

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

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

OBJECTIONS OF THE UNITED STATES POSTAL SERVICE TO
INTERROGATORY OF THE ASSOCIATION FOR POSTAL COMMERCE AND
THE MAILING AND FULFILLMENT SERVICE ASSOCIATION TO
UNITED STATES POSTAL SERVICE WITNESS L. PAUL LOETSCHER
(POSTCOM/USPS-T28-2) (August 25, 2006)

The United States Postal Service hereby objects to POSTCOM/USPS-T28-2, filed by the Association for Postal Commerce and the Mailing and Fulfillment Service Association on August 15, 2006. The interrogatory is reprinted below, and is followed by the bases for the Postal Service's objections:

POSTCOM/USPS-T28-2. During cross-examination, you stated that the definitional categories for non-ECR Standard Mail non-letter volumes upon which you based your study were provided by Witness McCrery. (Loetscher Tr. at 1538:10-22). You also stated that you received these definitions from Witness McCrery via e-mail (Loetscher Tr. at 1539:1-2).

- a. Please provide a copy of the e-mail referenced in your cross-examination in which Witness McCrery conveyed the definitional categories for non-letter volumes to you.
- b. Please provide copies of any and all e-mail or other correspondence from or to Witness McCrery that addresses or otherwise discusses the definitional categories for non-letter volumes, including but not limited to any iterations of the definitional categories.
- c. Please provide copies of any and all correspondence from any Postal Service employee that addresses or otherwise discusses the definitional categories for non-letter volumes, including but not limited to any iterations of the definitional categories.
- d. Please provide copies of any and all additional supporting documentation that addresses the definitional categories for non-letter volumes upon which you relied.

This interrogatory is objectionable as untimely, and the e-mails and other correspondences it seeks are irrelevant and privileged.

The date for completion of discovery on the Postal Service's direct case was July 14, 2006. Presiding Officer's Ruling R2006-1/12, Adopting Procedural Schedule (June 30, 2006). POSTCOM did not file this interrogatory until August 15, 2006, thirty-two days after the deadline for discovery elapsed. Accordingly, the Postal Service objects to this interrogatory because it was untimely filed.

POSTCOM's attempt to label this interrogatory as "follow-up" is to no avail. As noted in the text of the interrogatory, witness Loetscher testified that had received the definitional categories at issue from witness McCrery by e-mail. Tr. Vol. 4 at 1538:21-22, 1539:1-2. Counsel for POSTCOM did not make a request for e-mails at the hearing, continued with his questioning of the witness, and eventually stated to the Chairman that he had no further questions of Mr. Loetscher. Tr. Vol. 4 at 1570:4-5. Witness Loetscher's testimony is now complete, and it is too late for POSTCOM to request materials that it failed to request at the hearing.

In addition, the requested e-mails and other communications are irrelevant to any of the issue in this omnibus rate case. What is at issue here is the Postal Service's request, which includes the final definitions at issue, and any alternatives that may be submitted by other participants. Information about how the Postal Service finalized its definitions is not relevant in this case.

Moreover, the e-mails and other communications, under the circumstances in this docket, are privileged communications. They are internal communications (as Mr. Loetscher was acting as a postal contractor) and are pre-decisional. If these types of

communications -- through which Postal Service officials formulates a Request -- are discoverable, there necessarily will be a chilling effect on the exchange of information (at least e-mail and other written communications) leading up to a rate case. Under the circumstances in this case, where there has been no showing of relevance, there is no reason why the Postal Service should have to produce these internal communications.

For these reasons, the Postal Service objects to POSTCOM/USPS-T28-2.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Brian M. Reimer
Attorney

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3037; Fax -5402

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.

Brian M. Reimer

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3037; Fax -5402
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