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POSTAL RATE COMMISSION
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PRESIDING OFFICER'S
RULING NO. R2000-1/99

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

Postal Rate and Fee Changes

Docket No. R2000-1

PRESIDING OFFICER'S RULING ON MOTION TO STRIKE
QUESTIONING OF WITNESS HALDI

(Issued July 26, 2000)

The Association of Priority Mail Users, Inc. (APMU) Motion to Strike the Questioning of Witness Haldi by UPS Concerning A Press Release by the Colography Group, filed July 14, 2000, clarifies and supplements an oral motion made during the hearing on July 11, 2000. Tr. 25/11758. During witness Haldi's appearance, counsel for United Parcel Service (UPS) used a cross-examination exhibit that purported to be a Colography Group press release. Witness Haldi was asked to confirm the contents of statements contained in that cross-examination exhibit.


APMU contends that this entire colloquy, appearing at Tr. 25/11730, l.17, through 11732, l.6, should be stricken from the record. It claims that the document was never shown to be a Colography Group press release, that the questioning did not proceed to a matter relating to the testimony of witness Haldi, and that the existence of this material in the transcript may be taken out of context and misused in briefs filed with the Commission.

UPS filed a response in opposition on July 24, 2000.¹ It contends that witness Haldi relied on statistics from the Colography Group in his direct testimony and that Dr. Haldi's view of the significance of those statistics is challenged by the press release. It also claims the release is easily authenticated because it can be viewed at the public web site maintained by the Colography Group. Finally, it argues that the Commission is capable of determining the evidentiary status of materials in the transcript and that there is no need to strike the cited portion of cross-examination.

The motion to strike will be denied. The Commission is competent to determine the evidentiary status of materials in the transcript. Cross-examination is a difficult art, and it is not always possible to immediately discern the purpose of a line of cross-examination, especially when the cross-examination may be designed to explore a topic to be treated in rebuttal testimony. For this reason, motions to strike the cross-examination of an opposing party on grounds of relevance will be granted only in circumstances when it can be shown that the moving party will suffer actual harm from allowing the material to remain in the record. No such showing has been made here.

RULING

The Association of Priority Mail Users, Inc. (APMU) Motion to Strike the Questioning of Witness Haldi by UPS Concerning a Press Release by the Colography Group, filed July 14, 2000, is denied.


Edward J. Gleiman
Presiding Officer

¹ Response of United Parcel Service in Opposition to Association of Priority Mail Users, Inc. (APMU) Motion to Strike the Questioning of Witness Haldi by UPS Concerning a Press Release by the Colography Group, filed July 24, 2000.