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

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES

Docket No. R2000-1

Limited Reply Of KeySpan Energy To
Response Of The United States Postal Service
To KeySpan Energy Motion To Compel

To: Hon. Edward J. Gleiman
Presiding Officer

KeySpan Energy ("KeySpan") hereby requests leave to file the following limited reply to the April 19, 2000 "Response Of The United States Postal Service To KeySpan Energy Motion To Compel" ("USPS April 19 Response"). The sole purpose of KeySpan's reply is to clear up confusion that may be caused by the USPS April 19 Response. Accordingly, KeySpan submits that there is good cause to permit the filing of its limited reply.

By motion dated April 11, 2000, KeySpan requested 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." April 11 Motion To Compel at 1 (emphasis added). KeySpan also requested, in the alternative, that "in the event that USPS witness Fronk cannot provide a complete response to this interrogatory . . . 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." *Id.*

In the USPS April 19 Response, the Service purports to withdraw its March 31 objection to Interrogatory KE/USPS-T33-3 and indicates that a further institutional response has been filed. Thereupon, the Service declares "[the Postal Service assumes that the provision of those [institutional] responses renders the controversy moot." USPS April 19 Response at 1.

The Postal Service's "assumption" is not correct. Contrary to the Postal Service's suggestion, KeySpan's motion to compel did *not* seek *institutional*

responses to any parts of Interrogatory KE/USPS-T33-3. What KeySpan primarily did and still does seek is USPS witness Fronk's answer to all the questions posed. As KeySpan stated, "[t]here is no legitimate reason why *witness Fronk* cannot furnish complete, responsive answers to *all* these interrogatory requests." .¹ April 11 Motion To Compel at 3 (emphasis added). Accordingly, there is no factual or logical basis for the Postal Service's "assumption" that an institutional response will moot the issues raised in KeySpan's motion to compel.

The USPS April 19 Response also fails to even address, much less refute, KeySpan's essential claims. In its April 11 Motion To Compel, KeySpan stated:

KeySpan knows of no reason why witness Fronk could not answer the questions posed. Certainly the information and or opinions 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.

The USPS April 19 Response takes no issue with KeySpan's assertions regarding witness Fronk's fitness to answer these questions. Instead, the Postal Service Response first obfuscates matters by echoing a claim, made in the March 31 Objection (which the Service simultaneously says it has withdrawn), that KeySpan's questions "delve into matters beyond the scope of witness Frank's testimony or *the testimony of any other postal witness*"¹ and, then, boldly stating without any factual or logical support that the questions "are considered appropriate for redirection from witness Fronk to the institution for response." USPS April 19 Response at 1.2 Of

¹ The Postal Service's claim that these matters are beyond the scope of Mr. Fronk's testimony is not a proper objection to KeySpan's discovery request. Significantly, by withdrawing the March 31 Objection, the Postal Service effectively has abandoned its earlier claims that KeySpan's interrogatory questions are irrelevant to the issues presented in this case and not reasonably calculated to lead to admissible evidence.

² The Service's final, nonsensical argument – that it "objects to the notion that KeySpan can simply name a topic, declare that it has (unknown) questions about that topic, and demand that someone other than designated witnesses answer them via cross-examination" – improperly disregards the fact that KeySpan's primary request is for **Mr. Fronk** to respond to the questions.

course, this latter argument by the Postal Service improperly arrogates to the Service the authority of the Presiding Officer.

CONCLUSION

For the foregoing reasons, KeySpan Energy submits that its April 11, 2000 Motion To Compel is not "moot" as the Postal Service claims. Accordingly, KeySpan 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 or, in the alternative, directing the Postal Service to furnish a witness to stand cross-examination on those institutional responses.

Respectfully submitted,

KeySpan Energy

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Dated: Round Hill, VA
April 21, 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 21st day of April 2000.

Michael W. Hall/PS
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