

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

EVOLUTIONARY NETWORK DEVELOPMENT  
SERVICE CHANGES, 2006

Docket No. N2006-1

REPLY OF THE UNITED STATES POSTAL SERVICE  
TO PRESIDING OFFICER'S RULING NO. N2006-1/32  
(August 23, 2006)

The United States Postal Service hereby submits this reply to Presiding Officer's Ruling No. N2006-1/32 (August 16, 2003). This Ruling responds to the July 14, 2006 Motion of the United States Postal Service In Response To Presiding Officer's Ruling No. N2006-1/24 (July 11, 2006), which directs the Postal Service to provide a copy of the source code underlying the Evolutionary Network Development optimization model.

The request in this docket seeks an advisory opinion regarding whether changes in postal services -- primarily in the form of service standard upgrades and downgrades for specific 3-digit ZIP Code origin-destination pairs that might result from the consolidation of postal operations as part of a network realignment effort -- would conform to the policies of the Postal Reorganization Act, within the meaning of 39 U.S.C. § 3661. The testimony filed in support of the Postal Service's request explains the objectives of its network realignment program and the means by which these changes in service would be proposed and determined. As explained by the testimony of witness Shah (USPS-T-1), the END optimization model is utilized by the Postal Service to help identify potential opportunities for mail processing consolidation and roles that existing facilities could play in the future mail processing network. As the

record in this docket amply demonstrates, the optimization model is not used to determine these consolidation or role assignment decisions; the model serves as a tool to help postal management identify feasible options. The ultimate determinations regarding the consolidation of operations, facility roles in the future network, and any resulting changes in service, are made by postal management and involve processes and factors discussed in the testimonies of witnesses Shah (USPS-T-1) and Williams (USPS-T-2). Thus, it is the Postal Service's view that there is, at best, an attenuated nexus between the END optimization model source code and whether the types of service changes at issue in this proceeding would conform to the policies of the Postal Reorganization Act.

The record in this docket makes clear that the optimization model relies on software obtained by the Postal Service under license from an independent entity, LogicTools, Inc. In Presiding Officer's Information Request No. 5 Question 11, the Commission directed the Postal Service to provide a copy of the source code underlying the optimization model, subject to standard protective conditions. In its July 14, 2006, motion, the Postal Service explained that the optimization model software is the commercially sensitive intellectual property of a third party -- LogicTools, Inc. As reflected in that motion and its attachment, the software was obtained by the Postal Service under the terms of a license agreement which explicitly does not grant the licensee access to the requested source code.

Nevertheless, in an effort to accommodate the Commission's POIR No. 5 Question 11 request, the Postal Service sought to determine whether it could obtain access to the source code from LogicTools, Inc., for purposes of the POIR, under conditions that might satisfy the need for LogicTools, Inc. to ensure against harm to its proprietary interests. In

its July 14<sup>th</sup> motion, the Postal Service relayed the concerns of LogicTools, Inc. regarding the Commission's standard protective conditions and the Postal Service sought to determine whether the Commission would consider alternative, more stringent conditions, which would limit access to the Commission and its staff.

Presiding Officer's Ruling No. N2006-1/32 declines consideration of any such alternative protective conditions and directs the disclosure of the source code under standard protective conditions. In lieu of providing the source code, the Ruling directs the Postal Service to provide a programming flowchart for the optimization model that describes how the 18 output tables provided in USPS Library Reference No. N2006-1/18 interact to arrive at the optimized solution.

By the terms of its software license agreement with LogicTools, Inc., the Postal Service has never had access to the requested source code. Accordingly, the Postal Service cannot provide the requested source code to the Commission and has no authority to compel LogicTools, Inc. to do so. The Commission's directive compelling the production of programming flowcharts calls for the development of materials that require knowledge and expertise not possessed by personnel who either are currently employed by or under contract to the Postal Service. For the record, the Postal Service currently has no contractual relationship with LogicTools, Inc., for software maintenance or for any other related services related to the use of its software.

Accordingly, the Postal Service is unable to respond affirmatively to either of the directives which appear in Presiding Officer's Ruling No. N2006-1/32.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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