

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, 2001

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Docket No. R2001-1

OFFICE OF THE CONSUMER ADVOCATE
RESPONSE TO MOTION OF POSTAL SERVICE FOR LEAVE TO REPLY
TO OCA'S OPPOSITION TO PROTECTIVE CONDITIONS FOR
RESULTS OF CONSUMER SATISFACTION SURVEYS
(November 23, 2001)

Pursuant to Rule 21 of the Rules of Practice of the Postal Rate Commission, the Office of the Consumer Advocate (OCA) hereby responds to the Motion of the Postal Service for Leave to Reply to OCA's Response to the Motion of the Postal Service for Protective Conditions for Results of Consumer Satisfaction Surveys, filed November 21, 2001.¹ The instant response is submitted immediately following the Postal Service's motion in the interest of having this matter resolved as expeditiously as possible.

It is necessary for the Postal Service to ask leave to reply to OCA's Response to the Postal Service motion for protective conditions since the rules of the Commission do not provide for such a pleading: "Unless the Commission or presiding officer

¹ A brief procedural recapitulation may be useful in placing this latest motion of the Postal Service. Interrogatory OCA/USPS-7, filed on September 28, 2001, three days after the Postal Service submitted its R2001-1 Request to the Commission, presented the OCA's request for business and residential consumer satisfaction surveys. The Postal Service objected (on October 9, 2001) to provision of any responses by residential consumers and would release only a small fraction of the responses by business consumers. On October 23, 2001, OCA filed a motion to compel production of most of the responses collected in both the residential and business consumer surveys. This motion was opposed by the Postal Service on October 30, 2001. The Presiding Officer ruled largely in favor of production of the responses sought by OCA in POR No. 2001-1/7, issued November 7, 2001, but left open the question whether protective conditions should be imposed on the release of this material. The Postal Service filed a motion for protective conditions on November 13, 2001. OCA opposed the motion for protective conditions on November 19, 2001, as permitted by POR No. R2001-1 at 5.

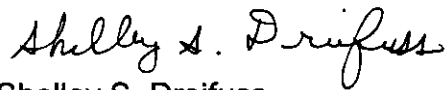
otherwise provides, no reply to an answer or any further responsive document shall be filed.” 39 C.F.R. §3001.21(b).

OCA does not oppose the Postal Service’s Motion for Leave to Reply to OCA’s Opposition to the imposition of protective conditions. OCA, however, is very concerned about the already substantial delay in the provision of the materials in question. As may be seen from the procedural history recounted in note 1 of the instant pleading, it has been nearly two months since OCA first asked for the consumer survey responses. OCA is now beginning to prepare testimony to be presented in its direct case, and views these responses as an essential part of its evidentiary presentation. Consequently, OCA conditions its acquiescence to the filing of a reply on having the Postal Service do so in short order. OCA will not oppose the filing of a reply so long as it is filed by the close of business on November 28, 2001.²

OCA anticipates that the Postal Service will present new arguments for the Presiding Officer’s consideration (there would be no need to file a reply otherwise) and asks that it be given leave to file a rejoinder to the Postal Service’s reply. Assuming that the Postal Service files its reply on November 28, 2001, OCA will rejoin within four business days – December 4, 2001.

In conclusion, OCA does not oppose the Postal Service's request for leave to reply to OCA's November 19 Opposition to protective conditions so long as the Postal Service demonstrates good faith by limiting the delay involved.

Respectfully submitted,

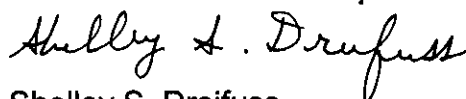


Shelley S. Dreifuss
Acting Director
Office of the Consumer Advocate

1333 H Street, N.W.
Washington, D.C. 20268-0001
(202) 789-6830; Fax (202) 789-6819
e-mail: dreifusss@prc.gov

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Rule 12 of the rules of practice.



Shelley S. Dreifuss

Washington, D.C. 20268-0001
November 23, 2001