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

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SPECIAL SERVICES REFORM, 1996

Docket No. MC96-3

MOTION OF THE UNITED STATES POSTAL SERVICE FOR
RELIEF FROM OBLIGATION TO RESPOND TO INTERROGATORIES FROM
NASHUA/MYSTIC (NM/USPS-8-27)
PENDING RESOLUTION OF MOTION FOR RECONSIDERATION
OF PRC ORDER 1129 AND, IN THE ALTERNATIVE,
OBJECTIONS TO NASHUA/MYSTIC INTERROGATORIES
(August 19, 1996)

POSTAL RATE COMMISSION
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On August 8, 1996, Nashua Photo¹ and Mystic Color Lab (Nashua/Mystic) filed interrogatories 1-27 directed to the United States Postal Service.

On August 16, 1996, the Postal Service filed a Motion For Reconsideration Of PRC Order No. 1029, which expanded the scope of Docket No. MC96-3 to include consideration of a Business Reply Mail (BRM) classification proposal of interest to Nashua/Mystic. The Postal Service's August 16, 1996, Motion seeks a reversal of the Commission's Order or, in the alternative, the Commission's exercise of its authority under 39 U.S.C. § 3623(b) to initiate a separate classification proceeding for the consideration of the Nashua/Mystic proposal.

Pending resolution of its Motion For Reconsideration, the Postal Service also hereby moves that it be relieved of any obligation to respond to Nashua/Mystic interrogatories NM/USPS-8 through 27.

¹ Which the Postal Service apologizes for misidentifying in its August 16, 1996, Motion For Reconsideration Of PRC Order No. 1129 as "Nashua District Photo." Nashua Photo's litigation alliance with District Photo in previous cases, apparently, has had a lasting impression on some.

In all material respects, these interrogatories relate exclusively to Nashua/Mystic's interest in Business Reply Mail and would be affected by the Commission's disposition of the Postal Service's August 16, 1996, Motion For Reconsideration. In the event that the Postal Service's initial request in its Motion For Reconsideration is granted,² it appears prudent to assume that the Postal Service would be relieved of any obligation to respond to these interrogatories.

Alternatively, if the Commission should respond to the Motion For Reconsideration by initiating a separate proceeding for consideration of the BRM proposal, the Postal Service should be permitted to respond to these interrogatories on a timetable consistent with the procedural schedule established for such a proceeding.

Accordingly, the Postal Service requests that it be relieved of any obligation to respond to interrogatories NM/USPS-8-27 in this proceeding.

In any event, the Postal Service finds the aforementioned interrogatories objectionable on the following additional grounds:

NM/USPS-11 through 19; 21 and 22

Interrogatories NM/USPS-11 through 19 refer to the Rebuttal Testimony of Donald Mallonée which was offered by the Postal Service in Docket No. R94-1; interrogatories NM/USPS-21 and 22 refer to the Rebuttal Testimony of Hien Pham which also was offered by the Postal Service in Docket No. R94-1. The Commission struck both documents from the record in that proceeding. PRC Order

² That the Commission reverse its decision to expand the scope of Docket No. MC96-3 to include consideration of Nashua/Mystic's BRM proposal.

No. 1028 (September 28, 1994); aff'd, PRC Order No. 1032 (October 7, 1994).

As an example from this group, interrogatory NM/USPS-22(b) asks whether the current BRM fees, which are based upon the Docket No. R90-1 record, conform to characterizations of BRM service features which appear in Mr. Pham's rejected Docket No. R94-1 rebuttal testimony. The Postal Service objects to discovery designed to re-hash and clarify assumptions, observations, and opinions which the Commission chose to exclude from Docket No. R94-1. The ill-fated Mallonnee and Pham testimonies were proffered in the context of the unique circumstances of that proceeding. Considering the fact that the current fees are based upon the Docket No. R90-1 record and efforts by the Postal Service to update that record and those fees in Docket No. R94-1 were thwarted, any investigation of Business Reply Mail which seeks to provide a basis for future classification or fee changes should, of necessity, proceed on the basis of a relatively clean slate.³

The Postal Service has indicated that it currently is engaged in a comprehensive review of Business Reply Mail, with the intention of determining whether to request authority to pursue changes which will require review by the Commission.⁴ As it moves ahead with its internal review of Business Reply Mail,

³ To complicate matters, the authors of the proffered testimony no longer have responsibilities relevant to Business Reply Mail, having moved on to assume other important responsibilities.

⁴ Statement Of United States Postal Service On Plans For Business Reply Mail Reform (July 19, 1996).

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the Postal Service should not be saddled with the additional burden of measuring how Business Reply Mail operations have changed in relation to specific observations which were offered for, but excluded from the Docket No. R94-1. Given the incomplete state of the Docket No. R94-1 record on the issue of Business Reply Mail, the Postal Service does not consider that much will be accomplished if Nashua/Mystic are permitted to conduct a scavenger hunt through rejected portions of the Postal Service's Docket No. R94-1 Business Reply Mail fee presentation⁵ for the purpose of advancing their classification proposal.

NM/USPS-12 and 21

Several interrogatories are objectionable on other grounds. For instance, Nashua/Mystic pose a series of questions which seek confirmation of observations and opinions of Messrs. Mallonée and Pham concerning such matters as the history and the structure of the Postal Service's management of Business Reply Mail (NM/USPS-12 and 21). The Postal Service regards these interrogatories as irrelevant to the merits of any classification proposal Nashua/Mystic may pursue.

NM/USPS-14(a), (c) through (e)

Referring again to observations of Mr. Mallonée which were excluded from the Docket No. R94-1 record by the Commission, Nashua/Mystic seek updates on the

⁵ For instance, interrogatory NM/USPS-19 seeks an explanation of Mr. Mallonée's use of the term "minimal" in a particular context and poses a series of questions based upon that explanation. The Commission's rules generally do not allow discovery on rebuttal testimony. In the spirit of those rules, the Postal Service objects to discovery in the current docket on rebuttal testimony that was offered, but rejected by the Commission two proceedings ago.

number of customers who entered or dropped out of BRMAS in FY 1995 (NM/USPS-14(a and c)); the number of BRMAS letter senders who changed from letters to postcards or vice versa, or the number letter senders which added post cards or vice versa (NM/USPS-14(d); the average number of times a year BRMAS software must be reprogrammed at local sites (NM/USPS-14(e). The Postal Service does not appreciate the relevance of these questions to the Nashua/Mystic classification proposal.

NM/USPS-19

Interrogatory NM/USPS-19(c) seeks to determine why the current language in the Domestic Mail Manual does not include certain requirements. The Postal Service has promulgated implementing regulations it believes are not inconsistent with the Domestic Mail Classification Schedule. Insofar as the interrogatory inquires about the Postal Service's interpretation of the DMCS provisions pertaining to Business Reply Mail, the Postal Service considers that it calls for legal conclusions and, therefore, goes beyond the bounds of permissible discovery.

NM/USPS-22(b) and 26

The Postal Service's internal Business Reply Mail review has not advanced to the point where operational surveys and cost studies of the sort which might produce information responsive to a number of Nashua/Mystic interrogatories have been executed. Accordingly, the Postal Service is unable to offer responses to questions concerning Business Reply Mail costing and pricing policy (NM/USPS-22(b)) or the classification amendment Nashua appears to favor (NM/USPS-26).

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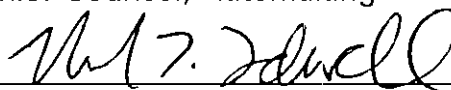
Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.

Chief Counsel, Ratemaking

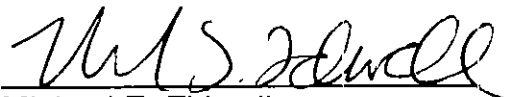


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August 19, 1996

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



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