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UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Evolutionary Network Development
Service Changes

Docket No. N2006-1

PRESIDING OFFICER'S RULING ON APWU MOTION TO COMPEL RESPONSE TO INTERROGATORY APWU/USPS-T1-9 (a,b,c,d,f)

(Issued May 18, 2006)

This ruling concerns a motion[1] filed by APWU on February 28, 2006, to compel responses to five subparts of an interrogatory that seeks detailed information regarding each of the 346 mail processing facilities identified in response to interrogatory DBP/USPS-14. The contested portions of the interrogatory request such specific information regarding each such facility as its size; whether it has operations on one floor or multiple floors; the types of mail processing operations and equipment associated with each facility; and the monthly average volume of mail processed by type for the most recent 12-month period. The Postal Service objects to these requests on the grounds that responsive information would have no material bearing on issues to be resolved in this proceeding, and that some of the information, in the case of class-specific mail volume data, is commercially sensitive and therefore privileged.[2]

[1] Motion Of American Postal Workers Union, AFL-CIO, to Compel United States Postal Service to Answer Interrogatories APWU/USPS-T1-9 (a,b,c,d,f), February 28, 2006 (Motion to Compel). In Presiding Officer's Ruling No. N2006-1/1, issued on March 16, 2006, I granted a motion by APWU to replace a combined motion to compel with two separate motions, and to treat the replacement filings as though they had been filed on February 28, 2006. This ruling addresses one of the two replacement filings.

[2] Objections of the United States Postal Service to APWU Interrogatory APWU/USPS-T1-9, February 23, 2006 (Objections).

APWU begins its motion with an extensive presentation of its views on the legal and factual foundations of this proceeding. APWU asserts the Commission's obligation to weigh public policy considerations established by the Postal Reorganization Act in performing its responsibilities under § 3661 to review the network changes proposed by the Postal Service. According to APWU, application of these policies requires that the Postal Service's network realignment plans be transparent to the public. However, APWU claims, the Service's presentation and position regarding discovery are unresponsive to these public policy requirements, focusing on the efficiency it seeks in network realignment and neglecting the potential impact of the END program on postal services. In general, APWU asserts that its disputed interrogatories seek a factual basis for assessing the service impact of the Postal Service's END strategy, which it characterizes as a continuation of the Network Integration and Alignment (NIA) program begun in 2001.[3]

With regard to the challenged portions of APWU/USPS-T1-9, APWU argues that the information they seek is relevant to a complete understanding of the END process and its potential impact. According to APWU, information describing the characteristics of each facility is used by the Postal Service in determining which facilities will be consolidated, and what role facilities will have in the reconfigured postal network. To gain a better understanding of the process, APWU asserts, the Commission should begin with an appreciation of the actual size and complexity of the current network, which Postal Service testimony does not afford. Because disclosure of the information sought in the challenged subparts of the interrogatory will provide a clearer picture of the present network, APWU claims it is relevant to the Commission's assessment of the Postal Service's plan.

APWU likewise challenges the Postal Service's claim of privilege regarding class-specific volume information. According to APWU, the Service's failure to identify the specific privilege invoked or to state the reasons for its applicability renders its objection defective under section 26(c) of the Commission's rules. Due to the strong

[3] Motion to Compel at 1-9.

public policy in favor of disclosure of relevant information, APWU argues that the Postal Service must bear a heavy burden to merit the protection of evidentiary privilege. Because the Service's blanket assertion fails to identify substantial harm of any kind, APWU asserts, it is speculative at best, and the Service may not be afforded the protection of the trade secret privilege.[4]

In a Reply[5] filed on March 7, the Postal Service incorporates by reference the arguments made in its Objections, and presents further challenges to the relevance and materiality of the information sought in the contested subparts of the interrogatory. The Service argues that the Commission's role in this proceeding is not to judge or second-guess specific personnel or equipment utilization decisions made by the Postal Service in the network realignment process. Rather, the Service claims, the Commission's role is to assess the goals of the Service's network realignment plan; examine the processes to be employed in pursuit of those goals; gain an understanding of the types of potential service impacts that may result; and then offer its expert judgment regarding the consistency of resulting service changes with the policies of the Postal Reorganization Act. Reviewing the process and criteria used by postal management in determining operational changes can be achieved without knowing specific facility-by-facility information, according to the Postal Service; in its view, the testimony of witness Shah provides a sufficiently clear basis to allow the Commission and the parties to understand the current mail processing network at an adequate level of detail. And in any event, the Service argues, the role of any particular facility in its future network cannot be known until a specific alignment is proposed and analyzed.[6]

Finally, the Postal Service clarifies its earlier assertion that some of the information requested in subpart (f) of the interrogatory is privileged. The Service states that its objection arose from a concern that responsive data were mail-class specific, as distinguished from workload data reported by operation and shape. It maintains that it

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[4] *Id.* at 12-16.

[5] United States Postal Service Reply in Opposition to American Postal Workers Union Motion to Compel Responses to Interrogatory APWU/USPS-T1-9, March 7, 2006 (Reply).

[6] *Id.* at 2-6.

should not be required to disclose facility-specific workload data for the reasons presented above, but concedes that it does not assert that such information is commercially sensitive.[7]

I shall grant APWU's motion as to the contested subparts of this interrogatory. First, materials already produced in this proceeding confirm APWU's claim of relevance. As APWU argues, relevance is established by the Postal Service's use, or potential use, of such specific facility data in determining what facilities to consolidate, and what their role would be in a reconfigured network. The size of a facility, expressed in square feet used for processing and administration, is a data requirement in the END Optimization Model.[8] Whether a facility has operations on one floor or multiple floors can have a significant effect on productivity, as GAO found in the report filed by the Postal Service as its Library Reference No. 7.[9] The types of mail processing operations performed at a facility—expressed as the number of piece handlings by operation and ZIP Code assignments by mail class—are also inputs to the END model.[10] Additionally, to the extent specific operations may be involved in a contemplated consolidation, they are treated in an AMP proposal.[11] The same conclusions apply to the type and number of mail processing equipment in use in a facility,[12] and the volume of different mail categories processed by each facility.[13]

Therefore, the interrogatory apparently seeks information that is reasonably calculated to lead to the discovery of admissible evidence. The Postal Service challenges this inference on the basis of materiality, arguing that the requested detailed facility information would not bear on any issue the Commission is called upon to

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[7] *Id*. at 6.

[8] Responses of the United States Postal Service to Presiding Officer's Information Request No. 1, April 18, 2006, (Response to POIR No. 1), Question 4(b), Attachment at 2.

[9] USPS Library Reference N2006-1/7 at 31-32.

[10] Response to POIR No. 1, Question 4(b), Attachment at 2.

[11] USPS Library Reference N2006-1/3, USPS Handbook PO-408, Area Mail Processing Guidelines, at 5.

[12] *Ibid.*; Response to POIR No. 1, Question 4(b), Attachment at 3.

[13] *Ibid*.; Response to POIR No. 1, Question 4(b), Attachment at 2.

address in this case. However, APWU correctly observes that the requested information would provide a clearer picture of the current network, and thereby enable an improved understanding of the criteria used in the network realignment process. Further, detailed knowledge of this network "baseline" could provide a more complete background against which to assess the impact of potential reconfigurations. Consequently, the availability of these facts would enable participants to formulate better-informed comments on the potential impact of the Service's END proposal on the nature of postal services.

Additionally, contrary to the Postal Service's misgivings, any Commission analysis based on the requested information would not involve second-guessing any management decision regarding a particular facility. Instead, it would seek to assess the potential effects of network realignment on the adequacy and efficiency of postal services, as directed in 39 U.S.C. § 3661.

Finally, because the Postal Service has retracted its claim of commercial sensitivity regarding subpart (f) of the interrogatory—apparently on the basis of an understanding with APWU as to the kind of data requested—there is no need to apply protective conditions to any of the materials to be produced in compliance with this ruling.

RULING

The Motion Of American Postal Workers Union, AFL-CIO, to Compel United States Postal Service to Answer Interrogatories APWU/USPS-T1-9 (a,b,c,d,f), filed February 28, 2006, is granted.

Dawn A. Tisdale
Presiding Officer