

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

RECEIVED

JAN 8 4 03 PM '02

POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2001

Docket No. R2001-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE TO  
PRESIDING OFFICER'S RULING NO. R2001-1/26  
(January 8, 2002)

The United States Postal Service hereby responds to Presiding Officer's Ruling No. R2001-1/26, issued on December 20, 2001. That Ruling concerned an interrogatory by the Officer of the Consumer Advocate (OCA/USPS-T36-1). That interrogatory follows up on a May 18, 1999 Officer of the Inspector General (OIG) audit report on certified mail, insured mail, registered mail, return receipt, restricted delivery, and post office box services, provided as library reference I-200 in Docket No. R2000-1. The interrogatory asked for "any other audits, studies, or updates [on not just those special services, but] on any Postal Service special service." The Postal Service identified, among other audits, an OIG audit report titled Review of the Postal Service Delivery Confirmation Program at Selected Facilities (Audit Report Number DE-AR-01-001). The Postal Service objected to providing that report, on the grounds of relevance, since the report concerned practices at isolated Postal Service facilities that have been corrected, and of commercial sensitivity, since the report provides facility-specific data, and could tarnish the image of Delivery Confirmation service.<sup>1</sup>

Ruling No. 26 concluded that the report should be provided under protective conditions on or before January 8, 2001. The Ruling found that "[b]ecause the OIG

---

<sup>1</sup> Partial Objection of the United States Postal Service to Interrogatory OCA/USPS-T36-1(a) of the Office of the Consumer Advocate, filed October 22, 2001.

Report contains facility specific information, and accepting that there is at least a potential for unfairly tarnishing the perception of Delivery Confirmation, protective conditions are appropriate for the Postal Service's response." Ruling at 6.

However, the Ruling also found that:

The OIG Report also appears to be a candidate for protection by redacting the sensitive information. The Postal Service shall identify the types of sensitive information contained in the OIG Report, and report to the Commission on or before January 8, 2001, on the feasibility of redacting the sensitive material so that a response to this interrogatory can be provided free of protective conditions.

Ruling at 6. The Postal Service has reviewed the Ruling and the report, and believes that the report should not be made available without protective conditions, even if redacted. The Postal Service stresses that no participant has a demonstrated need for public access to this report for rate case purposes. As discussed above, the report is beyond the scope of the special services to which interrogatory OCA/USPS-T36-1 was apparently directed. Upon review, therefore, no party may need access free of protective conditions.

Moreover, the Ruling does not find that the report is directly relevant to any issue in this proceeding. Recognizing that the report "might reveal only minor problems that have been resolved," the Ruling focused on the possibility that "if the OIG Report itself is not relevant, it at least may lead to the discovery of admissible evidence, and thus is discoverable in this proceeding." Ruling at 5. Protective conditions should be no hindrance if the Report simply leads to the discovery of other evidence.

Even if participants find that portions of the report need to be made public, that need can be addressed best upon informal or formal request by the participant. Public access can then be addressed in a limited context. The Postal Service may agree to public access to a portion of the report, or reach another agreement that meets the needs of the participant and the Commission.

In response to the Presiding Officer's request, the Postal Service has identified several types of sensitive information in the report. First, the report includes facility-specific data (e.g., pages 3-4, and appendices B-D). Second, the report generally focuses on atypical, localized problems at 5 facilities, and does not make it clear that those results are not representative of the nationwide Delivery Confirmation program.<sup>2</sup> The portion of the report (e.g., p. i, ¶ 2; p. 3, ¶ 1) presenting these results in a way that implies they may be representative would need to be redacted to avoid tarnishing the perception of the *Delivery Confirmation* product. In fact, the report provides a misleading patina of statistical sampling when in fact only five nonrandom sites were reviewed, and these sites were selected because of reports to the OIG hotline. See, for examples, page 7, last sentence; Appendix A. Finally, the report includes factually incorrect statements (perhaps because of misunderstandings with field employees), e.g., page 10, first two paragraphs. Public access to this incorrect information could also tarnish the perception of Delivery Confirmation service.

---

<sup>2</sup> It makes sense for the OIG to audit anomalous practices at select facilities so these practices can be corrected. But such audits are unlikely to be useful in a rate case setting, in which nationwide practices are at issue.

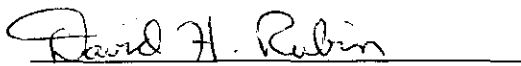
Thus, much of the report contains sensitive information that would need to be redacted. Because of this need, and for the reasons discussed above, including the availability of the full report under protective conditions, the Postal Service does not believe it feasible to develop a redacted version of the report that would be useful for rate case purposes.<sup>3</sup>

Respectfully submitted,

UNITED STATES POSTAL SERVICE

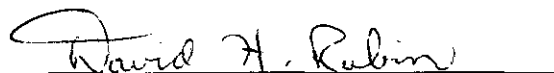
By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Ratemaking

  
David H. Rubin

**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.

  
David H. Rubin

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2986; Fax -6187  
January 8, 2002

---

<sup>3</sup> Given the widespread support for settlement of this case, including by the OCA, the need for public access to the OIG report seems especially absent.