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

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POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

OBJECTION OF THE UNITED STATES POSTAL SERVICE TO INTERROGATORY
OF THE ALLIANCE OF NONPROFIT MAILERS
(ANM/USPS-27)
(January 30, 1998)

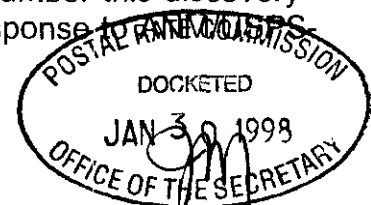
In accordance with Rules 25 and 26 of the Commission's Rules of Practice and Procedure, the Postal Service hereby objects to interrogatory ANM/USPS-27,¹ directed to the Postal Service and filed by the Alliance of Nonprofit Mailers on January 23, 1997, for the reasons discussed below.

This hefty discovery request purports to be "follow-up" to the Postal Service's response to discovery request ANM/USPS-22. The question is not proper follow-up, either within the plain reading of Special Rule of Practice 2D, which allows follow-up interrogatories, or within the Commission's interpretation of Special Rule of Practice 2D. Moreover, the posing of this interrogatory is obviously a plain attempt by ANM to pose discovery that the Presiding Officer has already ruled inappropriate.

Interrogatory ANM/USPS-27 reads as follows:

Assume that several mailings bearing Nonprofit Standard Mail (A) (or nonprofit third-class) indicia later give rise to payment of back postage on grounds that each affected mailing was ineligible for nonprofit rates.

¹ The Postal Service assumes that ANM actually intended to number this discovery request ANM/USPS-28, as the Postal Service provided the response to ANM/USPS-27 on January 5, 1998.



- a. When a check is received for payment of the back postage, would the payment be credited to a Standard Mail (A) (commercial) revenue account, or to a Nonprofit Standard Mail (A) revenue account? Please identify the account to which the payment would be credited, and explain why the Postal Service accounts for such payments in this way.
- b. Assume that the checks for payment of back postage were all received within the same time frame, but in different cities. Would the payment always be credited in the same manner as described in response to preceding part (a), or is it possible that in one city it would be credited one way, but in another city it would be credited differently? Please explain.
- c. If your response to preceding part (b) is that such payments are systematically credited in the same way, please:
 - i. identify the accounting regulation, rule, standard, guideline, instruction, or procedure that specifies the account to which the receipt of payment of back postage (under the circumstances specified here) should be credited, and
 - ii. produce a copy of the accounting regulation, rule, standard, guideline, instruction, or procedure.
- d. When the payment is credited to a revenue account in the manner described in response to preceding part (a), is a new or revised form 3602 filled out? If not, what record(s) is(are) filled out in conjunction with receipt of the payment? Please identify the regulation, rule, standard, guideline, instruction, or procedure that specifies when a new or revised form 3602 is to be filled out, and produce a copy of the regulation, rule, standard, guideline, instruction, or procedure.
- e. Assume that the check for payment of back postage is received and credited to a revenue account (as described in your response to part (a)) in an office that is part of the PERMIT system. Please describe how the PERMIT system would pick up and reflect these additional revenues in the RPW system. For example, would the PERMIT system pick up revenues without any corresponding mail volumes? If not, how is the situation handled? Please identify the regulation, rule, standard, guideline, instruction, or procedure that specifies how the PERMIT system would pick up and reflect these additional revenues, and produce a copy of the regulation, rule, standard, guideline, instruction, or procedure.

f. If a revised for 3602 is filled out, does it have the effect of removing the volume for which the payment of back postage is made from the nonprofit category and transferring it to the commercial rate category?

g. Assume that a nonprofit organization has made a payment for back postage within the same year when the mail was entered and the "case" has been closed. How are the revenues and volumes for the affected mail finally recorded in the revenue accounts and the RPW system? Please identify the regulation, rule, standard, guideline, instruction, or procedure that specifies how the revenues and volumes for mail affected in this manner should be recorded and reported and produce a copy of the regulation, rule, standard, guideline, instruction, or procedure.

ANM has styled this interrogatory as follow-up to the Postal Service's response to ANM/USPS-22. The response to ANM/USPS-22, filed on January 16, was compelled by the Presiding Officer in Presiding Officer's Ruling No. R97-1/86 (January 9, 1997). Originally, discovery request ANM/USPS-22 had sought "all Postal Service rules, regulations, operations manuals, handbooks and similar documents . . . which dealt with . . . the accounting treatment (in RPW data and elsewhere) of mail bearing Standard A (or third-class) nonprofit indicia, but entered at commercial rates . . . [or] later giving rise to a payment of back postage on the ground that the mail was ineligible for nonprofit rates." The Postal Service objected to this interrogatory, as well as virtually the entire set of seven discovery requests with which it was filed, as being untimely discovery directed at the Postal Service's data systems. Although the Presiding Officer ruled that "it was reasonable for the Postal Service to answer ANM interrogatories ANM/USPS-22 and -23," *Presiding Officer's Ruling No. R97-1/86*, at 8, he directed that the Postal Service could limit its response "to those personnel at Service headquarters involved on a regular basis with RPW data, and to those handbooks applicable nationally." *Id.*

Accordingly, in response to ANM/USPS-22, the Postal Service identified its instructions for data collectors recording Standard A mail. Now, as purported "follow-up" to that response, ANM has formulated detailed hypotheticals asking precisely how particular circumstances of data collection would be handled. These questions neither fit within the plain meaning of Special Rule 2D, nor within the Commission's interpretation of that Rule.

Special Rule 2D provides that: "Follow-up interrogatories to clarify or elaborate on the answer to an earlier discovery request may be filed after the initial discovery period ends." ANM/USPS-27 is allegedly based upon a discovery request whose scope was specifically delineated by the Presiding Officer, to be confined to Postal Service headquarters RPW personnel, and nationally-available handbooks.² ANM's "follow-up" on that response now furnishes precise hypotheticals by which ANM seeks information on the handling of checks, procedures "in different cities," "accounting rules," and revised mailing statements.

The Presiding Officer in Docket No. R90-1 ruled that, in order to determine "whether interrogatories can reasonably be deemed follow-up, one must look at the original question and answer and then determine whether the new question is a logical next step in consideration of an issue." Presiding Officer's Ruling No. R90-

² ANM is currently in the process of appealing *Presiding Officer's Ruling No. R97-1/86*, with respect to the Presiding Officer's denial of its motion to compel other discovery requests filed with ANM/USPS-22. *Appeal of the Alliance of Nonprofit Mailers from Presiding Officer's Ruling No. R97-1/86*. ANM did not include in its appeal the boundaries on the scope of ANM/USPS-22 that the Presiding Officer set in Ruling No. R97-1/86.

1/56, at 2. That ruling also looked towards whether the interrogator "could not have asked [the follow-up discovery] before the Postal Service filed an answer to the original interrogatory," *id.*, and that an interrogatory was not proper follow-up if "it should have been asked during the regular discovery period." *Id.* at 3.

ANM's "follow-up" fails under any of these standards. This "new" discovery not only *could have been* asked at any time since the Postal Service filed its direct case in July, it actually was posed by ANM in December. ANM/USPS-27 is merely an attempt to ask the Postal Service the same questions that the Presiding Officer has ruled are not timely. *Presiding Officer's Ruling No. R97-1/86*, at 7. That ruling states that, in order to preserve the due process rights of all of the parties in this proceeding, they are "therefore obligated to make a reasonable effort to focus discovery requests, submit them in a timely fashion and accordingly respond to complying submissions, particularly in light of the compressed procedural schedule." *Id.* ANM's latest discovery flies in the face of all of these principles.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

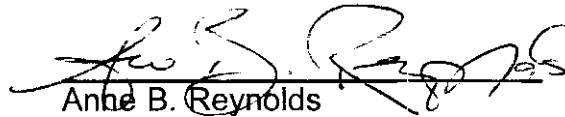
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking


Anne B. Reynolds

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.


Anne B. Reynolds

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