

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

POSTAL RATE AND FEE CHANGES
PURSUANT TO PUBLIC LAW 108-18

Docket No. R2005-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
THE OCA MOTION TO COMPEL RESPONSES TO INTERROGATORIES
OCA/USPS43-54 AND OCA/USPS-T6-14
(June 16, 2005)

The Postal Service hereby responds to the Office of the Consumer Advocate Motion to Compel Responses to Interrogatories OCA/USPS-43-54 and OCA/USPS-T16-14.¹ With regard to the interrogatories in question, the Postal Service had provided partial responses to some of the institutional interrogatories and objected to the rest.² The OCA seeks to compel responses to those objected to and further responses to those responded to. (in the latter regard, it should be noted that the Postal Service is

¹ Filed on June 9, 2005 (hereinafter "OCA Motion").

² Partial Responses of the United States Postal Service to Interrogatories of the OCA (OCA/USPS-43, 46, 51, 52, 53, 54) (June 2, 2005); Partial Objections of the United States Postal Service to Interrogatories of the OCA (OCA/USPS-43-54). The OCA is correct that , in providing a reference to the institutional interrogatories in the response of witness Tayman to OCA/USPS-T6-14, which sought some of the same information, the Postal Service intended to incorporate the approach of partial answer and partial objection that it followed with respect to the institutional interrogatories. See OCA Motion at 10-11.

today filing additional information regarding Electronic Postmark for FY 2001.) For the reasons below, the OCA's motion to compel further responses is not justified.³

The OCA attempts to rely on Presiding Officer's Ruling No. R2001-1/42, but it fails to connect the dots and show that the information requested here would be covered by that Ruling. Unlike in that docket, in the instant docket the Postal Service has actually had an opportunity to provide a significant amount of information about these services in response to the interrogatories. The Postal Service believes that the level of information it provided is sufficient to enable the Commission to meet its obligations in considering the Postal Service's omnibus rate request, given the current status of these services.

As the Postal Service explained in its objection, producing the level of detail requested by the OCA for every program at every level of the Postal Service would be a potentially enormous undertaking that is unjustified by the extremely marginal relevance of the information to matters that are rightly before the Commission in this docket. In many cases, production would involve commercially sensitive information of the Postal Service or its partners.⁴ And, even if the Postal Service were to invest the inestimable

³ In at least one instance, the OCA claims that the Postal Service has not provided information that it indeed had provided. At page 4 of its Motion, the OCA asserts that the responses do not provide calculations for the "total revenue figure of \$239." Yet the table that the Postal Service provided in response to interrogatory 53 does indeed show that calculation.

⁴ In the current economic and technological environment, private companies are particularly sensitive about the dissemination of information related to their businesses. It is routine for them to seek non-disclosure agreements (NDAs) in advance of discussions of ventures with other companies, including the Postal Service. It would be a perverse result if the requirements of the ratemaking process were such that the Postal Service could not enter into such NDAs, and the ratepayers would be forced to forgo the benefits resulting from the Postal Service's associations with private companies.

hours it would take to root out every local initiative, trace every nonpostal dollar through the accounting system, and redact privileged information, even if, hypothetically, significant misallocation were discovered, correcting the error would not result in any changes in the rates proposed at the level to which they are rounded. The lack of need for the level of detail sought by the OCA is particularly notable in this case, as compared to the past, because of the positive financial effects of the services at issue.

The OCA's approach fails to recognize that development of new services, whether postal or nonpostal, bears some risk that costs will exceed benefits. But, the Postal Reorganization Act was written to grant Postal Service management the authority--indeed the duty—to undertake such risks. Not every new venture will succeed. In such cases, since the Act requires that the Postal Service ultimately break even, all ratepayers, regardless of whether they used the unsuccessful service, will have to bear some small part of its costs. Similarly, to the extent new ventures succeed and produce revenue beyond their costs, all ratepayers benefit. The information provided by the Postal Service in response to these interrogatories shows that, overall, the services have generated a net income for the Postal Service. Any need for the OCA's detailed inquisition is completely absent.

The OCA therefore resorts to exaggerated misrepresentation: "Without comprehensive details and supporting documentation, for all OCA knows the Postal Service might have rolled dice or used a random-digit-generation application to produce the digits supplied."⁵ When the Postal Service responds to institutional interrogatories, it is providing, under the signature of its legal representatives, what it believes to be

⁵ OCA Motion at 5.

accurate and appropriate answers to the questions asked to the best of its collective, accessible knowledge. In over 20 years in this practice, undersigned counsel has never observed a pair of dice being used for the alleged purpose (or any other) at the Postal Service, but rather the diligent efforts of postal employees to use their expertise and abilities to be helpful, informative, and responsive. The OCA asserts the need to replicate the figures already provided, but at what level does that need give way either to faith or to exhaustion? If specific account information is provided, then how will the OCA know that the dollars are properly in that account? Whom will be subject next to the OCA's accusation of dice-rolling or random number generation? The Headquarters accountants? The Area finance people? The local postmasters? How many thousands of data collectors will it need to follow around to be sure they have checked the right boxes? The OCA's insatiable thirst for perfect knowledge must be tempered by some recognition of practicalities.

In response to the Postal Service's explanation of the difficulties of gathering information with respect to local initiatives, the OCA conjures up visions of local management's "idiosyncratically" "squandering significant sums of money (in the aggregate) in the quest to develop new sources of revenue" in competition with local businesses.⁶ And unfortunately for the OCA, the information that the Postal Service has provided shows that in the aggregate this is not the case. The Postal Service did not mean to give the impression, in describing the burden of responding to the OCA's limitless interrogatories, that there is massive, chaotic, and undisciplined experimentation taking place in the field. The fact of the matter is, however, that the

⁶ OCA Motion at 6.

Postal Service is an extremely large organization and, in order to respond fully to the OCA's interrogatories, a burdensome survey of every local post office would have to be undertaken, simply because local postal officials do attempt to be responsive to their communities' and customers' needs. The Postal Service does not believe, overall, that this spirit should be discouraged. Nevertheless, this does not mean that local officials act without guidance or review from above or that higher officials hesitate to redirect local initiatives that stray, in some way, from appropriate paths.

But, the reality is that the Postal Service is a huge, multi-faceted organism that does not conform to the laws of nature as the OCA would theorize them. The OCA would prefer to examine a Postal Service preserved in formaldehyde that it could elevate to its ivory tower, slice up, and put on slides under its microscope. Even if it were possible to impose the type of authoritarian discipline on behavior and control of innovation that the OCA would demand (and experience shows that even lesser levels are not achievable or necessarily desirable), doing so would be inconsistent with the Postal Service's variegated mission to serve the people of the Nation. Passport photos are a good example. The Postal Service provides passport services for the Department of State. As a convenience to customers, some offices began offering passport photos to their customers in conjunction with the passport services. It appears that these photos are provided at premium prices that do not pose a threat to private sector competitors. Nevertheless, for postal customers who desire the convenience, the provision of passport photos in some post office serves their needs, assists in the provision of passport services, and generates revenues that inure to the benefit of all ratepayers, as has been shown in the responsive information already provided by the

Postal Service. The detailed background and breakdowns sought by the OCA for this and other services would provide no useful information for the record in this proceeding. The marginal relevance is not outweighed by the significant effort of surveying all participating offices to gather the information OCA seeks.

The OCA argues that “the Commission can, should, and has determined that it will review the financial information and regulatory implications of *all* Postal Service activities.”⁷ In fact, the Postal Reorganization Act establishes a more defined role for the Commission. The financial information that the Postal Service provided in response to the interrogatories at issue is sufficient for the Commission to carry out its statutory duties in this docket. There is no support under the current statute for the OCA’s notion of review of “all Postal Service activities.”

Finally, the OCA peppers its motion with inappropriate and unfounded allegations concerning Mr. Garvey and those who worked with him on Mailing Online. The allegations are based on nothing more than the OCA’s speculation. In making such allegations in the absence of any specific evidence of wrongdoing, the OCA not only unfairly discredits Mr. Garvey, but impugns the integrity of all postal employees.

Moreover, the OCA is completely wrong when it argues that “the essential features of Mailing Online never changed when the Postal Service redefined it as a nonjurisdictional service.”⁸ After the conversion was complete, the Postal Service no longer: (1) directly collected orders from customers; (2) managed the customer care aspects of the application, orders and website; (3) hosted and supported any hardware

⁷ OCA Motion at 11.

⁸ OCA Motion at 21.

or web infrastructure; (4) managed day-to-day operations of the 24/7/365 web application; or (5) managed the 6-day-a-week order fulfillment production, preparation and presentment. Even more fundamentally, there is no longer any exception to the minimum volume requirements. The Postal Service's business partner providing the service pays the same rates and is subject to the same mailing requirements as all other mailers. This was not the case when Mailing Online was operated by the Postal Service in accordance with the Commission's recommendations.

For all these reasons and those expressed in the Postal Service's objections, the OCA's motion to compel should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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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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