

DOCKET SECTION

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

RECEIVED
SEP 24 4 35 PM '97
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO MAJOR MAILERS
ASSOCIATION MOTION REQUESTING LEAVE TO FILE A REPLY OR, IN THE
ALTERNATIVE, MOTION FOR LEAVE TO RESPOND TO THE REPLY
(September 24, 1997)

The United States Postal Service hereby opposes Major Mailers Association Motion Requesting Leave to File a Reply to the Postal Service's Opposition to Motion to Compel, filed September 19, 1997. The Postal Service believes that more than enough time has been consumed debating the Commission's methodology – a debate that it never wished to engage in. Also, the Postal Service does not see how "[a]cceptance of the...MMA Reply could...simplify this controversy," since the Postal Service does not intend to, nor is it required to, attest to the Commission's methodology on the record.

In the event that MMA's Motion is granted, however, then the Postal Service has the following points to make concerning what MMA says in its reply. First, as should be clear from the pleadings in this docket, the Postal Service is not required to attest to the Commission's costing methodology or issues related thereto on the record, nor will it voluntarily do so. As the Postal Service has repeatedly pointed out, in enacting revised Rule 54(a)(1), the Commission made clear that the required alternate costing presentation could be presented either as sworn testimony or as a library reference. See *Docket No. RM97-1, Order No. 1176, May 27, 1997, at 24-25*. The Commission further

made clear that the Postal Service would not be made to espouse a litigating position against its will. *Id.* at 24. MMA's "offer" to withdraw a number of its contested interrogatories by having the Postal Service attest to certain matters on the record is a very transparent attempt to have the Postal Service explain and espouse the Commission's costing methodology on the record.

With respect to MMA's point concerning the Postal Service's final adjustments, in a certain sense, MMA is correct—it is difficult to make an exact comparison between some of the Commission costs and some of the Postal Service costs due to the final adjustments in this case.¹ Counsel for the Postal Service regrets any confusion that might have resulted from misreading what MMA asked in its Motion to Compel.

The Postal Service had stated in its initial objection to the MMA interrogatories that it "is unable to determine whether and how the Commission will make cost or volume final adjustments." *Postal Service Objection*, at 8. The Postal Service further stated that MMA could assume that the Postal Service's cost and volume final adjustments would be made and attempt to make them itself using Library Reference H-215. *Id.* In its Motion to Compel, MMA complained that Dr. O'Hara's adjustments for eliminating Standard (A) Single-Piece mail and reducing certain other Standard (A) mail costs were not reflected in Library Reference H-215. *MMA Motion*, at 7, n.2. MMA

¹ The Postal Service is not sure it entirely understands or agrees with the phrase "dollar for dollar" as used by MMA. See *MMA Reply* at 2. The Postal Service assumes that MMA is making the point that certain anomalies result when Dr. O'Hara's final adjustments are grafted onto the Commission's costs. Every dollar under either the Postal Service's or the Commission's costing methodology is still worth a dollar, but the dollars distributed to the various classes, subclasses and special services are different.

further said that the Postal Service had misinterpreted the interrogatory concerning Dr. O'Hara's adjustments "as asking Dr. O'Hara to anticipate the *Commission's* final adjustments." *Id. at 11 (emphasis in original)*. Postal Service counsel interpreted these remarks as a request that Dr. O'Hara's adjustments be mechanically subtracted from the Commission costs in Library Reference H-215, an endeavor that MMA surely could undertake itself.

Although it is still not clear, it appears that what MMA really wants is for the Postal Service to make final adjustments based on some sort of assumption of how *the Postal Service would have presented its case in its entirety had it used the Commission's costing methodology in its entirety*. Since the Postal Service did not use the Commission's methodology, it cannot now go backwards and say what it would have done had it used the Commission's methodology. In many ways, this is really the same thing as assuming what the Commission will do. The entire issue of the Postal Service proposal to eliminate Standard (A) Single Piece is a good example. Is the Postal Service supposed to assume that the Commission will also eliminate Standard (A) Single Piece? If it makes this initial assumption, is the Postal Service to make a further series of assumptions concerning to what other classes or subclasses of mail the Commission will transfer the former Standard (A) Single Piece costs and in what proportions? This once again emphasizes the quandary of placing the Postal Service in the position of interpreting and implementing the Commission's costing methodology in the first place.

The Postal Service believes it has complied with both the letter and intent of Rule 54(a)(1). Due process now it requires that the Postal Service be allowed to devote its remaining time and attention to going forward with litigating its proposals.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:


Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking



Susan M. Duchek

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.



Susan M. Duchek

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2990; Fax -5402
September 24, 1997