

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

OBJECTION OF THE UNITED STATES POSTAL SERVICE TO
INTERROGATORIES OF THE OCA (OCA/USPS-147a & d, 148a)
(June 21, 2005)

As indicated below, the United States Postal Service hereby objects to parts a and d of OCA/USPS-147, and part a of OCA/USPS-148, filed by the OCA on June 10, 2005. The grounds are relevance, proprietary information, and undue burden.

In relevant part, the questions read:

OCA/USPS-147. Please refer to the "Affiliates and Alliances" paragraph of Attachment Two to OCA/USPS-53.

- a. Please furnish copies of the 75 linking agreements referred to in the interrogatory. (One of the major purposes for this request is to gain a better understanding of the activities performed by the parties to the agreement, particularly the Postal Service, so as to see whether expenses incurred by the Postal Service in performing its activities have been fully and appropriately accounted for). For each, please indicate whether the purpose of the agreement is: (1) to complement the Postal Service's core product offering; (2) to generate mail; and/or (3) to provide value to our customers.

...

d. Please provide copies of the following agreements (if not otherwise provided in response to part a.): Mailing Online; NetPost Certified Mail; and NetPost Card Store.

OCA/USPS-148. Please refer to the "Affiliates and Alliances" paragraph of Attachment Two to OCA/USPS-53 where it is stated: "Today, we limit consideration of Affiliates to those that complement our core product offering, generate mail, and/or provide value to our customers." Also refer to the Electronic Postmark (EPM) paragraph.

- a. Please provide a copy of the Authentidate agreement cited in the EPM paragraph.

Each of these questions seeks agreements between the Postal Service and a third-party with whom the Postal Service has some type of commercial arrangement regarding a nonpostal service. Since the services in question are all nonpostal, and therefore outside the Commission's jurisdiction, the information sought is not relevant to this proceeding. Specifically, the details of the Postal Service's nonpostal agreements are immaterial to the issues presented by a request for a recommended decision on rates and fees for postal services. Apparently recognizing the facial irrelevance of its request, the OCA in part a of question 147 attempts to head off the obvious objection by claiming that one purpose of the request would be to be to understand better the activities required of Postal Service, and the treatment of the costs corresponding to such activities. Examination of the legal agreement between the parties, however, is not necessary to understand the activities performed by the Postal Service.

Indeed, those activities have already been described in the response on which these questions are based, OCA/USPS-53. Further details on those activities are not relevant to this proceeding. Even if they were, the scope of the request (i.e., for the entire agreements) expands far beyond what would relate to the activities of the Postal Service pursuant to the agreements. For example, details of how the respective parties to an agreement are compensated are not relevant to the activities performed by the respective parties. Moreover, in terms of the respective activities of the parties, the basic structure of many of the agreements is quite similar, and the request to examine each and every agreement in its entirety is therefore patently overbroad. The OCA's purported justification for its request fails to establish a credible nexus between the level of detail implicit in what it has requested and the material issues to be addressed in this

proceeding.

Moreover, the agreements requested are likely to include content viewed as proprietary information, not only by the Postal Service, but by the entities with which the agreements have been made. In many instances, they contain provisions regarding revenue share, payment plans or financial arrangements that are generally accepted as proprietary and confidential. These types of details are likely to be viewed by *both* sides of the agreements as proprietary, and would certainly not be disclosed pursuant to good business practices. Consequently, some of the agreements contain non-disclosure provisions that, at the very least, would impede the Postal Service's ability to comply with the OCA's request, even if (contrary to fact, as discussed above) the Postal Service had no objection of its own.

These circumstances lead to the Postal Service's third grounds for objection, undue burden. The OCA request is aimed at 75-80 agreements. While there might be a good deal of similarity across many agreements, the first step in attempting to respond to the OCA's request would need to be to retrieve the most current version of each agreement and examine it for proprietary information and non-disclosure provisions. If necessary, and it certainly would be necessary in some instances, the party with whom the agreement has been made would need to be notified of the possibility of disclosure, and an opportunity for them to object may also be required. While some of these parties might be inclined to make their views known directly to the Commission, the Postal Service would nonetheless be required to coordinate feedback from a good number of others. It is difficult to estimate the burden involved, to some extent because it is difficult to estimate how each of the affected parties might respond.

Even at an average of only several hours per agreement, however, it can easily be seen that we are quickly starting to talk about hundreds of hours of effort. And that effort is simply to identify which agreements include proprietary information, from the perspective of either the Postal Service or the other party. Further steps beyond that would require additional burden. Particularly in light of the lack of relevance of the agreements to this proceeding, that burden would clearly be undue.

Therefore, the Postal Service objects to parts a and d of question 147, and part a of question 148, on the grounds of relevance, proprietary information, and undue burden.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

Eric P. Koetting

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June 21, 2005