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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. R2000-1/60

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

Postal Rate and Fee Changes

Docket No. R2000-1

PRESIDING OFFICER'S RULING
ON POSTAL SERVICE OPPOSITIONS TO REQUESTS FOR
CROSS-EXAMINATION OF INSTITUTIONAL RESPONSES

(Issued May 10, 2000)

Presiding Officer's Ruling R2000-1/40 set May 11, 2000 for cross-examination on responses to discovery requests provided by Postal Service as an institution. Three requests for such cross-examination were filed on May 8, 2000, and on May 9, 2000 the Postal Service filed oppositions to parts of two of those requests.

Request of KeySpan Energy.¹ KeySpan Energy indicates its intent to question concerning four separate interrogatory answers. The Postal Service objects to questioning on three of those discovery responses. It does not oppose questions concerning KE/USPS-T29-53.

The Postal Service contends that KeySpan conducted extensive cross-examination of witness Campbell concerning the application of the weight averaging accounting method to business reply mail. This was the subject of KE/USPS-T29-10(d) and T29-43(a). KeySpan also questioned witness Campbell about the answer to KE/USPS-T29-43(b). TR14/6110-11.²

¹ KeySpan Energy's Request for Postal Service Witness to Explain Institutional Responses Designated as Written Cross-Examination, May 8, 2000.

² Opposition of the United States Postal Service to KeySpan Energy's Request for a Postal Service Witness to Explain Institutional Interrogatory Responses, May 9, 2000, at 2.

Had witness Campbell answered these questions initially, this extensive cross-examination would clearly have satisfied any Postal Service obligation to respond. However, the Postal Service redirected these questions to itself as an institution, thereby indicating that witness Campbell was not sufficiently knowledgeable to provide complete answers. Cross-examination designed to clarify the institutional responses provided is therefore permissible. Nonetheless, KeySpan has explored the operations involved in weight averaging, and the cost associated with that practice. Therefore, cross-examination should be restricted to Postal Service management considerations.

Postal Service also points out that the answer to KE/USPS-T29-21 was adopted by witness Campbell.³ It argues that the time for cross-examination has clearly passed. The Postal Service is technically correct, however, the Notice that witness Campbell was adopting the institutional response does not mention that the affected interrogatory was submitted by KeySpan Energy. This may explain why KeySpan did not designate this response for incorporation into evidence. I will allow KeySpan to designate this response and ask brief clarifying questions.

Request of Major Mailers Association.⁴ MMA indicates its intention to address two issues. The Postal Service does not object to questions stemming from answers filed May 8, 2000, that address differences in test year costs under Postal Service and Commission attribution methods.

The Postal Service does object to questions on undeliverable as addressed mail stemming from answers to MMA/USPS-1 and ABA&NAPM/USPS-T24-30 and 31. The Postal Service objections in this area are well taken. MMA/USPS-1 essentially confirms propositions offered by MMA. No follow up cross-examination was filed. It is difficult to understand why a witness might be required to explain why a correct statement was confirmed.

³ Notice of the United States Postal Service Witness Campbell Concerning Witness Campbell's Adoption of Institutional Interrogatory Responses, April 20, 2000.

⁴ Request of Major Mailers Association for Appearance by Postal Service Witnesses to Explain Designated Written Cross-Examination, May 8, 2000.

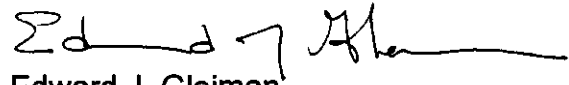
Similarly, the answers to ABA&NAPM/USPS-T24-30 and 31 direct the reader to the location of specific information in documents filed by the Postal Service. Again, no follow up cross-examination was filed. If MMA suspects that the locations provided are inaccurate, clarifying cross-examination is appropriate. Otherwise, there appears to be no need to further explore the location of that information.

Postal Service also expresses concern that MMA may attempt wide ranging cross-examination concerning library references LR-I-82 and LR-I-192. It contends that neither library reference has been the subject of discovery by MMA and that Presiding Officer Ruling R2000-1/40 did not contemplate cross-examination unrelated to discovery responses provided either by witnesses who had completed their cross-examination or by the Postal Service as an institution.⁵

The Postal Service position on this point is correct. MMA may follow up on the response to MMA/USPS-T24-14 and the response to the question posed at Tr. 7/3193. However, a broad inquiry into the development of library references LR-I-82 and LR-I-192 will not be allowed.

RULING

Cross-examination on written discovery responses designated by KeySpan Energy and Major Mailers Association will be limited as described in the body of this Ruling.


Edward J. Gleiman
Presiding Officer

⁵ Opposition of the United States Postal Service to Major Mailers Association Request for a Postal Service Witness to Explain Institutional Interrogatory Responses, May 9, 2000, at 2.