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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. R2000-1/48

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

Postal Rate and Fee Changes

Docket No. R2000-1

RULING GRANTING IN PART
UNITED PARCEL SERVICE MOTION TO COMPEL
CONCERNING UPS/USPS-T5-28

(Issued April 24, 2000)

On April 5, 2000, United Parcel Service (UPS) filed a motion to compel the Postal Service to answer interrogatory UPS/USPS-T5-28.¹ On April 19, 2000, the Postal Service filed its response opposing the motion.² The motion is granted, in part.

Background. UPS/USPS-T5-28 requests audit results concerning BY 1998 postage statements. In addition, it seeks information concerning verification procedures, the number and types of errors, and all documents related to such audits. On March 23, 2000, the Postal Service objected to UPS/USPS-T5-28 essentially on the grounds of vagueness and redundancy.³ The Postal Service argues that the term "audit" is susceptible to at least five potential meanings, e.g., to audited financial statements, audits conducted by the Inspection Service, and audits done by accounting

¹ Motion of United Parcel Service to Compel Production of Information and Documents Requested in Interrogatory UPS/USPS-T5-28 to Witness Hunter, April 5, 2000 (Motion).

² Response of United States Postal Service to United Parcel Service Motion to Compel a Response to Interrogatory UPS/USPS-T5-28, April 19, 2000 (Response). The Postal Service also filed a motion to accept its Response out-of-time, citing failure of its administrative routing process. Motion of United States Postal Service for Late Acceptance of Reply to United Parcel Service Motion to Compel a Response to UPS/USPS-T5-28, April 19, 2000. The Postal Service's motion is granted.

³ Objection of United States Postal Service to Interrogatory UPS/USPS-T5-28, March 23, 2000, at 1 (Objection). As related to its claim of vagueness, the Postal Service also alleges, but to a lesser degree, burden and relevance. *Id.* at 2.

firms. In each instance, the Postal Service concludes that the information sought is redundant, and, in two instances, that production would be burdensome.

UPS' Motion to Compel. Initially, UPS outlines the relevance of the information sought to the development of BY 1998 Parcel Post volumes and revenues. UPS then addresses the Postal Service's objections, first by clarifying that "audit" was intended to mean "a report reflecting 'an official examination and verification of accounts and records.'"⁴ In that regard, UPS further states, "[a]s indicated to the Postal Service at the RPW technical conference held March 20, 2000, only audits conducted by the Inspection Service, the Office of Inspector General, or by some other non-local office, division, unit, or department of the Postal Service are requested."⁵ As for the claim of redundancy, UPS distinguishes the instant request from a previous interrogatory, UPS/USPS-T5-20, noting that they focus on different facets of the acceptance process.⁶ UPS criticizes the Postal Service's claim of burden as being a product of its overly broad interpretation, one at odds with how it was interpreted by witness Kingsley.⁷

Postal Service's Response. In its Response, the Postal Service indicates that it contacted the Postal Inspection Service and the Office of Inspector General (OIG). The Postal Service states that although the Postal Inspection Service routinely conducts "financial audits," such audits are unlikely to be responsive as they "would ordinarily not examine postage statements."⁸ The Postal Service indicates, however, that the Inspection Service did identify "potentially responsive financial audits," but that such information is now likely in the possession of the OIG.⁹ Noting the time constraints involved in preparing its Response, the Postal Service estimates that producing the

⁴ Motion at 3. In addition, UPS notes that the use of the same term did not cause the Postal Service to object to an interrogatory to witness Kingsley requesting "audits . . . concerning drop shipments." *Id.* at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 3-4.

⁷ *Id.* at 4.

⁸ Response at 2.

⁹ *Id.* at 3.

results in redacted form may take several weeks.¹⁰ In addition, the Postal Service cites subpart (c) of the interrogatory, which seeks “all documents and analyses related to each such audit,” as its principal concern. Elaborating, it notes that, while redacted information could be provided, the OIG regards all supporting documents “as protected deliberative process materials.”¹¹ The Postal Service requests that UPS’ Motion be denied in its entirety.

Discussion. Motions practice is available to resolve legitimate discovery disputes. The process is misused when objections are interposed offhandedly, *i.e.*, with no demonstrable nexus between the grounds alleged and the information sought. Such is the case concerning the Postal Service’s Objection, which appears to be more contrived than substantive.

First, the information requested, audit results concerning the accuracy of postage statements, is plainly relevant, a point the Postal Service implicitly concedes by failing to address it. Second, while the term “audit” may be susceptible to various interpretations, in context its meaning was reasonably decipherable, particularly since UPS apparently had previously voiced its intended meaning. Moreover, even if that were not the case, on several occasions the Postal Service or one of its witnesses responded, without objection, to interrogatories requesting audit reports or information concerning auditing procedures.¹² Third, if the Postal Service was uncertain what meaning to ascribe to the term “audit,” it should have, as encouraged by the Commission’s Rules, “use[d] informal means to clarify questions and to identify portions of discovery requests considered overbroad or burdensome.”¹³ Fourth, the Postal

¹⁰ *Ibid.*

¹¹ *Id.* at 2-3. Based on its discussions with the Inspection Service and OIG, the Postal Service claims the interrogatory is further objectionable because it seeks commercially sensitive materials. *Id.* at 2.

¹² In addition to UPS/USPS-T-10-2 cited by UPS, see *also, e.g.*, Response of United States Postal Service to Interrogatories of United Parcel Service Redirected from Witness Xie UPS/USPS-T1-31-33, 34(d), concerning audits pertaining to various TRACS subsystems; and Response of U.S. Postal Service to Interrogatories of the Office of the Consumer Advocate OCA/USPS-23, concerning auditing procedures for ensuring correct payment of postage for First-Class letter mail.

¹³ Rule 25(b).

Service's claim of redundancy relies on its misplaced interpretation of the term "audit" and the contention that previously submitted materials, *i.e.*, its response to UPS/USPS-T5-20 and Library Reference LR-1-181, adequately address UPS/USPS-T5-28. If these materials were responsive, the Postal Service could have, as it has done routinely in this proceeding, simply cited its prior response as its answer.¹⁴

The interrogatory requests, among other things, audit results concerning the accuracy of BY 1998 postage statements, a description of verification procedures, and error results, if any. In its Response, the Postal Service addresses the scope of the information requested, if not the substance, by acknowledging that potentially responsive materials may be available, distinguishing the Inspection Service's audits, and indicating that fifteen audits "reported some kind of problem."¹⁵ Whether, for reasons suggested in the Response, these results are ultimately deemed to be responsive remains to be seen. The relevance of the information sought, however, is unchallenged. Hence, the Postal Service is directed to respond to the UPS/USPS-T5-28, except, as discussed below, subpart (c).¹⁶

As a result of what it characterizes as the narrowing of UPS' request, the Postal Service indicates that the burden of producing the materials is substantially reduced. While suggestions that ambiguity precludes any responsive answer should have been resolved informally, the Postal Service's Response is helpful in highlighting its principal concern, namely subpart (c). In addition to an assertion of privilege, the Postal Service cites the breadth, burden, and commercial sensitivity concerning all related documents and analyses.¹⁷ Under the circumstances, subpart (c) is overly broad, going beyond what would be needed to analyze whether the postage statement verification process

¹⁴ This is not to suggest that, under the circumstances, such an answer would have been responsive, but only that its failure to do so undermines the legitimacy of its claimed redundancy.

¹⁵ Response at 2.


¹⁶ In its Response, the Postal Service focused on data that may be available from the Postal Inspection Service and OIG. UPS' Motion, however, reiterated that the term "audits" was also intended to encompass "other non-local office, division, unit, or department of the Postal Service." Motion at 3. In its response, the Postal Service should endeavor to answer this aspect of the inquiry as well.

¹⁷ Response at 3.

was being administered properly. Therefore, the Postal Service's objection to subpart (c) is sustained.

RULING

1. The Motion of United Parcel Service to Compel Production of Information and Documents Requested in Interrogatory UPS/USPS-T5-28 to Witness Hunter, filed April 5, 2000, is granted, except as to subpart (c). The Postal Service's response is due no later than May 2, 2000.
2. The Motion of United States Postal Service for Late Acceptance of Reply to United Parcel Service Motion to Compel a Response to UPS/USPS-T5-28, filed April 19, 2000, is granted.


Edward J. Gleiman
Presiding Officer