

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

POSTAL RATE AND FEE CHANGES, 2001

Docket No. R2001-1

OPPOSITION OF UNITED STATES POSTAL SERVICE TO OFFICE OF THE
CONSUMER ADVOCATE'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS
REQUESTED IN OCA/USPS-119 AND 123(a)
(November 28, 2001)

On November 19, 2001, the Office of the Consumer Advocate (OCA) moved to compel the production of certain documents requested in interrogatories OCA/USPS-119 and 123(a), filed on October 24, 2001. The Postal Service objected to these interrogatories on November 5, 2001. The Postal Service hereby opposes the motion to compel.

OCA/USPS-119.

This interrogatory requested Express Mail service data for each weekday (Monday – Friday), for FY 2000 and FY 2001. The Postal Service objected to this request on the grounds of relevancy, commercial sensitivity, and materiality. The OCA contends that since the Postal Service, in response to OCA/USPS-30(b), supplied similar information for Saturday Express Mail service, the Postal Service should be obliged to provide disaggregated volume and revenue data for each of the remaining days of the week.

It is beyond comprehension why such an argument has been made. Clearly, there are marked differences between the competitive value of Saturday Express Mail

data and disaggregated weekday Express Mail data. Average volume and revenue generated on Saturdays are significantly less than on any other day of the week (Monday-Friday).

Moreover, there are long-established operational differences between weekdays and Saturdays. For example, collections are scheduled for pickups at the same time on each day Monday through Friday, but separate collection schedules are posted for Saturdays.

The Postal Service did not intend then, nor does it intends now, to waive its right to object to the release of irrelevant commercially sensitive information. In isolation, the Postal Service did not consider the response to OCA/USPS-30(b) as harmful to its competitive position in the expedited services arena, although the apparent relevancy of the information was never clear. It was assumed that the OCA planned to make some type of comparison between aggregate weekday volume and revenue and that of the weekend.

The Commission has spoken unambiguously on the issue of releasing disaggregated Express Mail data. In Presiding Officer's Ruling No. R94-1/22, the Commission reaffirmed a long-standing practice when it concurred with the Postal Service that the "potential competitive harm of disclosing [disaggregated Express Mail information] exceeds any incremental contribution it could foreseeably make to the record..." *Id.* at 3. The Commission acknowledged that disclosure of disaggregated Express Mail data "could conceivably be used by competitors to the Postal Service's detriment." *Id.*

Moreover, Express Mail rates, and for that matter, all postal rates, are not set nor vary based on the day of the week. There is no clear nexus between the requested information and any issue pending in this proceeding. Therefore, the information is irrelevant and should be deemed non-discoverable.

OCA/USPS-123(a).

The interrogatory requested volume and revenue data for twenty remote Post Offices that do not receive Next-day Express Mail service. The Postal Service again objected on the grounds of relevancy and commercial sensitivity.

The Postal Service vehemently objects to the release of any disaggregated information that is not at issue in a case. Discovery in a rate case proceeding is not a mechanism for a fishing expedition; that is to say, information that would otherwise be deemed non-discoverable cannot be transformed to relevant discoverable information simply because it is now being requested in the context of a rate case.

The OCA inappropriately relies upon Presiding Officer's Ruling No. R2001-1/7 as its basis for compelling discovery of this obviously irrelevant non-discoverable information. POR 1/7 dealt with consumer satisfaction surveys, not Express Mail volume and revenue. Those surveys covered a wide-range of postal products, not just Express Mail. It's difficult, if not impossible, to determine any connection between POR 1/7 and the information requested in OCA/USPS-119 and -123(a). This is a feeble attempt by the OCA to grasp at anything that may divert the Commission's attention from the real issue; Express Mail volumes and revenues generated by twenty remote

Postal Offices will in no way aid the Commission in determining the appropriate rate for nation-wide Express Mail service.

Additionally, to compile the requested information would place a tremendous burden on the staff at the affected offices. The data needed to answer –123(a) would have to be gathered manually, as the Postal Service does not maintain Post Office specific information in its automated systems.

The OCA has not presented one valid reason why the information requested is relevant to this proceeding and why the value of its production is greater than the potential harm to the Postal Service. The mere fact that the Postal Service previously divulged irrelevant information does not waive its right to refuse the release of this other clearly immaterial commercially sensitive data. In light of these reasons and those stated above, the Commission should deny the OCA's Motion to Compel.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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November 28, 2001

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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