

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

Complaint on First-Class Mail
Service Standards

Docket No. C2001-3

OPPOSITION OF THE UNITED STATES POSTAL SERVICE
TO DAVID POPKIN MOTION TO COMPEL
RESPONSES TO INTERROGATORIES
(November 13, 2001)

The United States Postal Service hereby files its opposition to the November 5, 2001, Motion To Compel Responses To Interrogatories filed by David Popkin.

DBP/USPS-44

On October 4, 2001, in answer to DBP/USPS-26(l), the Postal Service responded negatively to Mr. Popkin's inquiry about whether there were routine procedures for periodically soliciting public input regarding desirable service standard changes. Responding to DBP/USPS-26(m), the Postal Service explained that it did not consider it necessary to establish formal procedures for periodically soliciting such input.¹ In DBP/USPS-44, following up on the Postal Service's responses to DBP/USPS-26(l) and (m), Mr. Popkin asked the Postal Service to "provide specific details why . . . [it] feels that it is not important to obtain public input regarding service standards." (Emphasis added).

There is nothing in the Postal Service's response to DBP/USPS-26 which implies that the Postal Service "feels it is not important to obtain public input regarding service standards." In DBP/USPS-26(m), the Postal was asked and it answered a question about why certain procedures for soliciting public input desired by Mr. Popkin were not in place. Since the issue of the "importance" of such procedures is not implicit in either

¹ See responses filed on October 4, 2001.

DBP/IUSPS-26(m) or the answer, the Postal Service could not help but indicate that it was puzzled by a question (DBP/USPS-44) asking it to explain that which it did not consider could be reasonably implied by its response to DBP/USPS-26(m).

Mr. Popkin argues that, as a follow-up to DBP/USPS-26(m), “DBP/USPS-44 asked for details why the Postal Service felt that it was not important to obtain public input.” But the Postal Service’s response to DBP/USPS-26(m) never indicated that it was not important to have substantive input.² The Postal Service recognizes its responsibility to clarify the things that it does say, but considers that it should not be burdened by having to explain things that it does not say³.

Accordingly, the Postal Service considers it inappropriate for Mr. Popkin to expect any answer to DBP/USPS-44 other than the one he received.

Mr. Popkin complains that the Postal Service has not availed itself of his invitation to informally seek clarification of questions. The Postal Service has neither the time, the resources, nor the responsibility to cross-examine Mr. Popkin whenever he files a set of interrogatories in order to ferret out interpretations of his questions which are not evident from the words he has selected in formulating them. The Postal Service will rely on its reservoir of experience in determining whether the routine initiation of such interpretive discussions with Mr. Popkin would be fruitful. Otherwise, the Postal Service will interpret his questions as best it can. In this case, the Postal Service has responded appropriately to the questions actually asked. Mr. Popkin would do well to re-examine the form and content of the questions before complaining about the

² Only that it was not necessary to go about obtaining it in the manner suggested by Mr. Popkin.

³ Mr. Popkin equates the presence of certain formal procedures as determinative on the question of whether the Postal Service considers public input “important.” The Postal Service sees a clear distinction between the importance of such input and the manner by which it can be obtained.

answers.

DBP/USPS-45

In response to DBP/USPS-27(b), Mr. Popkin asked the Postal Service to confirm that in general, air transportation will provide more expeditious service than surface transportation. The Postal Service's October 4, 2001, response indicates that, notwithstanding the general presumption that air is more expeditious, it is not uniformly true that air transportation will provide more expeditious service than surface transportation. The response to DBP/USPS-27(c) gives a specific example to indicate that distance between cities, drive times, air travel times, air carrier transfer times, airport to mail facility transfer times, all are factors.

Interrogatory DBP/USPS-45 asks the Postal Service to confirm that air is more expeditious to "distances beyond the nearby area." For purposes of answering the question, Mr. Popkin asks the Postal Service to define "beyond the nearby area." The October 29, 2001, response informed him that, the general presumption aside, an evaluation of the degree to which the proposition in DBP/USPS-27(c) holds true would depend upon a case-by-case analysis and that the Postal Service was unable to provide a definition of "beyond the nearby area."

At page 4 of his motion to compel, Mr. Popkin states that he is "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." ⁴

Let us assume the utopian world in which the availability and schedules of air and

⁴ He also argues at page 4 that he could ask the question using 100-mile intervals or ask for the information on a case-by-case basis. Those questions have not been asked. If and when such questions are asked, the Postal Service will react in a manner it deems appropriate.

surface transportation between all origins and destinations are the same. Could the Postal Service then give Mr. Popkin some specific mileage figure that serves as The Absolute Air/Surface Expedition Breakpoint? Probably. However, as acknowledged in response to DBP/USPS-27, in the real world, it would take a case-by-case review of air and surface transportation carrying 2-day First-Class Mail in order to come up with a basis for the requested generalization. Therefore, other than acknowledging that the accuracy of the general proposition that, beyond some distance, air is generally more expeditious than surface transportation, the Postal Service is not clear what is gained by an exploration of what is or could be meant by “beyond the nearby area.” The resolution of the issues in this case is not going to turn on whether the answer to that question,⁵ is “generally 300 (or 325 or 350 or 375) miles.”

The question may be tangentially related to the issues in this case and, accordingly, Mr. Popkin may be unable to resist asking, but those two factors alone, do not make a more elaborate answer relevant to the issues in this proceeding. Mr. Popkin has gotten the best answer to his question that the Postal Service can provide.

DBP/USPS-51 to 53

These interrogatories ask the Postal Service (a) to indicate whether FY 2001 Q 4 EXFC scores show reliable and consistent First-Class Mail service, (b) to explain the basis for those responses, and (c) to explain the reasons why the mail in question arrived late and provide a relative level of significance for each reason.

On October 29, 2001, in each case, the Postal Service responded to subpart (a). In response to each subpart (b), the Postal Service explained that its response to subpart (a) was based upon the numbers provided in the preamble to the questions. In

⁵ Which would have to be developed by a pain-staking examination of the thousands of daily air and surface transportation arrangements currently in place for 2-day First-Class Mail.

response to each subpart (c), the Postal Service indicated that it has not conducted any analysis that would permit it to explain why the EXFC test pieces were late during FY2001 Q4 or the relative significance of all such reasons for such lateness.⁶

At page 4 of his motion, Mr. Popkin argues that the Postal Service's responses are inappropriate. He argues that the Postal Service, in response to subpart (b) of each question, has not provided the reasons why it feels that the level of service represents reliable and consistent service. At page 5, Mr. Popkin argues that "[the specific reasons are desired.

The Postal Service's responses to subpart (b) reflect its conclusion that the numbers in the preamble provide the reasons for the conclusions in subpart (a). Accordingly, the Postal Service has answered subpart (b): the numbers are the basis for the answers in subpart (a).

Regarding subpart (c), Mr. Popkin argues that an analysis of the reasons for late delivery of First-Class Mail is necessary to evaluate the effectiveness of the recently implemented delivery standards. He argues that if the delivery standards are not being met on a reliable basis, then the standards are meaningless. If Mr. Popkin wants to make a judgment about whether the delivery standards are being met on a reliable basis or whether the standards are meaningful, he can do what he did before the delivery standards were changed: he can look at the EXFC scores -- which he has, look at the existing service standards -- which he has, and exercise some judgment --.

⁶ It can be assumed that postal managers will take the FY2001 Q4 scores as a baseline and examine operations to determine what changes can be made to reduce the percentage of late mail and then judge the results of their efforts by examination of future quarterly scores. Of course, recent extraordinary events and their significant impact on mail processing and transportation may make it impossible for some time to isolate the impact of any remedial efforts specific designed to improve upon FY2001 Q4 scores.

Let us assume that the Postal Service had the data that Mr. Popkin seeks.⁷ Knowing that five percent of the late mail is late because of carrier missorts or six percent is late because of machine missorts, or seven percent missed standard because of a failure to sweep collection boxes on time tells you what about the appropriateness of the service standard changes at issue? Absolutely nothing. Mr. Popkin's argument for wanting the requested data only serves to clarify why the information has no bearing on any material issue in this proceeding.

DBP/USPS-58

This interrogatory asks the Postal Service to provide examples of satisfactory and unsatisfactory service standard change requests of a type which are not relevant to the complaint in this proceeding. The complaint relates 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. It involves a systemic change between 2-day and 3-day service and it has nothing to do with what it might take for a local postal manager to formulate a request, successful or otherwise, for a change between overnight and 2-day standards.

Mr. Popkin finds it interesting to explore what may or may not constitute a satisfactory request from a local office for an isolated change between overnight and 2-day service standards. Mr. Popkin finds a lot of thing about the Postal Service interesting. Unfortunately, many of these things are not relevant to the issues in Commission proceedings in which he intervenes. It would not be surprising if Mr. Popkin had some particular service standard change in mind affecting service to and from Englewood. That is all well and good. And he may want to know what it would take for local postal officials to submit a successful request for a change affecting his

⁷ Putting aside the fact that no such analysis has been performed and, therefore, no such data exist.

local service. That, too, is all well and good. But it is patently irrelevant to the issues in this proceeding.

The decision-making process and criteria employed in response to local requests for isolated changes was not employed in 2000 and 2001 in finalizing Phase 2 of the Docket No. N89-1 realignment plan. And the finalization of Phase 2 did not involve any changes to overnight commitments,⁸ making the interrogatory doubly irrelevant. To the extent that the interrogatory inquires about capital and manpower and transportation costs of changes from overnight to 2-day service, it caroms even farther afield of the issues in this proceeding.

The parties in this proceeding are obliged to engage in discovery designed to produce information relevant to the issues raised by the complaint in this proceeding. The Postal Service should not have to tolerate the burden of discovery into irrelevant matters. Nor should it be sanctioned by the Commission.

DBP/USPS-66(b)

As explained in the Postal Service's November 1, 2001, objection, this interrogatory inquires about the possibility of plans to change service standards in the future. Any such plans, should they even exist, would be irrelevant to the issues raised by the complaint in this proceeding, which pertain to whether the finalization of the Docket No. N89-1 realignment plan in 2000 and 2001 comports with §§ 3661 and 3662. Accordingly, the Postal Service should not be compelled to respond to this question.

DBP/USPS-67

In an effort to be responsive to earlier interrogatories, the Postal Service filed copies of a number of records as part of Library Reference C2001-3/1. The records contained information relevant to First-Class Mail service standard changes at issue in

⁸ That was Phase 1.

this proceeding, intermingled with information irrelevant to those service standard changes.

The document which is the subject of this interrogatory is one such document. In part, it reveals the opinion of an analyst that there was a “problem” with certain Priority Mail service standards that needed a “fix.” The Postal Service disclosed the document in its entirety, not because all parts of it were relevant to the First-Class Mail service standard changes at issue in this proceeding, but out of concern that redaction of the irrelevant portions could have triggered concerns that the Postal Service was withholding relevant information. Instead, the revelation of the irrelevant portion of the document has only triggered an inquiry into a matter that is irrelevant to the issues in this proceeding.

The service standard changes at issue in this proceeding relate exclusively to First-Class Mail. There are no Priority Mail, Standard Mail, Periodicals, Express Mail, or other subclass service standards at issue. That some analyst may have been concerned, at the time that the First-Class Mail service standard changes were being addressed, that something needed to be done to “fix” a Priority Mail “problem” is a matter unrelated to whether the 2000 and 2001 First-Class Mail service standard changes were implemented in compliance with § 3661 and result in the provision of service consistent with the policies of the Postal Reorganization Act, within the meaning of § 3662.

Mr. Popkin’s boundless interest in postal matters does not covert this proceeding into an aimless ramble to ponder every issue that strays across his path. The interrogatory seeks irrelevant information. The Postal Service should not be obliged to respond to it.

DBP/USPS-68

As with interrogatory DFC/USPS-GAN-31, which is the subject of a pending

discovery dispute,⁹ this interrogatory seeks information about topics which are compelling, but completely irrelevant to the legal issues raised by the complaint in this proceeding. Whether there are currently in place any emergency measures to deal with concerns about terrorism has nothing whatsoever to do with whether the Postal Service implemented the 2000 and 2001 service standard changes in a manner compliant with section § 3661. Nor would such emergency measures have anything to do with the issue of whether, as a result of the 2000 and 2001 service standard changes, First-Class Mail service is being provided in a manner consistent with the policies of the Act, within the meaning of § 3662. Mr. Popkin argues that “[the extent to which these [recent terrorist] events either have or will shortly affect the service standards is completely relevant and must be fully investigated.”

First of all, with all due respect, the Postal Rate Commission does not have jurisdiction to “investigate” the Postal Service. The purpose of this proceeding is not to investigate the Postal Service’s responses to recent terrorist activity. On its face, Mr. Popkin’s argument implies changes in service standards resulting from the recent terrorist events. Assuming, hypothetically, that such changes were even being contemplated, they would be new service standard changes, unrelated to the completion of Phase 2 of the realignment plan reviewed in Docket No. N89-1, specifically enacted to deal with terrorism, and thus, by definition not within the scope of those at issue in this proceeding. In PRC Order No. 1320 (September 12, 2001), the Commission did not assert jurisdiction in this proceeding to conduct open-ended hearings on potential responses to terrorism that had occurred the day before. It asserted jurisdiction to review the service standard changes described in the June 19, 2001, Complaint and in the July 30, 2001, Gannon Declaration. If Mr. Popkin is

⁹ See Opposition of the United States Postal Service to Motion of Douglas Carlson to Compel A Response to DFC/USPS-GAN-31 (November 9, 2001).

interested in what the Postal Service may or may not do in response to terrorist threats, he is free to review the public record of recent Congressional oversight proceedings. If he wishes to participate in proceedings seeking to review the service standard changes that prompted the Complaint in this proceeding, subject to the bounds of relevance, he may inquire about them. However, the Postal Service objects to Mr. Popkin's efforts to exploit Docket No. C2001-3 as a vehicle for obtaining information pertaining to irrelevant issues, no matter how compelling those issues may be.

Accordingly, the motion to compel should be denied.

DBP/USPS-38, 43 and 47

On October 29, 2001, the Postal Service indicated that responses to these interrogatories would be forthcoming. It is expected that responses will be filed either today or tomorrow, with motion for late acceptance explaining the delay.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that, in accordance with section 12 of the Rules of Practice, I have this day served the foregoing document upon all parties of record in this proceeding.

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