

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

RECEIVED
MAY 23 2 56 PM '00
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 2000)

Docket No. R2000-1

OFFICE OF THE CONSUMER ADVOCATE
MOTION TO COMPEL RESPONSES
TO OCA/USPS-136 TO THE POSTAL SERVICE
(May 23, 2000)

To: Hon. Edward J. Gleiman
Presiding Officer

The Office of the Consumer Advocate ("OCA"), pursuant to Rule 21 of the Rules of Practice of the Postal Rate Commission ("Commission"), hereby moves to compel a response to OCA interrogatory OCA/USPS-136 directed to the Postal Service. In accordance with the Commission's Rules 26(d) and 27(d), the interrogatory, dated May 3, 2000, is attached hereto as Attachment A, together with the Postal Service objection filed May 15, 2000, as Attachment B.

REQUEST

Interrogatory OCA/USPS-136 requests from the Postal Service a copy of a May 2, 2000 speech reportedly given by John Nolan, Deputy Postmaster General, before the Direct Marketing Association Government Affairs Conference 2000 in Washington, D.C. The interrogatory also requests confirmation of the website report that the speech relates to planning for the "2003 and 2005" rate cases (Attachment C). Last, the

interrogatory requests confirmation that it is the intent of the Postal Service management to limit the period during which new postal rates will be in effect to approximately two years, and, if not, to provide an explanation of the rationale for planning for the "2003 and 2005" rate cases.

The Postal Service has responded with a single objection: the interrogatory is "outside the scope of this case" because it "relates to a period beyond the test year."

SUMMARY OF ARGUMENT

The Postal Service's objection is wholly without justification. The Postal Service objection confuses the concept of establishing rates on the basis of test year estimates for costs and revenues and the even more fundamental concept that rates are grounded upon other broader factors enumerated in the Postal Reorganization Act. The reports of the Deputy Postmaster General's speech indicate that it contains an exposition of important new management plans regarding the probable effective period for the rates in this docket. This is particularly relevant to several issues being raised by the OCA: for instance, the reasonable contingency, the proposal for single piece First-Class rate stability, and to a lesser extent, but nevertheless relevant, the issue of mail processing volume variability. In any event, it is not for the Postal Service to determine what is relevant to the proceeding, or to withhold discoverable material that it does not believe is relevant. The Commission specifically permits discovery of material reasonably calculated to lead to discoverable material. Finally, the OCA request is modest and can be readily met.

ARGUMENT

The interrogatory provides the web site address where the speech is reported. It is apparent that the speech was made in a public forum. The Postal Service has not even confirmed that the report of the speech on the web site is accurate. The website

report is minimal, and the Postal Service could very easily have determined whether the report on the website is accurate. In effect, the Postal Service even refuses to confirm that the speech occurred.

The Postal Service essentially claims that Postal Service plans affecting the period that the rates in this docket may be in effect are irrelevant. However, the OCA and the Commission should know whether the plans being discussed publicly by postal management as to the period the rates are likely to be in effect are consistent with the documentation supporting the Postal Service application. Moreover, the details of the speech may indicate changes in Postal Service plans that are not adequately reflected in the application.

This OCA concern is not without foundation. In Docket No. R97-1, it became apparent that the Postal Service's own budget projections differed significantly from the profit projections in the application. This led to important revelations regarding the dichotomy between the Postal Service claims in its application and Postal Service management's plans and intentions for the immediate future with respect to its profit projections and investment plans in new programs. Similarly, the web page report of Mr. Nolan's speech also indicates the next rate cases will have a completely "different spin." This "different spin" could easily impact the rate effective period in this case. Discovery of the full contents of the speech will enable the OCA to determine if Postal Service plans regarding its intentions for the rates in Docket No. R2000-1 ought to be placed before the Commission for consideration.

Also, several issues raised by the OCA in the testimony filed on May 22, 2000, require consideration of the current plans of the Postal Service's management with regard to the effective period for the rates in this docket. The OCA is proposing that the contingency provision remain at one percent in lieu of the 2.5 percent proposed by the Postal Service (OCA-T-2 and T-3). A major consideration in determining a reasonable

contingency, besides the accuracy of the cost and revenue estimates, is the period over which the new rates will be in effect. The longer the rates are to be effective, the larger the error in estimates might be. Take, for example, a simple, extreme case. Suppose the Postal Service plan were to delay filing for a rate change for ten years. Obviously, the Commission's decisions would be effected, in terms of the amount of the contingency and the OCA proposal for rate stabilization. On the other hand, it appears from the speech that Postal Service management may be shortening the rate cycle, not just for the Docket No. R97-1 rates but for the Docket No. R2000-1 rates, and beyond. The shorter the rate cycle, the lower the variation from the estimates are likely to be. Also, the shorter the rate cycle, the greater the inconvenience of rate increases to households and the more beneficial would be the OCA's single-piece First-Class rate stability proposal (OCA-T-1 and T-6).

In addition, analysis of the issue of 100 percent volume variability for mail processing is also impacted inasmuch as the econometric analysis includes consideration of the time period these rates will be in effect (OCA-T-4). Yet the Postal Service would have the Commission ignore the public statements by senior Postal Service management which may define its expectations and current plans for the period that the rates will be in effect.

Moreover, the Postal Service's objection of relevance is fundamentally in error as it is not for the Postal Service to determine whether the material sought is relevant. The Commission's Rule 26 permits discovery not only of information relevant to the subject matter in the proceeding, but also discovery of information "reasonably calculated to lead to the discovery of admissible evidence." 39 C.F.R. § 3001.26(a). The Deputy Postmaster General's speech will probably indicate areas of the Postal Service plans that affect the Commission's rate recommendations and may lead to further discovery of other relevant material. For example, the web site report also indicates major cost

reductions are planned over the next two years. Again, the OCA and the Commission should obtain the information to determine whether the Postal Service's plans are consistent with the documentation supporting the Postal Service application. The OCA seeks the opportunity to insure that the Commission has available relevant information that can assist in this regard.

CONCLUSION

For all of the above reasons, the Commission should therefore compel the Postal Service to respond fully to the OCA interrogatory OCA/USPS-136.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE

TED P. GERARDEN
Director
Office of the Consumer Advocate

KENNETH E. RICHARDSON
Attorney

1333 H Street, N.W.
Washington, D.C. 20268-0001
(202) 789-6859; Fax (202) 789-6819

OCA/USPS-136. Please refer to the response of the Postal Service to interrogatory OCA/USPS-55(c). Also, please refer to the website:

<http://www.directmag.com/content/newsline/2000/2000050303.htm>

The DirectNewsLine website reports that John Nolan, Deputy Postmaster General, in a May 2, 2000, speech before the Direct Marketing Association Government Affairs Conference 2000 in Washington, DC, "has organized a team that over the next few weeks will begin work planning *the 2003 and 2005 rate cases . . .*" (emphasis added).

- (a) Please provide a copy of Deputy Postmaster General Nolan's speech.
- (b) Please confirm that the DirectNewsLine report of the speech of Deputy Postmaster General Nolan with respect to planning for the "2003 and 2005 rate cases" is accurate. If you do not confirm, please explain.
- (c) Please confirm that it is the intent of Postal Service management to limit the period during which new postal rates will be in effect to approximately two years. If you do not confirm, please explain in detail the rationale for planning for the "2003 and 2005 rate cases."

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

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

OBJECTION OF UNITED STATES POSTAL SERVICE TO INTERROGATORY
OF THE OFFICE OF THE CONSUMER ADVOCATE
(OCA/USPS-136)

The United States Postal Service hereby objects to interrogatory OCA/USPS-136. This interrogatory refers to a news report that the Postal Service "has organized a team that over the next few weeks will begin work planning the 2003 and 2005 rate cases" Because the interrogatory relates to a period beyond the test year, it is outside the scope of this case.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Scott L. Reiter

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.

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2999; Fax -5402
May 15, 2000

Scott L. Reiter

Live from Washington: USPS to Cut Jobs and Reevaluate Property

By Patricia Odell

As part of a major undertaking to reduce costs and remain competitive, the United States Postal Service plans to cut its administrative staff by 33% over the next three years, John Nolan, Deputy Postmaster General for the Service, told a group yesterday attending the Direct Marketing Association Government Affairs Conference 2000 in Washington, DC.

"Times ahead are tough," Nolan said.

The cuts, 13% this year, followed by 10% each year over the next two years at the Postal Services headquarters and 10 area offices, are part of a larger plan to reduce costs by \$6 billion over the next six years. "We are going to examine everything we do and how we do it," he said.

In addition to the staff cuts, Nolan is awaiting a report on the value of each piece of property and every building the service owns. The report will be scrutinized to eliminate excessive costs that could add up to millions of dollars which could be invested in technology to help drive down costs, he said.

A dramatic change is also underway in determining rate increases.

Nolan said he has organized a team that over the next few weeks will begin work planning the 2003 and 2005 rates cases with a completely "different spin." Rates will no longer be driven by operating costs but by customer rate requirements.

"We've got to remake this Postal Service," he said.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

Jennie Wallace
JENNIE WALLACE

Washington, D.C. 20268-0001
May 23, 2000