

BEFORE THE
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION
OFFICE OF THE CLERK

POSTAL RATE AND FEE CHANGES, 2000

DOCKET NO. R2000-1

RESPONSE OF UNITED PARCEL SERVICE IN OPPOSITION
TO MOTION OF PARCEL SHIPPERS ASSOCIATION TO STRIKE
PORTIONS OF DESIGNATED INTERROGATORY RESPONSES
(September 8, 2000)

United Parcel Service ("UPS") hereby files its opposition to that portion of the Parcel Shippers Association (PSA) Designation of Responses to Interrogatories and Motion to Strike Portions of the Designated Responses, filed September 1, 2000 ("Motion to Strike"), in which the Parcel Shippers Association ("PSA") moves to strike portions of the responses of UPS witness Stephen E. Sellick to interrogatories PSA/UPS-ST1-1 and PSA/UPS-ST1-2, on the grounds set forth below.

ARGUMENT

In its Motion to Strike, PSA states at page 1 that the information it seeks to strike is "not in any way responsive to the interrogatories, nor necessary to qualify or explain the responses properly made to the interrogatories." That is not so.

In PSA/UPS-ST1-1, PSA asked Mr. Sellick to complete a table identifying the total number of nonsensical records in the BRPW database, the percentage of records represented by such nonsensical records, and the number of pieces and total revenue

represented by the nonsensical records. Mr. Sellick completed the tables as requested, and put the numbers in those tables in context by pointing out that "the ability to detect nonsensical records in BRPW . . . is severely limited." Answer of United Parcel Service Witness Sellick to Interrogatory PSA/UPS-ST-1, filed August 28, 2000.

A witness is always permitted to so qualify (PSA's word, see Motion to Strike at 1) his answer to a cross-examination question by pointing out the limitations of the information requested. That is all that Mr. Sellick has done here. That Mr. Sellick should be permitted to note the limitations of the requested data is particularly appropriate in these circumstances, where the interrogatories were served the day before Mr. Sellick's appearance on the stand. Since the answer could not be filed until after Mr. Sellick left the stand, he would otherwise be denied the opportunity to qualify or explain his answer because there could be no redirect examination on that answer. In the absence of an opportunity for redirect -- as is the situation here -- it is certainly permissible for Mr. Sellick to qualify his response to PSA's questions.

Similarly, in the case of the response to PSA/UPS-ST1-2(c)-(d), Mr. Sellick merely qualified his answer by noting that the statement he was asked to confirm applied only to part of FY1999 and not at all to FY1998, the base year proposed by the Postal Service in this case. Likewise, by giving comparable information for FY1998 (the Postal Service's proposed base year), Mr. Sellick noted in his response to PSA/UPS-ST1-2(f) that the 1999 information requested by PSA is only part of the story. And again, in response to PSA/UPS-ST1-2(g), Mr. Sellick qualified his response by noting that the requested information consisted of an **average**, so that it represents a combination of higher figures and lower figures; he also noted that a different situation

existed in the Postal Service's proposed base year. These all represent instances of a witness attempting to "qualify or explain" (Motion to Strike at 1) his answer.

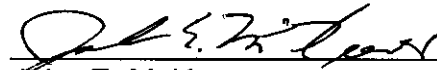
In the case of the response to PSA/UPS-ST1-2(j), the situation is even more clear. There, the interrogatory itself refers to "the lowest pre-R97-1 implementation Parcel Post single-piece rate," i.e., early FY1999 and 1998. In the sentence which PSA seeks to strike, Mr. Sellick specifically addresses "the applicable pre-R97-1 implementation" situation.

In short, in each instance, the response to PSA's question sought to qualify or explain the response. As noted, that is particularly appropriate where, as here, the witness would not otherwise have had an opportunity on redirect to put the requested information in context.

As much as PSA would prefer it to be otherwise, it cannot tailor the record in this case to contain only that information which is helpful to its positions while excluding relevant information that is harmful to its positions. The public interest is best served by a complete record, rather than by permitting PSA to serve written interrogatories that can be answered only after a witness leaves the stand, as a vehicle for creating a one-sided record.

WHEREFORE, United Parcel Service respectfully requests that the Parcel Shippers Association (PSA) Motion to Strike Portions of the Designated Responses dated September 1, 2000, be denied.

Respectfully submitted,



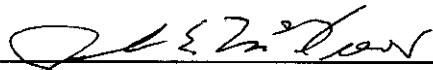
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document by first class mail, postage prepaid, in accordance with Section 12 of the Commission's Rules of Practice.



John E. McKeever
Attorney for United Parcel Service

Dated: September 8, 2000
Philadelphia, Pa.

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