

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, 2001 )

Docket No. R2001-1

OFFICE OF THE CONSUMER ADVOCATE  
MOTION TO COMPEL PRODUCTION OF INFORMATION  
REQUESTED IN INTERROGATORY OCA/USPS-306(b) AND (c)  
AND A RESPONSIVE ANSWER TO 306(d)  
(December 26, 2001)

Pursuant to Rule 21 of the Rules of Practice of the Postal Rate Commission, the Office of the Consumer Advocate ("OCA") hereby moves to compel responses to OCA/USPS-306(b) and (c) and a meaningful response to 306(d). The Postal Service filed its objection to subparts (b) and (c) on December 10, 2001.<sup>1</sup> The Service filed an incomplete and indecipherable response to subpart (d) on December 14, 2001.<sup>2</sup> In accordance with Commission Rules 26(d) and 27(d), the interrogatories and the Postal Service objection are set forth in full.

OCA/USPS-306

The following refers to the USPS response to UPS/USPS-T11-7, dated November 23, 2001.

- (a) Are the call centers referenced in the USPS response referring to the "1-800-ASK-USPS" centers? If not, please explain the difference between the centers.
- (b) If the "1-800-ASK-USPS" phones are answered by contractors, how is the performance of each phone operator evaluated? Also, what is the basis upon which each phone operator is compensated (e.g., Volume of calls, types of calls taken, etc.)?

<sup>1</sup> "Objection of the United States Postal Service to Interrogatory OCA/USPS-306(b) and (c)," filed December 10, 2001 (hereinafter cited as "Objection").

<sup>2</sup> "Response of United States Postal Service to Interrogatory of the Office of Consumer Advocate OCA/USPS-306(a) and (d)," filed December 14, 2001 Hereinafter "Response ."

(c) If the "1-800-ASK-USPS" service is contracted out, how is the contractor's performance evaluated?

(d) If the "1-800-ASK-USPS" service is contracted out, what is the basis for the contractor's compensation.

### Postal Service Objection

The United States Postal Service provided allegedly responsive answers to subparts (a) and (d), but objected to subparts (b) and (c) as follows:

The Postal Service objects, however, to subparts (b) and (c) as these questions deal with details of the contractual relationship between the Postal Service and the call center contractor that has no bearing on this proceeding. Neither the performance of individual call center operators and the call center contractor nor the manner in which such are evaluated are at all relevant to the rate, fee and classification proposals under consideration in this case. Accordingly, the postal Service should not have to respond to these subparts.

### Postal Service Response to 306(d) (emphasis supplied)

The Service filed an incomplete and incomprehensible answer to subpart (d) as follows:

The Postal Service's Purchasing Department has negotiated a "signed on" (*i.e.*, the actual time an operator is prepared to answer a phone call) billing rate based on skill level for agent work performed and the demographic wage rate where the call center is located. Using signed on time, the Postal Service pays for the time agents spend servicing customers over the phone, rather than an hourly rate. In addition to the signed on invoice amounts, the staffing contractor can earn incentive dollars or be penalized in the form of a disincentive if target performance metrics are not met each accounting period.

The OCA recently filed a lengthy motion to compel<sup>3</sup>, supported by two sworn declarations<sup>4</sup>, that addressed, *inter alia*, the reasons for seeking information about the

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<sup>3</sup> "Errata to Office of the Consumer Advocate Motion to Compel Responses to Interrogatories OCA/USPS-231-233, 243, 245-47 and 239-42,244, 248-53," filed December 18, 2001 (hereinafter Motion to Compel Responses." That motion is pending.

policies and practices of the Postal Service relating to the "1-800-ASK-USPS" service line. As stated in the motion to compel responses, the OCA sought to address concerns raised by the Commission:<sup>5</sup>

[I]n Docket No. R2000-1, the Commission expressly "tempered" the cost coverage for Express Mail because of concerns about quality of service and that "the Postal Service is not properly informing consumers about the limitations of its delivery network . . ." <sup>6</sup> Likewise, the Commission "moderated" the amount of institutional costs assigned to Priority Mail due to concerns about the value of service provided by Priority Mail.<sup>7</sup> The Commission was critical of the Postal Service's advertising practices for Priority Mail.<sup>8</sup> "[D]ocumented discrepancies" were noted;<sup>9</sup> misgivings about the Postal Service's failure to give consumers the ability "to make informed choices" were expressed;<sup>10</sup> and the Postal Service was cautioned "not [to] misle[a]d [customers] into purchasing a more expensive product that will not provide added service."<sup>11</sup>

Like Interrogatories 231-233, the subparts at issue here seek information on the goals and policies of the 1-800-ASK-USPS service. The OCA's calls to 1-800-ASK-USPS and visits to postal facilities, documented in the declarations, were made for the purpose of testing whether the Postal Service has addressed the Commission's R2000-

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<sup>4</sup> "Revised Declaration of Shelley Dreifuss as a Foundation for Office of the Consumer Advocate Motion to Compel Responses to Interrogatory OCA/USPS-231," executed December 18, 2001; "Declaration of Pamela A. Thompson as a Foundation for Office of the Consumer Advocate Motion to Compel Responses To Interrogatory OCA/USPS-232 and 233," executed December 18, 2001. Copies of the declarations are attached hereto as Attachments 1 and 2.

<sup>5</sup> Motion to Compel Responses at 3.

<sup>6</sup> PRC Op. R2000-1, para. 5013.

<sup>7</sup> *Id.*, para. 5304.

<sup>8</sup> *Id.*, para. 5301.

<sup>9</sup> *Id.*, para. 5300.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, para. 5301.

1 concerns. The attached declarations, which are based upon the answers given in telephone inquiries and in personal visits, demonstrate that the OCA uncovered indications that the Postal Service continues to withhold information needed by consumers to make informed choices between Priority and First-Class Mail. Indeed, based on the sworn declarations, there are grounds for concern that there may be a policy to exaggerate the quality level of the allegedly "premium" Priority Mail service or to use misleading statements to dissuade consumers from choosing the much lower priced First-Class Mail service and "steer" them into using the more costly Priority Mail service instead.

Subparts (b), (c), and (d) of Interrogatory 306 are, on their faces, seeking relevant information. Subparts (b) and (c) ask for information on the bases for performance evaluations of contractors and their employee operators, where contractors and contract operators are utilized. In addition, subpart (b) seeks information on the basis for operator compensation. Subpart (d) seeks information on the basis for contractor compensation. Obviously, if there are concerns about "steering" customers to more expensive services or touting the quality of services in a misleading fashion, it is relevant (if not indispensable) to ask whether the performance evaluation or compensation is keyed to improper conduct or to success in "steering" customers to premium services.

Far from demonstrating a valid ground for objection, the Postal Service's objections and responses show that the inquiries are proper and, in fact, support the relevance of the inquiries. Initially, the Postal Service again makes the legal mistake of ignoring the fact that a discovery request does not have to be directly probative with

respect to the calculation of a specific rate or fee. As the Presiding Officer recently reminded the Service, under commission Rules 26(a) and 27(a), discovery is allowed if the material appears “reasonably calculated to lead to the discovery of admissible evidence.”<sup>12</sup> Moreover, the “. . . the material requested need not be relevant in and of itself. It need only lead to the discovery of admissible evidence that is relevant to the proceeding.”<sup>13</sup>

Here, subparts (b) and (c) seek information on whether performance evaluations and compensation for both contractors and operators may be partially or wholly based on making vigorous efforts to misleadingly describe the quality of Priority Mail or to “steer” customers to that more expensive service. The sworn declarations form a clear predicate for inquiries in this area, given the Commission’s expressed concerns about quality of service and the adequacy of Postal Service disclosures related to its Priority Mail service quality. The subparts seek information on whether contractors and their employees have an incentive to mislead or “steer” customers. No accusation is made; only a request for relevant discovery. As the Presiding Officer stated in his most recent discovery ruling:

Value of service is one of the factors to consider in setting rates. An ongoing problem, or even the perception of a problem, that can be associated with a service can be related to the value of service factor.<sup>14</sup>

Subparts (b)-(d), like Interrogatories 231-233, seek to identify problems with the “1-800-ASK-USPS” service and with the methods used to market Priority Mail. The bare

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<sup>12</sup> POR No. R201-1/26 at 5, issued December 20, 2001.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

possibility that any problems may turn out, after discovery, to be isolated or to be under correction does not change the plain relevance of the inquiries as a matter of law.

Moreover, as a matter of fact, recent Postal Service admissions emphasize the relevancy of this information. The Service recently admitted that First-Class Mail service is sometimes actually faster than Priority Mail service.<sup>15</sup> Moreover, the Response and Objection, taken together, show that the service is using contractors and contract employees, although the "response" to subpart 306(d) is vague enough to obscure this straightforward point. Finally, the "response" to subpart 306(d) makes mystifying references to compensation based on operator "skill level" and "[compensation] disincentive[s] if target performance metrics are not met" by the contractor. This "response" obscures rather than illuminates the issue at hand, which is whether the operators and contractors face incentive structures that encourage misleading claims or "steering." How are the skill levels defined? What are the "target performance metrics"? The Service's admissions and deliberately meaningless response to subpart (d) are another ground for compelling further discovery.

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<sup>15</sup> Postal Service Response to OCA/USPS-295(c), which was filed on December 14, 2001.

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<sup>15</sup> Postal Service Response to OCA/USPS-295(c), which was filed on December 14, 2001.

For the foregoing reasons, the OCA asks that the Postal Service be directed to provide complete responses to interrogatories OCA/USPS-306(b)-(d).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frederick E. Dooley". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frederick E. Dooley  
Attorney

Shelley S. Dreifuss  
Acting Director  
Office of the Consumer Advocate

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(202) 789-6830; Fax (202) 789-6819



**Revised Declaration of Shelley Dreifuss as a Foundation for  
Office of the Consumer Advocate Motion to Compel Responses  
to Interrogatory OCA/USPS-231**

I, Shelley Dreifuss, declare:

1. That on November 1 or 2, 2001, I telephoned 1-800-ASK-USPS for the purpose of comparing the advantages of mailing a lightweight item via Priority Mail versus First Class, from Durham, NC 27705 to Burtonsville, MD 20866.
  2. I am pretty sure about the date because I had just made a test mailing of a Priority Mail flat and a First-Class letter from a postal collection box located at 3457 Hillsborough Road, Durham, NC 27705 to my home in Burtonsville, MD 20866.
  3. I was visiting Durham, NC on October 27-28, and dropped the items in the collection box cited in paragraph 2 on Sunday, October 27. I noted in letters enclosed in each of the mailed items that the mail would not be collected until noon on Monday, October 29, 2001.
  4. Using the Delivery Confirmation information available at the Postal Service's website, I am reminded that the Priority Mail flat was delivered to my home on October 31. The First-Class letter was delivered on the same day.
  5. Having had this experience – that a Priority Mail flat and a First-Class letter received the same service (two business days) between Durham and Burtonsville – I wanted to see what the stated First Class and Priority Mail service standards are. The simple questions for which I was seeking answers were: What is the stated service standard for First Class between 27705 and 20866? And, What is the stated service standard for Priority Mail between 27705 and 20866? Were both items delivered early, on time, or late? I decided that the best way to have these questions answered would be to call 1-800-ASK-USPS. I surely wasn't trying to trick or trap the ASK-USPS agent. I just wanted answers to my few simple questions.
  6. In its Objection, the Postal Service insinuates that I might have made up this conversation (the conversation is referred to as a "purported conversation" at page 3). I did not fabricate any part of what I described in interrogatory 231. Everything I related there was actually said by me and said by the ASK-USPS agent.
  7. In its Objection, the Postal Service insinuates that I only related "snippets" of the conversation (page 3). I related the full conversation, not merely snippets. Not surprisingly, I did not phone 1-800-ASK-USPS to ask for the agent's recipe for apple pie nor to give the agent my recipe (although my pies are quite good); nor did I phone the ASK-USPS agent to ask the agent's opinion on whether Duke
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University or University of Maryland is likely to be the NCAA basketball champion this season, although this is a question of vital importance in my household. As I stated in paragraph 5, I just wanted to know what the service standards are for First Class and Priority Mail between Durham and Burtonsville.

(I did ask an additional question about Express Mail delivery times between Durham and Burtonsville, but the answer was consistent with my expectation so I did not pose an interrogatory about it).

8. I jotted down some notes as I spoke to the ASK-USPS agent. They help me to recall that the agent told me that the Priority Mail service standard from 27705 to 20866 is two days, but not guaranteed. The Postal Service agent deserves credit for informing me that the delivery time was not guaranteed and the Service also deserves credit for meeting the Priority Mail service standard. The Priority Mail flat has an October 29 postmark and was delivered on October 31.
9. The ASK-USPS agent, apparently touting the advantages of Priority Mail over First Class, also stated that "Priority Mail receives the same transportation as Express Mail." I wrote down the words exactly as they were spoken to me. Even though the Postal Service insinuates that I did not report the conversation I had "accurately," "fully," and "fairly," this is absolutely not the case. As I stated in paragraph 5, I did not try to trap or trick the agent. For example, I never asked: "Doesn't Priority Mail receive the same transportation as Express Mail?" It would never occur to me to ask such a preposterous question. That is the reason that the agent's remark took me by surprise and the reason that I submitted interrogatory 231 to the Postal Service. I thought that a statement like that was inaccurate and misleading, amounting to a high-pressure sales tactic.
10. The ASK-USPS agent would not specify whether the First-Class service standard between 27705 and 20866 is one, two, or three days. The agent would only say that it is between 1 – 3 days. When the agent warned me that First Class can take up to 30 days to be delivered my surprise increased manifold. Why would the Postal Service say such a thing to a consumer? As before, I assert that I did not fabricate this statement nor did I trick or trap the ASK-USPS agent. I have never seen any evidence in any proceeding in which I have participated that suggests that First Class is at serious risk of being delivered in up to 30 days. I would never have asked such a question nor made such a suggestion to an ASK-USPS agent.
11. Since the time that I drafted and submitted interrogatory 231 two matters have come to my attention that reinforce my belief that there is a deliberate policy of the Postal Service to shade information on Priority Mail and withhold information on First Class so as to induce consumers to purchase Priority Mail over First Class.

12. The first of the two matters cited in paragraph 11 is a pair of advertisements furnished by the Postal Service in response to interrogatory OCA/USPS-179 on November 23, 2001. In these two advertisements, the Postal Service clearly tries to establish an equivalence between Express Mail Service and Priority Mail Service – both are advertised, without distinction, as being transported on “fleets of planes” and with “dedicated cargo space.” The ASK-USPS agent said something similar in the words the agent used, *i.e.*, that Priority Mail and Express Mail “receive the same transportation.”
  
13. The second of the two matters cited in paragraph 11 is an experience I had on December 8, 2001. On that date I visited a Postal Service retail facility on the bottom level of White Flint Mall in Kensington, MD. I bought stamps there that day and the receipt read: “White Flint Postal Store, Kensington, MD 20895-9898.” I asked the clerk in attendance that day how long it would take for an item mailed First Class to be delivered from Kensington, MD to Durham, NC 27708. (I inquired about 27708 because that is the ZIP code in Durham to which I normally send mail). The clerk said that it takes “3 days.” There was no hedging or equivocation – the clerk said that First Class takes 3 days, period. I then asked the clerk, “What if I mail a First Class letter across the street?” The clerk said it still takes 3 days, although it *might* take a little less time. The purpose of relating this exchange is that it mirrors my conversation with the ASK-USPS agent, related in paragraph 10, that is, the Postal Service appears to discourage its agents and employees from giving specific information about First Class delivery times.

[The clerk wore a name tag, and I wrote down the clerk’s name. If the Postal Service wishes to have me reveal it, I will; but to guard the privacy of the individual who made this statement, I will wait to be contacted by Postal Service counsel before I reveal it. I also made inquiries about Priority Mail and Express Mail between Kensington, MD and Durham, NC, and was informed that each would take two days.]

[On October 26, the day before my trip to Durham, I was given similar information when I inquired about the First Class delivery time to Durham, NC, at my community post office in Spencerville, MD 20868. There the clerk would say no more than First Class takes between one and three days, but would not give me a specific delivery time. I did not write down the clerk’s name, but I use this facility often, and if the Postal Service wishes, I can visit it again and ask the clerk’s name.]

**I declare under penalty of perjury that the foregoing statement is true to the best of my knowledge, information and belief.**

Date: 12/18/01

Shelley S. Dreifuss  
Shelley S. Dreifuss

[Attachment 1A, page 1]

This Priority Mail flat was put into a collection box in Durham, North Carolina on Saturday, October 27, 2001, for collection on Monday, October 29, 2001, at noon.

Mail box collection location:

3457 Hillsborough Rd

Durham, NC 27705

Declaration of Pamela A. Thompson as a Foundation for  
Office of the Consumer Advocate Motion to Compel Responses  
To Interrogatory OCA/USPS-232 and 233

I, Pamela Thompson, declare:

1. That on November, 14, 15, 16 or 19, 2001, in a separate phone conversation from that identified in "2" below, I telephoned 1-800-ASK-USPS for the purpose of comparing the advantages of mailing a lightweight item via Express Mail, Priority Mail and First-Class Mail, from Arlington, Va 22207 to Chantilly, VA 20151.
2. That on November 14, 15,16 or 19, 2001, I telephoned 1-800-ASK-USPS for the purpose of comparing the advantages of mailing a lightweight item via Express Mail, Priority Mail and First Class Mail, from Orlando, FL 32830 to Chantilly, VA 20151.
3. I am relatively sure of the date range because I drafted the interrogatories regarding my findings just after my phone conversations occurred and subsequently submitted my interrogatories for filing just a few days prior to the set of interrogatories OCA/USPS-225-247 being filed.
4. In its Objection, the Postal Service insinuates that I might have made up this conversation (the conversation is referred to as a "purported conversation" at page 3). I did not fabricate any part of what I described in interrogatories 232 and 232. Everything I related there was actually said by me and said by the ASK-USPS-agent. However, I did leave out final comments made by the ASK-USPS-agent in response to my query in OCA/USPS-232. The ASK-USPS-agent stated, after I asked why I would want to pay an additional \$3.16 for Priority Mail, that I would have to make the choice.
5. During each conversation, I jotted down some notes. I used the notes in preparing my interrogatories. However, once I had formulated my interrogatories, I did not retain those notes.

I declare under penalty of perjury that the foregoing statement is true, to the best of my knowledge, information and belief.

Date: Dec. 18, 2001

  
Pamela A. Thompson

**CERTIFICATE OF SERVICE**

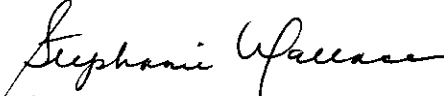
I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Rule 12 of the rules of practice.

**Stephanie Wallace**

Washington, D.C. 20268-0001  
December 26, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Rule 12 of the rules of practice.

  
Stephanie Wallace

Washington, D.C. 20268-0001  
December 26, 2001