

BEFORE THE
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

COMPLAINT ON POST E.C.S.

DOCKET NO. C99-1

MOTION OF UNITED PARCEL SERVICE
FOR A PROTECTIVE ORDER
(May 14, 1999)

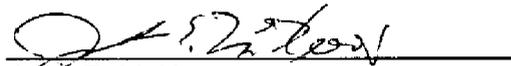
United Parcel Service ("UPS") hereby moves that the Commission or the Presiding Officer grant a protective order in the form attached hereto as Exhibit A with respect to information or documents (1) which UPS and the United States Postal Service agree may be provided on a confidential basis, or (2) which the Commission or the Presiding Officer determines to be confidential, on the grounds set forth herein.

UPS has today served the Postal Service with a number of interrogatories and requests for documents. UPS anticipates that the Postal Service may object to the production of some of the requested information on the ground that it is confidential. Without necessarily agreeing that such information is in fact confidential, and in order to expedite discovery, UPS is willing, at least initially, to accept certain information pursuant to reasonable protective conditions.¹

1. Information which UPS is willing to accept on this basis is identified in UPS's discovery requests.

WHEREFORE, United Parcel Service respectfully requests that the Commission or the Presiding Officer enter a protective order in the form attached hereto as Exhibit A with respect to information or documents (1) which UPS and the United States Postal Service agree may be provided on a confidential basis, or (2) which the Commission or the Presiding Officer determines to be confidential.

Respectfully submitted,



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Of Counsel

DOCKET NO. C99-1
STATEMENT OF PROTECTIVE CONDITIONS

The following protective conditions limit access to materials provided in response to Presiding Officer's Ruling No. C99-1/__. Individuals seeking to obtain access to those materials must agree to comply with these conditions and complete the attached certifications.

1. Only those persons who are either:

(a) employees of the Postal Rate Commission (including the Office of the Consumer Advocate) with a need-to-know; or

(b) a participant and its counsel in Postal Rate Commission Docket No. C99-1 or a witness or potential witness of such participant for purposes related to Docket No. C99-1

shall be granted access to materials provided in response to P.O. Ruling No. C99-1/__.

2. No person granted access to materials provided in response to P.O.

Ruling No. C99-1/__ is permitted to disseminate those materials in whole or in part to any person not authorized to obtain access under these conditions.

3. The final date of any person's access shall be the earlier of:

(a) the date on which proceedings in Docket No. C99-1 (including final resolution of any appeals) are finally concluded;

(b) the date on which the participant with whom the person is affiliated formally withdraws from Docket No. C99-1; or

(c) the last date on which the person who obtains access is under contract or retained or otherwise affiliated with the Docket No. C99-1 participant on

whose behalf that person obtains access. The participant shall immediately notify the Postal Rate Commission and United States Postal Service counsel in Docket No. C99-1 of the termination of any such business and consulting arrangement or retainer or affiliation which occurs before the final conclusion of the proceeding.

4. Within ten days after the final conclusion of Docket No. C99-1, a participant (and any person working on behalf of that participant) who has obtained a copy of materials provided in response to P.O. Ruling No. C99-1/___ shall certify to the Commission:

(a) that the copy was maintained in accordance with these conditions (or others established by the Commission); and

(b) that the copy (and any duplicates) either have been destroyed or returned to the Commission.

5. The duties of any persons obtaining access to materials provided in response to P.O. Ruling No. C99-1/___ shall apply to materials disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of a document, as well as to the entire document.

6. All persons who obtain access to materials provided in response to P.O. Ruling No. C99-1/___ are required to protect the materials by using the same degree of care, but no less than a reasonable degree of care, to prevent unauthorized disclosure of the materials as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary materials or trade secrets and other internal, confidential, commercially sensitive, and privileged information.

7. These conditions shall apply to any revised, amended, or supplemental versions of materials provided in response to P.O. Ruling C99-1/___ in Docket No. C99-1.

8. The duty of nondisclosure of anyone obtaining access to materials provided in response to P.O. Ruling C99-1/___ is continuing, terminable only by specific order of the Commission.

9. Any Docket No. C99-1 participant or other person seeking access to materials provided in response to P.O. Ruling C99-1/___, by requesting access, consents to these or such other conditions as the Commission may approve.

10. Any party to Docket No. C99-1 may file a motion with the Commission requesting the Commission to determine whether materials supplied pursuant to this protective order are in fact confidential, or should be removed from the conditions imposed by this protective order.

CERTIFICATION

The undersigned represents that:

Access to materials provided in response to P.O. Ruling No. C99-1/___ in Docket No. C99-1 has been authorized by the Commission.

I agree to use the information only for purposes of analyzing matters at issue in Docket No. C99-1.

I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain in strict confidence the materials obtained from the Commission in accordance with all of the protective conditions set out above.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

CERTIFICATION UPON DESTRUCTION OR
RETURN OF PROTECTED MATERIALS

Pursuant to the Certification which I previously filed with the Commission with respect to information received in accordance with Presiding Officer's Ruling No. C99-1/___, on behalf of myself and the party which I represent (as indicated below), I affirm as follows:

1. I have remained eligible to receive access to materials under paragraph 1 of the protective conditions throughout the period those materials have been in my possession. Further, I have complied with all conditions and have maintained in strict confidence the materials obtained from the Commission in accordance with all of the protective conditions set out above.

2. I have used the information only for purposes of analyzing matters at issue in Docket No. C99-1.

3. I have destroyed the information or returned it to the Postal Rate Commission.

4. I have surrendered to the Postal Rate Commission or destroyed all copies of the information which I obtained or which have been made from that information.

Name _____

Firm _____

Title _____

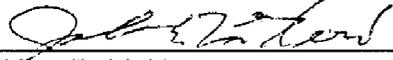
Representing _____

Signature _____

Date _____

CERTIFICATE OF SERVICE

I hereby certify that on this date I have caused to be served the foregoing document on all parties to this proceeding by first class mail, postage prepaid, in accordance with Section 12 of the Rules of Practice.



John E. McKeever

Dated: May 14, 1999
Philadelphia, PA