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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. R2000-1/35

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes

Docket No. R2000-1

PRESIDING OFFICER'S RULING GRANTING, IN PART, MPA
MOTION TO COMPEL ANSWERS TO MPA/USPS-T13-83, 85-90,
93, 94, 96, 97, 99-101, 106, AND 108 TO WITNESS RAYMOND

(Issued April 11, 2000)

The Magazine Publisher's Association, Inc. (MPA) has filed a motion to compel responses to a large set of interrogatories to Postal Service witness Raymond.¹ The Postal Service opposes the Motion.²

Witness Raymond supervised the Engineered Standards/ Delivery Redesign (ES) project. This project collected a wealth of data on city carrier street delivery activity. The original purpose of the project was to develop standard times and ideal methods for performing various portions of street delivery work. One of several data collection approaches taken by the ES project was to record timed observations ("tallies") of carrier street activity.

After the tally collecting effort had been designed and implemented, the Postal Service came to the conclusion that the ES tally data could be used to update the Street Time Sampling (STS) survey in this rate proceeding. The STS survey was also a

¹ Motion of Magazine Publishers of America, Inc. to Compel Answers to Interrogatories MPA/USPS-T13-83, 85, 86, 87, 88, 89, 90, 93, 94, 96, 97, 99, 100, 101, 106, and 108 to witness Raymond, filed March 30, 2000 (Motion).

² 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, filed April 3, 2000 (Opposition).

tally-based survey conducted in 1986. The Postal Service has relied on the STS survey ever since to estimate the proportion of carrier street time that falls into six functional categories (load time, runtime, etc.) as the starting point for analyzing the variability of city carrier street time costs.

The ES tally data, however, does not correspond directly to the six functional categories of the STS survey. The ES tally data is highly detailed. Associated with each tally, according to the Postal Service, are 19 distinct data fields where the observer is supposed to record detailed characteristics of the tallied activity, such as the mode travel, whether the carrier was at a delivery point, or travelling between delivery points, etc. Consequently, the over 39,000 ES tallies yield 1,350 combinations of characteristics. To update the STS survey, each of the 1,350 combinations of characteristics in the ES tally data must be associated with one of the six functional categories of the original STS survey. How witness Raymond made these associations is an issue that is central to the validity of the Postal Service's proposed update of the STS survey, and to the validity of witness Baron's use of the results to estimate attributable street time labor costs. It has become a topic of intense discovery activity by MPA and several other participants.

I noted in P.O. Ruling No. R2000-1/27 that the Postal Service's decision to use ES tally data to update the STS survey was made belatedly. As a result, the Postal Service had not fully catalogued the massive amount of documentation of the ES project until after the discovery period was well underway. This caused potentially prejudicial delay of MPA's efforts to discover the scope and contents of this documentation, and determine the extent to which it supports the manner in which witness Raymond mapped ES tally data to STS functions. To compensate for this delay, Ruling 27 directed the Postal Service to guide MPA and other interested parties through the massive documentation of the ES project in a technical conference format, with the expectation that MPA would then be able to focus its interrogatories more

efficiently on information that is likely to be useful in estimating city carrier street time costs.

MPA now argues that it faces further potentially prejudicial delay because witness Raymond has been deliberately non-responsive to this set of interrogatories, which is intended to elicit and test the judgments that witness Raymond made in mapping the complex set of combinations of ES tally characteristics to the six STS functions.

MPA filed this set of interrogatories on March 7, 2000. They ask Witness Raymond what activities are represented by tallies with various combinations of characteristics, how data collectors were supposed to categorize certain hypothesized activities, and why witness Raymond assigned tallies with certain combinations of characteristics to various STS functions. The Postal Service filed responses on March 22, 2000. For each of these sixteen interrogatories, witness Raymond gave the following answer:

I cannot respond without references to the specific records in question, including CY code, route ID, date, etc. See Appendix A to USPS-LR-I-163 for relevant data fields.

Upon receiving these responses, MPA filed its motion to compel. MPA argues that these answers are deliberately vague and nonresponsive. It complains that the Postal Service did not explain why it could not answer outside the context of individual tallies with all data fields specified, and did not seek clarification of what was being asked. Motion at 3-4. As further evidence that witness Raymond did not respond in good faith, MPA observes that for some categories of tallies that he was asked to interpret, witness Raymond could identify and comment on individual tallies that belonged in the category, but for those described in these sixteen interrogatories, he gave his standard non-response, without explanation. It also argues that for some categories of tallies he was able to offer a generalized interpretation, but for those

covered by these sixteen interrogatories he gave his standard non-response, without explanation. *Id.* at 5-6.

MPA complains that the witness's implication that it should have provided "reference to the specific records in question, including CY code, route ID, date, etc." is absurd. If it had separately listed each tally that corresponds to each interrogatory, it argues, it would have had to file more than 400 pages of interrogatories listing more than 20,000 individual tallies. It contends that this would have invited objections on the grounds of undue burden, and immateriality. *Id.* at 6.

In an effort to get what it considers to be responsive answers to these interrogatories, MPA has a two-pronged strategy. It seeks a ruling accelerating the Postal Service's response to its motion. Concurrently it filed a fourth set of interrogatories to witness Raymond that is intended as follow-up to the interrogatories that are the subject of this motion. Presiding Officer's Ruling No. R2000-1/25, issued March 30, 2000, granted MPA's motion for an accelerated response from the Postal Service.

The Postal Service filed its Opposition on April 3, 2000. It says that witness Raymond's insistence that he could not respond to these interrogatories unless individual tallies were identified was, in large measure, prompted by a lack of time to apply in-depth analysis to each of the hundreds of MPA interrogatories that were due at approximately the same time. Opposition at 2.

Interrogatory MPA/USPS-T13-86 asks witness Raymond to address 52 tally categories, each with a unique combination of characteristics. For each, it asks him to determine what activity was being observed, how he could determine what activity was being observed, what STS function the activity would be assigned, and why. Using the information sought in the first of the 52 subparts of interrogatory 86 as an illustration, the Postal Service contends that it would have required witness Raymond to begin by spending several hours writing an access query and report request to determine what tallies would fall within the category. Since the interrogatory specified only three of the

19 applicable data fields, it asserted, it was fatally ambiguous. Depending on what was assumed to be in the unspecified fields, it explained, different activities could be represented by this tally category, and different reasons could be given for assigning it to a given STS function. It noted that because the majority of data fields is not specified for any of these tally categories, most of the 52 subparts of interrogatory 86 present hundreds of possible combinations of characteristics to be analyzed. Even if it interprets interrogatory 86 as asking only about how witness Raymond would interpret and assign various *types* of tallies, it argues, answering the interrogatory is still an intractable task because so many tally types are implicated. Opposition at 3-8. It argues that witness Raymond could answer several interrogatories by identifying specific tallies that fell within a category and commenting on them, only because there were a small number of tallies implicated, making the analysis tractable. *Id.* at 10.

The Postal Service insists that for MPA to gain an understanding of what various types of tallies mean and why witness Raymond assigned them to particular STS functions, it should focus on tally types that actually occurred, rather than the millions of possible tally types. It also insists that MPA needs to specify more than a few limited parameters to allow witness Raymond to explain why he assigned them to particular STS functions. Because there are 1,350 actual combinations of tally characteristics, it argues,

[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.

Id. at 9.

On April 4, 2000, the Postal Service provided two tables in an effort to facilitate MPA's understanding of the process by which tallies were assigned to STS functions. One displays the frequency with which particular combinations of tally characteristics actually appear in the database. The other presents the actual combinations occurring

in the ES database by the STS functions to which they were assigned.³ The Postal Service argued these tables would help MPA focus its inquiries on tally types that commonly occur. MPA filed a reply to the Postal Service's Opposition making it clear that it did not consider this material to be responsive to its interrogatories.⁴

MPA's motion to compel assumes that witness Raymond created a computer program to assign combinations of tally characteristics to particular STS functions, so that he would not have to analyze each of the combinations individually. Motion at 4. This appears to be the source of much of its indignation over witness Raymond's unwillingness to answer questions that require him to generalize about how types tallies would be treated. It reasons that if witness Raymond cannot analyze and assign categories of tallies without considering them individually, his computerized decision rules are invalid. The Postal Service asserts, however, that witness Raymond individually analyzed the characteristics of each of the 1,350 tally types based on all of the parameters within the tally type before assigning it to an STS function. Opposition at 9, n. 5.

It is clear that the complexity of the ES data presents a serious obstacle to the efforts of participants to interpret those data and understand how witness Raymond mapped them to STS functions. The Postal Service validly argues that it cannot definitively analyze these tally types apart from the parameters that accompany them. Conversely, MPA is correct that little headway will be made in understanding witness Raymond's mapping process unless witness Raymond is able to describe the decision rules that he applied to particular tally types. The Postal Service appears to concede this, suggesting that MPA should have asked witness Raymond to articulate general guidelines that he applied to types of actual tallies in order to understand the process.

³ These frequency tables were subsequently filed as USPS-LR-I-281/R2000-1.

⁴ Reply of Magazine Publishers of America, Inc., to USPS Expedited Opposition to MPA Motion to Compel Answers from Witness Raymond, filed April 7, 2000, at 3. The Motion of Magazine Publishers of America, Inc. for Leave to Reply to USPS Expedited Opposition to MPA Motion to Compel Answers from

MPA correctly argues that witness Raymond's decision rules for assigning tally types to STS functions are of fundamental importance to the Postal Service's estimates of attributable street time labor costs. MPA's discovery, however, has concentrated on the details of witness Raymond's mapping procedure before it has obtained from witness Raymond the general guidelines that he followed in interpreting the meaning of various tally types and the reasons for assigning them to particular STS functions. There is a substantial risk that this approach will not produce a thorough understanding of witness Raymond's mapping procedure in what little remains of the discovery period.

To expedite the efforts of participants and the Commission to gain an understanding of how witness Raymond interprets types of actual tallies and why he mapped them to particular STS functions, a Presiding Officer's Information Request will be issued concurrently with this ruling on MPA's Motion. In that POIR, witness Raymond will be asked to articulate the general guidelines that he followed in interpreting actual tallies and explain why he assigned various types of tallies to particular STS functions. Since this POIR is intended to expedite MPA's understanding as well as the Commission's, witness Raymond will be expected to devote his immediate attention to preparing and filing his response to the POIR, after which he will be expected to develop responses to the instant ruling granting MPA's Motion. It is hoped that witness Raymond's response to the POIR will be sufficiently informative and thorough that it will allow MPA to refine and significantly narrow its fourth set of interrogatories to witness Raymond.

With respect to the interrogatories covered by MPA's Motion, interrogatories 96, 97, and 100 are focused enough that it would appear that witness Raymond could safely provide the generalization sought by the interrogatory without reference to specific tallies. For example, interrogatory 96 asks him to confirm that virtually all tallies

Witnesses Raymond, filed April 7, 2000, cites sufficient grounds for granting leave to reply, and will be granted.

for the "Point of Delivery" location were allocated to the "Load" or "Street Support" STS functions. Witness Raymond should be able to either confirm this generalization by referring to the tables developed in USPS-LR-I-281, or explain why he cannot confirm it. For similar reasons, he should be able to confirm the generalizations in interrogatories 97 and 100, or explain the specific obstacles that prevent him from doing so. MPA's Motion will be granted with respect to these interrogatories.

With respect to interrogatories 83, 85-90, 94, 99, 101, 106, and 108, MPA's Motion will be denied without prejudice. After it receives witness Raymond's response to the POIR, MPA will be permitted to refile these interrogatories. If MPA refiles these interrogatories, it must include several actual tallies with each subpart that illustrate the tally types that MPA asks witness Raymond to interpret, or illustrate the tally types whose assignment MPA wants him to explain.

RULING

1. The Motion of Magazine Publishers of America, Inc. to Compel Answers to Interrogatories MPA/USPS-T13-83, 85, 86, 87, 88, 89, 90, 93, 94, 96, 97, 99, 100, 101, 106, and 108 to witness Raymond, filed March 30, 2000, is granted with respect to interrogatories 96, 97, and 100. Answers will be due April 21, 2000.
2. The Motion of Magazine Publishers of America, Inc. to Compel Answers to Interrogatories MPA/USPS-T13-83, 85, 86, 87, 88, 89, 90, 93, 94, 96, 97, 99, 100, 101, 106, and 108 to witness Raymond, filed March 30, 2000, is denied without prejudice with respect to Interrogatories 83, 85, 86, 87, 88, 89, 90, 93, 94, 99, 101, 106, and 108, as explained in the body of this Ruling.

3. The Motion of Magazine Publishers of America, Inc. for Leave to Reply to USPS Expedited Opposition to MPA Motion to Compel Answers from Witness Raymond, filed April 7, 2000, is granted.

A handwritten signature in black ink, appearing to read "Edward J. Gleiman". The signature is stylized with a large initial "E" and a long horizontal stroke.

Edward J. Gleiman
Presiding Officer