

DOCKET SECTION

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

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POSTAL RATE AND FEE CHANGES, 1997

POSTAL RATE COMMISSION
DOCKET NO. R97-1
OFFICE OF THE SECRETARY

OBJECTION OF THE UNITED STATES POSTAL SERVICE TO DMA INTERROGATORIES DMA/USPS-T12-27 - 29 (November 21, 1997)

On November 14, 1997, DMA filed, among other questions to witness Degen, DMA/USPS-T12-27 - 29. These questions inquire about the evidentiary status of three library references, H-146, H-218, and H-23. The Postal Service objects to these interrogatories as an improper use of discovery.

As noted earlier by the Postal Service in this proceeding, it is the position of the Postal Service that questions directed to witnesses are not a suitable procedural device to address, at least preliminarily, the evidentiary status of library references. (For example, witnesses may often be ill-suited to be aware of whether they are "offering [a library reference] as evidence in this proceeding" (to quote a phrase from the instant interrogatories), because the distinction between evidence and other material is a purely legal one.) If parties wish to discuss these matters, the Postal Service submits that the most expeditious manner in which to do so is to contact Postal Service counsel and discuss the matter directly. A phone call will much more quickly determine whether or not a library reference is already in evidence (as two of the three at issue in these questions are), or if the Postal Service has any plans to enter it into evidence, or would be amenable to a suggestion that it do so in response to a request from a party. It is conceivable that following such a discussion, an interrogatory to the witness might be a suitable vehicle to create the opportunity to propose to convert the library reference to evidence, but that would be a matter best

discussed before hand with counsel.

Had such a discussion been attempted in lieu of filing these interrogatories, the responses of the Postal Service would have been as follows. LR-H-146 was already sponsored by witness Degen. See Tr. 12/6623-24. LR-H-218 was provided as part of a response that was entered into evidence, and therefore has also already been sponsored by witness Degen. See Tr. 12/6264.¹ Which leaves open for discussion only LR-H-23, In-Office Cost System (IOCS), Machine-readable Copy of Output Data.

LR-H-23 has not been offered into evidence, the Postal Service has no plans to do so, and is unaware of any reason why it would need to be entered into evidence. As the title suggests, it is merely the machine-readable copy of the IOCS output data file. It provides foundational material for many pieces of Postal Service testimony, but machine-readable foundational material is perfectly capable of serving its purpose without itself being entered into evidence. This is clear from Rule 31(k)(3). Other parties, including DMA, are free to rely on the contents of H-23 to the exact same extent as postal witnesses. In the past, in the context of dozens (if not hundreds) of similar situations, there has never been any identified need for such material to be sponsored into evidence. Moreover, even if there were some instances of machine-readable datafiles being received into evidence, restraint would seem particularly appropriate in the context of the IOCS, which is an official, on-going, data collection system.

That having been said, if there were a justifiable reason to wish to include H-23 in the evidentiary record, witness Degen would be the appropriate witness to sponsor it. He is the witness offered by the Postal Service to provide testimony relating to the

¹ Order No. 1201 (November 4, 1997) at 10 reaffirms that a library reference filed in response to a discovery request becomes evidence if the response is received into evidence.

data-system aspects of the IOCS. He is, in the terms of DMA/USPS-T12-29, "qualified to adopt and sponsor H-23." At this point, however, the Postal Service is unaware of any reason why the record would need to be further cluttered with a machine-readable copy of the IOCS output file.

Shortly after receiving these questions, undersigned counsel contacted counsel for DMA to convey the above information and to inquire, in light of it, whether DMA perceived a need to add H-23 to the evidentiary record. Counsel for DMA has been unable to provide any definitive response as of yet. Given the shortened response period, the Postal Service is filing these objections, but remains open to any reasonable suggestions on how to proceed from here.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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Eric P. Koetting

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.



Eric P. Koetting

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