

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

POSTAL RATE AND FEE CHANGES, 2006

Docket No. R2006-1

MOTION OF THE UNITED STATES POSTAL SERVICE
TO COMPEL RESPONSES TO USPS/PB-T3-20(c)-(e)

Pursuant to Rules 25 and 26 of the Commission's Rules of Practice and Procedure, the United States Postal Service respectfully moves to compel responses to USPS/PB-T3-20(c)-(e), filed on October 11, 2006. The interrogatory reads in full as follows:

USPS/PB-T3-20. Please refer to your response to USPS/PB-T3-8(c), where you stated that you did not research the cost to customers under your proposal. That interrogatory also asked, in part, to estimate "any recurring annual costs or fees paid to Pitney Bowes associated with the customer's use" of a Pitney Bowes postage meter or PC Postage device. However, your response did not address the estimated costs or fees that would be paid from Pitney Bowes' perspective. If you cannot answer any of the following subparts, please redirect them to Pitney Bowes for an institutional response.

- (a) In your view, would your proposed postage evidencing discount affect customers' decisions to purchase or lease postage meters or PC Postage devices? Please explain fully.
- (b) Have you, or Pitney Bowes, estimated how the proposed discount would quantitatively affect customers' purchases or leases of postage meters or PC Postage devices? If so, please provide the estimates and the data that the estimates are based on.
- (c) Please provide (or estimate, if accurate figures are unavailable) Pitney Bowes' share of the postage meter and PC Postage device markets.
- (d) Please estimate the projected increase in revenue to Pitney Bowes based on your proposed 0.1 cent postage evidencing discount.

- (e) Please estimate the projected increase in revenue to Pitney Bowes based on a postage evidencing discount of:
- (1) 1.0 cents (as proposed by Pitney Bowes¹ in Docket No. R2000-1);
 - (2) 2.0 cents;
 - (3) 3.0 cents;
 - (4) 4.0 cents (as proposed by E-Stamp and Stamps.com² in Docket No. R2000-1).

On October 23, 2006, Pitney Bowes responded to USPS/PB-T3-20(a)-(b), and filed a partial objection to USPS/PB-T3-20(c)-(e) on the grounds of relevance, harassment, and undue burden. This motion to compel will address each of these grounds in turn.

Relevance

Pitney Bowes argues in its partial objection that USPS/PB-T3-20(c)-(e) requests irrelevant information. Specifically, Pitney Bowes contends that their firm's share of the postage meter and PC Postage device markets, and their firm's projected revenue increase based on this proposal, are beyond the scope of the testimony submitted in this docket. Pitney Bowes flatly asserts that because of "the Commission's well-established practice of setting discounts in conformity with efficient component pricing,...the costs or revenue implications for individual firms are irrelevant."

Interrogatory USPS/PB-T3-20(c)-(e) seeks information that is relevant to the issues in this docket, because it will assist the Commission in recommending postal rates and fees pursuant to the ratemaking criteria of the Postal Reorganization Act. Under the Act, postal rates and classifications must be "fair and equitable." 39 U.S.C.

¹ See Docket No. R2000-1, Tr. 26/29/13893 at 9-10.

² See Docket No. R2000-1, Tr. 29/13651 at 3-7; Docket No. R2000-1, Tr. 23/10482 at 5-9.

§§ 3622(b)(1) and 3623(c)(1). The Commission must also consider “the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy,” as well as “the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail.” 39 U.S.C. §§ 3622(b)(4) and 3623(c)(2). Surely, the effect that a postage discount may have on mailers is among the factors the Commission must consider when recommending nationwide postal rates and fees.

The above-referenced interrogatory explores the potential effect of Pitney Bowes’ proposed postage evidencing discount on postal customers, and the extent to which the discount may favor certain mailers over others. Contrary to Pitney Bowes’ assertion, this interrogatory is not aimed solely at exploring their firm’s private interest in pursuing the proposed discount, although the Postal Service submits that Pitney Bowes’ private interest could still be considered relevant.³ Rather, the information requested in USPS/PB-T3-20(c)-(e) directly pertains to the ratemaking criteria in the Postal Reorganization Act. Pitney Bowes’ partial objection suggests that this interrogatory is irrelevant because the requested information is “beyond the scope of the testimony submitted by Pitney Bowes in this case.” However, the correct relevance standard is whether or not the interrogatory is reasonably calculated to lead to the discovery of admissible evidence. The Postal Service fails to see how the above-referenced interrogatory, which seeks information that directly pertains to the ratemaking criteria, would not meet this relevance standard.

³ A party’s private interest in proposing a certain discount or rate change could, for example, be considered in the same way that criminal or civil courts consider the potential bias of a witness in assessing the credibility of that witness.

A brief example will highlight how USPS/PB-T3-20(c)-(e) seeks information that is clearly relevant to this docket. If the Commission were to approve the postage evidencing discount in this case with respect to postage meters, it would create an incentive for individual consumers or small businesses that do not already have a postage meter to obtain a postage meter in order to take advantage of the discount.⁴ If the postage meter market is highly concentrated, such that those consumers or small businesses could only obtain a postage meter from one or two firms, those firms would likely have the ability to raise the price of postage meters because of their market dominance. Subpart (c) of USPS/PB-T3-20 clearly explores the postage meter and PC Postage device market concentration.

The scenario described above would significantly diminish, or even eliminate, the benefit that these postal customers could receive from the proposed postage evidencing discount. Subparts (d) and (e) of USPS/PB-T3-20 explore the potential benefit this proposal will bestow upon Pitney Bowes, in terms of revenue. Comparing this benefit to the potential benefit to individual consumers or small businesses is directly within the province of the ratemaking criteria.⁵ In effect, this scenario would also favor mailers that already have a postage meter over those that do not, which raises a question about whether or not the proposal is fair and equitable in accordance with the Postal Reorganization Act. Thus, the material sought by the above-referenced interrogatory is clearly relevant to this docket, because it will assist the Commission in recommending postal rates and fees pursuant to the ratemaking criteria of the Postal Reorganization Act.

⁴ As witness Buc stated in response to USPS/PB-T3-20(a), "Pricing incentives would likely drive demand for these products."

⁵ Specifically, 39 U.S.C. § 3622(b)(1) and (4), and 39 U.S.C. § 3623(c)(2).

Harassment

Pitney Bowes' main argument for objecting to the above-referenced interrogatories on the grounds of harassment seems to be that any interrogatory that they believe seeks irrelevant or commercially-sensitive information is, by their definition, harassment. As stated above, the requested information is relevant to the issues in this docket because it will assist the Commission in evaluating the proposed discount pursuant to the ratemaking criteria in the Postal Reorganization Act. In regards to Pitney Bowes' claim that the interrogatory is "intended to harass Pitney Bowes by forcing it to produce, or estimate, commercially sensitive information," the Postal Service fails to see how an estimate of Pitney Bowes' market share or projected revenue increases could be commercially sensitive, and Pitney Bowes offers no support for why it believes the information is commercially sensitive. Furthermore, there is absolutely no basis for the argument that the above-referenced interrogatory rises to the level of *harassment* simply because Pitney Bowes claims that the requested information is irrelevant or commercially sensitive.

Undue Burden

Finally, Pitney Bowes contends that responding to the above-referenced interrogatory would be unduly burdensome. As stated in USPS/PB-T3-20(c), Pitney Bowes (or witness Buc) is requested to "estimate" Pitney Bowes' share of the postage meter and PC Postage device markets if a figure or study cannot be provided. The revenue projections are also only requested to be estimates. An "expensive inquiry and

analysis” was not requested, and is not required, as Pitney Bowes claims. In addition, Pitney Bowes has not quantified this burden in its partial objection. The Postal Service understands that precise figures in response to USPS/PB-T3-20(c)-(e) may not be readily available. But providing an estimate of these figures should not be overly burdensome. Moreover, any burden to Pitney Bowes would be outweighed by the relevance of the requested information, which will assist the Commission in evaluating the proposed postage evidencing discount. Therefore, the Postal Service submits that responding to USPS/PB-T3-20(c)-(e) would not be unduly burdensome.

For the aforementioned reasons, the Postal Service respectfully moves to compel responses to USPS/PB-T3-20(c)-(e).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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