

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

Station and Branch Optimization and
Consolidation Initiative, 2009

Docket No. N2009-1

PRESIDING OFFICER'S RULING
DENYING MOTION TO COMPEL RESPONSE
TO INTERROGATORIES DBP/USPS-40, 41, 43(b), 44, AND 45

(Issued October 23, 2009)

David B. Popkin filed a motion requesting that the Postal Service be compelled to file responses to interrogatories DBP/USPS-40, 41, 43(b), 44 and 45.¹ Interrogatories DBP/USPS-40, 41 and 43(b) were filed on September 9, 2009,² and interrogatories DBP/USPS-44 and 45 were filed on September 11, 2009.³

The Postal Service filed an opposition to the Motion on October 16, 2009.⁴ The Postal Service previously objected to filing responses to interrogatories DBP/USPS-40,

¹ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-40, 41, 43[b], 44, and 45, September 30, 2009 (Motion).

² Interrogatories of David B. Popkin to the United States Postal Service [DBP/USPS-37-43], September 9, 2009.

³ Interrogatories of David B. Popkin to the United States Postal Service [DBP/USPS-44-45], September 11, 2009.

⁴ Opposition of the United States Postal Service to Popkin Motion to Compel Responses to Interrogatories DBP/USPS-40, 41, 43(b), 44-45, October 16, 2009 (Opposition). The Opposition was accompanied by Motion of the United States Postal Service for Late Acceptance of Opposition to Motion to Compel Responses to Interrogatories DBP/USPS-40, 41, 43(b), 44-45, October 16, 2009. This motion is granted.

41 and 43(b) on September 21, 2009,⁵ and filed responses to interrogatories DBP/USPS-44-45 on September 25, 2009.⁶

Interrogatories DBP/USPS-40, 41 and 43(b). Interrogatory DBP/USPS-40 seeks information on the relationships between blue collection box final pick-up times, carrier route collected mail and final trips to processing centers. Popkin asserts that this is relevant because of the need for timely dispatch of mail picked up by carriers along their routes. Motion at 1.

Interrogatory DBP/USPS-41 seeks information on carrier scans made at collection boxes and how mail will be handled if it is discovered that a scan is missed. Popkin states that he is trying to show that the Postal Service already takes steps to achieve same-day processing of timely deposited mail as a result of unforeseen circumstances. *Id.* at 2.

Interrogatory DBP/USPS-43(b) seeks information on collection standards and acceptance times from Express Mail collection boxes. Popkin states that he is trying to ascertain the operating procedures for mail collected from delivery carriers along their routes. *Id.* at 3.

The Postal Service contends that these interrogatories do not seek information relevant to the Station and Branch Optimization Initiative (Initiative). Opposition at 2. The Postal Service notes that if the property on which the deactivated facility was leased, the collections boxes in all likelihood will have to be removed. It further asserts that the Initiative is not intended to affect or alter local pick-up times or serve as a basis for changing them. It concludes by stating “[t]he basis of setting the final collection times at mailboxes, the dispatch of collection mail to processing and distribution centers, scanning and collection practices at blue collection boxes and lobby drops, and

⁵ Objection of the United States Postal Service to David Popkin Interrogatories DBP/USPS-40, 41, and 43(b), September 21, 2009 (Objection).

⁶ Responses of the United States Postal Service to David Popkin Interrogatories DBP/USPS-44-45, September 25, 2009 (Responses).

Express Mail collection box practices are not part of, nor will be affected by, the SBOC Initiative.” *Id.*

A motion to compel a response to an interrogatory is initially evaluated against a standard of whether or not an interrogatory “appears reasonably calculated to lead to the discovery of admissible evidence” relevant to the subject matter of the proceeding. 39 CFR 3001.26(a). Popkin does not present a persuasive argument supporting a nexus between the information that he is seeking and the subject matter in this docket. The information sought is tangential at best to the policy issues under consideration. The Postal Service will not be directed to answer these interrogatories.

Interrogatories DPB/USPS-44 and 45. Interrogatories DBP/USPS-44 and 45 seek information concerning the number of post offices which report to each level of postmaster, and ask about factors used to determine a postmaster’s EAS level. Popkin contends that DBP/USPS-44 and 45 were timely filed, and that the Postal Service must either answer the interrogatories as asked or file an objection.

Interrogatories DBP/USPS-44 and 45 appear to seek substantially the same information as previously sought through interrogatories DBP/USPS-9 and 10.⁷ DBP/USPS-9 and 10 also were the subject of a motion to compel,⁸ which was ruled upon and resolved by P.O. Ruling 2.⁹ The Postal Service was directed to provide responses, but at the same time the interrogatories were focused to elicit information relevant to this docket. Subsequently, the Postal Service provided responses in accordance with the directions provided in P.O. Ruling 2.¹⁰ It appears that the Postal Service assumed interrogatories DBP/USPS-44 and 45 were merely restatements of

⁷ See Interrogatories of David B. Popkin to the United States Postal Service [DBP/USPS-1 through 29], July 13, 2009.

⁸ See David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-6, 9-10, 28-29, August 6, 2009..

⁹ P.O. Ruling N2009-1/2, Presiding Officer’s Ruling Concerning Motion to Compel Responses to Interrogatories DBP/USPS-6, 9, 10, 28 and 29, September 1, 2009 (P.O. Ruling 2).

¹⁰ See Compelled Responses of the United States Postal Service to David Popkin Interrogatories DBP/USPS-9-10, September 10, 2009.

DBP/USPS-9 and 10. Thus, it provided responses to interrogatories DBP/USPS-44 and 45 by referencing its previous responses to DBP/USPS-9 and 10.¹¹

Because the instant Motion raises issues which are based essentially on the same material that had been addressed by P.O. Ruling 2, and the Postal Service provided responses in accordance with that ruling, no further response is required by the Postal Service.

Unrelated matters. On September 28, 2009, the American Postal Workers Union, AFL-CIO, filed a motion for late acceptance along with its designation of written cross-examination of Postal Service witness Kimberly I. Matalik.¹² This motion is granted. The designated material was previously entered into the record during the September 30, 2009 hearing. See Tr. 2/385-97.

APWU also filed American Postal Workers Union, AFL-CIO, Motion for Late Acceptance of Testimony of Anita B. Morrison (APWU-T-2), October 22, 2009. This motion is granted.

RULING

1. The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS 40, 41, 43[b], 44, and 45, filed September 30, 2009, is denied.
2. The Motion of the United States Postal Service for Late Acceptance of Opposition to Motion to Compel Responses to Interrogatories DBP/USPS-40, 41, 43(b), 44-45, filed October 16, 2009, is granted.

¹¹ See Responses of the United States Postal Service to David Popkin Interrogatories DBP/USPS-44-45, September 25, 2009.

¹² American Postal Workers Union, AFL-CIO, Motion for Late Acceptance of Designation of Written Cross-Examination of United States Postal Service Witness Kimberly I. Matalik (USPS-T-2), September 28, 2009.

3. The American Postal Workers Union, AFL-CIO, Motion for Late Acceptance of Designation of Written Cross-Examination of United States Postal Service Witness Kimberly I. Matalik (USPS-T-2), filed September 28, 2009, is granted.
4. The American Postal Workers Union, AFL-CIO, Motion for Late Acceptance of Testimony of Anita B. Morrison (APWU-T-2), filed October 22, 2009, is granted.

Ruth Y. Goldway
Presiding Officer