000 and the current budget plan must be readily available. Nor does the Postal Service make any claims that the material is exempted from disclosure as commercially sensitive material nor does it seriously contend that any other privilege prevents disclosure of its budget plans.

The Postal Service's predecisional argument is specious. The predecisional claim is normally a claim of privilege that relates to documents prepared in the course of possible litigation. The documents requested here do not relate to material prepared for potential litigation. Also, the Postal Service is not the party to determine whether the data requested will be useful in reaching a recommended decision on Postal Service rates. It is beyond dispute that the Postal Services budget is a significant and important aspect in weighing the intentions of the management for the remainder of this year and against which a comparison can be made with the rate application. This, in turn, will assist in determining the reasonableness of the FY 2001 test year data.

The Postal Service is, in effect, stating that the budget for the year is not final because the time period for which it was prepared has not yet passed and that it is subject to change. This ignores the fundamental purpose of an operating budget, that of planning for revenues and expenses for the immediate future. Under the Postal

Service logic, the only financial information the Postal Service would provide would be audited financial statements for past periods. Much of the Postal Service's rate application rollforward data for the interim year and certainly for the test year are not yet "finalized," inasmuch as the time period for which they are prepared has not yet passed. Any labor costs subject to contract negotiations, future capital expenditures and even the cost of fuel are all not "finalized" and could be considered predecisional in that the Postal Service makes no claim that the individual estimates may not be subject to adjustments pursuant to management initiatives or programs introduced during the relevant timeframe. Indeed, the entire "other programs" calculation of witness Tayman includes programs that are in constant flux and, in those cases, not only are funds moved around within the overall planned investment program, but the total amount of investment also is adjusted at the discretion of management. Nevertheless, the Postal Service readily provides these "predecisional" estimates of revenues and expenses by class and subclass that the Commission relies upon in reaching its decision in all rate proceedings.

Of course, the OCA recognizes the information requested are projections, not "final" figures. The OCA is concerned with the Postal Service's current and future plans in order to compare them with the documentation in the application. This was not a futile exercise in the previous proceeding, but led to important revelations regarding the dichotomy between the Postal Service claims in its application and Postal Service

management's plans and intentions for the immediate future, particularly that portion approved by the Board.²

The operating budget represents another management estimate of the details of the Postal Service revenues and costs. Operating budgets are fundamental to the plans of management. Yet the Postal Service would have the Commission ignore the information prepared by Postal Service management defining its expectations and current plans for FY 2000. The Postal Service objection has an Alice in Wonderland aspect as it indicates an expectation the Commission must act as though this information did not exist. The information proved useful in the last proceeding. The detail requested now will again be useful to the participants. It is, therefore, absurd to suggest that because the budget numbers are subject to change, neither the participants nor the Commission should have access to the details of the total budget plan.

Finally, the Commission's Rule 26 permits discovery not only of information relevant to the subject matter in the proceeding, but also discovery of information "reasonably calculated to lead to the discovery of admissible evidence." 39 C.F.R. § 3001.26(a). The information in the plan may well indicate areas of the Postal Service plans that differ from the application and for which an explanation is necessary.

Also significant are changes that have been made to the budget since originally approved by the Board of Governors and particularly since the rate application was

² The interrogatories ask only for the "current" estimates rather than the original estimate and all adjustments made to date in the FY 2000 budget plan even though arguably that information too would be relevant to determining the magnitude of adjustments that have been made to date in planned other programs expenses.

prepared. The full detail of the budget is necessary to determine which of the budget areas have been modified and what, if any adjustments should be made in the application to the Commission. The Commission must have available relevant information that can assist in this regard. It is also necessary that the Postal Service provide updates to the budget material as they are made. This is not an onerous task and clearly within the realm of relevance.³

Finally, with respect to all of the interrogatories, it is important that the Commission know not only the rate department's claims concerning the Postal Service's financial condition but also the anticipated accomplishments of the operating offices. The fully detailed operating plan serves as a means to check for inconsistencies and errors. It will also enable the Commission to better measure the current plans of the Postal Service to ensure the right hand and left hand are working together. In this regard, the OCA further suggests that the Commission seriously consider requiring the Postal Service to report this information routinely or at least to require operating plans, together with all updates, to be filed with all omnibus rate applications.

For all of the above reasons, the Commission should therefore compel the Postal Service to respond fully, with updates as they occur, to the OCA interrogatories OCA/USPS T9-27 and OCA/USPS-81.

³ Rule 26(f) requires supplemental answers to update responses whenever necessary if the response is no longer true and to make it current.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE

A handwritten signature in cursive script, appearing to read "Ted P. Gerarden", is written over a horizontal line.

TED P. GERARDEN

Director

Office of the Consumer Advocate

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OCA/USPS-T9-27. The following refers to the USPS FY 2000 Operating Plan.

- (a) Please provide the most current USPS FY 2000 Operating Plan by accounting periods for Postal Service operating revenues, appropriations, investment income, expenses and volumes.
- (b) For each of the thirteen accounting periods presented in part "a" of this interrogatory, please provide the most current USPS FY 2000 Operating Plan with operating revenues broken out by mail class and subclass cost categories.

OCA/USPS-81. Provide the Postal Service's FY2000 budget plan in full detail (i.e., by Accounting Period and mail class and subclass).

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

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

PARTIAL OBJECTION OF UNITED STATES POSTAL SERVICE
TO INTERROGATORIES OF THE OFFICE OF THE CONSUMER ADVOCATE
(OCA/USPS-T9-27 AND OCA/USPS-81)
(March 10, 2000)

The United States Postal Service hereby objects to interrogatory OCA/USPS-T9-27, filed on February 23, 2000, and OCA/USPS-81, filed on March 6, 2000. A motion for late acceptance of the objection with respect to the former interrogatory is also being filed today. The two interrogatories seek the same thing.

Interrogatory OCA/USPS-T9-27 asks:

The following refers to the USPS FY 2000 Operating Plan.

- (a) Please provide the most current USPS FY 2000 Operating Plan by accounting periods for Postal Service operating revenues, appropriations, investment income, expenses and volumes.
- (b) For each of the thirteen accounting periods presented in part "a" of this interrogatory, please provide the most current USPS FY 2000 Operating Plan with operating revenues broken out by mail class and subclass cost categories.

Interrogatory OCA/USPS-81 asks:

Provide the Postal Service's FY 2000 budget plan in full detail (i.e., by Accounting Period and mail class and subclass).

The Postal Service objects on the grounds that some of the information sought is predecisional, is subject to change, and would be of no value or relevance with regard

to this issues in this case until finalized. The Postal Service does not object to providing finalized accounting period plans; indeed it has already done so in accordance with the Commission's periodic reporting rules. Accordingly, no separate response is required for those accounting periods since the documents are already on file with the Commission.

The Postal Service's operating budget involves the allocation of revenues, volumes, and expenses by accounting period. It also involves the establishment of budgetary targets and the allocation of resources by organizational unit. Operating budget targets involve negotiation, judgment, and the linkage to and support of operating goals. Because the operating budget process is flexible, a tactical re-allocation of resources among organizational units and programs occurs continuously to reflect changing workload, operating trends, and other priorities. As a result of this process accounting period allocations are continuously being revised within the limits of the budget's bottom line. The accounting period spreads are subject to change up until they are finalized in the Financial and Operating Statement (FOS) for each accounting period. The accounting period plans have already been made available for accounting periods 1-6 in the Financial and Operating Statements. The preliminary accounting period plans for accounting periods 7-13 are not finalized and are subject to continuous change. They will be provided when finalized and printed as the FOSs.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:


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March 10, 2000

Scott L. Reiter

CERTIFICATE OF SERVICE

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


STEPHANIE S. WALLACE

Washington, D.C. 20268-0001
March 23, 2000