

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

RECEIVED

POSTAL RATE AND FEE CHANGES, 1997)

Docket No. R97-1 PM '97
AUG 29 4 43 PM '97

NASHUA PHOTO INC., DISTRICT PHOTO INC.,
MYSTIC COLOR LAB, AND SEATTLE FILMWORKS, INC.
SUPPLEMENTAL MOTION TO COMPEL RESPONSE
OF UNITED STATES POSTAL SERVICE
WITNESS THOMAS M. SHARKEY TO NDMS/USPS-T33-10
(August 29, 1997)

Pursuant to sections 21(a) and 25(d) of the Postal Rate Commission rules of practice and Rule 2.B. of the Special Rules of Practice in this docket, Nashua Photo Inc. ("Nashua"), District Photo Inc. ("District"), Mystic Color Lab ("Mystic"), and Seattle FilmWorks, Inc. ("Seattle") (hereinafter collectively referred to as "NDMS"), proceeding jointly herein through their undersigned counsel, hereby request the Postal Rate Commission to enter an order compelling the Postal Service's witness, Thomas M. Sharkey (USPS T-33), to respond to request number 10a of the interrogatories/requests propounded to him by NDMS in this matter (NDMS/USPS-T33-10a).

STATEMENT

On August 1, 1997, NDMS filed and served by hand-delivery Interrogatory and Request to Produce T33-10 to Postal Service Witness Sharkey, *inter alia*, which asked the following question:

NDMS/USPS-T33-10

- a. Has the Postal Service developed any data showing the extent of on-time performance as a result of its experiments with confirmation of Priority Mail? Please provide copies of all summary performance data available from the delivery confirmation data base.
- b. Please provide copies of all other data and information (including anecdotal information) in the possession of the Postal Service that are pertinent to actual delivery service received by Priority Mail during the Base Year. This request includes, but is not limited to, data from ODIS and any external data which the Postal Service may have.

The Postal Service filed an objection to interrogatory 10, and NDMS filed a motion to compel Witness Sharkey to answer the entire interrogatory. That motion is pending. Despite the caption of its objection in which objection was made to the entire interrogatory, in detailing its objections to interrogatory 10, the Postal Service expressly objected only to subpart (b) of interrogatory 10, and on August 15, 1997, Postal Service Witness Sharkey actually filed a brief response to subpart (a) of interrogatory 10. That response reads as follows:

(a) The Postal Service has not developed any reliable on-time performance data as a result of its experiments with confirmation of Priority Mail.

Nothing further was said by Witness Sharkey about any *other* responsive data (*e.g.*, data not necessarily subjectively now deemed "reliable" by persons in the Postal Service) that the Postal Service may have developed, and no documents whatsoever were produced in response to interrogatory 10(a).

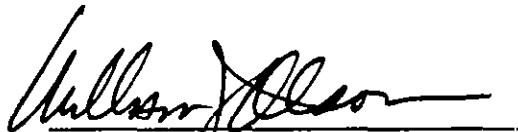
ARGUMENT

Witness Sharkey's answer is not responsive to the question, which asked if the Postal Service had developed *any* data showing the extent of on-time performance as a result of its experiments regarding Priority Mail. The denial of the existence of only "reliable" data appears to admit the existence of other data. The fact that the Postal Service may have certain feelings about the reliability of such data, we would submit, does not entitle the Postal Service to withhold such data from inquiring parties in this proceeding.

If the Postal Service has developed *no* data, of course, the situation would be different. Since that does not appear to be the case, NDMS submit that their interrogatory is deserving of an answer that is responsive to the precise question asked, and that they are entitled to copies of the documentation they requested.

For the foregoing reasons, NDMS submit that an order should be entered directing Witness Sharkey (and/or, if necessary, other appropriate Postal Service witness(es) with knowledge of the matter) to respond in full to NDMS-USPS-T-33-10a and to provide the information and documentation requested.

Respectfully submitted,



William J. Olson

John S. Miles

Alan Woll

William J. Olson, P.C.

8180 Greensboro Drive, Suite 1070

McLean, Virginia 22102-3823

(703) 356-5070

Counsel for Nashua Photo Inc., District Photo Inc.,
Mystic Color Lab, and Seattle FilmWorks, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by hand delivery or mail the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.



William J. Olson

August 29, 1997