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POSTAL SERVICE
OFFICE OF THE SECRETARY

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

PRESIDING OFFICER'S
RULING NO. R97-1/116

Postal Rate and Fee Changes

Docket No. R97-1

PRESIDING OFFICER'S RULING
DENYING MOTION OF MCGRAW-HILL COMPANIES
TO SUPPLEMENT THE EVIDENTIARY RECORD

(March 27, 1998)

During cross-examination of Postal Service rebuttal witness Young, counsel for McGraw-Hill Companies posed questions concerning the familiarity of the witness with rebuttal testimony filed on behalf of the Postal Service by James E. Orlando in Docket No. R84-1. The witness indicated that he had limited familiarity with that presentation. Tr. 35/18924. McGraw-Hill contends that the evidentiary record in this case would benefit from including portions of that testimony. Motion of the McGraw-Hill Companies that Portions of the Rebuttal Testimony by USPS Witness Orlando in Docket No. R84-1 be Entered into the Record as Evidence in this Proceeding (Motion).

The Motion notes that the Orlando testimony is referred to in witness Young's rebuttal testimony. It contends that receipt of this material will inform the record and will not unfairly prejudice the Postal Service as Orlando's statements can be viewed as a previous admission against interest. Furthermore, the subject of Orlando's Docket No. R84-1 testimony, Postal Service transportation procurement practices, is material to issues raised by participants in this case.

The Postal Service filed an opposition to this Motion contending that the request is untimely. Special rule 1.D. requires that designations of evidence from prior cases be

submitted before a party files its direct case. The Postal Service also contends that the Orlando testimony is both cumulative and stale.

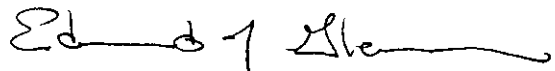
The American Business Press, the Coalition of Religious Press Associations, the Florida Gift Fruit Shippers Association, the Magazine Publishers of America, and Time Warner Inc. submitted a joint reply in support of the Motion in which they suggest that witness Young is relying on the earlier Orlando testimony.

The McGraw-Hill Motion is denied. Witness Young does refer to an earlier analysis done by Mr. Orlando, but it is clear that his testimony is predicated on his knowledge of present Postal Service transportation procurement practice.

Tr. 35/18857-58. Issues related to the variability of Postal Service purchased transportation surfaced early in this case. Postal Service witness Bradley responded to discovery concerning previous Postal Service analysis of transportation costs, see Tr. 7/3590, and participants had ample opportunity to designate earlier Postal Service testimony in a timely fashion. The Docket No. R84-1 testimony at issue here is entitled to no evidentiary weight under current circumstances.

RULING

The Motion of the McGraw-Hill Companies that Portions of the Rebuttal Testimony by USPS Witness Orlando in Docket No. R84-1 be Entered into the Record as Evidence in this Proceeding, filed March 23, 1998, is denied.



Edward J. Gleiman
Presiding Officer