

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
IN OPPOSITION TO MMA MOTION TO COMPEL A RESPONSE TO MMA
INTERROGATORY TO WITNESS KELLEY (MMA/USPS-T16-26)
(July 14, 2005)

On June 23, the United States Postal Service objected to the MMA interrogatory MMA/USPS-T16-26, filed on June 13, 2005. On July 7, MMA moved to compel. The Postal Service hereby responds in opposition to that motion to compel.

The question reads:

MMA/USPS-T16-26

Please refer to your response to Interrogatory MMA/USPS-T16-13 where you provided the collection costs that were included in your single piece letter delivery costs as part of your analysis provided in Library Reference LR-USPS-K-67. Please provide the same information, i.e. the collection costs, with respect to the 5.84 unit cost figure derived for First-Class letters using the PRC delivery cost methodology in Library Reference LR-USPS-K-101.

As explained in the Postal Service's objection, this question amounts to a request that the Postal Service prepare an alternative version of the established PRC methodology used to prepare LR-K-101. In such an alternative version, the established PRC methodology would have to be altered to exclude collection costs. Yet the only reason the Postal Service produces PRC versions of the type presented in LR-K-101 is to comply with the Commission's rule that, when proposing a new methodology, it also

must provide results using the pre-existing or established methodology. The Commission, in Order No. 1380 (August 7, 2003) adopting its new rules, was very careful to emphasize that the Postal Service would not be required to sponsor the results emanating from the established methodology, only to provide them. The Postal Service has complied with its obligations under the new rules, and objects to MMA's efforts to treat PRC-version materials provided by the Postal Service the same as the USPS-version materials sponsored by its witnesses, notwithstanding the Commission's clear statements that the status of the two types of presentations is not comparable. Having provided in USPS-LR-K-101 the results of the established PRC methodology, the Postal Service should not further be required to create an additional version of that library reference which may be more to the liking of MMA, but would no longer reflect the established methodology.¹

The MMA motion is rife with inconsistencies and inaccuracies. MMA erroneously alleges that its request would not require a "new version" of LR-K-101. Motion at 4. The support it offers for this assertion, however, does not withstand scrutiny. The contention is based solely on the notion that the Postal Service has provided LR-K-145 to respond to a similar request regarding LR-K-67, and the Postal Service "did not object" that LR-K-145 was new version of LR-K-67. *Id.* The mere fact that the Postal Service did not *object* to providing LR-K-145 on the grounds that it constitutes a new version of LR-K-67, however, does not mean that LR-K-145 is *not* a new version of LR-

¹ Any doubt that MMA is seeking exactly that is easily dispelled by review of the final sentence of the MMA Motion, seeking (in bold type, no less) a complete library reference comparable to USPS-LR-K-145, which is an alternative version of the Postal Service version (LR-K-67), but with collection costs excluded. The library reference

K-67. In fact, it is a new version, as simple comparison of the file contents of the two library references will reveal. The Postal Service could have had any number of reasons to refrain from objecting to MMA's request regarding LR-K-67. Among them might be that the Postal Service (unlike MMA) recognizes that its obligations with respect to USPS versions utilizing the new methodologies its witnesses are proposing are broader than its very limited obligations with respect to PRC versions using established methodologies.

This confusion clouds much of MMA's motion. For example, MMA points to the fact that postal witness Schenk in the last case sponsored a methodology very similar to that presented in LR-K-101, and she responded to a request for the results of an alternative analysis in which collection costs were excluded. Motion at 4.² At that time, of course, the methodology in question was the methodology being proposed by witness Schenk on behalf of the Postal Service. The fact that the Postal Service was willing to undertake such an analysis as a variation of its proposed methodologies has no bearing on whether MMA should have the burden of conducting its own analysis when MMA wishes to propose a variation of the established methodology.

MMA's motion is particularly disingenuous with respect to its discussion of the relative burden of producing the requested analysis. MMA correctly notes that the Postal Service in this case has had to make several revisions in its response to MMA's request (MMA/USPS-T16-13) for the comparable information regarding K-67. Motion at

MMA seeks, therefore, is a PRC version (LR-K-101), but with collection costs excluded.
2 One has to wonder as to the basis on which MMA purports to characterize "the ease" (Motion at 4) with which witness Schenk was able to respond. In reality, MMA cannot possibly know what burden was involved for witness Schenk to conduct the analysis

2-3. Essentially, however, these revisions were the result of the Postal Service attempting to provide the information MMA had requested without preparing a complete alternative version of K-67. Attempting to take short cuts led to several misfires. Ultimately, however, even when the Postal Service had corrected all of the problems and filed a fully responsive answer on June 17, MMA requested that, in order for MMA to be able to more easily follow what produced those results, a separate library reference be provided with a full alternative version of K-67. At MMA's informal request, that was done, and K-145 was filed on June 30.³ Having insisted on a full alternative version of K-67, it is thus ironic in the extreme for MMA to now suggest that it is not requesting a full alternative version of K-101.

Clearly, the Postal Service has already devoted considerable time and effort in this case, both formally and informally, to assist MMA's attempts to learn more about collection costs and rate category delivery costs. Of course, the efforts by the Postal Service thus far have related to K-67 and the Postal Service's proposed methodology. But, as MMA's motion goes to great lengths to point out, in the last case, witness Schenk explained the steps necessary to provide the requested information using LR-J-117, which is (in MMA's words) "very similar" to USPS-LR-K-101, the established methodology on which MMA's instance request is focused. Attachments E and F to MMA's Motion. It is therefore ludicrous for MMA to assert that "only the Postal Service can perform and describe the complicated steps necessary to identify and remove

required for her response.

³ In fact, MMA was provided the contents of that library reference informally on June 20. USPS-LR-K-145 was not filed until June 30 because MMA did not inform the Postal Service until June 29 that it wished for the material to be filed as a formal library

collection costs from the analysis” (Motion at 3), and that “sustaining the Postal Service’s objection would place on MMA the undue, likely impossible burden of guessing how to unbundle collection costs from the delivery costs shown in Library Reference USPS-LR-K-101” (Motion at 4). The MMA motion (at 4-5) claims that “the Postal Service alone holds the keys to removing the collection costs from Library Reference USPS-LR-K-101,” and then goes so far as to suggest that unless the Postal Service is required to respond “MMA, and more importantly, the Commission will not be able to determine the [unit delivery costs, excluding collection costs].”

These claims are disturbing for several reasons. First, MMA would have the Commission believe that any time new analysis must be conducted by the Postal Service, it can be conducted with ease and without undue burden, but if MMA has to conduct the very same analysis, the burden automatically becomes undue, if not impossible. Reliance on such a standard to resolve discovery disputes would be a patent violation of due process. The less effort a party devoted to the case, the greater its ability to assert that it was incapable of advancing its own interests, and that the burden to do so by the Postal Service would always be less than its own burden. There is no suggestion anywhere in the motion that MMA, despite the great deal of information at its disposal regarding both the proposed methodology (from this case) and the established methodology (from the last case) has lifted so much as one little finger to attempt to conduct the requested analysis on its own. MMA makes the abstract claim that it is “likely impossible” for MMA to obtain the information it wants, but there is no factual claim that MMA has even tried to do so, much less tried and failed. MMA does

reference.

not identify any data inputs it might be lacking to conduct the analysis. MMA wishes simply to rely on its claims that the Postal Service alone holds “the key,” yet attaches to its motion a response from witness Schenk that seems to outline just such a key that has been available to MMA for at least three years.

Equally disturbing is the contention that, despite the fact that LR-K-101 is provided as a PRC version, the Commission itself “would not be able to determine” unit delivery costs without collection costs. Such a view underscores the concerns that the Postal Service has continually expressed about the status of PRC versions. The Postal Service, as noted earlier, does not sponsor those versions. If, as MMA alleges, the Commission is incapable of understanding the mechanics of those versions, then what proper role can those versions possibly play in these proceedings? Moreover, in this instance, MMA is seeking to compel the Postal Service to inject a variation of a PRC version which, by virtue of the variation, no longer constitutes the established methodology. Since this variation, like the established methodology itself, would not be sponsored either by the Postal Service or by any other witness, how can it have any evidentiary status?

MMA seeks to inject a complete red herring into its Motion on page 5. There, MMA states that changes in the Postal Service’s volume variability methodology have caused a noticeable increase (relative to the last rate case) in the collection costs of interest to MMA. Those changes, however, have nothing to do with the methodologies of either LR-K-67 or LR-K-101. Both library references simply take the subclass city carrier costs (including collection costs) as inputs from their respective versions of the CRA. As counsel for MMA was informed by postal counsel, understanding of the

differences between the USPS and PRC versions of city carrier subclass costs would come not from any inquiry regarding either LR-K-67 or LR-K-101, but rather from inquiry to the Postal Service's witnesses with respect to the new city carrier methodology and subclass base year costs. For whatever reasons, MMA chose not to pursue such inquiries. It cannot now be heard to claim that its request with respect to LR-K-101 must be granted in order to allow the Commission to evaluate the merits of the new city carrier methodology, as nothing within LR-K-101 (or LR-K-67 for that matter) will shed any light on the issue of, between the proposed methodology and the established methodology for the treatment of Cost Segment 7 costs, which allows better analysis of the full range of causal components of city carrier activities, including collection. Since MMA chose not to seek to elicit evidence from the sources identified as capable of actually addressing that issue, MMA's purported concerns regarding the matter ring entirely hollow, and can have no bearing on its motion to compel the unrelated material sought in the instant request.

The concluding sentence of MMA's motion to compel makes very clear that MMA is seeking nothing less than a library reference which would constitute an alternative version of the established methodology presented in LR-K-101. In presenting LR-K-101, the Postal Service fulfilled its obligation regarding provision of the established methodology. While the Postal Service has already answered numerous questions about LR-K-101, it should not be required to go even further and provide alternative versions of that library reference. If MMA is interested in generating an alternative version of the established methodology, the burden of doing so properly falls on MMA. There is no reason to believe that MMA is lacking any of the inputs necessary to

conducts its own alternative analysis. Accordingly, its motion to compel a new version of library reference K-101 in response to MMA/USPS-T16-26 should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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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.

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