

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

INITIAL RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO MOTION OF AAPS TO COMPEL PRODUCTION OF DOCUMENTS
REQUESTED IN INTERROGATORIES AAPS/USPS-T35-9 AND 10

The United States Postal Service hereby responds to a mischaracterization of its March 6th Objection to AAPS/USPS-T32-2.

On February 25, 2000, AAPS directed identical interrogatories to witnesses Mayes (AAPS/USPS-T32-2) and Moeller (AAPS/USPS-T35-10), requesting access to a document which can be identified for purposes of this pleading as the "1999 Assessment." On March 6, 2000, respective postal counsel for each witness filed separate objections to those interrogatories on behalf of the Postal Service. Contrary to the assertion at page 2 of the March 16, 2000, Motion to Compel Production of Documents Requested In AAPS/USPS-T35-9 and 10, there is no substantive distinction between the separate objections filed in response to the two virtually identical interrogatories.

In its March 16, 2000, AAPS attempts to validate its claim that the requested document is relevant to issues in this proceeding by characterizing as irreconcilable the two objections (one to T32-2, the other to T35-10) filed on March 6th. However, AAPS points to a semantic distinction without a difference. Referencing the objection to T32-2, AAPS asserts that:

the Postal Service does not deny all relevance [of the requested document], asserting in its March 6th Objections . . . that the document has 'virtually no materiality or relevance"

In a footnote appended to this quotation, AAPS contrasts the wording of this objection with the wording of the objection to T35-10, which describes the document as "clearly irrelevant." AAPS then declares that it has "chosen to go with the understated 'virtually no relevance' claim" AAPS Motion at 2, n.2. This is unavailing.

There is not a scintilla of difference in the objections. Based upon guidance from Mr. Moeller's counsel¹ (who was simultaneously preparing the objection to AAPS/USPS-T35-10), in particular his analysis of the document at issue and his direction about how to proceed, undersigned counsel prepared the Postal Service's objection to AAPS/USPS-T32-2, intending -- as "unplagiaristically" as possible -- to repeat the substance of what was to be stated in the objection to AAPS/USPS-T35-10, that the requested document had no relevance to the issues in this proceeding.

Other than concede that the "1999 Assessment" relates to a saturation mail competitor,² the objection to AAPS/USPS-T32-2 does not concede that the document has any measure of relevance to any issues in this proceeding. Hence, the objection indicates that the document is "virtually"³ irrelevant to postal ratemaking. The fact that any postal document would relate to any saturation mail competitor in any manner may pique the interest of AAPS. It does not, however, *ipso facto*, make the document relevant to postal ratemaking or to any issues in this proceeding.

¹ Mr. Moeller's counsel assumed the lead on the issue of the parallel interrogatories (and objections) because of his experience in the resolution of the predecessor discovery dispute which resulted in Presiding Officer's Ruling No. R97-1/52. It was his objection to T35-10 that undersigned counsel's objection to T32-2 was intended to replicate.

² A fact also acknowledged in the objection to AAPS/USPS-T35-10.

³ Or, "for all practical purposes" irrelevant. See, *Webster's 9th New Collegiate Dictionary*, at 1317 (Merriam-Webster, Inc. 1984).

The attempt by AAPS to argue that there is a substantive difference in the objections -- and, therefore -- a concession by the Postal Service of some measure of relevance of the document to this proceeding -- does not withstand scrutiny and does not merit the Commission's attention. The Postal Service files this response to the March 16th AAPS Motion for the sole purpose of immediately extinguishing the life of the mischaracterization of its objection to AAPS/USPS-T32-2. The Postal Service intends to file an opposition to the March 16th Motion to Compel within the time allotted by the Commission's Rules.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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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.



Michael T. Tidwell

March 17, 2000