

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-267, 269, 270, 283-285, 370, 371, 373,  
383-386, 388-398, 416, 418, 435-446, 479, AND 488-518

(Issued September 14, 2006)

*DBP/USPS-373, 383 through 386.* On August 15, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-373, and 383 through 386.<sup>1</sup> The Postal Service filed an objection to answering these interrogatories on August 3, 2006, and replies to the motion to compel on August 22, 2006 and August 23, 2006.<sup>2</sup>

**DBP/USPS-373**

Please refer to your response to Interrogatory DBP/USPS-144.

[a] Your response appears to be made with respect to the various philatelic products such as mugs and books rather than to the actual stamps. Please respond to the original interrogatory with respect to stamps themselves.

[b] Please advise any unwritten policies that exist.

Mr. Popkin asserts he is attempting to obtain information to determine the policy that exists for maximizing profits from the sale of philatelic items and products. The Postal Service objected to this interrogatory as improper follow-up noting that it has answered

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<sup>1</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-373, 383-386, August 15, 2006.

<sup>2</sup> Objection of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-373, 383-86, 388-98, 416), August 3, 2006; Response of the United States Postal Service in Opposition to the Motion of David B. Popkin to Compel Responses to Interrogatories DBP/USPS-373, 383-385, August 22, 2006; Reply of United States Postal Service to Motion of David Popkin to Compel Responses to Interrogatories DBP/USPS-386, 388, August 22, 2006.

interrogatories DBP/USPS-144 and 93, the precursors to this interrogatory, and alleging that Mr. Popkin is now attempting to change the nature of the original question.

**DBP/USPS-383**

Please refer to your response to Interrogatory DBP/USPS-168.

- [a] Please confirm, or explain if you are unable to confirm, that one of the earlier self-adhesive 29-cent stamps [there were several different versions of the stamp with the denomination printed in different colors] was issued in a sheet of 17 stamps that initially sold for \$5.00 or 7¢ more than the face value of the stamps.
- [b] Please advise why the price of the stamps noted in subpart a above had the price changed to the face value of \$4.93 including the applicability of 18 USC 1721.
- [c] Please file a copy of the latest version of The Postal Service Guide to U.S. Stamps referred to in your response as a Library Reference.

Mr. Popkin asserts that the Postal Service has filed an incorrect answer to interrogatory DBP/USPS-168 and that the Postal Service should be required to provide a correct answer by responding to interrogatory DBP/USPS-383. Furthermore, the Postal Service has omitted any response to subpart c.

The Postal Service contends that the questions, which concern a particular stamp issuance over ten years ago, are completely irrelevant in this case. It argues that the questions are improper follow-up because it is not clear that Mr. Popkin has consulted the sources referenced in the answer to DBP/USPS-168. Furthermore, subpart b asks for a legal opinion and is not appropriate discovery. Finally, *The Guide to U.S. Stamps*, which is available on the Postal Service's website, does not relate to any issue before the Commission.

**DBP/USPS-384**

Please refer to your response to Interrogatory DBP/USPS-169. Please confirm, or explain if you are unable to confirm and also provide the requested information, that all of the items referred to in your response as a philatelic post card are listed in the latest version of The Postal Service Guide to U.S. Stamps and that all of the requested information is shown.

The Postal Service contends that this interrogatory is far removed from the issues before the Commission in this case.

**DBP/USPS-385**

Please refer to your response to Interrogatory DBP/USPS-171.

- [a] Please refer to DMM Section 604.1.2 and 604.1.3 and reanswer the original Interrogatory.
- [b] May special handling and/or Certified Mail stamps be utilized to pay part or all of the fee for the special service [as opposed to paying the postage on the underlying mailpiece]?
- [c] If not, please explain.
- [d] Please confirm, or explain if you are unable to confirm, that special delivery no longer exists as a service.
- [e] Please advise what refund is available to a person who has special delivery stamps that may no longer be used and if your response to subpart b above is no has special handling and/or Certified Mail stamps that may no longer be used.

The Postal Service objects to this interrogatory based on the grounds of relevance, materiality, and improper follow-up.

**DBP/USPS-386**

Please refer to your response to Interrogatory DBP/USPS-173. It appears that the response made to this Interrogatory was misunderstood. The question that I have is what changes were made between the Appendix II of the EXFC Statement of Work that was utilized in Docket R2005-1 [even though the appendices were not furnished in that Docket] and the unredacted version of Appendix II that was provided in Docket R2006-1 Library Reference USPS-LR-L-134.

Mr. Popkin asserts that he is attempting to compare the types of mailpieces that were utilized in the previous Statement of Work and the ones that are presently utilized.

The Postal Service objects to interrogatory DBP/USPS-386 contending that it is cumulative, has already been asked and answered, and is not proper follow-up. The Postal Service provides a history of this interrogatory by reviewing the responses to DBP/USPS-18, 50, and 173.

*Ruling.* The response to DBP/USPS-93 states that the Postal Service does not have a policy for maximizing profit obtained from the sale of philatelic items and

products. The response to DBP/USPS-144 elaborates on this issue. Mr. Popkin's stated objective for DBP/USPS-373 of obtaining information of the Postal Service's policy has been met. The information sought by interrogatories DBP/USPS-383 through 385 may be interesting, but is far removed from any issues in this rate case and is not material. The Postal Service adequately responded to all of the lead-up questions to DBP/USPS-386. The Postal Service further provides an explanation of the EXFC process in library reference USPS-LR-L-134 that is adequate for the purpose of this case. The additional comparison that Mr. Popkin seeks will not materially add to this docket's record. The motion to compel responses to DBP/USPS-373, and 383 through 386 is denied.

*DBP/USPS-388 through 398 and 416.* On August 16, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-388 through 398 and 416.<sup>3</sup> The Postal Service filed an objection to answering these interrogatories on August 3, 2006, and replies to the motion to compel on August 22, 2006 and August 23, 2006.<sup>4</sup>

### **DBP/USPS-388**

Please refer to your response to Interrogatory DBP/USPS-177. I realize that the objective is to achieve a panel of ZIP Codes that will represent 90% of the First-Class Mail originating volume and 80% of the destinating volume.

[a] Please explain why these values were chosen.

[b] Please explain why EXFC does not test 100% of all First-Class Mail volume.

[c] Since there are an infinite number of possible combinations of which ZIP Codes are in the program vs. which are not, please explain how

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<sup>3</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-388 through 398 and 416, August 16, 2006.

<sup>4</sup> Objection of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-373, 383-86, 388-98, 416), August 3, 2006; Reply of United States Postal Service to Motion of David Popkin to Compel Responses to Interrogatories DBP/USPS-386, 388, August 22, 2006; Reply of United States Postal Service to Motion of David Popkin to Compel Responses to Interrogatories DBP/USPS-389-398, 416, August 23, 2006.

they are chosen. For example, are remote areas more or less likely to be chosen? Are low volume areas more or less likely to be chosen?

Mr. Popkin asserts that interrogatories relating to the EXFC program are relevant to the level of service that is received with First-Class Mail. He contends that a response has not already provided as alleged by the Postal Service.

The Postal Service objects to this interrogatory as immaterial, not relevant, cumulative, improper follow-up, and burdensome. The Postal Service states that it has already explained that EXFC is not universal, and limits coverage so that the panel of ZIP Codes represent 90% of First-Class Mail originating volume and 80% of destinating volume.

**DBP/USPS-389**

Please refer to your response to Interrogatory DBP/USPS-182. Please confirm, or explain if you are unable to confirm, that the procedures indicated in subparts b through d of the original interrogatory have been instituted after the EXFC program started and are in place at many post offices throughout the country.

Mr. Popkin argues that a response is necessary to provide clarification and elaboration on the original response.

The Postal Service objects to this interrogatory as argumentative, not relevant or material, and not constituting proper follow-up. It contends that nothing would have prevented this question from being asked before seeing the response to DBP/USPS-182, and that it has fully responded to DBP/USPS-182.

**DBP/USPS-390**

Please refer to your response to Interrogatory DBP/USPS-183. Please confirm, or explain if you are unable to confirm, that, in general, if a Postmaster and/or a member of his/her staff at an individual post office removes one or more collection boxes they may believe that they will have either an improved EXFC score and/or an easier time to achieve the EXFC score.

**DBP/USPS-391**

Please refer to your response to Interrogatory DBP/USPS-184. Please confirm, or explain if you are unable to confirm, that, in general, if a Postmaster and/or a member of his/her staff at an individual post office advances the collection time of one or more collection boxes they may believe that they will have either an improved EXFC score and/or an easier time to achieve the EXFC score.

Mr. Popkin contends that the Postal Service has improperly responded to DBP/USPS-183 and 184. Thus, he has reworded and re-asked the questions in DBP/USPS-390 and 391.

The Postal Service objects to these interrogatories as argumentative, not relevant or material, not constituting proper follow-up, and calling for speculation. It asserts that it previously denied that removal of collection boxes change EXFC scores, and that these interrogatories request speculation about the state of mind of postal officials regarding a causal nexus between EXFC and operational decisions pertaining to collection boxes.

**DBP/USPS-392**

Please refer to your response to Interrogatory DBP/USPS-186.

- [a] Please advise which specific words in the referenced response indicate the procedures that are utilized to ensure that the data provided by EXFC droppers is accurate,  
[paste-in section B.3 Responsibilities omitted]
- [b] If there are no independent methods that are utilized to determine that the data provided by EXFC droppers is accurate, so state.
- [c] Are there any changes between the wording shown above which is from USPS-LR-K-127 and the corresponding paragraph in the current USPS-LR-L-134?
- [d] If so, please advise the changes.

**DBP/USPS-393**

Please refer to your response to Interrogatory DBP/USPS-188.

- [a] Please advise which specific words in the referenced response indicate the procedures that are utilized to ensure that the data provided by EXFC reporters is accurate,  
[paste-in section C.3 Responsibilities omitted]
- [b] If there are no independent methods that are utilized to determine that the data provided by EXFC reporters is accurate, so state.

- [c] Are there any changes between the wording shown above which is from USPS-LR-K-127 and the corresponding paragraph in the current USPS-LR-L-134?
- [d] If so, please advise the changes.

**DBP/USPS-394**

Please refer to your response to Interrogatory DBP/USPS-189. Section D.9 of the EXFC SOW requires that the supplier validate the accuracy of the reporter data and also indicates that the USPS may independently conduct tests of report accuracy as noted below:

**D.9 Reporter Data Accuracy**

The supplier must validate the accuracy of reporter data and the USPS COR must receive information confirming this validation process. The USPS may independently conduct tests of reporter accuracy. The supplier must fabricate sufficient additional test mail to test two reporters per postal quarter in each of the EXFC Performance Clusters upon USPS request. This test mail will not be used to measure service performance. The supplier shall also produce a report summarizing these results upon request.

- [a] Please advise which specific words in the referenced response indicate the procedures that are utilized to ensure that the data provided by EXFC reporters is accurate
- [b] Please advise which specific words in the referenced response indicate the procedures that are utilized by the USPS to independently ensure that the data provided by EXFC reporters is accurate, [paste-in section C.3 Responsibilities omitted]
- [c] If there are no independent methods that are utilized to determine that the data provided by EXFC reporters is accurate, so state.

Mr. Popkin argues that the reliability of the EXFC program is relevant to the level of service that is received with First-Class Mail. Interrogatories DBP/USPS-392 through 394 are attempting to determine the precise methods utilized to determine that the data being reported is accurate. Furthermore, it is proper follow-up to ask for the page and line numbers that provide the response.

The Postal Service objects to these interrogatories as cumulative, argumentative, not relevant or material, and not constituting proper follow-up. It contends that Mr. Popkin has been provided the materials available on the

subject through the lead-in interrogatories, and none of the requested responses will add to the record.

**DBP/USPS-395**

Please refer to your response to Interrogatory DBP/USPS-190.

Your response stated:

RESPONSE:

While the Postal Service has not explored these postulated options, it is probably safe to confirm that they may be possible.

Please explain why it was necessary to not provide an unconditional confirmation of the postulated option.

**DBP/USPS-396**

Please refer to your response to Interrogatory DBP/USPS-191.

This Interrogatory does not postulate any particular way of counting the days to delivery. It asks two specific questions and then asks for actual percentages for a recent period.

[a] Please respond to the original Interrogatory.

[b] With respect to subpart a of Interrogatory DBP/USPS-70, please confirm, or explain if you are unable to confirm, assuming no non-delivery days are involved, that very little [probably well less than 10%] of the mail that is destined to a 2-day delivery area will be delivered overnight.

[c] With respect to subpart a of Interrogatory DBP/USPS-70, please confirm, or explain if you are unable to confirm, assuming no non-delivery days are involved, that a small amount [probably well less than 20%] of the mail that is destined to a 2-day delivery area will be delivered in 3 or more calendar days since it would not have achieved timely delivery.

[d] With respect to subpart a of Interrogatory DBP/USPS-70 and your response to subparts b and c of this Interrogatory, please confirm, or explain if you are unable to confirm, assuming no non-delivery days are involved, that at least 70% of the mail that is destined to a 2-day delivery area will be delivered in 2 days.

[e] Please confirm, or explain if you are unable to confirm, that the delivery standards are established that mail destined to the overnight area will be scheduled for delivery overnight and achieve it some 95% of the time.

[f] Please confirm, or explain if you are unable to confirm, that the delivery standards are established that mail destined to the 2-day delivery area

will be scheduled for delivery on the second day assuming no non-delivery days and achieve it some 90% of the time.

- [g] Please confirm, or explain if you are unable to confirm, that the delivery standards are established that mail destined to the 3-day delivery area will be scheduled for delivery on the third day assuming no non-delivery days and achieve it some 90% of the time.
- [h] Please confirm, or explain if you are unable to confirm, that if mail was consistently being delivered on a day other than the service standards would indicate [assuming no non-delivery days are involved] then the service standards would be changed.

**DBP/USPS-397**

Please refer to your response to Interrogatory DBP/USPS-192.

- [a] Please confirm, or explain if you are unable to confirm, that the method of counting days provided in Section D.3 of USPS-LR-L-134 will introduce a certain amount of inaccuracy due to the effect of non-delivery days.
- [b] Please confirm, or explain if you are unable to confirm, that the possible method of counting days provided in Interrogatory DBP/USPS-69 will introduce a certain amount of inaccuracy due to the effect of non-delivery days.
- [c] Please confirm that the response to subpart a above will be a greater inaccuracy than the response to subpart b above.

Mr. Popkin argues that interrogatories DBP/USPS-395 through 397 are attempting to evaluate the method used to count days to delivery and obtain information relative to the reliability of the EXFC Program data.

The Postal Service objects to these interrogatories as cumulative, argumentative, not relevant or material, and not constituting proper follow-up.

**DBP/USPS-398**

Please refer to your response to Interrogatory DBP/USPS-193.

- [a] Please confirm that the page reference should be 14 and not 13.
- [b] A response was not received to subpart b of Interrogatory DBP/USPS-193. Please respond.
- [c] Does IBM select boxes remotely in a manual method or do they have a computer program to effect the random selection.
- [d] Please discuss the method utilized as provide in the response to subpart c above.

Mr. Popkin argues that this interrogatory is relevant to the reliability of EXFC data and the value of service of First-Class Mail.

The Postal Service objects to these interrogatories as cumulative, argumentative, not relevant or material, and not constituting proper follow-up. The Postal Service submits that Mr. Popkin has received answers to all of his questions.

**DBP/USPS-416**

Please refer to your response to Interrogatory DBP/USPS-181 subpart b. What I am interested in are the various procedures that have been implemented to raise the EXFC for 84% in 1992 to the score of 95% in 2006. Items such as the following are the types of items that I would consider to be the type of response:

- [1] Blue collection boxes are scanned on collection
- [2] Missed collection boxes are collected after discovery of being missed
- [3] Missent mail is processed for delivery on the same day
- [4] Collection times are advanced to allow for an earlier arrival at the plant
- [5] The number of blue collection boxes has been reduced
- [6] Checks are made to ensure all mail collected is dispatched to the plant
- [7] Service Standards have been evaluated and changed when appropriate

Please provide the desired information.

Mr. Popkin argues that this interrogatory is attempting to determine actions utilized to improve EXFC scores, which is relevant to the reliability of EXFC data and the value of service of First-Class Mail.

The Postal Service objects to these interrogatories as cumulative, argumentative, not relevant or material, and not constituting proper follow-up. It contends that this interrogatory does not follow from DBP/USPS-181.

*Ruling.* Each of the above interrogatories has been carefully examined, including the lengthy trail of lead-in questions alleging to be the sources of the interrogatories. With each interrogatory standing alone, one might be able to discern some tangential relevance to some issue in this rate case. However, after reviewing the responses to *all* lead-in questions, it can only be concluded that Mr. Popkin has failed to show that the

follow-up interrogatories are reasonably calculated to lead to the production of material or relevant evidence; furthermore, as alleged by the Postal Service, they are frequently argumentative and occasionally call for speculative answers. Finally, in more instances than not they are improper follow-up interrogatories to the original questions. The motion to compel responses to interrogatories DBP/USPS-388 through 398 and 416 is denied.

*DBP/USPS-267, 269, 270, 283 through 285, 370, 371, 418, 435 through 446, 479, and 488 through 518.* On August 28, 2006, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-267, 269, 270, 283 through 285, 370, 371, 418, 435 through 446, 479, and 488 through 518.<sup>5</sup> Mr. Popkin asserts that the Postal Service has not responded to these interrogatories.

The Postal Service filed responses to DBP/USPS-488 through 518 on August 28, 2006.<sup>6</sup> It filed responses to DBP/USPS-269, 270, and 418 on September 1, 2006.<sup>7</sup>

On September 1, 2006, the Postal Service filed an opposition to the motion to compel a response to DBP/USPS-479.<sup>8</sup> The Postal Service asserts that this interrogatory is virtually identical to DBP/USPS-385, and objects to DBP/USPS-479 on the same grounds of relevance, materiality, and improper follow-up.

**DBP/USPS-479**

Please refer to your response to Interrogatory DBP/USPS-171.

[a] Please advise the validity of Special Delivery stamps since that service is no longer available, with either domestic or international mail.

[b] What use may a mailer who possesses Special Delivery stamps make of them?

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<sup>5</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-267, 269, 270, 283 through 285, 370, 371, 418, 435 through 446, 479, 488 through 518, August 28, 2006.

<sup>6</sup> Responses of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-488 through 518), August 28, 2006.

<sup>7</sup> Responses of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-269, 270, 418), September 1, 2006.

<sup>8</sup> Opposition of the United States Postal Service to David B. Popkin Motion to Compel Response to Interrogatory DBP/USPS-479, September 1, 2006.

*Ruling.* The motion to compel is moot with respect to interrogatories DBP/USPS-269, 270, 418, and 488 through 518 as the Postal Service has filed responses. The motion to compel a response to DBP/USPS-479 is denied (see discussion concerning DBP/USPS-385 above in this Ruling).

The Postal Service has not filed objections to DBP/USPS-267, 283 through 285, 370, 371, and 435 through 446. Presumably, answers are in preparation. Considering the volume and frequently unusual nature of Mr. Popkin's interrogatories, as evidenced by this motion, some delay is understandable. The Postal Service shall either respond or provide a progress report on these interrogatories by September 21, 2006.

*Motions for Late Acceptance.* On September 5, 2006, David B. Popkin filed a motion to require the Postal Service to file motions for late acceptance of interrogatory responses.<sup>9</sup>

On September 12, 2006, the Postal Service filed Motion for Late Acceptance of the Responses of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-264, 269-270, 293-364, 418, 488-518 and 568).

*Ruling.* The Postal Service has filed a motion for late acceptance covering all interrogatories mentioned in Mr. Popkin's motion. Thus, Mr. Popkin's motion is moot.

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<sup>9</sup> David B. Popkin Motion to Require the Postal Service to File Motions for Late Acceptance of Interrogatory Responses, September 5, 2006.

## RULING

1. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-373, 383-386, filed August 15, 2006, is denied.
2. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-388 through 398 and 416, filed August 16, 2006, is denied.
3. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-267, 269, 270, 283 through 285, 370, 371, 418, 435 through 446, 479, 488 through 518, filed August 28, 2006, is moot with respect to interrogatories 269, 270, 418, and 488 through 518, and is denied with respect to DBP/USPS-479. The Postal Service shall either respond, or provide a progress report on interrogatories DBP/USPS-267, 283 through 285, 370, 371, and 435 through 446 by September 21, 2006.
4. The David B. Popkin Motion to Require the Postal Service to File Motions for Late Acceptance of Interrogatory Responses, filed September 5, 2006, is moot.

George Omas  
Presiding Officer