

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 17, 2005)

A David B. Popkin Motion to Compel Responses to DBP/USPS-T1-84-85 (Motion) was filed on March 14, 2005. The Postal Service responded in opposition on March 15, 2005¹. The Motion to compel is denied.

The Motion makes plain that Popkin sees two separate flaws with the proposed Experimental Premium Forwarding Service at issue in this case. Each of the discovery requests at issue seeks to develop information to clarify whether improvements that Popkin would like to suggest are feasible.

Popkin has conscientiously attempted to develop information on these two points. The subject interrogatories are follow-ups to earlier responses on these topics. In its opposition, the Postal Service claims that these questions are repetitive and cumulative; that the previous answers were fully responsive; and that the Postal Service does not have additional information that it could provide.

A review of the answers to interrogatories 82 and 83, the basis for interrogatories 84 and 85 respectively, supports the Postal Service claim that it has made a good faith effort to respond to both the letter and the spirit of the Popkin interrogatories.

¹ Opposition of United States Postal Service to David B. Popkin Motion to Compel Responses to DBP/USPS-T1-84-85, March 15, 2005.

Interrogatory 84 seeks information on potential mailing containers that might allow a procedure to be developed to minimize the extent to which items sent with Premium Forwarding Service would be subject to postage due fees. The Postal Service has already indicated how and why it considers the container identified in the interrogatory as unsuitable. While Popkin is correct that the Commission has authority to recommend the addition or deletion of service features attendant to a proposed new postal product, the Commission will not instruct the Postal Service on what specific types of containers it must use in processing mail. Such decisions are left to the discretion of the Postal Service.

This does not mean that Popkin can not pursue his position on brief. Popkin can posit a hypothetical container with whatever physical properties he chooses. Assuming that such a container would not be unreasonably difficult to procure, the Commission will be able to evaluate the merits of his argument. However, even if Popkin could elicit information indicating that use of the container referenced in interrogatory 84 might be practical, there is little purpose in continuing to focus on that specific item.

Similarly, in interrogatory 85, Popkin is focusing on local practice in one city in an attempt to show that the Postal Service could make Premium Forwarding Service more convenient for a small set of potential customers. Here, too, a previous Postal Service response (to interrogatory 83) provided significant detail on Postal Service operating procedures relevant to the issue raised by Popkin.

Popkin can effectively present argument that the “registration in person” rule could be extremely inconvenient in certain circumstances. The interoffice communication procedures between two New York City stations will neither materially lead to admissible evidence nor provide dispositive information on Popkin’s argument.

Popkin is pursuing relevant questions. It is evident that the Postal Service benefits from input from concerned customers. However, there appears to be little additional benefit that can be obtained from these interrogatories.

RULING

The David B. Popkin Motion to Compel Responses to DBP/USPS-T1-84-85 is denied.

Dawn A. Tisdale
Presiding Officer