

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

RECEIVED
APR 3 5 08 PM '00
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

EXPEDITED OPPOSITION OF UNITED STATES POSTAL SERVICE
TO MPA MOTION TO COMPEL ANSWERS TO
INTERROGATORIES MPA/USPS-T13-83, 85-90, 93-94, 96-97, 100-101, 106 & 108
TO WITNESS RAYMOND
(April 3, 2000)

On March 22, 2000, the United States Postal Service filed responses to interrogatories MPA/USPS-T13-83, 85-90, 93-94, 96-97, 100-101, 106 & 108, along with many other responses. More than a full week later, on March 30, 2000, the Magazine Publishers Association of America, Inc., (MPA) filed a motion to compel answers to interrogatories MPA/USPS-T13-83, 85-90, 93-94, 96-97, 100-101, 106 & 108 to witness Raymond. The basis of the motion is simple, if not valid. MPA makes two claims: the interrogatories concern important matters (MPA motion at 1-3), and witness Raymond's answers are vague and unresponsive (MPA motion at 3-7).

On March 30, 2000, the same day the MPA motion was filed, the Presiding Officer ruled that if the Postal Service wishes to have any opportunity to respond to the motion to compel, it must respond by Monday, April 3, 2000, rather than by April 6, the already short period for response contemplated by the Commission's rules. Alternatively, the Postal Service is directed to provide supplemental responses to the interrogatories in question by April 6.^{1/}

¹In essence, the ruling seems to reflect a summary judgement on the part of the Presiding Officer, made without any input from the opposing party, that the motion should be granted, unless, within an extraordinarily short period of time, the opposing party can carry the burden of persuasion that has now been shifted to it. The Postal
(continued...)

Because the Postal Service wishes the Commission to more fully understand why the witness answered as he did, and why his answers, although brief, were nevertheless reasonable under the circumstances, the Postal Service has decided to devote limited litigation resources to the daunting task of responding to a motion to compel on a complex subject within two business days.²

Context

In understanding the situation faced by witness Raymond in deciding how to respond to the MPA interrogatories at issue, it is important to recognize the substantial burden he was being asked to carry. On March 7, 2000, MPA filed two large sets of interrogatories to this witness. The first set, nominally containing MPA interrogatories 57-81, actually was composed of 121 different requests for information. The second set, MPA 82-109, contained an additional 139 requests. Furthermore, as will be seen below, some of the requests had additional sub-requests and permutations, calling for even more responses. All of these hundreds of responses were due on March 21, 2000. It is obvious that if the witness were to provide responses to these many interrogatories, that only a very limited time was available to answer each request. Similarly, if the question was worded in such a way as to not permit a straightforward

¹(...continued)

Service is concerned that the apparent prejudgement and summary treatment reflected in this order does not allow to the Postal Service an adequate opportunity to defend itself, and thus does not do justice to the procedural rights of the Postal Service.

Nevertheless, It is clear to the Postal Service that the only opportunity that will be allowed to it to counter the negative impressions conveyed by the MPA motion, and reflected in Ruling No. 25, is to file its opposition within the shortened time frame ordered.

²This diversion will inevitably impair the Postal Service's ability to respond to the massive number of outstanding interrogatories directed to witness Raymond and other witnesses, many of them propounded by MPA. Nevertheless, because of the importance of the issues at stake, the Postal Service believes that it must make the attempt.

response, very little time could be spent analyzing and discussing the deficiencies in the question.

The Complexity and Ambiguity Inherent in the MPA Questions

The time allowed to draft this Opposition does not permit a question-by-question discussion of why the witness responded as he did to the MPA interrogatories at issue, and why the answers provided were indeed responsive. Discussion of a few examples from among the MPA interrogatories should suffice.

Consider interrogatory MPA/USPS-T13-86, restated below:

MPA/USPS-T13-86. For the following tally types, please explain what STS activity the data collectors were observing, how you know that, and why you assigned the specified STS category. Please note that in some cases two or more STS categories are assigned to the same combination of Location-Activity-Activity Detail. In those cases, please explain why you have made distinctions. (If same tally type is included in more than one STS category, in the list below, it is asterisked.)

	STS Category	Location(s)	Activity(ies)	Activity Detail(s)
a.	Drive	In Vehicle at Stop, *Park Point, Vehicle*	Delay Code (D Codes)	N/A
b.	Drive	In Vehicle at Stop, *Misc, On Route, *Vehicle, *Wait When Walking	Delay Codes (D Codes)	Delay Codes (I Codes)
c.	Drive	In Vehicle at Stop*	DelaySpcfyDetail	Delay Codes (G Codes)
d.	Drive	In Vehicle at Stop, Park Point, Vehicle*	N/A	Vehicle Codes (K Codes)
e.	Drive	Vehicle, * Misc, Wait when walking	Delay Codes (D Codes)	Vehicle Codes (K Codes)
f.	Drive	Misc	N/A	Central Inside
g.	Drive	Misc, * Park Point, Vehicle*	N/A	N/A

h.	Drive	On Route	Travel B/t Dlvr.	Walking Push Cart
i.	Drive	On Route, Vehicle*	Parcel or Accountable	Vehicle Codes (K Codes)
j.	Drive	On Route	Travel to 1 st Dlvr	Vehicle Codes (K Codes)
k.	Drive	Vehicle	Del/Coll	Vehicle Codes (K Codes)
l.	Drive	Vehicle*	Parcel or Accountable	Drop to Customer
m.	Drive	Vehicle*	Parcel or Accountable	N/A
n.	Drive	Vehicle	No Access to Box	Vehicle Codes (K Codes)
o.	CAT	In Vehicle at Stop, * Misc, On Route, Vehicle*	Delay Codes (D Codes)	N/A
p.	CAT	In Vehicle at Stop, * In Vehicle Traffic, On Route, * Vehicle*	Delay Codes (D Codes)	Delay Codes (I Codes)
q.	CAT	In Vehicle at Stop, Vehicle*	Delay Codes (D Codes)	Vehicle Codes (K Codes)
r.	CAT	Misc	DelaySpcfyDetail	N/A
s.	CAT	Misc, Vehicle*	N/A	Vehicle Codes (K Codes)
t.	CAT	Misc, * On Route, Vehicle*	N/A	N/A
u.	CAT	On Route, Vehicle*	Parcel or Accountable	N/A
v.	CAT	On Route	Travel B/t Dlvr.	Walking Codes (K Codes)
w.	CAT	Point of Delivery	Travel B/t Dlvr.	Vehicle Codes (K Codes)
x.	CAT	Vehicle*	Parcel or Accountable	Vehicle Codes (K Codes)
y.	FAT	Misc, On Route	Delay Codes (D Codes)	N/A
z.	FAT	On Route*	Delay Codes (D Codes)	Delay Codes (I Codes)
aa.	FAT	Vehicle*	Delay Codes (D Codes)	Vehicle Codes (K Codes)
bb.	FAT	Vehicle*	Parcel or Accountable	N/A
cc.	FAT	Vehicle*	Parcel or Accountable	Vehicle Codes (K Codes)

dd.	FAT	Misc	Walking	Walking Codes (K Codes)
ee.	FAT	Misc	No Work	N/A
ff.	FAT	On Route*	N/A	N/A
gg.	FAT	On Route	No Access to box	N/A
hh.	FAT	On Route, * Vehicle*	Parcel or Accountable	Vehicle Codes (K Codes)
ii.	FAT	On Route, * Vehicle*	Parcel or Accountable	N/A
jj.	FAT	On Route	Travel B/t Dlvr.	Receptacle Codes (H Codes)
kk.	FAT	On Route	Travel to 1 st Dlvr.	Walking Codes (K Codes)
ll.	FAT	Vehicle	N/A	Mat'l Handling
mm.	Street Support	Misc	DelaySpcfyDetail	Delay Codes (G Codes)
nn.	Street Support	Misc*	N/A	N/A
oo.	Street Support	On Route, Vehicle	DelaySpcfyDetail	N/A
pp.	Street Support	On Route	No Work	N/A
qq.	Street Support	Point of Delivery	Return to unit	Vehicle Codes (K Codes)
rr.	Street Support	Vehicle*	N/A	N/A
ss.	Street Support	Vehicle	Mix	Material Handling
tt.	Street Support	Vehicle	Parcels	Material Handling
uu.	Street Support	Vehicle	Delay Codes (D Codes)	N/A
vv.	Street Support	Vehicle	Delay Codes (D Codes)	Union
ww.	Street Support	Wait When Walking	No Work	N/A

For illustrative purposes, let us focus on one of the 52 subparts of this question. Look at subpart a. In order to "explain what STS activity the data collectors were observing, how you know that, and why you assigned the specified STS category," an Access query (a type of computer program that, in this case, accesses individual

records in the tally database that have the characteristics identified in the interrogatory) would have to be written to identify all tallies having the characteristics described. This query would, in a manner of speaking, form a subset of the original database with the characteristics sought. Then another Access program would have to be written to report the records that were accessed by the query. For purposes of this Opposition, the Postal Service attempted to create the necessary programming described above. This effort took 3 hours.

Next, the "Location" parameter provided by MPA, must be entered into the query. But wait! MPA has not provided only one such parameter for subpart (a); upon closer inspection, there are actually 3 subparts: "In Vehicle at Stop," "Park Point," and "Vehicle". Each of these must be entered separately in a different inquiry. Next, the "Activity(ies)" parameter must be entered. MPA has here indicated merely that a "Delay Code (D Codes)" will be entered. However, there are actually 7 such codes in the database. Again, each such parameter would need to be entered as part of a separate inquiry. Thus, just between the "Location" and "Activity" parameters, there are 21 possible combinations that potentially can occur given the information provided by MPA.³ Finally, the "Activity Detail(s)" parameters must be entered. Now a report is generated, showing all tallies containing all combinations requested in subpart (a).

At this point, one may ask why it is necessary to go through the exercise of identifying specific tallies in order to provide a response. The answer is that the few parameters provided by MPA in its questions are insufficient to definitively determine appropriate STS categories. For example, the Delivery Type, not specified in the MPA

³ Subpart (a) is hardly the most complex of the subparts of this question. For example, subpart (b) of this question involves 5 locations, 7 D codes and 7 I Codes, yielding 245 possible combinations. Similarly, subparts (e), (p) and (q) involve 252, 196 and 182 possible combinations, respectively.

question, is an important parameter for determining the appropriate STS category. The Delivery Type identifies whether the delivery is curb, park and loop, central, dismount, or foot. With reference to subpart (a), the parameter "In Vehicle at Stop" could pertain to any of these five delivery types except foot deliveries. The appropriate STS category, moreover, would depend on which of these four delivery types occur, together with other factors found in the other unspecified parameters. It is critical to note, that there are many other parameters that MPA did not specify in subpart (a). Each record in the ES database contains 19 total fields. MPA has specified combinations falling within 3 of these 19, leaving 16 completely unspecified. As with the Delivery Type parameter, these unmentioned observations may be important to explaining why a particular STS category would apply. In the absence of this information in the MPA interrogatories, the only way to get at this necessary information is to go to the tallies themselves.

Even this, however, can prove to be an intractable problem, as the witness discovered. Since the question places no restrictions on necessary parameters, the Access query needed to investigate actual tallies can place no restriction on these fields, which can contain all possible combinations of entries. A large number of such tallies may be identified from the approximately 39,000 tallies used by witnesses Baron and Raymond in this case.

Now let us return to the question MPA is asking, which MPA says is straightforward. See MPA Motion at 3. MPA requests a narrative explanation of "what STS activity the data collectors were observing, how you know that, and why you assigned the specified STS category." If one assumes that this subpart of MPA's question refers only to the 21 possible combinations previously identified, it may be possible to offer some insights into what is being observed in each such combination, but only after the investment of many hours of investigation. This problem is exacerbated by the fact

that, depending on which delay code is assumed to apply, it may be necessary to refer back to hardcopy comment sheets made by the observers to determine if the nature of the delay can be found.^{4/}

It can readily be seen that this one subpart of 56 subparts of one question involves a high degree of complexity and difficulty to answer. The wording of the question permits no simplicity or ease in answering. Thus, even if MPA now contends that it merely seeks “to understand what various *types* of tallies mean and why Raymond assigned those types of tallies to particular STS categories”, the number and complexity of the *types* described by MPA in each of its many, many subparts creates an insurmountable obstacle to a “responsive” answer. There are over a million possible “types” of tallies, and MPA, in its questions, implicates many of them.

Given the hundreds of MPA requests that the witness was charged with answering, and the limited time available to answer each, the witness, quite understandably, resorted to a formulaic response to indicate that a response was not possible to the question as stated, and to indicate that reference to particular tallies might prove to be a more reasonable and efficient means to elicit the type of information sought.

The Postal Service maintains that if MPA is to gain an understanding of “what various *types* of tallies mean and why Raymond assigned those types of tallies to particular STS categories,” the only reasonable means to gain that understanding is with reference to actual tallies, rather than the millions of possible tally combinations that could hypothetically occur. It is necessary to go to actual tallies for two reasons. First, if one looks at the actual tallies, one can eliminate from consideration the vast majority of possible combinations that, theoretically, can occur, but, in reality, do not occur. Of what conceivable relevance is the STS categorization of non-existent tallies?

⁴ If one assumes that MPA wishes a description of each tally *actually identified*, instead of possible, the same process would have to be followed.

The second reason, as previously discussed, is that more than a few limited parameters are necessary to properly classify tallies into STS categories.

It is important to note that approximately 1350 tally combinations actually occur in the Baron/Raymond database, and these were ultimately placed in STS categories.^{5/} A more sensible inquiry would have been a request for a frequency distribution of these actual tallies, with general guidance as to how these tallies had been placed in STS categories. MPA did not express its questions in this manner, instead asking about innumerable hypothetical combinations.

Despite the fact that the Postal Service believes that its witness answered in a reasonable fashion, the Postal Service believes that it can facilitate MPA's understanding of the categorization process through reference to the actual tallies. The Postal Service will shortly provide, as a library reference, frequency distributions of tallies actually found in the ES database. One frequency distribution will list the most frequently appearing tally types through the least frequent, with all parameters and number of appearances in the data base. The other distribution will list the tally types by the STS categories into which they were grouped. Using these distributions, it will be possible to focus on those types of tallies that occur most frequently, and to avoid needless discussion of parameter combinations that never occur.^{6/} The Postal Service is confident that examination of those tally types that actually occur will reveal that the STS categorizations made by the witness were reasonable.

⁵ Contrary to MPA's contentions, the witness did in fact go through these 1350 tally types and, one by one, assign them to STS categories based on evaluations of all parameters within the tally types.

⁶ It should be noted that MPA has access to the ES data which would have permitted MPA to itself generate frequency distributions and focus on the tallies that actually occur.

Before concluding this Opposition, the Postal Service wishes to respond to MPA's contention that because the witness responded to one or two questions with additional information beyond his formulaic response, he should have been able to respond in like manner to all of the MPA questions. MPA Motion at 5. If one looks at the particular circumstances, however, it becomes clear that the witness was merely attempting to provide as much responsive information as possible. Consider, for example, MPA interrogatory 98. In this case, the witness suspected that very few actual tallies would bear the characteristic "No Access To Box". If this were correct, an examination of the relevant tallies might permit the witness to provide additional information in response to the question. In the time that was available, an Access query was written to identify the tallies, and a report was made. As suspected, only a relevant few tallies could be identified. After examination of these tallies, the witness was able to provide some information in response to the interrogatory.

In other cases, a similar procedure would reveal thousands of tallies, each of which, theoretically, could have widely different entries in the additional fields not touched upon by the particular MPA interrogatory. In those cases, it simply would have taken the witness too much time, after too much effort, to attempt to replicate the effort made in response to question 98. But the fact that the witness provided additional information where possible should not be used to berate the witness for being "unresponsive" to other interrogatories.

The Postal Service would also like to address the witness's response to MPA interrogatory 93, which poses the following hypothetical:

MPA/USPS-T13-93. Assume a carrier has just stopped his vehicle at a parking point for either a set of Central or Dismount deliveries within a single building:

- (a) If he has not yet left the vehicle, what location would a data collector record: In Vehicle at Stop, On Route, or Vehicle?
- (b) If he is working at his vehicle (e.g., unloading a tray of mail), what location would a data collector record?

- (c) If he has left the vehicle and is proceeding to make his deliveries but has not yet gotten to the first delivery, what location would a data collector record?
- (d) If he has reached the first delivery and is moving towards the next, what location would a data collector record?
- (e) If he is returning to his vehicle from the last delivery on that stop, what location would a data collector record?

At first blush, this question, being a hypothetical, might appear to be easier to answer than the other tally-based questions posed by MPA, and does not appear to require reference to particular tallies, as implied in witness Raymond's answer. After closer inspection, however, these appearances are deceiving. Consider the preamble to the question: "Assume a carrier has just stopped his vehicle at a parking point for either a set of Central or Dismount deliveries within a single building." The question is unclear regarding whether the "parking point" referred to is one of many types. For example, the parking point might serve as the beginning of a park and loop, or it could be a temporary stopping of the vehicle before relocating the vehicle to a more permanent parking location. This ambiguity is exacerbated by the questions asked in the subparts of the interrogatory. For example, subpart (a) allows three possible options for location. The problem is, that depending on factors not specified in the question, one or other of these options might apply, plus others not allowed by the question. "Vehicle" would generally apply to the scenario described in the majority of cases, in which the vehicle is parked, and not merely stopped while traveling along the route. On the other hand, "Park Point", an option not allowed by the question, could apply. This designation was intended to mean a parked point from which a carrier makes one or more loops as part of a park and loop delivery scheme. Depending on what type of activity predominates from the parked vehicle, loops or centrals, one or the other may apply. In order to determine which would apply, the observer would need to refer to additional information not provided in the question. For a given tally, much additional information

can be found recorded in the data fields not specified in the question, such as "Activity" "Activity Detail," and "Delivery Type Status". In fact, one of the reasons for requiring data collectors to provide numerous entries in numerous fields for a given observation was to provide a wealth of information on the observation, making it easier to determine exactly was being observed.

Even though he answered this question using a formulaic response which had also been applied to various other intractable MPA questions, the intent of this answer was, first, to signal that the question, as posed, contained insufficient information to permit an answer, and, second, to suggest that reference to particular, complete tallies would be a far more enlightening and efficient means to illustrate the development and classification of tallies for purposes of the testimony of witnesses Raymond and Baron. It is true that the response given was quite brief and mechanical, and could have provided more information regarding the difficulties inherent in the particular question as formulated. In his haste to file a timely answer to the multitude of outstanding interrogatories directed to him, however, the witness did not find that he had sufficient time to present many additional details for each of the many subparts posed. He certainly did not have sufficient time to present the extensive explanations presented in this opposition, which while pertaining only to a very small subset of the questions at issue, nevertheless took many, many hours to draft.

Conclusion

Although witness Raymond's responses to the MPA interrogatories now at issue were formulaic, and did not provide additional descriptions of the reasons why any other response would be impractical, his responses were the only reasonable response available to him, given the sheer volume of interrogatories directed to him by MPA and other parties, and the difficulties inherent in the questions posed. Furthermore, the main thrust of his responses, that the best means by which to examine the categoriza-

tion of ES tallies into STS categories is by referencing tally types actually observed, remains valid. Furthermore, the Postal Service will facilitate this process shortly by filing frequency distributions of ES tallies.

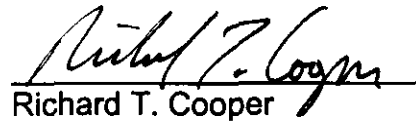
MPA's insistence that the witness describe the manner in which other incomplete possible tallies might hypothetically have been categorized serves only to muddle a process that can, with a more focused examination, be adequately understood by the parties and by the Commission. It may be that creating the appearance of unmanageable complexity is thought by some to be a more desirable goal in this instance than the eliciting of greater understanding. Nevertheless, the Postal Service stands ready to facilitate greater understanding of the value and reliability of the ES data collected by witness Raymond and used by witness Baron.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

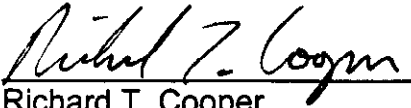
Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking


Richard T. Cooper

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2993; Fax -5402
April 3, 2000

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.


Richard T. Cooper

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2993; Fax -5402
April 3, 2000