

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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POSTAL RATE COMMISSION
Docket No. C2001-3

Complaint on First-Class Mail
Service Standards

MOTION TO COMPEL RESPONSE TO INTERROGATORIES [BOTH THOSE THAT
HAVE BEEN OBJECTED TO AS WELL AS THOSE THAT HAVE NOT BEEN FULLY
RESPONDED TO]

November 5, 2001

On November 1, 2001, the United States Postal Service filed Objections of the United States Postal Service to Interrogatories of David Popkin ["Objections"]. On October 29, 2001, the Postal Service filed Responses of the United States Postal Service to Interrogatories of David Popkin [DBP/USPS-31 through 37, 41, 42, 44 through 46, 48, and 51 through 55] ["Responses"].

Respectfully submitted,

November 5, 2001 David B. Popkin, PO Box 528, Englewood, NJ 07631-0528

DBP/USPS-58 Once again, the Postal Service is attempting to limit the scope of the Complaint to whether the finalization of Phase 2 of the service standard realignment plan reviewed in Docket No. N89-1 comports with 39 U.S.C. §§ 3661 and 3662 and that it involved changed between 2-day and 3-day service. 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 the Postal Service is not providing adequate First-Class Mail service¹, that there is undue and unreasonable discrimination against users of the mail², the change in criteria for 2-day

¹ Complaint at 4 - paragraph 22, et. seq.

² Complaint at 9 - paragraph 42, et. seq.

service standards³, that the Postal Service failed to obtain public input⁴, that the changes violate the provisions of 39 U.S.C. §§ 101[e] and [f]⁵, 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.”⁶

The Commission Order also covers each of these items and states that the proceeding will address the allegations.⁷ Each of the items in the Complaint are covered in the Commission Order.

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.

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. Documentation that will or will not support service standard changes and the effect of costs are relevant to this Complaint.

DBP/USPS-66[b] The Postal Service has not objected to answering subpart a to explain why four day modeling is being utilized. The extent to which the Postal Service

³ Complaint at 7 - paragraph 33, et. seq.

⁴ Complaint at 10 - paragraph 44, et. seq.

⁵ Complaint at 16 - paragraph 66 - amended page filed on September 24, 2001.

⁶ Complaint at 14 - paragraph 65 final sentence.

is planning to actually utilizing four day delivery is relevant to evaluating the present service standards.

DBP/USPS-67 The extent to which "fixing the problem" will affect the service standards for First-Class Mail, the interrogatory is relevant and should be investigated.

DBP/USPS-68 This Interrogatory asks for information about details of changes that may result as a response to **both** the contamination of the mail stream via letters containing anthrax bacteria "as well as any changes made that affect the use of air transportation [including any restrictions imposed by the FAA]. The objection by the Postal Service only relates to the anthrax question. No objection has been made to the second half of the interrogatory. As such, a response must be made. Furthermore, a response to both parts of the interrogatory is relevant to this Complaint. As stated above, this Complaint also relates to determining whether the present service standards meet the criteria of the Act. The extent to which these two events either have or will shortly affect the service standards is completely relevant and must be fully investigated.

To the extent that there is any similarity between this interrogatory and Interrogatory DFC/USPS-GAN-31 that has been objected to by the Postal Service on November 1, 2001, the reasons provided in the Motion to Compel filed by Douglas F. Carlson on November 2, 2001, are incorporated herein.

The statement in the Postal Service's Response that responses to DBP/USPS-38, 43, and 47 are forthcoming is inappropriate without providing some indication as to why they are not being filed on time or when they are expected to be provided. This does prejudice me in some respect that it forces a further delay on me, potentially forces me to make a separate pleading, and hinders my follow-up activity, in that I would like to follow-up on the response to DBP/USPS-48 but cannot really do so at this time without

⁷ Commission Order at 11 - Item 4.

the information requested in the unanswered DBP/USPS-47. I move for a prompt response to these interrogatories.

DBP/USPS-44 The response to this interrogatory is inappropriate. The interrogatory was filed before the end of the discovery period and therefore, even though it may be worded in the form of a follow-up interrogatory, it does not have meet the requirements of being a "true" follow-up. DBP/USPS-26 subpart m asked why the Postal Service did not obtain public input regarding service standards. The response was, "None has been deemed necessary." DBP/USPS-44 asked for the details why the Postal Service felt that it was not important to obtain that public input. If they do not deem to do something, obviously, they do not feel it is important to do. Public input is necessary for changes in service as mandated by the Act. This interrogatory attempts to learn the reasons why the Postal Service did not deem it necessary.

DBP/USPS-45 The response to this interrogatory is inappropriate. The response to DBP/USPS-27 chose an example of Pittsburgh PA to Buffalo NY to show that surface transportation may be more expeditious than air transportation. While this may be true for "nearby" distances such as this example of approximately 218 miles, there has to be some greater distance where, **in general**, air transportation will be more expeditious than surface transportation. I could ask this interrogatory using hundred mile intervals starting at 300 miles and ending at 3000 or so miles, or I could ask for it on a case-by-case basis for all cases. However, I am asking the Postal Service to define what they consider to be "nearby" enough as a distance to be the approximate breakpoint between surface and air transportation being more expeditious. The reduction of the use of air transportation makes this very relevant.

DBP/USPS-51 through 53 The response to these interrogatories is inappropriate. These interrogatories relate to the percentage of overnight, 2-day, and 3-day mail that achieves delivery on time. Subpart a of each interrogatory asks whether the results being achieved show reliable and consistent service. The Postal Service responded affirmatively to each. Subpart b asks for the reasons for the yes response.

The Postal Service responded, "The numbers speak for themselves." to each. The numbers obviously are not able to do any physically speaking for themselves. There have to be reasons why the Postal Service feels that the level of service represents reliable and consistent service. The specific reasons are desired. Subpart c asks two separate questions - namely, provide the reasons why x% of the mail does not arrive on time AND provide a relative level of significance to each reason given. The Postal Service has not provided any reasons why the mail does not arrive on time and then states they are unable to declare the relative significance of each reason. They haven't provided any reasons. This information is needed to evaluate the effectiveness of the delivery standards. If the delivery standards are not being met on a reliable basis, then the standards are meaningless.

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.

November 5, 2001

David B. Popkin