DOCKET SECTION

PRESIDING OFFICER'S
RULING NO. R97-1/45

Oct 10 3 36 PM '97
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

Postal Rate and Fee Changes

Docket No. R97-1

PRESIDING OFFICER'S RULING
GRANTING IN PART MOTION TO COMPEL
RESPONSE TO OCA/USPS-8
(October 10, 1997)

On September 18, 1997, the Office of the Consumer Advocate (OCA) filed a motion to compel a response to OCA/USPS-8.[1] That interrogatory asks the Postal Service to provide information concerning the purpose and provenance of numerous library references submitted by the Postal Service when it filed its Request initiating this docket. OCA states that, to the best of its belief, these library references are not referred to in the testimony or exhibits provided in support of the Request.

The Postal Service contends that it should not have to provide the requested information because the rules do not require such extensive foundation for library references, and because developing this information would be extremely burdensome during the period that Postal Service witnesses are occupied with answering other more focused discovery questions.

The status of library references in this case continues to be the subject of contention. As a result of Notice of Inquiry No. 1, and in response to several participant

[1] This request was part of a multi-part pleading. Office of the Consumer Advocate Motion to Compel Response to Interrogatories OCA/USPS-T32-57b and OCA/USPS-8, and Motion for Expedited Ruling as to OCA/USPS-8, and Motion for Late Acceptance (Motion). P.O. Ruling R97-1/23 granted late acceptance but denied the request for expedited ruling. The request as to OCA/USPS-T32-57b was denied (Tr. 4/1327).

pleadings, the Postal Service has undertaken to sponsor certain library references as evidence. However, most of the library references filed with the Postal Service Request are unlikely to be offered as evidence.[2] OCA/USPS-8(c) asks which witnesses rely on specifically numbered references, those which it cannot associate directly with any piece of Postal Service testimony. OCA/USPS-8(d) asks which witnesses created or contributed to the creation of any of the listed library references.

A response to either of these questions appears reasonably calculated to lead to the discovery of admissible evidence. While the requests will burden each Postal Service witness slightly, each should be able to review the list of library references and know which the witness prepared, and which contains information that the witness relied upon in the preparation of testimony or exhibits. Thus, I will require the Postal Service to respond to these subparts. To the extent that a library reference presents data specifically prepared for use in some other library reference that is relied upon by a witness, then that witness will be considered as having relied on both library references.

OCA/USPS-8(a) asks the Postal Service to confirm that the listed library references are not directly referred to in Postal Service testimony, or to indicate where any such reference can be found. For the reasons just stated, a response to this subpart should be provided.

OCA/USPS-8(b) asks the Postal Service to identify any witness sponsoring a listed library reference. Presiding Officer's Ruling R97-1/42 already directs the Postal Service to provide a complete list of library references that are being sponsored as evidence as of October 14, 1997. Because the requested information is already being provided, this discovery request is denied.

OCA/USPS-8(e) and (f) request information concerning the development of the listed library references. Although responses to these requests might produce information of some value, responses could involve significant amounts of work.

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[2] The Postal Service provided a Notice of Filing of Library References with its Request which identified by name 214 numbered library references.

Because of the unfocused nature of these questions, which ask for information about dozens of documents, I do not find them reasonably calculated to lead to the discovery of admissible evidence. I will not compel responses to these requests. However, the denial of these parts of the OCA motion is without prejudice to a subsequent, more focused request which can be more specifically related to a matter at issue in this case.

RULING

The Office of the Consumer Advocate Motion to Compel a Response to OCA/USPS-8 is granted in part as described in the body of this ruling.

Edward J. Gleiman
Presiding Officer