

BEFORE THE
POSTAL RATE COMMISSION

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COMPLAINT ON POST E.C.S.

DOCKET NO.

C99-11

COMPLAINT OF UNITED PARCEL SERVICE
(October 5, 1998)

Pursuant to 39 U.S.C. § 3662 and 39 C.F.R. § 3001.81 *et seq.*, United Parcel Service brings this complaint against the United States Postal Service under the Postal Reorganization Act, 39 U.S.C. § 101, *et seq.* ("the Act"), on the following grounds:

Name and Address of Complainant

1. Complainant is United Parcel Service ("UPS"). UPS's address is 55 Glenlake Parkway, NE, Atlanta, Georgia 30328.

Statement of Grounds for Complaint

2. On or about July 17, 1998, the Postal Service began providing a document delivery service called Post Electronic Courier Service, or "Post E.C.S."

3. According to a solicitation issued by the Postal Service, Post E.C.S. provides "Fast, inexpensive document delivery" that permits a user to "send and receive your business documents quickly at a substantial cost savings compared to overnight and courier services." Exhibit A hereto, which is incorporated herein by reference.

4. The Postal Service's solicitation also states that the Postal Service is providing users of Post E.C.S. with "a 30-day free trial" for the service. Exhibit A hereto.

First Claim: The Postal Service's Failure
to Request a Recommended Decision
Under Sections 3622 and 3623

5. Post E.C.S. is a class of mail or type of mail service which may be established by the Governors of the Postal Service only "in accordance with the provisions of [Chapter 36]" of the Postal Reorganization Act. 39 U.S.C. § 3621.

6. As a result, the Postal Service's provision of Post E.C.S. constitutes a change in the mail classification schedule.

7. Before the Postal Service may establish a new class of mail or mail service, or make a change in the mail classification schedule, it must first request the Commission to submit a recommended decision on the change. 39 U.S.C. §§ 3623, 3641.

8. Before the Postal Service charges a new rate or rates for a class of mail or type of service, it must first request the Commission to submit a recommended decision on the new rate or rates, 39 U.S.C. §§ 3622, 3641.

9. The Postal Service has not requested the Commission to submit a recommended decision on Post E.C.S. or on a rate or rates for that service.

10. As a result, there has been no showing that the Postal Service's provision of Post E.C.S. is in accordance with the policies of the Postal Reorganization Act and the factors set forth in Sections 3622 and 3623(c) of the Act, 39 U.S.C. §§ 3622, 3623(b).

11. Accordingly, the Postal Service's provision of Post E.C.S. violates the Postal Reorganization Act.

**Second Claim: The Postal Service's
Failure to Charge a Rate that
Complies with Section 3622(b)**

12. Section 3622(b)(3) of the Act establishes "the requirement that each of class or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all costs of the Postal Service reasonably assignable to such class or type." 39 U.S.C. § 3622(b)(3).

13. Section 3622(b)(3) prohibits the Postal Service from providing a class of mail or type of mail service at no charge.

14. When the Postal Service provides a class of mail or type of mail service at no charge, the users of that class or service are cross-subsidized by other postal users.

15. As a result, the Postal Service's provision of Post E.C.S. at no charge violates Section 3622(b) of the Act, including (but not limited to) Sections 3622(b)(3) and 3622(b)(4).

16. Post E.C.S. competes with a similar service provided by UPS.

17. The Postal Service's provision of Post E.C.S. at no charge constitutes unfair competition in violation of Section 3622(b)(4) of the Act.

18. The Postal Service's provision of Post E.C.S. at no charge is contrary to Section 3622(b) of the Act and may deprive UPS of customers for its similar service, with a consequent loss of revenues to UPS.

**Third Claim: The Postal Service's Failure
to Request an Advisory Opinion on Post E.C.S.**

19. Post E.C.S. is a postal service.

20. Post E.C.S. is being used by a substantial number of companies who are sending documents nationwide. See Exhibit B hereto, which is incorporated herein by reference.

21. Post E.C.S. could also have an impact on the use by mailers of other mail services, including registered or certified mail.

22. As a result, the institution and rendition of Post E.C.S. represents a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.

23. Section 3661(b) of the Act provides:

"When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change."

39 U.S.C. § 3661(b).

24. Before providing Post E.C.S., the Postal Service did not "submit a proposal, within a reasonable time prior to the effective date of" Post E.C.S., to the Commission requesting an advisory opinion on the change.

25. Accordingly, the Postal Service's provision of Post E.C.S. violates Section 3661 of the Act, 39 U.S.C. § 3661.

Persons or Classes of Persons Affected

26. All postal customers are believed to be affected by the Postal Service's provision of Post E.C.S. at no charge, since the rates paid by all postal customers are cross-subsidizing the Postal Service's provision of Post E.C.S. Likewise, all persons who compete or who may desire to compete with the Postal Service, both in rendering a service such as Post E.C.S. or in rendering any service competitive with a service provided by the Postal Service, are similarly affected by the Postal Service's failure to observe the requirements of the Act in launching a new competitive service. Moreover, users of the Postal Service's certified mail or registered

mail services may be affected as the result of a diversion of volume from those services.

Statement Regarding Relevant Correspondence

27. There is no correspondence nor are there any other written communications between UPS or its agents, representatives, or attorneys and the Postal Service or any officer, employee, or instrumentality thereof which relates to the subject matter of this complaint.

Relief Requested

28. Under Section 3623(b) of the Act, the Commission "may submit to the Governors on its own initiative, a recommended decision on changes in the mail classification schedule." 39 U.S.C. § 3623(b).

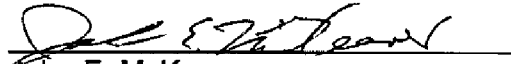
29. By not requesting a recommended decision from the Commission, the Postal Service has failed to make any showing that the provision of Post E.C.S. on the terms required or provided by the Postal Service is in accordance with the policies and factors set forth in the Postal Reorganization Act.

WHEREFORE, United Parcel Service respectfully requests the Commission to:

(a) Submit to the Governors of the United States Postal Service a recommended decision rejecting as unsupported the Postal Service's provision of Post E.C.S.; and

(b) Grant UPS such other and further relief as the Commission
deems appropriate.

Respectfully submitted,



John E. McKeever
Nicole P. Kangas
Attorneys for United Parcel Service

PIPER & MARBURY L.L.P.
3400 Two Logan Square
18th and Arch Streets
Philadelphia, PA 19103
(215) 656-3300

and

1200 19th Street, N.W.
Washington, DC 20036
(202) 861-3900

Of Counsel

Dated: October 5, 1998

**Post E.C.S.
(Post Electronic Courier Service)
is the 21st-century
document-delivery system**

**Fast, inexpensive
document delivery**

**Reliable, global
delivery capabilities and
universal compatibility**

**Secure, private and
confidential transmission
over the Internet**

Universal readability

For more information, contact

For organizations committed to ongoing business-process improvement, Post E.C.S. is the 21st-century document-delivery system that is superior to current delivery options. Post E.C.S. combines the advantages of couriers, fax and the Internet with the protection of the United States Postal Service for a fraction of courier delivery costs. Sign up now for a 30-day free trial!

- Post E.C.S. allows you to send and receive your business documents quickly at a substantial cost savings compared to overnight and courier services.
- Post E.C.S. augments your electronic messaging service to deliver documents across multiple systems to business partners and customers outside your corporate Intranet. Post E.C.S. utilizes electronic mail extensively for notification purposes, but makes only the most basic assumptions about the set of services e-mail can provide, thereby not risking incompatibilities across diverse e-mail systems, gateways and clients.
- Post E.C.S. provides several levels of security, from password protection at origin and destination to secured SSL or PCT Internet connections and optional RSA (RC4) file-encryption on the Post E.C.S. server.
- Post E.C.S. enables recipients to read any document sent, regardless of the software applications used.
- Post E.C.S. is currently available in market test. Post E.C.S. will soon offer the Electronic Postmark™ system, which combines tamper-detection with an official time-and-date stamp. This promises the traditional reliability you've come to trust with the United States Postal Service. Post E.C.S. is easy to use, and you can begin using it almost immediately.
- Robert P. Greenwald, Tactical Marketing and Sales Development
U.S. Postal Service, 206 Cedar Avenue, Lake Villa, IL 60046-9998
Phone: (847) 265-6508
Fax: (847) 265-6721
e-mail: rgreenwa@email.usps.gov

Postal Service begins testing lucrative online e-mail waters

ASSOCIATED PRESS

SAN MATEO — The U.S. Postal Service won't have to worry about rain or sleet or snow, but hackers might be a problem for the latest in mail delivery — PostECS.

On Friday, the post office began testing PostECS. The ECS stands for electronic courier service.

The online system will let consumers send mail and sensitive documents over the Internet for a fee. If the six-month test goes well, the digital delivery service could be generally available early next year.

PostECS is designed to transmit such things as contracts, legal briefs and financial transactions through cyberspace.

To use it, you would go to a Web site to choose a format in which to display the material. A message then would go to the

recipient's e-mail account with instructions on how to receive the document at the Postal Service Web site.

To ensure confidentiality, the documents would be encrypted or scrambled. That's unlike most e-mail, which travels through cyberspace in a readable format.

The service is being tested at a computer center in San Mateo until mid-December. Banks, law firms and some colleges are using it to send documents nationwide and to Canada and France, where the system is also being tested.

"It is a natural evolution of the post service entering the digital information age," said project manager Janice Gould.

The service could be available to businesses as early as next year and to consumers shortly afterward if approved by the Postal Service's board of

governors. The board is scheduled to vote on the service after the test ends.

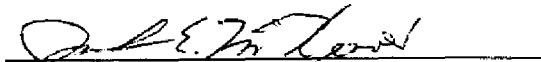
How much? Rates will be based on the amount of memory used. The Postal Service plans to charge \$2.50 per transaction of up to two megabytes (that means about two novels' worth of text) and \$5 for five-megabyte documents. Each additional copy costs \$1.

"We're going to evaluate how the market accepts the service and then go from there," said Gould, who said some 100 companies worldwide are testing PostECS.

Although electronic mail amounts to about 1 billion messages a year at present, that's a drop in the bucket for the post office, which processes about 182 billion pieces of mail annually.

CERTIFICATE OF SERVICE

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


John E. McKeever

Dated: October 5, 1998
Philadelphia, PA