

# DOCKET SECTION

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

RECEIVED  
DEC 9 4 34 PM '97  
POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

## STATEMENT OF POSITION OF THE UNITED STATES POSTAL SERVICE CONCERNING POIR NO. 7 (December 9, 1997)

The United States Postal Service is today filing responses of various witnesses to questions contained in Presiding Officer's Information Request No. 7, issued on November 25, 1997. In all instances, the Postal Service has been both responsive and responsible in developing answers which will illuminate the issues and make worthwhile additions to the record of this proceeding. Nonetheless, the Postal Service feels compelled to comment on several of the questions, as they appear to call for information well beyond what reasonably should be required of Postal Service witnesses, in terms of the burden of producing the information and in terms of necessitating that a witness sponsor work with which he or she clearly disagrees.

Question 1 provides in pertinent part:

a. For the cost pools listed in Table 7 of USPS-T-14, please provide the facility-level variabilities that would be obtained with the model given on page 36 of USPS-T-14. Specifically, estimate this model, including the serial correlations correction, for each facility separately, using only the time series data on that facility. . . .

b. Please note the range of variabilities obtained in "a." for each cost pool and discuss whether it supports the assumption that a single cost pool variability can be validly estimated for the MODS facilities as a whole.

Question 2 provides:

2. In response to POIR No. 4, question 3, pages 9 and 10, witness Bradley assumes that the fixed effects  $a_i$  variables in his mail processing models reflect non-volume factors. Witness Bradley also asserts that it is unimportant that  $a_i$  may be correlated with volume.

a. Please list the estimated fixed effects ( $a_i$ ) implied by the fixed-effect models for the cost listed in Table 7 of USPS-T-14.

b. To help evaluate the assumption that the  $a_i$  variables reflect only non-volume effects, for the cost pools in "a," please perform a linear regression of  $a_i$  on a constant term and the mean over time of  $\ln(\text{TPH}_{it})$  for facility  $i$ .

c. If the coefficient of the mean over time of  $\ln(\text{TPH}_{it})$  in the regression in "b" is positive please discuss why it is reasonable to assume that the  $a_i$  reflects only non-volume factors.

Dr. Bradley's responses to these questions clearly indicate that to answer question 1 and exactly as posed would involve preparing 2,369 new regressions and to answer 2 would involve developing 2,369 new coefficients. While it is true, as indicated by Dr. Bradley, that performing these tasks on a computer may not be unduly burdensome, reviewing and interpreting each and every regression, for example, as would be required in order to provide useful and reliable answers, would consume a minimum of approximately 25 full work days. This would be an unwarranted burden in any event and is particularly so, given Dr. Bradley's firm conviction that the regressions requested in question 1 would provide completely unreliable results.<sup>1</sup> Also, providing the new coefficients in response

---

<sup>1</sup> Dr. Bradley, nonetheless, has provided the econometric output for eight regressions for the BCS activities in order to demonstrate beyond any doubt the severe multicollinearity problems inherent in the results. Dr. Bradley also has provided data and a detailed explanation showing the proper way to devise the facility-specific information which seems to be the focus of the Presiding Officer's concern.

to question 2 appears unjustified when, as explained by Dr. Bradley, the premise for the request is wrong -- Dr. Bradley does *not* believe that "it is unimportant that  $a_i$  may be correlated with volume"; he believes they *are* correlated with volume.

Perhaps more important than the burden involved is the principle that the Postal Service should not be forced to develop or sponsor evidence which it believes to be irretrievably flawed and improper. The Postal Service realizes that it sometimes will be expected to provide existing studies or data with which it may not agree or which tend to undermine its proposals in a particular case. The Postal Service believes, however, as a matter of fundamental fairness, that it should not and cannot be required to develop data or analyses, which, in essence, serve as rebuttal to the data or analyses which it strongly espouses.

The Postal Service fully supports the Presiding Officer's apparent inclination to adhere to the due process requirement that the costing methodologies relied upon by the Commission must be subject to full scrutiny on the record. See *Mail Order Association of America v. United States Postal Service*, 2 F.3d 408 (D.C. Cir. 1993). This can be accomplished by several means. The most direct way is for the Commission to rely exclusively on methodologies proposed and supported by parties, either the Postal Service or the intervenors.<sup>2</sup> If the Commission wishes to go beyond

---

<sup>2</sup> At this time, for example, there is no way to tell whether the type of approach contemplated by the author(s) of the POIR questions will be advocated by any intervenor witnesses. It is still entirely possible that intervenors, having had complete access to Dr. Bradley's data, programs and documentation, will be presenting testimony that alters the analysis using an approach similar to that implicit in the POIR questions. If so, the witness sponsoring such testimony may be able to provide the necessary record support for such an approach.

such methodologies, however, the Postal Service respectfully suggests that the way to achieve this objective is for the Commission to employ its own consultant to conduct its own mail processing variability analysis and to appear as a witness to sponsor such analysis. This is what the *MOAA* Court envisioned and, at least until now, this seemed to be the Commission's preferred approach as evidenced by Dr. Sowell's participation in the Docket No. R90-1 remand. Directing Postal Service witnesses to manufacture analyses which they cannot, in good conscience, support, is neither fair nor proper. Even if Dr. Bradley were to run all of the requested regressions and fixed effects ( $\alpha_i$ ), he cannot support the results. It seems clear that data or results placed on the record, along with a witness' statement that those data or results are of no value, could not be accorded any weight as a matter of law.<sup>3</sup> The Postal Service believes that the entire exercise thus becomes futile.

---

<sup>3</sup> Consider the following hypothetical. A witness develops a data base, and advocates Methodology A as the correct way to interpret the data and reach an empirical result. Suppose a POIR directs the witness to use the same data base, but to employ a new and different methodology, Methodology B. The witness complies, presents a different empirical result based on Methodology B, yet simultaneously states that Methodology B is conceptually flawed and disavows the validity of its empirical result. If no other witness steps forward to defend Methodology B, the Commission cannot rely on the empirical result produced by Methodology B over the objection of the parties. The decision in the *MOAA* case clearly requires that parties have more than the opportunity to comment or submit testimony on an unsponsored methodology. Instead, a contested methodology must be subjected to the "close scrutiny in a full-blown section 556 hearing on the record, replete with discovery, cross-examination, and rebuttal." *MOAA*, 2 F.3d at 430. In the context of a methodology based on the application and interpretation of sophisticated econometric procedures, such "close scrutiny" is not possible in the absence of a witness to defend all aspects of the methodology in question, as well as the validity of the empirical results.

It should be noted that the Postal Service is by no means asserting that, in general, Presiding Officer's Information Requests should not be a means of seeking clarifications and elaborations which enhance the record. Over the years, the Postal Service has provided information in response to hundreds of items contained in dozens of POIRs. Moreover, POIRs have been the vehicle, in many instances, to identify and evaluate errors or potential discrepancies in the Postal Service's filing, and to resolve or rectify such problems, through revisions if necessary.

At some point, however, a response to a POIR that involves a witness incorporating adjustments to a proposed methodology that are dictated by the request but not endorsed by the witness crosses the line into a different methodology. A witness whose testimony has been presented to provide the evidentiary support for one methodology should not be required to provide the evidentiary support for a competing methodology. The proponent of the competing methodology, be it a party or the Commission, should ultimately bear the burden of sponsoring the testimony that supports it.

The Postal Service and its witnesses have made a good faith effort to respond to POIR No. 7. The Postal Service cannot, as a matter of principle and of practicality, do more than this.

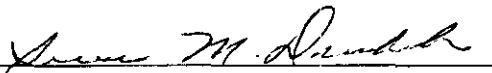
Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Ratemaking

  
Eric P. Koetting

  
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.

  
Eric P. Koetting

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2992; Fax -5402  
December 9, 1997