

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

EVOLUTIONARY NETWORK DEVELOPMENT
SERVICE CHANGES, 2006

Docket No. N2006-1

REPLY OF THE UNITED STATES POSTAL SERVICE
TO COMMENTS OF THE AMERICAN POSTAL WORKERS UNION
TO PRESIDING OFFICER'S RULING NO. N2006-1/7
(May 15, 2006)

In accordance with Presiding Officer's Ruling No. N2006-1/8 (May 10, 2006), the United States Postal Service hereby files its reply to the May 9, 2006, Comments of the American Postal Workers Union in response to Presiding Officer's Ruling No. N2006-1/7.

The data for which the Postal Service considers the protective conditions to have been adopted fall into two categories. The first are reflected on Worksheet 4 of each AMP study, the estimates of operations-specific Origin-Destination Information System (ODIS) volumes (or other operations-specific data on those Worksheets that, in combination, could be used to deduce or "back into" those volumes) that flow between the specific 3-digit ZIP Code pairs that represent the consolidated and the gaining facility. The second category of data is the Worksheet 7 Origin-Destination Information System (ODIS) volume estimates of upgraded volumes for specific mail classes by 3-digit ZIP Code origin-destination pair.

At page 2 of its comments, APWU indicates that it has no intention, within the context of Docket No. N2006-1, of revealing the Worksheet 4 and Worksheet 7 AMP

decision package data for which the protective conditions appended to Presiding Officer's Ruling No. N2006-1/7 were established. The Postal Service is gratified by APWU's commitment to abide by those restrictions, as the protection of the Postal Service legitimate commercial interests benefit the Postal Service and its employees alike. However, APWU expresses concern that the protective conditions appended to Presiding Officer's Ruling No. N2006-1/7 might be interpreted to "restrict the free use of" information subject to that ruling "for contract administration or in other forums outside . . . [of] Postal Rate Commission proceedings "

Accordingly, APWU proposes the addition of supplemental provisions to those conditions appended to Presiding Officer's Ruling No. N2006-1/7. As explained below, those supplemental provisions should not be adopted.

Under Article 12 of the APWU/USPS Collective Bargaining Agreement, the Postal Service shares information with APWU for purposes of contract administration. Before this proceeding was initiated, the Postal Service determined that it would need to share information with APWU regarding each AMP decision, but that it would need to do so in a manner that ensured that its proprietary commercial interests were protected through the imposition of conditions on disclosure of Worksheet 4 and 7 data, both in and out of the instant docket. Accordingly, redacted and unredacted copies of each AMP final decision were prepared for disclosure to APWU, with the understanding that the unredacted copies would be provided subject to conditions designed to prevent public disclosure of the aforementioned data.

It has only very recently come to the attention of undersigned counsel that there has been some inconsistency in the communication of these disclosure restrictions to

APWU, as Article 12 copies of (the same AMP decision packages at issue in this docket) have been disclosed to the APWU. The Postal Service does not consider that any such inadvertence constitutes a waiver of its claims of proprietary privilege or should negate the currently applicable protective conditions.

APWU's approach to discovery in this docket has demonstrated a sensitivity to the need to protect the Postal Service' commercial interests, even as regular labor-management meetings outside the context of this docket continue for the purpose of examining the various AMP decision packages and the AMP process in general.

The Postal Service questions the need to supplement the currently applicable protective conditions for those purposes within the context of this docket. The Postal Service is more than willing to work directly with the APWU outside the context of this proceeding to ensure that both entities are able to pursue the resolution of issues related to AMP consolidation outside the sphere of § 3661, in whatever forums such issues may arise, and subject to conditions that protect their mutual interest in restrictions on the public disclosure of commercially sensitive postal volume data.

The Postal Service comments on the proposed supplemental conditions below.

Number 1

This proposal is worded so as to grant all parties freedom from the responsibilities imposed by protective conditions, if one of them should violate those conditions. Such a proposal is inconsistent with the purpose behind protective conditions and should be of concern to the many parties whose commercial interests are subject to the protections that the Commission has to offer. As worded, this provision would release all parties from their obligations if one among them willfully or

unintentionally violates applicable conditions. It should be rejected.

Number 2

As worded, this proposal would excuse from any obligation to abide by the protective conditions any party who merely claims to have known the information prior to having obtained it under the protective conditions. Thus, if one member or employee of a large organization can assert that he or she saw a copy of one of the Worksheets 4 or 7 under any circumstances or some document or glanced at some computer screen which they believe reflected the ODIS volumes that ended up on that Worksheet at any time from the beginning of the AMP study process, then the protective conditions are nullified, irrespective of how that earlier knowledge was obtained or whether it can be verified. Likewise, this provision should not be adopted.

Number 3

This provision appears designed to absolve any party of any obligation to abide by applicable protective conditions by glossing over any distinction between a person being authorized to disclose data generally and that person being authorized to disclose data without protective conditions. Accordingly, it should be rejected.

Number 4

This provision would turn mere possession of a copy of a document into proof that that it was obtained free from restriction. Possession of a document by a recipient establishes nothing more than possession. It does not establish that a privilege was waived or that a document was properly disclosed or obtained.

Number 5

The Postal Service has no objection to this provision.

Number 6

Given the nature of the Origin-Destination Information System data at issue, it is not clear from how the APWU would be able to *independently* develop its own 3-digit ZIP Code to 3-digit ZIP Code mail class-specific ODIS volume estimates, unless the word *independently* is a euphemism for some other term. This proposal should also be rejected.

For the forgoing reasons, the Commission should not adopt suggestions 1 through 4 or 6 proffered by APWU.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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