

BEFORE THE

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POSTAL RATE COMMISSION **APR 3 5 09 PM '00**

WASHINGTON DC 20268-0001 POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

DOCKET NO. R2000-1

MOTION TO COMPEL RESPONSES TO DBP/USPS INTERROGATORIES

DBP/USPS-19-23, 24 [a-c, e], 25, 26[c-e], 28-36, and 98[b-e]

March 31, 2000

Respectfully submitted, *David B. Popkin*

DAVID B. POPKIN, POST OFFICE BOX 528, ENGLEWOOD, NJ 07631-0528

1. I wish to file a Motion to Compel in response to the Postal Service's Objection filed March 20, 2000 and corrected on March 21, 2000 [DBP/USPS-98[b-e] was filed on March 28, 2000]. The Postal Service once again is using a broad brush to object to most of my interrogatories without evaluating some of the specific subparts. This appears to be similar to their Motion of September 15, 1997 in Docket R97-1 where they used a similar broad brush to object to all of my interrogatories that had been filed on September 10, 1997. Presiding Officer's Ruling No. R97-1/21 ["Ruling"] denied the Postal Service's Motion.

2. In the Ruling, the Presiding Officer stated that care must be taken to assure that Commission procedures not be used to intimidate other participants [paragraph 7]. Furthermore, that the Commission is sensitive to the benefits of making its proceedings easily accessible to all types of mailers, including individuals such as Popkin [paragraph 5]. Due process seems to fall by the wayside with these broad brush types of objections.

3. The Ruling also indicates [paragraph 9] that the quality of service received by mailers is relevant, argument about the wisdom of particular operating procedures that may have an impact on service is not a fertile area. In order to determine the quality of service received by a mailer, it requires first knowing what service is actually mandated by regulation or policy to the mailer and then determining the extent to which that level

of service is met. For example, in order to be able to adequately brief the rate that should be charged for Return Receipt service, it is first necessary to determine what service is mandated and then it becomes necessary to determine the extent that the Postal Service is meeting that claimed level of service. It is also necessary to know what the operating procedures are. A witness should not be allowed to make all sorts of claims in their testimony relating to the level of service that a particular service provides without having to stand cross examination on challenging those claims. Just because a witness states that a given service has a high value, intervenors should have the ability to challenge that claim.

4. Interrogatories 19, 20, and 21 relate to determining the quality of service that is being provided by the Postal Service with respect to collecting mail at collection boxes throughout the country. Collection boxes are primarily utilized for First-Class Mail, Priority Mail, and Express Mail. This information is needed to determine the quality and value of service that exists for these three classes of mail. Criteria 2 of 39 USC 3622[b] states the value of the mail service actually provided each class or type of mail service to both the sender and recipient, including but not limited to the collection [emphasis provided], mode of transportation, and priority of delivery.

5. Interrogatories 22 and 23 relate to determining the quality of service that is being provided by the Postal Service with respect to Saturday delivery and retail window hours. There are mailers in Oregon that would have to make an all day trip just to obtain Saturday window service [In the Portland District of Oregon and southern Washington State, there are only 33 offices with Saturday service and over half of them are within 25 miles of Portland]. Does the claimed quality and value of service exist for these mailers for any class of mail that they were trying to mail on a Saturday? Also, the question of whether those addresses who obtained the high value of service Post Office Box delivery are receiving delivery on Saturday. That certainly affects the quality and value of service and even if it is possible for a recipient to pick up

accountable or large mail, they may not be aware of it because the retail windows are closed.

6. Interrogatory 24 relates to the quality of service that Shipping on Line customers receive. By my utilizing the high value of service Post Office Box for my address on my credit card, I was denied the ability to use, and obtain the benefits of this service.

7. Interrogatory 25 relates to an effort to determine the costs that may have been incurred by the Postal Service as a result of delivering improperly addressed mail. Information on the types of barcodes and whether they match the correct or incorrect address is needed to fully evaluate the potential for added costs as well as the evaluation of the costs and methods of delivering other presorted automated First-Class Mail.

8. Interrogatory 26 [c-e] relates to the requirement of purchasers of printed stamped envelopes to pay an unregulated shipping and handling charge in addition to the rates as approved. I am certainly entitled to comment on this in my brief and these interrogatories are an effort to confirm that the practice that existed in R97-1 is still in effect and to determine any new information that might afford a different decision.

9. Interrogatories 28 to 36 relate to the quality of service that Express Mail users receive. The testimony of Witness #36 [USPS-T-36] starts out his testimony on Page 1 line 10 with, Express Mail is a premium service offering guaranteed next-day and second-day delivery nationwide. If guaranteed performance standards are not met, postage will be refunded. This claim of a premium service must not be allowed to remain unchallenged. The testimony on pages 2 and 3 provide further claims of the level of service. The responses to my interrogatories are needed to show that the Postal Service is making claims of guaranteed delivery of Express Mail in instances where it is physically impossible to meet that commitment. In private industry, this might be considered as false advertising. The actual level of service is key to the

quality and value of service. These unsubstantiated claims of service should not be allowed to remain unchallenged. An example of this is that if I were to send an Express Mail article on a Thursday to a place in Alaska that has mail delivery on Monday and Thursday only, I would still be advised by my local New Jersey post office that it would be guaranteed delivery by 3 PM Saturday. There is no way that if I mail it at 5 PM that it will be in Alaska early morning the same day to arrive on the Thursday plane. The Postal Service should not be allowed to make guarantees that are impossible to meet.

10. The Postal Service admits that the information sought by me appears to have only marginal relevance to the issues of this case. However, marginal relevance is relevance. Furthermore, it is I who will be preparing a brief and can attempt to convince the Commission of why a particular item should or should not be considered in their decision. The Postal Service has not quantified the claimed undue burden as required. Furthermore, it appears to me that the Postal Service is trying to keep relevant information that indicates their operating deficiencies out of the evidence in this case.

11. It is also noted that the Postal Service has responded to similar interrogatories without objecting to them such as APMU/USPS-T34-25 asks for a description of all distinguishing characteristics that you perceive [weight excepted, of course] in terms of acceptance, processing, transportation, delivery, theoretical service commitments, actual service performance, etc. as they relate to Priority mail vs. First-Class Mail and DFC/USPS-23 which relates to Express Mail service and guarantees.

12. Interrogatory 98[b-e] relates to the extent that EXFC results are tied to postal management salaries. There appears to me to be many instances where the value of service is being affected by the overwhelming desire to have high EXFC scores, even to the extent of reducing the mandated level of service to increase the likelihood of a higher score. For example, the Postal Operations Manual mandates that certain collection boxes should be collected at 5 PM or later, however, the collection is only

made earlier in the day, apparently to improve the arrival mail pattern at the processing plant and therefore be more likely to be delivered on time. EXFC does affect the value of service and proper discovery must be allowed. The Postal Service responded to APMU/USPS-T39-1 and discussed the effect of PETE scores, a program that is similar to EXFC, on the EVA Variable Pay Program.

13. I perceive that if I am to properly litigate this case, it is necessary to ask very specific questions [using many separate subpart questions] in a logical pursuit of a concept that I am trying to prove. I feel that if I do not do it that way, I will not get an admission by the Postal Service of what is happening. I am trying to eliminate, or at least greatly reduce, the need for follow-up interrogatories and oral cross examination of the witness.

14. For the reasons stated above, I move that the Postal Service be compelled to answer all of the objected to interrogatories. They must not be allowed to keep all of these deficiencies in the quality and level of service out of the evidence in this case. It is up to me to brief and the Commission to decide on the significance of these claimed but not delivered services. Answering similar questions for other intervenors and objecting to them for mine appears to me to be depriving me of my due process in this case and if necessary, I move to have them considered as follow-up interrogatories.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

David B. Popkin

March 31, 2000

