

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

Postal Rate Commission
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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-
214-220 and 222-223.

I move to compel responses to the interrogatories submitted to the United States Postal Service that have been objected to by them.

July 20, 2005

Respectfully submitted,

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R20051RRmtc

On June 27, 2005, I submitted Interrogatories DBP/USPS-214-220 and 222-223. On July 7, 2005, the Postal Service filed an objection to those interrogatories. These interrogatories were filed to follow-up on interrogatory DBP/USPS-145 except for DBP/USPS-223 which was filed to follow-up on interrogatory DFC/USPS-32. On July 8, 2005, the Presiding Officer's Ruling No. R2005-1/43 indicated at 8 that I may file a supplemental motion if I was not satisfied with the partial response by the Postal Service. I was not satisfied with the partial response and filed the follow-up interrogatories in an effort to obtain a satisfactory response. The Postal Service has objected to my attempts at resolution and has filed the above referenced Objection [a response was filed to DBP/USPS-221].

The interrogatory reads as follows:

DBP/USPS-214 Please refer to your response to DBP/USPS-145. The third paragraph of your response provides information on how accountable mail would be delivered to an IRS facility or other government agency if there was only a single piece. Please confirm, or explain if you are unable to confirm, that for the seven IRS facilities and for most large government agencies in Washington, that it would be a rare instance that they would ever receive only a single piece of accountable mail and in most cases they receive considerably more pieces.

The Postal Service objects because of a lack of relevance and the burden that it would require several hours to determine the response.

In the response to DBP/USPS-145, the Postal Service makes reference to how accountable mail would be delivered to the IRS or a large government agency in Washington DC. This interrogatory was designed to attempt to confirm that the IRS would hardly ever, if ever, receive only a single piece of accountable mail. My perception is that they receive hundreds or thousands of pieces of accountable mail on a regular basis and I wanted to be able to dismiss that part of their response as being irrelevant. A burden of several hours, if that is what it would take to e-mail eight postmasters, is certainly not a burden.

The interrogatory reads as follows:

DBP/USPS-215 Please refer to your response to DBP/USPS-145. In your response you provide two separate procedures, Procedure 1 and Procedure 2. [a] Are you now able to indicate which of the two procedures is utilized at each of the seven IRS offices as well as with government agencies in Washington? [b] If so, please advise which procedure is utilized by each of the seven IRS facilities and by Washington DC in the case of government offices. [c] If so, please confirm, or explain if you are unable to confirm, that the procedure as provided on pages 3 and 4 of your response provides a complete and accurate response to the original interrogatory. [d] If not, please explain when the data will be provided as to the means of delivery of accountable mail to each of the seven IRS facilities and to government agencies in Washington. [e] The wording in explaining both Procedure 1 and Procedure 2 refers to the IRS. Please explain how it applies to mail addressed to government agencies in Washington.

Interrogatory DBP/USPS-145 requested how the Postal Service handles certain accountable mail sent to each of the seven IRS Service Centers and to large government agencies in Washington DC. The method utilized to handle a single piece of accountable mail at an office similar to Englewood NJ was added to be able to show the comparison between what the proper procedure for handling accountable mail as would be done at the Englewood NJ type of office vs. the method that is employed with the IRS Service Centers and large government agencies in Washington DC.

The Postal Service decided to provide two separate procedures as to how larger deliveries are made to the IRS or other government agencies. On Page 2 of 4 of the response the stated, "...we have not gotten information from all the IRS facilities or government agencies, but have learned of two different approaches." That wording seems to indicate that they are presenting two generalized procedures. Based on the wording of the two procedures, it would appear that

these procedures refer to IRS facilities and not to large Washington DC government agencies. It also appears that the response was made before all of the information was available.

My interrogatory attempts to clarify and resolve the pending nature of their response. As far as the claimed burden, the Postal Service failed to quantify the amount of burden it would require as required by the Commission's Rules.

The interrogatory reads as follows:

DBP/USPS-216 Please refer to your response to DBP/USPS-145. [a] Please provide a copy of PS Form 3883. [b] Does PS Form 3883 provide a place for the addressee to sign to indicate receipt of the mail? [c] If so, please explain why the addressee's signature is obtained on PS Form 3849 and not on PS Form 3883. [d] Please confirm, or explain if you are unable to confirm, that PS Form 3849 has a place for indicating the number[s] of the accountable mail article[s]. [e] Please explain why no article numbers are placed on the PS Form 3849 that is signed by the addressee.

The Postal Service claims the interrogatory asks for irrelevant data and is not proper follow-up.

The interrogatory asks very specific questions which are designed to clarify and resolve inconsistencies in the original response between the use of Form 3883 vs. Form 3849.

The last sentence of the Postal Service's objection seems inappropriate. They state, "If this level of follow-up is allowed, then the Postal Service will feel pressured to omit details in its responses in order to avoid opening up new lines of inquiry." I would hope that the objective of an interrogatory response is to provide all of the details that are necessary to supply a clear, understandable answer to the interrogatory.

The interrogatory reads as follows:

DBP/USPS-217 Please refer to your response to DBP/USPS-145. [a] Please confirm, or explain if you are unable to confirm, that the Postal Service provides a number of mail services that the mailer is able to request or allow for a waiver of signature on the mail delivery and that by doing so allows for the USPS delivery employee to, in effect, sign for the mailpiece in behalf of the addressee and that this request for waiver of signature is made by the mailer and not by the addressee. [b] Please explain why an objective evaluation of

Procedure 1 could not be considered as being similar to a waiver of signature procedure. [c] Please confirm, or explain if you are unable to confirm, that mailers of accountable mail that is sent to an addressee where the Postal Service utilizes Procedure 1 to complete delivery have not made a request for waiver of signature. [d] Please confirm, or explain if you are unable to confirm, that waiver of signature is not available for use with Certified Mail or with return receipts, either hard copy or electronic versions.

The Postal Service objects to this interrogatory as cumulative, irrelevant, and not proper follow-up. It does not explain how it is cumulative. Its claim of irrelevance is based on a claim that I am attempting to get them to present my argument on brief. While I could file testimony on waiver of signature based on my knowledge and understanding of postal procedures and regulations, the Postal Service is the expert witness on postal procedures and regulations and I am certainly allowed to ask them relevant questions.

In Procedure 1, the green return receipts and the delivery receipts are signed for by the Postal Service employee [even though the Postal Service employee may be affixing a signature which claims to be that of the IRS]. This appears to be identical to the waiver of signature procedure that exists for Express Mail and other services where the Postal Service's delivering employee will in effect sign that the article has been delivered.

The Postal Service has presented in their response a scenario that is reasonable identical to the waiver of signature procedures. I am attempting to clarify that by proper follow-up inquiry.

The interrogatory reads as follows:

DBP/USPS-218 Please refer to your response to DBP/USPS-145. [a] Please confirm, or explain if you are unable to confirm, that when a mailer sends accountable mail to the IRS or another government agency that the purpose is to be able to prove that the addressee receive the mailpiece. [b] In the example provided in Procedure 1, please explain how a mailer who receives proof that the Postal Service indicates that the addressee has received the mailpiece is able to hold the addressee accountable for receiving the mailpiece. [c] Please provide information as to what arrangements exist between the Postal Service and the addressee that will allow a mailer to hold the addressee accountable for receiving a mailpiece that has been signed for by the Postal Service and not the addressee irrespective of the indication that may appear on the signature. [d] Please provide copies of any agreements that exist with respect to subpart c or which allow the Postal Service to act as an agent of the addressee to apply the addressee's signature to various postal forms.

The Postal Service claims this interrogatory is cumulative based on the questions that were asked in DBP/USPS-144. Interrogatory DBP/USPS-144 relates to whether scenarios exist where the Postal Service delivers accountable mail without following the procedures as covered in their regulations. These questions have no relationship to those asked in DBP/USPS-144 other than they are related to the same general problem of accountable mail being delivered without following the existing regulations.

The Postal Service claims a burden of "would take hours." They have not provided the specific level of burden as required by the Commission's Rules.

The Postal Service claims it cannot speak to the purpose its customers have for selecting services. While the Postal Service may not be able to state why any single customer chooses a given service on a specific mailpiece, they certainly are the experts on why customers in general chose various services. The various Postal publications and advertisements do provide the general needs that would be satisfied by various Postal Services.

Procedure 1 has the Postal Service applying the "signature" of the Internal Revenue Service to various Postal documents. If there is no authority for this to take place, then that would appear to border on forgery. If the Postal Service is going to "sign" Postal documents in behalf of the Internal Revenue Service, then two things must be true. The Postal Service must have an agreement with the IRS to allow them to "sign" in behalf of the IRS and second, the mailer must be able to hold the IRS or addressee responsible for having received the mailpiece that they allegedly signed for.

The interrogatory reads as follows:

DBP/USPS-219 Please refer to your response to DBP/USPS-145. [a] Please confirm, or explain if you are unable to confirm, that the existing USPS regulations require that the addressee sign for accountable mail prior to the transfer control of the mail from the Postal Service to the addressee. [b] Please explain the purpose of these regulations. [c] Please confirm, or explain if you are unable to confirm, that Procedure 1 does not allow compliance with these regulations.

The Postal Service objection is based that this interrogatory is cumulative and does not have a sufficient nexus to value of service. The fact that the Postal Service may have admitted that

full compliance with regulations regarding the delivery of accountable mail, I certainly have the right to have them confirm that the specific procedures that were provided in response to DBP/USPS-145 are or are not of such a nature as to not be in compliance with the regulations. The value of service of Return Receipts and the underlying accountable mail service certainly depends on the ability or lack of ability of the Postal Service to comply with their own regulations on what the service will or will not be.

The interrogatory reads as follows:

DBP/USPS-220 Please refer to your response to DBP/USPS-145. Your response in providing the two procedures appears to be focused only on Certified Mail and the hard copy green return receipt card. Please provide similar information for the electronic return receipt and Delivery Confirmation.

The Postal Service objection is based that this interrogatory is cumulative and lacks relevance. The fact that the Postal Service may have admitted that full compliance with regulations regarding the delivery of accountable mail, I certainly have the right to have them confirm that the specific procedures that were provided in response to DBP/USPS-145 are or are not of such a nature as to not be in compliance with the regulations. This interrogatory is not cumulative since at no point did the Postal Service discuss the processing of Delivery Confirmation or electronic return receipts. They have provided the "response" in their Objection to responding, however, it is not possible to designate an Objection to have the "answer" available for use in further activity.

The value of service of Return Receipts and the underlying accountable mail service certainly depends on the ability or lack of ability of the Postal Service to comply with their own regulations on what the service will or will not be.

The interrogatory reads as follows:

DBP/USPS-222 Please refer to your response to DBP/USPS-145. [a] Please confirm, or explain if you are unable to confirm, that the existing USPS regulations require that return receipts are placed in the mail no later than the day after delivery of the underlying mailpiece and that return receipts are required to be evaluated for proper completion prior to returning them to the mailer. [b] Please explain the purpose of these regulations. [c] Please

confirm, or explain if you are unable to confirm, that Procedure 2 does not allow compliance with these regulations. [d] Please advise what steps the Postal Service does to ensure compliance with the regulation that return receipts are required to be evaluated for proper completion prior to returning them to the mailer. [e] Does the Postal Service even check to see that all of the green return receipt cards are even returned for mailing to the sender? [f] If so, please explain the procedure; if not, why not?

The Postal Service objection is based that this interrogatory is cumulative and lacks relevance. The fact that the Postal Service may have admitted that full compliance with regulations regarding the delivery of accountable mail, I certainly have the right to have them confirm that the specific procedures that were provided in response to DBP/USPS-145 are or are not of such a nature as to not be in compliance with the regulations.

The value of service of Return Receipts and the underlying accountable mail service certainly depends on the ability or lack of ability of the Postal Service to comply with their own regulations on what the service will or will not be.

The interrogatory reads as follows:

DBP/USPS-223 Please refer to your response to DFC/USPS-32. [a] Please quantify the term "high volume addresses" that appears on line 5 of your response. [b] Please explain why delivering return receipt mail to high volume addresses does not allow for obtaining signatures on the green card before the mail is transferred to the recipient. [c] Please provide any guidelines, directives, memoranda, etc. that have been released in the past 5 years from Headquarters or Area offices with respect to providing proper service for accountable mail and/or return receipts. [d] Please provide any guidelines, directives, memoranda, etc. that have been released in the past 5 years from Headquarters or Area offices with respect to defining the term "high volume addresses".

The Postal Service objection is based that this interrogatory is cumulative and lacks relevance.

The definition of high volume addresses is relevant to the value of service. The Postal Service used this term in their response and I certainly have the right to expect them to define their use of it.

The Postal Service's claim that my interrogatories are cumulative when compared to the responses given Mr. Carlson. The time period asked for by Mr. Carlson was since the last rate case and for Certified Mail only. I asked for a time period of the past 5 years and for all types

of accountable mail and/or return receipts. If the Postal Service wants to answer my interrogatory with a statement that I should refer to the response given to Mr. Carlson and that there was no activity during the time period of 5 years ago to the date of the last rate case and if they want to say that their response covers all forms of accountable mail and/or return receipts and not just Certified Mail, then that is their right. I have the right to ask the questions that I am looking for answers to and just because Mr. Carlson may have asked a similar question is irrelevant. Furthermore, the response to DFC/USPS-9 provides 68 pages of attachments without an explanation of which parts are responsive to my question.

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. They also relate to the value of service.

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 July 20, 2005
