

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

ASSOCIATION OF PRIORITY MAIL USERS, INC.  
MOTION TO COMPEL UNITED STATES POSTAL SERVICE TO  
PRODUCE INFORMATION REQUESTED IN INTERROGATORY AND REQUEST FOR  
PRODUCTION OF DOCUMENTS TO UNITED STATES POSTAL SERVICE  
WITNESS LINDA A. KINGSLEY (APMU/USPS-T10-2)  
(April 20, 2000)

**INTRODUCTION**

Pursuant to section 25(d) of the Rules of Practice of the Postal Rate Commission, the Association of Priority Mail Users, Inc. ("APMU") hereby moves the Presiding Officer to order the United States Postal Service to answer Interrogatory and Request for Production of Documents to United States Postal Service Witness Linda A. Kingsley (APMU/USPS-T10-2), filed on March 31, 2000. The Postal Service filed its objections to this interrogatory on April 10, 2000.

**DISCOVERY REQUESTS AND OBJECTIONS**

The Interrogatory and Request for Production of Documents propounded by APMU was a follow-up interrogatory based on Witness Kingsley's answer, filed March 21, 2000, to APMU's first interrogatory in which she had stated "there has been measurable improvements in Priority service with the PMPCs compared to the rest of the network...." APMU's interrogatory simply seeks to probe the basis of this assertion by asking the following:  
**APMU/USPS-T10-2.**

Please refer to your response to APMU/USPS-T10-1(d), where you state that "there has been measurable improvements in Priority service with the PMPCs compared to the rest of the network...."

- a. By "network," do you mean something other than the PMPC network, such as all Priority Mail processing and transportation outside the PMPC network?

- b. Please provide all evidence supporting your statement.
- c. Please provide the data demonstrating these measurable improvements for:
  - (i) Priority Mail both originating and destinating within the network service area;
  - (ii) Priority Mail originating within and destinating outside the network service area;
  - (iii) Priority Mail originating outside and destinating inside the network service area; and
  - (iv) Priority Mail neither originating nor destinating within the network service area.
- d. Please reconcile your statement with the findings of the Postal Service Inspector General's office, as reported in the Inspector General's report, Priority Mail Processing Center Network (September 24, 1999) DA-AR-99-001.
- e. Were the data which you cite provided to the Inspector General? Please explain your answer.

The Postal Service's reaction to this request for the basis of their witness's assertion was a written objection to all sections of the interrogatory that was forceful and comprehensive. The written objection was supplemented by oral objections made to similar questions posed by counsel for APMU when witness Kingsley took the stand on April 13, 2000.

Each time APMU sought to probe this witness's assertion, the Postal Service barred the door. During her testimony, APMU referred the witness to her answer to the prior interrogatory and her statement about measurable improvements. APMU then attempted to ask a question about this but the question was cut off at its mid-point by Postal Service counsel:

"Q. [By Mr. Olson] ... Could you - measurable improvements are things that can be quantified. What evidence do you have -

Ms. Duchek: Excuse me, Mr. Chairman. I think this is ... the subject of an outstanding objection...." [Docket No. R2000-1 Transcript, pp. 2031-32 (April 13, 2000).]

So shrouded is this information, that the Postal Service seeks to conceal not only the information but also its source:

"Q. What did you mean by measurable improvement?

"A. It was my understanding, working with some of our PMPC Postal coordinators, that the service within the PMPC network was at a higher level than the priority outside of the PMPC network.

"Q. Okay. And where did that information come from?

"Ms. Duchek: Mr. Chairman, this is where the interrogatory comes in and we start objecting.

“Mr. Olson: Mr. Chairman ... I’m trying to find out what the basis is and they don’t want to disclose the numbers.... I don’t know any other questions to ask other than the source of the information. I assume counsel is advising she’ll object to each one of them.

“Ms. Duchek: I believe that’s correct, and I would point out that our objection, although you haven’t received it, Mr. Olson, generally follows along the identical lines to the objection to very similar if not identical questions you asked of Witness Robinson.” [*Id.* at pp. 2033-34.]

The Postal Service’s written objection to the interrogatory actually states that the interrogatory is “well beyond the scope of the testimony of witness Kingsley” even though it is a direct follow-up question to this witness to explore the basis for her response to a previous interrogatory.<sup>1</sup> The inconsistency in this position is obvious. Further, the Postal Service seeks to devise a new legal ground for objection when it argues that witness Kingsley’s “comment about Priority Mail performance was completely incidental.”

Neither basis for the objection — that the information is beyond the scope of the witness’s testimony or that the comment was incidental — is accurate, adequate or proper.

If by “beyond the scope of the testimony” the Postal Service means beyond the principal area covered by a witness, that may be correct. But a reading of witness Kingsley’s answer to APMU/USPS-T10-1 shows that she has knowledge of information indicating that, according to the Postal Service, service performance has improved in the PMPC network and she decided to offer that information in a discovery response. After she offered that conclusory information, the Postal Service sought to place her in a witness protection program which would shield her from all inquiries as to what her conclusion is based upon.

Further, the statement “there has been measurable improvements in Priority Service” is not “incidental” to the issues in this docket. The Postal Service may be correct in saying that the statement is incidental to Kingsley’s answer in the sense of grammatically or logically she

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<sup>1</sup> It should be noted that in the portion of the transcript just quoted, Postal Service counsel confirmed that the Postal Service was also objecting to providing this information in response to an interrogatory to Witness Robinson. This makes the “scope of her testimony” portion of this objection suspect. If the objection is being made irrespective of to whom the question is posed, then “scope of testimony” has nothing to do with the Postal Service’s refusal to provide the information.

did not need to include the statement to complete her answer. But that cannot eliminate the fact that it was made, that she intended to make it and, most importantly, that she intended it to be taken as factual and true.

Any reasonable reading of her answer demonstrates that the statement in question, contained in the second sentence, was a deliberate continuation of her statement in the first sentence. In the first sentence, she set forth the purpose of the PMPC network (“a pilot test of an approach for improving the service delivery of Priority Mail”) and in the first phrase of the second sentence she indicates her belief that it has achieved its purpose (“[t]hough there has been measurable improvements in Priority service....”). Given this structure, the second phrase is clearly intended, not inadvertent or “incidental” as the Postal Service would term it.

Delivery performance is an important factor underlying value of service, and is appropriately considered by the Commission in establishing rates and setting coverage factors. *See Docket No. R97-1 Op. & Rec. Dec.*, ¶5308 (May 11, 1998). In fact, in Docket No. R97-1, the Commission noted, as one of its bases for “recommending a somewhat reduced proportional contribution to institutional costs by Priority Mail” (*Id.* at ¶5309) that it did not appear that “standards of service are likely to be enhanced as a result” of “implementation of processing through the PMPC Network.” *Id.* at ¶5308. Obviously, information underlying a witness’s statement that that service has improved is relevant and discoverable in this proceeding.

**CONCLUSION**

WHEREFORE, the premises considered, APMU requests that an order be entered compelling the Postal Service to respond fully and completely to Interrogatory and Request for Production of Documents to United States Postal Service Witness Linda A. Kingsley (APMU/USPS-T10-2), filed on March 31, 2000.

Respectfully submitted,

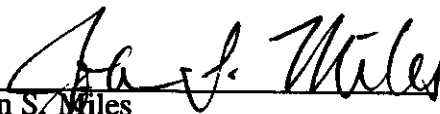


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**CERTIFICATE OF SERVICE**

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.

  
John S. Miles

April 20, 2000