

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

OPPOSITION OF UNITED STATES POSTAL SERVICE TO MOTION OF THE
MCGRAW-HILL COMPANIES, INC. TO COMPEL RESPONSES TO
INTERROGATORIES MH/USPS-5 AND MH/USPS-T10-26
(June 6, 2000)

The United States Postal Service hereby opposes the Motion of McGraw-Hill Companies, Inc. to Compel Responses to Interrogatories MH/USPS-5 and MH/USPS-T10-26, filed May 30, 2000 ("MH Motion").¹ MH has not put forth any compelling reason why the discovery requests are anything other than untimely.

MH does not put forth any valid justification for its late, detailed questions, contained in MH/USPS-5 (included as Attachment A) concerning USPS-LR-I-87, which was filed in January with the Postal Service's direct case. In fact, the Periodicals Mail Characteristics Survey contained in that library reference was listed as supporting material to the testimony of witness Yacobucci. USPS-T-25, page 6. MH now makes the feeble argument that the "predicate" for its question was a discussion contained in the written testimony of Postal Service witness Unger concerning how the relative size of Periodicals mailings was one factor making it less likely that Periodicals would be processed on automation. MH Motion at 1. Rather than bolster its claims that the request is timely, this argument only casts further doubt on them. If it was witness

^{1/} Actually, MH's motion was due on May 29, 2000, 14 days after the May 15, 2000 filing date of the Postal Service's objections.

Unger's written testimony that prompted MH's inquiry, then it should have directed written discovery to him by the applicable April 26, 2000 deadline.

Moreover, the claim that witness Unger's testimony first surfaced this issue is suspect. In fact, the concern that relatively smaller Periodicals volumes may not be processed on automated equipment has been discussed for quite some time. The Report of the Periodicals Operations Review Team ("Report"), dated March, 1999 clearly raised this issue, stating, at page 11:

Periodicals receive high levels of manual processing, compared with First-Class and Standard A Class flats. Facility managers explained this, in many instances, based on the rationale that larger volumes of Standard A provide longer, more efficient machine runs, and because smaller Periodicals volumes are not sufficient to cost-justify machine set-up time.

MH must have been aware that the team was paying attention to this issue -- it had a representative on the team. See Report, page 42. The Report was filed in this case in USPS-L-I-193 on February 23, 2000 -- a full month prior to the end of discovery on the Postal Service's case. Also, several of witness Kingsley's interrogatory responses addressed the issue, well before MH/USPS-5 was filed on May 5, 2000. For example, witness Kingsley's response to NNA/USPS-T10-15(b), filed on March 14, 2000, stated:

NNA/USPS-T10-15. Please explain whether the following circumstances cause a flat mail piece eligible for sorting on the FSM 1000 to be sorted manually and why such a decision would be made by a plant manager:

* * * *

b. another type of mail is occupying the machine during the service window;

Response:

* * * *

- b. Yes. Assuming that FSM 1000 capacity is constrained and that another mail type with a similar service window is more advantageous for that operating window. For example, *the other mail type may have greater volume*, more barcodes, and fewer machine rejects, thus providing a long and highly productive run on the machine.

Tr. 5/1785 (emphasis added). Another example, is contained in one of witness Kingsley's responses to an interrogatory filed by McGraw-Hill itself. The response, filed on April 5, 2000 -- a full month before MH/USPS-5 -- states:

MH/USPS-T10-3. With reference to your response to DCF/USPS-T10-10(I) that "very little First-Class Mail is diverted to the manual operation due to [flat sorting] capacity constraints since First Class Mail is a small portion of flat volume [and] has priority on the FSMs":

- a. Please explain the extent to which Periodicals mail has priority on the FSMs.
- b. Please explain the reasons why "FSMs are primarily used to sort First-Class Mail and Standard Mail (A)" (USPS-T16-, p. 43, line 1), and reconcile your answer with part a. above.

Response:

a. - b. Processing priorities are listed in the Postal Operations Manual (POM) Section 453 and apply to all operations. Other factors come into play on what volumes are processed on equipment including machinability characteristics (weight, polywrap, flimsy, rolls), presort level (ADC, 3D, or 5D bundle), arrival time (see below), service commitment (class, daily, weekly, monthly), operating window (critical entry time and clearance times to meet transportation and service), and *volumes (3,000 or 30,000 pieces)*.

Tr. 5/1680 (emphasis added). The issue MH seeks to explore clearly had been raised prior to witness Unger's testimony and MH's interrogatory is thus untimely. The information on Periodicals from USPS-LR-I-87 as well as the other detailed information requested for First-Class, Standard A Regular and Nonprofit and Periodicals Regular and Nonprofit accordingly should not have to be produced.

In a similar vein, MH's interrogatory MH/USPS-T10-26, a purported follow up to witness Kingsley's response to other interrogatories, comes too late. MH/USPS-T10-26 states:

In response to MH/USPS-T10-13(c), and in response to MH/USPS-T10-16, you referred to your response to ANM/USPS-T10-33, which consists of a chart showing the percentages over time of flats that were handled manually, but excluding incoming secondary volumes, which were handled manually to a significantly greater extent.

- a. Please produce a version of that chart which reflects incoming secondary processing in both plants and delivery units.
- b. Please explain fully how the Postal Service keeps track of and counts over time the number of flat mail pieces that are handled manually, and the number of flat mail pieces that are handled in mechanized automated operations.

The fact is, the response to ANM/USPS-T10-33, with the accompanying chart, which is the clear basis for MH/USPS-T10-26, was filed on March 24, 2000. MH's argument that it did not know, until the filing of the response to MH/USPS-T10-16 (which allegedly is the basis for the MH/USPS-T10-26 follow up) that the most responsive information was contained in the answer to ANM/USPS-T10-33, is disingenuous at best, and threatens to derail the discovery process at worst. What this argument really says is that intervenors can propound their own discovery requests at virtually any time, without ever having to review the record and follow what the witness has said at earlier points in time. In other words, under MH's theory of discovery, the hard work of other intervenors in propounding questions and the hard work of the witness in developing responses are all for naught – MH need pay no attention. Whenever MH gets around to it, it will ask whatever it wants, regardless of whether those issues have been covered before and regardless of whether follow up would

have been appropriate at an earlier juncture. In fact, MH should have paid attention and it is not the responsibility of witness Kingsley or the Postal Service to make up for MH's apparent lack of diligence in this instance.

MH, like all participants, has an obligation to review information when it is provided and to diligently pursue discovery. The Postal Service now must be allowed to engage in discovery on intervenors' cases, without being required to continue to seek out and produce information for those who have failed, without adequate justification, to adhere to the discovery schedule set by the Commission. MH must not be allowed advantages not available to other intervenors who have abided by the time limits.

For all of the foregoing reasons, MH's motion to compel should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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Susan M. Duchek

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.



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MH/USPS-5: Please refer to USPS-LR-I-87, pp. 10, 71, 84-106:

(a) Please provide in full all Log Sheets that were maintained for purposes of the survey, redacting only publication names (and not redacting transactions that were not ultimately sampled for the survey).

(b) In the alternative, please provide the following information:

(i) For each transaction listed on any and all Extra-Large Transactions (>250,000) Log Sheets maintained for purposes of the survey (including, without limitation, those transactions that were not ultimately sampled for the survey), please list the total number of pieces for each such transaction separately, and specify whether the transaction involved Periodicals Regular mail, Periodicals Nonprofit mail, or commingled Regular and Nonprofit Periodicals mail.

(ii) For each transaction listed on any and all Large Transactions (>50,000-250,000) Log Sheets maintained for purposes of the survey (including, without limitation, those transactions that were not ultimately sampled for the survey), please list the total number of pieces for each such transaction separately, and specify whether the transaction involved Periodicals Regular mail, Periodicals Nonprofit mail, or commingled Regular and Nonprofit Periodicals mail.

(iii) For each transaction listed on any and all Medium Transactions (>10,000-50,000) Log Sheets maintained for purposes of the survey (including, without limitation, those transactions that were not ultimately sampled for the survey), please list the total number of pieces for each such transaction separately, and specify whether the transaction involved Periodicals Regular mail, Periodicals Nonprofit mail, or commingled Regular and Nonprofit Periodicals mail.

(iv) For each transaction listed on any and all Small Transactions (0-10,000) Log Sheets maintained for purposes of the survey (including, without limitation, those transactions that were not ultimately sampled for the survey), please list the total number of pieces for each such transaction separately, and specify whether the transaction involved Periodicals Regular mail, Periodicals Nonprofit mail, or commingled Regular and Nonprofit Periodicals mail.

(c) Please provide similar information for bulk First-Class flat mailings, and for Standard A Regular and Nonprofit flat mailings, for BY 1998 and/or FY 1999.

(d) For those periods, please provide any and all information regarding the density (volumes to individual zones) of bulk First-Class flat mail, Standard A Regular and Nonprofit flat mail, and Periodicals Regular and Nonprofit flat mail, respectively.