

# DOCKET SECTION

PRESIDING OFFICER'S  
RULING NO. R97-1/53

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268

Postal Rate and Fee Changes

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## PRESIDING OFFICER'S RULING GRANTING IN PART MOTION OF DAVID B. POPKIN TO COMPEL RESPONSES TO INTERROGATORIES

(October 30, 1997)

On September 10, 1997, David B. Popkin served the United States Postal Service with interrogatories DBP/USPS-1-68 in the R97-1 proceeding. These interrogatories contain hundreds of subparts and the Postal Service has responded to many and objected to some. On October 7, 1997, Mr. Popkin filed his Motion to Compel Responses to Interrogatories, (hereafter "Motion"). The Service filed an Opposition of United States Postal Service to David B. Popkin's Motion to Compel Responses, (hereafter "Opposition") on October 14, 1997 and a Reply of the United States Postal Service to Parts of David Popkin Motion to Compel Responses to Interrogatories on October 17, 1997 (hereafter "Reply").

Although Mr. Popkin does not discuss every interrogatory, I have broadly interpreted his Motion as seeking to compel responses to all his unanswered interrogatories. The Postal Service has already answered some interrogatories for which Mr. Popkin has sought to compel answers. In its Opposition, the Postal Service also indicated it will answer certain other interrogatories that are the subject of Mr. Popkin's Motion. The Postal Service explained that its failure to answer or object to interrogatories 6(t)-(u), 7(l)-(m), 8(e), 8(j)-(p), 29(i)(6), 52(a), 52(m)-(p), 58, 59(h)-(l), and 67 "result[ed] from inadvertent omissions or from the heavy workload." Opposition at 9. I expect the Postal Service to provide answers to these interrogatories as well as the

interrogatories discussed below. This ruling addresses those interrogatories which remain unanswered and which the Postal Service has not agreed to answer.

Reasonable accommodations have to be made to facilitate the participation by individuals in the rate-making process. However, in many instances Mr. Popkin has failed to demonstrate how the information he seeks in a particular interrogatory will lead to the discovery of admissible evidence in the R97-1 proceeding. For example, interrogatories at issue concern the operational details of services such as Express Mail and Registered Mail. Mr. Popkin argues these details are relevant to the value of service, but the operational details of these services are simply not relevant to § 3622(b)(2). Other interrogatories ask the Postal Service to confirm various statements in the DMCS and POM. In general, the Postal Service is not required to confirm statements in these documents as they speak for themselves, and the Postal Service will not be compelled to answer these interrogatories. Nevertheless, the Postal Service has failed to respond to relevant interrogatories for which it could easily provide answers, and has instead chosen to object on various grounds. Consequently, I will compel answers to a number of interrogatories. Because of the great number of interrogatories in dispute, I will simply provide a description of the interrogatory at issue and a brief explanation of the ruling.

Interrogatories 1 and 2 ask for more comprehensive descriptions of all the Postal Service's workpapers and library references filed in R97-1. This is an overly broad request for information which would be burdensome for the Postal Service to provide. The Postal Service need not respond. If Mr. Popkin has questions about the contents of specific workpapers and library references, he can ask for that information.

Interrogatories 3(a)-(f) concern Mr. Popkin's right to ask questions of Postal Service employees and arises out of a dispute between the Postal Service and Mr. Popkin. Mr. Popkin, as a member of the mailing public, is still free to contact Postal Service personnel for mailing information but not for the purpose of conducting discovery. It is proper practice during Postal rate and classification litigation for the Postal Service to designate certain individuals as the appropriate persons to receive

discovery requests. Those individuals can then track and coordinate the Postal Service's responses to these requests. As these interrogatories are not likely to lead to admissible evidence and ask for legal opinions, they need not be answered.

Interrogatories 4(a)-(m) inquire about the sale of postage stamps to generate revenue. These interrogatories seek information about operational matters beyond the scope of a rate proceeding. Simply because the sale of stamp reproductions affects revenues of the Postal Service does not make details of their sale relevant to this proceeding. Hence the Postal Service need not respond.

Interrogatories 6(j)-(m) are aimed at eliciting information concerning the Postal Service programs (EXFC and ODIS) which are used for tracking the performance of First-Class Mail. Interrogatories 6(j)-(m) refer to procedures designed to improve EXFC results, but the Postal Service asserts it would be burdensome to list all procedures designed to improve results as any improvement in First-Class Mail service presumably would lead to better EXFC results. These interrogatories would be extraordinarily difficult to answer and the Postal Service should not be expected to do so. Moreover, the Postal Service has already answered many of Mr. Popkin's questions regarding ODIS and EXFC.

Interrogatories 6(n) and (o) seek information about Postal Service practices and policies for the collection of mail from mailboxes. These interrogatories seek information relevant to the value of service and are not overly burdensome, with the exception of 6(o) which asks for information that may be very difficult to collect. The Postal Service should answer 6(n) but not 6(o).

Interrogatories 6(p) and 6(q) ask the Postal to confirm that Mr. Popkin has correctly interpreted sections of the POM. These are easy to respond to as the Postal Service should be quite familiar with its own policies. The Postal Service should answer 6(p) and 6(q).

Interrogatories 6(r) and 6(s) are vague as the Postal Service suggests because of the use of the term "well before." See USPS Objection of September 25. However,

the Postal Service should answer these as best it can as the meaning is sufficiently clear to permit an answer.

Interrogatories 7(a)-(k) ask about a 1989 study of First-Class mail. Its relevance to this proceeding is too attenuated and the Postal Service need not answer these interrogatories.

Interrogatories 7(n) and 7(o) ask about the Postal Service's market research on First-Class Mail. They are relevant to the value of service and should be answered.

Interrogatories 8(a)-(d) and 8(f) ask about the description of First-Class Mail in the DMCS. Mr. Popkin asks the Postal Service to confirm what the DMCS says. However, the DMCS speaks for itself and the Postal Service need not answer these five interrogatories.

Interrogatories 8(g) and 8(h) ask for confirmation by the Postal Service of the rate schedule for First-Class and Priority Mail. These are straightforward and should be answered.

Interrogatory 8(r) asks for an explanation of the differences in processing between different classes of mail. The Service asserts that this is an overly broad question but it could be answered in general terms. The Postal Service should respond.

Interrogatory 8(t) asks about the Service's failure to advertise a product in a certain manner. It has not been answered as witness Sharkey's response which purported to answer this interrogatory instead addressed 8(u). It need not be answered as the Service's decision not to advertise a product in a certain manner has no relevance to this rate proceeding.

Interrogatory 8(cc) requests documents related to the use of air transportation. This request has limited relevance to the value of service of First-Class Mail. It also would be very expensive and burdensome to provide the requested documents, and consequently, the Service need not answer this interrogatory.

Interrogatory 8(dd) requests documents generated some twenty years ago related to the value of service of First-Class Mail. Again, this is a burdensome request,

and these documents have little or no relevance to the value of service of First-Class Mail today. The Postal Service need not respond.

Interrogatories 8(ee) and 8(ff) also ask for dated information about operational matters of limited relevance to R97-1. The Postal Service need not respond.

Interrogatories 9(a)-(g) ask the Postal to confirm that Mr. Popkin has correctly interpreted sections of the First-Class Mail service standards. It may seem unnecessary for the Postal Service to have to confirm Mr. Popkin's interpretations of Postal Service practices. However, the Postal Service should be able to easily confirm or explain its own policies and should respond.

Interrogatories 10(a)-(jj), 11(a)-(j) and 12(a)-(p) ask detailed questions about the service goals and performance of Express Mail. The details of Express Mail service are relevant to the value of its service. However, if Mr. Popkin wishes to delve into such detail, he will need to better articulate the necessity of doing so as generally the operational details of a service are beyond the scope of material issues in a rate proceeding. At this time, the Postal Service need only respond to 11(a)-(b) and 12(a)-(b) which seek general information about Express Mail service.

Interrogatories 13(a)-(c) ask the Postal Service to confirm what the DMCS says. Again, the DMCS speaks for itself. Interrogatories 13(d)-(h) ask the Postal Service to provide historical rate data which is public information, and the Postal Service need not answer these interrogatories either.

Interrogatories 15(a)-(f) again ask the Postal Service to confirm certain facts concerning Stamped Cards. The Postal Service has already stated that "this information is readily confirmable based upon the Postal Service's Request and testimony." Opposition at 3. Nothing more is required of the Postal Service.

Interrogatories 16(a)-16(cc) inquire about Stamped Cards and philatelic products. Some of these are aimed at the distinction between philatelic and Stamped Cards and I will require the Postal Service to answer interrogatories 16(a)-(d). Interrogatories 16(e)-(cc) ask for legal opinions and confirmation of public information. These need not be answered.

Interrogatories 20(b) and 20(c) ask for legal opinions on the jurisdiction of the Postal Rate Commission. The Postal Service need not respond.

Interrogatories 21(m)-(p), 21(r), 21(v), 21(y)-(aa) and 21(cc) seek rate information for Special Handling when used with different subclasses of mail. It may seem burdensome for the Postal Service to have to confirm Mr. Popkin's understanding of Postal Service rates. On the other hand, the parties must be willing to accommodate participation by individuals in the rate-making process, and Mr. Popkin seems interested in exploring the relationship between the rates for different classes of mail. These interrogatories are relevant to 39 U.S.C. § 3622(b)(7) and should be answered.

Interrogatories 25(m)-(s) concern the costs for Return Receipt, Certified Mail and Certificate of Mailing. The Postal Service has already provided cost information for Return Receipt and Certificate of Mailing. For Certified Mail, the Postal Service has explained that no detailed analysis is available. Although the costs are not in the form which Mr. Popkin wishes, the aggregate numbers have been provided or are available to Mr. Popkin. See Opposition at 3-4. The Postal Service need not respond.

Interrogatories 28(a)-(b) ask for confirmations that § 822.111 of the POM requires certain actions on the part of postal employees. The Postal Service should be willing to interpret its manual and answer these two interrogatories.

Interrogatories 28(j)-(p) ask for confirmation that POM § 822.111 requires that the Return Receipt be completed at the time of delivery. Witness Plunkett has provided a response and the Postal Service need not respond further. Opposition at 4.

Interrogatories 33(f)-(l) concern the use of a red validating stamp for Return Receipts. These interrogatories are aimed at discovering relevant information related to the value of service of Return Receipts. The Postal Service indicates it has no new information on this issue. Opposition at 4. It can provide the information it has or direct Mr. Popkin to the information.

Interrogatories 39(k)-(q) and 39(s)-(aa) ask for information and an explanation of the rates for Parcel Post and Priority Mail. Interrogatory 39(k), Mr. Popkin's request for a chart showing the rates is not a proper discovery request as Mr. Popkin can prepare

this himself. Interrogatories 39(l)-39(q) and 39(s)-39(aa) inquire about the logic and reasoning behind the rate schedules for Parcel Post and Priority Mail. With the exception of interrogatory 39(l), the Postal Service has failed to object to any of these interrogatories and should answer them all.

Interrogatories 52(b)-(l) are related to the service levels of Standard and First-Class Mail. Interrogatories 52(b) and 52(f) ask about the level of preparation of post cards, but they are too vague for the Postal Service to provide a meaningful response; they need not be answered. Interrogatories 52(c)-(e) seek information directly from the DMCS and DMM and need not be answered either. Interrogatory 52(g) is a reasonable request for information and should be answered. Interrogatories 52(h)-(k) seek readily available information and the Service need not do Mr. Popkin's work for him. In particular, 52(j) asks for the preparation of a chart containing rate information. See Reply at 4. The Postal Service need not respond to 52(h)-(k). On the other hand, interrogatory 52(l) asks a straightforward question and should be answered.

Mr. Popkin's interrogatories 53(t) and 53(x)-(y) ask the Postal Service to make mathematical comparisons between the Standard Mail and Priority Mail rates. Again, Mr. Popkin can easily obtain this information and need not burden the Postal Service with collecting it. Hence, the Postal Service need not respond to 53(t) and 53(x)-(y).

The Postal Service indicates it has answered 54(bb) with respect to non-philatelic sales. Opposition at 5. It need not respond further to this interrogatory. Interrogatories 54(kk)-54(tt) appear to apply to the pricing of philatelic sales. As with similar interrogatories discussed earlier (see 16(e)-(cc)), the information at issue is beyond the scope of this proceeding and they need not be answered.

Mr. Popkin's interrogatories 59(a)-(g) concern the Bulk Parcel Return Service that was at issue in MC97-4. Interrogatories 59(a)-59(b) ask for confirmation of information in the record of MC97-4. Consequently, the Service need not answer these. A response to interrogatories 59(d)-59(g) would require a special cost study. See Reply at 5. As this would be too burdensome and expensive, the Postal Service does not have to respond to these interrogatories. Interrogatory 59(c) asks the Postal

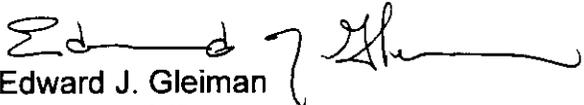
Service to speculate on the pricing of a proposal which has not yet been offered, and I will not ask the Postal Service to undertake such an analysis.

The Service has neither answered nor objected to interrogatories 63(a)-63(g) which ask for information about the IOCS. Because the reliability and methodology of the IOCS is obviously a relevant issue in R97-1, the Postal Service should answer these interrogatories.

Mr. Popkin's interrogatories 68(a)-(u) concern the Postal Service's issuance of special stamps for various services (e.g. Air Mail, Special Delivery, Certified Mail). These may be of interest to Mr. Popkin, but they are irrelevant to the R97-1 proceeding. Mr. Popkin seems particularly concerned about the value and uses of Special Handling stamps. Motion at 7. The Postal Service is directed to answer 68(r)- (t) with respect to Special Handling stamps, explain if there are other uses for these stamps and indicate if mailers can receive refunds for these stamps.

#### RULING

The Postal Service is directed to answer the following interrogatories:  
DBP/USPS- 6(n), 6(p)-(s), 7(n) -(o), 8(g)-(h), 8(r), 9(a)-(g), 11(a)-(b),12(a)-(b), 16(a)-(d), 21(m)-(p), 21(r), 21(v), 21(y)-21(aa) and 21(cc), 28(a)-(b), 33(f)-(l), 39(l)-39(q), 39(s)-39(aa), 52(g), 63(a)-63(g), and 68(r)-68(u).

  
Edward J. Gleiman  
Presiding Officer