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POSTAL RATE COMMISSION  
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REPLY BRIEF OF  
ALLIANCE OF NONPROFIT MAILERS,  
AMERICAN BUSINESS PRESS,  
COALITION OF RELIGIOUS PRESS ASSOCIATIONS,  
DOW JONES & COMPANY, INC.,  
MAGAZINE PUBLISHERS OF AMERICA,  
NATIONAL NEWSPAPER ASSOCIATION,  
THE MCGRAW-HILL COMPANIES, INC.,  
AND  
TIME WARNER INC.

April 10, 1998

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## INTRODUCTION

After thorough consideration, nothing in the initial briefs of the other parties persuades us to alter the positions taken and arguments made in our initial brief.<sup>1</sup> We respond herein to arguments made by the Postal Service, the Office of Consumer Advocate, and United Parcel Service.

## SUMMARY OF POSITION

This record provides overwhelming support for the core principles of our case:

- Mail-processing costs are not 100 percent volume variable. Bradley's work and the supporting evidence establish this beyond doubt. There is no credible evidence to support the traditional "convenience" that mail-processing costs are 100 percent volume-variable. The law requires that those who would have the Commission rely on the "convenience" support their argument with credible evidence. There is none on this record.
- Witness Degen's distributions cannot be used at all without Bradley's attributions. Degen used the mail-processing costs derived from Bradley's variabilities. There is no logic to the argument that Degen's distributions could be used without the bases for them, Bradley's variabilities.
- The Cohen/Stralberg distribution methodology is the most reliable and consistent proposed. It discards Degen's unsupported assumptions. It vastly improves his approach by relying on actual tallies (which Degen ignores) and employing reasonable inferences of cost causality where possible. The Cohen/Stralberg methodology is more consistent with Bradley's attribution analysis than Degen's method, taking into account operational reality and relying on interrelationships acknowledged and reflected in Bradley's equations.
- For costs about which no reliable inferences of cost-causality can be drawn, the Commission should: (1) distribute these costs upon all other distributed costs; or (2) treat them as institutional until more reliable information about their true causality becomes available.
- The Postal Service still has no credible explanation for the excessive and illogical trends in Periodicals mail-processing costs.

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<sup>1</sup>ANM, et al. Brief. (Periodicals Brief).

## ARGUMENT

### **I. THE ONLY CREDIBLE EVIDENCE ON VOLUME VARIABILITY OF MAIL PROCESSING COSTS SUPPORTS WITNESS BRADLEY'S IMPRESSIVE WORK; THE TRADITIONAL CONVENIENCE OF 100 PERCENT VOLUME VARIABILITY CANNOT BE LAWFULLY ADOPTED WITHOUT CREDIBLE EVIDENCE.**

Our initial brief explained that the traditional presumption that mail-processing costs are almost totally volume variable has been subjected to empirical investigation and has been disproved. Periodicals Brief at 20-25. As the Postal Service points out, every issue raised regarding Bradley's analysis has been "fully addressed and resolved," resulting in "a record that is complete and that leads to one and only one conclusion—compelling evidence of record demonstrates that the prior assumption of 100 percent volume variability of mail-processing labor costs must be set aside, and that Dr. Bradley's analysis must be adopted." USPS Brief at III-76.

The evidence of record not only "leads to an inescapable conclusion—the variability of mail-processing labor costs is less than 100 percent. It also makes quite manifest that Dr. Bradley's fixed effects model is the best specification for determining accurate and reliable variabilities." *Id.* at III-89. As Dr. Bradley stated, "the specification tests [performed in response to Notice of Inquiry No. 4 on Mail Processing Variability (NOI No. 4)] establish that if one uses statistical tests to reject the fixed-effects model, those same tests can only imply a simultaneous rejection of the hypothesis that the mail-processing variability is 100 percent." Tr. 28/16087.

The 100 percent variability assumption has no logical or "common sense" basis. On the contrary, there is no reason to expect that mail-processing labor costs would vary with changes in volume in exactly the same fashion in disparate activities. USPS Brief at III-20-22.

Nor is there any basis in economic theory for believing that 100 percent volume variability should hold. Such a belief would be tantamount to ascribing a complete lack of scale economies to mail-processing operations. Witnesses Stralberg, Moden, and Bradley

have all testified in this docket that such a belief would be implausible, citing specific characteristics of Postal operations to support their contentions. Tr. 36/19290-91, USPS-T-4 at 19, USPS-T-14 at 55-60. These views, grounded in concrete operational realities, are in sharp contrast to the abstract “theory” put forward by UPS witness Neels, who suggested that mail-processing costs should be fully variable because volume increases would cause “some increase in the number of facilities” and “the new facilities [would] look overall like the old facilities [so] all you’re doing is replicating an identical operation at a new site” (Tr. 28/15790).

**A. Witness Bradley’s analysis closes the door on the previous untested presumption of 100 percent volume variability of mail-processing labor costs.**

That UPS and OCA continue to urge the Commission to rely on the untested presumption of 100 percent variability indicates their failure to grasp the fundamentals of this issue. (UPS Brief at 3, OCA Brief at 181-2).

The results of the statistical tests performed by various parties in response to NOI No. 4 strongly rejected *all* econometric models that did not permit the cost/volume relationship to differ across individual mail-processing facilities. Tr. 29/16124-25, 16143). In so doing, they also rejected every model considered on this record that yielded variabilities greater than or equal to 100 percent. *Id.* These tests included:

- *F* tests performed by witness Bradley (Tr. 28/16080) and witness Higgins (Tr. 29/16124) rejecting the pooled model and, by implication, any model that restricts all intercept and slope parameters to be equal across sites,<sup>2</sup> in favor of site-by-site regressions.
- *F* tests performed by witness Bradley (Tr. 28/16080), witness Neels (Tr. 28/15647) and witness Higgins (Tr. 29/16123) rejecting the fixed effects model in favor of site-by-site regressions.
- *F* tests performed by witness Bradley (Tr. 28/16080) rejecting the

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<sup>2</sup>This result confirmed witness Bradley’s GNR test (USPS-T-14 at 41-43), which also rejected the pooled model.

pooled model in favor of the fixed effects model.

The first *F* test disposes of *any* model that forces the cost/volume relationship into the straight jacket of having to be identical at each site – the pooled model and any special case thereof.<sup>3</sup> Tr. 28/16081; Tr. 29/16126, 16144. This leaves witness Bradley’s model of facility fixed effects and site-by-site regressions as the two remaining alternatives. *Id.* The second *F* test indicates that, on purely statistical grounds, the latter is preferred because no arbitrary restrictions are imposed, which guarantees no bias. Tr. 29/16144. The third *F* test, in effect, answers the question, “If one had to choose between Bradley’s fixed effects model and a more restrictive one, which is less biased?” There is no doubt that Bradley’s model is preferred. Tr. 28/16081-82. When other factors besides statistical bias are taken into account, choosing either the fixed effects model or site-by-site regressions would be reasonable. Tr. 29/16126-27, 16143-44. Thus, recommending Bradley’s model could be said to be the conservative choice, since the site-by-site regressions produces lower variability.

But the choice between these two models is largely a second-order concern. The main point should not be lost among what amount to details, namely that the only models considered on this record that produced volume variability estimates close to – or greater than – 100 percent (the previously relied upon presumption) are overwhelmingly rejected on statistical grounds. *Id.*

UPS’s criticisms of Bradley are disposed of easily:

- UPS states that “Labor Hours Are Not a Suitable Proxy for Costs.” UPS Brief at 18. Since hours are not used by witness Bradley as a “proxy” – a variable used in situations in which a variable in the model has no observable counterpart – this is a red herring. Witness Bradley has already pointed out that hours are the relevant dependent variable because mail-processing hours, but not wages, vary with volume changes. Tr. 33/17880. Moreover, use of labor hours in analyzing cost variability is hardly new. It is a common practice in cost analysis, and

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<sup>3</sup>This would include, e.g., all cross-section models, including the “between” model and witness Neels’s modification thereof (Tr. 28/15626-27), all of which are more highly restrictive special cases of the pooled model.



has been used repeatedly by the Postal Service – and accepted by the Commission – in previous dockets. USPS Brief at III-28-29; Tr. 33/17881.

- UPS asserts that “Total Piece Handlings’ Is Not a Suitable Proxy for Volume” USPS Brief at 20. This too is a red herring, since TPH is not a proxy but a cost driver. USPS-T-14 at 5-6, USPS-T-11 at 19-20 and 21-23. Tr. 33/17887-90; Tr. 34/18822-23.
- UPS impugns witness Bradley’s results because they rely on data scrubs that are “arbitrary” and eliminate “enormous quantities of data.” Tr. 33/17887-90; Tr. 34/18822-23; UPS Brief at 16. The charge of arbitrariness is easy to level, but should carry little weight when it is clear that a good-faith effort to clean the data has been undertaken and reasonable rules of thumb have been applied, unless specific instances can be cited where valid data were erroneously scrubbed. USPS Brief at III-61; Tr. 33/18149-50. UPS has offered no such specific examples. Witness Ying noted that this is an area where “unfounded criticism” is easily made. Tr. 33/18149. He also noted that the elimination of data, *per se*, carries no implication of bias. Tr. 33/18146-7.
- UPS asserts that “Dr. Bradley’s approach sets out to measure the wrong thing (‘economic marginal costs’...)” UPS Brief at 16. This is baseless. Witnesses Panzar, Bradley (quoting Baumol from Docket No. R87-1), Shew, Higgins, Ying, and Christensen have all testified on this record that the appropriate length of run to consider is not the “long run” as defined by economists, but the *actual* time the proposed rates are expected to be in effect. Tr. 9/4636; Tr. 11/5417; Tr. 28/15546; Tr. 33/18007-08; Tr. 33/18143; Tr. 34/18245. UPS has not addressed this point.
- UPS complains that “Dr. Bradley relies upon a dataset for total piece handlings that internal Postal Service investigations have criticized.” UPS Brief at 16. This grossly exaggerates the problem of measurement error in MODS. If UPS had read the internal reports to which it refers more carefully, UPS would have discovered that the criticisms it raised of the MODS data concerned “only a portion of the manual letters and flats operations” – those in which “TPH [is] based on weight conversion factors” – rather than all operations, or even all manual operations.” USPS Brief at III-56.
- UPS alleges that witness Bradley’s study “Fails Statistical Tests of Reliability.” UPS Brief at 25. This betrays a failure to comprehend the statistical tests performed in response to Notice of Inquiry No. 4, which concerned statistical bias rather than reliability. As Bradley and Higgins

made abundantly clear on this record, the fundamental result of these tests was to eliminate 100 percent volume variability as a plausible hypothesis. Tr. 28/16085-87. Tr. 29/16124-25, 16143-45.

**B. OCA's burden-of-proof argument ignores the law which requires that presumptions be supported by evidence.**

OCA argues that the burden is on the Postal Service to justify abandoning the presumption previously relied upon by the Commission to establish mail-processing cost variability. OCA Brief, Second Section at 182-184.

OCA's legal theory cannot be employed to reject a valid economic theory solidly supported by substantial record evidence in favor of a thoroughly discredited theory with no evidentiary basis in this record *or any other*. See Periodicals Brief at 20-24. OCA's argument assumes that the previously relied upon presumption of 100 percent volume variability had some evidentiary basis. This is not the case. This presumption was simply an arbitrary "convenience" used in the absence of "any evidence to the contrary." Tr. 36/19399-400.

Nevertheless, OCA begs the question of whether or not the burden of proof has been met. It has. Witness Bradley's testimony (USPS-T-14), supported by supplemental testimony of witnesses Higgins (MPA-NOI-1) and Bradley (USPS-ST-55) and the rebuttal testimony of Bradley (USPS-RT-5) and Higgins (MPA-RT-2), have more than met the OCA's articulated standard of "producing evidence and of persuading the jury of its existence as well." OCA Brief, Second Section at 182.

OCA, however, is also wrong on the law. As previously pointed out by the Periodicals mailers (Periodicals Brief at 24-25), opponents of witness Bradley's variability analysis of mail-processing costs have failed to meet *their own burden* of producing countervailing "reliable, probative, and substantial evidence" that the variability is in fact 100 percent. 5 U.S.C. § 556(d).<sup>4</sup> As the legislative history of that provision makes clear:

That the proponent of a rule or order has the burden of proof means not only that the party initiating the proceeding has the general burden of coming forward with a prima facie case but that *other parties, who are proponents of some different result,*

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<sup>4</sup>This provision of the Administrative Procedure Act applies here. See *Id.* § 553(c); 39 U.S.C. § 3624(a).

also for that purpose have a burden to maintain. Similarly, the requirement that no . . . rule or order be issued except upon evidence of the kind specified means that the proponents of a denial of relief must sustain such denial by that kind of evidence.

S. Rep. No. 752, 79<sup>th</sup> Cong., 1<sup>st</sup> Sess., 22 (1945) (emphasis added) (quoted in *Environmental Defense Fund v. EPA*, 548 F.2d 998 1014 (D.C. Cir. 1976)). See also *J.A. Stein et al.*, *Administrative Law* § 24.01 at 24-9 (1987);<sup>5</sup> *Hill v. Smith*, 260 U.S. 592, 594 (1923) (“necessity of producing evidence to meet that already produced”); *Commercial Molasses Corp. v. New York Tank Barge Corp.*, 314 U.S. 104, 111 (1941) (opposing party may bear a burden to “go forward with evidence”); *Lane Hollow Coal Co. v. Director, Office of Workers’ Compensation Programs*, 1998 WL 87374 at 2 (4<sup>th</sup> Cir. March 3, 1998) (“the proponent of any rebuttal bears the burden”).

Thus, the OCA is plainly wrong to advocate retention of the mere *presumption* of 100 percent variability – absent *any* evidence thereof – while seeking to avoid its burden of producing “reliable, probative, and substantial” rebuttal evidence of 100 percent variability. OCA Brief, Second Section at 182-84. It is simply untenable for OCA to assert baldly in this regard that the “underlying reasoning for the present policy is not at issue.” *Id.* at 183. The present policy of assuming 100 percent variability has been thoroughly discredited by witness Bradley, and there is no substantial rebuttal evidence that could support continuation of that policy.

In this regard, the Postal Service has unquestionably met both its own burden of producing substantial evidence *and* its overall burden of persuasion. The latter burden is met simply by a *preponderance* of the evidence – there is *no* requirement that the proponent’s evidence be found “clear and convincing”. See *Steadman v. SEC*, 450 U.S. 91 (1981). The overwhelming preponderance of the evidence in this proceeding establishes that mail-processing costs are *not* 100 percent variable. Even if witness Bradley’s analysis falls short of the ideal (as virtually all econometric evidence invariably does), the Court of Appeals has

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<sup>5</sup>“After the initial burden of going forward with the introduction of evidence is met by the presentation of a *prima facie* case, the burden of going forward with evidence then shifts to the opponent to introduce rebuttal evidence.” *Id.*

admonished regulators that “[t]he best must not become the enemy of the good.” *MCI Telecom. Corp. v. FCC*, 627 F.2d 322, 341 (D.C. Cir. 1980).<sup>6</sup>

This admonition is particularly apt with respect to witness Bradley’s variability analysis. The OCA effectively argues against itself by pointing out that the Postal Reorganization Act “requires ‘a sufficient causal nexus’ before costs may be attributed.” OCA Brief, Second Section at 183 (quoting *National Ass’n of Greeting Card Publishers v. USPS*, 462 U.S. 810, 826 (1983)). There is *no* causal nexus for attributing those mail-processing costs that witness Bradley has determined to be non-volume-variable. Accordingly, the Commission should attribute only those mail-processing costs for which witness Bradley has provided substantial evidence of variability. The Periodicals mailers agree with OCA that to the extent the Commission finds that Bradley’s sound analysis could be further refined, the Commission should follow its own salutary precedent and “press for . . . better data” rather than “construct an ‘attribution’” – based on unsupported inferences of causation – of what Bradley has shown to be non-variable costs. *Id.* at 184 (quoting *National Ass’n of Greeting Card Publishers*, 462 U.S. at 827 (quoting PRC Op. R74-1 at 110-11)).

## **II. WITNESS DEGEN’S DISTRIBUTIONS CANNOT BE USED WITHOUT BRADLEY’S ATTRIBUTIONS.**

Our initial brief explains that Cohen and Stralberg have presented a methodology for distributing mail-processing costs that uses Bradley’s volume-variability results and Degen’s MODS cost pools but avoids Degen’s failure to distribute mixed-mail and not-handling costs on the basis of reasonable inferences of cost causation by subclass. Periodicals Brief at 30-34. It also shows that witness Degen’s proposed method for distributing mail-processing costs within MODS cost pools is indefensible if divorced from Dr. Bradley’s estimated mail-processing variabilities. Periodicals Brief at 25-28.

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<sup>6</sup>See also *National Ass’n of Regulatory Utility Com’rs v. FCC*, 737 F.2d 1095, 1147 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985).

The fact is that, while the determination of the amount of costs which are variable and the distribution of those costs based on distribution keys are two steps of the same process, *sensible distribution keys continue to make sense regardless of the outcome of the volume variability analysis*. Dr. Christensen acknowledges this on cross-examination:

Q. Okay. Let me ask you to assume, Dr. Christensen . . . that the results of Dr. Bradley's analysis was (sic) that mail-processing costs are in fact 100 percent volume variable. He did his analysis exactly the way he did it, and the result turned out that there was 99.9 or 100 percent volume variability. Could you then still use Dr. Degen's cost distribution methods to arrive at economic marginal costs under that assumption?

A. Yes.

UPS Brief at 31-32. (emphasis added)

On examination, Christensen's answer does not acknowledge what UPS says it does, i.e., that "sensible distribution keys continue to make sense regardless of the outcome of the volume variability analysis." In fact, Christensen, Degen, Panzar, Stralberg, Cohen, and Shew all believe that it is logically impossible to *sensibly* distribute costs that are not volume variable. Consistent with this belief, all Christensen concedes is that it would not be illogical to distribute 100 percent of the costs if the costs were *in fact* 100 percent volume variable. Christensen is correct to answer affirmatively that "he could still use Degen's cost distribution methods to arrive at economic marginal costs under that assumption." The assumption in question, however, is that volume variability is 100 percent or nearly that for all cost pools—an assumption that is not supported by substantial evidence on this record. See USPS Brief at III-19-22. Nothing in Christensen's monosyllabic response undercuts his consistent view that "sensible distribution keys" can be developed only by first identifying costs that should be distributed, i.e., those costs which are caused by the subclasses of mail to which they will be distributed. See USPS Brief at III-120. Of course, all of this misses the point made by witness Cohen. Degen's distribution key is *not sensible* regardless of the outcome of the volume-variability analysis if for no other reason than the fact that allied operations support a variety

of different distribution operations no matter what the variability of allied operations is. Tr. 36/19225-29.

UPS is equally misleading in its parsing of another of Christensen's statements. UPS writes:

Careful scrutiny of Dr. Christensen's written rebuttal testimony reveals that he never testified that Mr. Degen's distribution keys *could not* be divorced from Bradley's volume variability analysis. Rather, he testified . . . that "*witness Bradley's analysis . . . requires a consistent distribution method to produce economically meaningful costs by subclass. . . .*"

UPS Brief at 32, (footnote 22) (citing Tr. 36/18219) (citation omitted ) (emphasis added).

Here it is obvious that UPS's reading is at best crabbed. Christensen's quoted remark—that "it requires a consistent distribution method to produce economically meaningful cost by subclass"—is plainly intended to apply not just to Bradley's analysis but, by implication, to *any* variability analysis. A consistent distribution method is what Degen and Sellick have failed to offer. Therefore, based on Christensen's view, the Commission can adopt the Degen/Sellick conclusions only if it is willing to say section 3622(b)(3)'s attribution requirement can be satisfied by something short of "economically meaningful cost by subclass." UPS concludes its argument on this point with this observation:

The bottom line is that Mr. Degen's distribution keys stand on their own. Either they represent a sensible method of distributing the mail-processing labor costs determined to be variable with volume — *however that is determined, and to whatever extent costs are found to be volume variable*— or they do not.

UPS Brief at 33 (emphasis added). That, of course, is exactly what Christensen contradicts when he says that a volume-variability analysis "requires a consistent distribution method to produce economically meaningful cost by subclass."

UPS's boldest argument on this point is its observation that:

Christensen's opinion . . . is explicitly based on Dr. Panzar's . . . belief that the relevant costs for attribution purposes are "economic marginal costs". . . . But, as we have shown, that is just not so. The Postal

Service's attempt to imply that there is some immutable link between Dr. Bradley's volume variability results and Mr. Degen's distribution keys . . . would require the Commission to reject the long run incremental costs test the Commission has always held to be essential to determining economic cost causation.

Id. at 32-33 (internal citations omitted). UPS might have saved a great deal of trouble by pointing out in the first place it's opinion that "economic marginal costs" are not "the relevant costs for attribution purposes," because if that were true the study of volume-variability was pointless from the beginning.

### **III. THE COHEN/STRALBERG METHODOLOGY RELIES ON REAL WORLD ANALYSES, NOT DEGEN'S UNSUPPORTED ASSUMPTIONS**

- A. Contrary to the Postal Service's assertion, Degen's proposed method clearly discriminates against presorted mail -- allied mixed-mail and not-handling costs must be distributed based upon tallies at distribution operations as well as tallies at allied operations.**

Besides dismissing all efforts by Periodicals mailers to save postal costs by increasing their levels of presortation, the Postal Service also argues that the traditional LIOCATT method (and they assert, now the Cohen/Stralberg method) favors presorted mail, and describes Degen as rescuing non-presorted mail with his new distribution method.

This claim is based on the misleading notion that because non-presorted mail undergoes many piece handlings, thereby incurring many "direct" IOCS tallies, it therefore must be producing fewer mixed-mail tallies, another Postal Service assumption. Tr. 36/19353 But non-presorted mail is far more expensive for the Postal Service to handle and therefore causes many more tallies overall, including mixed tallies. It causes direct tallies during piece distribution but mixed tallies as it is moves from operation to operation and facility to facility in between piece sorting operations. On the other hand, until presorted mail reaches a point near the destinating facility where it too requires piece or at least bundle sorting, such mail will travel through the system as identical pieces on pallets or in sacks or trays, causing predominantly direct tallies.

We propose modification of witness Degen's distribution methodology to ensure that the fact that presort mail primarily causes direct tallies does not bias the distribution of allied costs, and because the reality is that his methodology is frequently inconsistent both with witness Bradley's analysis and with operational reality.

In its initial brief, the Postal Service effectively concedes that the costs for allied operations are driven both by (1) the mail volume that only requires handling at allied operations and bypasses piece-sorting operations (presort mail) and (2) the mail volume that is simply prepared at allied operations to be handled at piece-sorting operations (nonpresorted mail). The brief states, "[b]ecause we know that the mail which bypasses the piece-sorting operations is presort mail, ignoring *that portion of allied workload* would lead to bias in the distributions and understatement of presort costs." USPS Brief at III-94 (emphasis added). The clear implication of this statement is that there is another "portion of allied workload" that is associated with mail that does require sortation.

This admission is bolstered by witness Bradley's narrative discussion and econometric analysis of the drivers of allied costs:

The BMC platform activity has two primary functions, the cross-docking of mail and the handling of mail that will be or has been processed in the facility. Because of the importance of cross-docking on the BMC platform, the PIR system collects data on the number of pallets cross-docked. It would be possible, therefore, to estimate an equation in which platform hours were regressed upon the cross-dock variable. This would miss, though, the handling of mail that is sorted in the BMC... The platform equation thus has two cost drivers, the amount of cross-docked pallets and the TEP for mail sorted in the BMC."

USPS-T-14 at 20-21.

It is clear that a portion of mixed-mail and not-handling costs at allied operations must be distributed based upon direct costs for the piece-sorting (distribution) operations that they support. This is exactly what witnesses Stralberg and Cohen propose. Tr. 26/13916. They propose to distribute allied mixed-mail and not-handling costs based upon tallies from both allied and distribution operations. In this way, they allocate allied mixed-mail and not-handling costs based on both cost drivers, allied workload and distribution workload.



The Postal Service, on the other hand, did exactly what it wrongly accuses Stralberg and Cohen of doing: it distributed allied costs based on only one of the two allied cost drivers. There can be no doubt at all that this causes a clear bias against presorted mail under Degen's method. Stralberg estimated, for example, that about \$700 million of allied mixed-mail and not-handling costs are incurred just in physically bringing mail between the allied operations and piece distribution. By failing to recognize this fact, but instead attributing all allied labor costs on the small direct costs in those operations, where most of these direct tallies are caused by the mail that bypasses piece distribution, Degen in fact creates a strong bias against presorted mail.

In her rebuttal testimony, MPA witness Cohen shows that the Postal Service's distribution method (that was also adopted by UPS witness Sellick) overattributes allied mixed-mail and not-handling costs to Periodicals and Standard B mail by more than 60 percent. Tr. 36/19228-19230. The Commission must at least correct witness Degen's distribution by distributing allied mixed-mail and not-handling costs to subclass based upon tallies across all distribution and allied operations, rather than tallies solely in the same allied cost pool.<sup>7</sup>

No party challenged the finding that allied costs are driven by both allied workload and distribution workload and that this fact requires that mixed-mail and not-handling costs at allied operations be distributed using tallies from both allied and distribution operations. See UPS Brief at 25-30; OCA Brief at 215-216.<sup>8</sup> The Direct Marketing Association (DMA) was the only intervenor to directly address the issue of how to distribute allied cost to subclass. It came to the same conclusion that we do:

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<sup>7</sup>An added benefit of distributing allied mixed-mail and not-handling costs across all cost pools is consistency with the Postal Service's treatment of costs in mail-processing support operations. Tr. 12/6159. These two types of costs should be distributed similarly because they both "support" mail-processing distribution activities.

<sup>8</sup>The UPS and OCA initial briefs address the costing methodology proposed by witness Degen. The fact that neither of these sections directly addresses the issue of how to distribute mixed-mail and not-handling costs at allied operations is a concession to witness Cohen's argument that allied mixed-mail and not-handling costs should be distributed using tallies at both distribution and allied operations. Tr. 36/19228-19230. This is particularly true for UPS because witness Cohen's argument was made as a criticism of the cost distribution method proposed by UPS witness Sellick.

Postal Service witness Christensen concedes that distributions across cost pools are necessary if there are cross-pool relationships... [Witness Bradley] found that TPH in letter and flat distribution operations are statistically significant drivers of costs at allied operations; these results are economic confirmation of the operational relationships.

DMA Brief at 27.

**B. Contrary to the Postal Service's claims, the Cohen/Stralberg approach is more consistent with Bradley than is Degen's.**

The Postal Service claims that its costing method is an integrated whole, asserting that no single part can be removed or modified in any way without invalidating the entire package.

The Postal Service asserts:

To the extent that witness Degen has accurately identified the proportion of the cost drivers in each pool associated with each subclass, he and Dr. Bradley have done everything that needs to be done to associate all volume variable costs in the pool with the subclasses that cause them.

USPS Brief at III-119-120.

This ignores the fact that witness Degen's proposed distributions are frequently inconsistent both with witness Bradley's variability results and his selection of cost drivers and with operational reality. The Postal Service argues that by distributing costs within pools Degen is consistent with Bradley. USPS Brief at III-2. As we show, this is clearly not the case. The preceding section demonstrates the consensus on the record with regard to Degen's incorrect distribution of mixed-mail and not-handling costs at allied operations.

But this is not the only mistake made by Degen (and adopted by Sellick). Even for the distribution operations, Cohen and Stralberg's method is more consistent with Bradley's analysis and operational reality than is Degen's proposal.

As described in witness Cohen's rebuttal testimony, both witnesses Bradley and Moden recognize that mail can be sorted in a variety of modes, depending on scheduling and routing decisions made by facility managers. Tr. 36/19227-28 (citing USPS-T-14 at 5; USPS-T-4 at 4, 5, 21). Witness Bradley explicitly recognized this interplay between manual, mechanized, and

automated sorting operations through his use of the “manual ratio” in estimating variability. A correct distribution of mixed-mail and not-handling costs at distribution operations must distribute these costs across the modes used for that shape of mail. This is exactly what witnesses Stralberg and Cohen propose to do. Most of the distribution operations are shape-specific ( e.g. barcode sorter, flat sorter, manual parcel sorting), and most mixed-mail and not-handling costs in these pools are also shape-specific. The Cohen/Stralberg method, which distributes shape related costs within shape across the applicable sorting modes, provides an accurate distribution of costs to subclasses with the appropriate shape. Stralberg and Cohen are, therefore, more consistent with Bradley and operational reality by distributing the shape related mixed-mail and not-handling costs across all the applicable processing modes for each shape.

The Cohen/Stralberg methodology is also a better fit with Bradley’s analysis and operational reality for cost pools not econometrically measured and for which Bradley uses a proxy variability. For a few of the “proxy” cost pools, Degen distributes costs across pools. Tr. 12/6159. But for most of the proxy cost pools, he confines his distribution to direct costs in the same cost pool. It is disturbing, given the nature of proxy estimation, that the Postal Service is so sure that distribution must be confined to the same cost pool. True consistency with Bradley might have suggested that distribution be based on handlings in the cost pool that serves as the proxy.

Stralberg and Cohen, on the other hand, take a more cautious and correct approach, distributing these costs within shapes for shape specific mixed and not-handling costs and across cost pools for the other composite operations. Stralberg and Cohen also appropriately identify and distribute not-handling costs associated with specific subclasses and services, such as window service.<sup>9</sup>

In summary, despite the Postal Service’s assertions, the Cohen/Stralberg approach is

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<sup>9</sup>The Postal Service’s claim (USPS Brief at III-108) that Stralberg violates pool variabilities when he returns window service and administrative not-handling costs to their proper segments is wrong. Contrary to what the Postal Service claims, Stralberg did not remove any costs from their recorded pools in order to determine variability. Within every single pool, Stralberg applied exactly the same variability factors as those Degen applied, even to the misallocated window service and administrative costs. The only difference is that Stralberg and Cohen distributed these costs by paying attention to the activities described by IOCS clerks.

more consistent with Bradley's attribution analysis than Degen's distribution method. The Cohen/Stralberg method recognizes operational interrelationships acknowledged and reflected in Bradley's equations and yields a more accurate distribution of cost to subclasses.

**C. The attack by UPS on the Cohen/Stralberg distribution of mixed-mail costs is misleading and beside the point.**

UPS attacks the Cohen/Stralberg distribution of mixed-mail costs by presenting a loaded comparison of the Cohen/Stralberg results with Degen's results for a carefully selected and small subset of item types. Drawing on witness Sellick's rebuttal testimony, UPS points to asserted discrepancies between the distribution of mixed-mail sack costs to subclasses for the Cohen/Stralberg methodology and the distribution of direct sack costs for different color sacks. UPS Brief at 28. For example, UPS claims that the Cohen/Stralberg methodology distributes 4.6% of the mixed-mail cost for brown sacks to Periodicals, while Periodicals represents 72% of the contents of direct brown sacks. *Id.*

These allegedly shocking results are based on a misleading comparison. Witnesses Stralberg and Cohen do not distribute costs in this way; they distribute mixed-mail costs by activity code, CAG and basic function, not by item type.<sup>10</sup> Tr. 26/14092. When we examine the overall distribution of mixed-mail costs to classes with the corresponding distribution of direct costs, the results are quite different.

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<sup>10</sup>By comparing Sellick's distribution of mixed-mail costs within basic function to the distribution of direct costs within basic function we could make a similarly loaded comparison of Sellick's distributions. Tr. 36/19245. Since Sellick did not stratify by basic function, this comparison would look just as shocking. The point is simply that if one does not look at the results of a distribution method as a whole the result can be misleading.

**Table 1. Comparison of Cohen/Stralberg Mixed-Mail Distribution with the Distribution of Direct Costs**

	Direct Costs	Stralberg/Cohen Mixed-Mail Costs
Express	0.5%	0.6%
Periodicals	5.0%	4.6%
First-Class	61.9%	60.0%
International	1.8%	2.5%
Priority	3.2%	3.4%
Standard A	22.2%	22.3%

As this table shows, for Periodicals, the difference between the Cohen/Stralberg overall distribution of mixed-mail costs and distribution of direct costs is only 0.4 percent (5.0 percent-4.6 percent) Tr. 26/14092.

Furthermore, the UPS Brief would suggest that somehow we know, for example, that 72 percent of the contents of mixed brown sacks is Periodicals. But we do not know the composition of *mixed* brown sacks, or of any color mixed sacks for that matter; we only know the composition of *direct* sacks. Tr 26/14092. There is no evidence to suggest that the composition of mixed sacks of any color is the same as the composition of direct sacks of the same color. On the contrary, there is strong evidence on the record that it is far more difficult to predict the contents of mixed sacks than of direct sacks, and that the composition of mixed sacks is dissimilar to that of direct sacks. Tr. 26/14092-93; DMA Brief at 20-24.<sup>11</sup>

Finally, UPS is drawing a conclusion from a very small portion of mixed-mail costs and claiming that this "discrepancy" is a major error. Uncounted sack costs are only 3 percent of mixed-mail costs and less than one percent of mixed-mail and not-handling costs. Tr. 36/19493-94. The Commission cannot make decisions on the distribution of all mixed-mail and not-handling costs on the basis of such a narrow comparison. Ultimately, what should

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<sup>11</sup>Subclass predictability is worst for the largest sack category, white sacks, which although designated for Standard A also contain substantial amounts of First-Class Mail and Periodicals.

weigh most heavily is not which method distributes the cost more believably for a small subset of distributed costs, but which method more accurately distributes mixed-mail and not-handling costs in aggregate. Viewed in this light, the Cohen/Stralberg methodology is clearly superior to the methodology advocated by UPS.

**D. Witness Stralberg's criticisms of Degen's treatment of pallets and loose mail in containers remain unchallenged.**

As shown by witness Stralberg, a large portion of mixed containers costs relates to loose pieces in containers. Tr. 26/13870. Stralberg demonstrated that there is no basis for Degen's assumption that the subclass make-up of loose pieces in these containers is the same as that for pieces handled individually. Tr. 26/13833-37. Stralberg explained that in order to know how to distribute these loose-pieces-in-container costs the Postal Service would need to collect subclass information on the containers, which it currently does not do. Stralberg's testimony also described the serious bias introduced by the asymmetrical treatment of pallets (considered items in the current USPS scheme) relative to other items that can be in or on pallets, such as bundles, sacks, trays, and parcels. Tr. 26/13837-39.

Neither the Postal Service nor UPS, in their briefs or in the rebuttal testimonies of their respective witnesses, has responded to these issues, each of which is far more important than the relatively minor issue of colored sacks raised by UPS and dismissed above.

As Stralberg pointed out, this situation arises because of fundamental design flaws in the Postal Service's current method of collecting mixed-mail data. The only real solution is, therefore, for the Postal Service to fix these problems so that a more accurate distribution of mixed-mail costs may be possible in the future. In the interim the Cohen/Stralberg proposal avoids relying on this flawed data.

**E. The Commission must not ignore the substantial body of information that is based on IOCS clerks' observations of activities performed by sampled employees.**

A key feature of the Cohen/Stralberg method is the use of information in IOCS regarding where sampled employees were and what they were doing. Degen ignored all this

information. The Postal Service now argues that this information, which it and the Commission have relied on for many years, has become irrelevant (Brief at III-105-108).<sup>12</sup>

To argue that the information embodied in IOCS not-handling activity codes is irrelevant due to introduction of MODS numbers flies in the face of all logic. Using this information, Stralberg was, for example, able to conclude that some sampled employees were in fact engaged in activities related to specific subclasses and services and to distribute these costs to those subclasses and services. Tr. 26/13847-52. He was also able to conclude that some employees, while clocked into various mail-processing related MODS codes, were in fact doing window service work such as selling stamps, setting meters, etc. or specific administrative functions. Tr. 26/13877. Of greater importance, he was able to conclude that many employees, while clocked into allied or other non-shape specific cost pools were in fact engaged in activities at shape specific operations.<sup>13</sup>

If the Postal Service really believes that all this information is irrelevant, then we can conclude only that it has no confidence in the ability of its own IOCS clerks to record what they see, e.g., whether an employee was next to a letter or flat case and what exactly he was doing. It then becomes even more mysterious why the Postal Service has no doubt about the ability of IOCS clerks to record what they often *don't* see, such as the MODS number an employee is clocked into, or their ability to accurately determine exactly what percentage of the space in a large container is occupied by each of more than 20 item types and shapes of loose mail.

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<sup>12</sup>Whether it is deliberate or due to a total misunderstanding of Stralberg's proposal, the Postal Service introduces unnecessary confusion by consistently referring, not to Stralberg's use of IOCS activity codes, but his alleged reliance on IOCS operation costs. If, as it appears, the Postal Service really means to refer to operation codes and not to activity codes, then its claim at III-106 that MODS codes give a more accurate indicator of activity might make sense. But the only reference to operation codes in Stralberg's testimony occurs on pages A-10-11 of his Appendix A, describing his distribution of not-handling costs for (1) platform acceptance, (2) nixie, (3) central mark-up and (4) postage due costs, each of which have both unique operation codes and unique activity codes. On the other hand, he made extensive use of activity codes, including codes related to specific window service and administrative functions.

<sup>13</sup>While using this activity code information extensively, Stralberg did not ignore the cost pools employees were recorded as being clocked into. He used that information to determine the volume variable costs associated with each IOCS tally. Additionally, as pointed out in Stralberg's rebuttal testimony, the combined information, for example that an employee was clocked into an opening unit while actually seen at a letter or flat case, can potentially be used to gain further understanding of how costs at these operations really are incurred.

**F. The Postal Service recognizes that outside the context of Bradley's analysis there is no evidence of causal relationships within cost pools. UPS apparently does not.**

The Postal Service, referring to its disagreement with Stralberg and Cohen regarding causal links between the mixed-mail and not-handling costs and the corresponding direct costs within a pool, states with unusual candor:

Of course, outside the context of the Postal Service's integrated two-step analysis, their arguments regarding causal links would carry much more weight. It is considerably more difficult to relate the concept of "actual marginal cost" to an untested assumption of expected cost causation than to an empirical measurement of causation using historically observed operating data. Without a supporting variability analysis, distribution of all accrued costs in a cost pool on the basis of the subclass tallies identified in that cost pool (as, for example, witness Sellick proposes) reduces to a mere postulation that because those tallies are there, the subclasses must cause those costs. In this context, the issues raised by Stralberg, Cohen, Buc, etc., are much more troubling.

USPS Brief at III-120 (footnote 66) (emphasis in original).

As shown above and in Stralberg's and Cohen's rebuttal testimony, Bradley's within cost pool causal links exist only for the sorting operations. Tr. 36/19282-84. At allied operations, he in fact demonstrated very different causal links than those Degen assumes. It follows, in the Postal Service's own words, that Degen's assumption that allied not-handling costs are causally related only within the respective allied pools also "reduces to a mere postulation that because those tallies are there, the subclasses must cause those costs." Even worse, it is a postulation shown to be erroneous by Bradley, who established significant cross-pool causal links for the allied operations. USPS-T-14 at 63, 67.

Indeed, the Postal Service should be troubled by the issues raised by Stralberg, Cohen, Shew and Buc, at least with regard to allied operations. By the same logic, the Postal Service, and the Commission, should be troubled by the lack of established causal links in the item and container within cost pool methodology that Degen uses to distribute certain mixed-mail costs. This methodology is also not dictated by Bradley's attribution, and there is substantial evidence



that confining distribution to direct item and container tallies in an individual cost pool leads to incorrect results.

For example, Stralberg pointed out the meaninglessness of assuming that loose letters and flats in containers, within every single pool, have the same subclass distribution as the letters and flats handled individually within the same pool. Tr. 26/13833-37. Nothing in Bradley's analysis supports this far-fetched claim and, again using the Postal Service's own words, the assumption reduces to a "mere postulation" that because a pool has some tallies showing individual letters and flats, and some tallies showing loose letters and flats in containers, the two must have the same subclass distribution.<sup>14</sup>

None of these justified concerns bother UPS, which argues that Degen's method should be applied even while rejecting Bradley's findings regarding volume variability. By rejecting Bradley's findings, and having done no independent analysis, UPS stands without any proof to support the numerous within pool causal links which Degen's method implicitly assumes. USPS Brief at III - 125-26. In fact, there is substantial evidence that UPS's "mere postulation" is incorrect. Even if UPS does not accept the evidence of operational connection contained in Bradley's variability equations, it cannot ignore the testimony of witness Moden and the qualitative statements by witness Bradley demonstrating the dependence of allied workhours on piece handlings in distribution operations as well as allied operations and the dependence of automated and mechanized workhours on the piece handlings in manual operations. USPS-T-14 at 20-21; Tr. 36/19225-28. The UPS Brief is totally silent on the issue of operational interrelationships, a tacit admission that Sellick has no information demonstrating causation either within cost pools or across cost pools.

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<sup>14</sup>Stralberg demonstrated that this "mere postulation" is unlikely to be true at the pool level because (1) such containers are often just wheeled through an operation in order for the letters/flats to be piece sorted at some other operation; and (2) at many of the pools where these containers appear (e.g., most allied operations) individual handlings of letters and flats occurs only coincidentally and seldom enough that it might even be due to "mis-clocking." He further showed that the assumption is likely to be wrong even globally, because Periodicals flats generally do not appear as loose pieces in containers. Both Degen's rebuttal and the USPS brief studiously avoid any reference to this important issue raised by Stralberg.

#### **IV. THE POSTAL SERVICE'S ENTIRE CASE ON PERIODICALS' COSTS IS BUILT ON SAND, NOT STEEL[E].**

The Postal Service's broadside attack on Periodicals mailers in its initial brief and Degen's rebuttal testimony shows that it will go to almost any length to avoid addressing the real causes underlying the decade-long excessive increases in reported Periodicals mail-processing costs. Instead, the Postal Service tries to put the blame on its customers.

During this period, while their reported costs continued to climb, Periodicals mailers invested many millions of dollars and extensive efforts to make handling their mail less costly for the Postal Service through:

- increased presortation, pre-barcoding, palletization and drop-shipping;
- working closely with postal field personnel to enter their mail at times when it is most convenient for postal facilities to receive it;
- use of machineable poly-wrap;
- improved address accuracy and legibility; and
- more break-resistant packaging materials.

See e.g. Tr. 27/14661; Tr. 28/15281-82; Tr. 36/19452-53.

Yet, if the Postal Service brief is to be believed, all these improvements are unworthy of examination, and any benefits derived by this whole range of activities is more than offset by an unproven decline in the rate of 5-digit palletization. Using 5-digit pallets, however, is something even very large Periodicals mailers are limited in their ability to do, even with today's reduced pallet weight minimums, and had even less ability to do before, when higher pallet weight minimums were in effect.

Furthermore, the Postal Service's argument totally misses the point. Piece presortation is where most cost savings occur. The Postal Service knows this even if it refuses to admit it in its brief. See USPS Brief at III-104. After all, presort discounts for palletized mail are based on the presort levels of the bundles on the pallet, not on the presort level of the pallet itself. Furthermore, the Postal Service itself has encouraged the shift of mail from sacks to pallets, knowing full well that mail moving from sacks to pallets would create "more aggregate" pallets. Tr. 36/19449.

Even if witness Degen's farfetched scenario of 5-digit palletization growing sharply from 1991 to 1993, then for some mysterious reason declining again, were true (which we showed in our initial brief it is not)<sup>15</sup>, its effect would be trivial compared with the large savings achieved by greater piece presortation. Furthermore, such a hypothetical blip in use of 5-digit pallets would not explain the large Periodicals cost increase since FY86.

After dismissing the excessive and unexplained increases in reported Periodicals costs, dismissing as well the enormous improvements in mailer worksharing and mail preparation, and apparently forgetting the various improvements in flat sorting technology and materials handlings that already were supposed to have reduced Periodicals costs, the Postal Service proceeds to try to ridicule Periodicals mailers' suggested reasons as to why their reported costs may have gone up so much.

What the Periodicals industry, however, has done in this docket, is simply to point out the historical coincidence of the following events:

- letter mail automation, which freed up thousands of clerks previously needed to sort letters manually or on LSM's;
- increases, rather than decreases, in the postal workforce;
- sharp declines in productivity at most individual sorting operations, even operations where productivity is constantly monitored in the MODS system;
- large increases in not-handling costs, with most not-handling increases coming at manual operations;
- advances in mail preparation, worksharing and drop-shipping by Periodicals mailers, which should have reduced costs significantly;
- numerous USPS initiatives that were supposed to reduce Periodicals costs (automation, FSM reconfiguration, etc.); and nevertheless
- large increases in the reported unit costs of processing Periodicals mail, far exceeding increases in other classes, and in postal wages.

The Postal Service has no real explanation. The historical coincidence of these events

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<sup>15</sup>The Postal Service itself admits that its newest Periodicals mail characteristics survey is far more reliable than similar surveys in the past, calling into question the accuracy of any comparison with the earlier studies, which suffered from many methodological flaws previously documented by witness Stralberg in Docket No. MC95-1. In our initial brief, we also showed that Degen miscalculated the percentage of 5-digit palletization in the earlier study.

must be considered more than just happenstance.

The weakness of the Postal Service's position on this issue is unwittingly demonstrated by its surprisingly broad reliance in its initial brief on the rebuttal testimony of witness Steele (USPS Brief at III-110-11), a nice man and fine public servant who offered many interesting anecdotal and episodic observations based on his own postal career, but who provided no real evidence. During cross-examination, in one of his more candid observations, Steele claimed that all Postal Service employees are fully occupied "as defined" (Tr. 33/17863), but admitted that in the real world, "they're not fully occupied." Tr. 33/17864. The Postal Service's entire case is built on sand, not Steel[e].

#### **V. UPS'S ARGUMENT ABOUT ATTRIBUTABLE COSTS IS CONTRARY TO PANZAR'S READING OF THE TERM.**

UPS's distortions of and equivocations on the term "attributable costs" are the lynch-pin for the testimony of all of its witnesses in this case, most conspicuously that of witness Henderson. The two equally correct but quite distinct meanings of the term "attributable costs" in postal ratemaking were set out by witness Panzar in a few sentences early in the case. Those sentences alone are enough to dispel much of the confusion caused by UPS. When asked, as between "marginal costs" and "incremental costs," whether he had "any recommendation regarding which should be treated by the Commission as attributable costs," Panzar replied as follows:

"Attributable costs" is a postal term, not an economic concept. Sometimes, such as when it [is] referred to as the basis for pricing markups, it seems to be used as a synonym for marginal costs. Other times, when referred to in conjunction with concerns about cross-subsidization, it seems to be used as a synonym for (average) incremental costs. Thus, the postal concept of "attributable costs" should sometimes be interpreted as (what economists would call) marginal costs, while in other contexts, incremental costs are clearly the relevant concept. In other words, I do not recommend that the Commission choose either marginal costs or (average) incremental costs as the definition of unit attributable costs. Both measures are important for the Commission to fulfill its rate-making responsibilities.

Tr. 9/4663.

Directly addressing the UPS assertion that incremental costs must be marked up, Panzar strongly disagrees, stating: “[i]t is necessary to start the mark-up process with marginal (i.e. volume variable) costs.” Tr. 34/18463.

**VI. TREATING VOLUME-VARIABLE COSTS FOR WHICH CAUSATION HAS NOT BEEN ESTABLISHED AS INSTITUTIONAL IS APPROPRIATE, GIVEN THE POSTAL SERVICE’S REFUSAL TO TEST DEGEN’S ASSUMPTIONS.**

UPS objects to Stralberg's and Cohen's proposal that some volume-variable costs be treated as institutional, claiming that it "does not square with the statute or with common sense. There is no mechanism in the Act for turning attributable costs into institutional costs." UPS Brief at 29. On the contrary, there is such a mechanism, and it was explained by the Supreme Court in *NAGCP IV*:

The legislative history supports the Rate Commission's view that when causal analysis is limited by insufficient data, the statute envisions that the Rate Commission will "press for . . . better data," rather than "construct an 'attribution'" based on unsupported inferences of causation. . . . The Rate Commission, therefore, acted consistently with the statutory mandate and Congress' policy objectives in refusing to use distribution keys or other accounting principles lacking an established causal basis.

National Assn. of Greeting Card Publishers v. United States Postal Service, 462 U.S. 810, 827, 829 (1983) (footnote and internal citations omitted).

The Postal Service, on the other hand, argues, incorrectly, that it has established causation. USPS Brief at III-94. As Cohen and Stralberg have shown, it has not, however, established a “causal basis” for its distribution of mixed-mail and not-handling costs. The Cohen/Stralberg proposal is solidly grounded in fact and in law.

## CONCLUSION

We can only repeat what we said in our initial brief, since nothing has been written or argued that justifies a change in our position.

It is time for the Commission to hold the Postal Service responsible for its failure to address the excessive and unexplained increases in mail-processing costs for Periodicals.

Notwithstanding the modest increases proposed, this is a landmark case the outcome of which is likely to cast a large shadow on future cases, especially if the Commission adapts new approaches to cost attribution and distribution. It is essential, therefore, that the Commission contemplate the future implications of its decisions and subject its prior determinations to enhanced scrutiny before deciding what application they should have here. When it does so, we are convinced that it will recognize that Bradley's variabilities combined with the Stralberg/Cohen distributions represent the best, and the only valid, method for attributing costs to subclasses and that, whatever it decides in this regard, it will recognize the unreliability of the claimed mail-processing costs and recommend Periodical rates no higher than those requested by the Postal Service.

Periodicals Brief at 34.

Respectfully submitted,

  
Dr. John Stapert

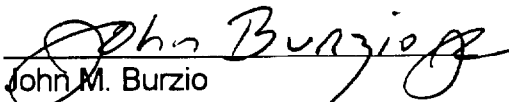
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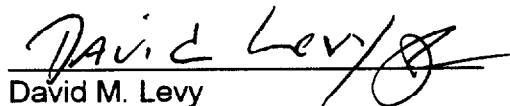
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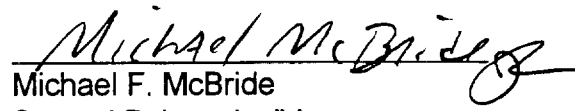
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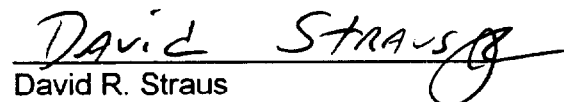
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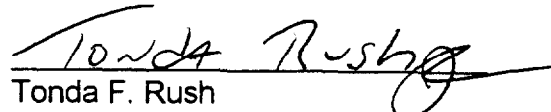
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

  
James R. Cregan

Washington, D.C.  
April 10, 1998