

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

POSTAL RATE AND FEE CHANGES  
PURSUANT TO PUBLIC LAW 108-18

Docket No. R2005-1

OBJECTIONS OF THE UNITED STATES POSTAL SERVICE TO  
INTERROGATORIES OF DAVID POPKIN  
(DBP/USPS-1, 2, 3, 5, 7, 9, 10, 12, 17-20, 23)  
(April 18, 2005)

As indicated below, the United States Postal Service hereby files its objections to the above-referenced interrogatories filed by David Popkin on April 8, 2005.

DPB/USPS-1

This interrogatory seeks a variety of operational data on collection boxes to which the Postal Service partially objects. The Postal Service submits that the level of detail sought is neither relevant nor material to this proceeding. Without waiving that objection, however, the Postal Service will endeavor to provide the requested information to the extent it is available.

DBP/USPS-2

This interrogatory seeks Headquarters and Area directives regarding collection boxes, and copies of OIG or Inspection Service audits on collection service. It thus corresponds to DBP/USPS-5 in Docket No. R2001-1 and DBP/USPS-20 in Docket No. R2000-1. In this case, however, the request is broader, as in those cases, subpart (a) was limited to Headquarters directives, while in this case, subpart (a) also includes any Area directives. In Ruling No. R2000-1/56 (May 2, 2000), the Presiding Officer denied

a motion to compel a response to subpart (a), but ordered the Postal Service to produce one known audit report that touched on collection practices in response to subpart (b). Thus, when Mr. Popkin posed the same question again in Docket No. R2001-1, the Postal Service filed an objection to subpart (a), but responded to subpart (b). Objection of the United States Postal Service to Popkin Interrogatories DBP/USPS-4, 5(a), and 6 (December 4, 2001). Presumably in light of the Presiding Officer's Ruling on the same question in Docket No. R2000-1, Mr. Popkin did not file a motion to compel in Docket No. R2001-1. Yet he nonetheless files the same question again in this docket. The Postal Service objects to DBP/USPS-2(a) on the same grounds its objection to a very similar question was upheld in Docket No. R2000-1. The Postal Service will respond to DBP/USPS-2(b).

### DBP/USPS-3

This interrogatory requests a very detailed breakout of weekday and Saturday last pick-up (LPU) time collection box data for a multi-year period. It corresponds to OCA/USPS-292 from Docket No. R2001-1, and DBP/USPS-93, which attempted to follow up on OCA/USPS-292. On December 6, 2001, the Postal Service filed a partial objection to OCA/USPS-292, noting that the level of operational detail sought appeared to go beyond that possibly relevant or material to the recommendations to be made by the Commission on proposed rates and fees. Nonetheless, the Postal Service filed a response to OCA/USPS-292, but cautioned that it did not intend for its response to be construed to concede the relevance or materiality of the information sought. When Mr. Popkin sought, through DBP/USPS-93, to elicit greater detail than provided in

OCA/USPS-292, the Postal Service objected, and the Presiding Officer upheld most of the objection. See Presiding Officer's Ruling No. R2001-1/41 (Jan. 29, 2002) at 1-4. In the current case, DBP/USPS-3 seeks information of the type provided (under objection) in response to OCA/USPS-292, but also seeks augmented information of the type requested in subparts (a) and (d) of DBP/USPS-93. The Presiding Officer in his Ruling No. 41 in R2001-1 specifically denied Mr. Popkin's motion to compel regarding those subparts, finding that Mr. Popkin "never successfully demonstrates a sufficient nexus on issues before the Commission." *Id.* at 3.

With this background, the Postal Service's position on DBP/USPS-3 in this case is as follows. The Postal Service still retains its partial objection, as it did in response to OCA/USPS-292, that the level of detail sought is neither relevant nor material to this proceeding. Without waiving that objection, however, the Postal Service will endeavor to update the information provided in response to OCA/USPS-292 for the last three years.

#### DBP/USPS-5

The Postal Service objects to this interrogatory on two grounds. First, it seeks EXFC service performance data disaggregated at a level irrelevant to the establishment of postal rates on a national basis. Disaggregated service performance estimates for each of the 90 Performance Clusters measured by the EXFC system have no bearing on the issue of the rates for First-Class Mail on a national basis. Such data may have been relevant to the issues raised by the complaint in Docket No. C2001-3. However, national aggregate EXFC data are the proper focus of examination in an omnibus rate case.

DBP/USPS-7

This interrogatory consists of a series of questions posed during Docket No. C2001-3, where the focus was a detailed examination of changes in First-Class Mail service standards and transportation implemented in 2000-01. Most subparts of this interrogatory were asked and answered in Docket No. C2001-3. Other than subparts (a) and (b), the Postal Service is unable to conceive of a basis asserting relevance of the remainder of the questions to the current docket. For example, part (g) requests disclosure of “press releases, directives and other memoranda related to First-Class Mail service at the time that Air Mail service was eliminated.” Such documents, if they could be located, are neither relevant nor necessary to a resolution of the issues in the current docket.

These questions seem merely to have been extracted from the previous docket and incorporated into a Docket No. R2005-1 interrogatory set, as if part of an effort to file as many interrogatories as possible on the date that the request was submitted. To the extent that parties seek confirmation of previously asked and answered questions, they should assume the burden of asserting relevance to this docket by means of a motion seeking to have those previous responses verified and entered into the record in the current docket. Alternatively, parties may informally or formally propose that the Postal Service stipulate to their inclusion in the Docket No. R2005-1 record.

The practice of simply reviving questions asked and answered in a previous non-rate case docket (or worse yet, asked, objected to, and deemed irrelevant by a Presiding Officer’s Ruling in a previous rate case) must cease. The purpose of

discovery in the current proceeding – an omnibus rate proceeding -- is not to seek updated responses to interrogatories propounded in the context of service complaint litigation simply because an opportunity to ask questions has arisen or because one is curious about what the answers might be today.

It is hoped that parties will discontinue the practice of wholesale, indiscriminate regurgitation of interrogatories from previous dockets, without examining their relevance to the current docket. A different approach will allow interrogatory recipients to more efficiently utilize their resources to build a record relevant to the issues in the docket at hand and will minimize the extent to which the Commission must be burdened to mediate unnecessary disputes. Discovery in Commission proceedings is not a game. Participants, particularly experienced, participants, should reconsider practices that show a disregard for Commission rulings on previously asked questions, especially when those parties are the source of those questions and the target of those rulings. There are very efficient methods under the Commission's rules for the development of the record in the current docket. The Postal Service strongly encourages all parties to consider all of them.

DBP/USPS-9(d) and (e)

The first of these interrogatories seeks information regarding processing of mail directed to government agencies in Washington DC with 3-digit ZIP Code prefixes ranging from 202 to 205. The second requests identities of postal personnel in the Washington DC area.

As in every previous omnibus rate docket, the Postal Service has presented

information in Docket No. R2005-1 regarding mail processing and costs for each mail class on a system-wide basis. Disclosure of localized or specialized mail processing procedures employed in and around Washington DC is not necessary to resolve the ratemaking issues raised by the Postal Service's request. Moreover, some mail processing procedures within the scope of this interrogatory are related to homeland security concerns and their public disclosure could compromise the Postal Service's ability to safeguard the mail stream. The attribution and allocation of the costs of any such mail processing operations, wherever they may be employed within the national postal system, are matters properly subject to examination in these proceedings. However, exactly how such procedures are employed in any one particular location is not relevant to the Commission's responsibility to examine such cost attribution and allocation on a system-wide basis. Moreover, a request seeking the names, titles and work addresses of postal employees "responsible for the delivery of mail to these agencies" will not produce admissible evidence relevant to any issue in this proceeding. Accordingly, the Postal Service objects to the use of discovery in this docket to pursue matters irrelevant to the issues raised by its rate request. If Mr. Popkin has issues with or questions about mail he sends to government agencies in Washington DC or elsewhere, he is free to use existing channels within the Postal Service to seek resolution and answers. Docket No. R2005-1 is not the proper forum. Persons seeking information of the nature requested here have the option of determining the existence of and any limitations on public access to agency records under the terms of the Freedom of Information Act, 5 U.S.C. § 552. The rules of discovery in this proceeding

are not an invitation to request any postal information, irrespective of its relevance to the ratemaking process.

DBP/USPS-10

This interrogatory seeks information about Postal Service operational policies that appear to be irrelevant to postal ratemaking. Without waiving its relevance objection, the Postal Service will endeavor to respond.

DBP/USPS-12

The four subparts of this interrogatory seek to explore the nature of the relationship between the External First-Class Mail (EXFC) service performance measurement system scores and the compensation of “many Postal Service Installation Heads” and other Postal Service managers. Such information is irrelevant to the issue of postal ratemaking and First-Class Mail rates and classifications. Accordingly, to the extent that the interrogatory seeks such information, it is not reasonably calculated to lead to the production of relevant admissible evidence. Persons seeking information of this nature should seek to determine the existence of and any limitations on public access to agency records under the terms of the Freedom of Information Act, 5 U.S.C. § 552.

DBP/USPS-17 and 18

Question DBP/USPS-17 and 18 in this docket are not discernibly different from questions (DBP/USPS-4 and 6) posed by Mr. Popkin in Docket No. R2001-1, which were virtually identical to questions (DPB/USPS-19 and 21) posed by Mr. Popkin in Docket No. R2000-1. In Docket No. R2000-1, the Postal Service objected to questions

19 and 21, and the Presiding Officer denied Mr. Popkin's subsequent motion to compel. Presiding Officer's Ruling No. R2000-1/56 (May 2, 2000). In Docket No. R2001-1, in reliance on the ruling from the previous case, the Postal Service on December 4, 2001, objected to DPB/USPS-4 and 6, and Mr. Popkin, apparently in view of the previous adverse ruling, did not move to compel. He has, however, once again posed the same questions in this case. Therefore, the Postal Service objects to DBP/USPS-17 and 18 in this proceeding on the same grounds upheld by the Presiding Officer's Ruling in Docket No. R2000-1, when the questions were posed as DPB/USPS-19 and 21.

#### DBP/USPS-19

The Postal Service objects to interrogatory DBP/USPS-19 on grounds of irrelevance and undue burden. DPB/USPS-19 inquires about a postmaster's burden of proof in establishing the presence of a need for Saturday retail service as opposed to establishing the absence of such a need. The identical interrogatory was propounded as DBP/USPS-7 in Docket No. R2001-1, and as DPB/USPS-22 in Docket No. R2000-1. In Docket No. R2000-1, the Postal Service objected, Mr. Popkin moved to compel, and the Presiding Officer ruled:

The Service also considers question 22 irrelevant, further noting that the "tenor ... makes it abundantly obvious that Mr. Popkin has an understanding of what the regulations are and how they operate; via this argumentative interrogatory he seeks a change in the regulation to shift the Postmaster's burden of proof regarding the provision of Saturday window service." Objection at 3. The Service notes that question 23 is similar to No. 19, except that it relates to post office services on Saturday, rather than operational collection practices. *Id.* at 4.

Decision. The nature of these questions [DPB/USPS-22 and 23] and the level of detail requested place these interrogatories outside the realm of appropriate discovery in this proceeding. Therefore, the Service will not be required to provide a response.

Presiding Officer's Ruling R2000-1/56 (May 2, 2000) at 5-6. In Docket No. R2001-1, when Mr. Popkin posed the same question as DBP/USPS-7, the Postal Service objected on December 5, 2001, and no motion to compel was filed. Yet Mr. Popkin files the same question again. Interrogatory DBP/USPS-19 has the same lack of relevance to the instant proceeding as it did in the last two cases.

DBP/USPS-20

This interrogatory has eight parts, to each of which Mr. Popkin seeks a confirmation, or an explanation and discussion, inquires into delivery and retail services at offices that do not offer Saturday window service. The identical question was propounded as DBP/USPS-8 in Docket No. R2001-1, and as DBP/USPS-23 in Docket No. R2000-1. As such, the paragraphs quoted above from Presiding Officer's Ruling No. R2000-1/56 also denied Mr. Popkin's motion to compel a response to this interrogatory.

The Presiding Officer's ruling with respect to DPB/USPS-19/R2000-1 (which was structurally similar to DBP/USPS-23/R2000-1 as noted in the first quoted paragraph, above) stated:

[M]atters of purely personal interest or concerning purely local conditions are often not relevant in an omnibus proceeding, and are therefore objectionable on that basis. Mr. Popkin has not shown sufficient nexus between the detail he requests, and the development of relevant evidence to warrant compelling answers.

*Id.* at 4. In Docket No. R2001-1, when Mr. Popkin posed the same question as DBP/USPS-8, the Postal Service objected on December 5, 2001, and no motion to compel was filed. Yet Mr. Popkin files the same question again. The same burden and

relevance concerns identified by the Presiding Officer in Docket No. R2000-1 are still controlling today with respect to DBP/USPS-20.

DBP/USPS-23

This question seeks information on International Mail and certain nonpostal services, similar to information sought through DBP/USPS-33 in Docket No. R2001-1. Information of this type was also provided in Docket No. R2001-1 in response to OCA/USPS-240. For the same reason the Postal Service filed a partial objection to OCA/USPS-240 in the last case, it partially objects to DBP/USPS-23 in this case. Specifically, the Commission does not have jurisdiction over nonpostal services. The Postal Service thus does not see the relevance of the requested information. Nonetheless, the Postal Service will produce the same information it made available in Docket No. R2000-1 for these nonpostal products and services. By supplying this limited information, however, the Postal Service does not intend to waive its right to object to any follow-up discovery on these or other non-postal services, in this or any other proceeding.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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## CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

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