

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

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Postal Rate and Fee Changes

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Docket No. R2006-1

MOTION OF TIME WARNER INC. TO DESIGNATE  
EVIDENCE FROM OTHER COMMISSION DOCKETS  
(August 9, 2006)

Pursuant to section 31(e) of the Rules of Practice, Time Warner Inc. (Time Warner) moves that the following evidence received in other Commission proceedings be entered into the record of the current proceeding.

*Previous Postal Service testimony.* In its direct case in this docket, Time Warner expects to rely upon the following Postal Service testimony in the previous two omnibus rate cases concerning operations, costs, statistical systems, and mail characteristics:

R2005-1

- Responses of witness McCrery (USPS-T29) to TW/USPS-T11-5a, c, h-k, 6d-h, 7a, e, g-j, 8d, f-j, 9b-e, redirected from Van-Ty-Smith (Tr. 5/1708-1721).

Responses of witness McCrery to TW/USPS-T29-1-10 (Tr. 5/1694-1737).

These responses provide descriptions, more detailed than in any other USPS testimony, of the characteristics of various MODS based cost pools introduced for the first time in R2005-1. Of particular importance is the description of the flats preparation cost pool (MODS 035). Time Warner intends to show in its direct case that witness Miller (USPS-T-20) has failed to properly model the costs in that pool.

- Responses of witness Miller to TW/USPS-T19-2-6 (Tr. 6/1800-1808).

These responses represent an acknowledgment by witness Miller that in his R2005-1 mail flow model he did not attempt to model the flats preparation cost pool, even though the costs in that pool are different for different rate categories.

#### R2001-1

- Responses of witness Kingsley to AOL-TW/USPS-T39-10-14,16-19 (Tr. 2170-2180, 2182-2187).

These responses concern the circumstances under which sacked and palletized bundles are likely and less likely to break prematurely and the steps postal employees are instructed to follow when breakage does occur. Time Warner intends to show in its direct case that more correct modeling of bundle breakage is important for proper allocation of mail processing costs among different categories of Periodicals flats.

- Responses of USPS to AOL-TW/USPS-25-32 (Tr. 2720-2734).

These responses concern the extent to which Periodicals flats were being transported on airplanes. This issue is of importance in the current case because of the steps the Postal Service has taken to end the incurrence of air transportation costs by Periodicals.

*Previous Time Warner Inc. et al. testimony.* In Docket No. C2004-1, Time Warner sponsored testimony by Robert W. Mitchell that presented a comprehensive analysis of the development of the Periodicals class rate design over an extended historical period and proposed "a more cost-based rate structure than the current structure [that] would provide financial incentives to mailers to engage in lower cost mailing practices by encouraging mailers to use more efficient bundling, containerize more efficiently, change to a more efficient zone distribution, and increase the proportion of machinable pieces,"<sup>1</sup> and testimony by Halstein Stralberg that provided "a sound theoretical starting point for developing rates based on heretofore unrecognized cost elements . . . by identifying and quantifying cost drivers associated with bundles, sacks and pallets."<sup>2</sup> Time Warner expects to present direct testimony by witnesses Mitchell and Stralberg in the instant docket that

addresses, *inter alia*, the same issues addressed in substantial portions of their C2004-1 direct testimony.

For the following reasons, Time Warner believes that the entry of portions of Mitchell's and Stralberg's C2004-1 testimony into the record of this docket via designation, rather than having the same witnesses restate the same analysis in new testimony, would substantially contribute to the efficiency of these proceedings and to the convenience of the Commission and all interested participants, with no diminution in the opportunity for a full and fair hearing on the materials. (1) The testimony is quite recent, filed just over two years ago, and the issues addressed have not been litigated in the interim. (2) The witnesses will present direct testimony in behalf of Time Warner in the instant docket and thus will be available to respond both to written and oral cross-examination on the designated portions of their prior testimony. (3) The witnesses will affirm that the validity of the designated portions of their prior testimony is unchanged by the passage of time or by changes in circumstances since the testimony was first presented. (4) Time Warner will adopt the designated materials, without qualification, as part of its direct case in this docket. (5) Because the participants in this docket that would have an interest in challenging the designated testimony also actively participated in Docket No. C2004-1, in which the testimony was in fact extensively challenged and tested, incorporation of these materials by designation will save them--not just Time Warner and the Commission--from needlessly duplicative efforts; they will have not only a head start in mastering the materials but also the opportunity to move for counter-designation of any responsive evidence that was admitted in the prior docket.

Time Warner therefore moves to designate the following evidence into the record of the current proceeding.

Docket No. C2004-1

TW et al.-T-1, Direct Testimony of Robert W. Mitchell

P. 8, l. 1-p. 15, l. 9 [Tr. 805, l. 1-812, l. 9].  
P. 15, l. 12-p. 16, l. 2 [Tr. 812, l. 12-813, l. 2].  
P. 16, l. 11-p18, l. 13 [Tr. 813, l. 11-815, l. 13].  
P. 22, l. 4-p. 25, l. 12 [Tr. 819, l. 4-822, l. 12].  
P. 30, ll. 9-21 [Tr. 827, ll. 9-11].  
P. 35, ll. 3-21 [Tr. 832, ll. 3-21].  
P. 44, l. 1-p. 45, l. 7 [Tr. 841, l. 1-842, l. 7].  
P. 51, l. 9-52, l. 30 [Tr. 848, l. 9-849, l. 30].  
P. 55, l. 10-p. 56, l. 11 [Tr. 852, l. 10-853, l. 11].

TW et al.-T-2, Direct Testimony of Halstein Stralberg

P. 5, l. 1-p. 12, l. 9 [Tr. 23, l. 1-30, l. 9].

Two copies of the identified materials are today being provided to the Secretary of the Commission.

Respectfully submitted,

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<sup>1</sup> Docket No. C2004-1, Order No. 1446, Order Addressing Complaint of Time Warner Et Al. (issued October 21, 2005), ¶ 5004.

<sup>2</sup> Id. at ¶¶ 4032, 1013.