

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

POSTAL RATE AND FEE CHANGES, 2006

Docket No. R2006-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE
TO THE OCA'S MOTION TO COMPEL RESPONSES TO OCA/USPS-100 - 108
(December 18, 2006)

On November 27, 2006, the Postal Service objected to the following interrogatories of the OCA, filed on November 15, 2006: OCA/USPS-100 – 108. These questions all relate to information from or regarding the Delivery Office Information System (DOIS), which contains a variety of data on city carrier operations. On December 11, the OCA filed a motion to compel. The Postal Service hereby opposes that motion to compel.

The OCA motion seriously mischaracterizes the totality of the Postal Service's objection. The first ground for objection stated by the Postal Service was that the questions are not timely:

General discovery against the Postal Service ended on July 14. See Presiding Officer's Ruling No. R2006-1/12 (June 30, 2006). Although, as noted on page 3 of that ruling, "the deadline for initial discovery does not curtail the availability of germane follow-up, or questions to acquire additional information necessary for the development of direct or rebuttal evidence," such exceptions to the discovery deadline are limited to those purposes enumerated by the Presiding Officer. The OCA's questions 100 through 108 do not fall within any of the stated exceptions.

Objection at 1. Additionally, the Postal Service noted that the questions were also improper as outside the scope of Rule 25, because, based on admissions made by the OCA in the pleading in which the interrogatories were submitted, they were not intended

to elicit information that could be introduced into evidence in this docket. Objection at 1-2. The OCA's motion to compel confounds these two distinct grounds for objection by misleadingly suggesting that the Postal Service's "timing" objection was limited to a contention that an inability to use the requested information in the current case automatically disqualifies it for provision. Motion to Compel at 2. In fact, the timing objection, *per se*, was that general discovery against the Postal Service ended on July 14, and the OCA's new questions did not fall within any of the exceptions stated by the Presiding Officer to that deadline. The OCA's motion to compel does not directly address this objection at all.

Instead, what the OCA attempts to do is bootstrap *another* exception to the established discovery deadlines, based on comments made in a Presiding Officer's Ruling in the last case in the context of another OCA request for generation of an alternative database using DOIS data. Motion to Compel at 3-4. In most relevant part, that Ruling reads:

Inherent in [due process rights] is a right to submit alternative cost analyses based on databases other than those that the Postal Service has itself endorsed. This requires that a path be made available by which a participant has a realistic chance to present an alternative cost analysis based on data other than those that the Postal Service has specifically endorsed. If a potential participant is to have no assistance from the Postal Service toward this goal between rate cases, rate cases must follow procedures that provide such a path. If that means exempting an analysis that proposes to use an alternative dataset from the normal procedural deadlines, that solution will have to be considered.

Presiding Officer's Ruling No. R2005-1/46 (July 8, 2005) at 14. The OCA apparently wishes to interpret this as a *carte blanche* to ignore discovery deadlines in pursuit of any and all information about DOIS. Instead, all the Ruling said was that if parties had no realistic chance to present an alternative cost analysis based on an alternative

database, exemptions from normal procedural deadlines would be “considered.”

The reasoning of that Ruling is utterly inapposite in this instance. The Postal Service already worked informally with the OCA in this case to provide another DOIS database (i.e., in addition to the one it provided the OCA in Docket No. R2005-1 pursuant to the above Ruling), which was formally provided as USPS-LR-L-160 during the response period for general discovery against the Postal Service. Then, OCA witness Smith actually used that DOIS database in his direct testimony to “to present an alternative cost analysis based on data other than those that the Postal Service has specifically endorsed.” Clearly, the “path” contemplated by Ruling No. R2005-1/46 has already been made available, and no further exemptions to normal discovery rules need be considered.

Moreover, the OCA has essentially abandoned the portion of its request that would provide an “alternative database” consisting of yet more DOIS data. In light of the Postal Service’s objection, the OCA has chosen to “scale down” its database request (question 100) to any part of the DOIS data requested that the Postal Service has already developed for its own use. Motion to Compel at 2. In fact, there is no such “partial database,” as (other than in the context of the two sets of DOIS data already provided to the OCA) the Postal Service’s analysts have simply not had any opportunity to request the extraction of any data from DOIS. (The OCA requests the Presiding Officer to direct the Postal Service to provide any such “partial database,” but, besides being unwarranted, that would be a futile gesture as there is nothing to provide.) In practical terms, therefore, the OCA is within these questions no longer seeking anything remotely resembling the type of alternative database, taking many months to construct,

that was the foundation for the Presiding Officer's remark in Ruling No. R2005-1/46 concerning the potential need to reconsider strict application of normal discovery deadlines.

Instead, what is left of the OCA's request is a number of relatively routine questions about DOIS (at least compared with a mega-question like number 100) which could and should have been posed by the OCA during the general discovery period and which then could have been addressed by the Postal Service at that time. The OCA freely admits that it believes that these items would be useful to the OCA in advocating the use of Dr. Smith's database and analysis versus Prof. Bradley's database and analysis. Motion to Compel at 5-6. This is tantamount to an admission that the OCA wishes it had thought to request these materials during general discovery in order for Dr. Smith to have been able to incorporate them into the preparation, presentation, and defense of his direct testimony. No doubt many intervenor witnesses, subsequent to being subjected to written and oral cross-examination on their testimonies, might wish they could go back in time to obtain from the Postal Service materials they belatedly realize would have been useful in order to bolster the arguments made in their direct case. The procedural rules, however, do not allow a party to initiate discovery after its direct case has been submitted and challenged, simply in an apparent attempt to engage in *post hoc* rationalization.

The OCA wishes to dismiss these manifestations of due process procedures as simply the "formality of 'timing'." Motion at 5. Under a procedural schedule dictated by the applicable statutory deadline, however, formalities of timing are paramount. While all other parties are busily engaged in preparing their initial briefs, the Postal Service is

already obligated to eschew that opportunity in order to indulge the OCA's disdain for the formalities of timing and respond to the instant motion. The OCA talks about the ability of responsive material to be filed as a library reference in order to avoid the need to re-open the record (Motion at 5), but since the OCA then expresses its intent to rely on provided material to argue in favor of Dr. Smith's approach, that material nevertheless must get into the record somehow. And, of course, the OCA does not bother to suggest how arguments could possibly be based on this material (and provision made for responsive counter-argument), given the existing briefing schedule, or why it could possibly be fair to require the Postal Service to be tracking down information to respond to improper and untimely discovery requests during a period in which every other party can fully devote its resources to writing briefs. In other words, the OCA is quite blithely prepared to run roughshod over the procedural schedule and everybody else's due process rights in pursuit of its own ill-advised agenda.

Additionally, the OCA's motion does not adequately address other aspects of the Postal Service's objection. Contrary to the suggestion on page 5, the Postal Service did pose a privilege objection with respect to respect to questions 101 and 102, relating to labor relations. Objection at 4. Moreover, as also noted in the Objection with respect to question 103, patents are pending for certain elements of DOIS. Whether or not standard protective conditions (which the OCA suggests to address intellectual property concerns) would be sufficient in these instances would need to be explored. Plus, of course, access under protective conditions is only for purposes relating to the particular proceeding in which the conditions are established. The opportunity for access expires with the docket, which obviates the utility of protective conditions in terms of a request

for material that would not even be provided until after the record is expected to close.

Obviously, the Postal Service is gratified that the OCA has come to its senses and retreated from the mammoth data request presented by question 100 as originally posed. But what is left of the set still remains an improper attempt either to obtain material for use in this proceeding despite clear termination of the authorization to so under the applicable procedural schedule, or to obtain material for use outside of this docket, which is not authorized by Rule 25. It is long past time to close discovery in this docket, and allow the parties to focus on their final chore in this stage of the process by summarizing for the Commission in their briefs the evidence of record and the appropriate conclusions to be drawn from that record. In addition to the other grounds for objection stated by the Postal Service, there is no reasonable way to indulge the OCA's misguided discovery requests at this stage of the proceeding without seriously compromising the due process rights of other parties. The OCA's motion to compel should be summarily denied in its entirety.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Eric P. Koetting

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2992, FAX: -5402
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OCA/USPS-100. This is a request for data from the Delivery Operations Information System (DOIS) database by ZIP/Route/Day of Week. Data are requested for two distinct sets:

- Data for all ZIP codes and routes identified in USPS-LR-L-180. Data are requested on a daily basis for the time period October 1, 2003, through, and including, September 30, 2006.
- Data for **all** City Carrier Delivery Routes in the postal network (within their corresponding ZIP codes), for the time period October 1, 2003, through, and including, September 30, 2006. Please omit special purpose routes.

The following data items are requested:

(a) Route Characteristics

- Route Number (this may be encoded)
- Delivery Mode, where
 - C = curbline
 - F = foot
 - P = park & loop
 - D = dismount
 - O = other
 - X = delivery mode not reported
- Classification of delivery points by type of delivery point.
 - Number of residential curbline possible delivery points
 - Number of residential NDCBU possible delivery points
 - Number of residential centralized possible delivery points
 - Number of residential "other" possible delivery points
 - Number of business curbline possible delivery points
 - Number of business NDCBU possible delivery points
 - Number of business centralized possible delivery points
 - Number of business "other" possible delivery points
- Whether a route has a specific carrier assigned to it.
- Number of carriers delivering the mail on the route for each particular day.
- Route vehicle mileage

(b) ZIP Code Characteristics

- ZIP Code (this may be encoded)
- Population
- Units - Total housing units

- Land - Square miles of land area
- Water - Square miles of water area

(c) Delivery Dates

Please provide the delivery dates; also:

- Please identify each date that falls on a Sunday.
- Please identify each date that is a Postal Service holiday, i.e., when mail is not delivered.
- Please identify each route that is a business route.
- Within the set of business routes, please identify each route that does not receive Saturday delivery.

(d) Time Data

- (Managed Service Point) MSP Scan data
 - Scan for Hot Case
 - Scan for first route delivery point
 - Scan for last route delivery point
 - Scan for re-entry to delivery office
- Street Hours (from the Time and Attendance Control System (TACS)), as measured by
 - Clock out to street
 - Clock back in from street

(e) Mail Volumes

- Total Delivery Point Sequenced Mail
- Automated flats
- Automated letters
- Cased flats
- Cased Letters
- Parcels
- Priority Mail
- Sequenced flats, pieces
- Sequenced flats, number of sets
- Sequenced letters, pieces
- Sequenced letters, number of sets

- (f) Please provide definitions, or documentation references for the definition, for each variable provided. Identify all abbreviations or codes used in the database

for each variable, i.e., state exactly what type of data is represented by each abbreviation, code, or label.

OCA/USPS-101. Has the Postal Service conducted, or does the Postal Service have available, any studies, analyses, reports, or discussions addressing difficulties or problems in collecting, measuring, standardizing, cleaning, or processing Delivery Operations Information System (DOIS) data? If the answer is affirmative, please provide all such materials. Also, identify and describe any changes made by the Postal Service to ensure that the difficulties were eliminated or reduced.

OCA/USPS-102. Has the Postal Service conducted, or does the Postal Service have available, any critiques and/or analyses of the usefulness and reliability of Delivery Operations Information System (DOIS) data? If the answer is affirmative, please provide the analyses and studies.

OCA/USPS-103. Please provide a description of the USPS standardization, quality control procedures, and data/information correction and manipulation procedures that are applied to the Delivery Operations Information System (DOIS) data. Please describe whether and/or how the procedure(s) have changed over time.

OCA/USPS-104. Please describe the extent to which the Delivery Operations Information System (DOIS) database observations for data items normally collected are either not collected or are subsequently eliminated by quality control efforts, resulting in entries that are zero or blank.

- (a) How does one know when zero time or zero volume data for a route-day are due to a non-delivery day?
- (b) How does one know when zero time or zero volume data for a route-day are due to failure to collect the data?
- (c) How does one know when zero time or zero volume data for a route-day are due to correction and subsequent elimination of the data item(s)?

OCA/USPS-105. Excluding special purpose routes, if a ZIP code is represented in the Delivery Operations Information System (DOIS) data, does the Postal Service attempt to collect DOIS data for routes and carriers for all days in that ZIP code? If the answer is negative, please explain.

OCA/USPS-106. For each of the mail volumes collected by the Delivery Operations Information System (DOIS) (e.g., DPS, automated letters, etc.) please state who collects and measures the volume (i.e., the letter carrier making a physical count, the delivery supervisor making a physical count, a sorting machine read by a manager, tubs of mail converted by someone into piece counts, etc.) and at what stage of the mail processing/distribution chain the data are collected (e.g., at the MODS facility, at the distribution facility, etc.). Have there been any changes in how the volumes are collected? If so, please describe all such changes and give the dates (approximate dates are acceptable) for such changes.

OCA/USPS-107. Does the Delivery Operations Information System (DOIS) consistently include a zeroed observation for each Sunday and holiday?

- (a) Please explain.
- (b) Please explain how one can determine when zero Saturday observations are errors and when they occur simply because the observations are for business routes that are not delivered on Saturdays.
- (c) Please provide (or describe) the instructions given to delivery supervisors on how to enter Saturday data. If a route is not delivered on a Saturday (such as a business route), how should a delivery supervisor notate that in DOIS?
- (d) Please provide (or describe) the instructions given to delivery supervisors on how to treat Sundays when entering data in DOIS.
- (e) Please provide (or describe) the instructions given to delivery supervisors on how to treat postal holidays in DOIS. For purposes of this question, a postal holiday is defined as one that would normally be a delivery day, but for the holiday (i.e., no mail is delivered).

OCA/USPS-108. Have any ZIP codes been re-configured during the time period 10/1/03 through 9/30/06 within the strata referenced by witness Kelley in R2005-1?

- (a) Assuming that the response is affirmative, please provide a listing of ZIP code changes (encoded) by strata and explain the nature of the change.
- (b) Please provide a listing of new ZIP codes that were added to the postal network during the period 10/1/03 through 9/30/06.
- (c) Please provide a comprehensive list of **all** ZIP code re-configurations that took place during the period 10/1/03 through 9/30/06 (for ZIP codes that had one or more city carrier routes). Explain the nature of the re-configurations.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

Eric P. Koetting

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2992, FAX: -5402
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