

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

RECEIVED  
APR 12 1 52 PM '00  
POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES

Docket No. R2000-1

**Motion Of KeySpan Energy To Compel  
USPS Witness Fronk To Respond Fully To Interrogatory KE/USPS-T33-3  
Or, In The Alternative, To Require Production Of Other Postal Service Witness**

To: Hon. Edward J. Gleiman  
Presiding Officer

Interrogatory KE/USPS-T33-3, consisting of parts (a) through (h) was filed and served on the Postal Service by KeySpan Energy ("KeySpan") on March 23, 2000. On March 31, 2000, the Postal Service interposed an objection to parts (g) and (h) of that interrogatory. On April 4, 2000, witness Fronk responded to parts (a)- (c) of the interrogatory and, separately, the Postal Service filed an institutional response to parts (d)-(f) of the interrogatory.

Pursuant to Rule 26 (d) of the Commission's Rules of Practice, KeySpan requests that the Presiding Officer issue an order compelling USPS witness Fronk to provide a complete response to all parts of Interrogatory KE/USPS-T33-3. In addition, in the event that USPS witness Fronk cannot provide a complete response to this interrogatory, KeySpan requests that the Postal Service be required to provide, as an additional witness, the author(s) of the response to parts (d), (e), and (f) that interrogatory, and to parts (g) and (h), if a response to those parts is compelled.

A copy of Interrogatory KE/USPS-T33-3 is attached hereto as Attachment "A." Witness Fronk's and the Postal Service's responses to portions of the interrogatory are attached as Attachments "B" and "C," respectively.

**BACKGROUND**

For several years prior to the Docket No. R97-1 proceeding, all business reply mail ("BRM") service recipients who maintained advance deposit accounts and whose reply mail pieces met certain automation standards were charged a per piece fee of 2 cents. These recipients were generally referred to as BRMAS BRM recipients.

In Docket No. R97-1, the Postal Service proposed to "deaverage" the BRMAS

BRM fees by (1) instituting a new type of business reply mail service, called Prepaid Reply Mail ("PRM"), for qualifying high volume business reply mail recipients with advance deposit accounts and (2) establishing Qualified Business Reply Mail ("QBRM") as the service for the remaining, lower volume BRMAS BRM recipients.

Under the Service's R97-1 proposal, PRM recipients would pay a fixed monthly fee of \$1,000 but no per piece fee because the recipients would assume the responsibility for counting and rating their own reply mail, pursuant to rigorous standards prescribed by, and subject to audit by, the Postal Service. Under the Postal Service's proposal, lower volume QBRM recipients would pay a per piece fee of 6 cents, to cover the costs of having postal personnel perform the counting, rating, and billing functions.

One of KeySpan Energy's subsidiaries, The Brooklyn Union Gas Company ("Brooklyn Union") participated in the R97-1 proceeding and actively supported the Postal Service's proposal to implement the new PRM service and rate category. Brooklyn Union also made suggestions designed to simplify and streamline the new PRM service. See R97-1 Opinion and Recommended Decision at 312-313 ("Op. R97-1").

In its R97-1 Opinion and Recommended Decision, the Commission recommended approval of the new PRM service *exactly* as the Postal Service's proposed it. Op. R97-1 at 320-22. The Commission also approved QBRM but found that the per piece fee should be set at 5 cents, not 6 cents as proposed by the Service. *Id.* at 319-320.

The Board of Governors took what, at least in KeySpan's substantial experience, was an unprecedented step of rejecting the Postal Service's own Commission-approved proposal for PRM service. *Notice of Decision of the Governors of the U.S. Postal Service on the Recommended Decision of the Postal Rate Commission on Prepaid Reply Mail and Courtesy Envelope Mail, 1997*, issued June 30, 1998, pp. 1-4 ("*Governors' PRM Decision*"). For high volume BRMAS BRM recipients such as Brooklyn Union, the immediate effect of the Governors' rejection of PRM was that the per piece fee they paid went from 2 cents to 5 cents (the QBRM per piece fee intended for lower volume BRMAS BRM recipients), a 150 percent increase and a

patently unfair result.

### **Argument**

In Docket No. R97-1, USPS witness Fronk appeared as the Postal Service's main witness on PRM. See Op. R97-1. Accordingly, in this proceeding KeySpan appropriately directed questions seeking Mr. Fronk's confirmation of certain facts relating to the PRM proposal and his understanding and/or opinion regarding the effect on high volume BRMAS BRM recipients of the Governors' rejection of PRM.

While permitting witness Fronk to respond to parts (a) – (c) of KeySpan's interrogatory, the Postal Service has seen fit to interpose an institutional response to parts (d) – (f) and objects to parts (g) and (h). There is no merit whatsoever in the Postal Service's objection to parts (g) and (h). KeySpan further submits that there is no legitimate reason why witness Fronk cannot furnish complete, responsive answers to *all* these interrogatory requests.

The Postal Service objects to parts (g) and (h) of Interrogatory KE/USPS-T33-3 on the grounds that

- The information KeySpan seeks “is not calculated to lead to the production of admissible evidence to the subject matter of Docket No. R2000-1, the focus of which is the request currently before the Commission” (USPS Objection at 2);
- “[I]t is immaterial to the question of the propriety [sic] of QBRM accounting [sic]<sup>1</sup> cost estimates in Docket No. R2000-1 whether the Commission or the Governors ‘understated’ or ‘overstated’ QBRM accounting [sic] costs in Docket No. R97-1” (*id.*);
- KeySpan “seek[s] information outside the scope of the current proceeding” (USPS Objection at 1); and
- KeySpan is only interested in conducting “a *post mortem* examination of the Governors’ Docket No. R97-1 decision,” which “speaks for itself” (*id.*).

The Postal Service's objections do not withstand even the most cursory scrutiny.

---

<sup>1</sup> None of KeySpan's KE/USPS-T33-3 interrogatory questions even addresses **accounting** cost estimates, although the Postal Service's institutional response to part (e) does

The information KeySpan seeks to elicit through these interrogatory questions has a direct and substantial bearing on the matters at issue in this proceeding. In this case, as in R97-1, the Postal Service is proposing to “deaverage” BRM fees by offering separate QBRM services targeted at high volume reply mail recipients and low volume reply mail recipients. The fact that Governors’ ultimately rejected the Postal Service’s own very similar PRM service for high volume recipients in the previous case and the practical effect thereof on BRMAS BRM recipients, *especially high volume recipients*, obviously is relevant and material to this case because, *unfortunately*, the Commission and affected BRM recipients such as KeySpan must now be aware of and guard against the now-more-than-remote-possibility that history could repeat itself if the Governors once again reject the Postal Service’s own proposal.<sup>2</sup> The Postal Service should be aware of this possibility as well. However, a review of witness Fronk’s testimony in this proceeding shows that the Postal Service has not made any alternative QBRM per piece fee recommendations in the event that the Service’s latest deaveraging proposals are accepted by the Commission but rejected by the Governors. KeySpan can understand why, as a matter of principle, witness Fronk did not address this matter affirmatively in his testimony. Nevertheless, this is certainly a relevant area of inquiry during discovery and in oral cross-examination. Fundamental to establishment of a full record on this important subject is witness Fronk’s understanding of, and opinion regarding, what happened in R97-1 when the Governors in fact did overturn the Postal Service’s own Commission-approved deaveraging proposal.

For the foregoing reasons, all the questions posed in Interrogatory KE/USPS-T33-3, including those in parts (g) and (h), are designed to elicit information which either is directly relevant and material to the Service’s deaveraging proposals for QBRM or is likely to lead to the production of relevant, admissible evidence.

With respect to parts (d) through (f), KeySpan knows of no reason why witness Fronk could not answer the questions posed. Certainly the information and or opinions

---

so, erroneously. See, *infra*, p. 5.

<sup>2</sup> For this reason, there is no logical basis for the Postal Service’s charge that KeySpan is merely seeking to conduct a “*post mortem*” on the Governors’ PRM Decision. As uncomfortable as the subject matter may be for witness Fronk and/or the Service, the fact remains that unless the Commission is aware of the potential adverse consequences of such an unexpected-but-now-precedented result, it cannot adequately protect the legitimate interests of QBRM

sought of witness Fronk appear to involve subject matters that fall within his direct knowledge and/or his responsibilities as a Postal Service employee and his areas of expertise as a witness in this and the R97-1 case. It may well be that the Postal Service and/or witness Fronk would *prefer* that Mr. Fronk not answer these questions, but their *preference* in such matters is not a legitimate reason to interpose an institutional response. Accordingly, witness Fronk should be required either to adopt as his own the institutional responses to parts (d) and (f) or to furnish his own responses to those questions. Finally, the response to part (e) cannot stand because it simply is not responsive. KeySpan's question asked about the 5-cent QBRM *per piece* fee and the response erroneously addresses QBRM *accounting* fee.

In addition, KeySpan intends to designate the responses to one or more of the questions posed in parts (d) through (f) as written cross-examination. KeySpan Energy is entitled to conduct further, oral cross-examination on the responses to interrogatories. Indeed, clarification of interrogatory responses designated as written cross-examination and testing of the conclusions and opinions of such witnesses are the primary reasons for conducting oral cross-examination. See Rule 30 (e) (3). The Postal Service cannot be allowed to shield these matters from full exposure through oral cross-examination by furnishing institutional answers to discovery requests legitimately directed to designated witnesses. Accordingly, if the Presiding Officer does not direct witness Fronk to respond to such questions, then at a minimum he should direct the Postal Service to furnish a separate witness who can respond fully to KeySpan Energy's oral cross-examination on these institutional responses and to have such person prepare and file, forthwith, his or her qualifications to testify.

### **CONCLUSION**

For all of the foregoing reasons, KeySpan Energy respectfully requests that the Presiding Officer issue a ruling directing USPS witness Fronk to respond to all the questions posed in Interrogatory KE/USPS-T33-3. In the alternative, if the Postal Service is permitted to submit institutional responses to one or more parts of the Interrogatory, KeySpan Energy requests that the Postal Service be directed to furnish a

---

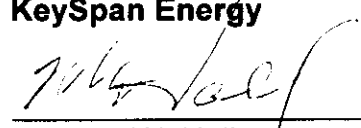
recipients.

witness to stand cross-examination on those institutional responses. Finally, KeySpan requests that witness Fronk be directed to furnish a responsive answer to part (e) of this interrogatory.

Respectfully submitted,

**KeySpan Energy**

By:

  
\_\_\_\_\_  
Michael W. Hall  
34693 Bloomfield Road  
Round Hill, Virginia 20141  
540-554-8880  
Counsel for  
KeySpan Energy

Dated: Round Hill, VA  
April 11, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing discovery request upon the United States Postal Service, Ted P. Gerarden, the Designated Officer of the Commission, and participants who requested service of all discovery documents, in compliance with Rules 12 (b) of the Commission's Rules of Practice.

Dated this 11th day of April 2000.

  
\_\_\_\_\_  
Michael W. Hall

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

**Attachment A  
RECEIVED**

**MAR 23 12 56 PM '00**

**POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY**

**POSTAL RATE AND FEE CHANGES**

**Docket No. R2000-1**

**KeySpan Energy's  
Second Set Of Interrogatories And Document Production Requests  
To USPS Witness David R. Fronk**

Pursuant to Rules 25, 26, and 27 of the Commission's Rules of Practice, KeySpan Energy submits the following interrogatories and document production requests to United States Postal Service witness David R. Fronk: **KE/USPS-T33-3**. If the designated witness is unable to answer any of these questions, please direct them to the appropriate witness who can provide a complete response.

Respectfully submitted,

KeySpan Energy

By:

Michael W. Hall *MS*

Michael W. Hall  
34693 Bloomfield Road  
Round Hill, Virginia 20141  
540-554-8880  
Counsel for  
KeySpan Energy

Dated: Round Hill, VA  
March 23, 2000

**KeySpan Energy's Second Set Of  
Interrogatories And Document Production Requests  
To USPS Witness David R. Fronk**

**KE/USPS-T33-3** Please refer to the Postal Service's institutional response to Interrogatory KE/USPS-T33-2. That interrogatory sought certain information regarding the effect on QBRM recipients of the Board of Governors' rejection, in Docket No. R97-1, of the Postal Service's own proposal to establish a new service called Prepaid Reply Mail (PRM).

- (a) Is it your understanding that the potential customers for Prepaid Reply Mail (PRM) service were high volume BRM recipients who had qualified for the then effective BRMAS BRM per piece fee of 2 cents? If that is not your understanding, please explain.
- (b) Please confirm that, under the Postal Service's fee design proposals in Docket No. R97-1, a potential Prepaid Reply Mail (PRM) customer would have to receive at least 200,000 pieces of PRM annually before the customer would begin to pay lower overall reply mail postage fees than the customer would pay as a QBRM recipient. If you cannot confirm, please explain why not.
- (c) Please confirm that, when the Postal Service derived the per piece fee for QBRM, the Service assumed that approximately 287 million pieces of high volume BRMAS BRM reply letters would migrate to the proposed Prepaid Reply Mail (PRM) service. See Docket No. R97-1, USPS-T-32, p. 42.
- (d) Is it your understanding that when the Board of Governors rejected the Postal Service's own proposal to establish a Prepaid Reply Mail (PRM) service in Docket No. R97-1, the Governors did not modify the Commission's QBRM cost analysis that supported the 5-cent QBRM per piece fee recommended to the Governors? Please explain.
- (e) Is it your understanding that when the Board of Governors rejected the Postal Service's own proposal to establish a Prepaid Reply Mail (PRM) service, the Governors did not modify the Commission's 5-cent QBRM per piece fee that it recommended to the Board of Governors in Docket No. R97-1? Please explain.
- (f) Do you agree that, when the Board of Governors rejected the Postal Service's own proposal to establish the Prepaid Reply Mail (PRM) service, existing high volume BRMAS BRM recipients, who had been paying a per piece fee of 2 cents, had no choice but to use QBRM service and pay a per piece fee of 5 cents, i.e. two-and-a-half times the per piece fee they had been paying? If you do not agree, please explain what other options were available to these high volume BRMAS BRM recipients.



- (g) Do you agree that, by rejecting the Postal Service's own PRM proposal and accepting without modification the Commission's QBRM cost analysis and 5-cent per piece rate recommendation, the Board of Governors effectively accepted a QBRM per piece fee that did not reflect 287 million lower-cost BRMAS BRM pieces in the derivation of the unit cost to process QBRM letters. If you do not agree, please explain.
- (h) In your opinion, is the current QBRM per piece fee of 5 cents as approved by the Board of Governors based on a cost analysis that overstates the unit cost to process QBRM letters? Please explain.
-

**RESPONSE OF U.S. POSTAL SERVICE WITNESS FRONK TO  
INTERROGATORIES OF KEYSpan ENERGY Attachment B**

KE/USPS-T33-3 (continued)

- (h) In your opinion, is the current QBRM per piece fee of 5 cents as approved by the Board of Governors based on a cost analysis that overstates the unit cost to process QBRM letters? Please explain.

**RESPONSE:**

- (a) Yes, in part. In Docket No. R97-1, I testified that PRM volume would also come from certain courtesy reply mail recipients who would qualify (Docket No. R97-1, USPS-T-32, at page 42).
- (b) Confirmed.
- (c) Confirmed.
- (d) – (h) Redirected to the Postal Service.

RESPONSE OF U.S. POSTAL SERVICE TO INTERROGATORIES  
OF KEYSpan ENERGY REDIRECTED FROM WITNESS FRONK

Attachment C

KE/USPS-T33-3 (continued)

- (h) In your opinion, is the current QBRM per piece fee of 5 cents as approved by the Board of Governors based on a cost analysis that overstates the unit cost to process QBRM letters? Please explain.

RESPONSE:

- (a) – (c) Answered by witness Fronk.
- (d) The Governors' decision contains no discussion of a modification of the Commission's QBRM cost analysis.
- (e) The Governors' decision did not modify the Commission's recommended QBRM accounting fee.
- (f) Yes, but QBRM customers also saw their postage rate decline. Before the implementation of Docket No. R97-1, BRMAS BRM letter recipients would pay 34 cents per piece (full single-piece postage of 32 cents + a 2-cent BRMAS per piece fee). Since the implementation of Docket No. R97-1, QBRM letter recipients pay 35 cents per piece (discounted single-piece postage of 30 cents + a 5-cent QBRM per piece fee). The overall one-cent increase experienced by BRMAS/QBRM recipients was in line with the increases experienced by other First-Class Mail customers.
- (g) Objection filed.
- (h) Objection filed.