

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-214-220 AND 222-223  
(July 27, 2005)

The United States Postal Service hereby responds to the David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-214-220 and 222-223, filed July 20, 2005. This pleading will respond briefly with respect to each individual interrogatory, and then provide some general reasons why it opposes Mr. Popkin's motion to compel. The interrogatories are reproduced at the end of this pleading.

DBP/USPS-214

In its response to this interrogatory, the Postal Service described procedures at the IRS and other government agencies, not only when there are many pieces, but also if there were a single piece of accountable mail delivered. Mr. Popkin wants the Postal Service to survey the IRS and government agencies (or the postmasters delivering their mail) to determine the extent to which accountable mail arrives as a single piece. The Postal Service does not know how often this occurs, but believes that, given the number and variety of recipients and delivery days, it was reasonable to include in the response the

procedures for a single piece. It would be unduly burdensome for the Postal Service to survey these recipients (or postmasters) to determine the extent of such deliveries. In any case, the information gathered is not relevant to the issues in this proceeding, and Mr. Popkin's motion to compel does not demonstrate a need for this information.

#### DBP/USPS-215

In this interrogatory, Mr. Popkin seeks to determine if the Postal Service has collected more information from IRS facilities than was already provided in response to DBP/USPS-145. As noted in the objection, the Postal Service does not have information about more than two IRS facilities. Mr. Popkin then seeks to get the Postal Service to obtain more information. The burden for the Postal Service would be as stated in its objection to DBP/USPS-145 (90 hours, minus the hours already spent). Mr. Popkin does not indicate how the additional information is needed to resolve the issues in this proceeding, and additional information simply is not needed.

#### DBP/USPS-216

Mr. Popkin seeks to clarify differences between Postal Service forms 3883 and 3849, which are mentioned in the response to DBP/USPS-145. While Mr. Popkin might want such clarification to argue for different procedures, it is not needed to understand the procedure described in that response. Moreover, that level of detail is not relevant to this rate case.

#### DBP/USPS-217

This interrogatory tries to get the Postal Service to compare a procedure described in the response to DBP/USPS-145 to the signature waiver option

available for Express Mail customers (and until recently for Signature Confirmation customers). This analogy, for one procedure used in some instances for one recipient (the IRS), is too detailed and speculative to be relevant to the issues in this proceeding. Moreover, the presentation of such analogies should be a matter for testimony or briefs, rather than discovery.

DBP/USPS-218

This interrogatory asks about how a mailer can hold an addressee accountable for receiving mail, and whether there are agreements between the Postal Service and the addressee concerning such accountability. The Postal Service cannot respond as to the mailer's goals or methods for making addressees accountable. Contrary to Mr. Popkin's claim, customers, rather than the Postal Service, are the experts on why they choose different postal services and how they use them. Moreover, if there were any agreements responsive to this interrogatory, the Postal Service assumes they would be the same agreements already requested in DBP/USPS-144. Thus, the interrogatory is cumulative and burdensome. Finally, questions about how mailers can hold the IRS accountable for receiving a mailpiece are legal questions that are beyond the scope of discovery on the Postal Service. Discovery is for factual matters, not legal analysis. Presiding Officer's Ruling No. R97-1/39, at 2.

DBP/USPS-219 and 222

These interrogatories focus on Postal Service regulations for delivering accountable mail, and thus are cumulative to the responses to DFC/USPS-32 and DBP/USPS-144. Concerning compliance with regulations, the Postal Service has already stated all that is needed for the issues in this proceeding.

Inquiry into compliance of local procedures with regulations, as in these interrogatories, is too detailed to be relevant to this proceeding.

#### DBP/USPS-220

This interrogatory asks for more information about Postal Service operating procedures than already provided in response to DBP/USPS-145. This is the second time Mr. Popkin has moved to compel more information that would be responsive to DBP/USPS-145. The Presiding Officer denied the first motion, but allowed Mr. Popkin to file a supplemental motion which “addresses the inadequacy of the Postal Service’s response.”<sup>1</sup> To the extent that follow-up interrogatories substitute for a supplemental motion, Mr. Popkin has not established that additional information is needed to address the issues in this proceeding.

#### DBP/USPS-223

This interrogatory inquires about the term “high volume addresses” used in the response to DBP/USPS-145. To the extent the Postal Service has responsive information, it has already been provided in response to interrogatories DFC/USPS-9, 32, 42, and 52. While Mr. Popkin claims that the definition of that term is relevant to the value of service, the inquiry concerns too small a detail to affect value of service conclusions relevant to this proceeding.

#### General Concerns

This discovery dispute focuses primarily on the extent to which the Postal Service provides details and analysis of the procedures for delivering traditional return receipt mail to the IRS and other government agencies. To the extent

those details were relevant in prior dockets, they have lost relevance because customers have new options for learning about the receipt of mail. Since Docket No. R2000-1, customers can obtain delivery information about Certified Mail without purchasing return receipt service. Moreover, following Docket No. R2001-1, the Postal Service added the electronic option for return receipt service. Thus, if a customer does not like the procedures used by the Postal Service for traditional return receipt service, they can switch to alternatives offered by the Postal Service.

In prior dockets, the Presiding Officer has denied this type of detailed inquiry into return receipt procedures at IRS facilities and other government agencies. In Docket No. R2001-1, 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.” Presiding Officer’s Ruling No. R2001-1/40, 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.

*Id.* at 3.

The Presiding Officer has also found that:

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<sup>1</sup> Presiding Officer’s Ruling No. R2005-1/43, at 8 (July 8, 2005).

[r]ate proceedings are not a forum for general oversight of Postal Service operating practices. While the quality of service received by mailers is relevant, argument about the wisdom of particular operating procedures that may have an impact on service is not a fertile area.

Presiding Officer's Ruling No. R97-1/21, at 4.

Moreover, as noted in Presiding Officer's Ruling No. R2005-1/57, only two parties (jointly) submitted testimony in this case, and that testimony (or the Postal Service's direct testimony) does not concern the delivery of special service mail to the IRS or other government agencies. Thus, there is no need for more detailed information than that information already provided.

For all these reasons, the Postal Service opposes David B. Popkin's motion to compel responses to interrogatories DBP/USPS-214-220 and 222-223.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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?

**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".