

UNITED STATES OF AMERICA
Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Complaint on Post E.C.S.

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Docket No. C99-1

OFFICE OF THE CONSUMER ADVOCATE
COMMENTS CONCERNING P.O. RULING NO. C99-1/3
(July 12, 1999)

The Office of the Consumer Advocate (OCA) hereby files comments on Presiding Officer's Ruling No. C99-1/3. OCA wishes to bring to the attention of the Presiding Officer a difficulty that has arisen with respect to discovery on the Postal Service. OCA has sought to be included in the informal discussions that Ruling No. 3 directs UPS and the Postal Service to hold.¹ UPS has no objection to OCA participation. However, the Postal Service has declined to include OCA in the discussions.

A piecemeal approach to outstanding discovery is hardly ideal. OCA previously stated that it would have asked the same questions as UPS had UPS not asked first.²

¹ "I will direct UPS and the Postal Service to discuss issues related to discovery during the first phase of this case in light of this ruling. They should attempt to identify pending questions, or portions thereof, that are relevant to the question of whether Post E.C.S. is a 'postal' service, and report within seven days on the extent to which part or all of the pending motions to compel in this case can be resolved informally." POR No. C99-1/3, July 8, 1999, at 4.

² "OCA believes that many of UPS' interrogatories are a valuable starting point for determining the nature of Post E.C.S. and whether it falls into the ambit of the Commission's authority. UPS' interrogatories pose questions OCA would itself pose if UPS had not done so first. Consequently, OCA has a strong interest in the Postal Service's responses to the questions. In addition, OCA is now in the process of formulating its own discovery questions, and naturally would prefer to receive responses rather

OCA then served additional discovery on the Postal Service on June 28, 1999, much of which was objected to on July 8, 1999. Given that the deadline for reporting to the Presiding Officer (July 14) is fast approaching, the exclusion of OCA from the discussion of "issues related to discovery during the first phase of this case" (Ruling No. 3, at 4) is inefficient, particularly since OCA went on record on June 8 in support of UPS's discovery rather than needlessly duplicating that discovery. The fact that Ruling No. 3 overlooked OCA's active role in discovery, combined with the Postal Service's refusal to include OCA in the required discussions, may result in prolonging a proceeding that has already been too long delayed.

OCA will proceed with discovery as best it can under the circumstances. However, OCA will not be bound by any agreement that the Service and UPS may reach. It is OCA's view that any similar future discovery discussions should include all participants who have sought discovery.

Respectfully submitted,
OFFICE OF THE CONSUMER ADVOCATE

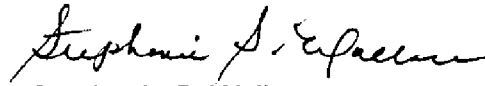


Ted P. Gerarden
Director

Emmett Rand Costich
Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on behalf of the Office of the Consumer Advocate, 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.


Stephanie S. Wallace

Washington, D.C. 20268-0001
July 12, 1999