

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

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO CRPA MOTION TO COMPEL RESPONSES INTERROGATORY T32-8 and 10(c)
(April 19, 2000)

In accordance with Rule 26 of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby files this response to the motion of the Coalition of Religious Press Associations to compel responses to CRPA/USPS-T32-8 and 10(c). For the reasons stated below, the motion should be denied or otherwise deemed moot.

CRPA/USPS-T32-8

This interrogatory requests copies of all Postal Service records transmitted to or from the Postal Service regarding Revenue Forgone Reform Act reform and/or a list identifying all parties to whom the Postal Service has communicated concerning that topic since January 1999.

Presently, Mr. Anthony Conway, Manager, USPS Government Relations, is leading the Postal Service effort to develop draft legislation to be submitted to the Chairman of the Subcommittee on the Postal Service, United States House of Representatives, for consideration as a vehicle to amend the Revenue Forgone Reform Act. In that capacity, Mr. Conway has either met or conversed with parties who are members of or very familiar to the postal bar.¹ It is expected that communications

¹ The Postal Service interprets the term "party" in CRPA/USPS-T32-8 as excluding persons who are either elected to the U.S. House of Representatives or employed by that institution or one of its members. With that understanding, Mr. Conway has reported to undersigned counsel that, to the best of his recollection, he has discussed RFRA reform with the following parties: Ms. Rita Cohen and Messrs. Richard Barton, Lee Cassidy, Gerald Cerasale, James Cregan, Neal Denton,

between Mr. Conway and these (and others parties) will continue.

The parties identified in footnote 1 have exchanged views on successive iterations of draft of legislation prepared by the Postal Service to serve as a vehicle for amending the RFRA. Parties interested in informally commenting on the current draft are, and always have been, free to obtain copies and discuss them with Mr. Conway as a part of.² As it determines the nature of the legislative language to formally submit to the Chairman of the House Subcommittee, the Postal Service considers that this informal, off-the-record process continues to promote a candid, pre-decisional exchange of ideas, which would be counter-productively “chilled” if the Postal Service were required to be conducted in some other manner.

The Postal Service considers that it would be unreasonable to require it to supplement the list in footnote 1 by conducting a search of the records and memories of employees other than Mr. Conway to determine the identities of all parties outside the Postal Service to whom they might have spoken regarding RFRA reform, as requested by CRPA/USPS-T32-8. The ostensible purpose this portion of CRPA’s request is that such a list “would enable CRPA, the Commission, and other interested parties’ to better understand why the proposed RFRA amendment . . . is desirable.” CRPA Motion at 7. No offense to the parties listed above in footnote 1, but their names and affiliations provide no basis for forming an opinion concerning the “desirability” of amending the

Gene Del Polito, David Levy, George Miller, Robert Tigner, David Todd, and Ian Volner. Their affiliations are a matter of record in numerous Commission proceeding.

² The Postal Service observes that CRPA/USPS-T32-8, in part, requests that the Postal provide a list of names of parties with whom it has communicated regarding RFRA reform legislation. The Postal Service considers that the provision of the list above in footnote 1 fulfills that part of its CRPA/USPS-T32-8 obligation. The Postal Service moves that it be excused from the obligation to periodically review Mr. Conway’s files and memory to determine the identities of any additional parties with whom he may communicate in the weeks and months ahead regarding RFRA reform, as such amendments to the list could not possibly be of any value to this proceeding.

RFRA.³ Nor will a list of names of every mailer representative who has spoken to a USPS Pricing or Marketing representative concerning RFRA reform. In light of the explosion of such conversations which is likely to have taken place at or as a result of the recently concluded National Postal Forum, compilation of such a list would be unduly burdensome and produce no information of value to this proceeding.

Accordingly, the Postal Service should not be required to collect and disclose a list of names other than those identified above in footnote 1.

In reviewing Mr. Conway's files in relation to this matter, the Postal Service has identified two hard-copy documents submitted to it by parties identified above in footnote 1. Those parties have expressed their concerns to the Postal Service about the "chilling" effect of public disclosure of these documents, but also have indicated to the Postal Service, on the basis of their own recent communications with CRPA, that they will interpose no objection to Mr. Conway's disclosure of these two documents to CRPA as part of his informal dialogue with parties interested in RFRA reform. To the extent that the CRPA Motion To Compel encompasses these two documents, it appears now to be moot.

As a part of this interrogatory, CRPA also asks for copies of all records transmitted externally by the Postal Service to such parties concerning RFRA reform. A review of Mr. Conway's files reveals the existence of two hard-copy documents. They are:

- the Postal Service's first draft of RFRA legislative language and
- the Postal Service's current draft of RFRA legislative reform language.

³ In any event, the "desirability" of RFRA reform is a matter to be decided by the Congress and, thus, only relevant to the legislative process. The Commission's recommended decision in this proceeding will be based its interpretation of the RFRA, in whatever state the RFRA exists for purposes of that recommended decision, irrespective of whether any party regards RFRA amendment "desirable."

As a part of the informal dialogue between the Postal Service and interested mailers concerning the development of a final draft of legislative language, which CRPA has always been free to join, CRPA also may contact Mr. Conway to arrange for receipt of copies of either of these drafts.⁴

CRPA/USPS-T32-10(c)

This interrogatory seeks to determine whether the Postal Service or any other party has provided any member of Congress or any Congressional staff employee with draft legislative language intended to effect RFRA reform. The Postal Service is not aware of any other party having submitted draft legislation to any member of Congress or any Congressional staff employee. Members of Congress and Congressional staff employees are aware that a draft vehicle for RFRA legislative reform is being developed by the Postal Service. Some have informally been shown a copy of the current draft referenced above in relation to CRPA/USPS-T32-8, with the understanding that it is not the final draft.

Consistent with previous (unrecorded) communications with such persons, it is the Postal Service's objective to submit the final version of that draft for consideration by the 106th Congress. The Postal Service has no objection to public disclosure of the draft it expects to submit as a vehicle for RFRA reform before the 106th Congress -- when such a draft is finalized. The Postal Service will file that document as a Library Reference in this proceeding at that time. Given the nature of the legislative drafting process, the Postal Service cannot presently state how many days or weeks from now that will occur.

However, since CRPA is free to obtain a copy of the current draft from Mr. Conway and join the informal dialogue surrounding that draft, the Postal Service

⁴ Mr. Conway's telephone number is (202) 268-3748.

considers that it should be excused from the obligation of formally responding to this interrogatory until such time as a final draft comes into existence.

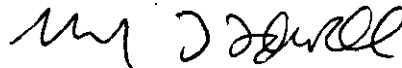
For the foregoing reasons, the Motion to Compel should be denied or, in the alternative, considered moot.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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April 19, 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.



Michael T. Tidwell

April 19, 2000