

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

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POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

NOTICE OF THE UNITED STATES POSTAL SERVICE
CONCERNING INTENT TO REQUEST FOR CERTIFICATION OF
PRESIDING OFFICER'S RULING NO. R2000-1/41
AND MOTIONS FOR LEAVE TO FILE CERTIFICATION REQUESTS LATE
(April 21, 2000)

Pursuant to Rule 32 of the Commission's Rules of Practice and Procedure, the Postal Service provides notice of its intent to request that the Presiding Officer certify to the Commission an appeal of Presiding Officer's Ruling No. R2000-1/41 (April 14, 2000). This Ruling grants, in part, the March 13, 2000, Motion of United Parcel Service regarding UPS/USPS-T34-11.

Presiding Officer's Ruling No. R2000-1/41 directs the Postal Service to disclose two sets of information:

- (1) geographically-specific data from its Priority End-to-End (PETE) service performance measurement system from 1993 to 1999 ; and
- (2) manuals, guidelines, directives, or other responsive documents indicting how PETE service performance measurements are made and how the system operates.

Rule 32 of the Commission's Rules provides, in pertinent part, that a request for certification of an appeal is appropriate when the ruling for which an appeal is sought "involves an important question of law or policy concerning which there is substantial ground for difference of opinion" and "subsequent review would be an inadequate remedy."

The Postal Service strongly disagrees with the conclusions reflected in Presiding Officer's Ruling No. R2000-1/41 and considers that routine public disclosure of system-wide, geographically-specific PETE data will have significant implications. The Postal

Service further believes that the ruling will have significant implications for similar postal data systems. Consequently, senior postal management is reviewing the Ruling for the purpose of determining the appropriate response. To the extent that the Ruling conflicts with the clear policy of the Postal Service to publicly disclose only nationally aggregated (and not geographically-specific) PETE data, the Postal Service considers that the Ruling involves "an important question of law or policy concerning which there is a substantial ground for difference of opinion" and that "subsequent review will be an inadequate remedy." This conclusion is all the more compelling in view of the Postal Service's disagreement with two of the Presiding Officer's determinations:

- (1) that dissemination of some confidential information "to many employees," even with the intention that the information remain confidential, serves to waive any claim of confidentiality in all PETE data; and
- (2) that unauthorized public dissemination of a small portion of the geographically-specific PETE data base by several local postal managers, contrary to clearly stated policy, constitutes a waiver of confidentiality by the Postal Service, compelling the public disclosure of all geographically-specific data in the PETE system.

If the Postal Service were to comply with this Ruling before an appeal to the Commission were considered, subsequent review could provide no remedy at all. If all geographically-specific PETE data were publicly disseminated, such data could be put to use by postal competitors to improve their ability to compete for delivery in the Priority Mail market. A reversal or modification by the Commission could not reverse the harm that would result to the Postal Service competitive commercial interests. For these reasons, the Postal Service considers that criteria for certification under Rule 32 are presently satisfied.

Because of the importance of the issues raised by this Ruling, pertinent members of senior postal management must be consulted before a decision is made as to the nature of the Postal Service's request for certification. At present, the earliest that could take place would be toward the end of the week of April 24th through the 28th. Undersigned counsel will be in the Commission hearing room on the 25th, 26th and 28th. Accordingly, insofar as it relates to disclosure of geographically-specific PETE data, the Postal Service requests that it be granted leave to file its request for certification of Presiding Officer's Ruling No. R2000-1 no later than Wednesday, May 3, 2000.

The Postal Service has conferred with PriceWaterhouseCoopers (PWC) concerning Presiding Officer's Ruling No. R2000-1/41, as it relates to PETE manuals, guidelines, and directives. Consultations between postal and PWC counsel have not been completed, but are expected to be concluded by the middle of next week. Thus, the Postal Service is unable to state today whether its motion for certification will address application of the protective conditions proposed for manuals, guidelines, directives, or other responsive documents which indicate how PETE service performance measurements are made and how the system operates. Accordingly, the Postal Service requests leave to file a motion for certification pertaining to this portion of the Ruling no later than Thursday, April 27, 2000.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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