

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

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POSTAL RATE AND FEE CHANGES, 2000 : Docket No. R2000-1
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AMERICAN BANKERS ASSOCIATION, NATIONAL ASSOCIATION OF PRESORT MAILERS AND MAJOR MAILERS ASSOCIATION MOTION TO STRIKE PORTIONS OF AUGUST 25, 2000 SUPPLEMENTAL RESPONSE OF THE UNITED STATES POSTAL SERVICE TO PRESIDING OFFICER'S RULING NO. R2000-1/116 CONCERNING LIBRARY REFERENCES LR-1-477, LR-1-478, LR-1-481, AND LR-1-482, AND TO REJECT SUCH LIBRARY REFERENCES

(August 28, 2000)

The American Bankers Association ("ABA"), the National Association of Presort Mailers, Inc. ("NAPM"), and the Major Mailers Association ("MMA") hereby move the Commission to strike those portions of the August 25, 2000 Supplemental Response of the United States Postal Service to Presiding Officer's Rule No. R2000-1/116, which portions concern Library References LR-1-477, LR-1-478, LR-1-481 and LR-1-482, and to reject such library references.

The Supplemental Response in question is not at all a response to POR No. R2000-1/116; rather it is a unilateral and unsolicited filing by the Postal Service which offers, in grossly late fashion, an manipulation and material change in the measurement of First Class workshare mail cost avoidance. ABA&NAPM respectfully submit that to allow the Postal Service to get away with manipulating the record in this fashion is to deny due process to ABA&NAPM and the other affected intervenors.

I. The Postal Services' Supplemental Response Is In Fact Not Responsive To R2000-1/116

In POR No. R2000-116, the Presiding Officer granted the motion of MMA to have the Postal Service, *inter alia*, "provide necessary update information" concerning certain library references. The Presiding Officer did not request, or even suggest, that new methodologies be implemented, much less any backwards-looking methodologies. Yet this is what the Postal Service produced in its Supplemental Response when it rejected the FY 1999 IOCS sample data approach, and substituted that used in FY 1998. The Postal Service has simply taken the opportunity, under the guise of filing a responsive motion to POR No. R2000-1/116, to sneak into the record an arbitrary and totally different methodology for measuring cost avoidance of First Class workshare mail in a manner which deprives intervenors of any opportunity to file responsive testimony, much less conduct discovery, concerning such methodology.

II. The Supplemental Response Represents A Material Change In Measurement Of First Class Workshare Cost Avoidance

A cursory review of the information set forth in Library Reference LR-1-477 and LR-1-478 would suggest that they result in a reduction of approximately 0.5 cents per piece in the measurement of cost avoidance for automated basic First Class letter mail under the Postal Service methodology. From day one, the complexity of the Postal Service's case in R2000-1 has been extraordinary. This fact has been complicated by the "second case" effectively filed by the Postal Service in response to Commission Order 1294. For the Postal Service to attempt to make a third material change in its case at this late date is outrageous.

III. The Postal Service Supplementary Response In Question Violates Due Process

If the Postal Service Supplemental Response in question is allowed to stand it will constitute a fatal blow to the due process rights of affected intervenors. Intervenors cannot be required to hit a constantly moving target. At some point in time, the Postal Service must put its case to bed. Clearly, this point in time must be prior to the time when the parties' discovery rights and rights to file responsive testimony have expired. The unfairness of the Postal Service supplemental response in question becomes most manifest when viewed in light of the history of these proceedings which include in pertinent part the following:

1. The Postal Service filed its original case herein on January 12, 2000. This filing included, *inter alia*, an original calculation by Postal Services witnesses of cost avoidance for First Class workshared mail.

2. On May 22, 2000, intervenors filed their case-in-chief, which in the case of ABA&NAPM witness Clifton (ABA&NAPM-T-1) included substantial review, criticism and revision to cost avoidance calculations offered by the Postal Service in its original case.

3. After the filing of Intervenors direct cases, on July 7 and 21, 2000 the Postal Service updated its case in response to Commission Order No. 1294.

4. On August 14, 2000 ABA&NAPM filed Supplementary Testimony of their witness Clifton (ABA&NAPM-ST-1) responding to this Postal Service update This was the deadline for Intervenors to file Supplemental and/or Rebuttal testimony.

5. On August 18, in response to POR No. R2000-1/116, which granted the MMA Motion To Compel, the Postal Service updated several library references, many of which related to calculation of cost avoidances.

6. ABA&NAPM sought and received permission to file Revised Supplementary Testimony incorporating the effect of these library reference updates which were

filed four days after the filing of the ABA&NAPM Supplementary Testimony. Accordingly, on August 23, 2000, ABA&NAPM filed the Revised And Updated Supplementary Testimony Of Clifton (ABA&NAPM-ST-1).

7. Incredibly, on August 25, 2000, after the filing of ABA&NAPM's direct case, Supplementary Testimony, and Revised and Updated Supplementary Testimony, the Postal Services filed the Supplementary Response in question, providing an unsolicited new methodology which drastically and materially affects the measurement of cost avoidance for First Class workshare mail. In so doing, it was fully cognizant of the fact that ABA&NAPM and other affected intervenors would have no opportunity to conduct written or oral discovery, or to file responsive testimony, concerning such methodology.

8. On August 29 and 30, 2000 respectively, MMA witness Bentley and ABA&NAPM witness Clifton must appear for oral cross examination without having had any opportunity to fully explore this Supplemental Response of the Postal Service through discovery or technical conferences.

If due process is to be afforded the parties in this proceeding, the Commission must establish and enforce a deadline beyond which material changes cannot be made to the parties' cases. We respectfully submit that the time for such deadline has passed.

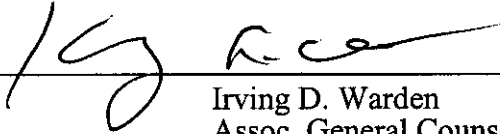
IV. Requested Relief

For the foregoing reasons, ABA, NAPM and MMA respectfully request that all portions of the August 25, 2000 Supplemental Response of the United States Postal Service to Presiding Officer's Ruling No. R2000-1/116 which concern Library References LR-1-477, LR-1-478, LR-1-481 or LR-1-482 be stricken. Furthermore, even though those library references are not

evidence in this proceeding, we believe that due process requires that the Commission reject the filing of such library references.

Respectfully submitted,

AMERICAN BANKERS ASSOCIATION
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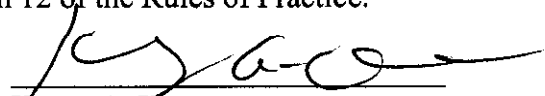
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August 28, 2000
Washington, D.C.

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.



Henry A. Hart

August 28, 2000