

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
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AMERICAN BANKERS ASSOCIATION AND NATIONAL ASSOCIATION OF PRESORT
MAILERS RESPONSE TO USPS MOTION FOR RECONSIDERATION OF ORDER No.
1294

(July 9, 2000)

The American Bankers Association (ABA) and the National Association of Presort Mailers ("NAPM") hereby file this response to the USPS Motion for Reconsideration of Order No. 1294. While we appreciate the potential benefit of adding actual 1999 CRA cost data to the evidentiary record in this case, we respectfully submit that to force fit such new evidence into the case at this late juncture in the manner required by Order No. 1294, will cause more harm to the evidentiary record than benefit.

On the basis of the due process concerns identified in Section I below, we request that the Commission withdraw its Order No. 1294, and related Ruling No. R2000-1/72. However, in the event that the Commission declines to withdraw such Order and related Ruling, we have set forth in Section II below requested modifications/clarifications of Order No. 1294 and related Ruling No. R2000-1/71.

I. Order No. 1294 Will Substantially Lessen Due Process For The
Intervenors And Significantly Impede Their Ability To Participate In A Meaningful Fashion
In This Case.

A. Order No. 1294 Places An Unreasonable And Unanticipated Burden Upon
Intervenors.

As a result of Order No. 1294, the intervenors will be required to review the USPS basic update to Test Year forecasts, any additional cost change factors filed by the USPS, any additional cost coverage and rate proposals made by the USPS and by any of the other intervenors, and revise their own direct testimony to reflect the impact of the supplemental USPS filings upon their own direct testimony. Intervenors are effectively being required to analyze a second USPS rate request in this case, and amended cases in chief of OCA and intervenors, and to prepare a second round of direct testimony. This review is significant. ABA & NAPM, and we suspect many other intervenors, did not anticipate, much less budget for, this additional work. These parties may be faced with the option of having to forego filing rebuttal testimony which we otherwise would have filed, so that we can devote our available resources to perform to at least some degree the review and revised filings required by Order No. 1294.

B. Intervenors Will Not Have The Opportunity To Meaningfully Evaluate The Revised Rate Proposals Of Other Intervenors And USPS.

Under the related Ruling No. R2000-1/71, intervenors are to file on August 14, 2000, in addition to any rebuttal testimony, changes to their case in chief incorporating revisions to Test Year forecasts. Intervenors will have no opportunity to file any testimony in rebuttal to such August 14, 2000 testimony of other intervenors, even though such testimony may include amended rate proposals. It is not clear when the USPS is to file amended rate proposals. However, if the date for such a filing is also August 14, 2000, this means that intervenors could be presented with a new USPS proposed rate schedule on August 14, 2000, yet have no right to file rebuttal testimony addressing such rates.

Even if intervenors have the financial and other resources to effectively review and challenge what could amount to a second round of direct cases of the USPS and of all other intervenors, it is highly questionable whether intervenors can find the time to

conduct a meaningful review of such information. What the Commission will get is a deluge of additional information which will not be subjected to full and effective rebuttal and cross-examination. The record will be longer and more current, but in all likelihood less meaningful.

C. The Evidentiary Hearings For The Cases In Chief Of Intervenors And The OCA Will Place Their Witnesses In Limbo.

Under the related Ruling R2000-1/71, evidentiary hearings for the cases in chief of intervenors and the OCA will occur, as before, between July 6 and 21, 2000. This means that all of the witnesses appearing during this stage of the hearings will be testifying as to their original direct testimony filed on May 22, 2000, but with a partial degree of knowledge, at best, of the July 7, 2000 basic update provided by the USPS. They will be left to guess as to any additional adjustments which may be filed by the USPS on July 21, 2000, and as to any amended rate proposals which may be filed by the USPS or the other intervenors or OCA. They will also have only a partial understanding, at best, of what they themselves will be filing on August 14, 2000 as their amended case in chief to incorporate the revisions to Test Year forecasts.

Clearly, such witnesses will be in limbo between the direct testimony which they will have filed on May 22, 2000 and the additional filings which they can only guess may be filed by the USPS, the other intervenors and the OCA, and indeed by themselves, after the date of their appearance before the Commission. Situations such as this are not conducive to a meaningful evidentiary record.

II. Requested Modifications/Clarifications of Order No. 1294 in Lieu of its Withdrawal.

If the Commission declines to withdraw Order No. 1294 and related Ruling No. R2000-1/71, we request that it modify/clarify such Order and related Ruling as follows:

A. Clarify The Date By Which The USPS May Propose Amended Cost Coverages And Rates.

We request that at a minimum the Commission clarify the date by which the USPS is allowed to file any amended proposed rates and cost coverages (i.e., July 7, 2000, July 21, 2000 or August 14, 2000). Obviously, the earlier the deadline for any such filing, the more due process would be afforded the intervenors.

B. Deny Or At Least Discourage The Filing Of New Cost Change Factors By The USPS Or Any Other Parties.

Order No. 1294 seeks to accommodate the USPS' expressed need to reexamine all cost change factors, not just the 1999 CRA actuals; and related Ruling No. R2000-1/71 acknowledges that the USPS may wish to develop additional adjustments beyond its basic update, to incorporate more recent inflation forecasts or program estimates. Such adjustments can have a significant impact on cost, and are often the subject of substantial controversy among the parties. Frankly, USPS cost change factors are perceived by ABA & NAPM as an area ripe with opportunity for mischief and manipulation of cost information. This is particularly true due to the fact that Order #1294 and related Ruling No. R2000-1/71 provide the USPS with the unprecedented opportunity to "improve" their case in chief with this second round of filings, after they have had the benefit of review of the cases in chief of intervenors and OCA which were filed way back on May 22, 2000. If the USPS files such adjustments, this will require substantial analysis by the intervenors in order to make any meaningful evaluation of the USPS filing.

As a general proposition, we acknowledge the value of having not only the most recent cost data, but also the most recent cost change factors upon which to base a Recommended Decision. However, at some point the evidence intake valve in this case

must be closed, and the parties and ultimately the Commission must be allowed a reasonable period of time and reasonable procedures to evaluate the evidence.

We respectfully request that if the Commission insists upon incorporation of the actual 1999 CRA Cost Data into the record of this case at this late date, it at least compromise on this issue by modifying Order No. 1294 and related Ruling R2000-1/71 by eliminating the opportunity for the USPS or any other parties to file revised cost change factors. This would still allow the record to include the effect of the actual 1999 CRA cost data and any revised recommended rates and cost coverages as a result of the effect of such new cost data; but it would spare the parties the burden of having to devote resources to review of a second round of USPS cost change factors.

C. Clarify That Intervenors Need Not File Changes To Their Cases In Chief Incorporating Revisions To Test Year Forecast.

It seems quite possible that many intervenors may determine that there is no need to totally recalculate all of the cost figures and technical appendices in their direct case as a result of the USPS filings in response to Order No. 1294 (any more than they would in the event that the USPS were to file errata to some portions of its testimony in the late stages of a case). Of course, some intervenors may have the resources and feel that it is necessary to file testimony on August 14, 2000 demonstrating the specific numeric effect upon their direct case, of the USPS revisions to its test year forecast. They should be free to do so. However, other intervenors may conclude that it is appropriate for them to file a general narrative description of the impact, if any, of the USPS revisions upon their direct testimony, without having to recalculate every table or model which they provide in their direct testimony.

As noted above, many intervenors may lack the time or budget to prepare an August 14, 2000 filing which specifically revises all of the cost figures in their original case

in chief, even if they wanted to. For this reason, we request that if the Commission does not withdraw Order No. 1294, it clarify that the August 14, 2000 filing of changes to cases in chief incorporating revisions to test year forecasts is optional for intervenors, and provide some indication that intervenors will not be penalized for the failure to make such filings.

Respectfully submitted,

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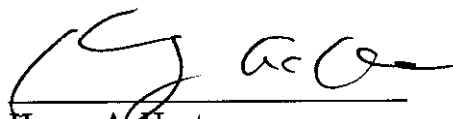
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June 9, 2000
Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.


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June 9, 2000