

documentation could be put, and the Postal Service has suggested none.

The commenters argue that the Postal Service's main motive in opposing the update to the Periodic Reporting Rule is not its new-found concern for the commercial sensitivity of this data, but the loss of the tactical advantage that it has entering rate cases fully prepared while the intervenors play a desperate game of catch up in the short litigation window available. See ABA Comments at 3–4, OCA Reply Comments at 1, UPS Reply Comments at 6. American Business Media's comments are representative

American Business Media submits that what the Postal Service fears is actually the loss of the enormous advantage it obtains by springing mountains of data, new costing methodologies, and hundreds of proposed rates upon the Commission and other parties a mere ten months before a heavily litigated case with dozens of active parties must be resolved.

ABM Reply Comments at 5. [Footnote omitted.]

The comments in this docket from those who have participated in past rate hearings agree that the Postal Service's assertions of the commercial sensitivity of the information required by the Periodic Reporting Rule are indiscriminately broad. The American Bankers Association, for example, argues that

* * * virtually no other enterprise, including those that compete with the Postal Service in the small area where there is direct competition, has a cost structure that even remotely resembles the cost structure of the USPS. Thus, the sort of data the proposed rule changes would require the Postal Service to produce does not seem to be the sort of data that would give competitors in the small area where there is competition information of value.

ABA Comments at 4.

These commenters point out that only a few of the Postal Service's products are provided in competitive markets (Express Mail, Priority Mail, and parcel post), and that their commercial significance is minor. (They accounted for only 7 percent of net postal revenue in FY 2002.) They argue that this competitive "tail" should not wag the dog in matters of information disclosure. They note that if there is sensitive information about these services in the materials required by the rule, the Postal Service could identify it with specificity and seek appropriate protective conditions to prevent any perceived harm. ABA Comments at 4, GCA Comments at 6–7, UPS Reply Comments at 6.

Commercial Sensitivity Objections Involve Only the Frequency of Disclosure Required by the Rule

As already noted, the Postal Service has consistently disclosed the CRA documentation required by the updated Periodic Reporting Rule to the public in its omnibus rate requests and has voluntarily disclosed most of this documentation in some interim years as well. It has not asked that it be treated as commercially sensitive in either context. The Postal Service's objections to its disclosure under the Periodic Reporting Rule, therefore, have to be based almost entirely on the prospect that under the rule, these same materials would be disclosed more frequently than they otherwise would be. The logic of the Postal Service's position seems to be that disclosing these materials is not a significant commercial risk when their disclosure occurs at the frequency that it has in the past, but would become a significant risk if disclosed annually.

The Potential Harm of Annual Disclosure Has Already Been Tested

If annual disclosure were the true test of the dangers of disclosing these materials, the Postal Service has already conducted this test. Every year for a six-year period starting with FY 1995 (provided in Docket No. MC96–3), and ending in FY 2000 (provided in Docket No. R2001–1), the Postal Service has publicly disclosed the CRA documentation that the Periodic Reporting Rule now requires. Rather than suffer financially, this was by far the most prosperous period that the Postal Service has had since the adoption of the Postal Reorganization Act in 1970. The Postal Service's competitive services participated fully in this unprecedented prosperity. This should dispel the Postal Service's fears that annual disclosure of the information required by the Periodic Reporting Rule will adversely affect its financial prospects or its competitiveness. By the same token, it should also dispel the notion that the institutional calamities that the Postal Service warned would ensue from annual disclosure will, in fact, occur. Over this period there was no attempt by the Commission to monitor day-to-day management of the Postal Service, to audit its books of account, to supervise its data collection activities, or develop rate recommendations outside of a pending rate case. Nor did the Commission compromise any Governors' decision through interim-year research, or take any other action that "fundamentally altered" the

institutional relationship between the Commission and the Postal Service.

What did happen over this six-year period of annual disclosure was that the Commission had a better opportunity to keep current on the "state of the art" of cost attribution as practiced by the Postal Service. It had a better opportunity to evaluate its forecasting models to see where their assumptions held up and where they didn't. The Commission was better able to waive some documentation requirements in minor cases, due to the availability of recent Base Year CRA documentation. And, finally, some of the pressure was taken off of the Commission and the intervenors to quickly digest the enormous amount of supporting material filed with omnibus rate requests.

Recent history with annual disclosure, therefore, confirms that it significantly improves the ability of the Commission to process rate hearings without causing any of the various forms of institutional harm that the Postal Service posits. The purpose of the updates to the Periodic Reporting Rule is to continue the successful pattern of the FY 1995–FY 2000 period, rather than to restructure the Postal Reorganization Act, as the Postal Service asserts.

V. Provisions of the Rule Not Related to Documentation of the CRA

In addition to updating the portions of the Periodic Reporting Rule that deal with documenting the CRA, the updated rule reduces the lag allowed for reporting billing determinants for Express Mail, Priority Mail, and parcel post to 12 months after the close of the fiscal year, [§ 102(a)(10)]; requires the Postal Service to provide its Integrated Financial Plan [§ 102(a)(11)]; requires it to provide the input data and calculations used to produce annual Total Factor Productivity estimates [§ 102(a)(12)]; requires it to provide a finer level of detail in its quarterly RPW reports [§ 102(b)(1)]; and requires it to provide On-roll and Paid Employee Statistics (OPRES) [§ 102(c)(4)]. The Postal Service indicates that it does not object to these changes in the updated Periodic Reporting Rule. Substantive Comments at 36–37.

The Postal Service does object to § 102(c)(5), which requires it to provide the "HAT" report, relating to the Postal Service's Active Employee Statistical Summary. It argues that the HAT report includes miscellaneous information about postal employees, most of which is not related to ratemaking. *Id.* at 37, n.22. While it includes miscellaneous information about employees, the HAT