

ORIGINAL

POSTAL RATE COMMISSION
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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

SPECIAL SERVICES REFORM, 1996

Docket No. MC96-3

RESPONSE OF UNITED STATES POSTAL SERVICE TO MOTION OF DAVID B. POPKIN TO COMPEL RESPONSES TO INTERROGATORIES
(October 11, 1996)

The United States Postal Service hereby opposes David B. Popkin's Motion to Compel Responses to Interrogatories, filed October 4, 1996. This motion seeks written responses to interrogatories DBP/USPS-T3-19(e)-(i), (q)-(w) from witness Landwehr, and interrogatories DBP/USPS-T7-4 to 6 from witness Needham. Mr. Popkin asked many of these questions at the hearing on September 10 and 11, 1996, and received detailed answers. More importantly, as discussed below, Mr. Popkin was directed by the Presiding Officer to ask all of his questions during oral cross-examination in an accommodation intended to avoid the very motion practice now being initiated.

Mr. Popkin's motion to compel is inappropriate because he has already been provided opportunities to propound these questions in a timely fashion during written discovery and during oral cross-examination of witnesses Landwehr and Needham (USPS-T-7). When he availed himself of oral cross-examination, he was informed that he should ask all his questions. Indeed, the Postal Service had witness Landwehr recalled to the stand to provide Mr. Popkin a full opportunity to ask all his questions. The Presiding Officer stated upon recalling Mr. Landwehr:

The Postal Service agreed to recall Mr. Landwehr to respond to oral questions from Mr. David Popkin in lieu of providing written responses to follow-up interrogatories. I understand that the Postal Service agrees to this procedure in large measure to avoid additional extensive written motion

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practice which might delay our procedural schedules, and, for that, I appreciate this cooperative response.

Tr. 4/1321.

Similarly, Mr. Popkin was provided the opportunity during oral cross-examination to ask all his questions pertaining to witness Needham's USPS-T-7 testimony, and the Presiding Officer directed him to ask "all the questions you want, including those submitted as interrogatories...." Tr. 3/788.

Many of Mr. Popkin's supposed follow-up interrogatories were objectionable on the grounds of redundancy, having already been asked and answered, and because they were filed after the deadline for the propounding of interrogatories and were not proper follow-up to previous interrogatories. See e.g., Tr. 4/1323-26 (Postal Service variously objects to Mr. Popkin's questions as being redundant and improper follow-up while discussing how the questions have already been addressed). At the hearing on September 10, 1996, moreover, witness Needham responded in detail to Mr. Popkin's questioning on the matters in interrogatories DBP/USPS-T7-4 through 6. Tr. 3/801-27. Mr. Popkin does not describe what information could be added to the information already provided at the hearing. These interrogatories have already received complete responses.

Mr. Popkin has already had a full opportunity to receive responses to his questions but he is still not satisfied. The Presiding Officer should not tolerate such disregard of the procedures that bind all participants in this proceeding.

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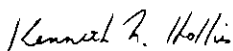
WHEREFORE, the United States Postal Service requests that Mr. Popkin's Motion to Compel Responses to Interrogatories, filed October 4, be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

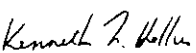
Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking



Kenneth N. Hollies

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



Kenneth N. Hollies

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3083; Fax -5402
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