

PRESIDING OFFICER'S  
RULING NO. R2005-1/47

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Postal Rate and Fee Changes

Docket No. R2005-1

PRESIDING OFFICER'S RULING ON VALPAK MOTION TO COMPEL  
RESPONSES FROM POSTAL SERVICE WITNESS TAUFIQUE  
(VP/USPS-T28/23-27, 48 and 51)

(July 8, 2005)

At issue is whether Postal Service witness Taufique should be compelled to provide answers to certain interrogatories filed by Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (Valpak).<sup>1</sup> The Service generally objects on grounds that the requested cost data and information — which are associated with Docket No. R2001-1 — are not relevant to issues in this proceeding. Instead, it says the relevant costs are the Docket No. R2005-1 base year and test year data and that, notwithstanding its position that the across-the-board request is based on a policy decision, it has provided extensive supporting material. Postal Service Objections at 1-2; Postal Service Reply at 3. The Service also objects to the lack of citations. Postal Service Objections at 2.

Valpak's position, on the other hand, is that the rates the Service has requested in this docket are derived by a simple, straightforward mathematical computation from the current rates which were partially litigated and then settled in Docket No. R2001-1.

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<sup>1</sup> Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Motion to Compel Answers to Interrogatories to Witness Altaf H. Taufique (VP/USPS-T28-23-27, 48 and 51), June 17, 2005 (Valpak Motion to Compel); Objections of the United States Postal Service to Valpak Interrogatories Directed to Witness Taufique, June 6, 2005 (Postal Service Objections). See also Reply of the United States Postal Service in Opposition to Valpak Motion to Compel Responses to Interrogatories VP/USPS-T28-23-27, 48 and 51, July 7, 2005 (Postal Service Reply) and Motion of the United States Postal Service for Late Acceptance of Filing of Reply to Valpak Motion to Compel, July 7, 2005 (Postal Service Motion for Late Filing). The Postal Service Reply incorporates by reference its earlier Objections.

Thus, it claims the rates requested in this docket have greater correlation and relevance to the cost evidence and testimony in Docket No. R2001-1 than to the cost evidence and testimony in any other docket, including the present one. Valpak Motion to Compel at 1-2. Valpak also asserts that it has provided relevant source citations for questions 48 and 51, and therefore claims that this cures the Service's objection on that ground. Valpak Motion to Compel at 1, fn. 1.

I. VP/USPS-T28-23-27

This set of questions focuses on USPS-LR-J-131, which was filed in support of the Service's Docket No. R2001-1 standard mail rate design proposals. The Service contends that the interrogatories ask a myriad of questions seeking descriptions of mail processing and delivery operations, related costs or wage rates that led to certain cost estimates in the that docket, or explanations of the relationships among various Docket No. R2001-1 cost inputs. Postal Service Objections at 1-2. The Service's position is that even assuming that Docket No. R2001-1 USPS-LR-J-131 provides part of the evidentiary basis for rates that are now in effect, current rates are not in controversy in the instant proceeding. *Id.* at 2.

The record shows that the Service has provided considerable data on test year and base year R2005-1 costs, and has gone to considerable effort to respond to interrogatories in the instant case. However, while the Service is correct that current rates are not in controversy in terms of its proposal, this ignores the larger context in which the Valpak interrogatories have been filed: namely, that Valpak is seriously considering filing an alternative proposal as part of its direct case or is exploring another perspective on the Service's across-the-board proposal. Thus, it appears that the answers Valpak seeks may lead to the discovery of admissible evidence, and it is on this basis that I will grant Valpak's Motion to Compel. To the extent the Service needs citations to assist in providing responses, Valpak is directed to provide the Service with as much information as possible. In addition, some aspects of these questions (such as

Question 24(c)(iii) and (iv), could be viewed as seeking potentially open-ended discussions of marginal cost and costing theories. Both participants are directed to work cooperatively to establish an acceptable scope and to minimize the need for any follow-up questions.

II. VP/USPS-T28-48 and 51

These questions, according to the Service, suffer from the same defect as the previous ones. In particular, the Service contends that question 48 presents a chart reflecting scores of figures that purport to be USPS costs from Docket No. R2000-1 (with no further citation), includes some cost calculations, and asks the Postal Service's rate design witness to confirm calculations based on Docket No. R2001-1 costs. *Ibid.* The Service contends that question 51 attempts a similar exercise, and argues: "Putting aside the absence of helpful citations in the various interrogatories or attachments, these interrogatories seek information irrelevant to the issues in the instant proceeding." *Ibid.* It reiterates that it has filed required PRC version base year and test year cost estimates, and that it is these costs, not the Docket No. R2001-1 costs that Valpak seeks to revisit, that are relevant to issues before the Commission. *Id.* at 2-3.

The Service also contends that each of these interrogatories contains a "bootstrap" assertion that Docket No. R2001-1 rate levels "are being perpetuated by" the Docket No. R2005-1 across-the-board proposal, as if this somehow provides a justification for re-litigating Docket No. R2001-1 costs now. It claims that it is of no consequence that the current rates reflect the accumulated results of a string of omnibus rate cases. Thus, it says there is no more basis for re-opening the Docket No. R2001-1 evidentiary record for re-examination in the current docket than there is for re-opening Docket Nos. R2000-1, R97-1 or MC95-1. *Id.* at 3.

As with questions 23-27, these interrogatories appear to be seeking answers that will assist Valpak in preparing its direct evidence. While wholesale reopening of the Docket No. R2001-1 record is not in order, a focused inquiry into the limited areas these questions pursue appears to be within the general standard allowing a participant to

conduct discovery that is reasonably calculated to lead to production of admissible evidence. Valpak also has submitted revised interrogatories that provide the citations the Service correctly notes were missing from the initial set. Thus, although this may not fully “cure” the objection, it should materially assist the witness in providing an answer.

### III. Late Filing

The Postal Service Reply was accompanied by a Motion for Late Filing. Therein, the Service indicates that a timely response was not filed due to an inadvertent oversight occasioned, in part, by counsel having been out of town when the Valpak Motion to Compel was filed. The Motion for Late Filing is granted.

### RULING

1. The Valpak Direct Marketing Systems, Inc. and Valpak Dealers’ Association, Inc. Motion to Compel Answers to Interrogatories to Witness Altaf H. Taufique (VP/USPS-T28-23-47, 48, and 51), filed June 17, 2005, is granted.
2. The Motion of the United States Postal Service for Late Acceptance of Filing of Reply to Valpak Motion to Compel, filed July 7, 2005, is granted.

George Omas  
Presiding Officer