

PRESIDING OFFICER'S
RULING NO. R2005-1/10

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

Postal Rate and Fee Changes

Docket No. R2005-1

PRESIDING OFFICER'S RULING
ON DAVID B. POPKIN MOTION TO COMPEL
RESPONSES TO INTERROGATORIES

(Issued May 16, 2005)

On May 2, 2005, David B. Popkin filed a motion to compel responses to interrogatories DBP/USPS-3, 4, 5, 6, 8, 10, 11, 13, and 14.¹ These interrogatories were part of a set of interrogatories propounded to the Postal Service on April 8, 2005.² Of the interrogatories included in the Motion, the Postal Service filed an objection to providing responses to DBP/USPS-3, 5, and 10.³

Subsequent to the filing of the Motion, the Postal Service filed responses to DBP/USPS-4, 10, 11, 13, and 14. Thus, the Motion in regard to these interrogatories is moot.⁴

¹ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-3, 4, 5, 6, 8, 10, 11, 13, 14, May 2, 2005 (Motion).

² Interrogatories of David B. Popkin to the United States Postal Service [DBP/USPS-1 through 29], April 8, 2005.

³ Objections of the United States Postal Service to Interrogatories of David Popkin (DBP/USPS-1, 2, 3, 5, 7, 9, 10, 12, 17-20, 23), April 18, 2005 (Objection).

⁴ DBP/USPS-4: Responses of the United States Postal Service to Interrogatories of David Popkin [DBP/USPS-2, 4, 7(a, b) 8, 9(a-c), 15, 16, 21-29], April 22, 2005, and Notice of the United States Postal Service of the Filing of USPS Library Reference K-117, May 9, 2005; DBP/USPS-10: Response of the United States Postal Service to Interrogatory of David Popkin [DBP/USPS-10], May 9, 2005; DBP/USPS-11, 13, and 14: Responses of the United States Postal Service to Interrogatories of David Popkin [DBP/USPS-11, 13, 14], May 10, 2005.

The Postal Service asserts that it does not expect to complete its response to DBP/USPS-6 until this week.⁵ The Motion in regard to this interrogatory is granted. The Postal Service shall file its response by May 20, 2005, or provide an explanation of why this can not be accomplished.

On April 22, 2005, the Postal Service filed a partial response to DBP/USPS-8, and stated that data in response to subsection(g) of this interrogatory is forthcoming. No objection has been filed addressing this interrogatory. Sufficient time has elapsed since April 22, 2005 for the Postal Service to formulate a response. The motion to compel in regard to DBP/USPS-8 subsection (g) is granted.

In DBP/USPS-3, Mr. Popkin requests information concerning the time and frequency of mailbox collection schedules.

[a] Please provide a listing for each of the last three fiscal years showing a breakdown of the final collection time for the day for each of the collection boxes on a weekday for each of the time periods [if percentages are provided, please round off to the nearest integer for percents greater than 3% and to the nearest 1/10 of a percent for percents less than 3%]:

- | | |
|----------------------|---------------------------|
| [1] 12:01 AM to 8 AM | [8] 4:01 PM to 4:59 PM |
| [2] 8:01 AM to 9 AM | [9] 5 PM |
| [3] 9:01 AM to 11 AM | [10] 5:01 PM to 5:59 PM |
| [4] 11:01 AM to Noon | [11] 6 PM to 6:30 PM |
| [5] 12:01 PM to 2 PM | [12] 6:31 PM to 8 PM |
| [6] 2:01 PM to 3 PM | [13] 8:01 PM to 10 PM |
| [7] 3:01 PM to 4 PM | [14] 10:01 PM to Midnight |

[b] Please provide a similar listing for the final collection of the day for Saturday broken down to the following time periods:

- | | |
|----------------------|------------------------|
| [1] 12:01 AM to 8 AM | [7] 4:01 PM to 4:59 PM |
| [2] 8:01 AM to 10 AM | [8] 5 PM |
| [3] 10:01 AM to Noon | [9] 5:01 PM to 6 PM |
| [4] 12:01 PM to 1 PM | [10] 6 PM to 8 PM |
| [5] 1:01 PM to 3 PM | [11] 8:01 PM to 10 PM |

⁵ Opposition and Reply of the United States Postal Service to David Popkin Motion to Compel, May 9, 2005, at 4 (Reply).

[6] 3:01 PM to 4 PM

[12] 10:01 PM to Midnight

The Postal Service partially responds to this interrogatory in Responses of the United States Postal Service to Interrogatories of David Popkin (DBP/SPS-1, -3), filed on April 25, 2005. Weekday data is provided for FY03 and FY04 although FY02 data is unavailable. Saturday data for FY04 is also provided. The data is broken down into 17 time segments instead of the 26 time segments requested by Mr. Popkin. Mr. Popkin asserts that the Postal Service could just as easily have provided a breakdown in the format he requested and claims that the level of burden would have been minimal.

The Postal Service objects to providing an additional breakdown of the data because it asserts “that the level of detail sought is neither relevant nor material to this proceeding.”⁶ It notes that Mr. Popkin has not fully articulated a request for relief, but has expressed dissatisfaction with the level of detail provided. The Postal Service also claims it would be an undue burden to provide further detail.⁷

The Postal Service partial response is directly comparable to a similar response to OCA/USPS-292 filed in Docket No. R2001-1, which provides weekday and Saturday data for FY99, FY00, and FY01. In Docket No. R2001-1, Mr. Popkin filed a follow-up interrogatory, DBP/USPS-93, seeking a further breakdown of the data provided in OCA/USPS-292 similar to what he is requesting in the instant docket. The Postal Service objected to the follow-up, and Mr. Popkin filed a motion to compel a response. P.O. Ruling R2001-1/41 denied the motion to compel in light of the data already provided, and because of the failure “to adequately demonstrate that the data sought have a material bearing on issues before the Commission,” among other reasons.

The Motion in regard to DBP/USPS-3 is denied in part and granted in part. Mr. Popkin provides no argument to overcome the Postal Service’s assertion that the data, at the level of detail requested, is neither relevant nor material to this proceeding.

⁶ Objection at 2-3.

⁷ Reply at 1-2.

This is essentially the same conclusion that the Presiding Officer reached in Docket No. R2001-1. Thus, the Postal Service does not have to provide a greater level of detail. However, the response that the Postal Service has provided is incomplete because it fails to address FY02 or FY03 Saturday mailbox collection schedules. Unless this data is unavailable, the Postal Service shall file a response using the same level of detail provided in its response to DBP/USPS-3(b) by May 20, 2005, or provide an explanation of why this can not be accomplished.

In DBP/USPS-5, Mr. Popkin requests EXFC data disaggregated by performance cluster.

Please provide a listing of the EXFC results for the past four quarters showing the following categories: [a] Performance Center name [b] ZIP Codes [c] Overnight Percent on Time, [d] Overnight Percent on Time Margin of Error [e] Overnight Average Days to Deliver [f] Overnight Average Days to Deliver Margin of Error [g] 2-Day Percent on Time, [h] 2-Day Percent on Time Margin of Error [i] 2-Day Average Days to Deliver [j] 2-Day Average Days to Deliver Margin of Error [k] 3-Day Percent on Time, [l] 3-Day Percent on Time Margin of Error [m] 3-Day Average Days to Deliver [n] 3-Day Average Days to Deliver Margin of Error [o] Nation Percent on Time, [p] Nation Percent on Time Margin of Error [q] Nation Average Days to Deliver [r] Nation Average Days to Deliver Margin of Error.

Mr. Popkin asserts that the national aggregate EXFC data are determined by combining all of the data for the various performance clusters. He would like the performance cluster data "to evaluate the source data for the national data and be able to determine the spread that might exist in the data as well as other criteria." Motion at 2.

The Postal Service contends that the national aggregate EXFC data are the proper focus of examination in an omnibus rate case; however, the estimates for each of the 90 performance clusters have no bearing on the issue of the rates for First-Class Mail on a national basis. Objection at 3; Reply at 3-4.

The Motion in regard to DBP/USPS-5 is granted. Provision of the national data alone would be clearly insufficient if large variations exist in the underlying performance cluster data. This data is relevant to the (b)(2) requirement applicable to the value of

First-Class Mail service. Large variations in performance could be indicative of a lower value of service, even if the average performance demonstrates an acceptable level of service. Without the underlying data, this determination cannot be made.

RULING

David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-3, 4, 5, 6, 8, 10, 11, 13, 14, May 2, 2005, in regard to:

- (a) DBP/USPS-4, 10, 11, 13, and 14 is moot,
- (b) DBP/USPS-6 is granted consistent with the body of this ruling,
- (c) DBP/USPS-3 is denied in part and granted in part consistent with the body of this ruling, and
- (d) DBP/USPS-5 and 8(g) are granted.

George Omas
Presiding Officer