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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

OBJECTION OF UNITED STATES POSTAL SERVICE TO INTERROGATORIES OF
UNITED PARCEL SERVICE DIRECTED TO WITNESS KINGSLEY
(UPS/USPS-T10-24, 30(b), 31 (in part) and 32)
(March 31, 2000)

The United States Postal Service hereby objects to United Parcel Service interrogatories UPS/USPS-T10-24, 30(b), 31 (in part) and 32, directed to witness Kingsley on March 21, 2000. The interrogatories variously are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, overbroad, burdensome to answer, request information that is commercially sensitive, and request information covered by the attorney client, attorney work product, deliberative process and law enforcement privileges.

UPS/USPS-T10-24 states:

Refer to USPS-LR-I-176, page 6, which provides: "plant-verified dropshipments were accepted at destination entry facilities without a related PS Form 8125 or with inconsistencies between the PS Form 8125 provided and the mail as presented to USPS acceptance personnel." In the case of each form where there was an inconsistency between the PS Form 8125 and the mail as presented, provide the form (with mailer and facility information redacted) and the nature and extent of the inconsistency (including the actual volume presented vs. the volume shown on the form, where the inconsistency relates to volume information).

USPS-LR-I-176 is a September 28, 1999 United States Postal Service Office of Inspector General (OIG) audit report on the plant-verified drop shipment system. It is

not clear why the actual PS Forms 8125¹ are relevant to issues in this proceeding, nor is it clear that they are reasonably calculated to lead to the discovery of admissible evidence. The audit report speaks for itself. Further, as clearly indicated on page 2 of the report, *three judgmentally-selected sites were visited over a several month period.* The actual PS Forms 8125 from this audit thus would not provide a basis for extrapolating practices at these sites to all sites in the postal system.

Moreover, the volume and facility information contained on the PS Forms 8125 is commercially sensitive to both mailers and the Postal Service. Mailers consider their volumes overall, as well as on particular mailings, to be confidential. The Postal Service considers information concerning which volumes enter at which sites to be confidential. Although UPS states that mailer and facility information may be redacted, this does not solve the problem. The audit report identifies the three sites visited. See page 2, footnote 6. At least one of the mailers whose mailings were examined is a very large parcel consolidator. See page 3, footnote 9 of the report. Given this information, the Postal Service believes that UPS and others who see the volumes on the PS Forms 8125 likely will be able to identify which volumes are associated with particular sites and particular mailers. Taking such a risk is unwarranted, particularly when the documents themselves would not appear to add any relevant information to the proceeding.

Finally, compiling the forms, identifying the "nature and extent of the inconsistency," and redacting mailer and facility information would be a time-consuming

¹ PS Form 8125 is entitled "Plant-Verified Drop Shipment Verification and Clearance."

task. This is not warranted, particularly where the information to be obtained is of dubious relevance.

UPS/USPS-T10-30(b) states:

Why was the selection limited to processing and distribution centers "that were located in cities that also contained a bulk mail center."

Again, the requested information is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The report speaks for itself. There is no demonstrable need for UPS or anyone else in this proceeding to know how or why the OIG selected these sites for audit. In addition, information on the work practices of the OIG with regard to this audit and others is protected by the attorney client, attorney work product, deliberative process and law enforcement privileges.

USP/USPS-T10-31 states:

How many facilities in total were visited in performing the audit that is the subject of USPS-LR-I-176, and what percentage of all eligible facilities does that number represented?

The Postal Service will provide a partial answer to this interrogatory. It will answer that three sites were visited, as clearly indicated in the audit report, on page 2. The Postal Service, however, objects to providing the percentage of "all eligible facilities" that this represents. Revealing what facilities the OIG might have considered "eligible" for the audit is simply not relevant. The report speaks for itself and there are no issues in this proceeding which would be illuminated by information on the OIG's selection criteria for audit sites. Also, as stated previously, information on the work practices of the OIG with regard to this audit and others is protected by the attorney client, attorney work product, deliberative process and law enforcement privileges.

UPS/USPS-T10-32 states:

Refer to page 6 of USPS-LR-I-176, which indicates, "USPS personnel accepted mail without a PS Form 8125 or with a PS Form 8125 containing incorrect information." Provide copies of all PS Forms 8125, all mailing or postage statements, and all other documents examined in connection with the audit that is the subject of this library reference, including any notes taken by the investigators or auditors. Any information that would identify a mailer or facility may be redacted.

Again, information beyond the audit report itself is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Also, the request is overbroad and providing a response would be unduly burdensome. "All other documents examined in connection with the audit" could encompass such items as postal regulations and manuals; it could even encompass other audits which might have been consulted for no other basis than to determine proper format. Responding would clearly be burdensome -- everyone who had even the most peripheral connection with the audit report would have to be consulted and asked to search their memories and their files for anything remotely associated with the audit.

Moreover, a request for "all documents" clearly covers documents covered by the attorney client, attorney work product, deliberative process and law enforcement privileges. The request for "notes taken by the investigators or auditors" is especially loathsome. Revealing such information undoubtedly would have a chilling effect on future audit efforts. There is no conceivable justification for requiring production of this information in an omnibus rate proceeding.

Further, as indicated previously, there is no reason to think that the actual PS Forms 8125 are relevant to issues in this proceeding or reasonably calculated to lead to the discovery of admissible evidence. The report stands on its own, and any attempts

to draw inferences for the entire postal system from three judgmentally-selected sites is not warranted. As also discussed previously, the volume and facility information contained on the PS Forms 8125 is commercially sensitive to both mailers and the Postal Service. As further indicated above, given the limited number of sites visited and other information already contained in the audit, the Postal Service believes that it would be possible to associate particular volumes with particular mailers and particular sites, even with mailer and facility names redacted.

UPS appears to be engaged in nothing more than a fishing expedition and, for all of the foregoing reasons, the Postal Service should not have to respond.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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March 31, 2000

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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