

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-198, 241 TO 243, 264, AND 274.

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

July 27, 2005

Respectfully submitted,

DAVID B. POPKIN, POST OFFICE BOX 528, ENGLEWOOD, NJ 07631-0528  
R20051VVmtc198

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On June 20, 2005, I submitted Interrogatory DBP/USPS-198. On July 14, 2005, the Postal Service filed an objection to that interrogatory on the basis that it seeks irrelevant data and does not constitute proper follow-up.

The interrogatory reads as follows:

DBP/USPS-198 Please refer to your response to DBP/USPS-41. [a] Does a postmaster have the discretion of providing post office box delivery service only five days a week [also less any holidays and/or days around a holiday that are not an official holiday such as Thanksgiving Friday]? [b] If so, what is the regulatory authority for providing less than six days a week delivery? [c] Please specify any conditions where customers having street delivery will receive mail on a day when a post office box customer will not have delivery service. [d] If six days a week delivery service is required [other than official holidays] must the post office place incoming mail into the boxes? [d] If six days a week delivery service is required [other than official holidays] must the post office provide access to the post office box at a time after which Saturday's incoming mail has been placed into the post office box? [d] If six days a week delivery service is required [other than official holidays] must the post office make arrangements to allow for post office box customers to have the ability on Saturday to pick up accountable mail and articles that are too large for the box?

Interrogatory DBP/USPS-198 was filed to follow-up on Interrogatory DBP/USPS-41. Interrogatory DBP/USPS-41 was filed on April 29, 2005 and a response was due 14 days later on May 13, 2005. On May 17, 2005, I filed a Motion to Compel a response to a number of

interrogatories including DBP/USPS-41. On May 24, 2005, the Postal Service filed an Opposition to that Motion to Compel and stated in footnote 1 that responses to interrogatory 41 was forthcoming. Presiding Officer's Ruling No. R2005-1/19 issued on June 7, 2005, granted my Motion to Compel a response to interrogatory DBP/USPS-41.

The Postal Service did not respond to interrogatory DBP/USPS-41 until June 17, 2005, some 49 days after it was filed and 35 days after a response was due under the Commission's Rules. Furthermore, the response was made ten days after the Presiding Officer's Ruling or three days after the time imposed by Commission's Rule 26[e].

Unfortunately, it appears that there is no real incentive for the Postal Service to respond to interrogatories in a timely manner. In effect, it appears that there is an incentive for the Postal Service to file their responses late as a litigation strategy. About a week or so ago, I did a quick evaluation of my interrogatories and found that at that point in time approximately 30% of them had not been responded to on time. The only problem is that as a participant in this Docket, it appears that I have the option to either receive a response on time or to receive it late. Not allowing the Postal Service to file a late response is obviously not the solution. If the "shoe was on the other foot" and I was the one requesting to file a late document, the Postal Service could object and keep me from filing a particular document to my detriment.

Participants who have interrogatories to file may file on any relevant topic so long as it is prior to the cutoff date. Once the cutoff date has passed, participants are limited by Commission Rule 26[a] to those interrogatories that follow-up to clarify or elaborate on the answer to a previous interrogatory. The apparent problem arises on those follow-ups that a reasonable person would agree were "triggered" by the original response but which the Postal Service might claim was not a logical next step in consideration of the issue.

Unfortunately, because of the extremely late filing of the original response to interrogatory DBP/USPS-41, DBP/USPS-198 must be considered under the rules for follow-up interrogatories. Had they filed the response on time, or even "less late" than they did, it would have been possible to file the interrogatory without consideration of the follow-up rules.

The response to DBP/USPS-41 indicated that the local postmaster had the discretion, when no one was on duty, to allow access to post office lobbies for access to Post Office boxes and

self-service equipment. The allowance of a local postmaster to have the discretion to not provide access to a post office lobby on a Saturday leads to the necessity to clarify and elaborate on that response to determine how the exercising of that discretion would relate to the provision of post office box service only five days a week rather than what appears to be the country-wide norm of six days a week. This is certainly a most logical step in consideration of the issue.

The requested information is far from irrelevant to this Docket. Whether Post Office Box holders have 5-day a week mail delivery or 6-day a week mail delivery is very relevant to the value of mail service in general and to the value of Post Office box service in particular. The comparison between providing 6-day a week street delivery at a local post office but not to a Post Office box at the same facility is also relevant to the value of service.

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On July 5, 2005, I submitted Interrogatories DBP/USPS-241 to 243. On July 15, 2005, the Postal Service filed an objection to those interrogatories on the basis of lateness, lack of relevance and materiality, and does not constitute proper follow-up.

The interrogatories read as follows:

DBP/USPS-241                      Please refer to your response to DBP/USPS-170 subparts h and i as provided in the Opposition to DBP/USPS-170 filed on June 27, 2005. Please confirm, or explain if you are unable to confirm, that a change in the Erent value for a given facility could result in a change in the Fee Group and thereby potentially the fee charged for a post office box at that facility.

DBP/USPS-242                      Please refer to your response to DBP/USPS-170 subparts h and i as provided in the Opposition to DBP/USPS-170 filed on June 27, 2005. Please discuss the types of events that could occur in the determination of the Erent values that could lead to a change in the Erent value and thereby potentially lead to a change in the determination of the Fee Group for post office boxes at a given facility.

DBP/USPS-243                      Please refer to your response to DBP/USPS-170 subparts h and i as provided in the Opposition to DBP/USPS-170 filed on June 27, 2005. Please discuss why the Erent data was not updated to cover changes in facilities that occurred since the original data was developed in Docket R2001-1.

The Postal Service did not provide a "formal" response to the underlying interrogatory DBP/USPS-170 but did provide data which constituted the information that responded to my

interrogatory in the Opposition to the interrogatory that was filed on June 27, 2005. If the Postal Service provides the information in a formal pleading, it should still be subject to proper follow-up.

The Postal Service claims the interrogatories are irrelevant because they are raising everything by a simple 5.4 percent. This is the only opportunity that the public has to evaluate the validity of all rates and the relative value of service. The fact that the Postal Service is asking for an across the board increase does not change that right.

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On July 11, 2005, I submitted Interrogatory DBP/USPS-264. On July 19, 2005, the Postal Service filed an objection to subparts c and f of that interrogatory on the basis that it seeks irrelevant data.

The interrogatory reads as follows:

DBP/USPS-264                      Please refer to your response to OCA/USPS-186 to 193. [a] Please confirm, or explain if you are unable to confirm, that the nondenominated stamps that were issued for the 15¢ to 33¢ values had the letters "A" through "H" associated with them. [b] Please confirm, or explain if you are unable to confirm, that the nondenominated stamps that were issued for the 34¢ and 37¢ values did not have letters associated with them but were of a design that matched the ultimately issued denominated version. [c] Please explain why the Postal Service abandoned the use of letters. [d] Please confirm, or explain if you are unable to confirm, that the use of a letter system rather than a design system will allow for a better determination of the value of a nondenominated stamp once it is well past the implementation period for that design. [e] Are there any plans to return to a letter system? [f] If not, why not?

The Postal Service and the Office of the Consumer Advocate have apparently agreed on establishing a working group to investigate the possibility of a non-denominated stamp that, once purchased, would be valid for first-ounce, single-piece, First-Class Mail postage, regardless of the then-current rate. Whether this, "Forever Stamp" utilizes a letter to identify it or simply a unique design is relevant and therefore the responses to subparts c and f are relevant to this proposal should it come to fruition.

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On July 18, 2005, I submitted Interrogatory DBP/USPS-274. On July 19, 2005, the Postal Service filed an objection that interrogatory on the basis that it seeks irrelevant data.

The interrogatory reads as follows:

DBP/USPS-274 Please refer to your response to DBP/USPS-231. Your response provided information for an administrative employee and an Air Mail Facility manager. What distinction is made for [a] local Postmasters, [b] local post office supervisors [c] District Managers [d] managers at District offices [e] Area Vice Presidents and [f] managers on the Area office staff.

DBP/USPS-231 was a follow-up interrogatory to DBP/USPS-157 which stated as follows:

DBP/USPS-157 Please refer to your response to DBP/USPS-5. Please explain and discuss the extent to which upper management stresses, including by means of pay administration, the need to improve one's overnight score vs. 2-day and/or 3-day scores.

The response of the Postal Service was:

Maintaining and improving service performance is considered to be an important goal for Postal Service management and is incorporated into the compensation system for Postal Service managers.

This interrogatory was asking how EXFC results are utilized in pay administration and to compare overnight vs. 2- and/or 3- day results. The Postal Service's response to DBP/USPS-157 was not responsive. In an effort to obtain a responsive answer, interrogatory DBP/USPS-231 was filed as follows:

DBP/USPS-231 Please refer to your response to DBP/USPS-157. Your response failed to indicate the extent to which a manager's performance is evaluated with respect to the overnight performance vs. their performance on 2-day and 3-day scores. Are they given equal weight or is one counted more than another? Please discuss fully?

The Postal Service response was:

The weighting depends on the manager's title and responsibilities. For instance, an administrative employee's compensation formula may be more heavily weighted to overnight vs. 2/3 day, compared to an Air Mail Facility manager, whose compensation formula may be more heavily weighted to 3-day vs. 2-day/overnight.

This response only provided general information for two very specific categories of employees who are less involved in the processing of mail than the six categories that I asked for in

DBP/USPS-274. If all of the earlier responses are relevant, then this interrogatory asks for relevant data. The Postal Service should not be allowed to continually fail to provide responses to interrogatories and then file an Opposition when the request is made to which they would rather not answer.

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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.

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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 27, 2005

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