

RECEIVED

DEC 4 12 39 PM '01

PRESIDING OFFICER'S
RULING NO. C2001-3/8

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Complaint on First-Class Mail Standards

Docket No. C2001-3

PRESIDING OFFICER'S RULING
ON DBP/USPS-56(J) AND 79

(Issued December 4, 2001)

This ruling addresses David B. Popkin's motion to compel more responsive answers to interrogatories DBP/USPS-56(j) and 79, as well as the Postal Service's reply in opposition thereto.¹

Question 56(j). In this question, Mr. Popkin seeks a list of all local changes to the Docket No. N89-1 service standards that have been made in response to requests from local post offices, pursuant to official policy.² The Service does not directly state whether or not such a list exists; instead, it says it has some, but not all, files related to underlying requests. The answer also claims the requests are not relevant because they bear no relationship to the service standard changes in issue. In lieu of creating "a voluminous library reference full of allegedly irrelevant files," the Service proposes making the records available for inspection at Headquarters, subject to several conditions. These include, among other things, advance arrangements and one joint inspection for all interested parties.

¹ Motion to Compel Response to Interrogatories That Have Not Been Fully Responded To, November 21, 2001 (Popkin Motion to Compel) and Reply of the United States Postal Service to Motion of David Popkin to Compel Responses to Interrogatories, November 28, 2001 (Postal Service Reply). The interrogatories in issue here are also the subject of a separate motion for late acceptance encompassing numerous interrogatories. That motion (Motion of the United States for Late Acceptance of Responses to Interrogatories, November 23, 2001) is being ruled on separately.

² The Postal Service provided this policy, entitled "Policy for Requesting a Service Standard Change," in USPS-LR/C2001-3-1.

Mr. Popkin maintains, without elaboration, that the service standard changes that have been made — and particularly the reasons for making them — are relevant to the resolution of this docket. He opposes the Service's offer to provide inspection of files in lieu of a library reference; opposes the proposed conditions; and seeks production of the requests in the form of a library reference. Popkin Motion to Compel at 2.

Postal Service reply. The Service's reply claims this interrogatory seeks copies of records relating to requests for local service standard changes, as opposed to those related to a nationwide alignment. Postal Service Reply at 3-4. It also notes that the files consist of approximately three linear feet of records dating to 1993-94. *Id.* at 4. The Service characterizes Mr. Popkin's insistence that the files be submitted as a library reference as an effort to abuse the library reference rule and a waste of effort, noting this would entail producing two copies for the Commission, two for its own library for public access, and additional copies for intervenors. *Ibid.*

Ruling. While not explicitly stated in the Service's answer or its reply, the clear thrust of statements therein seems to be that Headquarters has not kept a running list of the type of local-initiated changes Mr. Popkin seeks. If this is not the case, the Service is directed to supplement its answer. Given the extensive period covered by the question and the numerous records involved, it appears that preparing such a list would impose a considerable burden on the Service, even if relevance were not an issue. Under the circumstances here, however, this is a concern. There has been only the mere assertion of relevance, without any accompanying explanation of why a list of local changes pertain to this case. Moreover, it has never been disputed that changes based on local requests can be made; in fact, the official policy relating to them is a matter of record.

The burden of preparing a library reference seems to outweigh potential relevance; therefore, I will not direct the Service to submit the files as a library reference. However, if Mr. Popkin cares to review the files, inspection should be allowed during business hours. If the Service does not make these files available at

Headquarters, it should make arrangements to send them to the Commission. Advance arrangements, in either event, should be made, but joint inspection will not be required.

Question 79. The Service has answered “generally yes” to DBP/USPS-79(a), which asks whether there is a requirement that all mail placed into the system on a given day be postmarked and processed on the same day. (Subpart (b) concerns the possibility of a “no” answer.) However, the Service has further asserted that this has no bearing on whether the service standards at issue were implemented in compliance with section 3661 or 3662. Mr. Popkin, indicating that this interrogatory is a slight modification of a previous question (DBP/USPS-28), claims an answer has not been provided and, with respect to relevance, claims that same-day processing is equivalent to establishing “day zero” for the start of the service standard results.³

In reply, the Service explains that there have been no changes in its postmarking policies and procedures and its policies on the relationship between the entry of mail and the beginning of processing. Postal Service Reply at 5. It also says these policies were not factors in developing the service standard changes at issue in this proceeding. *Id.* Moreover, the Service claims it is irrelevant to the issues in this proceeding how “day zero” is determined in calculating end-to-end delivery time or times in transit for particular pieces of mail entered by various methods and postmarked in accordance with standard operating procedure. *Id.* at 6.

Ruling. In the absence of the explanation the Service has provided in its reply, it is understandable that the “day zero” scenario might have appeared to present a promising avenue of inquiry. However, given the rather extensive explanation the Service has now provided, that possibility no longer exists. No further purpose would be served by requiring the Service to provide any additional information in response to this interrogatory. Accordingly, the Popkin Motion to Compel is not granted.

³ The change entails eliminating an example that had been provided in the earlier interrogatory.

RULING

The Motion to Compel Response to Interrogatories That Have Not Been Fully Responded To, filed November 21, 2001 by David B. Popkin, which concerns DBP/USPS-56(j) and DBP/USPS-79 is not granted, with the following qualifications concerning DBP/USPS-56(j):

- a. if a list of local service changes has been compiled, the Service is directed to supplement its answer; and
- b. inspection of the files referred to in the Service's pleadings (if pursued) shall proceed in accordance with the discussion in the body of this ruling.



Ruth Y. Goldway
Presiding Officer