

RECEIVED
FEB 4 10 41 AM '02

PRESIDING OFFICER'S
RULING NO. C2001-3/18

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

Complaint on First-Class Mail Service Standards

Docket No. C2001-3

PRESIDING OFFICER'S RULING DENYING POPKIN MOTION
TO COMPEL A RESPONSE TO DBP/USPS-136(d-f)
AND DEFERRING A RULING ON DBP/USPS-137(m-o)

(Issued February 4, 2002)

This ruling addresses interrogatory DBP/USPS 136(d-f), which is the subject of a motion to compel from Mr. Popkin. Motion to Compel Response to Interrogatories DBP/USPS-136(d-f) and 137(m-o) That Have Been Objected To, January 4, 2002 (Popkin Motion to Compel). Interrogatory DBP/USPS-137(m-o), which Mr. Popkin also included in the instant motion, will be addressed in a subsequent ruling.¹

The Postal Service objected to question 136(d-f) and opposes Mr. Popkin's motion to compel a response. Objections of the United States Postal Service to Interrogatories DBP/USPS-136(d-f) and 137(m-o), December 26, 2001 (Postal Service Objections); Opposition of the United States Postal Service to Motion of David Popkin to Compel a Response to DBP/USPS-136(d-f) and Reply to Comments Regarding DBP/USPS-137(m-o), January 10, 2002 (Postal Service Opposition).

DBP/USPS-136(d-f) (follow-up to DBP/USPS 107). The questions in issue are part of a series prefaced with a reference to the following language in DMCS § 252: "First-Class Mail receives expeditious handling and transportation, except that when First-Class Mail is attached to or enclosed with mail of another class, the service of that

¹ The Service suggests deferring a ruling on question 137(m-o), as it relates to data the Service considers commercially sensitive and privileged. The Service says its regards the application of protective conditions to DFC/USPS-1 and DFC/USPS-9 as controlling on the question of intervenor access to information requested in DBP/USPS-137(m-o). Opposition of the United States Postal Service to Motion of David Popkin to Compel a Response to DBP/USPS-136(d-f) and Reply to Comments Regarding DBP/USPS-137(m-o), January 10, 2002, at 2-3.

class applies.” In subparts d and e of question 136, Mr. Popkin asks for a complete list of the details of distinctions made under two scenarios: where the expeditious handling and transportation provided for the Letters and Sealed Parcels subclass and the Cards subclass is *less than* that provided for the Priority Mail subclass, and where expeditious handling and transportation for the same two subclasses is *greater than* that for Priority Mail. In subpart (f), Mr. Popkin asks for an explanation of how users of the Letters and Sealed Parcels subclass and the Cards subclass will receive a level of service that *equals* the level provided the Priority Mail subclass.

The Service’s position. The Service objects to providing a response to these questions on grounds that they pursue mail handling differences between the two subclasses of concern in this proceeding and the handling of mail within a subclass – Priority Mail – that is not in issue. It asserts that to the extent these questions seek information pertinent to Priority Mail or the differences between First-Class mail and Priority Mail, they seek information that is not relevant or necessary to resolution of the issues in this proceeding. Postal Service Objections at 1.

Motion to Compel. In support of his motion to compel, Mr. Popkin argues that since the wording of the DMCS for the handling of First-Class Mail applies equally to the Letters and Sealed Parcels, Cards and Priority Mail subclasses, the differences are relevant to this case and are necessary to fully evaluate the methods by which the service standards meet DMCS requirements. Popkin Motion to Compel at 1. In opposition to Mr. Popkin’s motion, the Service reiterates that this question, like question 141 to which it also has objected, seeks an explanation of the differences in the Postal Service’s application of the DMCS wording regarding the handling of the First-Class subclasses that result in different service standards for (a) the Letters and Sealed Parcels and the Cards subclass and (b) Priority Mail.

The Service also takes issue with Mr. Popkin’s contention that differences between the three subclasses are relevant to this case and are necessary to fully evaluate the methods by which the service standards meet the requirements of the DMCS. Postal Service Opposition at 1. It notes, among other things, that this case

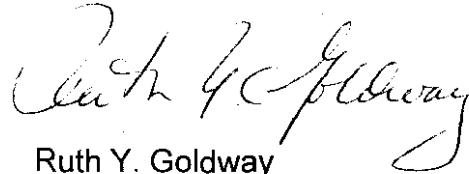
does not involve Priority Mail. Thus, it contends that how and why Priority Mail service standards vary from the Letters and Sealed Parcels and Cards service standards have no bearing on the central question in this complaint. *Id.* at 2. The Service also says that the question of whether the service standard changes for Letters and Sealed Parcels and Cards at issue here result in service that does conform to the policies of the Postal Reorganization Act within the meaning of section 3662 has no relation to how and why the Priority Mail service standards are different from either current or prior service standards for Letters and Sealed Parcels and Cards. *Ibid.*

Ruling. I agree with the Service that resolution of Mr. Popkin's motion turns on the lack of relevance these questions bear to the central concerns of this complaint. Handling and transportation in Priority Mail, whether resulting in service greater, less than, or equal to Letters and Sealed Parcels and Cards, is a topic that strays too far from those that are under consideration in this proceeding. The issues under consideration can be fully evaluated without reference to Priority Mail. Moreover, the instant complaint has been expanded once already, and considerable leeway has been granted in terms of the scope of discovery. Sanctioning inquiries into Priority Mail handling and transportation would be an unwarranted invitation to further complication and undue delay in resolving the central issues. Accordingly, Mr. Popkin's motion to compel a response to DBP/USPS-136(d-f) is denied.

RULING

1. Mr. Popkin's Motion to Compel Response to Interrogatories DBP/USPS-136(d-f) and 137(m-o) That Have Been Objected To, filed January 4, 2002, is denied with respect to DBP/USPS-136(d-f).

2. Mr. Popkin's Motion to Compel Response to Interrogatories DBP/USPS-136(d-f) and 137(m-o) That Have Been Objected To, filed January 4, 2002, is deferred with respect to DBP/USPS-137(m-o).

A handwritten signature in black ink, appearing to read "Ruth Y. Goldway". The signature is written in a cursive style with a large, sweeping initial "R".

Ruth Y. Goldway
Presiding Officer