

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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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-42, 43, 57, 58, 60, 61, 62, 64, 67[d-e], 70[a-k], 71, 72, 74[b-e], 79[n], 80,
88, 96, 112[a-i], 114, 117[j-k], 118[h-i], 122, 129, 130, 131-134[a]

April 10, 2000

Respectfully submitted,



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

1. I wish to file a Motion to Compel in response to either direct objections by the United States Postal Service to respond to my interrogatories or to compel them to provide a responsive answer to previously filed interrogatories that I perceive they are not being responsive to.

2. Interrogatory DBP/USPS-42 has been objected to on the basis of materiality and relevance. This interrogatory relates to the proper processing of return receipts as to the required format of the rubber stamp "signature" and the proper processing of the return receipt as a result of the change of address of the addressee. This relates to the value of return receipt service to provide a proper record of delivery and the new address of the addressee. To the extent that the Postal Service might claim that this interrogatory is operational rather than value of service, I refer to page 3 of Ruling R2000-1/28.

3. Interrogatory DBP/USPS-43 has been objected to on the basis of materiality and relevance. It is related to DBP/USPS-25 and my Motion to Compel mailed on March 31, 2000 covers the need for the requested response.

4. Interrogatory DBP/USPS-57. Page 5 of Ruling R2000-1/28 states that the Postal Service is the logical party to ask to confirm material that may be in the Request and

Testimony. This interrogatory attempts to confirm that the data which was valid in R97-1 is still valid in R2000-1.

5. Interrogatory DBP/USPS-58. The matter that I will use responses in any potential testimony and brief is up to me to determine once I receive a response to my interrogatory. Burden has not been quantified and therefore may not be claimed. The subparts claimed to be desiring legal conclusions are requests of the Postal Service to identify how they interpret their own regulations. Furthermore, I must object to the Postal Service's attorney referring to my inquiries as "Mickey Mouse inquiries" at the end of his pleading dated March 30, 2000. Is this an attempt to intimidate me?

6. Interrogatory DBP/USPS-60. Subpart a asks for the revenue and expenses for International Mail for each of the past five years. The Postal Service in their response dated April 3, 2000 states that these reports are available in the Postal Service Library in Washington. This is typical of the actions taken by the Postal Service. It appears that they are trying to make it difficult for me to effectively participate in this case. They are making references to R97-1 responses which are not yet available on the Commission website; they are making references to R2000-1 library references which are not available on the Commission website; they are referring to library references in their responses to my interrogatories and then objecting to providing me with a copy. To expect me to travel to Washington just to check out ten numbers that I may have an interest in as a result of this interrogatory borders on total intimidation and attempting to deprive me of my due process rights in litigating this case.

7. Interrogatory DBP/USPS-61. In a manner similar to DBP/USPS-60 above, the Postal Service suggests that I come down to Washington to obtain a total of twenty numbers, namely the revenue and expenses associated with Philatelic Products over the past ten years.

8. Interrogatory DBP/USPS-62. This interrogatory relates to determining the value of service of Express Mail. Subparts a and c relate to the percent that are delivered on time and late. The higher percentage of those that are delivered by the guaranteed time, the greater the value of service. Related interrogatories have been asked and answered relating to First-Class Mail and Priority Mail. Subpart d relates to the number of claims that are filed for late delivery. The greater number of claims would appear to indicate a lower level of service. The remaining subparts relate to determining and comparing the requested data. The claim of burden has not been quantified. The percentage of Express Mail articles arriving on time and the claims for refunds will add much to the record. Page 3 of Ruling R2000-1/28 also supports grant of my motion.

9. Interrogatory DBP/USPS-64. The Postal Service in the response dated April 3, 2000 claims that none of the requested data is available. I find it hard to believe that no data is available on the transportation of Priority Mail. Some, most, or all of my requested data should be available.

10. Interrogatory DBP/USPS-67 subparts d and e. The exceptions referred to in subpart d relate to the extent to which the Postal Service had met the level of service referred to in subparts a-c. This is relevant to the case and the claim of burden has not been quantified.

11. Interrogatory DBP/USPS-70 subparts a-k. As indicated by the Postal Service, these questions have at least a little relevance. The burden claim has not been quantified.

12. Interrogatory DBP/USPS 71. These questions relate to the value of service of First-Class Mail as to determination of what mail will be delivered overnight, second day, and third day. It attempts to compare the present level of service to that which was approved by the Commission in Docket N89-1. If changes have been made, that is important for the Commission to know and understand. Interrogatories relating to the

value of service have been previously asked and responded to. The EXFC results are based on the responses to these interrogatories. Ruling R2000-1/28 on page 3 supports my motion to compel. Burden has not been quantified.

13. Interrogatory DBP/USPS-72. The extent to which air transportation is utilized to provide the expeditious service required for First-Class Mail relates to the value of service of First-Class Mail.

14. Interrogatory DBP/USPS-74 subparts b-e. The extent to which mail is delivered on time to federal agencies relates to the value of service of First-Class Mail. Actually this is probably the most important interrogatory of this case based on the many delays that are being observed in sending mail to the Commission to participate in this case.

15. Interrogatory DBP/USPS-79 subpart n. The response provided on April 3, 2000 stated, "I do not know to what extent this may be permissible." This was an institutional interrogatory and was not looking for the opinion of any one witness. It was looking for a response to the question. There must be an employee who is aware of the response to this question. I move to compel a response by a knowledgeable employee or witness of the Postal Service to subpart n and the following subparts related to it. This information is necessary to complete the last open cost data item in my evaluation of return receipt costs.

16. Interrogatory 80. This interrogatory relates to determining the value of service of Express Mail. Subparts a through f relate to the guarantee that the Postal Service makes with respect to the value of service of Express Mail. Related interrogatories have been asked and answered. The claim of burden has not been quantified. The perception of the public with respect to the claimed guarantee and the Postal Service's ability to meet it will add much to the record. Page 3 of Ruling R2000-1/28 also supports grant of my motion.

17. Interrogatory 88. The Postal Service's response to this interrogatory refers me to Witness Mayo's testimony. This is not responsive since the specific questions in my interrogatory are not covered in the testimony.

18. Interrogatory 96. The Postal Service's response does not address each of the specific subparts on my interrogatory. They are separate concerns and must be addressed individually rather than by a generalized denial of the specific subparts. I move to receive a comprehensive answer which addresses each subpart and concern individually.

19. Interrogatory 112 subparts a-i. The Postal Service objects to questions that are relating to determining the method utilized for box rent computations. They claim both relevance and burden. They have not quantified the burden. The interrogatories are relevant. First of all, the new method of box rents based on Witness Yezer's analysis of rental values is still a proposed method. Intervenors have the right to propose status quo with the method of calculating box rents and therefore need that data to be able to determine the method of calculation. Because the Postal Service does not want to have a large rate shock in the conversion of the present box rents to the new box rents, the ability to evaluate the present rates is significant. Evaluation of the response to DBP/USPS-119 indicates that some proposed box rents will be different because of their present Fee Group classification. Englewood Cliffs was chosen for specific data since I was familiar with it and also because it was one of the few offices that changed from Group C to B rates recently. Also, since both the present system and the proposed systems are somewhat similar [they are both cost related], it is important to my evaluation to be able to fully compare both the present and proposed systems to each other. I move to compel responses. The responses may be provided to me under protective conditions, if necessary, since I have already been "cleared" for that information.

20. Interrogatory DBP/USPS-114. The Postal Service claimed that the response to subpart a was contained in the protective material I was provided. It was not. The response to subpart b told me the year used for the data and did not respond to my question as to whether the data was before or after a major renovation of a facility.

21. Interrogatory DBP/USPS-117 subparts j and k. These subparts ask what the cost of processing a claim for Insured Mail is and whether the cost is independent of the value of the insurance. The response dated April 6, 2000, stated that they were not aware of the answer to my interrogatories. This information is necessary to be able to evaluate the appropriateness of the Insured Mail incremental fees for additional valuation. The Postal Service has to have some idea of the cost of claim processing to be able to establish their rates and there has to be at least one employee who can discuss whether the cost of claim processing is related to the value of the claim. I move to compel a responsive answer.

22. Interrogatory DBP/USPS-118 subparts h and i. These subparts ask what the cost of processing a claim for Registered Mail is and whether the cost is independent of the value of the insurance. The response dated April 6, 2000, stated that they were not aware of the answer to my interrogatories. This information is necessary to be able to evaluate the appropriateness of the Registered Mail incremental fees for additional valuation. The Postal Service has to have some idea of the cost of claim processing to be able to establish their rates and there has to be at least one employee who can discuss whether the cost of claim processing is related to the value of the claim. I move to compel a responsive answer.

23. Interrogatory DBP/USPS-122. This is an added item to DBP/USPS-19 and my motion to compel is the same as previously submitted for that interrogatory along with the inclusion of the recent ruling R2000-1/28 on page 3.

24. Interrogatory DBP/USPS-129. The Postal Service claims that asking follow-up interrogatories on processing of Certified Mail is not relevant and is a burden. First, this interrogatory was filed on March 23, 2000, so therefore is a direct interrogatory even though it may relate to my previous DBP/USPS-3 interrogatory. While the response to DFC/USPS-T10-8 may be related, it is not the same. My information is needed to be able to evaluate the extent of proper processing of Certified Mail and therefore the value of the service. Subpart f asks for a copy of a USPS Form that was referenced in my original interrogatory. As far as I know, that form number does not exist and that data should be corrected in the original response. Burden was not quantified.

25. Interrogatory DBP/USPS-130. When Postal Service Counsel provided me with a copy of LR-I-181 on March 1, 2000, he indicated that I could obtain copies of desired reports either by discovery or by the FOIA process. I chose to do it by discovery. It appears that this is just a delaying tactic on the part of the Postal Service.

26. Interrogatories DBP/USPS-131 through 134 subpart a. Subpart a of these four interrogatories asks the Postal Service to verify that the letters that were attached to and referred in my interrogatories were prepared and sent to me by an employee of the United States Postal Service. Their objection is based on burden and that I had not provided sworn testimony giving a basis to conclude that the letters were provided by Postal Service employees. What is the burden to call up the four post offices and ask the question, is this your letter? Furthermore, the burden is not quantified. These letters are on Postal Service letterheads. A sworn statement by me would serve no purpose since the validity of them may be easily confirmed by the Postal Service. These letters are valid on their face for what they say.

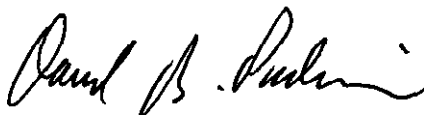
27. I perceive that if I am to properly litigate this case, it is necessary to ask very specific questions [using many separate subpart questions] in a logical pursuit of a concept that I am trying to prove. I feel that if I do not do it that way, I will not get an

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.

28. 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 April 10, 2000
