

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY
Docket No. R97-1

POSTAL RATE AND FEE CHANGES, 1997

OBJECTION OF UNITED STATES POSTAL SERVICE TO OFFICE OF THE
CONSUMER ADVOCATE INTERROGATORIES OCA/USPS-T13-2 and 23(b)
(July 28, 1997)

The United States Postal Service hereby objects to Office of the Consumer Advocate interrogatories T13-2 and 23(b), filed on July 16, 1997.¹ The information requested is irrelevant, burdensome to produce and may contain commercially sensitive and proprietary matter.

OCA/USPS-T13-2 states:

Please provide documentation for the Highway Contract Support System. If you cannot respond, please refer this question to a witness more knowledgeable of the HCSS. This documentation should include:

- a. *Training manuals (sic) for the use of the Highway Contract Support System.*
- b. *Copies of manuals for use of the system.*
- c. *A list and description of all variables existing on the system.*
- d. *Specifications for all computer edits or quality control checks of data input to (or generated by) the Highway Contract Support System. Include ranges for valid data for each variable included in the Highway*

¹ Actually, the OCA directed OCA/USPS-3(a) to the Postal Service on July 16, 1997. That interrogatory provided: "a. Witness Bradley's testimony (USPS-T13) appears to be almost identical to his testimony in Docket No. MC97-2. Please provide responses to OCA/USPS-T13-11-48." To avoid confusion concerning the proper numbering convention for these interrogatories, counsel for the Postal Service and counsel for the OCA agreed to renumber the interrogatories as OCA/USPS-T13-1-38.

Contract Support System and describe procedures for preventing the creation of duplicate or incomplete records.

- e. Specifications for the design of the Highway Contract Support System.
- f. Copies of computer specifications for the development of the Highway Contract Support System.
- g. A list of all reports generated by the Highway Contract Support System.
- h. Sample copies of reports generated by the Highway Contract Support System.

The OCA's seeming obsession with examining even the most minute detail of the Highway Contract Support System (HCSS) is entirely irrelevant to witness Bradley's analysis, and indeed, misses the purpose of using the HCSS data.

As witness Bradley states, "In 1995, the Postal Service initiated a new contract management system entitled Highway Contract Support System (HCSS). This system includes, *inter alia*, an electronic database covering the entire set of purchased highway transportation contracts." *USPS-T-13 at 12*. Witness Bradley goes on to explain that HCSS contains the key variables (similar to those obtained from the hard-copy contracts in Docket No. R87-1) needed for his variability analysis. *Id.* He further concludes that use of HCSS data, which allows use of data for nearly all contracts in force rather than a sample, "improves the efficiency of the estimation," negates concerns about a possibly unrepresentative sample, and ensures that any changes in the transportation system since Docket No. R87-1 are captured. *Id. at 12-13*. In other words, HCSS basically replaced the system of hard-copy highway transportation contracts, and witness Bradley uses variables from HCSS in basically the same fashion as he used variables from the hard-copy

contracts in Docket No. R87-1. There is simply no purpose to be served in "documenting" HCSS, which contains information beyond what witness Bradley used, any more than there would be in "documenting" the entire Postal Service contracting system if hard-copy contract data were used.

Such documentation is clearly not required by Rule 31(k), which by its very terms applies to "studies and analyses offered in evidence in hearing proceedings or relied upon as support for other evidence" HCSS is not a study or analysis, nor was it used in such manner by witness Bradley. HCSS was used merely as an electronic database from which to extract certain contract information. In this respect, it is no different from use of payroll information in the In-Office Cost System (IOCS). The Postal Service documents IOCS in compliance with the Commission's rules, but it does not "document" its payroll information by, for example, providing copies of all employee W-2 forms. In fact, the Commission itself has recognized that there is a distinction to be drawn between a study or analysis and an electronic database. In Docket No. RM97-2, which proposed changes to Rule 31(k)(2) to clarify the requirements for presentation of market research studies, the Commission discussed "the emergence of electronic data bases, from which a number of different studies and analyses can be developed...." *Order No. 1174, Docket No. RM97-2, May 2, 1997, at 4.* As seems inherent in the Commission's comments, there must be a realization that imposition of extensive documentation requirements beyond the scope of a study or analysis would have a chilling effect on a party's willingness to make use of new data sources.

The OCA's apparent purpose in pursuing every scrap of information concerning HCSS is to check for data entry errors. As witness Bradley indicated, however, his overriding concern in omitting certain observations from his analysis is not to "cloud the identification of the true cost variability." *USPS-T-13, at 47*. Thus, whether the unusual observations he recommends omitting result from special cases or include data entry errors basically is beside the point.² Any extensive collection of data, whether in electronic or hard-copy form, will not be perfect and will contain some errors. This does not mean that an entire data base needs to be rejected, nor does it mean that monumental efforts to weed out every potential inconsistency or error, no matter how insignificant, are justified. The OCA's request for documentation of HCSS is no more relevant or worthwhile than an effort to interview every person who typed or handwrote a hard copy contract to see if he or she made a mistake.

In addition to the above relevance arguments, which apply to all of the information requested under each of the interrogatory subparts, the Postal Service has specific concerns and objections regarding the individual items. These are discussed below.

The OCA requests training and user manuals for HCSS. In fact, there is one manual used for both purposes. It is approximately 1,000 pages and spare copies are in short supply, making it likely that it may have to be duplicated before it can be provided in response to this interrogatory. Copying 1000 pages is an unwarranted

² Witness Bradley presents his results both ways—with the unusual observations omitted and with them included.

burden given the dubious relevance of the material. Also, the manual likely contains material having nothing to do with witness Bradley's analysis and may also contain information -- for example, internal Postal Service contract or transportation policy or strategy information -- which the Postal Service considers proprietary.³

With regard to the OCA's request for a list and description of all variables on HCSS, this material likewise is irrelevant and burdensome to produce. Although the Postal Service has not been able to contact all persons with knowledge of what this would entail, it is the Postal Service's understanding that each field in HCSS is considered a "variable" and that there may be up to 50 pages of such "variables." What is relevant is the list of variables used by witness Bradley. In fact, witness Bradley even provided data on the variables he examined, but did not use. See *Docket No. MC97-2, Bradley Workpaper WP-1, Creation of Analysis Data Set*. Also, any such lengthy list would be burdensome to produce, especially given its lack of relevance. The Postal Service further has concerns that even a listing and description of the variables may reveal commercially sensitive information such as Origin-Destination pair information or contractor cost information.

The OCA also requests "Specifications for all computer edits or quality control checks of data input to (or generated by) the Highway Contract Support System," including "ranges for valid data for each variable." In addition to the burden involved

³ Counsel has not had the opportunity to either obtain or review this extensive manual in time for this objection. If the Commission rules that the Postal Service produce the manual or other material requested by the OCA, the material will be provided with any proprietary or commercially sensitive information redacted.

in providing ranges for each of the numerous variables, to the extent such ranges even exist, the requested information goes well beyond the scope of witness Bradley's testimony. In part at least, the OCA seems to be asking for the internal computer code for HCSS. This can have no possible relevance to the specific data witness Bradley extracted from HCSS. Moreover, responses to other interrogatories, for example, OCA/USPS-T13-18, 22 and 28, which will be filed shortly will provide information concerning the fact that "inconsistency" checks are not built into the system, and will describe Postal Service quality control checks on HCSS. These responses also will explain that HCSS data become "valid" when the contractor agrees to them, thus negating any need for information of the type OCA is requesting.

Likewise, specifications for the design and development of HCSS, to the extent they still even exist, are of no relevance to witness Bradley's analysis.⁴ Does OCA really suppose that the computer code or program erroneously converts the "annual mileage" variable into the "number of vehicles" variable? Moreover, information to be provided shortly in response to various interrogatories, discussed above, should provide sufficient relevant information concerning HCSS. Also, the specifications requested may contain commercially sensitive information.

⁴ The Postal Service has been unable, thus far, to contact the person most knowledgeable about the existence of these materials. If the Postal Service finds out that the materials are no longer in existence, it will so inform the OCA. Nonetheless, the Postal Service does not abandon its arguments concerning the lack of relevance and the possible commercial sensitivity of the materials.

Finally, the OCA requests a list of all reports generated by HCSS and sample copies of those reports. In HCSS, there is a screen that is headed "Report Printing." Basically, HCSS considers anything printed to be a report. There are hundreds of reports. For example, virtually every form that goes into a contract is considered a "report." Any listing of routes is considered a "report." Lists of tabular information are called "reports." A listing of terminated contracts every AP is likewise deemed a "report." Thus, the OCA's request is both overbroad and irrelevant. Moreover, providing samples would be unduly burdensome. For example, some "reports" can take up to one and a half hours of processing time to print out. Further, this effort would have to be undertaken at each of the 12 separate DNOs. Once again, none of these "reports" shed any light on witness Bradley's analysis. Witness Bradley has already provided the relevant information—that is, the information needed to replicate and verify his econometric results. More is not required.

The OCA has gone overboard in its discovery on HCSS. If witness Bradley had used hard-copy contracts, would the OCA be requesting the dimensions of the file cabinets in which the contracts were kept or inquiring whether the contracts were printed on parchment or bond paper? Its questions on HCSS are no more relevant to an analysis of purchased highway transportation variabilities than those questions would be.

OCA/USPS-T13-23(b) points out what OCA believes to be a contradiction between a Postal Service argument in an objection made in Docket No. MC97-2


and one of witness Bradley's interrogatory responses in that docket, and then inquires of witness Bradley whether he was interviewed by attorneys for the Postal Service regarding the filing of the objection. Clearly, this interrogatory calls for information protected by both the attorney-client and the attorney work product privileges. The fact of discussions and the matters discussed between witness Bradley and counsel for the Postal Service in connection with litigation before the Commission are clearly protected by the attorney-client privilege. In addition, revealing whether a particular matter was discussed between witness and counsel would tend to reveal the strategy used in preparation of the pleadings in question—information which is subject to protection under the attorney work product doctrine. The OCA is free to make whatever arguments it chooses concerning any contradictions—real or imagined—that it finds without resort to protected information.

Respectfully submitted,

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July 28, 1997

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.



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