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

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| 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-T1-84-85
(March 15, 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-T1-84-85, filed on March 14, 2005. The Postal Service filed an objection to those interrogatories on March 10, 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-T1-84. Please refer to your response to DBP/USPS-T1-82. Your response failed to respond to my original interrogatory. The level of "complication" of the product is up to the Postal Rate Commission to decide after evaluating the Postal Service's proposal and the comments of the intervening parties. I would like to propose on Brief that the wording of proposed DMCS Section 937.11 be modified to eliminate the reference to reshipment of mail which requires a scan upon delivery being sent Priority Mail postage due. In order to be able to accurately make this claim, the information requested in this interrogatory is needed. The Postal Service is the only party that has the information requested. Since this interrogatory is reasonably calculated to lead to the discovery of admissible evidence, I again request a response to DBP/USPS-T1-82.

DBP/USPS-T1-85. Please refer to your response to DBP/USPS-T1-83. Your response failed to respond to my original interrogatory. I would like to propose on Brief that the

[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-T1-84-85.

wording of proposed DMCS Section 937.31 be modified to eliminate the reference to making the request at the post office responsible for delivery to that customer's primary address. I am attempting to show that the interaction that takes place between the Gracie Station [a different station of the post office responsible for delivery to the customer's primary address] and the Village Station (the station that is responsible for delivery) of the New York, NY post office would be done in a manner which would be no different than would be conducted between the Tampa, Florida post office (a remote location). My belief is that the interactions would all be done by a means that did not require an employee of the Gracie Station to physically travel down to the Village Station but would be done in a manner, such as telephone, fax, or mail, which would exist equally between Tampa and the Village Station. The Postal Service is proposing to allow for termination or extension of PFS to be done without making a physical appearance to the post office responsible to the customer's primary address. However, the Postal Service is also proposing to not permit modification of the PFS service but to require the original service to be terminated and have the customer re-enroll in a new service. Furthermore, the Postal Service is requiring that enrollment or re-enrollment must be accomplished at the post office, including any stations or branches, responsible for delivery to the PFS customer's primary address. Therefore, an enrollment or re-enrollment in PFS would not only require an additional $10 fee for re-enrollment for a change but would also require a physical appearance at the post office responsible for the PFS customer's primary address. If a customer established PFS to send the mail from New York City to Florida and then while in Florida found it necessary to change the address in Florida that they receive the mail or even to have to go to California directly from Florida, they would have to make a physical trip back to New York just to walk into the New York post office and present a new application. I would like to be able to show on Brief that this trip from Florida to New York City is unnecessary and completely inappropriate. The Postal Service is the only party that has the information requested. Since this interrogatory is reasonably calculated to lead to the discovery of admissible evidence, I again request a response to DBP/USPS-T1-83.

The Postal Service objected to these interrogatories as being cumulative and argumentative. The Postal Service noted that both interrogatories consist entirely of an argument by Mr. Popkin that a previous interrogatory (interrogatory 82 in the case of interrogatory 84, and interrogatory 83 in the case of interrogatory 85) was not answered, and that he is still therefore owed a response. The Postal Service pointed out, however, that witness Cobb has fully responded to both interrogatories 82 and 83, and that as such it is improper for Mr. Popkin to submit purported “follow-up interrogatories” whose

sole purpose are to demand that witness Cobb respond again to an interrogatory that she has already answered.[2]

In his Motion to Compel, Mr. Popkin completely fails to demonstrate why these interrogatories constitute proper follow-up to interrogatories 82 and 83. His motion is largely confined to simply repeating what he stated in interrogatories 84 and 85 themselves, namely that he wishes to make certain arguments on brief, and that responses to the interrogatories are necessary in order for him to make those arguments. This discussion as to his "purpose" in submitting each interrogatory, however, in no way addresses the fundamental point advanced by the Postal Service in its objection—that interrogatories 82 and 83 were fully answered by witness Cobb, and that as such follow-up interrogatories that amount to nothing more than a demand that she answer them again are improper. Follow-up interrogatories are designed to clarify or elaborate on the information provided by a witness in her response to an underlying interrogatory. In this case, however, where the underlying interrogatories have been fully answered, and the follow-up interrogatories simply demand that they be answered again, any responses that witness Cobb would make to interrogatories 84 and 85 would simply be a recitation of her responses to interrogatories 82 and 83.

In addition, any responses to interrogatories 84 and 85 that Mr. Popkin feels he is entitled to are completely unnecessary even if one considers his stated purposes for submitting them. With respect to interrogatory 84, Mr. Popkin does not appear to understand that witness Cobb has never denied the theoretical feasibility of his barcode

[2] The Postal Service also noted that the "interrogatories" are procedurally irregular, serving as motions to compel a more complete response rather than as follow-up interrogatories.

approach, only that the approach has not been studied; thus, to the extent that Mr. Popkin "need[s] information as to the feasibility of [his] proposal," that information is already on the record. With respect to interrogatory 85, meanwhile, the Postal Service filed a supplemental response to interrogatory 83 in order to clearly explain its rationales for why enrollment would not be allowed at a facility that is not under the same administrative supervision as the primary address delivery unit; to the extent that Mr. Popkin has a "perception" that the relationship between the two stations he identifies belies these rationales, he is free to share that perception with the Postal Service and the Commission on brief, but there is no more material information that the Postal Service can add to the record in regard to this aspect of the PFS product definition.[3]

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

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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[3] The Postal Service has not, as part of the PFS proposal, studied the relationship between specific facilities in specific multi-facility post offices. PFS is proposed as a uniform, nationwide service, with standardized rules. One purpose of the experiment is to determine if local operational issues arise.