

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

EXPERIMENTAL PREMIUM
FORWARDING SERVICE

Docket No. MC2005-1

OPPOSITION OF UNITED STATES POSTAL SERVICE
TO DAVID B. POPKIN MOTION
TO COMPEL RESPONSES TO DBP/USPS-T1-76-80
(March 7, 2005)

In accordance with Rule 26(d) of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby files its answer to the David B. Popkin Motion to Compel Responses to DBP/USPS-T1-76-80, filed on February 28, 2005. The Postal Service filed an objection to those interrogatories on February 23, 2005. For the reasons presented herein, the Postal Service respectfully opposes Mr. Popkin's motion to compel.¹

The interrogatories in question are as follows:

DBP/USPS-T1-76. Please refer to your response to DBP/USPS-T1-64. (a) Please confirm, or explain if you are unable to do so, that mailers do present Priority Mail to the Postal Service in Priority Mail pouches (see USPS linkonline posted February 7, 2005 at 12:30 PM ET as an example). (b) Please confirm, or explain if you are unable to do so, that the Postal Service also provides drop shipments in the reverse manner than described in your response to subpart d of DBP/USPS-T1-64, namely, the Postal Service will take mail arriving at a local address and place it in a Priority or Express Mail pouch and forward it to an addressee at another location such as might be done with a film developer having all of the film having mail [sic] that is sent to a New Jersey address being forwarded to a centralized address in another state for processing.

DBP/USPS-T1-77. Please refer to your response to DBP/USPS-T1-64 subpart e. Your response stated "even if it was physically capable of being utilized." Please confirm, or

¹ Consistent with Rule 26(d), the arguments presented in this answer supplement the arguments presented in the Postal Service's objection to DBP/USPS-T1-76-80.

explain if you are unable to do so, that the scenario described could be, as opposed to "even if", physically utilized as a container for reshipping PFS mail.

DBP/USPS-T1-78. Please refer to your response to DBP/USPS-T1-64 subparts e through g. Your response stated that the Postal Service rarely delivers mail in a pouch. Under what scenarios would this "rare" occasion take place?

DBP/USPS-T1-79. Please refer to your response to DBP/USPS-T1-64 subparts e through g. Your response stated that pouches are not intended for the delivery of mail to individuals or households. Is this because individuals or households normally do not receive the volume of mail that would be entailed in delivering it in a pouch or is it because there is a reason to limit delivery in pouches only to classes of addressees that are not individuals or households. If so, please provide the reasons for this limitation and also advise the classes of addressees that are eligible to receive delivery in pouches and the conditions under which it might occur.

DBP/USPS-T1-80. Please refer to your response to DBP/USPS-T1-64 subparts e through g. If an individual or household received the volume of mail that warranted utilization of a Priority Mail pouch for reshipment of this mail, please explain why a pouch could not be utilized.

The Postal Service objected to these interrogatories because, by extensively querying witness Cobb about orange Priority Mail pouches, they seek to engage her in a broad-based examination of a topic that is irrelevant and immaterial to this limited proceeding. The Postal Service noted in its objection that witness Cobb has clearly explained, in her response to interrogatory DBP/USPS-T1-64, that the pouches would not be utilized for Premium Forwarding Service (PFS) because they are not intended for the delivery of mail to individuals or households.² The Postal Service also noted that while witness Cobb's response to interrogatory 64 does indicate that orange pouches are used for processing certain Priority Mail, it proposes no changes to Priority Mail operations in this docket. As such, the Postal Service argued that responding to these interrogatories would add nothing to the record that would aid the Commission in

² As also noted in its objection, the Postal Service has explained in substantial detail what containers it does propose to use for PFS, ranging from Priority Mail flat rate envelopes to existing Priority Mail boxes and other suitable boxes. See, e.g., Response of Witness Cobb to DBP/USPS-T1-2.

considering this experimental proposal. In addition, the Postal Service objected to several of the interrogatories on other grounds, such as cumulateness.

In his Motion to Compel, Mr. Popkin argues that responses to these interrogatories are necessary so that he can argue on brief that the orange Priority Mail pouches should be used as reshipment containers for PFS. While Mr. Popkin is certainly free to make this argument, notwithstanding the Postal Service's clearly expressed intention not to use them, witness Cobb's response to interrogatory 64 provides him with more than enough information on the record with which to do so. As such, not only are these interrogatories immaterial to this proceeding, but responding to them is unnecessary even for the purpose Mr. Popkin cites in submitting them.³

In her response to interrogatory 64, witness Cobb provided the following information concerning the orange Priority Mail pouches in relation to PFS: 1) the Postal Service utilizes orange Priority Mail pouches; 2) those pouches are intended for transporting Priority Mail among postal facilities and for use by Priority Mail drop shippers, and are not intended to be handled by other customers; and 3) because the pouches are not intended for the delivery of mail to individuals or households (which in turn means they are not designed to be in the possession of those customers for whom PFS is designed), they would not be used for PFS. Apparently missing the point that the pouches are re-usable mail processing equipment that the Postal Service does not just give away by delivering them to individuals or households, and are therefore not suited to PFS, Mr. Popkin now wishes to argue that they should be used as a PFS container. He completely fails to articulate, however, why a response to each of his

³ For the reasons discussed *infra* at pages 4-5, however, the Postal Service has decided to file a response to DBP/USPS-T1-77. This response will be filed shortly.

purported follow-up interrogatories would materially expand upon the information already available to him to support such an argument.⁴ In addition, Mr. Popkin completely fails to address the other objections that the Postal Service had to several of the interrogatories. The interrogatories are now addressed in turn.

DBP/USPS-T1-76

With respect to part (a) of this interrogatory, Mr. Popkin does not contest the Postal Service's objection that it is cumulative. In addition, he does not explain why further confirmation that mail is sometimes presented to the Postal Service in orange Priority Mail pouches would aid him in making his argument on brief, considering the entry of mail in orange sacks fails to address the impropriety of delivering them to residential customers. Similarly with respect to part (b), Mr. Popkin does not explain why confirmation that the Postal Service engages in certain operational procedures for business concerns that make use of the orange pouches would aid him in making an argument that those pouches should be delivered to individuals or households.

DBP/USPS-T1-77

Mr. Popkin is apparently unsatisfied with witness Cobb's response to interrogatory 64 as to whether the orange pouches could be "physically utilized" as a reshipment container. In consideration of Mr. Popkin's apparent desire to present an argument on brief that the orange pouches should be used as a PFS container, the Postal Service has decided to file a response to this interrogatory, on the grounds that it at least arguably seeks information that materially expands upon the information

⁴ The one arguable exception is interrogatory DBP/USPS-T1-77, which is discussed *infra* at pages 4-5.

provided to him in witness Cobb's response to interrogatory 64.⁵ As such, the Motion to Compel is moot with respect to this interrogatory.

DBP/USPS-T1-78

Witness Cobb's response to interrogatory 64 concerning the use of the pouches for delivery reflects normal operational procedures; however, in the recognition that in the broad ambit of postal operations a claim that something "never" happens may not be completely true, she qualified her response by indicating that such use of the pouches would be rare. Any further response would entail speculation on her part as to when the orange pouches might be used in a manner inconsistent with their customary usage, and Mr. Popkin does not explain how any such speculation would aid him in arguing that they should be available for use as a PFS container.

DBP/USPS-T1-79

Mr. Popkin does not explain how or why a response to this interrogatory is necessary for him to make the argument that the pouches should be used under PFS. Mr. Popkin apparently wishes to argue that Priority Mail operations should be altered so that the orange pouches are customarily placed into the hands of residential customers, and he already has more than enough information with which to make that argument: he knows the customary usages of the pouches, that the pouches could theoretically be delivered to a PFS customer, and why they would not be delivered to a PFS customer.

⁵ This response, which will be filed shortly, is to the effect that orange Priority Mail pouches can often accommodate more than one Priority Mail parcel when used in a manner for which they are intended. The Postal Service has not, however, studied whether this capability suffices for such pouches to be "physically utilized" for PFS. So far as the Postal Service is concerned, the orange pouches are not suited to use with PFS, physically or otherwise, since they are not suited for delivery to household customers.

As such, any further response that witness Cobb could provide to this interrogatory would not materially aid him in arguing that they are suitable for PFS customers.

Moreover, Mr. Popkin completely fails to contest the Postal Service's objection that asking witness Cobb to discuss "the classes of addresses that are eligible to receive delivery in pouches and the conditions under which it might occur" is cumulative.

DBP/USPS-T1-80

Mr. Popkin does not contest the Postal Service's assertions that this interrogatory is cumulative and that it makes an unfounded assumption. In addition, he does not explain why a response to this interrogatory would clarify or elaborate on the information provided by witness Cobb in her response to interrogatory 64, since that response makes it abundantly clear why the Postal Service would not utilize an orange pouch for PFS reshipments.

Overall, while Mr. Popkin's concern about the use of Priority Mail postage due reshipment for Standard Mail and Package Services parcels that are not placed in the PFS container is reasonable,⁶ his apparent belief that it can be obviated through using the orange pouch as a reshipment container is ill-founded.⁷ The Postal Service recognizes the concerns expressed by the participants over the use of Priority Mail

⁶ The Postal Service recognizes that the use of Priority Mail postage due reshipment introduces some uncertainty as to the ultimate cost for a customer who considers applying for PFS. However, as has been extensively explored on the record, since delivery customers often have control over when and where parcels are sent to them, the Postal Service chose to impose the costs of such pieces only upon those customers who do not exercise that control rather than raising the price of PFS for all customers.

⁷ In addition, Mr. Popkin's motion seems to reflect a fundamental misconception concerning the PFS proposal. His argument that the \$10.00 per-shipment charge "will cover the cost of reshipment of all mail that the customer receives regardless of the class of mail so long as the mail will fit inside a container and does not require a scan or collection of postage due" is not supported by record evidence.

postage due reshipment, and has clearly explained why this is an aspect of the product definition and why it should not represent an inordinate added expense for PFS customers.⁸ The Postal Service has also agreed that clearly informing customers of the circumstances in which a parcel would be reshipped postage due is essential in ensuring that customers exercise their control over where parcels are sent.⁹ However, for the reasons provided by witness Cobb in her response to interrogatory 64, using an orange Priority Mail pouch as a reshipment container is simply not appropriate for PFS. To the extent that Mr. Popkin wishes to argue otherwise on brief, he has ample record evidence with which to do so, and should not be allowed to propound follow-up interrogatories about the pouches that seek information that does not materially clarify or elaborate on that evidence. In the end, requiring witness Cobb to continue researching, discussing, or speculating about immaterial and cumulative questions regarding these pouches is completely unnecessary.

⁸ See, e.g., USPS-T-4, Attachment C, page 2.

⁹ For example, as part of the revised data collection plan filed as an attachment to the Stipulation and Agreement submitted to the Commission on March 1, 2005, the Postal Service has agreed to provide a table that informs customers of the potential need to pay postage due.

For the foregoing reasons, the Postal Service hereby requests that Mr. Popkin's Motion to Compel be denied.

Respectfully submitted,

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