

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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Complaint on First-Class Mail
Service Standards

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY
Docket No. C2001-3

MOTION TO COMPEL RESPONSE TO INTERROGATORIES [BOTH THOSE THAT
HAVE BEEN OBJECTED TO AS WELL AS THOSE THAT HAVE NOT BEEN FULLY
RESPONDED TO], COMMENTS ON POR C2001-3/1, AND POTENTIAL MOTION
FOR LATE ACCEPTANCE

October 13, 2001

On October 1, 2001, the United States Postal Service filed Objections of the United States Postal Service to Interrogatories of David Popkin ["Objections"]. My pleading is being mailed on October 13, 2001, and should arrive at the Commission on October 15, 2001, under current USPS standards. In the event that it does not arrive by the deadline, I move for late acceptance.

Respectfully submitted,

October 13, 2001 David B. Popkin, PO Box 528, Englewood, NJ 07631-0528

The Objection states that the issues before the Commission are "[2] whether the implementation of those service standard changes means that 2-day and 3-day First-Class Mail service is not being provided in accordance with the policies of the Postal Reorganization Act, within the meaning of 39 U.S.C. § 3662."¹ Furthermore, the Postal Service appears to be taking the position that, "The service standards are what they are, irrespective of the manner in which mail flows within or between facilities."²

The Postal Service's position does not match the Douglas F. Carlson Complaint on First-Class Mail Service Standards ["Complaint"] or the Commission's Order No. 1320 instituting the formal complaint docket ["Commission Order"]. The Complaint claims that

¹ Objection at 1.

² Objection at 3 relating to objection to DBP/USPS-4.

the Postal Service is not providing adequate First-Class Mail service³, that there is undue and unreasonable discrimination against users of the mail⁴, the change in criteria for 2-day service standards⁵, that the Postal Service failed to obtain public input⁶, that the changes violate the provisions of 39 U.S.C. §§ 101[e] and [f]⁷, and the "request that the Commission recommend changes to the First-Class Mail service standards that the Postal Service has implemented to address the problems identified during the hearing."⁸

The Commission Order also covers each of these items and states that the proceeding will address the allegations.⁹ Each of the items in the Complaint are covered in the Commission Order.

Based on the Complaint and the Commission Order, the Postal Service's characterization that, "The service standards are what they are"¹⁰ is without merit. Evaluation of the conditions that existed at the time on Docket N89-1, the subsequent changes to the delivery standards that have been made over the years and in particular in recent years, the current standards, the criteria that have been utilized to create any of these standards, and a determination of what the standards should be are 100% relevant to the resolution of this complaint.

It is also noted that in spite of my request for informal discussion in accordance with the provisions of Rule 25[b] to "clarify questions and to identify portions of discovery requests considered overbroad or burdensome," the Postal Service just filed a rather extensive objection to many of my interrogatories.

DBP/USPS-1[a], [c], [e], and [f]. The existence of a Clearance Time is relevant to the determination of the proper service standard. Subpart a is attempting to determine if

³ Complaint at 4 - paragraph 22, et. seq.

⁴ Complaint at 9 - paragraph 42, et. seq.

⁵ Complaint at 7 - paragraph 33, et. seq.

⁶ Complaint at 10 - paragraph 44, et. seq.

⁷ Complaint at 16 - paragraph 66 - amended page filed on September 24, 2001.

⁸ Complaint at 14 - paragraph 65 final sentence.

⁹ Commission Order at 11 - Item 4.

¹⁰ Objection at 3 relating to objection to DBP/USPS-4.

the Clearance Time will vary based on the type of processing date. If the Service Standards are to be the same regardless of the type of processing date, then it is relevant to know whether the Clearance Time changes for different types of processing dates. Docket C2001-1 relates to whether or not service is provided on a holiday and not to the level of Service Standards that exist once service is provided. Subpart c requests any other criteria where Clearance Times may be different. The evaluation of Clearance Times is needed to fully evaluate the validity of the present Service Standards. Variations are one criteria. Since the Postal Service has made a point of utilizing the time between the Clearance Time and the Critical Entry Time to determine the eligibility for 2-day service, activity that takes place between the Clearance Time and the departure of the mail from the P&DC is relevant [subpart e]. Evaluation of the Clearance Times at each of the P&DC, as requested in subpart f, is needed to fully evaluate the validity of the present Service Standards.

DBP/USPS-2 [a], [b], [c], [e], and [f]. For the same reasons as noted above in DBP/USPS-1 for Clearance Time, the same relevancy applies to the corresponding subparts in DBP/USPS-2 as it relates to Critical Entry Time. The response to subpart b does not appear to be responsive in that it copies the response to DBP/USPS-1 subpart d and does not respond to the question asked.

DBP/USPS-4 [c-e] The methods that are utilized to provide the existing transportation relating to the current service standards are necessary and relevant to evaluate the extent to which these standards meet the requirements of the Act, such as, adequacy and non-discrimination as noted above. The statement that "The service standards are what they are" does not allow for public evaluation of the compliance with the Act.

DBP/USPS-5 Clearance times, and their application, relate to the current service standards and the information is needed and relevant to evaluate the extent to which these standards meet the requirements of the Act.

DBP/USPS-6 [b] Critical Entry Times, and their application, relate to the current service standards and the information is needed and relevant to evaluate the extent to which these standards meet the requirements of the Act.

DBP/USPS-7 Subpart a asks a simple question whether a ADC can have different times with respect to different P&DC facilities in its operating area. This information is needed to fully evaluate the use of Clearance and Critical Entry Times. The listing of the times is needed and relevant to evaluate the extent to which the current service standards meet the requirements of the Act.

DBP/USPS-8 [a] and [d] The answer to Subpart a is not responsive. It asks very specific questions and the response that states, just look at the PowerPoint presentation, without very specific references, is not responsive to my interrogatory. A timely response has not been provided to Subpart d.

DBP/USPS-9 This interrogatory asks to provide the definition of two terms, "consistency" and "2-Day service standard" as they existed at the time of Docket N89-1, as they currently exist, and an explanation of any changes that have been made between the two time periods. The Postal Service's response just says go look at 14 or 15 pages of Docket N89-1 testimony and opinions is not responsive. I asked specific questions and desire specific and direct answers. While it is nice to be given an understanding of the concept of these two terms, I asked for and would like to be given the definition of these two terms, directly and specifically, so that I can understand them in light of the concepts provided in the 14 or 15 pages. Succinct definitions of these terms must exist and I desire them.

Subpart b asks for the current definition of "consistency" and the response states that "Nothing has changed to warrant a materially different "definition." " This reply is not responsive. Apparently, there are immaterial changes that now exist. What are they?

The response to subpart e states that the present definition of "2-Day service standard" is that which existed at the time of Docket N89-1 by referring me to a number of pages from the testimony and opinion in that Docket. The response to subpart f states that no change has been implemented and then adds a sentence about greater reliance on surface transportation in lieu of air transportation and refers to the July 30, 2001, Gannon Declaration. The change in reliance on surface vs. air transportation is a change. What are the two definitions? What are the specific parts of the Gannon Declaration that respond to my interrogatory?

DBP/USPS-10 Subpart d1. The Postal Service states that this proceeding is focused on 2-day and 3-day service standard changes. While that may be a focus, this proceeding relates to all service standards. Overnight service can be looked at as the "default" if it is not 2-day or 3-day. Determining that all overnight points meet the same 12 hours or less travel time is relevant. Subparts d2 and e1 attempt to determine those 2-day service standards that have a greater travel time than the arbitrary 12-hour time and those 3-day service standards that have a lesser travel time than the arbitrary 12-hour time. The extent and existence of non-standard pairs is relevant and necessary to evaluate the extent to which the existing service standards meet the requirements of the Act.

DBP/USPS-11 Subpart b asks a very simple request for a confirmation. Nowhere in the three pages of the response is the simple and direct answer to the interrogatory.

DBP/USPS-12 The extent to which mail facilities consolidate their processing is relevant to fully evaluate the current service standards. Consolidation will probably advance the Clearance Time at the originating facility and therefore is relevant. Sunday processing is relevant to this proceeding as it will determine those facilities that have a Day 0 on Sunday as opposed to those facilities that do not. Docket C2001-1 relates to collections on Sundays. This proceeding relates to determining the proper service standards including the determination of Day 0 and their existence on all days of the week.

DBP/USPS-14. EXFC and ODIS results are relevant to this proceeding. The extent to which the Postal Service meets its existing service standards may be of value in determining the compliance with the Act. If a specific service would be required to meet the requirements of the Act, such as adequacy or non-discrimination, and that service was not being achieved on a regular basis, the service would not be adequate. The requirement is to provide adequate service and not just have an adequate service standard. The purpose of this interrogatory was to determine those records that exist prior to asking a follow-up interrogatory for the actual data. In that way only relevant data would be asked for.

DBP/USPS-16 The response provided by the Postal Service relates to characteristics such as distances. The interrogatory asks for the administrative area that must be included in a given service standard. For example, for my originating mail in New Jersey and destinating as 2-Day service standard mail to an ADC facility in Pennsylvania, must all of the 3-digit ZIP Code prefixes served by that ADC receive the same 2-Day service standard or is it permitted to make some of the 3-digit ZIP Code prefixes 2-Day and others 3-Day even though they are served by the same ADC? In a similar manner, is it permitted to break-up my mail originating in Hackensack NJ 076 and destinating to the Harrisburg PA 170 area and permit Camp Hill PA 17001 to have a 2-Day service standard while Mill Creek PA 17060 could have a 3-Day service standard or must the entire 3-digit 170 ZIP Code prefix area have the same service standard?

A response is desired to the interrogatory as asked. In the response to subpart a, should it refer to Inter-SCF as opposed to Intra-SCF?

DBP/USPS-17 Subpart a - The Postal Service states that this proceeding is focused on 2-day and 3-day service standard changes. While that may be a focus, this proceeding relates to all service standards. Overnight service can be looked at as the "default" if it

is not 2-day or 3-day. Determining the extent that air transportation is used for overnight points is relevant.

Subpart b - A timely response has not been provided.

DBP/USPS-18 Subpart a - The Postal Service states that this proceeding is focused on 2-day and 3-day service standard changes. While that may be a focus, this proceeding relates to all service standards. Overnight service can be looked at as the "default" if it is not 2-day or 3-day. Determining the extent to which reciprocity is considered or utilized is relevant. If overnight service from A to B is not reciprocal, then one of the directions would then be 2-day or 3-day service. The example of the non-reciprocal / 3-day vs. overnight service standards existing between Ashland, Oregon, and Yreka, California is discussed in this proceeding and may suggest a possible violation of the policies of the Act.¹¹

Subparts b and c - The response did not provide the conditions that existed at the time of Docket N89-1. This response is desired.

DBP/USPS-19 Subpart a - The Postal Service states that this proceeding is focused on 2-day and 3-day service standard changes. While that may be a focus, this proceeding relates to all service standards. Overnight service can be looked at as the "default" if it is not 2-day or 3-day. Determining the extent to which volume is considered or utilized is relevant to determine compliance with the Act. For example, would it be considered adequate service if 25% of a plant's mail was destined to a nearby facility that was made 2-day service rather than overnight service?

Subpart b - The response did not provide the conditions that existed at the time of Docket N89-1. This response is desired.

¹¹ Commission Order at 9.

DBP/USPS-20 The types of mail that are processed on each of the three tours is necessary to evaluate the compliance of the existing service standards. Some mail has been defaulted to another tour that extends the service standard by a day. This is therefore relevant.

DBP/USPS-21 Subpart a - The response did not provide the conditions that existed at the time of Docket N89-1. This response is desired. A response is also desired as to the criteria that would be utilized to determine the "extent reasonable under the circumstances."

Subpart b - The Postal Service obviously knows the answer to which this type of processing exists. No objection was made of the burden to provide the data. This data is needed to evaluate the extent to which "next-door neighbors" who have 3-day service shown "on paper" actually have overnight service. A response is desired.

DBP/USPS-22 The response fails to respond to the very specific question asked. Obviously, if the service standards provided for overnight or 2-day service, it would have been provided. The interrogatory asks to what extent, if any, arrangements would be made to ensure that in-state mail would be overnight or 2-day service [assuming that otherwise it would not have been that if the points were not located within the same state]. The requested response is desired as well as an explanation of any difference.

DBP/USPS-23 While the previous CD-ROM copies may not be routinely archived, if they are available, they and the discussion of the changes are relevant and desired.

DBP/USPS-24 Subparts b to e - A timely response has not been provided.

DBP/USPS-25 Subpart a - The copy filed by Mr. Carlson was a redacted copy. I requested a copy that is not redacted. It has not been provided, nor have all the details and reasons for each of the redactions been provided.

Subpart b - A timely response has not been provided.

DBP/USPS-26 Subparts a to f, j, and k - I request that the Postal Service provide all data generated during the course of litigating Docket N89-1 that are responsive to my interrogatory.

Subpart g - Please provide a response to the question that was asked without a *generalized reference to many pages in Docket N89-1*.

DBP/USPS-27 Subpart f - A timely response has not been provided.

Subpart g - Since one of the main items that resulted in this Complaint being filed, was the conversion of air transportation to surface transportation, the action taken by the Postal Service at the time of the elimination of Air Mail as a separate service is relevant to this proceeding. At that time, the Postal Service promised to the public that eliminating Air Mail as a separate service was warranted because regular First-Class Mail would receive service as speedy as the existing Air Mail service. The current changes represent a change in the nature of postal services - one of the issues in this proceeding - because First-Class Mail has been shifted from air transportation to ground transportation, and a delivery day has been added. The reasons for making those changes and the service that was established as a result is relevant.

Subparts h and i - Certainly, Mr. Gannon, or some other knowledgeable witness, has an opinion. That opinion is desired.

DBP/USPS-28 This information is desired to determine the conditions and timing of the establishment of Day 0 in determining the days in the service standards. These questions are similar to DBP/USPS-29 that were answered by the Postal Service. They only relate to the postmarking of the mail on Day 0 which has already been confirmed as being Day 0. This information is relevant.

DBP/USPS-30 A timely response has not been provided. If the Postal Service has a GAO report, which relates to the Postal Service, it should provide it.

There are a number of interrogatories for which a response has been claimed to be forthcoming. The delay in providing this information affects my due process in pursuing this Docket. The establishment of October 29th as the end of discovery does pose one problem. Frequently, the response to an interrogatory will lead to another interrogatory that does not fully meet the requirements of being a follow-up interrogatory. The delay in providing any response or in providing an incomplete response¹² affects my due process rights because of my inability to file an interrogatory and wait for the 14-day response period and then react to the response and have it reach the Commission prior to the 29th. That deadline should be extended by the number of days the Postal Service delays in providing responses to interrogatories.

For the reasons given, the Postal Service should be compelled to provide the answers to those interrogatories that have either been objected to or have not provided a responsive answer.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with Rule 12.

October 13, 2001

David B. Popkin

¹² Furthermore, any interrogatory that is objected to will also result in the same scenario due to the time it takes for me to respond to the objection and the Postal Service to respond to my Motion and then the time for the Commission to rule on the pleadings. By the time any compelled response is provided, it will probably be well after the October 29th deadline. This provides an unfair incentive for the Postal Service to file an objection to an interrogatory in a case with a short deadline.