

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

SIX-DAY TO FIVE-DAY CARRIER DELIVERY
AND RELATED SERVICE CHANGES, 2010

Docket No. N2010-1

PARTIAL OBJECTIONS OF THE UNITED STATES POSTAL SERVICE
TO FIRST DISCOVERY REQUESTS OF MAGAZINE PUBLISHERS OF
AMERICA AND DIRECT MARKETING ASSOCIATION TO THE
UNITED STATES POSTAL SERVICE (MPA/USPS-1)
(July 2, 2010)

In accordance with Rule 26(c) of the Postal Regulatory Commission's Rules of Practice and Procedure, the United States Postal Service hereby files the following partial objections to the above-listed interrogatory, submitted by the Magazine Publishers of America and Direct Marketing Association on June 24, 2010. The interrogatory is reprinted below, with the reasons for partially objecting following.

MPA/USPS-1. This question refers to your June 17 answer to NNA/USPS-T2-3. The following sentence appears three times in the answer:

Title 39, chapters 10 and 12 contain provisions that can operate to limit the Postal Service's ability to take such actions.

Please identify each section and subsection of chapters 10 and 12 of Title 39 that you contend "can operate to limit the Postal Service's ability to take such actions," and explain why you contend that each such section and subsection can have this effect.

As background information, the term "such actions" was in reference to certain personnel actions: (1) reducing the size of the workforce through attrition; (2) layoffs; (3) voluntary buyouts or providing incentives for early retirements;

(4) furloughs; (5) pay reductions; and (6) hiring new employees at reduced compensation levels.

This interrogatory uses the word “contend.” The Postal Service intends to provide a response to this interrogatory that provides its contentions for purposes of this docket only.

However, there is language in the interrogatory that could be read as seeking a level of detail that is objectionable because it is irrelevant to the issues in this docket, is burdensome, and asks for legal conclusions.

The information requested is irrelevant to this docket. Chapter 10 of Title 39 is entitled “Employment within the Postal Service” and contains the basic framework for postal employment. Chapter 12 is entitled “Employee-Management Agreements” and contains the basic framework for collective bargaining between the Postal Service and unions that represent bargaining unit employees. Over the course of forty years, there have been numerous judicial interpretations of sections within these chapters. Other sections have not yet been subjected to judicial interpretation.

This docket concerns a Postal Service plan to move from six-day to five-day carrier delivery, and other related service changes. This docket does not concern how the Postal Service’s employment and labor laws operate. Indeed, the savings estimates in this docket are based on “full-up” savings, and do not speculate on what personnel actions would occur before those savings are fully realized. Thus, the information sought by this interrogatory is irrelevant to the issues in this docket.

In addition, the request to “explain why you contend that each such section and subsection can have this effect” is unduly burdensome. To fully address each section would require a tome that summarizes how the section has been interpreted by courts, how it may be interpreted in the future, etc. Such a task could easily take months, if not a year or more.

Finally, a request to interpret these two chapters amounts to a request for legal conclusions, not discoverable information. Counsel for intervenors have just as much of an opportunity as postal counsel to review these statutes, study how they have been interpreted over the last forty years, and arrive at legal conclusions about how they would be interpreted in the future.

Therefore, the Postal Service partially objects to this interrogatory.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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