

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

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POSTAL RATE COMMISSION  
OFFICE OF THE PRESIDENT

Postal Rate and Fee Changes, 2000 )

Docket No. R2000-1

OFFICE OF THE CONSUMER ADVOCATE  
REPLY TO RESPONSE OF THE POSTAL SERVICE TO OCA MOTION  
TO COMPEL PRODUCTION OF DOCUMENTS  
(August 28, 2000)

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To: Hon. Edward J. Gleiman  
Presiding Officer

The Office of the Consumer Advocate ("OCA"), pursuant to Rule 21(b) of the Rules of Practice of the Postal Rate Commission ("Commission"), hereby requests permission of the Presiding Officer to file a reply to "Response of United States Postal Service to Motion of the Office of the Consumer Advocate to Compel Production of Documents as Requested in OCA/USPS-ST44-51," filed August 25, 2000. Below is the OCA's reply to the Postal Service August 25 Response.

Reply to the Postal Service's August 25 Response

On August 22, 2000, the OCA filed a motion to compel a responsive answer to interrogatory OCA/USPS-ST44-51.<sup>1</sup> This followed two fruitless attempts to obtain the proposed FY 2001 Operating Budget—interrogatories OCA/USPS-ST44-37 and -51 contained requests for provision of the proposed FY 2001 Operating Budget "which is

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<sup>1</sup> "Office of the Consumer Advocate Motion to Compel Production of Documents as Requested in OCA/USPS-ST44-51."

the basis for many of the changes contained in USPS-ST-44.”<sup>2</sup> The Postal Service gave essentially the same response to both interrogatories, *i.e.*, that it would provide the *final* FY 2001 Operating Budget following approval by the Board of Governors (seemingly no earlier than the Board’s October meeting).

In its August 25 Response to the OCA motion to compel, the Postal Service engages in a verbal sleight of hand, conveniently presupposing that the OCA was seeking a single, specific document. This is a deliberate misconstruction of OCA’s interrogatories, which asked for the proposed FY 2001 Operating Budget information (in whatever form it exists) and which is the source of the ECI assumption and workers’ compensation cost estimates cited in footnote one of the Postal Service’s August 25 Response.<sup>3</sup> The Response goes on to state that “some elements of the proposed budget have been agreed upon by postal management.”<sup>4</sup> Then, in a breathtaking display of sophistry, the Postal Service defends its position with the following statements:

Witness Patelunas, however, does not testify that a “proposed operating budget” is the source of the labor assumption and the workers compensation costs. Rather, he indicates that the labor assumption and workers compensation cost estimates he used in the update are consistent with—*i.e.*, from the same sources and at the same levels as—those used in the ongoing formulation of the FY 2001 budget.<sup>5</sup>

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<sup>2</sup> Interrogatory OCA/USPS-ST44-51.

<sup>3</sup> In addition to the two statements quoted from the Patelunas supplemental testimony, witness Patelunas also stated that his revenue estimates for the test year were revised “to include additional revenue reflected in the proposed FY 2001 Operating Budget.” USPS-St-44 at 8. This portion of USPS-ST-44 was cited in OCA interrogatory 37 to Mr. Patelunas.

<sup>4</sup> August 25 Response at 2.

<sup>5</sup> *Id.*


If, as the Postal Service states in its August 25 Response, witness Patelunas's assumptions and estimates derive from the same sources and same levels as the proposed Operating Budget, and if no single document exists to date, then it is clear that the same-source/same-level bases for witness Patelunas's assumptions and estimates comprise a vital portion of the proposed Operating Budget. The OCA should not be expected to possess and exercise clairvoyant powers in formulating interrogatory requests. Furthermore, the OCA never limited its request to a single "document." By citing statements made in the Patelunas testimony and his references to the proposed Operating Budget, the OCA used all of the information available to frame its request.

The OCA renews its motion to compel production of the documents that underlie, inform, substantiate, or otherwise relate to witness Patelunas's test year ECI assumption, test year workers' compensation estimates, and test year revenue estimates. Accordingly, the OCA urges the Presiding Officer to order the production of all memoranda, notes, reports, documents, calculations, and computations that comprise the relevant information—whether called the proposed FY 2001 Operating Budget or designated in some other way—and that are the source of witness Patelunas's cost and revenue estimates. The OCA further wishes to note that its need for these materials is urgent, since it is now preparing oral cross-examination of witness Strasser on these topics, and he is scheduled to appear just three days from now.

For the foregoing reasons, the OCA requests that permission for the filing of this reply be granted and that the Postal Service be directed to file the above-described materials no later than close of business on August 29.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE

  
TED P. GERARDEN  
Director  
Office of the Consumer Advocate

SHELLEY S. DREIFUSS  
Attorney

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

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 28, 2000