

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

**Rate and Service Changes To Implement
Baseline Negotiated Service Agreement
With Life Line Screening**

Docket No. MC2007-5

**AMERICAN POSTAL WORKERS UNION, AFL-CIO RESPONSE IN OPPOSITION
TO MOTION OF LIFE LINE SCREENING FOR PROTECTIVE CONDITIONS
REGARDING RESPONSE OF WITNESS GREENBERG TO INTERROGATORIES
APWU/LLS-T1-1-4, 6 AND 7
(October 11, 2007)**

On September 21, 2007, the American Postal Workers Union, AFL-CIO (APWU) submitted interrogatories to Life Line Screening witness Eric Greenberg (LLS-T1). On October 5, 2007, Life Line filed a Motion for Protective Order regarding APWU interrogatories APWU/LLS-T1-1-4, 6 and 7. The APWU hereby responds to this Motion and urges the Commission to deny the imposition of protective conditions as unnecessary and unsupported by Life Line's request.

The Commission has long recognized the strong public policy favoring openness and transparency in regulatory proceedings. This important public policy should not be disregarded lightly. In Docket No. R97-1 the Commission stated that in evaluating claims of confidentiality it must

balance the potential competitive harm of disclosure against the strong public interest in favor of empowering each participant to obtain all the evidence needed to prove its case. As the Commission has recognized in past controversies, in accordance with long-established principles governing

discovery in civil litigation, *evidentiary privileges are exceptions to the general rule that proceedings must be conducted in public view.*¹

In an Order issued recently in this docket, the Commission reconfirmed that “due to this ‘strong public policy favoring public disclosure,’ the burden of establishing the need of protective conditions is on the participant asserting their necessity.”² The Commission further stated that it “has consistently held that nominal support in the form of generalized assertions for a claim that the information sought is highly confidential and commercially sensitive is not sufficient for the granting of protective conditions.” Life Line has failed to satisfy its burden in this case.

In its Motion, Life Line merely asserts that this information sought in interrogatories APWU/LLS-T1-2, 3, 4, and 7 “is confidential as it provides the basis of Life Line’s marketing strategies.” This is a boilerplate response with no support. A participant seeking protective conditions must show that it will be damaged by public disclosure in a “meaningful way.”³ Life Line has provided no evidence, beyond mere assertion, that its competitive position would be harmed by these disclosures. In seeking protection for its response to APWU/LLS-T1-6, Life Line argues that it should be protected because the interrogatory seeks an “internal, non-public position” on an issue “for which there is no consensus.” LLS Motion at 2. Life Line doesn’t even assert that this information is confidential or would damage Life Line in any manner. Prohibiting the public disclosure of relevant material based on general, unsupported claims of commercial harm would violate public policy and Commission precedent.

¹ Docket No. R97-1, Presiding Officer’s Ruling No. R97-l/62, at 8 (emphasis added).

² Docket No. MC2007-5, Order No. 39 at 3-4.

³ Docket No. R2001-1, Presiding Officer’s Ruling No. R2001-1/2, at 2.

The information sought by APWU's interrogatories is highly relevant to the veracity of the asserted necessity of the proposed Negotiated Service Agreement. Given the strong public policy favoring public disclosure and Commission precedent on this issue, Life Line's Motion for a Protective Order should be denied.

Respectfully submitted,

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