

PRESIDING OFFICER'S
RULING NO. MC2005-1/5

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

Experimental Premium Forwarding Service

Docket No. MC2005-1

PRESIDING OFFICER'S RULING DENYING
MOTION TO COMPEL

(Issued March 8, 2005)

On February 28, 2005, David B. Popkin filed a motion to compel responses to a series of five interrogatories he directed to Postal Service witness Cobb.¹ The Postal Service objected to all these interrogatories on the grounds that they "constitute improper follow-up into irrelevant and immaterial issues concerning the usage of orange Priority Mail pouches."²

In his motion, Mr. Popkin explains that the interrogatories are intended to develop information that would equip him to argue on brief that the Postal Service should use orange Priority Mail pouches for weekly PFS shipments. He argues that the Service's declared intention not to use such pouches in the proposed experiment should not preclude him from obtaining appropriate information about them.

The Postal Service filed an Opposition to Mr. Popkin's motion on March 7.³ In that pleading, the Service claims that the interrogatories are cumulative, immaterial to the Service's actual proposal in the case, and unnecessary in light of the information

¹ David B. Popkin Motion to Compel Response to DBP/USPS-T1-76-80, February 28, 2005.

² Objection of the United States Postal Service to David B. Popkin Interrogatories, DBP/USPS-T1-76-80, February 23, 2005.

³ Opposition of United States Postal Service to David B. Popkin Motion to Compel Responses to DBP/USPS-T1-76-80, March 7, 2005.

already provided by witness Cobb in earlier responses. Additionally, the Service states that it will voluntarily provide a response to Interrogatory DBP/USPS-T1-77 in order to expand upon the information already provided in witness Cobb's response to DBP/USPS-T1-64 regarding usage of orange Priority Mail pouches.⁴

I will deny the motion to compel. First, as the Postal Service observes, the information sought by Mr. Popkin in these interrogatories is not germane to the Premium Forwarding Service experiment as the Service evidently intends to conduct it. While Mr. Popkin is free to propose that the experiment be modified, for example by employing the intra-USPS orange Priority Mail pouches for the purposes he has in mind, the pursuit of the most intricate details of their current or potential use exceeds the scope of the Commission's inquiry into the proposal before us. The Service has already provided responsive information in witness Cobb's answer to DBP/USPS-T1-64 and it has further undertaken to provide additional information regarding the potential usefulness of the containers in question. Under these circumstances, compelling the production of additional responsive material would not be justified.

RULING

The David B. Popkin Motion to Compel Response to DBP/USPS-T1-76-80, filed February 28, 2005, is denied.

Dawn A. Tisdale
Presiding Officer

⁴ *Id.* at 4-5.