

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

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Postal Rate and Fee Changes, 2000 )

Docket No. R2000-1

OFFICE OF THE CONSUMER ADVOCATE  
MOTION TO COMPEL PRODUCTION OF DOCUMENTS  
AS REQUESTED IN OCA/USPS-ST44-51  
(August 22, 2000)

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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 meaningful response to OCA interrogatory OCA/USPS-ST44-51, submitted to rebuttal witness Richard Patelunas, but re-directed to the Postal Service for a response. In accordance with the Commission's Rules 26(d) and 27(d), both the interrogatory, submitted August 9, 2000, and the Postal Service's nonresponsive answer, filed August 17, 2000, are attached.

REQUEST

In interrogatory OCA/USPS-ST44-51, the OCA explicitly requested that the Postal Service furnish a copy of the proposed FY 2001 Operating Budget, which was

the basis for many of the cost updates presented by witness Patelunas in USPS-ST-44 on July 7, 2000, in response to Commission Order No. 1294.<sup>1</sup>

### POSTAL SERVICE'S POSITION

In its answer to interrogatory 51, the Postal Service referred the OCA to a hearing response filed on August 15, 2000.<sup>2</sup> The cited hearing response included the statement: "With regard to FY 2001, the Postal Service will provide the budget parameters approved by the Board, once such approval has been obtained." Earlier, the Postal Service had filed a similar response to a similar OCA interrogatory, *i.e.*, OCA/USPS-ST44-37, which sought "the FY 2001 Operating Budget in the same format used in the Postal Service's response to interrogatory OCA/USPS-T9-27."<sup>3</sup> To that interrogatory, the Postal Service had replied: "The final FY 2001 Operating Budget is not available."<sup>4</sup> It is clear that the Postal Service will not willingly furnish the proposed Operating Budget, but will do so only if ordered by the Presiding Officer.

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<sup>1</sup> "Order on the Use of FY 1999 Data," issued May 26, 2000. The Order provided that: "The Service's responses to NOI-2 discuss the necessity of reexamining all cost change factors for 2000 and 2001. This is appropriate if it is achievable in the reasonable time frame established by this order. It is generally preferable to use the latest available information. Reexamination of cost change factors can take place while the basic update is being performed. . . . [T]he Commission encourages the Service to incorporate proposed revisions to the original cost change factors with the basic update to the extent that this can be accomplished within the six weeks provided by this order." As a result of this encouragement, the Postal Service updated many of its FY 2001 cost estimates to incorporate the most recent plans of Postal Service management, as embodied in the proposed Operating Budget for FY 2001.

<sup>2</sup> "Response of United States Postal Service to Question Raised at Hearings on August 3, 2000."

<sup>3</sup> Filed July 21, 2000.

<sup>4</sup> Filed August 4, 2000.

### ARGUMENT

The Postal Service has offered no legitimate reason for its failure to furnish the proposed Operating budget, nor does such a reason exist. Furthermore, the Postal Service's indication that it will forward the final budget, following approval by the Board of Governors, is utterly insufficient. An examination of the agenda for the next Board of Governors meeting<sup>5</sup> reveals that the Board has not scheduled a vote on the proposed Operating Budget for its next meeting on August 28-29, 2000. This means that, at the earliest, the Board will vote on the budget in October. The OCA's initial, and even its reply, brief will long have been filed by the time the Operating Budget is approved. Unquestionably, due process requires that the OCA be permitted to see the proposed Operating Budget before filing its initial brief, and preferably, before witness Strasser takes the stand on August 31.

The proposed FY 2001 Operating Budget is the source for the most single most important cost change made by the Postal Service in responding to Order No. 1294.

Witness Patelunas testifies that:

The test year labor contract assumption for those bargaining units that do not have contracts has been . . . re-evaluated and has been changed to reflect a total change in wage rates *equal to the estimated change in the Employment Cost Index*. . . . *This assumption is consistent with the FY 2001 Operating Budget.*<sup>6</sup>

This constitutes a serious departure from the assumption made by witness Tayman at the time the Request was initially filed. The assumption he employed was that the

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<sup>5</sup> 65 Fed. Reg. 51048 (August 22, 2000).

<sup>6</sup> USPS-ST-44 at 3 (emphasis added).

wage increase in the test year would equal: the "Employment Cost Index for Wages and Salaries for Private Industry, less one percent, (ECI minus 1) for bargaining units that do not have contracts effective in the test year."<sup>7</sup>

Chairman Gleiman found this change to be of sufficient gravity that he wrote to Postmaster General Henderson to alert him about the abandonment of "ECI Minus One, noting that:"

[I]f the Postal Service has abandoned the policy of limiting wage growth to ECI-Minus-One, this separate factor alone will increase Postal Service costs by hundreds of millions of dollars each year beginning in 2001.<sup>8</sup>

In addition to the "ECI Minus One" assumption made in the proposed FY 2001 Operating Budget, other important proposed FY 2001 Operating Budget assumptions are the source for witness Patelunas's FY 2001 cost and revenue estimates. Workers' compensation costs, also a large budget item, were presented "consistent with the proposed FY 2001 Operating Budget."<sup>9</sup> Likewise, proposed FY 2001 Operating Budget revenue estimates are, in part, the basis for witness Patelunas's revised income estimates.<sup>10</sup>

In the event that the Commission may decide to utilize the updated cost and revenue estimates presented by witness Patelunas as the basis for setting rates in the

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<sup>7</sup> USPS-T-9 at 19.

<sup>8</sup> Letter filed August 9, 2000.

<sup>9</sup> USPS-ST-44 at 6.

<sup>10</sup> *Id.* at 8.

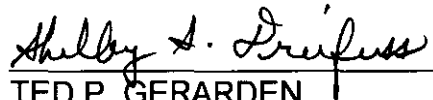
instant proceeding, the relevance of the proposed FY 2001 Operating Budget is manifest.

### CONCLUSION

For all the reasons outlined above, the OCA respectfully requests that the Presiding Officer compel the provision of the proposed FY 2001 Operating Budget,<sup>11</sup> as requested in interrogatory OCA/USPS-ST44-51, prior to August 31, 2000, the date that policy witness Strasser is scheduled to testify. This will only be possible if the seven-day period allowed for the Postal Service's response to this motion under Commission Rules 26(d) and 27(d) is shortened. The OCA suggests that the Postal Service be directed to file a response to the instant motion no later than August 25, 2000.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE



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<sup>11</sup> In response to interrogatory OCA/USPS-ST44-43, the Postal Service also refers to a "preliminary operating budget." In the event that the "preliminary" budget is not the same as the "proposed" budget, the OCA asks that both be provided.

OCCA/USPS-ST44-51. Please refer to your response to interrogatory OCA/USPS-ST44-37. You failed to provide the *proposed* FY 2001 Operating Budget which was explicitly requested in the interrogatory and which is the basis for many of the changes contained in USPS-ST-44. Instead, you answered that the *final* budget is not available. The OCA asks again that the *proposed* FY 2001 Operating Budget be provided.

RESPONSE:

Please see Response of United States Postal Service to Question Raised at Hearings on August 3, 2000, filed August 15, 2000, responding to a similar question raised at Tr. 35116813 and 16865-66.

# 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.

  
STEPHANIE S. WALLACE

Washington, D.C. 20268-0001  
August 22, 2000