

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000)

Docket No. R2000-1

REPLY BRIEF

OF

AMAZON.COM, INC.

William J. Olson
John S. Miles
WILLIAM J. OLSON, P.C.
8180 Greensboro Drive, Suite 1070
McLean, Virginia 22102-3860
(703) 356-5070

Counsel for
Amazon.com, Inc.

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ARGUMENT

I. UPS SEEKS TO ELIMINATE THE COMPETITION FROM PARCEL POST.

In its initial brief, *e.g.*, UPS Initial Brief, p. 14, United Parcel Service (“UPS”) argues at length in support of its proposed increase to Parcel Post rates — without once mentioning that its proposed increase is **38 percent**. Tr. 38/17249. The UPS Initial Brief also neglects to mention the **25 percent** decrease in Parcel Post volume which UPS estimates would result from its proposal. *Id.*

This 25 percent decrease in volume would reduce Parcel Post volumes to less than 235 million — below 1997 levels — notwithstanding the e-commerce-driven expansion of the parcel market since then. *See* Tr. 38/17250. Yet UPS criticizes Amazon.com witness John Haldi (AMZ-RT-1) for stating that UPS’s proposed rate increase would reduce Parcel Post volumes by an “unacceptably large amount,” to “an unacceptably low level.” UPS Initial Brief, p. 60.

Although UPS has every right under the Postal Reorganization Act to intervene in this docket, some might characterize as “ironic” the efforts by a Postal Service competitor to attempt to use administrative litigation to increase postal rates to the point where the volume of a competing Postal Service product would drop by 25 percent. Tr. 41/18128, l. 15.

As recently as 1989, Parcel Post was a moribund product. Since then, the revival of Parcel Post has been dramatic, and to some degree unexpected. UPS cites its witness David E. M. Sappington (UPS-T-6) as authority for the assertion that Parcel Post can **sustain** a 38 percent rate increase. *Id.*, p. 57. This only would be true in the sense that Parcel Post **sustained** the loss of 79 percent of its volume from 1970 (570 million) to 1989 (121 million). USPS-LR-I-117, VolHist.xls, 4CM. Parcel Post is still far from recovering its 1970 volume levels. UPS is widely acknowledged to be the dominant provider of surface parcel delivery. The UPS rate proposal would immediately arrest Parcel Post’s growth, and result in a huge step backwards.

II. UPS USES FALSE ASSERTIONS TO SUPPORT ITS RATE INCREASE.

What are UPS’s assertions in support of its proposed 38 percent increase to Parcel Post rates?

1. UPS states that Postal Service’s proposed rates evidence an abuse of monopoly mail to the benefit of competitive classes. UPS Initial Brief, p. 5.

According to UPS, under the Postal Service’s proposed rates, First-Class Mail would have a cost coverage significantly higher than any other class or subclass of mail

(excepting only Express Mail). *Id.*, p. 1. This is untrue. The Postal Service proposes a cost coverage of 209 percent for Standard A ECR. *See* Exhibit USPS-32B, p. 1, as revised 2/18/00; *see also* USPS-LR-I-149.xls, Markup Indices. *See also* VP/CW Initial Brief, pp. 63-67.

2. UPS asserts that the “Postal Service has provided no information whatever to indicate that the Test Year advertising costs for ... Parcel Post will decline to zero or almost zero.” UPS Initial Brief, p. 27. This is also untrue. The Postal Service has identified and explained its plans to reduce Test Year advertising costs, including Parcel Post’s, which are totally discretionary. Tr. 46C/20992.

3. UPS asserts that Postal Service witness Michael K. Plunkett (USPS-T-36) “admi[tted] that the physical characteristics of DSCF-entry and DDU-entry parcels should more closely approximate those of DBMC-entry parcels rather than intra-BMC parcels.” UPS Initial Brief, p. 83. This is not a correct characterization of the testimony. Witness Plunkett merely observed that one might intuitively expect such a relationship. Tr. 13/5017. The identification of one reasonable assumption does not preclude the existence of other, equally reasonable assumptions. Moreover, a reference to intuition does not constitute an admission.

4. UPS accuses witness Haldi of falsely implying that UPS witness Sappington bases his proposed Parcel Post rate increases on total Parcel Post attributable costs alone. UPS Initial Brief, p. 59. That accusation is false. Witness Haldi testified correctly that witness Sappington’s **direct testimony** refers only to changes in Parcel Post’s total attributable costs. Tr. 44/19523. Many of witness

Sappington's responses to interrogatories likewise refer only to changes in total attributable costs. In fact, it was only after receiving written cross-examination from Amazon.com that witness Sappington even mentions unit attributable costs ("other measures of cost increases, such as the increase in unit attributable costs, can also provide useful information," Tr. 31/15293). *See* Tr. 31/15480. Contrary to UPS's assertion that "Dr. Haldi is just plain wrong" (UPS Initial Brief, p. 59), witness Haldi is absolutely right.

5. UPS again employs a misleading approach when discussing whether witness Sappington had mentioned that the costs of delivery confirmation are not included in the attributable costs of Parcel Post. UPS Initial Brief, p. 62, fn. 34. Witness Haldi **correctly** testified as to the content of witness Sappington's testimony, which seemed to imply that delivery confirmation costs were included in Parcel Post attributable costs. Of course, as UPS (and UPS witness Sappington) admit, delivery confirmation costs are not included in Parcel Post attributable costs. Again, only when Amazon.com confronted witness Sappington during discovery did he acknowledge the true relationship between delivery confirmation and Parcel Post costs — a response cited by UPS as evidence that witness Haldi's statement (concerning the implications of witness Sappington's direct testimony) had been false. UPS Initial Brief, p. 62, fn. 34. Parcel Post users of Delivery Confirmation pay a separate fee, which more than covers costs. UPS not only attempts to hide the erroneous implication in witness Sappington's direct testimony, but also wrongly accuses witness Haldi of mischaracterizing that testimony.

III. UPS PROPOSALS HAVE NO FOUNDATION IN THE RECORD.

UPS argues that “the value of Parcel Post service has increased over the past few years.” UPS Initial Brief, p. 58. However, as Amazon.com witness Haldi pointed out, UPS has presented no evidence that any aspect of Parcel Post’s performance has improved. Tr. 44/19533. It simply asserts its own view that the availability of delivery confirmation (for a separate fee) and the creation of DSCF and DDU-entry Parcel Post, in some unexplained and unquantifiable manner, have increased Parcel Post’s value of service, thus helping to justify a 38 percent increase in rates. *See also* rebuttal testimony of Amazon.com witness John L. Clark, AMZ-RT-2, Tr. 41/18130-32.

UPS then attempts to bootstrap its unproven assertion that DSCF- and DDU-entry Parcel Post receive superior service into an argument that “big shippers” (*i.e.*, mailers who use DSCF- and DDU-entry Parcel Post) “pay less for better service.” UPS Initial Brief, p. 86. Citing witness Ralph L. Luciani (UPS-T-5), UPS would have the Commission apply “the Priority Mail **markup** to the cost of DDU-entry pieces in determining the appropriate **passthrough** for DDU avoided costs.” UPS Initial Brief, p. 85, emphasis added. For reasons explained in Amazon.com’s Initial Brief, implicit markups should not be used to determine cost-based passthroughs. *See* Amazon.com Initial Brief, pp. 17-19. It should also be noted that witness Luciani would have the DDU entry rates viewed as part of an integrated expedited delivery service. At the same time, UPS attempts to defend witness Sappington’s myopic view with the statement that “[i]n fact, Dr. Haldi and Dr. Sappington both view these [DSCF and

DDU] rates through the same lens — as a charge for one component of a combined ground collection, transportation, and delivery product.” UPS Initial Brief, p. 61.

Accepting witness Sappington’s view, DDU rates should be viewed as a component of the highly competitive ground services in which Parcel Post competes. This is absurd. Even more importantly, this value of service argument should not be considered germane to setting passthroughs for worksharing discounts. DSCF- and DDU-entry Parcel Post rates are lower than other Parcel Post rates because the Postal Service incurs lower costs in handling DSCF- and DDU-entry parcels — a worksharing initiative supported by the Commission.

Lacking studies or record evidence that support its proposal to distribute elemental load costs (between subclasses) by weight rather than by volume, UPS is left to defend its proposal with naked argument. UPS asserts:

if weight is a proper basis for reflecting delivery cost differences within the narrow weight ranges from one ounce up to thirteen ounces for First Class Mail Presort and from one ounce up to sixteen ounces for Standard Mail (A), then it surely is a proper basis for reflecting the more significant weight differences between under one pound Standard Mail (A) parcels and the far heavier Parcel Post pieces. [Initial Brief, p. 37]

But that assertion is an empty one, for the very premise of the argument is unproven.

This docket contains no evidence whatsoever that “weight is a proper basis for reflecting delivery cost differences.” As witness Haldi observes, USPS witness Sharon Daniel’s (USPS-T-28) methodology (heavily relied upon by UPS) reflected her decision — unsupported by any study, empirical data, or any other evidence — to distribute elemental load costs by weight in the development of USPS-LR-I-95. *See* USPS-T-28,

pp. 8-9. Moreover, witness Daniel never even mentioned Standard B mail, such as Parcel Post, as it was beyond the scope of her study. Tr. 44/19539, ll. 18-19.

UPS makes the curious argument that, if the one-pound minimum weight were removed from Parcel Post, then “[m]ost or all” of the Priority Mail volume between 13 and 16 ounces could migrate to Parcel Post. UPS Initial Brief, p. 90. That argument is patently absurd. The Postal Service’s proposed rate for a one-pound Priority Mail package is proposed to be \$3.45, and the Postal Service’s proposed rate for an inter-BMC parcel post package that weighs less than two pounds is \$3.47. Proposed Rate Schedule 521.2A. Even given UPS’s refusal on brief to consider the differences in service standards between Parcel Post and Priority Mail,¹ it is a stretch to assume that the general public is not aware that Priority Mail has higher service standards. No one would be willing to pay the higher Parcel Post rate in hopes of receiving better service, for Parcel Post offers no such better service.

UPS asserts that testimony documenting actual practices regarding the DDU-entry of Parcel Post is insufficient to rebut UPS speculation regarding sack shakeout costs avoided. UPS Initial Brief, p. 81. UPS admits, however, that Amazon.com witness Clark and Parcel Shippers Association witness Jon Wittnebel (PSA-RT-2) testified (and documented) actual practices in DDU-entry. This testimony exposed the error in UPS witness Luciani’s speculation.

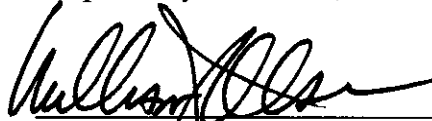
¹ UPS witness Sappington states that “[t]he Postal Service and its competitors offer services that generally provide faster delivery of parcels than Parcel Post provides.” Tr. 31/15301.

UPS next attempts to bolster its efforts to add attributable costs to DDU-entry Parcel Post by seeking to identify additional activities undertaken by postal personnel when handling dropshipped parcel post. *Id.* However, by failing to demonstrate that such activities are unique to Parcel Post entry at the DDU by mailers (contrasted with Parcel Post which had entered the postal system upstream), this effort by UPS is irrelevant to deciding the rate to be charged dropshipped Parcel Post. Moreover, even if it were somehow relevant, it remains mere speculation — completely unquantified.

CONCLUSION

UPS's proposed Parcel Post rates reflecting a 38 percent increase lack support in the record and would be destructive. As set forth in the Amazon.com Initial Brief, and as further demonstrated above, the DDU and DSCF Parcel Post rates requested by the Postal Service should be recommended by the Commission.

Respectfully submitted,

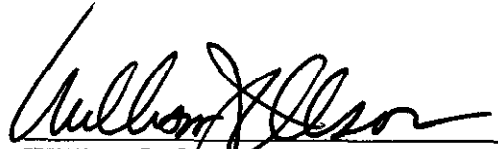


William J. Olson
John S. Miles
WILLIAM J. OLSON, P.C.
8180 Greensboro Drive, Suite 1070
McLean, Virginia 22102-3860
(703) 356-5070

Counsel for
Amazon.com, Inc.

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.


William J. Olson

September 22, 2000