

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 DAVID POPKIN MOTION TO COMPEL RESPONSES  
TO DBP/USPS-264(c&e) AND 274  
(August 2, 2005)

The United States Postal Service hereby submits its reply to the July 27, 2005, motion of David Popkin seeking to compel responses to the following interrogatories: DBP/USPS-264(c&e) and 274. For the reasons explained below, the motion should be denied.

DBP/USPS-264(c)&(e)

Filed on July 11, 2005, subpart (c) of DBP/USPS-264 asked the Postal Service to explain why it “abandoned the use of letters” as a means of identifying non-denominated, transitional First-Class Mail basic rate postage stamps. This question was accompanied by subpart (e), which asked whether the Postal Service plans to return to that system as a means of designating such stamps. The Postal Service objected on July 19, 2005.

These interrogatories reflects Mr. Popkin’s diminished willingness to concede or capacity to recognize that not everything he wants to know about the Postal Service is relevant and material to the issues raised in proceedings conducted under 36 of the Postal Reorganization Act. These questions are no more relevant to the current docket than asking why the Postal Service might have switched from “flower” design transition

stamps to “bird” design transition stamps after Docket No. R97-1.

As the Commission is aware, after implementation of Docket No. R97-1 rates, the Postal Service abandoned the practice of printing and distributing non-denominated transitional basic rate First-Class Mail stamps that were identifiable by an alphabetical letter designation (the “A” stamp through the “H” stamp). Since Docket No. R2000-1, the Postal Service has printed and distributed non-denominated transition stamps that bear the same image that will appear on the successor denominated stamp.<sup>1</sup> There is no substantive issue arising from the request in the current docket which provides a basis for exploring why the Postal Service stopped printing and distributing alphabetical letter non-denominational stamps after Docket No. R97-1 or whether it will ever do so again. This is a subject about which Mr. Popkin is apparently very personally and belatedly curious; he sees discovery in the current Commission proceeding as a vehicle for accessing information about matters of personal interest that occurred in connection with previous dockets; he generates interrogatories about those matters in the current docket in the hope that his personal curiosity can be satisfied.

Mr. Popkin points to the Postal Service’s recent agreement with the OCA to examine the feasibility of the “Forever Stamp” concept and asserts at page 4 of his Motion that “[w]hether 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 [sic] are relevant to this proposal should it come to fruition.” However, Mr. Popkin’s motion fails to define or describe any issue in the current proceeding to which the design of

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<sup>1</sup> Thus, hypothetically, after the instant docket, a non-denominated Bluebird stamp (with an implied value of 39 cents) might be succeeded by a stamp bearing the same Bluebird image and an explicit indication of its 39-cent value.

such a stamp would be relevant. Instead, he undermines his motion by proclaiming that answers to his questions would be *relevant to this proposal should it come to fruition*.

As indicated in the July 22, 2005, letter from the Postmaster General attached to the July 25, 2005 Settlement Notice filed by the OCA, the Postal Service will initiate the work of a task force after reply briefs are filed in the current docket to study the "Forever Stamp" concept. Accordingly, *should it come to fruition*, there is no nexus between any issue in the current docket and whether some future "Forever Stamp" -- that might emerge the work of that task force and be the subject of some future Commission docket -- might feature a letter of the alphabet, a numeral, or some other symbol or imagery as a means of designating its value. Since Mr. Popkin concedes that his questions are *relevant to this proposal should it come to fruition*, the fact that it has not yet come to fruition would seem to be controlling here.

#### DBP/USPS-274

Filed on July 18, 2005, this interrogatory (to which the Postal Service objected the next day), requests detailed explanations of the manner in which EXFC scores for mail with overnight, 2-day, and 3-day service standards are factored into the formulas used to determine the compensation for six different categories of postal management employees. This interrogatory is another example of Mr. Popkin's unwillingness or inability to limit his discovery requests to matters that are material or relevant to postal ratemaking.

This question is part of a chain of interrogatories seeking to use discovery in this proceeding to explore aspects of postal payroll administration that have no bearing on any ratemaking issue in this proceeding. The first question in the chain, DBP/USPS-

157 (June 10, 2005) asked the Postal Service to confirm that it considered it important to improve EXFC scores and to discuss the extent to which it stressed the importance of EXFC scores in pay administration. On June 24, 2005, the Postal Service responded reasonably to Mr. Popkin's question by indicating that it considers service performance important and takes it into account in compensating managers.<sup>2</sup> DBP/USPS-157 begat DBP/USPS-231 (June 28, 2005), which sought to explore whether and how EXFC overnight and 2-day and 3-day scores are weighted differently in compensating postal managers. It asked the Postal Service to generally explain whether the EXFC scores for different First-Class Mail service standards (overnight, 2-day, 3-day) were given equal weight or whether the scores for one standard are counted more than the scores for another. The Postal Service responded to DBP/USPS-231 on July 12, 2005, by indicating that different weights for overnight and 2- and 3-day EXFC scores are applied, depending on the management position involved. To ensure that its answer was clear, the Postal Service even provided a general example. Had the Postal Service construed the question as a request to turn this proceeding into a detailed investigation of the different factors that are employed in the various formulas by which the compensation for different classes of postal managers are calculated, it would have objected. Instead, the Postal Service responded reasonably, with the expectation that

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<sup>2</sup> One could argue that the second part of that question had no relevance to or material bearing on postal ratemaking. Still, the Postal Service tolerated the question, making the calculation that fending off an irrelevant question is often much more burdensome than responding to it, avoiding the appearance that it was treating Mr. Popkin's *pro se* intervention in this proceeding with less respect than the intervention of other parties, and hoping that its answer would discourage follow-up inquires that strayed further into irrelevance and immateriality. As is too often the case, Mr. Popkin proved that hope to have been foolish.

even Mr. Popkin would concede that further follow-up would be so intrinsically far removed from the issues in Docket No. R2005-1 that he would not pursue the matter further.

And, what was the Postal Service's reward? Interrogatory DBP/USPS-274 (July 18, 2005), which – as described above – now seeks a detailed revelation of how EXFC scores are factored into the compensation formulas for six classes of postal management employees. Concluding that enough was enough, the Postal Service objected to this question on the grounds that the level of detail sought was patently immaterial and irrelevant to the issues generated by the request in this docket.

It is clear that Mr. Popkin has a very broad interest in postal matters that, at times, intersects with issues relevant and material to postal ratemaking. Notwithstanding the fact that postal ratemaking occupies only a portion of the broader universe of Mr. Popkin's range of postal interests, he apparently perceives rate case discovery as an efficient vehicle for obtaining a wealth of postal data on virtually all matters within that broader universe. The temptation to use rate case discovery to pursue information that has nothing to do with ratemaking is obvious. However, the fact that the Postal Service tolerates *some* abuse does not give Mr. Popkin license to engage in *unlimited* abuse.

Mr. Popkin's approach to discovery reveals a misguided perception of the concept of relevance. At page 6 of his motion, Mr. Popkin asserts that "if all of the earlier responses are relevant, then this interrogatory [DBP/USPS-274] asks for relevant data." However, the absence of an objection to an earlier question, by itself, does not make that question or its answer (or a follow-up question) material or relevant to any issue in this proceeding. The fact that the Postal Service has tolerated the earlier

questions in this chain does not oblige it to tolerate every follow-up question.

Interrogatory DBP/USPS-274 is not made relevant merely by the fact that it follows up on the response to a previous question. In order for DBP/USPS-274 to be a legitimate question, it must seek information that is intrinsically relevant and material to postal ratemaking. Notwithstanding the amount of enlightenment Mr. Popkin has obtained from answers to earlier questions in this chain, there is nothing about the manner in which (or any differences in the manner in which) EXFC scores are factored into the compensation for P&DC managers or AMF managers or HASP surface transportation managers or postmasters that is relevant to the pending request that First-Class Mail rates be increased 5.4 percent. Section 3622(b)(2) value of service may be a factor in ratemaking to which EXFC scores are relevant. And, EXFC scores may have a relationship to postal management compensation. However, Mr. Popkin has articulated no basis for concluding that the subject matter of DBP/USPS-274 -- the relationship between EXFC scores and management compensation is relevant to ratemaking.

At page 6 of his motion, Mr. Popkin argues that “[t]he 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.” To the contrary, the history of this matter supports the conclusion that the Postal Service should not be compelled to respond to follow-up interrogatories that are several degrees of separation removed from what is relevant to the request in this docket.

Accordingly, the motion should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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