

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

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POSTAL RATE AND FEE CHANGES, 1997  
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Docket No. R97-1

**MAJOR MAILERS ASSOCIATION'S MOTION  
REQUESTING LEAVE TO FILE A REPLY TO  
THE POSTAL SERVICE'S OPPOSITION TO MOTION TO COMPEL**

Major Mailers Association (MMA) asks for permission, under Rule 21(b), to file the attached Response to the Postal Service's Opposition to MMA's Motion to Compel Answers to Certain Interrogatories. The Postal Service's Opposition contains an assertion which, if credible and attested to on the record, will allow MMA to withdraw all but one of the contested interrogatories. Acceptance of the attached MMA Reply could thus simplify this controversy.

Respectfully submitted,



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September 19, 1997

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**MAJOR MAILERS ASSOCIATION'S REPLY TO  
THE POSTAL SERVICE'S OPPOSITION TO MOTION TO COMPEL**

Major Mailers Association (MMA) hereby responds to the Postal Service's  
Opposition to MMA's Motion to Compel Answers to Certain Interrogatories.

**I. If A Postal Service Assertion Is Credible And  
Attested To On the Record, MMA Will Withdraw  
All But One Of the Contested Interrogatories**

**A. Background: The Service Is Purporting To Supply  
the Key To Information That MMA Has Requested**

In its Motion to Compel (pages 8, 9-10), MMA noted that "[t]he single-most  
important interrogatory is MMA/USPS-T30-4" and that "MMA can compute [other  
requested] information...if it receives the information requested by Interrogatory  
MMA/USPS-T30-4..."

Interrogatory MMA/USPS-T30-4 asked USPS witness how MMA could derive  
cost coverages and related data--as computed according to the Commission's  
established methodology--from USPS Library Reference H-215. In objecting to this  
interrogatory, the Service insisted that MMA itself could make the computation by using  
data already supplied in Dr. O'Hara's exhibits (USPS Obj., page 7). But MMA noted  
that the Library Reference and Dr. O'Hara's exhibits were not comparable because Dr.  
O'Hara had made "Adjustments" to his exhibits--adjustments that have not been made

to Library Reference H-215 (MMA Mot., page 7).<sup>1</sup>

But now, in its September 15 Answer (page 7), the Service purports to tell MMA how “[t]o derive the information MMA is requesting in MMA/USPS-T30(4)...” According to the Service, “all MMA has to do is to take Library Reference H-215,” make certain computations, and “add the Postal Service’s [that is, Dr. O’Hara’s] final adjustments to the costs contained in H-215....” Read literally, the Service is saying that Dr. O’Hara’s “Adjustments” to his exhibits can be used *dollar for dollar* as adjustments to Library Reference H-215. If that is true, MMA can derive the information requested in all but one of its interrogatories.

**B. There Is Reason To Question Whether the Service’s Purported Explanation Is Accurate**

If the Service’s explanation is attested to on the record, MMA is willing to withdraw all but one of the contested interrogatories. MMA is unwilling to rely solely upon the statement in the Service’s September 15 Answer because of doubts about

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<sup>1</sup> MMA Interrogatory MMA/USPS-T30-4 concerns Part III of USPS Library Reference H-215. That Library Reference shows costs and volumes produced by the Service’s proposed rates--as computed according to the Commission’s approved methodology. In his Exhibit USPS-30A, Dr. O’Hara shows similar information--plus coverages and contributions--as computed under the Service’s proposed costing techniques. In its interrogatory, MMA wanted to know how MMA itself could use Library Reference H-215 to derive the coverages and contributions (comparable to those shown in Dr. O’Hara’s Exhibit USPS-30A) under the Commission’s methodology.

In its August 25 Objection to Interrogatory MMA/USPS-T30, the Service argued that it had provided “[m]uch of this information” and that “much of the rest ...can be computed by MMA itself from Library Reference H-215 and...witness O’Hara’s exhibits” (Obj., page 7). But MMA disagreed, noting that--in his Exhibits USPS-30F and 30F [later revised]--Dr. O’Hara had made important “Adjustments” including (1) elimination of the costs for Standard Mail (A) Single Piece mail and (2) reduction of Standard Mail (A) costs by \$223 million for Commercial regular and \$32 million for Commercial ECR, none of these changes having been made in Library Reference H-215.

that statement's accuracy.

It is difficult to believe that, as the Service seems to suggest, Dr. O'Hara's final "Adjustments " can be made in Library Reference H-215 by using the same dollar figures that Dr. O'Hara used in making the adjustments to his own exhibits. A few examples will illustrate the problem.

*Standard Mail A Single Piece.* Because the Service proposes to eliminate this subclass, Dr. O'Hara's final "Adjustments" delete \$220,080,000 from this subclass (Exh. USPS-30F, page 1, Col. 5 (Rev.)) and transfer those costs to First-Class Single Piece (\$192,549,000), Priority Mail (\$24,174,000) and BPRS (\$5,357,00). (See USPS-T-30, W/P III (Rev.)) But this \$220,080,00 represents the Standard Mail A Single Piece subclass' costs under the Service's methodology; the subclass' costs under the Commission's methodology are \$248,843,000 (LR H-215 (Rev.))--or \$26,763,000 more than under the Service's methodology.

Obviously, therefore, the Postal Service cannot mean that, as stated in its September 15 Answer, MMA can "add" Dr. O'Hara's \$220,080,000 adjustment "to the costs contained in H-215." If MMA did so, MMA would leave \$26,763,000---the difference between the two methodologies--assigned to the Standard Mail A Single Piece subclass. Naturally, that would be absurd. Yet if MMA also deleted this \$26,763,000 from the Standard Mail A Single Piece subclass, MMA cannot know for certain the proportions by which Dr. O'Hara would have reallocated that sum as between First-Class Single Piece, Priority Mail and BPRS.

*Migrating Volumes of Standard A Letters.* In two other adjustments, Dr. O'Hara reduces the costs for Standard Mail A Regular and ECR mail to take account of

reduced volume (Exh. USPS-30F, Lines 17 and 18 (rev.)). Dr. O'Hara's workpaper (W/P III (Rev.)) reveals that he relied upon witness Moeller's workpaper which, in turn, relies upon witness Daniel's exhibit that incorporates the assumption that labor costs are not 100 percent variable. But Library Reference H-215 is supposed to be based upon the Commission's established methodology, which treats labor costs as 100 percent variable. How, then, can the Service's state (in its September 15 Answer) that MMA can just "add" Dr. O'Hara's dollar adjustments to the costs in Library Reference H-215--unless the Service explains how to modify Dr. O'Hara's adjustments to take account of the differing computations of labor costs?

*Delivery Confirmation Costs.* The problem is similar for Dr. O'Hara's numerous cost adjustments for this item (Exh. USPS-T30, W/P III, Col. 1 (Rev.)). Dr. O'Hara's workpaper shows that he derived these adjustments from witness Sharkey's testimony which itself refers back to the testimony of other witnesses, all of whom are employing the Postal Service's newly-proposed cost methodology. Although MMA presumes that Dr. O'Hara's adjustments must be modified if they are to reflect the Commission's methodology, MMA has no way to know how to make those modifications.

This does not end the list of Dr. O'Hara's adjustments that incorporate the Service's newly-proposed methodology. But these examples are sufficient to illustrate doubts about whether Dr. O'Hara's final "Adjustments" can be "add[ed]" *dollar for dollar* as adjustments to Library Reference H-215.

**C. The Commission Should Order the Service To Verify Its Statement on the Record Or, If the Service Will Not Do So, To Answer MMA's Interrogatories**

MMA's willingness to withdraw contested interrogatories is conditioned upon having the Service affirm its September 15 statement and to do so on the evidentiary record. As MMA showed in its Motion to Compel (pages 2-5, 9), a comparison between the Service's newly-proposed cost methodology and the Commission's established methodology is "basic to the ability of the intervenors, the Commission, and the public to make an informed evaluation of a Postal Service request for a change in rates" (See R94-1 Rec. Dec., page I-23). If the Service is unwilling to present such information, an intervenor has the right to do so--and the Service has an obligation under Rule 25 to supply the needed information.

In lieu of the information requested by all but one of the contested interrogatories, MMA is willing to rely upon the Service's affirmation--by way of stipulation or a statement made on the evidentiary record--that Dr. O'Hara's "Adjustments" to his exhibits can be used *dollar for dollar* as adjustments to Library Reference H-215 (with or without some as-yet-undisclosed numerical conversion figure).

**II. There Is No Merit To The Postal Service's Objections To Stating How Its Processing Costs For First-Class Letters Would Change If It Had Used the Commission's Established Methodology Instead of the Proposed One**

Even if MMA's other contested interrogatories are withdrawn, the Service should be required to answer Interrogatory MMA/USPS-T25-1(C), asking witness Hatfield to state how his estimate of First-Class letters' processing costs would change if he had

used the Commission's methodology. In its Answer (page 8), the Service disputes MMA's statement (Mot., page 10) that no party can derive this information on its own, but the Service provides no guidance for making that computation. The Service is also mistaken in arguing that its obligation under Rule 25 was discharged by its filing under Rule 54(a)(1). (See MMA Mot., pages 4-5.)

The Service's objection is bottomed, then, on the claim that responding to this interrogatory would be burdensome. But the Commission's rules contemplate that parties must substantiate their estimates of burden in their Objections (See Rule 25(c)). Here, the Service served its Objections on August 25; those Objections did not comply with Rule 25(c)'s requirement that claims of burden must be stated "with particularity," accompanied by estimates of costs and work hours. It was not until September 15, nearly a month later, that the Service supplied such information. That failure to respect the Commission's rules undercuts the Service's claims of burden.

In any event, any burden upon the Postal Service is self-imposed. The Service controlled the schedule for filing its rate request. It could--and, in light of the revision to Rule 54(a)(1), should--have made the requested study in the months before its filing. In deciding not to make that study, the Service took a calculated risk that it would be asked to do so after the case began. The Service cannot invoke the consequences of its gamble as an excuse for not providing information that is relevant and material--information that "is basic to the ability of intervenors, the Commission, and the public to make an informed evaluation of a Postal Service request for a change in rates" (See

R94-1 Rec. Dec., page I-23).

FOR THE FOREGOING REASONS, MMA requests that:

1. The Commission provide the Postal Service with an opportunity to stipulate or attest on the evidentiary record that USPS Library Reference H-215 can be appropriately modified, in order to reflect the final "Adjustments" made by Dr. O'Hara in his Exhibits USPS-30G and 30-F (both as revised), by using the same dollar figures used by Dr. O'Hara in those exhibits with or without any numerical conversion factor to be stated by the Postal Service;

2. If the Postal Service provides the stipulation or attestation described in Paragraph 1, the Commission should regard all of the interrogatories quoted in the Attachment to MMA's September 8 Motion to Compel (except Interrogatory MMA/USPS-T25-1(C)) as being withdrawn;<sup>2</sup> and

3. The Commission should rule on MMA's Motion to Compel with regard to Interrogatory MMA/USPS-T25-1(C) and, unless withdrawn pursuant to Paragraph 2 above, the remaining MMA interrogatories quoted in the Attachment to that Motion to Compel.

Respectfully submitted,



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September 19, 1997

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<sup>2</sup> On page 3 of the Attachment to MMA's September 8 Motion, MMA should have included Interrogatory MMA/USPS-T5-6(b) in the list of Interrogatories that have been withdrawn.



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents, by First-Class Mail, upon the participants in this proceeding.

September 19, 1997

  
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Jeffrey Plummer