

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 RESPONSE TO  
INTERROGATORIES DBP/USPS-110, 117, 122[C, D], 158, AND 170[C-F, H-I]  
(July 6, 2005)

The United States Postal Service hereby responds to the David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-110, 117, 122 Subparts c and d, 158, and 170 subparts c-f and h-i, filed June 29, 2005. Except for DBP/USPS-170, Mr. Popkin was concerned about the lack of response by June 17 or 24. Responses to DBP/USPS-110, 117, 122(c-d), and 158 are being worked on.

Concerning his request in DBP/USPS-170[c-f, h-i] for more information about the development of post office box fee groups, Mr. Popkin argues that the questions are timely discovery directed to the Postal Service, even though they were not filed until June 16. The Postal Service disagrees. Discovery about post office box fee groups concerns the Postal Service's direct case, and the deadline for such discovery was set at June 10, except for matters related to the two new major cost attribution studies relied on by the Postal Service. See Presiding Officer's Ruling No. R2005-1/11, at 2, and at Attachment A, page 1 (May 19, 2005). Interrogatory DBP/USPS-170 concerns

the Postal Service's direct case, but is not related to the cost attribution studies. Thus, it is covered by the June 10 discovery deadline.

In fact, these questions are exactly the type of discovery that was handled by post office box service pricing witness Kaneer in Docket No. R2001-1. See Docket No. R2001-1, Tr. 11-B/4128-34. In this docket, witness Taufique's testimony (USPS-T-28) presented the post office box fee proposals at pages 27-28, and Exhibit USPS-28A, page 54.<sup>1</sup> Witness Taufique is a Group A witness, for whom discovery ended on June 10.

Mr. Popkin claims that Presiding Officer's Ruling No. R2005-1/11 did not establish a deadline for discovery on the Postal Service, rather than its witnesses. However, the schedule on the last page of that ruling schedules completion of discovery on direct case of the Postal Service – Group A witnesses, for June 10. That date applies to discovery directed to the Postal Service, especially for questions that properly should have been directed to the Postal Service's pricing witness.

Ruling No. 11 also states the one exception allowing additional discovery on the Postal Service. "Discovery requests to the Postal Service solely for the purpose of preparing testimony in rebuttal to the evidence presented by participants other than the Postal Service may be submitted through August 23." Presiding Officer's Ruling No. R2005-1/11, at 3. That deadline does not apply here; Mr. Popkin does not and cannot

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<sup>1</sup> The Postal Service perhaps could have redirected interrogatories DFC/USPS-70 and DBP/USPS-170 to witness Taufique, but that redirection would have no impact on the June 10 deadline for completing discovery on the Postal Service's post office box fee proposal.

argue that he is asking interrogatory DBP/USPS-170 for purposes of preparing rebuttal testimony to participant evidence that has not even been filed yet.

Next, Mr. Popkin misinterprets Commission Rule 25(a), which states that “[g]enerally, discovery against a participant will be scheduled to end prior to the receipt into evidence of that participant’s direct case.” That rule is why the Commission made June 10 the deadline for discovery on the Postal Service’s direct case, except with regard to the new cost attribution studies. The discovery deadline is set at least two weeks before the beginning of hearings, so that there is time for responses to be filed and designated prior to their receipt into evidence. This deadline thus is perfectly consistent with Rule 25(a), regarding the end of discovery “prior to” the receipt of evidence.

Mr. Popkin also argues that parts c-f and h-i of DBP/USPS-170 are proper follow-up. Motion at 3. But, except for part c, he claims only that the parts are follow-up to others parts of his own questions in DBP/USPS-170. Part c asks for a listing of the characteristics of the fee groups. But interrogatory DFC/USPS-70 and its response were not concerned about the characteristics of the fee groups, but rather simply requested the identity of the fee group that applies to each ZIP Code. Mr. Popkin has not shown that answers to parts c-f and h-i of DBP/USPS-170 are needed to clarify or elaborate upon the listing of fee groups by ZIP Code provided in response to DFC/USPS-70.

In any case, as noted in the objection, a response would only refer to the Docket No. R2001-1 testimony of witness Kaneer. The Postal Service provided this information

in its objection to be helpful. Mr. Popkin complains that this leads to extra work for him and the Commission. But an objection, especially when it provides the information supposedly wanted in response to the interrogatory, does not force any motion practice.

The Postal Service instead was hoping that Mr. Popkin would not move to compel under these circumstances, thus saving him and the Commission extra work.

The Postal Service therefore opposes David B. Popkin's motion to compel a response to interrogatory DBP/USPS-170.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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