

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  
FOR WHICH RESPONSES ARE OVERDUE

(Issued September 15, 2005)

On August 22, 2005, David B. Popkin filed a motion to compel responses to 13 interrogatories or portions thereof.<sup>1</sup> The Postal Service had neither responded to these discovery requests nor objected to them as of that date, and in each instance a response is overdue.<sup>2</sup>

On September 8, 2005, the Postal Service filed answers to DBP/USPS-122(c)-(e), 159, 177-181, 189, and 235, accompanied by a motion for their late acceptance.<sup>3</sup> Therefore, the instant motion is moot as to these nine interrogatories.

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<sup>1</sup> David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-122 subpart c and d, 159, 165, 167, 177-182, 189, 235 and 303, August 22, 2005 (Motion).

<sup>2</sup> Eleven of the interrogatories were included in a largely favorable ruling on an earlier motion to compel. Presiding Officer's Ruling No. R2005-1/59, July 28, 2005. The Postal Service was directed to produce responses to DBP/USPS-122 subparts c and d, 159, 165, 167, 177-182, and 189.

The Postal Service filed a response DBP/USPS-165 on July 18, which undertook to produce an analysis to be performed by IBM and made available sometime after the first week of August. Responses of the United States Postal Service to Interrogatories of David Popkin [DBP/USPS-164, 165, 172, 173, 252, 253, 258 and 259], July 18, 2005, at 3. As of this date, the Postal Service has not yet provided this analysis.

<sup>3</sup> Responses of the United States Postal Service to Interrogatories of David Popkin [DBP/USPS-122(c)-(e), 159, 177-181, 189, 235], September 8, 2005; Motion of the United States Postal Service for Late Acceptance of the Interrogatories of David Popkin [DBP/USPS-122(c)-(e), 159, 177-181, 189, 235], September 8, 2005.

I have already directed the Postal Service to produce a response to DBP/USPS-165 in Ruling No. 59, and thus have granted the relief sought in Mr. Popkin's current motion.<sup>4</sup> I shall grant the instant motion as to the remaining interrogatories, DBP/USPS-167, 182, and 303. Anticipating completion and closure of the evidentiary record in this case in the near future, I strongly encourage the Postal Service to produce responses as expeditiously as possible.

#### RULING

1. The Motion of the United States Postal Service for Late Acceptance of the Interrogatories of David Popkin [DBP/USPS-122(c)-(e), 159, 177-181, 189, 235], filed September 8, 2005, is granted.
2. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-122 subpart c and d, 159, 165, 167, 177-182, 189, 235 and 303, filed August 22, 2005, is declared moot as to DBP/USPS-122(c)-(e), 159, 177-181, 189, and 235.
3. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-122 subpart c and d, 159, 165, 167, 177-182, 189, 235 and 303, filed August 22, 2005, is granted as to DBP/USPS-167, 182, and 303.

George Omas  
Presiding Officer

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<sup>4</sup> See note 2, *supra*.