

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 AND REPLY OF THE UNITED STATES POSTAL SERVICE  
TO MOTION TO COMPEL A RESPONSE TO DBP/USPS-139(a) AND (b)  
(July 1, 2005)

The United States Postal Service hereby submits its reply to the June 20, 2005, motion of David Popkin seeking to compel a further response to the following interrogatories: DBP/USPS-129(a) and (b). These interrogatories represent a quest for information that is immaterial to the issues in this proceeding and their public disclosure would increase the risk of compromising the integrity of the Postal Service's EXFC service performance measurement system.

On-time performance provided by the Postal Service is one of the variables taken into consideration when assessing the "value of service" for a mail class, within the meaning of 39 U.S.C. § 3622(b)(2). Discovery in this proceeding has been marked by an intense interest in the workings of EXFC and the data it generates. The record in this case shows that the Postal Service has been forthcoming in providing more EXFC data than in previous dockets. The Postal Service does not concede that all of the requested and provided data are material to the issues in this proceeding. The Postal Service errs on the side of disclosing more EXFC information than is relevant and necessary to the Commission's very important functions. This approach carries a price for the Postal Service in any proceeding in which there is intervention by a party unable

or unwilling to limit his follow-up discovery requests to information that is material to the issues in these proceedings. With interrogatories DBP/USPS-129(a) and (b), we are at a point where the Commission must decide whether the purpose of discovery is to provide opportunities for parties to inform it on matters relevant and material to ratemaking or whether its purpose is to indulge those for whom the actual rate case is often mere background noise.

In response to DBP/USPS-8(g), the Postal Service has provided information about the types of mail pieces that are used by the contractor who surreptitiously enters the test mail pieces used to independently develop EXFC data. It is critical to the integrity of EXFC that these mail pieces be virtually impossible for postal mail processing and delivery employees to identify and distinguish, that they flow through mail stream. Nevertheless, the same intervenor whose EXFC discovery is tinged with suspicion that postal processing and delivery employees might be able to identify test mail pieces, selectively improve their service performance, and skew test results now asks the Postal Service to publish – for all the world to see -- as much detailed information as possible about the various test mail piece types. Why? Because the intrinsic nature of such information will better help the Commission judge whether the proposed rates are appropriate to recommend for single-piece First-Class Mail letters and cards in this proceeding? No, simply because he wants to know the information and he can't restrain himself from asking.

The only rationale Mr. Popkin offers at pages 4-5 of his motion is that it's "[t]he only information left to provide" and he wants to "determine the extent to which each of

these characteristics affects the level of service received and the value of service to the mailer." However fascinating any variations in the EXFC service performance for #6 and #10 envelopes may be to some, such matters are immaterial and irrelevant to value of service considerations when there are no classification distinctions based on whether a letter is sent in a #10 envelope vs. a #6 envelope and no classification distinctions based whether 4-ounce 5x7-inch flats appear to get slightly faster service than 2-ounce letters in #10 envelopes. As long as no rate or classification distinctions hinge on such mailpiece characteristics, as is the case here, there is no rate case basis for obsessing over every possible characteristic of the various EXFC test pieces and any variations that contribute to the average EXFC score. And, as long as post card service performance data are disaggregated from letter data, as is the case here, there is sufficient information available for assessing any service performance differences between letters and cards, insofar as they can be said to affect value of service considerations.

An even more compelling reason for not disclosing such information is the Postal Service's need to reduce the risk that so much information is publicly disclosed about EXFC test mail pieces that they become identifiable to mail processing and delivery employees whom Mr. Popkin already suspects are engaged in efforts to identify and expedite such pieces through the mailstream in order to artificially inflate EXFC scores. Public revelation of information that more precisely identifies the physical characteristics of mail pieces that are more likely to be EXFC test pieces would only aid and abet the very employees Mr. Popkin believes he has reason not to trust. Accordingly, the Postal

Service considers such information to be privileged and not subject to disclosure as requested.

The full measure of Mr. Popkin's inability to restrain himself is the argument he offers as he backs down from his original DBP/USPS-139 (b) request for a copy of a particular EXFC test mail piece identified in the response to DBP/USPS-8(g) as a CD/LTR. As indicated in that response, the mail piece can be modified to either be mailed as a post card or a letter, depending on the instructions from the contractor to its mailpiece fabricator/droppers. For purposes of this case, there is nothing more one needs to know about the piece. Sometimes it's fabricated as a card; sometimes, it's fabricated as a letter.

Mr. Popkin originally wanted a sample piece to be publicly identified and filed in this proceeding, thus compromising the contractor's ability to keep such mail pieces from being identified by the postal employees that Mr. Popkin believes are eager to manipulate EXFC scores. At page 5 of his motion, Mr. Popkin says he will settle for a "full description of the physical characteristics of the mail piece without proving any information on the printing that may appear on the piece." Public disclosure of a full description in lieu of an actual test piece would do little if anything to diminish the harm described in reference to subpart (a). Accordingly, the Postal Service requests that Mr. Popkin be denied the information requested in DBP/USPS-139(a) and (b).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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