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POSTAL RATE COMMISSION
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PRESIDING OFFICER'S
RULING NO. R2000-1/64

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,
THE ASSOCIATION OF PRIORITY MAIL USERS' MOTION
CONCERNING APMU/USPS-T10-2

(May 18, 2000)

On April 20, 2000, the Association of Priority Mail Users, Inc. (APMU) filed a motion to compel a response to APMU/USPS-T10-2, which requests, among other things, support for witness Kingsley's statement concerning Priority Mail Processing Centers (PMPC).¹ Initially, the Postal Service objected, contending that the comment was incidental and that the questions were beyond the scope of witness Kingsley's testimony.² In its response to the motion, the Postal Service cites Presiding Officer's Ruling (POR) R2000-1/51, as effectively resolving the substance of APMU's motion.³ The motion is granted, in part.

In response to APMU/USPS-T10-1(d), witness Kingsley stated, in relevant part, that : "[T]here [have] been measurable improvements in Priority service with the PMPCs

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 (Motion).

² Objection of the United States Postal Service to Interrogator[y] of APMU to Witness Kingsley (APMU/USPS-T10-2), April 10, 2000 (Objection).

³ Opposition of the United States Postal Service to APMU Motion to Compel Response to Kingsley Interrogatory APMU/USPS-T10-2, April 27, 2000 (Opposition).

compared to the rest of the network, . . .”⁴ In APMU/USPS-T10-2, APMU sought, as a general matter, to explore witness Kingsley’s support for this statement.⁵ The issue raised by this follow-up interrogatory is whether it seeks “information which appears reasonably calculated to lead to the discovery of admissible evidence.”⁶ I conclude that, with certain exceptions, it does.

The Postal Service’s objection is not well-founded. First, the characterization of the comment as “incidental” is not, under the circumstances, a valid objection.⁷ While, in a very limited sense, “incidental” may fairly describe the witness’s statement, that rationale is essentially meaningless. Not only did the witness make the statement, its substance is not so attenuated from issues in this proceeding as to preclude legitimate follow-up. Nor is the second rationale, *i.e.*, that the interrogatory is beyond the scope of the witness’s testimony, credible. The inquiry relates to a specific statement by the witness. If, nonetheless, she is unable to answer, the Postal Service should redirect the inquiry to an appropriate witness.

In its Opposition, the Postal Service cites POR R2000-1/51 as dispositive of APMU’s motion. The Postal Service’s reliance on that ruling is too sweeping. The Postal Service describes the interrogatories at issue in POR R2000-1/51 as “seeking essentially the same information now sought from witness Kingsley.”⁸ This reasonably characterizes subpart (c), which sought information similar to that in APMU/USPS-T34-

⁴ In its entirety, the sentence reads as follows: “Though there has (sic) been measurable improvements in Priority service with the PMPCs compared to the rest of the network, any theoretical benefit to other classes of mail delivery arising from the creation of a dedicated mail stream for Priority Mail would be incidental.”

⁵ APMU/USPS-T10-2 consists of subparts (a) through (e).

⁶ Rule 26(a) of the Commission’s Rules of Practice.

⁷ As APMU notes, this rationale represents the Postal Service’s attempt “to devise a new legal ground for objection . . .” Motion at 3.

⁸ Opposition at 1.

33-36.⁹ It is, however, inaccurate as to the balance of APMU/USPS-T10-2. While POR R2000-1/51 denied APMU's earlier motion regarding APMU/USPS-T34-33-36, it specifically recognized, in granting a portion of that earlier motion, that delivery performance data were relevant.¹⁰ Therefore, pursuant to POR R2000-1/51, APMU's motion is denied with respect to subpart (c).¹¹ It is, however, granted with respect to subparts (b), (d), and (e).¹²

Subpart (b), for example, requests all evidence supporting witness Kingsley's statement that there have been "measurable improvements in Priority service with the PMPCs." The witness's response may have implications for the cost, service levels, and value of service for Priority Mail. Illustratively, as APMU notes, delivery performance for Priority Mail, including the effect of processing through the PMPC network, influenced the Commission's recommended coverage in Docket No. R97-1.¹³ Moreover, various issues related to the PMPC network have been explored in this proceeding. See, e.g., APMU/USPS-T34-25 (re distinctions between First-class Mail and Priority Mail, including PMPC network), APMU/USPS-T34-41 (re PMPC costs), DBP/USPS-128 (re PMPC costs), DBP/USPS-10(c) (re Priority Mail processing), and UPS/USPS-T10-1 (re Priority Mail Mailstream).¹⁴ In sum, while it is premature to speculate on what issues affecting Priority Mail may ultimately be presented in this

⁹ Subpart (c) and APMU/USPS-T34-33-36 are similar to the extent they seek performance data for Priority Mail which variously originates and/or destines (or other permutations of the same) within (or, as appropriate, outside) the PMPC.

¹⁰ POR R2000-1/51 at 4. See also, POR R2000-1/44 which compelled a response to DBP/USPS-10(c), which, as modified, required the Postal Service to provide information concerning Priority Mail processing, including "standards that are in place." POR R2000-1/44 at 4.

¹¹ See POR R2000-1/51 at 5.

¹² During her appearance on the stand, witness Kingsley essentially answered subpart (a). See Tr. 5/2031. Thus, as to that subpart, APMU's motion is dismissed as moot.

¹³ Motion at 4, citing Opinion and Recommended Decision, Docket No. R97-1 (May 18, 1998) at 363.

¹⁴ Subparts (d) and (e) focus on the Inspector General's Report, Priority Mail Processing Center Network, September 24, 1999, which, in response to POR R2000-1/51, has been filed as Library Reference LR-I-315.

proceeding, the opportunity to discover information that may lead to admissible evidence cannot be foreclosed at this point. Consequently, the Postal Service is directed to answer APMU/USPS-T10-2(b), (d), and (e).

RULING

In accordance with the foregoing discussion, APMU's motion to compel, filed April 20, 2000 and identified in footnote 1 above, concerning APMU/USPS-T10-2 is:

- (a) dismissed as to subpart (a), which is deemed moot;
- (b) denied as to subpart (c); and
- (c) granted as to subparts (b), (d), and (e)


Edward J. Gleiman
Presiding Officer