

ORIGINAL

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

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

POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

OBJECTION OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF THE NATIONAL FEDERATION OF
NONPROFITS TO THE ALLIANCE OF NONPROFIT MAILERS,
AND REQUEST FOR RULING
(January 30, 1998)

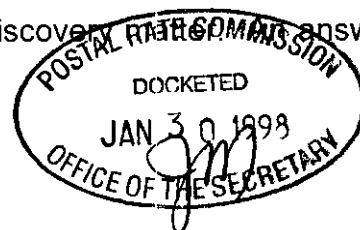
On January 29, 1998, the National Federation of Nonprofits (NFN) filed an interrogatory directed to the Alliance of Nonprofit Mailers (ANM). The Postal Service objects to this interrogatory, and requests that the Presiding Officer direct ANM not to respond.

The interrogatory in question states:

NFN/ANM-1. ANM's appeal to the Commission from Presiding Officer's ruling No. R97-1/86 stated on page 2 that one option available to the Commission on the present record would be to "back out the increases in costs attributed by the IOCS to Nonprofit Standard (A) mail since the test period in the last rate case". Please explain how the Commission could do that.

To note that this interrogatory represents an attempt to engage in friendly cross-examination is to state the obvious. It is, however, much more as well. The effect of allowing an answer to this interrogatory would be to allow ANM and NFN to jointly create the evidentiary basis for a new proposal for the Commission's consideration, long after the deadline for submitting new proposals in this proceeding has come and gone.

Even on its face, the question does not purport to probe the testimony submitted by ANM. Instead, the starting point is a pleading on a discovery answer



to this question would become, in effect, entirely new testimony that, if considered relevant by either or both of these parties, should have been submitted on December 30th of last year. Not only had the time for submitting such proposals expired when this interrogatory was filed, but the period for discovery on such proposals had already expired as well when this interrogatory was filed.

NFN states that ANM has no objection to its late filing of this interrogatory, one day past the end of discovery. If it were legitimate discovery, the Postal Service would have no objection either. The Postal Service, however, does object to practices of parties which, either intentionally or in practical effect, circumvent procedural devices that are designed to promote an orderly hearing process and afford all parties their due process rights.

There is a very real distinction between using discovery to probe proposals that have properly been presented as testimony, and using discovery as a vehicle to invite one's allies to present entirely new proposals. When this line has been crossed, as it clearly has in this instance, the Postal Service submits that the Presiding Officer should direct the party to whom the discovery was directed not to respond, just as he would in the hearing room when sustaining an objection to improper oral cross-examination.


Therefore, the Postal Service objects to NFN/ANM-1, and requests that the Presiding Officer direct ANM to disregard it.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

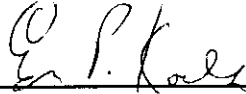
Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking



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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January 30, 1998