

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

POSTAL RATE AND FEE CHANGES  
PURSUANT TO PUBLIC LAW 108-18

Docket No. R2005-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION TO THE  
MOTION OF THE OCA TO INITIATE RULEMAKING PROCEEDING TO AMEND THE  
RULES OF PRACTICE  
(November 2, 2005)

On October 26, 2005, the OCA filed, within Docket No. R2005-1, a 59-page pleading styled as “Office of the Consumer Advocate Motion Requesting the Commission to Institute Rulemaking Proceeding to Establish Periodic Reporting Requirements for the United States Postal Service for Quality of Service Standards and Measurements and to Amend Rule 54(n) to Require the Most Current Performance Standards and Measurements to be Included in Formal Requests for Changes in Rates and Fees.” The Postal Service hereby responds in opposition to this motion.

The OCA is seeking the initiation of a rulemaking proceeding to amend Rules 54(n) and 102 of the Commission’s Rules of Practice and Procedure. Its motion, however, was filed within Docket No. R2005-1, the proceeding pertaining to the Postal Service’s request for omnibus rate and fee changes pursuant to section 3622 of the Act. The relief sought by the OCA is not available in such a proceeding. That basis alone provides sufficient reason for the OCA’s motion to be denied.

When issuing its Opinion and Recommended Decision in Docket No. R2005-1 on November 1, 2005, the Commission indicated that in view of “the procedural posture of the case,” it was taking neither affirmative nor negative action on this OCA motion “at

this time.” R2005-1 Op. & Rec.Dec. at 7, n.8. Nonetheless, the Commission’s actual Recommended Decision included as Paragraph 2 the standard provision that “[e]xcept to the extent granted or otherwise disposed of herein, all motions, exceptions, and other outstanding requests filed in Docket No. R2005-1 hereby are denied.” Since footnote 8 neither granted the OCA’s motion nor otherwise appeared to dispose of it, it could be argued that the motion was therefore implicitly denied by operation of Paragraph 2 of the Recommended Decision. In any event, now that the Commission has transmitted its Recommended Decision to the Governors, it is unclear on what basis it could take favorable action on the OCA’s motion within Docket No. R2005-1.

If the Commission is inclined to consider the OCA’s request in some other context, the Postal Service and other interested parties will presumably be invited to provide substantive comments at an appropriate time, in an appropriate manner. To whatever extent it was not already denied by operation of Paragraph 2 of the Recommended Decision, however, the OCA’s motion in Docket No. R2005-1 should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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November 2, 2005

## CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

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