

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

ANNUAL COMPLIANCE REPORT, 2008

Docket No. ACR2008

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO THE REPLY COMMENTS OF THE PUBLIC REPRESENTATIVES
(February 19, 2009)

On February 17, 2009, the Public Representatives filed Reply Comments. At the end of those comments (on pages 18-19), further arguments are provided in support of a motion filed by the Public Representatives on January 27th, to which the Postal Service filed its response on February 3rd. In that motion, the PR sought to make public certain materials filed by the Postal Service in the non-public annex. Two statements made in the PR Reply Comments compel response.

On page 18, the PR Reply Comments claim:

Nevertheless, despite intense interest in analyzing certain compliance-related topics, not one private consultant has signed a non-disclosure agreement for the core costing materials on which the FY 2008 compliance review is based or any other library reference that the Postal Service has filed in this docket.

The PR Reply Comments are attempting to suggest that the failure of party representatives to sign protective conditions supports the assertion that the only viable solution under the circumstances is to make nonpublic material public.¹ It is utterly fatuous to suggest, however, that there is any significance whatsoever to the failure of party representatives to sign protective conditions. That is because the Commission, in

¹ This claim essentially repeats a claim made in the original January 27th PR motion (page 14, footnote 18).

Order No. 155, expressly declined to establish such protective conditions. There are no protective conditions to be signed, and the fact that “not one private consultant” has signed what does not exist proves nothing.

On page 19, in attempting to characterize actions taken by party representatives to mitigate the effects of the lack of access to nonpublic versions of core costing material, the PR Reply Comments further claim that such steps:

... also include off-the-record conversations with Postal Service analysts following oral understandings that whatever is learned as a result will not be publicly discussed.

The impression created by this statement is that the Postal Service has been engaging in conversations in which it has been selectively disclosing *sensitive* nonpublic information upon verbal assurances that such information would not be circulated further. Postal counsel, however, is unaware of any such conversations. Instead, in response to informal requests, the Postal Service has been working with party representatives to figure out how best to improve the usability of the public versions filed in response to Order No. 155, without disclosing any of the sensitive information that the nonpublic versions were created to protect. Since these efforts involved improved access to or functionality of *nonsensitive* information, but no disclosure of sensitive information, there was no need for any type of understanding regarding restrictions on how the results could be circulated and discussed. Contrary to the impression that might be created by the above statement, it is not the Postal Service’s practice to

informally and selectively disclose sensitive nonpublic information.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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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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