

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

Postal Rate and Fee Changes

Docket No. R2006-1

PRESIDING OFFICER'S RULING
CONCERNING MOTIONS TO COMPEL RESPONSES TO
INTERROGATORIES DBP/USPS-123, 134, 257, 258, 260, 263, 265,
381, 413 AND 414

(Issued August 24, 2006)

DBP/USPS-123. On July 24, 2006, David B. Popkin filed a motion to a compel response to interrogatory DBP/USPS-123.¹ This interrogatory seeks information concerning the scanning that is performed when collections are made from collection boxes or post office lobby drop boxes.

DBP/USPS-123

This Interrogatory relates to the scanning that is performed when blue collection boxes and/or post office lobby drops are collected.

- [a] Are scans made at all blue collection boxes?
- [b] If not, please describe and explain the categories of blue collection boxes that are not scanned.
- [c] Are scans made at all post office lobby drops?
- [d] If not, please describe and explain the categories of post office lobby drops that are not scanned.
- [e] Are scans made of all collections or only those collections that are listed? Please explain.
- [f] Please list and discuss any other collection points that are scanned besides blue collection boxes and post office lobby drops.
- [g] Please explain and discuss the use that is made of all of the scans that are made.

¹ David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-123, July 24, 2006.

- [h] Please explain and discuss any use of the scans that would allow a determination that a collection box was either not collected or was collected prior to the scheduled time.
- [i] Please explain and discuss the action that would be taken.
- [j] Is this evaluation of the scan data made at the local level or at the District level, or both?
- [k] Is this evaluation of the scan data capable of being made in a manner that would allow for corrective action to be taken such as making a collection from a missed box or an early collected box and getting the mail to the processing plant to meet the service standards that would have been achieved if the mail had been properly collected.
- [l] What is the maximum time caused by the system that it would take for a local supervisor to download and check the scanner that a carrier used for a particular collection route to evaluate for missed or early collections?
- [m] Please explain and discuss whether all of the above procedures apply equally to those post offices that are in the EXFC Program as well as those that are not in the program.

Mr. Popkin asserts that this information is important to “be able to ensure that the collection times that are posted on the collection boxes have been made and the action taken if they are not made.”

The Postal Service filed an objection to answering this interrogatory on July 10, 2006, and a reply to the motion to compel on July 31, 2006.² It objects on the grounds of relevance and materiality. The Postal Service argues that this interrogatory involves operational details about scanning practices, and does not involve collection policy. It contends that customers are not concerned with whether scans are performed, and customers do not place a “value” on scan service.

Ruling. This interrogatory delves into operation details that have not been shown to be material to this rate case. Furthermore, a response to this interrogatory would not satisfy Mr. Popkin’s stated objective of being “able to ensure that the collection times

² Objection of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-123), July 10, 2006; Reply in Opposition of the United States Postal Service to the Motion to Compel of David B. Popkin (DPB/USPS-123), July 31, 2006.

that are posted on the collection boxes have been made.” The motion to compel is denied.

DBP/USPS-134. On July 24, 2006, David B. Popkin filed a motion to compel a response to interrogatory DBP/USPS-134.³ This interrogatory seeks information concerning transportation that could be used to support an expanded Post Office-to-Post Office Express Mail service.

DBP/USPS-134

Please confirm, or explain if you are unable to confirm, that transportation already exists that would allow for the reliable delivery of Post Office-to-Post Office Express Mail to all postal facilities that are currently in the overnight delivery area for First-Class Mail.

Mr. Popkin argues that he is attempting to show that transportation already exists that would allow Post Office-to-Post Office Express Mail to be extended nationwide where existing transportation is available. He contends that this would improve the value of service and that the value of service is relevant.

The Postal Service filed an objection to answering this interrogatory on July 10, 2006, and a reply to the motion to compel on July 31, 2006.⁴ The Postal Service contends that exploring the issues of why the availability of Post Office-to-Post Office Express Mail service is not concomitant with the overnight delivery of First-Class Mail is irrelevant to this proceeding. It argues that this interrogatory cannot be justified as related to “value of service” within the meaning of § 3622(b)(2) because it bears no relation to the *actual* level of service provided by Post Office-to-Post Office Express Mail. Finally, the Postal Service cites Docket No. R2005-1, POR No. R2005-1/83, September 20, 2005, where it asserts that the Presiding Officer found a substantively analogous interrogatory irrelevant to an omnibus rate proceeding.

³ David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-134, July 24, 2006.

⁴ Objection of the United States Postal Service to Interrogatory of David B. Popkin (DBP/USPS-134), July 10, 2006; Opposition of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatory (DPB/USPS-134), July 31, 2006.

Ruling. The Postal Service has responded to multiple interrogatories from Mr. Popkin explaining the parameters of Post Office-to-Post Office Express Mail upon which Mr. Popkin can evaluate the value of service: DBP/USPS-99, 125 through 131, 133, and 135 through 138. Interrogatory DBP/USPS-134 seeks information on how the service could be implemented, and not on how it actually is implemented. It is not relevant to an understanding of the service as it exists, and is not material to an understanding of any Postal Service proposal. The responses that have already been provided are comparable in detail to the information previously provided in Docket No. R2005-1. In that case, the Presiding Officer determined “[a]ny further elaboration would yield little if any incremental understanding of the overall value of the service actually provided Express Mail.” Docket No. R2005-1, POR No. R2005-1/83 at 2. The same conclusion is appropriate in this case. The motion to compel is denied.

DBP/USPS-257, 258, 260, 263, and 265. On August 4, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-257, 258, 260, 263, and 265.⁵

DBP/USPS-257

Please reconcile the apparent difference between the response to Interrogatory GCA/USPS-T42-6 which states that the new postmark includes the “Time in hours, minutes (HH:MM) using military time or PM designation” and the response to Interrogatory DBP/USPS-106 subpart a which states that “The time is shown as AM or PM” and subpart b which states, in effect, that specific numerical times are not shown.

DBP/USPS-258

Please refer to the response to Interrogatory DBP/USPS-106 subparts c and d.

[a] Is the clock normally programmed to show JUL 11 2006 AM from 12:01 AM local time on July 11, 2006 to 12 Noon on July 11, 2006 and JUL 11 2006 PM from 12 Noon on July 11, 2006 to 12 Midnight on July 11, 2006.

[b] If not, please explain and discuss.

⁵ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-257, 258, 260, 263, and 265, August 4, 2006.

- [c] Specifically, is the cutover from July 11, 2006 to July 12, 2006 designed to take place at Midnight local time or is it designed to take place after all of the July 11th mail has been processed?
- [d] What arrangements are made to ensure that all mail that is accepted at the various postal facilities that are open late on Income Tax Night and accepting mail up until Midnight will have all of that mail postmarked with the proper date, normally April 15th.
- [e] Are there any particular times that the maintenance personnel will override the correct date and time or is their function limited to resetting the time to the correct local time after a "problem" occurs?

DBP/USPS-260

Please refer to the response to Interrogatory DBP/USPS-109. Please discuss and provide a comparison between the legibility and readability of the inkjet cancellation vs. the old style circular cancellation.

DBP/USPS-263

Please discuss the effectiveness of the Change of Address program when the Postal Service is faced with major requirements for forwarding mail as was caused by Hurricanes Katrina and Rita. Please discuss the efforts that were made to return to normal postal operation and an estimation of when that will be achieved.

DBP/USPS-265

The following interrogatory is designed to evaluate the likelihood or potential that a customer who is utilizing an Automated Postal Center [APC] will leave the APC during a transaction while their credit or debit card is still activated and thereby allow a second customer to pick up the activity and obtain value from the APC which will be charged to the first customer.

- [a] Please provide a copy of the screens that will appear after a customer has completed an APC transaction and until the APC will show the standard welcoming screen. Completed an APC transaction is defined as receiving the stamp either purchased as a separate stamp or as the stamp to affix to a mailpiece. If necessary, please provide separate screens for different types of transactions and/or for a credit card vs. a debit card.
- [b] In these screens, please identify the point at which the credit/debit card data is no longer active and the first customer would have to re-enter the card to make an additional purchase or a second customer could obtain value under the first customer's card. If necessary, please provide separate data for a credit card vs. a debit card.

Mr. Popkin asserts that interrogatory DBP/USPS-257 is attempting to resolve an apparent conflict between responses to GCA/USPS-T42-6 and DBP/USPS-106. He argues that interrogatories DBP/USPS-258 and 260 relate to the value of service, as an accurate and legible postmark is of value to many mailers. He states that interrogatory DBP/USPS-263 is relevant based on the Commission's indication in PRC Op. R2005-1, fn. 72 that the \$1 fee for internet or phone change-of-address orders may be an issue in the next omnibus rate case. Mr. Popkin further argues that this is relevant to the value of service. He contends that DBP/USPS-265 relates to the value of service of Automated Postal Centers and the potential for fraud.

The Postal Service filed an objection to answering these interrogatories on July 21, 2006, and a reply to the motion to compel on August 21, 2006.⁶ It asserts that responses to these interrogatories will not add any relevant evidence to this proceeding.

Ruling. The Postal Service shall provide a response to DBP/USPS-257. Although the subject matter appears to have stretched the limits of relevance in this case, the apparent discrepancy should be resolved for any participant that may rely on these responses. The motion to compel is denied as to DBP/USPS-258, 260, 263, and 265. These interrogatories may be of interest to Mr. Popkin, but he has not been persuasive in arguing how these responses could influence the Commission's consideration of rate and classification proposals in this case.

DBP/USPS-381, 413, and 414. On August 15, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-381, 413, and 414.⁷ These interrogatories seek information concerning Express Mail.

DBP/USPS-381

Please refer to your response to Interrogatory DBP/USPS-166 subpart a. The response that was provided did not address whether there are any

⁶ Objections of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-257-258, 260, 263, and 265), July 21, 2006; Opposition of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-257-258, 260, 263, and 265, August 21, 2006.

⁷ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-381 and 413 through 414, August 15, 2006.

restrictions that exist for setting various cut-off times, such as, must the cut-off time for 2-day Express Mail be no earlier than 5 PM. Please reanswer the original Interrogatory and provide the rationale for your response.

DBP/USPS-413

Please refer to your response to Interrogatory DBP/USPS-206.

Please have the expert on Express Mail advise any reason[s] that he/she is aware of that would allow for one not to consider that the average price per Express Mail article would be the same for those articles that are delivered on time as compared to those that are not delivered on time.

DBP/USPS-414

Please refer to your response to Interrogatory DBP/USPS-207.

Please have the expert on Express Mail advise any reason[s] that he/she is aware of that would allow for one not to consider that the average price per Express Mail article would be the same for those articles that are not delivered on time and for which a claim for postage refund was filed as compared to those that a claim for postage refund was not filed for.

Mr. Popkin contends that the Postal Service's "relevance" objection is not sufficient because the Postal Service does not elaborate on why the interrogatories are not relevant. Mr. Popkin states that interrogatory DBP/USPS-381 is a follow-up to interrogatory DBP/USPS-166(a). He contends the Postal Service provided an incorrect and incomplete answer to DBP/USPS-166(a). Mr. Popkin states that interrogatories DBP/USPS-413 and 414 are follow-up on responses to interrogatories DBP/USPS-206 and 207. He contends that the Postal Service responses to interrogatories DBP/USPS-206 and 207 are incomplete, and "that the fact that they have not studied a particular condition should not allow them to avoid providing the response to the original Interrogatories."

The Postal Service filed an objection to answering these interrogatories on August 3, 2006, and opposition to the motion to compel on August 22, 2006.⁸ It asserts that its response to DBP/USPS-166(a) was timely filed and is correct. It argues that

⁸ Objection of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-381, 413-414), August 3, 2006; Opposition of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-381 and 314-14, August 22, 2006.

Mr. Popkin is merely dissatisfied with the level of detail provided in the response, and that further operational details concerning Express Mail are irrelevant to the case. The Postal Service contends that Mr. Popkin has not demonstrated the relevance of interrogatories DBP/USPS-413 and 414. The Postal Service previously stated that it has not studied the issues involved. It argues that responses would be completely speculative and without factual foundation, and therefore would not provide a material contribution to the record.

Ruling. DBP/USPS-166(a) requests the Postal Service to: “Please discuss and explain any restrictions or criteria considered with respect to the setting of a cut-off time at a specific acceptance point. Please distinguish between overnight vs. non-overnight guarantees and the relationship of the cut-off time to the retail window service hours or day of the week.” The Postal Service responded: “The cutoff times at individual acceptance units are set by officials in the field, and are generally designed to connect with a planned set of dispatches necessary to meet the delivery guarantee.” The Postal Service asserts that this remains a correct answer. The Postal Service appears to have answered the question posed at an appropriate level of detail for this rate case. Mr. Popkin has not persuasively argued why the Postal Service should be required to provide more detail.

Mr. Popkin has not demonstrated the relevance of interrogatories DBP/USPS-413 and 414 in the context of this case. Furthermore, the Postal Service has answered the original interrogatories by stating that it has not studied the issues involved. The Postal Service is not required develop further responses to these interrogatories without some justification as to their materiality or relevance. The motion to compel responses to DBP/USPS-381, 413, and 414 is denied.

RULING

1. The David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-123, filed July 24, 2006, is denied.
2. The David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-134, filed July 24, 2006, is denied.
3. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-257, 258, 260, 263, and 265, filed August 4, 2006, is granted with respect to DBP/USPS-257, and is denied with respect to DBP/USPS-258, 260, 263, and 265.
4. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-381 and 413 through 414, filed August 15, 2006, is denied.

George Omas
Presiding Officer