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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. R2000-1/34

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes

Docket No. R2000-1

PRESIDING OFFICER'S RULING DENYING
MOTION OF UNITED PARCEL SERVICE
TO REMOVE PROTECTIVE CONDITIONS
FROM LIBRARY REFERENCE USPS-LR-I-194

(Issued April 10, 2000)

This ruling addresses the status of Library Reference USPS-LR-I-194, which the Postal Service filed under protective conditions on March 3. The genesis of this library reference is Interrogatory UPS/USPS-T5-16, which asks Postal Service witness Hunter to provide electronic and hard copy versions of data contained on disks referred to in Library Reference USPS-LR-I-25, "Bulk Mail Revenue, Pieces, and Weight System (BRPW), Postal Service System Documentation." The apparent purpose of the interrogatory is to enable UPS to run the BRPW model used by the witness.

The Postal Service filed a partial objection to this interrogatory on February 22 in which it agreed to provide the requested data in a somewhat redacted form, but only under protective conditions "because the data provided will still permit an observer with knowledge of the mail processing system to deduce the identity of some facilities and

mailers.”¹ With the Service’s consent, UPS moved for adoption of interim protective conditions to govern access to the requested data.² I granted the motion on March 2.³

The UPS Motion. In its motion of March 30,⁴ United Parcel Service argues that all protective conditions currently applicable to USPS-LR-I-194 should be removed “on the ground that none of the information contained therein is commercially sensitive or otherwise confidential.” Motion at 1. Additionally, because Mr. Hunter is scheduled to appear for cross-examination on the first day of hearings in this proceeding, UPS moves for an expedited deadline for the Postal Service’s response. I granted the latter request in Presiding Officer’s Ruling No. R2000-1/26, issued on March 31.

The UPS motion reviews the history of the library reference, including the Postal Service’s claim that protective conditions were necessary because the redacted or masked data provided would still permit a knowledgeable observer to deduce the identity of some facilities and mailers. According to UPS, it accepted the Service’s offer on that basis in an effort to obtain the data as promptly as possible. Thereafter, at the technical conference held on March 20, UPS states that it learned that each record in the BRPW data set in the library reference represents an aggregate of all Parcel Post deposits by all mailers at a given facility during an entire four-week accounting period, rather than individual transactions by individual mailers. On this basis, UPS argues that “the data cannot possibly . . . contain any information that can credibly be claimed to be commercially sensitive.” Motion at 4.

UPS further states that it may wish to conduct oral cross-examination during the hearings with respect to particular records in the data set. Therefore, in order to be

¹ Partial Objections of United States Postal Service to Interrogatories of United Parcel Service, UPS/USPS-T5-6(a), -7(b), -9(a), -12 and -16, February 22, 2000, at 2.

² Motion on Consent of United Parcel Service to Adopt Interim Protective Conditions for Input and Output Data Requested in Interrogatory UPS/USPS-T5-16, March 1, 2000.

³ Presiding Officer’s Ruling Granting the United Parcel Service Motion for Interim Protective Conditions for Library Reference USPS-LR-I-194, March 2, 2000.

⁴ Motion of United Parcel Service to Remove Protective Conditions from Library Reference USPS-LR-I-194, and for Expedited Response Hereto, March 30, 2000.

able to do so in open hearings, UPS asks that all protective conditions be removed from USPS-LR-I-194 forthwith.

Postal Service Opposition. On April 3, the Postal Service publicly filed a notice⁵ of its contemporaneous submission under seal of two documents relating to Library Reference USPS-LR-I-194: the Objection of United States Postal Service to Interrogatories of United Parcel Service, UPS/USPS-T5-40(c), 58(b-c), 82 and 87; and the Opposition of United States Postal Service to United Parcel Service Motion to Remove Protective Conditions From Library Reference USPS-LR-I-194. In the latter document, the Service vigorously reiterates its claim that some of the data contained in the library reference would enable an informed observer to deduce the identity of certain facilities and mailers, and therefore should remain under protective conditions. The Service argues that movant's request for mailing statements in the interrogatories to which it objects fortifies the possibility that a good analyst with knowledge of the parcels market—which UPS doubtless has in its employ—could determine who the single largest and other larger parcel post mailers are, and where and what they mail. To avoid potential commercial exploitation of this knowledge, the Service requests retention of the protective conditions governing the library reference, and for fourteen days advance notice of the Commission's intention to remove them.

Considerations Underlying the Ruling. Having accepted Library Reference USPS-LR-I-194 under protective conditions at the mutual agreement of UPS and the Postal Service, the question posed is whether movant has presented sufficient grounds for removing those conditions over the strenuous objection of the Postal Service. After directing members of the Commission's advisory technical staff to examine the library reference's data files, and receiving their briefing, I cannot agree with movant's assertion that the data "cannot possibly . . . contain any information that can credibly be claimed to be commercially sensitive." (Motion at 4.) Even at the level of aggregation

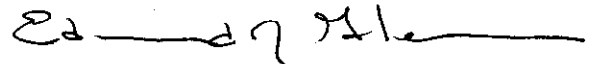
⁵ Notice of United States Postal Service of Filing Two Documents Relating to USPS-LR-I-194 under Protective Conditions, April 3, 2000.

used to cumulate data for the library reference, it is possible that a knowledgeable observer could associate large volume counts at individual facilities with a known or anticipated pattern of usage by a particular mailer at a predicted facility. Releasing the library reference's data into the public domain would allow any interested party unfettered use of this information to its commercial advantage. In order to forestall this possibility, I believe the wiser course is to maintain protection of the data.

Counsel for UPS has given notice of intent to access the library reference material,⁶ and as noted above has expressed interest in conducting oral cross-examination that may extend to particular records in its data set. I anticipate that the majority of cross-examination of witness Hunter concerning the BRPW system will not involve commercially sensitive information, and therefore can take place in a public hearing conducted under regular Commission procedures. However, to the extent any questioning could expose commercially sensitive data, the Commission may use the special hearing procedures provided for in Presiding Officer's Ruling No. R2000-1/22.⁷

RULING

1. The Motion of United Parcel Service to Remove Protective Conditions from Library Reference USPS-LR-I-194, filed March 30, 2000, is denied.



Edward J. Gleiman
Presiding Officer

⁶ Notice by United Parcel Service of Nomination of Individual for Access to Library Reference USPS-LR-I-194, April 3, 2000.

⁷ See Presiding Officer's Ruling No. R2000-1/22, March 29, 2000, at 2 and Attachment, Statement of Compliance, para. 12.