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POSTAL RATE COMMISSION
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PRESIDING OFFICER'S
RULING NO. R2000-1/44

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Rate and Fee Changes

Docket No. R2000-1

RULING ON POPKIN'S MARCH 27, 2000 MOTION TO COMPEL
RESPONSES FROM THE POSTAL SERVICE

(Issued April 18, 2000)

This ruling addresses David B. Popkin's Motion to Compel Responses to DBP/USPS Interrogatories DBP/USPS-5(i), 7, 10(c), 11(b-m), and 13, March 27, 2000. (Popkin Motion).

Interrogatory 5(i)(7) and (8). In these questions, Mr. Popkin seeks the tare weight and cost (to the Postal Service) of all types of Express Mail and Priority Mail containers. In response, witness Robinson states that information on container weight is not available, and that she is unaware of any report that contains information regarding the Service's cost to purchase containers.

While the weight information may not be readily set out in one place at this time, I do not think it would be unduly burdensome for the Service to have someone weigh these containers and provide the information for the record. Thus, with respect to subsection (7), the Service is directed to provide the tare weights of each of the envelopes, boxes and tubes listed on page 1 of the Attachment to DBP/USPS-5 under "Supply Item Description" for Express Mail and Priority Mail. With respect to subsection (8), it is unclear whether the reference to "reports" in the witness's answer necessarily means that the search for responsive material was unduly restricted to a single type of document. However, as the Service purchases this material from one or more vendors,

cost information presumably is available in some form within the organization. Therefore, the Service is also directed to provide cost information on the containers. If it can readily be provided on a cost per-thousand basis, as Mr. Popkin asks, that should be done.

Interrogatory No. 7. This multi-part question seeks confirmation of a change in box rental fees for Englewood Cliffs, NJ 07632 from Group C to Group B. It also inquires into the rationale for the change. The Service partially objects to answering this question on grounds of lack of relevance and commercial sensitivity. In particular, it objects to providing site-specific data for Englewood Cliffs, noting that this includes the number of boxes installed and in use, as well as the annual rent and square feet for that facility. Moreover, the Service notes that the facility-specific information relates to a determination made more than a year ago. As such, the Service says it is irrelevant to this docket, given that a new method for assigning fee groups is being proposed in this proceeding. This method, as the Service points out, does not rely on utilization of boxes, but on ZIP Code-based rent estimates. However, the Service also indicates that witness Kaneer will provide information about the decisionmaking process, quantitative criteria, as well as a description of the calculations as applied specifically to Englewood Cliffs. Partial Objection of United States Postal Service to Interrogatory DBP/USPS-7 of David B. Popkin, March 13, 2000, at 1-2.

In his motion to compel, Mr. Popkin appears to seek anticipatory relief, stating that if the library reference does not contain site specific data, he moves to compel production directly or under protective conditions. He notes that the data are desired for evaluation of "the precise way that the Postal Service uses to calculate post office box rates." Popkin Motion at 2.

As Commission records indicate that witness Kaneer's library reference dealing with box rents has been provided to Mr. Popkin under protective conditions, it appears the motion to compel is moot. To the extent any remaining question exists, I will not

require the Service to respond further, given the seeming lack of relevance of the information sought to live issues in this proceeding.

Interrogatory No. 10(c). This interrogatory asks the Service to describe the method the Service uses to process Priority Mail under at least four scenarios.¹ The Postal Service objects on grounds that the interrogatory requests detailed operational specifics. It also says that the operation information is sought at a level of disaggregation "such that it bears little relevance to the aggregate Priority Mail costs and revenues at issue in this case," which do not depend on whether particular mail originating from or destinating to a Priority Mail Processing Center (PMPC) is handled in a particular way. Objection of United States Postal Service to Popkin Interrogatory DBP/USPS-10c, March 13, 2000.

Mr. Popkin moves to compel on grounds that the information is needed to evaluate "the methods by which the value of service" for Priority Mail is determined. Popkin Motion at 2. He says he also is interested in evaluating the appropriateness of proposing that Priority Mail be changed to a non-zoned rating system. Moreover, he maintains that the level of disaggregation the Service claims he is asking for is not correct; instead, he says he is using the four scenarios that exist. Finally, Mr. Popkin also points out that the Service has responded to APMU/USPS-T34-35, which also relates to the processing of Priority Mail. *Id.*

The question here is not whether the Service has responded to APMU, but whether information on the processing scenarios Mr. Popkin has identified have any bearing on the issues described in his motion to compel. The processing variations of these four scenarios will neither affect value of service calculations nor shed light on the wisdom of unzoned rates. Therefore, I will not require the Service to provide specific details in terms of the processing scenarios Mr. Popkin has set out. Nonetheless, I

¹ Mr. Popkin describes the scenarios as follows: Originating and destinating within the same Priority Mail Processing Center (PMPC) area; originating in one PMPC area and destinating in another PMPC area; originating in a PMPC area and destinating outside of the PMPC area; and originating outside of a PMPC area and destinating within a PMPC area. Popkin Motion at 6.

believe it would assist the record if the Service would provide Mr. Popkin with a reference to where up-to-date information about Priority Mail processing can be found and, in particular, any standards that are in place. If these references cannot be provided, the Service is asked to have a witness prepare a brief statement addressing this matter.

Interrogatory No. 11(b)-(m). Subpart (a) of this interrogatory asks for confirmation that a number of post offices throughout the country are in the format of a Postal Retail Store. Subparts (b)-(m) ask a series of questions, such as the percentage of offices in the retail format, the total revenue they generate, product display practices, inventory practices, audit procedures, and actions taken in the face of inventory shortfalls. Some comparisons to traditional outlets are also sought.

The Service objects to all subparts except (a) on grounds that the questions seek information that is irrelevant to any issue in this proceeding, and are not reasonably calculated to elicit information having any bearing on any issue in this proceeding. *Id.* at 1. *Objection of the United States Postal Service to Interrogatories DBP/USPS-11(b)-(m)*, March 17, 2000.

In his motion to compel, Mr. Popkin contends that he has been led to believe that the Postal Service Retail Store formats have a very high shrinkage factor compared to a regular facility. He claims this would affect the revenue of the Postal Service since more and more facilities are converting to the Postal Store format. Mr. Popkin then contends that "this would require that the Postal Service overestimate its costs to cover the increasing level of theft/shrinkage and therefore this would apply to all classes of mail."

As a general matter, the link between inventory shortages and purposeful cost over-estimation is attenuated; however, I believe it would be useful if the record being developed here includes some information on the Retail Store concept. Thus, the Service is directed to respond to subparts (b) and (c) of this interrogatory, which ask for the approximate percentage of all facilities that are in the retail format and for a revenue

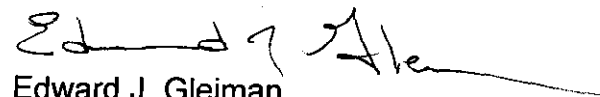
estimate. With respect to the remaining subparts, the Service is directed to provide the requested information to the extent it is readily available at Postal headquarters.

Interrogatory No. 13. In this interrogatory, Mr. Popkin notes that USPS-LR-I-200 provides Audit Reports on Special Services in the Northeast Area, and asks for copies of any Special Services audits conducted since 1999 in any area of the country, including the Northeast. In its objection, the Service says it does not believe any such audits exist, except for the report that was provided in USPS-LR-I-200. *Id.* at 1. Nevertheless, it says that to the extent an answer requires a thorough review of Inspector General and Inspection Service reports to determine if any concern Special Services, it objects on the basis of lack of relevance, burden, overbreadth, commercial sensitivity, and privilege. United States Postal Service Objection to Interrogatory DBP/USPS-13, March 16, 2000, at 1. However, the objection further notes that the Service has provided the semiannual reports of the Inspector General in USPS LR-I-181 and that these reports, as supplemented in the Postal Service's response to DFC/USPS-25, provide an index of audits since 1997.

The motion to compel appears to be moot, as Mr. Popkin notes that he accepts the response (contained in the first paragraph of the Postal Service's objection as a response) to the effect that the Service does not believe any such audits exist. United States Postal Service Objection to Interrogatory DBP/USPS-13, March 16, 2000.

RULING

1. David B. Popkin's Motion to Compel Responses to DBP/USPS Interrogatories DBP/USPS-5(i), 7, 10(c), 11(b)-(m), and 13, March 27, 2000 is disposed of as follows:
 - a. with respect to 5(i)(7) and (8), it is granted;
 - b. with respect to 7, it is deemed moot;
 - c. with respect to 10(c), it is granted in part;
 - d. with respect to 11 (b)-(m), it is granted; and
 - e. with respect to 13, it is deemed moot.


Edward J. Gleiman
Presiding Officer