

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

OPPOSITION OF THE UNITED STATES POSTAL SERVICE  
TO DAVID B. POPKIN MOTION TO COMPEL RESPONSES  
TO INTERROGATORIES DBP/USPS-103(b)-(d) AND 145  
(June 27, 2005)

In accordance with Rule 26(d) of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby files its opposition to the David B. Popkin Motion to Compel Responses to Interrogatories DBP/USPS-103(b)-(d) and 145, filed by David B. Popkin on June 20, 2005.<sup>1</sup> For the reasons presented herein, the Postal Service respectfully opposes Mr. Popkin's motion to compel. Each interrogatory is considered in turn.

**DBP/USPS-103(b)-(d)**

In this request for production, Mr. Popkin requested "directives or guidelines" from the Express Mail Change Control Board (EMCCB) regarding the provision of Sunday/holiday delivery, Next Day Express Mail service, and the scheduled time of delivery. The Postal Service objected on the grounds of relevance and commercial sensitivity, noting that EMCCB evaluates requests from the field to change certain aspects of the Express Mail network with regard to individual 5-digit ZIP Codes or

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<sup>1</sup> The Postal Service's reply to Mr. Popkin's motion to compel with regard to interrogatories DBP/USPS-88, 90, 129(a)-(b), and 147 is forthcoming. See Motion of the United States Postal Service for Permission to File Three Days Late Its Response to the David B. Popkin Motion to Compel Responses to DBP/USPS-88, 90, 129(a)-(d), and 147.

individual facilities, and thus conducts highly-fact specific analyses of that network (particularly its limitations) at a level of operational detail that is irrelevant and commercially sensitive.

In his motion to compel, Mr. Popkin does not attempt to rebut the Postal Service's arguments that documents dealing with such highly specific operational matters are irrelevant and commercially sensitive. Indeed, he implicitly concedes that documents involving individual changes to the Express Mail network at a localized level are irrelevant and commercially sensitive by arguing that DBP/USPS-103(b)-(d) does not in fact request such documents. What Mr. Popkin fails to understand, however, is that by requesting EMCCB documents, he is by definition requesting documents that involve "evaluations of requests made by an individual office to make a local change," because the very role of the EMCCB is to consider such requests. The EMCCB does not, as Mr. Popkin apparently thinks, issue broad statements concerning issues such as when offices should offer Sunday/holiday delivery of Express Mail. Instead, as the Postal Service notes in its objection, the EMCCB process involves the evaluation of a business case prepared by the field to support a requested change to a certain aspect of the Express Mail network (such as the critical entry time at a certain processing facility), which culminates in a brief, fact-specific decision that is confined solely to a discussion of whether the field's request should be implemented.

Overall, by disclaiming any desire to receive documents that concern "the operational minutiae of the Express Mail network," or "evaluations of requests made by an individual office to make a local change," or "local office information," Mr. Popkin has essentially stated that he does not wish to receive EMCCB documents, which by

definition concern the consideration of operational changes to the Express Mail network at the level of individual ZIP Codes or individual facilities. As such, his motion to compel should be dismissed as moot, on the grounds that he has altered the scope of his request for EMCCB documents to the point that there is no longer a live controversy, or alternatively on the grounds that his request for production seeks irrelevant and commercially sensitive analyses of the operational intricacies of the Express Mail network.

### **DBP/USPS-145**

Mr. Popkin moved to compel a response to interrogatory DBP/USPS-145 even before reviewing the response that the Postal Service filed on June 21, 2005. That response provides more than enough information for Mr. Popkin to evaluate the issues in this proceeding. Certainly, no more operational detail is needed to address any value of service concerns about the special services mentioned in this interrogatory.

In Docket No. R2001-1, moreover, Mr. Popkin filed several similar interrogatories about procedures for handling Certified Mail and Delivery Confirmation mail at IRS facilities. The Postal Service objected, and the Presiding Officer denied Mr. Popkin's motion to compel. Presiding Officer's Ruling No. R2001-1/40 (January 28, 2002). The Presiding Officer stressed that "no attempt has been made to tie the procedures applicable to one specific customer to a more relevant system-wide concern." *Id.* at 4. The relevance to the issues in this rate case of detailed procedures at IRS facilities or other specific destinations is again not established.

Concerning Mr. Popkin's Docket No. R2001-1 interrogatory asking for detailed procedures of return receipt processing at IRS facilities, the Presiding Officer stated:

Requiring the Postal Service to exhaust 100 hours of effort to investigate these questions is not justified given their limited bearing on the underlining interrogatory, and their usefulness in better understanding historic Certified Mail and Return Receipt procedures.

Similarly, in this docket, requiring the Postal Service to spend tens of hours to go beyond the information it has already provided in response to DBP/USPS-145 is not justified.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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