

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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Complaint on First-Class Mail
Service Standards

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

OBJECTION TO THE MOTION OF THE UNITED STATES POSTAL SERVICE FOR
LATE ACCEPTANCE OF RESPONSES TO INTERROGATORIES OF DAVID POPKIN
AND MOTION TO PROVIDE ME WITH A COPY OF A LIBRARY REFERENCE

November 19, 2001

On November 9, 2001, the United States Postal Service filed the Motion of the United States Postal Service for Late Acceptance of Responses to Interrogatories of David Popkin ["Motion"]. I wish to file an objection to that Motion.

Respectfully submitted,

November 19, 2001

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

The Motion filed on November 9, 2001, requests that the Postal Service be permitted to file responses to Interrogatories DBP/USPS-24[e], 27[f], and 30 a total of 36 calendar days late. The responses to these three interrogatories were also made on November 9th and refer to four Library References for the response. Three of these Library References were also filed on November 9th.¹ The response to DBP/USPS-30 also refers to USPS LR I-380 in Docket R20001.

The final paragraph of the Motion states:

Notwithstanding the delay, the Postal Service considers that no party has been prejudiced, as there is still plenty of time for discovery which would follow-up the responses to these interrogatories.

¹ USPS-LR-C2001-3/2 responsive to DFC/USPS-24[e] - Note: the correct Interrogatory designation is DBP/USPS-24[e]; USPS-LR-C2001-3/5 responsive to DBP/USPS-27[f]; and USPS-LR-C2001-3/6 responsive to DBP/USPS-30.

I would like to take exception to the self-serving comment that no party has been prejudiced. Had the Postal Service filed these responses on time on October 4th, I would have had 25 days to evaluate the responses prior to the expiration of the discovery period on October 29th. Furthermore, I would not have been restricted to interrogatories that met the condition of being follow-up interrogatories. I could also ask any interrogatories that might have been suggested when I evaluated these responses. Now that there has been a 36 day delay, the deadline for discovery has passed and I am now limited to a seven day time period to file only those interrogatories which are a direct follow-up of the responses.²

On November 13th,³ I requested from Postal Service Counsel copies of the four referenced Library References. Postal Service Counsel promised to send me three of the four Library References⁴ on November 13, 2001. Unfortunately, the promised mail service has not yet arrived as of today's mail.

With respect to Library Reference I-380 from Docket R2000-1, Postal Service Counsel stated, in part, as follows:

I-380 was filed in R2000-1, on May 19, 2000, in response to DBP/USPS-130. Accordingly, I assume you saw it a long time ago and we no longer have an obligation to dig it up for you again. On the other hand, maybe you're admitting that you request audit reports that you never bother to examine. If so, it suggests that you deliberately waste a lot of our time and resources -- a fact that should influence our relations with you in the future. I'm not sure what obligation I have in this case to provide you a copy of something from another case that you either have already reviewed or have ignored for so long. What do you think?

I responded to those comments, in part, as follows:

² On October 29, 2001, the Postal Service filed a response to DBP/USPS-44 stating in part, "If you are unable to do so, then you can appreciate why the Postal Service is unable to respond to this particular follow-up interrogatory." The original interrogatory was filed on October 15th - two weeks PRIOR to the expiration of the discovery period. Just because DBP/USPS-44 was worded like a follow-up interrogatory, it did not have to qualify as one.

³ The first workday after the notices appeared on the Commission's website.

Your comments regarding the R2000-1 library reference are inappropriate in my opinion. While I assume that it was provided to me a year and a half ago AND, IF SO, I KNOW I EVALUATED IT AT THAT TIME. I certainly don't remember all of the details of it at this time and it is you who are NOW introducing it into this docket. If I am going to fully litigate THIS DOCKET, then I would like to RE-examine it at this point.

In addition to the discussion regarding the Library References, I also attempted to obtain Postal Service Counsel's agreement to give me two weeks after the receipt of the library references to file follow-up interrogatories as well as those interrogatories that are suggested by evaluating these references. No response has been received to this request in five days.

Based on the above circumstances, I move for a period of two weeks after the receipt of all four of the Library References. This will allow me to provide a unified evaluation of the responses to DBP/USPS-30 and to file all interrogatories in a single pleading. I also request the ability to file those interrogatories that may be suggested by evaluating these responses since I would have had that opportunity if the responses had been timely filed.

I also move that the Postal Service be required to furnish me with a copy of the Library Reference from Docket R2000-1. After all, if they utilized it in response to this Docket, they fully evaluated it prior to their response and don't have to "dig it up." If they are going to refer to it in this Docket in response to my interrogatory, they should be required to furnish me with a copy, particularly if I request it.

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 19, 2001

David B. Popkin

⁴ The three that are associated with Docket C2001-3.