

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

Postal Rate Commission
Submitted 5/17/2005 11:21 am
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Postal Rate and Fee Changes]
Pursuant to Public Law 108-18]

DOCKET NO. R2005-1

DAVID B. POPKIN MOTION TO COMPEL RESPONSE TO INTERROGATORIES DBP/USPS-
41, 46, AND 49.

I move to compel responses to the interrogatories submitted to the United States Postal Service that were either not answered by them or have been objected to by them.

May 17, 2005

Respectfully submitted,

DAVID B. POPKIN, POST OFFICE BOX 528, ENGLEWOOD, NJ 07631-0528
R20051Qmtc

DBP/USPS-41 The Postal Service response was due on May 13th and has not been made yet.

DBP/USPS-46 The Postal Service response was due on May 13th and has not been made yet.

DBP/USPS-49 except for subpart h The Postal Service response was due on May 16th and has not been made yet.

DBP/USPS-49 subpart h Subpart h stated as follows as it relates to delivery of Express Mail:

[h] Please provide a complete listing of all possible scenarios where delivery will be made on the third calendar day after mailing. This listing can be made by generic descriptions [such as articles mailed on a Saturday prior to a Monday holiday and sent to an address that is not on the Sunday/holiday list will receive delivery on Tuesday] or it can be made by reference to specific offices [such as Hyder AK 99923 has incoming mail only on Monday and Thursday].

On May 12, 2005, the Postal Service filed an objection to subpart h of interrogatory DBP/USPS-49 based on the grounds of relevance and overbreadth. On May 16, 2005, the Postal Service provided a response to subpart h of DBP/USPS-49.

The Postal Service states in their objection that in Presiding Officer's Ruling No. R97-1/53 at 5 concluded that "generally the operational details of a service are beyond the scope of material issues in a rate proceeding." The Postal Service overlooks the sentence before the quoted one which states, "The details of Express Mail service are relevant to the value of its service."

Subpart h, when taken in conjunction with the requests made in the other subparts of the interrogatory relate to the most basic detail of the service of Express Mail, namely, just what is the service level for the delivery of Express Mail. Subpart a seeks to confirm that for each possible mailing scenario, delivery will be attempted on either the next calendar day [see subparts b, c, and d as well as subparts e, f, and g which are related to delivery on a Sunday or holiday] or on the second calendar day after mailing [see subpart i], or on the third calendar day after mailing [see subpart h]¹

Furthermore, this information was provided by the Postal Service in responses to various interrogatories asked and answered in Docket R2001-1. DBP/USPS-65 subparts a through c state that all of the possible scenarios for Express Mail receive either next day or second day delivery as required 365/366 days a year. OCA/USPS-27 provides a listing of 20 post offices that do not receive daily deliveries of Express Mail [two in Minnesota and 18 in Alaska]. Subpart d of DBP/USPS-65 and OCA/USPS-235 provide the details of the dates and times for these 20 post offices.

The information being sought in DBP/USPS-49 is identical to that which was asked and answered in the previous Docket R2001-1. Due to apparent changes in the delivery of Express Mail², it became necessary break out separately next day, second calendar day, and third calendar day or later as well as the use of the word calendar prior to the word day into the interrogatory rather than the format that was utilized in Docket R2001-1.

¹ The words "or later" should be added at the end of the first sentence of subpart h for clarity and to match the conditions shown in subpart a.

² As noted in Complaint Case C2005-1.

Not having a timely response to the other subparts of DBP/USPS-49 makes it more difficult to respond to the Postal Service's Objection.

Follow-up interrogatories will be asked to the Response to DBP/USPS subpart h. If they are satisfactorily responded to, then this Motion as it relates to DBP/USPS-49[h] would be moot.³

For the reasons stated, I move to compel responses to the referenced interrogatories since they are reasonably calculated to lead to the discovery of admissible evidence.

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.

David B. Popkin May 17, 2005

³ Due to the timing for filing various pleadings, it is necessary to file this Motion.