

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

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U.S. POSTAL SERVICE  
WASHINGTON, D.C.

POSTAL RATE AND FEE CHANGES, 2001

Docket No. R2001-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE TO  
DAVID B. POPKIN MOTION  
TO COMPEL RESPONSE TO INTERROGATORIES  
(DBP/USPS-90, 123(B-D), 124-129, 130(A-C), 131-138)  
(January 17, 2002)

The United States Postal Service hereby responds to David B. Popkin's motion to compel responses to interrogatories DBP/USPS-90, 123(b-d), 124 to 129, 130(a-c), and 131 to 138, filed on January 10, 2002 (Motion).

In several parts of his Motion, Mr. Popkin argues that it is irrelevant whether a follow-up question could have been asked during the regular discovery period. Motion at 1-2. Mr. Popkin misunderstands the role of follow-up. If a response to a question raises issues that were also apparent during the regular discovery period, that response does not open up those issues to renewed discovery.<sup>1</sup> Otherwise, the Postal Service would have an incentive to be unresponsive in order to avoid reopening issues for which discovery had terminated. Providing full responses to legitimate discovery should not be punished by having every phrase and concept subject to follow-up. In particular, many of Mr. Popkin's interrogatories do not constitute "a logical next step" in

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<sup>1</sup> For example, if a response states that certain special service fees were raised 9 percent to be consistent with the systemwide average increase, questions about how the systemwide average increase was determined are not proper follow-up,

consideration of an issue. Presiding Officer's Ruling No. R90-1/56 at 2. Instead, the answer to OCA/USPS-236 simply reminded Mr. Popkin of questions about the return receipt procedures for each Area that were similar to questions asked during the regular discovery period. See, e.g., DBP/USPS-24, 25, 61, 72, and 76. Mr. Popkin should not be permitted "either [to ask] new questions or seek to expand questions already answered" in the guise of follow-up. Presiding Officer's Ruling No. R2000-1/98 at 5.

DBP/USPS-90:

The Postal Service is once again baffled by Mr. Popkin's attempt to compel information that, at this point, is non-discovery. Pending the Commission's determination on the discoverability of information initially sought in DBP/USPS-84, Mr. Popkin has no basis to compel its discovery. Procedurally, his motion is improper as it lacks ripeness. Therefore, the Postal Service opposes Mr. Popkin's Motion to Compel.

DBP/USPS-123(b) to 130(a-c), and 131 to 135:

With respect to interrogatories DBP/USPS-123(b) to 130(a-c) and 131 to 135, Mr. Popkin seems to suggest that varying return receipt practices at different facilities would be inconsistent with the Domestic Mail Manual, and relevant to the value of service. But as with many postal products and services, there are many ways, consistent with the regulations, to provide appropriate service to the customer. Practices must vary to meet the circumstances and customer needs in different locations. Different practices at different facilities and for different customers can be efficient, and consistent with DMM regulations.

Thus, Mr. Popkin's argument that the more than 100-hour burden of responding to these interrogatories is warranted because it would show variations in practices should be rejected.<sup>2</sup>

DBP/USPS-136:

Concerning interrogatory DBP/USPS-136, Mr. Popkin asked about issues relating to the isolation of mail at tax agencies during the regular discovery period. See, e.g., DBP/USPS-61, 72, and 76. Questions about isolating Delivery Confirmation mail could have been asked during the regular discovery period. Determining the Delivery Confirmation procedures is a similar exercise to studying the procedures for certified/return receipt mail at tax agencies. The Postal Service has provided OIG audits on these matters, but should not be required to conduct its own audit as part of rate case discovery.

Just because Mr. Popkin believes that there "should only be one standardized procedure" does not mean that there is only one procedure. Motion at 2. The burden of responding simply is not justified by any value this information could have to rate case issues. Scanning procedures at tax agencies would certainly not affect Delivery Confirmation pricing if tax agencies do not receive a significant proportion of all Delivery Confirmation mail. But there is no evidence that Delivery Confirmation at tax agencies is a significant proportion of total Delivery Confirmation volume.

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<sup>2</sup> The variation in practices is already apparent from prior interrogatory responses, such as interrogatories OCA/USPS-236 and 237, and DBP/USPS-104 and 105.

DBP/USPS-137:

Concerning interrogatory DBP/USPS-137, Mr. Popkin himself seems to recognize that the chart provided in response to interrogatory OCA/USPS-236 has only limited relevance to the value of service for accountable mail. The Postal Service has provided what it obtained from Andover concerning its action plan. Further details for this one location are not relevant to value of service in any sense that would affect rate case issues. Certainly any relevance would not justify the burden for the field of having to respond to questions about this chart.<sup>3</sup>

DBP/USPS-138:

The Postal Service responded on January 15 to the parts of interrogatory DBP/USPS-138 which directly concern the flow charts provided in response to interrogatory OCA/USPS-236. In particular, the Postal Service is confirming that Mr. Popkin's interpretation of the flow chart is correct. But parts c to h of this interrogatory are general questions about the processing procedures at Hartford, and go well beyond what is needed to clarify or elaborate on the response to interrogatory OCA/USPS-236. To the extent that the processing of certified mail

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<sup>3</sup> The Postal Service's rate case team risks future cooperation from field employees if each piece of information provided leads to follow-up.

and return receipts at Hartford was a rate case issue, it was an issue for the initial discovery period only.

*Respectfully submitted,*

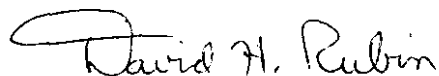
UNITED STATES POSTAL SERVICE

By its attorney:

  
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David H. Rubin

**CERTIFICATE OF SERVICE**

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

  
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David H. Rubin

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