

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Evolutionary Network Development  
Service Changes

Docket No. N2006-1

PRESIDING OFFICER'S RULING  
ON APWU MOTION TO COMPEL  
RESPONSE TO INTERROGATORIES  
APWU/USPS-T2-1(a,f,g,h), 3(b), 6(k), and 8

(Issued May 5, 2006)

This ruling concerns a motion<sup>1</sup> to compel responses to four interrogatories, or portions thereof, filed by APWU on February 28, 2006. I will address each of the four interrogatories in turn below.

APWU/USPS-T2-1. This interrogatory refers to the following statements of Postal Service witness Williams at page 8 of his prepared testimony:

While the Postal Service was developing the END model, there were about two dozen local AMP studies in progress. In order to ensure that the local changes to the network that might result from these studies were consistent with the future national network, AMP review activity was generally suspended.

USPS-T-2 at 8. The Postal Service submitted a partial response to this interrogatory on

---

<sup>1</sup> Motion Of American Postal Workers Union, AFL-CIO, to Compel United States Postal Service to Answer Interrogatories APWU/USPS-T2-1(a,f,g,h), 3(b), 6(k), and 8, March 1, 2006 (Motion to Compel). In Presiding Officer's Ruling No. N2006-1/1, issued on March 16, 2006, I granted a motion by APWU to replace a combined motion to compel with two separate motions, and to treat the replacement filings as though they had been filed on February 28, 2006. This ruling addresses one of the two replacement filings.

March 17, 2006.<sup>2</sup> The contested portions of the interrogatory request detailed information regarding local AMP studies, including a listing of the two dozen studies referenced; another list incorporating all AMPs studies begun since December 31, 2001; and reports containing specific information concerning all such studies, including total volume and facility-specific origin-destination volumes.

The Postal Service objects to these discovery requests on the grounds of lack of relevance, undue burden, and commercial sensitivity and privilege to the extent that they request class-specific mail volumes.<sup>3</sup>

APWU begins its motion with an extensive presentation of its views on the legal and factual foundations of this proceeding. APWU asserts the Commission's obligation to weigh public policy considerations established by the Postal Reorganization Act in performing its responsibilities under § 3661 to review the network changes proposed by the Postal Service. According to APWU, application of these policies requires that the Postal Service's network realignment plans be transparent to the public. However, APWU claims, the Service's presentation and position regarding discovery are unresponsive to these public policy requirements, focusing on the efficiency it seeks in network realignment and neglecting the potential impact of the END program on postal services. In general, APWU asserts that its disputed interrogatories seek a factual basis for assessing the service impact of the Postal Service's END strategy, which it characterizes as a continuation of the Network Integration and Alignment (NIA) program begun in 2001.<sup>4</sup>

With regard to the challenged portions of APWU/USPS-T2-1, APWU argues that its inquiries are highly relevant to issues in this case. According to APWU, the requests in APWU/USPS-T2-1(a) are highly relevant to the development of END and to the

---

<sup>2</sup> United States Postal Service Notice of Filing of Revised Response of Witness Williams to APWU Interrogatory APWU/USPS-T2-1(a) [Errata], March 17, 2006.

<sup>3</sup> Objections of the United States Postal Service to APWU Interrogatories APWU/USPS-T2-1(a,f,g,h), 3(b), 6(k), and 8, February 23, 2006, at 1-3 (Objections).

<sup>4</sup> Motion to Compel at 1-9.

relationship between these 24 studies and the 10 studies submitted by the Postal Service with its Request. APWU argues that the remaining requests regarding other prior AMP studies are relevant because reviews under the NIA program were essentially the same as under the END process, except that they were conducted at a more deliberate pace. By using AMP reports for studies older than the ten selected for presentation by the Postal Service, APWU argues, the Commission could better assess how AMP evaluated changes that actually took place, rather than mere estimates from the model.<sup>5</sup>

APWU likewise challenges the Postal Service's claim of privilege regarding class-specific volume information. According to APWU, the Service's failure to identify the specific privilege invoked or to state the reasons for its applicability renders its objection defective under section 26(c) of the Commission's rules. Due to the strong public policy in favor of disclosure of relevant information, APWU argues that the Postal Service must bear a heavy burden to merit the protection of evidentiary privilege. Because the Service's blanket assertion fails to identify substantial harm of a specific kind, APWU asserts, it is speculative at best, and the Service may not be afforded the protection of the trade secret privilege.<sup>6</sup>

In a Reply<sup>7</sup> filed on March 7, the Postal Service challenges the relevance and materiality of the information sought in the contested subparts of the interrogatory. With regard to APWU/USPS-T2-1(a), the Service argues that the identities and other facts associated with the 24 facilities for which AMP studies were put on hold have no bearing on the advice to be rendered in the Commission's Opinion, because they have

---

<sup>5</sup> *Id.* at 10-12.

<sup>6</sup> *Id.* at 12-16.

<sup>7</sup> United States Postal Service Reply in Opposition to American Postal Workers Union Motion to Compel Responses to Interrogatories APWU/USPS-T2-1(a,f,g,h), 3(b), 6(k), and 8, March 7, 2006 (Reply).

nothing to do with the results and effects of AMP studies that are completed to achieve the goals of the END program.<sup>8</sup>

As to the other contested subparts of the interrogatory, the Service argues that the AMP studies sought in subpart (f) are irrelevant because they are not part of the current program for operational review that may produce service changes, and because the information requested cannot provide the evidence of actual service and cost changes APWU seeks. The Service claims that only post-implementation review documents, which APWU did not request, could be used to accomplish that task.<sup>9</sup>

The Postal Service further argues that it should not be required to prepare the reports requested in subparts (g) and (h) of the interrogatory, for several reasons. In addition to characterizing compliance as a “laborious task,” the Service argues that the Commission’s responsibilities under § 3661 do not include a review of cost estimates at the operation-specific level—of the kind redacted from Worksheets 4 and 7 of the AMP decision packages in USPS Library Reference N2006-1/5—for each facility that will ultimately be subjected to the AMP process to implement network changes under END. The Service likewise claims that estimates of volume impact for any particular 3-digit ZIP Code pair by class of mail should not be disclosed, suggesting that the Commission can fulfill its obligations by identifying affected ZIP Codes and estimating the aggregate volumes of mail with upgraded and downgraded service levels.

Alternatively, if APWU’s objective is to determine how postal management used the requested data in previous AMP studies, the Postal Service argues, a ruling issued in Docket No. N89-1 suggests that it would be sufficient to provide hypothetical data of the kind provided in the sample Worksheet 4 in Handbook PO-408, which is included in USPS Library Reference N2006-1/3.<sup>10</sup>

---

<sup>8</sup> Reply at 3-5.

<sup>9</sup> *Id.* at 7-8.

<sup>10</sup> *Id.* at 8-13.

Because a significant number of the MODS codes on Worksheet 4 of the AMP study identify operations that are specific to particular mail classes, the Service asserts that public disclosure of the volumes for those operations, or of cost figures from which the volumes could be deduced, would reveal information that postal competitors could use unfairly to gain competitive advantage, to the Postal Service's detriment. Based on this position, the Service asks that, should access to the post-2001 AMP studies identified in subpart (f) be ordered, the Service be notified and given seven days to propose and further justify application of protective conditions to such data in order to protect its commercial and competitive interests.<sup>11</sup>

I shall grant APWU's motion as to this interrogatory, in part.

Witness Williams testifies that AMP review activity—consisting of some two dozen local studies in progress—was suspended during development of the END model, after which ten of the pending proposals were selected “as a laboratory for the development and testing of internal administrative processes that might be useful in a ‘full-up’ implementation of END.”<sup>12</sup> Regarding the remaining studies in suspension, he states in his partial response to APWU/USPS-T2-1(a) that: “As appropriate, these ‘pre-END’ AMP candidates are expected to be subjected to the AMP process in conjunction with the objectives of END.”<sup>13</sup> Thus, although now suspended, these other studies are potentially on the same footing as the ten documented in Library Reference USPS-LR-N2006-1/5 for use in implementing network reconfiguration, and are clearly of prospective relevance to changes that may be produced in reconfiguring the postal network.

The Postal Service argues that the particulars of these suspended studies should remain undisclosed unless and until it completes them during the course of this

---

<sup>11</sup> *Id.* at 13-14.

<sup>12</sup> USPS-T-2 at 8-9.

<sup>13</sup> United States Postal Service Notice of Filing of Revised Response of Witness Williams to APWU Interrogatory APWU/USPS-T2-1(a) [Errata], March 17, 2006, at 2-3 (Revised Response).

proceeding, at which time it expects it would report their results and effects.<sup>14</sup> However, by failing even to identify the facilities for which future administrative action might be taken, this approach would be incompatible with the right of participants in this case to use discovery to access “information which appears reasonably calculated to lead to the discovery of admissible evidence” under section 26(a) of the rules of practice.

Accordingly, I shall grant APWU’s motion as to the identity of the suspended AMP studies referenced in the testimony of witness Williams and the dates of their initiation.

However, I deny the motion as to the “person requesting each AMP.” In his partial response, witness Williams reports that “[e]ach study was independently proposed by the field in accordance with the traditional application of the AMP review process.”<sup>15</sup> The identity of the Postal Service official or officials who initiated the process has no bearing on the substance of the studies.

APWU’s request in subpart (f) of the interrogatory for a list of all AMP studies initiated since December 31, 2001, similarly requests identification of potentially relevant administrative actions begun in the past. It also bears some resemblance to the request in Interrogatory DBP/USPS-18 for a listing of all processing facilities that have been closed or consolidated “since the last time the Commission issued a recommended decision for delivery standards.” In Ruling No. 5, I overruled the Postal Service’s objection that a retrospective request of this kind seeks irrelevant information, in view of the Service’s library references documenting administrative actions that were completed before the filing of its proposal in this case.<sup>16</sup> However, I found that documenting 15 years of prior consolidation activity seemed excessive, and therefore limited the granting of Mr. Popkin’s motion to “actions initiated or completed in calendar years 2004 and 2005.”<sup>17</sup>

---

<sup>14</sup> Reply at 4.

<sup>15</sup> Revised Responses at 2.

<sup>16</sup> Presiding Officer’s Ruling No. N2006-1/5, March 31, 2006, at 4-5.

<sup>17</sup> *Id.* at 5.

As noted above, APWU argues that the period for which it requests information is appropriate because the development of the END program began in 2001, and that in effect END represents a successor to the NIA program. Postal Service witness Shah has confirmed this premise.<sup>18</sup> In view of this continuity,<sup>19</sup> I shall grant APWU's request for a list that extends from the end of 2001 to the present. This should not impose a burdensome effort on the Postal Service, as witness Williams has already performed the research required to establish that the Postal Service has implemented a total of 28 AMP studies since 1995.<sup>20</sup>

The detailed information requested in subparts (g) and (h) of the interrogatory for the as yet unidentified AMP studies—with locations, ZIP Codes, and other identifying information redacted—is identical in substance to the data underlying the summary assessments of cost changes and volume shifts that appear in Library Reference N2006-1/5. Inasmuch as the latter information is the only empirical evidence of the potential impact of facility changes in the network realignment process, prior to availability of a post-implementation review, the requested information is of high intrinsic relevance, and should be produced.

The Postal Service suggests that APWU's objective in seeking this information might be satisfied by providing a "hypothetical" data set, citing the outcome of a Presiding Officer's Ruling in Docket No. N89-1. However, that remedy would appear to be unresponsive to the bases of the current controversy. In the ruling cited by the Postal Service, the Presiding Officer found that:

The crux of the Time Warner request is to learn what these data represent, and to see how they will be used by managers to implement the service realignment plan. Thus it should make no

---

<sup>18</sup> Responses of United States Postal Service Witness Shah to OCA Interrogatories OCA/USPS-T1-4 through 8, 12 and 14-16, March 30, 2006 (Response to OCA/USPS-T1-5).

<sup>19</sup> Additionally, these analyses apply to administrative actions for which post-implementation reviews may be available, unlike the ten AMPs documented in the library reference.

<sup>20</sup> Responses of United States Postal Service Witness Williams to OCA Interrogatories OCA/USPS-T2-7-16, April 7, 2006 (Response to OCA/USPS-T2-11(b)).

difference if actual blind city data or hypothetical data are provided so long as the data are representative of the results that the Service might reasonably expect to experience at a facility in a typical urban area....<sup>21</sup>

Here, however, APWU seeks data for a wholly different purpose: “to see what they reveal about the impact of this [AMP] process on postal service and costs.”<sup>22</sup> Since actual results are being sought, hypothetical data would not be useful for this purpose.

APWU challenges the Postal Service’s claim that the requested data are privileged because of their commercial sensitivity, arguing that it is defective under the rules of practice and outweighed by the public interest in the information’s disclosure. However, the Commission has recognized the commercial sensitivity of facility- and ZIP Code-specific data in prior proceedings,<sup>23</sup> and has favored resolutions of discovery controversies that provide such data under protective conditions.<sup>24</sup> In light of these past practices, I shall direct the Postal Service to provide responsive data under the protective conditions attached to this ruling, which are modeled on provisions used in the most recent omnibus rate proceeding. Also, in light of the Postal Service’s request for an opportunity to provide comments on appropriate protective conditions, I shall grant this opportunity before compliance with this ruling is required. Comments shall be due four days from the issuance of this ruling.

APWU/USPS-T2-3(b). This subpart of the interrogatory asks the Postal Service to produce a timeline for each of the ten AMP studies documented in its direct case, including the amount of time taken for each stage, the current stage of implementation, and when between now and June 30, 2006, each project is expected to be fully

---

<sup>21</sup> Presiding Officer’s Ruling No. N89-1/9, December 21, 1989, at 4-5.

<sup>22</sup> Motion to Compel at 12.

<sup>23</sup> See, e.g., Presiding Officer’s Ruling No. R2000-1/10, March 2, 2000.

<sup>24</sup> See Presiding Officer’s Ruling No. R2005-1/20, June 8, 2005.

implemented. The Service objected to responding, to the extent the interrogatory seeks to impose a continuing obligation to report milestones in AMP projects as they occur.<sup>25</sup>

In its motion, APWU cites the Postal Service's concession that an understanding of the AMP process is fundamental to the Commission's role in this case, and argues that the information is readily available.<sup>26</sup> In reply, the Service denies that the specific dates on which particular tasks are completed have any bearing on issues to be decided in this case, and argues that the date of completion of each AMP review provided on its signature page should be sufficient.<sup>27</sup>

The Postal Service's argument that the specific date of each milestone in the AMP review process has little if any value as information appears to be valid. However, by showing the overall duration of each review, and variations in the intervals between milestones for the different studies, responsive information could assist in illuminating how the AMP process has functioned, and may operate in the future. Consequently, I shall grant APWU's motion as to this subpart. However, the Postal Service may satisfy this ruling by reporting those developments in the AMP review process that have occurred to date.

APWU/USPS-T2-6(k). This subpart of the interrogatory asks the Postal Service to explain why statistics for First-Class Mail are redacted from Worksheet 7 of the AMP report. The Postal Service objected on the ground that the request calls for the statement of a legal conclusion beyond the explanation provided on the preface page to the library reference the includes the worksheet.<sup>28</sup>

APWU argues that the Postal Service's objection to the question is insufficient under the requirements of section 26(c) of the rules of practice and incoherent.<sup>29</sup> The

---

<sup>25</sup> Objections at 3-4.

<sup>26</sup> Motion to Compel at 16-17.

<sup>27</sup> Reply at 14-16.

<sup>28</sup> Objection at 4.

<sup>29</sup> Motion to Compel at 17-18.

Postal Service argues that the explanatory material included in the library reference is a sufficient response; explains that the apparent incoherence of a portion of the objection is due to citation of an inapplicable interrogatory; and asks that this aspect of APWU's motion be declared moot.<sup>30</sup>

The explanatory material at the beginning of Library Reference USPS-LR-N2006-1/5 contains the following statements:

Worksheet 7 of an AMP decision package can reflect mail class-specific origin-destination volume data, reflecting the volume per mail class that originates or destines at a single facility, or travels from one specific 3-digit ZIP Code area to another specific 3-digit ZIP Code area.

The Postal Service regards such disaggregated facility-specific or point-to-point volume data (and other data from which such disaggregated volumes could be deduced) to be privileged and commercially-sensitive. Their public disclosure could harm the competitive interests of the Postal Service by providing postal competitors, who do not publicly disclose similar data, with information that could be used to improve their ability to compete against the Postal Service for the carriage or transmission of mailable matter. The Postal Service does not regard the disclosure of disaggregated Worksheet 4 or disaggregated Worksheet 7 data to be in keeping with good business practice, within the meaning of 39 U.S.C. § 410(c)(2). Accordingly, such data are not provided in this Library Reference.

These statements present what I understand to be the Postal Service's boilerplate rationale for declining to release facility-specific and origin-and destination-specific volume information publicly. It does not explain why the Postal Service believes this conclusion should apply to First-Class Mail in this particular instance, especially in view of its status as a monopoly product protected by the competitive barrier of the Private Express Statutes. However, it is a complete statement of the Postal Service's position

---

<sup>30</sup> Reply at 16-17.

on the matter, and I shall not require the Service to provide further elaboration of its stance.

APWU/USPS-T2-8. This interrogatory seeks the internal and external support kits, referenced in the Communications Plan in Library Reference N2006-1/4, developed for one of the ten AMP proposals detailed in N2006-1/5. The Postal Service objected on the ground that these kits and instructions for their use have no material bearing on issues raised in this proceeding. However, the Service also announced its intention to respond to the interrogatory by providing examples of public communications produced in conjunction with at least one of the ten AMP decisions in N2006-1/5.<sup>31</sup> On April 10, 2006, the Service filed its promised response, which contains 20 single-page letters variously addressed to Members of Congress and other public officials, labor representatives, and local businesspersons.<sup>32</sup>

In its motion, APWU cites the Postal Service's acknowledgment that communications are an important part of the END process; notes that this aspect of the process is a necessary part of the Commission's review; and argues that the Service has asserted no valid basis for refusing to produce this relevant information.<sup>33</sup> The Postal Service replies that the interrogatory seeks an excessive level of detail about the Service's internal administration, and seeks to inject labor-management issues into this proceeding.<sup>34</sup>

The Postal Service does not, and cannot, dispute the critical significance of communications in implementing its intended network reconfiguration. Without an effective and responsive program of public information and dialogue, the various interests of stakeholders in the postal system are not likely to be well served. Consequently, I disagree with the Postal Service's position that its internal

---

<sup>31</sup> Objection at 4-6.

<sup>32</sup> Response of United States Postal Service Witness Williams to APWU Interrogatory APWU/USPS-T2-8, April 10, 2006.

<sup>33</sup> Motion to Compel at 18.

<sup>34</sup> Reply at 17-18.

communication planning is immaterial to this case or worthy of shielding from public view. Because the Postal Service's voluntary response displays only some miscellaneous products of its communication strategy, I shall direct that it respond to this interrogatory in full.

### RULING

1. The Motion Of American Postal Workers Union, AFL-CIO, to Compel United States Postal Service to Answer Interrogatories APWU/USPS-T2-1(a,f,g,h), 3(b), 6(k), and 8, filed March 1, 2006, is granted in part as to interrogatory APWU/USPS-T2-1, as described in the body of this ruling, and subject to the attached protective conditions prescribed for materials responsive to APWU/USPS-T2-1(g) and (h); granted as to interrogatories APWU/USPS-T2-3(b), and 8; and denied as to interrogatory APWU/USPS-T2-6(k).
2. Comments concerning the appropriateness of the attached protective conditions are due May 9, 2006.

Dawn A. Tisdale  
Presiding Officer

## STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The following protective conditions limit access to materials provided in Docket No. N2006-1 by the Postal Service in response to Presiding Officer's Ruling No. N2006-1/7 (hereinafter, "these materials"). Individuals seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, provide the completed certifications to the Commission, and serve them upon counsel for the party submitting the confidential material.

1. Only a person who is either:
  - (a) an employee of the Postal Rate Commission (including the Office of the Consumer Advocate) with a need-to-know; or
  - (b) a participant in Postal Rate Commission Docket No. N2006-1, or a person employed by such participant, or acting as agent, consultant, contractor, affiliated person, or other representative of such participant for purposes related to the litigation of Docket No. N2006-1, shall be granted access to these materials. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. "Involved in competitive decision-making" includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.
3. Unless otherwise changed pursuant to paragraph 4, the final date of any participant's access shall be the earlier of:
  - (a) the date on which the Postal Rate Commission issues its final advisory opinion or otherwise closes Docket No. N2006-1;

- (b) the date on which that participant formally withdraws from Docket No. N2006-1;
  - (c) the last date on which the person who obtains access is under contract or retained or otherwise affiliated with the Docket No. N2006-1 participant on whose behalf that person obtains access, whichever comes first. The participant immediately shall notify the Postal Rate Commission and counsel for the party who provided the protected material of the termination of any such business and consulting arrangement or retainer or affiliation that occurs before the closing of the evidentiary record.
- 4. Immediately after the Commission issues its final advisory opinion in Docket No. N2006-1, a participant (and any person working on behalf of that participant) who has obtained a copy of these materials shall:
  - (a) certify to the Commission that the copy was maintained in accordance with these conditions (or others established by the Commission); and
  - (b) either certify that the copy (and any duplicates) either have been destroyed or returned to the Commission, or present written consent from the Postal Service to extend the obligation to destroy or return copies until a date certain or until the occurrence of some other event specified by the Postal Service.
- 5. The duties of any persons obtaining access to these materials shall apply to material 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 the document, as well as to the entire document.
- 6. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material 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 Docket No. N2006-1.

8. The duty of nondisclosure of anyone obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 10 through 15, below.
9. Any Docket No. N2006-1 participant or other person seeking access to these materials by requesting access, consents to these or such other conditions as the Commission may approve.
10. The Postal Service shall clearly mark the following legend on each page, or portion thereof, that the Service seeks to protect under this agreement: “Confidential—Subject To Protective Conditions In Docket No. N2006-1 Before the Postal Rate Commission” or other markings that are reasonably calculated to alert custodians of the material to its confidential or proprietary nature. Except with the prior written consent of the Postal Service, or as hereinafter provided, no protected information may be disclosed to any person.
11. Any written materials — including but not limited to discovery requests and responses, requests for admission and responses, deposition transcripts and exhibits, pleadings, motions, affidavits, written testimony and briefs — that quote, summarize, or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary’s office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
12. Any oral testimony, argument or other statements that quote, summarize or otherwise disclose materials protected under these protective conditions shall be received only in hearing sessions limited to Postal Service representatives and other persons who have complied with the terms of the protective order and have signed the attached certifications. The transcript pages containing such protected testimony shall be filed under seal and treated as protected materials under paragraph 11.

13. Notwithstanding the foregoing, protected material covered by paragraphs 11 or 12 may be disclosed to the following persons without their execution of a compliance certificate. Such disclosure shall not exceed the extent necessary to assist in prosecuting this proceeding or any appeals or reconsideration thereof.
  - (a) Members of the Commission.
  - (b) Court reporters, stenographers, or persons operating audio or video recording equipment for such court reporters or stenographers at hearings or depositions.
  - (c) Any other person designated by the Commission in the interest of justice, upon such terms as the Commission may deem proper.
  - (d) Reviewing courts and their staffs. Any person seeking to disclose protected information to a reviewing court shall make a good faith effort to obtain protective conditions at least as effective as those set forth in this document. Moreover, the protective conditions set forth herein shall remain in effect throughout any subsequent review unless overridden by the action of a reviewing court.
14. A participant may apply to the Commission for a ruling that documents, categories of documents, or deposition transcripts, stamped or designated as confidential, are not entitled to such status and protection. The Postal Service or other person that designated the document or testimony as confidential shall be given notice of the application and an opportunity to respond. To revoke confidential status, the proponent of declassification must show by a preponderance of the evidence that public disclosure of the materials is consistent with the standards of the Freedom of Information Act, 5 U.S.C. 552(b)(1)-(9), and Commission precedent.
15. Subpoena by Courts or Other Agencies. If a court or other administrative agency subpoenas or orders production of confidential information which a participant has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within two business days) notify the Postal Service (or other person who designated the document as confidential) of the pendency of the subpoena or order to allow the designating party time to object to that production or seek a protective order.

### CERTIFICATION

The undersigned represents that:

Access to materials provided in Docket No. N2006-1 by the Postal Service in response to Presiding Officer's Ruling No. N2006-1/7 (hereinafter, "these materials" or "the information") has been authorized by the Commission.

The cover or label of the copy obtained is marked with my name.

I agree to use the information only for purposes of analyzing matters at issue in Docket No. N2006-1.

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 these materials in accordance with all of the protective conditions set out above.

Name \_\_\_\_\_

Firm \_\_\_\_\_

Title \_\_\_\_\_

Representing \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

CERTIFICATION UPON RETURN OF  
PROTECTED MATERIALS

Pursuant to the Certification which I previously filed with the Commission regarding information provided in Docket No. N2006-1 by the Postal Service in response to Presiding Officer's Ruling No. N2006-1/7 (hereinafter, "these materials" or "the information"), received on behalf of myself and/or the party which I represent (as indicated below), I now 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 these materials in strict confidence 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. N2006-1.
3. I have returned the information to the Postal Rate Commission.
4. I have either surrendered to the Postal Rate Commission or destroyed all copies of the information that I obtained or that have been made from that information.

Name \_\_\_\_\_

Firm \_\_\_\_\_

Title \_\_\_\_\_

Representing \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_