

RECEIVED
AUG 29 4 45 PM '00
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001
POSTAL SERVICE
OFFICE OF THE CONSUMER ADVOCATE

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

RESPONSE OF UNITED STATES POSTAL SERVICE TO
UNAUTHORIZED PLEADING OF THE OFFICE OF THE CONSUMER ADVOCATE
REGARDING MOTION TO COMPEL DOCUMENTS
RELATING TO OCA/USPS-ST44-51
(August 29, 2000)

The United States Postal Service hereby requests leave to respond to the OCA's unauthorized pleading, filed on August 28, 2000, with respect to its motion to compel the production of documents relating to OCA/USPS-ST44-51, filed on August 25, 2000. The response follows.

On August 28, 2000, the Office of the Consumer Advocate filed an unauthorized pleading in response to the Postal Service's response to the OCA's motion to compel filed on August 25, 2000, with respect to interrogatory OCA/USPS-ST44-51. The pleading should not be accepted, since it is nothing more than a disguised follow-up interrogatory. If it is accepted, the motion to compel, in both its original form (August 22) and revised form (August 28), should be denied for the reasons set forth below.

OCA/USPS-ST-51 was a follow up to OCA/USPS-ST-37. In that interrogatory the OCA requested that the Postal Service provide "the FY 2001 Operating Budget in the same format used in the Postal Service's response to interrogatory OCA/USPS-T9-27." That interrogatory had requested the current operating plan. In response to OCA/USPS-ST44-37, Witness Patelunas responded that: "The final FY 2001 Operating Budget is not available."

As a follow up, the OCA filed interrogatory OCA/USPS-ST-51, which stated:
"The OCA asks again that the *proposed* FY 2001 Operating Budget be provided."

(Despite this wording, the OCA had not previously asked for the proposed budget.)

The Postal Service responded by referring to its response to a question raised at hearings on August 3, 2000, filed August 15, 2000. That response explained:

When the Postal Service's Board of Governors approves the Postal Service's budget, what it specifically approves is a net income goal and a set of planning parameters that support that net income goal. The Board is not supplied with and does not vote on detailed operating plans. Detailed operating plans have typically not been completed at the time the Board votes on the budget.

The response further stated that:

With regard to FY 2001, the Postal Service will provide the budget parameters approved by the Board, once such approval has been obtained.

Yet the OCA continued to imagine that a proposed FY 2001 Operating Budget exists and moved to compel its production.

When the Postal Service explained once again in its response to that motion that there was no such thing, the OCA filed an unauthorized pleading "renew[ing] 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." The problem is that the OCA never filed an interrogatory seeking all "documents that underlie, inform, substantiate, or otherwise relate to" these matters. It cannot very well renew a motion to compel material that it did not ask for.

The OCA bases its new request on the Postal Service's statements that witness Patelunas used the same sources as are being used in formulation of the budget. The

OCA is making assumptions to reach baseless conclusions.¹ The OCA assumes that "sources" means documents. Development of the budget is a process and the sources are often individuals. Witness Patelunas did not rely on the type of documents that the OCA now requests. He was simply provided numbers originating from the same sources that will be providing input into the budget process, which is ongoing, and continues to evolve.

The OCA's new request is stated so broadly that it would require a tremendous search of countless individuals' files to determine if they have any documents that "relate" in any way to the matters of revenue, workers compensation, or the labor assumption for purposes of FY 2001. If asked in a new interrogatory, this request would be subject to a number of objections. The OCA cannot slide it sideways into an unauthorized pleading and expect it to be granted.

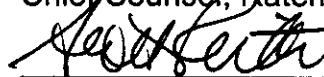
For these reasons, the OCA's motions should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Matemaking



Scott L. Reiter

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2999; Fax -5402
August 29, 2000

^{1/} One has visions of Don Quixote and windmills, except that he did not engage in unnecessary and baseless invective in his quests. Among other things ("sophistry"), the OCA accuses the Postal Service of expecting clairvoyance on its part. Indeed, the OCA is essentially arguing that it should be given, not what it asked for, but what it really wants. Who is expecting clairvoyance now?

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



Scott L. Reiter

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
August 29, 2000