

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

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO  
DAVID B. POPKIN MOTION TO COMPEL RESPONSE TO  
INTERROGATORIES 62, 65 and 79-80  
(July 5, 2006)

The United States Postal Service hereby opposes the motion of David B. Popkin to compel responses to interrogatories DBP/USPS-62, 65, 79-80, filed on June 27, 2006. Mr. Popkin filed the interrogatories on June 5, 2006, and the Postal Service objected to them on June 15, 2006.

The interrogatories are similar, requesting copies of instructions given to droppers and reporters for the EXFC and PETE measurement systems:

**DBP/USPS-62** Please provide a copy of the EXFC dropper instructions referred to in the last sentence of the first paragraph of Section B.2 of USPS-LR-L-134.

**DBP/USPS-65** Please provide a copy of the EXFC reporter instructions referred to in the last sentence of Section C.2 of USPS-LR-L-134.

**DBP/USPS-79** Please provide a copy of the PETE dropper instructions referred to in the last sentence of the first paragraph of Section B.2 of USPS-LR-L-134.

**DBP/USPS-80** Please provide a copy of the PETE reporter instructions referred to in the last sentence of the first paragraph of Section C.2 of USPS-LR-L-134.

The Postal Service objected to all four of these interrogatories based on their proprietary nature and relevance, noting that the instructions were developed by a contractor, are considered proprietary by both the Postal Service and the contractor, and are marked confidential in accordance with 18 U.S.C. § 1905. Objections of the

United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-62, 65, 79-80) (June 15, 2006) at 1-2. The Postal Service pointed out that it does not release this information either internally, to prevent manipulation of the system, or externally because public disclosure would risk duplication of the contractor's process by its competitors. Id. The Postal Service also pointed out that the information sought was not relevant.<sup>1</sup>

In his motion to compel, Mr. Popkin states "My perception is that the requested instructions merely contain a paraphrasing of the material contained in the already released Library Reference [USPS-LR-L134] and therefore are already in the public domain." David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-62, 65 and 79-80 (June 27, 2006) at 2. Based on this "perception," he expresses doubt that release of information will result in manipulation of the system. Id.

Mr. Popkin does not provide any justification for his "perception," nor does he address the fact that both the contractor and the Postal Service view the instructions as proprietary and confidential. Obviously, the Postal Service has a strong interest in ensuring that its measurements systems are not manipulated, and the contractor has an interest in protecting its property from its competition. Where there is nothing meaningful for the ratemaking process to be gained by adding these instructions to the record, the Commission should deny the motion to compel.

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<sup>1</sup> Because of a typographical error, the language within the objections read, "In addition, the instructions are relevant to any of the rate or classification issues in this docket." The Postal Service respectfully submits that, read in context, it was obviously arguing that the instructions were irrelevant. Mr. Popkin, however, apparently was led into believing that the Postal Service conceded the relevance of his request by this typographical error. See Motion to Compel at 2. Of course, Mr. Popkin will have the opportunity to argue relevance in his reply to this objection.

For the reasons discussed above, the Postal Service respectfully requests that the Commission deny Mr. Popkin's motion to compel responses to interrogatories DBP/USPS-62, 65, and 79-80.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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### **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.

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July 5, 2006