

BEFORE THE
POSTAL RATE COMMISSION

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DOCKET NO. R2000-1

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF UNITED PARCEL SERVICE
CONCERNING BASE YEAR DATA
IN RESPONSE TO NOTICE OF INQUIRY NO. 2
(May 8, 2000)

Pursuant to the Commission's Notice of Inquiry No. 2 Concerning Base Year Data ("NOI No. 2"), United Parcel Service ("UPS") hereby provides its comments on the use of actual FY1999 cost data derived from the Postal Service's FY 1999 Cost and Revenue Analysis report, filed as library reference USPS-LR-I-275 on April 4, 2000, the supporting billing determinants, filed as library reference USPS-LR-I-259 on March 31, 2000, and the FY1999 Cost Segments and Components Report, filed on April 4, 2000, as library reference USPS-LR-I-276. UPS submits that FY1999 data should be used as the base year because data that is both actual and recent will yield the most reliable and accurate rates for the Test Year.

CHOICE OF BASE YEAR

UPS supports the use of FY1999 as the base year in this proceeding so that the Commission may achieve its goal of issuing a recommended decision that balances "as nearly as possible" the Postal Service's actual income and costs. *United Parcel Service, Inc. v. United States Postal Service*, 184 F.3d 827, 834 (D.C. Cir. 1999)

("UPS"), quoting S. Rep. No. 91-912, at 14-15 (1970); see also 39 U.S.C. § 3621 (revenues should equal expenses "as nearly as practicable").

First, courts disfavor the use of estimates when actual data are available:

"To shut one's eyes to [actual financial results] altogether, to exclude them from the reckoning, is as much arbitrary action as to build a schedule upon guesswork with evidence available. There are times, to be sure, when resort to prophecy becomes inevitable in default of methods more precise But prophecy, however honest, is generally a poor substitute for experience."

West Ohio Gas Co. v. Public Utilities Comm'n, 294 U.S. 79, 81-82 (1934), cited in *UPS*, 184 F.3d at 835. In addition, it is almost always preferable to use the most recent data available. See, e.g., *Alvarado Community Hosp. v. Shalala*, 155 F.3d 1115 (9th Cir. 1998) (remanding decision of Secretary of Health and Human Services for redetermination using more recent data). Under these precedents, the FY1999 data should be used because it is actual data and it is the most recent data available.

The Commission was faced with a similar situation in Docket No. R97-1. See Opinion and Recommended Decision, Vol. 1, at 30-32. Although the Commission identified a need for updated FY1997 data, that data could not be provided in sufficient time to allow the Commission to render its decision within the ten month statutory deadline. The primary impediment to effective use of the FY1997 data in that case was the lack of the 1997 CRA. In this case, however, there is no such impediment because the Postal Service has already filed the FY1999 CRA, billing determinants, and Cost Segments and Components Report. Moreover, while the schedule in an omnibus rate case is always demanding, the data for FY1999 has been filed far earlier than the data at issue in Docket No. R97-1, and early enough in the proceeding that the Commission and participants may use it effectively.

The inaccuracies in the Postal Service's FY1999 estimates could prevent a Commission recommended decision using those estimates from being based "on such relevant evidence as a reasonable mind might accept as adequate to support [the Commission's] conclusion," as required. *UPS*, 184 F.3d at 835. The attachments to NOI No. 2 reveal, in a number of instances, substantial inaccuracies in the Postal Service's FY1999 estimates. For example, according to NOI No. 2, the Postal Service has underestimated the FY1999 costs per piece using the Commission's methodology by 6.39% for Priority Mail, by 2.07% for Express Mail, and by 1.30% for Standard (B) Parcels Zone Rate. NOI No. 2, Attachment 1. These inaccuracies compel the Commission to reject the Postal Service's estimates in favor of actual FY1999 results.

ADDITIONAL RESOURCES REQUIRED TO USE FY1999 DATA

The Commission also requested that participants "include in their comments an estimate of whether, and to what extent, the use of FY 1999 data will require the commitment of additional resources in order to allow this case to be completed within the statutory 10 month period, and how that factor bears on their advice to the Commission." NOI No. 2 at 2.

UPS estimates that it will require approximately two weeks of effort to incorporate FY1999 data into its analysis of the Postal Service's proposal after the Postal Service makes necessary adjustments to the results it has filed based on the estimated data. UPS recognizes that the Commission "[is] not required to delay indefinitely the ratemaking process until [the most recent] data [has] been compiled, and indeed cannot delay indefinitely in light of the 10 month statutory deadline." *UPS*, 184 F.3d at 835. However, this extra effort on the part of all participants at this relatively early point in the

case and any corresponding delay is justified in order to ensure the reliable results that are the goal of the statute. See NOI No. 2 at 2.

Respectfully submitted,

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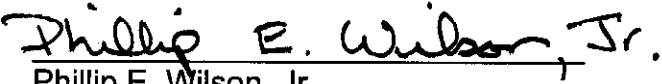
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document by first class mail, postage prepaid, in accordance with Section 12 of the Commission's Rules of Practice.


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Dated: May 8, 2000
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