

in related areas to bring them into conformity with the fundamental shift. For these reasons, the Commission is likely to need the programs implementing the MODS-based method for distributing mail processing costs to subclasses if it is to stay abreast of these developments in cost attribution, and retain its ability to competently interpret the CRA.

Scope Arguments That Assume Improper Commission Motives

The Postal Service seems to be aware that neither the wording of the Periodic Reporting Rule, nor the list of examples of what it would cover, supports its assertion that it would require as much CRA documentation as would be required in a full-blown rate case. The main support that it offers for this assertion is its hypothesis that the Commission has an array of improper motives for updating the rule (*e.g.*, to supplant the Postal Service's auditors, to take day-to-day monitoring away from postal management, to conduct rate cases off the record, to upset the legislative balance, *etc.*). Given such motives, it claims, it is "inevitable" that the Commission will ignore the limits of its rule and seek the full-blown rate case documentation. Substantive Comments at 22.

As an example of the full-blown rate case documentation the Postal Service says the rule will require, it cites two special studies that it says it has relied on to develop the CRA, neither of which has been publicly disclosed. One estimates attributable carrier costs, the other facility-related attributable costs. It argues that "[u]nder the proposed rule, any such study would need to be extensively documented in order for its new data and methods to be understandable to, and usable by the Commission." *Id.* at 22. It estimates that it would take 6 person-months to adequately document the carrier cost study, and 12 person-months to adequately document the facility costs study. *Ibid.*

The Postal Service does not attempt to explain why it would take this much *additional* time to document such studies, and no plausible explanation is readily apparent. These studies, presumably, have already been documented sufficiently by their authors to convince upper management that they provide a sound basis for one of its most important routine financial reports. The rule, however, only requires that the Postal Service provide the input data and processing programs used to perform the study. It is not plausible that a study could have received this level of scrutiny and

acceptance unless there was already in existence a set of input data and processing programs that the author could locate and provide in less than six (or twelve) months. Similarly, it is not plausible that it would take six (or twelve) months for the author of the study to prepare a morning's briefing on the study for interested parties, if the Postal Service were to choose that option.

In order to have any credibility, these burden estimates have to assume that the Commission will ignore the limits of the rule and seek full rate case documentation of the study, including detailed narrative testimony that establishes a foundation for study results and defends the theory, the estimating techniques, and the robustness of the results. It can be seen that, with respect to Level Three CRA documentation especially, there is an enormous gap between the relatively insignificant additional burden of complying with the rule and what the Postal Service spends its time and energy opposing.

The Postal Service contends that if it did not use any new special studies in the CRA, complying with the rule would require 78½ additional person-days. It does not explain why it would take this much effort, since it already prepares this documentation for reasons apart from the rule, and its preparation is (or could be) almost entirely automated.

Even if this estimate were accurate, however, it should be kept in perspective. When the Postal Service prepares an omnibus rate request, by its own account, it produces tens of thousands of pages of documentation, data, and testimony, most of which is devoted to explanation of its cost, revenue, and volume estimates. The burden of producing this information is so heavy, according to the Postal Service, that it must begin its preparation approximately six months in advance in order to file by its target date. Substantive Comments at 21. Over that period, the Postal Service assigns a host of consultants and its own professional staff to this task. The hours that the Postal Service says it needs to comply with the CRA documentation requirements of the Periodic Reporting Rule (in the normal circumstance where it is not based on new special studies) is a tiny fraction of the burden of documenting an omnibus rate filing.¹²

¹² It should be borne in mind that the burden of documenting new cost studies is not increased by the Periodic Reporting Rule, since it is part of the burden of preparing an omnibus rate request.

Yet the Postal Service's comments are replete with assertions designed to leave the impression that the rule would impose a burden that is comparable to the burden of preparing additional omnibus rate filings. *Id.* at 4, 7, 15, 21. The Postal Service's arguments about the balance of powers between the Postal Service and the Commission being "fundamentally altered" due to a massive increase in the Postal Service's "regulatory overhead," interference with postal management's ability to focus, conducting rate cases off the record, *etc.*, evaporate when its gross mischaracterization of the burden of complying with the rule is exposed.

The Postal Service becomes particularly apocalyptic about the prospect of answering informal questions about the way it produces the CRA. It asserts that comments were made at the technical conference held on April 3, 2003, indicating that the Commission staff "envisioned the establishment of a process" whereby the Commission, and others, could direct questions to the Postal Service concerning the documentation that it provides under the rule. *Id.* at 7. According to the Postal Service, this raises "the possibility of an open-ended, 'perpetual' rate-case." *Id.* at 15. In the Postal Service's mind, this possibility then morphs into the specter of

year-round rate-making style data-production, documentation, and perhaps more significantly, ongoing inquiries by the Commission, Postal Service competitors, and any other interested party with the time and resources necessary to pursue such activities.

Id. at 18. This leads the Postal Service to warn

[i]f such pseudo-discovery were similar to that encountered by the Postal Service in omnibus rate cases, one would expect the burden associated with responding to questions on new cost studies to be very large indeed. The very open-endedness of such extra-record questioning not only raises serious concerns regarding the potential burden involved, but reinforces the fundamental objection that the Postal Service and the Commission should not be spending their time and resources devising ratemaking procedures that not only are unsupported by our governing statute, but actually conflict with that statute.

Id. at 23–24.

Never, in recent memory, has the Postal Service tried to make such a grandiose mountain out of such an insignificant molehill. The Commission's staff entered the technical conference without having discussed, let alone taken a position, on the question of whether there should be informal questioning of the Postal Service staff under the rule. In the