

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

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POSTAL RATE COMMISSION
 OFFICE OF THE SECRETARY

Docket No. MC96-3

SPECIAL SERVICES REFORM, 1996

MOTION OF UNITED STATES POSTAL SERVICE
 TO COMPEL RESPONSES TO USPS/OCA-T400-37 AND 38

Pursuant to rule 25 of the Rules of Practice and Procedure, the United States Postal Service hereby moves to compel responses to interrogatories USPS/OCA-T400-37, and -38 to which OCA filed objections on November 4, 1996.¹ Each is addressed separately below.

Interrogatory USPS/OCA-T400-37

Interrogatory USPS/OCA-T400-37 follows-up on witness Collins' response to interrogatory USPS/OCA-T400-3(c) in which she cites the transcript from witness Lyons' appearance at hearings in support of the proposition that there has been a "fundamental change to the underlying costing" for certified mail. Interrogatory 37 seeks to have witness Collins confirm that the passage in the transcript to which she cites for that proposition was clarified further by witness Needham.² OCA objects to this interrogatory on the grounds that it is cumulative and the information sought to be elicited "serves no purpose."

Inasmuch as the Postal Service has never before asked witness Collins this question, the interrogatory is plainly not objectionable on grounds that it is cumulative. OCA's "serves no purpose" objection also must fail. Witness Collins has

¹ Office of the Consumer Advocate Objection to Interrogatories USPS/OCA-T400-35, 37 and 38 (November 4, 1996).

² Witness Needham explained that witness Lyons' statement was intended to refer to the certified mail *cost coverage*, not certified mail *costs*. Tr. 4/1198.

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cited a passage in a transcript which has been further explained by another witness representing the same party. Witness Collins should accordingly be prepared to respond to questions that seek her acknowledgement that that passage was subsequently clarified. This serves the Commission's interest in assembling a complete and accurate record by dispelling any uncertainty or confusion that may be caused by witness Collins' reliance on a passage that received further clarification. The interrogatory also serves to prevent OCA witnesses from building a record based on the cited passage. In sum, the interrogatory is reasonable and constitutes proper follow-up.

Interrogatory USPS/OCA-T400-38

Interrogatory USPS/OCA-T400-38 asks witness Collins to explain her representation at page 32 lines 26-27 of her testimony that no information has been provided on the maximum paid Express Mail document reconstruction claim for the most recent fiscal year.³ Specifically, interrogatory 38 asks witness Collins if she represents that no information was provided before and after her testimony was filed on the maximum paid claim for Express Mail document reconstruction. OCA claims that the interrogatory is objectionable on the grounds that no witness "should be obliged to expend the time and effort called for in examining every document filed in a proceeding" to confirm that no information has been provided by the Postal Service on the maximum paid Express Mail document reconstruction claim for the most recent fiscal year.

Interrogatory 38 simply tests witness Collins' awareness of the filings in this case that relate to her criticism that no evidence has been supplied on the maximum paid

³ In her response to USPS/OCA-T400-17, witness Collins explains that her statement is based solely upon her reading of three pages from the transcripts.

Express Mail document reconstruction claim. Witness Collins has placed the state of the record on this subject in controversy, so OCA cannot claim that the interrogatory is not relevant. To the extent OCA intended to object on grounds of undue burden, it has utterly failed to satisfy the Rule 25(c) requirement that effort required in preparing a response, along with an estimate of the cost and work hours involved, be provided. 39 C.F.R. § 3001.25(c); *see also* P.O. Ruling No. R87-1/49 at 4. Notwithstanding, OCA grossly exaggerates the scope of the materials it claims must be examined, especially given the subject matter of the interrogatory and the context of this proceeding. The interrogatory simply asks if an easily identifiable class of information has been provided. The subject matter of the interrogatory thus concerns a narrow, focused issue, and preparing a response to this question requires no analysis of information. The type of documents which should be reviewed to provide a response, moreover, can be identified with relative ease. *See* P.O. Ruling No. MC95-1/22 at 4 (reasoning that ease with which responsive information may be identified weighed in favor of granting motion to compel over overbroad objection). OCA should be well aware that only a small subset of the information filed in this docket need be reviewed to provide a complete and accurate response.⁴ Specifically, witness Needham responded to interrogatories pertinent to the matter at issue here since her

⁴ It is disingenuous for OCA to suggest a complete review of all filings in this docket is necessary, particularly if one assumes that OCA witnesses keep themselves apprised of discovery responses on matters related to their testimony. If OCA is unwilling to concede this point, then this motion serves to narrow the scope of the inquiry "so as to minimize burden on the OCA of providing an answer." *See* P.O. Ruling No. MC95-1/72 at 3 (requesting party's willingness to narrow scope of inquiry favored granting discovery request over undue burden objection).

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appearance at the Commission.⁵ A quick review of witness Needham's responses to these interrogatories would enable witness Collins to prepare an informed response to interrogatory 38. The Postal Service estimates that a review of these filings would not consume more than ten minutes of effort, if that. This could hardly be deemed unduly burdensome under prior precedent. Cf. P.O. Ruling No. R90-1/23 at 4 (holding that search time of a "few hours" not unduly burdensome).

Conclusion

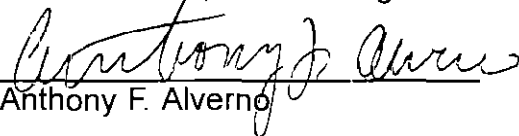
For the foregoing reasons, the Postal Service respectfully requests that its motion to compel responses to USPS/OCA-T400-37 and 38 be granted.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
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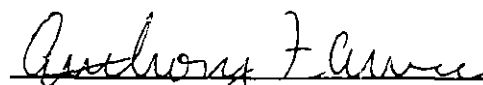

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November 14, 1996

⁵ See responses of witness Needham to interrogatories DBP/USPS-T8-27 (filed September 19, 1996), DBP/USPS-T8-41 (filed October 18, 1996), and DBP/USPS-T8-47 (filed November 8, 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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