

DOCKET SECTION

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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U.S. DEPARTMENT OF JUSTICE
GENERAL INVESTIGATIVE DIVISION

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POSTAL RATE AND FEE CHANGES, 1997) Docket No. R97-1
_____)

NATIONAL FEDERATION OF NONPROFITS
TRIAL BRIEF

February 17, 1998

National Federation of Nonprofits (NFN) hereby presents its trial brief, based upon a record that includes the testimony of NFN witness Carolyn A. Emigh (NFN-T-1). NFN's principle contention is that the Postal Service's proposed change in the costing methodologies fails to produce fair and equitable rates for nonprofit Standard A mail.

Since the Postal Service proposes to change the established costing methodologies, it has the burden of proof to support the proposed change. This principle is well established. NFN shares the view with other intervenors that the Postal Service's testimony and exhibits are inadequate to satisfy the burden of proof that is required.

Ms. Emigh states in her testimony that postal management seeks in R97-1 to adjust some of the rates of otherwise comparable nonprofit and commercial Standard A pieces in opposite directions. This proposed asymmetrical pricing treatment strongly suggests that the resulting rate schedule discriminates against nonprofit Standard A mail in favor of comparable commercial pieces. The proposed differential is so large as to be discriminatory on its face.

In Ms. Emigh's testimony, NFN-T-1, she points out that the Postal Service has refused repeatedly to provide any explanation for its biased pricing proposals in this rate case. NFN was not the only nonprofit intervenor who encountered this refusal by the Postal Service to provide some reasonable explanation for these proposed anomalous asymmetrical rates of change.

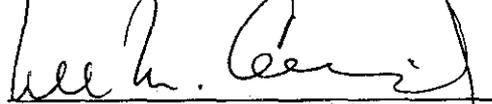
Repeatedly, nonprofit intervenors were told by Postal Service witnesses that their conclusions were based upon nonrecord "library references". If postal management has nothing to hide, they should be more than happy to provide nonprofit intervenors with a clear cost-based rationale for the disparate rates of change for comparable pieces of nonprofit and commercial mail.

Given the enormous differential in the proposed rates of change for mail that basically has similar characteristics relative to postal processing, one would expect postal management to be eager to explain the disparity in clear, economic terms. Absent full disclosure, the Commission must conclude that there is sufficient prima facie evidence of price discrimination against nonprofit mailers to set aside the Postal Service's proposed rates for nonprofit Standard A mail.

In summary, NFN's position in this case is that the Postal Service has not made its case that legitimate cost differences justify otherwise discriminatory pricing. Indeed, the Service has presented virtually no case in this regard. Therefore, the Commission should reject the Service's proposal, and should recommend rates that maintain symmetry in the rate of increase or decrease between nonprofit and commercial rates in the same category.

Respectfully submitted,

NATIONAL FEDERATION OF NONPROFITS


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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.


Lee M. Cassidy

February 17, 1998