

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

OBJECTION OF UNITED STATES POSTAL SERVICE TO INTERROGATORIES OF
DAVID B. POPKIN (DBP/USPS-247-253)
(June 16, 2000)

The United States Postal Service hereby objects to interrogatories of David B. Popkin DBP/USPS-247-253 on grounds of redundancy, lateness, improper follow-up, argumentativeness, and irrelevance.

DBP/USPS-247: This interrogatory, which refers to the response to DBP/USPS-206 (that interrogatory itself referred to the response to DBP/USPS-144) filed on May 17, 2000, states:

Refer to the response to DBP/USPS-206 subparts b through d. Confirm that the dollar values that are shown on page 13 lines 10-29 of USPS-T-40 for the various Fee Groups are the same dollar values that are obtained from and shown in column 6 of the ASCII file ziplist4.

Interrogatory DPB/USPS-206 was answered by witness Yezer, yet interrogatory DBP/USPS-247 asks about use of estimated rents by witness Kaneer (USPS-T-40).¹ Moreover, witness Yezer explained his understanding of witness Kaneer's use of estimated rents:

I understand that Erents are not used directly to determine fees but are used in the grouping of facilities for allocating post office box costs; the allocations are then used in fee design. See witness Kaneer's testimony, USPS-T-40 at 7-8, 11-15.

^{1/} Witness Kaneer also sponsored the zplist4 (not "ziplist4") portion of USPS-LR-I-241. Tr. 4686, 5626-27.

Response of witness Yezer to DBP/USPS-206(c-d). Nothing in witness Yezer's response leads to interrogatory DBP/USPS-247 so it is improper follow-up. This question could have been asked during the regular discovery period. Moreover, the question was propounded more than 14 days after the previous answers were filed – and Express Mailed to the address where Mr. Popkin has requested service – and consequently are filed too late to be follow-up.

The Postal Service concedes that Mr. Popkin may have been handicapped in asking about materials in USPS-LR-I-241 because it was not filed until March 24, 2000. However, twelve weeks have now elapsed since that time. Under the procedural schedule established for this case, a total of ten weeks and a day elapsed between the filing of the Postal Service direct case on January 12 and the close of discovery on March 23. Thus interrogatory DBP/USPS-247 is late by any conceivable stretch of the imagination.

DPB/USPS-248: This interrogatory also purports to follow upon the response to DPB/USPS-206, which itself followed upon DBP/USPS-144. It requests information (list of facilities with imputed rents that are negative) that has already been provided in USPS-LR-I-241. Indeed, Mr. Popkin confirms that he has this information in his formulation of DBP/USPS-144 where he lists several of the negative rent estimates. This interrogatory is accordingly cumulative or redundant, improper follow-up, and late.

DBP/USPS-249: This interrogatory continues an argumentative line of questioning also running via interrogatory DBP/USPS-206 back to DBP/USPS-144.² Indeed, DBP/USPS-249 just reformulates DBP/USPS-206(h), apparently because Mr.

² Mr. Popkin appears to believe that negative estimated rents must be "off" when Dr. Yezer has previously explained how this can arise from use of uncensored data and that it means estimated rents are close to \$0. See the responses to DPB/USPS-144, 206.

Popkin does not like the response provided. This interrogatory is accordingly cumulative or redundant, argumentative, improper follow-up, and late.

DBP/USPS-250: This interrogatory continues Mr. Popkin's fixation with a single facility nearby to him in Englewood Cliffs, New Jersey. See, e.g., DBP/USPS-7, 91, 113, 146, 208, 209. At least when Mr. Popkin has inquired regarding how lease information from that facility was used in the fees and fee groups for post office box service as proposed in this docket, the Postal Service has been tolerant of and responsive to these questions. In the responses to DBP/USPS-144 and 146, for example, witness Yezer identified the information available to him regarding this facility and how his equations used those data. Mr. Popkin followed upon that interrogatory with DBP/USPS-208, in which his failure to understand what witness Yezer did and why was implicit in the interrogatory; witness Yezer took some pains to explain again what he did and why in his responses to that interrogatory. In interrogatory DBP/USPS-250, Mr. Popkin repeats his efforts to ask about Englewood Cliffs, apparently seeking to match up his own observations of that facility with how lease information for that facility was used by witness Yezer; Mr. Popkin further insists that witness Yezer reinterpret a previous question and respond to that reinterpretation. Witness Yezer has nothing to add to his previous responses. The Postal Service objects to this interrogatory because it is redundant, improper follow-up, late, and to the extent any further answer could be fashioned, irrelevant and not intended to lead to the discovery of admissible evidence.

DBP/USPS-251: This interrogatory continues Mr. Popkin's interest in the Englewood Cliffs facility, tracing back through DBP/USPS-209 to DBP/USPS-146. It also argues with answers previously supplied by witness Yezer,³ insists that answers be

³ Mr. Popkin does identify an error in the previously supplied response to DBP/USPS-
(continued...)

provided which cite only to his testimony and not to his supporting materials, and seek to broaden his inquiry beyond Englewood Cliffs to Manhattan. The Postal Service submits that this interrogatory is cumulative, argumentative, late, improper follow-up, and to the extent any further answer could be fashioned, irrelevant and not intended to lead to the discovery of admissible evidence.

DBP/USPS-252: This interrogatory inquires into situations when only limited information was available regarding a given facility; it refers to the response to DBP/USPS-211, which itself refers back to the response to DBP/USPS-148. The response to 148 begins by indicating that the requested explanation for “why” generic values were used had been provided in response to DBP/USPS-9. In the most recent link in Mr. Popkin’s chain of inquiries on this question, the response to DBP/USPS-211, witness Yezer indicated that he assigns the base cost for a geographic area when all that he knows is that a facility exists within a five-digit ZIP Code. DBP/USPS-252 repeats the “why” question, now inquiring why witness Yezer does not have the information he was not provided. Witness Yezer has nothing to add to his previous response, and nothing in the previous response provides new illumination that would have prevented a more timely question on why data for some facilities are more complete than for others. His direct testimony expressly indicated the need to deal with this issue. *See, e.g.*, USPS-T-31 at 8, lines 6-12.

Part (b) of DBP/USPS-252 introduces a concept not used by witness Yezer and not defined by Mr. Popkin, “true erent”, and asks about differences between “true erent” and witness Yezer’s estimates of rental value. While this interrogatory continues to reflect Mr. Popkin’s fundamental misunderstanding of the technical approach employed

^{3/} (...continued)

209, which incorrectly referred to the “logarithm of base 10” when it should have referred to the “natural logarithm”. An appropriate erratum is being filed.

by witness Yezer, there is again no reason why this question could not have been asked when the testimony was filed. Part (c) of DBP/USPS-252 simply argues with the previous response provided by witness Yezer, and insists that information be provided that has already been provided.

Accordingly, the Postal Service objects to interrogatory DBP/USPS-252 as cumulative, argumentative, untimely, not proper follow-up, and to the extent any further answer could be fashioned, irrelevant and not intended to lead to the discovery of *admissible evidence*.

DBP/USPS-253: This interrogatory attempts to follow upon the response to DBP/USPS-155. That response was first filed April 25, 2000. Mr. Popkin cannot be bothered to direct his interrogatories to a specific witness, and in that instance a consequence was that the response was filed together with witness Kaneer's responses to related interrogatories. It was re-filed **without change** on May 17, 2000 together with other responses of witness Yezer's. Mr. Popkin's attempted follow-up is therefore late in the extreme. In substance, the interrogatory requests information that was provided in USPS-LR-I-241. Apparently enamored of the fact that witness Yezer broke down his equations in a form more understandable to Mr. Popkin with respect to the Englewood Cliffs facility, Mr. Popkin now requests the same treatment for another facility. This interrogatory is cumulative, late, improper follow-up, and not reasonably calculated to lead to the discovery of *admissible evidence*; moreover, were this type of questioning permitted, there would be no end to discovery. On these grounds the Postal Service objects.

WHEREFORE, the United States Postal Service objects to interrogatories
DBP/USPS-247-53.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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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.

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