

DOCKET SECTION

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

RECEIVED

MAR 17 4 47 PM '98

POSTAL RATE COMMISSION
OFFICE OF THE PRESIDING OFFICER

Docket No. R97-1

Postal Rate And Fee Changes, 1997.

**REPLY OF ALLIANCE OF NONPROFIT MAILERS
TO OFFICE OF THE CONSUMER ADVOCATE MOTION
TO HAVE THE PRESIDING OFFICER TAKE JUDICIAL NOTICE
(March 17, 1998)**

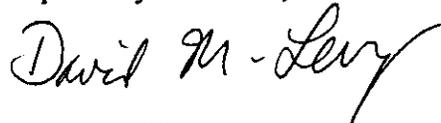
The Alliance of Nonprofit Mailers ("ANM") replies in support of the OCA's motion of March 12, 1998, requesting that the Presiding Officer take official notice of financial and operating statements of the Postal Service from Accounting Period 1, PFY 1996, through Accounting Period 5, PFY 1998, and the Postal Service's 1997 annual report. The requested relief is entirely warranted. Indeed, the Commission would be equally justified in admitting the documents into evidence.

First, the reports are obviously relevant to the issue of the Postal Service's financial health. The Postal Service itself has relied on selected portions of these documents (or accounting data underlying these documents) in its own testimony. *See, e.g.*, USPS-RT-11 (Porrás) at Exh. USPS-RT-11F. Having opened the door, the Postal Service can hardly object to completing the record by according evidentiary status to the full set of reports identified by OCA.

Second, accepting the reports into evidence does not require a sponsoring witness by the Postal Service. The reports are not just business records; on the issue

of the Postal Service's revenue requirement, they constitute admissions by a party, and hence do not constitute hearsay. *See* Fed. R. Evid. Rule 801(d)(2). Even if they were regarded as hearsay, they would fall within the exception for public records and reports "setting forth . . . the activities of the office or agency" or "observed pursuant to duty imposed by law as to which matters there was a duty to report." *See id.*, Rule 803(7).

Respectfully submitted,



Joel T. Thomas
1800 K Street, N.W., Suite 810
Washington, D.C. 20006
(703) 476- 4646

David M. Levy
SIDLEY & AUSTIN
1722 Eye Street, N.W.
Washington, DC 20006
(202) 736-8214

Counsel for Alliance of Nonprofit Mailers

March 17, 1998

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.



March 17, 1998