

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

RESPONSE OF UNITED STATES POSTAL SERVICE TO OBJECTION OF UNITED
PARCEL SERVICE TO ADMISSION INTO EVIDENCE TESTIMONY OF WITNESSES
HUNTER AND PAFFORD, AS SUPPLEMENTED, AND TO MOTION OF UNITED
PARCEL SERVICE TO COMPEL PRODUCTION OF INFORMATION AND
DOCUMENTS OR, IN THE ALTERNATIVE, TO STRIKE TESTIMONY
(April 24, 2000)

The instant motions practice involving the Postal Service and United Parcel Service (UPS) centers on the Revenue, Pieces and Weight (RPW) system that generates much of the data supporting the Postal Service direct case. RPW is a well established system of routinely collected business information that has long been relied upon by the Postal Service to support ratemaking requests and the Commission to support its opinions and recommended decisions. RPW in turn relies upon the massive details of financial transactions that lie at the very heart of Postal Service mail processing and financial functions.

The RPW system and its BY98 results are addressed in this case by the testimony of witnesses Pafford, USPS-T-4, and Hunter, USPS-T-5. Witness Pafford's testimony addresses the Domestic RPW system (DRPW), which "provides estimates of revenue, pieces and weight for mail categories that do not correspond exactly with the Postal Service's revenue accounting system, and where data are not available from postage statements." USPS-T-4 at 4. Witness Hunter's testimony addresses the Bulk RPW (BRPW) system, which relies ultimately upon aggregations of data drawn from a census of bulk entry postage statements at a group of more than 2000 PERMIT system

offices. The PERMIT system itself is a financial tool by which verified postage statement information and corresponding payments are tracked in respective offices. PERMIT System data are first rolled up to one of 85 district offices; each accounting period (AP) a mainframe computer then polls each of these 85 offices, once for each office, for a total of more than 2000 separate queries against the district offices' VAX computers. Input data for the BRPW system, which consist of an aggregation of all mail entered at a single PERMIT office during an entire AP by mail category, is then extracted (but not modified) by the mainframe and provided to witness Hunter.¹ Together, DRPW and BRPW "completely determine the revenue, volume and weight (RPW) estimates for the base year underlying the Postal Service's request."

Most RPW information is reported by BRPW rather than DRPW; of particular significance to the instant motions practice is that BRPW reports nearly 75 percent of Parcel Post volume. UPS identifies the specific area of its concern as the fact that since the last omnibus rate case, the Postal Service has shifted the foundation for its Parcel Post estimates from DRPW to BRPW; the resultant estimates show greater volume especially for lower unit contribution parcels.²

Given UPS's understandable financial interest as a competitor to Parcel Post, it has filed hundreds of interrogatories to witness Hunter, while giving almost no attention to witness Pafford.³ UPS has also apparently chosen as a litigation strategy to pursue

^{1/} After masking finance number (it could not be redacted completely without sacrificing the capability of replicating the BRPW results using a computer), these input data were provided in USPS-LR-I-194. Protective conditions were necessary because some BRPW records still reflect a single mailer's activity over an entire accounting period.

^{2/} See Motion of United Parcel Service to Remove Protective Conditions from Library Reference USPS-LR-I-194, and for Expedited Response Hereto (March 30, 2000) at 1-2.

^{3/} UPS posed not a single question to witness Pafford during the RPW technical
(continued...)

the many layers of data underlying BRPW results – insisting that they also are “input data” as defined in the Rules of Practice – upon the ill-founded premise that the underlying layers will explain why the switch was made rather than to inquire directly into the reasoning behind the switch.⁴ Indeed, given that UPS has been informed many times and in many ways that the capability of reconstructing every layer of information back to postage statements is not plausible in the limited time frame of a ten-month proceeding, and the fact that the Commission has never previously found that such deep data mining is necessary or appropriate, UPS’ real purpose appears to be a demonstration that such data mining cannot be completed in the time allowed, thus supporting a claim on appeal that it was not afforded its due process rights. The Commission should not reward this strategy; the Postal Service has more than complied with the rules of practice, provided greater information than ever previously sought or required, and UPS’ inquiry into underlying data will not lead to an answer to the question it claims to be pursuing.

The use of revenue, pieces and weight estimates based on postage statements (then known as mailing statements) dates back to the 1980s for permit imprint Standard Mail A, Periodicals and permit imprint bound printed matter. The BRPW system made obsolete the systems previously relied upon, primarily because a census provides better data than a sample. However, the Postal Service is very cautious in upgrading or changing its data systems, because many divergent interests focus upon them

^{3/} (...continued)

conference on March 20, 2000. Moreover, UPS requested additional DRPW input and output data for the first time only on oral cross-examination.

^{4/} UPS did indicate an interest in conducting oral cross-examination on what witness Pafford knew about the switch, but UPS has never asked the simple question “why” the Postal Service concluded via internal data analysis that DRPW undercounted permit imprint DBMC Parcel Post.

closely when it comes time to play the zero sum game that an omnibus proceeding constitutes.

The change for Parcel Post from DRPW to BRPW is much the same as a change that occurred during reclassification, Docket No. MC95-1, where it attracted little notice. In that docket, PERMIT System data were for the first time used to adjust First-Class and third class prebarcoded flats. While the Postal Service direct case in Docket No. R2000-1 did not feature this upgrade, much as it did not in Docket No. MC95-1,⁵ a direct inquiry on discovery into the reasoning was quite practical without being a burdensome fishing expedition that relies upon a pretense that simply numbers can answer a "why" question.

In the various pending motions regarding data underlying RPW, UPS continues to offer its red herring that inquiry into the raw numbers from mailing statements as they are rolled up into RPW will somehow explain why the Postal Service upgraded RPW results to rely upon BRPW data. UPS attempts to use this as a basis for a burdensome fishing expedition deep into the data systems upon which the active conduct of the Postal Service is based and which are inherently sensitive to the Postal Service and mailers both.

The day before witnesses Hunter and Pafford were scheduled to appear for cross-examination on their direct testimonies, UPS filed a pleading styled as an "Objection" to the admission of their testimonies into evidence.⁶ The Objection cites to precedents that generally address the right of participants to inquire as to the accuracy

^{5/} See the Commission's discussion of this change in its Opinion and Recommended Decision IV-86 (¶¶ 4194 - 4195), Docket No. MC95-1.

^{6/} *Objection of United States Postal Service to Admission into Evidence of Portions of the Testimony of United States Postal Service Witnesses Hunter and Pafford Pertaining to Parcel Post* (April 10, 2000).

of data, and the right to replicate results. However, none of the authority cited stands for the proposition that UPS is entitled to entirely forestall this proceeding while it conducts an in-depth data mining operation into the millions of records the Postal Service creates and monitors for the purpose of its daily operations.

UPS asked for and received the input and output data sets upon which the BRPW results are based, and succeeded in replicating those results (with much informal help from the Postal Service to overcome UPS' own errors as it exported the programs to a different operating system). As such, the Rules of Practice regarding machine readable input and output data sets have been complied with. The Postal Service readily concedes that this does not make the many underlying layers of information irrelevant, but neither has the Commission ever construed the term "input data" so broadly as to extend to postage statements, the PERMIT System collection of that information, or the CBCIS aggregation of that information and extraction of raw input data for the BRPW system. Nor could the Commission reasonably extend its rules that far during an ongoing proceeding while maintaining any hope of concluding the proceeding in timely fashion.

Assuming UPS were provided all of the information it unilaterally deems necessary to its due process rights, the same concession the Postal Service makes regarding the technical relevance of underlying data would also extend beyond postage statements to whether postal regulations adequately reflect the contents of the DMCS, whether the programs written to accomplish the roll-up were written by properly trained professionals, whether such professionals engaged in a quality assurance process, whether they validated the correct operation of their computers and calculators, and a host of other matters. The Commission's interpretation of its own Rules has always accommodated this necessity for some rule of reason limiting how far a participant may go in the context of a rate case. These cases are already vastly more complex than in

the past, and UPS' position, if sustained, would increase complexity by exponential orders of magnitude. The Commission should accordingly recognize that to the extent UPS has a legitimate concern, the mining of data is only one way to proceed and one that is unlikely to lead to the type of result UPS indicates it wants in its Objection.

UPS articulates several specific arguments as to why BRPW numbers are "suspect". Objection at 4-6. First, it argues that it is a new system. As outlined above, this is factually incorrect. BRPW has been being used for more and more mail categories over time, and has previously been accepted by the Commission as providing reliable results. Second, any "new system deserves special scrutiny before it is adopted". *Id.* The Postal Service did scrutinize it closely, and had UPS inquired directly regarding this scrutiny during the discovery period, this scrutiny could have been laid bare for all to see. Examination of all the underlying layers of information is a form of scrutiny, but not one likely to satisfy the need UPS posits.

Third, UPS argues that the mere fact that the new numbers differ from the old ones means the new ones are questionable. One might just as well argue, as Parcel Post mailers do, that the old numbers were the ones that should be questioned. Again, UPS could have inquired about this directly, but for the most part has chosen not to do so.

Fourth, UPS cites to the mere existence of audit reports regarding the bulk mail acceptance function as the basis concluding that that function is poor. On the contrary, the existence of audits (only some of which found any problems – and even those were sometimes in the nature of inconsistent recordation of mailer names rather than anything associated with BRPW numbers) indicates the Postal Service's recognition of the importance of the bulk mail entry function and the rectitude of multiple checks and balances. Thus, the existence of such audits just confirms the Postal Service's commitment to performing the bulk mail entry function correctly.

In hearings on April 11, 2000 the Presiding Officer directed that UPS supplement its Objection with specifics about what it sought to preclude as record evidence. Tr. 2/94. UPS did so on April 14 by identifying all information pertinent to Parcel Post RPW and any totals built in part upon Parcel Post data. Thus it becomes clear, the granting UPS' requested relief would also justify precluding all information based upon the PERMIT System.

As promised in its April 14 supplement to its Objection, UPS filed on April 17, 2000 a motion to compel responses to five interrogatories to witness Hunter, or in the alternative to strike testimony.⁷ The motion to strike is untimely,⁸ while the motion to compel should not be granted for reasons explained below.

UPS/USPS-T5-40(c): This interrogatory sought a copy of what is called a survey referenced in the response to UPS/USPS-T5-7(a), which was used to develop one of the BRPW blow-up factors. The Postal Service objected to UPS/USPS-T5-40(c) on the grounds of commercial sensitivity because the survey by its nature contains facility specific information and full documentation of it would also involve customer specific

⁷ Motion of United Parcel Service to Compel Production of Information and Documents Requested in Interrogatories UPS/USPS-T5-40(c), 58(b) - (c), 82 and 87 to Witness Hunter or, in the Alternative, to Strike Testimony (Filed Under Protective Conditions April 17, 2000).

⁸ UPS attempts to justify its failure to comply with the Rules of Practice requirement that motions to strike (which is also what the Objection amounted to) 14 days prior to the scheduled appearance of the witness on the grounds that the Postal Service objection to the five interrogatories was not filed until six days before the scheduled appearance. Since UPS filed many interrogatories of a similar nature to which the Postal Service objected on grounds applied to the five interrogatories, since Postal Service counsel orally advised UPS counsel that the Postal Service would never agree to provide postage statements, and that necessary input and output data sets had already been provided, UPS' claim that ignoring the 14-day requirement is appropriate can only be seen as another disingenuous attempt to abrogate the Postal Service's due process rights and derail this entire case.

information. Because UPS has sought to remove the protective conditions applicable to USPS-LR-I-194, the objection was and is a full one.

However, UPS has also asked for and been provided the information elicited by that survey and upon which the blow-up factors are based. Interrogatory UPS/USPS-T5-23 requested documentation of how the blow-up factors were constructed. The affirmative Postal Service response provided that information, which includes the information elicited by the survey, and it was provided in USPS-LR-I-230. This response already avoids any problem with commercially sensitive information. Interrogatory UPS/USPS-T5-40(c) is thus also objectionable on the grounds of redundancy.

Beyond what has been provided in USPS-LR-I-230, no specific survey document is responsive to the interrogatory. The survey could conceivably be reconstructed, which would require approximately 200 hours of time searching through hard copy records. Moreover, if that information were required in electronic format, an additional 50 hours of time (which would have to be performed by witness Hunter personally) would be necessary. Accordingly, any further compelled response would also be burdensome to produce.

For reasons of commercial sensitivity, redundancy, burden, and mootness, the Postal accordingly asks that it not be compelled to provide a further response to interrogatory UPS/USPS-T5-40(c).

UPS/USPS-T5-58(b): This interrogatory begins, "Provide in electronic format detailed files that make up each input record provided in LR-I-194 ... down to postage statements The format for these files should be exactly the same as the input records provided in LR-I-194" The Postal Service objected on grounds of commercial sensitivity, burden, overbreadth, materiality, privacy, and impossibility.

As indicated implicitly in the discussion above regarding how information flows from postage statements through intermediate systems to the point of BRPW input, the information sought by UPS does not exist in the form requested. Postage statements are aggregated by finance number per AP by mail category. This information is rolled up by a polling process of the 2000+ PERMIT System offices via district level VAX computers, from which an extract file is produced which becomes input for BRPW. Hence, there is no one program that aggregates all of the tens of millions of postage statements into a single file used for BRPW input. Of course, this information would be sensitive, as mailers and the Postal Service view mailer specific and facility specific information as crucially sensitive information – even as UPS continues to push for release of that information to the general public.

The Postal Service has nonetheless inquired further into what would be required to construct the file UPS requests. If the mainframe technicians in San Mateo were directed by Postal Service management to set aside their usual tasks of supporting ongoing business operations, they could complete the basic work in approximately 15 days. The time of several technicians would be necessary. Approximately 3-4 days of concurrent time by Headquarters officials would also be necessary to guide this effort. Additional time to troubleshoot and assure that the resulting file would run properly with the files previously provided with masked finance numbers in USPS-LR-I-194 would also be necessary.

The necessary work would require writing a program to cull records, poll the 2000+ finance number records for each PERMIT System offices, mask or redact customer bulk permit numbers and finance numbers, and likely further time to debug and troubleshoot. The Postal Service has been unable to project at this time how significant the impact on postal operations would be aside from the fact that key computer systems would be diverted from their usual tasks.

The Postal Service respectfully submits that an affirmative response to this interrogatory would be a waste of the ten months allocated to a rate case and the limited time resources available in this proceeding to address RPW issues – including additional outstanding discovery – and to assist postal management in running postal operations.

UPS/USPS-T5-58(c): This interrogatory asks for a random sample of postage statements; the Postal Service objected on the same grounds as applied to UPS/USPS-T5-58(b) and the same arguments made there also apply here.

In addition to the burden associated with responding to 58(b) (which would need to precede development of a response to 58(c)), 58(c) would require that the work on 58(b) mask rather than redact finance number, and would require still an additional fifteen days to produce a randomized sample. Most of this time would be associated with proper definition of the sample frame.

Finally, this interrogatory is redundant in the sense that a random sample of postage statements was obtained and used in the study report included in USPS-LR-I-279 (for which additional interrogatory requests are yet pending).

UPS/USPS-T5-82: This interrogatory inquires into the personnel records of employees at one PERMIT System office. UPS makes the bald, unsupported assertion that such information “would provide valuable insight into the accuracy of the PERMIT System data.” April 17 Motion at 12. UPS fails even to argue how the situation in one PERMIT System office would affect ratemaking at the national level that applies in an omnibus proceeding. UPS makes no proffer of how such information would even lead to the discovery of admissible evidence; nor could it do so given the absence of any basis for projecting the situation at that one facility nationwide. Moreover, inquiry into local personnel records is believed to be unprecedented in Commission proceedings. Notwithstanding, inquiries suggest that providing an affirmative response to this

interrogatory would require approximately five days of working with local officials to procure and redact responsive records.

UPS/USPS-T5-87: This interrogatory seeks the production of all postage statements underlying each of three BRPW records. The Postal Service objection recites that each of these three records involve a single mailer's volume that, given UPS attempt to remove the protective conditions, clearly opens up the possibility that UPS' real motive is to target and acquire specific large volume customers. The Commission ought not to allow this to happen. UPS repeats its untrue mantra that the only way to verify BRPW records is to review postage statements. UPS fails to mention the hundreds of other interrogatories it has filed regarding BRPW records, or that significant institutional, economic and legal incentives all work in the direction of producing accurate records. Instead, it blindly asserts that the only to verify BRPW records is to mine data to an unprecedented and burdensome extent.

In light of the fact that UPS potentially has more than one motivation in seeking this information, the Postal Service urges the Presiding Officer not to permit UPS to review any mailing statements. If the Postal Service itself is required to review and verify the accuracy of records, or a neutral third party, that could just as readily meet UPS' nominal interest.

Locating the requested postage statements would not necessarily be very easy since records of that age are likely to have been shipped to off-site storage. As such, locating the correct ones will likely require sifting through tens of thousands of postage statements. A best case outcome would require fifteen days to locate the postage statements, after which they would still need to be redacted and/or aggregated should they need to be provided to UPS.

UPS concludes its motion to compel with an alternative motion to strike evidence regarding Parcel Post revenue, pieces and weight, claiming that such evidence lacks

an appropriate evidentiary foundation. This argument is directly contrary to a position on the identical issue taken by UPS in another proceeding. In Docket No. R97-1, UPS argued, "Expert testimony that relies upon [] data routinely collected in long-established and long-used Postal Service data collection systems ... such as IOCS, RPW, and MODS" does not lack a proper foundation.⁹

The Postal Service has provided the input and output data sets for all RPW testimony, as contemplated by Rule 31(k). Each of the RPW witnesses is an expert in his field, and experts are entitled to rely upon information they believe is reasonably relied upon by experts in their field. See, e.g., Federal Rule of Evidence 703. The Commission's Rules, the Federal Rules of Evidence, and Commission precedent are all satisfied by the evidence provided by the RPW witnesses; moreover, UPS has taken extensive advantage of its opportunity to conduct discovery regarding the proffered evidence, underlying materials, and the witnesses' bases for relying upon such materials.

⁹ Memorandum of United Parcel Service on Motions to Strike Certain Testimony, Library References, and Supplemental Testimony (October 24, 1997) at 4.

Accordingly, the United States Postal Service asks that UPS's various motions to compel production of responses, object to the admission of testimony, or strike admitted testimony be denied in full.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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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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