

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

RECEIVED

APR 6 2 57 PM '00

Postal Rate and Fee Changes, 2000)

Docket No. 2000-1

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

**MOTION TO COMPEL RESPONSE TO
INTERROGATORIES OF NATIONAL NEWSPAPER ASSOCIATION
NNA/USPS T5-36,39
April 6, 2000**

Pursuant to sections 26 and 27 of the Commission's Rules of Practice, the National Newspaper Association (NNA) hereby respectfully moves to compel the Postal Service to respond in full to its discovery requests in NNA/USPS T5-36 and 39.

In these interrogatories, NNA is seeking certain information relating to non-PERMIT post offices sampled for purposes of determining within county volumes reported in the Bulk Mail Revenue, Pieces and Weight (BRPW) reports. The data are not only relevant and material to testing the reliability of witness Hunter's reports of FY 98 RPW data, but they form the foundation for other aspects of the case, including volume forecasts.

The interrogatories to which the Postal Service objects involve data for FY 86 through FY 99 inclusive. They generally address two issues: 1) the criteria upon which strata have been identified, constructed and maintained and 2) the nature and treatment of the samples for which data have been collected. The Postal Service objection is on the grounds of burden, relevance and materiality. Although its filing does not clearly state whether the three bases of objection derive solely from its reluctance to locate and produce earlier years' data, it states that it will supply data from more recent years. The statement tends to suggest that it is the search for earlier year data that gives the witness difficulty,

rather than the substance of the questions. It does not disclose which years of data it can readily retrieve, but it does appear to suggest that it believes any data not specifically relied upon to produce the BY 1998 BRPW report are irrelevant. NNA here addresses both the detailed nature of the interrogatories and the scope of time addressed.

Although NNA concedes that its request for production of information reaching back as far as FY 86 and FY 87 imposes somewhat more of a burden upon the witness than a request for the FY 98 data alone, NNA by no means concedes that the older data are irrelevant or immaterial to this case. It bases its request upon three concerns.

1. The reliability of the BRPW reports with respect to Within County volumes is in question.

The gravity of potential flaws in the BRPW report to a subclass that has been perceived to shrink for more than a decade cannot be overstated. Questions about the reasons for the apparent decline and the basis upon which the apparent decline has been determined have lingered through at least three dockets.

As the Commission found in Docket No. R97-1:

"The questions raised on the record concerning the volume for Within County are not new. In Docket R94-1, the Postal Service made a major adjustment to Within County costs after its case had been filed. Subsequently, motion practice related to volume issues culminated in NNA's withdrawal of a motion based on an apparent understanding that NNA and the Service would work jointly on the volume question after that case. There is no indication that this occurred."

In R97-1, the Commission was forced to make volume adjustments because of questions of reliability of the data. *Id.* at para 5853. In this docket, continued decline in the subclass has been indicated by witness Hunter's BRPW report (923.8 million for FY98, as compared to 947.04 million the previous year). There is no suggestion in the Postal Service's testimony to date that significant changes in the BRPW methodology or output have occurred since R97-1. NNA continues its quest to understand the system that produces these data. Although in previous dockets, lack of resources may have resulted in truncated discovery by NNA, persistence in this examination appears to be the only alternative that will enable the Commission finally to establish confidence in volume data or to insist upon better information in future dockets.

2. The testimony supplied thus far has shed little light upon the issues NNA has raised in the past.

Without dwelling in detail upon the blow-by-blow action in previous dockets, NNA believes the Commission's opinion from R97-1 reflects its awareness that NNA withdrew discovery requests in the previous docket and that joint efforts to improve the system were to occur. The fact that no indication of revisions of the methodology, strata, sampling or output of the BRPW report appears in witness Hunter's direct testimony can stand alone to support a presumption that the BRPW data for Within County in this docket emanates from essentially the same system questioned in previous dockets. The Postal Service can hardly express surprise that information about BRPW would be sought in detail in this case.

Yet the witness's direct testimony offers little light upon the means and manner through which Within County BRPW numbers are produced. He makes little effort to forestall probing discovery through an open and revealing explanation of his methodology, even though it has been manifestly apparent that questions remain. Only passing reference is given to the existence of a stratified random sample of non-automated post offices, with no explanatory material to support the role the sample plays in BRPW, nor how the system questioned by the Commission in R97-1 may be defended or explained. Direct Testimony of Herbert B. Hunter III on Behalf of the United States Postal Service, p 3, lines 5-6. The complete paucity of any information offered voluntarily by the witness that would help the Commission to understand how the numbers have been obtained demonstrates that the Postal Service expects to have BRPW data accepted unquestioningly. Indeed, as in previous rate cases, much of the enlightenment into the structure of BRPW, including the sampling system at issue here resides, if it is offered at all, in library references that are not available as record evidence until a sponsoring witness brings them into the record. (See, eg., USPS LR-I-230, Materials Provided in Response to UPS/USPS T5-23; USPS LR-I-25, Bulk Mail Revenue, Pieces and Weight System(BRPW) Postal Service System Documentation; USPS LR-I-26, Bulk Mail Revenues Pieces and Weight Statistical System Methodology and Design.) The Postal Service's approach may be fair for most classes and subclasses within the system, but it is demonstrably not an equitable approach with respect to Within County mail.

The Postal Service suggests that the possibility of the use of these data in NNA's own direct case somehow undermines the relevance or materiality of the request. But the potential use of these data in NNA's own direct case need not

be of concern at this juncture. The production of the data will be relevant to determining whether the Postal Service has met its burden to prove the direct and indirect costs of the mail, an equation that of necessity requires an accurate count of the volume.

3. The apparent problems with Within County volume reach back as far as 1985.

The time period covered by NNA's questions, which admittedly require some historical research by the witness, may be the sole sticking point for the Postal Service. However, a full and revealing examination of the Within County volume problems must include the earlier years. RPW reports from that period show a total of 1,737 million pieces in 1985 and only 923 million pieces in 1998. No postal official in this docket, nor in the record of R97-1, nor in the record of R94-1 adequately explains the reasons for this apparent decline. Indeed, the record in this case will demonstrate that no one seems to know exactly what products are in this mailstream, their relative proportions, nor the historical behavior of the mailers with relation to volumes. Lacking a real-world explanation for changes in mailer behavior, NNA is forced to continue to examine BRPW and to test its reliability. While there may be no remedy available to earlier year pricing if it were to be shown that earlier year data were flawed, the Commission would be within its authority to take into account the impact of continuous weakness, particularly if it tends to understate volume and hence result in higher prices to newspaper mailers.

Moreover, it is evident from the testimony thus far in this case, that historical volume data have been used in at least one circumstance. Witness

Thress (USPS-T7) relies upon BRPW data in his time trend. It is not clear whether flaws in BRPW as far back as 1971 might have affected Thress's forecasting as suggested in his testimony, but the witness discloses in his direct case that he is examining volume data for at least the past five years. Direct Testimony of Thomas E. Thress (USPS T7) at 40.

A look back at BRPW for as far into the past decade as existing Postal Service records permit is the only reasonable avenue at this juncture for laying to rest a host of questions about the volume, the impact of the apparent decline upon prices and the Postal Service's understanding of this important subclass. NNA understands that the witness most likely does not have the data in earlier years at his fingertips. NNA also understands that most Postal Service witnesses in this docket are laboring under the burden of explaining this case, while they also carry on their regular duties within the Service. However, NNA assumes that, barring the Postal Service's discovery that the data requested have been destroyed, some archival information must exist. It should yield at least the witness's best understanding of the data used in those years.

It is likely that all of the information for some years is readily available and that the Postal Service can provide it in time for oral cross-examination of the witness, presently scheduled on April 11. It would also seem likely that some information for earlier years could be available without extensive research and that some other information will be available within a reasonable time before the record in this case is closed. NNA is willing to wait.

However, the scheduling of the witness in the customary place of the RPW witnesses in the early days of oral testimony may be problematic. NNA is

concerned about preserving its rights to test the witness's understanding of these data on the witness stand. It also is concerned about attempting to elicit the necessary information in a piecemeal fashion, should it be necessary to request the witness's return at a later date. For those reasons, it may be a more economical use of the Commission's time if the witness were to be scheduled at a later time. In any event, NNA reserves the right to request the opportunity to test the data in oral cross-examination, even if it is late filed.

NNA moves therefore that the Commission:

1. Compel responses in full to NNA/USPS T5-36 and T5-39.
2. Require the Postal Service to provide a schedule for production of pre-1998 data requested in NNA/USPS T5-36 and T5-39.
3. Schedule this witness's appearance for a date following the deadline for production of the data or, in the alternative, require the Postal Service to make the witness available for examination on the late-filed information.

Respectfully Submitted,



Tonda F. Rush
King and Ballow
PO Box 50301
Arlington VA 22205
(703) 241-1480

Counsel to the National Newspaper
Association

April 6, 2000

Certificate of Service

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

A handwritten signature in black ink, appearing to read 'Tonda F. Rush', is written over a horizontal line.

Tonda F. Rush

PO Box 50301
Arlington VA 22205
(703) 241-1480

NNA/USPS-T5-36. Please refer to USPS-LR-I-26 at page 2, which describes the sampling procedure used to define the strata for the BRPW panel. In particular, please refer to the sentence that states: "For each mail category, the panel is selected by first grouping non-zero targeted or auxiliary revenue variable reporting offices among four to six strata using the CUM [square-root] f rule (cumulative frequency distribution) and revenue level (size) information obtained from a revenue account or survey." In the following subparts of this interrogatory, please interpret the terms "offices" and "revenue" as they are used in this sentence.

- a. For each year from FY86 to FY99, please provide the total number of offices.
- b. For each year from FY86 to FY99, please provide total Periodicals revenue.
- c. For each year from FY86 to FY99, please provide the total number of offices that have zero Periodicals revenue for that year.
- d. For each year from FY87 to FY99, please provide the total number of offices that have zero Periodicals revenue for both that year and the previous year.
- e. For each year from FY87 to FY99, please provide the total number of offices that have both zero Periodicals revenue for that year and non-zero Periodicals revenue for the previous year.
- f. For each year from FY87 to FY99, for the offices identified in (e) with zero Periodicals revenue for that year and non-zero Periodicals revenue for the previous year, please provide total Periodicals revenue for the previous year.

g. For each year from FY87 to FY99, please provide the total number of offices from (a) that have both non-zero Periodicals revenue for that year and zero Periodicals revenue for the previous year.

h. For each year from FY87 to FY99, for the offices identified in (g) with non-zero Periodicals revenue for that year and zero Periodicals revenue for the previous year, please provide *total Periodicals revenue for that year*.

i. For each year from FY87 to FY99, please provide the total number of offices from (a) that have positive Periodicals revenue for both that year and the previous year.

j. For each year from FY87 to FY99, for the offices identified in (i) with positive Periodicals revenue for both that year and the previous year, please provide *total Periodicals revenue for both that year and the previous year*.

k. Please explain how the sampling procedure described on page 2 of USPS-LR-I-26 accounts for Periodicals mail from the offices identified in (g) with non-zero Periodicals revenue for that year and zero Periodicals revenue for the previous year.

NNA/USPS-T5-39. Please refer to USPS-LR-I-230, Appendix A, at page 3, which provides a table with the subtitle of "PQ1-FY95 2C CENSUS REVENUES – BY STRATUM." Please further refer to the 3 strata for PERMIT offices and the 6 strata for non-automated offices listed in NNA/USPS-T-32(e). Please further refer to your response to NNA/USPS-T5-4, where you provide In-County volume estimates from FY86 through FY98. Finally, please refer to your response to NNA/USPS-T5-5, where you state: "My understanding is that the underlying methodology used to construct the estimates of In-County volume, wherein postage statement data are obtained from a probability based sample of post offices to supplement the data obtained from a certainty segment, is essentially unchanged over the twelve-year period . . ."

- a. For each year from FY86 to FY97, please provide the blowup factors used for each of the 9 strata included in the referenced table from USPS-LR-I-230.
- b. For each year from FY86 to FY97, please provide the sample size for each of the 9 strata included in the referenced table from USPS-LR-I-230.
- c. For each year from FY86 to FY97, please provide the sample mean for the number of pieces of In-County mail for each of the 9 strata included in the referenced table from USPS-LR-I-230.