

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

MOTION OF MAGAZINE PUBLISHERS OF AMERICA, INC.
FOR LEAVE TO REPLY TO
USPS EXPEDITED OPPOSITION TO MPA MOTION
TO COMPEL ANSWERS FROM WITNESS RAYMOND

(APRIL 7, 2000)

On April 3, 2000, pursuant to Presiding Officer's Ruling No. R2000-1/25 (March 30, 2000), the Postal Service filed its Expedited Opposition 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 ("Opposition"). For the following good causes, MPA requests leave to file, concurrently with this motion, a brief reply to the Postal Service's Opposition:

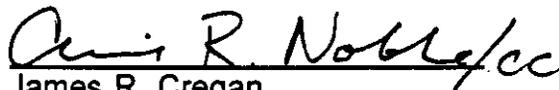
1. The Opposition raises new matters--such as the nature of the answers it would have provided to MPA's interrogatories had it endeavored to be fully responsive, and the alleged burden that would have been involved in providing such allegedly responsive answers--that were not the subject of any Postal Service objection to the interrogatories and therefore were not addressed in MPA's Motion to Compel (March 30, 2000) or in POR No. R2000-1/25. Some of the Postal Service's statements regarding these matters are, in MPA's view, misleading or factually unfounded.

2. The Opposition includes extensive passages of a testimonial nature that are responsive to, and should have been included in, sworn answers to the interrogatories from the witness. The introduction of such inappropriate testimonial

statements into argument, unattested by the witness who is their actual source, providing no opportunity even for comment, much less cross-examination, is inherently prejudicial to the rights of other parties to due process and fair procedure. MPA wishes to make certain that no opportunity is created for the absence of a response to these testimonial declarations of counsel to be misconstrued as acquiescence in their substance.

3. The Postal Service declares an intention to file additional materials ("frequency distributions of ES tallies") (Opposition at 12-13), which, it implies, will constitute an adequate, or somewhat adequate, equivalent of or substitute for the responses subject to the motion to compel. This promise may cause uncertainty about the continuing vitality of the motion to compel. We have examined these materials and aver that they are not responsive to the interrogatories at issue, do not make it possible for MPA to arrive at answers to its original interrogatories through its own further analytical efforts, and do not alter the substance or affect the continuing vitality of MPA's motion to compel.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document on all participants of record in this proceeding in accordance with the Commission's Rules of Practice.


Anne R. Noble

Washington, D.C.
April 7, 2000